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### Montana Voter Information Pamphlet, 2016

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ELECTION



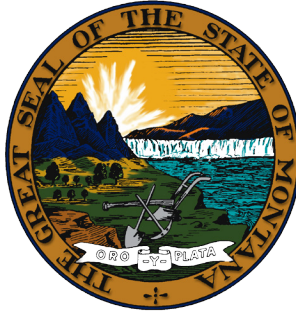
Montana Secretary of State Linda McCulloch

2016

# Montana Voter Information Pamphlet

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The cover photo for the Voter Information Pamphlet features Secretary of State Linda McCulloch voting in Lewis and Clark County.



# Secretary of State

Dear Montana Voter,

As Americans, voting is the most fundamental right we have and Montana has a unique and proud history of voter engagement and participation. Our Montana Constitution guarantees many ways to protect our Montana heritage. Almost 45 years ago, we came together as Montanans to rewrite a Constitution that would better reflect our state and values. As the first woman elected as Secretary of State, I am proud to protect and extend those rights to all Montanans.

As Montana's Chief Election Official, I am pleased to provide the Voter Information Pamphlet to assist you in making informed decisions about the issues that will appear on the 2016 General Election ballot. I hope you will continue our state's strong legacy of voter participation, advocacy, and civic duty.

Our Montana Constitution secures the right for individuals, groups and the Legislature to propose constitutional and statutory changes to Montana law through the initiative and referendum process. This process allows for proposed changes to the law to be placed on the ballot, and voted on by Montanans.

This year's ballot will include four ballot initiatives. Please take the time to carefully read this pamphlet and to ask questions as needed. Your vote not only counts, but it has the power to initiate change in government and society. Generations of Montanans have always taken this duty in the highest regard.

Thank you for being an informed voter and a dedicated Montanan.

A handwritten signature in blue ink that reads "Linda McCulloch". The signature is fluid and cursive.

Linda McCulloch  
Montana Secretary of State

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To access a digital copy of the Voter Information Pamphlet and for more election information please visit [sos.mt.gov](http://sos.mt.gov).

# VOTING INFORMATION

## Register to Vote

You must be:



- A citizen of the United States
- A resident of Montana for at least 30 days before the next election
- 18 years of age on or before the next election

You can register in many ways:



- Complete a Voter Registration Application at your county election office
- Fill out an application online at [sos.mt.gov/elections](http://sos.mt.gov/elections), print it, and return in person or by mail to your county election office
- Register when getting or renewing your Montana driver's license, or when requesting public assistance

**Late Registration** for the 2016 General Election:



- Begins on **October 12, 2016** and closes on **Election Day at 8:00 p.m.**
- Must be completed at the county election office or the location designated by the County Election Administrator
- Late registration is temporarily closed beginning at **noon on November 7**, but opens again **Election Day at 8:00 a.m.**

# Ways to Vote

## Vote at the Polls on Election Day



- Bring valid identification
- Polling places open on **November 8 at 7:00 a.m.** (some smaller polling places may open at noon)
- All polling places close at **8:00 p.m.**

Find the location of your polling place by:

- Contacting your county election office
- Visiting My Voter Page at [sos.mt.gov](http://sos.mt.gov)
- Checking your Voter Registration Confirmation Card

## Vote by Mail



- Fill out and sign an Application for Absentee Ballot/Absentee List at [sos.mt.gov/Elections](http://sos.mt.gov/Elections)
- Submit the application to the county election office by mail or in person
- You will receive your ballot packet by mail
- Sign the signature envelope and return the absentee packet, according to the instructions included with the packet, to the county election office by mail or in person
- Absentee ballots must reach the county election office by the close of polls on Election Day, **November 8, 2016 at 8:00 p.m.**

# Absentee List

Voters on the Absentee List automatically receive an absentee ballot for every election in which they are eligible to vote. There are three ways to sign up:



- Absentee List Application
- Application for Absentee Ballot
- Choose Absentee Ballot on the Voter Registration Application

To remain on the Absentee List, you must sign and return the Absentee Address Confirmation that the county election office will mail to you in January of each even numbered year. Failure to return the confirmation card will result in your name being removed from the Absentee List.

# Voter Identification

Be sure to **bring identification** with you to the polls. Any of the following forms of identification can be used:



- Current photo ID (driver's license, state ID, tribal ID, school ID, etc.)
- Voter registration confirmation card
- Current utility bill, bank statement, paycheck, government check or other government document that shows your name and current address

If you forget your identification you can:

- Return to the polls when you have ID
- Fill out a Polling Place Elector ID Form available at each polling place
- Vote a provisional ballot. Your provisional ballot will be counted if your identity and eligibility to vote can be verified



# Military and Overseas Voters



Absent active duty military and overseas citizen electors can register to vote, request an absentee ballot, and vote their ballot beginning 45 days before a federal election using the Secretary of State's Electronic Absentee System.

Voters can track the status of their absentee ballot using the online election tool, My Voter Page, at [app.mt.gov/voterinfo/](https://app.mt.gov/voterinfo/).

# Provisional Ballots



If you have identification or eligibility problems when you get to the polls, you have the option to vote a ballot that is provisional and will be counted if your identity or eligibility problem can be resolved.

The election official who gives you the ballot will explain to you why your ballot is provisional and tell you what steps you can take to resolve the provisional status of your ballot.

# My Voter Page (MVP)

My Voter Page is the Secretary of State's online voter information service.

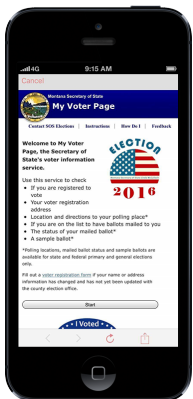


By entering your name and date of birth, you can:

- Check your voter registration information
- Find the location of your polling place
- Track your absentee ballot
- View a sample ballot

The polling locations listed on MVP are for state and federal Primary and General Elections, and may not apply to other elections. Visit *My Voter Page* at [sos.mt.gov](http://sos.mt.gov).

## MVP Mobile App



Access your personal voting information and view a sample ballot on-the-go through our MVP Mobile App. Download the MVP Mobile App from the Google Play Store or the Apple App Store.

# Voting for People with Disabilities

Every polling place in Montana has at least one specialized voting machine, called an AutoMARK, that enables people with disabilities to vote independently and privately. If you cannot enter a polling place, election judges will assist you with “curbside voting.”



If you have a physical disability or are unable to read or write, you may ask an election judge to help you mark your ballot. You can bring a friend or relative who, with the permission of the election judge, can go into the voting booth with you and help you vote.

You may also designate an agent to assist you with the voting process on the Designation of Agent by Individual with Disability form. Deliver the signed application to your local election office.

You may apply for an electronic ballot that can be marked on your personal computer, printed and returned to the election office using the Secretary of State's Electronic Ballot Request System (EBRS).

# Voter Information Pamphlet Formats

The Voter Information Pamphlet is available in large print, Braille, audio, and electronically. To request additional copies, or an accessible format, contact the Office of the Secretary of State by phone at 406.444.4732, TTY at 406.444.9068, or by email at [soselections@mt.gov](mailto:soselections@mt.gov).

## Ballot Issue Information Authors

The Attorney General writes an explanatory statement for each ballot issue. The statement, which is not to exceed 135 words, is required to be a true and impartial explanation of the purpose of each issue. The Attorney General also prepares the fiscal statement, if necessary, for each ballot issue.

Proponent and opponent arguments and rebuttals are written by appointed committees. Arguments are limited to one page and rebuttals are limited to one-half page. All arguments and rebuttals are printed as filed by the committees and do not necessarily represent the views of the Secretary of State or the State of Montana.

## Disclaimer

The information included in the Voter Information Pamphlet for each ballot issue is the official ballot language, the text of each issue, and the arguments and rebuttals for and against each issue.

The opinions expressed therein do not necessarily represent the views of the Secretary of State or the State of Montana. The Secretary of State does not guarantee the truth or accuracy of included statements.

# Ballot Issue Committees

## CI-116

### Credits

The PROPONENT argument and rebuttal were prepared by Representative Vince Ricci, William W. Mercer, and Toni L. Plummer-Alvernaz.

The OPPONENT argument and rebuttal were prepared by Senator Kris Hansen, Representative Brad Tschida, Peter Ohman, Senator Cynthia Wolken, and Marty Lambert, Gallatin County Attorney.

## I-177

### Credits

The PROPONENT argument and rebuttal were prepared by Stan Frasier, Betsy Brandborg, and John Melcher.

The OPPONENT argument and rebuttal were prepared by Paul Fielder, Representative Keith Kubista, Jay Bodner, Toby L. Walrath, and James E. Brown.

## I-181

### Credits

The PROPONENT argument and rebuttal were prepared by Randy Gray, Former Mayor of Great Falls; Matt Kuntz, J.D., Mental Health and Veterans Advocate; and Patty Mazurek, Alzheimer's Research and Care Advocate and wife of former Montana Attorney General, Joe Mazurek.

The OPPONENT argument and rebuttal were prepared by Senator Bob Keenan, Representative Ron Ehli, Alan D. Ekblad, and Robert R. Story.

## I-182

### Credits

The PROPONENT argument and rebuttal were prepared by Bob Ream, Jeff Krauss, and Katie Mazurek.

The OPPONENT argument and rebuttal were prepared by Senator Cary Smith, Representative Seth Berglee, Representative Tom Berry, and Cherrie Brady.

# CONSTITUTIONAL INITIATIVE NO. 116

## A CONSTITUTIONAL AMENDMENT PROPOSED BY INITIATIVE PETITION

CI-116 would add a new section to the Montana Constitution establishing specific rights for crime victims. The rights enumerated include the right to participate in criminal and juvenile justice proceedings, to be notified of major developments in the criminal case, to be notified of changes to the offender's custodial status, to be present at court proceedings and provide input to the prosecutor before a plea agreement is finalized, and to be heard at plea or sentencing proceedings, or any process that may result in the offender's release. CI-116 guarantees crime victims' rights to restitution, privacy, to confer with the prosecuting attorney, and to be informed of their rights. CI-116 defines specific terms and requires no further action by the Legislature for implementation. CI-116, if passed by the electorate, will become effective immediately.

Fiscal impacts are expected for the Office of the Public Defender, Judicial Branch, Department of Corrections and local governments from passage of CI-116, but those costs could not be accurately determined at this time.

YES on Constitutional Initiative CI-116     NO on Constitutional Initiative CI-116

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### COMPLETE TEXT OF CONSTITUTIONAL INITIATIVE NO. 116

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WHEREAS, the People of the State of Montana find that a crime victim in Montana is entitled to enhanced, specific, and meaningful rights to participate in criminal and youth court proceedings and enact the following new section of Article II of The Constitution of the State of Montana. The section is named for a noted victim of crime, Marsy, in whose name many states have enacted comparable reforms.

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

NEW SECTION. **Section 1.** Article II of The Constitution of the State of Montana is amended by adding a new section 36 that reads:

**Section 36. Rights of crime victims.** (1) To preserve and protect a crime victim's right to justice, to ensure a crime victim has a meaningful role in criminal and juvenile justice systems, and to ensure that a crime victim's rights and interests are respected and protected by law in a manner no less vigorous than the protections

afforded to a criminal defendant and a delinquent youth, a crime victim has the following rights, beginning at the time of victimization:

- (a) to due process and to be treated with fairness and respect for the victim's dignity;
- (b) to be free from intimidation, harassment, and abuse;
- (c) to be reasonably protected from the accused and any person acting on the accused's behalf;
- (d) to have the victim's safety and welfare considered when setting bail and making release decisions;
- (e) to prevent the disclosure of information that could be used to locate or harass the victim or that contains confidential or privileged information about the victim;
- (f) to privacy, including the right to refuse an interview, deposition, or other discovery request and to set reasonable conditions on the conduct of any interaction to which the victim consents;

(g) to receive reasonable, accurate, and timely notice of and to be present at all proceedings involving the criminal conduct, plea, sentencing, adjudication, disposition, release, or escape of the defendant or youth accused of delinquency and any proceeding implicating the rights of the victim;

(h) to be promptly notified of any release or escape of the accused;

(i) to be heard in any proceeding involving the release, plea, sentencing, disposition, adjudication, or parole of the defendant or youth accused of delinquency and any proceeding implicating the rights of the victim;

(j) to confer with the prosecuting attorney;

(k) to provide information regarding the impact the offender's conduct had on the victim for inclusion in the presentence or predisposition investigation report and to have the information considered in any sentencing or disposition recommendations submitted to the court;

(l) to receive a copy of any presentence report and any other report or record relevant to the exercise of a right of the victim, except for those portions made confidential by law;

(m) to the prompt return of the victim's property when no longer needed as evidence in the case;

(n) to full and timely restitution. All money and property collected from a person who has been ordered to make restitution must be applied first to the restitution owed to the victim before paying any amounts owed to the government.

(o) to proceedings free from unreasonable delay and to a prompt and final conclusion of the case and any related postjudgment proceedings;

(p) to be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the offender, including any scheduled release date, actual release date, or escape;

(q) to be informed of clemency and expungement procedures; to provide information to the Governor, the court, any clemency board, or any other authority and to have that information considered before a decision is made; and to be notified of any decision before the release of the offender; and

(r) to be informed of the above rights and to be informed that the victim may seek the advice and assistance of an attorney with respect to the above rights. This information must be made available to the general public and provided to all crime victims on what is referred to as a Marsy's card.

(2) A victim, the victim's attorney, the victim's legal representative, or the prosecuting attorney at the request of the victim may assert and seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court or any other authority with jurisdiction over the case as a matter of right. The court or other authority shall act promptly on the request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding disposition of a victim's right must be clearly stated on the record.

(3) This section may not be construed to deny or disparage other rights possessed by victims. This section applies to criminal and youth court proceedings, is self-executing, and requires no further action by the Legislature.

(4) As used in this section, the following definitions apply:

(a) "Crime" means an act defined as a felony, misdemeanor, or delinquency under state law.

(b) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime.

(i) The term includes:

(A) a spouse, parent, grandparent, child, sibling, grandchild, or guardian of the victim;

(B) a person with a relationship to the victim that is substantially similar to a relationship described in subsection (4)(b)(i)(A); and

(C) a representative of a victim who is a minor or who is deceased, incompetent or incapacitated.

(ii) The term does not include the accused or a person who the court believes would not act in the best interests of a minor or of a victim who is deceased, incompetent or incapacitated.

# CONSTITUTIONAL INITIATIVE NO. 116

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## ARGUMENT FOR CI-116

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A 'Yes' vote on CI-116, known as Marsy's Law for Montana, will establish a Crime Victims' Bill of Rights in the Montana constitution.

