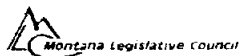


1 SENATE BILL NO. 33
2 INTRODUCED BY GAGE
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE MONTANA CODE ANNOTATED; CONFORMING PROVISIONS OF
7 THE MONTANA CODE ANNOTATED TO THE MONTANA JUSTICE AND CITY
8 COURT RULES OF CIVIL PROCEDURE; DIRECTING THE CODE
9 COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN
10 MATERIAL ENACTED BY THE 52ND LEGISLATURE; AMENDING SECTIONS
11 1-11-204, 3-7-211, 3-10-702, 3-11-302, 3-15-107, 3-15-705,
12 7-2-2213, 7-2-2225, 7-6-4202, 7-7-2402, 15-24-1701,
13 15-31-702, 17-6-305, 17-7-401, 17-7-502, 19-3-513, 19-6-506,
14 20-7-401, 22-1-501, 22-3-522, 23-2-508, 23-2-611, 25-30-101,
15 25-31-402, 25-31-406, 25-31-407, 25-31-702, 25-32-101,
16 25-32-102, 25-32-103, 25-32-104, 27-1-221, 31-1-233,
17 31-3-141, 33-17-208, 33-21-207, 37-47-101, 39-71-401,
18 39-71-1019, 40-5-412, 44-12-203, 50-5-1104, 50-16-536,
19 53-3-321, 61-3-509, 61-8-207, 61-8-312, 61-10-107,
20 61-10-146, 75-2-503, 75-10-701, 75-10-704, 75-10-718,
21 76-14-112, 80-9-206, 82-4-222, 82-4-434, 85-7-102, 87-4-304,
22 AND 87-5-121, MCA; AND REPEALING SECTIONS 2-4-321, 2-4-322,
23 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114, 25-31-116,
24 25-31-201, 25-31-202, 25-31-203, 25-31-204, 25-31-301,
25 25-31-302, 25-31-303, 25-31-304, 25-31-305, 25-31-306,

1 25-31-307, 25-31-308, 25-31-401, 25-31-403, 25-31-404,
2 25-31-408, 25-31-501, 25-31-502, 25-31-503, 25-31-504,
3 25-31-505, 25-31-506, 25-31-507, 25-31-511, 25-31-521,
4 25-31-522, 25-31-701, 25-31-804, 25-31-811, 25-31-812,
5 25-31-901, 25-31-902, 25-31-903, 25-31-904, 25-31-905,
6 25-31-911, 25-31-912, 25-31-913, 25-31-915, 25-31-1001,
7 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101, 25-31-1102,
8 25-31-1103, 25-31-1105, 25-32-101, 25-32-102, 25-32-103,
9 25-32-104, 53-8-101, 53-8-102, 53-8-103, AND 53-8-104, MCA."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 **Section 1.** Section 1-11-204, MCA, is amended to read:
13 "~~1-11-204. Duties of code commissioner. (1) Prior to~~
14 ~~January 17, 1979, the code commissioner shall recodify all~~
15 ~~the laws of a general and permanent nature appearing in the~~
16 ~~codes and session laws and prepare them for publication:~~
17 ~~(2) Prior to January 17, 1979, the commissioner shall~~
18 ~~prepare and submit to the legislature a report which is~~
19 ~~certified by the commissioner as the "Official Report of the~~
20 ~~Montana Code Commissioner", together with a bill enacting~~
21 ~~the Montana Code Annotated. A copy of the report and bill~~
22 ~~shall be deposited with the secretary of state. The report~~
23 ~~shall explain and indicate, in tabular or other form, all~~
24 ~~changes made during recodification, other than punctuation~~
25 ~~and capitalization, to clearly indicate the character of~~



1 each-change-

2 †3†(1) Prior to the November 1 immediately preceding
3 each regular legislative session, the code commissioner
4 shall prepare and submit to the legislative council a
5 report, in tabular or other form, indicating the
6 commissioner's recommendations for legislation which that
7 will:

- 8 (a) eliminate archaic or outdated laws;
- 9 (b) eliminate obsolete or redundant wording of laws;
- 10 (c) eliminate any duplications in law and any laws
11 repealed directly or by implication;
- 12 (d) clarify existing laws;
- 13 (e) correct errors and inconsistencies within the laws.

14 †4†(2) The commissioner shall cause to be prepared for
15 publication with the Montana Code Annotated the following
16 material:

- 17 (a) Statutory the statutory history of each code
18 section;
- 19 (b) Annotations annotations of state and federal court
20 decisions relating to the subject matter of the code;
- 21 (c) Such editorial notes, cross-references, and other
22 matter as the commissioner considers desirable or
23 advantageous;
- 24 (d) The the Declaration of Independence;
- 25 (e) The the Constitution of the United States of

1 America and amendments thereto to the constitution;

2 (f) Acts acts of congress relating to the
3 authentication of laws and records;

4 (g) The the Organic Act of the Territory of Montana;

5 (h) The Enabling Act;

6 (i) The 1972 Constitution of the State of Montana and
7 any amendments thereto to the constitution;

8 (j) ~~The~~ Ordinances ordinances relating to federal
9 relations and elections;

10 (k) Rules rules of civil, criminal, and appellate
11 procedure and such other rules of procedure as the Montana
12 supreme court may adopt; and

13 (l) A a complete subject index, a popular name index,
14 and comparative disposition tables or cross-reference
15 indexes relating sections of the Montana Code Annotated to
16 prior compilations and session laws.

17 †5†(3) After publication of the Montana Code Annotated,
18 the code commissioner shall:

19 (a) annotate, arrange, and prepare for publication all
20 laws of a general and permanent nature enacted at each
21 legislative session and assign catchlines and code section
22 numbers to each new section;

23 (b) continue to codify, index, arrange, rearrange, and
24 generally update the Montana Code Annotated to maintain an
25 orderly and logical arrangement of the laws in order to

1 avoid future need for bulk revision;

2 (c) prepare and publish a report entitled "Official
3 Report of the Montana Code Commissioner--(year)" which that
4 indicates, in tabular or other form, all changes made during
5 the continuous recodification, other than punctuation,
6 spelling, and capitalization, to clearly indicate the
7 character of each change made since the last such report.

8 ~~(6)~~(4) From time to time, the commissioner shall confer
9 with members of the judiciary and the state bar relative to
10 recodification procedures."

11 **Section 2.** Section 3-7-211, MCA, is amended to read:

12 "3-7-211. **Appointment of water commissioners.** The
13 district court having jurisdiction over the hydrologically
14 interrelated portion of a water division, as described in
15 85-2-231~~(2)~~(3), in which the controversy arises may appoint
16 and supervise a water commissioner as provided for in Title
17 85, chapter 5."

18 **Section 3.** Section 3-10-702, MCA, is amended to read:

19 "3-10-702. **Governed by law prescribing sheriffs'**
20 **duties.** (1) All the provisions of 3-5-407, 7-32-2101,
21 7-32-2102, 7-32-2121, except subsections (4), (5), and (6),
22 7-32-2122, 7-32-2124, 7-32-2127, 7-32-2129 through
23 7-32-2131, 7-32-2250, 25-3-101, 25-3-202, 25-3-204 through
24 25-3-206, 25-3-301, 25-3-302, 25-13-403, ~~25-31-400(3)~~
25 27-18-305, and 27-18-1505 apply to constables and govern

1 their powers, duties, and liabilities.

2 (2) The provisions of 7-32-2141(1) apply to constables.
3 Fees collected by a constable for services, as provided in
4 7-32-2141(1), must be paid to the county treasurer, as
5 provided in 7-4-2511(2), and credited to the budget of the
6 justice's court."

7 **Section 4.** Section 3-11-302, MCA, is amended to read:

8 "3-11-302. **Who named as plaintiff.** (1) A criminal
9 action brought for violation of a city or town ordinance
10 must be brought in the name of the city or town as the
11 plaintiff and against the accused as the defendant.

12 (2) A criminal action brought for violation of a state
13 law within the city or town may be brought either in the
14 name of the state of Montana as the plaintiff or in the name
15 of the city or town as the plaintiff and must be brought
16 against the accused as the defendant.

17 (3) A criminal action brought for violation of a state
18 law within the county and within its concurrent jurisdiction
19 with the justice's court must be brought in the name of the
20 state of Montana as the plaintiff and against the accused as
21 the defendant.

22 (4) A civil action brought in the city court must be
23 prosecuted or defended in the same manner as a civil action
24 in justices' courts under the Montana Justice Courts and
25 City Court Rules of Civil Procedure (Title 25, chapter 22

1 23)."

2 **Section 5.** Section 3-15-107, MCA, is amended to read:

3 "3-15-107. **Number in justices' courts.** A jury in a
4 justice's court, both in ~~civil--cases--and~~ misdemeanors,
5 consists of six persons, but the parties may agree to a less
6 number than six."

7 **Section 6.** Section 3-15-705, MCA, is amended to read:

8 "3-15-705. **Manner of impaneling.** The jury shall must be
9 impaneled as provided in:

10 (1) Title 46, if the action is a criminal one;

11 (2) Title 25, chapter 7, part 2, and ~~M-R-Civ-P-7-Rule~~
12 47 Rule 18B, Montana Justice and City Court Rules of Civil
13 Procedure, if the action is a civil one."

14 **Section 7.** Section 7-2-2213, MCA, is amended to read:

15 "7-2-2213. **Resolution of board of county commissioners.**

16 The board of county commissioners, on the final hearing of
17 such the petition or petitions, shall, by a resolution
18 entered on its minutes, determine:

19 (1) the boundaries of the proposed new county, and the
20 boundaries so determined by the board shall must be the
21 boundaries of the proposed new county if it is created as
22 herein provided in this part;

23 (2) whether the petition contains the genuine
24 signatures of at least 50% of the registered electors of the
25 proposed new county as herein required in this part or, in

1 cases where separate petitions are presented from portions
2 of two or more existing counties as herein required in this
3 part, whether each petition is signed by at least 50% of the
4 registered electors of that portion of each of the existing
5 counties which that is proposed to be taken into the
6 proposed new county;

7 (3) whether any line of the proposed new county passes
8 within 15 miles of the courthouse situated at the county
9 seat of any county proposed to be divided, except as
10 otherwise provided;

11 (4) whether the proposed new county ~~will--contain~~
12 ~~property--according-to-the-last-preceding-assessment--which~~
13 ~~will-equal-in-amount-at-least-\$4-million--inclusive--of--all~~
14 ~~assessed--valuation and affected existing counties meet the~~
15 limitations contained in 7-2-2202;

16 (5) ~~whether--the--area--of--any--existing--county--from--which~~
17 ~~territory--is--taken--to--form--the--new--county--will--be--reduced--to~~
18 ~~less--than--1,200--square--miles--of--surveyed--land--by--taking--the~~
19 ~~territory--proposed--to--be--taken--therefrom--to--form--the--new~~
20 ~~county;~~

21 (6) ~~whether--the--area--of--the--proposed--new--county--will~~
22 ~~contain--at--least--1,000--square--miles--of--surveyed--land--to--form~~
23 ~~the--new--county;~~

24 (7) ~~the class to which the proposed new county will~~
25 belong after its creation and the name of the proposed new

1 county as stated in the petition; and
 2 ~~(8)~~(6) whether the area embraced within the proposed
 3 new county will be reasonably compact."

4 **Section 8.** Section 7-2-2225, MCA, is amended to read:

5 "7-2-2225. Officers of new county. (1) Except as
 6 provided in subsections (2) through (4) ~~of this section~~, at
 7 the election provided for in 7-2-2215, there ~~shall~~ must be
 8 chosen a board of county commissioners and ~~such~~ other
 9 county~~7--township~~7, and district officers as are provided by
 10 law for counties of the class to which the new county
 11 belongs.

12 (2) All elected, qualified, and acting officers of the
 13 county or counties who ~~may~~ reside within the proposed new
 14 county are considered to be officers of the new county if
 15 they file, within 5 days after the final hearing and
 16 determination of the petition for the proposed new county,
 17 with the board of county commissioners whose duty it ~~shall~~
 18 be is to call the election. their-intention Filing with the
 19 board is the officers' declaration of intent to become
 20 officers of the proposed new county.7--and-the The board
 21 issuing the proclamation of the election shall omit
 22 providing for the election of any ~~such~~ officers as who have
 23 filed their declaration to continue in office.

24 (3) All elected, qualified, and acting justices of the
 25 peace residing within the proposed new county shall hold

1 office as justices of the peace in the new county for the
 2 remainder of the term for which they were elected.

3 (4) All elected, qualified, and acting school trustees
 4 residing within the proposed new county at the time of the
 5 division of ~~such~~ the county into school districts, as
 6 provided in ~~7-2-2214~~ Title 20, chapter 6, shall hold office
 7 as school trustees in the new county for the remainder of
 8 the term for which they were elected on qualifying as school
 9 trustees for the respective districts in which they reside,
 10 as these districts are organized ~~as provided by this part~~.

11 (5) The officers elected or appointed under the
 12 provisions of this part shall ~~each~~ perform the duties and
 13 receive the compensation ~~now~~ provided by general law for the
 14 office to which they have been appointed or elected in the
 15 counties of the class to which the new county belongs."

16 **Section 9.** Section 7-6-4202, MCA, is amended to read:

17 "7-6-4202. Definitions. As used in this part, the
 18 following definitions apply:

19 (1) The term "clerk" ~~shall-mean~~ means the clerk of the
 20 city.

21 (2) The term "council" ~~shall--mean~~ means the city
 22 council or city commission.

23 (3) The terms term "municipal corporation" or
 24 "municipality" ~~shall-mean~~ means the city.

25 (4) The terms term "treasurer" ~~or--~~ "city-treasurer"

1 ~~shall-mean~~ means the city treasurer ~~or--the--town--clerk,~~
2 ~~whichever-is-appropriate."~~

3 **Section 10.** Section 7-7-2402, MCA, is amended to read:

4 **"7-7-2402. Election required to borrow money --**
5 **exceptions.** (1) Except as provided in subsection (3), the
6 board of county commissioners ~~must~~ may not borrow money for
7 any of the purposes mentioned in this title or for any
8 single purpose to in an amount exceeding ~~\$10,000~~ \$500,000
9 without:

10 (a) first having submitted the question of a loan to a
11 vote of the electors of the county; and

12 (b) the approval of a majority of the electors of the
13 county.

14 (2) If a majority of the votes cast are in favor of the
15 loan, then the board may make the loan, issuing bonds or
16 otherwise as may seem best for the interests of the county.

17 (3) It ~~shall~~ is not be necessary to submit to the
18 electors the question of borrowing money:

19 (a) to refund outstanding bonds; or

20 (b) for the purpose of enabling any county to liquidate
21 its indebtedness to another county incident to the creation
22 of a new county or the change of any county boundary lines."

23 **Section 11.** Section 15-24-1701, MCA, is amended to
24 read:

25 **"15-24-1701. (Temporary) Suspension and cancellation of**

1 **collection of certain property taxes on commercial property**
2 **-- local government discretion.** (1) The governing body of a
3 county or consolidated local government unit may suspend
4 collection of delinquent property taxes on commercial
5 property to facilitate the purchase and continued operation
6 of a business utilizing the commercial property if the
7 property has not been used in a business for 6 months
8 immediately preceding the date of suspension.

9 (2) The governing body may refuse to suspend delinquent
10 taxes if it determines that the purchase of the commercial
11 property is not an arm's length transaction or if the
12 purchase otherwise appears to be a restructuring of
13 ownership for the primary purpose of escaping payment of
14 delinquent property taxes or if the governing body
15 determines the ~~cancellation~~ suspension is not in the best
16 interest of the county.

17 (3) If a purchaser of ~~such~~ the commercial property
18 continuously utilizes the property in a profit-oriented,
19 employment-stimulating business for 3 years from the date of
20 purchase, the governing body may cancel the collection of
21 the suspended delinquent property taxes. The governing body
22 may not cancel the suspended delinquent property taxes if
23 the purchaser is delinquent on taxes for any other property
24 within the governing body's taxing jurisdiction. (Terminates
25 December 31, 1993--sec. 17, Ch. 631, L. 1989.)"

1 **Section 12.** Section 15-31-702, MCA, is amended to read:

2 **"15-31-702. Distribution of corporation license taxes**
 3 **collected from banks or savings and loan associations.** (1)
 4 All corporation license taxes collected from banks and
 5 savings and loan associations ~~shall~~ must be distributed in
 6 the following manner:

7 (a) 20% must be remitted to the state treasurer to be
 8 allocated as provided in 15-1-501~~(2)~~ (3); and

9 (b) 80% is statutorily appropriated, as provided in
 10 17-7-502, for allocation to the various taxing jurisdictions
 11 within the county in which the bank or savings and loan
 12 association is located.

13 (2) The corporation license taxes distributed under
 14 subsection (1)(b) ~~shall~~ must be allocated to each taxing
 15 jurisdiction in the proportion that its mill levy for that
 16 fiscal year bears to the total mill levy of the taxing
 17 authorities of the district in which the bank or savings and
 18 loan association is located.

19 (3) "Taxing jurisdictions" means, for the purposes of
 20 this section, all taxing authorities within a county
 21 permitted under state law to levy mills against the taxable
 22 value of property in the taxing district in which the bank
 23 or savings and loan association is located.

24 (4) If a return filed by a bank or savings and loan
 25 association involves branches or offices in more than one

1 taxing jurisdiction, the department of revenue shall provide
 2 a method by rule for equitable distribution among those
 3 taxing jurisdictions."

4 **Section 13.** Section 15-35-108, MCA, is amended to read:

5 **"15-35-108. (Temporary) Disposal of severance taxes.**
 6 Severance taxes collected under this chapter must be
 7 allocated according to the provisions in effect on the date
 8 the tax is due under 15-35-104. Severance taxes collected
 9 under the provisions of this chapter are allocated as
 10 follows:

11 (1) To the trust fund created by Article IX, section 5,
 12 of the Montana constitution, 50% of total coal severance tax
 13 collections. The trust fund ~~moneys--shall~~ money must be
 14 deposited in the fund established under 17-6-203~~(5)~~ (6) and
 15 invested by the board of investments as provided by law.

16 (2) Starting July 1, 1987, and ending June 30, 1993,
 17 12% of coal severance tax collections are allocated to the
 18 highway reconstruction trust fund account in the state
 19 special revenue fund.

20 (3) Coal severance tax collections remaining after the
 21 allocations provided by subsections (1) and (2) are
 22 allocated in the following percentages of the remaining
 23 balance:

24 (a) 17.5% to the credit of the local impact account.
 25 Unencumbered funds remaining in the local impact account at

1 the end of each biennium are allocated to the state special
2 revenue fund for state equalization aid to public schools of
3 the state.

4 (b) 30% to the state special revenue fund for state
5 equalization aid to public schools of the state;

6 (c) 1% to the state special revenue fund to the credit
7 of the county land planning account;

8 (d) 1 1/4% to the credit of the renewable resource
9 development bond fund;

10 (e) 5% to a nonexpendable trust fund for the purpose of
11 parks acquisition or management, protection of works of art
12 in the state capitol, and other cultural and aesthetic
13 projects. Income from this trust fund ~~shall~~ must be
14 appropriated as follows:

15 (i) 1/3 for protection of works of art in the state
16 capitol and other cultural and aesthetic projects; and

17 (ii) 2/3 for the acquisition, development, operation,
18 and maintenance of any sites and areas described in
19 23-1-102;

20 (f) 1% to the state special revenue fund to the credit
21 of the state library commission for the purposes of
22 providing basic library services for the residents of all
23 counties through library federations and for payment of the
24 costs of participating in regional and national networking;

25 (g) 1/2 of 1% to the state special revenue fund for

1 conservation districts;

2 (h) 1 1/4% to the debt service fund type to the credit
3 of the water development debt service fund;

4 (i) 2% to the state special revenue fund for the
5 Montana Growth Through Agriculture Act;

6 (j) all other revenues from severance taxes collected
7 under the provisions of this chapter to the credit of the
8 general fund of the state. (Terminates July 1, 1993--sec. 7,
9 Ch. 541, L. 1983.)

10 15-35-108. (Effective July 1, 1993) Disposal of
11 severance taxes. Severance taxes collected under this
12 chapter must be allocated according to the provisions in
13 effect on the date the tax is due under 15-35-104. Severance
14 taxes collected under the provisions of this chapter are
15 allocated as follows:

16 (1) To the trust fund created by Article IX, section 5,
17 of the Montana constitution, 50% of total coal severance tax
18 collections. The trust fund ~~moneys--shall~~ money must be
19 deposited in the fund established under 17-6-203~~(5)~~(6) and
20 invested by the board of investments as provided by law.

21 (2) Coal severance tax collections remaining after
22 allocation to the trust fund under subsection (1) are
23 allocated in the following percentages of the remaining
24 balance:

25 (a) 17.5% to the credit of the local impact account.

1 Unencumbered funds remaining in the local impact account at
 2 the end of each biennium are allocated to the state special
 3 revenue fund for state equalization aid to public schools of
 4 the state.

5 (b) 30% to the state special revenue fund for state
 6 equalization aid to public schools of the state;

7 (c) 1% to the state special revenue fund to the credit
 8 of the county land planning account;

9 (d) 1 1/4% to the credit of the renewable resource
 10 development bond fund;

11 (e) 5% to a nonexpendable trust fund for the purpose of
 12 parks acquisition or management, protection of works of art
 13 in the state capitol, and other cultural and aesthetic
 14 projects. Income from this trust fund ~~shall~~ must be
 15 appropriated as follows:

16 (i) 1/3 for protection of works of art in the state
 17 capitol and other cultural and aesthetic projects; and

18 (ii) 2/3 for the acquisition, development, operation,
 19 and maintenance of any sites and areas described in
 20 23-1-102;

21 (f) 1% to the state special revenue fund to the credit
 22 of the state library commission for the purposes of
 23 providing basic library services for the residents of all
 24 counties through library federations and for payment of the
 25 costs of participating in regional and national networking;

1 (g) 1/2 of 1% to the state special revenue fund for
 2 conservation districts;

3 (h) 1 1/4% to the debt service fund type to the credit
 4 of the water development debt service fund;

5 (i) 2% to the state special revenue fund for the
 6 Montana Growth Through Agriculture Act;

7 (j) all other revenues from severance taxes collected
 8 under the provisions of this chapter to the credit of the
 9 general fund of the state."

10 **Section 14.** Section 17-6-305, MCA, is amended to read:

11 "17-6-305. Investment of twenty-five percent of the
 12 coal tax trust fund in the Montana economy. (1) Twenty-five
 13 percent of all revenue deposited after June 30, 1983, into
 14 the permanent coal tax trust fund established in
 15 17-6-203{5}{6} and 15% of the annual income and earnings on
 16 the Montana in-state investment fund appropriated to the
 17 coal severance tax permanent fund by 17-5-704(2) ~~shall~~ must
 18 be invested in the Montana economy, with special emphasis on
 19 investments in new or expanding locally owned enterprises.

20 (2) In determining the probable income to be derived
 21 from investment of this revenue, the long-term benefit to
 22 the Montana economy ~~shall~~ must be considered.

23 (3) The legislature may provide additional procedures
 24 to implement this section."

25 **Section 15.** Section 17-7-401, MCA, is amended to read:

1 "17-7-401. Definitions. As used in this part, the
2 following definitions apply:

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

5 (2) "Agency" means each state office, department,
6 division, board, commission, council, committee,
7 institution, university unit, or other entity or
8 instrumentality of the executive branch, office of the
9 judicial branch, or office of the legislative branch of
10 state government.

11 (3) "Approving authority" means the governor or his
12 designated representative for executive branch agencies, the
13 chief justice of the supreme court or his designated
14 representative for judicial branch agencies, appropriate
15 legislative committees or a designated representative for
16 legislative branch agencies, or the board of regents or its
17 designated representative for the university system.

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

23 (5) "Emergency" means any catastrophe, disaster,
24 calamity, or other serious unforeseen and unanticipated
25 circumstance that has occurred subsequent to the time an

1 agency's appropriation was made, which was clearly not
2 within the contemplation of the legislature and the
3 governor, and which seriously affects one or more functions
4 of a state agency and the agency's expenditure requirements
5 for the performance of the function or functions.

6 (6) "Executive branch approving authority" means the
7 governor or his designated representative.

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

11 (8) "Requesting agency" means the agency of state
12 government that has requested a specific budget amendment.

13 (9) "University system unit" means the board of
14 regents, office of the commissioner of higher education,
15 university of Montana at Missoula, Montana state university
16 at Bozeman, Montana college of mineral science and
17 technology at Butte, eastern Montana college at Billings,
18 northern Montana college at Havre, western Montana college
19 of the university of Montana at Dillon, the agricultural
20 experiment station with central offices at Bozeman, the
21 forestry Montana forest and conservation experiment station
22 with central offices at Missoula, the cooperative extension
23 service with central offices at Bozeman, or the bureau of
24 mines and geology with central offices at Butte."

25 **Section 16.** Section 17-7-502, MCA, is amended to read:

1 **"17-7-502. Statutory appropriations -- definition --**
 2 **requisites for validity.** (1) A statutory appropriation is an
 3 appropriation made by permanent law that authorizes spending
 4 by a state agency without the need for a biennial
 5 legislative appropriation or budget amendment.

6 (2) Except as provided in subsection (4), to be
 7 effective, a statutory appropriation must comply with both
 8 of the following provisions:

9 (a) The law containing the statutory authority must be
 10 listed in subsection (3).

11 (b) The law or portion of the law making a statutory
 12 appropriation must specifically state that a statutory
 13 appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing
 15 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 16 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
 17 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
 18 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 19 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 20 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 21 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
 22 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
 23 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
 24 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
 25 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;

1 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; and
 2 90-9-306, ~~and section 13, House Bill No. 861, laws of 1985.~~

3 (4) There is a statutory appropriation to pay the
 4 principal, interest, premiums, and costs of issuing, paying,
 5 and securing all bonds, notes, or other obligations, as due,
 6 that have been authorized and issued pursuant to the laws of
 7 Montana. Agencies that have entered into agreements
 8 authorized by the laws of Montana to pay the state
 9 treasurer, for deposit in accordance with 17-2-101 through
 10 17-2-107, as determined by the state treasurer, an amount
 11 sufficient to pay the principal and interest as due on the
 12 bonds or notes have statutory appropriation authority for
 13 such the payments. (In subsection (3), pursuant to sec. 10,
 14 Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates
 15 June 30, 1991.)"

16 **Section 17.** Section 19-3-513, MCA, is amended to read:

17 "19-3-513. Election to purchase additional service. (1)
 18 At any time before retirement, a person who became a member
 19 of the retirement system before July 1, 1989, and who has 5
 20 years or more of membership service may make a written
 21 election with the board to purchase additional service for
 22 the purpose of calculating his retirement allowance. Except
 23 as provided in subsection (3), the member may purchase 1
 24 year of additional service for each 5 years of membership
 25 service that he has qualified under the retirement system,

1 up to a maximum of 5 years of additional service.

2 (2) For each year of service purchased under this
3 section, a member shall contribute to the retirement fund an
4 amount equal to his normal compensation for the 12-month
5 period immediately preceding the date he elects to purchase
6 the service multiplied by the combined employee and employer
7 contribution rates ~~on-the-date-he--elects--to--purchase--the~~
8 service contained in 19-3-701 and 19-3-801 in effect on and
9 after July 1, 1993. Contributions may be made in a lump-sum
10 payment or in installments as agreed upon by the member and
11 the board.

12 (3) (a) Except as provided in subsection (3)(b), after
13 January 1, 1990, a member may elect to qualify a combined
14 total of 5 years of service under 19-3-503, 19-3-512, or
15 this section.

16 (b) A member who has purchased service under 19-3-503
17 or 19-3-512 on or before January 1, 1990, and who elects to
18 purchase service under this section shall receive credit for
19 the full months of service purchased on or before January 1,
20 1990.

21 (4) Service purchased under this section may not be
22 used to qualify a member for service retirement."

23 **Section 18.** Section 19-6-506, MCA, is amended to read:

24 "19-6-506. Supplemental retirement allowance for
25 certain retirees. (1) Retired Montana highway patrol

1 officers or their surviving spouses who are 65 years of age
2 or older or disabled and who are not entitled through their
3 own or their spouses' contributions to social security or
4 medicare to prepaid medicare hospital insurance coverage are
5 eligible for a supplemental retirement benefit.

6 (2) Subject to the restrictions in subsection (1) and
7 beginning on the first day of the month after receipt of
8 written application of an eligible retiree, the retirement
9 system shall pay a supplemental benefit equal to the premium
10 for coverage under medicare hospital insurance, excluding
11 coverage for a spouse and dependents, from revenue deposited
12 in the ~~state--special-revenue~~ general fund, as provided in
13 61-3-321(5). The written application must be accompanied by
14 proof that the retiree is paying for medicare hospital
15 insurance coverage.

16 (3) The supplemental benefit payment made under
17 subsection (2) may not exceed the medicare hospital
18 insurance premium in effect on July 1, 1989, for similar
19 coverage."

20 **Section 19.** Section 20-7-401, MCA, is amended to read:

21 "20-7-401. Definitions. In this title, unless the
22 context clearly indicates otherwise, the following
23 definitions apply:

24 (1) "Appropriate public education" means the provision
25 of regular or special education and related aids and

1 services that are designed to meet individual educational
2 needs of handicapped persons as adequately as the needs of
3 nonhandicapped persons are met.

4 (2) "Deaf" means a hearing impairment which that is so
5 severe that the child's hearing is nonfunctional for the
6 purpose of educational performance.

7 (3) "Deaf/blind" means concomitant hearing and visual
8 impairments, the combination of which causes such severe
9 educational problems for the child so impaired that the
10 child cannot be accommodated in a special education program
11 designed solely for deaf or blind children.

12 (4) "Emotionally disturbed" means a condition
13 exhibiting one or more of the following characteristics to a
14 marked degree and over a long period of time that adversely
15 affects educational performance: an inability to learn which
16 that cannot be explained by intellectual, sensory, or health
17 factors; an inability to build or maintain satisfactory
18 interpersonal relationships with peers and teachers;
19 inappropriate types of behavior or feelings under normal
20 circumstances; a general pervasive mood of unhappiness or
21 depression; or a tendency to develop physical symptoms or
22 fears associated with personal or school problems. The term
23 includes a child who is schizophrenic. The term does not
24 include a child who is socially maladjusted, unless it is
25 determined that the child is emotionally disturbed.

1 (5) "Handicapped child" means a child evaluated as
2 being mentally retarded, hard-of-hearing, deaf,
3 **speech-impaired** speech/language impaired, visually
4 handicapped, emotionally disturbed, deaf/blind,
5 multihandicapped, orthopedically impaired, other
6 health-impaired, or as having specific learning
7 disabilities, who because of those impairments needs special
8 education and related services. A child who is 5 years of
9 age or younger may be identified as handicapped without the
10 handicapping condition being specified.

11 (6) "Hard-of-hearing" means a hearing impairment,
12 whether permanent or fluctuating, which that adversely
13 affects a child's educational performance but which that is
14 not included within the definition of deaf.

15 (7) "Mentally retarded" means significantly subaverage
16 general intellectual functioning existing concurrently with
17 deficits in adaptive behavior and manifested during the
18 developmental period, which adversely affects a child's
19 educational performance.

20 (8) "Multihandicapped" means concomitant impairments
21 (e.g., mentally retarded/blind or mentally
22 retarded/orthopedically impaired), the combination of which
23 causes such severe educational problems for the child so
24 impaired that the child cannot be accommodated in a special
25 education program designed solely for one of the

1 impairments. The term does not include deaf/blind children.

2 (9) "Orthopedically impaired" means a severe orthopedic
3 impairment which that adversely affects a child's
4 educational performance. The term includes but is not
5 limited to impairment caused by congenital anomaly (e.g.,
6 clubfoot or absence of some member), impairments caused by
7 disease (e.g., poliomyelitis, bone tuberculosis), and
8 impairments from other causes (e.g., fractures or burns
9 which that cause contractures, amputation, cerebral palsy).

10 (10) "Other health-impaired" means:

11 (a) having an autistic condition that is manifested by
12 severe communication and other developmental and educational
13 problems; or

14 (b) having limited strength, vitality, or alertness due
15 to chronic or acute health problems, such as a heart
16 condition, tuberculosis, rheumatic fever, nephritis, asthma,
17 sickle-cell anemia, hemophilia, epilepsy, lead poisoning,
18 leukemia, or diabetes.

19 (11) "Related services" means transportation and such
20 developmental, corrective, and other supportive services as
21 are required to assist a handicapped child to benefit from
22 special education and includes speech-language pathology,
23 audiology, occupational therapy, and physical therapy.

24 (12) "Special education" means specially designed
25 instruction, given at no cost to the parents or guardians,

1 to meet the unique needs of a handicapped child, including
2 but not limited to classroom instruction, instruction in
3 physical education, home instruction, and instruction in
4 hospitals and institutions.

5 (13) "Specific learning disability" means a disorder in
6 one or more of the basic psychological processes involved in
7 understanding or in using language, spoken or written, which
8 that may manifest itself in an imperfect ability to listen,
9 think, speak, read, write, spell, or do mathematical
10 calculations. The term includes but is not limited to such
11 conditions as perceptual handicaps, brain injury, minimal
12 brain dysfunction, dyslexia, and developmental aphasia. The
13 term does not include children who have learning problems
14 which that are primarily the result of visual, hearing, or
15 motor handicaps; mental retardation; or environmental,
16 cultural, or economic disadvantages.

17 (14) "Speech/language impaired" means a communication
18 disorder, such as stuttering, impaired articulation, or a
19 language or voice impairment, which that adversely affects a
20 child's interpersonal relationships or educational
21 performance.

22 (15) "Surrogate parent" means an individual appointed to
23 safeguard a child's rights and protect the child's interests
24 in educational evaluation, placement, and hearing or appeal
25 procedures concerning the child.

1 (16) "Visually handicapped" means a visual impairment
2 ~~which that~~, after correction, adversely affects a child's
3 educational performance. The term includes both partially
4 seeing and blind children."

5 **Section 20.** Section 22-1-501, MCA, is amended to read:

6 "22-1-501. State law library created. The library
7 ~~heretofore formerly~~ known as a department of the state
8 library of Montana and called "the law library" ~~shall-become~~
9 is a separate and distinct library designated the "state law
10 library of the state of Montana". The collections of laws,
11 decisions of courts, law reports, textbooks, legal
12 periodicals, and miscellaneous books and journals together
13 with pamphlets, papers, maps, charts, and manuscripts ~~now~~ in
14 the law library ~~in-the-capitol-building~~ or belonging to such
15 the law library or ~~hereafter~~ acquired by or donated to the
16 law library ~~shall~~ constitute the law library ~~hereby~~
17 ~~established~~, and the title to all of the property
18 constituting the ~~same-now-or-hereafter--shall~~ law library
19 must be in the state of Montana, subject to the custody and
20 control of the library board established ~~herein~~ in
21 22-1-502."

22 **Section 21.** Section 22-3-522, MCA, is amended to read:

23 "22-3-522. Uniform Unclaimed Property Act superseded.
24 The provisions of this part supersede the provisions of
25 Title 70, chapter 9, parts 1 through 3, except that at its

1 option, a museum may report property that has been on loan
2 unclaimed by its owner for more than 7 5 years to the
3 department of revenue for disposition as provided in Title
4 70, chapter 9, part 3."

