

1 House BILL NO. 469
 2 INTRODUCED BY Committee on Business & Industry
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
 5 AND GENERAL REVISION OF THE LAWS RELATING TO THE DEPARTMENT
 6 OF BUSINESS REGULATION."
 7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 9 Section 1. Section 5-109, R.C.M. 1947, is amended to
 10 read as follows:
 11 "5-109. Definition of words and terms. Unless the
 12 context requires otherwise, in this act:
 13 ~~{a}--The--terms--capital,--capital--stock--or--paid-in~~
 14 ~~capital~~ (1) "Capital," "capital stock," and "paid-in
 15 capital" mean that fund for which certificates of stock are
 16 issued to stockholders ~~in--case-of-incorporated-banks-and~~
 17 ~~that-fund-set-aside-and-dedicated-for--capital--purposes--in~~
 18 ~~case-of-private-banks~~
 19 ~~{b}--The--term--"surplus"--(2)~~ "Surplus" means a fund
 20 paid in or created ~~pursuant-to-the-provisions-of~~ under this
 21 act by a bank from its net earnings or undivided profits,
 22 which when set apart and designated as such, is not
 23 available for the payment of dividends and cannot be used
 24 for the payment of expenses or losses so long as such bank
 25 has undivided profits.

1 ~~{c}--The-term--"undivided--(3)~~ "Undivided profits" means
 2 the credit balance of the profit and loss account of any a
 3 bank.
 4 ~~{d}--The-term--"profit--(4)~~ "Profit and loss account" or
 5 "profit and loss" means that account carried on the books of
 6 the bank into which all earnings accounts and recoveries are
 7 closed, thus exhibiting "gross earnings" and against which
 8 all loss and other disbursement items are charged revealing
 9 "net earnings" which are then properly closed to "undivided
 10 profits accounts" or "undivided profits," out of which
 11 dividends are paid and reserves set aside.
 12 ~~{e}--The-term--"net--(5)~~ "Net earnings" means the excess
 13 of the gross earnings of any a bank over expenses and losses
 14 chargeable against such those earnings during any one year.
 15 ~~{f}--The-term--"time--(6)~~ "Time deposits" means all
 16 deposits, the payment of which cannot legally be required
 17 within thirty (30) days.
 18 ~~{g}--The-term--"demand--(7)~~ "Demand deposits" means all
 19 deposits, the payment of which can legally be required when
 20 demanded.
 21 ~~{h}--The--words--"consolidate"--(8)~~ "Consolidate" and
 22 "merge" ~~shall-be-deemed-to~~ mean the same thing and may be so
 23 used interchangeably in this act. ~~without-loss-of-power~~
 24 ~~{i}--The-word--"superintendent"--wherever-it--appears--in~~
 25 ~~this-act--shall-be-deemed-to-mean--"superintendent-of-banks"~~

~~er-state-superintendent-of-banks~~ of the state of Montana.

(9) "Department" means the department of business regulation provided for in Title 82A, chapter 4.

(10) "Board" means the state banking board provided for in section 82A-407."

Section 2. Section 5-202, R.C.M. 1947, is amended to read as follows:

"5-202. Presentation of articles to ~~superintendent-of-banks~~ department of business regulation -- secretary of state to issue certificate -- when body corporate. ~~Thereupon~~ the The articles of agreement shall be presented to the ~~superintendent-of-banks~~ department of business regulation, together with an application in writing in the form prescribed by the ~~superintendent-of-banks~~ department for a certificate authorizing the proposed corporation to transact within this state the business specified ~~therein~~ in the articles of agreement. Upon the presentation of the articles of agreement, together with such the application, the ~~superintendent-of-banks~~ department shall ~~examine--or cause--an--examination--to--be--made--in--order--to~~ ascertain whether the requisite capital of such the bank has been subscribed and been paid up in cash. ~~He~~ It shall also determine whether the corporation is being formed for any other purpose than the legitimate business contemplated by this act, or whether the public convenience and advantage

will be promoted by the opening of such the bank, and it shall determine whether the corporate name assumed by such the bank, by reason of the use ~~by-it~~ of any one or more of the words "commercial," "trust," "savings," or "investment," in conjunction with any other word or words, resembles so closely ~~as-to-be-likely-to-cause-confusion~~, the name of any other bank previously formed under this act as to be likely to cause confusion. ~~He~~ The department shall also ascertain from the best sources of information at ~~his~~ its command whether the character and general fitness of the persons named as stockholders ~~are-such-as-to~~ command confidence of the community in which such the bank is proposed to be located. The expenses of the ~~superintendent-of-banks~~ department in making the examination required by this ~~act~~ section shall be paid by the proposed bank, and payment shall be made in advance if required by the ~~superintendent of-banks~~ department. All information gathered by the department under this section shall be transmitted to the board for its use in conducting hearings on applications for certificates of authorization."

Section 3. There is a new section to be numbered 5-202.1, R.C.M. 1947, which reads as follows:

5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with sections 5-607 through

5-614.

Section 4. Section 5-203, R.C.M. 1947, is amended to read as follows:

"5-203. ~~Superintendent-of-banks-to-approve--or--refuse application-----filing-articles-with-secretary-of-state--If the-superintendent-of-banks-shall-not-be-satisfied-with--the result-of-his-investigation, he-shall-refuse-the-application within--sixty--(60)-days-after-the-articles-of-agreement-and the-application-have-been-presented-to-him,--and--so--notify the--incorporators--named-therein,--If-the-superintendent-of banks--shall-be-satisfied---with---the---result---of---his investigation,--he-shall, within-sixty-(60)-days-after-such application-has-been-made-to-him, issue-under-his--hand--and official--seal-the-certificate-of-authorization, required-by this-act, in-duplicate. Filing of certificate and articles of agreement.~~ The articles of agreement, together with one of such the certificates of authorization, ~~so~~ issued, by the ~~superintendent-of-banks department~~, shall be filed in the office of the clerk and recorder of the county in which is located the principal place of business of the proposed bank, and-a A certified copy of the articles of agreement, together with the ~~other~~ certificate of authorization ~~issued by--the--superintendent--of--banks,~~ shall be filed with the secretary of state. Upon filing with the secretary of state, the articles of agreement, and the certificate of

authorization, and paying the fee required for the filing of articles of incorporation, the secretary of state shall issue a certificate setting forth that ~~such the~~ corporation has been duly organized, the amount of its authorized and subscribed capital, and the business in which it is to engage, and--such This certificate shall be taken by all courts of this state as evidence of the corporate existence of ~~such the~~ bank. The ~~person--so~~ persons signing and acknowledging the articles of agreement, and their associates and successors, ~~shall-thereupon-become-and-be are then~~ a body corporate with power of continual succession, and by such that name they and their successors ~~shall-be are~~ entitled to have, possess, and enjoy all the rights and privileges conferred by this act."

Section 5. Section 5-208, R.C.M. 1947, is amended to read as follows:

"5-208. Board of directors -- qualifications, tenure, and vacancies. The affairs of the bank shall be managed by a board of directors, not less than three (3) or more than eleven (11) in number, all of whom shall be stockholders of ~~such the~~ bank and citizens of the United States, and of whom at least two-thirds (2/3) must be residents of ~~the this~~ state ~~of-Montana.~~ No A person who ~~shall--have~~ has been convicted of a crime against the banking laws of the United States or of any state ~~of-the-union-shall~~ may not be elected

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1 a director. The directors shall be elected for a term of
 2 one (1) year at the annual meeting of the stockholders,
 3 which shall be held on the second Tuesday in January of each
 4 year. ~~in case~~ If the election shall is not be-made held on
 5 the day fixed for the annual meeting, the corporation ~~shall~~
 6 may not thereby be dissolved, but an election may be ~~had~~
 7 held at any other time agreeable to the bylaws of the
 8 corporation, and the persons so elected shall hold their
 9 office until the second Tuesday ~~in~~ of the following January
 10 following, or until others are elected and qualified. In
 11 case of death or resignation of one or more of ~~said~~ the
 12 directors, the vacancy shall be filled by the board, and the
 13 directors so appointed shall hold office until the next
 14 annual election, ~~--at which time a director shall be elected~~
 15 ~~to fill out the unexpired term.~~ Every director shall take
 16 and subscribe an oath that he will diligently and honestly
 17 perform his duty in ~~such~~ the office, ~~and that he~~ will not
 18 knowingly violate or permit a violation of any of the
 19 provisions of this act, and that he is the owner in good
 20 faith of the required number of shares of stock in the bank
 21 standing in his name on the books of the bank. ~~Such~~ The
 22 oaths shall be made in duplicate, one copy of which shall be
 23 transmitted to the ~~superintendent-of-banks~~ department and
 24 filed in ~~his~~ its office, and one copy shall be kept on file
 25 in the office of the bank."

1 Section 6. Section 5-210, R.C.M. 1947, is amended to
 2 read as follows:

3 "5-210. Selection of officers and employees --
 4 meetings and minutes. The board of directors ~~shall have~~
 5 ~~power to~~ may elect a president, one or more vice-presidents,
 6 cashier, and one or more assistant cashiers, and ~~such~~ other
 7 officers and employees ~~as~~ which they may from time to time
 8 ~~deem~~ consider to be to the best interest of the bank, and
 9 fix their compensation. The president and at least one
 10 vice-president shall be chosen from the board of directors.
 11 The board of directors shall also elect a secretary, who
 12 shall keep a correct report of the meetings of the board and
 13 of the stockholders in a book kept for that purpose, which
 14 minutes shall particularly disclose the date of the meetings
 15 and the names of the directors or stockholders present.
 16 This record of the meetings of the board of directors shall
 17 be subscribed to by the presiding officer and secretary.
 18 ~~Such~~ The minutes shall be read and approved at the ~~next~~
 19 ~~succeeding~~ following meeting of the board of directors, and
 20 the minutes of ~~such next succeeding~~ the following meeting
 21 shall show ~~such~~ that fact. ~~Such~~ The minute-book shall be
 22 kept in the office of the bank at all times, and shall be
 23 presented to the ~~examiner~~ department at the time of ~~his~~ its
 24 examination of the books, ~~and it shall be the duty of--such~~
 25 ~~examiner--to~~ The department shall include in ~~his~~ its report

1 of examination of ~~such~~ the bank a statement of the dates on
 2 which ~~such~~ the meetings were held since the last examination
 3 of ~~such~~ the bank by ~~the-examiner~~ it, and the names of the
 4 directors in attendance at each of ~~said~~ those meetings. The
 5 board of directors of a bank must hold a meeting at least
 6 once a month. ~~Any~~ A person who ~~shall-make~~ makes a false
 7 entry in ~~said~~ the book, or who ~~shall-change~~ changes or ~~alter~~
 8 ~~any~~ alters an entry made ~~therein~~ in it, ~~shall-be--deemed~~ is
 9 guilty of a misdemeanor."

10 Section 7. Section 5-214, R.C.M. 1947, is amended to
 11 read as follows:

12 "5-214. Change of place of business and number of
 13 directors authorized. ~~Every~~ A bank ~~now--organized--and~~
 14 ~~existing,--or--which--may--hereafter--be--organized,~~ may, upon
 15 approval of the ~~superintendent-of-banks~~ board, change its
 16 principal place of business from one place to another, in
 17 the same county, or in an adjacent county, within this
 18 state, and may increase or diminish the number of trustees
 19 or directors in the manner ~~hereinafter~~ provided in sections
 20 5-215 through 5-217."

21 Section 8. Section 5-216, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-216. Certificate of proceedings -- contents and
 24 effect. If, at the time and place specified in the notice
 25 provided for in ~~the---last--preceding~~ section 5-215,

1 stockholders ~~shall~~ appear in person or by proxy representing
 2 not less than two-thirds (2/3) of all the shares of stock of
 3 the corporation, and ~~shall~~ organize by choosing one of the
 4 trustees or directors chairman of the meeting, and also a
 5 suitable person for secretary, and proceed to a vote of
 6 those present in person or by proxy, and if, ~~on-counting-the~~
 7 ~~votes,--it--shall--appear--that~~ two-thirds (2/3) of the number
 8 of votes representing all the outstanding capital stock have
 9 been cast in favor of increasing or diminishing the amount
 10 of capital stock, or of changing its corporate name, or of
 11 changing its principal place of business, a certificate of
 12 the proceedings showing a compliance with the provisions of
 13 this act, the amount of capital stock actually paid in, the
 14 whole amount of debts and liabilities of the corporation,
 15 the amount to which the capital stock shall be increased or
 16 diminished, or the change in the corporate name of the
 17 corporation, or the change in the principal place of
 18 business, shall be made out, signed, and verified by the
 19 affidavit of the chairman, and be countersigned by the
 20 secretary, and ~~such~~ the certificate shall be acknowledged by
 21 the chairman. ~~Said~~ The certificate shall then be sent to
 22 the ~~superintendent-of--banks,--who~~ department which shall
 23 within thirty (30) days of the receipt ~~thereof~~, either
 24 approve or reject the application for change. The action of
 25 the ~~superintendent--of--banks~~ department on ~~said~~ the

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1 application ~~shall--be~~ is final. If ~~he~~ it approves the ~~same~~
 2 ~~he~~ certificate it shall notify the bank ~~whereupon~~ at which
 3 time the certificate shall be filed in the office of the
 4 county clerk and recorder of the county ~~wherein~~ in which the
 5 bank is located and in the office of the secretary of state.
 6 Upon ~~such~~ the filing, the change ~~shall-be~~ is effective."

7 Section 9. Section 5-217, R.C.M. 1947, is amended to
 8 read as follows:

9 "5-217. Change in number of directors -- procedure --
 10 approval by ~~superintendent-of-banks~~ department. (1) Any A
 11 state bank or trust company may increase or diminish the
 12 number of its directors or may provide that the number of
 13 directors elected at each annual meeting, within the limits
 14 specified in this act, shall constitute the board for the
 15 year, with all vacancies to be filled by the board taking
 16 the action, and also may provide that a majority of the full
 17 board of directors may increase the number of the directors
 18 of the bank, not exceeding two (2) within the limits
 19 specified in this act, and appoint persons to fill the
 20 resulting vacancies between meetings of the stockholders by
 21 amending its articles of incorporation at any regular annual
 22 meeting, or at any special meeting called and noticed for
 23 that purpose, of the stockholders of the bank or trust
 24 company, ~~provided-that~~ However, the number of directors
 25 ~~shall~~ may not at any time be less than three (3) or more

1 than eleven (11).

2 (2) ~~Whenever-any~~ When a bank or trust company ~~shall~~
 3 ~~decide~~ decides to call a special meeting of the stockholders
 4 for the purpose of amending its articles of incorporation
 5 relative to the number of directors, written or printed
 6 notice of ~~such~~ the meeting must be deposited in the post
 7 office addressed to each stockholder of record entitled to
 8 vote at ~~such~~ the meeting under the articles of incorporation
 9 or amendments ~~thereto~~ to them, and the laws and constitution
 10 of Montana, at his last known place of residence at least
 11 ten days previous to the date set for the holding of ~~such~~
 12 the meeting, ~~and-in~~ In addition, ~~said~~ the notice must be
 13 published once a week for two consecutive weeks in a
 14 newspaper published in the county ~~wherein~~ where the
 15 principal place of business of ~~such~~ the corporation is
 16 situated. If no newspaper is published in the county it
 17 ~~shall~~ is not be necessary to publish ~~said~~ the notice.
 18 ~~provided--however--that~~ However, the matter of amending the
 19 articles of incorporation to change the number of directors
 20 may be submitted to and acted upon at any annual meeting of
 21 the stockholders without special notice. ~~thereof~~

22 (3) If at the time and place specified in the notice
 23 of ~~such~~ the special meeting or at the annual meeting of the
 24 stockholders, stockholders representing two-thirds (2/3) of
 25 all the shares of stock of the corporation ~~shall~~ appear in

1 person or by proxy and vote in favor of ~~such~~ the amendment,
 2 a certificate of the proceedings showing a compliance of the
 3 provisions of this act and the amendment relative to the
 4 number of directors shall be prepared, certified and sworn
 5 to and filed with the ~~superintendent-of-banks~~ department.
 6 ~~who~~ The department shall, within thirty (30) days after the
 7 receipt ~~thereof~~ of the certificate, either approve or reject
 8 the amendment. The action of the ~~superintendent-of-banks~~
 9 department on ~~said~~ the amendment ~~shall-be~~ is final. If he
 10 it approves the ~~same~~, ~~--he~~ amendment, it shall notify the
 11 bank, whereupon the certificate with the ~~superintendent's~~
 12 department's approval attached ~~thereto~~ to it shall be filed
 13 in the office of the county clerk and recorder of the county
 14 ~~wherein in which~~ the bank is situated, and a certified copy
 15 ~~thereof~~ of it shall be filed in the office of the secretary
 16 of state. Upon the filing of ~~such~~ the certified copy with
 17 the secretary of state, the amendment ~~shall-become~~ becomes
 18 effective."

19 Section 10. Section 5-301, R.C.M. 1947, is amended to
 20 read as follows:

21 "5-301. Dissolution and disincorporation. Commercial
 22 banks, savings banks, trust companies, and investment
 23 companies ~~now-organized--and-existing,--or--which--may-be~~
 24 ~~hereafter-organized~~, may be dissolved in the manner provided
 25 by the laws of Montana this state applicable to the

1 dissolution of other corporations, ~~except--it-shall-be~~
 2 ~~legal-for-any~~ However, a bank or trust company may, upon a
 3 vote of two-thirds (2/3) of its stockholders at a special
 4 meeting called for that purpose in accordance with the its
 5 bylaws, ~~of--the--bank,--to~~ voluntarily quit business and
 6 liquidate upon the payment of its debts, exclusive of
 7 liability to stockholders, or upon agreement with all of its
 8 creditors to a plan of liquidation, any A bank or trust
 9 company desiring to ~~thus~~ voluntarily liquidate, shall make
 10 application apply to the ~~state--superintendent--of-banks~~
 11 department of business regulation for permission to so
 12 liquidate and, in addition to complying with the laws of the
 13 this state ~~of--Montana~~ governing the liquidation of
 14 corporations, shall comply in all respects with the
 15 requirements or rules ~~and--regulations~~ of the state
 16 ~~superintendent-of-banks~~ department governing ~~such~~ voluntary
 17 dissolution. The board of directors of any a bank, whose
 18 stockholders have voted to place it in voluntary
 19 liquidation, shall appoint a liquidating agent to wind up
 20 the affairs of ~~such~~ the bank. ~~Such~~ The liquidating agent,
 21 on authority of the board of directors, ~~shall-have-power-to~~
 22 may execute deeds for the transfer of real property and to
 23 do any--and all things necessary to effect carry out the
 24 proper liquidation of ~~such~~ the bank. Nothing in this
 25 section ~~contained--shall--prevent~~ prevents the state

1 ~~superintendent-of-banks~~ department from taking charge at any
 2 time when in ~~his~~ its opinion the interest of creditors or
 3 stockholders is not being protected, ~~the~~ The decision of
 4 the ~~superintendent-of-banks~~ department in ~~said~~ these matters
 5 ~~to-be~~ is controlling."

6 Section 11. Section 5-403, R.C.M. 1947, is amended to
 7 read as follows:

8 "5-403. Scope of term "liquidating officer" --
 9 ~~superintendent-of-banks~~ department of business regulation to
 10 file inventory with district court -- report. The
 11 liquidating officer of a bank ~~shall-have-the-power-to~~ may
 12 decide when the assets of a failed bank are not sufficient
 13 to pay the debts, contracts, engagements and liabilities and
 14 he may determine the question of the time when and the court
 15 where necessary ~~suits~~ legal proceedings shall be ~~instituted~~
 16 conducted, subject to the general provisions of law
 17 governing venue and place of trial. For the purposes of
 18 this section the term "liquidating officer" ~~shall-be-held-to~~
 19 include ~~includes~~ every person legally empowered to liquidate
 20 the business and affairs of a state bank whether the ~~same-be~~
 21 liquidation is by the ~~superintendent---of---banks;---his~~
 22 department of business regulation, its deputies and agents
 23 and also includes all receivers of state banks ~~now--or~~
 24 hereafter qualified to liquidate a state bank under any law
 25 of ~~Montana,~~ this state. ~~provided;--however;--that--the~~ The

1 provisions of this ~~section-shall~~ chapter do not impose any
 2 liability on ~~any a~~ stockholder of a bank which is a member
 3 of the Federal Deposit Insurance Corporation. The
 4 ~~superintendent-of-banks~~ department shall, within ninety (90)
 5 days after taking charge of an insolvent bank, ~~cause--to--be~~
 6 filed file with the district court having jurisdiction, a
 7 complete inventory of all of the property and assets of ~~such~~
 8 the insolvent bank, such as furniture, fixtures, real
 9 estate, mortgages, bonds, and notes, secured and unsecured,
 10 ~~and--thereafter--he~~ It shall also every six (6) months or
 11 ~~oftener~~ more often, if ~~so~~ required by the court, ~~cause-to-be~~
 12 ~~made-and-filed~~ file with the court a report showing the
 13 conditions of the liquidation of ~~such the~~ bank, the assets
 14 that have been liquidated and collected, and the amounts and
 15 manner of payments ~~which-may-have-been~~ made to creditors,
 16 and the manner in which claims have been handled, and ~~also~~
 17 showing the assets on hand. The report ~~to--also~~ shall
 18 contain ~~such~~ other information as the court ~~may-deem-proper~~
 19 ~~and-request-or-require~~ requires, so that the court and the
 20 public may be apprised of the condition of ~~such the~~ bank and
 21 the manner in which it is being liquidated with respect to
 22 the collection and sale of assets belonging to ~~such the~~ bank
 23 and the manner in which claims are being paid. ~~Such The~~
 24 report and account shall be set for hearing upon ~~such the~~
 25 notice as the court may require and if found to be correct

1 shall be approved by the court."

2 Section 12. Section 5-504, R.C.M. 1947, is amended to
3 read as follows:

4 "5-504. Real estate which banks may purchase, hold or
5 convey. (1) ~~Banks~~ A bank organized under the provisions of
6 this act may purchase, hold, or convey real estate ~~as~~
7 ~~follows which:~~

8 ~~1r--(a) Such--as--is~~ Is necessary for the proper
9 transaction of its business, but it shall not invest an
10 amount exceeding fifty per cent (50%) of its paid-up capital
11 and surplus in the lot and building in which the business of
12 the company is carried on, furniture, equipment and
13 fixtures, vaults and safety vaults, and boxes necessary or
14 proper to carry on its banking business;

15 ~~2r--(b) Such-as-is~~ Is mortgaged to it in good faith by
16 way of security for loans previously made or moneys due to
17 the corporations;

18 ~~3r--(c) Such-as-is~~ Is conveyed to it in satisfaction
19 of debts previously contracted in the course of its
20 business;

21 ~~4r--(d) Such-as--it~~ It purchases at sales under
22 judgments, decrees, or mortgages held by the company.

23 (2) Real estate acquired in the manner set forth in
24 ~~subdivisions-3 subsections 1(c) and 4 1(d) hereof--shall~~ of
25 ~~this section may~~ not be held longer than ~~period-of~~ five (5)

1 years from the date of acquisition, unless special written
2 permission to do so ~~be is~~ granted by the ~~superintendent-of~~
3 ~~banks department of business regulation.~~ Said ~~The~~ real
4 estate ~~to~~ shall be carried on the books of the bank for an
5 amount not greater than ~~the its~~ cost thereof to the bank,
6 including costs of foreclosure and other expenses of
7 acquiring title."

8 Section 13. Section 5-506, R.C.M. 1947, is amended to
9 read as follows:

10 "5-506. Limitation on real estate loans. (1) ~~Any A~~
11 commercial bank organized under the laws of ~~the this~~ state
12 ~~of--Montana~~ may make real estate loans, secured by first
13 liens upon improved real estate, including improved farm
14 land and improved business and residential properties and
15 may purchase ~~any an~~ obligation so secured when the entire
16 amount of ~~such the~~ obligation is sold to the bank. ~~Provided~~
17 ~~that,--the~~ The amount of ~~any-such the~~ loan hereafter-made
18 ~~shall may~~ not exceed fifty ~~per-centum percent~~ (50%) of the
19 appraised value of the real estate offered as security, and
20 ~~no-such the~~ loan ~~shall may not~~ be made for a longer period
21 than five (5) years, except that:

22 ~~(1)--(a) Any--such The~~ loan may be made in an amount
23 not to exceed sixty ~~per--centum percent~~ (60%) of the
24 appraised value of the real estate offered as security and
25 for a term not longer than twenty (20) years if ~~such the~~

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1 loan is secured by an amortized mortgage, deed of trust, or
 2 ~~other-such~~ similar instrument, under the terms of which the
 3 installment payments are sufficient to amortize forty per
 4 centum percent (40%) or more of the principal of the loan
 5 within ~~a-period-of~~ not more than twenty (20) years; and

6 ~~(2)--(b)~~ No--such A commercial bank ~~shall~~ may not make
 7 ~~such those~~ loans in an aggregate sum in excess of the amount
 8 of its capital stock paid in and unimpaired plus the amount
 9 of its unimpaired surplus or in excess of sixty per-centum
 10 percent (60%) of the amount of its time and saving deposits,
 11 whichever is the greater.

12 (2) Loans made to finance the construction of
 13 residential or farm buildings and having maturities of not
 14 to exceed six (6) months, whether or not secured by a
 15 mortgage or a similar lien on real estate upon which the
 16 residential or farm building is being constructed, ~~shall~~ are
 17 ~~not be-considered-as~~ loans secured by real estate within the
 18 meaning of this act section, but shall be classed as
 19 ordinary commercial loans, provided-that-no A commercial
 20 bank ~~shall~~ may not invest in or be liable on any such of
 21 those loans in an aggregate amount in excess of fifty per
 22 centum percent (50%) of its actually paid-in and unimpaired
 23 capital.

24 (3) Loans made to establish rural or commercial
 25 businesses which are in whole or in part discounted or

1 loaned against as security by a federal reserve bank for any
 2 part of which a commitment ~~shall-have~~ has been made by a
 3 federal reserve bank or in which ~~the-Reconstruction-Finance~~
 4 Corperation an agency of the federal government co-operated
 5 or purchases a participation in, ~~shall~~ are not be subject to
 6 the restrictions or limitations of this act section upon
 7 loans secured by real estate, provided--any A commercial
 8 bank in this state ~~shall~~ has from time to time ~~have~~ the same
 9 authority to make loans upon real estate ~~as~~ which may be
 10 given by acts of Congress ~~of--the--United--States~~ or the
 11 federal reserve system to national banks or bank members of
 12 the federal reserve system.

13 ~~(3)--(4)~~ The ~~foregoing~~ limitations and restrictions
 14 ~~shall~~ imposed by this section do not prevent the renewal or
 15 extension of loans ~~heretofore~~ made before February 18, 1941,
 16 and ~~shall~~ do not apply to real estate loans which are
 17 insured under the provisions of any act of the Congress, of
 18 ~~the--United--States,--and--said~~ Those limitations and
 19 restrictions ~~shall~~ do not apply to the making, extension, or
 20 renewal of any loans ~~which-are~~ made under subchapter II of
 21 the act of Congress, known as the Servicemen's Readjustment
 22 Act of 1944, or any amendment ~~thereof~~ or supplement ~~thereto,~~
 23 ~~as-to-any-part-of-such-loans~~ to that act.

24 (5) ~~These-provisions~~ This section, however, ~~shall~~ does
 25 not prevent any a bank from taking another and immediately

1 subsequent mortgage or deed of trust when it already holds a
 2 first mortgage or deed of trust ~~thereon~~ on ~~such~~ the real
 3 estate, ~~nor~~ or from accepting a second lien on real estate
 4 to secure the repayment of a debt previously contracted in
 5 good faith. ~~nor-shall-it~~ These provisions do not prevent
 6 subsequent liens of any kind from being taken to secure the
 7 payment of a debt previously contracted in good faith, when,
 8 in the judgment of the directors of ~~such~~ the bank, ~~such~~ the
 9 subsequent liens are necessary further to secure the payment
 10 of any debts and save ~~such~~ the bank from loss. provided,
 11 ~~the--term--"commercial~~ "Commercial bank" as used in this
 12 section ~~shall-mean~~ means a bank organized to do only the
 13 business specified in sections 5-104 to ~~5-108~~ 5-107 ~~of-this~~
 14 ~~code--only.~~"

15 Section 14. Section 5-508, R.C.M. 1947, is amended to
 16 read as follows:

17 "5-508. Business prohibited unless under
 18 ~~superintendent-of-banks~~ department -- use of certain words
 19 prohibited -- court may enjoin. ~~No~~ A person, firm, company,
 20 copartnership, or corporation, either domestic or foreign,
 21 not subject to the supervision of the ~~superintendent-of~~
 22 ~~banks~~ department, and not required by the provisions of this
 23 act to report to ~~him~~ it, and which has not received a
 24 certificate to do a banking business from the ~~superintendent~~
 25 ~~of--banks--shall~~ department may not advertise that he or it

1 is receiving or accepting money or savings for deposit,
 2 investment, or otherwise, and issuing notices or
 3 certificates of deposit therefor, or ~~shall-make~~ use ~~of--any~~
 4 an office sign, at the place where ~~such~~ the business is
 5 transacted, having ~~thereon--any~~ on it an artificial or
 6 corporate name, or other words indicating that ~~such~~ the
 7 place or office is the place or office of a bank or trust
 8 company, or that deposits are received there or payments
 9 made on check, or any other form of banking business,
 10 transacted. ~~nor--shall--any--such~~ That person, or persons,
 11 firm, company, copartnership, or corporation, domestic or
 12 foreign, ~~make~~ may not use ~~of~~ or circulate any letterheads,
 13 bill-heads, blank notes, blank receipts, certificates, or
 14 circulars, or any written or printed or partly written and
 15 partly printed paper, whatever, having ~~thereon--any~~ on them
 16 an artificial or corporate name or other word or words
 17 indicating that ~~such~~ the business is the business of a bank,
 18 savings bank, or trust or investment company. ~~nor--shall~~
 19 ~~any--such~~ That person, firm, company, copartnership, or
 20 corporation, or any agent of a foreign corporation, not
 21 having an established place of business in the state, may
 22 not solicit or receive deposits or transact business in the
 23 way or manner of a bank, savings bank, trust or investment
 24 company, or in ~~such a way-or manner as-to-lead~~ which leads
 25 the public to believe that its business is that of a bank,

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1 savings bank, trust, or investment company. ~~Nor shall any~~ A
 2 person, firm, company, copartnership, or corporation,
 3 domestic or foreign, not subject to the supervision of the
 4 ~~superintendent-of-banks~~ department, and not required by the
 5 provisions of this act to report to ~~him~~ it, and which has
 6 not received from the ~~superintendent-of-banks~~ department a
 7 certificate to do a banking business, ~~hereafter~~ may not
 8 transact business under any a name or title which contains
 9 the word "bank," "banker," "banking," "savings bank,"
 10 "saving," "trust," "trustee," "trust company," or
 11 "investment company." Any A person, firm, company,
 12 copartnership, or corporation, domestic or foreign,
 13 violating any a provision of this section shall forfeit to
 14 the state one hundred dollars (\$100) a day for every day or
 15 part ~~thereof~~ of a day during which ~~such the~~ violation
 16 continues. Upon ~~action-brought suit~~ by the ~~superintendent~~
 17 ~~of--banks~~ department, the court may issue an injunction
 18 restraining ~~any--such~~ that person, firm, company,
 19 copartnership, or corporation from further using ~~such those~~
 20 words in violation of the provisions of this section, or
 21 from further transacting business in ~~such a way-or~~ manner as
 22 ~~to--lead~~ which leads the public to believe that its business
 23 is that of a bank, savings bank, trust, or investment
 24 company, during the pendency of ~~such the~~ action, and ~~for-all~~
 25 ~~time~~ permanently, and may ~~make-such~~ enter any other order or

1 decree as equity and justice may require."

2 Section 15. Section 5-509, R.C.M. 1947, is amended to
 3 read as follows:

4 "5-509. Capital stock to be paid up -- action by
 5 ~~superintendent--of--banks~~ department -- certain advertising
 6 prohibited. Every A person, firm, company, copartnership, or
 7 corporation, domestic or foreign, advertising that he or it
 8 is receiving or accepting money or savings, and issuing
 9 notes or certificates of deposit ~~therefor--for~~ them, or
 10 advertising that he or it is transacting the business of a
 11 bank, savings bank, or trust company, or making the use of
 12 any an office sign at the place where ~~such the~~ business is
 13 transacted, having ~~thereon--any~~ on it an artificial or
 14 corporate name, or other words indicating that ~~such the~~
 15 place or office is the place or office of a bank, savings
 16 bank, or trust company, or that deposits are received there
 17 or payments made on check or that interest is paid on
 18 deposits, or that certificates of deposit, either with or
 19 without interest, are being issued or that any other form of
 20 banking business is transacted, and every a person, firm,
 21 company, copartnership or corporation, domestic or foreign,
 22 ~~making--use--of~~ using or circulating any letterheads,
 23 bill-heads, blank notes, blank receipts, certificates, or
 24 circulars, or any written or printed, or partly written and
 25 partly printed paper whatever, having ~~thereon--any~~ on it an

1 artificial or corporate name, or advertising that such the
 2 business is the business of a bank, savings bank, or trust
 3 company, must have the proper capital stock paid in and set
 4 aside for the purpose of transacting such that business, and
 5 must have received from the ~~superintendent--of--banks~~
 6 department, as provided for in this act, a certificate to do
 7 a banking business. ~~Any~~ A person, firm, company,
 8 copartnership, or corporation, domestic or foreign,
 9 violating any provision of this section shall forfeit to the
 10 state one hundred dollars (\$100) a day for every day or part
 11 thereof of a day during which such the violation continues.
 12 Upon action brought by the ~~superintendent--of--banks~~
 13 department, the court may issue an injunction restraining
 14 ~~any--such~~ a person, firm, company, copartnership, or
 15 corporation from further violating any provision of this
 16 section, and may ~~make-such~~ enter a further order or decree
 17 as equity and justice ~~may~~ require. ~~Every~~ A person, firm,
 18 company, copartnership, or corporation doing any of the
 19 things or transacting any of the business defined in this
 20 section, must transact such that business according to the
 21 provisions of the Bank Act, and the ~~superintendent-of--banks~~
 22 ~~or--his--deputy--or--examiners--shall--have--authority--to~~
 23 department may examine the accounts, books, papers, cash,
 24 and credits of ~~every--such~~ that person, firm, company,
 25 copartnership, or corporation, domestic or foreign, in order

1 to ascertain whether such that person, firm, company,
 2 copartnership, or corporation has violated or is violating
 3 any provisions of this section."

4 Section 16. Section 5-519, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-519. Obtaining property by fraud -- false report --
 7 refusal to permit inspection of books. A director, officer,
 8 agent, or employee of any a bank who:

9 ~~1r--~~ (1) Knowingly receives or possesses himself of
 10 any of its property, otherwise than in payment for a just
 11 demand, and with intent to defraud, omits to make or to
 12 cause or direct to be made a full and true entry thereof of
 13 it in its books and account; or,

14 ~~2r--~~ (2) Concurs in omitting to make any material
 15 entry thereof; or,

16 ~~3r--~~ (3) Knowingly concurs in making or publishing any
 17 written report, exhibit, or statement of its affairs or
 18 pecuniary condition, containing any material statement which
 19 is false; or,

20 ~~4r--~~ (4) Having the custody or control of its books,
 21 willfully ~~refused~~ refuses or neglects to make any a proper
 22 entry in the books of such that corporation as required by
 23 law, or to exhibit, or allow ~~the-same~~ them to be inspected
 24 and extracts to be taken ~~therefrom~~ from them by the
 25 ~~superintendent--of--banks--his--chief-deputy--or--any-of-his~~

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~~examiners, shall be~~ department, is guilty of a felony."

Section 17. Section 5-523, R.C.M. 1947, is amended to read as follows:

"5-523. Limitations on loans -- liabilities -- what included therein -- reduction when excessive. (1) The total loans to any a person, copartnership, or corporation by any a bank, including loans to a copartnership, and ~~loans~~ to the several members thereof, shall at no time exceed twenty per centum percent (20%) of the amount of the unimpaired capital and surplus of ~~such that~~ bank. The discount of bills of exchange drawn in good faith against actual existing values, the discount of bankers, acceptances of other banks, the discount of commercial or business paper actually owned by the person negotiating ~~the same~~ it, and the obligations of the United States or general obligations of any state or of any political subdivision thereof, or obligation issued under authority of the Federal Farm Loan Act, ~~shall may~~ not be considered as money borrowed, ~~nor shall the foregoing~~ The limitations imposed on total loans by this section do not apply to loans and investments secured by obligations of the United States having a value of one hundred per-cent percent (100%) of the amount ~~thereof loaned or invested~~ or to loans made on warehouse receipts and bills of lading, when ~~such the~~ warehouse receipts and bills of lading cover nonperishable commodities of the marketable value of at

least one hundred twenty per cent (120%) of the amount loaned ~~thereon on them~~. Loans or obligations ~~shall are~~ not be subject under this section to any limitation based upon ~~such that unimpaired~~ capital and surplus to the extent that they are secured or covered by guaranties, or by commitments or agreements to take over or to purchase ~~the--same~~ them, made by any a federal reserve bank or by the United States or any a department, bureau, board, commission, or establishment of the United States, including any a corporation wholly owned directly or indirectly by the United States.

(2) The combined liabilities of the several members of any a firm, copartnership, or unincorporated association to the loaning bank shall be included in the liabilities of ~~such the~~ firm, copartnership, or unincorporated association, ~~and-that~~ That portion of the liabilities of ~~such the~~ firm, copartnership, or unincorporated association for which a member ~~thereof~~ individually ~~shall-be is~~ legally responsible shall be included in the liabilities of the member in determining the ~~foregoing~~ limitations imposed by this section. In determining the limitation for loans to a limited partner of a limited partnership, those portions of the liabilities of the limited partnership for which the limited partner is free from liability shall be excluded.

(3) When in the judgment of the ~~superintendent--of~~

1 ~~banks department~~, the liabilities of ~~any a~~ corporation or
 2 the combined liabilities of ~~any a~~ corporation and one or
 3 more of its stockholders to ~~any a~~ bank are excessive, ~~he it~~
 4 shall require the reduction thereof to ~~such the~~ limits and
 5 within ~~such the~~ time as ~~he shall prescribe it prescribes.~~"

6 Section 18. Section 5-532, R.C.M. 1947, is amended to
 7 read as follows:

8 "5-532. Reserve requirements. ~~Every A~~ bank, except a
 9 reserve bank, shall maintain at all times a reserve of ~~such~~
 10 ~~that~~ percentage of its deposit liabilities as shall be
 11 determined by the ~~superintendent--of--banks~~ department as
 12 ~~hereinafter~~ provided in this section, of which reserve ~~such~~
 13 ~~a~~ portion as the board of directors may determine may be on
 14 deposit in banks approved by the ~~superintendent--of--banks~~
 15 department as reserve banks. The ~~superintendent-of-banks-is~~
 16 ~~authorized-and-empowered-to~~ department may establish, raise,
 17 or lower ~~and-to-establish~~ reserves which shall be maintained
 18 on demand deposits and on time deposits as in ~~his its~~
 19 judgment banking conditions may justify. ~~provided-such The~~
 20 power to establish, raise, or lower ~~and--to--establish~~
 21 reserves ~~shall--be~~ is limited to a percentage of ~~such~~
 22 deposits not in excess of reserve requirements which may be
 23 established ~~from-time-to-time~~ for banks that are members of
 24 the federal reserve system ~~nor and not~~ less than
 25 seventy-five ~~per--centum~~ percent (75%) of ~~those~~ reserve

1 requirements ~~which-may-be-established-from-time-to-time~~ for
 2 ~~banks--that--are~~ members of the federal reserve system. A
 3 bank approved by the ~~superintendent-of-banks~~ department as a
 4 reserve bank must at all times maintain a reserve of ~~such~~
 5 ~~the~~ percentage or percentages as the ~~superintendent-of-banks~~
 6 department shall determine from time to time, which shall
 7 not be less than the percentages ~~hereinbefore~~ specified in
 8 this section of its deposit liabilities, of which ~~such a~~
 9 portion as the board of directors may determine, may be on
 10 deposit in banks approved by the ~~superintendent-of-banks~~
 11 department as reserve banks. ~~Any A~~ solvent bank of good
 12 repute having a full paid-up capital and surplus of three
 13 hundred thousand dollars (\$300,000), doing business in ~~the~~
 14 this state of--Montana, or any ~~of-the-states-of-the-United~~
 15 States other state, may be designated by the ~~superintendent~~
 16 ~~of--banks~~ department as a reserve agent for Montana state
 17 banking institutions. ~~Such The~~ approval or designation may
 18 be withdrawn or withheld at any time by the ~~superintendent~~
 19 ~~of-banks~~ department for cause. ~~Whenever When~~ the reserve of
 20 ~~any a~~ bank ~~shall-fall falls~~ below the amount required ~~herein~~
 21 ~~to-be-kept by this section~~, ~~such the~~ bank ~~shall may~~ not
 22 increase its loans or discounts otherwise than by
 23 discounting or purchasing bills of exchange payable at sight
 24 or on demand, and the ~~superintendent--of--banks~~ department
 25 shall notify ~~any a~~ bank whose reserve may be below the

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1 amount ~~herein~~ required, to make good ~~such~~ the reserve. In
 2 arriving at deposit liabilities with regard to bank
 3 deposits, the net balance of amounts due to and from other
 4 banks shall be taken as the basis for ascertaining the
 5 deposit liability to banks against which reserves shall be
 6 carried. provided However, a compliance with the federal
 7 reserve banking laws, rules and regulations by member banks
 8 shall be held to be a compliance with the reserve
 9 requirements and conditions of this act, and entitles those
 10 federal reserve member banks to the rights and privileges
 11 accruing from compliance with this act."

12 Section 19. Section 5-533, R.C.M. 1947, is amended to
 13 read as follows:

14 "5-533. Borrowed money. ~~No~~ A bank ~~shall~~ may not at any
 15 time become indebted either directly or indirectly for
 16 borrowed money or rediscounts in an amount in excess of its
 17 paid-up capital and surplus, without first obtaining written
 18 authority from the ~~superintendent-of-banks~~, ~~provided~~, ~~that~~
 19 ~~debentures~~ department. Debentures or certificates of
 20 indebtedness issued by ~~any~~ an investment company to run for
 21 a period of three (3) years or more, ~~shall~~ may not be
 22 included in the deposit liabilities of ~~said~~ that investment
 23 company, as affected by the provisions of this section, ~~and~~
 24 ~~entitle--such-federal-reserve-member-banks-to-the-rights-and~~
 25 ~~privileges-accruing-from-a-compliance-with-this-act."~~

1 Section 20. Section 5-604, R.C.M. 1947, is amended to
 2 read as follows:

3 "5-604. ~~Superintendent--of--banks~~ Director of business
 4 regulation and employees not to be interested in banks.
 5 Neither the ~~superintendent--of--banks~~ director of business
 6 regulation nor any bank examiner ~~shall~~ may be interested in
 7 or a borrower from any state bank, directly or indirectly."

8 Section 21. Section 5-607, R.C.M. 1947, is renumbered
 9 82A-407, and is amended to read as follows:

10 "5-607-82A-407. State banking board-- composition --
 11 terms -- allocation. (1) There is ~~hereby--created--and~~
 12 ~~established-within-the-department-of-business--regulation~~ a
 13 state banking board.

14 (2) ~~Said~~ The board ~~shall-be~~ is composed of seven (7)
 15 members, ~~one--(1)--of-whom--shall-be~~ including the director of
 16 business regulation, who ~~shall--be~~ is the chairman of the
 17 board ~~and--shall-act-as-its-executive-officer~~. The remaining
 18 six (6) members of the board shall be appointed with
 19 consideration ~~being~~ given banks of small, medium and large
 20 size and to geographical distribution. ~~and-at~~ At least one
 21 (1) banker member and one (1) public member shall be
 22 appointed from each congressional district of the state. Two
 23 (2) of ~~said~~ the six (6) members shall be active officers in
 24 state banks of Montana, one (1) shall be an active officer
 25 of a national bank doing business in Montana and three (3)

shall be members of the public, none of whom shall be an officer, director or shareholder of any state or national bank.

(3) The members shall be appointed by the governor for terms of three (3) years. Vacancies shall be filled by appointment for the unexpired term. No member other than the director of business regulation may serve more than two (2) consecutive terms.

(4) The board is allocated to the department for administrative purposes only as provided in section 82A-108."

Section 22. Section 5-610, R.C.M. 1947, is amended to read as follows:

"5-610. Powers of board. The state banking board shall have the following powers in addition to any others that hereafter may be granted to it by law:

(1) to make final determinations upon applications for charters certificates of authorization for new banks, mergers, consolidations, and relocations of banks;

(2) to act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the director of business regulation as said duties and powers relate to banking."

Section 23. Section 5-611, R.C.M. 1947, is amended to read as follows:

"5-611. Rules adopted by board -- new banks. The board shall adopt rules ~~and regulations to the extent and in the manner as provided in~~ necessary for the administration of this act in accordance with the Montana Administrative Procedure Act [82-4201 to 82-4225]. ~~In addition, the board shall in the manner provided in said act and as expeditiously as possible adopt rules as it deems necessary and proper to implement its duties and powers.~~

In particular, the board shall ~~give priority to promulgation of~~ adopt rules concerning the ~~chartering authorization~~ of new banks. Such rules shall contain minimum standards under which an application for a new bank shall be determined: ~~Such standards shall include~~ including the following:

(1) a persuasive showing that there is a reasonable public necessity and demand for a new bank at the proposed location;

(2) that the bank will be owned and managed by persons of good moral character and financial integrity, and will be safely and soundly operated;

(3) a persuasive showing that the new bank will have a sufficient volume of business to assure solvency and that establishment of the new bank will be in the public interest."

Section 24. Section 5-612, R.C.M. 1947, is amended to

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1 read as follows:

2 "5-612. Hearings -- notice -- intervenors. ~~In addition~~
3 ~~to the requirements of the Montana Administrative Procedure~~
4 ~~Act--[82-4201--to-82-4225]--the following shall be required:~~

5 (1) A hearing shall be conducted upon all applications for
6 new bank ~~charters~~ certificates of authorization, and ~~all~~
7 ~~provisions--of~~ in accordance with the Administrative
8 Procedure Act [82-4201 to 82-4225] relating to a contested
9 case shall be followed, whether or not any protest to the
10 application is filed.

11 (2) A notice of the filing of an application for a new
12 bank ~~charter~~ certificate of authorization shall be mailed to
13 all banks within one hundred (100) miles of the proposed
14 location, measured in a straight line.

15 (3) A hearing shall be conducted no sooner than thirty
16 (30) days and not later than ninety (90) days following the
17 mailing of such notice.

18 (4) Any bank filing a written protest with the board
19 prior to the date of the hearing shall be admitted as a
20 "party," as defined in the Administrative Procedure Act,
21 with full rights of a party, including the right of subpoena
22 of witnesses and written materials, the right of
23 cross-examination, the right to have a transcript, and the
24 right to receive all notices, copy of the application, all
25 orders, and the right of judicial review and appeal.

1 (5) All applications for mergers, consolidations or
2 relocations of banks shall likewise require a hearing, and
3 all of the rights and procedures stated herein shall apply
4 to these matters."

5 Section 25. Section 5-701, R.C.M. 1947, is amended to
6 read as follows:

7 "5-701. Report to ~~superintendent-of-banks~~ department
8 of business regulation. ~~Every~~ A bank shall make to the
9 ~~superintendent--of--banks~~ department of business regulation
10 regular call reports according to the form which may be
11 prescribed by ~~him~~ the department, verified by oath or
12 affirmation of the president, vice-president or cashier of
13 ~~such~~ the bank and attested by the signature of at least two
14 (2) of the directors other than the subscribing officer.
15 Each ~~such~~ report shall exhibit in detail, and under
16 appropriate schedules, the resources and liabilities of the
17 bank at the close of business on any past day ~~by him~~
18 ~~specified~~ by the department. ~~The report and~~ shall be
19 transmitted to the ~~superintendent-of-banks~~ department within
20 five (5) days after the receipt of a request or requisition
21 ~~therefor from him for it~~, and in ~~such~~ a form as ~~the~~
22 ~~department~~ may be required by the superintendent-of-banks,
23 ~~it require~~. It shall be published as soon as possible in a
24 newspaper published in the place where ~~such~~ the bank is
25 established, or, if there be no newspaper in the place, then

in one published nearest ~~thereto~~ to that place in the same county, at the expense of the bank, ~~and-such-proof~~ Proof of the publication shall be furnished at ~~such the~~ such times and in ~~such the~~ such manner as may be required by the ~~superintendent--of banks department.~~

Section 26. Section 5-702, R.C.M. 1947, is amended to read as follows:

"5-702. Report of declaration of dividend. In addition to the statement required by ~~the--preceding~~ section 5-701, ~~every--such~~ a bank shall report to the ~~superintendent-of banks department~~ within ten (10) days after declaring any dividend, showing the amount of ~~such the~~ dividend and the amount of net earnings in excess of the dividend. ~~Such The~~ statement shall be attested as provided for in the attestation of statement by ~~the--preceding~~ section 5-701."

Section 27. Section 5-703, R.C.M. 1947, is amended to read as follows:

"5-703. Special reports to ~~superintendent--of-banks department.~~ In addition to the information obtained from the report required by ~~the-provisions-of~~ section 5-701 ~~of--this code,~~ the ~~superintendent-of-banks-shall~~ department may also ~~have-the-power-to~~ require any a bank to furnish a special report in writing, verified as required by section 5-701 ~~of this-code,~~ whenever when in his its judgment such the special report is necessary to inform him it fully of the

actual financial condition and affairs of such the bank. ~~Any--willful~~ A willfully false statement in the ~~premises shall-be~~ report is perjury, and shall be punished ~~as--such accordingly.~~

Section 28. Section 5-705, R.C.M. 1947, is amended to read as follows:

"5-705. Reports confidential -- false reports -- penalties. The report and any information contained in the reports and statements ~~hereinabove~~ provided for, other than such those reports as which are required to be published, shall be ~~deemed--to--be~~ considered secret and for the confidential information of the ~~superintendent--of-banks department~~ only, ~~and-such The~~ information ~~shall~~ may not be imparted to any persons who are not officially associated ~~in~~ and with the ~~office--of--the--superintendent--of--banks department,~~ and the information ~~therein~~ contained in them shall be used by the ~~superintendent-of-banks department~~ only in the furtherance of his its official duties, ~~except-that it--shall--be--lawful-for-the~~ The department to may exchange information with ~~the federal banking department~~ departments and with departments of other states and ~~to~~ furnish information to prosecuting officials who request ~~the-same~~ it for use in pursuit of official duties. ~~Any--superintendent of--banks--or--deputy--assistant--examiner--or--clerk-in-his employ~~ An employee or agent of the department, who violates

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any of the provisions of this section, or willfully makes a false official report as to the condition of any a bank, shall be removed from office, and ~~shall is~~ also be-deemed guilty of a felony, and-upon Upon conviction, thereof he shall be punished-by-a--fine--of fined not exceeding one thousand dollars ~~(\$1,000.00)~~ (\$1,000), or by--imprisonment imprisoned in the state penitentiary for not exceeding five (5) years, or by both such-fine-and-imprisonment fined and imprisoned."

Section 29. Section 5-801, R.C.M. 1947, is amended to read as follows:

"5-801. Assessment on capital stock to make good impairment. (1) ~~Whenever~~ When the ~~superintendent-of-banks~~ department of business regulation determines that an impairment of capital exists in any a bank, he it may, in ~~his~~ its discretion, notify the board of directors of ~~such the~~ bank by written notice that ~~such the~~ impairment exists, stating the amount thereof in dollars and percentage of the capital stock ~~thereof~~, and he it may, ~~if-he-deems--it~~ advisable in its discretion, order ~~such the~~ board to make good ~~such the~~ impairment within ninety (90) days from date of ~~such the~~ notice.

~~1r--~~(2) The board of directors shall, upon receipt of notice, convene and pass a resolution reciting the receipt of ~~such the~~ notice of impairment and calling a special

meeting of the stockholders of the bank ~~for-a-day-certain~~ in the manner provided in their bylaws.

~~2r--~~(3) The stockholders,~~when--assembled--as--herein~~ provided, at the meeting shall pass a resolution reciting the facts of receipt of notice from the superintendent department, notice of impairment and notice of meeting, and assessing themselves by assessing the stock of record, payment of which assessment must be made within the time limit specified by the ~~superintendent-of-banks~~ department as provided in notice of impairment.

~~3r--~~(4) If there ~~be is~~ any stock remaining on which the assessment is not paid as ~~hereinabove~~ provided in this section, the-same it or such a part thereof of it as is necessary to pay the assessment shall be sold by the board of directors, acting through the cashier or secretary thereof of the bank, at public or private sale, as appears best for all concerned, ~~on-a--day--certain~~, not less than thirty (30) days after the day fixed for payment of assessment ~~hereinabove-provided~~, notice Notice of the time and place of ~~which the~~ sale shall be given by registered mail to the stockholders by the board through its cashier or secretary at least ten (10) days prior to the ~~date-thereof~~, ~~and-such-sales~~ sale. A sale of stock as ~~herein~~ provided in this section ~~for---shall---effect~~ causes an absolute cancellation of the outstanding certificate or certificates

1 evidencing the stock so sold, and ~~shall make the same null~~
 2 ~~and makes them~~ void in the hands of the stockholders
 3 stockholder, his assigns or pledgees, ~~and--a~~ A new
 4 certificate shall be issued by the bank to the purchaser
 5 ~~thereof~~, for the number of shares purchased, and a new
 6 certificate issued to the stockholder of record and
 7 delivered to him or any pledgee or assignee ~~thereof of the~~
 8 stock for the remaining shares, if any, ~~and the~~ The record
 9 of the original certificate sold shall be marked canceled on
 10 the books of the bank and ~~such that~~ record ~~thereof shall--be~~
 11 is prima facie evidence of the regularity of the proceedings
 12 for the sale of ~~said the~~ stock.

13 ~~4--~~(5) If any a bank fails to make good its capital
 14 impairment upon demand of the ~~superintendent--of--banks~~
 15 department, as provided herein in this section, the
 16 ~~superintendent-of-banks department~~ may forthwith immediately
 17 take charge of ~~such that~~ bank and proceed to liquidate ~~its~~
 18 it as in case of insolvency.

19 (6) If the ~~said~~ stock does not sell for ~~sufficient~~
 20 enough to pay the assessment ~~thereon on it~~, the board of
 21 directors may ~~proceed--by--suit~~ sue in the name of the
 22 corporation to collect the deficiency from the record
 23 holder, whose stock has been ~~thus~~ sold for the assessment."

24 Section 30. Section 5-901, R.C.M. 1947, is amended to
 25 read as follows:

1 "5-901. Examination and supervision. The
 2 ~~superintendent-of-banks department of business regulation~~
 3 shall exercise a constant supervision, ~~either personal or~~
 4 ~~through the examiners herein provided for~~, over the books
 5 and affairs of all banks doing business ~~within the in this~~
 6 state of Montana, and It shall, ~~through the examiners,~~
 7 visit examine, at least once a year, each of ~~said those~~
 8 banks, and verify the assets and liabilities of each, and so
 9 far investigate the character and value of the assets of
 10 each as to ascertain with reasonable certainty that the
 11 values are correctly carried on the books. ~~He~~ It shall
 12 further investigate the methods of operation and conduct of
 13 business of ~~said the~~ banks and their systems of accounting,
 14 to ascertain whether ~~such the~~ methods and systems are in
 15 accordance with law and sound banking principles. ~~He~~ It may
 16 ~~examine, or cause to be examined by the examiners, on~~ under
 17 oath, any of the officers, directors, agents, clerks,
 18 customers, or depositors of any a bank ~~touching regarding~~
 19 the affairs and business thereof, ~~and~~ It may, in the
 20 performance of ~~his its~~ official duties, issue, ~~or cause to~~
 21 ~~be issued by himself or the examiners~~ subpoenas, and
 22 administer, ~~or cause to be administered by the examiners,~~
 23 oaths, ~~provided that in~~ In case of any a refusal to obey
 24 any a subpoena issued by ~~him it~~ or under his direction, ~~such~~
 25 the refusal may at once be reported to the district court of

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1 the district in which the bank is located, and ~~such~~ the
 2 court shall enforce obedience to ~~such~~ the subpoena in the
 3 manner provided by law for enforcing obedience to the
 4 process of ~~said~~ the court. In all matters relating to ~~his~~
 5 its official duties, the ~~superintendent-of-banks-shall-have~~
 6 department has the same power possessed by courts of law to
 7 issue subpoenas, and ~~cause~~ have them ~~to--be~~ served and
 8 enforced, ~~and--all~~ All officers, directors, agents and
 9 employees of banks doing business under ~~the--provisions--of~~
 10 this act, and all persons having dealings with or knowledge
 11 of the affairs or methods of ~~any-such--institution~~ a bank,
 12 shall at all times afford reasonable facilities for ~~such~~ the
 13 examinations, and make ~~such~~ returns, and reports to the
 14 ~~superintendent-of-banks~~ department as he it may require.
 15 They shall also attend hearings and answer under oath ~~his~~
 16 lawful the department's inquiries, produce and exhibit ~~such~~
 17 any books, accounts, documents and property ~~as-he-may-desire~~
 18 it desires to inspect, and in all things aid ~~him~~ it in the
 19 performance of ~~his~~ its duty."

20 Section 31. Section 5-910, R.C.M. 1947, is amended to
 21 read as follows:

22 "5-910. Special examinations and fees. Special
 23 examinations may be made of ~~any~~ a bank, trust company,
 24 investment company, building and loan association, or credit
 25 union when in the judgment of the ~~superintendent-of-banks~~

1 ~~department~~ it ~~shall-be-deemed~~ is considered necessary, and
 2 ~~such~~ the special examination shall be charged for at the
 3 rate of one hundred dollars (\$100) a day for each person
 4 engaged in the examination. All special examination fees or
 5 charges shall be paid at the conclusion of the examination
 6 and the moneys ~~so~~ collected by the ~~state--examiner--and--ex~~
 7 ~~officio--superintendent-of-banks~~ department shall be paid to
 8 the state treasurer, for the credit of the general fund."

9 Section 32. Section 5-1002, R.C.M. 1947, is amended to
 10 read as follows:

11 "5-1002. Change from state to national bank. Any bank
 12 may become a corporation for the purpose of carrying on the
 13 business of banking ~~within in~~ in this state, ~~pursuant-to~~ under
 14 ~~the provisions-of-the~~ act of Congress "to provide a national
 15 currency secured by a pledge of United States bonds, and to
 16 provide for the circulation and redemption thereof,"
 17 approved June 3, 1864, and of Title 52 of the Revised
 18 Statutes of the United States, ~~whenever~~ when stockholders
 19 owning two-thirds (2/3) of the stock of ~~such~~ the bank ~~shall~~
 20 have voted to become such corporation, or have executed a
 21 written consent authorizing its directors to make the
 22 certificate required therefor by the laws of the United
 23 States, or ~~whenever~~ when a majority of the directors of ~~such~~
 24 the bank, having been authorized in their discretion to make
 25 the change, shall, by a vote of ~~such~~ the majority, decide to

become such corporation, ~~and the~~ The cashier of ~~such the~~ bank shall publish notice thereof for thirty (30) days in ~~such the~~ newspaper as which the directors may select, and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders, and notify the ~~state bank-examiner-of--this--state~~ department of business regulation that ~~such the~~ bank has decided to become a corporation under the laws of the United States."

Section 33. Section 5-1012, R.C.M. 1947, is amended to read as follows:

"5-1012. Information obtained by ~~state-examiner-to-be~~ deemed department confidential -- penalty for the violation thereof. Any knowledge or information gained or discovered by the ~~state--superintendent--of--banks,~~ department in pursuance of ~~his its~~ powers or duties ~~as-herein--prescribed,~~ shall--be--deemed is confidential information of the ~~state examiner's--office---only,---and---such~~ department. The information ~~shall may~~ not, except as ~~herein~~ provided in this section, be imparted to any person ~~or-persons-who-are~~ not officially associated ~~in-and~~ with the ~~office--of--the--state~~ examiner--and--such department. The information shall be used by the ~~state--examiner~~ department only in the furtherance of ~~his its~~ official duties, except that ~~it-shall~~ be--lawful--for the department ~~to may~~ exchange information with the federal banking department and departments of other

states and ~~to may~~ furnish information to prosecuting officials who require ~~the--same~~ it for use in pursuit of official duties. ~~Any-state-examiner-or--deputy,--assistant,~~ or--clerk--in--his--employ, An employee or agent of the department who violates ~~any--of--the--provisions--of~~ this section, or willfully makes a false official report as to the condition of ~~any a~~ bank, shall be removed from office, and ~~shall is~~ also be ~~deemed~~ guilty of a felony, ~~and-upon~~ Upon conviction ~~thereof he~~ shall be ~~punished-by-a--fine--of~~ fined not exceeding one thousand dollars ~~(\$1,000.00)~~ (\$1,000), or ~~by--imprisonment~~ imprisoned in the state penitentiary ~~for~~ not exceeding five (5) years, or ~~by both~~ such-fine-and-imprisonment fined and imprisoned."

Section 34. Section 5-1018, R.C.M. 1947, is amended to read as follows:

"5-1018. Superintendent Department to make rules and regulations. The ~~superintendent--of--banks--shall-have-the~~ power-to department may adopt ~~and-promulgate~~ uniform rules ~~and--regulations~~ to govern the examination and reports of banks and prescribe the form in which ~~such~~ banks shall report their assets, liabilities, and reserves."

Section 35. Section 5-1019, R.C.M. 1947, is amended to read as follows:

"5-1019. Special examination defined. ~~Any An~~ examination made by the ~~superintendent-of--banks~~ department

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otherwise than in the ordinary routine of the department, and because in ~~his~~ its opinion the condition of the bank requires ~~such~~ the examination, and ~~every~~ an examination made at the request of the board of directors or stockholders of ~~any a bank,~~ shall-be-deemed is a special examination."

Section 36. Section 5-1024, R.C.M. 1947, is amended to read as follows:

"5-1024. Conversion of surplus and undivided profits to capital. A bank having a surplus and undivided profits equal to or in excess of fifty ~~per-centum~~ percent (50%) of its capital stock, may increase its capital stock by the issuance of new stock for a part of ~~said~~ that surplus and undivided profits. ~~Said~~ The increase may be made by the vote of two-thirds (2/3) of the stock in person or by proxy, either at a regular annual stockholders' meeting or at a meeting called for ~~said~~ that purpose in accordance with the bylaws of the corporation. All increases of capital stock made under this section must be accomplished in ~~such~~ a manner ~~as-to-conform~~ conforming to the requirements of this act ~~as~~ pertaining to surplus of banks when first incorporated. New capital stock when issued by a bank against its surplus and undivided profits may be issued without the payment of cash ~~therefor~~ for it, but ~~the-same~~ it shall be charged upon the books of the bank and in the statements ~~thereof~~ of the bank against surplus and undivided

profits ~~in--such--a--manner~~ so that the combined capital, surplus and undivided profits ~~shall~~ are not be reduced by the issuance of ~~said~~ the new stock. ~~Whenever~~ When a bank ~~shall-have~~ has voted to issue any stock as contemplated in this section, it shall certify ~~such~~ that action to the ~~superintendent-of-banks~~ department, ~~who~~ which shall within thirty (30) days, approve or reject the plan. ~~His~~ Its action shall be final and written notice ~~thereof~~ of it shall be given to the bank. If the ~~superintendent--of--banks~~ department approves of the issuance of ~~said~~ the new stock and so notifies the bank, ~~it~~ the bank shall ~~thereupon~~ then file a certificate ~~thereof~~ of issuance with the county clerk and recorder of the county ~~wherein~~ in which the bank is located and with the secretary of state ~~of--the--state--of~~ Montana. Upon ~~said~~ the filing with the secretary of state, the increase ~~shall-become~~ becomes effective."

Section 37. Section 5-1037, R.C.M. 1947, is amended to read as follows:

"5-1037. Borrowing money -- limitations. ~~No~~ A bank ~~shall~~ may not borrow money, except to meet its seasonal requirements or unexpected withdrawals. ~~Provided,--that--at~~ At no time shall the bills payable and rediscounts of ~~any a~~ bank be permitted to exceed in the aggregate an amount equal to the capital and surplus of ~~such~~ the bank, except with the written consent of the ~~superintendency--first--had---and~~

obtained department. ~~Whenever~~ When it shall appear appears to the superintendent department that a bank is borrowing money in excess of the above limitation provided by this section, or for the purposes other than as specified above in this section, ~~he~~ the department may require it to reduce such the borrowing within a time to be fixed by him the department."

Section 38. Section 5-1058, R.C.M. 1947, is amended to read as follows:

"5-1058. Definitions. As used in ~~this-act~~ sections 5-1059 through 5-1062, unless the context otherwise requires:

~~(1)--"Commissioner"--means--the--officer--of--this--state designated--by--law--to--exercise--supervision--over--banks,--and any--other--person--lawfully--exercising--such--powers--~~

~~(2)--(1)~~ "Bank" includes commercial banks, savings banks, trust companies, any person or association of persons lawfully carrying on the business of banking, whether incorporated or not, and to the extent that the provisions hereof of sections 5-1059 through 5-1062 are not inconsistent with and do not infringe upon paramount federal law, also includes national banks.

~~(3)--(2)~~ "Officers" means the person or persons designated by the board of directors, board of trustees, or other governing body of a bank, to act for the bank in

carrying out the provisions of ~~this-act~~ sections 5-1059 through 5-1062 or, in the absence of ~~any-such~~ a designation or of the officer or officers so designated, the president or any other officer currently in charge of the bank or of the office or offices ~~in-question~~ involved.

~~(4)--(3)~~ "Office" means any place at which a bank transacts its business or conducts operations related to its business.

~~(5)--(4)~~ "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at ~~one-or-more-or-all~~ any of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any ~~one-or--more~~ of the following: fire; flood; earthquake; hurricanes; wind, rain, or snowstorms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophes; riots, civil commotions, and other acts of lawlessness or violence, actual or threatened."

Section 39. Section 5-1059, R.C.M. 1947, is amended to read as follows:

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1 "5-1059. Power of commissioner department. Whenever
 2 When the commissioner department is of the opinion that an
 3 emergency exists, or is impending, in this state or in any
 4 part ~~or--parts~~ of this state, he it may, by proclamation,
 5 authorize banks located in the affected area ~~or--areas~~ to
 6 close any ~~or--all~~ of their offices. In addition, if the
 7 commissioner department is of the opinion that an emergency
 8 exists, or is impending, which affects, or may affect, a
 9 particular bank or banks, or a particular office or offices
 10 thereof, but not banks located in the area generally, he it
 11 may authorize the particular bank or banks, or office or
 12 offices so affected, to close. The office or offices so
 13 closed shall remain closed until the commissioner department
 14 proclaims that the emergency has ended, or until such
 15 earlier time as the officers of the bank determine that one
 16 or more offices, theretofore closed because of the
 17 emergency, should reopen, and, in either event, for such
 18 further time thereafter as may reasonably be required to
 19 reopen."

20 Section 40. Section 5-1060, R.C.M. 1947, is amended to
 21 read as follows:

22 "5-1060. Powers of officers. ~~At~~ (1) ~~Whenever~~ When the
 23 officers of a bank are of the opinion that an emergency
 24 exists, or is impending, which affects, or may affect, one
 25 ~~or--more-or-all~~ any of a bank's offices, they ~~shall have the~~

1 ~~authority may~~, in the reasonable and proper exercise of
 2 their discretion, ~~to~~ determine not to open any ~~one-or-more~~
 3 ~~or--all~~ of such those offices on any ~~business-or~~ banking day
 4 or, if having opened, to close any ~~one-or-more-or-all~~ of
 5 such those offices during the continuation of such the
 6 emergency, even if the commissioner department has not
 7 issued and does not issue a proclamation of emergency. ~~The~~
 8 An office ~~or--offices~~ so closed shall remain closed until
 9 ~~such-time-as~~ the officers determine that the emergency has
 10 ended, and for such a further time thereafter as may
 11 reasonably be required to reopen, ~~however~~ However, in no
 12 case shall such an office ~~or--offices~~ remain closed for more
 13 than forty-eight (48) consecutive hours, excluding other
 14 legal holidays, without requesting the approval of the
 15 commissioner department.

16 ~~But--~~ (2) The officers of a bank may close any ~~one--or~~
 17 ~~more--or--all~~ of the bank's offices on any day ~~or--days~~
 18 designated, by proclamation of the president of the United
 19 States or the governor of this state, as a day ~~or--days~~ of
 20 mourning, rejoicing, or other special observance."

21 Section 41. Section 5-1061, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1061. Notice to commissioner department. A bank
 24 closing an office ~~or--offices-pursuant-to-the~~ under authority
 25 granted under section ~~3--(A)--(5-1060--(A))--of--this--act~~

1 5-1060(1) shall give as prompt notice of its action as
2 conditions will permit and by any means available, to the
3 commissioner department, and in the case of a national bank,
4 to the comptroller of the currency."

5 Section 42. Section 5-1062, R.C.M. 1947, is amended to
6 read as follows:

7 "5-1062. Effect of closing. (1) Any A day on which a
8 bank, or any ~~one-or-more~~ of its offices, is closed during
9 ~~all-or~~ any part of its normal banking hours ~~pursuant-to--the~~
10 ~~authorization--granted~~ under ~~this--act--shall-be,~~ sections
11 5-1059 and 5-1060 with respect to such that bank or, if not
12 all of its offices are closed, then with respect to any the
13 office or offices which are closed, a legal holiday for all
14 purposes with respect to any banking business ~~of--any~~
15 ~~character~~. No liability, or loss of rights of any kind, on
16 the part of any a bank, or director, officer, or employee
17 thereof, ~~shall may~~ accrue or result by virtue of any a
18 closing authorized by ~~this-act~~ sections 5-1059 and 5-1060.

19 (2) The provisions of ~~this-act~~ sections 5-1058 through
20 5-1062 ~~shall--be--construed--and--applied--as--being~~ are in
21 addition to any other law of this state or of the United
22 States, authorizing the closing of a bank or excusing the
23 delay by a bank in the performance of its duties and
24 obligations because of emergencies or conditions beyond the
25 bank's control, or otherwise."

1 Section 43. Section 5-1101, R.C.M. 1947, is amended to
2 read as follows:

3 "5-1101. Grounds for closing bank. (1) ~~Whenever~~ When
4 it ~~shall--appear~~ appears to the ~~superintendent-of-banks~~
5 department of business regulation that:

6 ~~(1)--(a)~~ Any A bank has willfully violated its charter
7 or ~~any a~~ law of this state; ~~or,~~

8 ~~(2)--(b)~~ Has A bank has willfully violated any a
9 general rule ~~or-regulation~~ of the superintendent department,
10 made in accordance with law; ~~or,~~

11 ~~(3)--(c)~~ ~~That--the~~ The capital of any a bank is
12 impaired or for any reason is below the amount required by
13 law and has not been made good after notice, as provided by
14 law, or without such that notice, in event a majority of the
15 board of directors of such the bank notify the
16 superintendent department in writing that the ~~same~~
17 impairment cannot be made good; ~~or,~~

18 ~~(4)--(d)~~ ~~That-such A~~ bank cannot meet or has failed to
19 meet its liabilities ~~or-any-of-the-same,~~ as they become due
20 in the regular course of business; ~~or,~~

21 ~~(5)--(e)~~ ~~That--its A~~ bank's reserve has fallen below
22 the amount required by law and it has failed to make good
23 such that reserve within thirty (30) days after being
24 requested to do so by the superintendent department, or,
25 without such that notice, if a majority of the directors, in

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writing, notify the superintendent department that such the reserve cannot be made good within thirty (30) days, or if it is continually allowing its reserve to fall below the required amount; ~~or,~~

~~(6)--(f)~~ That-it A bank is conducting business in an unsafe and unauthorized manner, or is in an unsafe or unsound condition; ~~or,~~

~~(7)--(g)~~ It-has A bank refused to submit its papers, books and concerns to the inspection of the superintendent or-his-authorized-agent-or-representative department; or,

~~(8)--(h)~~ That-any An officer of such a bank has refused to be examined on under oath touching regarding the affairs, business or concerns of any bank in so far as such they relate to the solvency ~~of-the-bank~~ or matters having to do with the supervision by the superintendent department; then the department may, in its discretion, close the bank and take possession of all the books, records, assets and business of every description of the bank, and hold them and retain possession of them until the bank is authorized by the department to resume business, or its affairs are liquidated as provided in this chapter, and it shall do so in cases where a bank comes into its possession voluntarily, or in the manner provided by law.

~~The-superintendent-himself--or-his--duly--authorized agent--upon--express-authority-from-the-superintendent--may,~~

~~in-his-discretion-close-said-bank-and-take-possession-of-all the-books,-records,-assets-and-business-of-every-description of-such-bank,-and--hold--the--same--and--retain--possession thereof-until-such-bank-shall-be-authorized-by-him-to-resume business,-or-its-affairs-be-liquidated-as-herein-provided, and-he-shall-do-so-in-cases-where--a--bank--comes--into--his hands-voluntarily,-or-in-the-manner-provided-by-law,~~

(2) The powers and authority conferred on the superintendent department by this section, except in cases of voluntary surrender, ~~---shall--be--considered--as~~ are discretionary and not as mandatory, ~~and-so As~~ as long as a superintendent the department acts in good faith ~~in-the matter,-neither-he-nor-his-deputies-shall the department and its employees and agents may not~~ be held liable civilly or criminally or upon their official bonds ~~in-any for~~ action taken ~~thereunder under this section~~ or for any failure to act ~~thereunder under it."~~

Section 44. Section 5-1102, R.C.M. 1947, is amended to read as follows:

"5-1102. Penalty for closing bank with criminal intent. If ~~any-superintendent-of-banks--or--official--in an employee or agent of the department of-banking, shall,~~ as a result of malice or for personal gain, ~~decide-any declares~~ a bank insolvent, he shall,-upon-conviction-thereof,-be is subject to punishment by a fine not exceeding one thousand

dollars ~~(\$1,000.00)~~ (\$1,000) or imprisonment in the county jail not exceeding one (1) year, or both, ~~within--the discretion-of-the-court~~ and shall forfeit his office."

Section 45. Section 5-1103, R.C.M. 1947, is amended to read as follows:

"5-1103. Bank may be placed in ~~superintendent's~~ department's possession. ~~Any~~ A bank may place its affairs and assets under the control and in the possession of the superintendent department by posting a notice on the front door of such the bank, indicating that ~~said-bank it~~ is in his-hands, which the possession of the department. The notice shall be signed, ~~--in--their--own-handwriting,~~ by a majority of the directors in office of such the bank. Immediately upon the posting of such the notice by any a bank, it shall notify the ~~superintendent-thereof~~ department of its action."

Section 46. Section 5-1104, R.C.M. 1947, is amended to read as follows:

"5-1104. Effect of posting notice. The posting of such the notice by the directors of any a bank, or of a like notice ~~signed~~ by the ~~superintendent-shall-be~~ department is sufficient to place all assets and property of such the bank, of whatever nature and wherever ~~situate~~ located, in possession of the superintendent department, and ~~shall operate~~ operates as a bar to ~~any-detachment~~ an attachment or

any other legal proceedings against such the bank or its assets, ~~and--no~~ No valid lien or claim can be acquired or created, or transfer or assignment made in any manner, binding or affecting any of the assets of such the bank after the posting of such the notice or after taking possession of any a bank by the superintendent department without ~~his~~ its consent."

Section 47. Section 5-1105, R.C.M. 1947, is amended to read as follows:

"5-1105. Taking possession of bank -- notice. On taking possession of the assets and business of the bank, the superintendent department shall, in addition to posting notice ~~thereof~~ on the front door of such the bank ~~as~~ aforsaid, also notify at once, personally or by wire, all corresponding banks, and ~~any-and~~ all persons or corporations known to ~~him~~ it to be ~~holding-or~~ in possession of, any of the estate of such the bank."

Section 48. Section 5-1106, R.C.M. 1947, is amended to read as follows:

"5-1106. Resumption after closing. After the superintendent department has taken possession of any a bank, ~~he~~ it may permit such that bank to resume business upon such conditions ~~as~~ which may be approved by ~~him~~ it."