Montana is one of just eighteen states that fails to provide an equal level of rights under the constitution to victims of crime. The U.S. and Montana constitutions provide those accused of crimes with due process protections, but our state constitution does not accord crime victims the right to meaningfully participate in the criminal justice process as the state prosecutes the accused.

Marsy's Law raises victims' rights to a level equal with the rights of the accused.

The rights enumerated in Marsy's Law are simple and straightforward. Victims of crime should have the right to be notified of hearings in their case, and the right to be present and be heard at those hearings. Victims should have the right to confer with the prosecuting attorney in their case and to provide input before a plea agreement is finalized.

Crime victims should have the right to privacy and to refuse unreasonable requests for discovery or the release of personal information. Victims should have the right to be notified of any changes in the custodial status of the offender in their case. These all are examples of Constitutional rights that crime victims in Montana currently do not have.

No one expects to be a victim of a crime. But when you are, you want justice, and you should have a reasonable expectation that the judicial system will hold all rights as equal. Providing victims of crime with long-overdue equal rights will be a huge step toward ensuring victims of crime are treated with dignity, notified of important legal events like bail and parole hearings, provided a voice in the process, and finally afforded an equal level of rights.

Montana's law enforcement officials and prosecutors are among the finest in the country and many of them are vocal supporters of crime victims' rights and CI-116. Unfortunately, the Montana criminal justice system is not designed with the victim in mind.

A 'Yes' vote for CI-116 is a vote to ensure that victims of crime are afforded rights on a level equal to those of the accused and convicted. A 'Yes' vote is for equal rights.



# CONSTITUTIONAL INITIATIVE NO. 116

## ARGUMENT AGAINST CI-116

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CI-116, or Marsy's law, is not a Montana law written for Montanans. CI-116 is backed by a businessman from California and his coalition. Montana has strong laws to protect crime victims – this amendment is costly and unnecessary. To handle all the requirements of CI-116, Montana cities and counties will be forced to either cut other services to citizens, or raise taxes to pay for adding staff. Montana taxpayers will have to fund significant spending increases in the Department of Corrections and other state agencies. The out-of-state backers of CI-116 would give new rights to some people, but take rights from others.

CI-116 has a vague definition of "victim" that will include many people who are not victims at all, including people who are simply friends of actual victims. CI-116 is besieged with problems. Years of costly lawsuits will be needed to determine whether the new rights are superior to the rights being taken away or minimized. Cities and counties will have to raise local taxes to pay for this unfunded mandate.

It's clear that Montanans care about victims' rights and have acted to improve them. In 1985, Montana enacted the Treatment of Victims Act. Montanans amended the Constitution in 1998, to assure restitution to victims of crime. The sponsors of CI-116, although well-intentioned, have missed an opportunity to further advance victims' rights by improving existing laws. Instead, the sponsors propose a massive, 863-word, addition to our Constitution that contains many problems that are likely to cause more trauma to victims and setbacks to victims' existing rights.

Citizens accused of crimes are presumed innocent until proven guilty. They have a constitutional right to defend themselves and to a fair trial. CI-116 creates new victims' rights that conflict with a defendant's constitutional rights. For example, under CI-116, a victim, under the new definition, may refuse an interview with a defendant's lawyer - clearly unconstitutional. If CI-116 is approved, lawsuits will pit the victim's new rights against the civil liberties of a person who is presumed innocent. This will create uncertainty and delay within Montana's criminal justice system. Far from benefiting crime victims, this will make it harder for victims to receive justice.

Montana's cities and counties employ crime victim advocates to notify crime victims of cases and to help law enforcement keep victims safe from harm. Currently, Montana's crime victim advocates focus on victims of violent crime, including sex crimes and domestic violence. CI-116 will dilute the services local governments are able to provide to people who desperately need these services immediately after a traumatic event.

Montanans care about victims and provide services to protect victims of crime. Montana does not need this costly, confusing change.

# CONSTITUTIONAL INITIATIVE NO. 116

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST CI-116

What the opponents of the victims' rights amendment say and don't say speaks volumes.

They say, "Montana has strong laws to protect crime victims." Perhaps we have a different definition of "strong."

When a victim has no right to confer with a prosecutor before the prosecutor decides whether to charge a crime or to decline to charge a crime, there is no strong law to protect victims. When trial dates come and go repeatedly with long delays without regard for the impact on a victim's ability to reach closure, there is no strong law to protect victims.

They assert that the amendment's language includes a vague definition of "victim." We're unclear what's vague about it. The definition encompasses the universe of people who have lives upended by a crime.

When they say Montana's crime victim advocates focus on victims of violent crime, they are admitting that state law offers virtually no rights to victims of fraud and other property crimes.

They fail to provide any evidence to support their claim that CI-116 will result in "higher taxes" or "cuts to other services." Thirty-two states have constitutional rights for victims without the budget impacts described by the opponents. CI-116 can be implemented with no additional cost.

More to the point, shouldn't victims' rights be a budget priority? Providing rights to crime victims—on a level equal to those accused of committing the crime—should be a primary function of government.

## OPPONENTS' REBUTTAL OF ARGUMENT FOR CI-116

The sponsors of Marsy's law refuse to acknowledge that current Montana law provides important rights for crime victims. The sponsors also refuse to address the increased financial impact of Marsy's law on state and local taxpayers.

Marsy's law's sponsors could work through the legislative process to improve existing laws. By proposing a constitutional amendment, the sponsors avoid a full and fair debate on proposed changes. Instead of a discussion about the costs and need for such changes and improvements in the law, the sponsors propose a constitutional amendment that will create conflicts between the rights of people accused of crime and the rights of crime victims. Instead of listening to Montanans in an open, public hearing, where the problems with Marsy's law can be fixed, the sponsors wrote a massive amendment that will take another amendment, or multiple lawsuits, to correct.

The Montana Constitution provides 7 enumerated rights for defendants, compared to 19 new rights for victims. Montana's Constitution uses 99 words to protect the rights of defendants, compared to 863 words Marsy's law uses for victims. This does not bear out the sponsor's claim that the amendment will provide "an equal level of rights" or that it is "simple." It is not simple or equal.

Marsy's law will result in costly litigation and uncertainty for crime victims. Montana simply cannot disregard the rights granted in the U.S. and Montana Constitutions.

# INITIATIVE NO. 177

## A LAW PROPOSED BY INITIATIVE PETITION

I-177 generally prohibits the use of traps and snares for animals on any public lands within Montana and establishes misdemeanor criminal penalties for violations of the trapping prohibitions. I-177 allows the Montana Department of Fish, Wildlife, and Parks to use certain traps on public land when necessary if nonlethal methods have been tried and found ineffective. I-177 allows trapping by public employees and their agents to protect public health and safety, protect livestock and property, or conduct specified scientific and wildlife management activities. I-177, if passed by the electorate, will become effective immediately.

I-177 reduces approximately \$61,380 of state funds annually, resulting from a loss of trapping license revenue. In addition, the state will incur other costs associated with monitoring wolf populations and hiring additional full-time employees at the Department of Fish, Wildlife, and Parks.

YES on Initiative I-177

NO on Initiative I-177

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### COMPLETE TEXT OF INITIATIVE NO. 177

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NEW SECTION. **Section 1. Short title.** [Sections 1 through 5] may be cited as the "Montana Trap-Free Public Lands Act".

NEW SECTION. **Section 2. Findings.** The people of the state of Montana find that [sections 1 through 5]:

- (1) will not affect trapping on private property;
- (2) apply to public lands and affect approximately one-third of the lands in Montana;
- (3) do not affect Montanans' constitutionally protected right to harvest wild game and fish;
- (4) will protect safe access for citizens and pets to public lands and waterways and protect and conserve wildlife from the dangers of inhumane and indiscriminate traps on public lands;
- (5) will encourage the use of alternatives to trapping and humane methods of trapping when trapping on public lands is necessary to ensure public health and safety, protect livestock and other property, safeguard threatened or endangered species, or conduct specified scientific and wildlife management activities;

and

(6) are necessary to conserve beavers in high country and store water on public lands.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 5], the following definitions apply:

- (1) "Animal" means any nonhuman warm-blooded vertebrate, including but not limited to an animal defined in 87-2-101 or 87-6-101 as a fur-bearing animal, game animal, migratory game bird, upland game bird, predatory animal, wild animal, or nongame wildlife, or to a large predator as defined in 87-1-217.
- (2) "Department" means the department of fish, wildlife, and parks or any successor agency.
- (3) "Fladry" means a wire, rope, or cord to which a series of brightly colored flags is attached for the purpose of controlling the movement of wild animals.
- (4) "Flow device" means a device designed to address flooding caused by a beaver dam by altering natural patterns of water flow to allow passage of flow and fish through the site of the dam.

(5) "On-site evidence" means visual or photographic evidence of a location where damage or injury caused by a problem animal has occurred.

(6) "Permissible trap" includes a nonstrangling foot snare, rubber padded snare, offset, padded or laminated jaw leghold or foothold trap, cage or box trap, net, culvert-style trap, tube trap, suitcase-type live beaver trap, net, glue trap, common rat and mouse trap, colony trap, corral trap, or similar nonlethal trap.

(7) "Person" means an individual, association, partnership, corporation, government, governmental subdivision, governmental agency, or governmental instrumentality.

(8) "Problem animal" means a specific animal with a verified documented history of attacking humans or livestock or causing damage to property on public lands.

(9) "Prohibited trap" includes, but is not limited to, a conibear trap or other body-holding or body-gripping trap, a strangling type snare, or a leghold, foothold, or other restraining trap not defined as a permissible trap.

(10) "Property" means real property or personal property lawfully on public lands, including but not limited to structures, bridges, and man-made installations that protect irrigation works, and livestock.

(11) "Public lands" means all federal, state, county, and city owned lands within the state of Montana, including public lands leased to private parties but not including any lands under the jurisdiction of an Indian tribe within the state.

(12) "Trapping" or "trap" means to trap as defined in 87-2-101.

**NEW SECTION. Section 4. Trapping on public lands prohibited -- exceptions -- rulemaking.**

(1) Except as provided in subsection (2), a person may not trap on public lands.

(2) The department may use or issue a permit to use a permissible trap for the following purposes:

(a) trapping allowed under 87-2-806, 87-2-807, or 87-5-204, or trapping for medical treatment of animals, relocation or transplantation of animals, or protection of public health and safety;

(b) trapping of a specific, habituated problem animal after presenting on-site evidence to federal or department officials that the animal has caused ongoing injury or damage to persons, property, or livestock that has not been alleviated by the reasonable and publicly verifiable use of alternative methods, including but not limited to a guard dog, a fladry, carcass removal, range riding, temporary fencing, relocating the person or property, and avoidance of predator den areas. Traps may be set on public land at the request of a livestock owner for no more than 30 days in any calendar year.

(c) trapping of problem animals, including beavers or muskrats, to mitigate damage to irrigation works on public lands after reasonable alternative methods, including but not limited to flow devices, have been applied.

(3) A person may not use and the department may not issue a permit to use a prohibited trap on public lands.

(4) A person setting a trap allowed under subsection (2) must prominently mark with highly visible and durable warning signs the place where the trap is located and post notice at public trailheads that persons could reasonably be expected to use to gain access to the place where the trap is placed and must check the traps at least once every 24 hours.

(5) After carrying out trapping activities allowed under subsection (2), the department or other unit of government shall prepare and file with the department a report that identifies any trapped animal by species and sex and by any number assigned to the animal by a public agency for purposes of tracking the animal and that describes the disposal of the entire carcass, including the fur.

(6) A trapping license issued by the department must comply with the provisions of [sections 1 through 5].

(7) The department shall adopt rules for implementing this section.

**NEW SECTION. Section 5. Trapping offenses on public lands -- penalties.**

(1) Except as provided in [section 4], a person may not purposely, knowingly, or negligently trap or authorize the use of a trap on public lands.

(2) A person may not make commercial use of

any animal or any part of an animal trapped on public lands under [section 4].

(3)(a) A person convicted of a violation of this section shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county jail for not more than 6 months, or both.

(b) A person convicted of a second violation of this section shall be fined not less than \$100 or more than \$2,000 or be imprisoned in the county jail for not more than 6 months, or both.

(c) A person convicted of a third or subsequent violation of this section shall be fined not less than \$100 or more than \$5,000 or be imprisoned in the county jail for not more than 6 months, or both.

(4) In addition, a person, upon conviction under this section or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of convictions or has forfeiture unless the court imposes a longer period.

(5) In addition to any other penalty imposed under this section, the court may order payment of restitution pursuant to 87-6-905 and 87-6-906.

(6) A trap or snare used in violation of this section is forfeited upon conviction, and the department may remove and destroy it after the owner has been convicted or has forfeited bond or bail.

**Section 6.** Section 77-1-801, MCA, is amended to read:

**"77-1-801.** (Temporary) Recreational use license required to use state lands for general recreational purposes -- penalty -- exemption.

(1) Except as provided in subsection (3), a person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) Except as provided in subsection (3), a person shall, upon the request of a peace officer or fish and game warden, present for inspection the person's recreational use license.

(3) If the department and the department of fish, wildlife, and parks consent to and sign an agreement for hunting, fishing, and trapping purposes, as provided in 77-1-815, a person is

not required to obtain a recreational use license for use of legally accessible state trust land for hunting, fishing, and trapping purposes.

(4) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500 or be imprisoned in the county jail for not more than 6 months, or both.

(5) This section does not relieve a person from the requirements of [section 4]. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)

**77-1-801.** (Effective on occurrence of contingency) Recreational use license required to use state lands for general recreational purposes -- penalty. (1) A person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) A person shall, upon the request of a peace officer or fish and game warden, present for inspection the person's recreational use license.

(3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500 or be imprisoned in the county jail for not more than 6 months, or both.

(4) This section does not relieve a person from the requirements of [section 4]."

**Section 7.** Section 77-1-815, MCA, is amended to read:

**"77-1-815.** (Temporary) Recreational use agreement for hunting, fishing, and trapping on legally accessible state trust land. (1) The board is authorized to enter into an agreement with the department of fish, wildlife, and parks to compensate state trust land beneficiaries for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land as defined in department rule. The department may impose restrictions it considers necessary to coordinate the uses of state trust land or to preserve the purposes of the various trust lands. Hunting, fishing, and trapping on state trust land must be conducted in accordance with rules and provisions provided in this part.

