

## 2015 Department of Administration Bill Proposals

| Short Title  | Amended Statutes                                     | Rationale   |
|--|--|---|
| Remove References to Central Stores Program & Repeal Definition of Office Supply     | 18-4-301 and 18-4-302                                | This bill cleans up two statutes concerning the Central Stores warehouse which was closed in 2013. The first section repeals 18-4-301(7) which defines "office supply." The department plans to convene a group of interested parties to develop a mutually acceptable definition of "office supply" to include in administrative rules. This definition will assist state agencies in knowing when they should purchase an office supply from an existing state contract or when they can purchase it directly from a local office supply dealer.<br>The second section repeals references to the Central Stores program in 18-4-302 (3), MCA. |
| Payment of Burial Preservation Board Members   | 22-3-804   | When the Burial Preservation Board was established in 1991, a provision was added to the bill that said "members of the board shall serve without pay, but are entitled to reimbursement for travel, meals, and lodging..." (22-3-804(5), MCA). Nearly all the other boards, councils, and commissions have a provision permitting a \$50 payment for board, council, and commission members. The Department wishes to make this consistent throughout the Department by permitting Burial Board members to receive this \$50 payment.  |
| Correct language to GASB standard  | 17-8-107   | This bill is necessary to update state accounting language to match what is required by the Governmental Accounting Standards Board (GASB). Specifically, this amendment will include the appropriate phrasing to use when dealing with revenue that is unavailable to pay current liabilities.   |
| Correct Reference to the State Treasurer   | 2-7-503  | This amendment simply corrects an error introduced in legislation passed in 2001, and reflects what has been the practice since that time. The current statute requires certain audit fees to be paid to the Department of Revenue rather than the state treasurer. This bill will correct that requirement so that these audit fees go to the state treasurer since the the Department of Revenue does not collect fees relating to local government reports and audits.   |
| <b>LC 149:</b> Extend Bond Validating Act  | 17-5-205   | This bill is brought forward each session to receive legislative confirmation of the validity of bonds issued by the state and its political subdivisions. The Act prevents the individual investor from having to employ an attorney to examine all of the proceedings under which the bonds were issued. Should there be an irregularity, this Act cures the irregularity to ensure the validity of the bonds.  |
| <b>LC 150:</b> Correct Outdated References Related to Social Security Administration | 19-1-102, 19-1-304, 19-1-401, 19-1-402, and 19-1-823 | In 1953, the Federal Security Agency was abolished and the Social Security Administration (SSA) was placed under the Department of Health, Education, and Welfare, which became the Department of Health and Human Services in 1980. In 1994, President Bill Clinton signed into law 42 U.S.C. § 901 returning the SSA to the status of an independent agency in the executive branch of government.  |

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6101-06-005 Central Stores Offices Supplies FINAL

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

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

By Request of the Department of Administration

A Bill for an Act entitled: "An Act eliminating the definition of office supply; eliminating the reference to the central stores program; and amending sections 18-4-301 and 18-4-302, MCA."

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

**Section 1.** Section 18-4-301, MCA, is amended to read:

**"18-4-301. Definitions.** As used in this part, the following definitions apply:

(1) "Alternative procurement method" means a method of procuring supplies or services in a manner not specifically described in this chapter, but instead authorized by the department under 18-4-302.

(2) "American-made" means either a product made exclusively within the United States or a value-added product consisting of a product that contains 50% or more of materials from the United States.

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(3) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this chapter and a fee, if any.

(4) (a) "Displacement" means the layoff, demotion, or involuntary transfer of a state employee.

(b) Displacement does not include changes in shift or days off or reassignment to other positions within the same class and at the same general location.

(5) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(6) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

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~~(7) "Office supply" means an item included under the office supply commodity class codes maintained by the department.~~

~~(8)~~(7) "Purchase description" means the words used in a solicitation to describe the supplies or services to be purchased and includes specifications attached to or made a part of the solicitation.

~~(9)~~(8) "Request for proposals" means all documents, whether attached or incorporated by reference, used for soliciting proposals.

~~(10)~~(9) "Responsible" means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance.

~~(11)~~(10) "Responsive" means conforms in all material respects to the invitation for bids or request for proposals.

~~(12)~~(11) "Term contract" means a contract in which supplies or services are purchased at a predetermined unit price for a specific period of time."

{*Internal References to 18-4-301:*  
*18-4-133X* }

**Section 2.** Section 18-4-302, MCA, is amended to read:

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### "18-4-302. Methods of source

#### **selection -- authorization for alternative procurement**

**methods.** (1) Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source selection method provided for in this title.

Supplies or services offered for sale, lease, or rental by public utilities are exempt from this requirement if the prices of the supplies or services are regulated by the public service commission or other governmental authority.