Section 49. Section 5-1107, R.C.M. 1947, is amended to read as follows:

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1 "5-1107. Powers of superintendent department on
 2 closing bank -- court proceedings. Upon taking the assets
 3 and business of any a bank into his its possession, the
 4 superintendent department is authorized to collect all
 5 moneys due to such that bank, and to do such those other
 6 acts ~~as-are~~ necessary to conserve its assets and business,
 7 and ~~he~~ the department shall proceed to liquidate the affairs
 8 ~~thereof of the bank~~. ~~He shall have general and inclusive~~
 9 ~~power and authority~~. The department may, in its discretion,
 10 and except as otherwise limited by the terms of this act, to
 11 do any and--all acts, to take any and all steps necessary,
 12 or, in his discretion, desirable for the protection of the
 13 property and assets of such the bank and the speedy and
 14 economical liquidation of the assets and affairs of such the
 15 bank and the payment of its creditors, or for the reopening
 16 and resumption of business ~~by--said--bank~~, where that is
 17 practicable or desirable. ~~He~~ It may institute, in his its
 18 own name ~~as-superintendent~~, or in the name of the bank, such
 19 those suits and--actions and other legal proceedings as he
 20 deems it considers expedient for such those purposes, and
 21 by--making--application By applying to the district court of
 22 the county in which such the bank is located, or to the
 23 judge ~~thereof~~, of that court in chambers, the department may
 24 procure obtain an order to sell, compromise, or compound any
 25 bad or doubtful debt or claim, and to sell and dispose of

1 any ~~or--all--the~~ assets, which sale may be made to
 2 stockholders, officers, directors, or others interested in
 3 such the bank, on consent of the court. ~~On--such~~ In the
 4 court proceedings the bank shall be made a party by notice
 5 issued on order of the court or judge, in ~~lieu~~ place of
 6 summons, and served upon some officer of the bank, if any
 7 there ~~be is any~~ in the county, ~~but-if~~ If no officer can be
 8 found in the county then the same notice shall be posted ~~in~~
 9 ~~manner and form the same as probate--notices,--that--is,~~ in
 10 three (3) public places in the county for at least ten (10)
 11 days before the day of hearing ~~thereon~~. The hearing of any
 12 such an application or petition by the superintendent
 13 department may be had at any time, either in term or
 14 vacation in court, or in chambers, as the court may order,
 15 after ~~said the~~ bank has had five (5) days' notice of such
 16 the application, or the notice has remained been posted for
 17 at least ten (10) days."

18 Section 50. Section 5-1108, R.C.M. 1947, is amended to
 19 read as follows:

20 "5-1108. Recourse of aggrieved bank -- application to
 21 court for injunction -- pleadings -- evidence -- appeals.
 22 Any A bank ~~deeming--itself~~ aggrieved by the action of
 23 superintendent the department in taking possession of its
 24 assets or closing its doors may, within ten (10) days after
 25 such possession shall--have has been taken, apply to the

1 district court of the county in which its principal place of
 2 business is located, or to the judge ~~thereof of that court~~
 3 in chambers, to enjoin further proceedings by the
 4 ~~superintendent, and the department.~~ The court or the judge
 5 ~~thereof~~ in chambers, after notifying the ~~superintendent~~
 6 ~~department~~ to appear at a specified time and place to show
 7 cause why further proceedings should not be enjoined, and
 8 after hearing the allegations and proofs of the parties, and
 9 determining facts, may, on the merits, dismiss ~~such the~~
 10 application, or enjoin the ~~superintendent department~~ from
 11 further proceeding and direct him ~~it~~ to surrender the
 12 business and assets of ~~said the~~ bank. ~~Such The~~ application
 13 for injunction may be heard at any time after five (5) days'
 14 notice from the time of service on ~~said--superintendent the~~
 15 ~~department~~, in the discretion of the court, ~~or the judge~~
 16 ~~thereof~~, or at any time prior ~~thereto to then~~ by the consent
 17 of the ~~superintendent department~~. Application ~~therefor~~
 18 shall be made on the verified complaint of the bank, in the
 19 ordinary form used in civil actions ~~in-district-court~~, and a
 20 copy of ~~such the~~ complaint shall be served on the
 21 ~~superintendent department~~ with the order to show cause. The
 22 ~~superintendent department~~ shall, at least two (2) days
 23 before the time set for hearing, file ~~in-the-cause, with the~~
 24 ~~court~~ and serve upon counsel for plaintiff an answer to the
 25 complaint, also in the ordinary form used in civil actions

1 ~~in-the-district-court.~~ Demurrers-and--motions--directed--to
 2 ~~pleadings--are-not-permissible-in-proceedings-had-under-this~~
 3 ~~section, but any~~ Any questions raised by demurrer-or motion
 4 in other actions may be raised in the answer. On the issues
 5 ~~thus--made-on~~ raised by the complaint and answer, the court,
 6 or the judge ~~thereof~~ at chambers, at the time fixed for
 7 showing cause, ~~or--at--such-other-time-to-which-he, in-his~~
 8 ~~discretion, may continue the same,~~ shall try the matter on
 9 the merits by hearing the allegations and proofs of the
 10 parties and shall enter judgment, ~~in-the-same-manner~~ as on
 11 in the trial of ordinary other civil actions. ~~in-the~~
 12 ~~district--court,--and--the--rules--governing--the--trial--of~~
 13 ~~ordinary--civil-actions-and-for-the-production-and-taking-of~~
 14 ~~evidence-and-hearing-the-examinations-of-witnesses--and--the~~
 15 ~~entry--of-findings-and-judgments-therein, shall prevail--In~~
 16 event If the ~~superintendent department~~ makes no appearance
 17 in the time ~~limited~~ allowed, the court shall enter ~~his~~ its
 18 default and proceed to hear the proofs of the plaintiff ~~in~~
 19 ~~like-manner~~ as in civil actions under similar circumstances,
 20 and enter judgment accordingly. The judgment entered either
 21 after hearing on the merits or by default, ~~shall-be is a~~
 22 final judgment. ~~from--which--either--party--shall--have--the~~
 23 ~~right,--by-notice-filed-within-twenty-(20)-days-after-entry,~~
 24 ~~to-appeal-to-the-supreme-court, in-the-same-manner--as--from~~
 25 ~~final--judgment--in-a-civil-action,--Provided, however, that~~

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during During the pendency of such litigation the superintendent--of--banks department shall take such that action in relation to the assets of said the bank as which is necessary to conserve them."

Section 51. Section 5-1109, R.C.M. 1947, is amended to read as follows:

"5-1109. Superintendent Department may appoint agents --liquidating agents -- salaries and expenses. (1) The superintendent--may,--under--his--hand--and--seal,--appoint--and authorize--an--agent--to--assist--him--or--act--for--him--in--the performance--of--any--powers--or--duties--hereunder,--the certificate-of-appointment-to-be-filed-in-the-office-of-said superintendent,--and-a-certified-copy--thereof--delivered--to such--agent,--Such--agent--and--other-employees-hereinafter mentioned,--shall--receive--a--salary,--to--be--fixed--as hereinafter-provided,--for-the-time-he-is-actually-engaged-in the-performance-of-such-duties,--The-superintendent-may-also employ--such--attorneys--and-procure-such-expert-accountants and-other--experts,--assistants--and--employees--as--may--be necessary--in-the-liquidation-and-distribution-of-the-assets of--any--such--bank,--and--the--performance--of--his--duties hereunder,--and The department may retain such-of-the those officers or employees of such the bank as-he which it may deem considers necessary. He It shall require from the agent appointed by him it and from such--of--the those

assistants as--will who have charge of any of the assets of the bank such that security for the faithful discharge of their duties as he-may-deem it considers proper.

(2) Provided,--further,--that--the--superintendent-may also-designate-any-one-of-the-examiners-of-the-department-of banking-as-a-general-liquidating-agent,--with-his--office--in the--department--of--banking,--for-the-purpose-of-liquidating any-one-or-all-state-banks-in-the--process--of--liquidation, and-for-the-purpose-of-conducting-such-liquidation-under-the direction-of-said-superintendent,--and-may-authorize-the-said liquidating-agent--to--employ--such-clerical-help-as-may-be necessary,--Such-liquidating-agent-shall-receive-a-salary-to be-fixed-by-the-superintendent-of-banks,--not-to-exceed-three thousand-six--hundred--dollars--(\$3,600.00)--per--year,--and necessary--traveling--and--hotel--expenses--incurred--in-the performance-of-his-official-duties. The salary of the a liquidating agent and necessary clerical assistance, and other expenses incurred by the--said a liquidating agent, shall be borne equally and ratably by the bank or banks in process of liquidation under such the agent's charge in proportion to the total amount of resources of each of such the banks. The funds for such those expenses shall be raised by assessing each bank in ratio herein set forth and paying such those expenses direct to the persons entitled thereto to them, without depositing any of such the funds in

1 the state treasury."

2 Section 52. Section 5-1110, R.C.M. 1947, is amended to
3 read as follows:

4 "5-1110. Compensation of agents and attorneys. The
5 compensation of the agents, ~~appointed-by-the-superintendent~~
6 ~~and-of~~ attorneys, expert accountants and other assistants,
7 ~~appointed by the department~~, and all expenses of liquidation
8 and distribution of a bank whose assets and business ~~shall~~
9 ~~be have been~~ taken possession of by the ~~superintendent~~
10 ~~department~~, shall be fixed by the ~~superintendent department~~,
11 but subject to ~~be--approved~~ approval by the judge of the
12 district court of the county in which the bank is located,
13 on notice of ~~such the~~ bank, ~~and-the-superintendent-of-banks~~
14 The department shall, upon written request of ~~said the~~
15 district judge, supply semiannual statements showing the
16 condition of ~~said the~~ bank in process of liquidation.
17 Except in cases of emergency, the compensation ~~to-be~~ paid to
18 attorneys and expert ~~accounts~~ accountants shall be fixed and
19 approved before services are rendered. When the
20 compensation ~~shall--have~~ has been ~~so~~ fixed and approved and
21 the services rendered, the ~~same~~ compensation shall be paid
22 out of the funds of ~~such the~~ bank in the hands of the
23 ~~superintendent department~~, and ~~shall-be~~ are a proper charge
24 and lien on the assets of ~~such the~~ bank ~~as-herein-provided~~."

25 Section 53. Section 5-1111, R.C.M. 1947, is amended to

1 read as follows:

2 "5-1111. Notice to creditors of insolvent bank. The
3 ~~superintendent department~~ shall ~~cause~~ give notice ~~to--be~~
4 ~~given~~ by advertisement in a newspaper of general circulation
5 in the town or city in which ~~said the~~ bank is situated, if
6 there ~~be is~~ one, and if not, then in ~~such some~~ other
7 newspaper published in ~~the this~~ state ~~of-Montana~~, as ~~which~~
8 the ~~superintendent department~~ shall designate, once a week
9 for two (2) successive weeks, ~~calling~~ The notice shall
10 call on all persons who have claims against ~~said the~~ bank to
11 present ~~the-same them~~ to the ~~superintendent department~~ or
12 ~~his--duty its~~ authorized agent at a place to be specified in
13 ~~said the~~ notice, and to make sworn proof ~~thereof~~, in form to
14 be fixed by ~~him, the~~ department, within the time specified
15 in ~~said the~~ notice, not less than ninety (90) days from the
16 date of the first publication ~~thereof~~. A copy of ~~such the~~
17 notice shall be mailed to all persons whose names appear as
18 creditors upon the books of the bank."

19 Section 54. Section 5-1112, R.C.M. 1947, is amended to
20 read as follows:

21 "5-1112. Claims -- allowance and rejection. The
22 ~~superintendent department~~ shall reject or allow all claims
23 in the whole or in part, and on each claim allowed shall
24 designate the order of its priority. If a claim is rejected
25 or an order of priority allowed lower than that claimed,

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1 notice shall be given the claimant personally or by
 2 registered mail, and an affidavit of the service of such the
 3 notice, which shall be prima facie evidence thereof, of
 4 service, shall be filed in the office of the superintendent
 5 department. The action of the ~~superintendent--shall be~~
 6 department is final unless an action be is brought by the
 7 claimant against the bank in the proper district court of
 8 the county where the bank is located within ninety (90) days
 9 after such the service to fix the amount of the claim and
 10 its order of priority or either. An appeal from the
 11 ~~superintendent's department's~~ allowance, either as to
 12 priority or amount, may also be taken to the district court
 13 of such that county by any party in interest by serving
 14 notice on the ~~superintendent--notice--thereof~~ department,
 15 stating the grounds of objection and filing ~~the-same~~ it in
 16 ~~said that~~ court within thirty (30) days after allowance.
 17 Within five (5) days after such the notice, the
 18 superintendent department shall file in the court, and serve
 19 on the appellant, a copy of the claim and ~~his~~ its reasons
 20 for allowance. The court ~~ex-judge~~ shall, after five (5)
 21 days' notice of time and place of hearing on the issues ~~thus~~
 22 made raised, hear the proof of the parties and enter
 23 judgment reversing, affirming or modifying the
 24 ~~superintendent's department's~~ action."

25 Section 55. Section 5-1113, R.C.M. 1947, is amended to

1 read as follows:

2 "5-1113. Payment of claims. Claims presented to the
 3 superintendent department prior to the expiration of the
 4 time fixed in the notice to creditors ~~therefor~~, and allowed
 5 by ~~him~~ it, shall be paid in the order of priority
 6 ~~hereinafter~~ fixed in this chapter. Those filed after ~~such~~
 7 that expiration and ~~prior--to~~ within one year ~~thereafter~~
 8 ~~shall--be~~ of that expiration are entitled, after they have
 9 been allowed by the superintendent department, to share in
 10 the distribution of the assets of the bank only to the
 11 extent of the assets undistributed in the hands of the
 12 superintendent department and available for the payment of
 13 claims of their order of priority at the time such the
 14 claims are filed, ~~but-as~~ As against other claims of ~~their~~
 15 the same order of priority, on which dividends have been
 16 paid, they ~~shall---be~~ are entitled to payment in a
 17 proportionate amount before further payments are made on
 18 such those other claims. All claims filed after the
 19 expiration of one year following the date fixed in the
 20 notice to creditors as the time for presentation of claims
 21 are not entitled to be allowed or paid unless all other
 22 creditors' claims of any kind ~~or-character~~, except claims of
 23 shareholders, based on stock or assessments paid on stock
 24 ~~shall~~ have been fully paid ~~and--discharged~~, and a surplus
 25 remains in the hands of the superintendent department, and

1 then only from such that surplus."

2 Section 56. Section 5-1114, R.C.M. 1947, is amended to
3 read as follows:

4 "5-1114. Claims -- order of payment -- priorities. (1)
5 Except as otherwise provided by the Uniform Commercial Code,
6 the order of payment of the debts of a bank liquidated by
7 the ~~superintendent-of-banks~~ department shall be as follows:

8 ~~(1)~~--(a) The expense of liquidation, including
9 compensation of agents, employees, and attorneys;

10 ~~(2)~~--(b) All funds of any other bank in process of
11 liquidation by the ~~superintendent-of-banks~~ department and
12 placed on deposit by the ~~superintendent--of--banks~~
13 department;

14 ~~(3)~~--(c) All funds held by the bank in trust;

15 ~~(4)~~--(d) Debts due depositors, holders of cashier's
16 checks, certified checks, drafts on correspondent banks,
17 including protest fees, paid by them on valid checks or
18 drafts presented after closing of the bank, pro rata. All
19 deposit balances of other banks or trust companies, and all
20 deposits of public funds of every kind ~~and-character~~ (except
21 those actually placed on special deposit under the statutes
22 providing therefor), including those of the United States,
23 the state of Montana, and every county, district,
24 municipality, political subdivision, or public corporation
25 of this state, whether secured or unsecured, or whether

1 deposited in violation of law or otherwise, are included
2 within the terms of this ~~subdivision~~ subsection (1)(d) and
3 take the same priority as debts due any other depositor.
4 All contractual liabilities pro rata. Accrued interest on
5 savings accounts, certificates of deposit, or other
6 interest-bearing contracts, up to the time of the closing
7 ~~of~~ of the bank, ~~to~~ shall be considered as part of the debt
8 due.

9 ~~(5)~~--(e) Interest on ~~all~~ the ~~foregoing~~ classes of
10 claims contained in subsections (1)(a) through (1)(d) of
11 this section without regard to the priority computed from
12 the date of closing of the bank at the rate of seven ~~per~~
13 centum percent (7%) per-annum a year;

14 ~~(6)~~--(f) Unliquidated claims for damages and ~~the--like~~
15 similar claims, including claims of stockholders for amounts
16 claimed to have been voluntarily advanced to the bank or
17 paid in by way of special or voluntary or other
18 assessments, provided, however, that the superintendent The
19 department may, in ~~his~~ its discretion, without regard to the
20 priorities herein fixed in ~~subdivisions-(3)-(4)-(5)-and~~
21 ~~(6)~~ subsections (1)(c) through (1)(f) of this section, or in
22 preference to the payment of any claims of creditors within
23 these ~~subdivisions~~ subsections, pay off and discharge any
24 lien, claim, or charge against the assets or property of the
25 bank in ~~his~~ its hands and pay ~~out-and-expend-such~~ those sums

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as-he-deems it considers necessary for the preservation, maintenance, conservation, and protection of any-such those assets and property, and likewise property on which the bank has liens by mortgage or otherwise, ~~and-he~~ It may also in ~~his~~ its discretion create a fund or retain in ~~his~~ its hands, in preference to the claim of any creditors in the ~~subdivisions--above--mentioned~~ subsections (1)(c) through (1)(f), moneys for ~~the-aforesaid~~ those purposes.

~~(7)--~~ (2) Collateral which ~~shall-have~~ has been put up or pledged as security for the payment of bills payable by any a bank, or any loans or discounts which ~~shall~~ have been outstanding as rediscounts of any a bank prior to the closing ~~thereof--shall of it, is~~ not be available to the other creditors of ~~such the~~ bank in whole or in part until ~~such the~~ bills payable or rediscounts ~~shall~~ have been retired, after which offsets as provided in this section provided shall be allowed.

~~(8)--~~ (3) Deposits of any a person, firm, or corporation in a bank which is in the possession of the ~~superintendent,~~ department may be offset against any indebtedness, (subject to the conditions of ~~the--preceding~~ paragraph subsection (2) of this section), except assessments on stock, due to ~~such the~~ bank from ~~such that~~ person, firm, or corporation. All dividends when declared in favor of any a creditor of the bank may be applied, in

the discretion of the superintendent department, in satisfaction of the indebtedness, if any, due the bank from ~~such the~~ creditor."

Section 57. Section 5-1115, R.C.M. 1947, is amended to read as follows:

"5-1115. Claims -- partial payments. The superintendent department need not await the expiration of the time allowed for filing claims, as fixed in the notice to the creditors, for the payment of dividends, ~~but-he~~ It may, in ~~his~~ its discretion, and if under the circumstances of the particular case ~~he-deems it considers~~ it expedient and safe, at any time after taking possession of ~~said the~~ bank and prior to the expiration of ~~such the~~ period fixed for filing of claims, if ~~he-have it has~~ on hand in cash sufficient funds over and above the expenses of liquidation, make ~~prorata pro rata~~ distribution to any class of creditors next entitled ~~thereto to~~ distribution, in the order of priority ~~heretofore~~ fixed in this chapter, making ~~such that~~ payment to ~~said the~~ creditors as they appear on the books and records of the bank and determining the priority and basing his apportionment on the amount shown to be due by ~~such the~~ books and records. At any time after the expiration of the date fixed for the presentation of claims against ~~said the~~ bank and from time to time thereafter, when, in ~~his~~ its discretion there are sufficient funds

1 available ~~therefor~~, the superintendent department shall,
 2 after making proper provisions for the payment of expenses
 3 of liquidation, declare and pay dividends to all creditors
 4 of ~~such the~~ bank pro rata in the order of their priority.
 5 If, after the time fixed for presentation of claims against
 6 the bank has expired, it appears that ~~any a~~ person, prior to
 7 the expiration of ~~said the~~ period, or at any other time, has
 8 been paid more than the pro rata amount due him as compared
 9 with the amounts then paid other creditors, nothing more
 10 ~~shall may~~ be paid ~~such-creditors that creditor~~ until ~~such~~
 11 ~~time-as~~ the payment made other creditors ~~shall-place~~ places
 12 them on equal footing. In calculating dividends, all
 13 disputed claims and deposits shall be taken into account and
 14 the amount of dividends upon ~~such the~~ disputed claims or
 15 deposits shall be held by the superintendent department
 16 until the ~~justice-and~~ validity of ~~such those~~ claims or
 17 deposits ~~shall-have~~ has been finally determined. Claims
 18 against ~~any a~~ bank in process of liquidation may be assigned
 19 in whole or in part subject to the approval of the state
 20 ~~superintendent--of--banks~~ department. Assignments of claims
 21 ~~shall-be~~ are binding upon the superintendent department only
 22 after ~~the-same~~ they have been filed and allowed by the
 23 superintendent department, ~~but--not--before~~, and only then
 24 subject to the payment of the assignor's liabilities to the
 25 bank. ~~Such~~ An assignment shall be made by filing written

1 notice, signed by the original claimant, with the
 2 superintendent department or person in charge of ~~said the~~
 3 bank. No assigned claims may be offset against obligations
 4 due the bank. A check or draft drawn against ~~any a~~ bank
 5 closed or taken possession of by the superintendent
 6 department, whether issued before or after closing ~~thereof~~,
 7 shall not be recognized as a claim against ~~said the~~ bank, or
 8 as an assignment of any amount, whether protested or not
 9 protested."

10 Section 58. Section 5-1116, R.C.M. 1947, is amended to
 11 read as follows:

12 "5-1116. Deposit of funds in superintendent's
 13 department's hands. All funds in the hands of the
 14 superintendent department belonging to ~~any a~~ bank in process
 15 of liquidation shall be deposited in ~~his the~~ department's
 16 name ~~as-superintendent~~ in ~~such those~~ banks within the state
 17 ~~as which~~ may be selected and designated by ~~him it~~ and
 18 subject to ~~his its~~ checks ~~as-superintendent-of-banks~~. ~~Said~~
 19 Those funds are to be preferred and protected as provided in
 20 this act provided."

21 Section 59. Section 5-1117, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1117. Disposition of unclaimed funds. (1) The
 24 superintendent department shall certify to the state
 25 ~~treasurer of-the-state~~ a complete list of funds remaining in

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1 ~~his-hands~~ with it uncalled for, which have been left ~~in--his~~
 2 ~~hands with it~~ in ~~his~~ its official capacity, in trust for
 3 depositors in and creditors of ~~any a~~ liquidated bank after
 4 they have been held by ~~him~~ it for six (6) months from the
 5 date of the final liquidation of the institution. Along
 6 with this certificate, ~~he~~ it shall transmit to the state
 7 treasurer ~~of-the-state~~ the funds with accumulated interest
 8 ~~thereon on them~~, which ~~he~~ it has so held in trust for six
 9 (6) months. A copy of ~~such the~~ certificate shall also be
 10 filed with the state auditor, who shall make a record
 11 ~~thereof of it~~.

12 (2) The state treasurer shall deposit ~~such the~~ funds
 13 and interest in the general fund of ~~the this~~ state of
 14 Montana.

15 (3) ~~Any A~~ depositor or creditor of a liquidated bank
 16 who has not been paid the amount standing to his credit as
 17 thus certified to the state treasurer, may apply to the
 18 state board of examiners for the amount due him. The
 19 depositor or creditor shall make an affidavit and offer
 20 proof of his identity and of the amount due him by the
 21 liquidated bank. When satisfied as to the correctness of
 22 the claim and of the identity of the person, the state board
 23 of examiners shall forward it to the auditor, who shall
 24 audit the ~~same claim~~ and if found correct so certify to the
 25 state board of examiners, ~~who which~~, if ~~they approve-it~~ it

1 approves the claim, shall transmit ~~it~~ the claim to the
 2 ~~legislative--assembly~~ legislature with a statement of ~~their~~
 3 its approval."

4 Section 60. Section 5-1118, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-1118. Disposition of assets remaining after payment
 7 of claims. ~~(a)-(1) Whenever~~ When the ~~superintendent-of-banks~~
 8 ~~department~~ has paid to each ~~and-every~~ depositor and creditor
 9 of ~~such the~~ bank whose claims ~~shall~~ have been ~~duy~~ approved
 10 and allowed as ~~herein~~ provided in this chapter, the amount
 11 due ~~thereon on them~~, or made satisfactory adjustment ~~thereof~~
 12 of them, and ~~shall-have~~ has made provisions for unclaimed
 13 and unpaid deposits and disputed claims and deposits, and
 14 ~~shall-have~~ has paid all the expenses of liquidation, ~~he~~ it
 15 shall file with the clerk of the district court of the
 16 county in which the bank is located, a report of ~~his~~ its
 17 administration of ~~said the~~ trust. If there ~~be~~ are remaining
 18 assets on hand the ~~superintendent-of-banks~~ department may
 19 apply to the judge of ~~said that~~ court in open court or in
 20 chambers, for an order authorizing ~~him~~ it to surrender the
 21 remaining assets together with all the stationery,
 22 correspondence, books and records, ~~had-and~~ kept by the bank
 23 while it was a going concern to the directors of ~~said the~~
 24 bank in office at the time of closing ~~the-same it~~, as
 25 trustees for stockholders, or to ~~such that~~ other person, if

1 any, ~~as--may-have-been-or-may-be~~ designated as trustee by a
 2 majority of the stockholders. The report and petition shall
 3 be set for hearing upon ~~such~~ notice ~~as which~~ the court may
 4 direct, ~~and--upon~~ Upon hearing had and approval of ~~said the~~
 5 report and account ~~being-given~~ and the surrender of ~~said the~~
 6 assets ~~being--made~~ as ~~in---the---order~~ directed, the
 7 ~~superintendent--of--banks--shall-be~~ department is discharged
 8 from all further liability or responsibility in connection
 9 with the assets and affairs of ~~said the~~ bank. The court
 10 may, if requested, require ~~such the~~ trustees to give bond in
 11 ~~such an amount as~~ the court may fix, conditioned for the
 12 faithful performance of their duties. ~~it-shall-be-the-duty~~
 13 ~~of-the-said The~~ trustee or trustees ~~to shall~~ complete the
 14 liquidation of any remaining assets ~~with-power-to and may~~
 15 sell and dispose of real and personal property as rapidly as
 16 ~~may-be possible~~ and ~~to shall~~ distribute the proceeds ~~of-same~~
 17 among the stockholders as their ~~equities--or~~ rights may
 18 appear, or ~~to~~ dispose of the ~~same~~ proceeds in ~~such some~~
 19 other manner as the stockholders shall, by majority action,
 20 direct, ~~provided,--however,--the~~ The court may upon request
 21 of a majority of the stockholders order the ~~superintendent~~
 22 ~~of--banks~~ department to close up the trust as provided in
 23 ~~clause-(b)~~ subsection (2) of this section.

24 ~~(b)--(2)~~ If the assets of ~~said the~~ bank ~~be are~~
 25 insufficient for making payments in full to the depositors

1 and creditors of ~~said the~~ bank, then, ~~whenever when~~ the
 2 ~~superintendent~~ department has liquidated all available
 3 assets and disbursed ~~the-same them~~ as provided by law, the
 4 ~~superintendent-of-banks~~ department shall file with the clerk
 5 of court of the county in which the bank is located, a final
 6 report of ~~his its~~ liquidation of ~~such the~~ bank. Upon ~~such~~
 7 notice ~~as which~~ the court may order, the report shall be set
 8 for hearing before the court and if found correct and all
 9 funds accounted for, the court shall approve ~~the-same it~~.
 10 The ~~superintendent-of-banks~~ department may at the same time
 11 and in the report make application to the district court of
 12 the county in which ~~such the~~ bank is located, for an order
 13 directing the closing of the trust and upon entry of the
 14 order closing the trust the ~~superintendent-of-banks-shall-be~~
 15 department is discharged from all further liability or
 16 responsibility in connection with the assets and affairs of
 17 ~~said the~~ bank, ~~and-the~~ The charter of ~~said the~~ bank shall
 18 be forfeited and all the stationery, correspondence, books,
 19 and records ~~had-and~~ kept by the bank while it was a going
 20 concern, and ~~deemed~~ considered by the ~~superintendent-of~~
 21 ~~banks~~ department to be of no value, may be destroyed,
 22 ~~provided,--however,--that~~ However, no correspondence or
 23 records ~~shall may~~ be destroyed ~~for-a-period--of~~ until ten
 24 (10) years ~~from after~~ the date the bank ceased to be a going
 25 concern.

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~~(e)~~--(3) On application for orders, as ~~in this section~~ provided in this section, the bank shall be made a party by notice issued on order of the court or judge and served in such a manner as the court shall direct ~~directs~~ and ~~the hearing of~~ applications authorized by this section may be ~~had heard~~ at any time in court or in chambers, as the court may order, ~~provided there be upon~~ not less than five (5) days' posted ~~and/or or~~ served notice of the hearing."

Section 61. Section 5-1123, R.C.M. 1947, is amended to read as follows:

"5-1123. Punishment. When no other punishment is provided herein, any a person willfully or knowingly violating ~~any of the provisions of~~ this act, ~~shall be deemed is~~ guilty of a misdemeanor, ~~and shall be punished by a fine of not more than five hundred dollars--(\$500.00)--or by imprisonment--in the county jail--for not more than six months, or by both such fine and imprisonment.~~ The attorney general upon information furnished by the ~~superintendent of banks department~~, shall ~~bring any actions necessary sue~~ to enforce ~~the provisions of~~ this act."

Section 62. Section 5-1126, R.C.M. 1947, is amended to read as follows:

"5-1126. Power of closed banks to borrow money from governmental agencies. Notwithstanding any other ~~provisions of law~~, the liquidating agents of closed banks ~~shall have~~

~~the power to~~ may borrow money from ~~the Reconstruction Finance Corporation or other governmental~~ an agency of the federal government on behalf of commercial banks, savings banks, trust companies and investment companies ~~now closed or which may hereafter be~~ closed and in liquidation and, as security ~~therefor, to~~ for the loan may pledge or mortgage the assets and properties thereof, for the purpose of paying depositors or creditors ~~thereof~~ in part or in full, after ~~making application~~ applying to and obtaining the approval of the ~~superintendent of banks department~~ and the district court of the county in which ~~said the~~ bank, or trust or investment company is located, upon such the court proceedings ~~had and obtained as are~~ prescribed in section 5-1107."

Section 63. Section 5-1129, R.C.M. 1947, is amended to read as follows:

"5-1129. Manner of issuing preferred stock. ~~Such~~ The preferred stock may be issued and sold upon such terms and conditions ~~as may be~~ approved by the ~~superintendent of banks department~~, or ~~as may be~~ required for the purchase of such the stock by ~~the Reconstruction Finance Corporation or other~~ an agency or quasi-agency of the federal government."

Section 64. Section 5-1202, R.C.M. 1947, is amended to read as follows:

"5-1202. Banking institutions may take advantage of

1 federal deposit insurance corporation aid. Any A banking
 2 institution ~~new--or--hereafter--organized-under-the-laws-of~~
 3 ~~this-state-is-hereby-empowered~~ may, on the authority of its
 4 board of directors, or a majority thereof, to enter into
 5 ~~such those~~ contracts, incur ~~such those~~ obligations and
 6 generally ~~to-do-and~~ perform any ~~and-all-such~~ acts and ~~things~~
 7 ~~whatsoever--as--may--be~~ necessary or appropriate in order to
 8 take advantage of any ~~and---all~~ memberships, loans,
 9 subscriptions, contracts, grants, ~~right~~ rights, or
 10 privileges, ~~which-may-at-any-time-be~~ available ~~or--inure~~ to
 11 banking institutions or to their depositors, creditors,
 12 stockholders, conservators, or liquidators, by virtue of
 13 those provisions ~~of--section--12B~~ of the Federal Reserve
 14 Deposit Insurance Act, ~~as--amended~~, which establish the
 15 Federal Deposit Insurance Corporation and provide for the
 16 insurance of deposits, ~~or-of-any-other-provisions-of-that~~ or
 17 of any other act or resolution of Congress to aid, regulate,
 18 or safeguard banking institutions and their depositors,
 19 ~~including--any--amendments--of-the-same-or-any-substitutions~~
 20 ~~therefor--also--to~~ A banking institution may also subscribe
 21 for and acquire any stock, debentures, bonds, or other types
 22 of securities of the Federal Deposit Insurance Corporation,
 23 and ~~to~~ may comply with the lawful ~~regulations~~ rules and
 24 requirements from time to time ~~issued-or-made~~ adopted by
 25 ~~such that~~ corporation."

1 Section 65. Section 5-1203, R.C.M. 1947, is amended to
 2 read as follows:

3 "5-1203. Appointment of the corporation as agent. ~~in~~
 4 ~~the--event--any~~ If a banking institution, the deposits in
 5 which are in any extent insured by the Federal Deposit
 6 Insurance Corporation created by ~~section-12B-of~~ the Federal
 7 Reserve Deposit Insurance Act, ~~as--amended~~, 12 U.S.C.
 8 sections 1811-1831, is closed on account of inability to
 9 meet the demands of its creditors, the ~~superintendent--of~~
 10 banks department of business regulation may appoint ~~said the~~
 11 corporation agent, without bond, to assist ~~him it~~ or act for
 12 ~~him it~~ in the liquidation of ~~such that~~ banking institution."

13 Section 66. Section 5-1205, R.C.M. 1947, is amended to
 14 read as follows:

15 "5-1205. Examinations by the corporation may be
 16 accepted -- effect of act. (1) The ~~superintendent--of--banks~~
 17 ~~is---authorized---to~~ department may accept, in ~~his~~ its
 18 discretion, in ~~the~~ place of any examination authorized by
 19 the laws of this state to be conducted by ~~his the~~ department
 20 of a banking institution, the examination ~~that-may-have-been~~
 21 made of ~~same it~~ within a reasonable period by the Federal
 22 Deposit Insurance Corporation, ~~provided~~, if a signed copy
 23 of ~~said the~~ examination is furnished to ~~said-superintendent~~
 24 ~~of-banks the department~~. ~~Said-superintendent-of-banks The~~
 25 department may, also in ~~his its~~ discretion, accept any a

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1 report relative to the condition of a banking institution
 2 ~~which--may-have-been~~ obtained by said the corporation within
 3 a reasonable period, in lieu place of a report authorized by
 4 the laws of this state to be required of ~~such the~~
 5 institution by his the department, provided if a copy of
 6 such the report is furnished to ~~said--superintendent--of~~
 7 ~~banks--and the department.~~ The department may in ~~his its~~
 8 discretion disclose to said the corporation, or ~~any an~~
 9 official or examiner thereof, any information possessed by
 10 the ~~office-of-said-superintendent-of-banks~~ department with
 11 reference to the conditions or affairs of ~~any-such an~~
 12 insured institution.

13 (2) ~~Said-superintendent-of--banks~~ The department may
 14 furnish to said the corporation, or to ~~any an~~ official or
 15 examiner thereof, a copy or copies of any ~~or--all~~
 16 examinations made of ~~any-such those~~ banking institutions and
 17 of any ~~or--all~~ reports made by ~~same them.~~

18 (3) Nothing in this section ~~shall--be-construed-to~~
 19 ~~limit limits~~ the duty of any banking institution in this
 20 state, deposits in which are to any extent insured under ~~the~~
 21 ~~provisions--of--section--12B--of~~ the Federal Reserve Deposit
 22 Insurance Act, ~~as--amended~~, or of any ~~amendment--of--or~~
 23 substitution for ~~the-same it~~, to comply with the provisions
 24 of said that act, its ~~amendments-or~~ substitutions, or the
 25 requirements of said that corporation relative to

1 examinations and reports, nor ~~to-limit~~ limits the powers of
 2 the ~~superintendent--of--banks~~ department with reference to
 3 examinations and reports under existing law."

4 Section 67. Section 5-1206, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-1206. Closed banking institutions may borrow from
 7 the corporation. ~~Any If a~~ banking institution, ~~which is now~~
 8 ~~or-may-hereafter-be~~ closed on account of inability to meet
 9 the demands of its depositors or by action of the
 10 ~~superintendent-of-banks~~ department or by action of its
 11 directors or in the event of its insolvency or suspension,
 12 the ~~superintendent-of-banks~~ department or ~~his its~~ agent,
 13 with the permission of the court having jurisdiction
 14 thereof, may borrow from said the corporation and furnish
 15 any ~~part--or--all~~ of the assets of said the institution to
 16 said the corporation as security for a loan from ~~same it.~~
 17 ~~Said--superintendent--of-banks~~ The department upon the order
 18 of a district court of-record of competent jurisdiction may
 19 sell to said the corporation any part or all of the assets
 20 of such the institution. The provisions of this section
 21 ~~shall do~~ not ~~be--construed--to~~ limit the power of ~~any a~~
 22 banking institution, or the ~~superintendent--of--banks~~
 23 department to pledge or sell assets in accordance with any
 24 existing law."

25 Section 68. Section 5-1401, R.C.M. 1947, is amended to

1 read as follows:

2 "5-1401. Common trust fund authorized. ~~Any~~ A bank or
3 trust company qualified to act as fiduciary in this state
4 may establish common trust funds for the purpose of
5 furnishing investments to itself as fiduciary, or itself and
6 others, as co-fiduciaries, ~~and~~ It may, as ~~such~~ that
7 fiduciary or co-fiduciary, invest funds which it lawfully
8 holds for investment in interests in ~~such~~ the common trust
9 fund, if ~~such~~ the investment is not prohibited by the
10 instrument, judgment, decree, or order creating ~~such~~ the
11 fiduciary relationship, and if in the case of
12 co-fiduciaries, the bank or trust company procures the
13 consent of its co-fiduciary or co-fiduciaries to ~~such~~ the
14 investment. ~~Provided,--that--any~~ A bank or trust company
15 qualified to act as fiduciary in this state, which is not a
16 member of the federal reserve system, shall, in operation of
17 ~~such~~ the common trust fund, comply with the rules and
18 ~~regulations-as-made-from-time-to-time~~ adopted by the ~~state~~
19 ~~examiner--and--ex-officio-superintendent-of-banks~~ department
20 of business regulation, and ~~he--is--hereby--authorized--and~~
21 ~~empowered--to~~ the department may make adopt such rules and
22 ~~regulations-as-he-may-deem~~ it considers necessary and proper
23 in the premises."

24 Section 69. Section 7-101, R.C.M. 1947, is amended to
25 read as follows:

1 "7-101. Purpose -- definition. A corporation mutually
2 operated for the purpose of encouraging home ownership and
3 thrift among its members and making substantially all of its
4 loans to them on real estate mortgage security, shall be
5 known in this act as a building and loan association or a
6 savings and loan association, and ~~shall-be~~ is under the
7 supervision of the ~~state--examiner--and--ex--officio~~
8 ~~superintendent--of--banks,--whose--duty--it~~ department of
9 business regulation, which shall ~~be-te~~ enforce all laws with
10 respect ~~thereto~~ to it. The members of a building and loan
11 association ~~shall--be~~ are its shareholders, stockholders,
12 borrowers or purchasers of real estate under contract. ~~Such~~
13 The associations ~~shall~~ have continual succession and shall
14 be organized under the provisions of this act chapter.
15 ~~Wherever~~ When used in this ~~act-the-name~~ chapter, "building
16 and loan association" ~~is-used-the-same-shall-apply-to-and~~
17 ~~comprehend~~ includes savings and loan associations organized
18 under this act. "Department" means the department of
19 business regulation provided for in Title 82A, chapter 4."

20 Section 70. Section 7-106, R.C.M. 1947, is amended to
21 read as follows:

22 "7-106. Capital stock requirements -- investigation --
23 certificate of incorporation, how issued. The capital stock
24 named in the articles of incorporation ~~shall-be--deemed--to~~
25 ~~refer~~ refers to the authorized capital stock. ~~and-the~~ The

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1 organization may be completed and business commenced when
 2 five per cent (5%) of the capital stock thereof is
 3 subscribed and not less than twenty-five hundred dollars
 4 ~~(\$2500.00)~~ (\$2,500), paid in, in cash, and ~~such~~ That amount
 5 must thereafter be maintained, ~~and provided further that~~
 6 ~~whenever such~~ When the articles of incorporation are in due
 7 proper form and regularly executed and the bylaws have been
 8 duly approved as above required in section 7-105 and it
 9 ~~shall be made to appear~~ appears to the satisfaction of the
 10 ~~superintendent of banks~~ department that five per cent (5%)
 11 of the authorized capital has actually been paid in cash
 12 upon the subscription of shares, the ~~superintendent of banks~~
 13 department shall thereupon then ascertain from the best
 14 sources of information at his its command the
 15 responsibility, character and general fitness of the
 16 incorporators, ~~and that~~ The department shall also
 17 determine whether there is a reasonable need for the
 18 existence of ~~such an~~ the association, and that whether the
 19 public convenience and advantage will be promoted thereby by
 20 its existence. If the ~~superintendent of banks shall~~
 21 department is not be satisfied with the result of his its
 22 investigations of the matters above specified, he in this
 23 section, it shall, within sixty days (60) after said the
 24 articles of incorporation and bylaws have been presented to
 25 him it, refuse to issue the certificate hereinafter

1 described in this section. If ~~he shall be it is~~ satisfied
 2 with the result of his-said its investigations, he it shall
 3 within sixty days (60) after said the articles of
 4 incorporation and bylaws have been presented to him it,
 5 issue under his-hand, and its official seal, a certificate
 6 reciting in substance the filing in his its office of the
 7 articles of incorporation and bylaws. The certificate
 8 shall also state that said the articles and bylaws conform
 9 to all the requirements of this act; that he the department
 10 has approved the--same them and that he-~~verily~~ it believes
 11 that the incorporators are fit and proper persons to conduct
 12 the business of a building and loan association as defined
 13 in this act and said the bylaws and that there is a
 14 reasonable need for the existence of said the building and
 15 loan association, and that the public convenience and
 16 advantage will be promoted thereby. Said The certificate
 17 shall be made in quadruplicate and attached to each copy of
 18 the articles of incorporation, one (1) of which shall be
 19 retained by the ~~superintendent of banks~~ department, the
 20 other three (3) shall be returned to the incorporators who
 21 shall forthwith immediately file one (1) copy thereof in the
 22 office--of with the secretary of state, and one (1) in the
 23 office-of with the clerk and recorder of the county in which
 24 the principal place of business of said the association is
 25 located. ~~and the~~ The other copy shall be retained by the

association. Immediately upon the receipt of ~~said the~~ certified copy, the secretary of state shall issue a certificate of incorporation, whereupon at which time the incorporation of ~~said the~~ association ~~shall-be-deemed is~~ complete."

Section 71. Section 7-108, R.C.M. 1947, is amended to read as follows:

"7-108. ~~Superintendent-of-banks Department~~ to approve contracts paying income to person other than association -- penalty for not securing. No fiscal agency or promotion contract or any other contract or arrangement whereby the membership fee, or any other income properly payable to the association, or any part thereof, ~~shall-be is~~ payable to an agent or other contracting party or otherwise than to the association, or whereby any part of the business of ~~such the~~ association or the management or conduct of its affairs or the expense ~~thereof of them~~ is contracted to another, ~~shall~~ may be entered into or allowed until ~~the-same it~~ has been submitted to the ~~superintendent-of-banks department~~ and by ~~him it~~ approved in writing. ~~nor--shall--any-such That~~ contract may not be extended without ~~such the~~ department's approval. ~~Any--such The~~ contract, or the extension of ~~any such the~~ contract, not ~~so~~ first approved ~~shall-be--null--and~~ is void. ~~Any A~~ person operating under ~~such-a the~~ contract or extension, not ~~so~~ first approved, or taking or receiving

~~any--such~~ income properly payable to the association without ~~such~~ approval, ~~shall-be is~~ guilty of a misdemeanor."

Section 72. Section 7-113, R.C.M. 1947, is amended to read as follows:

"7-113. Powers and duties of building and loan associations. ~~Every A~~ building and loan association ~~is--a creature--of--the--law--having--certain--powers--and--duties--of--a natural-person--and--as--such--has--power may:~~

- (1) ~~Of Have~~ continual succession, by its corporate name;
- (2) ~~To-sue Sue~~ and be sued, in any court;
- (3) ~~To--make Make~~ and use a common seal and alter ~~same~~ it at pleasure;
- (4) ~~To-appoint-such~~ Appoint those officers or agents ~~as~~ the business of the corporation ~~may-require requires~~, and ~~to-allow pay~~ them suitable compensation;
- (5) ~~To--enter Enter~~ into ~~any~~ obligations or contracts essential to the transaction of its ordinary affairs, or for the purposes of the corporation.
- (6) ~~Such-associations-shall-have-power-to-issue~~ Issue stock to members on ~~such the~~ terms and conditions ~~as~~ the constitution and bylaws may provide, but ~~no an~~ association ~~shall may not~~ issue preferred stock.
- (7) ~~To--assess Assess~~ and collect from members dues on stock and interest on loans at the times and in the amount

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1 as provided for in the constitution and bylaws. The
 2 combined total of the amounts paid to an association for
 3 interest, commission, bonus, discount and other similar
 4 charges, less a proper deduction for all dividends, refunds,
 5 and cash credits of all kinds, shall not create an actual
 6 net cost to the borrower in excess of the maximum lawful
 7 contract rate of interest in this state. Interest not
 8 exceeding the maximum lawful contract rate may also be
 9 charged on unpaid interest payments from the time such those
 10 interest payments are due. Interest, not exceeding the
 11 lawful contract rate, may also be charged and collected on
 12 delinquent stock payments when such those unpaid payments
 13 are credited with dividends. ~~Said~~ The interest shall in no
 14 event be at a rate exceeding the rate per-centum percent of
 15 the dividend declared on the same unpaid stock payments. ~~No~~
 16 An association ~~shall~~ may not charge or collect from any a
 17 stockholder, member or borrower, any fines, premiums, or
 18 penalties of any kind whatsoever. Any An officer, agent or
 19 employee of any an association collecting or attempting to
 20 collect any a penalty, fine or premium of any kind
 21 whatsoever or any interest at a rate higher than provided in
 22 the note or other evidence of debt and in this act, ~~shall-be~~
 23 is guilty of a misdemeanor.

24 (8) ~~To--permit~~ Permit members to withdraw all or part
 25 of their stock credits at such the times and upon such the

1 terms, as the constitution and bylaws may provide, provided
 2 ~~that--no~~ No charge or fee, except as ~~herein~~ provided in this
 3 section, shall may be made against any a member who
 4 withdraws his stock, after having given thirty (30) days'
 5 notice of ~~such the~~ the withdrawal, ~~provided,--also,--that--no~~ No
 6 fine of any description ~~shall may~~ may be made upon the par value
 7 of ~~such that~~ such the stock or upon the declared dividends because of
 8 ~~such the~~ the withdrawal. Any A member who withdraws his stock
 9 or whose stock is matured, ~~shall-be~~ is entitled to receive
 10 all dues paid in and all dividends declared less interest,
 11 if any, as provided in subsection (7), less a reasonable
 12 membership fee not exceeding two (2) ~~per-centum percent~~ percent of
 13 the par value of each share of stock and less a prorata pro
 14 rata share of all losses, if any, which have occurred, and
 15 ~~no~~ No other fine or assessments ~~shall may~~ may be made against
 16 ~~such the~~ the stock. Applications for withdrawal ~~are-to~~ shall be
 17 registered on the books of the association in the order
 18 received and one-half of all cash collections, not required
 19 to meet outstanding contracts, must be used for the payment
 20 of the matured stock and of the withdrawals in the order
 21 registered, provided,--however,--that--the The other half of
 22 ~~such those~~ those collections each month may be used for the
 23 payment of withdrawals other than in the order registered,
 24 but no member ~~shall may~~ may receive more than one hundred
 25 dollars ~~(\$100.00)~~ (\$100) in any one month other than by

payment of an application for withdrawal in the order registered. The term "outstanding contracts" includes the costs and expenses of operation, completion of loans, payment of taxes and assessments and necessary remodeling and repairs on properties owned by or mortgaged to the association, repayment of all borrowed money and all fixed charges.

(9) ~~To--cancel~~ Cancel shares of stock upon which all credits have been withdrawn, or upon which loans have been canceled or stock upon which no payments have been made for a period of six (6) months, by returning to the stockholders all credits, if any, and reissue ~~such~~ the shares as new stock.

(10) ~~To--issue~~ Issue stock to minors and permit ~~the same~~ it to be withdrawn as other stock, and the receipt ~~of--such~~ by the minor ~~shall--be~~ is a valid acquittance if his rights have been fully secured to him.

(11) ~~To--acquire~~ Acquire, hold, encumber and convey ~~such~~ that real estate and personal property ~~as--may--be~~ necessary for the transaction of its business, or necessary to enforce or protect its securities. ~~Provided,--not~~ Not over ten (10) per cent of the assets of ~~any~~ an association ~~shall~~ may be invested in home office buildings, furniture, and fixtures. ~~Also--ownership--of--other~~ Other real property acquired in any manner or for any purpose ~~shall~~ may not be held for more

than five (5) years, except by permission of the ~~superintendent--of--banks~~ department.

(12) ~~To--borrow~~ Borrow money, only when necessary not exceeding twenty (20) ~~per--centum~~ percent of its assets except when borrowing from the federal home loan bank as ~~hereinafter~~ provided in this section, and issue its promissory note ~~therefor,--provided,--that--the~~ for the loan.

~~The~~ assets and securities of an association ~~shall~~ may not be pledged ~~or--hypothecated~~ to secure its borrowed money or for any other purpose, without the consent of the ~~superintendent of--banks~~ department. However, if the ~~superintendent--of--banks~~ department determines that it is advisable to pledge assets in order that funds may be secured ~~he~~ it may authorize ~~such~~ the pledging ~~or--hypothecation,--but--in--no event--shall--the~~ The margin of security pledged ~~may not~~

exceed twenty-five (25) ~~per--centum~~ percent of the funds so borrowed except when funds are borrowed from the federal home loan bank, ~~an~~ An association may borrow money from the federal home loan bank upon ~~such~~ the terms ~~as--may--now--or hereafter--be~~ required by the federal home loan bank, and ~~to~~ may execute the promissory note of the corporation ~~therefor~~ for the loan, and ~~to~~ may pledge ~~or--hypothecate~~ any of the assets of the corporation to secure the repayment of ~~said~~ the loan, with interest, in accordance with the Federal Home Loan Bank Act, and the rules ~~and--regulations~~ adopted ~~or--to~~

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1 ~~be-adopted-thereunder~~ under it.

2 (13) ~~To-make~~ Make loans to members on the security of
3 the shares of the association, and also on their notes
4 secured by first mortgages on improved real estate,
5 including suburban homes, but not on farm lands or mining
6 property, for not to exceed seventy-five (75) ~~per--centum~~
7 percent of the actual value of such the real estate, and
8 upon such the terms and conditions as which may be provided
9 in the constitution and bylaws, ~~provided, however, that in~~
10 ~~all-cases~~ However, where the promissory note, or other
11 written evidence of the loan made by any a building and loan
12 association ~~required~~ requires the payment of said the loan,
13 or total aggregate sum of principal and interest in periodic
14 installments, ~~said the~~ promissory note, or other written
15 evidence of debt shall specifically state the actual
16 interest rate charged the borrower upon the unpaid balance
17 of the principal amount at each periodic payment, ~~provided, further, that when~~ When
18 ~~the note or other evidence~~ of debt does not require the payment of said the loan in
19 periodic installments, the note or other evidence of debt
20 shall specifically state the actual rate of interest ~~to-be~~
21 charged the borrower.

22 ~~Provided, however, that in all notes and mortgages now~~
23 ~~in--force--which--do--not--specify--the--actual--rate--of--interest~~
24 ~~charged--the--borrower--upon--the--unpaid--balance--of--the~~
25

1 ~~principal-at-each-periodic-payment, all payments made on the~~
2 ~~said notes must be distributed by crediting the same, first,~~
3 ~~upon--the--interest--on--the--unpaid--balance--of--the--loan--at--the~~
4 ~~rate--actually--earned--under--the--terms--of--the--notes--and~~
5 ~~mortgages, and the remainder upon the principal of the loan,~~
6 ~~and--no--charges--or--deductions--from--any--of--said--periodic~~
7 ~~payments--shall--be--permitted--by--any--such--association--not~~
8 ~~specifically--provided--for--in--said--promissory--note--or--other~~
9 ~~evidence--of--such--loan~~

10 ~~(14)--To-cancel-such-loans-and-release--the--securities~~
11 ~~on--such--terms--as--the--board--of--directors--may--provide--But~~
12 ~~any-borrower-may-have-his-loan-canceled-upon--the--following~~
13 ~~terms--to-wit:~~

14 (14) Cancel those loans and release the securities on
15 those terms the board of directors may provide. A borrower
16 may have his loan canceled By by paying all the interest up
17 to date of cancellation and the sum actually borrowed, less
18 payments on principal, dues paid in, and the dividends
19 credited.

20 (15) ~~To-invest~~ Invest the money of the association in:
21 (a) The bonds and securities of the United States,
22 bonds and other obligations guaranteed as to interest and
23 principal by the United States, and the stocks, bonds,
24 debentures, and other securities and obligations of any
25 federal home loan bank created under the laws of the United

1 States;

2 (b) The bonds and warrants of any state and of any
3 county, city, or school district of the state of Montana;

4 (c) The obligations of the federal savings and loan
5 insurance corporation lawfully issued pursuant to Title IV
6 of the National Housing Act;

7 (d) Improved real estate which has been sold under
8 contract, including suburban homes, but not including farm
9 lands or mining property, ~~provided, however, that~~ However,
10 the total amount remaining so invested, excluding real
11 estate otherwise acquired, shall at no time exceed fifteen
12 ~~(15)~~ per cent (15%) of its assets, ~~and provided further,~~
13 ~~that in no specific case shall the~~ The amount so invested
14 ~~may not~~ exceed eighty-five ~~(85)~~ per cent (85%) of the price
15 stipulated in the contract of sale or eighty-five ~~(85)~~ per
16 cent (85%) of the value of the property so purchased,
17 whichever is the lesser;

18 (e) Not to exceed ten ~~(10)~~ per cent (10%) of the
19 association assets in other bonds and securities.

20 (16) ~~To--loan~~ Loan money to other building and loan
21 associations;

22 (17) ~~To--make--such~~ Make a semiannual distribution of all
23 the earnings after payment of expenses and setting aside a
24 sum for the contingent funds as ~~herein~~ provided in this act;

25 (18) ~~To--amend~~ Amend its articles of incorporation by

1 changing the name, place of business, the number of
2 directors, ~~to~~ and increase or decrease the capital stock
3 and provide for its own continual succession by a majority
4 vote of its directors, ~~provided--that--no--such~~ However,
5 ~~those~~ amendments ~~shall--be--effected~~ are of no effect until
6 ~~first~~ approved by the ~~superintendent--of--banks~~ department;

7 (19) ~~To--dissolve~~ Dissolve the corporation in accordance
8 with the provisions of this chapter;

9 (20) ~~To--provide~~ Provide by constitution and bylaws,
10 adopted or amended, by its board of directors for the proper
11 exercise of the powers ~~herein~~ granted in this section and
12 the conduct and management of its affairs;

13 (21) ~~All--such~~ Exercise those other powers ~~as~~ which are
14 necessary and proper to enable ~~such~~ the corporation to carry
15 out the purpose of its organization.

16 ~~(22)--Any--two--(2)--or--more--building--and--loan~~
17 ~~associations,--by--and--with--the--consent--and--approval--of--the~~
18 ~~superintendent--of--banks,--may--consolidate--and--unite--and~~
19 ~~become--incorporated--in--one--(1)--body,--with--or--without--any~~
20 ~~dissolution--or--division--of--the--funds--or--property--of--any--such~~
21 ~~association,--or--any--such--association--may--transfer--its~~
22 ~~engagements,--funds--and--property--to--any--like--association--upon~~
23 ~~such--terms--as--may--be--agreed--upon--by--a--majority--vote--of--the~~
24 ~~respective--board--of--directors,--and--ratified--by--a--two--thirds~~
25 ~~(2/3)--vote--of--the--shares--present--and--voting--in--person--or--by~~

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~~proxy-at-a-special-meeting-or-meetings-of--the--stockholders
of--the--respective--associations-convened-for-that-purpose,
upon-notice-given-as-provided-by-law-said-notice--to--state
the-object-of-the-meeting.--No-such-transfer-shall-prejudice
any-right-of-any-creditor-of-such-association."~~

Section 73. There is a new section to be numbered 7-113.2, R.C.M. 1947, which reads as follows:

7-113.2. Consolidation and transfer. Two (2) or more building and loan associations, with the approval of the department, may consolidate and become incorporated in one (1) body, with or without any dissolution or division of the funds or property of any of them, or any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors, and ratified by a two-thirds (2/3) vote of the shares present and voting in person or by proxy at a special meeting or meetings of the stockholders of the respective associations convened for that purpose, upon notice given as provided by law, the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

Section 74. Section 7-118, R.C.M. 1947, is amended to read as follows:

"7-118. Bonds of officers, agents and employees. ~~It shall be the duty of the~~ The board of directors of every

building and loan association ~~to~~ shall require that all officers, agents, and employees of building and loan associations whose duty includes the handling of moneys, notes, bonds, credits, and cash items, and whose duties include bookkeeping or the making of entries in relation to the business of the building and loan association and its customers, be bonded. The board of directors shall by an order ~~duty~~ entered upon the minute books of the board designate all the officers, agents, and employees to be so bonded and the amount of bonds to be given by each. ~~Such~~ The action as to the personnel and amount and the surety company or sureties ~~to~~ shall be subject to approval by the ~~state-superintendent-of-banks, the~~ department. ~~The bonds to~~ shall be in ~~such a~~ such a form ~~as which~~ shall be provided and approved by the ~~state-superintendent-of--banks, department,~~ and the bonds ~~to~~ shall be approved by the president of the building and loan association and his action reported to the board of directors. ~~all~~ All bonds required by this section ~~to~~ shall be kept in the custody of the building and loan association subject to inspection by ~~examiners-from-the office--of the superintendent-of--banks,--provided,--as~~ department. ~~As far as possible, they shall a bond may not~~ be placed in the custody of the officer, agent, or employee for whom ~~the same~~ it is given."

Section 75. Section 7-119, R.C.M. 1947, is amended to

read as follows:

"7-119. Employment of agents -- licenses and revocation thereof. (1) It ~~shall be~~ is unlawful for any a building and loan association doing business ~~within--the~~ in ~~this~~ state of Montana to employ any an agent for the purpose of soliciting loans and/or the sale of stock in ~~the-said~~ that association, unless he ~~shall~~ is first be licensed by the ~~superintendent-of-banks-to-solicit-loans-and/or-sell-the~~ superintendent of banks department. An agent representing any an association, foreign or domestic, doing business ~~within--the~~ in this state of Montana ~~shall~~ may not solicit loans and/or the sale of stock of any association unless he ~~shall~~ is first be licensed by the ~~superintendent of-banks~~ superintendent of banks department.

(2) No A license ~~shall~~ may not be issued to any an applicant for an agent's license until ~~such~~ the applicant ~~shall have~~ has first filed ~~in--the--office--of~~ with the ~~superintendent--of--banks~~ department a written request from the building and loan association desiring to employ him as agent and has ~~made-and~~ filed an application ~~therefor~~ upon a form ~~to-be~~ prescribed and furnished by the ~~examinery--which~~ department. The application must show the applicant's name, business and residence address, community or district in which he wishes to act as agent, the name of the company to be represented, his occupation for the last twelve (12)

months and ~~such~~ other information as the ~~superintendent--of~~ banks department may require. If the ~~superintendent-of~~ banks department is satisfied that the applicant is a fit and proper person to engage in the solicitation of loans and/or the sale of stock he it shall issue the license. The ~~superintendent-of--banks~~ department upon ten (10) days' notice to any an agent, and ~~upon~~ after a hearing thereon, may revoke the license of any an agent upon the following grounds:

(1)--(a) ~~Per-misrepresentation~~ Misrepresentation;

(2)--(b) ~~If--the-said-agent-be-convicted~~ Conviction in any court for violation of the criminal statutes;

(3)--(c) ~~When---satisfied~~ Evidence sufficient to convince the department that said the agent is not a fit and proper person to engage--in--the-business-of-selling sell building and loan association stock;

(4)--(3) He The department shall revoke the license of any an agent upon the request of ~~such~~ the association employing ~~such~~ the agent.

(4) Each license provided for in this act ~~shall expire~~ section expires on December 31st 31 of each year, and for the issuance or renewal thereof the ~~superintendent-of--banks~~ department shall require a fee of two dollars ~~(\$2.00)~~ (\$2)."

Section 76. Section 7-122, R.C.M. 1947, is renumbered section 84-7001 and amended to read as follows:

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1 ~~7-122~~ 84-7001. Taxation of associations. (1) Every
 2 building and loan or savings and loan association subject to
 3 regulation under Title 7, chapter 1, R.C.M. 1947, shall be
 4 assessed for and pay taxes upon all real and personal
 5 property owned by such the association, and also upon the
 6 moneyed capital employed in such the business. The
 7 moneyed capital ~~to~~ shall be ascertained by deducting from
 8 the amount of bonds, notes and other evidences of
 9 indebtedness, including evidences of indebtedness secured by
 10 mortgage on real estate or personal property, of such the
 11 associations, the amount standing to the credit of the
 12 members of ~~any-such an~~ an association, upon its books, and any
 13 indebtedness representing money borrowed for use as moneyed
 14 capital. ~~Said~~ The moneyed capital as so ascertained shall
 15 be taxed at the same rate and take the same classification
 16 as shares of stock in a national bank or moneyed capital
 17 coming into substantial competition therewith. The
 18 secretary of ~~every-such an~~ an association shall furnish to the
 19 department of revenue or its agent in the county in which
 20 the principal office of such the association is located,
 21 within five (5) days after demand ~~therefor~~, a condensed
 22 statement verified by his oath, of the resources and
 23 liabilities of such the association as disclosed by its
 24 books, at ~~twelve--o'clock~~ 12 noon on the first Monday of
 25 March in each year. ~~if-such~~ If the secretary ~~shall--fail~~

1 fails to make the statement hereby required, the department
 2 or its agent shall ~~forthwith~~ immediately obtain such the
 3 information from any other available source, and for this
 4 purpose he shall have access to the books of such the
 5 association. The department or its agent shall thereupon
 6 make an assessment of the real estate and personal property
 7 owned by such the association, and of the moneyed capital
 8 employed in the business of such the association, which
 9 assessment shall be as fair and equitable as he may be able
 10 to make from the best information available, or ~~said the~~ the
 11 assessor may, for the purpose of ~~said the~~ the assessment, adopt
 12 the figures disclosed by any prior report made by such the
 13 association to any state or federal officer ~~pursuant-to-any~~
 14 under a state or federal law. Any A person required by this
 15 section to make the statement ~~hereinabove~~ provided for in
 16 this section, who ~~shall--fail~~ fails to furnish ~~the-same~~
 17 ~~shall-be it,~~ is guilty of a misdemeanor ~~and--shall--be~~
 18 ~~punished-accordingly.~~

19 (2) The amount standing to the credit of each member
 20 of ~~any--such an~~ an association, upon its books, shall be
 21 considered and held as the individual credit of each member,
 22 and each member shall list the shares held by him for
 23 taxation, at their real value in money, in the county of his
 24 residence, the same as other credits are listed, except
 25 shares from which loans have been made, or money advanced,

by the association, and as to such shares they shall be listed for taxation at the net cash value of the stock, to be ascertained by deducting the loan from the cash value of the shares. Associations organized under or controlled by ~~this act shall be~~ Title 7, chapter 1, are subject to taxation in no other way."

Section 77. Section 7-125, R.C.M. 1947, is amended to read as follows:

"7-125. Duties of ~~superintendent-of-banks~~ department. The ~~superintendent-of-banks~~ department shall examine all building and loan associations doing business in this state at least once a year. Also, ~~whenever when the holders of~~ ten per cent (10%) of the subscribed stock of ~~any an~~ an association ~~files file~~ a written application with the ~~superintendent-of-banks~~ department, requesting ~~him it~~ to make a special examination of ~~any an~~ an association, he ~~it~~ shall make ~~such the~~ the examination ~~forthwith--and--the~~ immediately. The expense of the examiner making ~~such the~~ the examination shall be paid by the association examined, and the examiner's finding ~~to~~ shall be available to the petitioners and the board of directors of the association notwithstanding any provisions to the contrary contained in this act."

Section 78. Section 7-126, R.C.M. 1947, is amended to read as follows:

"7-126. Powers of ~~superintendent-of-banks~~ department. ~~Such--superintendent--of--banks--shall--have--power--to~~ The department may prescribe ~~for~~ and supervise a uniform system of reports, and accounting for all associations. ~~The department~~ shall have access to and may compel the production of all books, papers, securities and moneys of any association under examination. ~~He shall have power to~~ It may administer oaths to and examine the officers and agents of ~~such the~~ the association and its affairs."

Section 79. Section 7-127, R.C.M. 1947, is amended to read as follows:

"7-127. Reports of condition -- contents -- publication. ~~Every A~~ building and loan association shall make to the ~~superintendent-of-banks~~ department a report of condition ~~whenever when~~ requested to do so by the ~~superintendent--of--banks~~ department, according to the form which may be prescribed by ~~him, the~~ the department. The report shall be verified by the oath or affirmation of the president, vice-president, or secretary of ~~such the~~ the association, and attested by the signature of at least two (2) of the directors. ~~Each-such The~~ The report shall exhibit in detail and under appropriate heads, the resources and liabilities of the association at the close of business on any past day ~~by him~~ specified; and shall be transmitted to the ~~superintendent-of-banks~~ department within five (5) days

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1 after the receipt of a request or requisition therefor for
 2 it from him the department and in such a form as which may
 3 be required by the ~~superintendent-of-banks--it~~ department.
 4 It shall be published as soon as possible in a newspaper
 5 ~~published~~ in the place where such the association is
 6 established, or if there be is no newspaper published in the
 7 place, then in one published nearest thereto in the same
 8 county, at the expense of the association. ~~and-such--proof~~
 9 Proof of publication shall be furnished at such the times
 10 and in such the manner as which may be required by the
 11 ~~superintendent-of-banks~~ department."

12 Section 80. Section 7-131, R.C.M. 1947, is amended to
 13 read as follows:

14 "7-131. Foreign associations -- requirements. (1) Any
 15 An association as defined in ~~the-foregoing~~ section 7-130
 16 organized under the laws of any other state, ~~other--than~~
 17 ~~Montana--or~~ of the United States, or of any foreign
 18 government, shall, before doing business within in this
 19 state, file ~~in-the-office-of~~ with the secretary of state and
 20 ~~in--the--office-of~~ the ~~superintendent-of-banks~~ department, a
 21 duly authenticated copy of their charter, articles of
 22 incorporation, or articles of agreement, and also a
 23 statement, verified by oath of the president and secretary
 24 of such the corporation or managing officials if other than
 25 a corporation, and duly verified, showing:

1 ~~1--(a)~~ The name of such the association and the
 2 location of its principal office or place of business
 3 ~~without outside~~ this state; and the location of the place of
 4 business or principal office ~~within in~~ this state;
 5 ~~2--(b)~~ The names and residences of the officers,
 6 trustees or directors;
 7 ~~3--(c)~~ The amount of capital stock;
 8 ~~4--(d)~~ The amount of capital invested in the state of
 9 Montana.

10 (2) Such The association shall also file, at the same
 11 time, and in the same offices, a certificate, ~~under-seal-and~~
 12 ~~the-signature-of~~ signed by its president, vice-president, or
 13 other acting head, and by its secretary, if there be is one,
 14 certifying that the ~~said~~ association has consented to all
 15 the license laws and other laws of the this state ~~of-Montana~~
 16 relative to foreign associations and has consented to be
 17 sued in the courts of this state, upon all causes of action
 18 arising against it in this state, and that service of
 19 process may be made upon ~~some--person,~~ a citizen of this
 20 state, whose name and place of residence shall be designated
 21 in such the certificate, ~~and-such-service, when-so-made-upon~~
 22 such. Service of process on that agent, ~~shall-be~~ is valid
 23 service on the association."

24 Section 81. Section 7-136, R.C.M. 1947, is amended to
 25 read as follows:

1 "7-136. Conformity required. The powers, rights,
 2 duties, privileges, and obligations of every such
 3 association ~~heretofore--and--hereafter~~ organized and doing
 4 business in ~~the a form of--a--character~~ similar to that
 5 authorized by this act, shall be governed, controlled,
 6 construed, extended, limited, and determined by the
 7 provisions of this act, to the same extent and effect as if
 8 ~~said the~~ association had been organized and incorporated
 9 under or pursuant to its provisions, and the articles of
 10 incorporation, bylaws and rules of each heretofore made or
 11 existing are hereby modified, altered and amended to conform
 12 with the provisions of this act and the same are declared
 13 void where such the articles of incorporation, bylaws or
 14 rules are inconsistent with its provisions; except that the
 15 obligations of any existing association, whether between
 16 such the association and its shareholders or any one of
 17 them, or any other person or persons, or any valid contract
 18 between the shareholders of the association existing at the
 19 time this act takes effect, shall not be in any way impaired
 20 by the provisions of this act; and with such these
 21 exceptions every building and loan association shall possess
 22 the powers, rights, duties and privileges, and be subject to
 23 the obligations, restrictions and liabilities conferred and
 24 imposed by this act, notwithstanding anything to the
 25 contrary in its articles of incorporation, bylaws or rules.

1 All obligations to ~~any--such the~~ association heretofore
 2 . contracted shall be enforceable by it and in its name and
 3 demands, claims and rights of action against ~~any--such the~~
 4 association shall be enforced against it as fully and
 5 completely as they might have been enforced before. Except
 6 as above set forth, on and after six months after the passage
 7 and approval of this act, no domestic or foreign association
 8 now engaged in the business of a building and loan associa-
 9 tion, or a business of like character, shall be permitted to
 10 conduct such that business in this state unless it ~~comply~~
 11 complies in every respect with the provisions of this act."

12 Section 82. Section 7-138, R.C.M. 1947, is amended to
 13 read as follows:

14 "7-138. ~~Superintendent-of-banks~~ Department report. The
 15 ~~superintendent--of--banks department~~ shall ~~keep-and~~ preserve
 16 in permanent form a full record of ~~his its~~ proceedings,
 17 including a concise statement of each association examined,
 18 and ~~he it~~ shall annually make a report to the governor of
 19 the general conduct and condition of the building and loan
 20 associations doing business in this state, with such those
 21 suggestions as ~~he-may-deem it considers~~ expedient. ~~Such The~~
 22 report shall also include the information contained in the
 23 statement required of the association, and arranged in
 24 tabulated form. ~~He--shall-also-report-the-whole-amount-of~~
 25 ~~the income-of-his-office, the source whence derived, and the~~

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1 expenses-in-detail-during-the-year-ending-on-the-30th-day-of
2 June."

3 Section 83. Section 7-139, R.C.M. 1947, is amended to
4 read as follows:

5 "7-139. Obtaining property by fraud, false report,
6 refusal to permit inspection of books. A director, officer,
7 agent, or employee of any a building and loan association
8 who:

9 (1) Willfully receives or possesses ~~himself-of~~ any of
10 its property, otherwise than in payment for a just demand,
11 and with intent to defraud, omits to make ~~or-cause~~ or direct
12 to be made a full and true entry ~~thereof~~ of it in its books
13 and accounts; ~~or~~

14 (2) Concurr in omitting to make any a material entry
15 thereof; ~~or~~

16 (3) Willfully makes or concurs in making or publishing
17 any a written report, exhibit or statement of ~~its~~ the
18 association's affairs or pecuniary condition, containing any
19 material statement which is false; or

20 (4) Having the custody or control of ~~its~~ the
21 association's books, willfully refuses or neglects to make
22 any a proper entry in the books ~~of--such--association~~ as
23 required by law, or to exhibit, or allow ~~the-same~~ them to be
24 inspected and extracts to be taken ~~therefrom~~ from them by
25 the ~~superintendent-of-banks,-his-chief-deputy,-or-any-of-his~~

1 ~~examiners,-shall-be~~ department is guilty of a felony."

2 Section 84. Section 7-147, R.C.M. 1947, is amended to
3 read as follows:

4 "7-147. Reports and examinations by ~~superintendent-of~~
5 ~~banks~~ department confidential. ~~Whoever---being---the~~
6 ~~superintendent-of-banks,-assistant-or-clerk-in-his-employ-or~~
7 ~~an-examiner,~~ (1) An employee or agent of the department, who
8 fails to keep secret the facts and information obtained in
9 the course of an examination, or by reason of his official
10 position, except when the public duty of ~~such~~ that officer
11 requires him to report upon or take official action
12 regarding the affairs of the association so examined, or
13 willfully makes a false official report as to the conditions
14 of ~~such~~ the association, shall be removed from office and
15 shall be fined not more than five hundred dollars ~~(\$500.00)~~
16 (\$500), or imprisoned in the penitentiary not less than two
17 (2) years nor more than five (5) years, or both. Nothing in
18 this section ~~shall-prevent~~ prevents the proper exchange of
19 information, relating to building and loan associations and
20 ~~the~~ their business thereof, with the representatives of
21 building and loan departments of other states, but in no
22 case shall the private business or affairs of ~~any an~~
23 individual, association, or company be disclosed,
24 ~~provided,-that-the-superintendent-of-banks~~ The department on
25 request of any federal home loan bank, shall furnish such

1 ~~that~~ bank any information ~~he~~ it may have relative to the
2 finances, manner of business, methods of bookkeeping, and
3 any ~~and-all~~ other information relating to ~~any~~ an association
4 which is a member of, seeking to become a member of, a
5 borrower from, or seeking to become a borrower from, any a
6 federal home loan bank.

7 (2) ~~Also-any An~~ association, ~~and/or~~ the officers or
8 agents thereof, and the ~~superintendent-of-banks-and/or-his~~
9 ~~assistants-and-examiners-shall-be-authorized--to~~ department
10 may do any-and-all-things anything necessary to enable any a
11 building and loan association within this state to become a
12 member of the federal home loan bank of this or any
13 adjoining district so far as may be compatible with the
14 constitution of this state and the laws of the United
15 States."

16 Section 85. Section 7-149, R.C.M. 1947, is amended to
17 read as follows:

18 "7-149. Voluntary liquidation and settlement. ~~By--and~~
19 ~~with With~~ the consent of the ~~superintendent-of-banks-any~~
20 ~~department an~~ association organized under the laws of and
21 doing business in this state, may, if the stockholders deem
22 consider it advisable, go into liquidation, ~~and--for~~ For
23 the purpose of so doing it may, at any regular or called
24 meeting of the stockholders, adopt a resolution declaring
25 that such the association intends to go into liquidation and

1 discontinue business as a building and loan association. A
2 copy of ~~such the~~ resolution, duly certified by the president
3 and secretary of ~~such the~~ association, under the seal
4 thereof, shall be transmitted to the ~~superintendent-of-banks~~
5 department within ten (10) days after the its passage
6 thereof. ~~Thereupon--the--superintendent--of--banks~~ The
7 department shall then issue his its certificate reciting
8 that such the resolution has been filed in his its office,
9 and that such the association is in liquidation. After the
10 filing of such the notice, it ~~shall--not--be--lawful is~~
11 unlawful for such the association to issue stock, or to loan
12 or advance its money to members or to any other person, ~~or~~
13 ~~persons--but--all~~ All of the income and receipts of such the
14 association, in excess of the actual expense of managing the
15 ~~same it~~, shall be applied to pay off first the indebtedness
16 and then the stock in such the association upon which no
17 loans have been made, the same to be paid pro rata. The
18 board of directors of such the association in liquidation
19 may adopt such those rules and make such those orders as
20 ~~shall-be~~ which are just and equitable for the sale and
21 disposition of all property held by such the association and
22 for the division of the assets of such the association.
23 ~~Such The~~ association in liquidation, ~~shall may be subject-to~~
24 examination examined by, and shall be under the supervision
25 of the ~~superintendent-of-banks~~ department."

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Section 86. Section 7-150, R.C.M. 1947, is amended to read as follows:

"7-150. Insolvency or impairment of building and loan association -- powers of superintendent-of-banks department. ~~Whenever~~ When it ~~shall-appear~~ appears to the superintendent of-banks department that the affairs of any a building and loan association are in an unsound condition, or that it is conducting its business in an unsafe or unlawful manner, the superintendent-of-banks department may take possession of all books, records, and assets of every description of such the association and ~~hold-and~~ retain the possession of ~~same~~ them pending the further proceedings ~~herein~~ specified in this section. ~~Should~~ If the board of directors, secretary, or person in charge of such the association ~~refuse~~ refuses to permit the superintendent-of--banks department to take possession ~~as---aforesaid~~, the superintendent--of--banks department shall communicate such that fact to the attorney general. ~~whereupon--it--shall--become-the-duty-of-the~~ The attorney general shall at once ~~to~~ institute such the proceedings ~~as-may-be~~ necessary to place the superintendent of-banks department in immediate possession of the property of such the association. Upon taking possession of the effects of the association ~~as-aforesaid~~, the superintendent of--banks department shall prepare a full and true statement of the affairs and condition of such the association,

including an itemized statement of its assets and liabilities and shall receive and collect all debts, dues and claims belonging to it and pay the immediate and reasonable expenses of ~~his~~ the department's trust. When the condition of such the association has been fully ascertained and it ~~shall-appear~~ appears that the affairs of ~~said the~~ association are in fact in an unsound condition the superintendent-of-banks department shall at once notify, in writing, the board of directors of such the association of ~~his~~ its decision, giving them twenty (20) days in which to restore the affairs of such the association to sound condition. Meanwhile, the superintendent---of---banks department shall remain in charge of the books, records, and assets of every description of such the association, shall attend, or be represented, at all directors and stockholders meetings held, and shall suggest such those steps ~~as-he--may~~ deem it considers necessary to restore such the association to a sound condition. ~~and-if-same~~ If the association is not ~~done~~ restored to a sound condition within such twenty (20) days, ~~he~~ the department shall report the facts to the attorney general. ~~and-it-shall-thereupon-become-the-duty-of~~ The attorney general ~~to~~ shall institute proceedings in the district court of the county in which such the association has its principal place of business, for the appointment of the superintendent--of--banks department as

1 receiver, ~~and-as-such-he-is-authorized-to~~ As receiver, the
 2 department may collect all moneys due ~~such the~~ association
 3 and ~~to may~~ do ~~such those~~ other acts as which are necessary
 4 to conserve its assets and business, and ~~he it~~ shall ~~proceed~~
 5 ~~to liquidate its the association's~~ affairs. He--shall--have
 6 ~~general--and--inclusive--power--and--authority~~ The department
 7 may, except as otherwise limited by the terms of this act,
 8 to do any ~~and-all acts, to take any and all steps~~ necessary,
 9 or, in ~~his its~~ discretion, desirable for the protection of
 10 the property and assets of ~~such the~~ association and the
 11 speedy and economical liquidation of its assets and affairs
 12 and the payment of its creditors, or for the ~~reopening--and~~
 13 ~~resumption of business of said the~~ association where that is
 14 practicable or desirable. He The department may institute
 15 in ~~his its~~ own name as ~~superintendent-of-banks~~, or in the
 16 name of the association, ~~such-suits-and-actions-and-other~~
 17 ~~those~~ legal proceedings as he deems it considers expedient
 18 for ~~such those~~ purposes, and--by-making-application By
 19 applying to the district court of the county in which ~~such~~
 20 ~~the~~ association is located, or to the judge thereof, in
 21 chambers, the department may, upon ~~proper--and~~ sufficient
 22 showing of cause ~~therefor, procure obtain~~ an order to sell,
 23 compromise or compound any bad or doubtful debt or claim,
 24 and to sell ~~and-dispose-of~~ any ~~or-all~~ of the assets, which
 25 The sale may be made to stockholders, officers, directors,

1 or others interested in ~~such the~~ association, on consent of
 2 the court. On ~~such the~~ proceedings the association shall be
 3 made a party by notice issued on order of the court or
 4 judge, in ~~lieu place~~ of summons, but served in like manner.
 5 ~~and-the~~ The hearing of ~~any-such the~~ application or petition
 6 by the ~~superintendent-of-banks department~~ may be had at any
 7 time, either in term or vacation in court, or in chambers,
 8 as the court may order, after ~~said the~~ association has had
 9 five (5) days' notice of ~~such the~~ application."