5 **Section 22.** Section 23-2-508, MCA, is amended to read:

6 "23-2-508. Certificate of ownership -- filing of
7 security interests. (1) Except as provided in subsection
8 (9), a motorboat or sailboat 12 feet in length or longer may
9 not be operated upon the waters of the state unless a
10 certificate of ownership has first been obtained from the
11 department of justice in accordance with the laws of this
12 state.

13 (2) The owner of a motorboat or sailboat 12 feet in
14 length or longer shall apply for a certificate of ownership
15 and a certificate of number with the county treasurer of the
16 county in which the owner resides, upon forms furnished by
17 the department of justice. The forms must require the
18 following information:

- 19 (a) name of the owner;
20 (b) residence of the owner, by town or county;
21 (c) business or home address of the owner;
22 (d) name and address of any lienholder;
23 (e) amount due under any contract or lien;
24 (f) name of the manufacturer;
25 (g) model number or name;

1 (h) identification number;

2 (i) name and address of the dealer or other person from
3 whom acquired, if known; and

4 (j) ~~such~~ other information as the department of justice
5 may require.

6 (3) The application is to be accompanied by
7 documentation of ownership, such as an invoice, a bill of
8 sale, a foreign title, an official certificate of boat
9 number, a fee in lieu of tax receipt, or a certificate of
10 ownership of a trailer purchased with the motorboat or
11 sailboat. An applicant who fails to provide ~~such~~ proof of
12 ownership shall provide a certified statement describing how
13 the motorboat or sailboat 12 feet in length or longer was
14 acquired, from whom acquired, if known, and other
15 information requested by the department of justice.

16 (4) If a certificate of ownership has previously been
17 issued under the provisions of this part, the application
18 for a new certificate must be accompanied by the immediately
19 previous certificate. This subsection does not apply to
20 motorboats or sailboats 12 feet in length or longer that are
21 purchased as new and unused vessels or that were operated
22 when the provisions of this part were not in force and
23 effect.

24 (5) Any A motorboat or sailboat 12 feet in length or
25 longer that does not have a manufacturer's or other

1 identifying number thereon on the motorboat or sailboat must
2 be assigned an identification number by the department of
3 fish, wildlife, and parks. A fee of \$1 must be paid to the
4 department for an assignment of number.

5 (6) Upon completion of the application, the county
6 treasurer shall issue to the applicant two copies of the
7 certificate of number application, one of which must be
8 marked "file copy". The treasurer shall forward one copy and
9 the original application for a certificate of ownership to
10 the department of justice, which shall enter the information
11 contained in the application upon the corresponding records
12 of its office, and shall furnish the applicant a certificate
13 of ownership containing that information in the application
14 considered necessary by the department and a permanent boat
15 number. The certificate of ownership need not be renewed
16 annually and is valid as long as the person holding it owns
17 the vessel.

18 (7) The owner shall at all times retain possession of
19 the certificate of ownership, except when it is being
20 transmitted to and from the department of justice for
21 endorsement or cancellation.

22 (8) Upon application for a certificate of ownership, a
23 fee of \$5 must be paid to the county treasurer, \$3.50 of
24 which must be forwarded by the county treasurer to the
25 department of justice and deposited in the general fund.

1 (9) A person who, on July 1, 1988, is the owner of a
 2 motorboat or sailboat 12 feet in length or longer with a
 3 valid certificate of number issued by the state is not
 4 required to file an application for a certificate of
 5 ownership for the motorboat or sailboat unless he transfers
 6 a part of his interest in the motorboat or sailboat or he
 7 renews the certificate of number for the motorboat or
 8 sailboat.

9 (10) A security interest in a boat is not valid as
 10 against creditors, subsequent purchasers, or encumbrancers
 11 unless a lien notice, showing that a security interest has
 12 been created, has been filed with the department of justice
 13 as provided in this section. The lien notice must be filed
 14 on a form approved by the department of justice. The
 15 department of justice may not file a security interest or
 16 other lien unless it is accompanied by or specified in the
 17 application for a certificate of ownership of the boat
 18 encumbered. If the lien notice is transmitted to the
 19 department of justice, the security agreement or other lien
 20 instrument that creates the security interest must be
 21 retained by the secured party. A copy of the security
 22 agreement is sufficient as a lien notice if it contains the
 23 name and address of the debtor and the secured party, the
 24 complete boat description, the amount of the lien, and the
 25 signature of the debtor. The department of justice shall

1 file the security interest or lien by entering the name and
 2 address of the secured party upon the face of the
 3 certificate of ownership. The department of justice shall
 4 mail a statement certifying the filing of a security
 5 interest or lien to the secured party. The department of
 6 justice shall mail the certificate of ownership to the owner
 7 at the address given on the certificate; however, if the
 8 transfer of ownership and filing of the security interest
 9 are paid for by a creditor or secured party, the department
 10 of justice shall return the certificate of ownership to the
 11 county treasurer of the county where in which the boat is to
 12 be registered. The owner of a boat is the person entitled to
 13 operate and possess the boat.

14 (11) A security interest in a boat held as inventory by
 15 a dealer must be perfected in accordance with Title 30,
 16 chapter 9, and no endorsement on the certificate of title is
 17 necessary for perfection.

18 (12) Whenever a security interest or lien is filed
 19 against a boat that is subject to two security interests
 20 previously perfected by filing under this section, the
 21 department of justice shall endorse on the face of the
 22 certificate of ownership: "NOTICE. This boat is subject to
 23 additional security interest on file with the Department of
 24 Justice." No other information regarding the additional
 25 security interests need be endorsed on the certificate.

1 (13) Satisfactions or statements of release filed with
2 the department of justice under this part must be retained
3 for a period of 8 years after receipt, after which they may
4 be destroyed.

5 (14) The filing of a security interest or other lien as
6 herein provided in this section perfects a security interest
7 that has attached at the time the certificate of ownership
8 noting the interest is issued. Issuance of a certificate of
9 ownership constitutes constructive notice to subsequent
10 purchasers or encumbrancers, from the time of filing, of the
11 existence of the security interest.

12 (15) Upon default under a chattel mortgage or
13 conditional sales contract covering a boat, the mortgagee or
14 vendor has the same remedies as in the case of other
15 personal property. In case of attachment of a boat, all the
16 provisions of 27-18-413, 27-18-414, and 27-18-804 are
17 applicable, except that deposits must be made with the
18 department of justice.

19 (16) A conditional sales vendor or chattel mortgagee or
20 assignee who fails to file a satisfaction of a chattel
21 mortgage, assignment, or conditional sales contract within
22 15 days after receiving final payment is required to pay the
23 department of justice the sum of \$1 for each day that he
24 fails to file the satisfaction.

25 (17) Upon receipt of any liens, notice of liens

1 dependent on possession, or attachments against the record
2 of any boat registered in this state, the department of
3 justice shall within 24 hours mail to the owner, conditional
4 sales vendor, mortgagee, or their assignee a notice showing
5 the name and address of the lien claimant, the amount of the
6 lien, the date of execution of the lien, and, in the case of
7 attachment, the full title of the court, the action, and the
8 name of the attorney for the plaintiff or the name of the
9 attaching creditor, or both.

10 (18) It is not necessary to refile with the department
11 of justice any instruments on file in the office of any the
12 county clerk and recorder on October 1, 1989.

13 (19) A fee of \$4 must be paid to the department of
14 justice to file any security interest or other lien against
15 a boat. The \$4 fee must cover the cost of filing a
16 satisfaction or release of the security interest and the
17 cost of entering the satisfaction or release on the records
18 of the department of justice and deleting the endorsement of
19 the security interest from the face of the certificate of
20 ownership. A fee of \$4 must be paid to the department of
21 justice for issuing a certified copy of a certificate of
22 ownership subject to a security interest or other lien on
23 file with the department of justice or for filing an
24 assignment of any security interest or other lien on file
25 with the department of justice. All fees provided for in

1 this section must be paid to the county treasurer for
2 deposit in the general fund in accordance with 15-1-504."

3 **Section 23.** Section 23-2-611, MCA, is amended to read:

4 "23-2-611. Certificate of ownership -- filing of
5 security interests. (1) A snowmobile may not be operated
6 upon any public lands, trails, easements, lakes, rivers,
7 streams, roadways or shoulders of roadways, streets, or
8 highways unless a certificate of ownership has first been
9 obtained from the department of justice in accordance with
10 the laws of this state.

11 (2) The owner of a snowmobile shall apply for a
12 certificate of ownership with the county treasurer of the
13 county in which the owner resides, upon forms to be
14 furnished for this purpose. The forms must require the
15 following information:

- 16 (a) name of the owner;
17 (b) residence of the owner, by town and county;
18 (c) business or home mail address of the owner;
19 (d) name and address of any lienholder;
20 (e) amount due under any contract or lien;
21 (f) name of the manufacturer;
22 (g) model number or name;
23 (h) identification number; and
24 (i) name and address of the dealer or other person from
25 whom acquired.

1 (3) The application must be signed by at least one
2 owner or by a properly authorized officer or representative
3 of the owner.

4 (4) If a certificate of ownership has previously been
5 issued under the provisions of 23-2-601 through 23-2-644,
6 the application for a new certificate must be accompanied by
7 the immediately previous certificate. This subsection does
8 not apply to snowmobiles that are purchased as new and
9 unused machines or that were operated when the provisions of
10 23-2-601 through 23-2-644 were not in force and effect.

11 (5) Upon completion of the application, on forms
12 furnished by the department of justice, the county treasurer
13 shall issue to the applicant two copies of the application,
14 one of which ~~shall~~ must be marked "file copy". The treasurer
15 shall forward one copy and the original application to the
16 department of justice, which shall enter the information
17 contained in the application upon the corresponding records
18 of its office and shall furnish the applicant a certificate
19 of ownership, which ~~shall~~ must contain that information in
20 the application considered necessary by the department of
21 justice, and a permanent ownership number. The certificate
22 of ownership is not to be renewed annually and is valid as
23 long as the person holding it owns the snowmobile.

24 (6) The owner shall at all times retain possession of
25 the certificate of ownership, except when it is being

1 transmitted to and from the department of justice for
2 endorsement or cancellation.

3 (7) Upon application for a certificate of ownership, a
4 fee of \$5 ~~shall~~ must be paid to the county treasurer, \$3.50
5 of which ~~shall~~ must be forwarded by the county treasurer to
6 the department of justice and deposited in the general fund.

7 (8) A security interest in a snowmobile is not valid as
8 against creditors, subsequent purchasers, or encumbrancers
9 unless a lien notice, showing that a security interest has
10 been created, has been filed with the department of justice
11 as provided in this section. The lien notice must be filed
12 on a form approved by the department ~~{of justice}~~. The
13 department of justice may not file a security interest or
14 other lien unless it is accompanied by or specified in the
15 application for a certificate of ownership of the snowmobile
16 encumbered. If the lien notice is transmitted to the
17 department of justice, the security agreement or other lien
18 instrument that creates the security interest must be
19 retained by the secured party. A copy of the security
20 agreement is sufficient as a lien notice if it contains the
21 name and address of the debtor and the secured party, the
22 complete snowmobile description, the amount of the lien, and
23 the signature of the debtor. The department of justice shall
24 file the security interest or lien by entering the name and
25 address of the secured party upon the face of the

1 certificate of ownership. The department of justice shall
2 mail a statement certifying the filing of a security
3 interest or lien to the secured party. The department of
4 justice shall mail the certificate of ownership to the owner
5 at the address given on the certificate; however, if the
6 transfer of ownership and filing of the security interest
7 are paid for by a creditor or secured party, the department
8 of justice shall return the certificate of ownership to the
9 county treasurer of the county where in which the snowmobile
10 is to be registered. The owner of a snowmobile is the person
11 entitled to operate and possess the snowmobile.

12 (9) A security interest in a snowmobile held as
13 inventory by a dealer must be perfected in accordance with
14 Title 30, chapter 9, and no endorsement on the certificate
15 of title is necessary for perfection.

16 (10) Whenever a security interest or lien is filed
17 against a snowmobile that is subject to two security
18 interests previously perfected by filing under this section,
19 the department of justice shall endorse on the face of the
20 certificate of ownership: "NOTICE. This snowmobile is
21 subject to additional security interest on file with the
22 Department of Justice". No other information regarding the
23 additional security interests need be endorsed on the
24 certificate.

25 (11) Satisfactions or statements of release filed with

1 the department of justice under this part must be retained
2 for a period of 8 years after receipt, after which they may
3 be destroyed.

4 (12) The filing of a security interest or other lien as
5 herein provided in this section perfects a security interest
6 that has attached at the time the certificate of ownership
7 noting the interest is issued. Issuance of a certificate of
8 ownership constitutes constructive notice to subsequent
9 purchasers or encumbrancers, from the time of filing, of the
10 existence of the security interest.

11 (13) Upon default under a chattel mortgage or
12 conditional sales contract covering a snowmobile, the
13 mortgagee or vendor has the same remedies as in the case of
14 other personal property. In case of attachment of a
15 snowmobile, all the provisions of 27-18-413, 27-18-414, and
16 27-18-804 are applicable, except that deposits must be made
17 with the department of justice.

18 (14) A conditional sales vendor or chattel mortgagee or
19 assignee who fails to file a satisfaction of a chattel
20 mortgage, assignment, or conditional sales contract within
21 15 days after receiving final payment is required to pay the
22 department of justice the sum of \$1 for each day that he
23 fails to file the satisfaction.

24 (15) Upon receipt of any liens, notice of liens
25 dependent on possession, or attachments against the record

1 of any snowmobile registered in this state, the department
2 of justice shall within 24 hours mail to the owner,
3 conditional sales vendor, mortgagee, or their assignee a
4 notice showing the name and address of the lien claimant,
5 the amount of the lien, the date of execution of the lien,
6 and, in the case of attachment, the full title of the court,
7 the action, and the name of the attorney for the plaintiff
8 or the name of the attaching creditor, or both.

9 (16) It is not necessary to refile with the department
10 of justice any instruments on file in the office of the
11 county clerk and recorder on October 1, 1989.

12 (17) A fee of \$4 must be paid to the department of
13 justice to file any security interest or other lien against
14 a snowmobile. The \$4 fee must cover the cost of filing a
15 satisfaction or release of the security interest and the
16 cost of entering the satisfaction or release on the records
17 of the department of justice and deleting the endorsement of
18 the security interest from the face of the certificate of
19 ownership. A fee of \$4 must be paid to the department of
20 justice for issuing a certified copy of a certificate of
21 ownership subject to a security interest or other lien on
22 file with the department of justice or for filing an
23 assignment of a security interest or other lien on file with
24 the department of justice. All fees provided for in this
25 section must be paid to the county treasurer for deposit in

1 the general fund in accordance with 15-1-504."

2 **Section 24.** Section 25-30-101, MCA, is amended to read:

3 "25-30-101. **Applicability of district court and**
4 **justice's court rules.** (1) The provisions of 3-10-222,
5 3-10-231 through 3-10-234, ~~3-10-3057-3-10-3067~~ and 3-10-704
6 through 3-10-706; 25-31-102(2), ~~25-31-114-through-25-31-116,~~
7 ~~25-31-304~~ 25-31-115, 25-31-402(2), 25-31-405, parts 7
8 through 11 of chapter 31 of this title (except 25-31-915,
9 25-31-10027-~~25-31-10047~~-and-25-31-1005), and chapter 33 of
10 this title; and chapter 9, part 10 of chapter 16, chapter
11 17, and part 15 of chapter 18 of Title 27 are applicable to
12 municipal courts except when they are inconsistent with the
13 provisions of this chapter and chapter 6 of Title 3, the
14 words "municipal court" being substituted for justice's
15 court and "judge" for justice of the peace.

16 (2) Except as otherwise provided by this chapter,
17 chapter 6 of Title 3, and the supreme court's rules on
18 disqualification of judges, the proceedings and practice in
19 municipal court ~~shall~~ must be the same as in district
20 court."

21 **Section 25.** Section 25-31-402, MCA, is amended to read:

22 "25-31-402. ~~Time for issuing summons security~~
23 Security for costs. (1) ~~The court must endorse on the~~
24 ~~complaint the date upon which it was filed, and at any time~~
25 ~~within 1 year thereafter the plaintiff may have summons~~

1 issued:

2 (2) ~~Justices~~ A justice may, in all cases, require a
3 deposit of money or an undertaking as security for costs of
4 court before issuing a summons."

5 **Section 26.** Section 25-31-406, MCA, is amended to read:

6 "25-31-406. **Time for answer or appearance.** The time
7 specified in the summons for the appearance of the defendant
8 must be as follows:

9 (1) if an order of arrest ~~be~~ is endorsed upon the
10 summons, ~~forthwith~~ immediately;

11 (2) in all other cases, the summons ~~shall~~ must provide
12 that the defendant shall answer ~~and, if such answer be~~ in
13 writing, file the same answer, and serve a copy thereof upon
14 the plaintiff or his attorney within 6 20 days after service
15 of ~~this~~ the summons, exclusive of the day of service, and in
16 case of his failure to appear or answer, judgment will be
17 taken against him by default for the relief demanded in the
18 complaint."

19 **Section 27.** Section 25-31-407, MCA, is amended to read:

20 "25-31-407. ~~Where summons may be~~ Requirements for
21 summons served out of county. (1) ~~The summons cannot be~~
22 ~~served out of the county of the justice before whom the~~
23 ~~action is brought, except:~~

24 (a) ~~when the action is brought upon a joint contract or~~
25 ~~obligation of two or more persons who reside in different~~

1 ~~counties--and-the-summons-has-been-served-upon-the-defendant~~
 2 ~~resident-of-the-county, in-which-case-the--summons--may--be~~
 3 ~~served-upon-the-other-defendant-out-of-the-county;~~

4 ~~{b)--when--an--action-is-brought-against-a-party-who-has~~
 5 ~~contracted-to-perform-an-obligation-at--a--particular--place~~
 6 ~~and-resides-in-a-different-county, in-which-case-summons-may~~
 7 ~~be-served-in-the-county-where-he-resides, and~~

8 ~~{c)--where--an--action-is-brought-for-an-injury-to-person~~
 9 ~~or-property-and-the-defendant-resides-in-a-different-county,~~
 10 ~~in-which-case-summons-may-be--served--in--the--county--where~~
 11 ~~defendant-resides;~~

12 {2)--When a summons issued by a justice of the peace is
 13 to be served out of the county in which it was issued, the
 14 summons ~~shall~~ must have attached to it a certificate, under
 15 seal by the county clerk of the county in which it was
 16 issued, to the effect that the person issuing the ~~same~~
 17 summons was an acting justice of the peace at the date of
 18 the summons."

19 **Section 28.** Section 25-31-702, MCA, is amended to read:

20 "25-31-702. Trial to be timely. Unless postponed as
 21 provided in this part or transferred to another court, the
 22 trial of the action may commence at the time set by the
 23 court as specified in the notice mentioned in 25-31-701 Rule
 24 20, Montana Justice and City Court Rules of Civil Procedure,
 25 and after the trial has commenced, there must may be no

1 adjournment for more than 24 hours at any one time until all
 2 the issues therein are disposed of."

3 **Section 29.** Section 25-32-101, MCA, is amended to read:

4 "25-32-101. Applicability of laws on procedure in
 5 justices' courts. All proceedings in civil actions in city
 6 courts must, except as otherwise provided in this chapter
 7 otherwise provided, be conducted in the same manner as civil
 8 actions in justices' courts and conform to the Montana
 9 Justice Courts and City Court Rules of Civil Procedure
 10 (Title 25, chapter 22 23)."

11 **Section 30.** Section 25-32-102, MCA, is amended to read:

12 "25-32-102. Commencement of action -- complaint. (1)
 13 Civil actions in city courts are commenced by filing a
 14 complaint as provided under the Montana Justice Courts and
 15 City Court Rules of Civil Procedure (Title 25, chapter 22
 16 23).

17 (2) The complaint must set forth a concise statement of
 18 the facts constituting the cause of action.

19 (3) A complaint under 3-11-103 must set forth the
 20 interest of the city in the action. An allegation that the
 21 cause of action arose from a violation of a city ordinance
 22 or failure to perform a duty required by city ordinance is a
 23 sufficient interest of the city.

24 (4) The ordinance may be referred to by its title,
 25 section, and number."

1 **Section 31.** Section 25-32-103, MCA, is amended to read:

2 "25-32-103. **Summons.** Immediately after filing the
3 complaint, a summons must be issued, directed to the
4 defendant and returnable as provided under the Montana
5 Justice Courts and City Court Rules of Civil Procedure
6 (Title 25, chapter 22 23)."

7 **Section 32.** Section 25-32-104, MCA, is amended to read:

8 "25-32-104. **Answer and immediate trial.** On the return
9 of the summons, the defendant shall file a written answer to
10 the complaint. The answer must conform to the Montana
11 Justice Courts and City Court Rules of Civil Procedure
12 (Title 25, chapter 22 23). Upon return of the answer, the
13 case must be tried as in justice's court."

14 **Section 33.** Section 27-1-221, MCA, is amended to read:

15 "27-1-221. **Punitive damages -- liability -- proof --**
16 **award.** (1) Subject to ~~subsection (2) and~~ the provisions of
17 27-1-220 and this section, reasonable punitive damages may
18 be awarded ~~where~~ when the defendant has been found guilty of
19 actual fraud or actual malice.

20 (2) A defendant is guilty of actual malice if he has
21 knowledge of facts or intentionally disregards facts that
22 create a high probability of injury to the plaintiff and:

23 (a) deliberately proceeds to act in conscious or
24 intentional disregard of the high probability of injury to
25 the plaintiff; or

1 (b) deliberately proceeds to act with indifference to
2 the high probability of injury to the plaintiff.

3 (3) A defendant is guilty of actual fraud if he:

4 (a) makes a representation with knowledge of its
5 falsity; or

6 (b) conceals a material fact with the purpose of
7 depriving the plaintiff of property or legal rights or
8 otherwise causing injury.

9 (4) Actual fraud exists only ~~where~~ when the plaintiff
10 has a right to rely upon the representation of the defendant
11 and suffers injury as a result of ~~such~~ that reliance. The
12 contract definitions of fraud expressed in Title 28, chapter
13 2, do not apply to proof of actual fraud under this section.

14 (5) All elements of the claim for punitive damages must
15 be proved by clear and convincing evidence. Clear and
16 convincing evidence means evidence in which there is no
17 serious or substantial doubt about the correctness of the
18 conclusions drawn from the evidence. It is more than a
19 preponderance of evidence, but less than beyond a reasonable
20 doubt.

21 (6) Liability for punitive damages must be determined
22 by the trier of fact, whether judge or jury.

23 (7) (a) Evidence regarding a defendant's financial
24 affairs, financial condition, and net worth is not
25 admissible in a trial to determine whether a defendant is

1 liable for punitive damages. When the jury returns a verdict
 2 finding a defendant liable for punitive damages, the amount
 3 of punitive damages must then be determined by the jury in
 4 an immediate, separate proceeding and be submitted to the
 5 judge for review as provided in subsection (7)(c). In the
 6 separate proceeding to determine the amount of punitive
 7 damages to be awarded, the defendant's financial affairs,
 8 financial condition, and net worth must be considered.

9 (b) When an award of punitive damages is made by the
 10 judge, he shall clearly state his reasons for making the
 11 award in findings of fact and conclusions of law,
 12 demonstrating consideration of each of the following
 13 matters:

- 14 (i) the nature and reprehensibility of the defendant's
 15 wrongdoing;
 16 (ii) the extent of the defendant's wrongdoing;
 17 (iii) the intent of the defendant in committing the
 18 wrong;
 19 (iv) the profitability of the defendant's wrongdoing, if
 20 applicable;
 21 (v) the amount of actual damages awarded by the jury;
 22 (vi) the defendant's net worth;
 23 (vii) previous awards of punitive or exemplary damages
 24 against the defendant based upon the same wrongful act;
 25 (viii) potential or prior criminal sanctions against the

1 defendant based upon the same wrongful act; and

2 (ix) any other circumstances which that may operate to
 3 increase or reduce, without wholly defeating, punitive
 4 damages.

5 (c) The judge shall review a jury award of punitive
 6 damages, giving consideration to each of the matters listed
 7 in subsection (7)(b). If after review the judge determines
 8 that the jury award of punitive damages should be increased
 9 or decreased, he may do so. The judge shall clearly state
 10 his reasons for increasing, decreasing, or not increasing or
 11 decreasing the punitive damages award of the jury in
 12 findings of fact and conclusions of law, demonstrating
 13 consideration of each of the factors listed in subsection
 14 (7)(b).

15 (8) Nothing in this section is intended to alter the
 16 Montana Rules of Civil Procedure governing discovery of a
 17 defendant's financial affairs, financial condition, and net
 18 worth."

19 **Section 34.** Section 31-1-233, MCA, is amended to read:

20 "31-1-233. **Insurance.** (1) The amount, if any, included
 21 for insurance which that may be purchased by the holder of
 22 the contract shall may not exceed the applicable premiums
 23 chargeable in accordance with the rates filed with the
 24 insurance department of this state where such the rates are
 25 required by law to be approved by said the insurance

1 department.

2 (2) All ~~such~~ insurance ~~shall~~ be purchased by the holder of
3 the contract must be written by an insurance company
4 authorized to do business in this state and ~~shall~~ must be
5 countersigned by a duly licensed resident agent insurance
6 producer authorized to engage in the insurance business in
7 this state.

8 (3) A buyer may be required to provide insurance on the
9 goods at his own cost for the protection of the seller or
10 holder as well as the buyer, but ~~such~~ the insurance ~~shall-be~~
11 is limited to insurance against substantial risk of loss,
12 damage, or destruction of the goods.

13 (4) Any other insurance may be included in a retail
14 installment transaction at the buyer's expense only if
15 contracted for voluntarily by the buyer.

16 (5) If ~~such~~ insurance for which ~~such~~ an identified
17 charge is made insures the life, safety, or health of the
18 buyer or his interest in the goods and is purchased by the
19 holder, the holder shall within 30 days after the execution
20 of the retail installment contract send or cause to be sent
21 to the buyer a policy or policies or certificate or
22 certificates of insurance, written by an insurance company
23 authorized to do business in this state, clearly setting
24 forth:

25 (a) the amount of the premium;

1 (b) the kind or kinds of insurance;

2 (c) the coverages; and

3 (d) if a policy, all the terms, exceptions,
4 limitations, restrictions, and conditions of the contract or
5 contracts of insurance or, if a certificate, a summary
6 thereof of the terms, exceptions, limitations, restrictions,
7 and conditions.

8 (6) The seller ~~shall~~ may not decline existing insurance
9 written by an insurance company authorized to do business in
10 this state, and the buyer ~~shall-have~~ has the privilege of
11 purchasing insurance from an agent insurance producer or
12 broker of his own selection and of selecting his insurance
13 company, provided that:

14 (a) the insurance company ~~shall-be~~ is acceptable to the
15 holder, which acceptance ~~shall~~ may not be unreasonably or
16 arbitrarily withheld; and

17 (b) the inclusion of the cost of the insurance premium
18 in the retail installment contract when the buyer selects
19 his agent insurance producer, broker, or company ~~shall-be~~ is
20 optional with the seller.

21 (7) If any insurance is canceled or the premium
22 adjusted, any refund of the insurance premium received by
23 the holder ~~shall~~ must be credited to the final maturing
24 installment of the contract except to the extent applied
25 toward payment for a similar insurance protecting the

1 interests of the buyer and the holder or either of them."

2 **Section 35.** Section 31-3-141, MCA, is amended to read:

3 "31-3-141. Actions available to consumer. (1) A
4 consumer may bring action in the nature of defamation,
5 invasion of privacy, or negligence with respect to the
6 reporting of information against any person who fails to
7 comply with this part.

8 (2) A person who fails to delete information or
9 incorporate into a report a consumer's statement of dispute
10 because he judges the dispute to be frivolous or irrelevant
11 is liable to suit.

12 (3) A person, other than the department of revenue
13 social and rehabilitation services under 40-5-261, who
14 furnishes information to a consumer reporting agency which
15 that is false or any a person who furnishes the information
16 with malice or willful intent to injure the concerned
17 consumer is liable to suit.

18 (4) A consumer who disputes the result of a
19 reinvestigation conducted under 31-3-124 of the accuracy of
20 information provided by the department of revenue social and
21 rehabilitation services may petition for an administrative
22 hearing pursuant to 40-5-261."

23 **Section 36.** Section 33-17-208, MCA, is amended to read:

24 "33-17-208. Prelicensing education -- basic
25 requirement. (1) (a) A person applying for a license to act

1 as an insurance producer for property, casualty, and surety
2 insurance shall complete 40 hours of approved prelicensing
3 education courses in those areas of insurance within 12
4 months prior to the examination, unless he is exempted from
5 the requirement under subsection (3).

6 (b) A person applying for a license to act as an
7 insurance producer for life and disability insurance or as
8 an enrollment-representative insurance producer for a health
9 service corporation shall complete 40 hours of approved
10 prelicensing education courses in those areas of insurance
11 within 12 months prior to the examination, unless he is
12 exempted from the requirement under subsection (3).

13 (2) A person applying for licenses to act as an
14 insurance producer for both the property, casualty, and
15 surety areas and the life and disability areas must shall
16 meet the education requirements in all the areas of
17 insurance.

18 (3) The minimum prelicensing education requirement does
19 not apply to a person who:

20 (a) has been licensed within the 12 preceding months as
21 an insurance producer in another state that requires
22 prelicensing education and has completed the education in
23 the other state;

24 (b) seeks a nonresident license, having been licensed
25 as an insurance provider in his state of residence for at

1 least 1 year;

2 (c) seeks a nonresident license and is from a state
3 having a prelicensing education requirement;

4 (d) seeks to reinstate a license lapsed for less than 2
5 years;

6 (e) seeks a temporary license under 33-17-216; or

7 (f) is exempt from examination requirements under
8 33-17-212(5)."

9 **Section 37.** Section 33-21-207, MCA, is amended to read:

10 "33-21-207. Issuance of policies. Each policy,
11 certificate of insurance, or notice of proposed insurance of
12 credit life insurance and credit disability insurance must
13 be delivered or issued for delivery in Montana only by an
14 insurer authorized to transact insurance in Montana and
15 must, except as provided in 33-17-103, be issued only
16 through a licensed insurance agent producer."

17 **Section 38.** Section 37-47-101, MCA, is amended to read:

18 "37-47-101. (Temporary) Definitions. As used in this
19 chapter, unless the context requires otherwise, the
20 following definitions apply:

21 (1) "Board" means the board of outfitters provided for
22 in 2-15-1883.

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

25 (3) "License year" means that period commencing January

1 and ending December 31 of the same year.

2 (4) "Nonresident" means a person other than a resident.

3 (5) "Outfitter" means any person, except a person
4 providing services on real property that he owns for the
5 primary pursuit of bona fide agricultural interests, who:

6 (a) engages in the business of outfitting for hunting
7 or fishing parties, as the term is commonly understood;

8 (b) for consideration provides any saddle or pack
9 animal or personal service for hunting or fishing parties or
10 camping equipment, vehicles, or other conveyance, except
11 boats, for any person to hunt, trap, capture, take, or kill
12 any game and accompanies such a party or person on an
13 expedition for any of these purposes;

14 (c) for consideration furnishes a boat or other
15 floating craft and accompanies any person for the purpose of
16 catching fish; or

17 (d) for consideration aids or assists any person in
18 locating or pursuing any game animal.

19 (6) "Professional guide" and "guide" mean a person:

20 (a) who is an employee of an outfitter and who
21 furnishes only personal guiding services in assisting a
22 person to hunt or take game animals or fish and who does not
23 furnish any facilities, transportation, or equipment; or

24 (b) who has contracted independently with an outfitter
25 and who furnishes personal guiding services and facilities,

1 transportation, or equipment that he owns in assisting a
2 person to hunt or take game birds or fish. A guide who
3 provides independent contractor services to an outfitter may
4 not provide facilities, equipment, or services for overnight
5 use.

6 (7) "Resident" means a person who qualifies for a
7 resident Montana hunting or fishing license under 87-2-102.

8 (8) "Participant" means a person using the services
9 offered by a licensed outfitter or professional guide.

10 37-47-101. (Effective July 1, 1991) Definitions. As
11 used in this part chapter, unless the context requires
12 otherwise, the following definitions apply:

13 (1) "License year" means that period commencing January
14 1 and ending December 31 of the same year.

15 (2) "Nonresident" means a person other than a resident.

16 (3) "Outfitter" means any a person, except a person
17 providing services on real property that he owns for the
18 primary pursuit of bona fide agricultural interests, who:

19 (a) engages in the business of outfitting for hunting
20 or fishing parties, as the term is commonly understood;

21 (b) for consideration provides any a saddle or pack
22 animal or personal service for hunting or fishing parties or
23 camping equipment, vehicles, or other conveyance, except
24 boats, for any a person to hunt, trap, capture, take, or
25 kill any game and accompanies such a party or person on an

1 expedition for any of these purposes;

2 (c) for consideration furnishes a boat or other
3 floating craft and accompanies any a person for the purpose
4 of catching fish; or

5 (d) for consideration aids or assists any a person in
6 locating or pursuing any game animal.

7 (4) "Outfitters' council" means the Montana outfitters'
8 council provided for in 2-15-1883.

9 (5) "Professional guide" and or "guide" mean means a
10 person:

11 (a) who is an employee of an outfitter and who
12 furnishes only personal guiding services in assisting a
13 person to hunt or take game animals or fish and who does not
14 furnish any facilities, transportation, or equipment; or

15 (b) who has contracted independently with an outfitter
16 and who furnishes personal guiding services and facilities,
17 transportation, or equipment in assisting a person to hunt
18 or take game animals or fish.

19 (6) "Resident" means a person who qualifies for a
20 resident Montana hunting or fishing license under 87-2-102.

21 (7) "Participant" means a person using the services
22 offered by a license outfitter or professional guide."

23 **Section 39.** Section 39-71-401, MCA, is amended to read:

24 "39-71-401. Employments covered and employments
25 exempted. (1) Except as provided in subsection (2) ~~of--this~~

1 section, the Workers' Compensation Act applies to all
 2 employers as defined in 39-71-117 and to all employees as
 3 defined in 39-71-118. An employer who has any employee in
 4 service under any appointment or contract of hire, expressed
 5 or implied, oral or written, shall elect to be bound by the
 6 provisions of compensation plan No. 1, 2, or 3. Every Each
 7 employee whose employer is bound by the Workers'
 8 Compensation Act is subject to and bound by the compensation
 9 plan that has been elected by the employer.

