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18-10-25 Audit Recommendations

*** Bill No. ***

Introduced By *****

By Request of the Department of Labor and Industry

A Bill for an Act entitled: "An Act implementing five legislative audit findings for the Department of Labor and Industry: eliminating the licensure and regulation of professional boxing by the State of Montana; repealing sections 23-3-301, 23-3-402, 23-3-404, 23-3-405, 23-3-501, 23-3-503, 23-3-603 and 23-3-611, MCA; eliminating the industrial accident rehabilitation account for nonuse and directing the department of labor and industry to transfer the account balance to the uninsured employer's fund established by 39-71-503, MCA; repealing sections 39-71-1003 and 39-71-1004, MCA; moving course requirements for new real estate salespersons from post licensing to pre-licensing; amending 37-51-302, MCA; removing authority to withhold additional federal income tax from unemployment insurance compensation; amending 39-51-2207, MCA; removing requirement for the department to maintain copies of maps and surveys of coal mines; amending 50-73-205, 50-73-206, and 50-73-209, MCA; and providing an immediate effective date."

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

NEW SECTION. **Section 1. {standard} Repealer.** The following sections of the Montana Code Annotated are repealed: 23-3-301, 23-3-402, 23-3-404, 23-3-405, 23-3-501, 23-3-503, 23-3-603 and 23-3-611.

{Internal References to 23-3-301: None

Internal References to 23-3-402: None

Internal References to 23-3-404: None

Internal References to 23-3-405: None

Internal References to 23-3-501: None

Internal References to 23-3-503: None

*Internal References to 23-3-603:
23-3-404*

Internal References to 23-3-611: None}

Section 2. {standard} Repealer. The following sections of the Montana Code Annotated are repealed: 39-71-1003 and 39-71-1004.

*{Internal References to 39-71-1003:
39-71-1004*

*Internal References to 39-71-1004:
39-71-1003}*

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Note: need section on moving the fund balance of approximately \$60,000.

Section 3. Section 37-51-302, MCA, is amended to read:

"37-51-302. Broker's or salesperson's license -- qualifications of applicant -- supervising broker endorsement. (1) Licenses may be granted only to individuals considered by the board to be of good repute and competent to transact the business of a broker or a salesperson in a manner that safeguards the interests of the public.

(2) An applicant for a broker's license:

(a) must be at least 18 years of age;

(b) must have graduated from an accredited high school or completed an equivalent education as determined by the board;

(c) must have been actively engaged as a licensed real estate salesperson for a period of 2 years or have had experience or special education equivalent to that which a licensed real estate salesperson ordinarily would receive during this 2-year period as determined by the board, except that if the board finds that an applicant could not obtain employment as a licensed real estate salesperson

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because of conditions existing in the area where the applicant resides, the board may waive this experience requirement;

(d) shall file an application for a license with the department; and

(e) shall furnish written evidence that the applicant has completed 60 classroom or equivalent hours, in addition to those required to secure a salesperson's license, in a course of study approved by the board and taught by instructors approved by the board and has satisfactorily passed an examination dealing with the material taught in each course. The course of study must include the subjects of real estate principles, real estate law, real estate finance, and related topics.

(3) The board shall require information it considers necessary from an applicant to determine honesty, trustworthiness, and competency.

(4) (a) An applicant for a salesperson's license:

(i) must be at least 18 years of age;

(ii) must have received credit for completion of 2 years of full curriculum study at an accredited high school or completed an equivalent education as determined by the board;

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(iii) shall file an application for a license with the department; and

(iv) shall furnish written evidence that the applicant has completed up to 80 ~~60~~ classroom or equivalent hours in a course of study approved by the board and taught by instructors approved by the board and has satisfactorily passed an examination dealing with the material taught in each course. The course of study must include the subjects of real estate principles, real estate law and ethics, real estate finance, and related topics.

(b) The application must be accompanied by the recommendation of a licensed broker with a supervising broker endorsement by whom the applicant will be employed or placed under contract, certifying that the applicant is of good repute and that the broker will actively supervise and train the applicant during the period the requested license remains in effect.

(5) If the board determines that an applicant possesses the qualifications required by this chapter, the department shall issue a license to the applicant.

(6) (a) An applicant for a supervising broker endorsement must meet the education and experience requirements established by the board by rule except that continuing

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education requirements for a supervising broker endorsement may not be in addition to the continuing education requirements for a licensed broker with respect to the total number of hours or credits required.

(b) The board may not assess a licensing fee for obtaining or renewing a supervising broker endorsement.

(c) The board may adopt rules allowing a salesperson to temporarily associate with a broker with a supervising broker endorsement other than the supervising broker listed on the salesperson's license."

{*Internal References to 37-51-302:*
37-51-204 37-51-309}

Section 4. Section 39-51-2207, MCA, is amended to read:

"39-51-2207. Voluntary and other withholding of taxes from benefits -- procedures. (1) The department shall advise an individual at the time the individual files a new claim for unemployment compensation that:

(a) unemployment compensation is subject to federal income tax;

(b) requirements exist pertaining to estimated tax payments;

(c) the individual may elect to have federal income tax deducted and withheld from the individual's unemployment

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compensation at the rate or amount specified in the Internal Revenue Code; and

(d) the individual may change a previously elected withholding status in a manner and at a frequency prescribed by the department.

(2) Funds deducted and withheld from unemployment compensation must remain in the unemployment insurance fund provided for in 39-51-401 until the funds are transferred as income tax payments to the internal revenue service.

(3) The department shall:

~~(a) follow all procedures specified by the United States department of labor and the internal revenue service pertaining to the voluntary deduction and withholding of income tax from unemployment compensation; and~~

~~(b) deduct and withhold from unemployment compensation amounts of federal income tax other than those specified in subsection (1) (c) in accordance with the priorities established by the department by rule."~~

{Internal References to 39-51-2207:
39-51-403 39-51-3105}

Section 5. Section 50-73-205, MCA, is amended to read:

"50-73-205. Copies of maps for department. The original or true copies of all maps must be kept in the office at the

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mine, and true copies must also be furnished the department upon request ~~within 30 days after their completion~~. The maps delivered to the department become the property of the state. The maps must be kept at the office of the department and are open to inspection by all persons interested in them. An examination may only be made in the presence of a department inspector, and the inspector may not permit any copies of the maps to be made without the written consent of the operator or owner of the property, under penalty of removal from office."

{Internal References to 50-73-205: None}

Section 6. Section 50-73-206 , MCA, is amended to read:

"50-73-206. Maps to be updated on basis of semiannual surveys. An extension of the last preceding survey of every mine in active operation shall be made once every 6 months, and the result of the survey, with the date, shall be promptly and accurately entered upon the original maps so as to show all changes in plan or new work in the mine and all extensions of the workings to the most advanced boundary of the workings which have been made since the preceding survey. ~~The changes and extensions shall be~~

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~~entered on the copies of the maps of the department or new copies furnished it within 30 days after the last survey is made."~~

{Internal References to 50-73-206: None}

Section 7. Section 50-73-209 , MCA, is amended to read:

"50-73-209. Procedure when operator fails to furnish or update map. When the operator of a mine neglects or refuses or for any cause not satisfactory to the department fails ~~for a period of 3 months~~ to furnish the department the map or plan of the mine or of the extension upon request ~~or a copy~~, the department may make or cause to be made an accurate map or plan of the mine at the expense of the owner or lessee, and the cost may be recovered from the owner, lessee, or operator in the same manner as other debts by suit in the name of the state."

{Internal References to 50-73-209: None}

NEW SECTION. **Section 8. {standard} Effective date.**

[This act] is effective on passage and approval.

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