10 Section 87. Section 14-131, R.C.M. 1947, is amended to
 11 read as follows:

12 "14-131. Definitions. ~~As--used~~ Unless the context
 13 requires otherwise, in this act. (1) ~~The--term--"credit~~
 14 "Credit union" means a co-operative association organized in
 15 accordance with ~~the-provisions-of~~ this act for the purpose
 16 of promoting thrift among its members and creating a source
 17 of credit for provident or productive purposes. ~~Such Those~~
 18 organizations shall have perpetual succession and shall be
 19 organized under and governed solely by ~~the--provisions--of~~
 20 this act;

21 (2) ~~The--term--"department"~~ "Department" means the
 22 department of ~~banking,--state--of--Montana,--and~~ business
 23 regulation as provided for in Title 82A, chapter 4.

24 ~~{3}--The-term--"supervisor"--means-the-state-examiner,--ex~~
 25 ~~officio-superintendent-of-banks,--state-of-Montana."~~

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Section 88. Section 14-132, R.C.M. 1947, is amended to read as follows:

"14-132. Reports, examinations and fees. Credit unions ~~shall--be~~ are under the supervision of the supervisor department and shall make financial reports to ~~him it~~ as and when he it may require, but at least semiannually. Each A credit union ~~shall-be~~ is subject to ~~a--regular~~ examination annually by, and for this purpose shall make its books and records accessible to, ~~any--person--designated---by~~ the ~~supervisor;---except---that---special~~ department. Special examinations may be made more frequently where there is ~~clear--and~~ incontrovertible evidence of immediate danger or damage to, or impairment of, members' shareholdings. Accountants or representatives of the Montana credit unions league may be designated examiners by the supervisor department. If the examination is not made by the state examiner department, the expense of such the examination shall be borne by the credit union examined, and such the examination shall be in such the form and contain such the information as the ~~state--examiner--may--require~~ department requires. Fees assessed for examinations by the supervisor department shall not exceed the following schedule: The first \$25,000 of assets ~~to shall~~ be assessed at \$.22 per \$100 of assets, the next \$75,000 of assets ~~to shall~~ be assessed at \$.20 per \$100 of assets, the next \$100,000 of

assets ~~to shall~~ be assessed at \$.18 per \$100 of assets, the next \$300,000 of assets ~~to shall~~ be assessed at \$.14 per \$100 of assets, the next \$500,000 of assets ~~to shall~~ be assessed at \$.10 per \$100 of assets, and assets in excess of \$1,000,000 shall be assessed at \$.03 per \$100 of assets. The minimum fee chargeable ~~shall-be~~ is \$17."

Section 89. Section 14-133, R.C.M. 1947, is amended to read as follows:

"14-133. Incorporation. (1) ~~Whenever~~ When any number of persons not less than seven (7) who are domiciled in this state ~~shall~~ desire to incorporate a credit union having for its object the conduct and operation of such an organization as defined in this act, they shall ~~prepare-and~~ file articles of incorporation to that effect in the manner in this act specified. such The articles shall be signed, sealed, and acknowledged in the form ~~now~~ provided by the statutes of this state for the conveyance of real estate and shall include ~~the-following~~:

~~(1)~~ (a) The name, which ~~shall may~~ not be the same or too closely resembling that in use by any an existing corporation established under the laws of the state. The words "credit union" shall form a part of the name and no person, corporation, copartnership, association, or other form of organization ~~shall-be-entitled-to~~ may use a name employing ~~said that~~ combination of words except as provided

1 in section 14-137.

2 ~~(2)~~--(b) The principal office, or place of business
3 which shall be within in this state.

4 ~~(3)~~--(c) The term of existence of the organization,
5 which shall be perpetual.

6 ~~(4)~~--(d) The par value of shares of the credit union,
7 which shall be five dollars (\$5) each.

8 ~~(5)~~--(e) A provision that such the credit union shall
9 be organized under this act chapter for the purposes set
10 forth therein in it.

11 ~~(6)~~--(f) The names, occupations and addresses of the
12 subscribers to the articles of incorporation and the number
13 of shares subscribed by each.

14 (2) The articles of incorporation shall be presented
15 to the supervisor department with the bylaws of the proposed
16 credit union, and he it shall within thirty (30) days of the
17 receipt of said the articles of incorporation and bylaws,
18 determine whether they conform with the provisions of this
19 act, and whether ~~or-not~~ the organization of the credit union
20 would benefit its members and be consistent with the
21 purposes of this act. ~~Thereupon,--the--supervisor~~ The
22 department shall promptly notify the applicant of his its
23 decision. If it is favorable, the supervisor department
24 shall, at the time of issuing such the notice, attach his
25 its written approval to the articles of incorporation. If

1 it is unfavorable, the supervisor department shall, at the
2 time of issuing such the notice, state his its reasons
3 therefor for its decision.

4 (3) Said The articles of incorporation shall then be
5 filed with the secretary of state who, upon payment of the
6 filing fees therefor for them, shall issue a certificate of
7 incorporation over the great seal of the state of Montana;
8 and a copy thereof, certified by the secretary of state,
9 shall be filed in the office of the county clerk of the
10 county in which the principal place of business of the
11 credit union is located."

12 Section 90. Section 14-136, R.C.M. 1947, is amended to
13 read as follows:

14 "14-136. Bylaws. (1) In order to simplify the
15 organization of credit unions the supervisor department
16 shall from time to time ~~cause-to-be-prepared~~ prepare a form
17 of articles of incorporation and a form of bylaws,
18 consistent with this act, which shall be used by credit
19 union incorporators, and shall be supplied to them on
20 request. At the time of presenting the articles of
21 incorporation the incorporators shall also submit proposed
22 bylaws to the supervisor department for his its approval.

23 (2) The bylaws may be amended in the manner provided
24 therein in them, except that no amendments ~~thereto--shall~~
25 thereafter to them become operative until they have been

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approved by the supervisor department."

Section 91. Section 14-152, R.C.M. 1947, is amended to read as follows:

"14-152. Certain powers of supervisor department. {1} The supervisor department may prescribe adopt rules and regulations for the administration of the act {including, but not by-way-of-limitation limited to, the merger, consolidation, and dissolution of credit unions organized under this act}.

{2}--Any credit union may, with the approval of the supervisor, and in accordance with such uniform rules and regulations as he shall make and promulgate, be merged with another credit union, provided the membership of the one credit union is within the field of membership of the other, under the existing certificate of incorporation of such other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of a majority of the members of each such credit union, either at meetings of the members, duly called for such purpose or in writing. All property, property rights and interest of the credit union so merging shall upon such merger be transferred to and vested in the credit union under whose certificate of incorporation the merger is effected without deed, endorsement, or other instrument of

transfer, and the debts and obligations of the credit union so merging shall be deemed to have been assumed by the credit union under whose certificate of incorporation the merger is effected, and thereafter the certificate of incorporation of the credit union so merging shall be null and void and it shall cease to exist. Upon payment of the filing fees provided in section 14-155, the supervisor shall file the certificate of merger with the secretary of state, and a copy thereof, certified by the secretary of state, shall be filed in the office of the county clerk of the county in which the principal place of business of the merged credit union is located. This section shall be construed whenever possible to permit a credit union incorporated under any other act to merge with one incorporated under this act, or to permit one incorporated under this act to merge with one incorporated under any other act.

{3}--The proposition of voluntary dissolution may be considered at a membership meeting especially called by a four-fifths (4/5) vote of the board of directors of the credit union on a date set by said board for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed with the secretary before such date). Written notice of the proposition and of the date set for the vote shall then be delivered in person to

1 each member, or mailed to each member at the address for
 2 such member appearing on the records of the credit union,
 3 not more than thirty (30) days and not less than ten (10)
 4 days prior to such date. At the same time, a copy of said
 5 notice shall also be mailed to the supervisor. Approval of
 6 the proposition for voluntary dissolution shall be by the
 7 affirmative vote of a majority of the members, in person or
 8 in writing. A statement of the results of the vote,
 9 verified by the affidavits of the president or
 10 vice president and the secretary, shall be filed with the
 11 supervisor within five (5) days after the vote is taken, and
 12 there shall be included with the affidavits a list of the
 13 names of the directors and officers of the credit union
 14 together with their addresses. If the proposition for
 15 voluntary dissolution is approved by such vote, the credit
 16 union shall thereupon immediately cease to do business
 17 except for the purpose of liquidation.

18 (4) (a) The supervisor may suspend or revoke the
 19 certificate of incorporation of any credit union, or place
 20 the same in involuntary liquidation and appoint a
 21 liquidating agent therefore (therefor) upon his finding
 22 that the credit union is bankrupt or insolvent, or has
 23 violated any of the provisions of its certificate of
 24 incorporation, its bylaws, this act, or any regulations
 25 issued thereunder.

1 (b) The supervisor through such persons as he shall
 2 designate, may examine any credit union in voluntary
 3 liquidation and upon his finding that such voluntary
 4 liquidation is not being conducted in an orderly or
 5 efficient manner or in the best interests of its members,
 6 may after holding a hearing or giving adequate opportunity
 7 for a hearing, order such credit union to correct such
 8 condition and shall grant it not less than sixty (60) days
 9 within which to comply, and failure to do so shall afford
 10 the supervisor grounds for terminating such voluntary
 11 liquidation and place such credit union in involuntary
 12 liquidation and appoint a liquidating agent therefor.

13 (c) Such liquidating agent shall have power and
 14 authority, subject to the control and supervision of the
 15 supervisor and under such rules and regulations as the
 16 supervisor may prescribe.

17 (i) To receive and take possession of the books,
 18 records, assets, and property of every description of the
 19 credit union in liquidation, to sell, enforce collection of,
 20 and liquidate all such assets and property, to compound all
 21 bad or doubtful debts, and to sue in his own name or in the
 22 name of the credit union in liquidation, and defend such
 23 actions as may be brought against him as liquidating agent
 24 or against the credit union.

25 (ii) To receive, examine, and pass upon all claims

1 against-the-credit-union-in-liquidation, including-claims-of
 2 members-on-shares;
 3 (iii)-To-make-distribution-and-payment-to-creditors-and
 4 members-as-their-interests-may-appear; and
 5 (iv)-To--execute--such--documents--and-papers-and-to-do
 6 such-other-acts-and-things-which-he-may--deem--necessary--or
 7 desirable-to-discharge-his-duties-hereunder;
 8 (d)--Subject--to--the--control--and--supervision-of-the
 9 supervisor-and-under--such--rules--and--regulations--as--the
 10 supervisor--may-prescribe, the-liquidating-agent-of-a-credit
 11 union-in-involuntary-liquidation-shall
 12 (i)--Cause-notice-to-be-given-to-creditors-and--members
 13 to--present-their-claims-and-make-legal-proof-thereof, which
 14 notice-shall-be-published-once-a-week-in-each-of--three--(3)
 15 successive--weeks--in--a-newspaper-of-general-circulation-in
 16 the--county--in--which--the--credit--union--in--liquidation
 17 maintained--an-office-for-the-transaction-of-business-on-the
 18 date-it-ceased-unrestricted-operations, except-that-whenever
 19 the-aggregate-book-value-of-the-assets--and--property--of--a
 20 credit-union-in-involuntary-liquidation-is-less-than-\$10,000
 21 unless--the-supervisor-shall-find-that-its-books-and-records
 22 do--not--contain-a--true--and--accurate--record--of--its
 23 liabilities,--he--shall--declare--such-credit--union--in
 24 liquidation--to--be--a--"no-publication"--liquidation, and
 25 publication-of-notice-to-creditors-and-members-shall-not-be

1 required-in-such-case;
 2 (ii)-From-time-to-time-make-a-ratable-dividend--on--all
 3 such--claims--as-may-have-been-proved-to-his-satisfaction-or
 4 adjudicated-in-a-court-of-competent-jurisdiction-and,--after
 5 the--assets--of-such-credit-union-have-been-liquidated, make
 6 further--dividends--on--all--claims--previously--proved--or
 7 adjudicated,--and-he-may-accept-in-lieu-of-a-formal-proof-of
 8 claim-on-behalf-of-any-creditor-or-member-the--statement--of
 9 any--amount--due--to-such-creditor-or-member-as-shown-on-the
 10 books-and-records-of-the-credit-union, but--all--claims--not
 11 filed--before--payment-of-the-final-dividend-shall-be-barred
 12 and-claims-rejected-or-disallowed-by-the--liquidating--agent
 13 shall--be--likewise-barred-unless-suit-be-instituted-thereon
 14 within--three--(3)--months--after-notice--of--rejection--or
 15 disallowance, and
 16 (iii)-In-a-"no-publication"-liquidation, determine-from
 17 all--sources--available--to--him,--and--within-the-limits-of
 18 available-funds-of-the-credit--union,--the--amounts--due--to
 19 creditors--and-members, and-after-sixty-(60)-days-shall-have
 20 elapsed-from-the-date-of--his--appointment-distribute--the
 21 funds--of--the-credit-union-to-creditors-and-members-ratably
 22 and-as-their-interests-may-appear;
 23 (e)--Upon-certification-by-the-liquidating-agent-in-the
 24 case-of-an-involuntary-liquidation, and-upon-such--proof--as
 25 shall--be--satisfactory--to--the-supervisor-in-the-case-of-a

voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the supervisor shall cancel the certificate of incorporation of such credit union by issuing a certificate of dissolution on form prescribed by him and file the same with the secretary of state, and a copy thereof shall be filed in the office of the county clerk of the county in which the principal place of business of the credit union is located, but the corporate existence of the credit union shall continue for a period of three (3) years from the date of such cancellation of its certificate of incorporation, during which period the liquidating agent or his duly appointed successor or such persons as the supervisor shall designate may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(5) After the expiration of eight (8) years from the date of cancellation of the certificate of incorporation of a credit union the supervisor may, in his discretion, destroy any or all books and records of such credit union in his possession or under his control.

(6) The supervisor is authorized and empowered to execute any and all functions and perform any and all duties

vested in him hereby, through such persons as he shall designate or employ, and he may delegate to any person or persons, including any institution operating under the general supervision of the department, the performance and discharge of any authority, power, or function vested in him by this act.

(7) Any officer or employee of the department is authorized when designated for the purpose by the supervisor to administer oaths and affirmations and to take affidavits and depositions touching upon any matter within the jurisdiction of the department as related to this act.

(8) The supervisor is authorized, empowered, and directed to require that every person appointed or elected by any credit union to any position requiring the receipt, payment, or custody of money or other personal property owned by a credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company licensed to do business in the state of Montana. Any such bond or bonds shall be in a form approved by the supervisor with a view to providing surety coverage to the credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the supervisor may determine to be

1 reasonably-appropriate-or-as-elsewhere-required-by-this-act-
 2 Any--such--bond--or--bonds--shall--be--in--such-an-amount-in
 3 relation-to-the-money-or-other-personal-property-involved-or
 4 in-relation-to--the--assets--of--the--credit--union--as--the
 5 supervisor-may-from-time-to-time-prescribe-by-regulation-for
 6 the--purpose--of--requiring-reasonable-coverage--In-lieu-of
 7 individual-bonds-the-supervisor-may-approve--the--use--of--a
 8 form--of--schedule--or--blanket-bond-which-covers-all-of-the
 9 officers-and--employees--of--a--credit--union--whose--duties
 10 include--the--receipt,-payment,-or-custody-of-money-or-other
 11 personal-property-for-or-on-behalf-of-the-credit-union--The
 12 supervisor-may-also-approve-the-use--of--a--form--of--excess
 13 coverage-bond-whereby-a-credit-union-may-obtain-an-amount-of
 14 coverage-in-excess-of-the-basic-surety-coverage."

15 Section 92. There is a new section to be numbered
 16 14-152.1, R.C.M. 1947, which reads as follows:

17 14-152.1. Merger. A credit union may, with the
 18 approval of the department, and in accordance with uniform
 19 rules which the department adopts, be merged with another
 20 credit union, provided the membership of the one credit
 21 union is within the field of membership of the other.
 22 Mergers shall be under the existing certificate of
 23 incorporation of the other credit union, under any plan
 24 agreed upon by the majority of the board of directors of
 25 each credit union joining in the merger, and approved by the

1 affirmative vote of a majority of the members of each credit
 2 union, either at meetings of the members, called for that
 3 purpose or in writing. All property, property rights, and
 4 interest of the credit union so merging shall upon such
 5 merger be transferred to and vested in the credit union
 6 under whose certificate of incorporation the merger is
 7 effected without deed, endorsement, or other instrument of
 8 transfer, and the debts and obligations of the credit union
 9 so merging shall be considered assumed by the credit union
 10 under whose certificate of incorporation the merger is
 11 effected. The certificate of incorporation of the credit
 12 union so merging is then void and it shall cease to exist.
 13 Upon payment of the filing fees provided in section 14-155,
 14 the department shall file the certificate of merger with the
 15 secretary of state, and a copy thereof, certified by the
 16 secretary of state, shall be filed in the office of the
 17 county clerk of the county in which the principal place of
 18 business of the merged credit union is located. This
 19 section shall be construed, whenever possible, to permit a
 20 credit union incorporated under any other act to merge with
 21 one incorporated under this act, or to permit one
 22 incorporated under this act to merge with one incorporated
 23 under any other act.

24 Section 93. There is a new section to be numbered
 25 14-152.2, R.C.M. 1947, which reads as follows:

1 14-152.2. Voluntary dissolution and liquidation. The
 2 proposition of voluntary dissolution may be considered at a
 3 membership meeting especially called by a four-fifths (4/5)
 4 vote of the board of directors of the credit union on a date
 5 set by the board for a vote by the members (either at a
 6 meeting to be held on that date or by written ballot to be
 7 filed with the secretary before that date). Written notice
 8 of the proposition and of the date set for the vote shall
 9 then be delivered in person to each member, or mailed to
 10 each member at the address for that member appearing on the
 11 records of the credit union, not more than thirty (30) days
 12 and not less than ten (10) days before that date. At the
 13 same time, a copy of the notice shall also be mailed to the
 14 department. Approval of the proposition for voluntary
 15 dissolution shall be by the affirmative vote of a majority
 16 of the members, in person or in writing. A statement of the
 17 results of the vote, verified by the affidavits of the
 18 president or vice-president and the secretary, shall be
 19 filed with the department within five (5) days after the
 20 vote is taken, and there shall be included with the
 21 affidavits, a list of the names of the directors and
 22 officers of the credit union together with their addresses.
 23 If the proposition for voluntary dissolution is approved by
 24 the vote, the credit union shall immediately cease to do
 25 business except for the purpose of liquidation.

1 Section 94. There is a new section to be numbered
 2 14-152.3, R.C.M. 1947, which reads as follows:

3 14-152.3. Involuntary liquidation. (1) The department
 4 may suspend or revoke the certificate of incorporation of a
 5 credit union, or place it in involuntary liquidation and
 6 appoint a liquidating agent for it, upon its finding that
 7 the credit union is bankrupt or insolvent, or has violated
 8 any of the provisions of its certificate of incorporation,
 9 its bylaws, this act, or any rules issued under it.

10 (2) The department may examine a credit union in
 11 voluntary liquidation and, upon its finding that the
 12 voluntary liquidation is not being conducted in an orderly
 13 or efficient manner or in the best interests of its members,
 14 may after holding a hearing or giving adequate opportunity
 15 for a hearing, order that credit union to correct the
 16 condition and shall grant it not less than sixty (60) days
 17 within which to comply. Failure to do so gives the
 18 department grounds to terminate the voluntary liquidation
 19 and to place the credit union in involuntary liquidation and
 20 to appoint a liquidating agent for it.

21 (3) The liquidating agent may, subject to the control
 22 and supervision of the department and under those rules the
 23 department may prescribe:

24 (a) Receive and take possession of the books, records,
 25 assets, and property of every description of the credit

1 union in liquidation; sell, enforce collection of, and
 2 liquidate all the assets and property; compound all bad or
 3 doubtful debts; sue in his own name or in the name of the
 4 credit union in liquidation; and defend actions which may be
 5 brought against him as liquidating agent or against the
 6 credit union;

7 (b) Receive, examine, and pass upon all claims against
 8 the credit union in liquidation, including claims of members
 9 on shares;

10 (c) Make distribution and payment to creditors and
 11 members as their interests appear; and

12 (d) Execute those documents and papers and do those
 13 other acts and things which he considers necessary or
 14 desirable to discharge his duties.

15 (4) Subject to the control and supervision of the
 16 department and under rules the department may prescribe, the
 17 liquidating agent of a credit union in involuntary
 18 liquidation shall:

19 (a) Give notice to creditors and members to present
 20 their claims and make legal proof of them, which notice
 21 shall be published once a week in each of three (3)
 22 successive weeks in a newspaper of general circulation in
 23 the county in which the credit union in liquidation
 24 maintained an office for the transaction of business on the
 25 date it ceased unrestricted operations; except that when the

1 aggregate book value of the assets and property of a credit
 2 union in involuntary liquidation is less than ten thousand
 3 dollars (\$10,000), unless the department finds that its
 4 books and records do not contain a true and accurate record
 5 of its liabilities, the liquidating agent shall declare the
 6 credit union in liquidation to be a "no publication"
 7 liquidation, and publication of notice to creditors and
 8 members shall not be required in that case;

9 (b) From time to time make a ratable dividend on all
 10 claims which have been proved to his satisfaction or
 11 adjudicated in a court of competent jurisdiction and, after
 12 the assets of the credit union have been liquidated, make
 13 further dividends on all claims previously proved or
 14 adjudicated, and he may accept in place of a formal proof of
 15 claim on behalf of any creditor or member the statement of
 16 any amount due to that creditor or members as shown on the
 17 books and records of the credit union; but all claims not
 18 filed before payment of the final dividend are barred and
 19 claims rejected or disallowed by the liquidating agent are
 20 likewise barred unless sued upon within three (3) months
 21 after notice of rejection or disallowance; and

22 (c) In a "no publication" liquidation, determine from
 23 all sources available to him, and within the limits of
 24 available funds of the credit union, the amounts due to
 25 creditors and members, and after sixty (60) days have

1 elapsed from the date of his appointment distribute the
2 funds of the credit union to creditors and members ratably
3 and as their interests appear.

4 Section 95. There is a new section to be numbered
5 14-152.4, R.C.M. 1947, which reads as follows:

6 14-152.4. Certificate of dissolution. Upon
7 certification by the liquidating agent in the case of an
8 involuntary liquidation, and upon proof satisfactory to the
9 department in the case of a voluntary liquidation, that
10 distribution has been made and that liquidation has been
11 completed, as provided in this section, the department shall
12 cancel the certificate of incorporation of the credit union
13 by issuing a certificate of dissolution on a form prescribed
14 by the department, and file it with the secretary of state,
15 and a copy thereof shall be filed in the office of the
16 county clerk of the county in which the principal place of
17 business of the credit union is located. The corporate
18 existence of the credit union continues for a period of
19 three (3) years from the date of cancellation of its
20 certificate of incorporation, during which period the
21 liquidating agent, or his duly appointed successor, or those
22 persons the department shall designate, may act on behalf of
23 the credit union for the purpose of paying, satisfying, and
24 discharging any existing liabilities or obligations,
25 collecting and distributing its assets, and doing all other

1 acts required to adjust and wind up its business, and it may
2 sue and be sued in its corporate name.

3 Section 96. There is a new section to be numbered
4 14-152.5, R.C.M. 1947, which reads as follows:

5 14-152.5. Destruction of records. After the
6 expiration of eight (8) years from the date of cancellation
7 of the certificate of incorporation of a credit union the
8 department may, in its discretion, destroy any books and
9 records of the credit union in its possession or under its
10 control.

11 Section 97. There is a new section to be numbered
12 14-152.6, R.C.M. 1947, which reads as follows:

13 14-152.6. Oaths. The department may administer oaths
14 and affirmations and take affidavits and depositions
15 regarding any matter within the jurisdiction of the
16 department as related to this act.

17 Section 98. There is a new section to be numbered
18 14-152.7, R.C.M. 1947, which reads as follows:

19 14-152.7. Surety bonds. The department shall require
20 that every person appointed or elected by a credit union to
21 a position requiring the receipt, payment, or custody, of
22 money or other personal property owned by a credit union, or
23 in its custody or control as collateral or otherwise, give
24 bond in a corporate surety company licensed to do business
25 in this state. The bond shall be in a form approved by the

1 department and shall provide surety coverage to the credit
 2 union for loss by reason of acts of fraud or dishonesty
 3 including forgery, theft, embezzlement, wrongful
 4 abstraction, or misapplication on the part of the person,
 5 directly or through connivance with others, and other surety
 6 coverages the department determines to be reasonably
 7 appropriate or as elsewhere required by this act. The bond
 8 shall be in an amount, in relation to the money or other
 9 personal property involved or in relation to the assets of
 10 the credit union, which the department may from time to time
 11 prescribe by rule for the purpose of requiring reasonable
 12 coverage. In place of individual bonds the department may
 13 approve the use of a form of schedule or blanket bond which
 14 covers all of the officers and employees of a credit union
 15 whose duties include the receipt, payment, or custody of
 16 money or other personal property. The department may also
 17 approve the use of a form of excess coverage bond whereby a
 18 credit union may obtain an amount of coverage in excess of
 19 the basic surety coverage.

20 Section 99. Section 15-2614, R.C.M. 1947, is amended
 21 to read as follows:

22 "15-2614. Control -- supervision -- reports. The
 23 corporation ~~shall--be~~ is subject to the examination of the
 24 ~~state--superintendent--of--banks~~ department of business
 25 regulation, and shall make reports of its condition not less

1 than annually to ~~said-superintendent~~, who that department,
 2 which in turn shall make copies of ~~such~~ the reports
 3 available to the commissioner of insurance and to the
 4 governor. The corporation shall also file an annual
 5 statement required by Title 15, ~~Revised-Codes-of-Montana~~
 6 R.C.M. 1947."

7 Section 100. Section 27-402, R.C.M. 1947, is amended
 8 to read as follows:

9 "27-402. General purpose. The general purpose of this
 10 ~~law chapter~~ is to protect and promote public welfare and to
 11 eliminate unfair and demoralizing trade practices in the
 12 milk industry. It is enacted in the exercise of the police
 13 powers of the state."

14 Section 101. Section 27-403, R.C.M. 1947, is amended
 15 to read as follows:

16 "27-403. Definitions. ~~As-used-in-this-act, unless--the~~
 17 ~~context--otherwise--requires,--"board"--means-the-state-agency~~
 18 ~~created-by-this-act, to-be-known-as-the-Montana-milk-control~~
 19 ~~board:~~ (1) Unless the context requires otherwise, in this
 20 chapter:

21 (a) "Board" means the board of milk control provided
 22 for in section 82A-406.

23 (b) "Person" means any a person, firm, corporation, or
 24 co-operative association.

25 (c) "Producer" means any a person who produces milk

1 for consumption ~~within the~~ in this state, selling ~~same~~ it to
2 a distributor.

3 (d) "Department" means the department of business
4 regulation provided for in Title 82A, chapter 4.

5 (e) "Distributor" means any a person purchasing milk
6 from any source, either in bulk or in packages, and
7 distributing same it for consumption within--the in this
8 state. Said The term includes what are commonly known as
9 jobbers and independent contractors. Said The term,
10 however, excludes all-persons a person purchasing milk from
11 a dealer licensed under this act chapter, for resale over
12 the counter at retail, or for consumption on the premises.

13 (f) "Producer-distributor" means any a person both
14 producing and distributing milk for consumption within--the
15 in this state.

16 (g) "Retailer" means any a person selling milk in bulk
17 or in packages over the counter at retail, or for
18 consumption on the premises, and includes, but is not
19 limited to, retail stores of all types, restaurants,
20 boarding-houses, fraternities, sororities, confectionaries,
21 public and private schools, including colleges and
22 universities, and both public and private institutions and
23 instrumentalities of all types and description.

24 (h) "Dealer" means any a producer, distributor,
25 producer-distributor, jobber, or independent contractor.

1 (i) "Licensee" means any a person who holds a license
2 from the board department.

3 "Association" means any organized group of dealers in a
4 community or marketing area which has been constituted under
5 regulations satisfactory to the board.

6 (j) "Market" means any an area of the state designated
7 by the board department as a natural marketing area.

8 (k) "Consumer" means any a person or any an agency,
9 other than a dealer, who purchases milk for consumption or
10 use.

11 (l) "Producer prices" means those prices at which milk
12 owned by a producer is sold in bulk to a distributor.

13 (m) "Wholesale prices" means those prices at which
14 milk owned by a distributor is sold, in bulk or in packages,
15 to a retailer.

16 (n) "Jobber prices" means those prices at which milk
17 owned by a distributor is sold, in bulk or in packages, to a
18 jobber or independent contractor.

19 (o) "Retail prices" means those prices at which milk
20 owned by a retailer is sold, in bulk or in packages, over
21 the counter at retail, or for consumption on the premises.

22 (p) "Milk" means the lacteal secretion of a dairy
23 animal or animals, including such those secretions when raw
24 and when cooled, pasteurized, standardized, or homogenized,
25 recombined, concentrated fresh, or otherwise processed and

all of which is designated as grade A by a duly constituted health authority, and also includes ~~such~~ those secretions which are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

(q) Class I milk ~~shall-include~~ includes all bottled or packaged milk, low fat, buttermilk, chocolate milk, whipping cream, commercial cream, half and half, skim milk, fortified skim milk, skim milk flavored drinks, and any other fluid milk not specifically classified in this ~~act~~ chapter, whether raw, pasteurized, homogenized, sterile or aseptic.

(r) Class II milk ~~shall-include~~ includes milk used in the manufacture of ice cream and ice cream mix, ice milk, sherbet, eggnog, cultured sour cream, cottage cheese, condensed milk, and powdered skim for human consumption.

(s) Class III milk ~~shall-include~~ includes milk used in the manufacture of butter, cheddar cheese, process cheese, livestock feed, powdered skim other than for human consumption, and skim milk dumped.

(2) The ~~board--shall--have--power--and--authority--to~~ department may assign new milk products, not expressly included in one of the classes defined in this section, hereafter--developed to the class which in its discretion it determines to be proper."

Section 102. Section 27-405, R.C.M. 1947, is amended

to read as follows:

"27-405. General powers of the ~~milk--control-board~~ department. (1) The ~~board-is-hereby-vested-with-the--powers,~~ and--it ~~department~~ shall ~~be-its-duty-to~~ supervise, regulate, and control the milk industry of the this state ~~of--Montana,~~ including the production, transportation, processing, storage, distribution and sale of milk in the this state ~~of~~ Montana for consumption ~~within--the~~ in this state, ~~providing-however,-that-nothing-contained~~ Nothing in this ~~act--shall--be--construed--to--abrogate~~ chapter ~~abrogates~~ or ~~affect~~ affects the status, force or operation of any provision of public health laws or the law under which the Montana department of livestock sanitary--board is constituted together with the Montana department of livestock sanitary-board-regulations rules or county board of health ~~regulations rules~~, or municipal ordinances for the promotion or protection of the public health, ~~but-the-board~~ shall--have--the-power-to The department may co-operate with the state--board department of health and environmental sciences, the Montana board of livestock sanitary-board or any county or city board of health or the state department of agriculture and-industry in enforcing the-provisions-of this act chapter.

(2) The ~~board~~ department shall ~~have-the-power--and--it~~ shall--be--its-duty-to investigate all matters pertaining to

the production, transportation, processing, storage, distribution and sale of milk in the this state of Montana and to conduct hearings upon any subject pertinent to the administration of this act chapter. The board shall have the power to department may subpoena milk dealers, their records, books, and accounts, and any other person from whom information may be desired or deemed considered necessary to carry out the purposes and intent of this act chapter, and may issue commissions to take depositions of witnesses who are sick or absent from the state or who cannot otherwise appear in person before the milk control board department at its offices. in the state capitol, provided The department shall give at least ten (10) days days notice is given to the proposed witness.

{3}--It shall be the duty of any sheriff of any county of the state, when requested to do so by the board, to execute any summons, citations or notice which the board may cause to be issued, for which such sheriff shall be authorized to charge the same fee against the funds provided for the milk control board as he might lawfully charge for the same service of such a document if issued from any district court of the state of Montana. Any person other than a dealer who is cited for violation of the provisions of this act or cited to show cause why his license should not be revoked, shall receive for his attendance before the

milk control board or its duly designated agent the same compensation as is provided for a witness subpoenaed to appear before the district court, which shall be charged against the funds provided for the operation of the milk control board.

{4}--Any duly designated agent of the board may administer oath to witnesses, may call and give notice of price hearings when the board is not in session and may conduct hearings or investigations and any such duly designated agent of the board may sign and issue subpoenas requiring witnesses to appear before him or the board, and in addition to the manner provided above for the execution of subpoenas, summons and citations issued by the milk control board to witnesses or dealers, the board, through its designated agent shall have the power to serve said subpoenas, summons or citations upon any person by sending a copy of such subpoena, summons or citation, through the United States mail, postage prepaid, which said mail shall be registered with return receipt attached and such service shall be complete when said registered mail shall be delivered to said person and such receipt returned to the board or its designated agent, signed by the person sought to be summoned, subpoenaed or cited, obedience to a subpoena, summons or citation issued by the board or any person authorized and designated by the board to issue said

subpoena, summons or citation, may be enforced by application to any judge of the district court of the county in which such subpoena, summons or citation was issued or to any judge of the district court of the county in which such person subpoenaed, summoned or cited resides and said court shall order compliance with said subpoena, summons or citation and upon failure of the witness to attend, to testify, or to produce such books or papers or records as the board may have commanded, such witness may be punished for contempt of court as for failure to obey a subpoena issued by or to testify in a case pending before said court.

(5) The board may act as mediator or arbitrator to settle any controversy or issue pertaining to milk among or between producers, distributors, producer-distributors and/or consumers.

The operation and effect of any provisions of this act, conferring a general power upon the milk control board, shall not impair or limit any specific power or powers granted to the milk control board by this act."

Section 103. Section 27-406, R.C.M. 1947, is amended to read as follows:

"27-406. Markets. (1) Pursuant to the declaration of policy relating to milk set forth in section 27-401, the milk control board is vested with the duty and authority to department shall designate natural marketing areas which

shall together embrace all the geographical area of the state and to prescribe and shall enforce the minimum producer, wholesale, and retail prices established for those in such areas in the manner set forth in this act by the board.

(a) (2) Natural marketing areas shall be established forthwith throughout the state by the board, provided that before any department. Before a proposed natural marketing area is established the board department, after notice of at least thirty (30) days, shall hold a hearing or hearings, at a place or places within the proposed area, at which producers and distributors doing business within said the proposed natural marketing area, who are licensed by the Montana livestock sanitary board department of livestock, and the consuming public may present evidence and testify, and in the event if the hearing or hearings make it evident to a majority of the board department that the establishment of such the proposed natural marketing area is in the public interest, the board department shall make findings and conclusions and proceed to establish such the natural marketing area.

(b) (3) The board shall have the power, department may from time to time and at its discretion, to adjust and alter the boundaries of natural marketing areas after they have been established, if after a hearing upon notice of at

1 least thirty (30) days to all interested parties it finds
2 and---orders---such the adjustment to be in the public
3 interest.

4 ~~{c}--All-previously-established-marketing-areas-and-all~~
5 ~~price--schedules,---rules---and---regulations---issued---and~~
6 ~~promulgated--by--the-milk-control-board-in-this-state-at-the~~
7 ~~time-of-passage-of-this-act-which-are-in-force--and--effect,~~
8 ~~are--hereby--declared--to--be-and-remain-in-force-and-effect~~
9 ~~until-altered-or-rescinded-in-the-manner--provided--by--this~~
10 ~~act.~~

11 ~~{d}--The--board--shall--at--all--times-maintain-current~~
12 ~~information-on-quantities-of-surplus-grade-A-milk--available~~
13 ~~in--the--various--marketing--areas-throughout-the-state--and~~
14 ~~such--information--shall--be--available--to--all--interested~~
15 ~~parties-on-request."~~

16 Section 104. Section 27-407, R.C.M. 1947, is amended
17 to read as follows:

18 "27-407. Establishment of minimum prices. (1) The
19 board shall fix minimum producer, wholesale, jobber, and
20 retail prices for class I milk, and minimum producer prices
21 only for class II and class III milk in all areas of the
22 state, by adopting rules in a manner prescribed by the
23 Montana Administrative Procedure Act.

24 (2) The board shall establish such prices by means of
25 flexible formulas which shall be devised so that they bring

1 about such automatic changes in all minimum prices as are
2 justified on the basis of changes in production costs and
3 supply, processing and distribution costs, and retailing
4 costs.

5 (3) The board shall consider the balance between
6 production and consumption of milk, the costs of production
7 and distribution, and prices in adjacent and neighboring
8 areas and states, so that minimum prices which are fair and
9 equitable to producers, distributors, jobbers, retailers,
10 and consumers may result.

11 (4) The board shall, when publishing notice of
12 proposed rule making under authority of this section, set
13 forth the specific factors which shall be taken into
14 consideration in establishing the formulas and in particular
15 in determining costs of production and distribution and of
16 the actual dollars and cents costs of production and
17 distribution which preliminary studies and investigations of
18 auditors or accountants in its employment indicate will or
19 should be shown at the hearing, so that all interested
20 parties will have opportunity to be heard and to question or
21 rebut such considerations as a matter of record.

22 (5) Such specific factors may include, but shall not
23 be limited to, the following items:

24 ~~{1}--(a)~~ Current and prospective supplies of milk in
25 relation to current and prospective demands for such milk

for all purposes;

~~42~~--(b) The ability and willingness of consumers to purchase, which shall include among other things, per capita disposable income statistics, consumer price indices, and wholesale price indices;

~~43~~--(c) The cost factors in producing milk, which shall include among other things the prices paid by farmers generally (as used in parity calculations of the United States Department of Agriculture), prices paid by farmers for dairy feed in particular and farm wage rates in this state;

~~44~~--(d) The alternative opportunities, both farm and nonfarm, open to milk producers, which shall include among other things, prices received by farmers for all products other than milk, prices received by farmers for beef cattle, and the percentage of unemployment in the state and nation as determined by appropriate state and federal agencies;

~~45~~--(e) The prices of butter-nonfat dry milk, and cheese;

~~46~~--(f) The cost factors in distributing milk, which shall include among other things the prices paid by distributors for equipment of all types required to process and market milk and prevailing wage rates in this state;

~~47~~--(g) The cost factors in jobbing milk, which shall include among other things raw product and ingredient costs,

carton or other packaging cost, processing cost and that part of general administrative costs of the supplying distributor which may properly be allocated to the handling of milk to the point at which such milk is at the supplying distributor's dock, equipment of all types required to market milk and prevailing wage rates in the state;

~~48~~--(h) The need, if any, for freight or transportation charges to be deducted by distributors from producer prices for bulk milk;

~~49~~--(i) A reasonable return on necessary investment to all ordinarily efficient and economical milk dealers.

(6) If the board at any time proposes to base all or any part of any official order establishing or revising any milk pricing formulas upon facts within its own knowledge, as distinguished from evidence which may be presented to it by the consuming public or the milk industry, the board shall, when publishing notice of proposed rule making under authority of this section, cause notice to be given to the consuming public and the milk industry of the specific facts within its own knowledge which it will consider, so that all interested parties will have opportunity to be heard and to question or rebut such facts as a matter of record.

(7) The board, after consideration of the evidence produced, shall make written findings and conclusions and shall fix by official rule:

1 (a) The formula whereby minimum producer prices for
2 milk in classes I, II, and III shall be computed.

3 (b) The formula whereby minimum wholesale prices for
4 milk in class I shall be computed.

5 (c) The formula whereby minimum jobber prices for milk
6 in class I shall be computed.

7 (d) The formula whereby minimum retail prices for milk
8 in class I shall be computed.

9 (8) This section shall not be construed as requiring
10 the board to promulgate any specific number of formulas, but
11 shall be construed liberally so that the board may adopt any
12 reasonable method of expression to accomplish the objective
13 set forth in (a), (b), (c), and (d) above. If the evidence
14 presented to the board at any public hearing for the
15 establishment or revision of milk pricing formulas is found
16 by the board to require the establishment of separate and
17 varying wholesale prices for any particular uses, the board
18 shall designate the reasons therefor and establish such
19 separate formulas.

20 (9) Each rule establishing or revising any milk
21 pricing formulas shall classify milk by forms, classes,
22 grades or uses as the board may deem advisable and shall
23 specify the minimum prices therefor.

24 (10) The milk produced in one natural marketing area
25 and sold in another natural marketing area shall be paid for

1 by a distributor or dealer in accordance with the pricing
2 order of the area where produced at the price therein
3 specified of the class or use in which it is ultimately used
4 or sold.

5 (11) No allowance for freight, other than freight for
6 transportation of milk from the farm to plant, shall be
7 charged to a producer by a distributor or dealer unless it
8 is found and ordered by the board, after notice and hearing
9 in the manner hereinbefore specified, that such an
10 additional freight allowance is necessary to permit the
11 movement of milk in the public interest.

12 (12) All milk purchased within a natural marketing area
13 by a distributor shall be purchased on a uniform basis. The
14 basis to be used shall be established by the board after the
15 producers and the distributors of the area have been
16 consulted.

17 (13) The board may amend any official rule in the same
18 manner provided herein for the original establishment of
19 milk pricing formulas; provided, further, the board may in
20 its discretion, when it determines the need exists, notice
21 and hold state-wide public hearings affecting establishment
22 or revision of milk pricing formulas in all market areas of
23 the state.

24 (14) Upon petition of a distributor or a majority of
25 producers, the board shall hold a hearing to receive and

1 consider evidence regarding the advisability and need for a
2 base or quota plan as a method of payment by that
3 distributor of producer prices; and if the board finds that
4 the evidence adduced at such hearing warrants the
5 establishment of a base or quota plan, the board shall
6 proceed by official order to establish the same.

7 (15) Upon petition by any producer,
8 producer-distributor or distributor in any marketing area,
9 the board shall hold a hearing to receive and consider
10 evidence regarding the advisability and need for an
11 area-wide or state-wide pooling arrangement as a method of
12 payment of producer prices, provided that at such hearing
13 the board shall among other things specifically receive and
14 consider evidence concerning production and marketing
15 practices which have historically prevailed in the area
16 concerned or state-wide, as the case may be; and if the
17 board finds that the evidence adduced at such hearing
18 warrants the establishment of such an area-wide or
19 state-wide pooling arrangement, the board shall proceed by
20 official order to establish the same, but such official
21 order shall be of no force or effect until it is approved in
22 a referendum conducted by the board among affected
23 producers, producer-distributors, and distributors.

24 (16) The requirements hereinabove set forth concerning
25 notices of hearings for the establishment of milk pricing

1 formulas shall apply to any hearings regarding base or quota
2 plans or area-wide or state-wide pooling arrangements, or
3 abandonment thereof."

4 Section 105. Section 27-408, R.C.M. 1947, is amended
5 to read as follows:

6 "27-408. Licenses to producers, producer-distributors,
7 distributors and jobbers. In any market, where the
8 provisions of this ~~act~~ chapter apply, it ~~shall--be~~ is
9 unlawful for ~~any~~ a producer, producer-distributor,
10 distributor or jobber to produce, transport, process, store,
11 handle, distribute, buy or sell milk unless ~~such~~ the dealer
12 ~~be--duly~~ is properly licensed as provided by this ~~act~~
13 chapter. It ~~shall--be~~ is unlawful for ~~any-such~~ a person to
14 buy, sell, handle, process, or distribute milk which he
15 knows or has reason to believe has been previously dealt
16 with or handled in violation of any provision of this ~~act~~
17 chapter. The ~~board~~ department may decline to grant a
18 license, or may suspend or revoke a license already granted,
19 upon due cause and after hearings."

20 Section 106. Section 27-409, R.C.M. 1947, is amended
21 to read as follows:

22 "27-409. Licenses -- disposition of income. (1) ~~No~~ A
23 producer, producer-distributor, distributor or jobber ~~shall~~
24 may not engage in the business of producing or selling milk
25 subject to this ~~act~~ chapter in this state without first

1 having obtained a license from the Montana department of
 2 livestock ~~sanitary--board~~ or, in the case of milk entering
 3 this state from another state or foreign nation, without
 4 complying with the requirements of the Montana Food, Drug
 5 and Cosmetic Act, and without being licensed under this ~~act~~
 6 chapter by the department ~~of--business--regulation~~. The
 7 annual fee for ~~such the~~ license from the department ~~of~~
 8 ~~business--regulation--shall-be~~ is two dollars (\$2), ~~shall-be~~
 9 ~~and is due and-payable-on-or-before-the-first-day-of~~ before
 10 July 1, and shall be deposited by ~~said the~~ department to the
 11 credit of the general fund.

12 (2) In addition to ~~said the~~ annual license fee, the
 13 ~~board department~~ shall, in each year, ~~on-or before the-first~~
 14 ~~day-of~~ April 1, for the purpose of securing funds to
 15 administer and enforce this ~~act chapter~~, levy an assessment
 16 upon producers, producer-distributors, and distributors as
 17 follows:

18 (a) A fee per hundredweight on the total volume of all
 19 milk subject to this act produced and sold by a
 20 producer-distributor.

21 (b) A fee per hundredweight on the total volume of all
 22 milk subject to this act sold by a producer.

23 (c) A fee per hundredweight on the total volume of all
 24 milk subject to this act sold by a distributor, excepting
 25 that which is sold to another distributor.

1 (3) The department shall adopt rules fixing the amount
 2 of each fee. The amounts may not exceed levels sufficient
 3 to provide for the administration of this act. The fee
 4 assessed on a producer or on a distributor may not be more
 5 than one-half (1/2) the fee assessed on a
 6 producer-distributor.

7 (4) ~~Said The~~ assessment upon producer-distributors,
 8 producers, and distributors shall be paid quarterly ~~on--or~~
 9 before ~~the--fifteenth--(15th)--day-of-July,~~ January 15, April
 10 15, July 15, and October 15, January--and--April of each
 11 year. ~~and--the~~ The amount of ~~such the~~ assessment shall be
 12 computed by applying the fee designated by the ~~board~~
 13 department to the volume of milk sold in the preceding
 14 calendar quarter ~~immediately-preceding~~.

15 (5) Failure of ~~any a~~ producer, producer-distributor,
 16 or distributor to pay ~~said an~~ assessment when due ~~shall~~
 17 ~~constitute is a~~ violation of this ~~act chapter~~ and his
 18 license under this ~~act chapter~~ ~~shall-thereupon~~ automatically
 19 ~~terminate terminates~~ and ~~be--null is~~ and void ~~and-of-no~~
 20 ~~effect. Reinstatement-of-a~~ A license so terminated shall be
 21 ~~affected reinstated~~ by the department upon payment of a
 22 delinquency fee equal to thirty per cent (30%) of the
 23 assessment which was due.

24 (6) All assessments ~~hereinbefore~~ required ~~to--be--paid~~
 25 by this chapter shall be deposited by the department ~~of~~

~~business-regulation~~ in the earmarked revenue fund~~7~~, ~~and--all~~
 All costs of administering this ~~act~~ chapter, including the
 salaries of employees and assistants, per diem and expenses
 of board members, and all other disbursements necessary to
 carry out the purpose of this ~~act~~ chapter, shall be paid out
 of control board moneys in ~~such~~ that fund.

(7) The department may, if it finds the costs of
 administering and enforcing this ~~act~~ chapter can be derived
 from lower rates, amend its rules to fix the rates at a less
 amount on or before the first day of April in any year."

Section 107. Section 27-410, R.C.M. 1947, is amended
 to read as follows:

"27-410. Application for licenses. An applicant for
 license to operate as a producer, producer-distributor,
 distributor, or jobber shall file a signed application upon
 a blank prepared under authority of the ~~board~~ department,
 and an applicant shall state ~~such~~ facts concerning his
 circumstances and the nature of the business to be conducted
 as which in the opinion of the ~~board~~ department are
 necessary for the administration of this ~~act~~ chapter. ~~Such~~
The application shall certify the applicant to be the holder
 of all licenses required by the ~~Montana~~ department of
 livestock ~~sanitary-board~~ for the conduct of his business or,
 in the case of milk entering this state from another state
 or foreign nation, compliance with the requirements of the

Montana Food, Drug and Cosmetic Act~~7~~, ~~and--such~~ The
 application shall be accompanied by the license fee required
 to be paid."

Section 108. Section 27-411, R.C.M. 1947, is amended
 to read as follows:

"27-411. Declining, suspending and revoking licenses
 -- penalties in lieu of suspension or revocation. (1) The
~~board~~ department may ~~decline~~ refuse to grant a license or
 may suspend or revoke a license already granted for due
 cause upon due notice and after hearing. The violation of
 any provisions of this ~~act~~ chapter or of any lawful order or
~~regulation~~ rule of the ~~board~~ or department, the failure or
 refusal to make required statements or reports, and
~~aggravated--delinquency--in-the-payment-of~~ or failure to pay
 license or assessment fees~~7~~~~--or-any-of-them7--shall-be--deemed~~
are causes for which the ~~board~~ department may, at its
 discretion, suspend~~7~~ or revoke a license~~7~~. ~~provided-that-no~~
~~license-shall-be-fully-revoked-except-upon-the-approval-of-a~~
~~majority-of-all-members-of-the-board7~~

(2) In ~~lieu~~ place of a suspension or revocation of a
 license the ~~board~~ department may assess a civil penalty not
 to exceed five hundred dollars (\$500) per day for each daily
 failure to comply with or each daily violation of the
 provisions of this ~~act~~ chapter or of any lawful order or
~~regulation~~ rule of the ~~board7~~ department. ~~and--if~~ If the

1 person against whom ~~such a~~ civil penalty is assessed fails
 2 ~~or--refuses~~ to pay ~~such the~~ civil penalty ~~forthwith~~
 3 ~~immediately,~~ the ~~board--is--empowered--and--directed--to~~
 4 ~~department shall~~ collect ~~such the~~ civil penalty by a civil
 5 proceeding in the district court of the first judicial
 6 district. ~~Such--civil--penalties~~ This penalty shall be
 7 construed as civil and not criminal in nature. Any moneys
 8 received by the ~~board department~~ as a result of collection
 9 of civil penalties shall be paid into the ~~state-general-fund~~
 10 ~~earmarked revenue fund as provided by section 27-417, R.C.M.~~
 11 ~~1947."~~

12 Section 109. Section 27-413, R.C.M. 1947, is amended
 13 to read as follows:

14 "27-413. Rules and orders. The ~~board department~~ may
 15 adopt and enforce ~~all~~ rules and ~~all~~ orders necessary to
 16 carry out the provisions of this ~~act~~ chapter and any orders
 17 adopted under it by the department or the board. ~~Every A~~
 18 rule or order shall be posted for public inspection in the
 19 main office of the ~~board department~~ for thirty (30) days,
 20 and a copy shall be filed in the office of the ~~board, also a~~
 21 department. A copy shall also be sent by registered letter
 22 to the secretary of each area, ~~excepting~~ except in the case
 23 of an order, directed only to a person or persons named
 24 therein in it, which shall be served by personal delivery of
 25 a copy, or by mailing a copy, ~~in the United States mails,~~

1 ~~with-postage-prepaid-and-properly-addressed~~ to each person
 2 to whom ~~such the~~ order is directed, or, in the case of a
 3 corporation, to any officer or agent of the corporation upon
 4 whom a summons may be served in accordance with ~~the~~
 5 ~~provisions--of--the--statutes-of-Montana~~ laws of this state.
 6 ~~Such The~~ posting, in the main office of the ~~board~~
 7 ~~department,~~ of ~~any a~~ rule ~~and-of-any or~~ order, not required
 8 to be personally served as ~~above~~ provided in this section,
 9 and ~~such the~~ filing in the office of the ~~board-shall~~
 10 ~~constitute-due-and~~ department is sufficient notice to all
 11 persons affected by ~~such--a the~~ rule or order. A rule or
 12 order when duly properly posted and filed or served, as
 13 provided in this ~~act, shall have~~ section, has the force and
 14 effect of law."

15 Section 110. Section 27-414, R.C.M. 1947, is amended
 16 to read as follows:

17 "27-414. Rules of fair trade practices. ~~In-addition-to~~
 18 ~~the--general--and--special--powers-heretofore-set-forth, the~~
 19 ~~board-shall-have-the-power-to~~ The department may make--and
 20 formulate adopt reasonable rules and ~~regulations~~ governing
 21 fair trade practices as they pertain to the transaction of
 22 business among licensees under this ~~act~~ chapter and among
 23 licensees and the general public. ~~Such--reasonable Those~~
 24 ~~rules and--regulations-governing-fair-trade-practices~~ shall
 25 contain, but ~~shall are~~ are not be limited to, provisions

1 ~~regarding prohibiting~~ the following methods of doing
2 business which are ~~hereby-declared~~ unfair, unlawful, and not
3 in the public interest:

4 ~~(a)--(1)~~ The payment, allowance, or acceptance of
5 secret rebates, secret refunds, or unearned discounts by ~~any~~
6 a person, whether in the form of money or otherwise.

7 ~~(b)--(2)~~ The giving of ~~any~~ milk, cream, dairy
8 products, services, or articles of any kind, except to bona
9 fide charities, for the purpose of securing or retaining the
10 fluid milk or fluid cream business of ~~any a~~ customer.

11 ~~(c)--(3)~~ The extension to certain customers of special
12 prices or services not available to all customers who
13 purchase milk of like quantity under like terms and
14 conditions.

15 ~~(d)--(4)~~ The purchasing, processing, bottling,
16 packaging, transporting, delivering or otherwise handling in
17 any marketing area of ~~any~~ milk which is to be or is sold or
18 otherwise disposed of at less than the minimum wholesale and
19 minimum retail prices established by the board ~~pursuant-to~~
20 ~~this-act~~.

21 ~~(e)~~ (5) The payment of a ~~less~~ price lower than the
22 applicable producer price, established by the board,
23 ~~pursuant-to-this-act~~ by a distributor to ~~any a~~ producer for
24 milk which is distributed to any person, including agencies
25 of the federal, state or local government."

1 Section 111. Section 27-414.1, R.C.M. 1947, is amended
2 to read as follows:

3 "27-414.1. Limitation on extension of credit to
4 retailers. ~~No A~~ sale or delivery ~~shall~~ may not be made by
5 ~~any a~~ producer-distributor, distributor, or jobber to ~~any a~~
6 retailer, except for cash or payment within fifteen (15)
7 days after regular billings, and all producer-distributors,
8 distributors, and jobbers shall bill retailers at least
9 monthly. ~~in-no-event-shall-any~~ A producer-distributor,
10 distributor, or jobber may not extend more than fifteen (15)
11 days' credit after billing to a retailer, ~~nor-shall-any A~~
12 retailer ~~accept-or may not~~ receive delivery of ~~such~~ milk
13 without agreement to pay for it in cash ~~therefor~~ within
14 fifteen (15) days after regular billing ~~therefor~~. A
15 correctly dated check which is honored upon presentment
16 ~~shall-be-considered-as is~~ cash within the meaning of this
17 ~~act section~~. ~~Any An~~ extension or acceptance of credit in
18 violation hereof of this section shall be ~~regarded--and~~
19 construed as rendering or receiving financial assistance, ~~and-the~~
20 The licenses of producer-distributors, distributors,
21 or jobbers involved in violation hereof of this section
22 shall be suspended or revoked as determined by the ~~board~~
23 department in its discretion."

24 Section 112. Section 27-414.2, R.C.M. 1947, is amended
25 to read as follows:

1 "27-414.2. Financing prohibitions -- producer and
 2 retailer. (1) No A producer, producer-distributor,
 3 distributor, or jobber licensed under this act---shall
 4 hereafter chapter may not advance or loan money or credit
 5 to, or furnish money or credit for, or refinance or cosign
 6 or guarantee promissory notes, security agreements,
 7 conditional sales contracts, or other commercial paper for
 8 or on behalf of any a retailer. and--no A producer,
 9 producer-distributor, distributor, or jobber shall may not
 10 be financially interested, either directly or indirectly, in
 11 the conduct or operation of the business of a retailer.
 12 and--no A producer-distributor, distributor, or jobber
 13 licensed under this act chapter shall-hereafter may not
 14 advance or loan money or credit to, or furnish money or
 15 credit for, or refinance or cosign or guarantee promissory
 16 notes, security agreements, conditional sales contracts or
 17 other commercial paper for or on behalf of any a producer.
 18 and--no A producer-distributor, distributor, or jobber shall
 19 may not be financially interested, either directly or
 20 indirectly, in the conduct or operation of the business of a
 21 producer. provided, however, this This section shall does
 22 not be--construed--se--as--to prohibit any a producer from
 23 belonging to, participating in, or patronizing a
 24 co-operative corporation or a producer,
 25 producer-distributor, distributor, or jobber from operating

1 his own wholly-owned dairy products or other retail store or
 2 home-delivery retail routes.

3 (2) This section is does not ~~te--be--construed-to~~
 4 prohibit a producer from requesting and a distributor from
 5 granting an advance payment for milk prior-to before the
 6 regular date of payment therefor for milk or ~~to~~ limit in any
 7 way the right of a producer to assign part or all of moneys
 8 which are or may become due to him from a distributor."

9 Section 113. Section 27-415, R.C.M. 1947, is amended
 10 to read as follows:

11 "27-415. Entry, inspection and investigation. The
 12 ~~board,--or--any--person--designated--for--that--purpose--by--the~~
 13 ~~board,--shall--have--access--to,--and~~ department may enter, at
 14 all reasonable hours, all places where milk is produced,
 15 processed, bottled, handled or stored, or where the books,
 16 papers, records, or documents relative to ~~such~~ those
 17 transactions are kept and ~~shall--have--the--power--to~~ may
 18 inspect and copy ~~the--same~~ them in any place ~~within--the~~ in
 19 this state. and The department may administer ~~oath~~ oaths,
 20 and take testimony for the purpose of ascertaining facts,
 21 which, in the judgment of the ~~board~~ department, are
 22 necessary to administer this ~~act~~ chapter."

23 Section 114. Section 27-416, R.C.M. 1947, is amended
 24 to read as follows:

25 "27-416. Reports of dealers -- accounting system --

1 records. (1) The ~~board-shall-have-the-power-to~~ department
 2 ~~may require all-persons-holding-licenses-under-it~~ licensees
 3 to file with ~~the-board--such~~ it reports at ~~such~~ reasonable
 4 or regular ~~time-as~~ times which the ~~board~~ department may
 5 require, showing ~~such--person's~~ the licensee's production,
 6 sale, or distribution of milk, and any information ~~deemed~~
 7 considered by the ~~board~~ department necessary which pertains
 8 to the production, sale, or distribution of ~~such~~ milk,
 9 either under oath or otherwise, as the ~~board~~ department may
 10 direct, ~~and--failure~~ Failure or refusal to file ~~such~~
 11 ~~reports~~ a report when directed to do so ~~by-the-board-or-its~~
 12 ~~duly-designated-agent-shall-constitute~~ is grounds for the
 13 revocation of ~~such-person's~~ the license and ~~shall-constitute~~
 14 is a violation for which ~~such-person~~ the licensee may be
 15 fined as hereinafter provided by this chapter, one or both,
 16 at the discretion of the ~~board~~ department.

17 (2) The ~~board~~ department shall adopt a uniform system
 18 of accounting to be used by the distributor to account for
 19 the usage of all milk received by the distributor.

20 (3) ~~Every~~ A distributor and producer-distributor shall
 21 keep ~~the-following-records:~~

22 (a) A record of all milk, cream, or dairy products
 23 received, detailed as to location, names and addresses of
 24 suppliers, prices paid, and deductions or charges made, and
 25 the use to which ~~such~~ the milk or cream was put;

1 (b) A record of the quantity of each kind of milk or
 2 dairy product manufactured and the quantity and price of
 3 milk or dairy products sold;

4 (c) A ~~full-and~~ complete record of all milk, cream, or
 5 dairy products sold, classified as to kind and grade,
 6 showing where sold, and the amount received ~~therefor~~ in
 7 payment;

8 (d) A record of the wastage or loss of milk or dairy
 9 products;

10 (e) A record of the items of handling expense;

11 (f) A record of all refrigeration facilities ~~rented-or~~
 12 sold for storage purposes to any person, showing types, and
 13 sizes, ~~of-the-same, the~~ and location of ~~said~~ the facilities,
 14 and the original, or duplicate original, of all agreements
 15 covering ~~rental-charges~~ sales ~~therefor~~ for them;

16 ~~(g)--A-record-of-all-conditional-sales-of-equipment--or~~
 17 ~~other--property,--the--location--of--said--property,--and--the~~
 18 ~~original,--or--duplicate--original,--of--all--conditional--sales~~
 19 ~~contracts-pertaining-thereto~~

20 ~~(h)--A-record--of--all--moneys--loaned--to--wholesale~~
 21 ~~customers,--the--terms-and-conditions-of-said-loans,--and--the~~
 22 ~~original-evidence-of-the-indebtedness-based-on-said-loans,~~

23 ~~(i)--(g)~~ Such-other Other records as which the board
 24 may ~~deem~~ department considers necessary for the proper
 25 enforcement of ~~the-act~~ this chapter."

Section 115. Section 27-417, R.C.M. 1947, is amended to read as follows:

"27-417. Disposition of fines. (1) All fines assessed ~~in any by a court~~ for violation of ~~the--provisions--of~~ this ~~act chapter~~ shall be paid ~~over~~ by the court to the ~~milk control board or its properly designated agent~~ department.

(2) All fines received by the ~~board~~ department shall be deposited with the state treasurer and shall be placed by him in the earmarked revenue fund. ~~All such fines~~ Fines assessed for violations of this ~~act, chapter~~ are hereby earmarked for the purposes of this ~~act chapter~~."

Section 116. Section 27-421, R.C.M. 1947, is amended to read as follows:

"27-421. Co-operation with other governmental agencies. In order to secure a uniform system of milk control, the ~~board is--hereby--vested--with--power,--and--it~~ department shall ~~be its duty to~~ confer and co-operate with the ~~legally constituted proper~~ authorities of other states and of the United States, including the secretary of agriculture of the United States, and, for ~~the--foregoing~~ those purposes, the ~~board shall have the power to~~ department may conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this ~~act chapter~~."

Section 117. Section 27-422, R.C.M. 1947, is amended to read as follows:

"27-422. Violations made misdemeanors -- penalties.
(a) ~~Any person required by this act to be licensed, who shall produce, sell, distribute, or handle milk in any way, except as a consumer, without first having obtained a license as required of him by this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding six hundred dollars (\$600.00). Each day's violation of this provision shall constitute a separate offense. A violation of any provision of this act or of any lawful rule or order of the board, including a failure to answer subpoena or to testify before the board, shall be deemed a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600.00) and each day during which such violation shall continue shall be deemed a separate violation.~~

(1) A person who produces, sells, distributes, or handles milk in any way, except as a consumer, without a license from the department as required by this chapter, or who violates a lawful rule of the department or board, is guilty of a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600). Each day's violation is a separate offense.

(b) (2) The district courts ~~shall~~ have original jurisdiction in all criminal actions for violations of the ~~provisions of this act chapter~~, and in all civil actions for

the recovery or enforcement of ~~finer~~ penalties, provided for in this ~~act, and all such~~ chapter. All of those actions, both criminal and civil, shall be ~~instituted, prosecuted and~~ tried in the district court.

~~(c) -- (3) It shall be the duty of the~~ The county attorneys ~~and deputy county attorneys~~, in their respective counties, shall diligently ~~to attend all inquisitions held under the provisions of this act and diligently to~~ prosecute all violations of ~~the laws of the state relating to the~~ provisions of this act chapter."

Section 118. Section 27-423, R.C.M. 1947, is amended to read as follows:

"27-423. Constructions, exceptions and limitations. (1) The license required by this act chapter ~~shall be~~ is in addition to any other license required by ~~any statute of Montana state law~~ or any municipality of ~~the this state of~~ Montana. This act shall apply to every part of the state of Montana.

If any portion of this act chapter is held invalid or unconstitutional, ~~such the~~ holding ~~shall does~~ not affect the validity of the act chapter as a whole, or any part ~~thereof~~ of it which can be given effect without the part so held to be unconstitutional or invalid.

(2) ~~No provision of this act shall~~ This chapter does ~~not~~ apply ~~or be construed to apply~~ to foreign or interstate

commerce except in so far as ~~the same~~ it may be effective in compliance with the United States constitution, and with the laws of the United States. It is the intention of the legislature, however, that the instant, whenever that may be, that the handling, within the state by a dealer, of milk produced outside of the state, becomes the subject of regulation by the state in the exercise of its police powers, the provisions of this act chapter, affecting intrastate milk, ~~shall~~ immediately apply and the powers conferred by this ~~act shall~~ chapter attach thereto."

Section 119 Section 27-424, R.C.M. 1947, is amended to read as follows:

"27-424. Additional remedies. The ~~board or its~~ authorized agent department may ~~institute such action~~ begin any proceeding at law or in equity as may appear necessary to enforce compliance with ~~any provision of~~ this act chapter or to enforce compliance with any an order, or rule or regulation, of the board ~~pursuant to the provisions of or~~ department adopted under this act chapter or to obtain a judicial interpretation of any of ~~the foregoing, and in~~ them. In addition to any other remedy, the ~~board, after~~ unanimous consent of all members of the board, department may apply to the district court of the district ~~wherein~~ where the action arises, for relief by injunction, mandamus, or any other appropriate remedy in equity without being

1 compelled to allege or prove that an adequate remedy at law
 2 does not otherwise exist, ~~nor--shall--the--board~~ The
 3 department may not be required to ~~give-or~~ post bond in any
 4 an action to which it is a party whether upon appeal or
 5 otherwise. All legal actions may be brought by or against
 6 the board or department in the name of the ~~Montana-milk~~
 7 ~~control-board~~ department of business regulation and it ~~shall~~
 8 is not be necessary in any an action to which the ~~board~~
 9 department is a party that ~~such the~~ action be brought by or
 10 against ~~the this~~ state of Montana on relation of the ~~Montana~~
 11 ~~milk-control-board~~ department. The ~~board--shall--have--the~~
 12 ~~power--to--institute--action~~ department may sue by its own
 13 attorney ~~or-counselor;but~~ and it ~~shall-have-the--right;--if~~
 14 ~~it--deems--advisable;--to~~ may also call upon any a county
 15 attorney to represent it in the district court, of ~~the his~~
 16 county ~~in-which-the-action-is-taken~~, or the attorney general
 17 to represent it on appeal to the supreme court of Montana,
 18 or it may associate its own ~~counselor~~ attorney with either
 19 in any court."

20 Section 120. Section 27-426, R.C.M. 1947, is amended
 21 to read as follows:

22 "27-426. Bonds required of distributors -- amounts --
 23 forms and conditions. (1) Every A distributor before
 24 purchasing any milk from a producer shall ~~execute--and~~
 25 deliver to the ~~milk-control-board~~ department a surety bond

1 ~~in-the-minimum-sum~~ of not less than one thousand dollars
 2 (\$1,000), executed by the applicant distributor as principal
 3 and by a surety company ~~qualified--and~~ authorized to do
 4 business in this state as surety. ~~Said The~~ the bond shall be
 5 upon on a form approved by the ~~board~~ department and shall be
 6 conditioned upon the payment, in the manner required by this
 7 ~~act chapter~~, of all amounts due to producers for milk
 8 purchased by ~~such--licensee--or--applicant~~ the distributor
 9 during the license year. ~~Said The~~ the bond shall be to the
 10 state in favor of every producer of milk. In case of
 11 failure by a distributor to pay any a producer ~~or-producers~~
 12 for milk in the manner required by this ~~act chapter~~, the
 13 ~~board department~~ shall proceed ~~forthwith~~ immediately to
 14 ascertain the names and addresses of all producer-creditors
 15 of ~~such that~~ distributor, together with the amounts due and
 16 ~~owing-to~~ them ~~and-each-of--them--by--such--distributor;~~
 17 shall request all ~~such those~~ producer-creditors to file a
 18 verified statement of their respective claims ~~with--the~~
 19 ~~board~~. ~~Thereupon--the--board~~ The department shall ~~bring-an~~
 20 ~~action then sue~~ on the bond on behalf of ~~said the~~
 21 producer-creditors. Upon ~~any--action-being-commenced-upon~~
 22 ~~said suing on the~~ bond, the ~~board department~~ may require the
 23 filing of a new bond; and immediately upon a recovery in any
 24 an action upon ~~such the~~ bond, ~~such the~~ distributor shall
 25 file a new bond, and-upon Upon failure to file ~~same a new~~

1 ~~bond~~ within ten (10) days in either case, ~~such the~~ failure
 2 ~~shall-constitute is~~ grounds for the revocation or suspension
 3 of the license of ~~such the~~ distributor. ~~in-the-event-that~~
 4 ~~If~~ recovery ~~upon on~~ the bond is not sufficient to pay all of
 5 the claims as finally determined ~~and-adjudged~~ by the court,
 6 ~~any--such the~~ amount recovered shall be divided pro rata
 7 among ~~said the~~ producer-creditors.

8 (2) The minimum bond of one thousand dollars (\$1,000)
 9 shall be required of distributors purchasing an average
 10 daily quantity of milk of less than one hundred (100)
 11 gallons; distributors purchasing an average daily quantity
 12 of one hundred (100) gallons and less than two hundred (200)
 13 gallons during any calendar month during a license year
 14 shall post a bond in the amount of two thousand dollars
 15 (\$2,000); distributors purchasing an average daily quantity
 16 of two hundred (200) gallons and less than three hundred
 17 (300) gallons during any calendar month during a license
 18 year shall post a bond in the amount of three thousand
 19 dollars (\$3,000); distributors purchasing an average daily
 20 quantity of three hundred (300) gallons or more during any
 21 calendar month during a license year shall post a bond in
 22 the sum of five thousand dollars (\$5,000).

23 (3) ~~in---the--event--that--any~~ If a distributor so
 24 increases his purchases of milk during the license year ~~that~~
 25 ~~said--purchases to~~ exceed the amount for which ~~said~~

1 distributor ~~he~~ is bonded, ~~said--distributor he~~ shall
 2 ~~forthwith immediately~~ post ~~such the~~ additional bond ~~or-bonds~~
 3 ~~as-may-be~~ required to comply with ~~the--provisions--of~~ this
 4 section.

5 (4) The ~~board-is-authorized-to~~ department may require
 6 ~~any a~~ distributor to furnish a bond ~~or-bonds~~ in addition to
 7 those specified ~~above in this section~~, if, after notice and
 8 hearing and upon good cause shown, it determines ~~such the~~
 9 additional bond ~~or-bonds-are is~~ required to assure payment
 10 of all amounts due or to become due to producers.

11 (5) Failure of ~~any a~~ distributor who purchases milk
 12 from producers to ~~execute--and-deliver-the post a~~ bond as
 13 ~~herein--provided--and~~ required ~~shall--constitute by this~~
 14 ~~section is~~ a violation of this act; ~~failure-of-any-such~~
 15 ~~distributor-to-post-such-additional-bond-or-bonds-as-may-be~~
 16 ~~required--to--comply--with--the-provisions-of-this-act-shall~~
 17 ~~likewise-constitute-a-violation-of-this-act chapter."~~

18 Section 121. Section 35-145, R.C.M. 1947, is amended
 19 to read as follows:

20 "35-145. Home owners' loan corporation bonds as
 21 security for deposit of public funds. Subject to ~~such~~ rules
 22 ~~and--regulations--as-may-be~~ prescribed by the superintendent
 23 ~~of-banks~~ department of intergovernmental relations, the
 24 bonds and other obligations herein made eligible for
 25 investment, may be used as security for all deposits of

public funds or obligations for which depository bonds or any kind of bonds or other securities are required, or may by law be deposited as security."

Section 122. Section 47-202, R.C.M. 1947, is amended to read as follows:

"47-202. Definitions. Unless ~~otherwise---clearly indicated-by~~ the context requires otherwise, ~~the---following words--when--used~~ in this act, ~~for-the-purposes-of-this-act,~~ shall have the meanings respectively ascribed to them in this section:

(a)--(1) "Person" shall---mean means individuals, partnerships, associations, corporations, and ~~any--and~~ all legal entities in the loaning business.

(b)--(2) "License" shall-mean means one or both of the licenses provided for by this act.

(c)--(3) "Licensee" shall---mean means the person holding any-such a license.

(d)--(4) ~~"Commissioner"~~ shall-mean-the--consumer--loan commissioner. "Department" means the department of business regulation provided for in Title 82A, chapter 4.

(e)--(5) "Consumer type loan business" shall-mean means the business of making loans of two thousand five hundred dollars (\$2,500) or less generally repayable in substantially equal installments."

Section 123. Section 47-203, R.C.M. 1947, is amended

to read as follows:

"47-203. ~~Office---of---consumer---loan---commissioner,~~ employees,---appointment,---compensation-----commissioner Department -- powers and duties -- adoption of rules, and regulations--by--commissioners,--(a)--There-is-hereby-created the-office-of-consumer-loan-commissioner, who-shall-be-the bank-examiner--of--the--state--of--Montana--He-is-hereby authorized-to-appoint,--employ,--remove--and--prescribe--the duties--and--fix--the--compensation-of-such-employees-as-are necessary-to-properly-discharge-the-duties--of--his--office. (b)--(1) All powers and duties of regulation and supervision conferred by this act are vested in the commissioner department. The commissioner department shall adopt and-promulgate-such rules and-regulations-as-shall-be necessary to carry out the intent and purposes of this act. ~~All-rules-and-regulations-of-general-application--shall-be filed--in--the--commissioner's--office--and--be--open-to-the public.~~ A copy of every such rule or--regulation shall be mailed to each licensee, postage-prepaid, at least fifteen (15) days in advance of its effective date, provided, however However, the failure of a licensee to receive a copy of ~~such--rules--or-regulations-shall~~ a rule does not exempt him from the-duty-of-compliance complying with ~~such--rules and--regulations~~ a rule lawfully-promulgated--hereunder adopted under this act.

~~(e)--(2)~~ All ~~valid rules and regulations~~ adopted under ~~the provisions of~~ this act ~~shall be~~ are binding ~~upon~~ on all licensees and enforceable by the ~~commissioner~~ department through the power of suspension or revocation of licenses."

Section 124. Section 47-206, R.C.M. 1947, is amended to read as follows:

"47-206. License, when required -- display -- nontransferable -- removal -- license year, fees -- ~~consumer loan-administration fund--~~ use. ~~(a) (1) On and after July 1, 1959, each~~ A place of business operated under this act shall ~~have and properly displayed therein, display on the premises~~ a nontransferable and nonassignable license. The same person may obtain additional licenses upon compliance with this act as to each license. Application for a license shall be on a form prescribed and furnished by the ~~commissioner~~ department. A licensee may move his place of business from one place to another within a county without obtaining a new license, provided he obtains written permission from the ~~commissioner~~ department.

~~(b)--(2)~~ ~~Submitted--with~~ With each application the applicant shall submit be fifty dollars (\$50) as an investigation fee and one hundred twenty-five dollars (\$125) as a license fee~~7~~. which The license fee shall be returned to the applicant if the application is denied. The license year ~~shall be~~ is the calendar year and the license fee for

any period less than six (6) months ~~shall--be~~ is sixty-two dollars fifty cents (\$62.50). Each A license ~~shall remain~~ remains in force until surrendered, suspended, or revoked.

~~(e)--(3)~~ All moneys collected under the authority of this act shall be paid into the state treasury by the ~~commissioner~~ department."