10 (2) Unless the employer elects coverage for these
 11 employments under this chapter and an insurer allows such an
 12 election, the Workers' Compensation Act does not apply to
 13 any of the following employments:

14 (a) household and domestic employment;

15 (b) casual employment as defined in 39-71-116;

16 (c) employment of a dependent member of an employer's
 17 family for whom an exemption may be claimed by the employer
 18 under the federal Internal Revenue Code;

19 (d) employment of sole proprietors or working members
 20 of a partnership, except as provided in subsection (3);

21 (e) employment of a broker or salesman performing under
 22 a license issued by the board of realty regulation;

23 (f) employment of a direct seller engaged in the sale
 24 of consumer products, primarily in the customer's home;

25 (g) employment for which a rule of liability for

1 injury, occupational disease, or death is provided under the
 2 laws of the United States;

3 (h) employment of any person performing services in
 4 return for aid or sustenance only, except employment of a
 5 volunteer under 67-2-105;

6 (i) employment with any railroad engaged in interstate
 7 commerce, except that railroad construction work is included
 8 in and subject to the provisions of this chapter;

9 (j) employment as an official, including a timer,
 10 referee, or judge, at a school amateur athletic event,
 11 unless the person is otherwise employed by a school
 12 district;

13 (k) any person performing services as a newspaper
 14 carrier or free-lance correspondent if the person performing
 15 the services or a parent or guardian of the person
 16 performing the services in the case of a minor has
 17 acknowledged in writing that the person performing the
 18 services and the services are not covered. As used in this
 19 subsection, "free-lance correspondent" is a person who
 20 submits articles or photographs for publication and is paid
 21 by the article or by the photograph. As used in this
 22 subsection, "newspaper carrier":

23 (i) is a person who provides a newspaper with the
 24 service of delivering newspapers singly or in bundles; but

25 (ii) does not include an employee of the paper who,

1 incidentally to his main duties, carries or delivers papers.

2 (3) (a) A sole proprietor or a working member of a
3 partnership who holds himself out or considers himself an
4 independent contractor and who is not contracting for
5 cosmetologist's services or barber's services, as defined in
6 39-51-204(1)(1) must, shall elect to be bound personally and
7 individually by the provisions of compensation plan No. 1,
8 2, or 3, but he may apply to the department for an exemption
9 from the Workers' Compensation Act for himself.

10 (b) The application must be made in accordance with the
11 rules adopted by the department. The department may deny the
12 application only if it determines that the applicant is not
13 an independent contractor.

14 (c) When an application is approved by the department,
15 it is conclusive as to the status of an independent
16 contractor and precludes the applicant from obtaining
17 benefits under this chapter.

18 (d) When an election of an exemption is approved by the
19 department, the election remains effective and the
20 independent contractor retains his status as an independent
21 contractor until he notifies the department of any change in
22 his status and provides a description of his present work
23 status.

24 (e) If the department denies the application for
25 exemption, the applicant may contest the denial by

1 petitioning for review of the decision by an appeals referee
2 in the manner provided for in 39-51-1109. An applicant
3 dissatisfied with the decision of the appeals referee may
4 appeal the decision in accordance with the procedure
5 established in 39-51-2403 and 39-51-2404.

6 (4) (a) A private corporation shall provide coverage
7 for its officers and other employees under the provisions of
8 compensation plan No. 1, 2, or 3. However, pursuant to such
9 rules as the department promulgates and subject in all cases
10 to approval by the department, an officer of a private
11 corporation may elect not to be bound as an employee under
12 this chapter by giving a written notice, on a form provided
13 by the department, served in the following manner:

14 (i) if the employer has elected to be bound by the
15 provisions of compensation plan No. 1, by delivering the
16 notice to the board of directors of the employer and to the
17 department; or

18 (ii) if the employer has elected to be bound by the
19 provisions of compensation plan No. 2 or 3, by delivering
20 the notice to the board of directors of the employer, to the
21 department, and to the insurer.

22 (b) If the employer changes plans or insurers, the
23 officer's previous election is not effective and the officer
24 shall again serve notice as provided if he elects not to be
25 bound.

1 (c) The appointment or election of an employee as an
 2 officer of a corporation for the purpose of excluding the
 3 employee from coverage under this chapter does not entitle
 4 the officer to elect not to be bound as an employee under
 5 this chapter. In any case, the officer ~~must~~ shall sign the
 6 notice required by subsection (4)(a) under oath or
 7 affirmation, and he is subject to the penalties for false
 8 swearing under 45-7-202 if he falsifies the notice.

9 (5) Each employer shall post a sign in the workplace at
 10 the locations where notices to employees are normally
 11 posted, informing employees about the employer's current
 12 provision of compensation insurance. A workplace is any
 13 location where an employee performs any work-related act in
 14 the course of employment, regardless of whether the location
 15 is temporary or permanent, and includes the place of
 16 business or property of a third person while the employer
 17 has access to or control over such the place of business or
 18 property for the purpose of carrying on his usual trade,
 19 business, or occupation. The sign ~~will~~ must be provided by
 20 the department, distributed through insurers or directly by
 21 the department, and posted by employers in accordance with
 22 rules adopted by the department. An employer who purposely
 23 or knowingly fails to post a sign as provided in this
 24 subsection is subject to a \$50 fine for each citation."

25 **Section 40.** Section 39-71-1019, MCA, is amended to

1 read:

2 "39-71-1019. Referral to department of social and
 3 rehabilitation services for retraining -- benefits --
 4 appeals. (1) If in its final order of determination the
 5 department considers a worker able to return to work in the
 6 worker's job pool, the insurer is not liable for
 7 rehabilitation benefits, even though the worker
 8 independently may pursue a training program of the worker's
 9 own choice or seek vocational rehabilitation services from
 10 the department of social and rehabilitation services.

11 (2) If in its final order of determination the
 12 department finds the worker needs retraining, the department
 13 shall determine the maximum duration for which funds under
 14 39-71-1003 may be used for rehabilitation services under
 15 39-71-1012(2)(d) through (2)(f) and shall refer the worker
 16 to the department of social and rehabilitation services for
 17 a determination of vocational handicap.

18 (3) If the department of social and rehabilitation
 19 services determines that a disabled worker has a vocational
 20 handicap, the worker is eligible for funds under 39-71-1003
 21 up to the maximum duration established in the department's
 22 final order of determination.

23 (4) If a disabled worker seeks vocational
 24 rehabilitation services from the department of social and
 25 rehabilitation services without giving the insurer the

1 opportunity to designate a rehabilitation provider or,
 2 subsequently, without giving the department the opportunity
 3 to designate a rehabilitation panel to provide a report, the
 4 insurer is not liable for rehabilitation benefits. The
 5 insurer may terminate rehabilitation and other benefits, if
 6 any, being received by the worker by following the procedure
 7 set forth in 39-71-1032.

8 (5) The department of social and rehabilitation
 9 services, in providing rehabilitation services to a worker
 10 referred to it by the department, shall consider but is not
 11 bound by the rehabilitation panel report.

12 (6) If the department of social and rehabilitation
 13 services has determined that all appropriate rehabilitation
 14 services have been provided to a disabled worker, the
 15 department {of social and rehabilitation services} shall
 16 document that determination to the department.

17 (7) The appeal process before the board of social and
 18 rehabilitation appeals provided for in 53-7-106 is the
 19 exclusive remedy for a person aggrieved in the receipt of
 20 services provided by the department of social and
 21 rehabilitation services."

22 **Section 41.** Section 40-5-412, MCA, is amended to read:

23 **"40-5-412. Initiation of income withholding procedures.**

24 (1) In a case concerning a support obligation referred to in
 25 40-5-411, the department shall immediately issue an order

1 under 40-5-415 for the payment of current support.

2 (2) In any other case, the department shall monitor and
 3 track all support payments required by the support order. If
 4 at any time these records indicate that the obligor owes a
 5 combination of unpaid support equal to or in excess of 1
 6 month's support, the department shall commence proceedings
 7 to initiate withholding of the obligor's income as provided
 8 in this part.

9 (3) To accomplish the purpose of subsection (2), the
 10 department by written notice to the obligor may direct an
 11 obligor who does not owe unpaid child support equal to or in
 12 excess of 1 month's support payment to pay all support
 13 through the department, notwithstanding any a court order
 14 directing payments to be made to the obligee or clerk of
 15 court.

16 (4) Whenever an obligation for support is paid through
 17 ~~the support enforcement and collections unit of~~ the
 18 department, the department ~~must~~ shall forward payment to the
 19 obligee within 10 days of the department's receipt of
 20 payment from the obligor."

21 **Section 42.** Section 44-12-203, MCA, is amended to read:

22 **"44-12-203. Presumption -- procedure following answer**
 23 **or expiration of time for answering. (1) There is a**
 24 **rebuttable presumption of forfeiture as to all property**
 25 **listed in 44-12-102, except property listed in**

1 44-12-102(1)(i).

2 (2) If a verified answer to the petition is not filed
3 within 20 days after the service of the petition and
4 summons, the court upon motion ~~must~~ shall order the property
5 forfeited to the state.

6 (3) If a verified answer is filed within 20 days, the
7 forfeiture proceedings ~~shall~~ must be set for hearing without
8 a jury ~~not-less-than~~ no sooner than 60 days after the answer
9 is filed. Notice of the hearing ~~shall~~ must be given in the
10 manner provided for service of the petition and summons."

11 **Section 43.** Section 50-5-1104, MCA, is amended to read:

12 "50-5-1104. **Rights of long-term care facility**
13 **residents.** (1) The state adopts by reference for all
14 long-term care facilities the rights for long-term care
15 facility residents applied by the federal government to
16 facilities that provide skilled nursing care or intermediate
17 nursing care and participate in a medicaid or medicare
18 program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by
19 regulation).

20 (2) In addition to the rights adopted under subsection
21 (1), the state adopts for all residents of long-term care
22 facilities the following rights:

23 (a) A resident or his authorized representative must be
24 informed by the facility at least 30 days in advance of any
25 changes in the cost or availability of services, unless to

1 do so is beyond the facility's control.

2 (b) Regardless of the source of payment, each resident
3 or his authorized representative is entitled, upon request,
4 to receive and examine an explanation of his monthly bill.

5 (c) Residents have the right to organize, maintain, and
6 participate in resident advisory councils. The facility
7 shall afford reasonable privacy and facility space for the
8 meetings of ~~such~~ the councils.

9 (d) A resident has the right to present a grievance on
10 his own behalf or that of others to the facility or the
11 resident advisory council. The facility shall establish
12 written procedures for receiving, handling, and informing
13 residents or the resident advisory council of the outcome of
14 any grievance presented.

15 (e) A resident has the right to ask a state agency or a
16 resident advocate for assistance in resolving grievances,
17 free from restraint, interference, or reprisal.

18 (f) During his stay in a long-term care facility, a
19 resident retains the prerogative to exercise decisionmaking
20 rights in all aspects of his health care, including
21 placement and treatment issues such as medication, special
22 diets, or other medical regimens.

23 (g) The resident's authorized representative must be
24 notified in a prompt manner of any significant accident,
25 unexplained absence, or significant change in the resident's

1 health status.

2 (h) A resident has the right to be free from verbal,
3 mental, and physical abuse, neglect, or financial
4 exploitation. Facility staff shall report to the department
5 and the long-term care ombudsman any suspected incidents of
6 abuse under the Montana Elder and Developmentally Disabled
7 Abuse Prevention Act, Title 53, chapter 5, part 5.

8 (i) Each resident has the right to privacy in his room
9 or portion of the room. If a resident is seeking privacy in
10 his room, staff members should make reasonable efforts to
11 make their presence known when entering the room.

12 (j) In case of involuntary transfer or discharge, a
13 resident has the right to reasonable advance notice to
14 ensure an orderly transfer or discharge. Reasonable advance
15 notice requires at least 21 days' written notification of
16 any interfacility transfer or discharge except in cases of
17 emergency or for medical reasons documented in the
18 resident's medical record by the attending physician.

19 (k) If clothing is provided to the resident by the
20 facility, it must be of reasonable fit.

21 (l) A resident has the right to reasonable safeguards
22 for his personal possessions brought to the facility. The
23 facility shall provide a means for safeguarding the
24 resident's small items of value in his room or in another
25 part of the facility where he must have reasonable access to

1 the items.

2 (m) The resident has the right to have all losses or
3 thefts of personal possessions promptly investigated by the
4 facility. The results of the investigation must be reported
5 to the affected resident.

6 (3) The administrator of the facility shall adopt
7 whatever additional measures are necessary to implement the
8 residents' rights listed in subsections (1) and (2) and meet
9 any other requirements relating to residents' health and
10 safety that are conditions of participation in a state or
11 federal program of medical assistance."

12 **Section 44.** Section 50-16-536, MCA, is amended to read:

13 "50-16-536. Method of compulsory process. (1) Unless
14 the court for good cause shown determines that the
15 notification should be waived or modified, if health care
16 information is sought under 50-16-535 (1)(b), (1)(d), or
17 (1)(e) or in a civil proceeding or investigation under
18 50-16-535 (1)(i), the person seeking discovery or compulsory
19 process shall mail a notice by first-class mail to the
20 patient or the patient's attorney of record of the
21 compulsory process or discovery request at least 10 days
22 before presenting the certificate required under subsection
23 (2) to the health care provider.

24 (2) Service of compulsory process or discovery requests
25 upon a health care provider must be accompanied by a written

1 certification, signed by the person seeking to obtain health
 2 care information or his authorized representative,
 3 identifying at least one subsection of 50-16-535 under which
 4 compulsory process or discovery is being sought. The
 5 certification must also state, in the case of information
 6 sought under 50-16-535 (1)(b), (1)(d), or (1)(e) or in a
 7 civil proceeding under 50-16-535 (1)(i), that the
 8 requirements of subsection (1) for notice have been met. A
 9 person may sign the certification only if the person
 10 reasonably believes that the subsection of 50-16-535
 11 identified in the certification provides an appropriate
 12 basis for the use of discovery or compulsory process. Unless
 13 otherwise ordered by the court, the health care provider
 14 shall maintain a copy of the process and the written
 15 certification as a permanent part of the patient's health
 16 care information.

17 (3) In response to service of compulsory process or
 18 discovery requests, where authorized by law, a health care
 19 provider may deny access to the requested health care
 20 information. Additionally, a health care provider may deny
 21 access to the requested health care information under
 22 50-16-542(1). If access to requested health care information
 23 is denied by the health care provider under 50-16-542(1),
 24 the health care provider shall submit to the court by
 25 affidavit or other reasonable means an explanation of why

1 the health care provider believes the information should be
 2 protected from disclosure.

3 (4) Where access to health care information is denied
 4 under 50-16-542(1), the court may order disclosure of health
 5 care information, with or without restrictions as to its
 6 use, as the court considers necessary. In deciding whether
 7 to order disclosure, the court shall consider the
 8 explanation submitted by the health care provider, the
 9 reasons for denying access to health care information set
 10 forth in 50-16-542(1), and any arguments presented by
 11 interested parties.

12 (5) A health care provider required to disclose health
 13 care information pursuant to compulsory process may charge a
 14 reasonable fee, not to exceed the health care provider's
 15 actual cost for providing the information, and may deny
 16 examination or copying of the information until the fee is
 17 paid.

18 (6) Production of health care information under
 19 50-16-535 and this section does not, in itself constitute a
 20 waiver of any privilege, objection, or defense existing
 21 under other law or rule of evidence or procedure."

22 **Section 45.** Section 53-3-321, MCA, is amended to read:
 23 "53-3-321. Services for recipients in need of special
 24 assistance. (1) Unless otherwise exempted, in a county with
 25 state-assumed welfare services, a person who has a serious

1 barrier to employment or who suffers from drug or alcohol
 2 dependency shall report to a job search, training, and work
 3 workfare program for the purpose of receiving an assessment
 4 to determine whether the person is likely to benefit from
 5 counseling, therapy, or rehabilitation. The agency shall
 6 require that the person be enrolled in either:

7 (a) a job search, training, and work workfare program
 8 established under 53-3-304, except that he need not
 9 participate in the job search program under 53-3-304(3)(e)
 10 until the agency determines that he is ready to participate
 11 in the work force; or

12 (b) a program designed specifically to help that person
 13 overcome problems that impair the potential for employment.

14 (2) Subject to available funding, a program provided
 15 for in subsection (1)(b) may include the following elements:

16 (a) assessment and testing;

17 (b) an employability plan;

18 (c) remedial education or job skills training, if
 19 required by the employability plan; and

20 (d) services, including counseling, therapy, and
 21 rehabilitation, to address serious barriers to employment
 22 and drug or alcohol dependency.

23 (3) In order to encourage rehabilitation, the
 24 department may restrict services to persons suffering from
 25 drug or alcohol dependency to one intervention through the

1 provision of services described in subsections (2)(a)
 2 through (2)(d). The department may continue to provide up to
 3 3 months of additional benefits for those persons
 4 participating in a drug or alcohol rehabilitation program.
 5 This 3-month extension extends those limitations in
 6 53-3-215."

7 **Section 46.** Section 61-3-509, MCA, is amended to read:

8 "61-3-509. Disposition of taxes. (1) Except as provided
 9 in subsection (2), the county treasurer shall, after
 10 deducting the district court fee, credit all taxes on motor
 11 vehicles and fees in lieu of tax on motor homes, travel
 12 trailers, and campers collected under 61-3-504, 61-3-521,
 13 and 61-3-537 to a motor vehicle suspense fund, and at some
 14 time between March 1 and March 10 of each year and every 60
 15 days thereafter, the county treasurer shall distribute the
 16 money in the motor vehicle suspense fund in the relative
 17 proportions required by the levies for state, county, school
 18 district, and municipal purposes in the same manner as
 19 personal property taxes are distributed.

20 (2) The county treasurer shall deduct as a district
 21 court fee 7% of the amount of the 2% tax collected on an
 22 automobile or truck having a rated capacity of
 23 ~~three-quarters--of--a~~ 1 ton or less. The county treasurer
 24 shall credit the fee for district courts to a separate
 25 suspense account and shall forward the amount in the account

1 to the state treasurer at the time the county treasurer
 2 distributes the motor vehicle suspense fund. The state
 3 treasurer shall credit amounts received under this
 4 subsection to the general fund to be used for purposes of
 5 state funding of the district court expenses as provided in
 6 3-5-901. Any amount forwarded to the state treasurer under
 7 this subsection that is not used for district court expenses
 8 must be refunded to the counties in the proportion that the
 9 amount collected from each county bears to the total amount
 10 collected."

11 **Section 47.** Section 61-8-207, MCA, is amended to read:

12 "61-8-207. Traffic-control signal legend. Whenever
 13 traffic is controlled by traffic-control signals exhibiting
 14 the words "Go", "Caution", or "Stop" or exhibiting different
 15 colored lights successively one at a time or with arrows,
 16 the following colors only ~~shall~~ must be used and ~~said~~ the
 17 terms and lights ~~shall~~ must indicate and apply to drivers of
 18 vehicles and pedestrians as follows:

19 (1) Green green alone or "Go":

20 (a) Vehicular traffic facing the signal may proceed
 21 straight through or turn left or right unless a sign at such
 22 the place prohibits either such turn. But vehicular traffic,
 23 including vehicles turning right or left, ~~shall~~ must yield
 24 the right-of-way to other vehicles and to pedestrians
 25 lawfully within the intersection ~~of~~ or an adjacent crosswalk

1 at the time ~~such~~ the signal is exhibited.

2 (b) Pedestrians facing the signal may proceed across
 3 the roadway within any marked or unmarked crosswalk.

4 (2) ~~Yellow yellow~~ yellow alone or "Caution" when shown
 5 following the green or "Go" signal:

6 (a) Vehicular traffic facing the signal is ~~thereby~~
 7 warned that the red or "Stop" signal will be exhibited
 8 immediately thereafter and ~~such~~ vehicular traffic ~~shall~~ may
 9 not enter or be crossing the intersection when the red or
 10 "Stop" signal is exhibited.

11 (b) Pedestrians facing ~~such~~ the signals are ~~thereby~~
 12 advised that there is insufficient time to cross the
 13 roadway, and ~~any~~ a pedestrian then starting to cross shall
 14 yield the right-of-way to all vehicles.

15 (3) Red red alone or "Stop":

16 (a) Vehicular traffic facing the signal ~~shall~~ must stop
 17 before entering the crosswalk on the near side of the
 18 intersection or, if none, then before entering the
 19 intersection and ~~shall~~ must remain standing until green or
 20 "Go" is shown alone, until a right turn can safely be made,
 21 or until a left turn can safely be made from the far left
 22 lane if the turn is made from a one-way street onto another
 23 one-way street going left. In making ~~such~~ the turn,
 24 vehicular traffic must yield the right-of-way to pedestrians
 25 lawfully within the crosswalk and to other traffic lawfully

1 using the intersection. If a traffic sign legend indicating
2 that no right turn on red or no left turn on red may be made
3 after a stop is posted at ~~said~~ the intersection, such the
4 movement cannot be made until green or "Go" is shown alone.

5 (b) No A pedestrian facing such a signal ~~shall~~ may not
6 enter the roadway unless he can do so safely and without
7 interfering with any vehicular traffic.

8 (4) Red red with a green arrow:

9 (a) Vehicular traffic facing such a signal may
10 cautiously enter the intersection only to make the movement
11 indicated by such the arrow but ~~shall~~ must yield the
12 right-of-way to pedestrians lawfully within the crosswalk
13 and to other traffic lawfully using the intersection.

14 (b) No A pedestrian facing such a signal ~~shall~~ may not
15 enter the roadway unless he can do so safely and without
16 interfering with any vehicular traffic.

17 (5) ~~Traffic-control~~ traffic-control signal at a place
18 other than an intersection:

19 (a) In the event an official traffic-control signal is
20 erected and maintained at a place other than an
21 intersection, the provisions of this section ~~shall--be~~ are
22 applicable except as to those provisions which that by their
23 very nature can have no application.

24 (b) Any stop required ~~shall~~ must be made at a sign or
25 marking on the pavement indicating where the stop ~~shall~~ must

1 be made, but in the absence of any such sign or marking, the
2 stop ~~shall~~ must be made at the signal."

3 **Section 48.** Section 61-8-312, MCA, is amended to read:

4 "61-8-312. Special speed limitations on trucks, truck
5 tractors, motor-driven cycles, and vehicles towing
6 housetrailers. (1) No A person ~~shall~~ may not operate any a
7 truck or truck tractor, the gross weight of which exceeds
8 8,000 pounds, at a speed greater than 65 miles per hour on
9 those completed sections of interstate and four-lane divided
10 highways and 60 miles per hour on those completed sections
11 of primary and secondary highways. However, the truck
12 nighttime speed limit ~~shall~~ may not exceed that of
13 automobiles, as stated in 61-8-303.

14 (2) No A person ~~shall~~ may not operate a vehicle subject
15 to a term permit under 61-10-124(3)(d) or a
16 truck-trailer-trailer or truck
17 tractor-semitrailer-trailer-trailer combination of vehicles
18 subject to special permits under 61-10-124(4)(6) at a speed
19 greater than 55 miles per hour.

20 (3) No A person ~~shall~~ may not operate any a
21 motor-driven cycle at any time mentioned in 61-9-201 at a
22 speed greater than 35 miles per hour unless such the
23 motor-driven cycle is equipped with a headlamp or lamps
24 which that are adequate to reveal a person or vehicle at a
25 distance of 300 feet ahead.

1 (4) No A person ~~shall~~ may not operate a vehicle which
2 that is towing a housetrailer at a speed greater than a
3 maximum of 50 miles per hour."

4 **Section 49.** Section 61-10-107, MCA, is amended to read:

5 "61-10-107. Maximum gross weight -- when permit
6 required. (1) An axle may not carry a load in excess of
7 20,000 pounds, and no two consecutive axles more than 40
8 inches or less than 96 inches apart may carry a load in
9 excess of 34,000 pounds. For purposes of this section, axles
10 40 inches or less apart are considered as a single axle. A
11 vehicle or combination may not have more than nine axles.
12 The maximum gross weight allowed on a vehicle, group of
13 axles, or combination of vehicles ~~shall~~ must be determined
14 by the formula:

$$15 \quad W = 500((LN/(N - 1)) + 12N + 36)$$

16 in which W equals gross weight, L equals wheel base in feet,
17 and N equals number of axles, except that two consecutive
18 sets of tandem axles may carry a gross load of 34,000 pounds
19 each if the overall distance between the first and last
20 axles of such the consecutive sets of tandem axles is 36
21 feet or more.

22 (2) Notwithstanding a vehicle's conformance with the
23 requirements of subsection (1), its maximum load per inch of
24 tire width, excluding the steering axle, may not exceed 600
25 pounds, based on the table in 61-10-105(j).

1 (3) If the gross weight of a vehicle or combination
2 exceeds 80,000 pounds, the vehicle or combination must have
3 a special permit, which may be issued in the discretion of
4 the department of highways based on evaluation of safety,
5 highway capacity, and economics of highway maintenance and
6 vehicle operation. The fee ~~shall-be~~ is \$20 per trip permit
7 or \$100 per term permit. A term permit may not be issued for
8 a period of time greater than the period for which the GW
9 license is valid. Owners of vehicles licensed in other
10 jurisdictions may, at the discretion of the department,
11 purchase permits to expire with their registration. Permits
12 may specify and permits issued under 61-10-124~~(4)~~(6) must
13 specify highway routing.

14 (4) A special permit issued under subsection (3) for
15 the transportation of agricultural products by farm vehicles
16 from a harvesting combine or other harvesting machinery to
17 the point of first unloading ~~shall-be~~ is for the full term
18 of the harvest season of the agricultural product
19 transported.

20 (5) This section does not apply to highways which that
21 are a part of the national system of interstate and defense
22 highways (as referred to in 23 U.S.C. 127) when application
23 of this section would prevent this state from receiving
24 federal funds for highway purposes."

25 **Section 50.** Section 61-10-146, MCA, is amended to read:

1 "61-10-146. Special permits -- misrepresentations and
2 violations as misdemeanor. (1) A person who knowingly and
3 willfully misrepresents the size or weight of a vehicle,
4 combination of vehicles, load, object, or other thing in
5 obtaining a special permit or who does not follow the
6 requirements and conditions of the special permit or who
7 operates a vehicle, combination of vehicles, load, object,
8 or other thing the size or weight of which requires a
9 special permit without first obtaining a special permit is
10 guilty of a misdemeanor.

11 (2) A person, firm, or corporation convicted of
12 violating any provision of 61-10-124~~(4)~~(6) or any
13 restriction on the special permits issued by the department
14 under 61-10-124~~(4)~~(6) shall be punished by a fine of not
15 less than \$500 or more than \$1,000 and all special permits
16 issued for the operation of the combination in violation
17 shall be confiscated. The combination must be separated into
18 combinations of legal length before the units may proceed."

19 **Section 51.** Section 75-2-503, MCA, is amended to read:

20 "75-2-503. Rulemaking authority -- issuance of permits.

21 (1) The department shall adopt rules establishing standards
22 and procedures for accreditation of asbestos-related
23 occupations and control of the work performed by persons in
24 asbestos-related occupations. The rules must be consistent
25 with federal law and include but are not limited to:

1 ~~(1)~~(a) standards for training course review and
2 approval;

3 ~~(2)~~(b) standards for accreditation of applicants for
4 asbestos-related occupations;

5 ~~(3)~~(c) examination requirements for accreditation of
6 applicants for asbestos-related occupations;

7 ~~(4)~~(d) requirements for renewal of accreditation,
8 including periodic refresher courses;

9 ~~(5)~~(e) revocation of accreditation;

10 ~~(6)~~(f) inspection requirements for asbestos projects
11 and asbestos-related occupations credentials;

12 ~~(7)~~(g) criteria to determine whether and what type of
13 control measures are necessary for an asbestos project and
14 whether a project is completed in a manner sufficient to
15 protect public health, including criteria setting allowable
16 limits on indoor airborne asbestos. A determination of
17 whether asbestos abatement of a structure is necessary may
18 not be based solely upon the results of airborne asbestos
19 testing.

20 ~~(8)~~(h) requirements for issuance of asbestos project
21 permits and conditions that permit holders ~~must~~ shall meet;

22 ~~(9)~~(i) standards for seeking injunctions, criminal and
23 civil penalties, or emergency actions;

24 ~~(10)~~(j) advance notification procedures and issuance of
25 permits for asbestos projects; and

1 ~~(ii)~~~~---(a)(k)~~ fees, which must be commensurate with
2 costs, for:

- 3 (i) review and approval of training courses;
4 (ii) application for and renewal of accreditation by a
5 person seeking to pursue an asbestos-related occupation;
6 (iii) issuance of asbestos project permits; and
7 (iv) requested inspections of asbestos projects;
8 ~~(b)---fees-must-be-commensurate-with-costs;~~

9 ~~(c)---for (2)~~ For asbestos projects having a cost of
10 \$3,000 or less, the department shall issue asbestos project
11 permits within 7 calendar days following the receipt of a
12 properly completed permit application and the appropriate
13 fee."

14 **Section 52.** Section 75-10-701, MCA, is amended to read:

15 "75-10-701. Definitions. As used in this part, unless
16 the context requires otherwise, the following definitions
17 apply:

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

21 (2) "Director" means the director of the department of
22 health and environmental sciences.

23 (3) "Environment" means any surface water, ground
24 water, drinking water supply, land surface or subsurface
25 strata, or ambient air within the state of Montana or under

1 the jurisdiction of the state of Montana.

2 (4) (a) "Facility" means:

3 (i) any building, structure, installation, equipment,
4 pipe or pipeline (including any pipe into a sewer or
5 publicly owned treatment works), well, pit, pond, lagoon,
6 impoundment, ditch, landfill, storage container, motor
7 vehicle, rolling stock, or aircraft; or

8 (ii) any site or area where a hazardous or deleterious
9 substance has been deposited, stored, disposed of, placed,
10 or otherwise come to be located.

11 (b) The term does not include any consumer product in
12 consumer use.

13 (5) "Fund" means the environmental quality protection
14 fund established in 75-10-704.

15 (6) "Hazardous or deleterious substance" means a
16 substance that because of its quantity, concentration, or
17 physical, chemical, or infectious characteristics may pose
18 an imminent and substantial threat to public health, safety,
19 or welfare or the environment and is:

20 (a) a substance that is defined as a hazardous
21 substance by section 101(14) of the federal Comprehensive
22 Environmental Response, Compensation, and Liability Act
23 (CERCLA), 42 U.S.C. 9601(14), as amended;

24 (b) a substance identified by the administrator of the
25 United States environmental protection agency as a hazardous

1 substance pursuant to section 102 of CERCLA, 42 U.S.C. 9602,
2 as amended;

3 (c) a substance that is defined as a hazardous waste
4 pursuant to section 1004(5) of the Resource Conservation and
5 Recovery Act of 1976, 42 U.S.C. 6903(5), as amended,
6 including a substance listed or identified in 40 CFR 261; or

7 (d) any petroleum product.

8 (7) "Natural resources" means land, fish, wildlife,
9 biota, air, surface water, ground water, drinking water
10 supplies, and any other such resources within the state of
11 Montana owned, managed, held in trust or otherwise
12 controlled by or appertaining to the state of Montana or a
13 political subdivision of the state.

14 (8) (a) "Owns or operates" means owning, leasing,
15 operating, managing activities at, or exercising control
16 over the operation of a facility.

17 (b) The term does not include holding the indicia of
18 ownership of a facility primarily to protect a security
19 interest in the facility or other location unless the holder
20 has participated in the management of the facility. The term
21 does not apply to the state or a local government that
22 acquired ownership or control through bankruptcy, tax
23 delinquency, abandonment, lien foreclosure, or other
24 circumstances in which the government acquires title by
25 virtue of its function as sovereign, unless the state or

1 local government has caused or contributed to the release or
2 threatened release of a hazardous or deleterious substance
3 from the facility. The term also does not include the owner
4 or operator of the Milltown dam licensed under part 1 of the
5 Federal Power Act (FERC license No. 2543-004) if a hazardous
6 or deleterious substance has been released into the
7 environment upstream of the dam and has subsequently come to
8 be located in the reservoir created by such the dam, unless
9 such the owner or operator is a person who would otherwise
10 be liable for such a release or threatened release under
11 75-10-715(1).

12 (9) "Person" means an individual, trust, firm, joint
13 stock company, joint venture, consortium, commercial entity,
14 partnership, association, corporation, commission, state or
15 state agency, political subdivision of the state, interstate
16 body, or the federal government, including a federal agency.

17 (10) "Petroleum product" includes gasoline, crude oil
18 (except for crude oil at production facilities subject to
19 regulation under Title 82), fuel oil, diesel oil or fuel,
20 lubricating oil, oil sludge or refuse, and any other
21 petroleum-related product or waste or fraction thereof that
22 is liquid at standard conditions of temperature and pressure
23 (60 degrees F and 14.7 pounds per square inch absolute).

24 (11) "Release" means any spilling, leaking, pumping,
25 pouring, emitting, emptying, discharging, injecting,

1 escaping, leaching, dumping, or disposing of a hazardous or
 2 deleterious substance either directly into the environment
 3 (including the abandonment or discarding of barrels,
 4 containers, and other closed receptacles containing any
 5 hazardous or deleterious substance), but excludes releases
 6 confined to the indoor workplace environment, the use of
 7 pesticides as defined in 80-8-102(30) when they are applied
 8 in accordance with approved federal and state labels, and
 9 the use of commercial fertilizers as defined in 80-10-101(2)
 10 when applied as part of accepted agricultural practice.

11 (12) "Remedial action" includes all notification,
 12 investigation, administration, monitoring, cleanup,
 13 restoration, mitigation, abatement, removal, replacement,
 14 acquisition, enforcement, legal action, health studies,
 15 feasibility studies, and other actions necessary or
 16 appropriate to respond to a release or threatened release.

17 (13) "Remedial action contract" means a written contract
 18 or agreement entered into by a remedial action contractor
 19 with the state, or with a potentially responsible-party
 20 liable person acting pursuant to an order or request issued
 21 by the department, the United States, or any federal agency,
 22 to provide a remedial action with respect to a release or
 23 threatened release of a hazardous or deleterious substance.

24 (14) "Remedial action contractor" means:

25 (a) any person who enters into and is carrying out a

1 remedial action contract; or

2 (b) any person who is retained or hired by a person
 3 described in subsection (14)(a) to provide services relating
 4 to a remedial action.

5 (15) "Remedial action costs" means reasonable costs that
 6 are attributable to or associated with a remedial action at
 7 a facility, including but not limited to the costs of
 8 administration, investigation, legal or enforcement
 9 activities, contracts, feasibility studies, or health
 10 studies."

11 **Section 53.** Section 75-10-704, MCA, is amended to read:

12 **"75-10-704. Environmental quality protection fund.** (1)
 13 There is created in the state special revenue fund an
 14 environmental quality protection fund to be administered as
 15 a revolving fund by the department. The department is
 16 authorized to expend amounts from the fund necessary to
 17 carry out the purposes of this part.

18 (2) The fund may be used by the department only to
 19 carry out the provisions of this part and for remedial
 20 actions taken by the department pursuant to this part in
 21 response to a release of hazardous or deleterious
 22 substances.

23 (3) The department shall:

24 (a) establish and implement a system for prioritizing
 25 sites for remedial action based on potential effects on

1 human health and the environment; and

2 (b) investigate, negotiate, and take legal action, as
3 appropriate, to identify ~~responsible-parties~~ liable persons,
4 to obtain the participation and financial contribution of
5 ~~responsible--parties~~ liable persons for the remedial action,
6 to achieve remedial action, and to recover costs and damages
7 incurred by the state.

8 (4) There must be deposited in the fund:

9 (a) all penalties, natural resource damages, and
10 remedial action costs recovered pursuant to 75-10-715;

11 (b) all administrative penalties assessed pursuant to
12 75-10-714 and all civil penalties assessed pursuant to
13 75-10-711(5);

14 (c) funds appropriated to the fund by the legislature;
15 and

16 (d) funds received from the interest income of the
17 resource indemnity trust fund pursuant to 15-38-202.

18 (5) Whenever a legislative appropriation is
19 insufficient to carry out the provisions of this part and
20 additional money remains in the fund, the department shall
21 seek additional authority to spend money from the fund
22 through the budget amendment process provided for in Title
23 17, chapter 7, part 4.