(2) An agreement may be issued to the department of fish, wildlife, and parks for a term of up to 10 years. Through this agreement, the board shall recover for the beneficiaries of the



trust the full market value for the use and impacts associated with hunting, fishing, and trapping on legally accessible state trust land. The department may use funds appropriated from the trust land administration account provided for in 77-1-108 to implement and manage the agreement. Except as provided for in 17-7-304, any unexpended amount in the account that resulted from recreational use fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage of acreage in the total acreage of all state land trusts.

(3) Any agreement entered into is subject to the following conditions:

(a) The department maintains sole discretion, throughout the term of the agreement, with regard to identifying legally accessible parcels, coordinating uses on state trust land, and making any other necessary state trust land management decisions.

(b) An agreement between the department and the department of fish, wildlife, and parks may not convey any additional authority to the department of fish, wildlife, and parks.

(c) An agreement may not modify or eliminate any requirement of [section 4].

(4) During any period that the department of fish, wildlife, and parks and the department have reached an agreement as provided in subsection (1), an individual recreational use license under 77-1-801 or 77-1-802 may not be required for a member of the public to hunt, fish, or trap upon legally accessible state trust land. (Void on occurrence of contingency--sec. 8, Ch. 596, L. 2003.)"

**Section 8.** Section 87-1-506, MCA, is amended to read:

**"87-1-506. Enforcement powers of wardens.**

(1) A warden may:

(a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket, creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law or department rule for the protection, conservation, or propagation of game, fish, birds, or

fur-bearing animals has been violated;

(c) search, with a search warrant, any dwelling house or other building;

(d) except as provided in subsection (2), seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in violation of the law or the rules of the department;

(e) except as provided in subsection (2), seize and hold, subject to law or the orders of the department, devices that have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the department, violation of which is a misdemeanor;

(g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to the operation of motorboats on all waters of the state;

(h) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides in the state;

(i) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7, part 10, for those invasive species that are under the department's jurisdiction; and

(j) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the department, and judgments obtained for violation of those laws or rules.

(2) A warden shall seize a trap used and a pelt or other part of a trapped animal possessed in violation of [section 5].

~~(2)~~(3) The meat of game animals that are seized pursuant to subsection (1)(d) must be donated directly to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be distributed as provided in 87-1-513(2)."

**Section 9.** Section 87-2-101, MCA, is amended to read:

**"87-2-101. Definitions.** As used in Title 87, chapter 3, and this chapter, unless the context clearly indicates otherwise, the following

definitions apply:

(1) "Angling" or "fishing" means to take or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(2) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

(i) decoys, silhouettes, or other replicas of wildlife body forms;

(ii) scents used only to mask human odor; or

(iii) types of scents that are approved by the commission for attracting game animals or game birds.

(3) "Fur-bearing animals" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(4) "Game animals" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(5) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Sander (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus Pomoxis (crappie); and the species *Ictalurus punctatus* (channel catfish).

(6) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(7) "Migratory game birds" means waterfowl, including wild ducks, wild geese, brant, and

swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(8) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(9) "Open season" means the time during which game birds, game fish, game animals, and fur-bearing animals may be lawfully taken.

(10) "Person" means an individual, association, partnership, or corporation.

(11) "Predatory animals" means coyote, weasel, skunk, and civet cat.

(12) "Trap" means to take or participate in the taking of ~~any wildlife protected by the laws of the state~~ a wild animal by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(13) "Upland game birds" means sharp-tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(14) "Wild animal" means an animal that is wild by nature as distinguished from a common domestic animal, whether the animal was bred or reared in captivity. The term includes a bird or reptile.

~~(14)~~(15) "Wild buffalo" means buffalo or bison that have not been reduced to captivity."

**Section 10.** Section 87-3-128, MCA, is amended to read:

**"87-3-128. Exceptions -- department personnel.** The Except as provided in [section 4], the provisions of this chapter relating to methods of herding, driving, capturing, taking, locating, or concentrating of fish, game animals, game birds, or fur-bearing animals do not apply to the department or to any employee thereof while acting within the scope and course of the powers and duties of the department."

**Section 11.** Section 87-6-101, MCA, is amended to read:

**"87-6-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Alternative livestock" means a privately owned caribou, white-tailed deer, mule deer, elk, moose, antelope, mountain sheep, or mountain goat indigenous to the state of Montana, a privately owned reindeer, or any other cloven-hoofed ungulate as classified by the department. Black bear and mountain lion must be regulated pursuant to Title 87, chapter 4, part 8.

(2) "Alternative livestock ranch" means the enclosed land area upon which alternative livestock may be kept for purposes of obtaining, rearing in captivity, keeping, or selling alternative livestock or parts of alternative livestock, as authorized under Title 87, chapter 4, part 4.

(3) (a) "Bait" means any animal matter, vegetable matter, or natural or artificial scent placed in an area inhabited by wildlife for the purpose of attracting game animals or game birds.

(b) The term does not include:

- (i) decoys, silhouettes, or other replicas of wildlife body forms;
- (ii) scents used only to mask human odor; or
- (iii) types of scents that are approved by the commission for attracting game animals or game birds.

(4) "Closed season" means the time during which game birds, fish, game animals, and fur-bearing animals may not be lawfully taken.

(5) "Cloven-hoofed ungulate" means an animal of the order Artiodactyla, except a member of the families Suidae, Camelidae, or Hippopotamidae. The term does not include domestic pigs, domestic cows, domestic yaks, domestic sheep, domestic goats that are not naturally occurring in the wild in their country of origin, or bison.

(6) "Conviction" means a judgment or sentence entered following a guilty plea, a nolo contendere plea, a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury, or a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated.

(7) "Field trial" means an examination to determine the ability of dogs to point, flush, or

retrieve game birds.

(8) "Fishing" means to take fish or the act of a person possessing any instrument, article, or substance for the purpose of taking fish in any location that a fish might inhabit.

(9) (a) "Fur dealer" means a person engaging in, carrying on, or conducting wholly or in part the business of buying or selling, trading, or dealing within the state of Montana in the skins or pelts of fur-bearing animals or predatory animals.

(b) If a fur dealer resides in Montana or if the fur dealer's principal place of business is within the state of Montana, the fur dealer is considered a resident fur dealer. All other fur dealers are considered nonresident fur dealers.

(10) "Fur farm" means enclosed land upon which furbearers are kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers.

(11) (a) "Fur-bearing animal" or "furbearer" means marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox, and beaver.

(b) As used in Title 87, chapter 4, part 10, "furbearer" does not include fox or mink.

(12) "Game animal" means deer, elk, moose, antelope, caribou, mountain sheep, mountain goat, mountain lion, bear, and wild buffalo.

(13) "Game fish" means all species of the family Salmonidae (chars, trout, salmon, grayling, and whitefish); all species of the genus Stizostedion (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus Esox (northern pike, pickerel, and muskellunge); all species of the genus Micropterus (bass); all species of the genus Polyodon (paddlefish); all species of the family Acipenseridae (sturgeon); all species of the genus Lota (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); and the species *Ictalurus punctatus* (channel catfish).

(14) "Hunt" means to pursue, shoot, wound, kill, chase, lure, possess, or capture or the act of a person possessing a weapon, as defined in 45-2-101, or using a dog or a bird of prey for the purpose of shooting, wounding, killing, possessing, or capturing wildlife protected by the laws of this state in any location that wildlife may inhabit, whether or not the wildlife is then or subsequently taken. The term includes an attempt to take by



any means, including but not limited to pursuing, shooting, wounding, killing, chasing, luring, possessing, or capturing.

(15) "Knowingly" has the meaning provided in 45-2-101.

(16) "Livestock" includes ostriches, rheas, and emus.

(17) "Migratory game bird" means waterfowl, including wild ducks, wild geese, brant, and swans; cranes, including little brown and sandhill; rails, including coots; Wilson's snipes or jacksnipes; and mourning doves.

(18) "Negligently" has the meaning provided in 45-2-101.

(19) "Nongame wildlife" means any wild mammal, bird, amphibian, reptile, fish, mollusk, crustacean, or other animal not otherwise legally classified by statute or regulation of this state.

(20) "Open season" means the time during which game birds, fish, and game and fur-bearing animals may be lawfully taken.

(21) "Participating state" means any state that enacts legislation to become a member of the Interstate Wildlife Violator Compact.

(22) "Person" means an individual, association, partnership, and corporation.

(23) "Possession" has the meaning provided in 45-2-101.

(24) "Predatory animal" means coyote, weasel, skunk, and civet cat.

(25) "Purposely" has the meaning provided in 45-2-101.

(26) "Raptor" means all birds of the orders Falconiformes and Strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(27) "Resident" has the meaning provided in 87-2-102.

(28) "Roadside menagerie" means any place where one or more wild animals are kept in captivity for the evident purpose of exhibition or attracting trade, on or off the facility premises. It does not include the exhibition of any animal by an educational institution or by a traveling theatrical exhibition or circus based outside of Montana.

(29) "Sale" means a contract by which a person:

(a) transfers an interest in either game or fish

for a price; or

(b) transfers, barter, or exchanges an interest either in game or fish for an article or thing of value.

(30) "Supplemental feed attractant" means any food, garbage, or other attractant for game animals. The term does not include growing plants or plants harvested for the feeding of livestock.

(31) "Taxidermist" means a person who conducts a business for the purpose of mounting, preserving, or preparing all or part of the dead bodies of any wildlife.

(32) "Trap" means to take or participate in the taking of ~~any wildlife protected by state law~~ a wild animal by setting or placing any mechanical device, snare, deadfall, pit, or device intended to take wildlife or to remove wildlife from any of these devices.

(33) "Upland game birds" means sharptailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, ring-necked pheasant, Hungarian partridge, ptarmigan, wild turkey, and chukar partridge.

(34) "Wild animal" means an animal that is wild by nature as distinguished from common domestic animals, whether the animal was bred or reared in captivity, and includes birds and reptiles.

(35) "Wild animal menagerie" means any place where one or more bears or large cats, including cougars, lions, tigers, jaguars, leopards, pumas, cheetahs, ocelots, and hybrids of those large cats, are kept in captivity for use other than public exhibition.

(36) "Wild buffalo" means buffalo or bison that have not been reduced to captivity.

(37) "Zoo" means any zoological garden chartered as a nonprofit corporation by the state or any facility participating in the American zoo and aquarium association accreditation program for the purpose of exhibiting wild animals for public viewing."

**Section 12.** Section 87-6-203, MCA, is amended to read:

**"87-6-203. Unlawful taking, killing, trapping, labeling, or packaging of fur-bearing animal or pelt.** (1) Except as provided in [section 5], person convicted of purposely, knowingly, or

negligently taking, killing, trapping, labeling, or packaging a fur-bearing animal or the pelt of a fur-bearing animal in violation of any provision of this title shall be fined not less than \$100 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for 24 months from the date of conviction or forfeiture unless the court imposes a longer period, and any pelts possessed unlawfully must be confiscated.

(2) A person convicted of unlawful taking of more than double the legal bag limit of a fur-bearing animal may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(3) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

**Section 13.** Section 87-6-301, MCA, is amended to read:

**"87-6-301. Hunting, fishing, or trapping without license.** (1) Except as provided in 87-2-311 and subsection (2) of this section, a person may not:

(a) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess within this state any game animal, game bird, fur-bearing animal, game fish, or parts of those animals or birds except as provided by law or as provided by the department;

(b) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish, except at the places and during the periods and in the manner established by law or as prescribed by the department;

(c) hunt or trap or attempt to hunt or trap any game animal, game bird, or fur-bearing animal or fish for any fish within this state or possess, sell, purchase, ship, or reship any imported or other fur-bearing animal or parts of fur-bearing animals without first having obtained a proper and valid license or permit from the department to do so;

(d) trap or attempt to trap predatory animals or nongame wildlife without a license, as prescribed in 87-2-603, or a permit obtained pursuant to [section 4] if that person is not a resident; or

(e) hunt migratory game birds without first having obtained a valid migratory game bird license from the department if the person is 16 years of age or older.

(2) The provisions of this section do not require a person who accompanies a licensed disabled hunter, as authorized under 87-2-803(4), to be licensed in order to kill or attempt to kill a game animal that has been wounded by a disabled hunter when the disabled hunter is unable to pursue and kill the wounded game animal. However, the person must meet the qualifications for a license in the person's state of residence.

(3) ~~A~~ Except as provided in [section 5], a person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(4) A person convicted of hunting without a license may be subject to the additional penalties provided in 87-6-901 and 87-6-902.

(5) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 through 87-6-907."

**Section 14.** Section 87-6-601, MCA, is amended to read:

**"87-6-601. Trapping General trapping and snaring offenses.** (1) A person may not use a snare trap on private property for the purpose of snaring a fur-bearing animal, a predatory animal, or a nongame species unless:

(a) the snare trap is tagged with a numbered metal device identifying the owner's name, address, and telephone number;

(b) the consent of the landowner has been obtained for a set on private property; and

(c) the snare trap is set in a manner and at a

time so that it will not unduly endanger livestock. A person who injures livestock in snare traps is liable for damages to the owner of the livestock.

(2) A person trapping fur-bearing animals, predatory animals, or any other animals shall fasten a metal tag to all traps bearing in legible English the name and address or wildlife conservation license number of the trapper, except that a tag is not required on traps used by landowners trapping on their own land or on an irrigation ditch right-of-way contiguous to the land.

(3) A holder of a Class C-2 trapper's license may not trap or snare predatory animals or nongame wildlife on private property without obtaining written permission from the landowner, the lessee, or their agents.

(4) A person may not at any time willfully destroy, open or leave open, or partially destroy a house of any muskrat or beaver, except that trapping in the house of muskrats is not prohibited when authorized by the commission.

(5) (a) A person may not destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that from March 1 to October 1 of each year a person may remove any snare from land owned or leased by the person if the snare would endanger livestock.

(b) This subsection (5) does not apply to a law enforcement officer acting within the scope of the officer's duty.

(6) A person convicted of a violation of this section shall be fined not less than \$50 or more than \$1,000 or be imprisoned in the county detention center for not more than 6 months, or both. In addition, the person, upon conviction or forfeiture of bond or bail, may be subject to forfeiture of any current hunting, fishing, or trapping license issued by the state and the privilege to hunt, fish, or trap in this state or to use state lands, as defined in 77-1-101, for recreational purposes for a period of time set by the court.

(7) A violation of this section may also result in an order to pay restitution pursuant to 87-6-905 and 87-6-906."

NEW SECTION. **Section 15. {standard}**

**Codification instruction.** (1) [Sections 1 through 4] are intended to be codified as an integral part of Title 87, chapter 3, and the provisions of Title 87, chapter 3, apply to [sections 1 through 4].