Section 125. Section 47-207, R.C.M. 1947, is amended to read as follows:

"47-207. Issuance or denial of license, when -- mailing of denial order and findings. ~~(a) (1)~~ Within thirty (30) days after an application for license is filed with the ~~commissioner~~ department, together with the required fees, the ~~commissioner~~ department shall issue the license if the character and general fitness of the applicant is such as to warrant belief that the business will be operated lawfully and fairly within the provisions of this act, or enter an order denying ~~same~~ the license, if ~~he shall find~~ it finds to the contrary~~7~~. ~~Provided, however, that any person engaged in the consumer-type loan business on December 31, 1958 shall receive a license upon filing the required application and fees within thirty (30) days after the effective date of this act.~~

~~(b)--(2)~~ A copy of the order granting or denying a license, together with a summary of the ~~department's~~ findings ~~thereon~~, shall be filed in the office of the

1 ~~commissioner~~ department and shall be public record. A copy
2 of the order denying a license, together with a summary of
3 the department's findings ~~thereon~~, shall be mailed postage
4 prepaid, to the applicant at the address stated in the
5 application."

6 Section 126. Section 47-215, R.C.M. 1947, is amended
7 to read as follows:

8 "47-215. Investigations, when -- who may be
9 investigated. The ~~commissioner--or--his--duty---authorized~~
10 ~~representatives~~ department may at any time investigate any
11 transaction with borrowers and may examine the books,
12 accounts, and records in this state to discover violations
13 of this act by (1) any a licensee, (2) any a person who
14 advertises for, solicits, or holds himself out as willing to
15 make loans in amounts of two thousand five hundred dollars
16 (\$2,500) or less, or (3) any a person whom the ~~commissioner~~
17 department has reason to believe is violating or is about to
18 violate ~~the-provisions-of~~ this act."

19 Section 127. Section 47-218, R.C.M. 1947, is amended
20 to read as follows: _____

21 "47-218. Annual report -- contents -- verified --
22 publication. ~~Each A~~ licensee shall annually ~~on-or~~ before the
23 ~~15th--day--of~~ April 15, file ~~an--annual~~ a report for the
24 preceding calendar year with the ~~commissioner~~ department.
25 ~~Such The~~ report shall give information with respect to the

1 financial condition of ~~such the~~ licensee and shall include:
2 The name and address of the licensee; balance sheets at the
3 beginning and end of the calendar year; a statement of
4 income and expenses; a reconciliation of surplus or net
5 earnings with the balance sheets; a schedule of assets used
6 in the consumer loan business; an analysis of charges, size
7 of loans made and types of security on loans; an analysis of
8 suits and foreclosures; and ~~such~~ other relevant information
9 as the ~~commissioner~~ department may reasonably require
10 concerning the business ~~and-operations~~ during the preceding
11 calendar year of each licensed place of business conducted
12 by ~~such the~~ licensee ~~within-the in this~~ state. ~~Such The~~
13 report shall be made under oath and be in a form prescribed
14 by the ~~commissioner~~ department, which shall ~~make--and~~
15 publish annually an analysis and ~~recapitulation~~ summary of
16 ~~such the~~ reports."

17 Section 128. Section 47-223, R.C.M. 1947, is amended
18 to read as follows:

19 "47-223. Revocation and suspension of license, when.
20 The ~~commissioner~~ department, upon ten (10) days' written
21 notice to the licensee and statement of the grounds ~~therefor~~
22 and upon reasonable opportunity to be heard at a public
23 hearing, if requested by the licensee, may suspend, but not
24 for more than thirty (30) days, or revoke ~~any a~~ license
25 ~~issued-hereunder~~ if he it finds the licensee has knowingly

violated any provision of this act. ~~Whenever~~ When the ~~commissioner-shall-enter~~ department enters an order revoking or suspending a license, he it shall mail a copy of ~~his~~ the order by registered mail to the licensee at the address for which the license was issued."

Section 129. Section 50-604, R.C.M. 1947, is amended to read as follows:

"50-604. Copies of bills and invoices to be kept for inspection. ~~Any~~ A person, firm, or corporation, mining, shipping, or producing coal, and all persons, firms or corporations wholesaling, jobbing, exchanging, offering for sale or selling at retail any coal ~~within-the~~ in this state ~~of-Montana~~, shall keep ~~within-the-state-of-Montana~~ a true, accurate, and complete copy of all the original statements, bills, and invoices of all coal produced, shipped, marketed, exchanged, or sold for at least one (1) year, ~~and-all~~ All papers, records and files of any person, firm, or corporation transporting, producing, shipping, exchanging, or selling any coal ~~within--the~~ in this state ~~of-Montana~~ shall, at all times, be open to inspection by the attorney general, the county attorneys, and the ~~state-sealer-of weights-and-measures~~ department of business regulation for the purposes of enforcing this act."

Section 130. Section 50-606, R.C.M. 1947, is amended to read as follows:

"50-606. Enforcement of ~~act~~ chapter. ~~It-shall--be--the duty--of--the--state--sealer--of-weights-and-measures-to~~ The department of business regulation shall enforce the provisions--of this act and ~~the-duty-of~~ the attorney general and the county attorneys ~~of-the-counties--of--the--state--to~~ shall prosecute all cases arising under ~~the~~ its provisions ~~hereof.~~"

Section 131. There is a new section to be numbered 51-101.1, R.C.M. 1947, which reads as follows:

51-101.1. Definitions. Unless the context requires otherwise, in this act, "department" means the department of business regulation provided for in section 82A-401.

Section 132. Section 51-106, R.C.M. 1947, is amended to read as follows:

"51-106. Fair price for agricultural products, how determined. (1) The following method shall be used in determining fair prices for agricultural products sold on local markets, in ~~any~~ a trade area, district or city in which the major portion of ~~any~~ an agricultural commodity or product is produced within or adjacent to ~~said~~ the trade area, city or district:

(a) ~~Whenever--75%~~ When seventy-five percent (75%) of producers of ~~any~~ an agricultural product or commodity marketing ~~said~~ those products or commodities within ~~any~~ a trade area, district or city ~~shall~~ determine what is a fair

price based upon competitive and other factors for their product or commodity, it shall be deemed considered the fair price for ~~such~~ that product or commodity under the terms of this act.

(b) ~~Such~~ Those producers through their regular ~~constituted~~ agents shall file with the ~~Montana---trade~~ commission--such department the fair price and request a hearing for the establishment of fair prices to jobbers, wholesalers, retailers, and consumers of ~~said the~~ agricultural products or commodities. Any organization representing consumers ~~shall~~ may not be denied representation at ~~such-a~~ the meeting.

(2) After the establishment of ~~such~~ a schedule of fair prices for ~~said the~~ agricultural products or commodities, it ~~shall-be~~ is a violation of this act for any a producer, jobber, wholesaler or retailer to sell or buy any an agricultural commodity or product below ~~such the~~ price as established by the ~~Montana--trade--commission--and--such~~ department. That action ~~shall-be-deemed-a-violation-of-this~~ act-and is punishable under the terms provided in this act."

Section 133. Section 51-113, R.C.M. 1947, is amended to read as follows:

"51-113. ~~Montana---trade---commission~~ Department -- administration of act by -- intervention -- orders -- review -- appeals -- process -- finality of order. ~~41--The--Montana~~

~~trade--commission-shall-have-the-administration-of-this-act,~~
~~and-the-members-thereof-shall--not--receive--any--additional~~
~~compensation--for--their--services-other-than-their-salaries~~
~~prescribed-by-law.--The-commission-shall-meet-not-less--than~~
~~six-(6)-times-a-year-on-or-about-the-fifteenth-(15th)-day-of~~
~~the--month,--and--as--often-and-wherever-it-may-decide-other~~
~~meetings-are-necessary.--Suitable--notice--of--all--meetings~~
~~shall-be-given-as-the-commission-may-determine.~~

~~Said--commission--is--empowered-and-directed-to-prevent~~
~~any-person-firm-or-corporation-from-violating--any--of--the~~
~~provisions-of-this-chapter.~~

(1) The department shall prevent a person, firm, or corporation from violating any of the provisions of this chapter.

(2) Upon receiving notice ~~from-any-person~~ that any a person, firm or corporation is violating or has violated any of the provisions of this chapter, the commission department shall immediately notify the person giving ~~such that~~ notice either to appear ~~at--its--next-regular-or-special-meeting~~ before the director of the department or to make a written reply to show probable cause of ~~such that~~ violation. If probable cause is shown, the commission department must ~~thereafter~~ then make its own investigation and within sixty (60) days of the finding of probable cause must make a written report of its investigation and must mail a copy of

its findings to the person initially giving notice of a violation.

(3) If, after such an investigation the ~~commission~~ shall-have department has reason to believe that ~~any--such~~ the person, firm, or corporation has been or is engaging in any course of conduct or doing any act ~~or-acts~~ in violation of ~~the--provisions--of~~ this chapter and if it ~~shall-appear~~ appears to the ~~commission~~ department that a proceeding by it ~~in-respect-thereof~~ would be to the interest of the public, it shall issue and serve upon such the person, firm or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed not less than five (5) days after the service of ~~said the~~ complaint. ~~Any-such~~ A complaint may be amended by the ~~commission~~ department in its discretion at any time five (5) days prior to the issuance of an order based ~~thereon~~ on it. The person, firm or corporation so complained of ~~shall-have-the-right--to~~ may appear at the place and time so fixed and show cause why an order should not be entered by the ~~commission~~ department requiring such that person, firm, or corporation to ~~cease-and-desist-from~~ stop the violation of the law ~~so~~ charged in ~~said the~~ complaint. Any person, firm or corporation may make application, and upon good cause shown may be allowed by the ~~commission~~ department to intervene and appear in ~~said the~~

proceeding by counsel or in person. The testimony in any such the proceeding shall be reduced to writing and filed in the office of the ~~commission~~ department. If upon such the hearing the ~~commission--shall-be-of-the-opinion~~ department believes that the act or conduct in question is prohibited by this chapter, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such that person, firm, or corporation an order requiring such that person, firm, or corporation to ~~cease-and-desist-from-such~~ stop the acts or conduct. Until a transcript of the record in such the hearing ~~shall--have~~ has been filed in a district court, as hereinafter provided, the ~~commission~~ department may at any time, upon such the notice and in such the manner as it ~~shall-deem~~ considers proper, modify or set aside, in whole or in part, any report or any order made or issued by it under this section.

~~(3)--(4)~~ (4) Any person, firm or corporation required by ~~an-order-of-the-commission-to-cease-and-desist-from-any-such~~ act--or--conduct--may--obtain--a-review-of-such-order-in-any ~~district-court-of-the-state-of-Montana-within--any--district~~ where-the-act-or-conduct-in-question-was-done-or-carried-on, ~~or-where-such-person,firm-or-corporation-resides-or-carries~~ on--business,by-filing-in-the-court,within-sixty-days-from ~~the-date-of-the-service-of-such--order--a--written--petition~~

praying that the order of the commission be set aside, A
 copy of such petition shall be forthwith served upon the
 commission, and thereupon the commission forthwith shall
 certify and file in the court a transcript of the entire
 record in the proceeding, including all the evidence taken
 and the report and order of the commission. Upon such
 filing of the petition and transcript the court shall have
 jurisdiction of the proceeding and of the question
 determined therein and shall have power to make and enter
 upon the pleadings, evidence, and proceedings set forth in
 such transcript a decree affirming, modifying, or setting
 aside the order of the commission, and enforcing the same to
 the extent that such order is affirmed, and to A court
reviewing an order of the department may issue such writs as
 are ancillary to its jurisdiction or are necessary in its
 judgment to prevent injury to the public or to competitors
 pendente lite pending the suit. The findings of the
 commission as to the facts, if supported by sufficient
 evidence, shall be conclusive.

(4)-(5) To the extent that the order of the
commission department is affirmed, the court shall thereupon
 issue its own order commanding obedience to the terms of
 such the order of the commission department. If either
 party shall apply to the court for leave to adduce
 additional evidence, and shall show to the satisfaction of

the court that such additional evidence is material and that
 there were reasonable grounds for the failure to adduce such
 evidence in the proceedings before the commission, the court
 may order such additional evidence to be taken before the
 commission and to be adduced upon the hearing in such
 manner and upon such terms and conditions as to the court
 may seem proper. The commission may modify its findings as
 to the facts, or make new findings, by reason of the
 additional evidence so taken, and it shall file such
 modified or new findings, which, if supported by sufficient
 evidence, shall be conclusive, and its recommendation, if
 any, for the modification or setting aside of its original
 order, with the return of such additional evidence. The
 judgment and decree of the court shall be final, except
 that the same shall be subject to review by the supreme
 court upon appeal as in other cases of judgments of such
 courts, provided, however, that said appeal shall be taken
 within thirty days from the date of the entry of such
 judgment or decree.

(5)-(6) Such proceedings Proceedings in the district
 court shall be given precedence over other civil cases
 pending therein, and shall be in every way expedited.
 Complaints, orders, and other processes of the commission
 under this section may be served by anyone duly authorized
 by the commission, either (a) by delivering a copy thereof

1 to--the--person--to--be--served,--or--to--a--member--of--the
 2 partnership--to--be--served,--or--the--president,--secretary,--or
 3 other--executive--officer--or--a--director--of--the--corporation--to
 4 be--served,--or--(b)--by--leaving--a--copy--thereof--at--the--residence
 5 or--the--principal--office--or--place--of--business--of--such--person,
 6 partnership--or--corporation,--or--(c)--by--registering--and
 7 mailing--a--copy--thereof--addressed--to--such--person,--partnership
 8 or--corporation--at--his--or--its--residence--or--principal--office
 9 or--place--of--business,--The--verified--return--by--the--person--so
 10 serving--said--complaint,--order,--or--other--process--setting
 11 forth--the--manner--of--said--service--shall--be--proof--of--the--same,
 12 and--the--return--post--office--receipt--for--said--complaint,
 13 order,--or--other--process--registered--and--mailed--as--aforesaid
 14 shall--be--proof--of--the--service--of--the--same.

15 (6)--An--order--of--the--commission--to--cease--and--desist
 16 shall--become--final--(1)--upon--the--expiration--of--the--time
 17 allowed--for--filing--a--petition--for--review,--if--no--such
 18 petition--has--been--duly--filed--within--such--time,--(2)--upon--the
 19 expiration--of--the--time--allowed--for--filing--a--notice--of--appeal
 20 to--the--supreme--court,--if--the--order--of--the--commission--has
 21 been--affirmed,--or--the--petition--for--review--dismissed--by--the
 22 district--court--and--no--notice--of--appeal--to--the--supreme--court
 23 has--been--duly--filed,--or--(3)--upon--the--expiration--of--thirty
 24 days--from--the--date--of--issuance--of--the--remittitur--of--the
 25 supreme--court,--if--such--court--directs--that--the--order--of--the

1 commission--be--affirmed--or--the--petition--for--review
 2 dismissed,

3 (7)--If--the--supreme--court--directs--that--the--order--of--the
 4 commission--be--modified--or--set--aside,--the--order--of--the
 5 commission--rendered--in--accordance--with--the--mandate--of--the
 6 supreme--court--shall--become--final--upon--the--expiration--of
 7 thirty--days--from--the--time--it--was--rendered,--unless--within
 8 such--thirty--days--either--party--has--instituted--proceedings--to
 9 have--such--order--corrected--to--accord--with--the--mandate,--in
 10 which--event--the--order--of--the--commission--shall--become--final
 11 when--so--corrected,

12 (8)--If--the--order--of--the--commission--is--modified--or--set
 13 aside--by--the--district--court--and--if--(1)--the--time--allowed--for
 14 filing--a--notice--of--appeal--to--the--supreme--court--has--expired
 15 and--no--such--notice--of--appeal--has--been--duly--filed--or--(2)--the
 16 decision--of--the--district--court--has--been--affirmed--by--the
 17 supreme--court,--then--the--order--of--the--commission--rendered--in
 18 accordance--with--the--mandate--of--the--district--court--shall
 19 become--final--on--the--expiration--of--thirty--days--from--the--time
 20 such--order--of--the--commission--was--rendered,--unless--within
 21 such--thirty--days--either--party--has--instituted--proceedings--to
 22 have--such--order--corrected--so--that--it--will--accord--with--the
 23 mandate,--in--which--event--the--order--of--the--commission--shall
 24 become--final--when--so--corrected,

25 (9)--If--the--supreme--court--orders--a--rehearing,--or--if--the

case-is-remanded-by-the-district-court-to-the-commission-for
 a-rehearing,--and--if--(1)--the-time-for-filing-a-notice-of
 appeal-to-the-supreme-court-has-expired-and-no--such--notice
 of--appeal--has--been-duly-filed,--or--(2)--the-decision-of-the
 court-has-been-affirmed-by-the-supreme-court,--then-the-order
 of-the-commission-rendered-upon-such-rehearing-shall--become
 final--in--the--same--manner-as-though-no-prior-order-of-the
 commission-had-been-rendered.

~~(10)~~--(7) Any A person, firm, or corporation who
 violates an order of the commission department to cease and
 desist after it has become final, and while such the order
 is in effect shall forfeit and pay to the this state of
 Montana a penalty of not more than one thousand dollars
~~(\$17,000.00)~~ (\$1,000) for each violation, which shall accrue
 to the this state of-Montana and may be recovered in a civil
 action brought by the this state of-Montana.

(8) The remedies and method of enforcement of this
 chapter provided for in this section ~~shall-be-deemed~~ are
 concurrent and in addition to the other remedies provided in
 this chapter."

Section 134. Section 51-114, R.C.M. 1947, is amended
 to read as follows:

"51-114. Procedure for establishing cost survey --
 hearing -- notice. (1) The Montana--trade--commission--is
~~hereby--empowered--and--directed~~ department shall, whenever

application ~~therefor-shall-have~~ has been made by ten (10) or
 more persons, firms, or corporations within any a particular
 trade or business, to establish the cost survey provided for
 in section 51-105 ~~of-this-chapter~~. When petition for such a
 cost survey has been so presented to the commission
department, the commission department shall, as soon as
 possible, fix a time for a public hearing upon the question
 of whether such the cost survey should be established. Such
The hearing shall be held at the office of ~~said-commission~~
the department and upon such that notice as which the
commission department may by rule require, provided,
~~however,-that~~ However, notice of such the hearing shall be
 published for at least two (2) successive weeks in such the
 daily newspaper or newspapers as the commission department
 may designate as most commonly circulated in the counties to
 be affected by such the cost survey. ~~Said The~~ The notice shall
 further state the locality or area in respect to which ~~said~~
the cost survey is proposed to be established and the
 particular trade or business to be affected ~~thereby by it~~.

(2) At the time fixed in ~~said the~~ the notice any person,
 firm, or corporation ~~shall-be-entitled-to~~ may appear and be
 heard by the commission department upon all questions to be
 determined by it as provided in this section. If the
~~commission-shall-determine~~ department determines that a cost
 survey shall be established, it shall at the same hearing

proceed to classify and define the particular trade or business, or parts thereof, to be affected thereby, determine and delimit the particular area within which such the trade or business shall be ~~so~~ affected, and find and determine the probable "cost of doing business" or "overhead expense," stated in percentage ~~or-percentages~~ of invoice or replacement cost which would probably be incurred by the most efficient person, firm, or corporation ~~within-such in~~ the trade or business within such the area.

(3) ~~Provided, however, that where~~ Where the ~~commission shall-determine department determines~~ that the probable "cost of doing business" or "overhead expense," stated in percentage ~~or-percentages~~ of invoice or replacement cost which would probably be incurred by the most efficient person, firm, or corporation in ~~such the~~ trade or business is the same for the entire state, then ~~and-in-that-event~~ the commission department may, upon proper notice ~~having-been~~ given as ~~hereinbefore~~ provided in this section, create one trade area ~~which-shall-embrace embracing~~ the entire state.

(4) The percentage ~~or--percentages~~ so ~~fixed--and~~ determined shall be presumed to be the actual "cost of doing business" and "overhead expense" of any person, firm, or corporation in such the trade or business and within the area, affected by such the cost survey."

Section 135. Section 51-115, R.C.M. 1947, is amended

to read as follows:

"51-115. Hearings and investigations -- contempts. ~~(1)~~
The ~~Montana-trade-commission~~ department for the purpose of conducting hearings and investigations which, in the opinion of the ~~commission~~ department, are necessary and proper for the exercise of the powers vested in it by this chapter ~~shall-have~~ has the following powers:

~~(2)--(1)~~ The ~~commission,--or--its--duly--authorized~~ agents, department shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of ~~any a~~ person being investigated or proceeded against that relates to any matter under investigation or in question. Any member of the ~~commission-shall-have-power-to~~ department may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question, before the commission department, or before its duly authorized agent conducting the investigation. ~~Any member-of-the-commission-or-any An~~ agent, duly authorized by the commission department for such those purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. ~~Such The~~ attendance of witnesses and the production of ~~such~~ evidence may be required from any place ~~within--the in this~~ state of ~~Montana~~ at any designated place of hearing.

1 ~~(3)~~--(2) In any case of contumacy or refusal to obey a
 2 subpoena issued to any a person, any district court of the
 3 this state of Montana, within any district where the inquiry
 4 is carried on or where a person guilty of contumacy or
 5 refusal to obey is found or resides or transacts business,
 6 upon application by the ~~commission-shall-have~~ department has
 7 jurisdiction to issue to such that person, an order
 8 requiring ~~such--person~~ him to appear before the ~~commission~~
 9 department, or its duly authorized agent, and there to
 10 produce evidence if so ordered, or there to give testimony
 11 ~~touching regarding~~ the matter under investigation~~7~~. ~~and-any~~
 12 ~~failure~~ Failure to obey such the order of the court may be
 13 punished by ~~said the~~ court as a contempt ~~thereof~~.

14 ~~(4)~~--(3) ~~No~~ A person ~~shall~~ may not be excused from
 15 attending and testifying or from producing books, records,
 16 correspondence, documents, or other evidence in obedience to
 17 the subpoena of the ~~commission~~ department, on the ground
 18 that the testimony or evidence required of him may tend to
 19 incriminate him or subject him to a penalty or forfeiture~~7~~.
 20 ~~but--no~~ An individual ~~shall~~ may not be prosecuted or
 21 subjected to any a penalty or forfeiture for or on account
 22 of any a transaction, matter, or thing concerning which he
 23 is compelled, after having claimed his privilege against
 24 self incrimination, to testify or produce evidence, except
 25 that such an individual so testifying ~~shall~~ is not be exempt

1 from prosecution and punishment for perjury committed in ~~so~~
 2 testifying."

3 Section 136. Section 51-116, R.C.M. 1947, is amended
 4 to read as follows:

5 "51-116. Alteration of invoices unlawful. It ~~shall-be~~
 6 is unlawful for any a person, partnership, firm,
 7 corporation, joint stock company, or other association, as
 8 defined in section 51-103, to change, alter, substitute, or
 9 falsify any an invoice where ~~such the~~ practice tends to
 10 injure a competitor or to destroy competition or to mislead
 11 any a court or ~~commission~~ the department of business
 12 regulation. ~~Said That~~ practice is unfair trade practice and
 13 any a person, firm, partnership, corporation, or association
 14 resorting to such that trade practice ~~shall-be~~ is guilty of
 15 a misdemeanor and ~~on-conviction7-shall-be~~ is subject to the
 16 penalties provided in section 51-112."

17 Section 137. Section 60-203.1, R.C.M. 1947, is amended
 18 to read as follows:

19 "60-203.1. "~~Commissioner~~" "Department" defined.
 20 "~~Commissioner~~" Unless the context requires otherwise, in
 21 this act, "department" means the ~~Montana-commissioner-of~~
 22 ~~agriculture-for-purposes-of-this-act~~ department of business
 23 regulation provided for in Title 82A, chapter 4."

24 Section 138. Section 60-203.2, R.C.M. 1947, is amended
 25 to read as follows:

"60-203.2. Enforcement of chapter -- rules and regulations. ~~The-provisions-of-this~~ This chapter shall be enforced by the ~~commissioner-of-agriculture~~ department. He It may promulgate adopt necessary and reasonable rules and regulations for the interpretation of the provisions and intent of this chapter, and ~~the-same-shall~~ those rules have the force and effect of law."

Section 139. Section 60-217, R.C.M. 1947, is amended to read as follows:

"60-217. Samples of product may be taken by ~~commission~~ department or user -- inspection by ~~commission~~ department -- interference with inspections -- inspectors -- employment.

(1) For the purpose of obtaining information regarding suspected violation of this act, ~~said-commissioner--for--any member--thereof;--or--duty--authorized--representative~~ the department shall have access to all places where the commodities ~~enumerated--herein~~ subject to regulation under this act are sold, offered for sale or kept for sale, manufactured, transported, or stored, and may take samples ~~therefrom~~ for analysis upon tendering payment ~~therefor~~ for them.

(2) Any A user or customer ~~shall-have-the-right may,~~ upon tendering payment, ~~therefor--to~~ receive from any a dealer, a sample of any a commodity sold for the purpose of having an analysis and a test ~~thereof~~ made by ~~the--state~~

~~chemist-through the commissioner~~ department.

(3) The ~~commissioner,--or--any--duty--authorized representative--thereof--shall-have-the--right--to~~ department may inspect any of the commodities ~~enumerated--herein~~ subject to this act, whether ~~the--same~~ they originate at points ~~without~~ outside the state or otherwise and whether ~~the--same~~ they are in transport or at rest in places where they are dangerous to human life or public safety.

(4) Any A person obstructing any an entry or inspection authorized by this section, or failing upon request to assist ~~therein--shall-be in it is~~ in violation of this act. The ~~commissioner~~ department shall employ from time to time such those inspectors ~~as--said--commissioner shall--deem it considers~~ necessary to carry out the ~~provisions-of~~ this act, ~~and--said--commissioner--shall--fix--the compensation-of-such-inspectors."~~

Section 140. Section 60-219, R.C.M. 1947, is amended to read as follows:

"60-219. Revocation of license for violations -- hearing required. If the ~~commissioner--shall-find~~ department finds that any a dealer operating under this act has violated any of the provisions ~~hereof~~ of it, or of any lawful order or decision of the ~~commissioner~~ department, ~~promulgated~~ adopted pursuant to ~~the-provisions-of~~ this act, ~~the-commissioner~~ it shall, after due hearing, ~~thereon,~~

1 noticed for not less than ten (10) days, revoke, cancel, or
 2 suspend any license. ~~that it has theretofore granted,~~
 3 ~~and--such~~ The revocation, cancellation or suspension, may be
 4 conditioned on such those terms ~~as to which~~ the ~~commissioner~~
 5 ~~may seem~~ department considers just and proper."

6 Section 141. Section 60-220, R.C.M. 1947, is amended
 7 to read as follows:

8 "60-220. Revocation of license of petroleum dealers
 9 for unreasonable or discriminatory prices -- procedure. The
 10 ~~commissioner--is--hereby-vested-with-authority-to~~ department
 11 may revoke the license to engage in the business of selling
 12 gasoline and other petroleum products ~~within the in this~~
 13 ~~state of Montana, issued by--such--commissioner~~ to any a
 14 person, firm, partnership, association, or corporation,
 15 where ~~such~~ that person, firm, partnership, association, or
 16 corporation is by ~~such--commissioner~~ the department found
 17 guilty of charging an exorbitant or unreasonable price for
 18 gasoline sold ~~within the in this~~ state to residents of the
 19 state, or of discriminating between individuals or
 20 localities ~~within the in this~~ state in the prices charged
 21 for gasoline, or of discriminating between citizens of this
 22 state and citizens of adjoining states, to the disadvantage
 23 of the former, in the prices charged for gasoline. Anybody
 24 aggrieved by the action of ~~such a~~ person, firm, partnership,
 25 association, or corporation in ~~so~~ charging an exorbitant or

1 unreasonable price for gasoline or in ~~so~~ discriminating
 2 between individuals or localities or in ~~so~~ discriminating
 3 between citizens of this state and citizens of adjoining
 4 states may file written charges with ~~such--commissioner~~ the
 5 department against ~~such the~~ person, firm, partnership,
 6 association, or corporation. ~~and--thereupon--the~~
 7 ~~commissioner~~ The department shall then issue a citation to
 8 ~~such the~~ person, firm, partnership, association, or
 9 corporation to show cause before ~~the--commissioner~~ it within
 10 twenty (20) days ~~thereafter~~ why his, their, or its license
 11 should not be revoked. ~~Such The~~ person, firm, partnership,
 12 association, or corporation may appear by counsel at the
 13 hearing and contest the charge. If the charge ~~be~~ is
 14 established by a preponderance of the evidence the
 15 commissioner shall make an order revoking the license,
 16 otherwise the charge shall be dismissed. ~~Within-thirty-days~~
 17 ~~after--the--order--of--revocation-is-made-such-person-firm,~~
 18 ~~partnership-association-or-corporation-may-appeal-therefrom~~
 19 ~~to-the-district-court-of-the-county-in-which-the-hearing-was~~
 20 ~~had--The-appeal-must-be-tried-in-the--district--court--upon~~
 21 ~~the-record-made-before-the-commissioner-but-it-shall-not-of~~
 22 ~~itself--result-in-staying-the-orders-of-revocation.~~ Nothing
 23 provided in this act is intended to interfere with or
 24 regulate commerce between states, the legislature in passing
 25 ~~the--same~~ this act being actuated solely by a desire to

1 protect the citizens of Montana this state against
2 imposition."

3 Section 142. Section 60-223, R.C.M. 1947, is amended
4 to read as follows:

5 "60-223. Petroleum products dealers -- definition of
6 terms. ~~Meaning-of-terms-when-used-in-this-act--(1)-The-terms~~
7 ~~"state-sealer"--and--"deputy-sealer"--mean, respectively, the~~
8 ~~commissioner-of-agriculture-of-the-state-of-Montana-and-his~~
9 ~~deputy--sealers--of--weights--and--measures--of-the-state-of~~
10 ~~Montana. Unless the context requires otherwise in sections~~
11 ~~60-223 through 60-233:~~

12 ~~(2)--(1) The words--"sell" "Sell" and "sale" shall also~~
13 ~~mean means~~ barter and exchange.

14 ~~(3)--(2) The term--"dealer" "Dealer" means all persons,~~
15 firms, copartnerships, corporations, trusts, or agencies.

16 ~~(4)--(3) A--petroleum--dealer "Petroleum dealer" is~~
17 ~~means~~ a dealer engaged, directly or indirectly, in the
18 business of delivering or distributing to a consumer, or in
19 the business of selling or offering or advertising for sale
20 or in the business of refining or manufacturing or keeping
21 for sale ~~within-the in this state of-Montana~~ any gasoline,
22 kerosene, distillate, road oil, fuel oil, lubricating oil,
23 and greases, or any oil or gas or oil and gas product,
24 except as otherwise defined as a liquefied petroleum dealer
25 in subsection ~~five-(5)~~ (4).

1 ~~(5)--(4) A--liquefied "Liquefied petroleum dealer~~
2 ~~dealer" is means~~ a dealer engaged, directly or indirectly,
3 in the business of delivering or distributing to a consumer,
4 or in the business of selling or offering or advertising for
5 sale or in the business of refining or manufacturing or
6 keeping for sale ~~within-the in this state of-Montana~~ any
7 petroleum product composed predominately of any of the
8 following hydrocarbons, or mixtures thereof: Propane,
9 propylene, butanes (normal butane or isobutane), and
10 butylenes.

11 ~~(5) "Department" means the department of business~~
12 ~~regulation provided for in Title 82A, chapter 4."~~

13 Section 143. Section 60-224, R.C.M. 1947, is amended
14 to read as follows:

15 "60-224. License required as a condition precedent to
16 the right to do business. ~~It-shall-be-a-violation-of-this~~
17 ~~act-for-any A~~ petroleum dealer or liquefied petroleum dealer
18 ~~to may not~~ do business in the this state of-Montana until a
19 nontransferable license has been issued to ~~said-dealer him~~
20 by the ~~state-sealer department~~. ~~Such The~~ license shall be
21 obtained by the dealer by making application to the ~~state~~
22 ~~sealer department~~ upon such blank forms ~~as-may--be~~ provided
23 by the ~~state-sealer department~~ for the right to do business
24 in the this state of-Montana, and after the application has
25 been ~~made--and~~ filed, the license, without fee, shall be

1 issued. Any A dealer who has not ~~applied--for--and~~ been
 2 issued a license for the right to do business in the this
 3 ~~state of-Montana~~ by the ~~state-sealer~~ department and who is
 4 found selling or offering for sale or delivering or
 5 distributing to a consumer shall, upon conviction, be fined
 6 as provided by this act. ~~and--any~~ A vehicle tank, or
 7 vehicle tank and meter, or any other measuring device used
 8 by ~~said~~ that dealer for ~~such~~ the delivery or distribution
 9 may be confiscated and seized as evidence by the ~~state~~
 10 ~~sealer--or--his-deputy-sealers~~ department. The ~~state-sealer~~
 11 ~~or-his-deputy-sealers-shall~~ department and its employees and
 12 agents are not be liable to the owner or any other persons,
 13 firms, copartnerships, corporations, trusts, or agencies for
 14 damages, directly or indirectly, caused by or resulting from
 15 such the seizure."

16 Section 144. Section 60-228, R.C.M. 1947, is amended
 17 to read as follows:

18 "60-228. Petroleum and liquefied petroleum vehicle
 19 tank license fees. (1) The license fee for all petroleum or
 20 liquefied petroleum vehicle tanks without meters used for
 21 distribution of ~~such~~ those products ~~shall-be~~ is as follows:
 22 Up to and including two hundred (200) gallons, eight dollars
 23 (\$8); over two hundred (200) and including three hundred
 24 (300) gallons, ten dollars (\$10); over three hundred (300)
 25 and including five hundred (500) gallons, twelve dollars

1 (\$12); over five hundred (500) and including one thousand
 2 (1,000) gallons, sixteen dollars (\$16); over one thousand
 3 (1,000) and including two thousand (2,000) gallons, twenty
 4 dollars (\$20); for each additional one thousand (1,000)
 5 gallons over two thousand (2,000) gallons, four dollars
 6 (\$4).

7 (2) All licenses ~~shall---be~~ are annual and
 8 nontransferable and ~~shall~~ expire December 31. There ~~shall~~
 9 be is an additional charge of fifty per cent (50%) on all
 10 license fees, required by this act, that are not paid before
 11 March 1 of each year, where the vehicle tank, or meter, or
 12 measuring device is in use. If ~~such~~ the fee is not paid the
 13 equipment shall be sealed and removed from service, by the
 14 ~~state--sealer-or-his-deputy-sealers~~ department, and it ~~shall~~
 15 ~~be-a-violation-of-this-act~~ is unlawful for anyone to use the
 16 device or break the seal until all ~~such~~ the fees have been
 17 paid."

18 Section 145. Section 60-229, R.C.M. 1947, is amended
 19 to read as follows:

20 "60-229. Dispensation of petroleum products. It ~~shall~~
 21 be is unlawful to make hose delivery from petroleum vehicle
 22 tanks unless the tanks have been calibrated by the ~~state~~
 23 ~~sealer--or--his--deputy-sealers~~ department. Part of a
 24 compartment delivery can only be made by an approved,
 25 calibrated, and sealed meter or an approved can. Gauge

1 stick measurement will not be permitted. All tank markers
2 must be positioned and sealed as provided by the state
3 sealer department. The state-sealer department shall, by
4 proper regulation, fix fees for retesting meters or
5 measuring devices or vehicle tanks used for distribution to
6 a consumer by petroleum or liquefied petroleum dealers, and
7 for any other special service rendered."

8 Section 146. Section 60-230, R.C.M. 1947, is amended
9 to read as follows:

10 "60-230. Dispensation of liquefied products. It ~~shall~~
11 ~~be is~~ unlawful to sell or deliver liquefied petroleum to a
12 consumer, as a liquid, except as provided by this act. Full
13 compartment sales or deliveries may only be made in a manner
14 that shall be provided by the state-sealer department. All
15 other sales or deliveries may only be made through a meter
16 which has been approved, calibrated and sealed by the state
17 sealer-or-his-deputy--sealers; department, or by weight,
18 unless otherwise provided by the state-sealer department."

19 Section 147. Section 60-231, R.C.M. 1947, is amended
20 to read as follows:

21 "60-231. Temperature correction of liquefied petroleum
22 to sixty degrees (60°) Fahrenheit when sold to a consumer.
23 It ~~shall-be-a-violation-of-this-act is unlawful~~ to sell or
24 offer for sale or deliver liquefied petroleum to a consumer,
25 as a liquid or by liquid measurement, the measurement of

1 which has not been temperature corrected to sixty degrees
2 (60°) Fahrenheit, unless otherwise provided by the state
3 sealer department. Temperature correction shall only be
4 made by means of an automatic compensating device which has
5 been approved, calibrated, and sealed by the state-sealer-or
6 his--deputy--sealers department; or by weight as provided by
7 the state-sealer department."

8 Section 148. Section 60-232, R.C.M. 1947, is amended
9 to read as follows:

10 "60-232. Rules~~7--regulations~~ and standards. The state
11 sealer-is-hereby-authorized-to-promulgate-and department may
12 adopt such those rules~~7--regulations~~ and standards ~~as--he~~
13 ~~shall-deem it considers~~ necessary for the administration and
14 enforcement of this act."

15 Section 149. Section 74-602, R.C.M. 1947, is amended
16 to read as follows:

17 "74-602. Definitions. (1) Unless ~~otherwise--clearly~~
18 ~~indicated--by~~ the context requires otherwise, ~~the-following~~
19 ~~words-when-used in this act,7-for-the-purposes-of-this--act,~~
20 ~~shall--have--the--meanings--respectively-ascribed-to-them-in~~
21 ~~this-section7~~

22 (a) "Goods" means all chattels personal, including
23 motor vehicles and merchandise certificates or coupons
24 exchangeable for chattels personal, but not including money
25 or things in action. The term includes goods which, at the

1 time of the sale or subsequently, are to be so affixed to
2 realty as to become a part thereof whether or not severable
3 ~~therefrom~~ from it.

4 (b) "Services" means work, labor, and services
5 furnished in the delivery, installation, servicing, repair,
6 or improvement of goods.

7 (c) "Motor vehicle" means any new or used automobile,
8 mobile home, motorcycle, truck, trailer, semitrailer, truck
9 tractor, and all vehicles with any power, other than
10 muscular power, primarily designed or used to transport
11 persons or property on a public highway, excepting however,
12 any vehicle which runs only on rails or tracks or in the
13 air.

14 (d) "Retail buyer" or "buyer" means a person who buys
15 goods or obtains services from a retail seller in a retail
16 installment transaction and not for the purpose of resale.

17 (e) "Retail seller" or "seller" means a person who
18 sells goods or furnishes services to a retail buyer in a
19 written retail installment contract or written retail
20 installment transaction.

21 (f) "Retail installment transaction" means a written
22 contract to sell or furnish, or the sale or furnishing of
23 goods or services, by a retail seller to a retail buyer
24 pursuant to a retail charge account agreement or under a
25 retail installment contract.

1 (g) "Retail charge account agreement" means an
2 instrument in writing prescribing the terms of retail
3 installment transactions which may be made ~~thereunder~~ under
4 it from time to time ~~pursuant-to~~ under which a retail seller
5 gives to a retail buyer the privilege of using a credit card
6 issued by the retail seller or any other person or other
7 credit confirmation or identification for the purpose of
8 purchasing goods or services from the retail seller, from
9 the retail seller and any other person, or from a person
10 licensed or franchised by the retail seller, and under the
11 terms of which a finance charge, as defined in this section
12 may be computed in relation to the buyer's balance in the
13 account from time to time.

14 (h) "Retail installment contract" or "contract" means
15 an agreement evidencing a retail installment transaction
16 entered into in this state ~~pursuant-to~~ under which a buyer
17 promises to pay in one or more deferred installments the
18 time sale price of goods ~~and/or~~ or services, or both. The
19 term includes a chattel mortgage, conditional sales
20 contract, and a contract for the bailment or leasing of
21 goods by which the bailee or lessee contracts to pay as
22 compensation for its use a sum substantially equivalent to
23 or in excess of its value and by which it is agreed that the
24 bailee or lessee is bound to become, or for no further or a
25 merely nominal consideration has the option of becoming, the

1 owner of the goods upon full compliance with the provisions
2 of the contract.

3 (i) "Cash sale price" means the price stated in a
4 retail installment contract or in a sales slip or other
5 memorandum furnished by a retail seller to a retail buyer
6 under or in connection with a retail charge account
7 agreement for which the seller would have sold or furnished
8 to the buyer, and the buyer would have bought or obtained
9 from the seller, the goods or services which are the subject
10 matter of the retail installment transaction, if ~~such~~ the
11 sale had been a sale for cash. The cash sale price may
12 include any taxes, registration, certificate of title,
13 license, and official fees, and cash sale prices for
14 services, if any, and for accessories and their installation
15 and for delivery, servicing, repairing, or improving the
16 goods.

17 (j) "Official fees" means the fees prescribed by law
18 for filing, recording, or otherwise perfecting and releasing
19 or satisfying any title or lien retained or taken by a
20 seller in connection with a retail installment transaction.

21 (k) "Principal balance" means the cash sale price of
22 the goods or services which are the subject matter of a
23 retail installment transaction plus the amounts, if any,
24 included in the sale, if a separate identified charge is
25 made therefor and stated in the contract, for insurance and

1 other benefits and official fees, minus the amount of the
2 buyer's down payment in money or goods.

3 (l) "Finance charge" means the amount, as limited by
4 section 74-608, in addition to the principal balance, agreed
5 upon between the buyer and the seller, to be paid by the
6 buyer for the privilege of purchasing goods or services to
7 be paid for by the buyer in one or more deferred
8 installments.

9 (m) "Time sale price" means the total of the cash sale
10 price of the goods or services and the amount, if any,
11 included for insurance and other benefits if a separate
12 identified charge is made therefor and the amounts of the
13 official fees and the finance charge.

14 (n) "Sales finance company" means a person engaged, in
15 whole or in part, in the business of purchasing retail
16 installment contracts from one or more sellers. The term
17 includes, but is not limited to, a bank, trust company,
18 investment company, ~~Morris-Plan-company~~ or savings and loan
19 association, if so engaged. The term ~~shall~~ does not include
20 a person who makes only isolated purchases of retail
21 installment contracts, which purchases are not being made in
22 the course of repeated and successive purchases of retail
23 installment contracts from the same seller.

24 (o) "Holder" means the retail seller of the goods or
25 services under the retail installment contract or retail

1 charge account agreement, or a person who establishes and
 2 administers retail charge account agreements with retail
 3 buyers, the assignee, if the retail installment contract or
 4 the retail charge account agreement or the balance in the
 5 account under either has been sold or otherwise transferred,
 6 or any other person entitled to the rights of the retail
 7 seller under any retail installment contract or any retail
 8 charge account agreement.

9 (p) "Person" means an individual, partnership,
 10 corporation, association, and any other group however
 11 organized.

12 (q) "Superintendent" "Department" means the state
 13 ~~superintendent-of-banks-of-the-state-of-Montana~~ department
 14 ~~of business regulation provided for in Title 82A, chapter 4.~~

15 ~~(r)--Words--in--the--singular--include--the-plural;--the~~
 16 ~~masculine--includes--the-feminine--and--the--neuter;--and--vice~~
 17 ~~versa;~~

18 ~~(s)--(2)~~ This act ~~shall have no application~~ does not
 19 ~~apply~~ to the lending of money by banks or other lending
 20 institutions and securing loans by chattel mortgages of
 21 goods in the ordinary course of lending by ~~such those~~ banks
 22 or other lending institutions ~~except~~. However, this act
 23 pertains to the extension of credit by ~~such those~~ banks or
 24 other lending institutions ~~pursuant--to~~ under retail
 25 installment contracts or credit cards issued by ~~such those~~

1 banks or other lending institutions."

2 Section 150. Section 74-604, R.C.M. 1947, is amended
 3 to read as follows:

4 "74-604. Denial, suspension, or revocation of
 5 licenses. (a) Renewal of a license originally granted under
 6 ~~this act~~ section 74-603 may be denied, or a license may be
 7 suspended or revoked by the ~~superintendent~~ department on the
 8 following grounds: (1) Material misstatement of fact in the
 9 application for license; (2) willful failure to comply with
 10 any provision of this act relating to retail installment
 11 contracts; (3) defrauding any retail buyer to the buyer's
 12 damage; (4) fraudulent misrepresentation, circumvention, or
 13 concealment by the licensee through ~~whatever~~ subterfuge or
 14 device of any of the material particulars or the nature
 15 thereof required to be stated or furnished to the retail
 16 buyer under this act.

17 (b) If a licensee is a partnership, association, or
 18 corporation, it ~~shall--be~~ is sufficient cause for the
 19 suspension or revocation of a license that any officer,
 20 director, or trustee of a licensed association or
 21 corporation, or any member of a licensed partnership, has ~~so~~
 22 acted or failed to act so as ~~would-be~~ to provide cause for
 23 suspending or revoking a license to ~~such that~~ party as an
 24 individual. Each licensee ~~shall-be~~ is responsible for the
 25 acts of ~~any-or-all-of~~ his employees while acting as his

agent, if ~~such~~ the licensee after actual knowledge of ~~said~~ the acts retained the benefits, proceeds, profits, or advantage accruing from ~~said~~ the acts or otherwise ratified ~~said~~ the acts.

(c) ~~No~~ A license ~~shall~~ may not be denied, suspended, or revoked, except after hearing ~~thereon~~. The ~~superintendent~~ department shall give the licensee at least ten (10) ~~days~~ days written notice, in the form of an order to show cause, of the time and place of ~~such~~ the hearing by registered mail addressed to the principal place of business in this state of ~~such~~ the licensee. The ~~said~~ notice shall contain the grounds of complaint against the licensee. ~~Any~~ An order suspending or revoking ~~such~~ a license shall recite the grounds upon which ~~the same~~ it is based. The order shall be entered upon the records of the ~~superintendent~~ department and ~~shall~~ is not be effective until ~~after~~ thirty (30) ~~days~~ days ~~after~~ written notice ~~thereof-given-after-such-entry~~ has been forwarded by registered mail to the licensee at ~~such~~ the principal place of business. No revocation, suspension, or surrender of ~~any~~ a license ~~shall-impair~~ impairs or ~~affect~~ affects the obligation of ~~any~~ a lawful retail installment contract acquired previously ~~thereto~~ by the licensee.

~~(d) Any person, licensee, or applicant, considering himself aggrieved by an order of the superintendent may within thirty (30) days from the entry of the order~~

~~complained of, apply for writ of review in accordance with the provisions of chapter 90 of Title 93 of the Revised Codes of Montana of 1947.~~

Section 151. Section 74-605, R.C.M. 1947, is amended to read as follows:

"74-605. Investigations and complaints. (a) The ~~superintendent, or his duly authorized representatives,~~ department may ~~shall have the power to~~ make ~~such~~ those investigations ~~as he shall deem it considers~~ necessary and, to the extent necessary for this purpose, ~~he~~ it may examine ~~such~~ a licensee or any other person and ~~shall have the power to~~ may compel the production of ~~all~~ relevant books, records, accounts, and documents.

(b) ~~Any~~ A retail buyer having reason to believe that this act relating to his retail installment contract has been violated may file with the ~~superintendent~~ department a written complaint setting forth the details of ~~such~~ the alleged violation and the ~~superintendent~~ department, upon receipt of ~~such~~ the complaint, may inspect the pertinent books, records, letters, and contracts of the licensee and ~~of the retail seller involved, relating to such specific written complaint.~~

Section 152. Section 74-606, R.C.M. 1947, is amended to read as follows:

"74-606. Powers of ~~superintendent~~ department. (a) The

1 ~~superintendent department~~ shall adopt ~~and--promulgate--such~~
 2 ~~rules and-regulations-as-shall-be~~ necessary to carry out the
 3 intent and purposes of this act. All rules ~~and-regulations~~
 4 of general application shall be filed in the office of the
 5 ~~superintendent department~~. A copy of every such rule ~~or~~
 6 ~~regulation~~ shall be mailed to each licensee, postage
 7 prepaid, at least fifteen (15) days in advance of its
 8 effective date~~7~~. ~~Provided,--however~~ However, the failure of
 9 a licensee to receive a copy of such the rules ~~or~~
 10 ~~regulations-shall~~ does not exempt him from the duty of
 11 compliance with such those rules ~~and-regulations~~ lawfully
 12 ~~promulgated-hereunder adopted under the provisions of this~~
 13 section.

14 (b) The ~~superintendent-shall-have-power-to~~ department
 15 may issue subpoenas to compel the attendance of witnesses
 16 and the production of documents, papers, books, records, and
 17 other evidence before him it in any matter over which he it
 18 has jurisdiction, control, or supervision pertaining to this
 19 act. The ~~superintendent-shall-have-the-power-to~~ department
 20 may administer oaths and affirmations to any a person whose
 21 testimony is required.

22 (c) If any a person ~~shall-refuse~~ refuses to obey any
 23 such a subpoena, or to give testimony, or to produce
 24 evidence as required ~~thereby-by it~~, any a judge of the
 25 district court of the county in which the licensed premises

1 are located may, upon application and proof of such the
 2 refusal, ~~make-an-order-awarding-process-of~~ issue a subpoena
 3 or subpoena duces tecum for the witness to appear before the
 4 ~~superintendent department~~ and to give testimony, and to
 5 produce evidence as required ~~thereby-by it~~. Upon-filing
 6 ~~such-order,--in-the-office-of-the-clerk-of--the--said--court,~~
 7 the The clerk of court shall then issue ~~process-of the~~
 8 subpoena, as directed, under the seal of ~~said the~~ the court,
 9 requiring the person to whom it is directed, to appear at
 10 the time and place ~~therein~~ designated in it.

11 (d) If any a person served with ~~any--such a~~ a subpoena
 12 ~~shall--refuse~~ refuses to obey ~~the-same,--and it, or~~ to give
 13 testimony, and or to produce evidence as required ~~thereby by~~
 14 it, the ~~superintendent department~~ may apply to the judge of
 15 the court issuing such the subpoena for an attachment
 16 against such that person, as for a contempt. The judge,
 17 upon satisfactory proof of such the refusal, shall issue an
 18 attachment, directed to any sheriff, constable, or police
 19 officer, for the arrest of such that person, and upon his
 20 being brought before such the judge, proceed to a hearing of
 21 the case. The judge ~~shall--have--power--to~~ may enforce
 22 obedience to such the subpoena, and the answering of any
 23 question, and the production of any evidence that may be
 24 proper by a fine, not exceeding one hundred dollars (\$100),
 25 or by imprisonment in the county jail, or by both fine and

imprisonment, and to compel ~~such~~ the witness to pay the costs of ~~such the~~ proceeding ~~to-be-taxed.~~"

Section 153. Section 82A-401, R.C.M. 1947, is amended to read as follows:

"82A-401. Department of business regulation -- ~~creation--~~ head. There is ~~created~~ a department of business regulation. The department head is ~~the--state-examiner provided-for-in--article--VII,--section--9--of--the--Montana constitution,---He--shall--serve--at--the--pleasure--of--the~~ governor: a director of business regulation appointed by the governor in accordance with section 82A-106.

Section 154. There is a new section to be numbered 82A-401.1, R.C.M. 1947, which reads as follows:

82A-401.1. Functions of department. The department and its units are responsible for administering laws pertaining to business regulation, including, but not limited to, laws pertaining to:

- (1) Banks and banking (Title 5, chapters 1 through 14);
- (2) Building and loan associations (Title 7, chapter 1);
- (3) Credit unions (Title 14, chapter 1);
- (4) Consumer protection (Title 85, chapter 4);
- (5) Supervision of the milk industry (Title 27, chapter 4);

(6) Consumer loans (Title 47, chapter 2);

(7) Sale and marketing of coal (Title 50, chapter 6);

(8) Unfair business practices (Title 51, chapter 1);

(9) Regulation of petroleum products (Title 60, chapter 2);

(10) Retail installment sales (Title 74, chapter 6);

(11) Standard weights and measures (Title 90, chapter 1);

(12) Proprietary post-secondary educational institutions (Title 75, chapter 92).

Section 155. Section 82A-406, R.C.M. 1947, is amended to read as follows:

"82A-406. ~~Milk-control-board---continued-----renamed board~~ Board of milk control -- ~~transfer-----functions qualifications -- allocated -- designation.~~ (1) ~~The--Montana milk--control--board,--created-in--Title--27,--chapter--4,--R.C.M. 1947,--is--continued,--and--the--board--is--renamed--the~~ There is a board of milk control.

(2) The board consists of five (5) members. A member may not be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products. A member may not have held an elective or appointive public office during the two (2) years immediately preceding his appointment, and a member may not hold a public office, either elective or appointive,

during his term on the board. Not more than three (3) members may be of the same political party or residents of the same congressional district.

(2)--(3) The board is transferred allocated to the department for administrative purposes only as prescribed in section 82A-108 of this act.

(3)--The board retains only the quasi-judicial functions contained in section 27-407, R.C.M. 1947 pertaining to setting milk prices. Unless inconsistent with this act, any reference in section 27-407, R.C.M. 1947, to the Montana milk control board means the board of milk control.

(4) The board is designated as a quasi-judicial board for purposes of section 82A-112 of this act."

Section 156. Section 86-703, R.C.M. 1947, is amended to read as follows:

"86-703. Report of institution holding deposited money. Any A banking institution, or savings or building and loan association, receiving money in trust under the provisions of section 86-702, shall report to the superintendent of banks of the state of Montana on or department of business regulation before the first day of February 1 of each year, all amounts received and held in trust. This report shall show the name and address of each trustee and cestui que trust, the principal amount remaining

and the interest or dividends paid on each such account."

Section 157. Section 89-1708, R.C.M. 1947, is amended to read as follows:

"89-1708. Delivery of bonds -- disposition of proceeds. In the event that If bonds are sold for cash, they shall be delivered by the board of commissioners to the county treasurer of the county wherein in which the office of the district is located, who shall deliver them to the purchaser upon receipt of the purchase price therefor, and after making a complete record of the same them. Delivery of the bonds said may be made by the county treasurer to the purchaser at any place or places within inside or without the outside this state of Montana, and said the county treasurer may receive the proceeds of the sale of said the bonds at said the place or places of delivery. The county treasurer shall thereupon place the proceeds of said the sale to the credit of said the district, and the same proceeds shall be paid out by the county treasurer only upon the written order of the board of commissioners, signed by the president and secretary under the seal of the district. Said The proceeds shall be expended spent only for the purpose or purposes for which said the bonds were issued, and for no other. Provided, in case if any portion of the funds realized from the sale of bonds are is not needed immediately for the purpose for which said the bonds were

1 issued, the board of commissioners ~~whenever,---in---its~~
 2 ~~judgment,--the--same--may--be--to--the--best--interests--of--the~~
 3 ~~district,--shall--have--the--power--and--authority--to~~ may direct
 4 the investment of such the funds, and any other surplus
 5 funds of the district, or any portion thereof, in
 6 interest-bearing securities of the United States, or of the
 7 state of Montana, or in interest-bearing certificates of
 8 deposit of national or state banks approved by the state
 9 superintendent--of--banks department of intergovernmental
 10 relations, provided,--however,--that-in-the-event-of-such
 11 deposit-said-banks A bank shall first furnish an indemnity
 12 bond to be approved by said the board of commissioners and
 13 the ~~state---superintendent---of---banks~~ department of
 14 intergovernmental relations. The county treasurer shall
 15 transfer to the credit of the district, and place to the
 16 credit of such the fund or funds as the board of
 17 commissioners may direct, all interest received upon money
 18 or securities of the district entrusted to his care."

19 Section 158. Section 90-153, R.C.M. 1947, is amended
 20 to read as follows:

21 "90-153. Meaning of terms. When--used Unless the
 22 context requires otherwise, in this act:

23 (1) ~~The--word--"person"--shall--be--construed--to--mean--both~~
 24 ~~the-plural--and--singular,--as--the--case--demands,--and--shall~~
 25 include "Person" includes individuals, partnerships,

1 corporations, companies, societies, and associations.

2 (2) ~~The-words--"weight(s)--and--(or)--measure(s)"--shall--be~~
 3 ~~construed--to~~ "Weight," "measure," and "weights and measures"
 4 mean all weights and measures of every kind, instruments and
 5 devices for weighing and measuring, and any appliances and
 6 accessories associated with ~~any---or---all---such~~ those
 7 instruments and devices, ~~except--that--the--term--shall~~ The
 8 terms do not be--construed--to include meters for the
 9 measurement of electricity, gas (natural or manufactured),
 10 or water when ~~the--same~~ they are operated in a public utility
 11 system. ~~Such-electricity,--gas,--and--water--meters--are--hereby~~
 12 ~~specifically--excluded--from--the--purview--of--this--act,--and--none~~
 13 None of the provisions of this act ~~shall--be--construed--to~~
 14 apply to ~~such~~ electricity, gas, or water meters operated in
 15 a public utility system or to any appliances or accessories
 16 associated ~~therewith~~ with them.

17 (3) ~~The--words--"sell"~~ "Sell" and "sale" ~~shall--be~~
 18 ~~construed--to--mean~~ include, but are not limited to, barter
 19 and exchange.

20 (4) ~~The--term--"sealer"--shall--be--construed--to--mean~~
 21 "Department" means the ~~state-sealer-of-weights-and--measures~~
 22 department of business regulation provided for in Title 82A,
 23 chapter 4.

24 (5) ~~The--terms--"chief-sealer"--and--"deputy-sealer"--shall~~
 25 ~~be--construed--to--mean,--respectively,--the--state--chief--sealer~~

1 ~~of-weights-and-measures-and-the-deputy-sealer-of-weights-and~~
2 ~~measures.~~

3 ~~(6)--(5) The--term--"intrastate~~ "Intrastate commerce"
4 ~~shall-be-constructed-to-mean~~ means any ~~and--all~~ commerce or
5 trade that is begun, carried on, and completed wholly ~~within~~
6 ~~the--limits--of-the~~ in this state of Montana, and the phrase
7 "introduced into intrastate commerce" ~~shall-be-constructed-to~~
8 ~~define~~ defines the time and place at which the first sale
9 and delivery of a commodity is made ~~within--the~~ in this
10 state, the delivery being made either directly to the
11 purchaser or to a common carrier for shipment to the
12 purchaser.

13 ~~(7)--(6) The--term--"commodity~~ "Commodity in package
14 ~~form" shall-be-constructed-to-mean~~ means a commodity put up or
15 packaged in any manner in advance of sale in units suitable
16 for either wholesale or retail sale, exclusive, however, of
17 any auxiliary shipping container enclosing packages that
18 individually conform to the requirements of this act. An
19 individual item or lot of any commodity not in package form
20 as defined in this section, but on which there is marked a
21 selling price based on an established price per unit of
22 weight or of measure, ~~shall--be--constructed--to--be~~ is a
23 commodity in package form.

24 ~~(8)--(7) A--"consumer~~ "Consumer package" or "package of
25 consumer commodity" ~~shall--be--constructed--to--mean~~ means a

1 commodity in package form that is customarily produced or
2 distributed for sale through retail sales agencies or
3 instrumentalities for consumption by individuals or use by
4 individuals for the purposes of personal care or in the
5 performance of services ordinarily rendered in or about the
6 household or in connection with personal possessions.

7 ~~(9)--(8) A--"nonconsumer~~ "Nonconsumer package" or
8 "package of nonconsumer commodity" ~~shall-be-constructed-to~~
9 ~~mean-any~~ means a commodity in package form other than a
10 consumer package, and particularly a package designed solely
11 for industrial or institutional use or for wholesale
12 distribution only.

13 (9) "Barrel," when used in connection with fermented
14 liquor, means a unit of thirty-one (31) gallons.

15 (10) "Ton" means a unit of two thousand (2,000) pounds
16 avoirdupois weight.

17 (11) "Cord," when used in connection with wood intended
18 for fuel purposes, means the amount of wood that is
19 contained in a space of one hundred twenty-eight (128) cubic
20 feet when the wood is stacked and well stowed.

21 (12) "Weight," when used in connection with any
22 commodity, means net weight."

23 Section 159. Section 90-156, R.C.M. 1947, is amended
24 to read as follows:

25 "90-156. State standards of weight and measure. Such

1 Those weights and measures in conformity with the standards
 2 of the United States as have been supplied to the state by
 3 the federal government or otherwise obtained by Montana this
 4 state for use as state standards shall, when ~~the same--shall~~
 5 they have been certified as being satisfactory for use as
 6 such by the national bureau of standards, be the state
 7 standards of weight and measure. The state standards shall
 8 be kept in a safe and suitable place in the office or
 9 laboratory of the ~~state-division-of-weights-and-measures,~~
 10 they department. They shall not be removed from ~~the--said~~
 11 ~~office--or--laboratory~~ there except for repairs or for
 12 certification, and they shall be submitted at least once in
 13 ten (10) years to the national bureau of standards for
 14 certification."

15 Section 160. Section 90-159, R.C.M. 1947, is amended
 16 to read as follows:

17 "90-159. General powers and duties of ~~sealer~~
 18 department. The ~~sealer~~ department shall have the custody of
 19 the state standards of weight and measure and of the other
 20 standards and equipment provided for by this act, and shall
 21 keep accurate records of ~~the--same~~ them. The ~~sealer~~
 22 department shall enforce the provisions of this act. He It
 23 ~~shall have-and-keep-a-general-supervision-over~~ supervise the
 24 weights and measures offered for sale, sold, or in use in
 25 the this state."

1 Section 161. Section 90-160, R.C.M. 1947, is amended
 2 to read as follows:

3 "90-160. Specific powers and duties of ~~sealer~~
 4 department -- regulations rules. The ~~sealer~~ department shall
 5 issue adopt from time to time reasonable regulations rules
 6 for the enforcement of this act, which ~~regulations--shall~~
 7 rules have the ~~force-and~~ effect of law. These regulations
 8 rules may include (1) schedules of fees for testing and
 9 certification, (2) standards of net weight, measure, or
 10 count, and reasonable standards of fill for any commodity in
 11 package form, (3) rules governing the technical and
 12 reporting procedures to be followed and the report and
 13 record forms and marks of approval and rejection to be used
 14 by ~~sealers-of-weights-and-measures~~ the department in the
 15 discharge of ~~their~~ its official duties, (4) exemptions from
 16 the sealing or marking requirements of section ~~14--{90-166}~~
 17 90-166 ~~of--this-act~~ with respect to weights and measures of
 18 ~~such a~~ character or size that ~~such~~ sealing or marking would
 19 be inappropriate, impracticable, or damaging to the
 20 apparatus in-question involved, and (5) rules governing the
 21 voluntary registration of servicemen and service agencies.
 22 These regulations rules shall include specifications,
 23 tolerances, and other technical requirements for weights and
 24 measures ~~of--the-character-of-these-specified-in~~ subject to
 25 inspection and testing under section ~~10-{90-162}~~ 90-162 ~~of~~

1 ~~this--act~~, designed to eliminate from use, without prejudice
 2 to apparatus that conforms as closely as practicable to the
 3 official standards, those (1) that are not accurate, (2)
 4 that are ~~of-such-construction-that-they-are-faulty-(that-is,~~
 5 ~~that-are~~ not reasonably permanent in their adjustment or
 6 will not repeat their indications correctly, or (3) that
 7 facilitate the perpetration of fraud. The specifications,
 8 tolerances, and other technical requirements for commercial
 9 weighing and measuring devices, together with amendments
 10 thereto, as recommended by the national bureau of standards
 11 and published in national bureau of standards handbook 44
 12 and supplements thereto, or in any publication revising or
 13 superseding handbook 44, ~~shall-be~~ are the specifications,
 14 tolerances, and other technical requirements for commercial
 15 weighing and measuring devices of the this state ~~of-Montana,~~
 16 except in so far as specifically modified, amended, or
 17 rejected by a regulation rule issued by the ~~sealer---~~For-the
 18 ~~purposes--of--this--act,~~ department. An apparatus shall be
 19 ~~deemed considered~~ to be "correct" when it conforms to all
 20 applicable requirements ~~promulgated~~ adopted as specified in
 21 this section. Other apparatus shall be ~~deemed~~ considered to
 22 be "incorrect."

23 Section 162. Section 90-161, R.C.M. 1947, is amended
 24 to read as follows:

25 "90-161. Sealer Department -- testing at

1 state-supported institutions. The ~~sealer~~ department shall
 2 from time to time test all weights and measures used in
 3 checking the receipt or disbursement of supplies in every
 4 institution for the maintenance of which moneys are
 5 appropriated by the legislature, reporting ~~his~~ its findings,
 6 in writing, to the ~~supervisory-board-and--to--the~~ executive
 7 officer of the institution concerned."

8 Section 163. Section 90-162, R.C.M. 1947, is amended
 9 to read as follows:

10 "90-162. Sealer Department -- general testing. When
 11 not otherwise provided by law, the ~~sealer-shall-have-the~~
 12 ~~power-to~~ department may inspect and test, to ascertain if
 13 they are correct, all weights and measures kept, offered, or
 14 exposed for sale. ~~It-shall-be-the-duty-of-the-sealer~~ The
 15 department, within a twelve-month period, or less frequently
 16 if in accordance with a schedule issued by ~~him~~ it, and as
 17 ~~much-oftener~~ often as ~~he-may-deem~~ it considers necessary, ~~to~~
 18 shall inspect and test, to ascertain if they are correct,
 19 all weights and measures commercially used (1) in
 20 determining the weight, measurement, or count of commodities
 21 or things sold, or offered or exposed for sale, on the basis
 22 of weight, measure, or of count, or (2) in computing the
 23 basic charge or payment for services rendered on the basis
 24 of weight, measure, or of count. ~~Provided-that-with~~ With
 25 respect to single-service devices ~~(that-is,-devices~~ designed

1 to be used commercially only once and to be then discarded;
 2 and with respect to devices uniformly mass-produced, as by
 3 means of a mold or die, and not susceptible of individual
 4 adjustment, tests may be made on representative samples of
 5 such the devices; and the lots of which such the samples are
 6 representative shall be held to be correct or incorrect upon
 7 the basis of the results of the inspections and tests on
 8 such the samples. ~~And--provided--further,--that--any~~ An
 9 itinerant peddler or hawker, using weights and measures,
 10 shall register his name and address with the ~~chief-sealer-of~~
 11 ~~weights-and-measures~~ department, in order that his equipment
 12 can be tested in accordance with the provisions of this
 13 law."

14 Section 164. Section 90-163, R.C.M. 1947, is amended
 15 to read as follows:

16 "90-163. Sealer Department -- investigations. The
 17 sealer department shall investigate complaints made to ~~him~~
 18 it concerning violations of ~~the-provisions-of~~ this act,
 19 ~~and It~~ shall, upon ~~his~~ its own initiative, conduct such
 20 those investigations ~~as--he-deems it considers~~ appropriate
 21 and advisable to develop information on prevailing
 22 procedures in commercial quantity determination and on
 23 possible violations ~~of-the-provisions~~ of this act and to
 24 promote the general objective of accuracy in the
 25 determination and representation of quantity in commercial

1 transactions."

2 Section 165. Section 90-164, R.C.M. 1947, is amended
 3 to read as follows:

4 "90-164. Sealer Department -- inspection of packages.
 5 The sealer department shall, from time to time, weigh or
 6 measure and inspect packages or amounts of commodities kept,
 7 offered, or exposed for sale, sold, or in the process of
 8 delivery, to determine whether ~~the--same~~ they contain the
 9 amounts represented and whether they be kept, offered, or
 10 exposed for sale or sold in accordance with law. When such
 11 those packages or amounts of commodities are found not to
 12 contain the amounts represented, or are found to be kept,
 13 offered, or exposed for sale in violation of law, the sealer
 14 department may order them off sale and may so mark or tag
 15 them as to show them to be illegal. In carrying out the
 16 provisions of this section, the sealer department may employ
 17 recognized sampling procedures under which the compliance of
 18 a given lot of packages will be determined on the basis of
 19 the result obtained on a sample selected from and
 20 representative of such that lot. ~~No A person shall may not:~~

21 (1) sell, or keep, offer, or expose for sale, in
 22 intrastate commerce, any package or amount of commodity that
 23 has been ordered off sale or marked or tagged as provided in
 24 this section unless ~~and-until-such~~ the package or amount of
 25 commodity has been brought into full compliance with all

1 legal requirements, or

2 (2) dispose of any package or amount of commodity that
3 has been ordered off sale or marked or tagged as provided in
4 this section and that has not been brought into compliance
5 with legal requirements, in any manner, except with the
6 specific approval of the sealer department."

7 Section 166. Section 90-165, R.C.M. 1947, is amended
8 to read as follows:

9 "90-165. Sealer Department -- stop-use, stop-removal,
10 and removal orders. The ~~sealer--shall--have--the--power--to~~
11 department may issue stop-use orders, stop-removal orders,
12 and removal orders with respect to weights and measures
13 being, or susceptible of being, commercially used, and to
14 issue stop-removal orders and removal orders with respect to
15 packages or amounts or commodities kept, offered, or exposed
16 for sale, sold, or in process of delivery, whenever in the
17 course of ~~his~~ enforcement of ~~the-provisions-of~~ this act he
18 ~~deems it considers~~ it necessary or expedient to issue ~~such~~
19 those orders, ~~and--no~~ A person ~~shall may not~~ use, remove
20 from the premises specified, or fail to remove from the
21 premises specified, any weight, measure, or package or
22 amount of commodity contrary to the terms of a stop-use
23 order, stop-removal order, or removal order issued under the
24 ~~authority-of~~ this section."

25 Sectin 167. Section 90-166, R.C.M. 1947, is amended to

1 read as follows:

2 "90-166. Sealer Department -- disposition of correct
3 and incorrect apparatus. The sealer department shall approve
4 for use, and seal or mark with appropriate devices, ~~such~~
5 those weights and measures ~~as--he~~ which it finds upon
6 inspection and test to be "correct" as defined in section ~~8~~
7 ~~{90-160}--of--this--act~~ 90-160, and shall reject and mark or
8 tag as "rejected" ~~such those~~ weights and measures ~~as--he~~
9 which it finds, upon inspection or test, to be "incorrect"
10 as defined in section ~~8-{90-160}-of--this--act~~ 90-160, but
11 which in ~~his~~ its best judgment are susceptible of
12 satisfactory repair. ~~Provided, that, such-sealing~~ Sealing
13 or marking ~~shall~~ are not be required with respect to ~~such~~
14 those weights and measures ~~as~~ which may be exempted
15 therefrom by a regulation rule of the sealer department
16 issued under ~~the-authority-of~~ section ~~8-{90-160}-of--this--act~~
17 90-160. The sealer department shall condemn, and may seize
18 and destroy, weights and measures found to be incorrect
19 that, in ~~his~~ its best judgment, are not susceptible of
20 satisfactory repair. Weights and measures that have been
21 rejected may be confiscated and may be destroyed by the
22 sealer department if not corrected as required by section ~~17~~
23 ~~{90-169}--of--this--act~~ 90-169, or if used or disposed of
24 contrary to the requirements of section ~~17-{90-169}-of--this~~
25 act 90-169."

1 Section 168. Section 90-167, R.C.M. 1947, is amended
2 to read as follows:

3 "90-167. Sealer Department -- police powers, --right
4 ~~of-entry-and-stoppage,--With-respect-to-the--enforcement--of~~
5 ~~this--act--and--any--other--acts--dealing--with--weights-and~~
6 ~~measures-that-he-is-or-may--be--empowered--to--enforce,--the~~
7 ~~sealer--is--hereby-vested-with-special-police-powers,-and-is~~
8 ~~authorized-to-arrest,-without-formal-warrant,-any-violator~~
9 ~~of--the-said-acts,-and-to-seize-for-use-as-evidence,-without~~
10 ~~formal-warrant,-incorrect-or-unsealed-weights--and--measures~~
11 ~~or--amounts--of--packages--of--commodity-found--to-be-used,~~
12 ~~retained,-offered,-or-exposed-for-sale-or-sold-in--violation~~
13 ~~of--law,--in--the--performance--of-his-official-duties,-the~~
14 ~~sealer-is-authorized-to-enter-and-go-into-or--upon,-without~~
15 ~~formal--warrant,-any-structure-or-premises,-and-to-stop-any~~
16 ~~person-whatsoever-and-to-require-him--to--proceed,-with--or~~
17 ~~without--any--vehicle--of-which-he-may-be-in-charge,-to-some~~
18 ~~place-which--the--sealer--may--specify.~~ In enforcing the
19 provisions of this act or any other law pertaining to
20 weights and measures, the department may, in the manner
21 provided by law for peace officers, arrest violators,
22 conduct searches and inspections, and seize for use as
23 evidence incorrect or unsealed weights and measures or
24 packages of commodities unlawfully used, possessed, offered,
25 or exposed for sale or unlawfully sold."

1 Section 169. Section 90-169, R.C.M. 1947, is amended
2 to read as follows:

3 "90-169. Duty of owners of incorrect apparatus.
4 Weights and measures that have been rejected under the
5 authority of the ~~sealer-or-of--a--deputy--sealer~~ department
6 shall remain subject to the control of the ~~rejecting~~
7 ~~authority~~ department until ~~such-time-as~~ suitable repair or
8 disposition ~~thereof~~ of them has been made as required by
9 this section. The ~~owners~~ owner of such rejected weights and
10 measures shall ~~cause-the-same-to-be-made~~ correct them within
11 thirty (30) days or ~~such~~ a longer period as may be
12 authorized by the ~~rejecting--authority,-or,-in--view~~
13 ~~department.~~ In place of this, the owner may dispose of the
14 same them, but only in ~~such~~ a manner ~~as-is~~ specifically
15 authorized by the ~~rejecting-authority~~ department. Weights
16 and measures that have been rejected ~~shall~~ may not again be
17 used commercially until they have been officially
18 re-examined and found to be correct, or until specific
19 written permission for ~~such~~ that use is issued by the
20 ~~rejecting--authority~~ department, or until the rejection tag
21 has been removed and the rejected device repaired and placed
22 in service by a person duly properly registered to perform
23 ~~such those~~ acts under a regulation rule issued by the ~~sealer~~
24 department for the registration of weights and measures
25 servicemen and service agencies."

Section 170. Section 90-170, R.C.M. 1947, is amended to read as follows:

"90-170. Method of sale of commodities -- general. Commodities in liquid form shall be sold only ~~by~~ by liquid measure or by weight, and, except as otherwise provided in this act, commodities not in liquid form shall be sold only by weight, by measure of length or area, or by count. ~~Provided--that--liquid~~ Liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if such those methods give accurate information as to the quantity of commodity sold. ~~And--provided further--that--the-provisions-of-this~~ This section shall does not apply:

(1) to commodities when sold for immediate consumption on the premises where sold,

(2) to vegetables when sold by the head or bunch,

(3) to commodities in containers standardized by a law of this state or by federal law,

(4) to commodities in package form when there exists a general consumer usage to express the quantity in some other manner,

(5) to concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, crushed stone, and the like, when sold by cubic measure, or

(6) to unprocessed vegetable and animal fertilizer

when sold by cubic measure.

The ~~senior~~ department may ~~issue-such~~ adopt reasonable ~~regulations-as-are~~ rules necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative to all parties at interest."

Section 171. Section 90-171, R.C.M. 1947, is amended to read as follows:

"90-171. Method of sale of commodities -- packages -- declarations of quantity and origin -- variations -- exemptions. (1) Except as otherwise provided in this act, ~~any~~ a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce, shall bear on the outside of the package ~~such~~ definite, plain, and conspicuous declarations of: ~~(1)~~ (a) the identity of the commodity in the package unless ~~the--same~~ it can easily be identified through the wrapper or container, ~~(2)~~ (b) the net quantity of the contents in terms of weight, measure, or count, and ~~(3)~~ (c) in the case of any package kept, offered, or exposed for sale, or sold in any place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor, as may be prescribed by regulation issued rules adopted by the ~~director~~ department. ~~provided,~~

1 that, in connection with the declaration required under
 2 clause (2), neither the qualifying term "when packed" or any
 3 words of similar import, nor any term qualifying a unit of
 4 weight, measure, or count (for example, "jumbo," "giant,"
 5 "full," and the like) that tends to exaggerate the amount of
 6 commodity in a package shall be used. And provided further,
 7 that under clause (2) the sealer shall, by regulation,
 8 establish (a) reasonable variations to be allowed, which may
 9 include variations below the declared weight or measure
 10 caused by ordinary and customary exposure, only after the
 11 commodity is introduced into intrastate commerce, to
 12 conditions that normally occur in good distribution practice
 13 and that unavoidably result in decreased weight or measure,
 14 (b) exemptions as to small packages, and (c) exemptions as
 15 to commodities put up in variable weights or sizes for sale
 16 intact and either customarily not sold as individual units
 17 or customarily weighed or measured at time of sale to the
 18 consumer.

19 (2) In connection with the declaration required under
 20 subsection 1(b), neither the qualifying term "when packed,"
 21 nor words of similar import, nor any term qualifying a unit
 22 of weight, measure, or count (for example, "jumbo," "giant,"
 23 "full," and the like) that tends to exaggerate the amount of
 24 commodity in a package may be used.

25 (3) Under subsection 1(b) the department shall, by

1 rule, establish: (a) reasonable variations to be allowed,
 2 which may include variations below the declared weight or
 3 measure caused by ordinary and customary exposure, only
 4 after the commodity is introduced into intrastate commerce,
 5 to conditions that normally occur in good distribution
 6 practice and that unavoidably result in decreased weight or
 7 measure, (b) exemptions as to small packages, and (c)
 8 exemptions as to commodities put up in variable weights or
 9 sizes for sale intact and either customarily not sold as
 10 individual units or customarily weighed or measured at time
 11 of sale to the consumer.

12 (4) The marking provisions of this section do not
 13 apply to unwrapped loaves of bread or to berries and small
 14 fruits, sold in conformance with the applicable provisions
 15 of this act."