24 (6) Whenever the amount of money in the fund is
25 insufficient to carry out remedial action, the department

1 may apply to the governor for a grant from the environmental
2 contingency account established pursuant to 75-1-1101.

3 (7) The department shall submit to the legislature at
4 the beginning of each regular session a complete financial
5 report on the fund, including a description of all
6 expenditures made since the preceding report."

7 **Section 54.** Section 75-10-718, MCA, is amended to read:

8 "75-10-718. **Liability of remedial action contractor.**

9 (1) A person who is a remedial action contractor with
10 respect to a release or threatened release of a hazardous or
11 deleterious substance is not liable under this part to any
12 person for injuries, costs, damages, expenses, or other
13 liability that results from the release or threatened
14 release, including but not limited to claims for
15 indemnification or contribution and claims by third parties
16 for death, personal injury, illness, loss or damage to
17 property, or economic loss.

18 (2) Immunity from liability, pursuant to subsection
19 (1), does not apply in the case of a release that is caused
20 by conduct of the remedial action contractor that is
21 negligent or grossly negligent or that constitutes
22 intentional misconduct.

23 (3) This section does not affect the liability of a
24 person under a warranty under federal, state, or common law
25 or the liability to an employee of an employer who is a

1 remedial action contractor under any provision of law,
2 including any provision of a law relating to workers'
3 compensation.

4 (4) A state agency, state employee, or an employee of a
5 political subdivision who provides services relating to
6 remedial action while acting within the scope of its or his
7 authority as a governmental agency or employee has the same
8 exemption from liability as is provided to the remedial
9 action contractor under this section.

10 (5) The defense provided by 75-10-715(5)(c) is not
11 available to a person liable under 75-10-715(1) with respect
12 to remedial action costs or damages caused by an act or
13 omission of a remedial action contractor.

14 (6) Except as provided in subsections (4) and (5), this
15 section does not affect the liability under this part of a
16 person other than a remedial action contractor.

17 (7) This section does not affect the plaintiff's burden
18 of establishing liability under this part.

19 (8) This section does not minimize the liability,
20 lessen the standard of liability, or otherwise shield from
21 liability a ~~potentially responsible party~~ liable person
22 under 75-10-715 or section 107 of CERCLA for costs or
23 damages incurred as a result of a release or threatened
24 release of a hazardous or deleterious substance."

25 **Section 55.** Section 76-14-112, MCA, is amended to read:

1 "76-14-112. Rangeland improvement loan special revenue
2 account. (1) There is created a rangeland improvement loan
3 special revenue account within the state special revenue
4 fund established in 17-2-102.

5 (2) There must be allocated to the rangeland
6 improvement loan earmarked account ~~\$185,000 for the biennium~~
7 ~~ending June 30, 1989, from the renewable resource~~
8 ~~development account created in 90-2-125,~~ any principal and
9 accrued interest received in repayment of a loan made under
10 the rangeland improvement loan program, and any fees or
11 charges collected by the department pursuant to 76-14-116
12 for the servicing of loans, including arrangements for
13 obtaining security interests."

14 **Section 56.** Section 80-9-206, MCA, is amended to read:

15 "80-9-206. Inspection fees -- filing of annual
16 statement. (1) An inspection fee ~~shall~~ must be paid on all
17 commercial feeds, including custom-mix feeds, except pet
18 foods and specialty pet foods, distributed in this state as
19 follows:

20 (a) The inspection fee ~~shall~~ must be set by rule on a
21 cents-per-ton basis, except that the first 10 tons are
22 exempt. The department may adjust the fee by rule to
23 adequately fund the administration of this chapter.
24 Adjustments ~~shall~~ may be made only after holding a public
25 hearing on the proposed changes as required in 80-9-103 and

1 ~~shall~~ must remain within the limits of 5 cents to 25 cents
 2 per ton. The effective date of any rule adjusting fees ~~will~~
 3 ~~be~~ is January 1 of the calendar year following the issuance
 4 of ~~such~~ the rule. All permit holders are to be notified
 5 immediately of any changes in fees.

6 (b) The feed manufacturer has primary responsibility
 7 for paying inspection fees. However, the distributor is
 8 responsible for inspection fees if the manufacturer has not
 9 paid them.

10 (c) Inspection fees ~~shall~~ must be paid on each
 11 commercial feed, including custom-mix feeds and feed
 12 ingredients that are defined as commercial feeds even though
 13 they are used in the manufacture of other commercial feeds.
 14 However, premixes prepared and used within a feed plant are
 15 exempt but not premixes or ingredients transferred from one
 16 plant to another even within the same organization.

17 (d) A person producing a commercial feed with a feed
 18 mixing plant at a feed lot, or a poultry, swine, or dairy
 19 operation may not be required to pay inspection fees on the
 20 commercial feeds produced and used in his feeding operation
 21 at the site, but he ~~will-be~~ is responsible for any unpaid
 22 inspection fees on commercial feed purchased by him and on
 23 any commercial feed he produces and distributes other than
 24 in his feeding operations at the site.

25 (2) Each person who holds a permit as required in

1 80-9-201(1) shall:

2 (a) file, not later than January 31 of each year, an
 3 annual statement setting forth the number of tons of
 4 commercial feeds distributed in this state during the
 5 preceding calendar year (January 1 through December 31) and
 6 upon filing ~~such a~~ the statement shall pay the inspection
 7 fee at the rate stated in subsection (1) ~~of--this--section.~~
 8 Inspection fees ~~which~~ that have not been remitted to the
 9 department on or before January 31 ~~shall~~ have a penalty fee
 10 of 10% with a minimum of \$10 added to the amount due. The
 11 assessment of this penalty fee does not prevent the
 12 department from taking other action as provided in this
 13 chapter.

14 (b) keep those records ~~which~~ that are necessary or are
 15 required by the department to indicate accurately the
 16 tonnage of commercial feed distributed in this state. The
 17 department may examine the records to verify statements of
 18 tonnage.

19 (c) make accurate and prompt reports as required.
 20 Failure to do so is sufficient cause for the department to
 21 cancel or refuse to reissue a permit."

22 **Section 57.** Section 82-4-222, MCA, is amended to read:

23 "82-4-222. Permit application. (1) An operator desiring
 24 a permit shall file an application ~~which--shall~~ that must
 25 contain a complete and detailed plan for the mining,

1 reclamation, revegetation, and rehabilitation of the land
 2 and water to be affected by the operation. Such The plan
 3 ~~shall~~ must reflect thorough advance investigation and study
 4 by the operator, and shall include all known or readily
 5 discoverable past and present uses of the land and water to
 6 be affected and the approximate periods of such use, and
 7 ~~shall~~ state:

8 (a) the location and area of land to be affected by the
 9 operation, with a description of access to the area from the
 10 nearest public highways;

11 (b) the names and addresses of the owners of record and
 12 any purchasers under contracts for deed of the surface of
 13 the area of land to be affected by the permit and the owners
 14 of record and any purchasers under contracts for deed of all
 15 surface area within one-half mile of any part of the
 16 affected area;

17 (c) the names and addresses of the present owners of
 18 record and any purchasers under contracts for deed of all
 19 subsurface minerals in the land to be affected;

20 (d) the source of the applicant's legal right to mine
 21 the mineral on the land affected by the permit;

22 (e) the permanent and temporary post-office addresses
 23 of the applicant;

24 (f) whether the applicant or any person associated with
 25 the applicant holds or has held any other permits under this

1 part and an identification of those permits;

2 (g) (i) whether the applicant is in compliance with
 3 82-4-251 and, if known, whether ~~every~~ each officer, partner,
 4 director, or any individual, owning of record or
 5 beneficially, alone or with associates, 10% or more of any
 6 class of stock of the applicant, is subject to any of the
 7 provisions of 82-4-251, ~~and he~~ if so, the applicant shall so
 8 certify the fact. and

9 (ii) whether any of the foregoing parties or persons
 10 specified in subsection (1)(g)(i) have ever had a
 11 strip-mining or underground-mining license or permit issued
 12 by any other state or federal agency revoked or have ever
 13 forfeited a strip-mining or underground-mining bond or a
 14 security deposited in lieu of a bond ~~and,--if.~~ If so, a
 15 detailed explanation of the facts involved in each case must
 16 be attached;

17 (h) whether the applicant has a record of outstanding
 18 reclamation fees with the federal coal regulatory authority;

19 (i) the names and addresses of any persons who are
 20 engaged in strip-mining or underground-mining activities on
 21 behalf of the applicant;

22 (j) the annual rainfall and the direction and average
 23 velocity of the prevailing winds in the area where the
 24 applicant has requested a permit;

25 (k) the results of any test borings or core samplings

1 ~~which~~ that the applicant or his agent has conducted on the
 2 land to be affected, including the nature and the depth of
 3 the various strata or overburden and topsoil, the quantities
 4 and location of subsurface water and its quality, the
 5 thickness of any mineral seam, an analysis of the chemical
 6 properties of ~~such~~ the minerals, including the acidity,
 7 sulphur content, and trace mineral elements of any coal
 8 seam, as well as the British thermal unit (Btu) content of
 9 ~~such~~ the seam, and an analysis of the overburden, including
 10 topsoil. If test borings or core samplings are submitted,
 11 each permit application ~~shall~~ must contain two copies each
 12 of two sets of geologic cross sections accurately depicting
 13 the known geologic makeup beneath the surface of the
 14 affected land. Each set ~~shall~~ must depict subsurface
 15 conditions at ~~such~~ intervals as the department requires
 16 across the surface and ~~shall~~ must run at a 90-degree angle
 17 to the other set. The department may not require intervals
 18 of less than 500 feet. Each cross section ~~shall~~ must depict
 19 the thickness and geologic character of all known strata,
 20 beginning with the topsoil. In addition, each application
 21 for an underground-mining permit ~~shall~~ must be accompanied
 22 by cross sections and maps showing the proposed underground
 23 locations of all shafts, entries, and haulageways or other
 24 excavations to be excavated during the permit period. These
 25 cross sections ~~shall~~ must also include all existing shafts,

1 entries, and haulageways.

2 (l) the name and date of a daily newspaper of general
 3 circulation within the county in which the applicant will
 4 prominently publish at least once a week for 4 successive
 5 weeks after submission of the application an announcement of
 6 his application for a strip-mining or underground-mining
 7 permit and a detailed description of the area of land to be
 8 affected ~~should~~ if a permit be is granted;

9 (m) a determination of the probable hydrologic
 10 consequences of coal mining and reclamation operations, both
 11 on and off the mine site, with respect to the hydrologic
 12 regime, quantity and quality of water in surface water and
 13 ground water systems, including the dissolved and suspended
 14 solids under seasonal flow conditions and the collection of
 15 sufficient data for the mine site and surrounding areas, so
 16 that cumulative impacts of all anticipated mining in the
 17 area upon the hydrology of the area and particularly upon
 18 water availability can be made. However, this determination
 19 is not required until ~~such-time-as~~ hydrologic information on
 20 the general area prior to mining is made available from an
 21 appropriate federal or state agency. The permit may not be
 22 approved until ~~such~~ the information is available and is
 23 incorporated into the application.

24 (n) a coal conservation plan; and

25 (o) ~~such~~ other or further information as the department

1 may require.

2 (2) The application for a permit ~~shall~~ must be
3 accompanied by two copies of all maps meeting the
4 requirements of the subsections below (2)(a) through (2)(n).

5 The maps ~~shall~~ must:

6 (a) identify the area to correspond with the
7 application;

8 (b) show any adjacent deep mining or surface mining,
9 and the boundaries of surface properties, and names of
10 owners of record of the affected area and within 1,000 feet
11 of any part of the affected area;

12 (c) show the names and locations of all streams,
13 creeks, or other bodies of water, roads, buildings,
14 cemeteries, oil and gas wells, and utility lines on the area
15 of land affected and within 1,000 feet of ~~such~~ the area;

16 (d) show by appropriate markings the boundaries of the
17 area of land affected, any cropline of the seam or deposit
18 of mineral to be mined, and the total number of acres
19 involved in the area of land affected;

20 (e) show the date on which the map was prepared and the
21 north point;

22 (f) show the final surface and underground water
23 drainage plan on and away from the area of land affected.
24 This plan ~~shall~~ must indicate the directional and volume
25 flow of water, constructed drainways, natural waterways used

1 for drainage, and the streams or tributaries receiving the
2 discharge.

3 (g) show the proposed location of waste or refuse area;

4 (h) show the proposed location of temporary subsoil and
5 topsoil storage area;

6 (i) show the proposed location of all facilities;

7 (j) show the location of test boring holes;

8 (k) show the surface location lines of any geologic
9 cross sections ~~which~~ that have been submitted;

10 (l) show a listing of plant varieties encountered in
11 the area to be affected and their relative dominance in the
12 area, together with an enumeration of tree varieties and the
13 approximate number of each variety occurring per acre on the
14 area to be affected, and the locations generally of the
15 various kinds and varieties of plants, including but not
16 limited to grasses, shrubs, legumes, forbs, and trees;

17 (m) be certified as follows: "I, the undersigned,
18 hereby certify that this map is correct and shows to the
19 best of my knowledge and belief all the information required
20 by the mining laws of this state." The certification ~~shall~~
21 must be signed and notarized. The department may reject a
22 map as incomplete if its accuracy is not ~~so~~ attested.

23 (n) contain ~~such~~ other or further information as the
24 department may require.

25 (3) If the department finds that the probable total

1 annual production at all locations of any strip-mining or
 2 underground-coal-mining operation applied for will not
 3 exceed 100,000 tons, any determination of probable
 4 hydrologic consequences that the department requires and the
 5 statement of result of test borings or core samplings ~~shall~~
 6 must, upon written request of the operator, be performed by
 7 a qualified public or private laboratory designated by the
 8 department. The department shall assume the cost of the
 9 determination and statement to the extent that it has
 10 received funds for this purpose.

11 (4) In addition to the information and maps required
 12 above by this section, each application for a permit ~~shall~~
 13 must be accompanied by detailed plans or proposals showing
 14 the method of operation, the manner, time or distance, and
 15 estimated cost for backfilling, subsidence stabilization,
 16 water control, grading work, highwall reduction, topsoiling,
 17 planting, and revegetating, and a reclamation plan for the
 18 area affected by the operation, which proposals ~~shall~~ must
 19 meet the requirements of this part and rules adopted under
 20 this part. The reclamation plan ~~shall~~ must address the life
 21 of the operation and indicate the size, sequence, and the
 22 timing of the subareas for which it is anticipated that
 23 individual permits will be sought.

24 (5) Each applicant for a coal mining permit shall
 25 submit as part of the application a certificate issued by an

1 insurance company authorized to do business in the state,
 2 certifying that the applicant has in force for the
 3 strip-mining or underground-mining and reclamation
 4 operations for which the permit is sought a public liability
 5 insurance policy, or evidence that the applicant has
 6 satisfied other state or federal self-insurance
 7 requirements. This policy ~~shall~~ must provide for personal
 8 injury and property damage protection in an amount adequate
 9 to compensate any persons damaged as a result of
 10 strip-mining or underground-coal-mining and reclamation
 11 operations, including use of explosives, and entitled to
 12 compensation under applicable provisions of state law. The
 13 permittee must shall maintain the policy in full force and
 14 effect during the term of the permit and any renewal until
 15 all reclamation operations have been completed.

16 (6) Each applicant for a strip-mining or
 17 underground-mining reclamation permit shall file a copy of
 18 his application for public inspection with the clerk and
 19 recorder at the courthouse of the county where in which the
 20 major portion of mining is proposed to occur."

21 **Section 58.** Section 82-4-434, MCA, is amended to read:
 22 "82-4-434. Reclamation plan part of contract --
 23 requirements. The contract ~~shall~~ must meet the following
 24 requirements:

25 (1) The operator shall submit a reclamation plan to the

1 board before commencing any opencut mining and may not
2 commence mining before the plan receives approval from the
3 board. The operator may request and receive a meeting with
4 the board prior to submission of the plan. If the board does
5 not notify the operator that it has approved or disapproved
6 a plan within 30 days after the board has received the plan,
7 the board is considered to have approved the plan. The
8 board, however, for sufficient cause, may extend its period
9 of consideration for an additional 30 days if it notifies
10 the operator prior to the end of the original 30-day period.
11 The board shall submit each reclamation plan or amendments
12 to the reclamation plan to the landowner for his
13 recommendations and shall consider those recommendations in
14 deciding whether to approve or disapprove any plan or
15 amendments. The board may seek technical help from any state
16 or federal agency. The board shall submit the plan
17 immediately to the director of the university of Montana
18 statewide archaeological survey for evaluation of possible
19 archaeological or historical values in the area to be mined.
20 The board may approve a reclamation plan only if the board
21 has found that the plan provides for the best possible
22 reclamation procedures available under the circumstances at
23 the time, so that after mining operations are completed, the
24 affected land will be reclaimed to a productive use. Once
25 the reclamation plan is accepted in writing by the board, it

1 ~~shall~~ must become a part of the contract but is subject to
2 annual review and modification by the board.

3 (2) The board may not approve any reclamation plan
4 unless the plan provides:

5 (a) that the land will be reclaimed for one or more
6 specified uses, including but not limited to forest,
7 pasture, orchard, cropland, residence, recreation, industry,
8 and habitat for wildlife, including food, cover, or water,
9 or other uses;

10 (b) that to the extent reasonable and practicable, the
11 operator will establish vegetative cover commensurate with
12 the proposed land use;

13 (c) whenever operations result in a need to prevent
14 acid drainage or sedimentation on or in adjoining lands or
15 streams, for the construction of earth dams or other
16 reasonable devices to control water drainage, provided the
17 formation of such the impoundments or devices will not
18 interfere with other landowners' rights or contribute to
19 water pollution;

20 (d) that to accomplish practical utilization of soil
21 materials, such the material will be utilized for placement
22 on affected areas, if required by the reclamation plan after
23 completion or termination of that particular phase of the
24 mining operations, at a depth sufficient for plant growth on
25 slopes of 3:1 or less;

1 (e) that grading will be commensurate with the
2 topography sought and land use designated;

3 (f) that metal and other waste will be removed or
4 buried;

5 (g) that all access, haul, and other support roads will
6 be located, constructed, and maintained in such a manner as
7 to control and minimize channeling and other erosion;

8 (h) that the operator will submit a progress report
9 annually to the board;

10 (i) that all operations will be conducted ~~so--as~~ to
11 avoid range and forest fires and spontaneous combustion and
12 that open burning of carbonaceous materials will be in
13 accordance with suitable practices for fire prevention and
14 control;

15 (j) that archaeological and historical values in areas
16 to be mined will be given appropriate protection;

17 (k) that except for rock faces, bench faces, and
18 excavations used for water impoundments, each surface area
19 of the mined premises ~~which~~ that will be disturbed will be
20 revegetated when its use for extractive purposes is no
21 longer required;

22 (l) that seeding and planting will be done in a manner
23 to achieve a permanent suitable vegetative cover for
24 wildlife, livestock, and retardation of erosion and that all
25 seed will be drilled unless otherwise provided in the plan;

1 (m) that reclamation will be as concurrent with mining
2 operations as feasible and will be completed within a
3 specified length of time; and

4 (n) that surface water and ground water will be given
5 appropriate protection, consistent with state law, from
6 deterioration of water quality and quantity that may arise
7 as a result of the operation.

8 (3) If reclamation according to the plan has not been
9 completed in the time specified, the board after 30 days'
10 written notice shall order the operator to cease mining and,
11 if the operator does not cease, shall institute an action to
12 enjoin further operation and may sue for damages for breach
13 of contract, for payment of the performance bond, or for
14 both.

15 (4) (a) At any time during the period of reclamation,
16 the operator may for good reason submit to the board a new
17 reclamation plan or amendment amendments to the existing
18 plan, including extensions of time.

19 (b) The board may approve the proposed new reclamation
20 plan or amendments to the existing plan if:

21 (i) the operator has in good faith carried on
22 reclamation according to the existing plan and the proposed
23 new plan or amendments to the existing plan will result in
24 reclamation as or more desirable than the reclamation
25 proposed under the existing plan; or

1 (ii) it is highly improbable reclamation will be
2 successful unless the existing plan is replaced or amended.

3 (c) When accepted, the proposed new reclamation plan or
4 the proposed amendments to the existing plan become a part
5 of the contract.

6 (5) The operator shall provide a performance bond or an
7 alternative acceptable to the board in an amount
8 commensurate with the estimated cost of reclamation, but in
9 no case may the bond be less than \$200 per acre. The
10 estimated cost of reclamation ~~shall~~ must be set forth in the
11 reclamation plan.

12 (6) The contract, reclamation plan, and amendments
13 accepted by the board ~~shall-be~~ are a public record and are
14 open to inspection.

15 (7) The contract ~~shall-become~~ is effective when signed
16 by the board and the operator and ~~shall-remain~~ remains in
17 force until terminated by mutual consent or by the board
18 upon 6 months' notice."

19 **Section 59.** Section 85-7-102, MCA, is amended to read:

20 **"85-7-102. Evidence of title.** (1) The following
21 documents ~~shall-be~~ are sufficient evidence of title for the
22 purpose of this chapter:

- 23 (a) the certificate of the county clerk and recorder;
24 (b) the certificate of the department of state lands;

25 or

1 (c) records of ownership prepared by licensed title
2 insurance ~~agents~~ producers.

3 (2) ~~Where~~ When lands have been purchased from the state
4 and part or all of the purchase money has been paid but the
5 patents or deeds from the state to ~~such~~ the lands have not
6 been issued, the receipt or receipts held by the purchasers
7 or the certificate of the department of state lands showing
8 the payments on account of purchase ~~shall-be~~ is evidence of
9 title to ~~such~~ the lands under this chapter."

10 **Section 60.** Section 87-4-304, MCA, is amended to read:

11 **"87-4-304. License classification and fees.** (1) The
12 following classes of licenses ~~shall~~ may be issued and the
13 following fees charged ~~therefor~~ for the licenses:

14 (a) resident fur dealer's license, \$10;

15 (b) nonresident fur dealer's license:

16 (i) ~~the-fee-must-be~~ the same as the fee charged in the
17 nonresident's state of residence for a Montana fur dealer
18 seeking licensure in that state; or

19 (ii) if the nonresident's state does not issue a
20 nonresident fur dealer's license, ~~the-fee-is~~ \$50;

21 (c) fur dealer's agent's license, \$10.

22 (2) **Any** A person who is employed by a resident or
23 nonresident fur dealer as a traveling fur buyer ~~shall--be~~
24 deemed is considered a fur dealer's agent. A fur dealer's
25 agent's license may be issued to any person who is employed

1 as a fur buyer by a licensed resident or licensed
 2 nonresident fur dealer, providing that it ~~shall--be~~ is the
 3 responsibility of each ~~and--every~~ fur dealer and fur dealer's
 4 agent to have the proper license before buying or dealing in
 5 furs as defined by in 87-4-301."

6 **Section 61.** Section 87-5-121, MCA, is amended to read:

7 "87-5-121. **Nongame wildlife account.** (1) There is a
 8 nongame wildlife account in the state special revenue fund
 9 provided for in 17-2-102.

10 (2) All money collected under 15-30-150 and all
 11 interest earned by the fund before being expended under this
 12 section must be deposited in the account ~~7--except--as--provided~~
 13 ~~in--subsection--(5).~~

14 (3) Money in the account must be used by the
 15 department, upon the approval of the commission as
 16 determined under 87-5-122, to provide adequate funding for:

17 (a) research and education programs on nongame wildlife
 18 in Montana, as provided for in 87-5-104; and

19 (b) any management programs for nongame wildlife
 20 approved by the legislature under 87-5-105 as species or
 21 subspecies in need of management.

22 (4) The money is available to the department in the
 23 same manner as provided in 87-1-601, except that ~~no~~ money
 24 collected under 15-30-150 may not be used:

25 (a) for the purchase of any real property; or

1 (b) in such a way as to interfere with the production
 2 on or management of private property.

3 ~~(5)--The---department---of---revenue---may---deduct---from~~
 4 ~~collections--an--amount--not--to--exceed--\$1--for--each--tax--checkoff~~
 5 ~~contribution--for--administering--the---voluntary---checkoff~~
 6 ~~program---(Subsection--(5)--is--not--effective--since--contingency~~
 7 ~~in--sec--57--Ch--5897--57--1987--did--not--occur--)~~"

8 **NEW SECTION. Section 62.** Code commissioner
 9 instruction. The code commissioner is instructed to
 10 implement 1-11-101(2)(g)(ii) by correcting any clearly
 11 inaccurate references to other sections of the Montana Code
 12 Annotated contained in material enacted by the 52nd
 13 legislature.

14 **NEW SECTION. Section 63. Repealer.** Sections 2-4-321,
 15 2-4-322, 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114,
 16 25-31-116, 25-31-201, 25-31-202, 25-31-203, 25-31-204,
 17 25-31-301, 25-31-302, 25-31-303, 25-31-304, 25-31-305,
 18 25-31-306, 25-31-307, 25-31-308, 25-31-401, 25-31-403,
 19 25-31-404, 25-31-408, 25-31-501, 25-31-502, 25-31-503,
 20 25-31-504, 25-31-505, 25-31-506, 25-31-507, 25-31-511,
 21 25-31-521, 25-31-522, 25-31-701, 25-31-804, 25-31-811,
 22 25-31-812, 25-31-901, 25-31-902, 25-31-903, 25-31-904,
 23 25-31-905, 25-31-911, 25-31-912, 25-31-913, 25-31-915,
 24 25-31-1001, 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101,
 25 25-31-1102, 25-31-1103, 25-31-1105, 25-32-101, 25-32-102,

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- 1 25-32-103, 25-32-104, 53-8-101, 53-8-102, 53-8-103, and
- 2 53-8-104, MCA, are repealed.

-End-

CODE COMMISSIONER REPORT

1990

1991 CODE COMMISSIONER BILL SUMMARY

Section 1. 1-11-204. Removes provisions relating to the original recodification of the MCA and makes minor changes in style.

Section 2. 3-7-211. Corrects citation to subsection of 85-2-231 concerning a preliminary decree for a specified portion of a water division and makes minor changes in punctuation.

Section 3. 3-10-702. In subsection (1) deletes reference to 25-31-408(3), proposed for repeal as being redundant with Rule 4D(1) of the Montana Justice and City Court Rules of Civil Procedure and makes minor changes in punctuation.

Section 4. 3-11-302. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure.

Section 5. 3-15-107. Deletes language relating to the number of jurors in Justice's Court in civil cases because it is redundant with Rule 18A of the Montana Justice and City Court Rules of Civil Procedure.

Section 6. 3-15-705. In subsection (2) substitutes reference to Rule 18B of the Montana Justice and City Court Rules of Civil Procedure for a reference to Rule 47 of the Montana Rules of Civil Procedure to reflect the expanded content of the rules and makes a minor change in style.

Section 7. 7-2-2213. Removes conflict between size and assessment limits for creation of new counties by referencing the greater limits contained in 7-2-2202 and makes minor changes in style.

Section 8. 7-2-2225. Removes reference to township officers because the offices no longer exist, corrects citation to creation of school districts upon the creation of a new county, and makes minor changes in style.

INTRODUCED BILL

SB 33

PLEASE SAVE THIS COPY OF SB 33. UNLESS
MAJOR CHANGES OCCUR, DUE TO LENGTH, THIS
BILL WILL NOT BE REPRINTED.

Section 9. 7-6-4202. In subsection (4) deletes reference to town clerk to clarify that the part doesn't apply to towns and makes minor changes in style.

Section 10. 7-7-2402. Conforms borrowing limit for counties to the amount contained in 7-7-2101 and makes minor changes in style.

Section 11. 15-24-1701. In subsection (2) substitutes "suspension" for "cancellation" to clarify that only suspension is dealt with in that subsection and makes a minor change in style.

Section 12. 15-31-702. Corrects citation to subsection of 15-1-501 to refer to the distribution of corporate license taxes rather than individual income taxes and makes minor changes in style.

Section 13. 15-35-108. Corrects citation to subsection of 17-6-203 that creates the coal severance tax trust fund and makes minor changes in style.

Section 14. 17-6-305. Corrects citation to subsection of 17-6-203 that creates the coal severance tax trust fund and makes minor changes in style.

Section 15. 17-7-401. In definition of "University system unit" changes "forestry and conservation experiment station" to "Montana forest and conservation experiment station" to conform to the usage in 20-25-241 and makes a minor change in style.

Section 16. 17-7-502. Deletes reference to "section 13, House Bill No. 861, Laws of 1985" because its efficacy has ended and because the payment of debt service on bonds is dealt with in subsection (4) and makes a minor change in style.

Section 17. 19-3-513. Coordinates the provisions of Chapter 73, Laws of 1989, with the provisions of Chapter 558, Laws of 1989, concerning the rate at which an employee may purchase additional years of service in the retirement system.

Section 18. 19-6-506. Substitutes "state general fund" for "state special revenue fund" in order to reflect the 1989 amendment to 61-3-321(5).

Section 19. 20-7-401. In subsection (5) substitutes "speech/language impaired" for "speech-impaired" to conform to the definition in subsection (14) and makes minor changes in style.

Section 20. 22-1-501. Revises section to reflect the move of the law library from the capitol and makes minor changes in style.

Section 21. 22-3-522. Substitutes "5 years" for "7 years" to reflect the reduced time for retention of unclaimed property contained in Chapter 5, Laws of 1987, and makes a minor change in punctuation.

Section 22. 23-2-508. In subsection (10) removes brackets from the phrase "of justice" and makes minor changes in style.

Section 23. 23-2-611. In subsection (8) removes brackets from the phrase "of justice" and makes minor changes in style.

Section 24. 25-30-101. Deletes references to 3-10-305, 3-10-306, 25-31-114, 25-31-116, 25-31-304, subsection (2) of 25-31-402, 25-31-915, 25-31-1004, and 25-31-1005 that are proposed for repeal as being redundant or in conflict with the Montana Justice and City Court Rules of Civil Procedure and makes a minor change in style.

Section 25. 25-31-402. Deletes subsection (1) because it conflicts with Rule 4C of the Montana Justice and City Court Rules of Civil Procedure and makes a minor change in style.

Section 26. 25-31-406. In subsection (2) substitutes "20 days" for "6 days" to conform to Rule 4C of the Montana Justice and City Court Rules of Civil Procedure and makes minor changes in style.

Section 27. 25-31-407. Deletes subsection (1) because it conflicts with Rule 4D of the Montana Justice and City Court Rules of Civil Procedure and makes minor changes in style.

Section 28. 25-31-702. Substitutes reference to Rule 20 of the Montana Justice and City Court Rules of Civil Procedure for a reference to 25-31-701 and makes minor changes in style.

Section 29. 25-32-101. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure and makes a minor change in style.

Section 30. 25-32-102. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure.

Section 31. 25-32-103. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure.

Section 32. 25-32-104. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure and makes a minor change in punctuation.

Section 33. 27-1-221. Substitutes "this section" for "subsection (2)" in order to clarify that all of the provisions of 27-1-221 apply to punitive damages rather than just the definition of actual malice and makes minor changes in style.

Section 34. 31-1-233. In subsections (2) and (6) changes references to "agent" to "insurance producer" to conform to the name change contained in Chapter 713, Laws of 1989, and makes minor changes in style.

Section 35. 31-3-141. In subsections (3) and (4) changes references to the Department of Revenue to references to the Department of Social and Rehabilitation Services to conform with the amendment made by Chapter 702, Laws of 1989, and makes minor changes in style.

Section 36. 33-17-208. In subsection (1)(b) substitutes "insurance producer" for "enrollment representative" to conform to the name change contained in Chapter 713, Laws of 1989, and makes a minor change in style.

Section 37. 33-21-207. Substitutes "licensed insurance producer" for "licensed insurance agent" to conform to the name change contained in Chapter 713, Laws of 1989.

Section 38. 37-47-101. In introduction substitutes "this chapter" for "this part" to clarify that the definitions apply to the entire chapter and makes minor changes in style.

Section 39. 39-71-401. In subsection (3)(a) removes brackets from the phrase "and who is not contracting" and makes minor changes in style.

Section 40. 39-71-1019. In subsection (6) removes brackets from the phrase "of social and rehabilitation services".

Section 41. 40-5-412. In subsection (4) deletes reference to the support enforcement and collections unit to reflect the deletion of the statutory reference to the unit in 40-5-205 and makes minor changes in style.

Section 42. 44-12-203. In subsection (3) substitutes "no sooner than 60 days" for "not less than 60 days" to clarify the time limit for scheduling a forfeiture hearing and makes minor changes in style.

Section 43. 50-5-1104. In subsection (1)(h) inserts "and Developmentally Disabled" to reflect the name change of Title 53, chapter 5, part 5, and makes a minor change in style.

Section 44. 50-16-536. In subsection (4) inserts "information" to clarify that 50-16-542 regulates the denial of access to health care information.

Section 45. 53-3-321. In subsections (1) and (1)(a) substitutes "workfare program" for "work program" to conform to 53-3-304.

Section 46. 61-3-509. In subsection (2) substitutes "1 ton" for "three-quarters of a ton" to conform to the taxation of trucks having a rated capacity of 1 ton or less contained in Chapter 612, Laws of 1989.

Section 47. 61-8-207. In subsection (1)(a) substitutes "or" for "of" to conform to the Uniform Vehicle Code and makes minor changes in style.

Section 48. 61-8-312. In subsection (2) corrects a citation to the special permit provision of 61-10-124 and makes minor changes in style.

Section 49. 61-10-107. In subsection (3) corrects a citation to the special permit provision of 61-10-124 and makes minor changes in style.

Section 50. 61-10-146. In two places in subsection (2) corrects a citation to the special permit provision of 61-10-124.

Section 51. 75-2-503. Rearranges the section to conform to MCA style and makes a minor change in style.

Section 52. 75-10-701. In subsection (13) substitutes "liable person" for "responsible party" to conform to changes made by Chapter 709, Laws of 1989, and makes minor changes in style.

Section 53. 75-10-704. In subsection (3)(b) substitutes "liable persons" for "responsible parties" to conform to changes made by Chapter 709, Laws of 1989.

Section 54. 75-10-718. In subsection (8) substitutes "liable persons" for "responsible parties" to conform to changes made by Chapter 709, Laws of 1989.

Section 55. 76-14-112. Deletes the appropriation reference from subsection (2) because its efficacy has terminated.

Section 56. 80-9-206. In subsection (2)(a) inserts "on or" before "before January 31" to clarify that fees received on January 31 are not delinquent and makes minor changes in style.

Section 57. 82-4-222. In subsection (1)(m) inserts "water" after "surface", in subsections (3) and (5) inserts "mining" after "strip-", and makes minor changes in style.

Section 58. 82-4-434. In subsection (2)(n) inserts "water" after "surface" for grammatical reasons and makes minor changes in style.

Section 59. 85-7-102. In subsection (1)(c) changes reference to "insurance agents" to "insurance producers" to conform to the name change contained in Chapter 713, Laws of 1989, and makes minor changes in style.

Section 60. 87-4-304. In subsection (1) substitutes "may" for "shall" to clarify that the issuance of licenses is contingent on compliance with statutory requirements and makes minor changes in style.

Section 61. 87-5-121. Deletes subsection (5) that did not become effective due to failure of the contingency provision, deletes an internal reference to subsection (5), and makes a minor change in style.