(2) [Section 5] is intended to be codified as an integral part of Title 87, chapter 6, and the provisions of Title 87, chapter 6, apply to [section 5].

NEW SECTION. **Section 16. {standard}**

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

NEW SECTION. **Section 17. {standard} Effective date.** [This act] is effective upon approval by the electorate.

# INITIATIVE NO. 177

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## ARGUMENT FOR I-177

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I-177's purpose is to eliminate the dangers traps pose to people, pets and wildlife on public lands. I-177 will restrict commercial and recreational trapping to private lands, which are two-thirds of Montana's landscape. Hunting and fishing, protected by the constitution, will not be affected.

Tens of thousands of hidden traps—wire snares, steel-jawed legholds, body-crushing Conibears—present a year-round threat for all who work, hunt and recreate on public lands. Their very presence favors a single use over the legitimate rights of others to work, enjoy and feel safe in lands set aside for all taxpayers and citizens. Trapping is part of our history, but the day is gone when it maintains our livelihood or the economies of our communities.

Unlike 19th Century mountain men, trappers today drive trucks, ATV's and snowmobiles along routes many people use. Traps can be set 50 feet from trails, 30 feet from roads, and on river and creek banks. Traps are not signed. No public trails, roads or waterways are safe for a wandering child or dog.

Trapping is no longer a primary income source, yet our publicly owned animals are disappearing for markets like China and Russia. Quotas are set for Montana's bobcat, otter, fisher and swift fox, but trapping is unlimited for all other species. Killing an animal for its hide—market hunting—is what nearly exterminated the buffalo and is as unacceptable today as killing an elephant for its tusks, a bear for its gallbladder or a rhino for its horn.

Montana's tradition calls for "Fair Chase" and respect for animals, the core ethics of hunting. Trapping has no fair chase. The trapper does not see his target, the kill is far too often not quick or efficient. The suffering of the trapped animal is enormous, and can last for days. One out of four animals chews its leg off in panic and pain. Montana law is that no game animal be wasted. For every targeted fur bearer caught, an average of two more are killed and discarded. Baited traps attract any animal, including rare and protected species like eagles, owls, wolverine, lynx and fisher.

Because trapping is indiscriminate, it is not an effective management tool to control disease or populations. Healthy animals, not sick ones are lured by bait. Animals trapped are the ones that feed on rodents carrying common diseases. Limited trapping to protect livestock and property, for health and safety and for scientific and wildlife management activities is allowed under I-177.

Public lands belong to the public. The public does not have one face, one interest. For every trapper who wants to engage in that activity, on those lands, there are thousands of Montanans who value robust wildlife populations, ethical hunting practices, and freedom from the fear of hidden weapons on land that belongs to us all.

Wildlife is Montana's heritage, and our future. "The days of trapping are over," said wildlife biologist Chuck Jonkel. "It's time to preserve the animals."

For more information, visit [www.montanatrapfree.org](http://www.montanatrapfree.org)

# INITIATIVE NO. 177

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## ARGUMENT AGAINST I-177

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### **Vote NO on I-177 - It's Bad for Wildlife, Bad for Ranchers, and Bad for Montana.**

Montana's rich constitutionally protected heritage of hunting, fishing and trapping, is also the most effective means for controlling dangerous predators, preventing the spread of disease and protecting wildlife and livestock from an exploding wolf population. Animal rights activists want to take these decisions away from Montana's wildlife experts. Vote NO on I-177!

Here's why I-177 is bad for Montana:

- I-177 is bad for wildlife, costly for cattle and sheep ranchers, bad for taxpayers, and even dangerous for pets and people too!
- I-177 would ban one of the most effective methods for controlling wolves, coyotes, and other predators to protect Montana's elk, moose and deer populations, as well as livestock.
- Roughly 40% of all wolves harvested in Montana were taken by trapping with nearly half taken on public lands. Without trapping on public lands, wolf numbers will skyrocket causing damage to other wildlife, livestock, and even posing a safety risk to pets and people.
- I-177 would pose a significant public health and disease risk such as rabies, plague and attacks on pets and people, especially young children.
- I-177 is being pushed by the animal rights and anti-hunting lobby whose real agenda is to ban all trapping and all hunting. Montana's expert wildlife biologists need regulated trapping to continue to protect wildlife, livestock, pets and people.
- That is why I-177 is opposed by Montana's major sportsmen's organizations, cattle and sheep ranchers, wildlife management professionals, and more.
- I-177 will cost at least \$422,000 in taxpayer money every year for the Montana Department of Fish, Wildlife and Parks to do the same things that trappers currently buy a license to do.
- I-177 would not allow any trapping until after damage or even a tragedy has occurred, and even then, not until non-lethal methods have been tried and documented to be unsuccessful. Meanwhile, dangerous predator populations will continue to grow unchecked.
- Regulated trapping under existing laws is an essential tool for Montana's wildlife experts, and dates back to the time of Lewis and Clark. It is a cherished family tradition like hunting, fishing, and camping. Let's keep it that way.
- Vote No on I-177 so Animal Rights activists can't restrict our use of public lands for any reason! Montana's public lands belong to everyone, are big enough for everyone to enjoy.

**Vote NO on I-177 – It's Bad for Wildlife, Bad for Ranchers, and Bad for Montana.**



# INITIATIVE NO. 177

## PROponents' REBUTTAL OF ARGUMENT AGAINST I-177

I-177 protects human health and safety, property, wildlife management and livestock. I-177 does not affect private land, two-thirds of Montana, and is hunter-supported. Indiscriminate commercial and recreational trapping endangers people, pets and wildlife, including rare and protected species. Traps maim and kill horses, cattle, sheep and game. People suffer serious injury: broken leg, amputated toes and heart attack.

Trapping on public lands costs all of us. Veterinarian bills for the dozens of pets trapped annually can be thousands of dollars each. The reintroduction of trapped-out species costs hundreds of thousands. In fact, trapping is exponentially costly to tax revenue and jobs, by pushing species like lynx and wolverine to the endangered species list, which threatens to shut down public lands to mining, timber and other industries.

The claim that I-177 will cost \$422,000 annually is based on unsupported assumptions and incorrect. Data from trained, objective citizen scientists can replace unscientific information from trappers at no cost to the state.

Trapping kills animals that control disease, thus increasing disease.

Predators are self-regulating and are key for ecosystem health and the survival of many species. Trapping disrupts the natural process.

I-177 represents all Montana citizens. I-177 upholds the Public Trust Doctrine—Montana's wildlife belongs to the public.

"The leg-hold trap ... is probably the most cruel device ever invented by man and is a direct cause of inexcusable destruction and waste of our wildlife," wrote Dick Randall, a former federal trapper, in a statement to Congress in 1975.

Vote "YES" on I-177.

## OPponents' REBUTTAL OF ARGUMENT FOR I-177

Animal Rights Activists are just flat wrong about I-177 because it would actually INCREASE DANGERS to people, pets, and wildlife. Even current Governor Bullock declared that "Recreational trapping is important to many Montanans and is also a recognized tool for wildlife management." Governor candidate Greg Gianforte agrees I-177 would be a horrible mistake for Montana.

For example, where trapping is restricted there are increased wild animal attacks on pets and children, plus rabies and other lethal diseases, and higher government costs to control these problems. If I-177 passes, wolf numbers will skyrocket and big game populations will suffer.

The extremely limited trapping allowed under I-177 can only be done at increased tax payer expense by government employees, and then only AFTER damage to livestock and property has occurred. That is crazy!

By the way, under current law, trapping is already prohibited within National Parks and Wildlife Refuges, in many recreational areas, and near high use public trails. But that's not enough for activists who seek to eliminate sportsmen's use on ALL public lands.

Finally, advocates of I-177 cunningly quote an old trapper who used methods 50 years ago that are illegal under today's existing laws. Plus, they quote activists in Europe to justify public land restrictions in Montana. Animal rights leader Wayne Pacelle declared "We are going to use the ballot box and the democratic process to stop all hunting in the United States." Do not believe that I-177 won't affect hunting in Montana.

# INITIATIVE NO. 181

## A LAW PROPOSED BY INITIATIVE PETITION

I-181 establishes the Montana Biomedical Research Authority to oversee and review grant applications for the purpose of promoting the development of therapies and cures for brain diseases and injuries and mental illnesses, including Alzheimer's, Parkinson's, brain cancer, dementia, traumatic brain injury and stroke. The grants, which are funded by state general obligation bonds, can be used to pay the costs of peer-reviewed biomedical research and therapy development, recruiting scientists and students and acquiring innovative technologies at Montana biomedical research organizations. I-181 provides specifics for the Montana Biomedical Research Authority's membership, powers, staffing, grant eligibility and evaluation requirements, and reporting requirements.

I-181 authorizes the creation of state bond debts for \$20 million per year for a period of ten years. State general fund costs for debt service and other expenses would be \$17.38 million total for the first four years and peak at \$16 million per year for fiscal years 2027-2037.

YES on Initiative I-181

NO on Initiative I-181

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### COMPLETE TEXT OF INITIATIVE NO. 181

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WHEREAS, with a growing population of aging citizens, Montana will be particularly hard hit in the coming decades by currently incurable diseases like Alzheimer's and related dementias. The number of Montanans with Alzheimer's disease is expected to reach 27,000 by 2025. This act will give hope to thousands of Montana families who live with the effects of this devastating disease; and

WHEREAS, by funding potentially curative, early-intervention therapies, this Act seeks to reduce the increasing costs to the state of caring for Alzheimer's patients; and

WHEREAS, organizations across Montana engaged in biomedical research have been at the forefront of biomedical research for brain disease, brain injury and mental illness. Providing a sustainable and responsible stream of funding for these organizations will allow Montana to attract and retain world-class talent, making the state a leader in the field of brain research and therapy development; and

WHEREAS, one in four Montanans suffers from

a brain disease, injury or mental illness at some point in their lives. This act will eventually give thousands of Montanans suffering from brain disease, brain injury or mental illness early access to promising treatment options and experimental medications that could, in some cases, be the difference between life and death; and

WHEREAS, the biomedical research that will be funded by this act is expected to generate state revenues from royalties, patents and licensing fees that can be invested in additional medical research or used for other vital state services; and

WHEREAS, this act will create new, good-paying jobs, boosting our local economies and helping communities across the state thrive; and

WHEREAS, for all of these reasons, the people of Montana find that promoting the development of therapies and cures for brain diseases, brain injuries, mental illness and other chronic diseases is a vital public purpose.

THEREFORE, it is the intent of the people of

Montana to provide funding to develop new therapies to treat and cure brain diseases, brain injuries and mental illness, to develop centers of research and clinical excellence, to provide quality jobs for Montanans and to bring world-class students and researchers into Montana.

BE IT ENACTED BY THE PEOPLE OF MONTANA:

**NEW SECTION. Section 1. Montana Biomedical Research Authority.** (1) There is created a public body corporate designated as the Montana Biomedical Research Authority. The authority is constituted a public instrumentality, and its exercise of the powers conferred by [sections 2 through 19] must be considered and held to the performance of an essential public function.

(2) The authority consists of 13 members, appointed by the governor and confirmed by the senate as prescribed in 2-15-124, except that none of the members is required to be licensed to practice law in the state. The governor shall appoint members as follows:

(a) Seven members who are Montana representatives of regional, state or national patient advocacy groups for diseases including but not limited to those diseases listed in [section 5(1)], except that no more than two members may be representatives of the same group or disease; and

(b) Six members who will provide a balance of expertise and public interest and accountability and who include:

(i) One or more members from among Montana representatives of a veterans' health advocacy group;

(ii) One or more members from among Montana representatives of an Indian health advocacy group;

(iii) One or more members from among Montana physicians or nurses specializing in neurology or gerontology; and

(iv) One or more members from among Montana physicians or nurses specializing in psychiatric disease or substance abuse.

(3) The authority is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The authority is allocated to the department of commerce for administrative purposes only as provided in 2-15-121, and has authority over its own personnel as provided in [section 9].

**NEW SECTION. Section 2. Short title.** [Sections 2 through 19] may be cited as the Montana Biomedical Research Authority Act.

**NEW SECTION. Section 3. Definitions.** As used in [sections 2 through 19], the following definitions apply:

(1) "Administrative cost" means any cost incurred in the administration of the authority, including but not limited to costs of issuing debt; program startup costs; financial, management, accounting, audit and legal consulting fees and expenses; fees and expenses of the panel of scientific consultants and other costs associated with peer review of grant applications; and reimbursement costs for support services from other state agencies.

(2) "Authority" means the Montana Biomedical Research Authority created in [section 1].

(3) "Biomedical research fund" means the biomedical research fund established in [section 19].

(4) "Bonds" means general obligation bonds of the state issued pursuant to [section 16] and Title 17, Chapter 5, Part 8, and, to the extent applicable, provisions of related parts in Title 17, Chapter 5, including refunding bonds issued pursuant to [section 17] and bond anticipation notes issued pursuant to [section 18], for the purposes of [sections 2 through 19].

(5) "Eligible grantee" means an entity that is eligible to apply for and receive grant funds under [sections 2 through 19] and that meets the criteria established in [section 6].

(6) "Eligible project" means a project that is eligible for grant funding under [sections 2 through 19] and that meets the criteria established in [section 5].

(7) "Indirect cost" means any cost incurred by a grant recipient in the administration, accounting, general overhead, and general support costs for implementing a grant from the authority.

(8) "National funding agency" means any nationally recognized organization that funds or supports research in furtherance of the



purpose of [sections 2 through 19], including but not limited to, NIH, Alzheimer's Association, Michael J. Fox Foundation and the United States Department of Defense.

(9) "NIH" means National Institutes of Health.

(10) "Panel of scientific consultants" means the panel of research scientists described in [section 11].

**NEW SECTION. Section 4. Purpose.** The purpose of the Montana Biomedical Research Authority is to oversee scientific peer review of grant applications, evaluate grant applications for grant funding, and, if appropriate, award grants to fund eligible projects that:

(1) Promote development of therapies and cures for brain diseases, brain injuries and mental illness that affect thousands of Montanans and their families;

(2) Promote biomedical research in genetics and molecular biology, the applications of which extend to a wide variety of illnesses afflicting Montanans, including cancer and diabetes;

(3) Support Montana's biomedical research organizations in attracting and retaining world-class students and faculty;

(4) Support the transformation of existing organizations into centers of research and clinical excellence so that Montanans can avoid travelling out of state to receive top-quality healthcare; and

(5) Benefit the state economy by creating quality jobs for Montanans, generating royalties, patents and licensing fees, and eventually reducing state health care costs by shifting toward early-intervention therapies for chronic diseases and injuries.