(2) When the department or another agency opens bids or proposals, if a supplier's current publicly advertised or established catalog price is received at or before the time that the bids or proposals are opened and is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions for the best proposal received using the same factors and weights included in the proposal, the department or agency may reject all bids and purchase the supply from that supplier without meeting the requirements of 18-4-303 through 18-4-306.

(3) An office supply procured by the department ~~is~~ ~~central stores program~~ may be purchased by an agency, without meeting the requirements of 18-4-303 through

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18-4-306, from a supplier whose publicly advertised price, established catalog price, or discount price offered to the agency is less than the price offered by the ~~central-stores program~~ department if the office supply conforms in all material respects to the terms, conditions, and quality offered by the ~~central-stores program~~ department. A state office supply term contract must include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

(4) (a) Under rules adopted by the department, an agency may request from the department authorization for an alternative procurement method.

(b) A request for authorization must specify:

(i) the problem to be solved;

(ii) the proposed alternative procurement method;

(iii) the reasons why the alternative procurement method may be more appropriate than a method authorized by law; and

(iv) how competition and fairness will be achieved by the alternative procurement method.

(c) Within 30 days after receiving the request, the department shall:

(i) evaluate the request;

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(ii) approve or deny the request; and

(iii) issue a written statement providing the reasons for its decision.

(d) Whenever the department approves a request submitted under this section, the department:

(i) may authorize the alternative procurement method on a trial basis; and

(ii) if the alternative procurement method is employed, shall make a written determination as to the success of the method.

(e) If the department determines that the alternative procurement method is successful and should be an alternative that is generally available, it shall promulgate rules that establish the use of the alternative procurement method as an additional source selection method. The rules promulgated by the department under this subsection must reflect the purposes described in 18-4-122."

{*Internal References to 18-4-302:*  
*18-4-301 X* }

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6101-01-016 Burial Board

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

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

By Request of the Department of Administration

A Bill for an Act entitled: "An Act providing compensation to board members when performing board duties; amending sections 22-3-804 and 22-3-811, MCA; and providing an effective date."

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

**Section 1.** Section 22-3-804, MCA, is amended to read:

**"22-3-804. Board - composition - rights - responsibilities.** (1) There is a burial preservation board. The board is composed of:

(a) one representative of each of the seven reservations, appointed by the governor from a list of up to three nominees provided by each of the respective tribal governments;

(b) one person appointed by the governor from a list of up to three nominees submitted by the Little Shell band of Chippewa Indians;



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(c) one person appointed by the governor from a list of up to three nominees submitted by the Montana state historic preservation officer;

(d) one representative of the Montana archaeological association appointed by the governor from a list of up to three nominees submitted by the Montana archaeological association;

(e) one physical anthropologist appointed by the governor;

(f) one representative of the Montana coroners' association appointed by the governor from a list of up to three nominees submitted by the Montana coroners' association; and

(g) one representative of the public, appointed by the governor, who is not associated with tribal governments; state government; the fields of historic preservation, archaeology, or anthropology; or the Montana coroners' association.

(2) Members of the board shall serve staggered 2-year terms. A vacancy on the board must be filled in the same manner as the original appointment and only for the unexpired portion of the term.

(3) The board shall:

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(a) provide for the establishment and maintenance of a registry of burial sites located in the state;

(b) designate the appropriate member or members of the board or a representative or representatives of the board to conduct a field review upon notification of the discovery of human skeletal remains, a burial site, or burial materials;

(c) assist interested landowners in the development of agreements with the board for the treatment and disposition, with appropriate dignity, of human skeletal remains and burial material;

(d) mediate, upon application of either party, disputes that may arise between a landowner and known descendants that relate to the treatment and disposition of human skeletal remains and burial material;

(e) assume responsibility for final treatment and disposition of human skeletal remains and burial material if the field review recommendation is not accepted by the board's representatives and the landowner;

(f) establish a nonrefundable application fee, not to exceed \$50, for a permit for scientific analysis of human skeletal remains or burial material from burial sites as provided by 22-3-806;

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- (g) issue permits authorizing scientific analysis;
  - (h) accept grants or real or in-kind donations to carry out the purposes of this part;
  - (i) adopt rules necessary to administer and enforce the provisions of this part; and
  - (j) perform any other duties necessary to implement the provisions of this part.
- (4) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.
- (5) Members of the board ~~shall serve without pay but are entitled to reimbursement~~ must be paid \$50 for each day in which the member is actually and necessarily engaged in the performance of board duties and reimbursed for travel, meals, and lodging pursuant to 2-18-501 through 2-18-503."