Section 62. Section 1-11-101(2)(g)(ii) provides that recodification includes correcting (without changing the meaning, effect, or intent of any law) any inaccurate or obsolete references to other code sections, such as those that have been repealed or repealed and replaced, when given authority by another statute. This section will constitute authority for the Code Commissioner to correct erroneous references without the necessity of legislative action.

Section 63. Repeals 2-4-321 through 2-4-323, enacted in 1979, which required agencies to recodify administrative rules in order to substitute references to the Montana Code Annotated for references to the Revised Codes of Montana. The recodification has been completed for some time, and the efficacy of the sections has long passed.

Repeals 3-10-305 as redundant with Rule 3A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 3-10-306 as redundant with Rule 4C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 7-2-2214 because the section is redundant with other sections and directs County Commissioners for newly created counties to create districts that are either obsolete or are governed by other statutes.

Repeals 25-31-114 as redundant in part and conflicting in part with Rule 13, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-116 as redundant with Rule 17A(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-201 as redundant with Rule 3A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-202 as redundant with Rule 3A(1)(b), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-203 as redundant with Rule 3A(1)(c), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-204 as redundant with Rule 3A(1)(c), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-301 as redundant with Rule 3C(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-302 as redundant with Rule 3C(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-303 as redundant with Rule 3C(3), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-304 as redundant with Rule 3C(4), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-305 as redundant with Rule 3C(5), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-306 as redundant with Rule 3C(6), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-307 as redundant with Rule 3C(7), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-308 as redundant with Rule 3C(8), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-401 as redundant with Rules 3 and 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-403 as redundant with Rule 4B(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-404 as redundant with Rule 4C(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-408 as redundant with Rule 4D(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-501 as conflicting with Rule 7D(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-502 as conflicting with Rule 7, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-503 as redundant with Rule 7, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-504 as redundant with Rule 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-505 as redundant with Rule 7B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-506 as redundant with Rule 7C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-507 as redundant with Rule 7D(3), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-511 as conflicting with Rule 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-521 as conflicting with Rule 8A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-522 as conflicting with Rule 8B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-701 as redundant with Rule 20, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-804 as redundant with Rule 15C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-811 as redundant with Rule 16, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-812 as conflicting with Rule 18B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-901 as redundant with Rule 17A(7), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-902 as redundant with Rule 17A(7), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-903 as redundant with Rule 17A(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-904 as redundant with Rules 17A(5) and (6), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-905 as redundant with Rule 17B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-911 as redundant with Rule 17C(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-912 as redundant with Rule 17C(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-913 as redundant with Rule 23, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-915 as redundant with Rule 22, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1001 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1003 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1004 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1005 as redundant with Rule 3C(6), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1101 as redundant with Rule 23B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1102 as redundant with and conflicting in part with Rule 23C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1103 as redundant with Rule 23D, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1105 as redundant with Rule 23E, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-101 as redundant with Rule 1, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-102 as redundant with Rules 3 and 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-103 as redundant with Rule 4C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-104 as redundant with Rules 7B, 8B, and 19, Montana Justice and City Court Rules of Civil Procedure.

Repeals 53-8-101, 53-8-102, 53-8-103, and 53-8-104 because the purpose of the sections was to allow state governmental entities to receive federal assistance under Public Law 88-452. Public Law 88-452 was repealed in all aspects affecting these sections by Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981. Public Law 88-452 was replaced in part by the Community Services Block Grant Program, implemented in Montana by Title 53, chapter 10, part 5.

CODE COMMISSIONER REPORT

1990

1991 CODE COMMISSIONER BILL SUMMARY

Section 1. 1-11-204. Removes provisions relating to the original recodification of the MCA and makes minor changes in style.

Section 2. 3-7-211. Corrects citation to subsection of 85-2-231 concerning a preliminary decree for a specified portion of a water division and makes minor changes in punctuation.

Section 3. 3-10-702. In subsection (1) deletes reference to 25-31-408(3), proposed for repeal as being redundant with Rule 4D(1) of the Montana Justice and City Court Rules of Civil Procedure and makes minor changes in punctuation.

Section 4. 3-11-302. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure.

Section 5. 3-15-107. Deletes language relating to the number of jurors in Justice's Court in civil cases because it is redundant with Rule 18A of the Montana Justice and City Court Rules of Civil Procedure.

Section 6. 3-15-705. In subsection (2) substitutes reference to Rule 18B of the Montana Justice and City Court Rules of Civil Procedure for a reference to Rule 47 of the Montana Rules of Civil Procedure to reflect the expanded content of the rules and makes a minor change in style.

Section 7. 7-2-2213. Removes conflict between size and assessment limits for creation of new counties by referencing the greater limits contained in 7-2-2202 and makes minor changes in style.

Section 8. 7-2-2225. Removes reference to township officers because the offices no longer exist, corrects citation to creation of school districts upon the creation of a new county, and makes minor changes in style.

REFERENCE BILL

SB 33

No changes have been made
in this bill.

Section 9. 7-6-4202. In subsection (4) deletes reference to town clerk to clarify that the part doesn't apply to towns and makes minor changes in style.

Section 10. 7-7-2402. Conforms borrowing limit for counties to the amount contained in 7-7-2101 and makes minor changes in style.

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Section 16. 17-7-502. Deletes reference to "section 13, House Bill No. 861, Laws of 1985" because its efficacy has ended and because the payment of debt service on bonds is dealt with in subsection (4) and makes a minor change in style.

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Section 22. 23-2-508. In subsection (10) removes brackets from the phrase "of justice" and makes minor changes in style.

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Section 27. 25-31-407. Deletes subsection (1) because it conflicts with Rule 4D of the Montana Justice and City Court Rules of Civil Procedure and makes minor changes in style.

Section 28. 25-31-702. Substitutes reference to Rule 20 of the Montana Justice and City Court Rules of Civil Procedure for a reference to 25-31-701 and makes minor changes in style.

Section 29. 25-32-101. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure and makes a minor change in style.

Section 30. 25-32-102. Corrects reference and citation to Montana Justice and City Court Rules of Civil Procedure.

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Repeals 25-31-202 as redundant with Rule 3A(1)(b), Montana Justice and City Court Rules of Civil Procedure.

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Repeals 25-31-204 as redundant with Rule 3A(1)(c), Montana Justice and City Court Rules of Civil Procedure.

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Repeals 25-31-305 as redundant with Rule 3C(5), Montana Justice and City Court Rules of Civil Procedure.

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Repeals 25-31-308 as redundant with Rule 3C(8), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-401 as redundant with Rules 3 and 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-403 as redundant with Rule 4B(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-404 as redundant with Rule 4C(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-408 as redundant with Rule 4D(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-501 as conflicting with Rule 7D(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-502 as conflicting with Rule 7, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-503 as redundant with Rule 7, Montana Justice and City Court Rules of Civil Procedure.

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Repeals 25-31-511 as conflicting with Rule 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-521 as conflicting with Rule 8A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-522 as conflicting with Rule 8B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-701 as redundant with Rule 20, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-804 as redundant with Rule 15C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-811 as redundant with Rule 16, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-812 as conflicting with Rule 18B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-901 as redundant with Rule 17A(7), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-902 as redundant with Rule 17A(7), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-903 as redundant with Rule 17A(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-904 as redundant with Rules 17A(5) and (6), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-905 as redundant with Rule 17B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-911 as redundant with Rule 17C(2), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-912 as redundant with Rule 17C(1), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-913 as redundant with Rule 23, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-915 as redundant with Rule 22, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1001 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1003 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1004 as redundant with Rule 17, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1005 as redundant with Rule 3C(6), Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1101 as redundant with Rule 23B, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1102 as redundant with and conflicting in part with Rule 23C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1103 as redundant with Rule 23D, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-31-1105 as redundant with Rule 23E, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-101 as redundant with Rule 1, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-102 as redundant with Rules 3 and 7A, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-103 as redundant with Rule 4C, Montana Justice and City Court Rules of Civil Procedure.

Repeals 25-32-104 as redundant with Rules 7B, 8B, and 19, Montana Justice and City Court Rules of Civil Procedure.

Repeals 53-8-101, 53-8-102, 53-8-103, and 53-8-104 because the purpose of the sections was to allow state governmental entities to receive federal assistance under Public Law 88-452. Public Law 88-452 was repealed in all aspects affecting these sections by Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981. Public Law 88-452 was replaced in part by the Community Services Block Grant Program, implemented in Montana by Title 53, chapter 10, part 5.

1 SENATE BILL NO. 33

2 INTRODUCED BY GAGE

3 BY REQUEST OF THE CODE COMMISSIONER
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE MONTANA CODE ANNOTATED; CONFORMING PROVISIONS OF
7 THE MONTANA CODE ANNOTATED TO THE MONTANA JUSTICE AND CITY
8 COURT RULES OF CIVIL PROCEDURE; DIRECTING THE CODE
9 COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN
10 MATERIAL ENACTED BY THE 52ND LEGISLATURE; AMENDING SECTIONS
11 1-11-204, 3-7-211, 3-10-702, 3-11-302, 3-15-107, 3-15-705,
12 7-2-2213, 7-2-2225, 7-6-4202, 7-7-2402, 15-24-1701,
13 15-31-702, 17-6-305, 17-7-401, 17-7-502, 19-3-513, 19-6-506,
14 20-7-401, 22-1-501, 22-3-522, 23-2-508, 23-2-611, 25-30-101,
15 25-31-402, 25-31-406, 25-31-407, 25-31-702, 25-32-101,
16 25-32-102, 25-32-103, 25-32-104, 27-1-221, 31-1-233,
17 31-3-141, 33-17-208, 33-21-207, 37-47-101, 39-71-401,
18 39-71-1019, 40-5-412, 44-12-203, 50-5-1104, 50-16-536,
19 53-3-321, 61-3-509, 61-8-207, 61-8-312, 61-10-107,
20 61-10-146, 75-2-503, 75-10-701, 75-10-704, 75-10-718,
21 76-14-112, 80-9-206, 82-4-222, 82-4-434, 85-7-102, 87-4-304,
22 AND 87-5-121, MCA; AND REPEALING SECTIONS 2-4-321, 2-4-322,
23 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114, 25-31-116,
24 25-31-201, 25-31-202, 25-31-203, 25-31-204, 25-31-301,
25 25-31-302, 25-31-303, 25-31-304, 25-31-305, 25-31-306,

There are no changes on SB 33. Due to length
will not be reprinted. Please refer to white copy for
complete text.

1 SENATE BILL NO. 33
 2 INTRODUCED BY GAGE
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE MONTANA CODE ANNOTATED; CONFORMING PROVISIONS OF
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 10 MATERIAL ENACTED BY THE 52ND LEGISLATURE; AMENDING SECTIONS
 11 1-11-204, 3-7-211, 3-10-702, 3-11-302, 3-15-107, 3-15-705,
 12 7-2-2213, 7-2-2225, 7-6-4202, 7-7-2402, 15-24-1701,
 13 15-31-702, 17-6-305, 17-7-401, 17-7-502, 19-3-513, 19-6-506,
 14 20-7-401, 22-1-501, 22-3-522, 23-2-508, 23-2-611, 25-30-101,
 15 25-31-402, 25-31-406, 25-31-407, 25-31-702, 25-32-101,
 16 25-32-102, 25-32-103, 25-32-104, 27-1-221, 31-1-233,
 17 31-3-141, 33-17-208, 33-21-207, 37-47-101, 39-71-401,
 18 39-71-1019, 40-5-412, 44-12-203, 50-5-1104, 50-16-536,
 19 53-3-321, 61-3-509, 61-8-207, 61-8-312, 61-10-107,
 20 61-10-146, 75-2-503, 75-10-701, 75-10-704, 75-10-718,
 21 76-14-112, 80-9-206, 82-4-222, 82-4-434, 85-7-102, 87-4-304,
 22 AND 87-5-121, MCA; AND REPEALING SECTIONS 2-4-321, 2-4-322,
 23 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114, 25-31-116,
 24 25-31-201, 25-31-202, 25-31-203, 25-31-204, 25-31-301,
 25 25-31-302, 25-31-303, 25-31-304, 25-31-305, 25-31-306,

1 25-31-307, 25-31-308, 25-31-401, 25-31-403, 25-31-404,
 2 25-31-408, 25-31-501, 25-31-502, 25-31-503, 25-31-504,
 3 25-31-505, 25-31-506, 25-31-507, 25-31-511, 25-31-521,
 4 25-31-522, 25-31-701, 25-31-804, 25-31-811, 25-31-812,
 5 25-31-901, 25-31-902, 25-31-903, 25-31-904, 25-31-905,
 6 25-31-911, 25-31-912, 25-31-913, 25-31-915, 25-31-1001,
 7 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101, 25-31-1102,
 8 25-31-1103, 25-31-1105, 25-32-101, 25-32-102, 25-32-103,
 9 25-32-104, 53-8-101, 53-8-102, 53-8-103, AND 53-8-104, MCA."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 **Section 1.** Section 1-11-204, MCA, is amended to read:
 13 "1-11-204. Duties of code commissioner. ~~(1)~~ Prior to
 14 January 17, 1979, the code commissioner shall recodify all
 15 the laws of a general and permanent nature appearing in the
 16 codes and session laws and prepare them for publication.
 17 ~~(2)~~ Prior to January 17, 1979, the commissioner shall
 18 prepare and submit to the legislature a report which is
 19 certified by the commissioner as the "Official Report of the
 20 Montana Code Commissioner", together with a bill enacting
 21 the Montana Code Annotated. A copy of the report and bill
 22 shall be deposited with the secretary of state. The report
 23 shall explain and indicate, in tabular or other form, all
 24 changes made during recodification, other than punctuation
 25 and capitalization, to clearly indicate the character of

1 each-change:

2 {3}{1} Prior to the November 1 immediately preceding
3 each regular legislative session, the code commissioner
4 shall prepare and submit to the legislative council a
5 report, in tabular or other form, indicating the
6 commissioner's recommendations for legislation which that
7 will:

- 8 (a) eliminate archaic or outdated laws;
- 9 (b) eliminate obsolete or redundant wording of laws;
- 10 (c) eliminate any duplications in law and any laws
11 repealed directly or by implication,
- 12 (d) clarify existing laws;
- 13 (e) correct errors and inconsistencies within the laws.

14 {4}{2} The commissioner shall cause to be prepared for
15 publication with the Montana Code Annotated the following
16 material:

- 17 (a) Statutory the statutory history of each code
18 section;
- 19 (b) Annotations annotations of state and federal court
20 decisions relating to the subject matter of the code;
- 21 (c) Such editorial notes, cross-references, and other
22 matter as the commissioner considers desirable or
23 advantageous;
- 24 (d) The the Declaration of Independence;
- 25 (e) The the Constitution of the United States of

1 America and amendments thereto to the constitution;

2 (f) Acts acts of congress relating to the
3 authentication of laws and records;

4 (g) The the Organic Act of the Territory of Montana;

5 (h) The Enabling Act;

6 (i) The 1972 Constitution of the State of Montana and
7 any amendments thereto to the constitution;

8 (j) ~~The~~ Ordinances ordinances relating to federal
9 relations and elections;

10 (k) Rules rules of civil, criminal, and appellate
11 procedure and such other rules of procedure as the Montana
12 supreme court may adopt; and

13 (l) A a complete subject index, a popular name index,
14 and comparative disposition tables or cross-reference
15 indexes relating sections of the Montana Code Annotated to
16 prior compilations and session laws.

17 {5}{3} After publication of the Montana Code Annotated,
18 the code commissioner shall:

19 (a) annotate, arrange, and prepare for publication all
20 laws of a general and permanent nature enacted at each
21 legislative session and assign catchlines and code section
22 numbers to each new section;

23 (b) continue to codify, index, arrange, rearrange, and
24 generally update the Montana Code Annotated to maintain an
25 orderly and logical arrangement of the laws in order to

1 avoid future need for bulk revision;

2 (c) prepare and publish a report entitled "Official
3 Report of the Montana Code Commissioner--(year)" which that
4 indicates, in tabular or other form, all changes made during
5 the continuous recodification, other than punctuation,
6 spelling, and capitalization, to clearly indicate the
7 character of each change made since the last ~~such~~ report.

8 ~~(6)(4)~~ From time to time, the commissioner shall confer
9 with members of the judiciary and the state bar relative to
10 recodification procedures."

11 **Section 2.** Section 3-7-211, MCA, is amended to read:

12 "3-7-211. **Appointment of water commissioner.** The
13 district court having jurisdiction over the hydrologically
14 interrelated portion of a water division, as described in
15 85-2-231~~(2)~~(3), in which the controversy arises may appoint
16 and supervise a water commissioner as provided for in Title
17 85, chapter 5."

18 **Section 3.** Section 3-10-702, MCA, is amended to read:

19 "3-10-702. **Governed by law prescribing sheriffs'**
20 duties. (1) All the provisions of 3-5-407, 7-32-2101,
21 7-32-2102, 7-32-2121, except subsections (4), (5), and (6),
22 7-32-2122, 7-32-2124, 7-32-2127, 7-32-2129 through
23 7-32-2131, 7-32-2250, 25-3-101, 25-3-202, 25-3-204 through
24 25-3-206, 25-3-301, 25-3-302, 25-13-403, ~~25-31-400(3)~~,
25 27-18-305, and 27-18-1505 apply to constables and govern

1 their powers, duties, and liabilities.

2 (2) The provisions of 7-32-2141(1) apply to constables.
3 Fees collected by a constable for services, as provided in
4 7-32-2141(1), must be paid to the county treasurer, as
5 provided in 7-4-2511(2), and credited to the budget of the
6 justice's court."

7 **Section 4.** Section 3-11-302, MCA, is amended to read:

8 "3-11-302. **Who named as plaintiff.** (1) A criminal
9 action brought for violation of a city or town ordinance
10 must be brought in the name of the city or town as the
11 plaintiff and against the accused as the defendant.

12 (2) A criminal action brought for violation of a state
13 law within the city or town may be brought either in the
14 name of the state of Montana as the plaintiff or in the name
15 of the city or town as the plaintiff and must be brought
16 against the accused as the defendant.

17 (3) A criminal action brought for violation of a state
18 law within the county and within its concurrent jurisdiction
19 with the justice's court must be brought in the name of the
20 state of Montana as the plaintiff and against the accused as
21 the defendant.

22 (4) A civil action brought in the city court must be
23 prosecuted or defended in the same manner as a civil action
24 in justices' courts under the Montana Justice Courts and
25 City Court Rules of Civil Procedure (Title 25, chapter 22

1 23)."

2 **Section 5.** Section 3-15-107, MCA, is amended to read:

3 "3-15-107. **Number in justices' courts.** A jury in a
4 justice's court, ~~both in civil--cases--and~~ misdemeanors,
5 consists of six persons, but the parties may agree to a less
6 number than six."

7 **Section 6.** Section 3-15-705, MCA, is amended to read:

8 "3-15-705. **Manner of impaneling.** The jury ~~shall~~ must be
9 impaneled as provided in:

10 (1) Title 46, if the action is a criminal one;

11 (2) Title 25, chapter 7, part 2, and ~~M-R-Eiv-P-7-Rule~~
12 47 Rule 18B, Montana Justice and City Court Rules of Civil
13 Procedure, if the action is a civil one."

14 **Section 7.** Section 7-2-2213, MCA, is amended to read:

15 "7-2-2213. **Resolution of board of county commissioners.**

16 The board of county commissioners, on the final hearing of
17 ~~such~~ the petition or petitions, shall, by a resolution
18 entered on its minutes, determine:

19 (1) the boundaries of the proposed new county, and the
20 boundaries ~~so~~ determined by the board ~~shall~~ must be the
21 boundaries of the proposed new county if it is created as
22 herein provided in this part;

23 (2) whether the petition contains the genuine
24 signatures of at least 50% of the registered electors of the
25 proposed new county as herein required in this part or, in

1 cases where separate petitions are presented from portions
2 of two or more existing counties as herein required in this
3 part, whether each petition is signed by at least 50% of the
4 registered electors of that portion of each of the existing
5 counties ~~which~~ that is proposed to be taken into the
6 proposed new county;

7 (3) whether any line of the proposed new county passes
8 within 15 miles of the courthouse situated at the county
9 seat of any county proposed to be divided, except as
10 otherwise provided;

11 (4) whether the proposed new county ~~will--contain~~
12 ~~property--according-to-the-last-preceding-assessment--which~~
13 ~~will-equal-in-amount-at-least-\$4-million--inclusive--of--all~~
14 ~~assessed--valuation~~ and affected existing counties meet the
15 limitations contained in 7-2-2202;

16 (5) ~~whether-the-area-of-any-existing-county-from--which~~
17 ~~territory-is-taken-to-form-the-new-county-will-be-reduced-to~~
18 ~~less--than-1,200-square-miles-of-surveyed-land-by-taking-the~~
19 ~~territory-proposed-to-be-taken-therefrom--to--form--the--new~~
20 ~~county~~;

21 (6) ~~whether--the--area--of--the--proposed--new--county--will~~
22 ~~contain-at-least-1,000-square-miles-of-surveyed-land-to-form~~
23 ~~the-new-county~~;

24 (7) ~~the class to which the proposed new county will~~
25 belong after its creation and the name of the proposed new

1 county as stated in the petition; and
 2 ~~(8)~~(6) whether the area embraced within the proposed
 3 new county will be reasonably compact."

4 **Section 8.** Section 7-2-2225, MCA, is amended to read:

5 "7-2-2225. Officers of new county. (1) Except as
 6 provided in subsections (2) through (4) ~~of this section~~, at
 7 the election provided for in 7-2-2215, there shall must be
 8 chosen a board of county commissioners and such other
 9 county, township, and district officers as are provided by
 10 law for counties of the class to which the new county
 11 belongs.

12 (2) All elected, qualified, and acting officers of the
 13 county or counties who may reside within the proposed new
 14 county are considered to be officers of the new county if
 15 they file, within 5 days after the final hearing and
 16 determination of the petition for the proposed new county,
 17 with the board of county commissioners whose duty it shall
 18 be is to call the election, their intention Filing with the
 19 board is the officers' declaration of intent to become
 20 officers of the proposed new county, ~~and the~~ The board
 21 issuing the proclamation of the election shall omit
 22 providing for the election of any such officers as who have
 23 filed their declaration to continue in office.

24 (3) All elected, qualified, and acting justices of the
 25 peace residing within the proposed new county shall hold

1 office as justices of the peace in the new county for the
 2 remainder of the term for which they were elected.

3 (4) All elected, qualified, and acting school trustees
 4 residing within the proposed new county at the time of the
 5 division of such the county into school districts, as
 6 provided in ~~7-2-2214~~ Title 20, chapter 6, shall hold office
 7 as school trustees in the new county for the remainder of
 8 the term for which they were elected on qualifying as school
 9 trustees for the respective districts in which they reside,
 10 as these districts are organized ~~as provided by this part~~.

11 (5) The officers elected or appointed under the
 12 provisions of this part shall each perform the duties and
 13 receive the compensation now provided by general law for the
 14 office to which they have been appointed or elected in the
 15 counties of the class to which the new county belongs."

16 **Section 9.** Section 7-6-4202, MCA, is amended to read:

17 "7-6-4202. Definitions. As used in this part, the
 18 following definitions apply:

19 (1) The term "clerk" shall-mean means the clerk of the
 20 city.

21 (2) The term "council" shall--mean means the city
 22 council or city commission.

23 (3) The terms term "municipal corporation" or
 24 "municipality" shall-mean means the city.

25 (4) The terms term "treasurer" or--"city-treasurer"

1 ~~shall mean~~ means the city treasurer ~~or--the--town--clerk,~~
2 ~~whichever-is-appropriate."~~

3 **Section 10.** Section 7-7-2402, MCA, is amended to read:

4 "7-7-2402. Election required to borrow money --
5 exceptions. (1) Except as provided in subsection (3), the
6 board of county commissioners must may not borrow money for
7 any of the purposes mentioned in this title or for any
8 single purpose to in an amount exceeding ~~\$10,000~~ \$500,000
9 without:

10 (a) first having submitted the question of a loan to a
11 vote of the electors of the county; and

12 (b) the approval of a majority of the electors of the
13 county.

14 (2) If a majority of the votes cast are in favor of the
15 loan, then the board may make the loan, issuing bonds or
16 otherwise as may seem best for the interests of the county.

17 (3) It ~~shall~~ is not be necessary to submit to the
18 electors the question of borrowing money:

19 (a) to refund outstanding bonds; or

20 (b) for the purpose of enabling any county to liquidate
21 its indebtedness to another county incident to the creation
22 of a new county or the change of any county boundary lines."

23 **Section 11.** Section 15-24-1701, MCA, is amended to
24 read:

25 "15-24-1701. (Temporary) Suspension and cancellation of

1 collection of certain property taxes on commercial property
2 -- local government discretion. (1) The governing body of a
3 county or consolidated local government unit may suspend
4 collection of delinquent property taxes on commercial
5 property to facilitate the purchase and continued operation
6 of a business utilizing the commercial property if the
7 property has not been used in a business for 6 months
8 immediately preceding the date of suspension.

9 (2) The governing body may refuse to suspend delinquent
10 taxes if it determines that the purchase of the commercial
11 property is not an arm's length transaction or if the
12 purchase otherwise appears to be a restructuring of
13 ownership for the primary purpose of escaping payment of
14 delinquent property taxes or if the governing body
15 determines the ~~cancellation~~ suspension is not in the best
16 interest of the county.

17 (3) If a purchaser of such the commercial property
18 continuously utilizes the property in a profit-oriented,
19 employment-stimulating business for 3 years from the date of
20 purchase, the governing body may cancel the collection of
21 the suspended delinquent property taxes. The governing body
22 may not cancel the suspended delinquent property taxes if
23 the purchaser is delinquent on taxes for any other property
24 within the governing body's taxing jurisdiction. (Terminates
25 December 31, 1993--sec. 17, Ch. 631, L. 1989.)"

1 **Section 12.** Section 15-31-702, MCA, is amended to read:

2 "15-31-702. Distribution of corporation license taxes
3 collected from banks or savings and loan associations. (1)
4 All corporation license taxes collected from banks and
5 savings and loan associations ~~shall~~ must be distributed in
6 the following manner:

7 (a) 20% must be remitted to the state treasurer to be
8 allocated as provided in 15-1-501~~(2)~~ (3); and

9 (b) 80% is statutorily appropriated, as provided in
10 17-7-502, for allocation to the various taxing jurisdictions
11 within the county in which the bank or savings and loan
12 association is located.

13 (2) The corporation license taxes distributed under
14 subsection (1)(b) ~~shall~~ must be allocated to each taxing
15 jurisdiction in the proportion that its mill levy for that
16 fiscal year bears to the total mill levy of the taxing
17 authorities of the district in which the bank or savings and
18 loan association is located.

19 (3) "Taxing jurisdictions" means, for the purposes of
20 this section, all taxing authorities within a county
21 permitted under state law to levy mills against the taxable
22 value of property in the taxing district in which the bank
23 or savings and loan association is located.

24 (4) If a return filed by a bank or savings and loan
25 association involves branches or offices in more than one

1 taxing jurisdiction, the department of revenue shall provide
2 a method by rule for equitable distribution among those
3 taxing jurisdictions."

4 **Section 13.** Section 15-35-108, MCA, is amended to read:

5 "15-35-108. (Temporary) Disposal of severance taxes.

6 Severance taxes collected under this chapter must be
7 allocated according to the provisions in effect on the date
8 the tax is due under 15-35-104. Severance taxes collected
9 under the provisions of this chapter are allocated as
10 follows:

11 (1) To the trust fund created by Article IX, section 5,
12 of the Montana constitution, 50% of total coal severance tax
13 collections. The trust fund ~~moneys--shall~~ money must be
14 deposited in the fund established under 17-6-203~~(5)~~(6) and
15 invested by the board of investments as provided by law.

16 (2) Starting July 1, 1987, and ending June 30, 1993,
17 12% of coal severance tax collections are allocated to the
18 highway reconstruction trust fund account in the state
19 special revenue fund.

20 (3) Coal severance tax collections remaining after the
21 allocations provided by subsections (1) and (2) are
22 allocated in the following percentages of the remaining
23 balance:

24 (a) 17.5% to the credit of the local impact account.
25 Unencumbered funds remaining in the local impact account at

1 the end of each biennium are allocated to the state special
2 revenue fund for state equalization aid to public schools of
3 the state.

4 (b) 30% to the state special revenue fund for state
5 equalization aid to public schools of the state;

6 (c) 1% to the state special revenue fund to the credit
7 of the county land planning account;

8 (d) 1 1/4% to the credit of the renewable resource
9 development bond fund;

10 (e) 5% to a nonexpendable trust fund for the purpose of
11 parks acquisition or management, protection of works of art
12 in the state capitol, and other cultural and aesthetic
13 projects. Income from this trust fund shall must be
14 appropriated as follows:

15 (i) 1/3 for protection of works of art in the state
16 capitol and other cultural and aesthetic projects; and

17 (ii) 2/3 for the acquisition, development, operation,
18 and maintenance of any sites and areas described in
19 23-1-102;

20 (f) 1% to the state special revenue fund to the credit
21 of the state library commission for the purposes of
22 providing basic library services for the residents of all
23 counties through library federations and for payment of the
24 costs of participating in regional and national networking;

25 (g) 1/2 of 1% to the state special revenue fund for

1 conservation districts;

2 (h) 1 1/4% to the debt service fund type to the credit
3 of the water development debt service fund;

4 (i) 2% to the state special revenue fund for the
5 Montana Growth Through Agriculture Act;

6 (j) all other revenues from severance taxes collected
7 under the provisions of this chapter to the credit of the
8 general fund of the state. (Terminates July 1, 1993--sec. 7,
9 Ch. 541, L. 1983.)

10 15-35-108. (Effective July 1, 1993) Disposal of
11 severance taxes. Severance taxes collected under this
12 chapter must be allocated according to the provisions in
13 effect on the date the tax is due under 15-35-104. Severance
14 taxes collected under the provisions of this chapter are
15 allocated as follows:

16 (1) To the trust fund created by Article IX, section 5,
17 of the Montana constitution, 50% of total coal severance tax
18 collections. The trust fund ~~moneys--shall~~ money must be
19 deposited in the fund established under 17-6-203~~(5)}~~(6) and
20 invested by the board of investments as provided by law.

21 (2) Coal severance tax collections remaining after
22 allocation to the trust fund under subsection (1) are
23 allocated in the following percentages of the remaining
24 balance:

25 (a) 17.5% to the credit of the local impact account.

1 Unencumbered funds remaining in the local impact account at
2 the end of each biennium are allocated to the state special
3 revenue fund for state equalization aid to public schools of
4 the state.

5 (b) 30% to the state special revenue fund for state
6 equalization aid to public schools of the state;

7 (c) 1% to the state special revenue fund to the credit
8 of the county land planning account;

9 (d) 1 1/4% to the credit of the renewable resource
10 development bond fund;

11 (e) 5% to a nonexpendable trust fund for the purpose of
12 parks acquisition or management, protection of works of art
13 in the state capitol, and other cultural and aesthetic
14 projects. Income from this trust fund shall must be
15 appropriated as follows:

16 (i) 1/3 for protection of works of art in the state
17 capitol and other cultural and aesthetic projects; and

18 (ii) 2/3 for the acquisition, development, operation,
19 and maintenance of any sites and areas described in
20 23-1-102;

21 (f) 1% to the state special revenue fund to the credit
22 of the state library commission for the purposes of
23 providing basic library services for the residents of all
24 counties through library federations and for payment of the
25 costs of participating in regional and national networking;

1 (g) 1/2 of 1% to the state special revenue fund for
2 conservation districts;

3 (h) 1 1/4% to the debt service fund type to the credit
4 of the water development debt service fund;

5 (i) 2% to the state special revenue fund for the
6 Montana Growth Through Agriculture Act;

7 (j) all other revenues from severance taxes collected
8 under the provisions of this chapter to the credit of the
9 general fund of the state."

10 **Section 14.** Section 17-6-305, MCA, is amended to read:

11 "17-6-305. Investment of twenty-five percent of the
12 coal tax trust fund in the Montana economy. (1) Twenty-five
13 percent of all revenue deposited after June 30, 1983, into
14 the permanent coal tax trust fund established in
15 17-6-203~~(5)~~(6) and 15% of the annual income and earnings on
16 the Montana in-state investment fund appropriated to the
17 coal severance tax permanent fund by 17-5-704(2) shall must
18 be invested in the Montana economy, with special emphasis on
19 investments in new or expanding locally owned enterprises.

20 (2) In determining the probable income to be derived
21 from investment of this revenue, the long-term benefit to
22 the Montana economy shall must be considered.

23 (3) The legislature may provide additional procedures
24 to implement this section."

25 **Section 15.** Section 17-7-401, MCA, is amended to read:

1 "17-7-401. Definitions. As used in this part, the
2 following definitions apply:

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

5 (2) "Agency" means each state office, department,
6 division, board, commission, council, committee,
7 institution, university unit, or other entity or
8 instrumentality of the executive branch, office of the
9 judicial branch, or office of the legislative branch of
10 state government.

11 (3) "Approving authority" means the governor or his
12 designated representative for executive branch agencies, the
13 chief justice of the supreme court or his designated
14 representative for judicial branch agencies, appropriate
15 legislative committees or a designated representative for
16 legislative branch agencies, or the board of regents or its
17 designated representative for the university system.

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

23 (5) "Emergency" means any catastrophe, disaster,
24 calamity, or other serious unforeseen and unanticipated
25 circumstance that has occurred subsequent to the time an

1 agency's appropriation was made, which was clearly not
2 within the contemplation of the legislature and the
3 governor, and which seriously affects one or more functions
4 of a state agency and the agency's expenditure requirements
5 for the performance of the function or functions.

6 (6) "Executive branch approving authority" means the
7 governor or his designated representative.

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

11 (8) "Requesting agency" means the agency of state
12 government that has requested a specific budget amendment.

13 (9) "University system unit" means the board of
14 regents, office of the commissioner of higher education,
15 university of Montana at Missoula, Montana state university
16 at Bozeman, Montana college of mineral science and
17 technology at Butte, eastern Montana college at Billings,
18 northern Montana college at Havre, western Montana college
19 of the university of Montana at Dillon, the agricultural
20 experiment station with central offices at Bozeman, the
21 forestry Montana forest and conservation experiment station
22 with central offices at Missoula, the cooperative extension
23 service with central offices at Bozeman, or the bureau of
24 mines and geology with central offices at Butte."

25 **Section 16.** Section 17-7-502, MCA, is amended to read:

1 "17-7-502. Statutory appropriations -- definition --
2 requisites for validity. (1) A statutory appropriation is an
3 appropriation made by permanent law that authorizes spending
4 by a state agency without the need for a biennial
5 legislative appropriation or budget amendment.

6 (2) Except as provided in subsection (4), to be
7 effective, a statutory appropriation must comply with both
8 of the following provisions:

9 (a) The law containing the statutory authority must be
10 listed in subsection (3).

11 (b) The law or portion of the law making a statutory
12 appropriation must specifically state that a statutory
13 appropriation is made as provided in this section.