**NEW SECTION. Section 5. Eligible projects.**

A project is eligible for grant funding from the authority if the project consists of one or more of the following:

(1) an investigator-initiated research proposal or a pre- or post-doctoral fellowship proposal related to:

(a) development of therapies and cures, in any stage from laboratory research through clinical trials, related to brain diseases, brain injuries and mental illness, including, without

limitation, Alzheimer's disease, Parkinson's disease, glioblastoma and other brain cancers, dementia, traumatic brain injury, post-traumatic stress disorder, stroke, multiple sclerosis, epilepsy, autism, depression, substance abuse and addiction, Lou Gehrig's disease, spinal cord injuries, Huntington's disease, bipolar disorder, schizophrenia and other mental illness; or

(b) biomedical research in genetics, molecular and cellular biology with applications extending to a wide variety of illnesses, including cancer and diabetes; or

(2) a proposal to transform an existing organization into a center of research and clinical excellence through:

(a) acquisition and installation of scientific equipment costing, individually or in the aggregate, at least \$10,000, including any necessary improvements to the facility where the equipment will be located. Contracts for any necessary facility improvements under this paragraph must contain a provision giving preference to the employment of bona fide Montana residents in the performance of the work. Examples of eligible scientific equipment include, without limitation, microscopes, optics technology, fluorescence-activated cell sorters, PET scanners, magnetic resonance imagers and electrophysiology equipment; or

(b) recruiting leading scientists, research staff, laboratory technicians, students and other research or medical professionals.

**NEW SECTION. Section 6. Eligible grantees.**

The following organizations or entities are eligible to apply for and receive grant funding from the authority:

(1) Any organization engaged in biomedical research, provided that the organization:

(a) is a nonprofit organization or is controlled by one or more nonprofit organizations or is a Montana university, and

(b) is organized or incorporated in the state under Title 20, Chapter 25 or Title 35, or is headquartered in Montana; and

(c) has a proven history of administering scientific, biomedical or clinical research grants and contracts.

(2) For-profit entities engaged in biomedical research in partnership or in collaboration with any organization or organizations described

under (1) above, provided that:

(a) The for-profit entity is organized or incorporated in the state under Title 35 or is headquartered in Montana;

(b) The nonprofit partner or collaborator is the grant recipient and controls distribution of the grant funds; and

(c) The grant application is for an eligible project described in [section 5(1)] and the panel of scientific consultants and the authority each make findings that the proposal to be funded has high merit and that the proposed research or therapy is likely to be accelerated as a result of the collaboration.

**NEW SECTION. Section 7. Authority -- quorum -- mode of action -- expenses.** (1) Seven members of the authority constitute a quorum for the purpose of conducting business. Action may be taken by the authority upon the affirmative vote of a majority of the members. A vacancy in the membership of the authority does not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(2) The authority shall hold at least two public meetings per year, which may be held by any means of communication by which all members participating may simultaneously hear each other during the meeting. The authority may hold additional meetings as it determines are necessary or appropriate. Each meeting of the authority must be open to the public as provided for in Title 2, chapter 3, part 2.

(3) Each member is entitled to be paid \$50 for each day that the member is engaged in the performance of authority duties plus cost of travel, lodging, and meals as provided in 2-18-501 through 2-18-503.

**NEW SECTION. Section 8. Powers of the authority.** The authority may:

- (1) sue and be sued;
- (2) adopt all standards and procedures necessary for the administration of [sections 2 through 19];
- (3) request that the board of examiners issue bonds or incur other debt as described in [sections 2 through 19], including the issuance of notes or refunding bonds;
- (4) consult with scientific experts and advisors

as needed;

(5) award grants to eligible grantees for costs, including indirect costs, of eligible projects;

(6) invest any funds that are not required for immediate use, subject to any agreements with its bondholders and noteholders, as provided in Title 17, chapter 6, except that all investment income from funds invested by the authority, less the cost for investment, must be deposited in the biomedical research fund to the credit of the authority to be used to carry out the purposes of [sections 2 through 19];

(7) contract in its own name for the investment of funds or any other purposes it considers appropriate to carry out the purposes of [sections 2 through 19];

(8) accept gifts, grants, or loans from a federal agency, an agency or instrumentality of the state, a municipality, or any other source;

(9) enter into contracts or other transactions with a federal agency, an agency or instrumentality of the state, a municipality, a private organization, or any other entity consistent with the exercise of any power under [sections 2 through 19]; and

(10) perform any other acts necessary and convenient to carry out the purposes of [sections 2 through 19].

**NEW SECTION. Section 9. Staff of authority.**

The authority may employ or contract for any professional staff or consultants necessary. Employment and contracting, other than contracting with the panel of scientific consultants, must be done in consultation with the department of commerce.

**NEW SECTION. Section 10. Establishment of standards.** (1) The authority shall establish medical and scientific accountability standards applicable to grant applications similar to standards in place from time to time for research funded by the NIH, with modifications to adapt to the mission and objectives of the authority, to ensure that grant-funded research is conducted safely and ethically.

(2) The authority shall establish standards for grant applications, including minimum thresholds for sending grant applications for external review by the panel of scientific consultants as provided in [section 12].

(3) In addition, the authority shall establish standards requiring all grant awards to be subject to intellectual property agreements that balance the opportunity of the state of Montana to benefit from the patents, royalties, and licenses that result from research, therapy development, and clinical trials with the need to assure that essential medical research is not unreasonably hindered by the intellectual property agreements.

**NEW SECTION. Section 11. Panel of scientific consultants.** The peer review described in [section 12] must be conducted by a panel of six to twelve eminent research scientists selected from time to time by the authority, who must be based outside of the state of Montana and who have no ties to or collaborations with investigators working at eligible grantee organizations. Members of the panel of scientific consultants must be demonstrated leaders in biomedical research with active research programs at top-ranked universities, research institutions, medical schools or hospitals. Qualifications of panel members may include a strong track record in producing highly cited peer-reviewed publications, membership in the National Academy of Sciences, receipt of national or international scientific awards, past service on peer-review panels or national advisory committees, and expertise in brain diseases, brain injuries, mental illness or other eligible projects described in [section 5(1)]. In any panel of scientific consultants the authority convenes, at least two members should have experience in successfully introducing new disease therapies to clinical practice.

**NEW SECTION. Section 12. Peer review.**

(1) Peer review must take one of two forms, depending on whether the grant application requests funds for eligible projects described under [section 5(1)] or [section 5(2)]:

(a) Grant applications for eligible projects described under [section 5(1)] must be for projects that were submitted to national funding agencies and reviewed by expert scientific panels but did not rank sufficiently high to receive funding from the national funding agency or agencies. Grant applications

for eligible projects described under [section 5(1)] must be accompanied by a summary statement resulting from peer review of the research proposal conducted by a study section of the NIH or comparative deliberative body. Summary statements may be dated up to 18 months prior to the submission of the grant application to the authority. The authority shall include the accompanying summary statement when submitting grant applications to the panel of scientific consultants for peer review.

(b) Grant applications for eligible projects described under [section 5(2)] do not need to have been submitted to national funding agencies for peer review, but must be submitted by the authority to an appropriate panel of scientific consultants.

(2) At least two times each year, the authority shall convene an appropriate panel of scientific consultants to review applications and recommend priority rankings.

(a) With respect to applications for eligible projects described under [section 5(1)], priority rankings shall be based on factors including innovation, demonstrated ability of the principal investigator and team or the fellowship candidate and mentor, project relevance, priority rankings and scores resulting from review by the national funding agency or agencies and relevance to the development of disease therapies.

(b) With respect to applications for eligible projects described under [section 5(2)], applications of equivalent merit, as determined by the panel of scientific consultants, shall receive priority to the extent that they provide higher proportions of non-state matching fund amounts.

(3) The priority rankings assigned by the panel of scientific consultants must be provided to the authority for final funding determinations. The recommendations of the panel of scientific consultants are not determinative, but must be taken into account by the authority in making grant award determinations, as described in [section 13].

**NEW SECTION. Section 13. Evaluation of grant applications by the authority.** The authority shall evaluate grant applications for grant funding considering the following factors:

(1) the priority ranking assigned to the

application by the panel of scientific consultants, as described in [section 12];

(2) the financial, managerial, and technical ability of the applicant to manage the grant and conduct the proposed research;

(3) the total amount of grant funds available in the grant allocation account in the biomedical research fund;

(4) whether and to what extent the applicant has non-state matching funds available to leverage grant funds;

(5) the total amount requested in other applications that have been received or that are likely to be received; and

(6) any other criteria that the authority determines appropriate, considering the purposes of [sections 2 through 19].

**NEW SECTION. Section 14. Biennial audit and annual report.**

(1) The authority's books and records must be independently audited at least once each biennium, by or at the direction of the legislative auditor. The costs of the audit must be paid from the authority's funds.

(2) By September 30 of each year, the authority shall issue an annual report to the public describing its activities for the preceding fiscal year. Each annual report must include

(a) for the prior fiscal year, the number and dollar amounts of research grants awarded, the grantees, and the authority's administrative expenses;

(b) a summary of research findings, including promising new research areas;

(c) an assessment of the relationship between the authority's grants and the overall strategy of its research program; and

(d) a discussion of the authority's strategic research and financial plans.

**NEW SECTION. Section 15. Creation of**

**debt.** The people of Montana, through the enactment of this law by a majority of the electors voting on the question, authorizes the creation of state debt in a cumulative amount not to exceed \$200 million, over a period of 10 years, in principal amount of general obligation bonds issued as provided in [section 16], not including any refunding obligations issued pursuant to [section 17], for the purposes set forth in [sections 2 through 19].

**NEW SECTION. Section 16. Issuance of**

**bonds—allocation of proceeds.** (1) The authority shall determine, from time to time, whether it is necessary or desirable to issue bonds authorized by [section 15] for the purposes set forth in [sections 2 through 19] and, if so, the authority shall make a written request to the board of examiners to issue bonds, which request must include the principal amount of bonds to be issued. The total amount of bonds authorized to be issued in any fiscal year must not exceed \$20 million, exclusive of any refunding bonds issued pursuant to [section 17] or bond, grant or revenue anticipation notes issued as provided in [section 18]; except that, if less than this amount of bonds is issued in any fiscal year, the remaining authorized but unissued amount may be carried over to one or more subsequent fiscal years up to a period of 10 full fiscal years, concluding with the fiscal year ending June 30, 2027.

(2) Upon receiving the written request of the authority, the board of examiners shall issue and sell bonds of the state in the requested amount. The bonds are general obligations to which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be sold and issued as provided by Title 17, chapter 5, part 8 and other applicable provisions of Title 17, Chapter 5, if any, except that each series of bonds may have a term of up to 40 years.

(3) The proceeds of the bonds are allocated to the biomedical research fund and applied as provided in [section 19]. The proceeds must be available to the authority and may be used for the purposes authorized in this part without further budgetary authorization.

**NEW SECTION. Section 17. Refunding bonds.**

Upon request of the authority to the board of examiners, for so long as any of the bonds issued under [section 16] are outstanding, refunding bonds may be issued as provided in Title 17, chapter 5, parts 3 and 8, and other applicable provisions of Title 17, chapter 5, if any. Refunding bonds do not count against the \$200 million limit set forth in [section 15]. Refunding bonds issued under this section exclude bonds issued to refund bond, grant or revenue anticipation notes.

**NEW SECTION. Section 18. Bond, grant or revenue anticipation notes.** Upon request of the authority to the board of examiners, bond, grant or revenue anticipation notes may be issued as provided in 17-5-805. Bond, grant or revenue anticipation notes do not count against the \$200 million limit set forth in [section 15].

**NEW SECTION. Section 19. Biomedical research fund—uses of funds.** (1) There is established outside the state treasury a separate account designated as the biomedical research fund. There are established in the biomedical research fund as subaccounts a grant allocation account, an administration account, and a costs of issuance account.

(2) There must be credited to:

(a) The grant allocation account:

(i) The net proceeds of bonds other than refunding bonds, less any proceeds deposited to the administration account as provided in subsection (b);

(ii) The net proceeds of bond, grant, or revenue anticipation notes, less any proceeds deposited to the administration account as provided in subsection (b); and

(iii) Money appropriated by the legislature;

(b) The administration account, an amount not to exceed 5% of the proceeds of bonds or bond, grant, or revenue anticipation notes; and

(c) The costs of issuance account, proceeds of the bonds or notes or other funds to be used to pay costs of issuance of the bonds or notes.

(3) Funds in the grant allocation account must be used to provide grants to eligible grantees for eligible projects as provided in [sections 2 through 19].

(4) Funds in the administration account must be used to pay administrative costs of the authority, unless they are not needed, in which case such funds may be transferred to the grant allocation account or a debt service account for outstanding bonds or notes.

**NEW SECTION. Section 20. Statement of intent to legislature.** By approving [this act], the people of the state of Montana intend and request that the legislature enact legislation to implement [this act] at the legislative session immediately following the general election

at which [this act] was approved. Such implementing legislation is expected to include providing for reasonable startup costs of the authority to be repaid from bond proceeds upon the issuance of bonds as provided in [section 16] and providing for a statutory appropriation of amounts in the biomedical research fund, including without limitation bond proceeds, to achieve the purpose set forth in [this act].

**NEW SECTION. Section 21. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, Chapter 15, Part 18. [Sections 2 through 19] are intended to be codified as an integral part of Title 90.

**NEW SECTION. Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 23. Effective date.** [This act] is effective January 1, 2017.

**NEW SECTION. Section 24. Termination.** [Sections 15, 16 and 18] terminate June 30, 2027.



# INITIATIVE NO. 181

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## ARGUMENT FOR I-181

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I-181 would provide hope to tens of thousands of Montanans by providing funding for Montana-based research into developing therapies and cures for brain diseases, brain injuries, and mental illnesses. These diseases include Alzheimer's, Parkinson's, Multiple Sclerosis, PTSD, traumatic brain injury, addiction disorders, and depression—to name a few.

With a population of aging citizens and veterans, Montana will be particularly hard hit in the coming decades by currently incurable diseases like Alzheimer's and related dementias, as well as rising rates of PTSD and suicide in the veteran community.

I-181 would establish the Montana Biomedical Research Authority to award grants “for the purpose of promoting the development of therapies and cures” for brain disorders and mental illness. An independent panel of doctors, nurses, and representatives of patient advocacy groups, veterans, and Montana Indian Tribes would award these grants to Montana universities, hospitals, and other organizations qualified to conduct such research.

