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\*\*\* Bill No. \*\*\*

Introduced By \*\*\*\*\*

By Request of the Department of Labor and Industry

A Bill for an Act entitled: "An Act clarifying the meaning of the term "fees commensurate with costs" with respect to professional and occupational licensing; amending sections 37-1-134, 37-72-202, 37-73-221, 50-74-320 and 50-76-104, MCA; and providing an effective date."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 37-1-134, MCA, is amended to read:

"**37-1-134. Fees commensurate with costs.** (1) Each board allocated to the department shall set board fees related to the respective program area that are commensurate with costs for licensing, including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set an examination fee that must be commensurate with costs. A board that issues endorsements and licenses specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, the department may establish standardized fees,

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including but not limited to fees for administrative services such as license verification, duplicate licenses, late penalty renewals, licensee lists, and other administrative service fees determined by the department as applicable to all boards and department programs. The department shall collect administrative fees on behalf of each board or department program and deposit the fees in the state special revenue fund in the appropriate account for each board or department program. Administrative service costs not related to a specific board or program area may be equitably distributed to board or program areas as determined by the department. Each board and department program shall maintain records sufficient to support the fees charged for each program area.

(2) As used in this section, the term "fees commensurate with costs" means fees that reasonably approximate and reflect all costs necessary to defray the expenses of the respective board or program area, or of the department on behalf of the respective board or program area. The fees must provide for a reasonable contingency, and may take into consideration any adjustments necessary or appropriate to account for deviations from anticipated

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revenues and expenses of the board or program area in previous years.

(3) The department and the boards shall adopt rules regarding all fees and contingency funds set pursuant to the requirements established in [sections 1 and 2]."

{*Internal References to 37-1-134:*

<i>23-3-501x</i>	<i>27-12-206x</i>	<i>27-12-206x</i>	<i>37-1-101x</i>
<i>37-1-130x</i>	<i>37-1-130x</i>	<i>37-7-309x</i>	<i>37-7-309x</i>
<i>37-24-310x</i>	<i>37-47-306x</i>	<i>37-53-104x</i>	<i>37-60-202x</i>
<i>81-1-102x</i>	}		

**Section 2.** Section 37-72-202, MCA, is amended to read:

**"37-72-202. General rulemaking power.** (1) The department shall adopt rules to:

~~(1)~~(a) implement the training and experience requirements of 37-72-302;

~~(2)~~(b) prescribe the amount of the fees provided for in 37-72-301, 37-72-304, and 37-72-305, which must be nonrefundable, ~~in an amount commensurate with the cost of administering this chapter,~~ and deposited in the state special revenue fund for the use of the department. The department shall set fees commensurate with costs;

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~~(3)~~(c) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that, unless the department is making an investigation under 37-72-203(2), the department does not have the power under this chapter to make inspections into construction blasting and may not adopt rules providing for inspections related to construction blasting or for inspectors to carry out inspections related to construction blasting;

~~(4)~~(d) provide for the form of the license and pocket card provided for in 37-72-307; and

~~(5)~~(e) provide for the conduct of the business of the department under this chapter and govern department proceedings under 37-72-203.

(2) As used in this section, the term "fees commensurate with costs" has the meaning provided by 37-1-134."

{*Internal References to 37-72-202:*  
*37-72-102x* }

**Section 3.** Section 37-73-221, MCA, is amended to read:

**"37-73-221. Reasonable fees -- deposit of fees and fines.** (1) ~~All fees established by the The department under this chapter must be~~ shall set fees commensurate with ~~the~~

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~~respective program~~ costs. Fees collected by the department under this chapter must be deposited in an account in the state special revenue fund for the use of the program.

(2) Fines collected under this chapter must be deposited in the state general fund.

(3) As used in this section, the term "fees commensurate with costs" has the meaning provided by 37-1-134.

{*Internal References to 37-73-221: None*}

**Section 4.** Section 50-74-320, MCA, is amended to read:

**"50-74-320. Examinations -- fees -- third parties.**

(1) The department shall administer the engineer examinations at least once every 3 months at places within the state as determined by the department.

(2) The department shall determine the fees to be charged an applicant for each examination and reexamination. The department shall set fees ~~must be~~ commensurate with costs. As used in this section, the term "fees commensurate with costs" has the meaning provided by 37-1-134.

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(3) The department may use a third party to provide examination and grading services."

{*Internal References to 50-74-320: None* }

**Section 5.** Section 50-76-104, MCA, is amended to read:

**"50-76-104. Application, examination, and fee for license.** (1) Application for licenses must be made to the department and submitted with the appropriate fee ~~that is set commensurate with the cost of administering this program,~~ to be deposited in the state special revenue fund for use by the department. The department shall set fees commensurate with costs.

(2) The department shall determine by rule the fees to be charged an applicant for each examination and reexamination. The department shall set fees ~~must be~~ commensurate with costs.

(3) The department may use a third party to perform examination and grading services.

(4) As used in this section, the term "fees commensurate with costs" has the meaning provided by 37-1-134."

{*Internal References to 50-76-104: None* }

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NEW SECTION. **Section 6. {standard} Effective date.**

[This act] is effective July 1, 2015.

-END-

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