14 (3) The following laws are the only laws containing
15 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
16 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
17 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
18 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
19 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
20 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
21 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
22 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;
23 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;
24 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;
25 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;

1 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; and
2 90-9-306; ~~and section 13, House Bill No. 861, Laws of 1985.~~

3 (4) There is a statutory appropriation to pay the
4 principal, interest, premiums, and costs of issuing, paying,
5 and securing all bonds, notes, or other obligations, as due,
6 that have been authorized and issued pursuant to the laws of
7 Montana. Agencies that have entered into agreements
8 authorized by the laws of Montana to pay the state
9 treasurer, for deposit in accordance with 17-2-101 through
10 17-2-107, as determined by the state treasurer, an amount
11 sufficient to pay the principal and interest as due on the
12 bonds or notes have statutory appropriation authority for
13 such the payments. (In subsection (3), pursuant to sec. 10,
14 Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates
15 June 30, 1991.)"

16 **Section 17.** Section 19-3-513, MCA, is amended to read:

17 "19-3-513. Election to purchase additional service. (1)
18 At any time before retirement, a person who became a member
19 of the retirement system before July 1, 1989, and who has 5
20 years or more of membership service may make a written
21 election with the board to purchase additional service for
22 the purpose of calculating his retirement allowance. Except
23 as provided in subsection (3), the member may purchase 1
24 year of additional service for each 5 years of membership
25 service that he has qualified under the retirement system,

1 up to a maximum of 5 years of additional service.

2 (2) For each year of service purchased under this
3 section, a member shall contribute to the retirement fund an
4 amount equal to his normal compensation for the 12-month
5 period immediately preceding the date he elects to purchase
6 the service multiplied by the combined employee and employer
7 contribution rates ~~on-the-date-he-elects--to--purchase--the~~
8 service contained in 19-3-701 and 19-3-801 in effect on and
9 after July 1, 1993. Contributions may be made in a lump-sum
10 payment or in installments as agreed upon by the member and
11 the board.

12 (3) (a) Except as provided in subsection (3)(b), after
13 January 1, 1990, a member may elect to qualify a combined
14 total of 5 years of service under 19-3-503, 19-3-512, or
15 this section.

16 (b) A member who has purchased service under 19-3-503
17 or 19-3-512 on or before January 1, 1990, and who elects to
18 purchase service under this section shall receive credit for
19 the full months of service purchased on or before January 1,
20 1990.

21 (4) Service purchased under this section may not be
22 used to qualify a member for service retirement."

23 **Section 18.** Section 19-6-506, MCA, is amended to read:

24 "19-6-506. Supplemental retirement allowance for
25 certain retirees. (1) Retired Montana highway patrol

1 officers or their surviving spouses who are 65 years of age
2 or older or disabled and who are not entitled through their
3 own or their spouses' contributions to social security or
4 medicare to prepaid medicare hospital insurance coverage are
5 eligible for a supplemental retirement benefit.

6 (2) Subject to the restrictions in subsection (1) and
7 beginning on the first day of the month after receipt of
8 written application of an eligible retiree, the retirement
9 system shall pay a supplemental benefit equal to the premium
10 for coverage under medicare hospital insurance, excluding
11 coverage for a spouse and dependents, from revenue deposited
12 in the ~~state--special-revenue~~ general fund, as provided in
13 61-3-321(5). The written application must be accompanied by
14 proof that the retiree is paying for medicare hospital
15 insurance coverage.

16 (3) The supplemental benefit payment made under
17 subsection (2) may not exceed the medicare hospital
18 insurance premium in effect on July 1, 1989, for similar
19 coverage."

20 **Section 19.** Section 20-7-401, MCA, is amended to read:

21 "20-7-401. Definitions. In this title, unless the
22 context clearly indicates otherwise, the following
23 definitions apply:

24 (1) "Appropriate public education" means the provision
25 of regular or special education and related aids and

1 services that are designed to meet individual educational
2 needs of handicapped persons as adequately as the needs of
3 nonhandicapped persons are met.

4 (2) "Deaf" means a hearing impairment which that is so
5 severe that the child's hearing is nonfunctional for the
6 purpose of educational performance.

7 (3) "Deaf/blind" means concomitant hearing and visual
8 impairments, the combination of which causes such severe
9 educational problems for the child so impaired that the
10 child cannot be accommodated in a special education program
11 designed solely for deaf or blind children.

12 (4) "Emotionally disturbed" means a condition
13 exhibiting one or more of the following characteristics to a
14 marked degree and over a long period of time that adversely
15 affects educational performance: an inability to learn which
16 that cannot be explained by intellectual, sensory, or health
17 factors; an inability to build or maintain satisfactory
18 interpersonal relationships with peers and teachers;
19 inappropriate types of behavior or feelings under normal
20 circumstances; a general pervasive mood of unhappiness or
21 depression; or a tendency to develop physical symptoms or
22 fears associated with personal or school problems. The term
23 includes a child who is schizophrenic. The term does not
24 include a child who is socially maladjusted, unless it is
25 determined that the child is emotionally disturbed.

1 (5) "Handicapped child" means a child evaluated as
2 being mentally retarded, hard-of-hearing, deaf,
3 speech-impaired speech/language impaired, visually
4 handicapped, emotionally disturbed, deaf/blind,
5 multihandicapped, orthopedically impaired, other
6 health-impaired, or as having specific learning
7 disabilities, who because of those impairments needs special
8 education and related services. A child who is 5 years of
9 age or younger may be identified as handicapped without the
10 handicapping condition being specified.

11 (6) "Hard-of-hearing" means a hearing impairment,
12 whether permanent or fluctuating, which that adversely
13 affects a child's educational performance but which that is
14 not included within the definition of deaf.

15 (7) "Mentally retarded" means significantly subaverage
16 general intellectual functioning existing concurrently with
17 deficits in adaptive behavior and manifested during the
18 developmental period, which adversely affects a child's
19 educational performance.

20 (8) "Multihandicapped" means concomitant impairments
21 (e.g., mentally retarded/blind or mentally
22 retarded/orthopedically impaired), the combination of which
23 causes such severe educational problems for the child so
24 impaired that the child cannot be accommodated in a special
25 education program designed solely for one of the

1 impairments. The term does not include deaf/blind children.

2 (9) "Orthopedically impaired" means a severe orthopedic
3 impairment which that adversely affects a child's
4 educational performance. The term includes but is not
5 limited to impairment caused by congenital anomaly (e.g.,
6 clubfoot or absence of some member), impairments caused by
7 disease (e.g., poliomyelitis, bone tuberculosis), and
8 impairments from other causes (e.g., fractures or burns
9 which that cause contractures, amputation, cerebral palsy).

10 (10) "Other health-impaired" means:

11 (a) having an autistic condition that is manifested by
12 severe communication and other developmental and educational
13 problems; or

14 (b) having limited strength, vitality, or alertness due
15 to chronic or acute health problems, such as a heart
16 condition, tuberculosis, rheumatic fever, nephritis, asthma,
17 sickle-cell anemia, hemophilia, epilepsy, lead poisoning,
18 leukemia, or diabetes.

19 (11) "Related services" means transportation and such
20 developmental, corrective, and other supportive services as
21 are required to assist a handicapped child to benefit from
22 special education and includes speech-language pathology,
23 audiology, occupational therapy, and physical therapy.

24 (12) "Special education" means specially designed
25 instruction, given at no cost to the parents or guardians,

1 to meet the unique needs of a handicapped child, including
2 but not limited to classroom instruction, instruction in
3 physical education, home instruction, and instruction in
4 hospitals and institutions.

5 (13) "Specific learning disability" means a disorder in
6 one or more of the basic psychological processes involved in
7 understanding or in using language, spoken or written, which
8 that may manifest itself in an imperfect ability to listen,
9 think, speak, read, write, spell, or do mathematical
10 calculations. The term includes but is not limited to such
11 conditions as perceptual handicaps, brain injury, minimal
12 brain dysfunction, dyslexia, and developmental aphasia. The
13 term does not include children who have learning problems
14 which that are primarily the result of visual, hearing, or
15 motor handicaps; mental retardation; or environmental,
16 cultural, or economic disadvantages.

17 (14) "Speech/language impaired" means a communication
18 disorder, such as stuttering, impaired articulation, or a
19 language or voice impairment, which that adversely affects a
20 child's interpersonal relationships or educational
21 performance.

22 (15) "Surrogate parent" means an individual appointed to
23 safeguard a child's rights and protect the child's interests
24 in educational evaluation, placement, and hearing or appeal
25 procedures concerning the child.

1 (16) "Visually handicapped" means a visual impairment
2 which that, after correction, adversely affects a child's
3 educational performance. The term includes both partially
4 seeing and blind children."

5 **Section 20.** Section 22-1-501, MCA, is amended to read:

6 "22-1-501. State law library created. The library
7 heretofore formerly known as a department of the state
8 library of Montana and called "the law library" ~~shall become~~
9 is a separate and distinct library designated the "state law
10 library of the state of Montana". The collections of laws,
11 decisions of courts, law reports, textbooks, legal
12 periodicals, and miscellaneous books and journals together
13 with pamphlets, papers, maps, charts, and manuscripts now in
14 the law library ~~in-the-capitol-building~~ or belonging to such
15 the law library or hereafter acquired by or donated to the
16 law library ~~shall~~ constitute the law library hereby
17 ~~established~~, and the title to all of the property
18 constituting the ~~same-now-or--hereafter--shall~~ law library
19 must be in the state of Montana, subject to the custody and
20 control of the library board established herein in
21 22-1-502."

22 **Section 21.** Section 22-3-522, MCA, is amended to read:

23 "22-3-522. Uniform Unclaimed Property Act superseded.
24 The provisions of this part supersede the provisions of
25 Title 70, chapter 9, parts 1 through 3, except that at its

1 option, a museum may report property that has been on loan
2 unclaimed by its owner for more than 7 5 years to the
3 department of revenue for disposition as provided in Title
4 70, chapter 9, part 3."

5 **Section 22.** Section 23-2-508, MCA, is amended to read:

6 "23-2-508. Certificate of ownership -- filing of
7 security interests. (1) Except as provided in subsection
8 (9), a motorboat or sailboat 12 feet in length or longer may
9 not be operated upon the waters of the state unless a
10 certificate of ownership has first been obtained from the
11 department of justice in accordance with the laws of this
12 state.

13 (2) The owner of a motorboat or sailboat 12 feet in
14 length or longer shall apply for a certificate of ownership
15 and a certificate of number with the county treasurer of the
16 county in which the owner resides, upon forms furnished by
17 the department of justice. The forms must require the
18 following information:

- 19 (a) name of the owner;
20 (b) residence of the owner, by town or county;
21 (c) business or home address of the owner;
22 (d) name and address of any lienholder;
23 (e) amount due under any contract or lien;
24 (f) name of the manufacturer;
25 (g) model number or name;

1 (h) identification number;

2 (i) name and address of the dealer or other person from
3 whom acquired, if known; and

4 (j) such other information as the department of justice
5 may require.

6 (3) The application is to be accompanied by
7 documentation of ownership, such as an invoice, a bill of
8 sale, a foreign title, an official certificate of boat
9 number, a fee in lieu of tax receipt, or a certificate of
10 ownership of a trailer purchased with the motorboat or
11 sailboat. An applicant who fails to provide such proof of
12 ownership shall provide a certified statement describing how
13 the motorboat or sailboat 12 feet in length or longer was
14 acquired, from whom acquired, if known, and other
15 information requested by the department of justice.

16 (4) If a certificate of ownership has previously been
17 issued under the provisions of this part, the application
18 for a new certificate must be accompanied by the immediately
19 previous certificate. This subsection does not apply to
20 motorboats or sailboats 12 feet in length or longer that are
21 purchased as new and unused vessels or that were operated
22 when the provisions of this part were not in force and
23 effect.

24 (5) Any A motorboat or sailboat 12 feet in length or
25 longer that does not have a manufacturer's or other

1 identifying number thereon on the motorboat or sailboat must
2 be assigned an identification number by the department of
3 fish, wildlife, and parks. A fee of \$1 must be paid to the
4 department for an assignment of number.

5 (6) Upon completion of the application, the county
6 treasurer shall issue to the applicant two copies of the
7 certificate of number application, one of which must be
8 marked "file copy". The treasurer shall forward one copy and
9 the original application for a certificate of ownership to
10 the department of justice, which shall enter the information
11 contained in the application upon the corresponding records
12 of its office, and shall furnish the applicant a certificate
13 of ownership containing that information in the application
14 considered necessary by the department and a permanent boat
15 number. The certificate of ownership need not be renewed
16 annually and is valid as long as the person holding it owns
17 the vessel.

18 (7) The owner shall at all times retain possession of
19 the certificate of ownership, except when it is being
20 transmitted to and from the department of justice for
21 endorsement or cancellation.

22 (8) Upon application for a certificate of ownership, a
23 fee of \$5 must be paid to the county treasurer, \$3.50 of
24 which must be forwarded by the county treasurer to the
25 department of justice and deposited in the general fund.

1 (9) A person who, on July 1, 1988, is the owner of a
 2 motorboat or sailboat 12 feet in length or longer with a
 3 valid certificate of number issued by the state is not
 4 required to file an application for a certificate of
 5 ownership for the motorboat or sailboat unless he transfers
 6 a part of his interest in the motorboat or sailboat or he
 7 renews the certificate of number for the motorboat or
 8 sailboat.

9 (10) A security interest in a boat is not valid as
 10 against creditors, subsequent purchasers, or encumbrancers
 11 unless a lien notice, showing that a security interest has
 12 been created, has been filed with the department of justice
 13 as provided in this section. The lien notice must be filed
 14 on a form approved by the department of justice. The
 15 department of justice may not file a security interest or
 16 other lien unless it is accompanied by or specified in the
 17 application for a certificate of ownership of the boat
 18 encumbered. If the lien notice is transmitted to the
 19 department of justice, the security agreement or other lien
 20 instrument that creates the security interest must be
 21 retained by the secured party. A copy of the security
 22 agreement is sufficient as a lien notice if it contains the
 23 name and address of the debtor and the secured party, the
 24 complete boat description, the amount of the lien, and the
 25 signature of the debtor. The department of justice shall

1 file the security interest or lien by entering the name and
 2 address of the secured party upon the face of the
 3 certificate of ownership. The department of justice shall
 4 mail a statement certifying the filing of a security
 5 interest or lien to the secured party. The department of
 6 justice shall mail the certificate of ownership to the owner
 7 at the address given on the certificate; however, if the
 8 transfer of ownership and filing of the security interest
 9 are paid for by a creditor or secured party, the department
 10 of justice shall return the certificate of ownership to the
 11 county treasurer of the county where in which the boat is to
 12 be registered. The owner of a boat is the person entitled to
 13 operate and possess the boat.

14 (11) A security interest in a boat held as inventory by
 15 a dealer must be perfected in accordance with Title 30,
 16 chapter 9, and no endorsement on the certificate of title is
 17 necessary for perfection.

18 (12) Whenever a security interest or lien is filed
 19 against a boat that is subject to two security interests
 20 previously perfected by filing under this section, the
 21 department of justice shall endorse on the face of the
 22 certificate of ownership: "NOTICE. This boat is subject to
 23 additional security interest on file with the Department of
 24 Justice." No other information regarding the additional
 25 security interests need be endorsed on the certificate.

1 (13) Satisfactions or statements of release filed with
 2 the department of justice under this part must be retained
 3 for a period of 8 years after receipt, after which they may
 4 be destroyed.

5 (14) The filing of a security interest or other lien as
 6 herein provided in this section perfects a security interest
 7 that has attached at the time the certificate of ownership
 8 noting the interest is issued. Issuance of a certificate of
 9 ownership constitutes constructive notice to subsequent
 10 purchasers or encumbrancers, from the time of filing, of the
 11 existence of the security interest.

12 (15) Upon default under a chattel mortgage or
 13 conditional sales contract covering a boat, the mortgagee or
 14 vendor has the same remedies as in the case of other
 15 personal property. In case of attachment of a boat, all the
 16 provisions of 27-18-413, 27-18-414, and 27-18-804 are
 17 applicable, except that deposits must be made with the
 18 department of justice.

19 (16) A conditional sales vendor or chattel mortgagee or
 20 assignee who fails to file a satisfaction of a chattel
 21 mortgage, assignment, or conditional sales contract within
 22 15 days after receiving final payment is required to pay the
 23 department of justice the sum of \$1 for each day that he
 24 fails to file the satisfaction.

25 (17) Upon receipt of any liens, notice of liens

1 dependent on possession, or attachments against the record
 2 of any boat registered in this state, the department of
 3 justice shall within 24 hours mail to the owner, conditional
 4 sales vendor, mortgagee, or their assignee a notice showing
 5 the name and address of the lien claimant, the amount of the
 6 lien, the date of execution of the lien, and, in the case of
 7 attachment, the full title of the court, the action, and the
 8 name of the attorney for the plaintiff or the name of the
 9 attaching creditor, or both.

10 (18) It is not necessary to refile with the department
 11 of justice any instruments on file in the office of any the
 12 county clerk and recorder on October 1, 1989.

13 (19) A fee of \$4 must be paid to the department of
 14 justice to file any security interest or other lien against
 15 a boat. The \$4 fee must cover the cost of filing a
 16 satisfaction or release of the security interest and the
 17 cost of entering the satisfaction or release on the records
 18 of the department of justice and deleting the endorsement of
 19 the security interest from the face of the certificate of
 20 ownership. A fee of \$4 must be paid to the department of
 21 justice for issuing a certified copy of a certificate of
 22 ownership subject to a security interest or other lien on
 23 file with the department of justice or for filing an
 24 assignment of any security interest or other lien on file
 25 with the department of justice. All fees provided for in

1 this section must be paid to the county treasurer for
2 deposit in the general fund in accordance with 15-1-504."

3 **Section 23.** Section 23-2-611, MCA, is amended to read:

4 "23-2-611. Certificate of ownership -- filing of
5 security interests. (1) A snowmobile may not be operated
6 upon any public lands, trails, easements, lakes, rivers,
7 streams, roadways or shoulders of roadways, streets, or
8 highways unless a certificate of ownership has first been
9 obtained from the department of justice in accordance with
10 the laws of this state.

11 (2) The owner of a snowmobile shall apply for a
12 certificate of ownership with the county treasurer of the
13 county in which the owner resides, upon forms to be
14 furnished for this purpose. The forms must require the
15 following information:

- 16 (a) name of the owner;
- 17 (b) residence of the owner, by town and county;
- 18 (c) business or home mail address of the owner;
- 19 (d) name and address of any lienholder;
- 20 (e) amount due under any contract or lien;
- 21 (f) name of the manufacturer;
- 22 (g) model number or name;
- 23 (h) identification number; and
- 24 (i) name and address of the dealer or other person from
25 whom acquired.

1 (3) The application must be signed by at least one
2 owner or by a properly authorized officer or representative
3 of the owner.

4 (4) If a certificate of ownership has previously been
5 issued under the provisions of 23-2-601 through 23-2-644,
6 the application for a new certificate must be accompanied by
7 the immediately previous certificate. This subsection does
8 not apply to snowmobiles that are purchased as new and
9 unused machines or that were operated when the provisions of
10 23-2-601 through 23-2-644 were not in force and effect.

11 (5) Upon completion of the application, on forms
12 furnished by the department of justice, the county treasurer
13 shall issue to the applicant two copies of the application,
14 one of which ~~shall~~ must be marked "file copy". The treasurer
15 shall forward one copy and the original application to the
16 department of justice, which shall enter the information
17 contained in the application upon the corresponding records
18 of its office and shall furnish the applicant a certificate
19 of ownership, which ~~shall~~ must contain that information in
20 the application considered necessary by the department of
21 justice, and a permanent ownership number. The certificate
22 of ownership is not to be renewed annually and is valid as
23 long as the person holding it owns the snowmobile.

24 (6) The owner shall at all times retain possession of
25 the certificate of ownership, except when it is being

1 transmitted to and from the department of justice for
2 endorsement or cancellation.

3 (7) Upon application for a certificate of ownership, a
4 fee of \$5 ~~shall~~ must be paid to the county treasurer, \$3.50
5 of which ~~shall~~ must be forwarded by the county treasurer to
6 the department of justice and deposited in the general fund.

7 (8) A security interest in a snowmobile is not valid as
8 against creditors, subsequent purchasers, or encumbrancers
9 unless a lien notice, showing that a security interest has
10 been created, has been filed with the department of justice
11 as provided in this section. The lien notice must be filed
12 on a form approved by the department of justice. The
13 department of justice may not file a security interest or
14 other lien unless it is accompanied by or specified in the
15 application for a certificate of ownership of the snowmobile
16 encumbered. If the lien notice is transmitted to the
17 department of justice, the security agreement or other lien
18 instrument that creates the security interest must be
19 retained by the secured party. A copy of the security
20 agreement is sufficient as a lien notice if it contains the
21 name and address of the debtor and the secured party, the
22 complete snowmobile description, the amount of the lien, and
23 the signature of the debtor. The department of justice shall
24 file the security interest or lien by entering the name and
25 address of the secured party upon the face of the

1 certificate of ownership. The department of justice shall
2 mail a statement certifying the filing of a security
3 interest or lien to the secured party. The department of
4 justice shall mail the certificate of ownership to the owner
5 at the address given on the certificate; however, if the
6 transfer of ownership and filing of the security interest
7 are paid for by a creditor or secured party, the department
8 of justice shall return the certificate of ownership to the
9 county treasurer of the county where in which the snowmobile
10 is to be registered. The owner of a snowmobile is the person
11 entitled to operate and possess the snowmobile.

12 (9) A security interest in a snowmobile held as
13 inventory by a dealer must be perfected in accordance with
14 Title 30, chapter 9, and no endorsement on the certificate
15 of title is necessary for perfection.

16 (10) Whenever a security interest or lien is filed
17 against a snowmobile that is subject to two security
18 interests previously perfected by filing under this section,
19 the department of justice shall endorse on the face of the
20 certificate of ownership: "NOTICE. This snowmobile is
21 subject to additional security interest on file with the
22 Department of Justice". No other information regarding the
23 additional security interests need be endorsed on the
24 certificate.

25 (11) Satisfactions or statements of release filed with

1 the department of justice under this part must be retained
2 for a period of 8 years after receipt, after which they may
3 be destroyed.

4 (12) The filing of a security interest or other lien as
5 herein provided in this section perfects a security interest
6 that has attached at the time the certificate of ownership
7 noting the interest is issued. Issuance of a certificate of
8 ownership constitutes constructive notice to subsequent
9 purchasers or encumbrancers, from the time of filing, of the
10 existence of the security interest.

11 (13) Upon default under a chattel mortgage or
12 conditional sales contract covering a snowmobile, the
13 mortgagee or vendor has the same remedies as in the case of
14 other personal property. In case of attachment of a
15 snowmobile, all the provisions of 27-18-413, 27-18-414, and
16 27-18-804 are applicable, except that deposits must be made
17 with the department of justice.

18 (14) A conditional sales vendor or chattel mortgagee or
19 assignee who fails to file a satisfaction of a chattel
20 mortgage, assignment, or conditional sales contract within
21 15 days after receiving final payment is required to pay the
22 department of justice the sum of \$1 for each day that he
23 fails to file the satisfaction.

24 (15) Upon receipt of any liens, notice of liens
25 dependent on possession, or attachments against the record

1 of any snowmobile registered in this state, the department
2 of justice shall within 24 hours mail to the owner,
3 conditional sales vendor, mortgagee, or their assignee a
4 notice showing the name and address of the lien claimant,
5 the amount of the lien, the date of execution of the lien,
6 and, in the case of attachment, the full title of the court,
7 the action, and the name of the attorney for the plaintiff
8 or the name of the attaching creditor, or both.

9 (16) It is not necessary to refile with the department
10 of justice any instruments on file in the office of the
11 county clerk and recorder on October 1, 1989.

12 (17) A fee of \$4 must be paid to the department of
13 justice to file any security interest or other lien against
14 a snowmobile. The \$4 fee must cover the cost of filing a
15 satisfaction or release of the security interest and the
16 cost of entering the satisfaction or release on the records
17 of the department of justice and deleting the endorsement of
18 the security interest from the face of the certificate of
19 ownership. A fee of \$4 must be paid to the department of
20 justice for issuing a certified copy of a certificate of
21 ownership subject to a security interest or other lien on
22 file with the department of justice or for filing an
23 assignment of a security interest or other lien on file with
24 the department of justice. All fees provided for in this
25 section must be paid to the county treasurer for deposit in

1 the general fund in accordance with 15-1-504."

2 **Section 24.** Section 25-30-101, MCA, is amended to read:

3 **"25-30-101. Applicability of district court and**
4 **justice's court rules.** (1) The provisions of 3-10-222,
5 3-10-231 through 3-10-234, ~~3-10-305, 3-10-306,~~ and 3-10-704
6 through 3-10-706; 25-31-102(2), ~~25-31-114 through 25-31-116,~~
7 ~~25-31-304~~ 25-31-115, 25-31-402~~(2)~~, 25-31-405, parts 7
8 through 11 of chapter 31 of this title (except ~~25-31-915,~~
9 ~~25-31-1002, 25-31-1004, and 25-31-1005~~), and chapter 33 of
10 this title; and chapter 9, part 10 of chapter 16, chapter
11 17, and part 15 of chapter 18 of Title 27 are applicable to
12 municipal courts except when they are inconsistent with the
13 provisions of this chapter and chapter 6 of Title 3, the
14 words "municipal court" being substituted for justice's
15 court and "judge" for justice of the peace.

16 (2) Except as otherwise provided by this chapter,
17 chapter 6 of Title 3, and the supreme court's rules on
18 disqualification of judges, the proceedings and practice in
19 municipal court shall must be the same as in district
20 court."

21 **Section 25.** Section 25-31-402, MCA, is amended to read:

22 **"25-31-402. Time ~~for issuing summons~~ security**
23 **Security for costs.** ~~{1}--The--court--must--end--on--the~~
24 ~~complaint--the--date--upon--which--it--was--filed,--and--at--any--time~~
25 ~~within--1--year--thereafter--the--plaintiff--may--have--summons~~

1 issued:

2 ~~{2}--Justices~~ A justice may, in all cases, require a
3 deposit of money or an undertaking as security for costs of
4 court before issuing a summons."

5 **Section 26.** Section 25-31-406, MCA, is amended to read:

6 **"25-31-406. Time for answer or appearance.** The time
7 specified in the summons for the appearance of the defendant
8 must be as follows:

9 (1) if an order of arrest be is endorsed upon the
10 summons, forthwith immediately;

11 (2) in all other cases, the summons ~~shall~~ must provide
12 that the defendant shall answer ~~and, if such answer be~~ in
13 writing, file the same answer, and serve a copy ~~hereof~~ upon
14 the plaintiff or his attorney within 6 20 days after service
15 of ~~this~~ the summons, exclusive of the day of service, and in
16 case of his failure to appear or answer, judgment will be
17 taken against him by default for the relief demanded in the
18 complaint."

19 **Section 27.** Section 25-31-407, MCA, is amended to read:

20 **"25-31-407. Where ~~summons may be~~ Requirements for**
21 **summons served out of county.** ~~{1}--The--summons--cannot--be~~
22 ~~served--out--of--the--county--of--the--justice--before--whom--the~~
23 ~~action--is--brought,--except:~~

24 ~~{a}--when--the--action--is--brought--upon--a--joint--contract--or~~
25 ~~obligation--of--two--or--more--persons--who--reside--in--different~~

1 counties--and-the-summons-has-been-served-upon-the-defendant
2 resident-of-the-county, in-which-case--the--summons--may--be
3 served-upon-the-other-defendant-out-of-the-county;

4 (b)--when--an--action-is brought-against-a-party-who-has
5 contracted-to-perform-an-obligation-at--a--particular--place
6 and-resides-in-a-different-county, in-which-case-summons-may
7 be-served-in-the-county-where-he-resides, and

8 (c)--where--an--action-is-brought-for-an-injury-to-person
9 or-property-and-the-defendant-resides-in-a-different-county,
10 in-which-case-summons-may-be--served--in--the--county--where
11 defendant-resides;

12 (2)--When a summons issued by a justice of the peace is
13 to be served out of the county in which it was issued, the
14 summons shall must have attached to it a certificate, under
15 seal by the county clerk of the county in which it was
16 issued, to the effect that the person issuing the same
17 summons was an acting justice of the peace at the date of
18 the summons."

19 **Section 28.** Section 25-31-702, MCA, is amended to read:

20 "25-31-702. Trial to be timely. Unless postponed as
21 provided in this part or transferred to another court, the
22 trial of the action may commence at the time set by the
23 court as specified in the notice mentioned in 25-31-701: Rule
24 20, Montana Justice and City Court Rules of Civil Procedure,
25 and after the trial has commenced, there must may be no

1 adjournment for more than 24 hours at any one time until all
2 the issues therein are disposed of."

3 **Section 29.** Section 25-32-101, MCA, is amended to read:

4 "25-32-101. Applicability of laws on procedure in
5 justices' courts. All proceedings in civil actions in city
6 courts must, except as otherwise provided in this chapter
7 otherwise provided, be conducted in the same manner as civil
8 actions in justices' courts and conform to the Montana
9 Justice Courts and City Court Rules of Civil Procedure
10 (Title 25, chapter 22 23)."

11 **Section 30.** Section 25-32-102, MCA, is amended to read:

12 "25-32-102. Commencement of action -- complaint. (1)
13 Civil actions in city courts are commenced by filing a
14 complaint as provided under the Montana Justice Courts and
15 City Court Rules of Civil Procedure (Title 25, chapter 22
16 23).

17 (2) The complaint must set forth a concise statement of
18 the facts constituting the cause of action.

19 (3) A complaint under 3-11-103 must set forth the
20 interest of the city in the action. An allegation that the
21 cause of action arose from a violation of a city ordinance
22 or failure to perform a duty required by city ordinance is a
23 sufficient interest of the city.

24 (4) The ordinance may be referred to by its title,
25 section, and number."

1 **Section 31.** Section 25-32-103, MCA, is amended to read:

2 "25-32-103. **Summons.** Immediately after filing the
3 complaint, a summons must be issued, directed to the
4 defendant and returnable as provided under the Montana
5 Justice Courts and City Court Rules of Civil Procedure
6 (Title 25, chapter ~~22~~ 23)."

7 **Section 32.** Section 25-32-104, MCA, is amended to read:

8 "25-32-104. **Answer and immediate trial.** On the return
9 of the summons, the defendant shall file a written answer to
10 the complaint. The answer must conform to the Montana
11 Justice Courts and City Court Rules of Civil Procedure
12 (Title 25, chapter ~~22~~ 23). Upon return of the answer, the
13 case must be tried as in justice's court."

14 **Section 33.** Section 27-1-221, MCA, is amended to read:

15 "27-1-221. **Punitive damages -- liability -- proof --**
16 **award.** (1) Subject to ~~subsection-(2)-and~~ the provisions of
17 27-1-220 and this section, reasonable punitive damages may
18 be awarded where when the defendant has been found guilty of
19 actual fraud or actual malice.

20 (2) A defendant is guilty of actual malice if he has
21 knowledge of facts or intentionally disregards facts that
22 create a high probability of injury to the plaintiff and:

23 (a) deliberately proceeds to act in conscious or
24 intentional disregard of the high probability of injury to
25 the plaintiff; or

1 (b) deliberately proceeds to act with indifference to
2 the high probability of injury to the plaintiff.

3 (3) A defendant is guilty of actual fraud if he:

4 (a) makes a representation with knowledge of its
5 falsity; or

6 (b) conceals a material fact with the purpose of
7 depriving the plaintiff of property or legal rights or
8 otherwise causing injury.

9 (4) Actual fraud exists only where when the plaintiff
10 has a right to rely upon the representation of the defendant
11 and suffers injury as a result of ~~such~~ that reliance. The
12 contract definitions of fraud expressed in Title 28, chapter
13 2, do not apply to proof of actual fraud under this section.

14 (5) All elements of the claim for punitive damages must
15 be proved by clear and convincing evidence. Clear and
16 convincing evidence means evidence in which there is no
17 serious or substantial doubt about the correctness of the
18 conclusions drawn from the evidence. It is more than a
19 preponderance of evidence, but less than beyond a reasonable
20 doubt.

21 (6) Liability for punitive damages must be determined
22 by the trier of fact, whether judge or jury.

23 (7) (a) Evidence regarding a defendant's financial
24 affairs, financial condition, and net worth is not
25 admissible in a trial to determine whether a defendant is

1 liable for punitive damages. When the jury returns a verdict
 2 finding a defendant liable for punitive damages, the amount
 3 of punitive damages must then be determined by the jury in
 4 an immediate, separate proceeding and be submitted to the
 5 judge for review as provided in subsection (7)(c). In the
 6 separate proceeding to determine the amount of punitive
 7 damages to be awarded, the defendant's financial affairs,
 8 financial condition, and net worth must be considered.

9 (b) When an award of punitive damages is made by the
 10 judge, he shall clearly state his reasons for making the
 11 award in findings of fact and conclusions of law,
 12 demonstrating consideration of each of the following
 13 matters:

14 (i) the nature and reprehensibility of the defendant's
 15 wrongdoing;

16 (ii) the extent of the defendant's wrongdoing;

17 (iii) the intent of the defendant in committing the
 18 wrong;

19 (iv) the profitability of the defendant's wrongdoing, if
 20 applicable;

21 (v) the amount of actual damages awarded by the jury;

22 (vi) the defendant's net worth;

23 (vii) previous awards of punitive or exemplary damages
 24 against the defendant based upon the same wrongful act;

25 (viii) potential or prior criminal sanctions against the

1 defendant based upon the same wrongful act; and

2 (ix) any other circumstances which that may operate to
 3 increase or reduce, without wholly defeating, punitive
 4 damages.

5 (c) The judge shall review a jury award of punitive
 6 damages, giving consideration to each of the matters listed
 7 in subsection (7)(b). If after review the judge determines
 8 that the jury award of punitive damages should be increased
 9 or decreased, he may do so. The judge shall clearly state
 10 his reasons for increasing, decreasing, or not increasing or
 11 decreasing the punitive damages award of the jury in
 12 findings of fact and conclusions of law, demonstrating
 13 consideration of each of the factors listed in subsection
 14 (7)(b).

15 (8) Nothing in this section is intended to alter the
 16 Montana Rules of Civil Procedure governing discovery of a
 17 defendant's financial affairs, financial condition, and net
 18 worth."

19 **Section 34.** Section 31-1-233, MCA, is amended to read:

20 "31-1-233. Insurance. (1) The amount, if any, included
 21 for insurance which that may be purchased by the holder of
 22 the contract shall may not exceed the applicable premiums
 23 chargeable in accordance with the rates filed with the
 24 insurance department of this state where such the rates are
 25 required by law to be approved by said the insurance

1 department.

2 (2) All such insurance ~~shall~~ purchased by the holder of
3 the contract must be written by an insurance company
4 authorized to do business in this state and ~~shall~~ must be
5 countersigned by a duly licensed resident agent insurance
6 producer authorized to engage in the insurance business in
7 this state.

8 (3) A buyer may be required to provide insurance on the
9 goods at his own cost for the protection of the seller or
10 holder as well as the buyer, but such the insurance ~~shall-be~~
11 is limited to insurance against substantial risk of loss,
12 damage, or destruction of the goods.

13 (4) Any other insurance may be included in a retail
14 installment transaction at the buyer's expense only if
15 contracted for voluntarily by the buyer.