This initiative will build on world-class research already occurring in Montana on these issues. We will be able to provide more opportunities for our young people interested in science and medicine to stay in Montana and create good-paying jobs.

The research conducted through I-181 will be “made in Montana,” likely providing Montanans earlier access to new treatments and cures and possibly allow them to participate in early clinical trials. This targeted research investment will help bring state of the art diagnostic and treatment techniques to Montana that will help reduce the enormous costs families and the state budget will face in caring for the increasing numbers of Montanans expected to deal with these diseases and disorders in the coming decades.

For example, the U.S. Centers for Disease Control (CDC) estimate that with medical costs and lost work costs, the average suicide costs \$1,164,499. In 2014, there were 248 suicides in Montana. If CDC costs are applied to that figure, suicide deaths alone cost Montanans around \$2.89 billion over the course of ten years. Similarly, the number of Montanans with Alzheimer's disease is expected to reach 27,000 by 2025. Alzheimers' impacts on Medicaid costs alone are expected to rise from \$140 million in 2015 to \$214 million in 2025. Brain research in Montana could be critical in stemming those costs.

An investment of \$20 million in funding per year for 10 years through general obligation bonds is a powerful commitment to the hundreds of thousands of Montanans—and their loved ones—who suffer from brain diseases and disorders and mental illness.

The proceeds from the sale of these bonds, if appropriated by state legislative sessions, would be used to fund research grants to qualified Montana institutions. Bond interest rates are very low so this is a good time for Montana taxpayers to make this investment. The initiative has been drafted with the assistance and advice of lawyers of Dorsey Whitney, L.L.P of Missoula, MT.

We believe ensuring robust research for the sake of our children, grandchildren, our seniors and our veterans is both a responsibility and a Montana value.

# INITIATIVE NO. 181

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## ARGUMENT AGAINST I-181

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We urge you to vote no on Initiative 181. Initiative 181 would indebt the taxpayers of Montana in the amount of 200 million dollars with a payback of over 325 million dollars. While the promoters of the initiative promise economic benefit from borrowing against future income, funding research by creating debt is not a wise use of taxpayers' dollars.

Initiative 181 allows an appointed board to request the sale of State bonds, deposit the money in an account outside the state treasury, and issue grants for research projects that have failed to receive funding from conventional sources. It also allows the appointed commission to provide grants to medical organizations to build facilities and purchase equipment. This will create winners and losers inside the medical service community. Some providers will receive state money to improve services while their competitors will not.

Initiative 181 is bad policy because it creates and funds a new program without considering the impacts the cost of this program will have on existing obligations of the State. The passage of I-181 will reduce the upcoming legislature and future legislatures' ability to fund the increasing costs of existing programs like K-12 school funding, health care for low income Montanans, new infrastructure projects and a host of other existing programs.

Here are some of the many reasons to vote NO on I-181:

- It allows voters to create a new spending program without providing a revenue source to fund the program.
- It circumvents the current legislative process that prioritizes State spending.
- Ongoing operational programs like those funded by I-181 should be funded through the current appropriation process so they can be balanced with the other needs and obligations of the State.
- It has the potential to stop bonding for infrastructure projects now and in the future.
- Once the program is started there is no legislative oversight to insure the borrowed money is used wisely.
- Opportunities for public input into decisions of the Biomedical Authority, that has oversight over the program, are limited because the Authority can meet by electronic conference.
- Borrowing money to fund research projects that have a low probability of succeeding is not good policy.
- Placing State-generated money directly into a fund outside the State Treasury with no accountability could be unconstitutional.
- The creation of State debt should be reserved for spending on projects that create hard assets that are owned by the taxpayers.
- If the debt is paid back over 20 years the cost to taxpayers could exceed 325 million dollars; payback over 40 years will be much higher.

For these and many other reasons we urge you to vote NO on I-181 when you cast your ballot this fall.

# INITIATIVE NO. 181

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-181

The opponents argue that it is not a wise decision to utilize debt financing of \$200 million to invest in brain research. That argument ignores the staggering financial challenge that brain conditions pose to Montana tax payers. Montana Medicaid paid \$140 million on Alzheimer's alone in 2015. Over the course of the ten years covered in this initiative, a flat rate of spending would mean that Montana Medicaid would spend \$1.4 billion dollars during this time period. However by 2025, the Montana Medicaid spending is expected to be \$214 million per year. The investment in Montana-based brain research could be an essential tool to help offset those overwhelming long-term costs.

The opponents argue that the funding is unfair because not every medical research organization will receive grant awards. The opponents are correct that the standard for funding from these grants will be high. It will be a competitive process that will reward innovation and ensure that Montanans affected by brain diseases and disorders will have access to high quality care facilities with cutting edge expertise.

The opponents state that Initiative 181 is bad policy because it creates and funds a new program without considering the impacts the cost of this program will have on existing obligations of the State. Again, the opponents ignore the massive expenditures that the State of Montana is already spending on brain condition treatment. Brain research is Montana's best tool to try and avert staggering long-term costs. Initiative 181 puts that tool in motion.

## OPPONENTS' REBUTTAL OF ARGUMENT FOR I-181

The proponents of I-181 say that implementation of the initiative would provide hope to tens of thousands of Montanans. What they don't say is that the types of research projects that will be funded with the proposed borrowed money do not succeed very often. Analysis of success of various research projects indicates that they fail many times more than they succeed. That is to be expected with research. For example, according to a study published in Alzheimer's Research and Therapy, over 99% of the Alzheimer drug trials in the last ten years have failed. Failure rates in cancer treatment drugs are about 80%. Finding cures to any disease is not easy, and a great number of attempts fail. Finding cures to diseases that involve mental issues is even more difficult.

For this reason alone borrowing money to fund research and placing it in the hands of an appointed board that is not subject to state oversight should not be approved. Research funding should be done with available revenues if the Legislature believes such funding is a wise use of taxpayer dollars. The Legislature should only fund new programs after it weighs the benefits of those programs against the benefits of existing programs the State is already committed to fund. Programs like schools, health care for low income people, incarceration of criminals, and taking care of infrastructure in which the taxpayers have already invested money.

We urge you to vote NO on I-181 when you cast your ballot.



# INITIATIVE NO. 182

## A LAW PROPOSED BY INITIATIVE PETITION

I-182 renames the Montana Marijuana Act to the Montana Medical Marijuana Act and amends the Act. I-182 allows a single treating physician to certify medical marijuana for a patient diagnosed with chronic pain and includes post-traumatic stress disorder (PTSD) as a “debilitating medical condition” for which a physician may certify medical marijuana. Licensing requirements, fees and prohibitions are detailed for medical marijuana dispensaries and testing laboratories. I-182 repeals the limit of three patients for each licensed provider, and allows providers to hire employees to cultivate, dispense, and transport medical marijuana. I-182 repeals the requirement that physicians who provide certifications for 25 or more patients annually be referred to the board of medical examiners. I-182 removes the authority of law enforcement to conduct unannounced inspections of medical marijuana facilities, and requires annual inspections by the State.

YES on Initiative I-182

NO on Initiative I-182

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### COMPLETE TEXT OF INITIATIVE NO. 182

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WHEREAS, Montana voters approved I-148, the “Medical Marijuana Act,” in 2004 with 62 percent of the vote, creating safe access to medical marijuana for patients with debilitating illnesses; and

WHEREAS, the Legislature, with SB 423, repealed the “Medical Marijuana Act” in 2011 and replaced it with the “Montana Marijuana Act”, overriding the will of the voters and creating obstacles for patients’ safe access to medical marijuana; and

WHEREAS, patients with debilitating illnesses rely on providers for safe and reasonable access to medical marijuana; and

WHEREAS, medical marijuana offers relief for veterans and other Montanans suffering from post-traumatic stress disorder (PTSD); and

WHEREAS, providers should be held accountable through licensing and annual inspections; and

WHEREAS, Montana voters continue to support safe access to medical marijuana for patients with debilitating illnesses.

**Section 1.** Section 45-9-203, MCA, is amended to read:

**“45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver’s license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302.

(2) If a person with a registry identification card or license issued pursuant to 50-46-307 or 50-46-308 is convicted of an offense under this chapter, the court shall:

(a) at the time of sentencing, require the person to surrender the registry identification card; and

(b) notify the department of public health and human services of the conviction in order for the department to carry out its duties under 50-46-330.”

**Section 2.** Section 46-18-202, MCA, is amended to read:

**“46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in

46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

(a) prohibition of the offender's holding public office;

(b) prohibition of the offender's owning or carrying a dangerous weapon;

(c) restrictions on the offender's freedom of association;

(d) restrictions on the offender's freedom of movement;

(e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

(f) a requirement that the offender surrender any registry identification card or license issued under 50-46-303;

(g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society.

(2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction.

(3) If a sentencing judge requires an offender to surrender a registry identification card or license issued under 50-46-303, the court shall return the card or license to the department of public health and human services and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card."

**Section 3.** Section 50-46-301, MCA, is amended to read:

**"50-46-301. Short title -- purpose.** (1) This part may be cited as the "Montana Medical Marijuana Act".

(2) The purpose of this part is to:

(a) improve the regulatory system to make the Montana marijuana program safe, functional, and transparent for patients, providers, regulators, and Montana communities;

~~(a)~~(b) provide legal protections to persons individuals with debilitating medical conditions, including posttraumatic stress disorder, who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

~~(b)~~(c) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this part by persons who obtain registry identification cards;

~~(c)~~(d) allow individuals persons to assist a limited number of registered cardholders with the cultivation and manufacture of marijuana or and manufacture of marijuana-infused products;

(e) require licensing for the cultivation of marijuana and manufacture of marijuana-infused products;

(f) provide for dispensaries, employees, and for the transport of marijuana and marijuana-infused products;

~~(d)~~(g) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises; and

(h) provide for the testing of marijuana by licensed testing laboratories; and

~~(e)~~(i) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions."

**Section 4.** Section 50-46-302, MCA, is amended to read:

**"50-46-302. Definitions.** As used in this part, the following definitions apply:

(1) "Correctional facility or program" means a facility or program that is described in 53-1-202 and to which ~~a person~~ an individual may be ordered by any court of competent jurisdiction.

(2) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for

human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician ~~and by:~~

~~(i) objective proof of the etiology of the pain, including relevant and necessary diagnostic tests that may include but are not limited to the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or~~

~~(ii) confirmation of that diagnosis from a second physician who is independent of the treating physician and who conducts a physical examination;~~

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department; ~~or~~

~~(k) post-traumatic stress disorder; or~~

~~(~~k~~)(l) any other medical condition or treatment for a medical condition approved by the legislature.~~

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Dispensary" means a registered location from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

(5) (a) "Employee" means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(4)(6) "Local government" means a county, a consolidated government, or an incorporated

city or town.

~~(5)(7) "Marijuana" has the meaning provided in 50-32-101.~~

~~(6)(8) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by a registered cardholder by a means other than smoking.~~

~~(b) The term includes but is not limited to edible products, ointments, and tinctures.~~

~~(7)(9) (a) "Marijuana-infused products provider" means a Montana resident who meets the requirements of this part and who has applied for and received a registry identification card person licensed by the department to manufacture and provide marijuana-infused products for a registered cardholder.~~

~~(b) The term does not include the cardholder's treating or referral physician.~~

~~(8)(10) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.~~

~~(9)(11) "Paraphernalia" has the meaning provided in 45-10-101.~~

(12) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization.

~~(10)(13) (a) "Provider" means a Montana resident 18 years of age or older who is authorized person licensed by the department to assist a registered cardholder as allowed under this part.~~

~~(b) The term does not include the a cardholder's treating physician or referral physician.~~

~~(11)(14) "Referral physician" means a person an individual who:~~

~~(a) is licensed under Title 37, chapter 3;~~

~~(b) has an established office in Montana; and~~

~~(c) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment.~~

~~(12)(15) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card.~~

(13)(16) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated ~~the person will cultivate or manufacture that~~ marijuana will be cultivated or marijuana-infused products will be manufactured for a

registered cardholder.

~~(14)~~(17) "Registry identification card" means a document issued by the department pursuant to 50-46-303 that identifies ~~a person an individual~~ as a registered cardholder, ~~provider, or~~ ~~marijuana-infused products provider.~~

~~(15)~~(18) (a) "Resident" means an individual who meets the requirements of 1-1-215.

(b) An individual is not considered a resident for the purposes of this part if the individual:

(i) claims residence in another state or country for any purpose; or

(ii) is an absentee property owner paying property tax on property in Montana.

~~(16)~~(19) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son, daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, stepgrandparent, or stepgrandchild.

~~(17)~~(20) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter.

~~(18)~~(21) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition:

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

(c) reviewing prior treatment and treatment response for the debilitating medical condition;

(d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition;

(e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

(f) monitoring the response to treatment and possible adverse effects; and

(g) creating and maintaining patient records that remain with the physician.

(22) "Testing laboratory" means a qualified person, licensed by the department, who:

(a) provides testing of small samples of marijuana and marijuana-infused products; and

(b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds or pesticides in a sample.

~~(19)~~(23) "Treating physician" means ~~a person an individual~~ who:

(a) is licensed under Title 37, chapter 3;

(b) has an established office in Montana; and

(c) has a bona fide professional relationship with the ~~person individual~~ applying to be a registered cardholder.

~~(20)~~(24) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by ~~a person an individual~~ with a debilitating medical condition.

(b) The term does not include the seeds, stalks, and roots of the plant.

~~(21)~~(25) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."

**Section 5.** Section 50-46-303, MCA, is amended to read:

**"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality -- inspections -- reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who:

~~(i) have debilitating medical conditions and who submit applications meeting the requirements of this part; and~~

~~(ii) are named as providers or marijuana-infused products providers by persons who obtain registry identification cards for their debilitating medical conditions.~~

(b) ~~Persons Individuals~~ who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(2) The department shall establish and maintain a program for the licensure of testing

laboratories and persons who are named as providers or marijuana-infused products providers by registered cardholders.

~~{2}{3}~~ The department shall conduct criminal history background checks as required by 50-46-307 and 50-46-308 before issuing a registry identification card for license to a person named as a provider or marijuana-infused products provider.

~~{3}{4}~~ Registry identification cards issued pursuant to this part must:

(a) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid;

(b) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider or marijuana-infused products provider, if any;

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number; and

~~{e}~~ easily identify whether the card is for a person with a debilitating medical condition, a provider, or a marijuana-infused products provider; and

~~{f}{e}~~ contain other information that the department may specify by rule.