{Internal References to 22-3-804:

22-3-803X 22-3-806X 22-3-811X 22-3-903X }

**Section 2.** Section 22-3-811, MCA, is amended to read:

**"22-3-811. Disposition of fees, grants, and donations.** There is an account in the state special revenue fund. The board shall deposit any fee, grant, or donation received under 22-3-804 into the account to be used to pay

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~~expenses for board meetings or expenses incurred in  
conducting field reviews~~the board's expenses."

{*Internal References to 22-3-811: None* }

NEW SECTION. **Section 3. {standard} Effective date.**

[This act] is effective July 1, 2015.

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6101-03-015 GASB Language Revision FINAL

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

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

By Request of the Department of Administration

A Bill for an Act entitled: "An Act reflecting a change in Governmental Accounting Standards Board (GASB) language revision; amending section 17-8-107, MCA."

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

**Section 1.** Section 17-8-107, MCA, is amended to read:

**"17-8-107. Limitations on spending deferred ~~revenue~~ inflows of resources -- exception.** (1) Except as provided in subsection (2), no agency, including any unit of the university system, may expend deferred ~~revenue~~ inflows of resources for current fiscal year operations. For purposes of this section, "deferred ~~revenue~~" inflows of resources" means funds received in one fiscal year but properly allocable and recorded as revenue in the subsequent fiscal year.

(2) The Montana historical society is exempt from the provisions of subsection (1) to the extent that the expenditure of deferred ~~revenue~~ inflows of resources

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6101-03-015 GASB Language Revision FINAL

received from magazine subscription fees is necessary to finance current fiscal year operations for the publication of its magazine of western history."

*{Internal References to 17-8-107: None }*

**Section 2. Effective dates.** [This act] is effective on passage and approval.

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6101-03-017 State Treasurer FINAL

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

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

By Request of the Department of Administration

A Bill for an Act entitled: "An Act designating the state treasurer as the agency to which local governments submit fee payments for special audits or reviews; amending section 2-7-503, MCA; providing an immediate effective date."

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

**Section 1.** Section 2-7-503, MCA, is amended to read:

**"2-7-503. Financial reports and audits of local government entities.** (1) The governing body or managing or executive officer of a local government entity, other than a school district or associated cooperative, shall ensure that a financial report is made every year. A school district or associated cooperative shall comply with the provisions of 20-9-213. The financial report must cover the preceding fiscal year, be in a form prescribed by the department, and be completed and submitted to the

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department for review within 6 months of the end of the reporting period.

(2) The department shall prescribe a uniform reporting system for all local government entities subject to financial reporting requirements, other than school districts. The superintendent of public instruction shall prescribe the reporting requirements for school districts.

(3) (a) The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report in excess of the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3), but regardless of the source of revenue or financial assistance, shall cause an audit to be made at least every 2 years. The audit must cover the entity's preceding 2 fiscal years. The audit must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

(b) The governing body or managing or executive officer of a local government entity that does not meet the criteria established in subsection (3)(a) shall at least



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once every 4 years, if directed by the department, or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction, cause a financial review, as defined by department rule, to be conducted of the financial statements of the entity for the preceding fiscal year.

(4) An audit conducted in accordance with this part is in lieu of any financial or financial and compliance audit of an individual financial assistance program that a local government is required to conduct under any other state or federal law or regulation. If an audit conducted pursuant to this part provides a state agency with the information that it requires to carry out its responsibilities under state or federal law or regulation, the state agency shall rely upon and use that information to plan and conduct its own audits or reviews in order to avoid a duplication of effort.

(5) In addition to the audits required by this section, the department may at any time conduct or contract for a special audit or review of the affairs of any local government entity referred to in this part. The special audit or review must, to the extent practicable, build upon audits performed pursuant to this part.

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(6) The fee for the special audit or review must be a charge based upon the costs incurred by the department in relation to the special audit or review. The audit fee must be paid by the local government entity to the ~~department of revenue~~ state treasurer and must be deposited in the enterprise fund to the credit of the department.

(7) Failure to comply with the provisions of this section subjects the local government entity to the penalties provided in 2-7-517."

{*Internal References to 2-7-503:*

*2-7-506X 2-7-514X 2-7-514X 2-7-514X  
2-7-517X 2-7-517X 2-7-517X 2-7-517X  
2-7-517X 2-7-517X 7-6-611X 7-6-611X  
19-18-205X 20-9-203X 20-9-213X 20-9-235X  
85-7-1616X 85-7-1913X }*

NEW SECTION. **Section 2. {standard} Effective date.**

[This act] is effective on passage and approval.

-END-