16 (5) If such insurance for which such an identified
17 charge is made insures the life, safety, or health of the
18 buyer or his interest in the goods and is purchased by the
19 holder, the holder shall within 30 days after the execution
20 of the retail installment contract send or cause to be sent
21 to the buyer a policy or policies or certificate or
22 certificates of insurance, written by an insurance company
23 authorized to do business in this state, clearly setting
24 forth:

25 (a) the amount of the premium;

1 (b) the kind or kinds of insurance;

2 (c) the coverages; and

3 (d) if a policy, all the terms, exceptions,
4 limitations, restrictions, and conditions of the contract or
5 contracts of insurance or, if a certificate, a summary
6 thereof of the terms, exceptions, limitations, restrictions,
7 and conditions.

8 (6) The seller ~~shall~~ may not decline existing insurance
9 written by an insurance company authorized to do business in
10 this state, and the buyer ~~shall-have~~ has the privilege of
11 purchasing insurance from an agent insurance producer or
12 broker of his own selection and of selecting his insurance
13 company, provided that:

14 (a) the insurance company ~~shall-be~~ is acceptable to the
15 holder, which acceptance ~~shall~~ may not be unreasonably or
16 arbitrarily withheld; and

17 (b) the inclusion of the cost of the insurance premium
18 in the retail installment contract when the buyer selects
19 his agent insurance producer, broker, or company ~~shall-be~~ is
20 optional with the seller.

21 (7) If any insurance is canceled or the premium
22 adjusted, any refund of the insurance premium received by
23 the holder ~~shall~~ must be credited to the final maturing
24 installment of the contract except to the extent applied
25 toward payment for a similar insurance protecting the

1 interests of the buyer and the holder or either of them."

2 **Section 35.** Section 31-3-141, MCA, is amended to read:

3 "31-3-141. Actions available to consumer. (1) A
4 consumer may bring action in the nature of defamation,
5 invasion of privacy, or negligence with respect to the
6 reporting of information against any person who fails to
7 comply with this part.

8 (2) A person who fails to delete information or
9 incorporate into a report a consumer's statement of dispute
10 because he judges the dispute to be frivolous or irrelevant
11 is liable to suit.

12 (3) A person, other than the department of revenue
13 social and rehabilitation services under 40-5-261, who
14 furnishes information to a consumer reporting agency which
15 that is false or any a person who furnishes the information
16 with malice or willful intent to injure the concerned
17 consumer is liable to suit.

18 (4) A consumer who disputes the result of a
19 reinvestigation conducted under 31-3-124 of the accuracy of
20 information provided by the department of revenue social and
21 rehabilitation services may petition for an administrative
22 hearing pursuant to 40-5-261."

23 **Section 36.** Section 33-17-208, MCA, is amended to read:

24 "33-17-208. Prelicensing education -- basic
25 requirement. (1) (a) A person applying for a license to act

1 as an insurance producer for property, casualty, and surety
2 insurance shall complete 40 hours of approved prelicensing
3 education courses in those areas of insurance within 12
4 months prior to the examination, unless he is exempted from
5 the requirement under subsection (3).

6 (b) A person applying for a license to act as an
7 insurance producer for life and disability insurance or as
8 an enrollment-representative insurance producer for a health
9 service corporation shall complete 40 hours of approved
10 prelicensing education courses in those areas of insurance
11 within 12 months prior to the examination, unless he is
12 exempted from the requirement under subsection (3).

13 (2) A person applying for licenses to act as an
14 insurance producer for both the property, casualty, and
15 surety areas and the life and disability areas must shall
16 meet the education requirements in all the areas of
17 insurance.

18 (3) The minimum prelicensing education requirement does
19 not apply to a person who:

20 (a) has been licensed within the 12 preceding months as
21 an insurance producer in another state that requires
22 prelicensing education and has completed the education in
23 the other state;

24 (b) seeks a nonresident license, having been licensed
25 as an insurance provider in his state of residence for at

1 least 1 year;

2 (c) seeks a nonresident license and is from a state
3 having a prelicensing education requirement;

4 (d) seeks to reinstate a license lapsed for less than 2
5 years;

6 (e) seeks a temporary license under 33-17-216; or

7 (f) is exempt from examination requirements under
8 33-17-212(5)."

9 **Section 37.** Section 33-21-207, MCA, is amended to read:

10 "33-21-207. Issuance of policies. Each policy,
11 certificate of insurance, or notice of proposed insurance of
12 credit life insurance and credit disability insurance must
13 be delivered or issued for delivery in Montana only by an
14 insurer authorized to transact insurance in Montana and
15 must, except as provided in 33-17-103, be issued only
16 through a licensed insurance agent producer."

17 **Section 38.** Section 37-47-101, MCA, is amended to read:

18 "37-47-101. (Temporary) Definitions. As used in this
19 chapter, unless the context requires otherwise, the
20 following definitions apply:

21 (1) "Board" means the board of outfitters provided for
22 in 2-15-1883.

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

25 (3) "License year" means that period commencing January

1 and ending December 31 of the same year.

2 (4) "Nonresident" means a person other than a resident.

3 (5) "Outfitter" means any person, except a person
4 providing services on real property that he owns for the
5 primary pursuit of bona fide agricultural interests, who:

6 (a) engages in the business of outfitting for hunting
7 or fishing parties, as the term is commonly understood;

8 (b) for consideration provides any saddle or pack
9 animal or personal service for hunting or fishing parties or
10 camping equipment, vehicles, or other conveyance, except
11 boats, for any person to hunt, trap, capture, take, or kill
12 any game and accompanies such a party or person on an
13 expedition for any of these purposes;

14 (c) for consideration furnishes a boat or other
15 floating craft and accompanies any person for the purpose of
16 catching fish; or

17 (d) for consideration aids or assists any person in
18 locating or pursuing any game animal.

19 (6) "Professional guide" and "guide" mean a person:

20 (a) who is an employee of an outfitter and who
21 furnishes only personal guiding services in assisting a
22 person to hunt or take game animals or fish and who does not
23 furnish any facilities, transportation, or equipment; or

24 (b) who has contracted independently with an outfitter
25 and who furnishes personal guiding services and facilities,

1 transportation, or equipment that he owns in assisting a
2 person to hunt or take game birds or fish. A guide who
3 provides independent contractor services to an outfitter may
4 not provide facilities, equipment, or services for overnight
5 use.

6 (7) "Resident" means a person who qualifies for a
7 resident Montana hunting or fishing license under 87-2-102.

8 (8) "Participant" means a person using the services
9 offered by a licensed outfitter or professional guide.

10 37-47-101. (Effective July 1, 1991) Definitions. As
11 used in this part chapter, unless the context requires
12 otherwise, the following definitions apply:

13 (1) "License year" means that period commencing January
14 1 and ending December 31 of the same year.

15 (2) "Nonresident" means a person other than a resident.

16 (3) "Outfitter" means any a person, except a person
17 providing services on real property that he owns for the
18 primary pursuit of bona fide agricultural interests, who:

19 (a) engages in the business of outfitting for hunting
20 or fishing parties, as the term is commonly understood;

21 (b) for consideration provides any a saddle or pack
22 animal or personal service for hunting or fishing parties or
23 camping equipment, vehicles, or other conveyance, except
24 boats, for any a person to hunt, trap, capture, take, or
25 kill any game and accompanies such a party or person on an

1 expedition for any of these purposes;

2 (c) for consideration furnishes a boat or other
3 floating craft and accompanies any a person for the purpose
4 of catching fish; or

5 (d) for consideration aids or assists an/ a person in
6 locating or pursuing any game animal.

7 (4) "Outfitters' council" means the Montana outfitters'
8 council provided for in 2-15-1883.

9 (5) "Professional guide" and or "guide" mean means a
10 person:

11 (a) who is an employee of an outfitter and who
12 furnishes only personal guiding services in assisting a
13 person to hunt or take game animals or fish and who does not
14 furnish any facilities, transportation, or equipment; or

15 (b) who has contracted independently with an outfitter
16 and who furnishes personal guiding services and facilities,
17 transportation, or equipment in assisting a person to hunt
18 or take game animals or fish.

19 (6) "Resident" means a person who qualifies for a
20 resident Montana hunting or fishing license under 87-2-102.

21 (7) "Participant" means a person using the services
22 offered by a license outfitter or professional guide."

23 **Section 39.** Section 39-71-401, MCA, is amended to read:

24 "39-71-401. Employments covered and employments
25 exempted. (1) Except as provided in subsection (2) of--this

1 section, the Workers' Compensation Act applies to all
 2 employers as defined in 39-71-117 and to all employees as
 3 defined in 39-71-118. An employer who has any employee in
 4 service under any appointment or contract of hire, expressed
 5 or implied, oral or written, shall elect to be bound by the
 6 provisions of compensation plan No. 1, 2, or 3. Every Each
 7 employee whose employer is bound by the Workers'
 8 Compensation Act is subject to and bound by the compensation
 9 plan that has been elected by the employer.

10 (2) Unless the employer elects coverage for these
 11 employments under this chapter and an insurer allows such an
 12 election, the Workers' Compensation Act does not apply to
 13 any of the following employments:

- 14 (a) household and domestic employment;
- 15 (b) casual employment as defined in 39-71-116;
- 16 (c) employment of a dependent member of an employer's
 17 family for whom an exemption may be claimed by the employer
 18 under the federal Internal Revenue Code;
- 19 (d) employment of sole proprietors or working members
 20 of a partnership, except as provided in subsection (3);
- 21 (e) employment of a broker or salesman performing under
 22 a license issued by the board of realty regulation;
- 23 (f) employment of a direct seller engaged in the sale
 24 of consumer products, primarily in the customer's home;
- 25 (g) employment for which a rule of liability for

1 injury, occupational disease, or death is provided under the
 2 laws of the United States;

3 (h) employment of any person performing services in
 4 return for aid or sustenance only, except employment of a
 5 volunteer under 67-2-105;

6 (i) employment with any railroad engaged in interstate
 7 commerce, except that railroad construction work is included
 8 in and subject to the provisions of this chapter;

9 (j) employment as an official, including a timer,
 10 referee, or judge, at a school amateur athletic event,
 11 unless the person is otherwise employed by a school
 12 district;

13 (k) any person performing services as a newspaper
 14 carrier or free-lance correspondent if the person performing
 15 the services or a parent or guardian of the person
 16 performing the services in the case of a minor has
 17 acknowledged in writing that the person performing the
 18 services and the services are not covered. As used in this
 19 subsection, "free-lance correspondent" is a person who
 20 submits articles or photographs for publication and is paid
 21 by the article or by the photograph. As used in this
 22 subsection, "newspaper carrier":

23 (i) is a person who provides a newspaper with the
 24 service of delivering newspapers singly or in bundles; but

25 (ii) does not include an employee of the paper who,

1 incidentally to his main duties, carries or delivers papers.

2 (3) (a) A sole proprietor or a working member of a
3 partnership who holds himself out or considers himself an
4 independent contractor {and who is not contracting} for
5 cosmetologist's services or barber's services, as defined in
6 39-51-204(1)(1) must, shall elect to be bound personally and
7 individually by the provisions of compensation plan No. 1,
8 2, or 3, but he may apply to the department for an exemption
9 from the Workers' Compensation Act for himself.

10 (b) The application must be made in accordance with the
11 rules adopted by the department. The department may deny the
12 application only if it determines that the applicant is not
13 an independent contractor.

14 (c) When an application is approved by the department,
15 it is conclusive as to the status of an independent
16 contractor and precludes the applicant from obtaining
17 benefits under this chapter.

18 (d) When an election of an exemption is approved by the
19 department, the election remains effective and the
20 independent contractor retains his status as an independent
21 contractor until he notifies the department of any change in
22 his status and provides a description of his present work
23 status.

24 (e) If the department denies the application for
25 exemption, the applicant may contest the denial by

1 petitioning for review of the decision by an appeals referee
2 in the manner provided for in 39-51-1109. An applicant
3 dissatisfied with the decision of the appeals referee may
4 appeal the decision in accordance with the procedure
5 established in 39-51-2403 and 39-51-2404.

6 (4) (a) A private corporation shall provide coverage
7 for its officers and other employees under the provisions of
8 compensation plan No. 1, 2, or 3. However, pursuant to such
9 rules as the department promulgates and subject in all cases
10 to approval by the department, an officer of a private
11 corporation may elect not to be bound as an employee under
12 this chapter by giving a written notice, on a form provided
13 by the department, served in the following manner:

14 (i) if the employer has elected to be bound by the
15 provisions of compensation plan No. 1, by delivering the
16 notice to the board of directors of the employer and to the
17 department; or

18 (ii) if the employer has elected to be bound by the
19 provisions of compensation plan No. 2 or 3, by delivering
20 the notice to the board of directors of the employer, to the
21 department, and to the insurer.

22 (b) If the employer changes plans or insurers, the
23 officer's previous election is not effective and the officer
24 shall again serve notice as provided if he elects not to be
25 bound.

1 (c) The appointment or election of an employee as an
 2 officer of a corporation for the purpose of excluding the
 3 employee from coverage under this chapter does not entitle
 4 the officer to elect not to be bound as an employee under
 5 this chapter. In any case, the officer ~~must~~ shall sign the
 6 notice required by subsection (4)(a) under oath or
 7 affirmation, and he is subject to the penalties for false
 8 swearing under 45-7-202 if he falsifies the notice.

9 (5) Each employer shall post a sign in the workplace at
 10 the locations where notices to employees are normally
 11 posted, informing employees about the employer's current
 12 provision of compensation insurance. A workplace is any
 13 location where an employee performs any work-related act in
 14 the course of employment, regardless of whether the location
 15 is temporary or permanent, and includes the place of
 16 business or property of a third person while the employer
 17 has access to or control over ~~such~~ the place of business or
 18 property for the purpose of carrying on his usual trade,
 19 business, or occupation. The sign ~~will~~ must be provided by
 20 the department, distributed through insurers or directly by
 21 the department, and posted by employers in accordance with
 22 rules adopted by the department. An employer who purposely
 23 or knowingly fails to post a sign as provided in this
 24 subsection is subject to a \$50 fine for each citation."

25 **Section 10.** Section 39-71-1019, MCA, is amended to

1 read:

2 "39-71-1019. Referral to department of social and
 3 rehabilitation services for retraining -- benefits --
 4 appeals. (1) If in its final order of determination the
 5 department considers a worker able to return to work in the
 6 worker's job pool, the insurer is not liable for
 7 rehabilitation benefits, even though the worker
 8 independently may pursue a training program of the worker's
 9 own choice or seek vocational rehabilitation services from
 10 the department of social and rehabilitation services.

11 (2) If in its final order of determination the
 12 department finds the worker needs retraining, the department
 13 shall determine the maximum duration for which funds under
 14 39-71-1003 may be used for rehabilitation services under
 15 39-71-1012(2)(d) through (2)(f) and shall refer the worker
 16 to the department of social and rehabilitation services for
 17 a determination of vocational handicap.

18 (3) If the department of social and rehabilitation
 19 services determines that a disabled worker has a vocational
 20 handicap, the worker is eligible for funds under 39-71-1003
 21 up to the maximum duration established in the department's
 22 final order of determination.

23 (4) If a disabled worker seeks vocational
 24 rehabilitation services from the department of social and
 25 rehabilitation services without giving the insurer the

1 opportunity to designate a rehabilitation provider or,
 2 subsequently, without giving the department the opportunity
 3 to designate a rehabilitation panel to provide a report, the
 4 insurer is not liable for rehabilitation benefits. The
 5 insurer may terminate rehabilitation and other benefits, if
 6 any, being received by the worker by following the procedure
 7 set forth in 39-71-1032.

8 (5) The department of social and rehabilitation
 9 services, in providing rehabilitation services to a worker
 10 referred to it by the department, shall consider but is not
 11 bound by the rehabilitation panel report.

12 (6) If the department of social and rehabilitation
 13 services has determined that all appropriate rehabilitation
 14 services have been provided to a disabled worker, the
 15 department {of social and rehabilitation services} shall
 16 document that determination to the department.

17 (7) The appeal process before the board of social and
 18 rehabilitation appeals provided for in 53-7-106 is the
 19 exclusive remedy for a person aggrieved in the receipt of
 20 services provided by the department of social and
 21 rehabilitation services."

22 **Section 41.** Section 40-5-412, MCA, is amended to read:

23 **"40-5-412. Initiation of income withholding procedures.**

24 (1) In a case concerning a support obligation referred to in
 25 40-5-411, the department shall immediately issue an order

1 under 40-5-415 for the payment of current support.

2 (2) In any other case, the department shall monitor and
 3 track all support payments required by the support order. If
 4 at any time these records indicate that the obligor owes a
 5 combination of unpaid support equal to or in excess of 1
 6 month's support, the department shall commence proceedings
 7 to initiate withholding of the obligor's income as provided
 8 in this part.

9 (3) To accomplish the purpose of subsection (2), the
 10 department by written notice to the obligor may direct an
 11 obligor who does not owe unpaid child support equal to or in
 12 excess of 1 month's support payment to pay all support
 13 through the department, notwithstanding any a court order
 14 directing payments to be made to the obligee or clerk of
 15 court.

16 (4) Whenever an obligation for support is paid through
 17 ~~the---support---enforcement--and--collections--unit--of~~ the
 18 department, the department must shall forward payment to the
 19 obligee within 10 days of the department's receipt of
 20 payment from the obligor."

21 **Section 42.** Section 44-12-203, MCA, is amended to read:

22 **"44-12-203. Presumption -- procedure following answer**
 23 **or expiration of time for answering.** (1) There is a
 24 rebuttable presumption of forfeiture as to all property
 25 listed in 44-12-102, except property listed in

1 44-12-102(1)(i).

2 (2) If a verified answer to the petition is not filed
3 within 20 days after the service of the petition and
4 summons, the court upon motion ~~must~~ shall order the property
5 forfeited to the state.

6 (3) If a verified answer is filed within 20 days, the
7 forfeiture proceedings ~~shall~~ must be set for hearing without
8 a jury ~~not-less-than~~ no sooner than 60 days after the answer
9 is filed. Notice of the hearing ~~shall~~ must be given in the
10 manner provided for service of the petition and summons."

11 **Section 43.** Section 50-5-1104, MCA, is amended to read:

12 *50-5-1104. Rights of long-term care facility
13 residents. (1) The state adopts by reference for all
14 long-term care facilities the rights for long-term care
15 facility residents applied by the federal government to
16 facilities that provide skilled nursing care or intermediate
17 nursing care and participate in a medicaid or medicare
18 program (42 U.S.C. 1395x(j) and 1396d(c), as implemented by
19 regulation).

20 (2) In addition to the rights adopted under subsection
21 (1), the state adopts for all residents of long-term care
22 facilities the following rights:

23 (a) A resident or his authorized representative must be
24 informed by the facility at least 30 days in advance of any
25 changes in the cost or availability of services, unless to

1 do so is beyond the facility's control.

2 (b) Regardless of the source of payment, each resident
3 or his authorized representative is entitled, upon request,
4 to receive and examine an explanation of his monthly bill.

5 (c) Residents have the right to organize, maintain, and
6 participate in resident advisory councils. The facility
7 shall afford reasonable privacy and facility space for the
8 meetings of ~~such~~ the councils.

9 (d) A resident has the right to present a grievance on
10 his own behalf or that of others to the facility or the
11 resident advisory council. The facility shall establish
12 written procedures for receiving, handling, and informing
13 residents or the resident advisory council of the outcome of
14 any grievance presented.

15 (e) A resident has the right to ask a state agency or a
16 resident advocate for assistance in resolving grievances,
17 free from restraint, interference, or reprisal.

18 (f) During his stay in a long-term care facility, a
19 resident retains the prerogative to exercise decisionmaking
20 rights in all aspects of his health care, including
21 placement and treatment issues such as medication, special
22 diets, or other medical regimens.

23 (g) The resident's authorized representative must be
24 notified in a prompt manner of any significant accident,
25 unexplained absence, or significant change in the resident's

1 health status.

2 (h) A resident has the right to be free from verbal,
3 mental, and physical abuse, neglect, or financial
4 exploitation. Facility staff shall report to the department
5 and the long-term care ombudsman any suspected incidents of
6 abuse under the Montana Elder and Developmentally Disabled
7 Abuse Prevention Act, Title 53, chapter 5, part 5.

8 (i) Each resident has the right to privacy in his room
9 or portion of the room. If a resident is seeking privacy in
10 his room, staff members should make reasonable efforts to
11 make their presence known when entering the room.

12 (j) In case of involuntary transfer or discharge, a
13 resident has the right to reasonable advance notice to
14 ensure an orderly transfer or discharge. Reasonable advance
15 notice requires at least 21 days' written notification of
16 any interfacility transfer or discharge except in cases of
17 emergency or for medical reasons documented in the
18 resident's medical record by the attending physician.

19 (k) If clothing is provided to the resident by the
20 facility, it must be of reasonable fit.

21 (l) A resident has the right to reasonable safeguards
22 for his personal possessions brought to the facility. The
23 facility shall provide a means for safeguarding the
24 resident's small items of value in his room or in another
25 part of the facility where he must have reasonable access to

1 the items.

2 (m) The resident has the right to have all losses or
3 thefts of personal possessions promptly investigated by the
4 facility. The results of the investigation must be reported
5 to the affected resident.

6 (n) The administrator of the facility shall adopt
7 whatever additional measures are necessary to implement the
8 residents' rights listed in subsections (1) and (2) and meet
9 any other requirements relating to residents' health and
10 safety that are conditions of participation in a state or
11 federal program of medical assistance."

12 **Section 44.** Section 50-16-536, MCA, is amended to read:

13 "50-16-536. Method of compulsory process. (1) Unless
14 the court for good cause shown determines that the
15 notification should be waived or modified, if health care
16 information is sought under 50-16-535 (1)(b), (1)(d), or
17 (1)(e) or in a civil proceeding or investigation under
18 50-16-535 (1)(i), the person seeking discovery or compulsory
19 process shall mail a notice by first-class mail to the
20 patient or the patient's attorney of record of the
21 compulsory process or discovery request at least 10 days
22 before presenting the certificate required under subsection
23 (2) to the health care provider.

24 (2) Service of compulsory process or discovery requests
25 upon a health care provider must be accompanied by a written

1 certification, signed by the person seeking to obtain health
 2 care information or his authorized representative,
 3 identifying at least one subsection of 50-16-535 under which
 4 compulsory process or discovery is being sought. The
 5 certification must also state, in the case of information
 6 sought under 50-16-535 (1)(b), (1)(d), or (1)(e) or in a
 7 civil proceeding under 50-16-535 (1)(i), that the
 8 requirements of subsection (1) for notice have been met. A
 9 person may sign the certification only if the person
 10 reasonably believes that the subsection of 50-16-535
 11 identified in the certification provides an appropriate
 12 basis for the use of discovery or compulsory process. Unless
 13 otherwise ordered by the court, the health care provider
 14 shall maintain a copy of the process and the written
 15 certification as a permanent part of the patient's health
 16 care information.

17 (3) In response to service of compulsory process or
 18 discovery requests, where authorized by law, a health care
 19 provider may deny access to the requested health care
 20 information. Additionally, a health care provider may deny
 21 access to the requested health care information under
 22 50-16-542(1). If access to requested health care information
 23 is denied by the health care provider under 50-16-542(1),
 24 the health care provider shall submit to the court by
 25 affidavit or other reasonable means an explanation of why

1 the health care provider believes the information should be
 2 protected from disclosure.

3 (4) Where access to health care information is denied
 4 under 50-16-542(1), the court may order disclosure of health
 5 care information, with or without restrictions as to its
 6 use, as the court considers necessary. In deciding whether
 7 to order disclosure, the court shall consider the
 8 explanation submitted by the health care provider, the
 9 reasons for denying access to health care information set
 10 forth in 50-16-542(1), and any arguments presented by
 11 interested parties.

12 (5) A health care provider required to disclose health
 13 care information pursuant to compulsory process may charge a
 14 reasonable fee, not to exceed the health care provider's
 15 actual cost for providing the information, and may deny
 16 examination or copying of the information until the fee is
 17 paid.

18 (6) Production of health care information under
 19 50-16-535 and this section does not in itself constitute a
 20 waiver of any privilege, objection, or defense existing
 21 under other law or rule of evidence or procedure."

22 **Section 45.** Section 53-3-321, MCA, is amended to read:
 23 *53-3-321. Services for recipients in need of special
 24 assistance. (1) Unless otherwise exempted, in a county with
 25 state-assumed welfare services, a person who has a serious

1 barrier to employment or who suffers from drug or alcohol
 2 dependency shall report to a job search, training, and work
 3 workfare program for the purpose of receiving an assessment
 4 to determine whether the person is likely to benefit from
 5 counseling, therapy, or rehabilitation. The agency shall
 6 require that the person be enrolled in either:

7 (a) a job search, training, and work workfare program
 8 established under 53-3-304, except that he need not
 9 participate in the job search program under 53-3-304(3)(e)
 10 until the agency determines that he is ready to participate
 11 in the work force; or

12 (b) a program designed specifically to help that person
 13 overcome problems that impair the potential for employment.

14 (2) Subject to available funding, a program provided
 15 for in subsection (1)(b) may include the following elements:

16 (a) assessment and testing;

17 (b) an employability plan;

18 (c) remedial education or job skills training, if
 19 required by the employability plan; and

20 (d) services, including counseling, therapy, and
 21 rehabilitation, to address serious barriers to employment
 22 and drug or alcohol dependency.

23 (3) In order to encourage rehabilitation, the
 24 department may restrict services to persons suffering from
 25 drug or alcohol dependency to one intervention through the

1 provision of services described in subsections (2)(a)
 2 through (2)(d). The department may continue to provide up to
 3 3 months of additional benefits for those persons
 4 participating in a drug or alcohol rehabilitation program.
 5 This 3-month extension extends those limitations in
 6 53-3-215."

7 **Section 46.** Section 61-3-509, MCA, is amended to read:

8 "61-3-509. Disposition of taxes. (1) Except as provided
 9 in subsection (2), the county treasurer shall, after
 10 deducting the district court fee, credit all taxes on motor
 11 vehicles and fees in lieu of tax on motor homes, travel
 12 trailers, and campers collected under 61-3-504, 61-3-521,
 13 and 61-3-537 to a motor vehicle suspense fund, and at some
 14 time between March 1 and March 10 of each year and every 60
 15 days thereafter, the county treasurer shall distribute the
 16 money in the motor vehicle suspense fund in the relative
 17 proportions required by the levies for state, county, school
 18 district, and municipal purposes in the same manner as
 19 personal property taxes are distributed.

20 (2) The county treasurer shall deduct as a district
 21 court fee 7% of the amount of the 2% tax collected on an
 22 automobile or truck having a rated capacity of
 23 ~~three-quarters--of--a~~ 1 ton or less. The county treasurer
 24 shall credit the fee for district courts to a separate
 25 suspense account and shall forward the amount in the account

1 to the state treasurer at the time the county treasurer
 2 distributes the motor vehicle suspense fund. The state
 3 treasurer shall credit amounts received under this
 4 subsection to the general fund to be used for purposes of
 5 state funding of the district court expenses as provided in
 6 3-5-901. Any amount forwarded to the state treasurer under
 7 this subsection that is not used for district court expenses
 8 must be refunded to the counties in the proportion that the
 9 amount collected from each county bears to the total amount
 10 collected."

11 **Section 47.** Section 61-8-207, MCA, is amended to read:
 12 "61-8-207. Traffic-control signal legend. Whenever
 13 traffic is controlled by traffic-control signals exhibiting
 14 the words "Go", "Caution", or "Stop" or exhibiting different
 15 colored lights successively one at a time or with arrows,
 16 the following colors only ~~shall~~ must be used and ~~said~~ the
 17 terms and lights ~~shall~~ must indicate and apply to drivers of
 18 vehicles and pedestrians as follows:

19 (1) Green green alone or "Go":
 20 (a) Vehicular traffic facing the signal may proceed
 21 straight through or turn left or right unless a sign at ~~such~~
 22 the place prohibits either ~~such~~ turn. But vehicular traffic,
 23 including vehicles turning right or left, ~~shall~~ must yield
 24 the right-of-way to other vehicles and to pedestrians
 25 lawfully within the intersection of or a adjacent crosswalk

1 at the time ~~such~~ the signal is exhibited.

2 (b) Pedestrians facing the signal may proceed across
 3 the roadway within any marked or unmarked crosswalk.

4 (2) ~~Yellow yellow~~ yellow alone or "Caution" when shown
 5 following the green or "Go" signal:

6 (a) Vehicular traffic facing the signal is ~~thereby~~
 7 warned that the red or "Stop" signal will be exhibited
 8 immediately thereafter and ~~such~~ vehicular traffic ~~shall~~ may
 9 not enter or be crossing the intersection when the red or
 10 "Stop" signal is exhibited.

11 (b) Pedestrians facing ~~such~~ the signals are ~~thereby~~
 12 advised that there is insufficient time to cross the
 13 roadway, and ~~any~~ a pedestrian then starting to cross shall
 14 yield the right-of-way to all vehicles.

15 (3) Red red alone or "Stop":

16 (a) Vehicular traffic facing the signal ~~shall~~ must stop
 17 before entering the crosswalk on the near side of the
 18 intersection or, if none, then before entering the
 19 intersection and ~~shall~~ must remain standing until green or
 20 "Go" is shown alone, until a right turn can safely be made,
 21 or until a left turn can safely be made from the far left
 22 lane if the turn is made from a one-way street onto another
 23 one-way street going left. In making ~~such~~ the turn,
 24 vehicular traffic must yield the right-of-way to pedestrians
 25 lawfully within the crosswalk and to other traffic lawfully

1 using the intersection. If a traffic sign legend indicating
 2 that no right turn on red or no left turn on red may be made
 3 after a stop is posted at ~~said the~~ intersection, ~~such the~~
 4 movement cannot be made until green or "Go" is shown alone.

5 (b) No A pedestrian facing ~~such a~~ signal ~~shall~~ may not
 6 enter the roadway unless he can do so safely and without
 7 interfering with any vehicular traffic.

8 (4) Red ~~red~~ with a green arrow:

9 (a) Vehicular traffic facing ~~such a~~ signal may
 10 cautiously enter the intersection only to make the movement
 11 indicated by ~~such the~~ arrow but ~~shall~~ must yield the
 12 right-of-way to pedestrians lawfully within the crosswalk
 13 and to other traffic lawfully using the intersection.

14 (b) No A pedestrian facing ~~such a~~ signal ~~shall~~ may not
 15 enter the roadway unless he can do so safely and without
 16 interfering with any vehicular traffic.

17 (5) ~~Traffic-control~~ traffic-control signal at a place
 18 other than an intersection:

19 (a) In the event an official traffic-control signal is
 20 erected and maintained at a place other than an
 21 intersection, the provisions of this section ~~shall--be~~ are
 22 applicable except as to those provisions ~~which that~~ by their
 23 very nature can have no application.

24 (b) Any stop required ~~shall~~ must be made at a sign or
 25 marking on the pavement indicating where the stop ~~shall~~ must

1 be made, but in the absence of any ~~such~~ sign or marking, the
 2 stop ~~shall~~ must be made at the signal."

3 **Section 48.** Section 61-8-312, MCA, is amended to read:

4 "61-8-312. Special speed limitations on trucks, truck
 5 tractors, motor-driven cycles, and vehicles towing
 6 housetrailers. (1) No A person ~~shall~~ may not operate any a
 7 truck or truck tractor, the gross weight of which exceeds
 8 8,000 pounds, at a speed greater than 65 miles per hour on
 9 those completed sections of interstate and four-lane divided
 10 highways and 60 miles per hour on those completed sections
 11 of primary and secondary highways. However, the truck
 12 nighttime speed limit ~~shall~~ may not exceed that of
 13 automobiles, as stated in 61-8-303.

14 (2) No A person ~~shall~~ may not operate a vehicle subject
 15 to a term permit under 61-10-124(3)(d) or a
 16 truck-trailer-trailer or truck
 17 tractor-semitrailer-trailer-trailer combination of vehicles
 18 subject to special permits under 61-10-124~~(4)~~(6) at a speed
 19 greater than 55 miles per hour.

20 (3) No A person ~~shall~~ may not operate any a
 21 motor-driven cycle at any time mentioned in 61-9-201 at a
 22 speed greater than 35 miles per hour unless ~~such the~~
 23 motor-driven cycle is equipped with a headlamp or lamps
 24 ~~which that~~ are adequate to reveal a person or vehicle at a
 25 distance of 300 feet ahead.

1 (4) No A person ~~shall~~ may not operate a vehicle which
2 that is towing a housetrailer at a speed greater than a
3 maximum of 50 miles per hour."

4 **Section 49.** Section 61-10-107, MCA, is amended to read:

5 "61-10-107. ~~Maximum~~ gross weight -- when permit
6 required. (1) An axle may not carry a load in excess of
7 20,000 pounds, and no two consecutive axles more than 40
8 inches or less than 96 inches apart may carry a load in
9 excess of 34,000 pounds. For purposes of this section, axles
10 40 inches or less apart are considered as a single axle. A
11 vehicle or combination may not have more than nine axles.
12 The maximum gross weight allowed on a vehicle, group of
13 axles, or combination of vehicles ~~shall~~ must be determined
14 by the formula:

$$15 \quad W = 500((LN/(N - 1)) + 12N + 36)$$

16 in which W equals gross weight, L equals wheel base in feet,
17 and N equals number of axles, except that two consecutive
18 sets of tandem axles may carry a gross load of 34,000 pounds
19 each if the overall distance between the first and last
20 axles of ~~such~~ the consecutive sets of tandem axles is 36
21 feet or more.

22 (2) Notwithstanding a vehicle's conformance with the
23 requirements of subsection (1), its maximum load per inch of
24 tire width, excluding the steering axle, may not exceed 600
25 pounds, based on the table in 61-10-105(3).

1 (3) If the gross weight of a vehicle or combination
2 exceeds 80,000 pounds, the vehicle or combination must have
3 a special permit, which may be issued in the discretion of
4 the department of highways based on evaluation of safety,
5 highway capacity, and economics of highway maintenance and
6 vehicle operation. The fee ~~shall-be~~ is \$20 per trip permit
7 or \$100 per term permit. A term permit may not be issued for
8 a period of time greater than the period for which the GW
9 license is valid. Owners of vehicles licensed in other
10 jurisdictions may, at the discretion of the department,
11 purchase permits to expire with their registration. Permits
12 may specify and permits issued under 61-10-124~~(4)~~(6) must
13 specify highway routing.

14 (4) A special permit issued under subsection (3) for
15 the transportation of agricultural products by farm vehicles
16 from a harvesting combine or other harvesting machinery to
17 the point of first unloading ~~shall-be~~ is for the full term
18 of the harvest season of the agricultural product
19 transported.

20 (5) This section does not apply to highways which that
21 are a part of the national system of interstate and defense
22 highways (as referred to in 23 U.S.C. 127) when application
23 of this section would prevent this state from receiving
24 federal funds for highway purposes."

25 **Section 50.** Section 61-10-146, MCA, is amended to read:

1 **"61-10-146. Special permits -- misrepresentations and**
 2 **violations as misdemeanor.** (1) A person who knowingly and
 3 willfully misrepresents the size or weight of a vehicle,
 4 combination of vehicles, load, object, or other thing in
 5 obtaining a special permit or who does not follow the
 6 requirements and conditions of the special permit or who
 7 operates a vehicle, combination of vehicles, load, object,
 8 or other thing the size or weight of which requires a
 9 special permit without first obtaining a special permit is
 10 guilty of a misdemeanor.