~~{4}{5}~~ (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

(b) The department shall issue a registry identification card or license within 5 days of approving an application or renewal.

~~{5}{6}~~ Rejection of an application or renewal is considered a final department action, subject to judicial review.

~~{6}{7}~~ (a) Registry identification cards expire 1 year after the date of issuance unless:

(i) a physician has provided a written certification stating that a card is valid for a shorter period of time; or

(ii) a registered cardholder changes providers or marijuana-infused products providers.

~~(b) A provider's or marijuana-infused products provider's registry identification card~~

~~expires at the time the department issues a card to a new provider or new marijuana-infused products provider named by a registered cardholder~~ Licenses issued to providers, marijuana-infused products providers, and testing laboratories must be renewed annually.

~~{7}{8}~~ A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

~~{8}{9}~~ The department shall maintain a confidential list of ~~persons~~ individuals to whom the department has issued registry identification cards. Except as provided in subsection ~~{9}~~ {10}, individual names and other identifying information on the list must be confidential and are not subject to disclosure, except to:

(a) authorized employees of the department as necessary to perform the official duties of the department; and

(b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card.

~~{9}{10}~~ The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

~~{10}{a}~~ ~~The department shall provide the board of medical examiners with the name of any physician who provides written certification for 25 or more patients within a 12-month period. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care.~~

~~{b}~~ ~~The physician whose practices are under review shall pay the costs of the board's review activities.~~

(11) The department shall report biannually to



the legislature the number of applications for registry identification cards, the number of registered cardholders approved, the nature of the debilitating medical conditions of the cardholders, the number of providers and marijuana-infused products providers approved licensed, the number of testing laboratories licensed, the number of registry identification cards and licenses revoked, the number of physicians providing written certification for registered cardholders, and the number of written certifications each physician has provided. The report may not provide any identifying information of cardholders, physicians, providers, or marijuana-infused products providers.

(12) The board of medical examiners shall report annually to the legislature on:

~~(a) the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana, pursuant to 37-3-203; and~~

~~(b) the number of physicians whose names were provided to the board by the department as required under subsection (10). The report must include information on whether a physician whose practices were reviewed by the board pursuant to subsection (10) met the standard of care when providing written certifications."~~

**Section 6.** Section 50-46-307 , MCA, is amended to read:

**"50-46-307. Persons Individuals with debilitating medical conditions -- requirements -- minors -- limitations.**

(1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to ~~a person~~ an individual with a debilitating medical condition who submits the following, in accordance with department rules:

(a) an application on a form prescribed by the department;

(b) an application fee or a renewal fee;

(c) the ~~person's~~ individual's name, street address, and date of birth;

(d) proof of Montana residency;

(e) a statement that the ~~person~~ individual will be cultivating ~~and manufacturing~~ marijuana and manufacturing marijuana-infused products

for the ~~person's~~ individual's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;

(f) a statement, on a form prescribed by the department, that the ~~person~~ individual will not divert to any other ~~person~~ individual the marijuana or marijuana-infused products that the ~~person~~ individual cultivates, manufactures, or obtains for the ~~person's~~ individual's debilitating medical condition;

(g) the name of the ~~person's~~ individual's treating physician or referral physician and the street address and telephone number of the physician's office;

(h) the street address where the ~~person~~ individual is cultivating marijuana or manufacturing marijuana marijuana-infused products if the ~~person~~ individual is cultivating marijuana or manufacturing marijuana marijuana-infused products for the ~~person's~~ individual's own use;

(i) the name, date of birth, and street address of the ~~individual~~ the person the individual has selected as a provider or marijuana-infused products provider, if any; and

(j) the written certification and accompanying statements from the ~~person's~~ individual's treating physician or referral physician as required pursuant to 50-46-310.

(2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions:

(a) provides proof of legal guardianship and responsibility for health care decisions if the ~~person~~ individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and

(b) signs and submits a written statement that:

(i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and

(ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

(A) consents to the use of marijuana by the minor;

(B) agrees to serve as the minor's marijuana-

infused products provider;

(C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;

(D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

(c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a ~~registry identification card~~ license as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

(d) pledges, on a form prescribed by the department, not to divert to any ~~person~~ individual any marijuana cultivated ~~or manufactured~~ for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.

(4) ~~A person~~ An individual may not be a registered cardholder if the ~~person~~ individual is in the custody of or under the supervision of the department of corrections or a youth court.

(5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products provider may not cultivate marijuana or manufacture ~~marijuana~~ marijuana-infused products for the cardholder's use unless the registered cardholder is the provider or marijuana-infused products provider.

(6) A registered cardholder may cultivate ~~or manufacture~~ marijuana and manufacture marijuana-infused products as allowed under 50-46-319 only:

(a) at a property that is owned by the cardholder; or

(b) with written permission of the landlord, at a property that is rented or leased by the cardholder.

(7) No portion of the property used for cultivation ~~and manufacture~~ of marijuana and manufacture marijuana-infused products for use

by the registered cardholder may be shared with or rented or leased to a provider, a marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased by cardholders who are related to each other by the second degree of kinship by blood or marriage."

**Section 7.** Section 50-46-308, MCA, is amended to read:

**"50-46-308. Provider types -- requirements -- limitations -- activities.** (1) (a) The Subject to subsections (1)(b) and (2), the department shall issue a registry identification card license to or renew a card license for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

~~(a)~~(i) the person's name, date of birth, and street address on a form prescribed by the department;

~~(b)~~(ii) proof that the person is a Montana resident;

~~(c)~~(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

~~(d)~~(iv) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

~~(e)~~(v) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for a registered cardholder;

~~(f)~~(vi) a statement acknowledging that the person will cultivate ~~and manufacture~~ marijuana and manufacture marijuana-infused products for the registered cardholder at only one location as provided in subsection ~~(7)~~ (5). The location must be identified by street address.

~~(g)~~(vii) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration license.

(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.



(2) The department may not register license a person under this section if the person or an individual with a financial interest in the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 50-46-331;

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's individual's application for a card issued under 50-46-307; or

(f) has resided in Montana for less than 1 year.

(g) is under 18 years of age.

~~(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.~~

~~(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.~~

~~(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.~~

~~(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.~~

~~(5)(3) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.~~

~~(6)(4) A provider or marijuana-infused products provider may not:~~

~~(a) accept anything of value, including~~

~~monetary remuneration, for any services or products provided to a registered cardholder;~~

~~(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or~~

~~(c) use marijuana unless the person is also a registered cardholder.~~

~~(7)(5) (a) A person registered licensed under this section may cultivate marijuana and manufacture marijuana marijuana-infused products for use by a registered cardholder only at one of the following locations:~~

~~(i) a property that is owned by the provider or marijuana-infused products provider;~~

~~(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or~~

~~(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.~~

~~(b) No portion of the property used for cultivation of marijuana and manufacture of marijuana marijuana-infused products may be shared with or rented or leased to another provider or marijuana-infused products provider or another a registered cardholder.~~

~~(6) A licensed provider or marijuana-infused products provider may:~~

~~(a) operate dispensaries;~~

~~(b) employ employees to cultivate marijuana, manufacture marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and~~

~~(c) provide a small amount of marijuana or marijuana-infused product cultivated or manufactured on the registered premises to a licensed testing laboratory."~~

**Section 8.** Section 50-46-309 , MCA, is amended to read:

**"50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.**

(1) An individual registered A person licensed as a marijuana-infused products provider shall:

(a) prepare marijuana-infused products at a registered premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and

(b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.

(2) A marijuana-infused products provider:  
(a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

(b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered licensed provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered cardholder's licensed provider.

(3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

(4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31."

**Section 9.** Section 50-46-310 , MCA, is amended to read:

**"50-46-310. Written certification -- accompanying statements.** (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the person patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initiated by the physician that must:

(a) confirm that the physician is:  
(i) the person's patient's treating physician and that the person patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the person patient; or

(ii) the person's patient's referral physician;

(b) confirm that the person patient suffers

from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the person's patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the person's patient's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the person patient and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the person's patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the person patient;

(j) list restrictions on the person's patient's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the person's patient's treating physician or referral physician; and

(ii) monitor the person's patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initiated by the physician that

the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification."

**Section 10.** Section 50-46-317 , MCA, is amended to read:

**"50-46-317. Registry card or license to be carried and exhibited on demand -- photo identification required.** A registered cardholder, provider, or marijuana-infused products provider shall keep the ~~person's~~ individual's registry identification card or license in the individual's or person's immediate possession at all times. The ~~person shall display~~ the registry identification card or license and a valid photo identification shall be displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge."

**Section 11.** Section 50-46-318 , MCA, is amended to read:

**"50-46-318. Health care facility procedures for patients with marijuana for use.** (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in 50-46-320, a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or ~~person~~ individual with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or ~~person~~ individual with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises."

**Section 12.** Section 50-46-319 , MCA, is amended to read:

**50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card or license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the ~~individual~~ person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the

department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused products as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a license or registry identification card does not alone constitute probable cause to search the person or individual or the property of the individual or person possessing or applying for the registry identification card or otherwise subject the person or individual or property of the person or individual possessing or applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

(i) is in possession of a valid registry identification card; and

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

**Section 13.** Section 50-46-320 , MCA, is amended to read:

**"50-46-320. Limitations of act.** (1) This part does not permit:

(a) any ~~person~~ individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

(b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

(i) in a health care facility as defined in 50-5-101;

(ii) in a school or a postsecondary school as defined in 20-5-402;

(iii) on or in any property owned by a school district or a postsecondary school;

(iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;

(v) in a school bus or other form of public transportation;

(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;

(vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;

(viii) at a public park, public beach, public recreation center, or youth center;

(ix) in or on the property of any church, synagogue, or other place of worship;

(x) in plain view of or in a place open to the general public; or

(xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana or manufacture ~~marijuana~~ marijuana-infused products for use by a registered cardholder in a manner that is visible

from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in this part may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse ~~a person~~ an individual for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

(5) Nothing in this part may be construed to:

(a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or

(b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

(7) (a) A law enforcement officer who has reasonable cause to believe that ~~a person~~ an individual with a valid registry identification card is driving under the influence of marijuana may apply for a search warrant to require the ~~person~~ individual to provide a sample of the ~~person's~~ individual's blood for testing pursuant to the provisions of 61-8-405. ~~A person~~ An individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or 61-8-411.

(b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection (1)(a) is subject to revocation of the ~~person's~~ individual's registry identification card or license if the individual is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation under this section must be for the period of suspension or revocation set forth:

(i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

(ii) in 61-8-410 for a violation of 61-8-410.

(c) If ~~a person's~~ an individual's registry identification card or license is subject to renewal during the revocation period, the ~~person~~ individual may not renew the card until the full revocation period has elapsed. The card or license may be renewed only if the ~~person~~ individual submits all materials required for renewal.”

**Section 14.** Section 50-46-327 , MCA, is amended to read:

**“50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers -- sanctions.** (1) (a) A physician who provides written certifications may not:

(i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-infused products provider;

(ii) offer a discount or any other thing of value to a ~~person~~ patient who uses or agrees to use a particular provider or marijuana-infused products provider; or

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where marijuana to be used for a debilitating medical condition is cultivated or ~~manufactured~~ or where marijuana-infused products are ~~made~~ produced.

(b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a provider or marijuana-infused products provider if the physician charges the ~~person~~ individual the same fee that the physician charges other patients for providing a similar level of medical care.



(2) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this ~~chapter part~~, or has not met the standard of care required under this ~~chapter part~~, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308.

(3) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction.

(4) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical condition."

**Section 15.** Section 50-46-329 , MCA, is amended to read:

**"50-46-329. Inspection procedures.** (1) The department ~~and state or local law enforcement agencies~~ may conduct unannounced inspections of registered premises, dispensaries, and testing laboratories.

(2) The department shall inspect annually each dispensary, registered premises, and testing laboratory.

~~(2)(3)~~ (a) Each provider and marijuana-infused products provider shall keep a complete set of records necessary to show all transactions with registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies during normal business hours.

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

~~(3)(4)~~ (a) A registered premises or dispensary, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose

of inspection or investigation during normal business hours.

(b) If any part of the registered premises or dispensary consists of a locked area, the provider or marijuana-infused products provider shall make the area available for inspection without delay upon request of the department or state or local law enforcement officials.

~~(4)(5)~~ A provider or marijuana-infused products provider shall maintain records showing the names and registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana, or marijuana-infused products were transferred and the quantities transferred to each cardholder.

(6) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards."

**Section 16.** Section 50-46-330 , MCA, is amended to read:

**"50-46-330. Unlawful conduct by cardholders -- penalties.** (1) The department shall revoke and may not reissue the registry identification card of a ~~person~~ an individual who:

- (a) is convicted of a drug offense;
- (b) allows another ~~person~~ individual to be in possession of the ~~person's~~ individual's:
  - (i) registry identification card; or
  - (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products;
- or
- (c) fails to cooperate with the department concerning an investigation or inspection if the ~~person~~ individual is registered and cultivating ~~or manufacturing~~ marijuana or manufacturing marijuana-infused products.

(2) A registered cardholder, provider, or marijuana-infused products provider who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

**Section 17.** Section 50-46-331 , MCA, is

amended to read:

**“50-46-331. Fraudulent representation -- penalties.** (1) In addition to any other penalties provided by law, ~~a person~~ an individual who fraudulently represents to a law enforcement official that the ~~person~~ individual is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) ~~A person~~ An individual convicted under this section may not be ~~registered~~ licensed as a provider or marijuana-infused products provider under 50-46-308.”

**Section 18.** Section 50-46-339, MCA, is amended to read:

**“50-46-339. Law enforcement authority.** Nothing in this chapter may be construed to limit a law enforcement agency’s ability to investigate unlawful activity in relation to a person or individual with a license or registry identification card.”

**Section 19.** Section 50-46-341, MCA, is amended to read:

**“50-46-341. Advertising prohibited.** Persons with licenses and individuals with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.”

**Section 20.** Section 50-46-344, MCA, is amended to read:

**“50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the implementation and administration of this part. The rules must include but are not limited to:

(a) the manner in which the department will consider applications for registry identification cards for ~~persons~~ individuals with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under 50-46-307 and 50-46-308;

~~(d)~~ other rules necessary to implement the purposes of this part.

(2) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana and marijuana-infused products is required to have only one license.

(3) License fees for testing labs may not exceed \$1,200.

(4) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in [section 24].

~~(2)~~ (5)The department’s rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part.”