16 Section 172. Section 90-173, R.C.M. 1947, is amended
 17 to read as follows:

18 "90-173. Method of sale of commodities -- misleading
 19 packages. ~~No~~ A commodity in package form ~~shall~~ may not be ~~so~~
 20 wrapped, ~~nor shall it be~~ or in a container ~~so~~ made, formed,
 21 or filled, so as to mislead the purchaser as to the quantity
 22 of the contents of the package, ~~and the~~ The contents of a
 23 container ~~shall~~ may not fall below ~~such~~ a reasonable
 24 standard of fill ~~as which may have been~~ be prescribed for
 25 ~~the that~~ commodity ~~in question~~ by the ~~sealer~~ department."

1 Section 173. Section 90-175, R.C.M. 1947, is amended
2 to read as follows:

3 "90-175. Sale by net weight. ~~The word "weight" as used~~
4 ~~in--this-act-in-connection-with-any-commodity-shall-mean-net~~
5 ~~weight--Whenever-any~~ When a commodity is sold on the basis
6 of weight, the net weight of the commodity shall be
7 employed, and all contracts concerning commodities shall be
8 so construed."

9 Section 174. Section 90-178, R.C.M. 1947, is amended
10 to read as follows:

11 "90-178. Bread. Each loaf of bread and each unit of a
12 twin or multiple loaf of bread ~~manufactured~~ produced or
13 procured for sale, kept, offered, exposed for sale, or sold,
14 whether or not the bread is wrapped or sliced, shall weigh
15 one-half (1/2) pound, one (1) pound, one and one-half (1
16 1/2) pounds, or a multiple of one (1) pound, avoirdupois
17 weight, within reasonable variations or tolerances that
18 shall be ~~promulgated~~ adopted by ~~regulation-by~~ rules of the
19 ~~sealer--provided--that--the-provisions-of-this~~ department.
20 This section shall ~~does~~ not apply to biscuits, buns, or
21 rolls weighing eight (8) ounces or less, or to "stale bread"
22 sold and expressly represented at the time of sale as such.
23 ~~and-that-the-marking-provisions-of-section-19-(90-171)-shall~~
24 ~~not-apply-to-unwrapped-leaves-of-bread."~~

25 Section 175. Section 90-132, R.C.M. 1947, is amended

1 to read as follows:

2 "90-182. Bulk deliveries sold in terms of weight and
3 delivered by vehicle. When a vehicle delivers to an
4 individual purchaser a commodity in bulk, and the commodity
5 is sold in terms of weight units, the delivery shall be
6 accompanied by a duplicate delivery ticket with the
7 following information clearly stated, in ink or by means of
8 other indelible marking equipment and, in clarity, equal to
9 type or printing: (1) the name and address of the vendor,
10 (2) the name and address of the purchaser, and (3) the net
11 weight of the delivery expressed in pounds. ~~and-if~~ If the
12 net weight is derived from determinations of gross and tare
13 weights, ~~such~~ the gross and tare weights also shall be
14 stated in terms of pounds. One of these tickets shall be
15 retained by the vendor, and the other shall be delivered to
16 the purchaser at the time of delivery of the commodity, or
17 shall be surrendered, on demand, to the ~~sealer--or-the-chief~~
18 ~~sealer-or-deputy-sealer--who--if--he~~ department. If the
19 department desires to retain it as evidence, it shall issue
20 a weight slip in ~~lieu--thereof~~ place of the ticket for
21 delivery to the purchaser. ~~provided--that--if~~ If the
22 purchaser, himself, carries away his purchase, the vendor
23 shall be required only to give to the purchaser at the time
24 of sale a delivery ticket stating the number of pounds of
25 commodity delivered to him."

Section 176. Section 90-184, R.C.M. 1947, is amended to read as follows:

"90-184. Berries and small fruits. Berries and small fruits shall be offered and exposed for sale and sold by weight, or by measure in open containers having capacities of one-half (1/2) dry pint, one (1) dry pint, or one (1) dry quart. ~~provided, that the marking provisions of section 19~~ ~~190-171 of this act shall not apply to such containers.~~"

Section 177. Section 90-186, R.C.M. 1947, is amended to read as follows:

"90-186. Hindering or obstructing officer -- penalties. Any A person who ~~shall hinder~~ hinders or ~~obstruct~~ obstructs in any way the ~~sealer, the chief sealer, or any one of the deputy sealers~~ department, in the performance of his its official duties ~~shall be is~~ guilty of a misdemeanor, and upon conviction thereof shall be ~~punished by a fine of~~ fined not less than twenty dollars ~~(\$20.00)~~ (\$20) or more than two hundred dollars ~~(\$200.00)~~ (\$200), or by ~~imprisonment for~~ imprisoned not more than three (3) months, or by both ~~such fine~~ fined and ~~imprisonment~~ imprisoned."

Section 178. Section 90-187, R.C.M. 1947, is amended to read as follows:

"90-187. Impersonation of officer -- penalties. Any A person who ~~shall impersonate~~ impersonates in any way the ~~sealer, the chief sealer, or any one of the deputy sealers~~ a

person charged with enforcement of this act by the department, by the use of his its seal or a counterfeit of his its seal, or in any other manner, ~~shall be is~~ guilty of a misdemeanor, and upon conviction thereof shall be ~~punished by a fine of~~ fined not less than one hundred dollars ~~(\$100.00)~~ (\$100) or more than five hundred dollars ~~(\$500.00)~~ (\$500), or by ~~imprisonment~~ imprisoned for not more than one (1) year, or by both ~~such fine~~ fined and ~~imprisonment~~ imprisoned."

Section 179. Section 90-188, R.C.M. 1947, is amended to read as follows:

"90-188. Offenses and penalties. Any person who, by himself, or by his servant or agent, or as the servant or agent of another person, performs any one of the acts enumerated in subparagraphs (1) through (9) of this section shall be guilty of a misdemeanor and, upon a first conviction thereof, shall be punished by a fine of not less than twenty dollars ~~(\$20.00)~~ or more than two hundred dollars ~~(\$200.00)~~, or by imprisonment for not more than three (3) months, or by both such fine and imprisonment. Upon a second or subsequent conviction thereof, he shall be punished by a fine of not less than fifty dollars ~~(\$50.00)~~ or more than five hundred dollars ~~(\$500.00)~~, or by imprisonment for not more than one (1) year, or by both such fine and imprisonment."

1 (1) A person may not:

2 (a) Use or ~~have-in-possession~~ possess for the purpose
3 of using for any a commercial purpose specified in section
4 ~~10-190-162~~ 90-162, sell, offer, or expose for sale or hire,
5 or ~~have-in-possession~~ possess for the purpose of selling or
6 hiring, an incorrect weight or measure or any device or
7 instrument used to or calculated to falsify any weight or
8 measure;

9 ~~12--(b)~~ Use, or ~~have-in-possession~~ possess for the
10 purpose of current use for any a commercial purpose
11 specified in section ~~10-190-162~~ 90-162, a weight or measure
12 that does not bear a seal or mark ~~such-as--is~~ specified in
13 section ~~14--190-166~~ 90-166, unless ~~such that~~ weight or
14 measure has been exempted from testing by ~~the-provisions--of~~
15 section ~~10--190-162~~ 90-162 or by a regulation rule of the
16 sealer department issued under ~~the-authority--of~~ section 8
17 ~~190-160~~ 90-160, or unless the device has been placed in
18 service as provided by a regulation rule of the sealer
19 department issued under ~~the-authority-of~~ section 8-~~190-160~~
20 90-160. ~~of-this-act--provided--that--any~~ A person or persons
21 ~~making-use-of~~ using weighing or measuring devices subject to
22 this act must report to the ~~sealer-of-weights--and--measures~~
23 ~~or--his--deputies~~ department, in writing, the number and
24 location of ~~said~~ the weighing or measuring device and must
25 promptly report the installation of any new weighing or

1 measuring device;

2 ~~13--(c)~~ Dispose of any a rejected or condemned weight
3 or measure in a manner contrary to law or ~~regulation~~ rule;
4 ~~14--(d)~~ Remove from any a weight or measure, contrary
5 to law or regulation rule, any tag, seal, or mark placed
6 ~~thereon on it~~ by the appropriate authority;

7 ~~15--(e)~~ Sell, or offer or expose for sale, less than
8 the quantity he represents of any a commodity, thing, or
9 service;

10 ~~16--(f)~~ Take more than the quantity he represents of
11 any a commodity, thing, or service, when, as buyer, he
12 furnishes the weight or measure by means of which the amount
13 of the commodity, thing, or service is determined;

14 ~~17--(g)~~ Keep for the purpose of sale, advertise, or
15 offer or expose for sale, or sell any a commodity, thing, or
16 service in a condition or manner contrary to law or
17 ~~regulation~~ rule;

18 ~~18--(h)~~ Use in retail trade, except in the
19 preparation of packages put up in advance of sale and of
20 medical prescriptions, a weight or measure that is not so
21 positioned that its indications may be accurately read and
22 the weighing or measuring operation observed from some
23 position which may reasonably be assumed by a customer;

24 ~~19~~ (i) Violate any a provision of this act or of the
25 ~~regulations--promulgated~~ rules adopted under ~~the-provisions~~

of this act for which a specific penalty ~~has~~ is not been prescribed.

(2) A person who violates, or who knowingly allows an employee or agent to violate, this section is guilty of a misdemeanor and, upon a first conviction, shall be fined not less than twenty dollars (\$20) or more than two hundred dollars (\$200), or imprisoned for not more than three (3) months, or both fined and imprisoned. Upon a second or subsequent conviction, he shall be fined not less than fifty dollars (\$50) or more than five hundred dollars (\$500), or imprisoned for not more than one (1) year, or both fined and imprisoned."

Section 180. Section 90-189, R.C.M. 1947, is amended to read as follows:

"90-189. Injunction. The ~~sealer--is--authorized--to~~ department may apply to any court of competent jurisdiction for, and such that court upon hearing and for cause shown may grant, a temporary or permanent injunction restraining any a person from violating any provision of this act."

Section 181. Section 90-190, R.C.M. 1947, is amended to read as follows:

"90-190. Presumptive evidence. For the purposes of this act, proof of the existence of a weight or measure or a weighing or measuring device in or about any building, enclosure, stand, or vehicle in which or from which is shown

that buying or selling is commonly carried on, ~~shall~~ is, in the absence of ~~conclusive~~ credible evidence to the contrary, be presumptive proof of the regular use of such that weight or measure or weighing or measuring device for commercial purposes and of such the use by the person in charge of such the building, enclosure, stand, or vehicle."

Section 182. Wherever the words "superintendent," "superintendent of banks," or "state superintendent of banks" appear in sections 5-205, 5-206, 5-207, 5-209, 5-211, 5-510, 5-704, 5-803, 5-908, 5-909, 5-1006, 5-1014, 5-1020, 5-1025, 5-1026, 5-1027, 5-1028, 5-1029, 5-1030, 5-1032, 5-1036, 5-1046, 5-1130, 5-1204, 7-104, 7-105, 7-107, 7-113.1, 7-124, 7-128, 7-129, 7-137, 7-151, 74-603, the word "department" is substituted therefor.

Section 183. Wherever the words "superintendent of banks" appear in section 5-1021, the words "state banking board" are substituted therefor.

Section 184. Wherever the word "supervisor" appears in sections 14-142, 14-143, 14-149, 14-154, 14-155, 14-156, the word "department" is substituted therefor.

Section 185. Wherever the words "consumer loan commissioner" or "commissioner" appear in sections 47-205, 47-208, 47-209, 47-212, 47-216, 47-217, 47-221, 47-224, 47-226, 47-227, the word "department" is substituted therefor.

1 Section 186. Wherever the words "commissioner of
2 agriculture" or "commissioner" appear in sections 60-203.3,
3 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, the
4 word "department" is substituted therefor.

5 Section 187. Wherever the word "board" appears in
6 sections 51-113, 51-114, 51-115, the word "department" shall
7 be substituted therefor.

8 Section 188. The publishers of the Revised Codes of
9 Montana, 1947, are directed, under the supervision of the
10 Supreme Court of Montana, to make the substitutions
11 enumerated in sections 190, 190A, 191, 192, 193, and 193A of
12 this act when reprinting sections or portions of sections of
13 the Revised Codes in either supplements to or replacement
14 volumes for the Revised Codes.

15 Section 189. Sections 5-108, 5-601 through 5-603,
16 5-606, 5-608, 5-902, 5-1009 through 5-1011, 5-1013, 5-1119
17 through 5-1121, 5-1301 through 5-1311, 7-152, 27-404,
18 27-418, 27-420, 27-425, 27-428, 27-429, 47-225, 82-1001
19 through 82-1011, 82A-402, 82A-403, 90-155, 90-158, 90-168,
20 90-193, 90-194, 90-621 are repealed.

-End-

HOUSE BILL NO. 469

INTRODUCED BY COMMITTEE ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF BUSINESS REGULATION."

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

Section 1. Section 5-109, R.C.M. 1947, is amended to read as follows:

"5-109. Definition of words and terms. Unless the context requires otherwise, in this act:

~~(a) The terms capital, capital stock or paid-in capital~~ (1) "Capital," "capital stock," and "paid-in capital" mean that fund for which certificates of stock are issued to stockholders ~~in case of incorporated banks and that fund set aside and dedicated for capital purposes in case of private banks;~~

~~(b) The term surplus~~ (2) "Surplus" means a fund paid in or created ~~pursuant to the provisions of~~ under this act by a bank from its net earnings or undivided profits, which when set apart and designated as such, is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as such bank has undivided profits.

SECOND READING

HB 469 will not be run in its entirety due to length. Please refer to white copy for entire content of bill.

Amended Pages - 35, 53, 92, 140, 161, 249

read as follows:

"5-612. Hearings -- notice -- intervenors. ~~in addition to the requirements of the Montana Administrative Procedure Act--(82-4201--to-82-4225)--the following shall be required:~~

(1) A hearing shall be conducted upon all applications for new bank charters certificates of authorization, and all provisions of in accordance with the Administrative Procedure Act [82-4201 to 82-4225] relating to a contested case ~~shall be followed~~, whether or not any protest to the application is filed.

(2) A notice of the filing of an application for a new bank charter certificate of authorization shall be mailed to all banks within one hundred (100) miles of the proposed location, measured in a straight line.

(3) A hearing shall be conducted no sooner than thirty (30) days and not later than ninety (90) days following the mailing of such notice.

(4) Any bank filing a written protest with the board prior to the date of the hearing shall be admitted as a "party," as defined in the Administrative Procedure Act, with full rights of a party, including the right of subpoena of witnesses and written materials, the right of cross-examination, the right to have a transcript, and the right to receive all notices, copy of the application, all orders, and the right of judicial review and appeal.

1 5-1060(1) shall give as prompt notice of its action as
 2 conditions will permit and by any means available, to the
 3 commissioner department, and in the case of a national bank,
 4 to the comptroller of the currency."

5 Section 42. Section 5-1062, R.C.M. 1947, is amended to
 6 read as follows:

7 "5-1062. Effect of closing. (1) Any A day on which a
 8 bank, or any ~~one-or-more~~ of its offices, is closed during
 9 ~~all-or~~ any part of its normal banking hours ~~pursuant-to--the~~
 10 ~~authorization--granted~~ under ~~this--act--shall-be~~, sections
 11 5-1059 and 5-1060 with respect to ~~such that~~ bank or, if not
 12 all of its offices are closed, then with respect to any the
 13 office or offices which are closed, SHALL BE a legal holiday
 14 for all purposes with respect to any banking business ~~of-any~~
 15 character. No liability, or loss of rights of any kind, on
 16 the part of any a bank, or director, officer, or employee
 17 thereof, ~~shall may~~ accrue or result by virtue of any a
 18 closing authorized by ~~this-act~~ sections 5-1059 and 5-1060.

19 (2) The provisions of ~~this-act~~ sections 5-1058 through
 20 5-1062 ~~shall-be--construed--and--applied--as--being~~ are in
 21 addition to any other law of this state or of the United
 22 States, authorizing the closing of a bank or excusing the
 23 delay by a bank in the performance of its duties and
 24 obligations because of emergencies or conditions beyond the
 25 bank's control, or otherwise."

1 terms, as the constitution and bylaws may provide, provided
 2 ~~that-no~~ No charge or fee, except as ~~herein~~ provided in this
 3 section, ~~shall may~~ be made against any a member who
 4 withdraws his stock, after having given thirty (30) days'
 5 notice of ~~such the~~ withdrawal, ~~provided-also-that-no~~ No
 6 fine of any description ~~shall may~~ be made upon the par value
 7 of ~~such that~~ stock or upon the declared dividends because of
 8 ~~such the~~ withdrawal. Any A member who withdraws his stock
 9 or whose stock is matured, ~~shall-be is~~ is entitled to receive
 10 all dues paid in and all dividends declared less interest,
 11 if any, as provided in subsection (7), less a reasonable
 12 membership fee not exceeding two (2) ~~per-centum~~ percent of
 13 the par value of each share of stock and less a ~~pro rata~~ pro
 14 rata share of all losses, if any, which have occurred, and
 15 ~~no No~~ other fine or assessments ~~shall may~~ be made against
 16 ~~such the~~ stock. Applications for withdrawal ~~are-to~~ shall be
 17 registered on the books of the association in the order
 18 received and one-half of all cash collections, not required
 19 to meet outstanding contracts, must be used for the payment
 20 of the matured stock and of the withdrawals in the order
 21 registered, ~~provided-however-that-the~~ The other half of
 22 ~~such those~~ collections each month may be used for the
 23 payment of withdrawals other than in the order registered,
 24 but no member ~~shall may~~ receive more than one hundred
 25 dollars ~~(\$100.00)~~ (\$100) in any one month other than by

1 Montana Food, Drug and Cosmetic Act, ~~and--such~~ The
2 application shall be accompanied by the license fee required
3 to be paid."

4 Section 108. Section 27-411, R.C.M. 1947, is amended
5 to read as follows:

6 "27-411. Declining, suspending and revoking licenses
7 -- penalties in lieu of suspension or revocation. (1) The
8 board department may ~~decline~~ refuse to grant a license or
9 may suspend or revoke a license already granted for due
10 cause upon due notice and after hearing. The violation of
11 any provisions of this ~~act chapter~~ or of any lawful order or
12 regulation rule of the board or department, the failure or
13 refusal to make required statements or reports, ~~and~~
14 ~~aggravated--delinquency--in-the-payment-of~~ or failure to pay
15 license or assessment fees, or any of them, shall be--deemed
16 are causes for which the board department may, at its
17 discretion, suspend, or revoke a license, ~~provided-that-no~~
18 ~~license-shall-be-fully-revoked-except-upon-the-approval-of-a~~
19 ~~majority-of-all-members-of-the-board.~~

20 (2) In ~~lieu place~~ place of a suspension or revocation of a
21 license the board department may assess a civil penalty not
22 to exceed five hundred dollars (\$500) per day for each daily
23 failure to comply with or each daily violation of the
24 provisions of this ~~act chapter~~ or of any lawful order or
25 regulation rule of the board, department OR BOARD. ~~and-if~~ If

1 the person against whom ~~such~~ a civil penalty is assessed
2 fails ~~or--refuses~~ to pay ~~such the~~ the civil penalty ~~forthwith~~
3 immediately, the ~~board--is--empowered--and--directed--to~~
4 department shall collect ~~such the~~ the civil penalty by a civil
5 proceeding in the district court of the first judicial
6 district. ~~Such--civil--penalties~~ This penalty shall be
7 construed as civil and not criminal in nature. Any moneys
8 received by the board department as a result of collection
9 of civil penalties shall be paid into the ~~state-general-fund~~
10 earmarked revenue fund as provided by section 27-417, R.C.M.
11 1947."

12 Section 109. Section 27-413, R.C.M. 1947, is amended
13 to read as follows:

14 "27-413. Rules and orders. The board department may
15 adopt and enforce ~~all~~ rules and ~~all~~ orders necessary to
16 carry out the provisions of this ~~act chapter~~ and any orders
17 adopted under it by the department or the board. ~~Every~~ A
18 rule or order shall be posted for public inspection in the
19 main office of the board department for thirty (30) days,
20 and a copy shall be filed in the office of the ~~board, also-a~~
21 department. A copy shall also be sent by registered letter
22 to the secretary of each area, ~~excepting~~ except in the case
23 of an order, directed only to a person or persons named
24 ~~therein in it~~, which shall be served by personal delivery of
25 a copy, or by mailing a copy, ~~in-the--United--States--mails,~~

1 Section 186. Wherever the words "commissioner of
2 agriculture" or "commissioner" appear in sections 60-203.3,
3 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, the
4 word "department" is substituted therefor.

5 Section 187. Wherever the word "board" appears in
6 sections 51-113, 51-114, 51-115, the word "department" shall
7 be substituted therefor.

8 Section 188. The publishers of the Revised Codes of
9 Montana, 1947, are directed, under the supervision of the
10 Supreme Court of Montana, to make the substitutions
11 enumerated in sections ~~190, 190A, 191, 192, 193, and 193A~~
12 182, 183, 184, 185, 186, AND 187 of this act when reprinting
13 sections or portions of sections of the Revised Codes in
14 either supplements to or replacement volumes for the Revised
15 Codes.

16 Section 189. Sections 5-108, 5-601 through 5-603,
17 5-606, 5-608, 5-902, 5-1009 through 5-1011, 5-1013, 5-1119
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20 through 82-1011, 82A-402, 82A-403, 90-155, 90-158, 90-168,
21 90-193, 90-194, 90-621 are repealed.

-End-

HOUSE BILL NO. 469

INTRODUCED BY COMMITTEE ON BUSINESS AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
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~~(a)---The--terms--capital,--capital--stock--or--paid-in~~
capital, (1) "Capital," "capital stock," and "paid-in
capital" mean that fund for which certificates of stock are
issued to stockholders ~~in--case-of-incorporated-banks-and~~
~~that-fund-set-aside-and-dedicated-for--capital--purposes--in~~
~~case-of-private-banks.~~

~~(b)---The--term--"surplus"--(2) "Surplus"~~ means a fund
paid in or created ~~pursuant-to-the-provisions-of~~ under this
act by a bank from its net earnings or undivided profits,
which when set apart and designated as such, is not
available for the payment of dividends and cannot be used
for the payment of expenses or losses so long as such bank
has undivided profits.

THIRD READING

Due to the length of H. B. 469, only the amended pages
were run. Please refer to the White Copy for entire content.

read as follows:

"5-612. Hearings -- notice -- intervenors. ~~in-addition
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(1) A hearing shall be conducted upon all applications for
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application is filed.

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bank charter certificate of authorization shall be mailed to
all banks within one hundred (100) miles of the proposed
location, measured in a straight line.

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(30) days and not later than ninety (90) days following the
mailing of such notice.

(4) Any bank filing a written protest with the board
prior to the date of the hearing shall be admitted as a
"party," as defined in the Administrative Procedure Act,
with full rights of a party, including the right of subpoena
of witnesses and written materials, the right of
cross-examination, the right to have a transcript, and the
right to receive all notices, copy of the application, all
orders, and the right of judicial review and appeal.

1 5-1060(1) shall give as prompt notice of its action as
 2 conditions will permit and by any means available, to the
 3 commissioner department, and in the case of a national bank,
 4 to the comptroller of the currency."

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 6 read as follows:

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 8 bank, or any ~~one or more~~ of its offices, is closed during
 9 ~~all or any part of its normal banking hours pursuant to the~~
 10 ~~authorization granted under this act shall be,~~ sections
 11 5-1059 and 5-1060 with respect to ~~such that~~ bank or, if not
 12 all of its offices are closed, then with respect to ~~any the~~
 13 office or offices which are closed, SHALL BE a legal holiday
 14 for all purposes with respect to any banking business ~~of any~~
 15 character. No liability, or loss of rights of any kind, on
 16 the part of any a bank, or director, officer, or employee
 17 thereof, ~~shall may~~ accrue or result by virtue of any a
 18 closing authorized by ~~this act sections~~ 5-1059 and 5-1060.

19 (2) The provisions of ~~this act sections~~ 5-1058 through
 20 5-1062 ~~shall be construed and applied as being~~ are in
 21 addition to any other law of this state or of the United
 22 States, authorizing the closing of a bank or excusing the
 23 delay by a bank in the performance of its duties and
 24 obligations because of emergencies or conditions beyond the
 25 bank's control, or otherwise."

1 terms, as the constitution and bylaws may provide, ~~provided~~
 2 ~~that no~~ No charge or fee, except as herein provided in this
 3 section, ~~shall may~~ be made against any a member who
 4 withdraws his stock, after having given thirty (30) days'
 5 notice of ~~such the~~ the withdrawal, ~~provided also that no~~ No
 6 fine of any description ~~shall may~~ be made upon the par value
 7 of ~~such that~~ stock or upon the declared dividends because of
 8 ~~such the~~ withdrawal. Any A member who withdraws his stock
 9 or whose stock is matured, ~~shall be is~~ entitled to receive
 10 all dues paid in and all dividends declared less interest,
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 12 membership fee not exceeding two (2) ~~per centum~~ percent of
 13 the par value of each share of stock and less a ~~prorate pro~~
 14 rata share of all losses, if any, which have occurred, ~~and~~
 15 ~~no No~~ other fine or assessments ~~shall may~~ be made against
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 17 registered on the books of the association in the order
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 21 registered, ~~provided however that the~~ The other half of
 22 ~~such those~~ collections each month may be used for the
 23 payment of withdrawals other than in the order registered,
 24 but no member ~~shall may~~ receive more than one hundred
 25 dollars ~~(\$100.00)~~ (\$100) in any one month other than by

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11 any provisions of this ~~act chapter~~ or of any lawful order or
12 ~~regulation rule~~ of the board or department, the failure or
13 refusal to make required statements or reports, and
14 ~~aggravated--delinquency--in-the-payment-of~~ or failure to pay
15 license or assessment fees~~, or any of them, shall be--deemed~~
16 are causes for which the board department may, at its
17 discretion, suspend, or revoke a license~~, provided that no~~
18 ~~license shall be fully revoked except upon the approval of a~~
19 ~~majority of all members of the board~~

20 (2) In ~~lieu place~~ of a suspension or revocation of a
21 license the board department may assess a civil penalty not
22 to exceed five hundred dollars (\$500) per day for each daily
23 failure to comply with or each daily violation of the
24 provisions of this ~~act chapter~~ or of any lawful order or
25 ~~regulation rule~~ of the board~~, department~~ OR BOARD. ~~and if~~ If

1 the person against whom such a civil penalty is assessed
2 fails ~~or--refuses~~ to pay such the civil penalty ~~forthwith~~
3 immediately, the ~~board--is--empowered--and---directed---to~~
4 department shall collect such the civil penalty by a civil
5 proceeding in the district court of the first judicial
6 district. ~~Such--civil--penalties~~ This penalty shall be
7 construed as civil and not criminal in nature. Any moneys
8 received by the board department as a result of collection
9 of civil penalties shall be paid into the ~~state-general-fund~~
10 earmarked revenue fund as provided by section 27-417, R.C.M.
11 1947."

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13 to read as follows:

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15 adopt and enforce ~~all~~ rules and ~~all~~ orders necessary to
16 carry out the provisions of this ~~act chapter~~ and any orders
17 adopted under it by the department or the board. ~~Every~~ A
18 rule or order shall be posted for public inspection in the
19 main office of the board department for thirty (30) days,
20 and a copy shall be filed in the office of the ~~board, also a~~
21 department. A copy shall also be sent by registered letter
22 to the secretary of each area, ~~excepting~~ except in the case
23 of an order, directed only to a person or persons named
24 therein in it, which shall be served by personal delivery of
25 a copy, or by mailing a copy~~, in the--United--States--mail,~~

1 Section 186. Wherever the words "commissioner of
2 agriculture" or "commissioner" appear in sections 60-203.3,
3 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, the
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6 sections 51-113, 51-114, 51-115, the word "department" shall
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16 Section 189. Sections 5-108, 5-601 through 5-603,
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18 through 5-1121, 5-1301 through 5-1311, 7-152, 27-404,
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20 through 82-1011, 82A-402, 82A-403, 90-155, 90-158, 90-168,
21 90-193, 90-194, 90-621 are repealed.

-End-

March 11, 1975

SENATE COMMITTEE ON BUSINESS AND INDUSTRY

AMENDMENTS TO HOUSE BILL NO. 469

That House Bill No. 469, third reading, be amended as follows:

1. Amend page 38, section 28, line 22.
Following: "to"
Insert: "legislative auditor or"
2. Amend page 118, section 87, lines 10 through 9 on page 123.
Strike: Section 87 through section 91 in their entirety
Renumber: All subsequent sections
3. Amend page 131, section 92, lines 15 through 19 on page 139.
Strike: Section 92 through section 98 in their entirety
Renumber: All subsequent sections
4. Amend page 248, section 184, lines 18 through 20.
Strike: Section 184 in its entirety
Renumber: All subsequent sections

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A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEPARTMENT OF BUSINESS REGULATION."

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Section 1. Section 5-109, R.C.M. 1947, is amended to read as follows:

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~~(a) The terms capital, capital stock or paid-in capital (1) "Capital," "capital stock," and "paid-in capital" mean that fund for which certificates of stock are issued to stockholders in case of incorporated banks and that fund set aside and dedicated for capital purposes in case of private banks.~~

~~(b) The term "surplus" (2) "Surplus" means a fund paid in or created pursuant to the provisions of under this act by a bank from its net earnings or undivided profits, which when set apart and designated as such, is not available for the payment of dividends and cannot be used for the payment of expenses or losses so long as such bank has undivided profits.~~

~~(c) The term "undivided" (3) "Undivided profits" means the credit balance of the profit and loss account of any a bank.~~

~~(d) The term "profit" (4) "Profit and loss account" or "profit and loss" means that account carried on the books of the bank into which all earnings accounts and recoveries are closed, thus exhibiting "gross earnings" and against which all loss and other disbursement items are charged revealing "net earnings" which are then properly closed to "undivided profits accounts" or "undivided profits," out of which dividends are paid and reserves set aside.~~

~~(e) The term "net" (5) "Net earnings" means the excess of the gross earnings of any a bank over expenses and losses chargeable against such those earnings during any one year.~~

~~(f) The term "time" (6) "Time deposits" means all deposits, the payment of which cannot legally be required within thirty (30) days.~~

~~(g) The term "demand" (7) "Demand deposits" means all deposits, the payment of which can legally be required when demanded.~~

~~(h) The words "consolidate" (8) "Consolidate" and "merge" shall be deemed to mean the same thing and may be so used interchangeably in this act, without loss of power.~~

~~(i) The word "superintendent" wherever it appears in this act shall be deemed to mean "superintendent of banks"~~

~~or "state superintendent of banks" of the state of Montana.~~

(9) "Department" means the department of business regulation provided for in Title 82A, chapter 4.

(10) "Board" means the state banking board provided for in section 82A-407."

Section 2. Section 5-202, R.C.M. 1947, is amended to read as follows:

"5-202. Presentation of articles to ~~superintendent of banks~~ department of business regulation — secretary of state to issue certificate — when body corporate. ~~Thereupon the~~ The articles of agreement shall be presented to the ~~superintendent of banks~~ department of business regulation, together with an application in writing in the form prescribed by the ~~superintendent of banks~~ department for a certificate authorizing the proposed corporation to transact within this state the business specified ~~therein in the~~ articles of agreement. Upon the presentation of the articles of agreement, together with ~~such~~ the application, the ~~superintendent of banks~~ department shall ~~examine or cause an examination to be made in order to~~ ascertain whether the requisite capital of ~~such~~ the bank has been subscribed and been paid up in cash. ~~It~~ It shall also determine whether the corporation is being formed for any other purpose than the legitimate business contemplated by this act, or whether the public convenience and advantage

will be promoted by the opening of ~~such~~ the bank, and It shall determine whether the corporate name assumed by ~~such~~ the bank, by reason of the use ~~by it~~ of any one or more of the words "commercial," "trust," "savings," or "investment," in conjunction with any other word or words, resembles so closely ~~as to be likely to cause confusion~~, the name of any other bank previously formed under this act as to be likely to cause confusion. ~~It~~ The department shall also ascertain from the best sources of information at ~~its~~ its command whether the character and general fitness of the persons named as stockholders ~~are such as to~~ command confidence of the community in which ~~such~~ the bank is proposed to be located. The expenses of the ~~superintendent of banks~~ department in making the examination required by this ~~act~~ section shall be paid by the proposed bank, and payment shall be made in advance if required by the ~~superintendent of banks~~ department. All information gathered by the department under this section shall be transmitted to the board for its use in conducting hearings on applications for certificates of authorization."

Section 3. There is a new section to be numbered 5-202.1, R.C.M. 1947, which reads as follows:

5-202.1. Board to refuse or approve application. The board may refuse or approve an application for a certificate of authorization in accordance with sections 5-607 through

1 5-614.

2 Section 4. Section 5-203, R.C.M. 1947, is amended to
3 read as follows:

4 "5-203. ~~Superintendent of banks to approve or refuse~~
5 ~~application filing articles with secretary of state. If~~
6 ~~the superintendent of banks shall not be satisfied with the~~
7 ~~result of his investigation, he shall refuse the application~~
8 ~~within sixty (60) days after the articles of agreement and~~
9 ~~the application have been presented to him, and so notify~~
10 ~~the incorporators named therein. If the superintendent of~~
11 ~~banks shall be satisfied with the result of his~~
12 ~~investigation, he shall, within sixty (60) days after such~~
13 ~~application has been made to him, issue under his hand and~~
14 ~~official seal the certificate of authorization, required by~~
15 ~~this act, in duplicate. Filing of certificate and articles~~
16 ~~of agreement.~~ The articles of agreement, together with one
17 of ~~such~~ the certificates of authorization, ~~so~~ issued, by the
18 ~~superintendent of banks department~~, shall be filed in the
19 office of the clerk and recorder of the county in which is
20 located the principal place of business of the proposed
21 bank, ~~and a~~ a certified copy of the articles of agreement,
22 together with the ~~other~~ certificate of authorization ~~issued~~
23 ~~by the superintendent of banks~~, shall be filed with the
24 secretary of state. Upon filing with the secretary of
25 state, the articles of agreement, and the certificate of

1 authorization, and paying the fee required for the filing of
2 articles of incorporation, the secretary of state shall
3 issue a certificate setting forth that ~~such~~ the corporation
4 has been duly organized, the amount of its authorized and
5 subscribed capital, and the business in which it is to
6 engage, ~~and such~~ This certificate shall be taken by all
7 courts of this state as evidence of the corporate existence
8 of ~~such~~ the bank. The ~~person so~~ persons signing and
9 acknowledging the articles of agreement, and their
10 associates and successors, ~~shall thereupon become and be~~ are
11 then a body corporate with power of continual succession,
12 and by ~~such~~ that name they and their successors ~~shall be~~ are
13 entitled to have, possess, and enjoy all the rights and
14 privileges conferred by this act."

15 Section 5. Section 5-208, R.C.M. 1947, is amended to
16 read as follows:

17 "5-208. Board of directors — qualifications, tenure,
18 and vacancies. The affairs of the bank shall be managed by a
19 board of directors, not less than three (3) or more than
20 eleven (11) in number, all of whom shall be stockholders of
21 ~~such~~ the bank and citizens of the United States, and of whom
22 at least two-thirds (2/3) must be residents of ~~the~~ this
23 state of ~~Montana~~. ~~No~~ A person who ~~shall have~~ has been
24 convicted of a crime against the banking laws of the United
25 States or of any state ~~of the union shall~~ may not be elected

1 a director. The directors shall be elected for a term of
2 one (1) year at the annual meeting of the stockholders,
3 which shall be held on the second Tuesday in January of each
4 year. ~~in case~~ If the election ~~shall is~~ not be made held on
5 the day fixed for the annual meeting, the corporation shall
6 may not thereby be dissolved, but an election may be ~~had~~
7 held at any other time agreeable to the bylaws of the
8 corporation, and the persons so elected shall hold their
9 office until the second Tuesday ~~is~~ of the following January
10 ~~following~~, or until others are elected and qualified. In
11 case of death or resignation of one or more of ~~said~~ the
12 directors, the vacancy shall be filled by the board, and the
13 directors so appointed shall hold office until the next
14 annual election, ~~at which time a director shall be elected~~
15 ~~to fill out the unexpired term~~. Every director shall take
16 and subscribe an oath that he will diligently and honestly
17 perform his duty in ~~such~~ the office, ~~and that he~~ will not
18 knowingly violate or permit a violation of any of the
19 provisions of this act, and that he is the owner in good
20 faith of the required number of shares of stock in the bank
21 standing in his name on the books of the bank. ~~Such~~ The
22 oaths shall be made in duplicate, one copy of which shall be
23 transmitted to the ~~superintendent of banks~~ department and
24 filed in ~~his~~ its office, and one copy shall be kept on file
25 in the office of the bank."

1 Section 6. Section 5-210, R.C.M. 1947, is amended to
2 read as follows:
3 "5-210. Selection of officers and employees —
4 meetings and minutes. The board of directors ~~shall have~~
5 ~~power to~~ may elect a president, one or more vice-presidents,
6 cashier, and one or more assistant cashiers, and ~~such~~ other
7 officers and employees ~~as~~ which they may from time to time
8 ~~deem~~ consider to be to the best interest of the bank, and
9 fix their compensation. The president and at least one
10 vice-president shall be chosen from the board of directors.
11 The board of directors shall also elect a secretary, who
12 shall keep a correct report of the meetings of the board and
13 of the stockholders in a book kept for that purpose, which
14 minutes shall particularly disclose the date of the meetings
15 and the names of the directors or stockholders present.
16 This record of the meetings of the board of directors shall
17 be subscribed to by the presiding officer and secretary.
18 ~~Such~~ The minutes shall be read and approved at the ~~next~~
19 ~~succeeding~~ following meeting of the board of directors, and
20 the minutes of ~~such next succeeding~~ the following meeting
21 shall show ~~such~~ that fact. ~~Such~~ The minute-book shall be
22 kept in the office of the bank at all times, and shall be
23 presented to the ~~examiner~~ department at the time of ~~his~~ its
24 examination of the books, ~~and it shall be the duty of such~~
25 ~~examiner to~~ The department shall include in ~~his~~ its report

1 of examination of ~~such~~ the bank a statement of the dates on
 2 which ~~such~~ the meetings were held since the last examination
 3 of ~~such~~ the bank by ~~the examiner~~ it, and the names of the
 4 directors in attendance at each of ~~said~~ those meetings. The
 5 board of directors of a bank must hold a meeting at least
 6 once a month. ~~Any~~ A person who ~~shall make~~ makes a false
 7 entry in ~~said~~ the book, or who ~~shall change~~ changes or alter
 8 ~~any~~ alters an entry made therein in it, ~~shall be deemed is~~
 9 guilty of a misdemeanor."

10 Section 7. Section 5-214, R.C.M. 1947, is amended to
 11 read as follows:

12 "5-214. Change of place of business and number of
 13 directors authorized. ~~Every~~ A bank ~~now organized and~~
 14 ~~existing, or which may hereafter be organized,~~ may, upon
 15 approval of the ~~superintendent of banks~~ board, change its
 16 principal place of business from one place to another, in
 17 the same county, or in an adjacent county, within this
 18 state, and may increase or diminish the number of trustees
 19 or directors in the manner ~~hereinafter~~ provided in sections
 20 5-215 through 5-217."

21 Section 8. Section 5-216, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-216. Certificate of proceedings — contents and
 24 effect. If, at the time and place specified in the notice
 25 provided for in ~~the last preceding~~ section 5-215,

1 stockholders ~~shall~~ appear in person or by proxy representing
 2 not less than two-thirds (2/3) of all the shares of stock of
 3 the corporation, and ~~shall~~ organize by choosing one of the
 4 trustees or directors chairman of the meeting, and also a
 5 suitable person for secretary, and proceed to a vote of
 6 those present in person or by proxy, and if, ~~on counting the~~
 7 ~~votes, it shall appear that~~ two-thirds (2/3) of the ~~number~~
 8 of votes representing all the outstanding capital stock have
 9 been cast in favor of increasing or diminishing the amount
 10 of capital stock, or of changing its corporate name, or of
 11 changing its principal place of business, a certificate of
 12 the proceedings showing a compliance with the provisions of
 13 this act, the amount of capital stock actually paid in, the
 14 whole amount of debts and liabilities of the corporation,
 15 the amount to which the capital stock shall be increased or
 16 diminished, or the change in the corporate name of the
 17 corporation, or the change in the principal place of
 18 business, shall be made out, signed, and verified by the
 19 affidavit of the chairman, and be countersigned by the
 20 secretary, and ~~such~~ the certificate shall be acknowledged by
 21 the chairman. ~~Said~~ The certificate shall then be sent to
 22 the ~~superintendent of banks, who~~ department which shall
 23 within thirty (30) days of ~~the receipt thereof,~~ either
 24 approve or reject the application for change. The action of
 25 the ~~superintendent of banks~~ department on ~~said~~ the

1 application ~~shall be~~ is final. If ~~he~~ it approves the ~~same~~
 2 ~~he~~ certificate it shall notify the bank ~~whereupon at which~~
 3 time the certificate shall be filed in the office of the
 4 county clerk and recorder of the county ~~wherein in which~~ the
 5 bank is located and in the office of the secretary of state.
 6 Upon ~~such the~~ filing, the change ~~shall be~~ is effective."

7 Section 9. Section 5-217, R.C.M. 1947, is amended to
 8 read as follows:

9 "5-217. Change in number of directors — procedure —
 10 approval by ~~superintendent of banks department.~~ (1) Any A
 11 state bank or trust company may increase or diminish the
 12 number of its directors or may provide that the number of
 13 directors elected at each annual meeting, within the limits
 14 specified in this act, shall constitute the board for the
 15 year, with all vacancies to be filled by the board taking
 16 the action, and also may provide that a majority of the full
 17 board of directors may increase the number of the directors
 18 of the bank, not exceeding two (2) within the limits
 19 specified in this act, and appoint persons to fill the
 20 resulting vacancies between meetings of the stockholders by
 21 amending its articles of incorporation at any regular annual
 22 meeting, or at any special meeting called and noticed for
 23 that purpose, of the stockholders of the bank or trust
 24 company, ~~provided that~~ However, the number of directors
 25 ~~shall may~~ not at any time be less than three (3) or more

1 than eleven (11).

2 (2) ~~Whenever any~~ When a bank or trust company ~~shall~~
 3 ~~decide~~ decides to call a special meeting of the stockholders
 4 for the purpose of amending its articles of incorporation
 5 relative to the number of directors, written or printed
 6 notice of ~~such the~~ meeting must be deposited in the post
 7 office addressed to each stockholder of record entitled to
 8 vote at ~~such the~~ meeting under the articles of incorporation
 9 or amendments ~~thereto to then~~, and the laws and constitution
 10 of Montana, at his last known place of residence at least
 11 ten days previous to the date set for the holding of ~~such~~
 12 the meeting, ~~and in~~ In addition, ~~said the~~ notice must be
 13 published once a week for two consecutive weeks in a
 14 newspaper published in the county ~~wherein~~ where the
 15 principal place of business of ~~such the~~ corporation is
 16 situated. If no newspaper is published in the county it
 17 ~~shall is~~ not be necessary to publish ~~said the~~ notice,
 18 ~~provided, however, that~~ However, the matter of amending the
 19 articles of incorporation to change the number of directors
 20 may be submitted to and acted upon at any annual meeting of
 21 the stockholders without special notice, ~~thereof~~.

22 (3) If at the time and place specified in the notice
 23 of ~~such the~~ special meeting or at the annual meeting of the
 24 stockholders, stockholders representing two-thirds (2/3) of
 25 all the shares of stock of the corporation ~~shall~~ appear in

1 person or by proxy and vote in favor of ~~such~~ the amendment,
2 a certificate of the proceedings showing a compliance of the
3 provisions of this act and the amendment relative to the
4 number of directors shall be prepared, certified and sworn
5 to and filed with the ~~superintendent of banks,~~ department.
6 ~~who~~ The department shall, within thirty (30) days after the
7 receipt ~~thereof~~ of the certificate, either approve or reject
8 the amendment. The action of the ~~superintendent of banks~~
9 department on ~~said~~ the amendment ~~shall be~~ is final. If ~~he~~
10 it approves the ~~same,~~ the amendment, it shall notify the
11 bank, whereupon the certificate with the ~~superintendent's~~
12 department's approval attached ~~thereto~~ to it shall be filed
13 in the office of the county clerk and recorder of the county
14 ~~wherein~~ in which the bank is situated, and a certified copy
15 ~~thereof~~ of it shall be filed in the office of the secretary
16 of state. Upon the filing of ~~such~~ the certified copy with
17 the secretary of state, the amendment ~~shall become~~ becomes
18 effective."

19 Section 10. Section 5-301, R.C.M. 1947, is amended to
20 read as follows:

21 "5-301. Dissolution and disincorporation. Commercial
22 banks, savings banks, trust companies, and investment
23 companies ~~now organized and existing, or which may be~~
24 ~~hereafter organized,~~ may be dissolved in the manner provided
25 by the laws of ~~Montana~~ this state applicable to the

1 dissolution of other corporations, ~~except it shall be~~
2 ~~legal for any~~ However, a bank or trust company may, upon a
3 vote of two-thirds (2/3) of its stockholders at a special
4 meeting called for that purpose in accordance with ~~the~~ its
5 bylaws, ~~of the bank,~~ to voluntarily quit business and
6 liquidate upon the payment of its debts, exclusive of
7 liability to stockholders, or upon agreement with all of its
8 creditors to a plan of liquidation, ~~any~~ A bank or trust
9 company desiring to ~~thus~~ voluntarily liquidate, shall ~~make~~
10 application apply to the ~~state superintendent of banks~~
11 department of business regulation for permission to so
12 liquidate and, in addition to complying with the laws of ~~the~~
13 this state ~~of Montana~~ governing the liquidation of
14 corporations, shall comply in all respects with the
15 requirements or rules ~~and regulations~~ of the state
16 ~~superintendent of banks department~~ governing ~~such~~ voluntary
17 dissolution. The board of directors of ~~any~~ a bank, whose
18 stockholders have voted to place it in voluntary
19 liquidation, shall appoint a liquidating agent to wind up
20 the affairs of ~~such~~ the bank. ~~such~~ The liquidating agent,
21 on authority of the board of directors, ~~shall have power to~~
22 may execute deeds for the transfer of real property and ~~to~~
23 ~~do any and~~ all things necessary to ~~effect~~ carry out the
24 proper liquidation of ~~such~~ the bank. Nothing in this
25 section ~~contained shall prevent~~ prevents the state

~~superintendent of banks department~~ from taking charge at any time when in ~~his~~ its opinion the interest of creditors or stockholders is not being protected, ~~the~~ The decision of the ~~superintendent of banks department~~ in said ~~these~~ matters ~~to be~~ is controlling."

Section 11. Section 5-403, R.C.M. 1947, is amended to read as follows:

"5-403. Scope of term "liquidating officer" — ~~superintendent of banks department of business regulation~~ to file inventory with district court — report. The liquidating officer of a bank ~~shall have the power to~~ may decide when the assets of a failed bank are not sufficient to pay the debts, contracts, engagements and liabilities and he may determine the question of the time when and the court where necessary ~~suits~~ legal proceedings shall be ~~instituted~~ conducted, subject to the general provisions of law governing venue and place of trial. For the purposes of this section the term "liquidating officer" ~~shall be held to include~~ includes every person legally empowered to liquidate the business and affairs of a state bank whether the ~~same be~~ liquidation is by ~~the superintendent of banks, his~~ department of business regulation, its deputies and agents and also includes all receivers of state banks ~~now or~~ hereafter qualified to liquidate a state bank under any law of ~~Montana, this state, provided, however, that the~~ The

provisions of this ~~section shall~~ chapter do not impose any liability on ~~any~~ a stockholder of a bank which is a member of the Federal Deposit Insurance Corporation. The ~~superintendent of banks department~~ shall, within ninety (90) days after taking charge of an insolvent bank, ~~cause to be~~ filed file with the district court having jurisdiction, a complete inventory of all of the property and assets of ~~such~~ the insolvent bank, such as furniture, fixtures, real estate, mortgages, bonds, and notes, secured and unsecured, ~~and thereafter he~~ It shall also every six ~~(6)~~ (6) months or ~~often~~ more often, if so required by the court, ~~cause to be~~ made and filed file with the court a report showing the conditions of the liquidation of ~~such~~ the bank, the assets that have been liquidated and collected, ~~and~~ the amounts and manner of payments ~~which may have been~~ made to creditors, ~~and~~ the manner in which claims have been handled, ~~and also~~ showing the assets on hand. The report ~~to also~~ shall contain ~~such~~ other information as the court ~~may deem proper~~ and request or require requires, so that the court and the public may be apprised of the condition of ~~such~~ the bank and the manner in which it is being liquidated with respect to the collection and sale of assets belonging to ~~such~~ the bank and the manner in which claims are being paid. ~~Such~~ The report and account shall be set for hearing upon ~~such~~ the notice as the court may require and if found to be correct

1 shall be approved by the court."

2 Section 12. Section 5-504, R.C.M. 1947, is amended to
3 read as follows:

4 "5-504. Real estate which banks may purchase, hold or
5 convey. (1) ~~banks~~ A bank organized under the provisions of
6 this act may purchase, hold, or convey real estate as
7 follows which:

8 1. ~~(a) Such as is~~ is necessary for the proper
9 transaction of its business, but it shall not invest an
10 amount exceeding fifty per cent (50%) of its paid-up capital
11 and surplus in the lot and building in which the business of
12 the company is carried on, furniture, equipment and
13 fixtures, vaults and safety vaults, and boxes necessary or
14 proper to carry on its banking business;

15 2. ~~(b) Such as is~~ is mortgaged to it in good faith by
16 way of security for loans previously made or moneys due to
17 the corporation;

18 3. ~~(c) Such as is~~ is conveyed to it in satisfaction
19 of debts previously contracted in the course of its
20 business;

21 4. ~~(d) Such as is~~ it purchases at sales under
22 judgments, decrees, or mortgages held by the company.

23 (2) Real estate acquired in the manner set forth in
24 subdivisions 1 subsections 1(c) and 4 1(d) hereof shall of
25 this section may not be held longer than period of five (5)

1 years from the date of acquisition, unless special written
2 permission to do so be is granted by the ~~superintendent of~~
3 ~~banks~~ department of business regulation. ~~Said The~~ real
4 estate ~~to shall~~ be carried on the books of the bank for an
5 amount not greater than ~~the its~~ cost thereof to the bank,
6 including costs of foreclosure and other expenses of
7 acquiring title."

8 Section 13. Section 5-506, R.C.M. 1947, is amended to
9 read as follows:

10 "5-506. Limitation on real estate loans. (1) ~~any A~~
11 commercial bank organized under the laws of ~~the this~~ state
12 of Montana may make real estate loans, secured by first
13 liens upon improved real estate, including improved farm
14 land and improved business and residential properties and
15 may purchase ~~any an~~ obligation so secured when the entire
16 amount of ~~each the~~ obligation is sold to the bank. ~~Provided~~
17 ~~that, the The~~ amount of ~~any such the~~ loan hereafter made
18 shall may not exceed fifty per centum ~~percent~~ (50%) of the
19 appraised value of the real estate offered as security, and
20 ~~no such the~~ loan shall may not be made for a longer period
21 than five (5) years, except that:

22 (1) ~~(a) Any such The~~ loan may be made in an amount
23 not to exceed sixty per centum ~~percent~~ (60%) of the
24 appraised value of the real estate offered as security and
25 for a term not longer than twenty (20) years if ~~each the~~

1 loan is secured by an amortized mortgage, deed of trust, or
 2 ~~other such similar~~ instrument, under the terms of which the
 3 installment payments are sufficient to amortize forty ~~per~~
 4 ~~centum~~ percent (40%) or more of the principal of the loan
 5 within a ~~period of~~ not more than twenty (20) years; and

6 ~~(2) (b) No such~~ A commercial bank shall ~~may not~~ make
 7 ~~such those~~ loans in an aggregate sum in excess of the amount
 8 of its capital stock paid in and unimpaired plus the amount
 9 of its unimpaired surplus or in excess of sixty ~~per centum~~
 10 percent (60%) of the amount of its time and saving deposits,
 11 whichever is the greater.

12 (2) Loans made to finance the construction of
 13 residential or farm buildings and having maturities of not
 14 to exceed six (6) months, whether or not secured by a
 15 mortgage or a similar lien on real estate upon which the
 16 residential or farm building is being constructed, ~~shall are~~
 17 ~~not be considered as~~ loans secured by real estate within the
 18 meaning of this ~~act~~ section, but shall be classed as
 19 ordinary commercial loans, ~~provided that no~~ A commercial
 20 bank shall ~~may not~~ invest in or be liable on any ~~each of~~
 21 ~~those~~ loans in an aggregate amount in excess of fifty ~~per~~
 22 ~~centum~~ percent (50%) of its actually paid-in and unimpaired
 23 capital.

24 (3) Loans made to establish rural or commercial
 25 businesses which are in whole or in part discounted or

1 loaned against as security by a federal reserve bank for any
 2 part of which a commitment ~~shall have~~ has been made by a
 3 federal reserve bank or in which ~~the Reconstruction Finance~~
 4 ~~Corporation an agency of the federal government~~ co-operated
 5 or purchases a participation in, ~~shall are~~ not be subject to
 6 the restrictions or limitations of this ~~act~~ section upon
 7 loans secured by real estate, ~~provided any~~ A commercial
 8 bank in this state shall has from time to time ~~have~~ the same
 9 authority to make loans upon real estate ~~as which~~ which may be
 10 given by acts of Congress ~~of the United States~~ or the
 11 federal reserve system to national banks or bank members of
 12 the federal reserve system.

13 ~~(3) (4)~~ The ~~foregoing~~ limitations and restrictions
 14 ~~shall imposed by this section~~ do not prevent the renewal or
 15 extension of loans ~~heretofore made before February 15, 1941,~~
 16 and ~~shall do~~ not apply to real estate loans which are
 17 insured under the provisions of any act of the Congress, ~~of~~
 18 ~~the United States; and said~~ Those limitations and
 19 restrictions ~~shall do~~ not apply to the making, extension, or
 20 renewal of any loans ~~which are~~ made under subchapter 11 of
 21 the act of Congress, known as the Servicemen's Readjustment
 22 Act of 1944, or any amendment thereof or supplement ~~thereto,~~
 23 ~~as to any part of such loans to that act.~~

24 (5) ~~These provisions~~ This section, however, shall does
 25 not prevent ~~any~~ a bank from taking another and immediately

1 subsequent mortgage or deed of trust when it already holds a
 2 first mortgage or deed of trust ~~thereon~~ on ~~such~~ the real
 3 estate, ~~nor~~ or from accepting a second lien on real estate
 4 to secure the repayment of a debt previously contracted in
 5 good faith; ~~nor shall it~~ These provisions do not prevent
 6 subsequent liens of any kind from being taken to secure the
 7 payment of a debt previously contracted in good faith, when,
 8 in the judgment of the directors of ~~such~~ the bank, ~~such~~ the
 9 subsequent liens are necessary further to secure the payment
 10 of any debts and save ~~such~~ the bank from loss; ~~provided,~~
 11 ~~the term "commercial~~ "Commercial bank" as used in this
 12 section, ~~shall mean~~ means a bank organized to do only the
 13 business specified in sections 5-104 to ~~5-106~~ 5-107 of this
 14 code, only."

15 Section 14. Section 5-508, R.C.M. 1947, is amended to
 16 read as follows:

17 "5-508. Business prohibited unless under
 18 ~~superintendent of banks department~~ — use of certain words
 19 prohibited — court may enjoin. ~~No~~ A person, firm, company,
 20 copartnership, or corporation, either domestic or foreign,
 21 not subject to the supervision of the ~~superintendent of~~
 22 ~~banks department~~, and not required by the provisions of this
 23 act to report to ~~him~~ it, and which has not received a
 24 certificate to do a banking business from the ~~superintendent~~
 25 ~~of banks, shall~~ department may not advertise that he or it

1 is receiving or accepting money or savings for deposit,
 2 investment, or otherwise, and issuing notices or
 3 certificates of deposit therefor, or ~~shall make use of any~~
 4 an office sign, at the place where ~~such~~ the business is
 5 transacted, having ~~thereon any~~ on it an artificial or
 6 corporate name, or other words indicating that ~~such~~ the
 7 place or office is the place or office of a bank or trust
 8 company, or that deposits are received there or payments
 9 made on check, or any other form of banking business,
 10 transacted; ~~nor shall any such~~ That person, or persons,
 11 firm, company, copartnership, or corporation, domestic or
 12 foreign, ~~make~~ may not use of or circulate ~~any~~ letterheads,
 13 bill-heads, blank notes, blank receipts, certificates, or
 14 circulars, or any written or printed or partly written and
 15 partly printed paper, whatever, having ~~thereon any~~ on them
 16 an artificial or corporate name or other word or words
 17 indicating that ~~such~~ the business is the business of a bank,
 18 savings bank, or trust or investment company; ~~nor shall~~
 19 ~~any such~~ That person, firm, company, copartnership, or
 20 corporation, or any agent of a foreign corporation, not
 21 having an established place of business in the state, may
 22 not solicit or receive deposits or transact business in the
 23 way or manner of a bank, savings bank, trust or investment
 24 company, or in ~~such a way or manner as to lead~~ which leads
 25 the public to believe that its business is that of a bank,

1 savings bank, trust, or investment company. ~~nor shall any~~ a
 2 person, firm, company, copartnership, or corporation,
 3 domestic or foreign, not subject to the supervision of the
 4 ~~superintendent of banks department~~, and not required by the
 5 provisions of this act to report to ~~his~~ it, and which has
 6 not received from the ~~superintendent of banks department~~ a
 7 certificate to do a banking business, ~~hereafter may not~~
 8 transact business under ~~any~~ a name or title which contains
 9 the word "bank," "banker," "banking," "savings bank,"
 10 "saving," "trust," "trustee," "trust company," or
 11 "investment company." ~~any~~ a person, firm, company,
 12 copartnership, or corporation, domestic or foreign,
 13 violating ~~any~~ a provision of this section shall forfeit to
 14 the state one hundred dollars ~~(100)~~ a day for every day or
 15 part ~~thereof~~ of a day during which ~~such~~ the violation
 16 continues. Upon ~~action brought~~ suit by the ~~superintendent~~
 17 ~~of banks department~~, the court ~~may~~ may issue an injunction
 18 restraining ~~any such~~ that person, firm, company,
 19 copartnership, or corporation from further using ~~such~~ those
 20 words in violation of the provisions of this section, or
 21 from further transacting business in ~~such a way or manner as~~
 22 ~~to lead which leads~~ the public to believe that its business
 23 is that of a bank, savings bank, trust, or investment
 24 company, during the pendency of ~~such the~~ the action, and ~~for all~~
 25 ~~time permanently~~, and ~~may make such~~ enter any other order or

1 decree as equity and justice ~~may~~ require."

2 Section 15. Section 5-509, R.C.M. 1947, is amended to
 3 read as follows:

4 "5-509. Capital stock to be paid up — action by
 5 ~~superintendent of banks department~~ — certain advertising
 6 prohibited. ~~Every~~ A person, firm, company, copartnership, or
 7 corporation, domestic or foreign, advertising that he or it
 8 is receiving or accepting money or savings, and issuing
 9 notes or certificates of deposit ~~therefor for them~~, or
 10 advertising that he or it is transacting the business of a
 11 bank, savings bank, or trust company, or making ~~the~~ use of
 12 ~~any~~ an office sign at the place where ~~such the~~ the business is
 13 transacted, having ~~thereon any~~ on it an artificial or
 14 corporate name, or other words indicating that ~~such the~~ the
 15 place or office is the place or office of a bank, savings
 16 bank, or trust company, or that deposits are received there
 17 or payments made on check or that interest is paid on
 18 deposits, or that certificates of deposit, either with or
 19 without interest, are being issued or that any other form of
 20 banking business is transacted, and ~~every~~ a person, firm,
 21 company, copartnership or corporation, domestic or foreign,
 22 ~~making use of using~~ or circulating any letterheads,
 23 bill-heads, blank notes, blank receipts, certificates, or
 24 circulars, or any written or printed, or partly written and
 25 partly printed paper whatever, having ~~thereon any~~ on it an

1 artificial or corporate name, or advertising that ~~such~~ the
 2 business is the business of a bank, savings bank, or trust
 3 company, must have the proper capital stock paid in and set
 4 aside for the purpose of transacting ~~such that~~ business, and
 5 must have received from the ~~superintendent of banks~~
 6 department, as provided for in this act, a certificate to do
 7 a banking business. ~~any~~ A person, firm, company,
 8 copartnership, or corporation, domestic or foreign,
 9 violating any provision of this section shall forfeit to the
 10 state one hundred dollars (\$100) a day for every day or part
 11 ~~thereof of a day~~ during which ~~such the~~ violation continues.
 12 Upon action brought by the ~~superintendent of banks~~
 13 department, the court may issue an injunction restraining
 14 ~~any such~~ a person, firm, company, copartnership, or
 15 corporation from further violating any provision of this
 16 section, and ~~may make such~~ enter a further order or decree
 17 as equity and justice ~~may~~ require. ~~Every~~ A person, firm,
 18 company, copartnership, or corporation doing any of the
 19 things or transacting any of the business defined in this
 20 section, must transact ~~such that~~ business according to the
 21 provisions of the Bank Act, and the ~~superintendent of banks~~
 22 ~~or his deputy or examiners, shall have authority to~~
 23 department may examine the accounts, books, papers, cash,
 24 and credits of ~~every such that~~ person, firm, company,
 25 copartnership, or corporation, domestic or foreign, in order

1 to ascertain whether ~~such that~~ person, firm, company,
 2 copartnership, or corporation has violated or is violating
 3 any provisions of this section."

4 Section 16. Section 5-519, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-519. Obtaining property by fraud — false report —
 7 refusal to permit inspection of books. A director, officer,
 8 agent, or employee of ~~any a~~ a bank who:

9 1.—(1) Knowingly receives or possesses himself of
 10 any of its property, otherwise than in payment for a just
 11 demand, and with intent to defraud, omits to make or to
 12 cause or direct to be made a full and true entry ~~thereof of~~
 13 it in its books and account; or,

14 2.—(2) Concurs in omitting to make any material
 15 entry thereof; or,

16 3.—(3) Knowingly concurs in making or publishing any
 17 written report, exhibit, or statement of its affairs or
 18 pecuniary condition, containing any material statement which
 19 is false; or,

20 4.—(4) Having the custody or control of its books,
 21 willfully ~~refused~~ refuses or neglects to make ~~any a~~ a proper
 22 entry in the books of ~~such that~~ corporation as required by
 23 law, or to exhibit, or allow ~~the same them~~ them to be inspected
 24 and extracts to be taken ~~therefrom from them~~ from them by the
 25 ~~superintendent of banks, his chief deputy, or any of his~~

1 ~~examiners, shall be department, is~~ guilty of a felony."

2 Section 17. Section 5-523, R.C.M. 1947, is amended to
3 read as follows:

4 "5-523. Limitations on loans — liabilities — what
5 included therein — reduction when excessive. (1) The total
6 loans to ~~any~~ a person, copartnership, or corporation by ~~any~~
7 a bank, including loans to a copartnership, and ~~loans~~ to the
8 several members thereof, shall at no time exceed twenty ~~per~~
9 ~~cent~~ percent (20%) of the amount of the unimpaired capital
10 and surplus of ~~such~~ that bank. The discount of bills of
11 exchange drawn in good faith against actual existing values,
12 the discount of bankers, acceptances of other banks, the
13 discount of commercial or business paper actually owned by
14 the person negotiating ~~the same~~ it, and the obligations of
15 the United States or general obligations of any state or of
16 any political subdivision thereof, or obligation issued
17 under authority of the Federal Farm Loan Act, ~~shall~~ may not
18 be considered as money borrowed, ~~nor shall the foregoing~~
19 The limitations imposed on total loans by this section do
20 not apply to loans and investments secured by obligations of
21 the United States having a value of one hundred ~~per cent~~
22 percent (100%) of the amount ~~thereof~~ loaned or invested or
23 to loans made on warehouse receipts and bills of lading,
24 when ~~such~~ the warehouse receipts and bills of lading cover
25 nonperishable commodities of the marketable value of at

1 least one hundred twenty per cent (120%) of the amount
2 loaned ~~thereon on them~~. Loans or obligations ~~shall~~ are not
3 be subject under this section to any limitation based upon
4 ~~such~~ that unimpaired capital and surplus to the extent that
5 they are secured or covered by guaranties, or by commitments
6 or agreements to take over or to purchase ~~the same~~ them,
7 made by ~~any~~ a federal reserve bank or by the United States
8 or ~~any~~ a department, bureau, board, commission, or
9 establishment of the United States, including ~~any~~ a
10 corporation wholly owned directly or indirectly by the
11 United States.

12 (2) The combined liabilities of the several members of
13 ~~any~~ a firm, copartnership, or unincorporated association to
14 the loaning bank shall be included in the liabilities of
15 ~~such~~ the firm, copartnership, or unincorporated
16 association, ~~and that~~ That portion of the liabilities of
17 ~~such~~ the firm, copartnership, or unincorporated association
18 for which a member ~~thereof~~ individually ~~shall be~~ is legally
19 responsible shall be included in the liabilities of the
20 member in determining the ~~foregoing~~ limitations imposed by
21 this section. In determining the limitation for loans to a
22 limited partner of a limited partnership, those portions of
23 the liabilities of the limited partnership for which the
24 limited partner is free from liability shall be excluded.

25 (3) When in the judgment of the ~~superintendent~~ of

1 ~~banks department~~, the liabilities of ~~any a~~ corporation or
2 the combined liabilities of ~~any a~~ corporation and one or
3 more of its stockholders to ~~any a~~ bank are excessive, ~~be it~~
4 shall require the reduction thereof to ~~such the~~ limits and
5 within ~~such the~~ time as ~~he shall prescribe it prescribes.~~"

6 Section 18. Section 5-532, R.C.M. 1947, is amended to
7 read as follows:

8 "5-532. Reserve requirements. ~~Every a~~ bank, except a
9 reserve bank, shall maintain at all times a reserve of ~~such~~
10 ~~that~~ percentage of its deposit liabilities as shall be
11 determined by the ~~superintendent of banks department~~ as
12 ~~hereinafter~~ provided in this section, of which reserve ~~such~~
13 ~~a~~ portion ~~as~~ the board of directors may determine may be on
14 deposit in banks approved by the ~~superintendent of banks~~
15 ~~department~~ as reserve banks. The ~~superintendent of banks is~~
16 ~~authorized and empowered to department may establish~~, raise,
17 or lower ~~and to establish~~ reserves which shall be maintained
18 on demand deposits and on time deposits as in ~~his its~~
19 judgment banking conditions may justify, ~~provided such~~ The
20 power to establish, raise, or lower ~~and to establish~~
21 reserves ~~shall be is~~ limited to a percentage of ~~such~~
22 deposits not in excess of reserve requirements which may be
23 established ~~from time to time~~ for banks that are members of
24 the federal reserve system ~~not and not~~ less than
25 seventy-five ~~per centum~~ percent (75%) of those reserve

1 requirements ~~which may be established from time to time~~ for
2 ~~banks that are~~ members of the federal reserve system. A
3 bank approved by the ~~superintendent of banks department~~ as a
4 reserve bank must at all times maintain a reserve of ~~such~~
5 the percentage or percentages as the ~~superintendent of banks~~
6 ~~department~~ shall determine from time to time, which shall
7 not be less than the percentages ~~hereinafter~~ specified in
8 this section of its deposit liabilities, of which ~~such a~~
9 portion ~~as~~ the board of directors may determine, may be on
10 deposit in banks approved by the ~~superintendent of banks~~
11 ~~department~~ as reserve banks. ~~Any a~~ solvent bank of good
12 repute having a full paid-up capital and surplus of three
13 hundred thousand dollars (\$300,000), doing business in ~~the~~
14 this state of Montana, or any of the states of the United
15 States other state, may be designated by the ~~superintendent~~
16 ~~of banks department~~ as a reserve agent for Montana state
17 banking institutions. ~~Such~~ The approval or designation may
18 be withdrawn or withheld at any time by the ~~superintendent~~
19 ~~of banks department~~ for cause. ~~Whenever~~ When the reserve of
20 ~~any a~~ bank ~~shall fall falls~~ below the amount required ~~herein~~
21 ~~to be kept by this section, such the~~ bank ~~shall may~~ not
22 increase its loans or discounts otherwise than by
23 discounting or purchasing bills of exchange payable at sight
24 or on demand, and the ~~superintendent of banks department~~
25 shall notify ~~any a~~ bank whose reserve may be below the

1 amount ~~herein~~ required, to make good ~~such~~ the reserve. In
2 arriving at deposit liabilities with regard to bank
3 deposits, the net balance of amounts due to and from other
4 banks shall be taken as the basis for ascertaining the
5 deposit liability to banks against which reserves shall be
6 carried, ~~provided~~ However, a compliance with the federal
7 reserve banking laws, rules and regulations by member banks
8 shall be held to be a compliance with the reserve
9 requirements and conditions of this act, and entitles those
10 federal reserve member banks to the rights and privileges
11 accruing from compliance with this act."

12 Section 19. Section 5-533, R.C.M. 1947, is amended to
13 read as follows:

14 "5-533. Borrowed money. ~~No~~ A bank shall ~~may not~~ at any
15 time become indebted either directly or indirectly for
16 borrowed money or rediscounts in an amount in excess of its
17 paid-up capital and surplus, without first obtaining written
18 authority from the ~~superintendent of banks, provided, that~~
19 ~~debentures department. Debentures~~ or certificates of
20 indebtedness issued by ~~any~~ an investment company to run for
21 a period of three (3) years or more, shall ~~may~~ not be
22 included in the deposit liabilities of ~~said~~ that investment
23 company, as affected by the provisions of this section, ~~and~~
24 ~~entitle such federal reserve member banks to the rights and~~
25 ~~privileges accruing from a compliance with this act."~~

1 Section 20. Section 5-604, R.C.M. 1947, is amended to
2 read as follows:

3 "5-604. ~~Superintendent of banks~~ Director of business
4 regulation and employees not to be interested in banks.
5 Neither the ~~superintendent of banks~~ director of business
6 regulation nor any bank examiner shall ~~may~~ be interested in
7 or a borrower from any state bank, directly or indirectly."

8 Section 21. Section 5-607, R.C.M. 1947, is renumbered
9 82A-407, and is amended to read as follows:

10 "5-607-82A-407. State banking board— composition —
11 terms — allocation. (1) There is ~~hereby created and~~
12 ~~established within the department of business regulation a~~
13 state banking board.

14 (2) ~~Said~~ The board shall ~~be is~~ composed of seven (7)
15 members, ~~one (1) of whom shall be including~~ the director of
16 business regulation, who shall ~~be is~~ the chairman of the
17 board ~~and shall act as its executive officer.~~ The remaining
18 six (6) members of the board shall be appointed with
19 consideration ~~being~~ given banks of small, medium and large
20 size and to geographical distribution, ~~and at~~ At least one
21 (1) banker member and one (1) public member shall be
22 appointed from each congressional district of the state. Two
23 (2) of ~~said~~ the six (6) members shall be active officers in
24 state banks of Montana, one (1) shall be an active officer
25 of a national bank doing business in Montana and three (3)

shall be members of the public, none of whom shall be an officer, director or shareholder of any state or national bank.

(3) The members shall be appointed by the governor for terms of three (3) years. Vacancies shall be filled by appointment for the unexpired term. No member other than the director of business regulation may serve more than two (2) consecutive terms.

(4) The board is allocated to the department for administrative purposes only as provided in section 82A-108."

Section 22. Section 5-610, R.C.M. 1947, is amended to read as follows:

"5-610. Powers of board. The state banking board shall ~~have the following powers in addition to any others that hereafter may be granted to it by law:~~

(1) ~~to~~ make final determinations upon applications for charters certificates of authorization for new banks, mergers, consolidations, and relocations of banks;

(2) ~~to~~ act in an advisory capacity with respect to the duties and powers given by statute or otherwise to the director of business regulation as said duties and powers relate to banking."

Section 23. Section 5-611, R.C.M. 1947, is amended to read as follows:

"5-611. Rules adopted by board — new banks. The board shall adopt rules ~~and regulations to the extent and in the manner as provided in~~ necessary for the administration of this act in accordance with the Montana Administrative Procedure Act [82-4201 to 82-4225]. ~~In addition, the board shall, in the manner provided in said act and as expeditiously as possible, adopt rules as it deems necessary and proper to implement its duties and powers.~~

In particular, the board shall ~~give priority to promulgation of~~ adopt rules concerning the ~~chartering~~ authorization of new banks. Such rules shall contain minimum standards under which an application for a new bank shall be determined. ~~Such standards shall include including~~ the following:

(1) a persuasive showing that there is a reasonable public necessity and demand for a new bank at the proposed location;

(2) that the bank will be owned and managed by persons of good moral character and financial integrity, and will be safely and soundly operated;

(3) a persuasive showing that the new bank will have a sufficient volume of business to assure solvency and that establishment of the new bank will be in the public interest."

Section 24. Section 5-612, R.C.M. 1947, is amended to

1 read as follows:

2 "5-612. Hearings — notice — intervenors. ~~In addition~~
3 ~~to the requirements of the Montana Administrative Procedure~~
4 ~~Act [82-4201 to 82-4225], the following shall be required:~~

5 (1) A hearing shall be conducted upon all applications for
6 new bank ~~charters~~ certificates of authorization, and ~~all~~
7 ~~provisions of~~ in accordance with the Administrative
8 Procedure Act [82-4201 to 82-4225] relating to a contested
9 case ~~shall be followed~~, whether or not any protest to the
10 application is filed.

11 (2) A notice of the filing of an application for a new
12 bank ~~charter~~ certificate of authorization shall be mailed to
13 all banks within one hundred (100) miles of the proposed
14 location, measured in a straight line.

15 (3) A hearing shall be conducted no sooner than thirty
16 (30) days and not later than ninety (90) days following the
17 mailing of such notice.

18 (4) Any bank filing a written protest with the board
19 prior to the date of the hearing shall be admitted as a
20 "party," as defined in the Administrative Procedure Act,
21 with full rights of a party, including the right of subpoena
22 of witnesses and written materials, the right of
23 cross-examination, the right to have a transcript, and the
24 right to receive all notices, copy of the application, all
25 orders, and the right of judicial review and appeal.

1 (5) All applications for mergers, consolidations or
2 relocations of banks shall likewise require a hearing, and
3 all of the rights and procedures stated herein shall apply
4 to these matters."

5 Section 25. Section 5-701, R.C.M. 1947, is amended to
6 read as follows:

7 "5-701. Report to ~~superintendent of banks department~~
8 of business regulation. ~~Every~~ A bank shall make to the
9 ~~superintendent of banks department of business regulation~~
10 regular call reports according to the form which may be
11 prescribed by ~~him~~ the department, verified by oath or
12 affirmation of the president, vice-president or cashier of
13 ~~each~~ the bank and attested by the signature of at least two
14 (2) of the directors other than the subscribing officer.
15 Each ~~such~~ report shall exhibit in detail, and under
16 appropriate schedules, the resources and liabilities of the
17 bank at the close of business on any past day ~~by him~~
18 ~~specified~~ by the department. The report ~~and~~ shall be
19 transmitted to the ~~superintendent of banks department~~
20 five (5) days after the receipt of a request or requisition
21 ~~therefor from him for it~~, and in ~~such a form as the~~
22 ~~department may be required by the superintendent of banks~~
23 it require. It shall be published as soon as possible in a
24 newspaper published in the place where ~~such~~ the bank is
25 established, or, if there be no newspaper in the place, then

1 in one published nearest ~~thereto~~ to that place in the same
 2 county, at the expense of the bank, ~~and such proof~~ Proof of
 3 the publication shall be furnished at ~~such the~~ the times and in
 4 ~~such the~~ the manner as may be required by the ~~superintendent of~~
 5 ~~banks department.~~ banks department."

6 Section 26. Section 5-702, R.C.M. 1947, is amended to
 7 read as follows:

8 "5-702. Report of declaration of dividend. In addition
 9 to the statement required by ~~the preceding~~ section 5-701,
 10 ~~every such a~~ a bank shall report to the ~~superintendent of~~
 11 ~~banks department~~ banks department within ten (10) days after declaring any
 12 dividend, showing the amount of ~~such the~~ the dividend and the
 13 amount of net earnings in excess of the dividend. ~~Such The~~
 14 statement shall be attested as provided for in the
 15 attestation of statement by ~~the preceding~~ section 5-701."

16 Section 27. Section 5-703, R.C.M. 1947, is amended to
 17 read as follows:

18 "5-703. Special reports to ~~superintendent of banks~~
 19 ~~department.~~ department. In addition to the information obtained from the
 20 report required by ~~the provisions of~~ section 5-701 of this
 21 ~~code, the superintendent of banks shall~~ department may also
 22 ~~have the power to~~ require any a bank to furnish a special
 23 report in writing, verified as required by section 5-701 ~~of~~
 24 ~~this code, whenever when~~ in his its judgment ~~such the~~
 25 special report is necessary to inform ~~his it~~ it fully of the

1 actual financial condition and affairs of ~~such the~~ the bank.
 2 ~~Any willful A willfully~~ A willfully false statement in the ~~premises~~
 3 ~~shall be report is~~ perjury, and shall be punished ~~as such~~
 4 accordingly."