11 (2) A person, firm, or corporation convicted of
 12 violating any provision of 61-10-124~~(4)~~(6) or any
 13 restriction on the special permits issued by the department
 14 under 61-10-124~~(4)~~(6) shall be punished by a fine of not
 15 less than \$500 or more than \$1,000 and all special permits
 16 issued for the operation of the combination in violation
 17 shall be confiscated. The combination must be separated into
 18 combinations of legal length before the units may proceed."

19 **Section 51.** Section 75-2-503, MCA, is amended to read:

20 **"75-2-503. Rulemaking authority -- issuance of permits.**

21 (1) The department shall adopt rules establishing standards
 22 and procedures for accreditation of asbestos-related
 23 occupations and control of the work performed by persons in
 24 asbestos-related occupations. The rules must be consistent
 25 with federal law and include but are not limited to:

1 ~~(1)~~(a) standards for training course review and
 2 approval;

3 ~~(2)~~(b) standards for accreditation of applicants for
 4 asbestos-related occupations;

5 ~~(3)~~(c) examination requirements for accreditation of
 6 applicants for asbestos-related occupations;

7 ~~(4)~~(d) requirements for renewal of accreditation,
 8 including periodic refresher courses;

9 ~~(5)~~(e) revocation of accreditation;

10 ~~(6)~~(f) inspection requirements for asbestos projects
 11 and asbestos-related occupations credentials;

12 ~~(7)~~(g) criteria to determine whether and what type of
 13 control measures are necessary for an asbestos project and
 14 whether a project is completed in a manner sufficient to
 15 protect public health, including criteria setting allowable
 16 limits on indoor airborne asbestos. A determination of
 17 whether asbestos abatement of a structure is necessary may
 18 not be based solely upon the results of airborne asbestos
 19 testing.

20 ~~(8)~~(h) requirements for issuance of asbestos project
 21 permits and conditions that permit holders must shall meet;

22 ~~(9)~~(i) standards for seeking injunctions, criminal and
 23 civil penalties, or emergency actions;

24 ~~(10)~~(j) advance notification procedures and issuance of
 25 permits for asbestos projects; and

1 ~~{i}~~---~~{a}~~(k) fees, which must be commensurate with
 2 costs, for:
 3 (i) review and approval of training courses;
 4 (ii) application for and renewal of accreditation by a
 5 person seeking to pursue an asbestos-related occupation;
 6 (iii) issuance of asbestos project permits; and
 7 (iv) requested inspections of asbestos projects;
 8 ~~{b}--fees-must-be-commensurate-with-costs;~~
 9 ~~{c}---for (2) For~~ (2) For asbestos projects having a cost of
 10 \$3,000 or less, the department shall issue asbestos project
 11 permits within 7 calendar days following the receipt of a
 12 properly completed permit application and the appropriate
 13 fee."

14 **Section 52.** Section 75-10-701, MCA, is amended to read:

15 "75-10-701. **Definitions.** As used in this part, unless
 16 the context requires otherwise, the following definitions
 17 apply:

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

21 (2) "Director" means the director of the department of
 22 health and environmental sciences.

23 (3) "Environment" means any surface water, ground
 24 water, drinking water supply, land surface or subsurface
 25 strata, or ambient air within the state of Montana or under

1 the jurisdiction of the state of Montana.

2 (4) (a) "Facility" means:

3 (i) any building, structure, installation, equipment,
 4 pipe or pipeline (including any pipe into a sewer or
 5 publicly owned treatment works), well, pit, pond, lagoon,
 6 impoundment, ditch, landfill, storage container, motor
 7 vehicle, rolling stock, or aircraft; or

8 (ii) any site or area where a hazardous or deleterious
 9 substance has been deposited, stored, disposed of, placed,
 10 or otherwise come to be located.

11 (b) The term does not include any consumer product in
 12 consumer use.

13 (5) "Fund" means the environmental quality protection
 14 fund established in 75-10-704.

15 (6) "Hazardous or deleterious substance" means a
 16 substance that because of its quantity, concentration, or
 17 physical, chemical, or infectious characteristics may pose
 18 an imminent and substantial threat to public health, safety,
 19 or welfare or the environment and is:

20 (a) a substance that is defined as a hazardous
 21 substance by section 101(14) of the federal Comprehensive
 22 Environmental Response, Compensation, and Liability Act
 23 (CERCLA), 42 U.S.C. 9601(14), as amended;

24 (b) a substance identified by the administrator of the
 25 United States environmental protection agency as a hazardous

1 substance pursuant to section 102 of CERCLA, 42 U.S.C. 9602,
2 as amended;

3 (c) a substance that is defined as a hazardous waste
4 pursuant to section 1004(5) of the Resource Conservation and
5 Recovery Act of 1976, 42 U.S.C. 6903(5), as amended,
6 including a substance listed or identified in 40 CFR 261; or

7 (d) any petroleum product.

8 (7) "Natural resources" means land, fish, wildlife,
9 biota, air, surface water, ground water, drinking water
10 supplies, and any other such resources within the state of
11 Montana owned, managed, held in trust or otherwise
12 controlled by or appertaining to the state of Montana or a
13 political subdivision of the state.

14 (8) (a) "Owns or operates" means owning, leasing,
15 operating, managing activities at, or exercising control
16 over the operation of a facility.

17 (b) The term does not include holding the indicia of
18 ownership of a facility primarily to protect a security
19 interest in the facility or other location unless the holder
20 has participated in the management of the facility. The term
21 does not apply to the state or a local government that
22 acquired ownership or control through bankruptcy, tax
23 delinquency, abandonment, lien foreclosure, or other
24 circumstances in which the government acquires title by
25 virtue of its function as sovereign, unless the state or

1 local government has caused or contributed to the release or
2 threatened release of a hazardous or deleterious substance
3 from the facility. The term also does not include the owner
4 or operator of the Milltown dam licensed under part 1 of the
5 Federal Power Act (FERC license No. 2543-004) if a hazardous
6 or deleterious substance has been released into the
7 environment upstream of the dam and has subsequently come to
8 be located in the reservoir created by such the dam, unless
9 such the owner or operator is a person who would otherwise
10 be liable for such a release or threatened release under
11 75-10-715(1).

12 (9) "Person" means an individual, trust, firm, joint
13 stock company, joint venture, consortium, commercial entity,
14 partnership, association, corporation, commission, state or
15 state agency, political subdivision of the state, interstate
16 body, or the federal government, including a federal agency.

17 (10) "Petroleum product" includes gasoline, crude oil
18 (except for crude oil at production facilities subject to
19 regulation under Title 82), fuel oil, diesel oil or fuel,
20 lubricating oil, oil sludge or refuse, and any other
21 petroleum-related product or waste or fraction thereof that
22 is liquid at standard conditions of temperature and pressure
23 (60 degrees F and 14.7 pounds per square inch absolute).

24 (11) "Release" means any spilling, leaking, pumping,
25 pouring, emitting, emptying, discharging, injecting,

1 escaping, leaching, dumping, or disposing of a hazardous or
 2 deleterious substance either directly into the environment
 3 (including the abandonment or discarding of barrels,
 4 containers, and other closed receptacles containing any
 5 hazardous or deleterious substance), but excludes releases
 6 confined to the indoor workplace environment, the use of
 7 pesticides as defined in 80-8-102(30) when they are applied
 8 in accordance with approved federal and state labels, and
 9 the use of commercial fertilizers as defined in 80-10-101(2)
 10 when applied as part of accepted agricultural practice.

11 (12) "Remedial action" includes all notification,
 12 investigation, administration, monitoring, cleanup,
 13 restoration, mitigation, abatement, removal, replacement,
 14 acquisition, enforcement, legal action, health studies,
 15 feasibility studies, and other actions necessary or
 16 appropriate to respond to a release or threatened release.

17 (13) "Remedial action contract" means a written contract
 18 or agreement entered into by a remedial action contractor
 19 with the state, or with a potentially responsible-party
 20 liable person acting pursuant to an order or request issued
 21 by the department, the United States, or any federal agency,
 22 to provide a remedial action with respect to a release or
 23 threatened release of a hazardous or deleterious substance.

24 (14) "Remedial action contractor" means:

25 (a) any person who enters into and is carrying out a

1 remedial action contract; or

2 (b) any person who is retained or hired by a person
 3 described in subsection (14)(a) to provide services relating
 4 to a remedial action.

5 (15) "Remedial action costs" means reasonable costs that
 6 are attributable to or associated with a remedial action at
 7 a facility, including but not limited to the costs of
 8 administration, investigation, legal or enforcement
 9 activities, contracts, feasibility studies, or health
 10 studies."

11 **Section 53.** Section 75-10-704, MCA, is amended to read:

12 **"75-10-704. Environmental quality protection fund.** (1)
 13 There is created in the state special revenue fund an
 14 environmental quality protection fund to be administered as
 15 a revolving fund by the department. The department is
 16 authorized to expend amounts from the fund necessary to
 17 carry out the purposes of this part.

18 (2) The fund may be used by the department only to
 19 carry out the provisions of this part and for remedial
 20 actions taken by the department pursuant to this part in
 21 response to a release of hazardous or deleterious
 22 substances.

23 (3) The department shall:

24 (a) establish and implement a system for prioritizing
 25 sites for remedial action based on potential effects on

1 human health and the environment; and

2 (b) investigate, negotiate, and take legal action, as
3 appropriate, to identify ~~responsible-parties~~ liable persons,
4 to obtain the participation and financial contribution of
5 ~~responsible--parties~~ liable persons for the remedial action,
6 to achieve remedial action, and to recover costs and damages
7 incurred by the state.

8 (4) There must be deposited in the fund:

9 (a) all penalties, natural resource damages, and
10 remedial action costs recovered pursuant to 75-10-715;

11 (b) all administrative penalties assessed pursuant to
12 75-10-714 and all civil penalties assessed pursuant to
13 75-10-711(5);

14 (c) funds appropriated to the fund by the legislature;
15 and

16 (d) funds received from the interest income of the
17 resource indemnity trust fund pursuant to 15-38-202.

18 (5) Whenever a legislative appropriation is
19 insufficient to carry out the provisions of this part and
20 additional money remains in the fund, the department shall
21 seek additional authority to spend money from the fund
22 through the budget amendment process provided for in Title
23 17, chapter 7, part 4.

24 (6) Whenever the amount of money in the fund is
25 insufficient to carry out remedial action, the department

1 may apply to the governor for a grant from the environmental
2 contingency account established pursuant to 75-1-1101.

3 (7) The department shall submit to the legislature at
4 the beginning of each regular session a complete financial
5 report on the fund, including a description of all
6 expenditures made since the preceding report."

7 **Section 54.** Section 75-10-718, MCA, is amended to read:

8 **"75-10-718. Liability of remedial action contractor.**

9 (1) A person who is a remedial action contractor with
10 respect to a release or threatened release of a hazardous or
11 deleterious substance is not liable under this part to any
12 person for injuries, costs, damages, expenses, or other
13 liability that results from the release or threatened
14 release, including but not limited to claims for
15 indemnification or contribution and claims by third parties
16 for death, personal injury, illness, loss or damage to
17 property, or economic loss.

18 (2) Immunity from liability, pursuant to subsection
19 (1), does not apply in the case of a release that is caused
20 by conduct of the remedial action contractor that is
21 negligent or grossly negligent or that constitutes
22 intentional misconduct.

23 (3) This section does not affect the liability of a
24 person under a warranty under federal, state, or common law
25 or the liability to an employee of an employer who is a

1 remedial action contractor under any provision of law,
2 including any provision of a law relating to workers'
3 compensation.

4 (4) A state agency, state employee, or an employee of a
5 political subdivision who provides services relating to
6 remedial action while acting within the scope of its or his
7 authority as a governmental agency or employee has the same
8 exemption from liability as is provided to the remedial
9 action contractor under this section.

10 (5) The defense provided by 75-10-715(5)(c) is not
11 available to a person liable under 75-10-715(1) with respect
12 to remedial action costs or damages caused by an act or
13 omission of a remedial action contractor.

14 (6) Except as provided in subsections (4) and (5), this
15 section does not affect the liability under this part of a
16 person other than a remedial action contractor.

17 (7) This section does not affect the plaintiff's burden
18 of establishing liability under this part.

19 (8) This section does not minimize the liability,
20 lessen the standard of liability, or otherwise shield from
21 liability a potentially ~~responsible-party~~ liable person
22 under 75-10-715 or section 107 of CERCLA for costs or
23 damages incurred as a result of a release or threatened
24 release of a hazardous or deleterious substance."

25 **Section 55.** Section 76-14-112, MCA, is amended to read:

1 "76-14-112. Rangeland improvement loan special revenue
2 account. (1) There is created a rangeland improvement loan
3 special revenue account within the state special revenue
4 fund established in 17-2-102.

5 (2) There must be allocated to the rangeland
6 improvement loan earmarked account \$185,000-~~for-the-biennium~~
7 ~~ending--June--30--1987--from--the--renewable--resource~~
8 ~~development-account-created-in-90-2-1257~~ any principal and
9 accrued interest received in repayment of a loan made under
10 the rangeland improvement loan program, and any fees or
11 charges collected by the department pursuant to 76-14-116
12 for the servicing of loans, including arrangements for
13 obtaining security interests."

14 **Section 56.** Section 80-9-206, MCA, is amended to read:

15 "80-9-206. Inspection fees -- filing of annual
16 statement. (1) An inspection fee ~~shall~~ must be paid on all
17 commercial feeds, including custom-mix feeds, except pet
18 foods and specialty pet foods, distributed in this state as
19 follows:

20 (a) The inspection fee ~~shall~~ must be set by rule on a
21 cents-per-ton basis, except that the first 10 tons are
22 exempt. The department may adjust the fee by rule to
23 adequately fund the administration of this chapter.
24 Adjustments ~~shall~~ may be made only after holding a public
25 hearing on the proposed changes as required in 80-9-103 and

1 ~~shall~~ must remain within the limits of 5 cents to 25 cents
 2 per ton. The effective date of any rule adjusting fees ~~will~~
 3 be is January 1 of the calendar year following the issuance
 4 of ~~such~~ the rule. All permit holders are to be notified
 5 immediately of any changes in fees.

6 (b) The feed manufacturer has primary responsibility
 7 for paying inspection fees. However, the distributor is
 8 responsible for inspection fees if the manufacturer has not
 9 paid them.

10 (c) Inspection fees ~~shall~~ must be paid on each
 11 commercial feed, including custom-mix feeds and feed
 12 ingredients that are defined as commercial feeds even though
 13 they are used in the manufacture of other commercial feeds.
 14 However, premixes prepared and used within a feed plant are
 15 exempt but not premixes or ingredients transferred from one
 16 plant to another even within the same organization.

17 (d) A person producing a commercial feed with a feed
 18 mixing plant at a feed lot, or a poultry, swine, or dairy
 19 operation may not be required to pay inspection fees on the
 20 commercial feeds produced and used in his feeding operation
 21 at the site, but he ~~will-be~~ is responsible for any unpaid
 22 inspection fees on commercial feed purchased by him and on
 23 any commercial feed he produces and distributes other than
 24 in his feeding operations at the site.

25 (2) Each person who holds a permit as required in

1 80-9-201(1) shall:

2 (a) file, not later than January 31 of each year, an
 3 annual statement setting forth the number of tons of
 4 commercial feeds distributed in this state during the
 5 preceding calendar year (January 1 through December 31) and
 6 upon filing ~~such a~~ the statement shall pay the inspection
 7 fee at the rate stated in subsection (1) ~~of--this--section~~.
 8 Inspection fees ~~which~~ that have not been remitted to the
 9 department on or before January 31 ~~shall~~ have a penalty fee
 10 of 10% with a minimum of \$10 added to the amount due. The
 11 assessment of this penalty fee does not prevent the
 12 department from taking other action as provided in this
 13 chapter.

14 (b) keep those records ~~which~~ that are necessary or are
 15 required by the department to indicate accurately the
 16 tonnage of commercial feed distributed in this state. The
 17 department may examine the records to verify statements of
 18 tonnage.

19 (c) make accurate and prompt reports as required.
 20 Failure to do so is sufficient cause for the department to
 21 cancel or refuse to reissue a permit."

22 **Section 57.** Section 82-4-222, MCA, is amended to read:

23 "82-4-222. Permit application. (1) An operator desiring
 24 a permit shall file an application ~~which--shall~~ that must
 25 contain a complete and detailed plan for the mining,

1 reclamation, revegetation, and rehabilitation of the land
 2 and water to be affected by the operation. Such The plan
 3 ~~shall~~ must reflect thorough advance investigation and study
 4 by the operator, and shall include all known or readily
 5 discoverable past and present uses of the land and water to
 6 be affected and the approximate periods of such use, and
 7 ~~shall~~ state:

8 (a) the location and area of land to be affected by the
 9 operation, with a description of access to the area from the
 10 nearest public highways;

11 (b) the names and addresses of the owners of record and
 12 any purchasers under contracts for deed of the surface of
 13 the area of land to be affected by the permit and the owners
 14 of record and any purchasers under contracts for deed of all
 15 surface area within one-half mile of any part of the
 16 affected area;

17 (c) the names and addresses of the present owners of
 18 record and any purchasers under contracts for deed of all
 19 subsurface minerals in the land to be affected;

20 (d) the source of the applicant's legal right to mine
 21 the mineral on the land affected by the permit;

22 (e) the permanent and temporary post-office addresses
 23 of the applicant;

24 (f) whether the applicant or any person associated with
 25 the applicant holds or has held any other permits under this

1 part and an identification of those permits;

2 (g) (i) whether the applicant is in compliance with
 3 82-4-251 and, if known, whether every each officer, partner,
 4 director, or any individual, owning of record or
 5 beneficially, alone or with associates, 10% or more of any
 6 class of stock of the applicant, is subject to any of the
 7 provisions of 82-4-251, ~~and he~~ If so, the applicant shall so
 8 certify the fact. and

9 (ii) whether any of the foregoing parties or persons
 10 specified in subsection (1)(g)(i) have ever had a
 11 strip-mining or underground-mining license or permit issued
 12 by any other state or federal agency revoked or have ever
 13 forfeited a strip-mining or underground-mining bond or a
 14 security deposited in lieu of a bond ~~and,--if.~~ If so, a
 15 detailed explanation of the facts involved in each case must
 16 be attached;

17 (h) whether the applicant has a record of outstanding
 18 reclamation fees with the federal coal regulatory authority;

19 (i) the names and addresses of any persons who are
 20 engaged in strip-mining or underground-mining activities on
 21 behalf of the applicant;

22 (j) the annual rainfall and the direction and average
 23 velocity of the prevailing winds in the area where the
 24 applicant has requested a permit;

25 (k) the results of any test borings or core samplings

1 which that the applicant or his agent has conducted on the
 2 land to be affected, including the nature and the depth of
 3 the various strata or overburden and topsoil, the quantities
 4 and location of subsurface water and its quality, the
 5 thickness of any mineral seam, an analysis of the chemical
 6 properties of such the minerals, including the acidity,
 7 sulphur content, and trace mineral elements of any coal
 8 seam, as well as the British thermal unit (Btu) content of
 9 such the seam, and an analysis of the overburden, including
 10 topsoil. If test borings or core samplings are submitted,
 11 each permit application shall must contain two copies each
 12 of two sets of geologic cross sections accurately depicting
 13 the known geologic makeup beneath the surface of the
 14 affected land. Each set shall must depict subsurface
 15 conditions at such intervals as the department requires
 16 across the surface and shall must run at a 90-degree angle
 17 to the other set. The department may not require intervals
 18 of less than 500 feet. Each cross section shall must depict
 19 the thickness and geologic character of all known strata,
 20 beginning with the topsoil. In addition, each application
 21 for an underground-mining permit shall must be accompanied
 22 by cross sections and maps showing the proposed underground
 23 locations of all shafts, entries, and haulageways or other
 24 excavations to be excavated during the permit period. These
 25 cross sections shall must also include all existing shafts,

1 entries, and haulageways.

2 (l) the name and date of a daily newspaper of general
 3 circulation within the county in which the applicant will
 4 prominently publish at least once a week for 4 successive
 5 weeks after submission of the application an announcement of
 6 his application for a strip-mining or underground-mining
 7 permit and a detailed description of the area of land to be
 8 affected should if a permit be is granted;

9 (m) a determination of the probable hydrologic
 10 consequences of coal mining and reclamation operations, both
 11 on and off the mine site, with respect to the hydrologic
 12 regime, quantity and quality of water in surface water and
 13 ground water systems, including the dissolved and suspended
 14 solids under seasonal flow conditions and the collection of
 15 sufficient data for the mine site and surrounding areas, so
 16 that cumulative impacts of all anticipated mining in the
 17 area upon the hydrology of the area and particularly upon
 18 water availability can be made. However, this determination
 19 is not required until such-time-as hydrologic information on
 20 the general area prior to mining is made available from an
 21 appropriate federal or state agency. The permit may not be
 22 approved until such the information is available and is
 23 incorporated into the application.

24 (n) a coal conservation plan; and

25 (o) such other or further information as the department

1 may require.

2 (2) The application for a permit ~~shall~~ must be
3 accompanied by two copies of all maps meeting the
4 requirements of the subsections below (2)(a) through (2)(n).

5 The maps ~~shall~~ must:

6 (a) identify the area to correspond with the
7 application;

8 (b) show any adjacent deep mining or surface mining,
9 and the boundaries of surface properties, and names of
10 owners of record of the affected area and within 1,000 feet
11 of any part of the affected area;

12 (c) show the names and locations of all streams,
13 creeks, or other bodies of water, roads, buildings,
14 cemeteries, oil and gas wells, and utility lines on the area
15 of land affected and within 1,000 feet of such the area;

16 (d) show by appropriate markings the boundaries of the
17 area of land affected, any cropline of the seam or deposit
18 of mineral to be mined, and the total number of acres
19 involved in the area of land affected;

20 (e) show the date on which the map was prepared and the
21 north point;

22 (f) show the final surface and underground water
23 drainage plan on and away from the area of land affected.
24 This plan ~~shall~~ must indicate the directional and volume
25 flow of water, constructed drainways, natural waterways used

1 for drainage, and the streams or tributaries receiving the
2 discharge.

3 (g) show the proposed location of waste or refuse area;

4 (h) show the proposed location of temporary subsoil and
5 topsoil storage area;

6 (i) show the proposed location of all facilities;

7 (j) show the location of test boring holes;

8 (k) show the surface location lines of any geologic
9 cross sections ~~which~~ that have been submitted;

10 (l) show a listing of plant varieties encountered in
11 the area to be affected and their relative dominance in the
12 area, together with an enumeration of tree varieties and the
13 approximate number of each variety occurring per acre on the
14 area to be affected, and the locations generally of the
15 various kinds and varieties of plants, including but not
16 limited to grasses, shrubs, legumes, forbs, and trees;

17 (m) be certified as follows: "I, the undersigned,
18 hereby certify that this map is correct and shows to the
19 best of my knowledge and belief all the information required
20 by the mining laws of this state." The certification ~~shall~~
21 must be signed and notarized. The department may reject a
22 map as incomplete if its accuracy is not ~~so~~ attested.

23 (n) contain ~~such~~ other or further information as the
24 department may require.

25 (3) If the department finds that the probable total

1 annual production at all locations of any strip-mining or
 2 underground-coal-mining operation applied for will not
 3 exceed 100,000 tons, any determination of probable
 4 hydrologic consequences that the department requires and the
 5 statement of result of test borings or core samplings shall
 6 must, upon written request of the operator, be performed by
 7 a qualified public or private laboratory designated by the
 8 department. The department shall assume the cost of the
 9 determination and statement to the extent that it has
 10 received funds for this purpose.

11 (4) In addition to the information and maps required
 12 above by this section, each application for a permit shall
 13 must be accompanied by detailed plans or proposals showing
 14 the method of operation, the manner, time or distance, and
 15 estimated cost for backfilling, subsidence stabilization,
 16 water control, grading work, highwall reduction, topsoiling,
 17 planting, and revegetating, and a reclamation plan for the
 18 area affected by the operation, which proposals shall must
 19 meet the requirements of this part and rules adopted under
 20 this part. The reclamation plan shall must address the life
 21 of the operation and indicate the size, sequence, and the
 22 timing of the subareas for which it is anticipated that
 23 individual permits will be sought.

24 (5) Each applicant for a coal mining permit shall
 25 submit as part of the application a certificate issued by an

1 insurance company authorized to do business in the state,
 2 certifying that the applicant has in force for the
 3 strip-mining or underground-mining and reclamation
 4 operations for which the permit is sought a public liability
 5 insurance policy, or evidence that the applicant has
 6 satisfied other state or federal self-insurance
 7 requirements. This policy shall must provide for personal
 8 injury and property damage protection in an amount adequate
 9 to compensate any persons damaged as a result of
 10 strip-mining or underground-coal-mining and reclamation
 11 operations, including use of explosives, and entitled to
 12 compensation under applicable provisions of state law. The
 13 permittee must shall maintain the policy in full force and
 14 effect during the term of the permit and any renewal until
 15 all reclamation operations have been completed.

16 (6) Each applicant for a strip-mining or
 17 underground-mining reclamation permit shall file a copy of
 18 his application for public inspection with the clerk and
 19 recorder at the courthouse of the county where in which the
 20 major portion of mining is proposed to occur."

21 **Section 58.** Section 82-4-434, MCA, is amended to read:
 22 "82-4-434. Reclamation plan part of contract --
 23 requirements. The contract shall must meet the following
 24 requirements:

25 (1) The operator shall submit a reclamation plan to the

1 board before commencing any opencut mining and may not
 2 commence mining before the plan receives approval from the
 3 board. The operator may request and receive a meeting with
 4 the board prior to submission of the plan. If the board does
 5 not notify the operator that it has approved or disapproved
 6 a plan within 30 days after the board has received the plan,
 7 the board is considered to have approved the plan. The
 8 board, however, for sufficient cause, may extend its period
 9 of consideration for an additional 30 days if it notifies
 10 the operator prior to the end of the original 30-day period.
 11 The board shall submit each reclamation plan or amendments
 12 to the reclamation plan to the landowner for his
 13 recommendations and shall consider those recommendations in
 14 deciding whether to approve or disapprove any plan or
 15 amendments. The board may seek technical help from any state
 16 or federal agency. The board shall submit the plan
 17 immediately to the director of the university of Montana
 18 statewide archaeological survey for evaluation of possible
 19 archaeological or historical values in the area to be mined.
 20 The board may approve a reclamation plan only if the board
 21 has found that the plan provides for the best possible
 22 reclamation procedures available under the circumstances at
 23 the time, so that after mining operations are completed, the
 24 affected land will be reclaimed to a productive use. Once
 25 the reclamation plan is accepted in writing by the board, it

1 ~~shall~~ must become a part of the contract but is subject to
 2 annual review and modification by the board.

3 (2) The board may not approve any reclamation plan
 4 unless the plan provides:

5 (a) that the land will be reclaimed for one or more
 6 specified uses, including but not limited to forest,
 7 pasture, orchard, cropland, residence, recreation, industry,
 8 and habitat for wildlife, including food, cover, or water,
 9 or other uses;

10 (b) that to the extent reasonable and practicable, the
 11 operator will establish vegetative cover commensurate with
 12 the proposed land use;

13 (c) whenever operations result in a need to prevent
 14 acid drainage or sedimentation on or in adjoining lands or
 15 streams, for the construction of earth dams or other
 16 reasonable devices to control water drainage, provided the
 17 formation of ~~such~~ the impoundments or devices will not
 18 interfere with other landowners' rights or contribute to
 19 water pollution;

20 (d) that to accomplish practical utilization of soil
 21 materials, ~~such~~ the material will be utilized for placement
 22 on affected areas, if required by the reclamation plan after
 23 completion or termination of that particular phase of the
 24 mining operations, at a depth sufficient for plant growth on
 25 slopes of 3:1 or less;

1 (e) that grading will be commensurate with the
2 topography sought and land use designated;

3 (f) that metal and other waste will be removed or
4 buried;

5 (g) that all access, haul, and other support roads will
6 be located, constructed, and maintained in such a manner as
7 to control and minimize channeling and other erosion;

8 (h) that the operator will submit a progress report
9 annually to the board;

10 (i) that all operations will be conducted ~~so--as~~ to
11 avoid range and forest fires and spontaneous combustion and
12 that open burning of carbonaceous materials will be in
13 accordance with suitable practices for fire prevention and
14 control;

15 (j) that archaeological and historical values in areas
16 to be mined will be given appropriate protection;

17 (k) that except for rock faces, bench faces, and
18 excavations used for water impoundments, each surface area
19 of the mined premises which that will be disturbed will be
20 revegetated when its use for extractive purposes is no
21 longer required;

22 (l) that seeding and planting will be done in a manner
23 to achieve a permanent suitable vegetative cover for
24 wildlife, livestock, and retardation of erosion and that all
25 seed will be drilled unless otherwise provided in the plan;

1 (m) that reclamation will be as concurrent with mining
2 operations as feasible and will be completed within a
3 specified length of time; and

4 (n) that surface water and ground water will be given
5 appropriate protection, consistent with state law, from
6 deterioration of water quality and quantity that may arise
7 as a result of the operation.

8 (3) If reclamation according to the plan has not been
9 completed in the time specified, the board after 30 days'
10 written notice shall order the operator to cease mining and,
11 if the operator does not cease, shall institute an action to
12 enjoin further operation and may sue for damages for breach
13 of contract, for payment of the performance bond, or for
14 both.

15 (4) (a) At any time during the period of reclamation,
16 the operator may for good reason submit to the board a new
17 reclamation plan or ~~amendment~~ amendments to the existing
18 plan, including extensions of time.

19 (b) The board may approve the proposed new reclamation
20 plan or amendments to the existing plan if:

21 (i) the operator has in good faith carried on
22 reclamation according to the existing plan and the proposed
23 new plan or amendments to the existing plan will result in
24 reclamation as or more desirable than the reclamation
25 proposed under the existing plan; or

1 (ii) it is highly improbable reclamation will be
2 successful unless the existing plan is replaced or amended.

3 (c) When accepted, the proposed new reclamation plan or
4 the proposed amendments to the existing plan become a part
5 of the contract.

6 (5) The operator shall provide a performance bond or an
7 alternative acceptable to the board in an amount
8 commensurate with the estimated cost of reclamation, but in
9 no case may the bond be less than \$200 per acre. The
10 estimated cost of reclamation shall must be set forth in the
11 reclamation plan.

12 (6) The contract, reclamation plan, and amendments
13 accepted by the board shall-be are a public record and are
14 open to inspection.

15 (7) The contract shall-become is effective when signed
16 by the board and the operator and shall-remain remains in
17 force until terminated by mutual consent or by the board
18 upon 6 months' notice."

19 **Section 59.** Section 85-7-102, MCA, is amended to read:

20 "85-7-102. Evidence of title. (1) The following
21 documents shall-be are sufficient evidence of title for the
22 purpose of this chapter:

23 (a) the certificate of the county clerk an' recorder;

24 (b) the certificate of the department of state lands;

25 or

1 (c) records of ownership prepared by licensed title
2 insurance agents producers.

3 (2) ~~Where~~ When lands have been purchased from the state
4 and part or all of the purchase money has been paid but the
5 patents or deeds from the state to such the lands have not
6 been issued, the receipt or receipts held by the purchasers
7 or the certificate of the department of state lands showing
8 the payments on account of purchase shall-be is evidence of
9 title to such the lands under this chapter."

10 **Section 60.** Section 87-4-304, MCA, is amended to read:

11 "87-4-304. License classification and fees. (1) The
12 following classes of licenses shall may be issued and the
13 following fees charged therefor for the licenses:

14 (a) resident fur dealer's license, \$10;

15 (b) nonresident fur dealer's license:

16 (i) ~~the fee must be~~ the same as the fee charged in the
17 nonresident's state of residence for a Montana fur dealer
18 seeking licensure in that state; or

19 (ii) if the nonresident's state does not issue a
20 nonresident fur dealer's license, ~~the fee is~~ \$50;

21 (c) fur dealer's agent's license, \$10.

22 (2) Any A person who is employed by a resident or
23 nonresident fur dealer as a traveling fur buyer shall--be
24 deemed is considered a fur dealer's agent. A fur dealer's
25 agent's license may be issued to any person who is employed

1 as a fur buyer by a licensed resident or licensed
2 nonresident fur dealer, providing that it shall--be is the
3 responsibility of each and every fur dealer and fur dealer's
4 agent to have the proper license before buying or dealing in
5 furs as defined by in 87-4-301."

6 **Section 61.** Section 87-5-121, MCA, is amended to read:

7 "87-5-121. Nongame wildlife account. (1) There is a
8 nongame wildlife account in the state special revenue fund
9 provided for in 17-2-102.

10 (2) All money collected under 15-30-150 and all
11 interest earned by the fund before being expended under this
12 section must be deposited in the account, ~~except as provided~~
13 ~~in subsection (5).~~

14 (3) Money in the account must be used by the
15 department, upon the approval of the commission as
16 determined under 87-5-122, to provide adequate funding for:

17 (a) research and education programs on nongame wildlife
18 in Montana, as provided for in 87-5-104; and

19 (b) any management programs for nongame wildlife
20 approved by the legislature under 87-5-105 as species or
21 subspecies in need of management.

22 (4) The money is available to the department in the
23 same manner as provided in 87-1-601, except that no money
24 collected under 15-30-150 may not be used:

25 (a) for the purchase of any real property; or

1 (b) in such a way as to interfere with the production
2 on or management of private property.

3 ~~{5}--The---department---of---revenue---may---deduct---from~~
4 ~~collections-an-amount-not-to-exceed-\$1-for-each-tax-checkoff~~
5 ~~contribution--for--administering--the---voluntary---checkoff~~
6 ~~program--(Subsection-(5)-is-not-effective-since-contingency~~
7 ~~in-sec-57-Chr-589,-Hr-1987,-did-not-occur-)~~"

8 NEW SECTION. **Section 62.** Code commissioner

9 instruction. The code commissioner is instructed to
10 implement 1-11-101(2)(g)(ii) by correcting any clearly
11 inaccurate references to other sections of the Montana Code
12 Annotated contained in material enacted by the 52nd
13 legislature.

14 NEW SECTION. **Section 63.** Repealer. Sections 2-4-321,

15 2-4-322, 2-4-323, 3-10-305, 3-10-306, 7-2-2214, 25-31-114,
16 25-31-116, 25-31-201, 25-31-202, 25-31-203, 25-31-204,
17 25-31-301, 25-31-302, 25-31-303, 25-31-304, 25-31-305,
18 25-31-306, 25-31-307, 25-31-308, 25-31-401, 25-31-403,
19 25-31-404, 25-31-408, 25-31-501, 25-31-502, 25-31-503,
20 25-31-504, 25-31-505, 25-31-506, 25-31-507, 25-31-511,
21 25-31-521, 25-31-522, 25-31-701, 25-31-804, 25-31-811,
22 25-31-812, 25-31-901, 25-31-902, 25-31-903, 25-31-904,
23 25-31-905, 25-31-911, 25-31-912, 25-31-913, 25-31-915,
24 25-31-1001, 25-31-1003, 25-31-1004, 25-31-1005, 25-31-1101,
25 25-31-1102, 25-31-1103, 25-31-1105, 25-32-101, 25-32-102,

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- 1 25-32-103, 25-32-104, 53-8-101, 53-8-102, 53-8-103, and
- 2 53-8-104, MCA, are repealed.

-End-