**Section 21.** Section 61-11-101, MCA, is amended to read:

**“61-11-101. Report of convictions and suspension or revocation of driver’s licenses -- surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the suspension or revocation of the driver’s license or commercial driver’s license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver’s licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the license and a record of the conviction to the department. If the person does not possess a driver’s license, the court shall indicate that fact in its report to the department.

(2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days



after the conviction. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-732.

(3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department.

(4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license.

(b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1).

(5) (a) If a person who holds a valid registry identification card or license issued pursuant to 50-46-307 or 50-46-308 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411, the court in which the conviction occurs shall require the person to surrender the registry identification card or license.

(b) Within 5 days after the conviction, the court shall forward the registry identification

card and a copy of the conviction to the department of public health and human services."

**NEW SECTION. Section 22. Testing laboratories.** (1) The department shall license testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for toxins and mold.

(2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.

(3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

**NEW SECTION. Section 23. License as privilege -- criteria.** (1) A provider license is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and  
(b) the suitability of the proposed registered premises.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department may deny a license if the applicant's proposed registered premises:

(i) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been

filed with the department;

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(iii) is not approved by local building, health, or fire officials; or

(iv) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.

(b) For the purposes of this subsection (4), "school" and "postsecondary school" have the meanings provided in 20-5-402.

**NEW SECTION. Section 24. Medical marijuana state special revenue account.** (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) Money deposited into the account pursuant to [section 20 (4)] must be used by the department for the purpose of administering the Montana Medical Marijuana Act.

**NEW SECTION. Section 25. Transition.** A person registered as a provider or marijuana-infused products provider may continue to operate as if the person was licensed under [this act] until the appropriate licensing provisions of [this act] are implemented.

**NEW SECTION. Section 26. {standard} Codification instruction.** [Sections 22 through 24] are intended to be codified as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to [sections 22 through 24].

**NEW SECTION. Section 27. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective June 30, 2017.

(2) [Sections 3, 4, 5, 9 and 20] are effective on passage and approval.

# INITIATIVE NO. 182

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## ARGUMENT FOR I-182

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Montana Voters,

I'm Katie Mazurek. Last February, just days after launching my family law practice, I was diagnosed with stage 3 breast cancer. To stop the cancer, I began chemotherapy treatments that take a tremendous physical and mental toll on me. My doctor recommended I use medical marijuana to deal with the side effects of the chemo. I had never used marijuana before but it is far less scary to me than the opiate pain medication I'm prescribed. It improves my quality of life and enables me to be there for my husband and my kids. I'm in the fight of my life and I need every tool possible to win. **Please vote YES on I-182 to ensure patients like me have safe, legal access to their medicine.**

Montana Voters,

I'm Bob Ream. In May, at the age of 79, I was diagnosed with stage 4 metastatic pancreatic cancer and began chemotherapy, which I will continue until it no longer is effective at holding the cancer at bay. I have had considerable sleep issues in recent years that only increased with my cancer diagnosis. My oncologist prescribed medical marijuana to help me sleep. It has enabled me to sleep better with less debilitating side effects than my previous medications. It is not possible to fight cancer and endure chemotherapy without sleep. I am grateful this medical option was available to me.

Montana Voters,

I'm Jeff Krauss, former three term Mayor of Bozeman and current commissioner. Katie and Bob's stories are not unusual; we heard many similar success stories from seriously ill people as Bozeman researched our response to the overwhelming vote in favor of legal medical marijuana in 2004. We learned from our efforts that we can make medical marijuana work for those in need and also establish controls on how and where it's sold.

We ask Montana voters to join us in supporting I-182. Montana voters overwhelmingly approved medical marijuana at the ballot in 2004 with 64% support, but the Montana Legislature repealed the act and replaced it with SB 423. The new law, which goes into effect this year, is unworkable for patients and providers.

SB 423 limits providers to three patients, eliminating access to medicine for more than 12,000 Montanans who need it and making criminals out of sick and dying people desperate to ease their pain and curb their symptoms. **I-182 fixes the mess created by SB 423, provides a responsible medical marijuana law that ensures safe and legal access for patients, and requires accountability for all concerned by:**

- Requiring providers to obtain licenses and receive unannounced yearly inspections;
- Allowing for product testing to ensure safety, consistency, and accurate dosages;
- Providing access to veterans and other patients diagnosed with post-traumatic stress disorder (PTSD);
- Removing the three person patient limit for providers; and
- Creating licensing fees to pay for the administration of the new law.

**Vote YES on I-182 for a responsible, accountable medical marijuana program.**

# INITIATIVE NO. 182

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## ARGUMENT AGAINST I-182

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If I-182 passes many of the restrictions put in place by the 2011 Montana Legislature to reduce rampant abuse of the 2004 "Medical Marijuana Act" will be eliminated.

In March of 2009 there were 736 "Medical Marijuana" card holders and 233 marijuana providers in Montana. By May of 2011 those numbers exploded to 31,522 card holders and 4,650 providers. Marijuana shops and grow operations were sprouting up all over the state placing the safety of our communities at risk. It was clear that voters were not getting what they voted for in 2004 when I-148 the "Medical Marijuana Act" was passed.

What voters in Montana supported is established by the Voter Information Pamphlet (VIP) argument in support of the original 2004 Initiative, I-148. The first sentence of that VIP which states "This initiative would allow the production, possession and use of marijuana by patients with debilitating medical conditions." presented a very limited scope of purpose for the original initiative.

The proponents' argument in the 2004 VIP also stated I-148 would "allow patients to grow their own personal supply of marijuana so that they will no longer have to buy marijuana from the criminal market."

The people didn't vote to create a marijuana industry but that's what was being put into place.

Significant abuse by physicians of the "Medical Marijuana Act" was a problem. Some physicians recommended cards for chronic pain without using relevant and necessary diagnostic tests to verify chronic pain. In May of 2011 of the 31,522 card holders 23,000 were issued for chronic pain.

Further questionable behavior of some physicians was revealed in July 2011 when it was reported that just one physician was responsible for issuing at least 6,860 cards.

While abuses were greatly reduced by action taken during the 2011 legislative session, many abuses continue due to the MONTANA CANNABIS INDUSTRY ASSOCIATION working through the courts to block portions of the restrictions put in place by the Legislature. If I-182 passes abuses will continue. As of May 2016 of the 13,288 card holders, 8,288 have been issued for severe chronic pain. Four physicians have issued approximately 9,824 or 74% of the total 13,288 cards.

It's clear I-182 is designed to establish a "marijuana industry" as evidenced by Section 4 which amends Section 50-46-302 of current Montana law to redefine person as "an individual, partnership, association, company, corporation, limited liability company, or organization." These businesses would then be granted licenses to be in the marijuana business. Marijuana businesses could also have employees but age, background or other qualifications are not defined.

The voters have shown support for the restrictions the Legislature has enacted. In 2012 the marijuana industry tried to remove those restrictions with IR-124 but failed when 57% of the voters approved the action the Legislature had taken. Let's stop this new attempt to remove those restrictions that have been proven effective.

Vote NO on I-182 to ensure the abuses of "Medical Marijuana" do not return and to keep marijuana from becoming corporate industry.

# INITIATIVE NO. 182

## PROPONENTS' REBUTTAL OF ARGUMENT AGAINST I-182

It seems opponents to I-182 lack common sense and compassion when it comes to caring for the needs of Montanans. Opponents know Montana legislators intentionally crafted SB 423 with unworkable amendments to a voter supported initiative. Amendments that hurt important and vulnerable populations of Montana's people: our citizens with chronic pain, cancer and other debilitating illnesses including our veterans with PTSD. Fellow Montanans with your vote for I-182 - a new medical marijuana program that is responsible and accountable - these mistakes will be corrected.

I-182 creates a workable and accountable medical marijuana program by:

- Removing the impractical three patient limit for providers.
- Requiring annual and unannounced inspections performed by the Montana Health Department.
- Adding PTSD to the list of debilitating illnesses ensuring that Montana veterans have access to medicine.
- Requiring licensing fees for a fiscally responsible program.

Through false arguments and misinformation opponents seek to harm sick Montanans. There are over 12,000 patients in Montana that are vulnerable and struggling to merely survive during the most trying time in their lives. We know Montanans are smart enough to help those in need and address any past abuses. Voters understand that veterans with PTSD, people with debilitating illnesses and cancer patients unable to eat and lead a normal life need access to their medicine. Vote YES on I-182 to give patients a voice, ensure that no Montanan is left behind when they need care the most, and to create a workable, accountable and responsible medical marijuana program.

## OPPONENTS' REBUTTAL OF ARGUMENT FOR I-182

Under current law created by SB423 the individuals mentioned in the "Argument for I-182" have access to "medical marijuana". They can grow their own marijuana or obtain marijuana from a registered provider. They are however restricted from obtaining marijuana from large "marijuana businesses".

Voters seeing abuses rampant with the 2004 initiative looked to the Legislature to take action. Legislative action was taken with SB423. In 2012 the voters showed support of that action with 57% of the voters approving IR-124 leaving SB423 in place.

I-182 proponents claim that SB423 created a mess. The truth is that SB423 is working and abuse of "medical marijuana" has greatly been reduced. Furthermore, the Montana Supreme Court has recently ruled in favor of SB423 specifically upholding the 25-patient physician review provision and three-patient limit stating that "the restrictions are rationally related to the Legislature's goals in keeping marijuana away from large-scale manufacturing operations that may attract drug traffickers."

I-182 **doesn't** provide adequate protection from illegal drug activity. Supporters of I-182 state the initiative will be "Requiring providers to obtain licenses and receive unannounced yearly inspections;" the initiative actually reads "The department (DPHHS) **may** conduct unannounced inspections." Not **must** or **shall** but **may**. Even more troubling I-182 changes current "medical marijuana" law specifically eliminating state or local law enforcement agencies from unannounced visits. SB423 provided for unannounced visits by local law enforcement because our police and sheriffs are those most likely to be aware of illegal activity.

**Vote NO on I-182!**

# Contact the Secretary of State

 Call the Secretary of State's toll free voter hotline at 888.884.VOTE (8683)

 Visit [sos.mt.gov](https://sos.mt.gov)

 Email the Secretary of State's Elections Division at [soselections@mt.gov](mailto:soselections@mt.gov)

## Visit the Secretary of State's Website

- Access the digital version of this Voter Information Pamphlet  
[sos.mt.gov/Elections/VIP](https://sos.mt.gov/Elections/VIP)
- 2016 Federal and State candidate filing information  
[sos.mt.gov/elections/filing](https://sos.mt.gov/elections/filing)
- Contact the Montana Fair Elections Center  
[montanafairelections.com](https://montanafairelections.com)
- Find your Election Day polling place  
[app.mt.gov/voterinfo](https://app.mt.gov/voterinfo)
- Register to vote  
[sos.mt.gov/elections/vote](https://sos.mt.gov/elections/vote)
- Sign up for an Absentee Ballot  
[sos.mt.gov/elections/vote](https://sos.mt.gov/elections/vote)
- Watch live election results after polls close on Election Day  
[mtelectionresults.gov](https://mtelectionresults.gov)



# Dates to Remember

October						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

**October 11:** Regular Voter Registration closes

**October 12:** Late Voter Registration opens

**October 14:** Absentee Ballots mailed

**November 7:** Absentee Ballot Application deadline - noon

**November 8:** Election Day

# Montana County Election Offices

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# VOTER QUICK REFERENCE GUIDE

This Voter Quick Reference is intended to help you remember your decision about each ballot issue. For an Election Day reminder, fill and tear out this guide and use it to vote on Election Day, November 8, 2016.

**CI-116**

Ensure that crime victims' rights and interests are respected and protected by law.

**YES ON CONSTITUTIONAL INITIATIVE CI-116**

**NO ON CONSTITUTIONAL INITIATIVE CI-116**

**I-177**

Prohibit the use of traps and snares for animals by the public on any public lands within Montana, with certain exceptions.

**YES ON INITIATIVE I-177**

**NO ON INITIATIVE I-177**

**I-181**

Promote research into developing therapies and cures for brain diseases and injuries.

**YES ON INITIATIVE I-181**

**NO ON INITIATIVE I-181**

**I-182**

Expand access to medical marijuana.

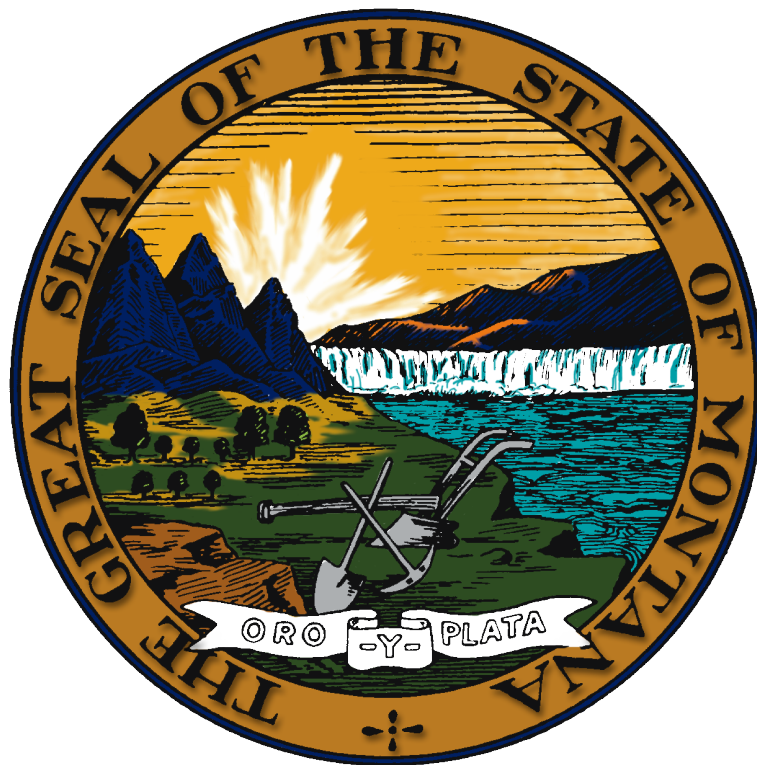
**YES ON INITIATIVE I-182**

**NO ON INITIATIVE I-182**









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Helena, Montana 59620

Do Not Forward -- Do Not Return

MONTANA  
**GENERAL ELECTION**



Download the **MVP app** for  
your voter information.

**November 8, 2016**

Election Day  
Most Polls open 7:00 a.m. - 8:00 p.m.

**Identification**

Bring a photo ID,  
or another form of  
acceptable current ID

**Find More Information**

[sos.mt.gov](http://sos.mt.gov)



@SOSMcCulloch

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