5 Section 28. Section 5-705, R.C.M. 1947, is amended to
 6 read as follows:

7 "5-705. Reports confidential — false reports —
 8 penalties. The report and any information contained in the
 9 reports and statements ~~hereinafter~~ provided for, other than
 10 ~~such those~~ those reports ~~as which~~ which are required to be published,
 11 shall be ~~deemed to be~~ considered secret and for the
 12 confidential information of the ~~superintendent of banks~~
 13 ~~department only, and such The~~ information shall may not be
 14 imparted to ~~any~~ persons who are not officially associated ~~in~~
 15 ~~and with the office of the superintendent of banks~~
 16 ~~department,~~ and the information therein contained in then
 17 shall be used by the ~~superintendent of banks department~~ only
 18 in the furtherance of ~~his its~~ its official duties, ~~except that~~
 19 ~~it shall be lawful for the The~~ department to may exchange
 20 information with ~~the federal banking department~~ departments
 21 and with departments of other states and ~~to~~ to furnish
 22 information to LEGISLATIVE AUDITOR OR prosecuting officials
 23 who request ~~the same it~~ it for use in pursuit of official
 24 duties. ~~Any superintendent of banks or deputy, assistant,~~
 25 ~~examiner, or clerk in his employ~~ An employee or agent of the

1 ~~department~~, who violates any of the provisions of this
 2 section, or willfully makes a false official report as to
 3 the condition of ~~any a~~ bank, shall be removed from office,
 4 and ~~shall is~~ also be deemed guilty of a felony, ~~and upon~~
 5 ~~Upon~~ conviction, ~~thereof he~~ shall be ~~punished by a fine of~~
 6 ~~fined~~ not exceeding one thousand dollars ~~(\$1,000.00)~~
 7 ~~(\$1,000)~~, or ~~by imprisonment imprisoned~~ in the state
 8 penitentiary ~~for~~ not exceeding five (5) years, or ~~by both~~
 9 ~~such fine and imprisonment fined and imprisoned."~~

10 Section 29. Section 5-801, R.C.M. 1947, is amended to
 11 read as follows:

12 "5-801. Assessment on capital stock to make good
 13 impairment. ~~(1) Whenever When~~ the ~~superintendent of banks~~
 14 ~~shall determine department of business regulation determines~~
 15 that an impairment of capital exists in ~~any a~~ bank, ~~he it~~
 16 ~~may~~, in ~~his its~~ discretion, notify the board of directors of
 17 ~~such the~~ bank by written notice that ~~such the~~ impairment
 18 exists, stating the amount thereof in dollars and percentage
 19 of the capital stock ~~thereof~~, and ~~he it~~ may, ~~if he deems it~~
 20 ~~advisable in its discretion~~, order ~~such the~~ board to make
 21 good ~~such the~~ impairment within ninety (90) days from date
 22 of ~~such the~~ notice.

23 4. ~~(2)~~ The board of directors shall, upon receipt of
 24 notice, convene and pass a resolution reciting the receipt
 25 of ~~such the~~ notice of impairment and calling a special

1 meeting of the stockholders of the bank ~~for a day certain~~ in
 2 the manner provided in their bylaws.

3 2. ~~(3)~~ The stockholders, ~~when assembled as herein~~
 4 ~~provided, at the meeting~~ shall pass a resolution reciting
 5 the facts of receipt of notice from the ~~superintendent~~
 6 ~~department~~, notice of impairment and notice of meeting, and
 7 assessing themselves by assessing the stock of record,
 8 payment of which assessment must be made within the time
 9 limit specified by the ~~superintendent of banks department~~ as
 10 provided in notice of impairment.

11 3. ~~(4)~~ If there ~~be is~~ any stock remaining on which
 12 the assessment is not paid as ~~hereinafore~~ provided ~~in this~~
 13 ~~section, the same it~~ or ~~such a~~ part ~~thereof of it~~ as is
 14 necessary to pay the assessment shall be sold by the board
 15 of directors, acting through the cashier or secretary
 16 ~~thereof of the bank~~, at public or private sale, as appears
 17 best for all concerned, ~~on a day certain~~, not less than
 18 thirty (30) days after the day fixed for payment of
 19 assessment ~~hereinafore provided, notice~~ ~~Notice~~ of ~~the~~ time
 20 and place of ~~which the~~ sale shall be given by registered
 21 mail to the stockholders by the board through its cashier or
 22 secretary at least ten (10) days prior to the ~~date thereof~~
 23 ~~and such sales sale. A sale~~ of stock as ~~herein~~ provided ~~in~~
 24 ~~this section for shall effect~~ ~~causes~~ an absolute
 25 cancellation of the outstanding certificate or certificates

evidencing the stock so sold, and ~~shall make the sale null and makes them~~ void in the hands of the ~~stockholders~~ stockholder, his assigns or pledgees, ~~and a~~ a new certificate shall be issued by the bank to the purchaser ~~thereof~~, for the number of shares purchased, and a new certificate issued to the stockholder of record and delivered to him or any pledgee or assignee ~~thereof~~ of the stock for the remaining shares, if any, ~~and the~~ The record of the original certificate sold shall be marked canceled on the books of the bank and ~~such that~~ that record ~~thereof shall be~~ is prima facie evidence of the regularity of the proceedings for the sale of ~~said the~~ the stock.

4. ~~[5]~~ If ~~any a~~ a bank fails to make good its capital impairment upon demand of the ~~superintendent of banks~~ department, as provided ~~herein~~ in this section, the ~~superintendent of banks~~ department may forthwith immediately take charge of ~~such that~~ that bank and proceed to liquidate ~~its~~ it as in case of insolvency.

[6] If the ~~said~~ stock does not sell for ~~sufficient~~ enough to pay the assessment ~~thereon on it~~, the board of directors may ~~proceed by suit~~ sue in the name of the corporation to collect the deficiency from the record holder, whose stock has been ~~thus~~ sold for the assessment."

Section 30. Section 5-901, R.C.M. 1947, is amended to read as follows:

"5-901. Examination and supervision. The ~~superintendent of banks~~ department of business regulation shall exercise a constant supervision, ~~either personal or through the examiners herein provided for,~~ over the books and affairs of all banks doing business ~~within the~~ in this state, ~~of Montana,~~ and It shall, ~~through the examiners,~~ visit examine, at least once a year, each of ~~said those~~ banks, and verify the assets and liabilities of each, and so far investigate the character and value of the assets of each as to ascertain with reasonable certainty that the values are correctly carried on the books. ~~He~~ It shall further investigate the methods of operation and conduct of business of ~~said the~~ the banks and their systems of accounting, to ascertain whether ~~such the~~ the methods and systems are in accordance with law and sound banking principles. ~~He~~ It may ~~examine, or cause to be examined by the examiners, on~~ under oath, any of the officers, directors, agents, clerks, customers, or depositors of ~~any a~~ a bank ~~touching~~ regarding the affairs and business thereof, ~~and~~ It may, in the performance of ~~his its~~ its official duties, issue, ~~or cause to be issued by himself or the examiners~~ subpoenas, and ~~administer, or cause to be administered by the examiners,~~ oaths, ~~provided, that in~~ In case of ~~any a~~ a refusal to obey ~~any a~~ a subpoena issued by ~~him~~ it ~~or under his direction,~~ such the refusal may at once be reported to the district court of

1 the district in which the bank is located, and ~~such the~~
 2 court shall enforce obedience to ~~such the~~ subpoena in the
 3 manner provided by law for enforcing obedience to the
 4 process of ~~said the~~ court. In all matters relating to ~~his~~
 5 ~~its~~ official duties, the ~~superintendent of banks shall have~~
 6 ~~department has~~ the same power possessed by courts of law to
 7 issue subpoenas, and ~~cause have~~ them ~~to be~~ served and
 8 enforced, ~~and all~~ All officers, directors, agents and
 9 employees of banks doing business under ~~the provisions of~~
 10 this act, and all persons having dealings with or knowledge
 11 of the affairs or methods of ~~any such institution a bank,~~
 12 shall at all times afford reasonable facilities for ~~such the~~
 13 examinations, and make ~~such~~ returns, and reports to the
 14 ~~superintendent of banks department~~ as he ~~it~~ may require.
 15 They shall also attend hearings and answer under oath ~~his~~
 16 ~~lawful the department's~~ inquiries, produce and exhibit ~~such~~
 17 ~~any~~ books, accounts, documents and property ~~as he may desire~~
 18 ~~it desires~~ to inspect, and in all things aid ~~his~~ ~~it~~ in the
 19 performance of ~~his~~ ~~its~~ duty."

20 Section 31. Section 5-910, R.C.M. 1947, is amended to
 21 read as follows:

22 "5-910. Special examinations and fees. Special
 23 examinations may be made of ~~any a~~ bank, trust company,
 24 investment company, building and loan association, or credit
 25 union when in the judgment of the ~~superintendent of banks~~

1 ~~department~~ it ~~shall be deemed~~ is considered necessary, and
 2 ~~such the~~ special examination shall be charged for at the
 3 rate of one hundred dollars (\$100) a day for each person
 4 engaged in the examination. All special examination fees or
 5 charges shall be paid at the conclusion of the examination
 6 and the moneys ~~so~~ collected by the ~~state examiner and ex~~
 7 ~~officio superintendent of banks department~~ shall be paid to
 8 the state treasurer, for the credit of the general fund."

9 Section 32. Section 5-1002, R.C.M. 1947, is amended to
 10 read as follows:

11 "5-1002. Change from state to national bank. Any bank
 12 may become a corporation for the purpose of carrying on the
 13 business of banking within in this state, ~~pursuant to under~~
 14 ~~the provisions of the~~ act of Congress "to provide a national
 15 currency secured by a pledge of United States bonds, and to
 16 provide for the circulation and redemption thereof,"
 17 approved June 3, 1864, and of Title 52 of the Revised
 18 Statutes of the United States, ~~whenever when~~ stockholders
 19 owning two-thirds (2/3) of the stock of ~~such the~~ bank shall
 20 have voted to become such corporation, or have executed a
 21 written consent authorizing its directors to make the
 22 certificate required therefor by the laws of the United
 23 States, or ~~whenever when~~ a majority of the directors of ~~such~~
 24 ~~the~~ bank, having been authorized in their discretion to make
 25 the change, shall, by a vote of ~~such the~~ majority, decide to

become such corporation, ~~and the~~ The cashier of ~~each the~~ bank shall publish notice thereof for thirty (30) days in ~~such the~~ newspaper as which the directors ~~may~~ select, and send a like printed notice by mail or otherwise to all nonvoting or dissenting stockholders, and notify the ~~state bank examiner of this state department of business~~ regulation that ~~such the~~ bank has decided to become a corporation under the laws of the United States."

Section 33. Section 5-1012, R.C.M. 1947, is amended to read as follows:

"5-1012. Information obtained by ~~state examiner to be~~ ~~deemed~~ department confidential — penalty for the violation thereof. Any knowledge or information gained or discovered by the ~~state superintendent of banks, department~~ in pursuance of ~~his its~~ powers or duties ~~as herein prescribed,~~ shall be deemed is confidential information of the ~~state examiner's office only, and such department. The~~ information shall may not, except as ~~herein~~ provided in this section, be imparted to any person ~~or persons who are~~ not officially associated ~~in and with the office of the state examiner, and such department. The~~ information shall be used by the ~~state examiner department~~ only in the furtherance of ~~his its~~ official duties, except that ~~it shall be lawful for the department to may~~ exchange information with the federal banking department and departments of other

states and ~~to may~~ furnish information to prosecuting officials who require ~~the same it~~ for use in pursuit or official duties. ~~Any state examiner or deputy, assistant, or clerk in his employ, An employee or agent of the department who violates any of the provisions of this section, or willfully makes a false official report as to the condition of any a bank, shall be removed from office, and shall is also be deemed guilty of a felony, and upon~~ Upon conviction thereof ~~he~~ shall be ~~punished by a fine of~~ fined not exceeding one thousand dollars ~~(\$1,000.00)~~ (\$1,000), or ~~by imprisonment imprisoned~~ in the state penitentiary ~~for~~ not exceeding five (5) years, or ~~by both~~ such fine and imprisonment fined and imprisoned."

Section 34. Section 5-1018, R.C.M. 1947, is amended to read as follows:

"5-1018. ~~Superintendent Department~~ to make rules and regulations. The ~~superintendent of banks shall have the power to department may~~ adopt and ~~promulgate~~ uniform rules and ~~regulations~~ to govern the examination and reports of banks and prescribe the form in which ~~such~~ banks shall report their assets, liabilities, and reserves."

Section 35. Section 5-1019, R.C.M. 1947, is amended to read as follows:

"5-1019. Special examination defined. ~~Any An~~ examination made by the ~~superintendent of banks department~~

1 otherwise than in the ordinary routine of the department,
2 and because in ~~his~~ its opinion the condition of the bank
3 requires ~~such~~ the examination, and ~~every~~ an examination made
4 at the request of the board of directors or stockholders of
5 ~~any~~ a bank, ~~shall be deemed is~~ a special examination."

6 Section 36. Section 5-1024, R.C.M. 1947, is amended to
7 read as follows:

8 "5-1024. Conversion of surplus and undivided profits
9 to capital. A bank having a surplus and undivided profits
10 equal to or in excess of fifty ~~per-centum~~ percent (50%) of
11 its capital stock, may increase its capital stock by the
12 issuance of new stock for a part of ~~said~~ that surplus and
13 undivided profits. ~~Said~~ The increase may be made by the
14 vote of two-thirds (2/3) of the stock in person or by proxy,
15 either at a regular annual stockholders' meeting or at a
16 meeting called for ~~said~~ that purpose in accordance with the
17 bylaws of the corporation. All increases of capital stock
18 made under this section must be accomplished in ~~such~~ a
19 manner ~~as to conform~~ conforming to the requirements of this
20 act ~~as pertaining~~ to surplus of banks when first
21 incorporated. New capital stock when issued by a bank
22 against its surplus and undivided profits may be issued
23 without the payment of cash ~~therefor~~ for it, but ~~the case~~ it
24 shall be charged upon the books of the bank and in the
25 statements ~~thereof~~ of the bank against surplus and undivided

1 profits ~~in such a manner~~ so that the combined capital,
2 surplus and undivided profits ~~shall~~ are not be reduced by
3 the issuance of ~~said~~ the new stock. ~~Whenever~~ When a bank
4 ~~shall have~~ has voted to issue any stock as contemplated in
5 this section, it shall certify ~~such~~ that action to the
6 ~~superintendent of banks department, who~~ which shall within
7 thirty (30) days, approve or reject the plan. ~~His~~ Its
8 action shall be final and written notice ~~thereof~~ of it shall
9 be given to the bank. If the ~~superintendent of banks~~
10 ~~department~~ approves of the issuance of ~~said~~ the new stock
11 and so notifies the bank, ~~it~~ the bank shall ~~thereupon~~ then
12 file a certificate ~~thereof~~ of issuance with the county clerk
13 and recorder of the county ~~wherein~~ in which the bank is
14 located and with the secretary of state ~~of the state of~~
15 ~~Montana~~. Upon ~~said~~ the filing with the secretary of state,
16 the increase ~~shall become~~ becomes effective."

17 Section 37. Section 5-1037, R.C.M. 1947, is amended to
18 read as follows:

19 "5-1037. Borrowing money — limitations. ~~No~~ A bank
20 ~~shall may not~~ borrow money, except to meet its seasonal
21 requirements or unexpected withdrawals. ~~Provided, that at~~
22 At no time shall the bills payable and rediscounts of ~~any~~ a
23 bank be permitted to exceed in the aggregate an amount equal
24 to the capital and surplus of ~~such~~ the bank, except with the
25 written consent of the ~~superintendent, first had and~~

obtained department. ~~whenever when it shall appear~~ appears to the ~~superintendent~~ department that a bank is borrowing money in excess of the ~~above~~ limitation provided by this section, or for the purposes other than as specified ~~above~~ in this section, ~~he the department~~ may require it to reduce ~~such the~~ borrowing within a time to be fixed by ~~him the~~ department."

Section 38. Section 5-1058, R.C.M. 1947, is amended to read as follows:

"5-1058. Definitions. As used in ~~this act~~ sections 5-1059 through 5-1062, unless the context otherwise requires:

~~(1) "Commissioner" means the officer of this state designated by law to exercise supervision over banks, and any other person lawfully exercising such powers.~~

~~(2) (1)~~ "Bank" includes commercial banks, savings banks, trust companies, any person or association of persons lawfully carrying on the business of banking, whether incorporated or not, and to the extent that the provisions ~~hereof~~ of sections 5-1059 through 5-1062 are not inconsistent with and do not infringe upon paramount federal law, also includes national banks.

~~(3) (2)~~ "Officers" means the person or persons designated by the board of directors, board of trustees, or other governing body of a bank, to act for the bank in

carrying out the provisions of ~~this act~~ sections 5-1059 through 5-1062 or, in the absence of ~~any such a~~ designation or of the officer or officers ~~so~~ designated, the president or any other officer currently in charge of the bank or of the office or offices ~~in question~~ involved.

~~(4) (3)~~ "Office" means any place at which a bank transacts its business or conducts operations related to its business.

~~(5) (4)~~ "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business operations at ~~one or more or all~~ any of the offices of a bank, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the foregoing, an emergency may arise as a result of any ~~one or more~~ of the following: fire; flood; earthquake; hurricanes; wind, rain, or snowstorms; labor disputes and strikes; power failures; transportation failures; interruption of communication facilities; shortages of fuel, housing, food, transportation or labor; robbery or attempted robbery; actual or threatened enemy attack; epidemics or other catastrophes; riots, civil commotions, and other acts of lawlessness or violence, actual or threatened."

Section 39. Section 5-1059, R.C.M. 1947, is amended to read as follows:

1 "5-1059. Power of ~~commissioner~~ department. ~~Whenever~~
 2 ~~When~~ the ~~commissioner~~ department is of the opinion that an
 3 emergency exists, or is impending, in this state or in any
 4 part ~~or parts~~ of this state, ~~he it~~ may, by proclamation,
 5 authorize banks located in the affected area ~~or areas~~ to
 6 close any ~~or all~~ of their offices. In addition, if the
 7 ~~commissioner~~ department is of the opinion that an emergency
 8 exists, or is impending, which affects, or may affect, a
 9 particular bank or banks, or a particular office or offices
 10 thereof, but not banks located in the area generally, ~~he it~~
 11 may authorize the particular bank or banks, or office or
 12 offices so affected, to close. The office or offices so
 13 closed shall remain closed until the ~~commissioner~~ department
 14 proclaims that the emergency has ended, or until such
 15 earlier time as the officers of the bank determine that one
 16 or more offices, theretofore closed because of the
 17 emergency, should reopen, and, in either event, for such
 18 further time thereafter as may reasonably be required to
 19 reopen."

20 Section 40. Section 5-1060, R.C.M. 1947, is amended to
 21 read as follows:

22 "5-1060. Powers of officers. ~~At (1) whenever~~ When the
 23 officers of a bank are of the opinion that an emergency
 24 exists, or is impending, which affects, or may affect, ~~one~~
 25 ~~or more or all any~~ of a bank's offices, they ~~shall have the~~

1 ~~authority may~~, in the reasonable and proper exercise of
 2 their discretion, ~~to determine not to open any one or more~~
 3 ~~or all of such those~~ offices on any ~~business or~~ banking day
 4 or, if having opened, to close any ~~one or more or all of~~
 5 ~~such those~~ offices during the continuation of ~~such the~~
 6 emergency, even if the ~~commissioner~~ department has not
 7 issued and does not issue a proclamation of emergency. The
 8 ~~An office or offices~~ so closed shall remain closed until
 9 ~~such time as~~ the officers determine that the emergency has
 10 ended, and for ~~such a~~ further time thereafter as may
 11 reasonably be required to reopen, ~~however~~ However, in no
 12 case shall ~~such an~~ office ~~or offices~~ remain closed for more
 13 than forty-eight (48) consecutive hours, excluding other
 14 legal holidays, without requesting the approval of the
 15 ~~commissioner~~ department.

16 ~~5--(2)~~ The officers of a bank may close any ~~one or~~
 17 ~~more or all~~ of the bank's offices on any day ~~or days~~
 18 designated, by proclamation of the president of the United
 19 States or the governor of this state, as a day ~~or days~~ of
 20 mourning, rejoicing, or other special observance."

21 Section 41. Section 5-1061, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1061. Notice to ~~commissioner~~ department. A bank
 24 closing an office ~~or offices pursuant to the~~ under authority
 25 granted under section 3 ~~(1) (5-1060 (1))~~ or this act

1 ~~5-1060(1)~~ shall give as prompt notice of its action as
 2 conditions will permit and by any means available, to the
 3 ~~commissioner~~ department, and in the case of a national bank,
 4 to the comptroller of the currency."

5 Section 42. Section 5-1062, R.C.M. 1947, is amended to
 6 read as follows:

7 "5-1062. Effect of closing. (1) ~~Any~~ a day on which a
 8 bank, or any ~~one or more~~ of its offices, is closed during
 9 ~~all or any part of its normal banking hours pursuant to the~~
 10 ~~authorization granted under this act shall be, sections~~
 11 ~~5-1059 and 5-1060~~ with respect to ~~such~~ that bank or, if not
 12 all of its offices are closed, then with respect to ~~any~~ the
 13 office or offices which are closed, SHALL BE a legal holiday
 14 for all purposes with respect to any banking business ~~of any~~
 15 ~~character~~. No liability, or loss of rights of any kind, on
 16 the part of ~~any~~ a bank, or director, officer, or employee
 17 thereof, ~~shall may~~ accrue or result by virtue of ~~any~~ a
 18 closing authorized by ~~this act~~ sections 5-1059 and 5-1060.

19 (2) The provisions of ~~this act~~ sections 5-1058 through
 20 ~~5-1062 shall be construed and applied as being~~ are in
 21 addition to any other law of this state or of the United
 22 States, authorizing the closing of a bank or excusing the
 23 delay by a bank in the performance of its duties and
 24 obligations because of emergencies or conditions beyond the
 25 bank's control, or otherwise."

1 Section 43. Section 5-1101, R.C.M. 1947, is amended to
 2 read as follows:

3 "5-1101. Grounds for closing bank. (1) ~~Whenever~~ When
 4 it ~~shall appear~~ appears to the ~~superintendent of banks~~
 5 department of business regulation that:

6 ~~(1)~~ (a) ~~Any~~ a bank has willfully violated its charter
 7 or ~~any~~ a law of this state; ~~or,~~

8 ~~(2)~~ (b) ~~Has a bank has~~ willfully violated ~~any a~~
 9 general rule ~~or regulation~~ of the ~~superintendent~~ department,
 10 made in accordance with law; ~~or,~~

11 ~~(3)~~ (c) ~~That the~~ The capital of ~~any a~~ a bank is
 12 impaired or for any reason is below the amount required by
 13 law and has not been made good after notice, as provided by
 14 law, or without ~~such~~ that notice, in event a majority of the
 15 board of directors of ~~such~~ the bank notify the
 16 ~~superintendent~~ department in writing that the ~~same~~
 17 impairment cannot be made good; ~~or,~~

18 ~~(4)~~ (d) ~~That such~~ A bank cannot meet or has failed to
 19 meet its liabilities ~~or any of the same~~, as they become due
 20 in the regular course of business; ~~or,~~

21 ~~(5)~~ (e) ~~That its~~ A bank's reserve has fallen below
 22 the amount required by law and it has failed to make good
 23 ~~such~~ that reserve within thirty (30) days after being
 24 requested to do so by the ~~superintendent~~ department, or,
 25 without ~~such~~ that notice, if a majority of the directors, in

1 writing, notify the superintendent department that ~~such the~~
 2 reserve cannot be made good within thirty (30) days, or if
 3 it is continually allowing its reserve to fall below the
 4 required amount; ~~or,~~

5 ~~(6) (f)~~ That ~~it~~ A bank is conducting business in an
 6 unsafe and unauthorized manner, or is in an unsafe or
 7 unsound condition; ~~or,~~

8 ~~(7) (g)~~ ~~It has~~ A bank refused to submit its papers,
 9 books and concerns to the inspection of the superintendent
 10 ~~or his authorized agent or representative department;~~ or,

11 ~~(8) (h)~~ That ~~any~~ An officer of ~~such a~~ bank has
 12 refused to be examined ~~or under~~ oath ~~touching~~ regarding the
 13 affairs, business or concerns of any bank in so far as ~~such~~
 14 they relate to the solvency of the bank or matters having to
 15 do with the supervision by the superintendent department;
 16 then the department may, in its discretion, close the bank
 17 and take possession of all the books, records, assets and
 18 business of every description of the bank, and hold them and
 19 retain possession of them until the bank is authorized by
 20 the department to resume business, or its affairs are
 21 liquidated as provided in this chapter, and it shall do so
 22 in cases where a bank comes into its possession voluntarily,
 23 or in the manner provided by law.

24 ~~The superintendent himself, or his duly authorized~~
 25 ~~agent upon express authority from the superintendent, may,~~

1 ~~in his discretion close said bank and take possession of all~~
 2 ~~the books, records, assets and business of every description~~
 3 ~~of such bank, and hold the same and retain possession~~
 4 ~~thereof until such bank shall be authorized by him to resume~~
 5 ~~business, or its affairs be liquidated as herein provided,~~
 6 ~~and he shall do so in cases where a bank comes into his~~
 7 ~~hands voluntarily, or in the manner provided by law.~~

8 (2) The powers and authority conferred on the
 9 superintendent department by this section, except in cases
 10 of voluntary surrender, ~~shall be considered as~~ are
 11 discretionary and not as mandatory, ~~and so~~ as long as a
 12 superintendent the department acts in good faith ~~in the~~
 13 ~~matter, neither he nor his deputies shall the department and~~
 14 its employees and agents may not be held liable civilly or
 15 criminally or upon their official bonds ~~in any for~~ action
 16 taken ~~thereunder under this section~~ or for any failure to
 17 act ~~thereunder under it.~~

18 Section 44. Section 5-1102, R.C.M. 1947, is amended to
 19 read as follows:

20 "5-1102. Penalty for closing bank with criminal
 21 intent. If ~~any superintendent of banks or official is an~~
 22 employee or agent of the department of banking, shall, as a
 23 result of malice or for personal gain, ~~declare any~~ declares
 24 a bank insolvent, he shall, upon conviction thereof, be is
 25 subject to punishment by a fine not exceeding one thousand

1 dollars ~~(\$1,000.00)~~ (\$1,000) or imprisonment in the county
2 jail not exceeding one (1) year, or both, ~~within the~~
3 ~~discretion of the court~~ and shall forfeit his office."

4 Section 45. Section 5-1103, R.C.M. 1947, is amended to
5 read as follows:

6 "5-1103. Bank may be placed in ~~superintendent's~~
7 ~~department's~~ possession. ~~Any~~ A bank may place its affairs
8 and assets under the control and in the possession of the
9 ~~superintendent department~~ by posting a notice on the front
10 door of ~~such the~~ bank, indicating that ~~said bank it~~ is in
11 ~~his hands, which the possession of the department. The~~
12 notice shall be signed, ~~in their own handwriting,~~ by a
13 majority of the directors in office of ~~such the~~ bank.
14 Immediately upon the posting of ~~such the~~ notice by ~~any a~~
15 bank, it shall notify the ~~superintendent thereof~~ department
16 of its action."

17 Section 46. Section 5-1104, R.C.M. 1947, is amended to
18 read as follows:

19 "5-1104. Effect of posting notice. The posting of ~~such~~
20 ~~the~~ notice by the directors of ~~any a~~ bank, or of a like
21 notice ~~signed by the superintendent, shall be~~ department is
22 sufficient to place all assets and property of ~~such the~~
23 bank, of whatever nature and wherever ~~situate~~ located, in
24 possession of the ~~superintendent department~~, and ~~shall~~
25 ~~operate~~ operates as a bar to ~~any detachment an attachment or~~

1 ~~any~~ other legal proceedings against ~~the~~ the bank or its
2 assets, ~~and no~~ No valid lien or claim can be acquired or
3 created, or transfer or assignment made in any manner,
4 binding or affecting any of the assets of ~~such the~~ bank
5 after the posting of ~~such the~~ notice or after taking
6 possession of ~~any a~~ bank by the ~~superintendent department~~
7 without ~~his~~ its consent."

8 Section 47. Section 5-1105, R.C.M. 1947, is amended to
9 read as follows:

10 "5-1105. Taking possession of bank — notice. On
11 taking possession of the assets and business of the bank,
12 the ~~superintendent department~~ shall, in addition to posting
13 notice ~~thereof~~ on the front door of ~~such the~~ bank as
14 ~~aforsaid~~, also notify at once, personally or by wire, all
15 corresponding banks, and ~~any and~~ all persons or corporations
16 known to ~~him~~ it to be ~~holding or~~ in possession of any of
17 the estate of ~~such the~~ bank."

18 Section 48. Section 5-1106, R.C.M. 1947, is amended to
19 read as follows:

20 "5-1106. Resumption after closing. After the
21 ~~superintendent department~~ has taken possession of ~~any a~~
22 bank, ~~he~~ it may permit ~~such that~~ bank to resume business
23 upon ~~such~~ conditions ~~as~~ which may be approved by ~~him~~ it."

24 Section 49. Section 5-1107, R.C.M. 1947, is amended to
25 read as follows:

1 "5-1107. Powers of superintendent department on
 2 closing bank — court proceedings. Upon taking the assets
 3 and business of ~~any a~~ bank into ~~his its~~ possession, the
 4 superintendent department is authorized to collect all
 5 moneys due to ~~such~~ that bank, and to do ~~such~~ those other
 6 acts ~~as are~~ necessary to conserve its assets and business,
 7 and ~~he~~ the department shall proceed to liquidate the affairs
 8 ~~thereof of the bank. He shall have general and inclusive~~
 9 ~~power and authority. The department may, in its discretion,~~
 10 and except as otherwise limited by the terms of this act, ~~to~~
 11 do any ~~and all~~ acts, ~~to take any and all steps~~ necessary,
 12 ~~or, in his discretion,~~ desirable for the protection of the
 13 property and assets of ~~such the~~ bank and the speedy and
 14 economical liquidation of the assets and affairs of ~~such the~~
 15 bank and the payment of its creditors, or for the reopening
 16 and resumption of business ~~by said bank,~~ where that is
 17 practicable or desirable. ~~He~~ It may institute, in ~~his its~~
 18 own name ~~as superintendent,~~ or in the name of the bank, ~~such~~
 19 those suits ~~and actions~~ and other legal proceedings as ~~he~~
 20 deems it considers expedient for ~~such those~~ purposes, ~~and~~
 21 ~~by making application by applying~~ to the district court of
 22 the county in which ~~such the~~ bank is located, or to the
 23 judge ~~thereof, of that court~~ in chambers, the department may
 24 procure obtain an order to sell, compromise, or compound any
 25 bad or doubtful debt or claim, and to sell and dispose of

1 any ~~or all the~~ assets, which sale may be made to
 2 stockholders, officers, directors, or others interested in
 3 ~~such the~~ bank, on consent of the court. ~~On such~~ In the
 4 court proceedings the bank shall be made a party by notice
 5 issued on order of the court or judge, in ~~lieu~~ place of
 6 summons, and served upon some officer of the bank, if ~~any~~
 7 there ~~be is~~ any in the county, ~~but if~~ If no officer can be
 8 found in the county then the ~~same~~ notice shall be posted ~~in~~
 9 ~~manner and form the same as probate notices, that is,~~ in
 10 three (3) public places in the county for at least ten (10)
 11 days before the day of hearing ~~thereon~~. The hearing of ~~any~~
 12 ~~such an~~ application or petition by the superintendent
 13 department may be had at any time, either in term or
 14 vacation in court, or in chambers, as the court may order,
 15 after ~~said the~~ bank has had five (5) days' notice of ~~such~~
 16 the application, or the notice has ~~remained been~~ posted for
 17 at least ten (10) days."

18 Section 50. Section 5-1108, R.C.M. 1947, is amended to
 19 read as follows:

20 "5-1108. Recourse of aggrieved bank — application to
 21 court for injunction — pleadings — evidence — appeals.
 22 ~~Any a~~ bank ~~deeming itself~~ aggrieved by the action of
 23 superintendent the department in taking possession of its
 24 assets or closing its doors may, within ten (10) days after
 25 ~~such~~ possession ~~shall have~~ has been taken, apply to the

1 district court of the county in which its principal place of
 2 business is located, or to the judge ~~thereof of that court~~
 3 in chambers, to enjoin further proceedings by the
 4 ~~superintendent, and the department.~~ The court or the judge
 5 ~~thereof~~ in chambers, after notifying the ~~superintendent~~
 6 ~~department~~ to appear at a specified time and place to show
 7 cause why further proceedings should not be enjoined, and
 8 after hearing the allegations and proofs of the parties, and
 9 determining facts, may, on the merits, dismiss ~~such the~~
 10 application, or enjoin the ~~superintendent department~~ from
 11 further proceeding and direct ~~him~~ it to surrender the
 12 business and assets of ~~said the~~ bank. ~~Such The~~ application
 13 for injunction may be heard at any time after five (5) days'
 14 notice from the time of service on ~~said superintendent the~~
 15 ~~department~~, in the discretion of the court, ~~or the judge~~
 16 ~~thereof~~, or at any time prior ~~thereto to then~~ by the consent
 17 of the ~~superintendent department~~. Application ~~therefor~~
 18 shall be made on the verified complaint of the bank, in the
 19 ordinary form used in civil actions ~~in district court~~, and a
 20 copy of ~~such the~~ complaint shall be served on the
 21 ~~superintendent department~~ with the order to show cause. The
 22 ~~superintendent department~~ shall, at least two (2) days
 23 before the time set for hearing, file ~~in the cause, with the~~
 24 ~~court~~ and serve upon counsel for plaintiff an answer to the
 25 complaint, also in the ordinary form used in civil actions

1 ~~in the district court. Demurrers and motions directed to~~
 2 ~~pleadings are not permissible in proceedings had under this~~
 3 ~~section, but any~~ ANY questions raised by ~~demurrer or~~ motion
 4 in other actions may be raised in the answer. On the issues
 5 ~~thus made on~~ raised by the complaint and answer, the court,
 6 or the judge ~~thereof~~ at chambers, at the time fixed for
 7 showing cause, ~~or at such other time to which he, in his~~
 8 ~~discretion, may continue the case,~~ shall try the matter on
 9 the merits by hearing the allegations and proofs of the
 10 parties and shall enter judgment, in the same manner as on
 11 in the trial of ordinary other civil actions, in the
 12 ~~district court, and the rules governing the trial of~~
 13 ~~ordinary civil actions and for the production and taking of~~
 14 ~~evidence and hearing the examinations of witnesses and the~~
 15 ~~entry of findings and judgments therein, shall prevail. In~~
 16 ~~event If the superintendent department makes no appearance~~
 17 in the time ~~limited~~ allowed, the court shall enter ~~his~~ its
 18 default and proceed to hear the proofs of the plaintiff ~~in~~
 19 ~~like manner~~ as in civil actions under similar circumstances,
 20 and enter judgment accordingly. The judgment entered either
 21 after hearing on the merits or by default, ~~shall be is a~~
 22 final judgment, ~~from which either party shall have the~~
 23 ~~right, by notice filed within twenty (20) days after entry,~~
 24 ~~to appeal to the supreme court, in the same manner as from~~
 25 ~~final judgment in a civil action. Provided, however, that~~

during During the pendency of ~~such~~ litigation the ~~superintendent of banks department~~ shall take ~~such that~~ action in relation to the assets of ~~said the~~ bank as which is necessary to conserve them."

Section 51. Section 5-1109, R.C.M. 1947, is amended to read as follows:

"5-1109. ~~Superintendent Department~~ may appoint agents — liquidating agents — salaries and expenses. (1) ~~The superintendent may, under his hand and seal, appoint and authorize an agent to assist him or act for him in the performance of any powers or duties hereunder, the certificate of appointment to be filed in the office of said superintendent, and a certified copy thereof delivered to such agent. Such agent and other employees hereinafter mentioned, shall receive a salary, to be fixed as hereinafter provided, for the time he is actually engaged in the performance of such duties. The superintendent may also employ such attorneys and procure such expert accountants and other experts, assistants and employees as may be necessary in the liquidation and distribution of the assets of any such bank, and the performance of his duties hereunder, and The department may retain such of the those officers or employees of such the bank as he which it may deem considers necessary. He it shall require from the agent appointed by him it and from such of the those~~

assistants ~~as will who~~ have charge of any of the assets of the bank ~~such that~~ security for the faithful discharge of their duties as ~~he may deem it considers~~ proper.

(2) ~~Provided, further, that the superintendent may also designate any one of the examiners of the department of banking as a general liquidating agent, with his office in the department of banking, for the purpose of liquidating any one or all state banks in the process of liquidation, and for the purpose of conducting such liquidation under the direction of said superintendent, and may authorize the said liquidating agent to employ such clerical help as may be necessary. Such liquidating agent shall receive a salary to be fixed by the superintendent of banks, not to exceed three thousand six hundred dollars (\$3,600.00) per year, and necessary traveling and hotel expenses incurred in the performance of his official duties. The salary of the a liquidating agent and necessary clerical assistance, and other expenses incurred by the said a liquidating agent, shall be borne equally and ratably by the bank or banks in process of liquidation under such the agent's charge in proportion to the total amount of resources of each of such the banks. The funds for such those expenses shall be raised by assessing each bank in ratio herein set forth and paying such those expenses direct to the persons entitled thereto to them, without depositing any of such the funds in~~

1 the state treasury."

2 Section 52. Section 5-1110, R.C.M. 1947, is amended to
3 read as follows:

4 "5-1110. Compensation of agents and attorneys. The
5 compensation of the agents, ~~appointed by the superintendent,~~
6 ~~and of~~ attorneys, expert accountants and other assistants,
7 appointed by the department, and all expenses of liquidation
8 and distribution of a bank whose assets and business ~~shall~~
9 ~~be have been~~ taken possession of by the ~~superintendent~~
10 ~~department,~~ shall be fixed by the ~~superintendent department,~~
11 but subject to ~~be approved~~ approval by the judge of the
12 district court of the county in which the bank is located,
13 on notice of ~~such the~~ bank, ~~and the superintendent of banks~~
14 The department shall, upon written request of ~~said the~~
15 district judge, supply semiannual statements showing the
16 condition of ~~said the~~ bank in process of liquidation.
17 Except in cases of emergency, the compensation ~~to be~~ paid to
18 attorneys and expert ~~accounts~~ accountants shall be fixed and
19 approved before services are rendered. When the
20 compensation ~~shall have~~ has been so fixed and approved and
21 the services rendered, the ~~same~~ compensation shall be paid
22 out of the funds of ~~such the~~ bank in the hands of the
23 ~~superintendent department,~~ and ~~shall be~~ are a proper charge
24 and lien on the assets of ~~such the~~ bank ~~as herein provided."~~

25 Section 53. Section 5-1111, R.C.M. 1947, is amended to

1 read as follows:

2 "5-1111. Notice to creditors of insolvent bank. The
3 ~~superintendent department~~ shall ~~cause give~~ notice ~~to be~~
4 ~~given~~ by advertisement in a newspaper of general circulation
5 in the town or city in which ~~said the~~ bank is situated, if
6 there ~~be is~~ one, and if not, then in ~~such some~~ other
7 newspaper published in ~~the this~~ state ~~of Montana,~~ as which
8 the ~~superintendent department~~ shall designate, once a week
9 for two (2) successive weeks, ~~calling The notice shall~~
10 call on all persons who have claims against ~~said the~~ bank to
11 present ~~the same then~~ to the ~~superintendent department~~ or
12 ~~his duty its~~ authorized agent at a place to be specified in
13 ~~said the~~ notice, and to make sworn proof thereof, in form to
14 be fixed by ~~him, the department,~~ within the time specified
15 in ~~said the~~ notice, not less than ninety (90) days from the
16 date of the first publication thereof. A copy of ~~such the~~
17 notice shall be mailed to all persons whose names appear as
18 creditors upon the books of the bank."

19 Section 54. Section 5-1112, R.C.M. 1947, is amended to
20 read as follows:

21 "5-1112. Claims — allowance and rejection. The
22 ~~superintendent department~~ shall reject or allow all claims
23 in the whole or in part, and on each claim allowed shall
24 designate the order of its priority. If a claim is rejected
25 or an order of priority allowed lower than that claimed,

1 notice shall be given the claimant personally or by
 2 registered mail, and an affidavit of the service of ~~such the~~
 3 notice, which shall be prima facie evidence ~~thereof, of~~
 4 service, shall be filed in the office of the ~~superintendent~~
 5 department. The action of the ~~superintendent shall be~~
 6 department is final unless an action ~~be is~~ brought by the
 7 claimant against the bank in the ~~proper district~~ court of
 8 the county where the bank is located within ninety (90) days
 9 after ~~such the~~ service to fix the amount of the claim and
 10 its order of priority or either. An appeal from the
 11 ~~superintendent's department's~~ allowance, either as to
 12 priority or amount, may also be taken to the district court
 13 of ~~such that~~ county by any party in interest by serving
 14 notice on the ~~superintendent notice thereof department,~~
 15 stating the grounds of objection and filing ~~the case it~~ in
 16 ~~said that~~ court within thirty (30) days after allowance.
 17 Within five (5) days after ~~such the~~ notice, the
 18 ~~superintendent department~~ shall file in the court, and serve
 19 on the appellant, a copy of the claim and ~~his its~~ reasons
 20 for allowance. The court ~~or judge~~ shall, after five (5)
 21 days' notice of time and place of hearing on the issues ~~thus~~
 22 made raised, hear the proof of the parties and enter
 23 judgment reversing, affirming or modifying the
 24 ~~superintendent's department's~~ action."

25 Section 55. Section 5-1113, K.C.M. 1947, is amended to

1 read as follows:

2 "5-1113. Payment of claims. Claims presented to the
 3 ~~superintendent department~~ prior to the expiration of the
 4 time fixed in the notice to creditors ~~therefor~~, and allowed
 5 by ~~his it~~, shall be paid in the order of priority
 6 ~~hereinafter~~ fixed in this chapter. Those filed after ~~such~~
 7 that expiration and ~~prior to within~~ one year ~~thereafter~~
 8 ~~shall be of that expiration are~~ entitled, after they have
 9 been allowed by the ~~superintendent department~~, to share in
 10 the distribution of the assets of the bank only to the
 11 extent of the assets undistributed in the hands of the
 12 ~~superintendent department~~ and available for the payment of
 13 claims of their order of priority at the time ~~such the~~
 14 claims are filed, ~~but as~~ as against other claims of ~~their~~
 15 ~~the~~ same order of priority, on which dividends have been
 16 paid, they ~~shall be~~ are entitled to payment in a
 17 proportionate amount before further payments are made on
 18 ~~such those~~ other claims. All claims filed after the
 19 expiration of one year following the date fixed in the
 20 notice to creditors as the time for presentation of claims
 21 are not entitled to be allowed or paid unless all other
 22 creditors' claims of any kind ~~or character~~, except claims of
 23 shareholders, based on stock or assessments paid on stock
 24 ~~shall have been fully paid and discharged~~, and a surplus
 25 remains in the hands of the ~~superintendent department~~, and

then only from ~~such~~ that surplus."

Section 56. Section 5-1114, R.C.M. 1947, is amended to read as follows:

"5-1114. Claims — order of payment — priorities. (1) Except as otherwise provided by the Uniform Commercial Code, the order of payment of the debts of a bank liquidated by the ~~superintendent of banks department~~ shall be as follows:

~~(1)~~ (a) The expense of liquidation, including compensation of agents, employees, and attorneys;

~~(2)~~ (b) All funds of any other bank in process of liquidation by the ~~superintendent of banks department~~ and placed on deposit by the ~~superintendent of banks department~~;

~~(3)~~ (c) All funds held by the bank in trust;

~~(4)~~ (d) Debts due depositors, holders of cashier's checks, certified checks, drafts on correspondent banks, including protest fees, paid by them on valid checks or drafts presented after closing of the bank, pro rata. All deposit balances of other banks or trust companies, and all deposits of public funds of every kind ~~and character~~ (except those actually placed on special deposit under the statutes providing therefor), including those of the United States, the state of Montana, and every county, district, municipality, political subdivision, or public corporation of this state, whether secured or unsecured, or whether

deposited in violation of law or otherwise, are included within the terms of this ~~subdivision~~ subsection (1) (d) and take the same priority as debts due any other depositor. All contractual liabilities pro rata. Accrued interest on savings accounts, certificates of deposit, or other interest-bearing contracts, up to the time of the closing ~~of~~ of the bank, ~~to~~ shall be considered as part of the debt due.

~~(5)~~ (e) Interest on ~~all~~ the foregoing classes of claims contained in subsections (1) (a) through (1) (d) of this section without regard to the priority computed from the date of closing of the bank at the rate of seven ~~per centum percent~~ percent (7%) per annum a year;

~~(6)~~ (f) Unliquidated claims for damages and ~~the like similar claims~~, including claims of stockholders for amounts claimed to have been voluntarily advanced to the bank or paid in by way of special or voluntary or other assessments, ~~provided, however, that the superintendent~~ The department may, in ~~his~~ its discretion, without regard to the priorities herein fixed in ~~subdivisions (3), (4), (5), and (6)~~ subsections (1) (c) through (1) (f) of this section, or in preference to the payment of any claims of creditors within these ~~subdivisions~~ subsections, pay off and discharge any lien, claim, or charge against the assets or property of the bank in ~~his~~ its hands and pay ~~out and expend such~~ those sums

1 ~~as he deems it considers~~ necessary for the preservation,
 2 maintenance, conservation, and protection of ~~any such those~~
 3 assets and property, and likewise property on which the bank
 4 has liens by mortgage or otherwise, ~~and he~~ it may also, in
 5 ~~his~~ its discretion create a fund or retain in ~~his~~ its hands,
 6 in preference to the claim of any creditors in ~~the~~
 7 ~~subdivisions above mentioned subsections (1) (c) through~~
 8 ~~(1) (f), moneys for the aforesaid those~~ purposes.

9 ~~(7) (2)~~ Collateral which ~~shall have~~ has been put up
 10 or pledged as security for the payment of bills payable by
 11 ~~any~~ a bank, or ~~any~~ loans or discounts which ~~shall~~ have been
 12 outstanding as rediscounts of ~~any~~ a bank prior to the
 13 closing thereof, ~~shall of it, is not be~~ available to the
 14 other creditors of ~~such the~~ bank in whole or in part until
 15 ~~such the~~ bills payable or rediscounts ~~shall~~ have been
 16 retired, after which offsets as provided in this section
 17 ~~provided~~ shall be allowed.

18 ~~(8) (3)~~ Deposits of ~~any~~ a person, firm, or
 19 corporation in a bank which is in the possession of the
 20 ~~superintendent,~~ department may be offset against any
 21 indebtedness, (subject to the conditions of ~~the preceding~~
 22 ~~paragraph subsection (2)~~ of this section), except
 23 assessments on stock, due to ~~such the~~ bank from ~~such that~~
 24 person, firm, or corporation. All dividends when declared
 25 in favor of ~~any~~ a creditor of the bank may be applied, in

1 the discretion of the ~~superintendent department,~~ in
 2 satisfaction of the indebtedness, if any, due the bank from
 3 ~~such the~~ creditor."

4 Section 57. Section 5-1115, K.C.M. 1947, is amended to
 5 read as follows:

6 "5-1115. Claims — partial payments. The
 7 ~~superintendent department~~ need not await the expiration of
 8 the time allowed for filing claims, as fixed in the notice
 9 to the creditors, for the payment of dividends, ~~but he~~ it
 10 may, in ~~his~~ its discretion, and if under the circumstances
 11 of the particular case ~~he deems it considers~~ it expedient
 12 and safe, at any time after taking possession of ~~said the~~
 13 bank and prior to the expiration of ~~such the~~ period fixed
 14 for filing of claims, if ~~he have it has~~ on hand in cash
 15 sufficient funds over and above the expenses of liquidation,
 16 make ~~prorate pro rata~~ distribution to any class of creditors
 17 next entitled ~~thereto to distribution,~~ in the order of
 18 priority ~~heretofore fixed in this chapter,~~ making ~~such that~~
 19 payment to ~~said the~~ creditors as they appear on the books
 20 and records of the bank and determining the priority and
 21 basing his apportionment on the amount shown to be due by
 22 ~~such the~~ books and records. At any time after the
 23 expiration of the date fixed for the presentation of claims
 24 against ~~said the~~ bank and from time to time thereafter,
 25 when, in ~~his~~ its discretion there are sufficient funds

1 available ~~therefor~~, the ~~superintendent department~~ shall,
 2 after making proper provisions for the payment of expenses
 3 of liquidation, declare and pay dividends to all creditors
 4 of ~~such the~~ bank pro rata in the order of their priority.
 5 If, after the time fixed for presentation of claims against
 6 the bank has expired, it appears that ~~any a~~ person, prior to
 7 the expiration of ~~said the~~ period, or at any other time, has
 8 been paid more than the pro rata amount due him as compared
 9 with the amounts then paid other creditors, nothing more
 10 ~~shall may~~ be paid ~~such creditors that creditor~~ until ~~such~~
 11 ~~time as~~ the payment made other creditors ~~shall place places~~
 12 them on equal footing. In calculating dividends, all
 13 disputed claims and deposits shall be taken into account and
 14 the amount of dividends upon ~~such the~~ disputed claims or
 15 deposits shall be held by the ~~superintendent department~~
 16 until the ~~justice and~~ validity of ~~such those~~ claims or
 17 deposits ~~shall have has~~ been finally determined. Claims
 18 against ~~any a~~ bank in process of liquidation may be assigned
 19 in whole or in part subject to the approval of the ~~state~~
 20 ~~superintendent of banks department~~. Assignments of claims
 21 ~~shall be are~~ binding upon the ~~superintendent department~~ only
 22 after ~~the same they~~ have been filed and allowed by the
 23 ~~superintendent department, but not before~~ and only then
 24 subject to the payment of the assignor's liabilities to the
 25 bank. ~~Such an~~ assignment shall be made by filing written

1 notice, signed by the original claimant, with the
 2 ~~superintendent department~~ or person in charge of ~~said the~~
 3 bank. No assigned claims may be offset against obligations
 4 due the bank. A check or draft drawn against ~~any a~~ bank
 5 closed or taken possession of by the ~~superintendent~~
 6 ~~department~~, whether issued before or after closing ~~thereof~~,
 7 shall not be recognized as a claim against ~~said the~~ bank, or
 8 as an assignment of any amount, whether protested or not
 9 protested."

10 Section 58. Section 5-1116, R.C.M. 1947, is amended to
 11 read as follows:

12 "5-1116. Deposit of funds in ~~superintendent's~~
 13 ~~department's~~ hands. All funds in the hands of the
 14 ~~superintendent department~~ belonging to ~~any a~~ bank in process
 15 of liquidation shall be deposited in ~~his the~~ ~~department's~~
 16 name ~~as superintendent~~ in ~~such those~~ banks within the state
 17 ~~as which~~ may be selected and designated by ~~him it~~ and
 18 subject to ~~his its~~ checks ~~as superintendent of banks~~. ~~Said~~
 19 ~~Those~~ funds ~~are~~ to be preferred and protected as ~~provided~~ in
 20 this act ~~provided~~."

21 Section 59. Section 5-1117, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1117. Disposition of unclaimed funds. (1) The
 24 ~~superintendent department~~ shall certify to the ~~state~~
 25 treasurer ~~of the state~~ a complete list of funds remaining in

1 ~~his hands with it~~ uncalled for, which have been left in ~~his~~
 2 ~~hands with it~~ in ~~his~~ its official capacity, in trust for
 3 depositors in and creditors of ~~any~~ a liquidated bank after
 4 they have been held by ~~him~~ it for six (6) months from the
 5 date of the final liquidation of the institution. Along
 6 with this certificate, ~~he~~ it shall transmit to the state
 7 treasurer ~~of the state~~ the funds with accumulated interest
 8 ~~thereon on then~~, which ~~he~~ it has so held in trust for six
 9 (6) months. A copy of ~~such~~ the certificate shall also be
 10 filed with the state auditor, who shall make a record
 11 ~~thereof of it~~.

12 (2) The state treasurer shall deposit ~~such~~ the funds
 13 and interest in the general fund of ~~the~~ this state of
 14 Montana.

15 (3) ~~Any~~ A depositor or creditor of a liquidated bank
 16 who has not been paid the amount standing to his credit as
 17 thus certified to the state treasurer, may apply to the
 18 state board of examiners for the amount due him. The
 19 depositor or creditor shall make an affidavit and offer
 20 proof of his identity and of the amount due him by the
 21 liquidated bank. When satisfied as to the correctness of
 22 the claim and of the identity of the person, the state board
 23 of examiners shall forward it to the auditor, who shall
 24 audit the ~~same~~ claim and if found correct so certify to the
 25 state board of examiners, ~~who~~ which, if ~~they approve it it~~

1 approves the claim, shall transmit ~~it~~ the claim to the
 2 ~~legislative assembly~~ legislature with a statement of ~~their~~
 3 its approval."

4 Section 60. Section 5-1118, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-1118. Disposition of assets remaining after payment
 7 of claims. ~~(a) (1) Whenever when~~ the ~~superintendent of banks~~
 8 ~~department~~ has paid to each ~~and every~~ depositor and creditor
 9 of ~~such~~ the bank whose claims ~~shall~~ have been ~~duly~~ approved
 10 and allowed as ~~herein~~ provided in this chapter, the amount
 11 ~~due thereon on then~~, or made satisfactory adjustment ~~thereof~~
 12 ~~of then~~, and ~~shall have has~~ made provisions for unclaimed
 13 and unpaid deposits and disputed claims and deposits, and
 14 ~~shall have has~~ paid all the expenses of liquidation, ~~he~~ it
 15 shall file with the clerk of the district court of the
 16 county in which the bank is located, a report of ~~his~~ its
 17 administration of ~~said~~ the trust. If there ~~be~~ are remaining
 18 assets on hand ~~the superintendent of banks department~~ may
 19 apply to the judge of ~~said~~ that court in open court or in
 20 chambers, for an order authorizing ~~him~~ it to surrender the
 21 remaining assets together with all the stationery,
 22 correspondence, books and records, ~~had and~~ kept by the bank
 23 while it was a going concern to the directors of ~~said~~ the
 24 bank in office at the time of closing ~~the same~~ it, as
 25 trustees for stockholders, or to ~~such~~ that other person, if

1 any, ~~as may have been or may be~~ designated as trustee by a
 2 majority of the stockholders. The report and petition shall
 3 be set for hearing upon ~~such~~ notice ~~as which~~ the court may
 4 direct, ~~and upon~~ Upon hearing ~~had~~ and approval of ~~said the~~
 5 report and account ~~being given~~ and the surrender of ~~said the~~
 6 assets ~~being made as in the order~~ directed, the
 7 ~~superintendent of banks shall be~~ department is discharged
 8 from all further liability or responsibility in connection
 9 with the assets and affairs of ~~said the~~ bank. The court
 10 may, if requested, require ~~such the~~ trustees to give bond in
 11 ~~such an~~ amount ~~as~~ the court may fix, conditioned for the
 12 faithful performance of their duties. ~~It shall be the duty~~
 13 ~~of the said The~~ trustee or trustees ~~to shall~~ complete the
 14 liquidation of any remaining assets ~~with power to and may~~
 15 sell and dispose of real and personal property as rapidly as
 16 ~~may be possible~~ and ~~to shall~~ distribute the proceeds ~~of same~~
 17 among the stockholders as their equities ~~or~~ rights may
 18 appear, or ~~to~~ dispose of the ~~same~~ proceeds in ~~such some~~
 19 other manner as the stockholders shall, by majority action,
 20 direct, ~~provided, however, the The~~ court may upon request
 21 of a majority of the stockholders order the ~~superintendent~~
 22 ~~of banks department~~ to close up the trust as provided in
 23 ~~clause (b) subsection (2)~~ of this section.

24 ~~(b) (2)~~ If the assets of ~~said the~~ bank be are
 25 insufficient for making payments in full to the depositors

1 and creditors of ~~said the~~ bank, then, ~~whenever when~~ the
 2 ~~superintendent department~~ has liquidated all available
 3 assets and disbursed ~~the same then~~ as provided by law, the
 4 ~~superintendent of banks department~~ shall file with the clerk
 5 of court of the county in which the bank is located, a final
 6 report of ~~his its~~ liquidation of ~~such the~~ bank. Upon ~~such~~
 7 notice ~~as which~~ the court may order, the report shall be set
 8 for hearing before the court and if found correct and all
 9 funds accounted for, the court shall approve ~~the same it~~.
 10 The ~~superintendent of banks department~~ may at the same time
 11 and in the report make application to the district court of
 12 the county in which ~~such the~~ bank is located, for an order
 13 directing the closing of the trust and upon entry of the
 14 order closing the trust the ~~superintendent of banks shall be~~
 15 department is discharged from all further liability or
 16 responsibility in connection with the assets and affairs of
 17 ~~said the bank, and the The~~ charter of ~~said the~~ bank shall
 18 be forfeited and all the stationery, correspondence, books,
 19 and records ~~had and~~ kept by the bank while it was a going
 20 concern, and ~~deemed considered~~ by the ~~superintendent of~~
 21 ~~banks department~~ to be of no value, may be destroyed,
 22 ~~provided, however, that However,~~ no correspondence or
 23 records ~~shall may~~ be destroyed ~~for a period of until~~ ten
 24 ~~(10)~~ years ~~from after~~ the date the bank ceased to be a going
 25 concern.

1 ~~(e)~~ (3) On application for orders, as ~~in this section~~
 2 provided in this section, the bank shall be made a party by
 3 notice issued on order of the court or judge and served in
 4 ~~such a manner as the court shall direct~~ directs and the
 5 ~~hearing of~~ applications authorized by this section may be
 6 ~~had~~ heard at any time in court or in chambers, as the court
 7 may order, ~~provided there be~~ upon not less than five (5)
 8 days' posted ~~and/or~~ or served notice of the hearing."

9 Section 61. Section 5-1123, R.C.M. 1947, is amended to
 10 read as follows:

11 "5-1123. Punishment. When no other punishment is
 12 provided ~~herein~~, ~~any~~ a person willfully or knowingly
 13 violating ~~any of the provisions of~~ this act, ~~shall be deemed~~
 14 ~~is~~ guilty of a misdemeanor, ~~and shall be punished by a fine~~
 15 ~~of not more than five hundred dollars (\$500.00) or by~~
 16 ~~imprisonment in the county jail for not more than six~~
 17 ~~months, or by both such fine and imprisonment.~~ The attorney
 18 general upon information furnished by the ~~superintendent of~~
 19 ~~banks~~ department, shall ~~bring any actions necessary~~ sue to
 20 enforce ~~the provisions of~~ this act."

21 Section 62. Section 5-1126, R.C.M. 1947, is amended to
 22 read as follows:

23 "5-1126. Power of closed banks to borrow money from
 24 governmental agencies. Notwithstanding any other ~~provisions~~
 25 ~~of law~~, the liquidating agents of closed banks ~~shall have~~

1 ~~the power to~~ may borrow money from ~~the Reconstruction~~
 2 ~~Finance Corporation or other governmental~~ an agency of the
 3 federal government on behalf of commercial banks, savings
 4 banks, trust companies and investment companies ~~now closed~~
 5 ~~or which may hereafter be~~ closed and in liquidation and, as
 6 security ~~therefor, to~~ for the loan may pledge or mortgage
 7 the assets and properties thereof, for the purpose of paying
 8 depositors or creditors ~~thereof~~ in part or in full, after
 9 ~~making application~~ applying to and obtaining the approval of
 10 ~~the superintendent of banks~~ department and the district
 11 court of the county in which ~~said the~~ the bank, or trust or
 12 investment company is located, upon ~~such the~~ the court
 13 proceedings ~~had and obtained as are~~ prescribed in section
 14 5-1107."

15 Section 63. Section 5-1129, R.C.M. 1947, is amended to
 16 read as follows:

17 "5-1129. Manner of issuing preferred stock. ~~Such~~ The
 18 preferred stock may be issued and sold upon ~~such~~ terms and
 19 conditions ~~as may be~~ approved by the ~~superintendent of banks~~
 20 department, or ~~as may be~~ required for the purchase of ~~such~~
 21 the stock by ~~the Reconstruction Finance Corporation or other~~
 22 an agency or quasi-agency of the federal government."

23 Section 64. Section 5-1202, R.C.M. 1947, is amended to
 24 read as follows:

25 "5-1202. Banking institutions may take advantage of

1 federal deposit insurance corporation aid. ~~Any~~ a banking
 2 institution ~~now or hereafter organized under the laws of~~
 3 ~~this state is hereby empowered~~ may, on the authority of its
 4 board of directors, or a majority thereof, ~~to~~ enter into
 5 ~~such those~~ contracts, incur ~~such those~~ obligations and
 6 generally ~~to do and~~ perform any ~~and all such~~ acts and things
 7 ~~whatsoever as may~~ be necessary or appropriate in order to
 8 take advantage of any ~~and all~~ memberships, loans,
 9 subscriptions, contracts, grants, ~~right~~ rights, or
 10 privileges, ~~which may at any time be available or issue~~ to
 11 banking institutions or to their depositors, creditors,
 12 stockholders, conservators, or liquidators, by virtue of
 13 those provisions ~~of section 123~~ of the Federal Reserve
 14 Deposit Insurance Act, ~~as amended~~, which establish the
 15 Federal Deposit Insurance Corporation and provide for the
 16 insurance of deposits, ~~or of any other provisions of that or~~
 17 of any other act or resolution of Congress to aid, regulate,
 18 or safeguard banking institutions and their depositors, ~~including any amendments of the same or any substitutions~~
 19 ~~therefor; also, to~~ a banking institution may also subscribe
 20 for and acquire ~~any~~ stock, debentures, bonds, or other types
 21 of securities of the Federal Deposit Insurance Corporation,
 22 and ~~to~~ may comply with the lawful regulations rules and
 23 requirements from time to time ~~issued or made~~ adopted by
 24 ~~such that~~ corporation."

1 Section 65. Section 5-1203, R.C.M. 1947, is amended to
 2 read as follows:

3 "5-1203. Appointment of the corporation as agent. ~~In~~
 4 ~~the event any~~ If a banking institution, the deposits in
 5 which are in any extent insured by the Federal Deposit
 6 Insurance Corporation created by ~~section 123~~ of the Federal
 7 Reserve Deposit Insurance Act, ~~as amended~~, 12 U.S.C.
 8 sections 1811-1831, is closed on account of inability to
 9 meet the demands of its creditors, the ~~superintendent of~~
 10 banks department of business regulation may appoint said the
 11 corporation agent, without bond, to assist ~~him~~ it or act for
 12 ~~him~~ it in the liquidation of ~~such that~~ banking institution."

13 Section 66. Section 5-1205, R.C.M. 1947, is amended to
 14 read as follows:

15 "5-1205. Examinations by the corporation may be
 16 accepted — effect of act. [1] The ~~superintendent of banks~~
 17 ~~is authorized to~~ department may accept, in ~~his~~ its
 18 discretion, in ~~lieu~~ place of any examination authorized by
 19 the laws of this state to be conducted by ~~his~~ the department
 20 of a banking institution, the examination ~~that may have been~~
 21 ~~made of same~~ it within a reasonable period by the Federal
 22 Deposit Insurance Corporation, ~~provided, if~~ a signed copy
 23 of ~~said the~~ examination is furnished to ~~said superintendent~~
 24 ~~of banks the department~~. ~~Said superintendent of banks~~ The
 25 department may, also in ~~his~~ its discretion, accept ~~any a~~

1 report relative to the condition of a banking institution
 2 ~~which may have been~~ obtained by ~~said the~~ corporation within
 3 a reasonable period, in ~~lieu place~~ of a report authorized by
 4 the laws of this state to be required of ~~such the~~
 5 institution by ~~his the~~ department, ~~provided if~~ a copy of
 6 ~~such the~~ report is furnished to ~~said superintendent of~~
 7 ~~banks, and the department.~~ The department may in ~~his its~~
 8 discretion disclose to ~~said the~~ corporation, or ~~any an~~
 9 official or examiner thereof, any information possessed by
 10 the ~~office of said superintendent of banks department~~ with
 11 reference to the conditions or affairs of ~~any such an~~
 12 insured institution.

13 ~~(2) Said superintendent of banks~~ The department may
 14 furnish to ~~said the~~ corporation, or to ~~any an~~ official or
 15 examiner thereof, a copy or copies of any ~~or all~~
 16 examinations made of ~~any such those~~ banking institutions and
 17 of any ~~or all~~ reports made by ~~same them~~.

18 ~~(3) Nothing in this section shall be construed to~~
 19 ~~limit limits~~ the duty of any banking institution in this
 20 state, deposits in which are to any extent insured under ~~the~~
 21 ~~provisions of section 12B of the Federal Reserve Deposit~~
 22 ~~Insurance Act, as amended, or of any amendment of or~~
 23 ~~substitution for the same it,~~ to comply with the provisions
 24 of ~~said that~~ act, its ~~amendments or~~ substitutions, or the
 25 requirements of ~~said that~~ corporation relative to

1 examinations and reports, nor ~~to limit limits~~ the powers of
 2 the ~~superintendent of banks department~~ with reference to
 3 examinations and reports under existing law."

4 Section 67. Section 5-1206, R.C.M. 1947, is amended to
 5 read as follows:

6 "5-1206. Closed banking institutions may borrow from
 7 the corporation. ~~Any If a~~ banking institution, ~~which is now~~
 8 ~~or may hereafter be~~ closed on account of inability to meet
 9 the demands of its depositors or by action of the
 10 ~~superintendent of banks department~~ or by action of its
 11 directors or in the event of its insolvency or suspension,
 12 the ~~superintendent of banks department~~ or ~~his its~~ agent,
 13 with the permission of the court having jurisdiction
 14 ~~thereof,~~ may borrow from ~~said the~~ corporation and furnish
 15 any ~~part or all~~ of the assets of ~~said the~~ institution to
 16 ~~said the~~ corporation as security for a loan from ~~same it~~.
 17 ~~Said superintendent of banks~~ The department upon the order
 18 of a district court ~~of record~~ of competent jurisdiction may
 19 sell to ~~said the~~ corporation any part or all of the assets
 20 of ~~such the~~ institution. The provisions of this section
 21 ~~shall do not be construed to~~ limit the power of ~~any a~~
 22 banking institution, or the ~~superintendent of banks~~
 23 ~~department~~ to pledge or sell assets in accordance with any
 24 existing law."

25 Section 68. Section 5-1401, R.C.M. 1947, is amended to

1 read as follows:

2 "5-1401. Common trust fund authorized. ~~Any~~ A bank or
3 trust company qualified to act as fiduciary in this state
4 may establish common trust funds for the purpose of
5 furnishing investments to itself as fiduciary, or itself and
6 others, as co-fiduciaries, ~~and it may, as such that~~
7 fiduciary or co-fiduciary, invest funds which it lawfully
8 holds for investment in interests in ~~such the~~ common trust
9 fund, if ~~such the~~ investment is not prohibited by the
10 instrument, judgment, decree, or order creating ~~such the~~
11 fiduciary relationship, and if in the case of
12 co-fiduciaries, the bank or trust company procures the
13 consent of its co-fiduciary or co-fiduciaries to ~~such the~~
14 investment. ~~Provided, that any A bank or trust company~~
15 qualified to act as fiduciary in this state, which is not a
16 member of the federal reserve system, shall, in operation of
17 ~~such the~~ common trust fund, comply with the rules ~~and~~
18 ~~regulations as made from time to time adopted by the state~~
19 ~~examiner and ex officio superintendent of banks department~~
20 ~~of business regulation, and he is hereby authorized and~~
21 ~~empowered to the department may make adopt such rules and~~
22 ~~regulations as he may deem it considers~~ necessary and proper
23 in the premises."

24 Section 69. Section 7-101, R.C.M. 1947, is amended to
25 read as follows:

1 "7-101. Purpose — definition. A corporation mutually
2 operated for the purpose of encouraging home ownership and
3 thrift among its members and making substantially all of its
4 loans to them on real estate mortgage security, shall be
5 known in this act as a building and loan association or a
6 savings and loan association, and ~~shall be is~~ under the
7 supervision of the ~~state examiner and ex officio~~
8 ~~superintendent of banks, whose duty it department of~~
9 business regulation, which shall be to enforce all laws with
10 respect ~~thereto to it~~. The members of a building and loan
11 association ~~shall be are~~ its shareholders, stockholders,
12 borrowers or purchasers of real estate under contract. ~~Such~~
13 The associations ~~shall~~ have continual succession and shall
14 be organized under the provisions of this ~~act~~ chapter.
15 ~~Wherever When used in this act the name chapter, "building~~
16 ~~and loan association" is used the same shall apply to and~~
17 ~~comprehend includes~~ savings and loan associations organized
18 under this act. "Department" means the department of
19 business regulation provided for in Title 82A, chapter 4."

20 Section 70. Section 7-106, R.C.M. 1947, is amended to
21 read as follows:

22 "7-106. Capital stock requirements — investigation —
23 certificate of incorporation, how issued. The capital stock
24 named in the articles of incorporation ~~shall be deemed to~~
25 ~~refer refers~~ to the authorized capital stock, ~~and the The~~

1 organization may be completed and business commenced when
 2 five per cent (5%) of the capital stock thereof is
 3 subscribed and not less than twenty-five hundred dollars
 4 ~~(\$2500.00)~~ (\$2,500), paid in, in cash, ~~and such~~ That amount
 5 must thereafter be maintained, ~~and provided further that~~
 6 ~~whenever such~~ When the articles of incorporation are in due
 7 proper form and regularly executed and the bylaws have been
 8 duly approved as ~~above~~ required in section 7-105 and it
 9 ~~shall be made to appear~~ appears to the satisfaction of the
 10 ~~superintendent of banks department~~ that five per cent (5%)
 11 of the authorized capital has actually been paid in cash
 12 upon the subscription of shares, the ~~superintendent of banks~~
 13 ~~department~~ shall ~~thereupon~~ then ascertain from the best
 14 sources of information at ~~his~~ its command the
 15 responsibility, character and general fitness of the
 16 incorporators, ~~and that~~ The department shall also
 17 determine whether there is a reasonable need for the
 18 existence of ~~such an~~ the association, and ~~that~~ whether the
 19 public convenience and advantage will be promoted ~~thereby by~~
 20 its existence. If the ~~superintendent of banks~~ shall
 21 ~~department is~~ not be satisfied with the result of ~~his~~ its
 22 investigations of the matters ~~above~~ specified, he in this
 23 section, it shall, within sixty days (60) after ~~said the~~
 24 articles of incorporation and bylaws have been presented to
 25 ~~him~~ it, refuse to issue the certificate ~~hereinafter~~

1 described in this section. If ~~he shall be~~ it is satisfied
 2 with the result of ~~his said~~ its investigations, ~~he it~~ shall
 3 within sixty days (60) after ~~said the~~ the articles of
 4 incorporation and bylaws have been presented to ~~him~~ it,
 5 issue under ~~his hand, and~~ its official seal, a certificate
 6 reciting in substance the filing in ~~his~~ its office of the
 7 articles of incorporation and bylaws, The certificate
 8 shall also state that ~~said the~~ the articles and bylaws conform
 9 to all the requirements of this act; that ~~he~~ the department
 10 has approved ~~the same then~~ and that ~~he~~ it believes
 11 that the incorporators are fit and proper persons to conduct
 12 the business of a building and loan association as defined
 13 in this act and ~~said the~~ the bylaws and that there is a
 14 reasonable need for the existence of ~~said the~~ the building and
 15 loan association, and that the public convenience and
 16 advantage will be promoted thereby. ~~Said the~~ the certificate
 17 shall be made in quadruplicate and attached to each copy of
 18 the articles of incorporation, one (1) of which shall be
 19 retained by the ~~superintendent of banks department~~, the
 20 other three (3) shall be returned to the incorporators who
 21 shall ~~forthwith~~ immediately file one (1) copy ~~thereof in the~~
 22 ~~office of~~ with the secretary of state, ~~and one (1) is the~~
 23 ~~office of~~ with the clerk and recorder of the county in which
 24 the principal place of business of ~~said the~~ the association is
 25 located, ~~and the~~ The other copy shall be retained by the

1 association. Immediately upon the receipt of ~~said the~~
 2 certified copy, the secretary of state shall issue a
 3 certificate of incorporation, ~~whereupon at which time the~~
 4 incorporation of ~~said the~~ association ~~shall be deemed is~~
 5 complete."

6 Section 71. Section 7-108, R.C.M. 1947, is amended to
 7 read as follows:

8 "7-108. ~~Superintendent of banks Department~~ to approve
 9 contracts paying income to person other than association —
 10 penalty for not securing. No fiscal agency or promotion
 11 contract or any other contract or arrangement whereby the
 12 membership fee, or any other income properly payable to the
 13 association, or any part thereof, ~~shall be is~~ payable to an
 14 agent or other contracting party or otherwise than to the
 15 association, or whereby any part of the business of ~~such the~~
 16 association or the management or conduct of its affairs or
 17 the expense ~~thereof of them~~ is contracted to another, ~~shall~~
 18 ~~may~~ be entered into or allowed until ~~the same it~~ has been
 19 submitted to the ~~superintendent of banks department~~ and by
 20 ~~him it~~ approved in writing~~t~~, ~~nor shall any such That~~
 21 contract ~~may not~~ be extended without ~~such the department's~~
 22 approval. ~~Any such The~~ contract, or the extension of ~~any~~
 23 ~~such the~~ contract, not ~~so~~ first approved ~~shall be null and~~
 24 ~~is~~ void. ~~Any a~~ person operating under ~~such a the~~ contract
 25 or extension, not ~~so~~ first approved, or taking or receiving

1 ~~any such~~ income properly payable to the association without
 2 ~~such~~ approval, ~~shall be is~~ guilty of a misdemeanor."

3 Section 72. Section 7-113, R.C.M. 1947, is amended to
 4 read as follows:

5 "7-113. Powers and duties of building and loan
 6 associations. ~~Every a~~ building and loan association ~~is a~~
 7 ~~creature of the law having certain powers and duties of a~~
 8 ~~natural person and as such has power may:~~

9 (1) ~~Of Have~~ continual succession, by its corporate
 10 name;

11 (2) ~~To sue~~ Sue and be sued, in any court;

12 (3) ~~To make~~ Make and use a common seal and alter ~~same~~
 13 it at pleasure;

14 (4) ~~To appoint such~~ Appoint those officers or agents
 15 ~~as the business of the corporation may require requires~~, and
 16 ~~to allow pay~~ them suitable compensation;

17 (5) ~~To enter~~ Enter into ~~any~~ obligations or contracts
 18 essential to the transaction of its ordinary affairs, or for
 19 the purposes of the corporation.

20 (6) ~~Such associations shall have power to issue~~ Issue
 21 stock to members on ~~such the~~ terms and conditions ~~as the~~
 22 constitution and bylaws ~~may~~ provide, but ~~no an~~ association
 23 ~~shall may not~~ issue preferred stock.

24 (7) ~~To assess~~ Assess and collect from members dues on
 25 stock and interest on loans at the times and in the amount

1 as provided for in the constitution and bylaws. The
 2 combined total of the amounts paid to an association for
 3 interest, commission, bonus, discount and other similar
 4 charges, less a proper deduction for all dividends, refunds,
 5 and cash credits of all kinds, shall not create an actual
 6 net cost to the borrower in excess of the maximum lawful
 7 contract rate of interest in this state. Interest not
 8 exceeding the maximum lawful contract rate may also be
 9 charged on unpaid interest payments from the time ~~such~~ those
 10 interest payments are due. Interest, not exceeding the
 11 lawful contract rate, may also be charged and collected on
 12 delinquent stock payments when ~~such~~ those unpaid payments
 13 are credited with dividends. ~~Said~~ The interest shall in no
 14 event be at a rate exceeding the rate ~~per-centum~~ percent of
 15 the dividend declared on the same unpaid stock payments. ~~No~~
 16 An association ~~shall may not~~ charge or collect from ~~any a~~
 17 stockholder, member or borrower, any fines, premiums, or
 18 penalties of any kind ~~whatsoever~~. ~~Any An~~ officer, agent or
 19 employee of ~~any an~~ association collecting or attempting to
 20 collect ~~any a~~ penalty, fine or premium of any kind
 21 ~~whatsoever~~ or ~~any~~ interest at a rate higher than provided in
 22 the note or other evidence of debt and in this act, ~~shall be~~
 23 is guilty of a misdemeanor.

24 (8) ~~To permit~~ Permit members to withdraw all or part
 25 of their stock credits at ~~such the~~ times and upon ~~such the~~

1 terms, as the constitution and bylaws may provide, ~~provided~~
 2 ~~that no~~ No charge or fee, except as ~~herein~~ provided in this
 3 section, ~~shall may~~ be made against ~~any a~~ member who
 4 withdraws his stock, after having given thirty (30) days'
 5 notice of ~~such the~~ withdrawal, ~~provided, also, that no~~ No
 6 fine of any description ~~shall may~~ be made upon the par value
 7 of ~~such that~~ stock or upon the declared dividends because of
 8 ~~such the~~ withdrawal. ~~Any A~~ member who withdraws his stock
 9 or whose stock is matured, ~~shall be is~~ entitled to receive
 10 all dues paid in and all dividends declared less interest,
 11 if any, as provided in subsection (7), less a reasonable
 12 membership fee not exceeding two (2) ~~per-centum~~ percent of
 13 the par value of each share of stock and less a ~~pro-rata~~ pro
 14 rata share of all losses, if any, which have occurred, ~~and~~
 15 ~~no No~~ other fine or assessments ~~shall may~~ be made against
 16 ~~such the~~ stock. Applications for withdrawal ~~are to~~ shall be
 17 registered on the books of the association in the order
 18 received and one-half or all cash collections, not required
 19 to meet outstanding contracts, must be used for the payment
 20 of the matured stock and of the withdrawals in the order
 21 registered, ~~provided, however, that the the~~ other half of
 22 ~~such those~~ collections each month may be used for the
 23 payment of withdrawals other than in the order registered,
 24 but no member ~~shall may~~ receive more than one hundred
 25 dollars ~~(\$100.00)~~ (\$100) in any one month other than by

1 payment of an application for withdrawal in the order
2 registered. The term "outstanding contracts" includes the
3 costs and expenses of operation, completion of loans,
4 payment of taxes and assessments and necessary remodeling
5 and repairs on properties owned by or mortgaged to the
6 association, repayment of all borrowed money and all fixed
7 charges.

8 (9) ~~To cancel~~ Cancel shares of stock upon which all
9 credits have been withdrawn, or upon which loans have been
10 canceled or stock upon which no payments have been made for
11 a period of six (6) months, by returning to the stockholders
12 all credits, if any, and reissue ~~such~~ the shares as new
13 stock.

14 (10) ~~To issue~~ Issue stock to minors and permit ~~the same~~
15 it to be withdrawn as other stock, and the receipt ~~of such~~
16 by the minor ~~shall be~~ is a valid acquittance if his rights
17 have been fully secured to him.

18 (11) ~~To acquire~~ Acquire, hold, encumber and convey ~~such~~
19 that real estate and personal property ~~as may be~~ necessary
20 for the transaction of its business, or necessary to enforce
21 or protect its securities. ~~Provided, not~~ Not over ten (10)
22 per cent of the assets of ~~any~~ an association ~~shall~~ may be
23 invested in home office buildings, furniture, and fixtures.
24 ~~Also ownership of other~~ Other real property acquired in any
25 manner or for any purpose ~~shall~~ may not be held for more

1 than five (5) years, except by permission of the
2 ~~superintendent of banks department~~.

3 (12) ~~To borrow~~ Borrow money, only when necessary not
4 exceeding twenty (20) ~~per centum~~ percent of its assets
5 except when borrowing from the federal home loan bank as
6 ~~hereinafter~~ provided in this section, and issue its
7 promissory note ~~therefor, provided, that the~~ for the loan.
8 The assets and securities of an association ~~shall~~ may not be
9 pledged ~~or hypothecated~~ to secure its borrowed money or for
10 any other purpose, without the consent of the ~~superintendent~~
11 ~~of banks department~~. However, if the ~~superintendent of~~
12 ~~banks department~~ determines that it is advisable to pledge
13 assets in order that funds may be secured ~~he~~ it may
14 authorize ~~such the~~ pledging ~~or hypothecation, but in no~~
15 ~~event shall the~~. The margin of security pledged may not
16 exceed twenty-five (25) ~~per centum~~ percent of the funds so
17 borrowed except when funds are borrowed from the federal
18 home loan bank; ~~as~~ An association may borrow money from
19 the federal home loan bank upon ~~such the~~ terms ~~as may now or~~
20 ~~hereafter~~ be required by the federal home loan bank, and ~~to~~
21 may execute the promissory note of the corporation ~~therefor~~
22 for the loan, and ~~to~~ may pledge ~~or hypothecate~~ any of the
23 assets of the corporation to secure the repayment of ~~said~~
24 the loan, with interest, in accordance with the Federal Home
25 Loan Bank Act, and the rules ~~and regulations~~ adopted ~~or to~~

~~be adopted thereunder under it.~~

(13) ~~To make~~ make loans to members on the security of the shares of the association, and also on their notes secured by first mortgages on improved real estate, including suburban homes, but not on farm lands or mining property, for not to exceed seventy-five (75) ~~per centum~~ percent of the actual value of ~~such the~~ real estate, and upon ~~such the~~ terms and conditions ~~as which~~ may be provided in the constitution and bylaws, ~~provided, however, that in all cases~~ However, where the promissory note, or other written evidence of the loan made by ~~any~~ a building and loan association ~~required~~ requires the payment of ~~said the~~ loan, or total aggregate sum of principal and interest in periodic installments, ~~said the~~ promissory note, or other written evidence of debt shall specifically state the actual interest rate charged the borrower upon the unpaid balance of the principal amount at each periodic payment, ~~provided, further, that when~~ When the note or other evidence of debt does not require the payment of ~~said the~~ loan in periodic installments, the note or other evidence of debt shall specifically state the actual rate of interest ~~to be~~ charged the borrower.

~~Provided, however, that in all notes and mortgages now in force which do not specify the actual rate of interest charged the borrower upon the unpaid balance of the~~

~~principal at each periodic payment, all payments made on the said notes must be distributed by crediting the same, first, upon the interest on the unpaid balance of the loan at the rate actually earned under the terms of the notes and mortgages, and the remainder upon the principal of the loan, and no charges or deductions from any of said periodic payments shall be permitted by any such association not specifically provided for in said promissory note or other evidence of such loan.~~

~~(14) To cancel such loans and release the securities on such terms as the board of directors may provide. But any borrower may have his loan canceled upon the following terms, to wit:~~

(14) Cancel those loans and release the securities on those terms the board of directors may provide. A borrower may have his loan canceled by paying all the interest up to date of cancellation and the sum actually borrowed, less payments on principal, dues paid in, and the dividends credited.

(15) ~~To invest~~ Invest the money of the association in:

(a) The bonds and securities of the United States, bonds and other obligations guaranteed as to interest and principal by the United States, and the stocks, bonds, debentures, and other securities and obligations of any federal home loan bank created under the laws of the United

1 States;

2 (b) The bonds and warrants of any state and of any
3 county, city, or school district of the state of Montana;

4 (c) The obligations of the federal savings and loan
5 insurance corporation lawfully issued pursuant to Title IV
6 of the National Housing Act;

7 (d) Improved real estate which has been sold under
8 contract, including suburban homes, but not including farm
9 lands or mining property, ~~provided, however, that~~ However,
10 the total amount remaining so invested, excluding real
11 estate otherwise acquired, shall at no time exceed fifteen
12 ~~(15)~~ per cent (15%) of its assets, ~~and provided further,~~
13 ~~that in no specific case shall the~~ The amount so invested
14 ~~may not~~ exceed eighty-five ~~(85)~~ per cent (85%) of the price
15 stipulated in the contract of sale or eighty-five ~~(85)~~ per
16 cent (85%) of the value of the property so purchased,
17 whichever is the lesser;

18 (e) Not to exceed ten ~~(10)~~ per cent (10%) of the
19 association assets in other bonds and securities.

20 (16) ~~To loan~~ Loan money to other building and loan
21 associations;

22 (17) ~~To make such~~ make a semiannual distribution of all
23 the earnings after payment of expenses and setting aside a
24 sum for the contingent funds as ~~herein~~ provided in this act;

25 (18) ~~To amend~~ Amend its articles of incorporation by

1 changing the name, place of business, the number of
2 directors, ~~to~~ and increase or decrease the capital stock
3 and provide for its own continual succession by a majority
4 vote of its directors, ~~provided that no such~~ However,
5 ~~those amendments shall be effected~~ are of no effect until
6 ~~first~~ approved by the ~~superintendent of banks department~~;

7 (19) ~~To dissolve~~ Dissolve the corporation in accordance
8 with the provisions of this chapter;

9 (20) ~~To provide~~ Provide by constitution and bylaws,
10 adopted or amended, by its board of directors for the proper
11 exercise of the powers ~~herein~~ granted in this section and
12 the conduct and management of its affairs;

13 (21) ~~All such~~ Exercise those other powers as which are
14 necessary and proper to enable ~~such~~ the corporation to carry
15 out the purpose of its organization.

16 ~~(22) Any two (2) or more building and loan~~
17 ~~associations, by and with the consent and approval of the~~
18 ~~superintendent of banks, may consolidate and unite and~~
19 ~~become incorporated in one (1) body, with or without any~~
20 ~~dissolution or division of the funds or property of any such~~
21 ~~association, or any such association may transfer its~~
22 ~~engagements, funds and property to any like association upon~~
23 ~~such terms as may be agreed upon by a majority vote of the~~
24 ~~respective board of directors, and ratified by a two thirds~~
25 ~~(2/3) vote of the shares present and voting in person or by~~

~~proxy at a special meeting or meetings of the stockholders of the respective associations convened for that purpose, upon notice given as provided by law, said notice to state the object of the meeting. No such transfer shall prejudice any right of any creditor of such association."~~

Section 73. There is a new section to be numbered 7-113.2, R.C.M. 1947, which reads as follows:

7-113.2. Consolidation and transfer. Two (2) or more building and loan associations, with the approval of the department, may consolidate and become incorporated in one (1) body, with or without any dissolution or division of the funds or property of any of them, or any association may transfer its engagements, funds, and property to any other association upon terms agreed upon by a majority vote of the respective board of directors, and ratified by a two-thirds (2/3) vote of the shares present and voting in person or by proxy at a special meeting or meetings of the stockholders of the respective associations convened for that purpose, upon notice given as provided by law, the notice to state the object of the meeting. A transfer may not prejudice any right of any creditor of the association.

Section 74. Section 7-118, R.C.M. 1947, is amended to read as follows:

"7-118. Bonds of officers, agents and employees. ~~It shall be the duty of the~~ The board of directors of every

building and loan association ~~to~~ shall require that all officers, agents, and employees of building and loan associations whose duty includes the handling of moneys, notes, bonds, credits, and cash items, and whose duties include bookkeeping or the making of entries in relation to the business of the building and loan association and its customers, be bonded. The board of directors shall by an order ~~also~~ entered upon the minute books of the board designate all the officers, agents, and employees to be so bonded and the amount of bonds to be given by each. ~~Such~~ The action as to the personnel and amount and the surety company or sureties ~~to~~ shall be subject to approval by the ~~state superintendent of banks, the department.~~ The bonds ~~to~~ shall be in ~~each~~ a form ~~as which~~ shall be provided and approved by the ~~state superintendent of banks, department,~~ and the bonds ~~to~~ shall be approved by the president of the building and loan association and his action reported to the board of directors. ~~all~~ All bonds required by this section ~~to~~ shall be kept in the custody of the building and loan association subject to inspection by ~~examiners from the office of the superintendent of banks; provided, as~~ department. ~~As far as possible, they shall a bond may not~~ be placed in the custody of the officer, agent, or employee for whom ~~the same~~ it is given."

Section 75. Section 7-119, R.C.M. 1947, is amended to

1 read as follows:

2 "7-119. Employment of agents — licenses and
3 revocation thereof. (1) It ~~shall be~~ is unlawful for any a
4 building and loan association doing business ~~within the~~ in
5 ~~this state of Montana~~ to employ any an agent for the purpose
6 of soliciting loans and/or the sale of stock in the said
7 ~~that~~ association, unless he ~~shall~~ is first be licensed by
8 the ~~superintendent of banks to solicit loans and/or sell the~~
9 ~~stock of said association and no~~ department. An agent
10 representing any an association, foreign or domestic, doing
11 business ~~within the in this state of Montana shall may not~~
12 solicit loans and/or the sale of stock of any association
13 unless he ~~shall~~ is first be licensed by the ~~superintendent~~
14 ~~of banks department.~~

15 (2) ~~No~~ A license shall ~~may not~~ be issued to any an
16 applicant for an agent's license until ~~such~~ the applicant
17 ~~shall have has~~ first filed ~~is the office of~~ with the
18 ~~superintendent of banks department~~ a written request from
19 the building and loan association desiring to employ him as
20 agent and has ~~made and~~ filed an application ~~therefor~~ upon a
21 ~~form to be~~ prescribed and furnished by the ~~examiner, which~~
22 department. The application must show the applicant's name,
23 business and residence address, community or district in
24 which he wishes to act as agent, the name of the company to
25 be represented, his occupation for the last twelve (12)

1 months and ~~such~~ other information as the ~~superintendent of~~
2 ~~banks department~~ may require. If the ~~superintendent of~~
3 ~~banks department~~ is satisfied that the applicant is a fit
4 and proper person to engage in the solicitation of loans
5 and/or the sale of stock ~~he~~ it shall issue the license. The
6 ~~superintendent of banks department~~ upon ten (10) days'
7 notice to any an agent, and ~~upon~~ after a hearing ~~thereon,~~
8 may revoke the license of any an agent upon the following
9 grounds:

10 (1) ~~(a) For misrepresentation~~ Misrepresentation:
11 (2) ~~(b) If the said agent be convicted~~ Conviction in
12 any court for violation of the criminal statutes;
13 (3) ~~(c) When satisfied~~ Evidence sufficient to
14 convince the department that said ~~the~~ agent is not a fit and
15 proper person to ~~engage in the business of selling~~ sell
16 building and loan association stock;
17 (4) ~~(3) No~~ The department shall revoke the license of
18 any an agent upon the request of ~~such~~ the association
19 employing ~~such~~ the agent.

20 (4) Each license provided for in this ~~act shall expire~~
21 section expires on December ~~31st~~ 31 of each year, and for
22 the issuance or renewal thereof the ~~superintendent of banks~~
23 ~~department~~ shall require a fee of two dollars ~~(\$2.00)~~ (\$2)."

24 Section 76. Section 7-122, R.C.M. 1947, is renumbered
25 section 84-7001 and amended to read as follows:

1 ~~"7-122~~ 84-700 1. Taxation of associations. (1) Every
 2 building and loan or savings and loan association subject to
 3 regulation under Title 7, chapter 1, H.C.E. 1947, shall be
 4 assessed for and pay taxes upon all real and personal
 5 property owned by ~~such the~~ association, and also upon the
 6 moneyed capital employed in ~~such the~~ business. ~~such The~~
 7 moneyed capital ~~to~~ shall be ascertained by deducting from
 8 the amount of bonds, notes and other evidences of
 9 indebtedness, including evidences of indebtedness secured by
 10 mortgage on real estate or personal property, of ~~such the~~
 11 associations, the amount standing to the credit of the
 12 members of ~~any-such an~~ association, upon its books, and any
 13 indebtedness representing money borrowed for use as moneyed
 14 capital. ~~Said The~~ moneyed capital as so ascertained shall
 15 be taxed at the same rate and take the same classification
 16 as shares of stock in a national bank or moneyed capital
 17 coming into substantial competition therewith. The
 18 secretary of ~~every-such an~~ association shall furnish to the
 19 department of revenue or its agent in the county in which
 20 the principal office of ~~such the~~ association is located,
 21 within five (5) days after demand ~~therefor~~, a condensed
 22 statement verified by his oath, of the resources and
 23 liabilities of ~~such the~~ association as disclosed by its
 24 books, at ~~twelve o'clock~~ 12 noon on the first Monday of
 25 March in each year. ~~if-such if the~~ secretary ~~shall fail~~

1 fails to make the statement hereby required, the department
 2 or its agent shall ~~forthwith~~ immediately obtain ~~such the~~
 3 information from any other available source, and for this
 4 purpose he shall have access to the books of ~~such the~~
 5 association. The department or its agent shall thereupon
 6 make an assessment of the real estate and personal property
 7 owned by ~~such the~~ association, and of the moneyed capital
 8 employed in the business of ~~such the~~ association, which
 9 assessment shall be as fair and equitable as he may be able
 10 to make from the best information available, or ~~said the~~
 11 assessor may, for the purpose of ~~said the~~ assessment, adopt
 12 the figures disclosed by any prior report made by ~~such the~~
 13 association to any state or federal officer ~~pursuant to any~~
 14 under a state or federal law. ~~Any A~~ person required by this
 15 section to make the statement ~~hereinafore~~ provided for in
 16 this section, who ~~shall fail~~ fails to furnish ~~the same,~~
 17 ~~shall be it, is~~ guilty of a misdemeanor ~~and shall be~~
 18 ~~punished accordingly.~~

19 (2) The amount standing to the credit of each member
 20 of ~~any-such an~~ association, upon its books, shall be
 21 considered and held as the individual credit of each member,
 22 and each member shall list the shares held by him for
 23 taxation, at their real value in money, in the county of his
 24 residence, the same as other credits are listed, except
 25 shares from which loans have been made, or money advanced,

1 by the association, and as to such shares they shall be
 2 listed for taxation at the net cash value of the stock, to
 3 be ascertained by deducting the loan from the cash value of
 4 the shares. Associations organized under or controlled by
 5 ~~this act shall be~~ Title 7, chapter 1, are subject to
 6 taxation in no other way."

7 Section 77. Section 7-125, R.C.M. 1947, is amended to
 8 read as follows:

9 "7-125. Duties of ~~superintendent of banks~~ department.

10 The ~~superintendent of banks~~ department shall examine all
 11 building and loan associations doing business in this state
 12 at least once a year. Also, ~~whenever when the holders of~~
 13 ten per cent (10%) ~~[of the holders]~~ of the subscribed stock
 14 of ~~any an~~ association ~~files file~~ a written application with
 15 the ~~superintendent of banks~~ department, requesting ~~him it~~ to
 16 make a special examination of ~~any an~~ association, ~~he it~~
 17 shall make ~~such the~~ examination ~~forthwith, and the~~
 18 immediately. The expense of the examiner making ~~such the~~
 19 examination shall be paid by the association examined, and
 20 the examiner's finding ~~to~~ shall be available to the
 21 petitioners and the board of directors of the association
 22 notwithstanding any provisions to the contrary contained in
 23 this act."

24 Section 78. Section 7-126, R.C.M. 1947, is amended to
 25 read as follows:

1 "7-126. Powers of ~~superintendent of banks~~ department.
 2 ~~Such superintendent of banks shall have power to~~ The
 3 department may prescribe ~~for~~ and supervise a uniform system
 4 of reports, and accounting for all associations~~+. The~~
 5 department shall have access to and may compel the
 6 production of all books, papers, securities and moneys of
 7 any association under examination. ~~He shall have power to~~
 8 It may administer oaths to and examine the officers and
 9 agents of ~~such the~~ association and its affairs."

10 Section 79. Section 7-127, R.C.M. 1947, is amended to
 11 read as follows:

12 "7-127. Reports of condition — contents —
 13 publication. ~~Every~~ A building and loan association shall
 14 make to the ~~superintendent of banks~~ department a report of
 15 condition ~~whenever when~~ requested to do so by the
 16 ~~superintendent of banks~~ department, according to the form
 17 which may be prescribed by ~~him, the~~ department. The report
 18 shall be verified by the oath or affirmation of the
 19 president, vice-president, or secretary of ~~such the~~
 20 association, and attested by the signature of at least two
 21 (2) of the directors. ~~Each such The~~ report shall exhibit in
 22 detail and under appropriate heads, the resources and
 23 liabilities of the association at the close of business on
 24 any past day ~~by him~~ specified; and shall be transmitted to
 25 the ~~superintendent of banks~~ department within five (5) days

1 after the receipt of a request or requisition ~~therefor~~ for
 2 it from ~~him~~ the department and in ~~such a~~ form as ~~which~~ may
 3 be required by the ~~superintendent of banks~~ it department.
 4 It shall be published as soon as possible in a newspaper
 5 ~~published~~ in the place where ~~such~~ the association is
 6 established, or if there ~~be~~ is no newspaper published in the
 7 place, then in one published nearest thereto in the same
 8 county, at the expense of the association, ~~and such proof~~
 9 Proof of publication shall be furnished at ~~such~~ the times
 10 and in ~~such~~ the manner ~~as~~ which may be required by the
 11 ~~superintendent of banks~~ department."

12 Section 80. Section 7-131, R.C.M. 1947, is amended to
 13 read as follows:

14 "7-131. Foreign associations — requirements. (1) Any
 15 an association as defined in ~~the foregoing~~ section 7-130
 16 organized under the laws of any other state, ~~other than~~
 17 ~~Montana, or~~ of the United States, or of any foreign
 18 government, shall, before doing business ~~within~~ in this
 19 state, file ~~in the office of~~ with the Secretary of state and
 20 ~~in the office of the superintendent of banks department~~, a
 21 duly authenticated copy of their charter, articles of
 22 incorporation, or articles of agreement, and also a
 23 statement, verified by oath of the president and secretary
 24 of ~~such~~ the corporation or managing officials if other than
 25 a corporation, and duly verified, showing:

1 1. (a) The name of ~~such~~ the association and the
 2 location of its principal office or place of business
 3 ~~without~~ outside this state; and the location of the place of
 4 business or principal office ~~within~~ in this state;

5 2. (b) The names and residences of the officers,
 6 trustees or directors;

7 3. (c) The amount of capital stock;

8 4. (d) The amount of capital invested in the state of
 9 Montana.

10 (2) ~~Such~~ The association shall also file, at the same
 11 time, and in the same offices, a certificate, ~~under seal and~~
 12 ~~the signature of~~ signed by its president, vice-president, or
 13 other acting head, and by its secretary, if there ~~be~~ is one,
 14 certifying that the ~~said~~ association has consented to all
 15 the license laws and other laws of ~~the~~ this state ~~of Montana~~
 16 relative to foreign associations and has consented to be
 17 sued in the courts of this state, upon all causes of action
 18 arising against it in this state, and that service of
 19 process ~~may be made upon some person,~~ a citizen of this
 20 state, whose name and place of residence shall be designated
 21 in ~~such~~ the certificate, ~~and such service, when so made upon~~
 22 ~~such,~~ Service of process on that agent, ~~shall be~~ is valid
 23 service on the association."

24 Section 81. Section 7-136, R.C.M. 1947, is amended to
 25 read as follows:

1 "7-136. Conformity required. The powers, rights,
 2 duties, privileges, and obligations of every ~~such~~
 3 association ~~heretofore and hereafter~~ organized and doing
 4 business in the ~~a~~ form ~~of a character~~ similar to that
 5 authorized by this act, shall be governed, controlled,
 6 construed, extended, limited, and determined by the
 7 provisions of this act, to the same extent and effect as if
 8 ~~said the~~ association had been organized and incorporated
 9 under or pursuant to its provisions, and the articles of
 10 incorporation, bylaws and rules of each heretofore made or
 11 existing are hereby modified, altered and amended to conform
 12 with the provisions of this act and the same are declared
 13 void where ~~such the~~ articles of incorporation, bylaws or
 14 rules are inconsistent with its provisions; except that the
 15 obligations of any existing association, whether between
 16 ~~such the~~ association and its shareholders or any one of
 17 them, or any other person or persons, or any valid contract
 18 between the shareholders of the association existing at the
 19 time this act takes effect, shall not be in any way impaired
 20 by the provisions of this act; and with ~~such these~~
 21 exceptions every building and loan association shall possess
 22 the powers, rights, duties and privileges, and be subject to
 23 the obligations, restrictions and liabilities conferred and
 24 imposed by this act, notwithstanding anything to the
 25 contrary in its articles of incorporation, bylaws or rules.

1 All obligations to ~~any such the~~ association heretofore
 2 contracted shall be enforceable by it and in its name and
 3 demands, claims and rights of action against ~~any such the~~
 4 association shall be enforced against it as fully and
 5 completely as they might have been enforced before. Except
 6 as above set forth, on and after six months after the
 7 passage and approval of this act, no domestic or foreign
 8 association now engaged in the business of a building and
 9 loan association, or a business of like character, shall be
 10 permitted to conduct ~~such that~~ business in this state unless
 11 it ~~comply~~ complies in every respect with the provisions of
 12 this act."

13 Section 82. Section 7-138, R.C.M. 1947, is amended to
 14 read as follows:

15 "7-138. ~~Superintendent of banks Department~~ report. The
 16 ~~superintendent of banks department~~ shall keep and preserve
 17 in permanent form a full record of ~~his~~ its proceedings,
 18 including a concise statement of each association examined,
 19 and ~~he it~~ shall annually make a report to the governor of
 20 the general conduct and condition of the building and loan
 21 associations doing business in this state, with ~~such those~~
 22 suggestions as ~~he may deem~~ it considers expedient. ~~Such The~~
 23 report shall also include the information contained in the
 24 statement required of the association, and arranged in
 25 tabulated form. ~~He shall also report the whole amount of~~

1 ~~the income of his office, the source whence derived, and the~~
 2 ~~expenses in detail during the year ending on the 30th day of~~
 3 ~~June."~~

4 Section 83. Section 7-139, R.C.M. 1947, is amended to
 5 read as follows:

6 "7-139. Obtaining property by fraud, false report,
 7 refusal to permit inspection of books. A director, officer,
 8 agent, or employee of ~~any~~ a building and loan association
 9 who:

10 (1) Willfully receives or possesses ~~himself of~~ any of
 11 its property, otherwise than in payment for a just demand,
 12 and with intent to defraud, omits to make ~~on cause~~ or direct
 13 to be made a full and true entry ~~thereof of it~~ in its books
 14 and accounts; ~~or~~

15 (2) Concurs in omitting to make ~~any~~ a material entry
 16 thereof; ~~or~~

17 (3) Willfully makes or concurs in making or publishing
 18 ~~any~~ a written report, exhibit or statement of ~~its~~ the
 19 association's affairs or pecuniary condition, containing any
 20 material statement which is false; or

21 (4) Having the custody or control of ~~its~~ the
 22 association's books, willfully reruses or neglects to make
 23 ~~any~~ a proper entry in the books ~~of such association~~ as
 24 required by law, or to exhibit, or allow ~~the same then~~ to be
 25 inspected and extracts to be taken ~~therefrom from then~~ by

1 the superintendent of banks, his chief deputy, or any of his
 2 examiners, shall be department is guilty of a felony."

3 Section 84. Section 7-147, R.C.M. 1947, is amended to
 4 read as follows:

5 "7-147. Reports and examinations by ~~superintendent of~~
 6 ~~banks~~ department confidential. ~~whoever, being the~~
 7 ~~superintendent of banks, assistant or clerk in his employ or~~
 8 ~~an examiner, (1) An employee or agent of the department, who~~
 9 fails to keep secret the facts and information obtained in
 10 the course of an examination, or by reason of his official
 11 position, except when the public duty of ~~such~~ that officer
 12 requires him to report upon or take official action
 13 regarding the affairs of the association so examined, or
 14 willfully makes a false official report as to the conditions
 15 of ~~such~~ the association, shall be removed from office and
 16 shall be fined not more than five hundred dollars ~~(\$500.00)~~
 17 (\$500), or imprisoned in the penitentiary not less than two
 18 (2) years nor more than five (5) years, or both. Nothing in
 19 this section ~~shall prevent~~ prevents the proper exchange of
 20 information, relating to building and loan associations and
 21 ~~the their~~ business ~~thereof~~, with the representatives of
 22 building and loan departments of other states, but in no
 23 case shall the private business or affairs of ~~any~~ an
 24 individual, association, or company be disclosed, provided, that the superintendent of banks The department on

request of any federal home loan bank, shall furnish ~~such~~
~~that~~ bank any information ~~as it~~ may have relative to the
 finances, manner of business, methods of bookkeeping, and
 any ~~and all~~ other information relating to ~~any an~~ association
 which is a member of, seeking to become a member of, a
 borrower from, or seeking to become a borrower from, ~~any a~~
 federal home loan bank.

~~(2) Also any an~~ association, ~~and/or~~ the officers or
 agents thereof, and the ~~superintendent of banks and/or his~~
~~assistants and examiners shall be authorized to~~ department
~~may do any and all things anything~~ necessary to enable ~~any a~~
 building and loan association within this state to become a
 member of the federal home loan bank of this or any
 adjoining district so far as ~~may~~ be compatible with the
 constitution of this state and the laws of the United
 States."

Section 85. Section 7-149, R.C.M. 1947, is amended to
 read as follows:

"7-149. Voluntary liquidation and settlement. ~~By and~~
~~with~~ With the consent of the ~~superintendent of banks any~~
~~department an~~ association organized under the laws of and
 doing business in this state, may, if the stockholders ~~deem~~
~~consider~~ it advisable, go into liquidation, ~~and for~~ for
 the purpose of so doing it may, at any regular or called
 meeting of the stockholders, adopt a resolution declaring

that ~~such the~~ association intends to go into liquidation and
 discontinue business as a building and loan association. A
 copy of ~~such the~~ resolution, duly certified by the president
 and secretary of ~~such the~~ association, under the seal
 thereof, shall be transmitted to the ~~superintendent of banks~~
~~department~~ within ten (10) days after ~~the its~~ passage
 thereof. ~~Thereupon the superintendent of banks The~~
~~department~~ shall then issue ~~his its~~ certificate reciting
 that ~~such the~~ resolution has been filed in ~~his its~~ office,
 and that ~~such the~~ association is in liquidation. After the
 filing of ~~such the~~ notice, it ~~shall not be lawful is~~
unlawful for ~~such the~~ association to issue stock, or to loan
 or advance its money to members or to any other person, ~~or~~
~~persons, but all~~ All of the income and receipts of ~~such the~~
 association, in excess of the actual expense of managing ~~the~~
~~same it~~, shall be applied to pay off first the indebtedness
 and then the stock in ~~such the~~ association upon which no
 loans have been made, the same to be paid pro rata. The
 board of directors of ~~such the~~ association in liquidation
 may adopt ~~such those~~ rules and make ~~such those~~ orders ~~as~~
~~shall be which are~~ just and equitable for the sale and
 disposition of all property held by ~~such the~~ association and
 for the division of the assets of ~~such the~~ association.
~~Such The~~ association in liquidation, ~~shall may~~ be subject to
~~examination~~ examined by, and shall be under the supervision

1 of the ~~superintendent of banks department~~."

2 Section 86. Section 7-150, B.C.M. 1947, is amended to

3 read as follows:

4 "7-150. Insolvency or impairment of building and loan

5 association — powers of ~~superintendent of banks department~~.

6 ~~Whenever~~ When it ~~shall appear~~ appears to the ~~superintendent~~

7 ~~of banks department~~ that the affairs of ~~any~~ a building and

8 loan association are in an unsound condition, or that it is

9 conducting its business in an unsafe or unlawful manner, the

10 ~~superintendent of banks department~~ may take possession of

11 all books, records, and assets of every description of ~~such~~

12 ~~the~~ association and ~~hold and retain the possession of same~~

13 ~~then~~ pending the further proceedings ~~herein~~ specified in

14 this section. ~~Should~~ If the board of directors, secretary,

15 or person in charge of ~~such the~~ association ~~refuse~~ refuses

16 to permit the ~~superintendent of banks department~~ to take

17 possession ~~as aforesaid~~, the ~~superintendent of banks~~

18 ~~department~~ shall communicate ~~such that~~ fact to the attorney

19 general, ~~whereupon it shall become the duty of the~~ The

20 attorney general shall at once ~~to~~ institute ~~such the~~

21 proceedings ~~as may be necessary~~ to place the ~~superintendent~~

22 ~~of banks department~~ in immediate possession of the property

23 of ~~such the~~ association. Upon taking possession of the

24 effects of the association ~~as aforesaid~~, the ~~superintendent~~

25 ~~of banks department~~ shall prepare a full and true statement

1 of the affairs and condition of ~~such the~~ association,

2 including an itemized statement of its assets and

3 liabilities and shall receive and collect all debts, dues

4 and claims belonging to it and pay the immediate and

5 reasonable expenses of ~~his the department's~~ trust. When the

6 condition of ~~such the~~ association has been fully ascertained

7 and it ~~shall appear~~ appears that the affairs of ~~said the~~

8 association are in fact in an unsound condition the

9 ~~superintendent of banks department~~ shall at once notify, in

10 writing, the board of directors of ~~such the~~ association of

11 ~~his its~~ decision, giving them twenty (20) days in which to

12 restore the affairs of ~~such the~~ association to sound

13 condition. Meanwhile, the ~~superintendent of banks~~

14 ~~department~~ shall remain in charge of the books, records, and

15 assets of every description of ~~such the~~ association, shall

16 attend, or be represented, at all directors and stockholders

17 meetings held, and shall suggest ~~such those~~ steps ~~as may~~

18 ~~does it considers~~ necessary to restore ~~such the~~ association

19 to a sound condition, ~~and if same~~ if the association is

20 ~~not done restored to a sound condition~~ within ~~such~~ twenty

21 (20) days, ~~he the department~~ shall report the facts to the

22 attorney general, ~~and it shall thereupon become the duty of~~

23 ~~the The~~ attorney general to shall institute proceedings in

24 the district court of the county in which ~~such the~~

25 association has its principal place of business, for the

1 appointment of the ~~superintendent of banks~~ department as
 2 receiver, ~~and as such he is authorized to~~ As receiver, the
 3 department may collect all moneys due ~~such~~ the association
 4 and ~~to may~~ do ~~such~~ those other acts ~~as which~~ are necessary
 5 to conserve its assets and business, and ~~he~~ it shall proceed
 6 ~~to liquidate its~~ the association's affairs. ~~He shall have~~
 7 ~~general and inclusive power and authority~~ The department
 8 may, except as otherwise limited by the terms of this act,
 9 ~~to do any and all acts, to take any and all steps~~ necessary,
 10 or, in ~~his~~ its discretion, desirable for the protection of
 11 the property and assets of ~~such~~ the association and the
 12 speedy and economical liquidation of its assets and affairs
 13 and the payment of its creditors, or for the ~~reopening and~~
 14 resumption of business of ~~said~~ the association where that is
 15 practicable or desirable. ~~He~~ The department may institute
 16 in ~~his~~ its own name as ~~superintendent of banks~~, or in the
 17 name of the association, ~~such suits and actions and other~~
 18 those legal proceedings ~~as he deems it considers~~ expedient
 19 for ~~such~~ those purposes, ~~and by making application by~~
 20 applying to the district court of the county in which ~~such~~
 21 the association is located, or to the judge thereof, in
 22 chambers, the department may, upon proper and sufficient
 23 showing or cause ~~thereof~~, procure obtain an order to sell,
 24 compromise or compound any bad or doubtful debt or claim,
 25 and to sell ~~and dispose of~~ any ~~or all~~ of the assets, ~~which~~

1 The sale may be made to stockholders, officers, directors,
 2 or others interested in ~~such~~ the association, on consent of
 3 the court. On ~~such~~ the proceedings the association shall be
 4 made a party by notice issued on order of the court or
 5 judge, in ~~lieu~~ place of summons, but served in like manner, ~~and the~~ The
 6 hearing of ~~any such~~ the application or petition
 7 by the ~~superintendent of banks~~ department may be had at any
 8 time, either in term or vacation in court, or in chambers,
 9 as the court may order, after ~~said~~ the association has had
 10 five (5) days' notice of ~~such~~ the application."

11 ~~Section 97. Section 14-131, R.C.M. 1947, is amended to~~
 12 ~~read as follows:~~

13 ~~"14-131. Definitions. As used unless the context~~
 14 ~~requires otherwise, in this act. (1) The term "credit~~
 15 ~~union" means a co-operative association organized in~~
 16 ~~accordance with the provisions of this act for the purpose~~
 17 ~~of promoting thrift among its members and creating a source~~
 18 ~~of credit for provident or productive purposes. Such These~~
 19 ~~organizations shall have perpetual succession and shall be~~
 20 ~~organized under and governed solely by the provisions of~~
 21 ~~this act.~~

22 ~~(2) The term "department" "Department" means the~~
 23 ~~department of banking, state of Montana, and business~~
 24 ~~regulation as provided for in Title 52A, Chapter 4.~~

25 ~~(3) The term "supervisor" means the state examiner, ex~~

officio superintendent of banks, state of Montana."

Section 88. Section 14-132, R.C.M. 1947, is amended to read as follows:

14-132. Reports, examinations and fees. Credit unions shall be ~~are~~ under the supervision of the supervisor ~~department~~ and shall make financial reports to him ~~it~~ as and when he ~~it~~ may require, but at least semiannually. Each ~~a~~ credit union shall be ~~is~~ subject to a regular examination annually by, and for this purpose shall make its books and records accessible to, any person designated by the supervisor, except that special ~~department~~. Special examinations may be made more frequently where there is clear and incontrovertible evidence of immediate danger or damage to, or impairment of, members' shareholdings. Accountants or representatives of the Montana credit unions league may be designated examiners by the supervisor ~~department~~. If the examination is not made by the state examiner ~~department~~, the expense of such ~~the~~ examination shall be borne by the credit union examined, and such ~~the~~ examination shall be in such ~~the~~ form and contain such ~~the~~ information as the state examiner may require ~~department~~ requires. Fees assessed for examinations by the supervisor ~~department~~ shall not exceed the following schedule: the first \$25,000 of assets to ~~shall~~ be assessed at \$.22 per \$100 of assets, the next \$75,000 of assets to ~~shall~~ be

assessed at \$.20 per \$100 of assets, the next \$100,000 of assets to ~~shall~~ be assessed at \$.18 per \$100 of assets, the next \$300,000 of assets to ~~shall~~ be assessed at \$.14 per \$100 of assets, the next \$500,000 of assets to ~~shall~~ be assessed at \$.10 per \$100 of assets, and assets in excess of \$1,000,000 shall be assessed at \$.03 per \$100 of assets. The minimum fee chargeable shall be ~~is~~ \$17."

Section 89. Section 14-133, R.C.M. 1947, is amended to read as follows:

14-133. Incorporation. (1) whenever ~~then~~ any number of persons not less than seven (7) who are domiciled in this state shall desire to incorporate a credit union having for its object the conduct and operation of such ~~an~~ organization as defined in this act, they shall prepare and file articles of incorporation to that effect in the manner in this act specified, such ~~The~~ articles shall be signed, sealed, and acknowledged in the form now provided by the statutes of this state for the conveyance of real estate and shall include the following:

(1) (a) The name, which shall ~~may~~ not be the same or too closely resembling that in use by any ~~an~~ existing corporation established under the laws of the state. The words "credit union" shall form a part of the name and no person, corporation, copartnership, association, or other form of organization shall be entitled to, ~~may~~ use a name

1 ~~employing said that combination of words except as provided~~
2 ~~in section 14 137.~~

3 ~~(2) (b) The principal office or place of business~~
4 ~~which shall be within in this state.~~

5 ~~(3) (c) The term of existence of the organization,~~
6 ~~which shall be perpetual.~~

7 ~~(4) (d) The par value of shares of the credit union,~~
8 ~~which shall be five dollars (\$5) each.~~

9 ~~(5) (e) A provision that such the credit union shall~~
10 ~~be organized under this act chapter for the purposes set~~
11 ~~forth therein in it.~~

12 ~~(6) (f) The names, occupations and addresses of the~~
13 ~~subscribers to the articles of incorporation and the number~~
14 ~~of shares subscribed by each.~~

15 ~~(2) The articles of incorporation shall be presented~~
16 ~~to the supervisor department with the bylaws of the proposed~~
17 ~~credit union, and he it shall within thirty (30) days of the~~
18 ~~receipt of said the articles of incorporation and bylaws,~~
19 ~~determine whether they conform with the provisions of this~~
20 ~~act, and whether or not the organization of the credit union~~
21 ~~would benefit its members and be consistent with the~~
22 ~~purposes of this act. Thereupon, the supervisor The~~
23 ~~department shall promptly notify the applicant of his its~~
24 ~~decision. If it is favorable, the supervisor department~~
25 ~~shall, at the time of issuing such the notice, attach his~~

1 ~~its written approval to the articles of incorporation. If~~
2 ~~it is unfavorable, the supervisor department shall, at the~~
3 ~~time of issuing such the notice, state his its reasons~~
4 ~~therefor for its decision.~~

5 ~~(3) Said The articles of incorporation shall then be~~
6 ~~filed with the secretary of state who, upon payment of the~~
7 ~~filing fees therefor for them, shall issue a certificate of~~
8 ~~incorporation over the great seal of the state of Montana~~
9 ~~and a copy thereof, certified by the secretary of state,~~
10 ~~shall be filed in the office of the county clerk of the~~
11 ~~county in which the principal place of business of the~~
12 ~~credit union is located."~~

13 ~~Section 90, Section 14 136, R.C.M. 1947, is amended to~~
14 ~~read as follows:~~

15 ~~"14 136. Bylaws. (1) In order to simplify the~~
16 ~~organization of credit unions the supervisor department~~
17 ~~shall from time to time cause to be prepared prepare a form~~
18 ~~of articles of incorporation and a form of bylaws,~~
19 ~~consistent with this act, which shall be used by credit~~
20 ~~union incorporators, and shall be supplied to them on~~
21 ~~request. At the time of presenting the articles of~~
22 ~~incorporation the incorporators shall also submit proposed~~
23 ~~bylaws to the supervisor department for his its approval.~~

24 ~~(2) The bylaws may be amended in the manner provided~~
25 ~~therein in them, except that no amendments thereto shall~~

thereafter ~~to take~~ become operative until they have been approved by the supervisor ~~department.~~"

Section 91. Section 14-152, R.C.M., 1947, is amended to read as follows:

"14-152. ~~Certain powers of supervisor department. (1) The supervisor department may prescribe adopt rules and regulations for the administration of the act (including, but not by way of limitation limited to, the merger, consolidation, and dissolution of credit unions organized under this act).~~

(2) ~~Any credit union may, with the approval of the supervisor, and in accordance with such uniform rules and regulations as he shall make and promulgate be merged with another credit union, provided the membership of the one credit union is within the field of membership of the other, under the existing certificate of incorporation of such other credit union, pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of a majority of the members of each such credit union, either at meetings of the members, duly called for such purpose or in writing. All property, property rights and interest of the credit union so merging shall upon such merger be transferred to and vested in the credit union under whose certificate of incorporation the merger is~~

~~effected without deed, endorsement, or other instrument of transfer, and the debts and obligations of the credit union so merging shall be deemed to have been assumed by the credit union under whose certificate of incorporation the merger is effected, and thereafter the certificate of incorporation of the credit union so merging shall be null and void and it shall cease to exist. Upon payment of the filing fees provided in section 14-155, the supervisor shall file the certificate of merger with the secretary of state, and a copy thereof, certified by the secretary of state, shall be filed in the office of the county clerk of the county in which the principal place of business of the merged credit union is located. This section shall be construed, whenever possible to permit a credit union incorporated under any other act to merge with one incorporated under this act, or to permit one incorporated under this act to merge with one incorporated under any other act.~~

(3) ~~The proposition of voluntary dissolution may be considered at a membership meeting especially called by a four fifths (4/5) vote of the board of directors of the credit union on a date set by said board for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed with the secretary before such date). Written notice of the proposition and of the~~

1 ~~date set for the vote shall then be delivered in person to~~
 2 ~~each member, or mailed to each member at the address for~~
 3 ~~such member appearing on the records of the credit union,~~
 4 ~~not more than thirty (30) days and not less than ten (10)~~
 5 ~~days prior to such date. At the same time, a copy of said~~
 6 ~~notice shall also be mailed to the supervisor. Approval of~~
 7 ~~the proposition for voluntary dissolution shall be by the~~
 8 ~~affirmative vote of a majority of the members, in person or~~
 9 ~~in writing. A statement of the results of the vote,~~
 10 ~~verified by the affidavits of the president or~~
 11 ~~vice president and the secretary, shall be filed with the~~
 12 ~~supervisor within five (5) days after the vote is taken, and~~
 13 ~~there shall be included with the affidavits, a list of the~~
 14 ~~names of the directors and officers of the credit union~~
 15 ~~together with their addresses. If the proposition for~~
 16 ~~voluntary dissolution is approved by such vote, the credit~~
 17 ~~union shall thereupon immediately cease to do business~~
 18 ~~except for the purpose of liquidation.~~

19 ~~(4) (a) The supervisor may suspend or revoke the~~
 20 ~~certificate of incorporation of any credit union, or place~~
 21 ~~the same in involuntary liquidation and appoint a~~
 22 ~~liquidating agent therefore [therefor], upon his finding~~
 23 ~~that the credit union is bankrupt or insolvent, or has~~
 24 ~~violated any of the provisions of its certificate of~~
 25 ~~incorporation, its bylaws, this act, or any regulations~~

1 ~~issued thereunder.~~

2 ~~(b) The supervisor through such persons as he shall~~
 3 ~~designate, may examine any credit union in voluntary~~
 4 ~~liquidation and, upon his finding that such voluntary~~
 5 ~~liquidation is not being conducted in an orderly or~~
 6 ~~efficient manner or in the best interests of its members,~~
 7 ~~may after holding a hearing or giving adequate opportunity~~
 8 ~~for a hearing, order such credit union to correct such~~
 9 ~~condition and shall grant it not less than sixty (60) days~~
 10 ~~within which to comply, and failure to do so shall afford~~
 11 ~~the supervisor grounds for terminating such voluntary~~
 12 ~~liquidation and place such credit union in involuntary~~
 13 ~~liquidation and appoint a liquidating agent therefor.~~

14 ~~(c) Such liquidating agent shall have power and~~
 15 ~~authority, subject to the control and supervision of the~~
 16 ~~supervisor and under such rules and regulations as the~~
 17 ~~supervisor may prescribe,~~

18 ~~(i) To receive and take possession of the books,~~
 19 ~~records, assets, and property of every description of the~~
 20 ~~credit union in liquidation, to sell, enforce collection of,~~
 21 ~~and liquidate all such assets and property, to compound all~~
 22 ~~bad or doubtful debts, and to sue in his own name or in the~~
 23 ~~name of the credit union in liquidation, and defend such~~
 24 ~~actions as may be brought against him as liquidating agent~~
 25 ~~or against the credit union.~~

~~(ii) To receive, examine, and pass upon all claims against the credit union in liquidation, including claims of members on shares;~~

~~(iii) To make distribution and payment to creditors and members as their interests may appear; and~~

~~(iv) To execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.~~

~~(d) Subject to the control and supervision of the supervisor and under such rules and regulations as the supervisor may prescribe, the liquidating agent of a credit union in involuntary liquidation shall~~

~~(i) Cause notice to be given to creditors and members to present their claims and make legal proof thereof, which notice shall be published once a week in each of three (3) successive weeks in a newspaper of general circulation in the county in which the credit union in liquidation maintained an office for the transaction of business on the date it ceased unrestricted operations; except that whenever the aggregate book value of the assets and property of a credit union in involuntary liquidation is less than \$10,000 unless the supervisor shall find that its books and records do not contain a true and accurate record of its liabilities, he shall declare such credit union in liquidation to be a "no publication" liquidation, and~~

~~publication of notice to creditors and members shall not be required in such case;~~

~~(ii) From time to time make a ratable dividend on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction and, after the assets of such credit union have been liquidated, make further dividends on all claims previously proved or adjudicated, and he may accept in lieu of a formal proof of claim on behalf of any creditor or member the statement of any amount due to such creditor or member as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend shall be barred and claims rejected or disallowed by the liquidating agent shall be likewise barred unless suit be instituted thereon within three (3) months after notice of rejection or disallowance; and~~

~~(iii) In a "no publication" liquidation, determine from all sources available to him, and within the limits of available funds of the credit union, the amounts due to creditors and members, and after sixty (60) days shall have elapsed from the date of his appointment distribute the funds of the credit union to creditors and members ratably and as their interests may appear.~~

~~(e) Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon such proof as~~

~~shall be satisfactory to the supervisor in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the supervisor shall cancel the certificate of incorporation of such credit union by issuing a certificate of dissolution on form prescribed by him, and file the same with the secretary of state, and a copy thereof shall be filed in the office of the county clerk of the county in which the principal place of business of the credit union is located, but the corporate existence of the credit union shall continue for a period of three (3) years from the date of such cancellation of its certificate of incorporation, during which period the liquidating agent, or his duly appointed successor, or such persons as the supervisor shall designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.~~

~~(5) After the expiration of eight (8) years from the date of cancellation of the certificate of incorporation of a credit union the supervisor may, in his discretion, destroy any or all books and records of such credit union in his possession or under his control.~~

~~(6) The supervisor is authorized and empowered to~~

~~execute any and all functions and perform any and all duties vested in him hereby, through such persons as he shall designate or employ, and he may delegate to any person or persons, including any institution operating under the general supervision of the department, the performance and discharge of any authority, power, or function vested in him by this act.~~

~~(7) Any officer or employee of the department is authorized, when designated for the purpose by the supervisor to administer oaths and affirmations and to take affidavits and depositions touching upon any matter within the jurisdiction of the department as related to this act.~~

~~(8) The supervisor is authorized, empowered, and directed to require that every person appointed or elected by any credit union to any position requiring the receipt, payment, or custody, of money or other personal property owned by a credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company licensed to do business in the state of Montana. Any such bond or bonds shall be in a form approved by the supervisor with a view to providing surety coverage to the credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such~~

~~other surety coverage as the supervisor may determine to be reasonably appropriate or as elsewhere required by this act. Any such bond or bonds shall be in such an amount in relation to the money or other personal property involved or in relation to the assets of the credit union as the supervisor may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. In lieu of individual bonds the supervisor may approve the use of a form of schedule or blanket bond which covers all of the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. The supervisor may also approve the use of a form of excess coverage bond whereby a credit union may obtain an amount of coverage in excess of the basic surety coverage.~~

~~Section 92. There is a new section to be numbered 14-152.1, H.C.M. 1947, which reads as follows:~~

~~14-152.1. Merger. A credit union may, with the approval of the department, and in accordance with uniform rules which the department adopts, be merged with another credit union, provided the membership of the one credit union is within the field of membership of the other. Mergers shall be under the existing certificate of incorporation of the other credit union, under any plan agreed upon by the majority of the board of directors of~~

~~each credit union joining in the merger, and approved by the affirmative vote of a majority of the members of each credit union, either at meetings of the members, called for that purpose or in writing. All property, property rights, and interest of the credit union so merging shall upon such merger be transferred to and vested in the credit union under whose certificate of incorporation the merger is effected without deed, endorsement, or other instrument of transfer, and the debts and obligations of the credit union so merging shall be considered assumed by the credit union under whose certificate of incorporation the merger is effected. The certificate of incorporation of the credit union so merging is then void and it shall cease to exist. Upon payment of the filing fees provided in section 14-155, the department shall file the certificate of merger with the secretary of state, and a copy thereof, certified by the secretary of state, shall be filed in the office of the county clerk of the county in which the principal place of business of the merged credit union is located. This section shall be construed, whenever possible, to permit a credit union incorporated under any other act to merge with one incorporated under this act, or to permit one incorporated under this act to merge with one incorporated under any other act.~~

~~Section 93. There is a new section to be numbered~~

~~14-152.2, R.C.M. 1947, which reads as follows:~~

~~14-152.2. Voluntary dissolution and liquidation. The proposition of voluntary dissolution may be considered at a membership meeting especially called by a four-fifths (4/5) vote of the board of directors of the credit union on a date set by the board for a vote by the members (either at a meeting to be held on that date or by written ballot to be filed with the secretary before that date). Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed to each member at the address for that member appearing on the records of the credit union, not more than thirty (30) days and not less than ten (10) days before that date. At the same time, a copy of the notice shall also be mailed to the department. Approval of the proposition for voluntary dissolution shall be by the affirmative vote of a majority of the members, in person or in writing. A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary, shall be filed with the department within five (5) days after the vote is taken, and there shall be included with the affidavits, a list of the names of the directors and officers of the credit union together with their addresses. If the proposition for voluntary dissolution is approved by the vote, the credit union shall immediately cease to do~~

~~business except for the purpose of liquidation.~~

~~Section 94. There is a new section to be numbered 14-152.3, R.C.M. 1947, which reads as follows:~~

~~14-152.3. Involuntary liquidation. (1) The department may suspend or revoke the certificate of incorporation of a credit union, or place it in involuntary liquidation and appoint a liquidating agent for it, upon its finding that the credit union is bankrupt or insolvent, or has violated any of the provisions of its certificate of incorporation, its bylaws, this act, or any rules issued under it.~~

~~(2) The department may examine a credit union in voluntary liquidation and, upon its finding that the voluntary liquidation is not being conducted in an orderly or efficient manner or in the best interests of its members, may after holding a hearing or giving adequate opportunity for a hearing, order that credit union to correct the condition and shall grant it not less than sixty (60) days within which to comply. Failure to do so gives the department grounds to terminate the voluntary liquidation and to place the credit union in involuntary liquidation and to appoint a liquidating agent for it.~~

~~(2) The liquidating agent may, subject to the control and supervision of the department and under those rules the department may prescribe:~~

~~(a) Receive and take possession of the books, records,~~

~~assets, and property of every description of the credit union in liquidation; sell, enforce collection of, and liquidate all the assets and property; compound all bad or doubtful debts; sue in his own name or in the name of the credit union in liquidation; and defend actions which may be brought against him as liquidating agent or against the credit union;~~

~~(b) Receive, examine, and pass upon all claims against the credit union in liquidation, including claims of members on shares;~~

~~(c) Make distribution and payment to creditors and members as their interests appear; and~~

~~(d) Execute those documents and papers and do those other acts and things which he considers necessary or desirable to discharge his duties.~~

~~(4) Subject to the control and supervision of the department and under rules the department may prescribe, the liquidating agent of a credit union in involuntary liquidation shall:~~

~~(a) Give notice to creditors and members to present their claims and make legal proof of them, which notice shall be published once a week in each of three (3) successive weeks in a newspaper of general circulation in the county in which the credit union in liquidation maintained an office for the transaction of business on the~~

~~date it ceased unrestricted operations; except that when the aggregate book value of the assets and property of a credit union in involuntary liquidation is less than ten thousand dollars (\$10,000), unless the department finds that its books and records do not contain a true and accurate record of its liabilities, the liquidating agent shall declare the credit union in liquidation to be a "no publication" liquidation, and publication of notice to creditors and members shall not be required in that case;~~

~~(b) From time to time make a ratable dividend on all claims which have been proved to his satisfaction or adjudicated in a court of competent jurisdiction and, after the assets of the credit union have been liquidated, make further dividends on all claims previously proved or adjudicated, and he may accept in place of a formal proof of claim on behalf of any creditor or member the statement of any amount due to that creditor or members as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend are barred and claims rejected or disallowed by the liquidating agent are likewise barred unless sued upon within three (3) months after notice of rejection or disallowance; and~~

~~(c) In a "no publication" liquidation, determine from all sources available to him, and within the limits of available funds of the credit union, the amounts due to~~

~~creditors and members, and after sixty (60) days have elapsed from the date of his appointment distribute the funds of the credit union to creditors and members ratably and as their interests appear.~~

~~Section 95. There is a new section to be numbered 14-152.4, R.C.M. 1947, which reads as follows:~~

~~14-152.4. Certificate of dissolution. Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon proof satisfactory to the department in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided in this section, the department shall cancel the certificate of incorporation of the credit union by issuing a certificate of dissolution on a form prescribed by the department, and file it with the secretary of state, and a copy thereof shall be filed in the office of the county clerk of the county in which the principal place of business of the credit union is located. The corporate existence of the credit union continues for a period of three (3) years from the date of cancellation of its certificate of incorporation, during which period the liquidating agent, or his duly appointed successor, or those persons the department shall designate, may act on behalf of the credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations,~~

~~collecting and distributing its assets, and doing all other acts required to adjust and wind up its business, and it may sue and be sued in its corporate name.~~

~~Section 96. There is a new section to be numbered 14-152.5, R.C.M. 1947, which reads as follows:~~

~~14-152.5. Destruction of records. After the expiration of eight (8) years from the date of cancellation of the certificate of incorporation of a credit union the department may, in its discretion, destroy any books and records of the credit union in its possession or under its control.~~

~~Section 97. There is a new section to be numbered 14-152.6, R.C.M. 1947, which reads as follows:~~

~~14-152.6. Oaths. The department may administer oaths and affirmations and take affidavits and depositions regarding any matter within the jurisdiction of the department as related to this act.~~

~~Section 98. There is a new section to be numbered 14-152.7, R.C.M. 1947, which reads as follows:~~

~~14-152.7. Surety bonds. The department shall require that every person appointed or elected by a credit union to a position requiring the receipt, payment, or custody, of money or other personal property owned by a credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company licensed to do business~~

~~in this state. The bond shall be in a form approved by the department and shall provide surety coverage to the credit union for loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and other surety coverages the department determines to be reasonably appropriate or as elsewhere required by this act. The bond shall be in an amount, in relation to the money or other personal property involved or in relation to the assets of the credit union, which the department may from time to time prescribe by rule for the purpose of requiring reasonable coverage. In place of individual bonds the department may approve the use of a form of schedule or blanket bond which covers all of the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property. The department may also approve the use of a form of excess coverage bond whereby a credit union may obtain an amount of coverage in excess of the basic surety coverage.~~

Section 87. Section 15-2614, R.C.M. 1947, is amended to read as follows:

"15-2614. Control — supervision — reports. The corporation shall be is subject to the examination of the state superintendent of banks department of business

regulation, and shall make reports of its condition not less than annually to ~~said superintendent, who that department,~~ which in turn shall make copies of ~~such~~ the reports available to the commissioner of insurance and to the governor. The corporation shall also file an annual statement required by Title 15, ~~Revised Codes of Montana~~ R.C.M. 1947."

Section 88. Section 27-402, R.C.M. 1947, is amended to read as follows:

"27-402. General purpose. The general purpose of this ~~law~~ chapter is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the milk industry. It is enacted in the exercise of the police powers of the state."

Section 89. Section 27-403, R.C.M. 1947, is amended to read as follows:

"27-403. Definitions. ~~As used in this act, unless the context otherwise requires, "board" means the state agency created by this act, to be known as the Montana milk control board.~~ (1) Unless the context requires otherwise, in this chapter:

(a) "Board" means the board of milk control provided for in section 82A-406.

(b) "Person" means any a person, firm, corporation, or co-operative association.

1 (c) "Producer" means ~~any~~ a person who produces milk
2 for consumption ~~within the~~ in this state, selling ~~same~~ it to
3 a distributor.

4 (d) ~~"Department" means the department of business~~
5 ~~regulation provided for in Title 52A, chapter 4.~~

6 (e) "Distributor" means ~~any~~ a person purchasing milk
7 from any source, either in bulk or in packages, and
8 distributing ~~same~~ it for consumption ~~within the~~ in this
9 state. ~~Said~~ The term includes what are commonly known as
10 jobbers and independent contractors. ~~Said~~ The term,
11 however, excludes ~~all persons~~ a person purchasing milk from
12 a dealer licensed under this ~~act~~ chapter, for resale over
13 the counter at retail, or for consumption on the premises.

14 (f) "Producer-distributor" means ~~any~~ a person both
15 producing and distributing milk for consumption ~~within the~~
16 in this state.

17 (g) "Retailer" means ~~any~~ a person selling milk in bulk
18 or in packages over the counter at retail, or for
19 consumption on the premises, and includes, but is not
20 limited to, retail stores of all types, restaurants,
21 boarding-houses, fraternities, sororities, confectionaries,
22 public and private schools, including colleges and
23 universities, and both public and private institutions and
24 instrumentalities of all types and description.

25 (h) "Dealer" means ~~any~~ a producer, distributor,

1 producer-distributor, jobber, or independent contractor.

2 (i) "Licensee" means ~~any~~ a person who holds a license
3 from the ~~board~~ department.

4 ~~"Association" means any organized group of dealers in a~~
5 ~~community or marketing area which has been constituted under~~
6 ~~regulations satisfactory to the board.~~

7 (j) "Market" means ~~any~~ an area of the state designated
8 by the ~~board~~ department as a natural marketing area.

9 (k) "Consumer" means ~~any~~ a person or ~~any~~ an agency,
10 other than a dealer, who purchases milk for consumption or
11 use.

12 (l) "Producer prices" means those prices at which milk
13 owned by a producer is sold in bulk to a distributor.

14 (m) "Wholesale prices" means those prices at which
15 milk owned by a distributor is sold, in bulk or in packages,
16 to a retailer.

17 (n) "Jobber prices" means those prices at which milk
18 owned by a distributor is sold, in bulk or in packages, to a
19 jobber or independent contractor.

20 (o) "Retail prices" means those prices at which milk
21 owned by a retailer is sold, in bulk or in packages, over
22 the counter at retail, or for consumption on the premises.

23 (p) "Milk" means the lacteal secretion of a dairy
24 animal or animals, including ~~such~~ those secretions when raw
25 and when cooled, pasteurized, standardized, or homogenized,

recombined, concentrated fresh, or otherwise processed and all of which is designated as grade A by a duly constituted health authority, and also includes ~~such~~ those secretions which are in any manner rendered sterile or aseptic, notwithstanding whether they are regulated by any health authority of this or any other state or nation.

(g) Class I milk ~~shall include~~ includes all bottled or packaged milk, low fat, buttermilk, chocolate milk, whipping cream, commercial cream, half and half, skim milk, fortified skim milk, skim milk flavored drinks, and any other fluid milk not specifically classified in this ~~act~~ chapter, whether raw, pasteurized, homogenized, sterile or aseptic.

(r) Class II milk ~~shall include~~ includes milk used in the manufacture of ice cream and ice cream mix, ice milk, sherbet, eggnog, cultured sour cream, cottage cheese, condensed milk, and powdered skim for human consumption.

(s) Class III milk ~~shall include~~ includes milk used in the manufacture of butter, cheddar cheese, process cheese, livestock feed, powdered skim other than for human consumption, and skim milk dumped.

(2) The ~~board shall have power and authority to~~ department may assign new milk products, not expressly included in one of the classes defined in this section, hereafter developed to the class which in its discretion it determines to be proper."

Section 90. Section 27-405, I.C.M. 1947, is amended to read as follows:

"27-405. General powers of the ~~milk control board~~ department. (1) The ~~board is hereby vested with the power,~~ and it department shall ~~be its duty to~~ supervise, regulate, and control the milk industry of the ~~this state of Montana,~~ this state of Montana, including the production, transportation, processing, storage, distribution and sale of milk in the ~~this state of Montana~~ this state of Montana for consumption ~~within the~~ in this state, ~~providing however, that nothing contained~~ Nothing in this ~~act shall be construed to abrogate~~ chapter abrogates or ~~affect~~ affects the status, force or operation of any provision of public health laws or the law under which the ~~Montana department of livestock sanitary board~~ Montana department of livestock sanitary board is constituted together with the ~~Montana department of livestock sanitary board regulations~~ rules or county board of health ~~regulations~~ rules, or municipal ordinances for the promotion or protection of the public health, ~~but the board shall have the power to~~ The department may co-operate with the ~~state board department~~ state department of health and environmental sciences, the ~~Montana board of livestock sanitary board~~ Montana board of livestock sanitary board or any county or city board of health or the ~~state department of agriculture and industry~~ state department of agriculture and industry in enforcing the ~~provisions of~~ provisions of this ~~act~~ chapter.

(2) The ~~board department~~ board department shall ~~have the power and it~~

1 shall be its duty to investigate all matters pertaining to
 2 the production, transportation, processing, storage,
 3 distribution and sale of milk in ~~the~~ this state of ~~Montana~~
 4 and to conduct hearings upon any subject pertinent to the
 5 administration of this act chapter. The board shall have
 6 the power to department may subpoena milk dealers, their
 7 records, books, and accounts, and any other person from whom
 8 information may be desired or ~~deemed~~ considered necessary to
 9 carry out the purposes and intent of this act chapter, and
 10 may issue commissions to take depositions of witnesses who
 11 are sick or absent from the state or who cannot otherwise
 12 appear in person before the ~~milk control board~~ department at
 13 its offices, in the state capitol, provided The department
 14 shall give at least ten (10) days days' notice ~~is given~~ to
 15 the proposed witness.

16 ~~(3) It shall be the duty of any sheriff or any county~~
 17 ~~of the state, when requested to do so by the board, to~~
 18 ~~execute any summons, citations or notice which the board may~~
 19 ~~cause to be issued, for which such sheriff shall be~~
 20 ~~authorized to charge the same fee against the funds provided~~
 21 ~~for the milk control board as he might lawfully charge for~~
 22 ~~the same service of such a document if issued from any~~
 23 ~~district court of the state of Montana. Any person, other~~
 24 ~~than a dealer who is cited for violation of the provisions~~
 25 ~~of this act, or cited to show cause why his license should~~

1 ~~not be revoked, shall receive for his attendance before the~~
 2 ~~milk control board or its duly designated agent the same~~
 3 ~~compensation as is provided for a witness subpoenaed to~~
 4 ~~appear before the district court, which shall be charged~~
 5 ~~against the funds provided for the operation of the milk~~
 6 ~~control board.~~

7 ~~(4) Any duly designated agent of the board may~~
 8 ~~administer oath to witnesses, may call and give notice of~~
 9 ~~price hearings when the board is not in session and may~~
 10 ~~conduct hearings or investigations and any such duly~~
 11 ~~designated agent of the board may sign and issue subpoenas~~
 12 ~~requiring witnesses to appear before him or the board, and~~
 13 ~~in addition to the manner provided above for the execution~~
 14 ~~of subpoenas, summons and citations issued by the milk~~
 15 ~~control board to witnesses or dealers, the board, through~~
 16 ~~its designated agent shall have the power to serve said~~
 17 ~~subpoenas, summons or citations upon any person by sending a~~
 18 ~~copy of such subpoena, summons or citation, through the~~
 19 ~~United States mail, postage prepaid, which said mail shall~~
 20 ~~be registered with return receipt attached and such service~~
 21 ~~shall be complete when said registered mail shall be~~
 22 ~~delivered to said person and such receipt returned to the~~
 23 ~~board or its designated agent, signed by the person sought~~
 24 ~~to be summoned, subpoenaed, or cited. Obedience to a~~
 25 ~~subpoena, summons or citation, issued by the board or any~~

1 ~~person authorized and designated by the board to issue said~~
 2 ~~subpoena, summons or citation, may be enforced by~~
 3 ~~application to any judge of the district court of the county~~
 4 ~~in which such subpoena, summons or citation was issued or to~~
 5 ~~any judge of the district court of the county in which such~~
 6 ~~person subpoenaed, summoned or cited resides and said court~~
 7 ~~shall order compliance with said subpoena, summons or~~
 8 ~~citation and upon failure of the witness to attend, to~~
 9 ~~testify, or to produce such books or papers or records as~~
 10 ~~the board may have commanded, such witness may be punished~~
 11 ~~for contempt of court as for failure to obey a subpoena~~
 12 ~~issued by or to testify in a case pending before said court.~~

13 ~~(5) The board may act as mediator or arbitrator to~~
 14 ~~settle any controversy or issue pertaining to milk among or~~
 15 ~~between producers, distributors, producer distributors~~
 16 ~~and/or consumers.~~

17 ~~The operation and effect of any provisions of this act,~~
 18 ~~conferring a general power upon the milk control board,~~
 19 ~~shall not impair or limit any specific power or powers~~
 20 ~~granted to the milk control board by this act."~~

21 Section 91. Section 27-406, R.C.M. 1947, is amended to
 22 read as follows:

23 "27-406. Markets. (1) Pursuant to the declaration of
 24 policy relating to milk set forth in section 27-401, the
 25 ~~milk control board is vested with the duty and authority to~~

1 ~~department shall~~ designate natural marketing areas which
 2 shall together embrace all the geographical area of the
 3 state and ~~to prescribe and shall~~ enforce the minimum
 4 producer, wholesale, and retail prices ~~established for those~~
 5 ~~in such areas in the manner set forth in this act by the~~
 6 ~~board.~~

7 ~~(a) (2)~~ Natural marketing areas shall be established
 8 ~~forthwith~~ throughout the state by the ~~board,~~ provided that
 9 ~~before any department. Before~~ a proposed natural marketing
 10 area is established the ~~board~~ department, after notice of at
 11 least thirty (30) days, shall hold a hearing or hearings, at
 12 a place or places within the proposed area, at which
 13 producers and distributors doing business within ~~said the~~
 14 proposed natural marketing area, who are licensed by the
 15 ~~Montana livestock sanitary board~~ department of livestock,
 16 and the consuming public may present evidence and testify,
 17 ~~and in the event if~~ the hearing or hearings make it evident
 18 ~~to a majority of the board~~ department that the establishment
 19 of ~~such the~~ proposed natural marketing area is in the public
 20 interest, the ~~board~~ department shall ~~make findings and~~
 21 ~~conclusions and proceed to~~ establish ~~such the~~ natural
 22 marketing area.

23 ~~(b) (3)~~ The ~~board shall have the power, department~~
 24 ~~may~~ from time to time ~~and at its discretion, to~~ adjust and
 25 ~~alter~~ the boundaries of natural marketing areas ~~after they~~

1 ~~have been established~~, if after a hearing upon notice of at
2 least thirty (30) days to all interested parties it finds
3 ~~and orders such the~~ adjustment to be in the public interest.

4 ~~(c) All previously established marketing areas and all~~
5 ~~price schedules, rules and regulations issued and~~
6 ~~promulgated by the milk control board in this state at the~~
7 ~~time of passage of this act which are in force and effect,~~
8 ~~are hereby declared to be and remain in force and effect~~
9 ~~until altered or rescinded in the manner provided by this~~
10 ~~act.~~

11 ~~(d) The board shall at all times maintain current~~
12 ~~information on quantities of surplus grade A milk available~~
13 ~~in the various marketing areas throughout the state, and~~
14 ~~such information shall be available to all interested~~
15 ~~parties on request."~~

16 Section 92. Section 27-407, H.C.M. 1947, is amended to
17 read as follows:

18 "27-407. Establishment of minimum prices. (1) The
19 board shall fix minimum producer, wholesale, jobber, and
20 retail prices for class I milk, and minimum producer prices
21 only for class II and class III milk in all areas of the
22 state, by adopting rules in a manner prescribed by the
23 Montana Administrative Procedure Act.

24 (2) The board shall establish such prices by means of
25 flexible formulas which shall be devised so that they bring

1 about such automatic changes in all minimum prices as are
2 justified on the basis of changes in production costs and
3 supply, processing and distribution costs, and retailing
4 costs.

5 (3) The board shall consider the balance between
6 production and consumption of milk, the costs of production
7 and distribution, and prices in adjacent and neighboring
8 areas and states, so that minimum prices which are fair and
9 equitable to producers, distributors, jobbers, retailers,
10 and consumers may result.

11 (4) The board shall, when publishing notice of
12 proposed rule making under authority of this section, set
13 forth the specific factors which shall be taken into
14 consideration in establishing the formulas and in particular
15 in determining costs of production and distribution and of
16 the actual dollars and cents costs of production and
17 distribution which preliminary studies and investigations of
18 auditors or accountants in its employment indicate will or
19 should be shown at the hearing, so that all interested
20 parties will have opportunity to be heard and to question or
21 rebut such considerations as a matter of record.

22 (5) Such specific factors may include, but shall not
23 be limited to, the following items:

24 (4)-(a) Current and prospective supplies of milk in
25 relation to current and prospective demands for such milk

1 for all purposes;

2 ~~(2)~~ (b) The ability and willingness of consumers to
3 purchase, which shall include among other things, per capita
4 disposable income statistics, consumer price indices, and
5 wholesale price indices;

6 ~~(3)~~ (c) The cost factors in producing milk, which
7 shall include among other things the prices paid by farmers
8 generally (as used in parity calculations of the United
9 States Department of Agriculture), prices paid by farmers
10 for dairy feed in particular and farm wage rates in this
11 state;

12 ~~(4)~~ (d) The alternative opportunities, both farm and
13 nonfarm, open to milk producers, which shall include among
14 other things, prices received by farmers for all products
15 other than milk, prices received by farmers for beef cattle,
16 and the percentage of unemployment in the state and nation
17 as determined by appropriate state and federal agencies;

18 ~~(5)~~ (e) The prices of butter-nonfat dry milk, and
19 cheese;

20 ~~(6)~~ (f) The cost factors in distributing milk, which
21 shall include among other things the prices paid by
22 distributors for equipment of all types required to process
23 and market milk and prevailing wage rates in this state;

24 ~~(7)~~ (g) The cost factors in jobbing milk, which shall
25 include among other things raw product and ingredient costs,

1 carton or other packaging cost, processing cost and that
2 part of general administrative costs of the supplying
3 distributor which may properly be allocated to the handling
4 of milk to the point at which such milk is at the supplying
5 distributor's dock, equipment of all types required to
6 market milk and prevailing wage rates in the state;

7 ~~(8)~~ (h) The need, if any, for freight or
8 transportation charges to be deducted by distributors from
9 producer prices for bulk milk;

10 ~~(9)~~ (i) A reasonable return on necessary investment
11 to all ordinarily efficient and economical milk dealers.

12 (6) If the board at any time proposes to base all or
13 any part of any official order establishing or revising any
14 milk pricing formulas upon facts within its own knowledge,
15 as distinguished from evidence which may be presented to it
16 by the consuming public or the milk industry, the board
17 shall, when publishing notice of proposed rule making under
18 authority of this section, cause notice to be given to the
19 consuming public and the milk industry of the specific facts
20 within its own knowledge which it will consider, so that all
21 interested parties will have opportunity to be heard and to
22 question or rebut such facts as a matter of record.

23 (7) The board, after consideration of the evidence
24 produced, shall make written findings and conclusions and
25 shall fix by official rule:

1 (a) The formula whereby minimum producer prices for
2 milk in classes I, II, and III shall be computed.

3 (b) The formula whereby minimum wholesale prices for
4 milk in class I shall be computed.

5 (c) The formula whereby minimum jobber prices for milk
6 in class I shall be computed.

7 (d) The formula whereby minimum retail prices for milk
8 in class I shall be computed.

9 (8) This section shall not be construed as requiring
10 the board to promulgate any specific number of formulas, but
11 shall be construed liberally so that the board may adopt any
12 reasonable method of expression to accomplish the objective
13 set forth in (a), (b), (c), and (d) above. If the evidence
14 presented to the board at any public hearing for the
15 establishment or revision of milk pricing formulas is found
16 by the board to require the establishment of separate and
17 varying wholesale prices for any particular uses, the board
18 shall designate the reasons therefor and establish such
19 separate formulas.

20 (9) Each rule establishing or revising any milk
21 pricing formulas shall classify milk by forms, classes,
22 grades or uses as the board may deem advisable and shall
23 specify the minimum prices therefor.

24 (10) The milk produced in one natural marketing area
25 and sold in another natural marketing area shall be paid for

1 by a distributor or dealer in accordance with the pricing
2 order of the area where produced at the price therein
3 specified of the class or use in which it is ultimately used
4 or sold.

5 (11) No allowance for freight, other than freight for
6 transportation of milk from the farm to plant, shall be
7 charged to a producer by a distributor or dealer unless it
8 is found and ordered by the board, after notice and hearing
9 in the manner hereinbefore specified, that such an
10 additional freight allowance is necessary to permit the
11 movement of milk in the public interest.

12 (12) All milk purchased within a natural marketing area
13 by a distributor shall be purchased on a uniform basis. The
14 basis to be used shall be established by the board after the
15 producers and the distributors of the area have been
16 consulted.

17 (13) The board may amend any official rule in the same
18 manner provided herein for the original establishment of
19 milk pricing formulas; provided, further, the board may in
20 its discretion, when it determines the need exists, notice
21 and hold state-wide public hearings affecting establishment
22 or revision of milk pricing formulas in all market areas of
23 the state.

24 (14) Upon petition of a distributor or a majority of
25 his producers, the board shall hold a hearing to receive and

1 consider evidence regarding the advisability and need for a
2 base or quota plan as a method of payment by that
3 distributor of producer prices; and if the board finds that
4 the evidence adduced at such hearing warrants the
5 establishment of a base or quota plan, the board shall
6 proceed by official order to establish the same.

7 (15) Upon petition by any producer,
8 producer-distributor or distributor in any marketing area,
9 the board shall hold a hearing to receive and consider
10 evidence regarding the advisability and need for an
11 area-wide or state-wide pooling arrangement as a method of
12 payment of producer prices, provided that at such hearing
13 the board shall among other things specifically receive and
14 consider evidence concerning production and marketing
15 practices which have historically prevailed in the area
16 concerned or state-wide, as the case may be; and if the
17 board finds that the evidence adduced at such hearing
18 warrants the establishment of such an area-wide or
19 state-wide pooling arrangement, the board shall proceed by
20 official order to establish the same, but such official
21 order shall be of no force or effect until it is approved in
22 a referendum conducted by the board among affected
23 producers, producer-distributors, and distributors.

24 (16) The requirements hereinabove set forth concerning
25 notices of hearings for the establishment of milk pricing

1 formulas shall apply to any hearings regarding base or quota
2 plans or area-wide or state-wide pooling arrangements, or
3 abandonment thereof."

4 Section 93. Section 27-408, R.C.M. 1947, is amended to
5 read as follows:

6 "27-408. Licenses to producers, producer-distributors,
7 distributors and jobbers. In any market, where the
8 provisions of this ~~act~~ chapter apply, it ~~shall be~~ is
9 unlawful for ~~any~~ a producer, producer-distributor,
10 distributor or jobber to produce, transport, process, store,
11 handle, distribute, buy or sell milk unless ~~such~~ the dealer
12 ~~be duly~~ is properly licensed as provided by this ~~act~~
13 chapter. It ~~shall be~~ is unlawful for ~~any such~~ a person to
14 buy, sell, handle, process, or distribute milk which he
15 knows or has reason to believe has been previously dealt
16 with or handled in violation of any provision of this ~~act~~
17 chapter. The ~~board~~ department may decline to grant a
18 license, or may suspend or revoke a license already granted,
19 upon due cause and after hearings."

20 Section 94. Section 27-409, R.C.M. 1947, is amended to
21 read as follows:

22 "27-409. Licenses — disposition of income. (1) ~~No~~ a
23 producer, producer-distributor, distributor or jobber ~~shall~~
24 may not engage in the business of producing or selling milk
25 subject to this ~~act~~ chapter in this state without first

1 having obtained a license from the ~~Montana~~ department of
 2 ~~livestock sanitary board~~ or, in the case of milk entering
 3 this state from another state or foreign nation, without
 4 complying with the requirements of the Montana Food, Drug
 5 and Cosmetic Act, and without being licensed under this ~~act~~
 6 chapter by the department of ~~business regulation~~. The
 7 annual fee for ~~each~~ the license from the department of
 8 ~~business regulation shall be~~ is two dollars (\$2), ~~shall be~~
 9 ~~and is due and payable on or before the first day of~~ before
 10 July 1, and shall be deposited by ~~said~~ the department to the
 11 credit of the general fund.

12 (2) In addition to ~~said~~ the annual license fee, the
 13 ~~board department~~ shall, in each year, ~~on or before the first~~
 14 ~~day of~~ April 1, for the purpose of securing funds to
 15 administer and enforce this ~~act~~ chapter, levy an assessment
 16 upon producers, producer-distributors, and distributors as
 17 follows:

18 (a) A fee per hundredweight on the total volume of all
 19 milk subject to this act produced and sold by a
 20 producer-distributor.

21 (b) A fee per hundredweight on the total volume of all
 22 milk subject to this act sold by a producer.

23 (c) A fee per hundredweight on the total volume of all
 24 milk subject to this act sold by a distributor, excepting
 25 that which is sold to another distributor.

1 (3) The department shall adopt rules fixing the amount
 2 of each fee. The amounts may not exceed levels sufficient
 3 to provide for the administration of this act. The fee
 4 assessed on a producer or on a distributor may not be more
 5 than one-half (1/2) the fee assessed on a
 6 producer-distributor.

7 (4) ~~Said~~ The assessment upon producer-distributors,
 8 producers, and distributors shall be paid quarterly ~~on or~~
 9 ~~before the fifteenth~~ [15th] day of July, January 15, April
 10 15, July 15, and October 15, January and April of each
 11 year, ~~and the~~ The amount of ~~each~~ the assessment shall be
 12 computed by applying the fee designated by the ~~board~~
 13 department to the volume of milk sold in the preceding
 14 calendar quarter ~~immediately preceding~~.

15 (5) Failure of ~~any~~ a producer, producer-distributor,
 16 or distributor to pay ~~said~~ an assessment when due ~~shall~~
 17 ~~constitute is a~~ violation of this ~~act~~ chapter and his
 18 license under this ~~act~~ chapter ~~shall thereupon~~ automatically
 19 ~~terminate terminates~~ and ~~be null is~~ is void and of no
 20 effect. ~~Reinstatement of a~~ license so terminated shall be
 21 ~~affected~~ reinstated by the department upon payment of a
 22 delinquency fee equal to thirty per cent (30%) of the
 23 assessment which was due.

24 (6) All assessments ~~hereinbefore~~ required ~~to be paid~~
 25 by this chapter shall be deposited by the department of

~~business regulation~~ in the earmarked revenue fund~~s~~, and all
 all costs of administering this ~~act~~ chapter, including the
 salaries of employees and assistants, per diem and expenses
 of board members, and all other disbursements necessary to
 carry out the purpose of this ~~act~~ chapter, shall be paid out
 of control board moneys in ~~each~~ that fund.

(7) The department may, if it finds the costs of
 administering and enforcing this ~~act~~ chapter can be derived
 from lower rates, amend its rules to fix the rates at a less
 amount on or before the first day of April in any year."

Section 95. Section 27-410, R.C.M. 1947, is amended
 to read as follows:

"27-410. Application for licenses. An applicant for
 license to operate as a producer, producer-distributor,
 distributor, or jobber shall file a signed application upon
 a blank prepared under authority of the ~~board~~ department,
 and an applicant shall state ~~each~~ facts concerning his
 circumstances and the nature of the business to be conducted
 as ~~which~~ in the opinion of the ~~board~~ department are
 necessary for the administration of this ~~act~~ chapter. ~~Each~~
 The application shall certify the applicant to be the holder
 of all licenses required by the ~~Montana~~ department of
 livestock ~~sanitary-board~~ for the conduct of his business or,
 in the case of milk entering this state from another state
 or foreign nation, compliance with the requirements of the

Montana Food, Drug and Cosmetic Act, ~~and each~~ The
 application shall be accompanied by the license fee required
 to be paid."

Section 96. Section 27-411, R.C.M. 1947, is amended to
 read as follows:

"27-411. Declining, suspending and revoking licenses
 — penalties in lieu of suspension or revocation. (1) The
~~board~~ department may ~~decline~~ refuse to grant a license or
 may suspend or revoke a license already granted for due
 cause upon due notice and after hearing. The violation of
 any provisions of this ~~act~~ chapter or of any lawful order or
~~regulation rule~~ of the board ~~or department~~, the failure or
 refusal to make required statements or reports, and
~~aggravated delinquency in the payment of or failure to pay~~
 license or assessment fees, ~~or any of them, shall be deemed~~
 are causes for which the ~~board~~ department may, at its
 discretion, suspend, or revoke a license, ~~provided that no~~
~~license shall be fully revoked except upon the approval of a~~
~~majority of all members of the board.~~

(2) In ~~lieu~~ place of a suspension or revocation of a
 license the ~~board~~ department may assess a civil penalty not
 to exceed five hundred dollars (\$500) per day for each daily
 failure to comply with or each daily violation of the
 provisions of this ~~act~~ chapter or of any lawful order or
~~regulation rule~~ of the ~~board~~ department ~~OK BOARD. and if~~ If

the person against whom ~~such~~ a civil penalty is assessed fails ~~or refuses~~ to pay ~~such~~ the civil penalty ~~forthwith~~ immediately, the ~~board is empowered and directed to~~ department shall collect ~~such~~ the civil penalty by a civil proceeding in the district court of the first judicial district. ~~Such civil penalties~~ This penalty shall be construed as civil and not criminal in nature. Any moneys received by the ~~board~~ department as a result of collection of civil penalties shall be paid into the ~~state general fund~~ earmarked revenue fund as provided by section 27-417, R.C.M. 1947."

Section 97. Section 27-413, R.C.M. 1947, is amended to read as follows:

"27-413. Rules and orders. The ~~board~~ department may adopt and enforce ~~all~~ rules and ~~all~~ orders necessary to carry out the provisions of this ~~act~~ chapter and any orders adopted under it by the department or the board. Every ~~a~~ rule or order shall be posted for public inspection in the main office of the ~~board~~ department for thirty (30) days, and a copy ~~shall be~~ filed in the office of the ~~board, also a~~ department. A copy ~~shall also be~~ sent by registered letter to the secretary of each area, ~~excepting~~ except in the case of an order, directed only to a person or persons named ~~therein in it~~, which shall be served by personal delivery of a copy, or by mailing a copy, ~~in the United States mails,~~

~~with postage prepaid and properly addressed~~ to each person to whom ~~such~~ the order is directed, or, in the case of a corporation, to any officer or agent of the corporation upon whom a summons may be served in accordance with ~~the provisions of the statutes of Montana~~ laws of this state. ~~Such~~ The posting, in the main office of the ~~board~~ department, of any ~~a~~ rule ~~and of any or~~ order, not required to be personally served as ~~above~~ provided in this section, and ~~such~~ the filing in the office of the ~~board~~ department ~~shall constitute due and~~ is sufficient notice to all persons affected by ~~such a~~ the rule or order. A rule or order when ~~duly~~ properly posted and filed or served, as provided in this ~~act, shall have~~ section, has the force ~~and effect~~ of law."

Section 98. Section 27-414, R.C.M. 1947, is amended to read as follows:

"27-414. Rules of fair trade practices. ~~In addition to the general and special powers heretofore set forth, the board shall have the power to~~ The department may make and formulate ~~adopt~~ reasonable rules and ~~regulations~~ governing fair trade practices as they pertain to the transaction of business among licensees under this ~~act~~ chapter and among licensees and the general public. ~~Such reasonable~~ Those rules ~~and regulations governing fair trade practices~~ shall contain, but ~~shall are~~ are not be limited to, provisions

1 ~~regarding prohibiting~~ the following methods of doing
2 business which are ~~hereby declared~~ unfair, unlawful, and not
3 in the public interest:

4 ~~(a)~~ (1) The payment, allowance, or acceptance of
5 secret rebates, secret refunds, or unearned discounts by ~~any~~
6 a person, whether in the form of money or otherwise.

7 ~~(b)~~ (2) The giving of ~~any~~ milk, cream, dairy
8 products, services, or articles of any kind, except to bona
9 fide charities, for the purpose of securing or retaining the
10 fluid milk or fluid cream business of ~~any~~ a customer.

11 ~~(c)~~ (3) The extension to certain customers of special
12 prices or services not available to all customers who
13 purchase milk of like quantity under like terms and
14 conditions.

15 ~~(d)~~ (4) The purchasing, processing, bottling,
16 packaging, transporting, delivering or otherwise handling in
17 any marketing area of ~~any~~ milk which is to be or is sold or
18 otherwise disposed of at less than the minimum wholesale and
19 minimum retail prices established by the board ~~pursuant to~~
20 ~~this act.~~

21 ~~(e)~~ (5) The payment of a less price lower than the
22 applicable producer price, established by the board,
23 ~~pursuant to this act~~ by a distributor to ~~any~~ a producer for
24 milk which is distributed to any person, including agencies
25 of the federal, state or local government."

1 Section 99. Section 27-414.1, R.C.M. 1947, is amended
2 to read as follows:

3 "27-414.1. Limitation on extension of credit to
4 retailers. No a sale or delivery shall ~~any not~~ be made by
5 ~~any~~ a producer-distributor, distributor, or jobber to ~~any~~ a
6 retailer, except for cash or payment within fifteen (15)
7 days after regular billings, and all producer-distributors,
8 distributors, and jobbers shall bill retailers at least
9 monthly. ~~In no event shall any~~ a producer-distributor,
10 distributor, or jobber ~~any not~~ extend more than fifteen (15)
11 days' credit after billing to a retailer, ~~nor shall any~~ a
12 retailer ~~accept or any not~~ receive delivery of ~~such~~ milk
13 without agreement to pay for it in cash ~~therefor~~ within
14 fifteen (15) days after regular billing ~~therefor~~. A
15 correctly dated check which is honored upon presentment
16 ~~shall be considered as is~~ cash within the meaning of this
17 ~~act section~~. ~~Any~~ An extension or acceptance of credit in
18 violation ~~hereof of this section~~ shall be ~~regarded and~~
19 construed as rendering or receiving financial assistance,
20 ~~and the~~ The licenses of producer-distributors, distributors,
21 or jobbers involved in violation ~~hereof of this section~~
22 shall be suspended or revoked as determined by the ~~board~~
23 department in its discretion."

24 Section 100. Section 27-414.2, R.C.M. 1947, is amended
25 to read as follows:

1 "27-414.2. Financing prohibitions — producer and
2 retailer. (1) ~~no~~ A producer, producer-distributor,
3 distributor, or jobber licensed under this ~~act shall~~
4 ~~hereafter chapter may not~~ advance or loan money or credit
5 to, or furnish money or credit for, or refinance or cosign
6 or guarantee promissory notes, security agreements,
7 conditional sales contracts, or other commercial paper for
8 or on behalf of ~~any a~~ retailer, ~~and no~~ A producer,
9 producer-distributor, distributor, or jobber ~~shall~~ may not
10 be financially interested, either directly or indirectly, in
11 the conduct or operation of the business of a retailer, ~~and~~
12 ~~no~~ A producer-distributor, distributor, or jobber
13 licensed under this ~~act chapter shall hereafter may not~~
14 advance or loan money or credit to, or furnish money or
15 credit for, or refinance or cosign or guarantee promissory
16 notes, security agreements, conditional sales contracts or
17 other commercial paper for or on behalf of ~~any a~~ producer, ~~and~~
18 ~~no~~ A producer-distributor, distributor, or jobber ~~shall~~
19 may not be financially interested, either directly or
20 indirectly, in the conduct or operation of the business of a
21 producer, ~~provided, however this~~ This section shall does
22 ~~not be construed so as to~~ prohibit ~~any a~~ producer from
23 belonging to, participating in, or patronizing a
24 co-operative corporation or a producer,
25 producer-distributor, distributor, or jobber from operating

1 his own wholly-owned dairy products or other retail store or
2 home-delivery retail routes.

3 (2) This section ~~is~~ does not ~~to be construed to~~
4 prohibit a producer from requesting and a distributor from
5 granting an advance payment for milk ~~prior to~~ before the
6 regular date of payment ~~therefor for milk~~ or ~~to~~ limit in any
7 way the right of a producer to assign part or all of moneys
8 which are or may become due to him from a distributor."

9 Section 101. Section 27-415, R.C.M. 1947, is amended
10 to read as follows:

11 "27-415. Entry, inspection and investigation. The
12 ~~board, or any person designated for that purpose by the~~
13 ~~board, shall have access to, and department~~ may enter, at
14 all reasonable hours, all places where milk is produced,
15 processed, bottled, handled or stored, or where the books,
16 papers, records, or documents relative to ~~such~~ those
17 transactions are kept and ~~shall have the power to may~~
18 inspect and copy ~~the same then~~ in any place ~~within the in~~
19 this state, ~~and The department may administer oath oaths,~~
20 and take testimony for the purpose of ascertaining facts,
21 which, in the judgment of the ~~board department,~~ are
22 necessary to administer this ~~act chapter~~."

23 Section 102. Section 27-416, R.C.M. 1947, is amended
24 to read as follows:

25 "27-416. Reports of dealers — accounting system —

1 records. ~~(1) The board shall have the power to department~~
 2 ~~may require all persons holding licenses under it licensees~~
 3 ~~to file with the board such it reports at such reasonable~~
 4 ~~or regular time as times which the board department may~~
 5 ~~require, showing such person's the licensee's production,~~
 6 ~~sale, or distribution of milk, and any information deemed~~
 7 ~~considered by the board department necessary which pertains~~
 8 ~~to the production, sale, or distribution of such milk,~~
 9 ~~either under oath or otherwise, as the board department may~~
 10 ~~direct, and failure Failure or refusal to file such~~
 11 ~~reports a report when directed to do so by the board or its~~
 12 ~~only designated agent shall constitute is grounds for the~~
 13 ~~revocation of such person's the license and shall constitute~~
 14 ~~is a violation for which such person the licensee may be~~
 15 ~~finned as hereinafter provided by this chapter, one or both,~~
 16 ~~at the discretion of the board department.~~

17 (2) The board department shall adopt a uniform system
 18 of accounting to be used by the distributor to account for
 19 the usage of all milk received by the distributor.

20 (3) Every A distributor and producer-distributor shall
 21 keep the following records:

22 (a) A record of all milk, cream, or dairy products
 23 received, detailed as to location, names and addresses of
 24 suppliers, prices paid, and deductions or charges made, and
 25 the use to which such the milk or cream was put.

1 (b) A record of the quantity of each kind of milk or
 2 dairy product manufactured and the quantity and price of
 3 milk or dairy products sold.

4 (c) A full and complete record of all milk, cream, or
 5 dairy products sold, classified as to kind and grade,
 6 showing where sold, and the amount received therefor in
 7 payment.

8 (d) A record of the wastage or loss of milk or dairy
 9 products.

10 (e) A record of the items of handling expense.

11 (f) A record of all refrigeration facilities rented or
 12 sold for storage purposes to any person, showing types, and
 13 sizes, of the same, the and location of said the facilities,
 14 and the original, or duplicate original, of all agreements
 15 covering rental charges sales therefor for them.

16 (g) A record of all conditional sales of equipment or
 17 other property, the location of said property, and the
 18 original, or duplicate original, of all conditional sales
 19 contracts pertaining thereto.

20 (h) A record of all moneys loaned to wholesale
 21 customers, the terms and conditions of said loans, and the
 22 original evidence of the indebtedness based on said loans.

23 (i) (g) Such other Other records as which the board
 24 may deem department considers necessary for the proper
 25 enforcement of the act this chapter."

Section 103. Section 27-417, R.C.M. 1947, is amended to read as follows:

"27-417. Disposition of fines. (1) All fines assessed ~~in any by a court for violation of the provisions of this act chapter~~ shall be paid ~~over~~ by the court to the ~~milk control board or its properly designated agent department~~.

(2) All fines received by the board ~~department~~ shall be deposited with the state treasurer and shall be placed by him in the earmarked revenue fund. ~~All such fines~~ Fines assessed for violations of this act, ~~chapter~~ are hereby earmarked for the purposes of this act ~~chapter~~."

Section 104. Section 27-421, R.C.M. 1947, is amended to read as follows:

"27-421. Co-operation with other governmental agencies. In order to secure a uniform system of milk control, ~~the board is hereby vested with power, and it department~~ shall ~~be its duty to~~ confer and co-operate with the ~~legally constituted proper~~ authorities of other states and of the United States, including the secretary of agriculture of the United States, and, for ~~the foregoing~~ those purposes, ~~the board shall have the power to department~~ may conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this act ~~chapter~~."

Section 105. Section 27-422, R.C.M. 1947, is amended to read as follows:

"27-422. Violations made misdemeanors — penalties. ~~(a) Any person, required by this act to be licensed, who shall produce, sell, distribute, or handle milk in any way, except as a consumer, without first having obtained a license, as required of him by this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding six hundred dollars (\$600.00). Each day's violation of this provision shall constitute a separate offense. A violation of any provision of this act or of any lawful rule or order of the board, including a failure to answer subpoena or to testify before the board, shall be deemed a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600.00), and each day during which such violation shall continue shall be deemed a separate violation.~~

(1) A person who produces, sells, distributes, or handles milk in any way, except as a consumer, without a license from the department as required by this chapter, or who violates a lawful rule of the department or board, is guilty of a misdemeanor punishable by a fine not exceeding six hundred dollars (\$600). Each day's violation is a separate offense.

~~(b) (2)~~ The district courts ~~shall~~ have original jurisdiction in all criminal actions for violations of ~~the provisions of this act chapter~~, and in all civil actions for

1 the recovery or enforcement of ~~times penalties~~, provided for
2 in this act, ~~and all such chapter~~. All of these actions,
3 both criminal and civil, shall be ~~instituted, prosecuted and~~
4 ~~tried~~ in the district court.

5 ~~(e) (3) It shall be the duty of the~~ The county
6 attorneys and ~~deputy county attorneys~~, in their respective
7 counties, shall diligently ~~to attend all inquisitions held~~
8 ~~under the provisions of this act and diligently to prosecute~~
9 all violations of the laws of the state relating to the
10 ~~provisions of this act chapter.~~"

11 Section ~~106~~. Section 27-423, R.C.M. 1947, is amended
12 to read as follows:

13 "27-423. Constructions, exceptions and limitations.

14 (1) The license required by this act chapter shall be is in
15 addition to any other license required by ~~any state of~~
16 ~~Montana state law~~ or any municipality of ~~the~~ this state of
17 ~~Montana~~. This act shall apply to every part of the state of
18 Montana.

19 If any portion of this ~~act~~ chapter is held invalid or
20 unconstitutional, ~~such the~~ holding shall does not affect the
21 validity of the ~~act~~ chapter as a whole, or any part ~~thereof~~
22 of it which can be given effect without the part so held to
23 be unconstitutional or invalid.

24 (2) ~~No provision of this act shall~~ This chapter does
25 not apply ~~or be construed to apply~~ to foreign or interstate

1 commerce except in so far as ~~the same~~ it may be effective in
2 compliance with the United States constitution, and with the
3 laws of the United States. It is the intention of the
4 legislature, however, that the instant, whenever that may
5 be, that the handling, within the state by a dealer, of milk
6 produced outside of the state, becomes the subject of
7 regulation by the state in the exercise of its police
8 powers, the provisions of this act chapter, affecting
9 intrastate milk, shall immediately apply and the powers
10 conferred by this act ~~shall~~ chapter attach thereto."

11 Section ~~107~~. Section 27-424, R.C.M. 1947, is amended to
12 read as follows:

13 "27-424. Additional remedies. The ~~board or its~~
14 ~~authorized agent department~~ may ~~institute such action begin~~
15 any proceeding at law or in equity as may appear necessary
16 to enforce compliance with ~~any provision of this act chapter~~
17 or to enforce compliance with ~~any an~~ an order, or rule ~~or~~
18 ~~regulation, of the board pursuant to the provisions of or~~
19 department adopted under this act chapter or to obtain a
20 judicial interpretation of any of ~~the foregoing, and in~~
21 them. In addition to any other remedy, the board, ~~after~~
22 ~~unanimous consent of all members of the board, department~~
23 may apply to the district court of the district ~~wherein~~
24 where the action arises, for relief by injunction, mandamus,
25 or any other appropriate remedy in equity without being

1 compelled to allege or prove that an adequate remedy at law
 2 does not otherwise exist, ~~nor shall the board~~ The
 3 ~~department may not~~ be required to give or post bond in any
 4 an action to which it is a party whether upon appeal or
 5 otherwise. All legal actions may be brought by or against
 6 the board ~~or department~~ in the name of the ~~Montana milk~~
 7 ~~control board department of business regulation~~ and it shall
 8 is not be necessary in any an action to which the board
 9 department is a party that ~~such the~~ action be brought by or
 10 against the this state of Montana on relation of the ~~Montana~~
 11 ~~milk control board department~~. The board shall have the
 12 power to institute action ~~department may sue~~ by its own
 13 attorney or counselor, but and it shall have the right, if
 14 it deems advisable, to may also call upon any a county
 15 attorney to represent it in the district court, of the his
 16 county in which the action is taken, or the attorney general
 17 to represent it on appeal to the supreme court of Montana,
 18 or it may associate its own counselor attorney with either
 19 in any court."

20 Section 108. Section 27-426, R.C.M. 1947, is amended
 21 to read as follows:

22 "27-426. Bonds required of distributors — amounts —
 23 forms and conditions. (1) Every A distributor before
 24 purchasing any milk from a producer shall create and
 25 deliver to the ~~milk control board department~~ a surety bond

1 in the ~~minimum sum~~ of not less than one thousand dollars
 2 (\$1,000), executed by the applicant distributor as principal
 3 and by a surety company qualified and authorized to do
 4 business in this state as surety. ~~Said the~~ bond shall be
 5 upon on a form approved by the board department and shall be
 6 conditioned upon the payment, in the manner required by this
 7 act chapter, of all amounts due to producers for milk
 8 purchased by ~~such licensee or applicant~~ the distributor
 9 during the license year. ~~Said The~~ bond shall be to the
 10 state in favor of every producer of milk. In case of
 11 failure by a distributor to pay any a producer or producers
 12 for milk in the manner required by this act chapter, the
 13 board department shall proceed forthwith immediately to
 14 ascertain the names and addresses of all producer-creditors
 15 of ~~such that~~ distributor, together with the amounts due and
 16 owing to them and each of them by such distributor, and
 17 shall request all ~~such those~~ producer-creditors to file a
 18 verified statement of their respective claims with the
 19 board. Thereupon the board The department shall bring an
 20 action then sue on the bond on behalf of ~~said the~~
 21 producer-creditors. Upon any action being commenced upon
 22 said suing on the bond, the board department may require the
 23 filing of a new bond; and immediately upon a recovery in any
 24 an action upon ~~such the~~ bond, ~~such the~~ distributor shall
 25 file a new bond, and upon failure to file same a new

1 ~~bond~~ within ten (10) days in either case, ~~such~~ the failure
2 ~~shall constitute~~ is grounds for the revocation or suspension
3 of the license of ~~such~~ the distributor. ~~In the event that~~
4 If recovery ~~upon~~ on the bond is not sufficient to pay all of
5 the claims as finally determined and ~~adjudged~~ by the court,
6 ~~any such~~ the amount recovered shall be divided pro rata
7 among ~~said~~ the producer-creditors.

8 (2) The ~~minimum~~ bond of one thousand dollars (\$1,000)
9 shall be required of distributors purchasing an average
10 daily quantity of milk of less than one hundred (100)
11 gallons; distributors purchasing an average daily quantity
12 of one hundred (100) gallons and less than two hundred (200)
13 gallons during any calendar month during a license year
14 shall post a bond in the amount of two thousand dollars
15 (\$2,000); distributors purchasing an average daily quantity
16 of two hundred (200) gallons and less than three hundred
17 (300) gallons during any calendar month during a license
18 year shall post a bond in the amount of three thousand
19 dollars (\$3,000); distributors purchasing an average daily
20 quantity of three hundred (300) gallons or more during any
21 calendar month during a license year shall post a bond in
22 the sum of five thousand dollars (\$5,000).

23 (3) ~~In the event that any~~ If a distributor so
24 increases his purchases of milk during the license year ~~that~~
25 ~~said purchases~~ to exceed the amount for which ~~said~~

1 ~~distributor~~ he is bonded, ~~said distributor~~ he shall
2 ~~forthwith immediately~~ post ~~such~~ the additional bond ~~or bonds~~
3 ~~as may be~~ required to comply with the provisions of this
4 section.

5 (4) ~~The board is authorized to~~ department may require
6 ~~any~~ a distributor to furnish a bond ~~or bonds~~ in addition to
7 those specified ~~above~~ in this section, if, after notice and
8 hearing and upon good cause shown, it determines ~~such~~ the
9 additional bond ~~or bonds~~ are is required to assure payment
10 of all amounts due or to become due to producers.

11 (5) Failure of ~~any~~ a distributor who purchases milk
12 from producers to ~~execute and deliver the~~ post a bond ~~as~~
13 ~~herein provided and required~~ shall constitute by this
14 section is a violation of this ~~act; failure of any such~~
15 ~~distributor to post such additional bond or bonds as may be~~
16 ~~required to comply with the provisions of this act shall~~
17 ~~likewise constitute a violation of this act chapter."~~

18 Section 109. Section 35-145, H.C.M. 1947, is amended
19 to read as follows:

20 "35-145. Home owners' loan corporation bonds as
21 security for deposit of public funds. Subject to ~~such~~ rules
22 ~~and regulations as may be~~ prescribed by the ~~superintendent~~
23 ~~of banks~~ department of intergovernmental relations, the
24 bonds and other obligations herein made eligible for
25 investment, may be used as security for all deposits of

public funds or obligations for which depository bonds or any kind of bonds or other securities are required, or may by law be deposited as security."

Section 110. Section 47-202, R.C.M. 1947, is amended to read as follows:

"47-202. Definitions. Unless ~~otherwise clearly indicated by the context requires otherwise, the following words when used in this act, for the purposes of this act, shall have the meanings respectively ascribed to them in this section:~~

(a) ~~(1)~~ "Person" ~~shall mean means~~ individuals, partnerships, associations, corporations, and ~~any and all~~ legal entities in the loaning business.

(b) ~~(2)~~ "License" ~~shall mean means~~ one or both of the licenses provided for by this act.

(c) ~~(3)~~ "Licensee" ~~shall mean means~~ the person holding ~~any such a~~ license.

(d) ~~(4)~~ "Commissioner" ~~shall mean the consumer loan commissioner.~~ "Department" means the department of business regulation provided for in Title 82A, chapter 4.

(e) ~~(5)~~ "Consumer type loan business" ~~shall mean means~~ the business of making loans of two thousand five hundred dollars (\$2,500) or less generally repayable in substantially equal installments."

Section 111. Section 47-203, R.C.M. 1947, is amended

to read as follows:

"47-203. ~~Office of consumer loan commissioner, employees, appointment, compensation — commissioner Department — powers and duties — adoption of rules, and regulations by commissioners.~~ (a) ~~There is hereby created the office of consumer loan commissioner, who shall be the bank examiner of the state of Montana. He is hereby authorized to appoint, employ, remove and prescribe the duties and fix the compensation of such employees as are necessary to properly discharge the duties of his office.~~ (b) ~~(1)~~ All powers and duties of regulation and supervision conferred by this act are vested in the commissioner department. The ~~commissioner department~~ shall adopt and promulgate such rules and regulations as shall be necessary to carry out the intent and purposes of this act. ~~All rules and regulations of general application shall be filed in the commissioner's office and be open to the public. A copy of every such rule or regulation shall be mailed to each licensee, postage prepaid, at least fifteen (15) days in advance of its effective date, provided, however~~ However, the failure of a licensee to receive a copy of ~~such rules or regulations shall a rule does not exempt him from the duty of compliance complying with such rules and regulations a rule lawfully promulgated hereunder adopted under this act.~~

~~(c)~~ ~~(2)~~ All ~~valid rules and regulations~~ adopted under the provisions of this act shall be are binding upon on all licensees and enforceable by the commissioner department through the power of suspension or revocation of licenses."

Section 112. Section 47-206, R.C.M. 1947, is amended to read as follows:

"47-206. License, when required — display — nontransferable — removal — license year, fees — ~~consumer loan administration fund~~ use. ~~(a)~~ (b) On and after July 1, 1959, ~~each~~ a place of business operated under this act shall ~~have and properly displayed therein, display on the premises~~ a nontransferable and nonassignable license. The same person may obtain additional licenses upon compliance with this act as to each license. Application for a license shall be on a form prescribed and furnished by the commissioner department. A licensee may move his place of business from one place to another within a county without obtaining a new license, provided he obtains written permission from the commissioner department.

~~(b)~~ ~~(2)~~ Submitted with With each application the applicant shall submit be fifty dollars (\$50) as an investigation fee and one hundred twenty-five dollars (\$125) as a license fee, ~~which~~ The license fee shall be returned to the applicant if the application is denied. The license year ~~shall be~~ is the calendar year and the license fee for

any period less than six (6) months shall be is sixty-two dollars fifty cents (\$62.50). ~~Each~~ A license shall ~~remain~~ remain in force until surrendered, suspended, or revoked.

~~(c)~~ ~~(3)~~ All moneys collected under the authority of this act shall be paid into the state treasury by the commissioner department."

Section 113. Section 47-207, R.C.M. 1947, is amended to read as follows:

"47-207. Issuance or denial of license, when — mailing of denial order and findings. ~~(a)~~ (b) Within thirty (30) days after an application for license is filed with the commissioner department, together with the required fees, the commissioner department shall issue the license if the character and general fitness of the applicant is such as to warrant belief that the business will be operated lawfully and fairly within the provisions of this act, or enter an order denying ~~same~~ the license, if ~~he shall find it finds~~ to the contrary. ~~Provided, however, that any person engaged in the consumer type loan business on December 31, 1956 shall receive a license upon filing the required application and fees within thirty (30) days after the effective date of this act.~~

~~(b)~~ ~~(2)~~ A copy of the order granting or denying a license, together with a summary of the department's findings ~~thereon~~, shall be filed in the office of the

1 ~~commissioner~~ department and shall be public record. A copy
2 of the order denying a license, together with a summary of
3 the department's findings ~~thereon~~, shall be mailed postage
4 prepaid, to the applicant at the address stated in the
5 application."

6 Section 114. Section 47-215, R.C.M. 1947, is amended
7 to read as follows:

8 "47-215. Investigations, when — who may be
9 investigated. The ~~commissioner or his duly authorized~~
10 ~~representatives~~ department may at any time investigate any
11 transaction with borrowers and may examine the books,
12 accounts, and records in this state to discover violations
13 of this act by (1) ~~any~~ a licensee, (2) ~~any~~ a person who
14 advertises for, solicits, or holds himself out as willing to
15 make loans in amounts of two thousand five hundred dollars
16 (\$2,500) or less, or (3) ~~any~~ a person whom the ~~commissioner~~
17 department has reason to believe is violating or is about to
18 violate ~~the provisions of~~ this act."

19 Section 115. Section 47-216, R.C.M. 1947, is amended
20 to read as follows:

21 "47-216. Annual report — contents — verified —
22 publication. ~~Each~~ a licensee shall annually ~~on or before the~~
23 ~~15th day of April 15~~, file ~~an annual~~ a report for the
24 preceding calendar year with the ~~commissioner~~ department.
25 ~~Such~~ The report shall give information with respect to the

1 financial condition of ~~such~~ the licensee and shall include:
2 The name and address of the licensee; balance sheets at the
3 beginning and end of the calendar year; a statement of
4 income and expenses; a reconciliation of surplus or net
5 earnings with the balance sheets; a schedule of assets used
6 in the consumer loan business; an analysis of charges, size
7 of loans made and types of security on loans; an analysis of
8 suits and foreclosures; and ~~such~~ other relevant information
9 as the ~~commissioner~~ department may reasonably require
10 concerning the business ~~and operations~~ during the preceding
11 calendar year of each licensed place of business conducted
12 by ~~such~~ the licensee ~~within the in this~~ state. ~~Such~~ The
13 report shall be made under oath and be in a form prescribed
14 by the ~~commissioner, the~~ department, which shall ~~make and~~
15 publish annually an analysis and ~~recapitulation~~ summary of
16 ~~such~~ the reports."

17 Section 116. Section 47-223, R.C.M. 1947, is amended
18 to read as follows:

19 "47-223. Revocation and suspension of license, when.
20 The ~~commissioner~~ department, upon ten (10) days' written
21 notice to the licensee and statement of the grounds ~~therefor~~
22 and upon reasonable opportunity to be heard at a public
23 hearing, if requested by the licensee, may suspend, but not
24 for more than thirty (30) days, or revoke ~~any~~ a license
25 ~~issued hereunder~~ if ~~he~~ it finds the licensee has knowingly

violated any provision of this act. ~~Whenever when~~ the ~~commissioner shall enter~~ department enters an order revoking or suspending a license, ~~he it~~ shall mail a copy of ~~his the~~ order by registered mail to the licensee at the address for which the license was issued."

Section 117. Section 50-604, R.C.M. 1947, is amended to read as follows:

"50-604. Copies of bills and invoices to be kept for inspection. ~~Any~~ A person, firm, or corporation, mining, shipping, or producing coal, and all persons, firms or corporations wholesaling, jobbing, exchanging, offering for sale or selling at retail any coal ~~within the in this~~ state ~~of Montana~~, shall keep ~~within the state of Montana~~, a true, accurate, and complete copy of all the original statements, bills, and invoices of all coal produced, shipped, marketed, exchanged, or sold for at least one (1) year, ~~and all All~~ papers, records and files of any person, firm, or corporation transporting, producing, shipping, exchanging, or selling any coal ~~within the in this~~ state ~~of Montana~~ shall, at all times, be open to inspection by the attorney general, the county attorneys, and the ~~state scaler of weights and measures~~ department of business regulation for the purposes of enforcing this act."

Section 118. Section 50-606, R.C.M. 1947, is amended to read as follows:

"50-606. Enforcement of ~~act chapter~~. ~~It shall be the duty of the state scaler of weights and measures to The department of business regulation shall enforce the provisions of this act and the duty of the attorney general and the county attorneys of the counties of the state to shall prosecute all cases arising under the its provisions hereof.~~"

Section 119. There is a new section to be numbered 51-101.1, R.C.M. 1947, which reads as follows:

51-101.1. Definitions. Unless the context requires otherwise, in this act, "department" means the department of business regulation provided for in section 82A-401.

Section 120. Section 51-106, R.C.M. 1947, is amended to read as follows:

"51-106. Fair price for agricultural products, how determined. (1) The following method shall be used in determining fair prices for agricultural products sold on local markets, in ~~any~~ a trade area, district or city in which the major portion of ~~any an~~ agricultural commodity or product is produced within or adjacent to ~~said the~~ trade area, city or district:

(a) ~~Whenever 75% when seventy-five percent (75%) of producers of any an agricultural product or commodity marketing said those products or commodities within any a trade area, district or city shall determine what is a fair~~

price based upon competitive and other factors for their product or commodity, it shall be ~~deemed~~ considered the fair price for ~~such~~ that product or commodity under the terms of this act.

(b) ~~Such~~ Those producers through their regular ~~constituted~~ agents shall file with the ~~Montana trade commission~~ such department the fair price and request a hearing for the establishment of fair prices to jobbers, wholesalers, retailers, and consumers of ~~said~~ the agricultural products or commodities. Any organization representing consumers ~~shall~~ may not be denied representation at ~~such a~~ the meeting.

(2) After the establishment of ~~such~~ a schedule of fair prices for ~~said~~ the agricultural products or commodities, it ~~shall be~~ is a violation of this act for ~~any~~ a producer, jobber, wholesaler or retailer to sell or buy ~~any~~ an agricultural commodity or product below ~~such~~ the price as established by the ~~Montana trade commission and such department~~. That action shall be deemed a violation of this act and is punishable under the terms provided in this act."

Section 121. Section 51-113, R.C.M. 1947, is amended to read as follows:

"51-113. ~~Montana trade commission~~ Department — administration of act by — intervention — orders — review — appeals — process — finality of order. ~~(1) The Montana~~

~~trade commission shall have the administration of this act, and the members thereof shall not receive any additional compensation for their services other than their salaries prescribed by law. The commission shall meet not less than six (6) times a year on or about the fifteenth (15th) day of the month, and as often and wherever it may decide other meetings are necessary. Suitable notice of all meetings shall be given as the commission may determine.~~

~~Said commission is empowered and directed to prevent any person, firm or corporation from violating any of the provisions of this chapter.~~

(1) The department shall prevent a person, firm, or corporation from violating any of the provisions of this chapter.

(2) Upon receiving notice ~~from any person~~ that ~~any~~ a person, firm or corporation is violating or has violated any of the provisions of this chapter, the ~~commission~~ department shall immediately notify the person giving ~~such~~ that notice either to appear at ~~its next regular or special meeting before the director of the department~~ or to make a written reply to show probable cause of ~~such~~ that violation. If probable cause is shown, the ~~commission~~ department must ~~thereafter~~ then make its own investigation and within sixty (60) days of the finding of probable cause must make a written report of its investigation and must mail a copy of

1 its findings to the person initially giving notice of a
2 violation.

3 (3) If, after ~~such~~ an investigation the ~~commission~~
4 ~~shall have~~ department has reason to believe that ~~any such~~
5 the person, firm, or corporation has been or is engaging in
6 any course of conduct or doing any act ~~or acts~~ in violation
7 of the ~~provisions of~~ this chapter and if it ~~shall appear~~
8 appears to the ~~commission~~ department that a proceeding by it
9 ~~in respect thereof~~ would be to the interest of the public,
10 it shall issue and serve upon ~~such the~~ person, firm or
11 corporation a complaint stating its charges in that respect,
12 and containing a notice of a hearing upon a day and at a
13 place therein fixed not less than five (5) days after the
14 service of ~~said the~~ complaint. ~~Any such a~~ complaint may be
15 amended by the ~~commission~~ department in its discretion at
16 any time five (5) days prior to the issuance of an order
17 based ~~thereon~~ on it. The person, firm or corporation so
18 complained of ~~shall have the right to may~~ appear at the
19 place and time so fixed and show cause why an order should
20 not be entered by the ~~commission~~ department requiring ~~such~~
21 that person, firm, or corporation to ~~cease and desist from~~
22 stop the violation of the law ~~so~~ charged in ~~said the~~
23 complaint. Any person, firm or corporation may make
24 application, and upon good cause shown may be allowed by the
25 ~~commission~~ department to intervene and appear in ~~said the~~

1 proceeding by counsel or in person. The testimony in ~~any~~
2 ~~such the~~ proceeding shall be reduced to writing and filed in
3 the office of the ~~commission~~ department. If upon ~~such the~~
4 hearing the ~~commission shall be of the opinion~~ department
5 believes that the act or conduct in question is prohibited
6 by this chapter, it shall make a report in writing in which
7 it shall state its findings as to the facts and shall issue
8 and cause to be served on ~~such that~~ person, firm, or
9 corporation an order requiring ~~such that~~ person, firm, or
10 corporation to ~~cease and desist from such stop the~~ acts or
11 conduct. Until a transcript of the record in ~~such the~~
12 hearing ~~shall have has~~ been filed in a district court, as
13 hereinafter provided, the ~~commission~~ department may at any
14 time, upon ~~such the~~ notice and in ~~such the~~ manner as it
15 ~~shall deem~~ considers proper, modify or set aside, in whole
16 or in part, any report or any order made or issued by it
17 under this section.

18 ~~(3)-(4) Any person, firm or corporation required by~~
19 ~~an order of the commission to cease and desist from any such~~
20 ~~act or conduct may obtain a review of such order in any~~
21 ~~district court of the state of Montana within any district~~
22 ~~where the act or conduct in question was done or carried on,~~
23 ~~or where such person, firm or corporation resides or carries~~
24 ~~on business, by filing in the court, within sixty days from~~
25 ~~the date of the service of such order a written petition~~

1 ~~praying that the order of the commission be set aside. A~~
 2 ~~copy of such petition shall be forthwith served upon the~~
 3 ~~commission, and thereupon the commission forthwith shall~~
 4 ~~certify and file in the court a transcript of the entire~~
 5 ~~record in the proceeding, including all the evidence taken~~
 6 ~~and the report and order of the commission. Upon such~~
 7 ~~filing of the petition and transcript the court shall have~~
 8 ~~jurisdiction of the proceeding and of the question~~
 9 ~~determined therein and shall have power to make and enter~~
 10 ~~upon the pleadings, evidence, and proceedings set forth in~~
 11 ~~such transcript a decree affirming, modifying, or setting~~
 12 ~~aside the order of the commission, and enforcing the same to~~
 13 ~~the extent that such order is affirmed, and to A court~~
 14 ~~reviewing an order of the department may issue such writs as~~
 15 ~~are ancillary to its jurisdiction or are necessary in its~~
 16 ~~judgment to prevent injury to the public or to competitors~~
 17 ~~pendente lite pending the suit. The findings of the~~
 18 ~~commission as to the facts, if supported by sufficient~~
 19 ~~evidence, shall be conclusive.~~

20 ~~(4) (5)~~ To the extent that the order of the
 21 ~~commission department~~ is affirmed, the court shall thereupon
 22 issue its own order commanding obedience to the terms of
 23 ~~such the~~ order of the ~~commission department~~. If either
 24 party shall apply to the court for leave to adduce
 25 additional evidence, and shall show to the satisfaction of

1 ~~the court that such additional evidence is material and that~~
 2 ~~there were reasonable grounds for the failure to adduce such~~
 3 ~~evidence in the proceedings before the commission, the court~~
 4 ~~may order such additional evidence to be taken before the~~
 5 ~~commission and to be adduced upon the hearing in such manner~~
 6 ~~and upon such terms and conditions as to the court may seem~~
 7 ~~proper. The commission may modify its findings as to the~~
 8 ~~facts, or make new findings, by reason of the additional~~
 9 ~~evidence so taken, and it shall file such modified or new~~
 10 ~~findings, which, if supported by sufficient evidence, shall~~
 11 ~~be conclusive, and its recommendation, if any, for the~~
 12 ~~modification or setting aside of its original order, with~~
 13 ~~the return of such additional evidence. The judgment and~~
 14 ~~decree of the court shall be final, except that the same~~
 15 ~~shall be subject to review by the supreme court upon appeal~~
 16 ~~as in other cases of judgments of such courts, provided,~~
 17 ~~however, that said appeal shall be taken within thirty days~~
 18 ~~from the date of the entry of such judgment or decree.~~

19 ~~(5) (6)~~ Such proceedings Proceedings in the district
 20 court shall be given precedence over other civil cases
 21 pending therein, and shall be in every way expedited.
 22 ~~Complaints, orders, and other processes of the commission~~
 23 ~~under this section may be served by anyone duly authorized~~
 24 ~~by the commission, either (a) by delivering a copy thereof~~
 25 ~~to the person to be served, or to a member of the~~

~~partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the residence or the principal office or place of business of such person, partnership or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership or corporation at his or its residence or principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.~~

~~(6) An order of the commission to cease and desist shall become final (1) upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed within such time; (2) upon the expiration of the time allowed for filing a notice of appeal to the supreme court, if the order of the commission has been affirmed, or the petition for review dismissed by the district court and no notice of appeal to the supreme court has been duly filed; or (3) upon the expiration of thirty days from the date of issuance of the remittitur of the supreme court, if such court directs that the order of the commission be affirmed or the petition for review dismissed.~~

~~(7) If the supreme court directs that the order or the commission be modified or set aside, the order of the commission rendered in accordance with the mandate of the supreme court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected to accord with the mandate, in which event the order of the commission shall become final when so corrected.~~

~~(8) If the order of the commission is modified or set aside by the district court and if (1) the time allowed for filing a notice of appeal to the supreme court has expired and no such notice of appeal has been duly filed or (2) the decision of the district court has been affirmed by the supreme court, then the order of the commission rendered in accordance with the mandate of the district court shall become final on the expiration of thirty days from the time such order of the commission was rendered, unless within such thirty days either party has instituted proceedings to have such order corrected so that it will accord with the mandate, in which event the order of the commission shall become final when so corrected.~~

~~(9) If the supreme court orders a rehearing, or if the case is remanded by the district court to the commission for a rehearing, and if (1) the time for filing a notice of~~

~~appeal to the supreme court has expired and no such notice of appeal has been duly filed, or (2) the decision of the court has been affirmed by the supreme court, then the order of the commission rendered upon such rehearing shall become final in the same manner as though no prior order of the commission had been rendered.~~

~~(10) (7)~~ Any A person, firm, or corporation who violates an order of the commission department to cease and desist after it has become final, and while ~~such the~~ order is in effect shall forfeit and pay to the this state of ~~Montana~~ a penalty of not more than one thousand dollars ~~(\$1,000.00) (\$1,000)~~ for each violation, which shall accrue to the this state of ~~Montana~~ and may be recovered in a civil action brought by the this state of ~~Montana~~.

~~(8)~~ The remedies and method of enforcement of this chapter provided for in this section ~~shall be deemed are~~ concurrent and in addition to the other remedies provided in this chapter."

Section 122. Section 51-114, M.C.A. 1947, is amended to read as follows:

"51-114. Procedure for establishing cost survey — hearing — notice. (1) The ~~Montana trade commission is hereby empowered and directed~~ department shall, whenever application ~~therefor shall have~~ has been made by ten ~~(10)~~ or more persons, firms, or corporations within ~~any a~~ particular

trade or business, to establish the cost survey provided for in section 51-105 ~~of this chapter~~. When petition for ~~such a~~ cost survey has been so presented to the ~~commission~~ department, the ~~commission~~ department shall, as soon as possible, fix a time for a public hearing upon the question of whether ~~such the~~ cost survey should be established. ~~Such~~ The hearing shall be held at the office of ~~said commission~~ the department and upon ~~such that~~ notice as which the ~~commission department~~ may by rule require, ~~provided, however, that~~ However, notice of ~~such the~~ hearing shall be published for at least two ~~(2)~~ successive weeks in ~~each the~~ daily newspaper or newspapers as the ~~commission department~~ may designate as most commonly circulated in the counties to be affected by ~~such the~~ cost survey. ~~Said The~~ notice shall further state the locality or area in respect to which ~~said the~~ cost survey is proposed to be established and the particular trade or business to be affected ~~thereby~~ by it.

(2) At the time fixed in ~~said the~~ notice any person, firm, or corporation ~~shall be entitled to~~ may appear and be heard by the ~~commission department~~ upon all questions to be determined by it as provided in this section. If the ~~commission shall determine~~ department determines that a cost survey shall be established, it shall at the same hearing proceed to classify and define the particular trade or business, or parts thereof, to be affected ~~thereby~~,

1 determine and delimit the particular area within which ~~such~~
2 ~~the~~ trade or business shall be ~~so~~ affected, and find and
3 determine the probable "cost of doing business" or "overhead
4 expense," stated in percentage ~~or percentages~~ of invoice or
5 replacement cost which would probably be incurred by the
6 most efficient person, firm, or corporation ~~within such in~~
7 ~~the~~ trade or business within ~~such the~~ area.

8 (3) ~~Provided, however, that where~~ Where the ~~commission~~
9 ~~shall determine~~ department determines that the probable
10 "cost of doing business" or "overhead expense," stated in
11 percentage ~~or percentages~~ of invoice or replacement cost
12 which would probably be incurred by the most efficient
13 person, firm, or corporation in ~~such the~~ trade or business
14 is the same for the entire state, then ~~and in that event~~ the
15 ~~commission department~~ may, upon proper notice ~~having been~~
16 given as ~~hereinafore~~ provided in this section, create one
17 trade area ~~which shall embrace~~ embracing the entire state.

18 (4) The percentage ~~or percentages~~ so ~~fixed and~~
19 determined shall be presumed to be the actual "cost of doing
20 business" and "overhead expense" of any person, firm, or
21 corporation in ~~such the~~ trade or business and within the
22 area, affected by ~~such the~~ cost survey."

23 Section 123. Section 51-115, R.C.M. 1947, is amended
24 to read as follows:

25 "51-115. Hearings and investigations — contempts. (1)

1 The ~~Montana trade commission~~ department for the purpose of
2 conducting hearings and investigations which, in the opinion
3 of the ~~commission~~ department, are necessary and proper for
4 the exercise of the powers vested in it by this chapter
5 ~~shall have~~ has the following powers:

6 (2) ~~(1)~~ The ~~commission, or its duly authorized~~
7 ~~agents, department~~ shall at all reasonable times have access
8 to, for the purpose of examination, and the right to copy
9 any evidence of ~~any~~ a person being investigated or proceeded
10 against that relates to any matter under investigation or in
11 question. Any member of the ~~commission shall have power to~~
12 department may issue subpoenas requiring the attendance and
13 testimony of witnesses and the production of any evidence
14 that relates to any matter under investigation or in
15 question, before the ~~commission department~~, or before its
16 duly authorized agent conducting the investigation. ~~Any~~
17 ~~member of the commission or any~~ An agent, duly authorized by
18 the ~~commission~~ department for ~~such those~~ purposes, may
19 administer oaths and affirmations, examine witnesses, and
20 receive evidence. ~~Such The~~ The attendance of witnesses and the
21 production of ~~such~~ evidence may be required from any place
22 ~~within the in this~~ in this state of ~~Montana~~ at any designated place
23 of hearing.

24 (3) ~~(2)~~ In any case of contumacy or refusal to obey a
25 subpoena issued to ~~any~~ a person, any district court of ~~the~~

1 ~~this~~ state of ~~Montana~~, within any district where the inquiry
 2 is carried on or where a person guilty of contumacy or
 3 refusal to obey is found or resides or transacts business,
 4 upon application by the ~~commission shall have~~ department has
 5 jurisdiction to issue to ~~such~~ that person, an order
 6 requiring ~~such person~~ him to appear before the ~~commission~~
 7 department, or its duly authorized agent, and there to
 8 produce evidence if so ordered, or there to give testimony
 9 ~~touching regarding~~ the matter under investigation, ~~and any~~
 10 ~~failure~~ Failure to obey ~~such the~~ order of the court may be
 11 punished by ~~said the~~ court as a contempt thereof.

12 ~~(4) (3) No~~ A person shall ~~may not~~ be excused from
 13 attending and testifying or from producing books, records,
 14 correspondence, documents, or other evidence in obedience to
 15 the subpoena of the ~~commission~~ department, on the ground
 16 that the testimony or evidence required of him may tend to
 17 incriminate him or subject him to a penalty or forfeiture,
 18 ~~but no~~ An individual shall ~~may not~~ be prosecuted or
 19 subjected to ~~any a~~ penalty or forfeiture for or on account
 20 of ~~any a~~ transaction, matter, or thing concerning which he
 21 is compelled, after having claimed his privilege against
 22 self incrimination, to testify or produce evidence, except
 23 that ~~such an~~ individual so testifying shall is not be exempt
 24 from prosecution and punishment for perjury committed in ~~so~~
 25 testifying."

1 Section 124. Section 51-116, R.C.M. 1947, is amended
 2 to read as follows:

3 "51-116. Alteration of invoices unlawful. It ~~shall be~~
 4 is unlawful for ~~any a~~ person, partnership, firm,
 5 corporation, joint stock company, or other association, as
 6 defined in section 51-103, to change, alter, substitute, or
 7 falsify ~~any an~~ invoice where ~~such the~~ practice tends to
 8 injure a competitor or to destroy competition or to mislead
 9 ~~any a~~ court or ~~commission the department of business~~
 10 regulation. ~~Said That~~ practice is unfair trade practice and
 11 ~~any a~~ person, firm, partnership, corporation, or association
 12 resorting to ~~such that~~ trade practice ~~shall be~~ is guilty of
 13 a misdemeanor and, ~~on conviction, shall be~~ is subject to the
 14 penalties provided in section 51-112."

15 Section 125. Section 60-203.1, R.C.M. 1947, is amended
 16 to read as follows:

17 "60-203.1. ~~"Commissioner"~~ "Department" defined.
 18 ~~"Commissioner"~~ Unless the context requires otherwise, in
 19 this act, "department" means the Montana commissioner of
 20 agriculture for purposes of this act department of business
 21 regulation provided for in Title 82A, chapter 4."

22 Section 126. Section 60-203.2, R.C.M. 1947, is amended
 23 to read as follows:

24 "60-203.2. Enforcement of chapter -- rules ~~and~~
 25 regulations. ~~The provisions of this~~ This chapter shall be

enforced by the ~~commissioner of agriculture~~ department. He
 It may ~~promulgate~~ adopt necessary and reasonable rules and
 regulations for the interpretation of the provisions and
 intent of this chapter, and ~~the same shall~~ those rules have
 the force and effect of law."

Section 127. Section 60-217, R.C.M. 1947, is amended
 to read as follows:

"60-217. Samples of product may be taken by ~~commissioner~~
~~department~~ or user — inspection by ~~commissioner~~ department —
 interference with inspections — inspectors — employment.
 (1) For the purpose of obtaining information regarding
 suspected violation of this act, ~~said commissioner for any~~
~~member thereof~~, or duly authorized representative the
 department shall have access to all places where the
 commodities ~~enumerated herein~~ subject to regulation under
 this act are sold, offered for sale or kept for sale,
 manufactured, transported, or stored, and may take samples
 therefrom for analysis upon tendering payment therefor for
 them.

(2) ~~Any~~ a user or customer shall have the right may,
 upon tendering payment, ~~therefor~~ to receive from ~~any~~ a
 dealer, a sample of ~~any~~ a commodity sold for the purpose of
 having an analysis and a test thereof made by the state
 chemist through the ~~commissioner~~ department.

(3) The ~~commissioner, or any duly authorized~~

~~representative thereof shall have the right to~~ department
 may inspect any of the commodities ~~enumerated herein~~ subject
 to this act, whether ~~the same~~ they originate at points
 without outside the state or otherwise and whether ~~the same~~
 they are in transport or at rest in places where they are
 dangerous to human life or public safety.

(4) ~~Any~~ a person obstructing ~~any~~ an entry or
 inspection authorized by this section, or failing upon
 request to assist therein ~~shall be in it is~~ in violation of
 this act. The ~~commissioner~~ department shall employ from
 time to time ~~such~~ those inspectors ~~as said commissioner~~
~~shall deem it considers~~ necessary to carry out the
 provisions of this act, and ~~said commissioner shall fix the~~
~~compensation of such inspectors."~~

Section 128. Section 60-219, R.C.M. 1947, is amended
 to read as follows:

"60-219. Revocation of license for violations —
 hearing required. If the ~~commissioner shall find~~ department
 finds that ~~any~~ a dealer operating under this act has
 violated any of the provisions ~~hereof~~ of it, or of any
 lawful order or decision of the ~~commissioner~~ department,
~~promulgated adopted~~ pursuant to the provisions of this act,
 the ~~commissioner~~ it shall, after due hearing, ~~thereon~~,
 noticed for not less than ten (10) days, revoke, cancel, or
 suspend any license, ~~that it [he] has theretofore granted~~

1 ~~and such~~ The revocation, cancellation or suspension, may be
 2 conditioned on ~~such those~~ terms as to which the ~~commissioner~~
 3 ~~may see~~ department considers just and proper."

4 Section 129. Section 60-220, R.C.M. 1947, is amended
 5 to read as follows:

6 *60-220. Revocation of license of petroleum dealers
 7 for unreasonable or discriminatory prices — procedure. The
 8 ~~commissioner is hereby vested with authority to~~ department
 9 may revoke the license to engage in the business of selling
 10 gasoline and other petroleum products ~~within the in this~~
 11 ~~state of Montana, issued by such commissioner to any a~~
 12 person, firm, partnership, association, or corporation,
 13 where ~~such that~~ person, firm, partnership, association, or
 14 corporation is by ~~such commissioner~~ the department found
 15 guilty of charging an exorbitant or unreasonable price for
 16 gasoline sold ~~within the in this~~ state to residents of the
 17 state, or of discriminating between individuals or
 18 localities ~~within the in this~~ state in the prices charged
 19 for gasoline, or of discriminating between citizens of this
 20 state and citizens of adjoining states, to the disadvantage
 21 of the former, in the prices charged for gasoline. Anybody
 22 aggrieved by the action of ~~such a~~ person, firm, partnership,
 23 association, or corporation in ~~so~~ charging an exorbitant or
 24 unreasonable price for gasoline or in ~~so~~ discriminating
 25 between individuals or localities or in ~~so~~ discriminating

1 between citizens of this state and citizens of adjoining
 2 states may file written charges with ~~such commissioner~~ the
 3 department against ~~such the~~ person, firm, partnership,
 4 association, or corporation, ~~and thereupon the~~
 5 ~~commissioner~~ The department shall then issue a citation to
 6 ~~such the~~ person, firm, partnership, association, or
 7 corporation to show cause before ~~the commissioner~~ it within
 8 twenty (20) days ~~thereafter~~ why his, their, or its license
 9 should not be revoked. ~~Such The~~ person, firm, partnership,
 10 association, or corporation may appear by counsel at the
 11 hearing and contest the charge. If the charge ~~be is~~
 12 established by a preponderance of the evidence the
 13 commissioner shall make an order revoking the license,
 14 otherwise the charge shall be dismissed. ~~Within thirty days~~
 15 ~~after the order of revocation is made such person, firm,~~
 16 ~~partnership, association or corporation may appeal therefrom~~
 17 ~~to the district court of the county in which the hearing was~~
 18 ~~had. The appeal must be tried in the district court upon~~
 19 ~~the record made before the commissioner, but it shall not of~~
 20 ~~itself result in staying the orders of revocation.~~ Nothing
 21 provided in this act is intended to interfere with or
 22 regulate commerce between states, the legislature in passing
 23 ~~the same~~ this act being actuated solely by a desire to
 24 protect the citizens of ~~Montana~~ this state against
 25 imposition."

Section 130. Section 60-223, R.C.M. 1947, is amended to read as follows:

"60-223. Petroleum products dealers — Definition of terms. ~~Meaning of terms when used in this act: (1) The terms "state scaler" and "deputy scaler" mean, respectively, the commissioner of agriculture of the state of Montana and his deputy scalers of weights and measures of the state of Montana. Unless the context requires otherwise in sections 60-223 through 60-233:~~

(2) ~~(1)~~ the words "sell" "Sell" and "sale" shall also mean means barter and exchange.

(3) ~~(2)~~ The term ~~"dealer"~~ "Dealer" means all persons, firms, copartnerships, corporations, trusts, or agencies.

(4) ~~(3)~~ A petroleum dealer "Petroleum dealer" is means a dealer engaged, directly or indirectly, in the business of delivering or distributing to a consumer, or in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale ~~within the in this~~ state of ~~Montana~~ any gasoline, kerosene, distillate, road oil, fuel oil, lubricating oil, and greases, or any oil or gas or oil and gas product, except as otherwise defined as a liquefied petroleum dealer in subsection ~~five (5)~~ (4).

(5) ~~(4)~~ A liquefied "Liquefied petroleum dealer" is means a dealer engaged, directly or indirectly,

in the business of delivering or distributing to a consumer, or in the business of selling or offering or advertising for sale or in the business of refining or manufacturing or keeping for sale ~~within the in this~~ state of ~~Montana~~ any petroleum product composed predominately of any of the following hydrocarbons, or mixtures thereof: Propane, propylene, butanes (normal butane or isobutane), and butylenes.

(5) "Department" means the department of business regulation provided for in Title 82A, chapter 4."

Section 131. Section 60-224, R.C.M. 1947, is amended to read as follows:

"60-224. License required as a condition precedent to the right to do business. ~~It shall be a violation of this act for any~~ A petroleum dealer or liquefied petroleum dealer ~~to may not~~ do business in the this state of ~~Montana~~ until a nontransferable license has been issued to ~~said dealer him~~ by the ~~state scaler department~~. ~~Such~~ The license shall be obtained by the dealer by making application to the ~~state scaler department~~ upon ~~such~~ blank forms ~~as may be~~ provided by the ~~state scaler department~~ for the right to do business in the this state of ~~Montana~~, and after the application has been ~~made and~~ filed, the license, without fee, shall be issued. ~~Any~~ A dealer who has not applied for and been issued a license for the right to do business in the this

1 state of Montana by the ~~state sealer department~~ and who is
 2 found selling or offering for sale or delivering or
 3 distributing to a consumer shall, upon conviction, be fined
 4 as provided by this act, ~~and any~~ A vehicle tank, or
 5 vehicle tank and meter, or any other measuring device used
 6 by said that dealer for ~~such the~~ delivery or distribution
 7 may be confiscated and seized as evidence by the ~~state~~
 8 ~~sealer or his deputy sealers department~~. The ~~state sealer~~
 9 ~~or his deputy sealers shall department and its employees and~~
 10 ~~agents are~~ not be liable to the owner or any other persons,
 11 firms, copartnerships, corporations, trusts, or agencies for
 12 damages, directly or indirectly, caused by or resulting from
 13 ~~such the~~ seizure."

14 Section 132. Section 60-228, R.C.M. 1947, is amended
 15 to read as follows:

16 *60-228. Petroleum and liquefied petroleum vehicle
 17 tank license fees. (1) The license fee for all petroleum or
 18 liquefied petroleum vehicle tanks without meters used for
 19 distribution of ~~such those~~ products ~~shall be~~ is as follows:
 20 Up to and including two hundred (200) gallons, eight dollars
 21 (\$8); over two hundred (200) and including three hundred
 22 (300) gallons, ten dollars (\$10); over three hundred (300)
 23 and including five hundred (500) gallons, twelve dollars
 24 (\$12); over five hundred (500) and including one thousand
 25 (1,000) gallons, sixteen dollars (\$16); over one thousand

1 (1,000) and including two thousand (2,000) gallons, twenty
 2 dollars (\$20); for each additional one thousand (1,000)
 3 gallons over two thousand (2,000) gallons, four dollars
 4 (\$4).

5 (2) All licenses ~~shall be~~ are annual and
 6 nontransferable and ~~shall~~ expire December 31. There ~~shall~~
 7 be is an additional charge of fifty per cent (50%) on all
 8 license fees, required by this act, that are not paid before
 9 March 1 of each year, where the vehicle tank, or meter, or
 10 measuring device is in use. If ~~such the~~ fee is not paid the
 11 equipment shall be sealed and removed from service, by the
 12 ~~state sealer or his deputy sealers department~~, and it ~~shall~~
 13 ~~be a violation of this act is unlawful~~ for anyone to use the
 14 device or break the seal until all ~~such the~~ fees have been
 15 paid."

16 Section 133. Section 60-229, R.C.M. 1947, is amended
 17 to read as follows:

18 *60-229. Dispensation of petroleum products. It ~~shall~~
 19 be is unlawful to make hose delivery from petroleum vehicle
 20 tanks unless the tanks have been calibrated by the ~~state~~
 21 ~~sealer or his deputy sealers department~~. Part of a
 22 compartment delivery can only be made by an approved,
 23 calibrated, and sealed meter or an approved can. Gauge
 24 stick measurement will not be permitted. All tank markers
 25 must be positioned and sealed as provided by the ~~state~~

1 ~~sealer department~~. The ~~state-sealer department~~ shall, by
 2 proper regulation, fix fees for retesting meters or
 3 measuring devices or vehicle tanks used for distribution to
 4 a consumer by petroleum or liquefied petroleum dealers, and
 5 for any other special service rendered."

6 Section 134. Section 60-230, R.C.M. 1947, is amended
 7 to read as follows:

8 "60-230. Dispensation of liquefied products. It ~~shall~~
 9 ~~be is~~ unlawful to sell or deliver liquefied petroleum to a
 10 consumer, as a liquid, except as provided by this act. Full
 11 compartment sales or deliveries may only be made in a manner
 12 that shall be provided by the ~~state-sealer department~~. All
 13 other sales or deliveries may only be made through a meter
 14 which has been approved, calibrated and sealed by the ~~state~~
 15 ~~sealer or his deputy-sealers, department~~, or by weight,
 16 unless otherwise provided by the ~~state-sealer department~~."

17 Section 135. Section 60-231, R.C.M. 1947, is amended
 18 to read as follows:

19 "60-231. Temperature correction of liquefied petroleum
 20 to sixty degrees (60°) Fahrenheit when sold to a consumer.
 21 It ~~shall be a violation of this act is unlawful~~ to sell or
 22 offer for sale or deliver liquefied petroleum to a consumer,
 23 as a liquid or by liquid measurement, the measurement of
 24 which has not been temperature corrected to sixty degrees
 25 (60°) Fahrenheit, unless otherwise provided by the ~~state~~

1 ~~sealer department~~. Temperature correction shall only be
 2 made by means of an automatic compensating device which has
 3 been approved, calibrated, and sealed by the ~~state-sealer or~~
 4 ~~his deputy-sealers department~~; or by weight as provided by
 5 the ~~state-sealer department~~."

6 Section 136. Section 60-232, R.C.M. 1947, is amended
 7 to read as follows:

8 "60-232. Rules, ~~regulations~~ and standards. The ~~state~~
 9 ~~sealer is hereby authorized to promulgate and department may~~
 10 adopt ~~such those~~ rules, ~~regulations~~ and standards as ~~he~~
 11 ~~shall deem it considers~~ necessary for the administration and
 12 enforcement of this act."

13 Section 137. Section 74-602, R.C.M. 1947, is amended
 14 to read as follows:

15 "74-602. Definitions. (1) Unless ~~otherwise clearly~~
 16 ~~indicated by the context requires otherwise, the following~~
 17 ~~words when used in this act; for the purposes of this act,~~
 18 ~~shall have the meanings respectively ascribed to them in~~
 19 ~~this section;~~

20 (a) "Goods" means all chattels personal, including
 21 motor vehicles and merchandise certificates or coupons
 22 exchangeable for chattels personal, but not including money
 23 or things in action. The term includes goods which, at the
 24 time of the sale or subsequently, are to be so affixed to
 25 realty as to become a part thereof whether or not severable

1 ~~therefrom~~ from it.

2 (b) "Services" means work, labor, and services
3 furnished in the delivery, installation, servicing, repair,
4 or improvement of goods.

5 (c) "Motor vehicle" means any new or used automobile,
6 mobile home, motorcycle, truck, trailer, semitrailer, truck
7 tractor, and all vehicles with any power, other than
8 muscular power, primarily designed or used to transport
9 persons or property on a public highway, excepting however,
10 any vehicle which runs only on rails or tracks or in the
11 air.

12 (d) "Retail buyer" or "buyer" means a person who buys
13 goods or obtains services from a retail seller in a retail
14 installment transaction and not for the purpose of resale.

15 (e) "Retail seller" or "seller" means a person who
16 sells goods or furnishes services to a retail buyer in a
17 written retail installment contract or written retail
18 installment transaction.

19 (f) "Retail installment transaction" means a written
20 contract to sell or furnish, or the sale or furnishing of
21 goods or services, by a retail seller to a retail buyer
22 pursuant to a retail charge account agreement or under a
23 retail installment contract.

24 (g) "Retail charge account agreement" means an
25 instrument in writing prescribing the terms of retail

1 installment transactions which may be made ~~thereunder~~ under
2 it from time to time ~~pursuant to~~ under which a retail seller
3 gives to a retail buyer the privilege of using a credit card
4 issued by the retail seller or any other person or other
5 credit confirmation or identification for the purpose of
6 purchasing goods or services from the retail seller, from
7 the retail seller and any other person, or from a person
8 licensed or franchised by the retail seller, and under the
9 terms of which a finance charge, as defined in this section
10 may be computed in relation to the buyer's balance in the
11 account from time to time.

12 (h) "Retail installment contract" or "contract" means
13 an agreement evidencing a retail installment transaction
14 entered into in this state ~~pursuant to~~ under which a buyer
15 promises to pay in one or more deferred installments the
16 time sale price of goods ~~and/or~~ or services, or both. The
17 term includes a chattel mortgage, conditional sales
18 contract, and a contract for the bailment or leasing of
19 goods by which the bailee or lessee contracts to pay as
20 compensation for its use a sum substantially equivalent to
21 or in excess of its value and by which it is agreed that the
22 bailee or lessee is bound to become, or for no further or a
23 merely nominal consideration has the option of becoming, the
24 owner of the goods upon full compliance with the provisions
25 of the contract.

1 (i) "Cash sale price" means the price stated in a
 2 retail installment contract or in a sales slip or other
 3 memorandum furnished by a retail seller to a retail buyer
 4 under or in connection with a retail charge account
 5 agreement for which the seller would have sold or furnished
 6 to the buyer, and the buyer would have bought or obtained
 7 from the seller, the goods or services which are the subject
 8 matter of the retail installment transaction, if ~~seen~~ the
 9 sale had been a sale for cash. The cash sale price may
 10 include any taxes, registration, certificate of title,
 11 license, and official fees, and cash sale prices for
 12 services, if any, and for accessories and their installation
 13 and for delivery, servicing, repairing, or improving the
 14 goods.

15 (j) "Official fees" means the fees prescribed by law
 16 for filing, recording, or otherwise perfecting and releasing
 17 or satisfying any title or lien retained or taken by a
 18 seller in connection with a retail installment transaction.

19 (k) "Principal balance" means the cash sale price of
 20 the goods or services which are the subject matter of a
 21 retail installment transaction plus the amounts, if any,
 22 included in the sale, if a separate identified charge is
 23 made therefor and stated in the contract, for insurance and
 24 other benefits and official fees, minus the amount of the
 25 buyer's down payment in money or goods.

1 (l) "Finance charge" means the amount, as limited by
 2 section 74-608, in addition to the principal balance, agreed
 3 upon between the buyer and the seller, to be paid by the
 4 buyer for the privilege of purchasing goods or services to
 5 be paid for by the buyer in one or more deferred
 6 installments.

7 (m) "Time sale price" means the total of the cash sale
 8 price of the goods or services and the amount, if any,
 9 included for insurance and other benefits if a separate
 10 identified charge is made therefor and the amounts of the
 11 official fees and the finance charge.

12 (n) "Sales finance company" means a person engaged, in
 13 whole or in part, in the business of purchasing retail
 14 installment contracts from one or more sellers. The term
 15 includes, but is not limited to, a bank, trust company,
 16 investment company, ~~harris-plan company~~ or savings and loan
 17 association, if so engaged. The term ~~shall~~ does not include
 18 a person who makes only isolated purchases of retail
 19 installment contracts, which purchases are not being made in
 20 the course of repeated and successive purchases of retail
 21 installment contracts from the same seller.

22 (o) "Holder" means the retail seller of the goods or
 23 services under the retail installment contract or retail
 24 charge account agreement, or a person who establishes and
 25 administers retail charge account agreements with retail

buyers, the assignee, if the retail installment contract or the retail charge account agreement or the balance in the account under either has been sold or otherwise transferred, or any other person entitled to the rights of the retail seller under any retail installment contract or any retail charge account agreement.

(p) "Person" means an individual, partnership, corporation, association, and any other group however organized.

(g) ~~"Superintendent"~~ "Department" means the state ~~superintendent of banks of the state of Montana~~ department of business regulation provided for in Title 52A, chapter 4.

~~(e) Words in the singular include the plural, the masculine includes the feminine and the neuter, and vice versa.~~

~~(e) (2) This act shall have no application~~ does not apply to the lending of money by banks or other lending institutions and securing loans by chattel mortgages of goods in the ordinary course of lending by ~~such those~~ banks or other lending institutions ~~except.~~ However, this act pertains to the extension of credit by ~~such those~~ banks or other lending institutions ~~pursuant to~~ under retail installment contracts or credit cards issued by ~~such those~~ banks or other lending institutions."

Section 138. Section 74-604, R.C.M. 1947, is amended

to read as follows:

"74-604. Denial, suspension, or revocation of licenses. (a) Renewal of a license originally granted under ~~this act~~ section 74-603 may be denied, or a license may be suspended or revoked by the ~~superintendent~~ department on the following grounds: (1) Material misstatement of fact in the application for license; (2) willful failure to comply with any provision of this act relating to retail installment contracts; (3) defrauding any retail buyer to the buyer's damage; (4) fraudulent misrepresentation, circumvention, or concealment by the licensee through ~~whatever~~ subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the retail buyer under this act.

(b) If a licensee is a partnership, association, or corporation, it ~~shall be~~ is sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation, or any member of a licensed partnership, has ~~so~~ acted or failed to act so as would be to provide cause for suspending or revoking a license to ~~such that~~ party as an individual. Each licensee ~~shall be~~ is responsible for the acts of ~~any or all of~~ his employees while acting as his agent, if ~~such the~~ licensee after actual knowledge of ~~said~~ the acts retained the benefits, proceeds, profits, or

1 advantage accruing from ~~said the~~ acts or otherwise ratified
2 ~~said the~~ acts.

3 (c) ~~No~~ A license ~~shall may not~~ be denied, suspended,
4 or revoked, except after hearing ~~thereon~~. The
5 ~~superintendent department~~ shall give the licensee at least
6 ten (10) ~~days~~ days written notice, in the form of an order
7 to show cause, of the time and place of ~~each the~~ hearing by
8 registered mail addressed to the principal place of business
9 in this state of ~~each the~~ licensee. The ~~said~~ notice shall
10 contain the grounds of complaint against the licensee. ~~Any~~
11 An order suspending or revoking ~~such a~~ license shall recite
12 the grounds upon which ~~the same~~ it is based. The order
13 shall be entered upon the records of the ~~superintendent~~
14 ~~department~~ and ~~shall is~~ not be effective until after thirty
15 (30) ~~days~~ days after written notice ~~thereof given after~~
16 ~~each entry has been~~ forwarded by registered mail to the
17 licensee at ~~each the~~ principal place of business. No
18 revocation, suspension, or surrender of ~~any a~~ license ~~shall~~
19 ~~impair impairs~~ or ~~affect affects~~ the obligation of ~~any a~~
20 lawful retail installment contract acquired previously
21 ~~thereto~~ by the licensee.

22 (d) ~~Any person, licensee, or applicant, considering~~
23 ~~himself aggrieved by an order of the superintendent may~~
24 ~~within thirty (30) days from the entry of the order~~
25 ~~complained of, apply for writ of review in accordance with~~

1 ~~the provisions of chapter 90 of Title 93 of the Revised~~
2 ~~Codes of Montana of 1947."~~

3 Section 139. Section 74-605, R.C.M. 1947, is amended
4 to read as follows:

5 "74-605. Investigations and complaints. (a) The
6 ~~superintendent, or his duly authorized representatives,~~
7 ~~shall have the power to department may make such those~~
8 investigations ~~as he shall deem it considers~~ necessary and,
9 to the extent necessary for this purpose, ~~he it~~ may examine
10 ~~such a~~ licensee or any other person and ~~shall have the power~~
11 ~~to may~~ compel the production of all relevant books, records,
12 accounts, and documents.

13 (b) ~~Any~~ A retail buyer having reason to believe that
14 this act relating to his retail installment contract has
15 been violated may file with the ~~superintendent department~~ a
16 written complaint setting forth the details of ~~each the~~
17 alleged violation and the ~~superintendent department~~, upon
18 receipt of ~~such the~~ complaint, may inspect the pertinent
19 books, records, letters, and contracts of the licensee and
20 ~~of the retail seller involved, relating to such specific~~
21 ~~written complaint."~~

22 Section 140. Section 74-606, R.C.M. 1947, is amended
23 to read as follows:

24 "74-606. Powers of ~~superintendent department~~. (a) The
25 ~~superintendent department~~ shall adopt and promulgate such

1 rules ~~and regulations as shall be~~ necessary to carry out the
 2 intent and purposes of this act. All rules ~~and regulations~~
 3 of general application shall be filed in the office of the
 4 ~~superintendent department~~. A copy of every ~~such~~ rule ~~or~~
 5 ~~regulation~~ shall be mailed to each licensee, postage
 6 prepaid, at least fifteen (15) days in advance of its
 7 effective date~~1~~. ~~Provided, however~~ However, the failure of
 8 a licensee to receive a copy of ~~such~~ the rules ~~or~~
 9 ~~regulations shall~~ does not exempt him from the duty of
 10 compliance with ~~such~~ those rules ~~and regulations~~ lawfully
 11 ~~promulgated hereunder~~ adopted under the provisions of this
 12 section.

13 (b) ~~The superintendent shall have power to~~ department
 14 may issue subpoenas to compel the attendance of witnesses
 15 and the production of documents, papers, books, records, and
 16 other evidence before ~~him~~ it in any matter over which ~~he~~ it
 17 has jurisdiction, control, or supervision pertaining to this
 18 act. ~~The superintendent shall have the power to~~ department
 19 may administer oaths and affirmations to ~~any~~ a person whose
 20 testimony is required.

21 (c) If ~~any~~ a person ~~shall refuse~~ refuses to obey ~~any~~
 22 ~~such~~ a subpoena, or to give testimony, or to produce
 23 evidence as required ~~thereby by it~~, ~~any~~ a judge of the
 24 district court of the county in which the licensed premises
 25 are located ~~may~~, upon application and proof of ~~such~~ the

1 refusal, ~~make an order awarding process of~~ issue a subpoena
 2 or subpoena duces tecum for the witness to appear before the
 3 ~~superintendent department~~ and to give testimony, and to
 4 produce evidence as required ~~thereby by it~~. ~~Upon filing~~
 5 ~~such order, in the office of the clerk of the said court,~~
 6 ~~the~~ The clerk of court shall then issue ~~process of the~~
 7 subpoena, as directed, under the seal of ~~said~~ the court,
 8 requiring the person to whom it is directed, to appear at
 9 the time and place ~~therein~~ designated in it.

10 (d) If ~~any~~ a person served with ~~any such~~ a subpoena
 11 ~~shall refuse~~ refuses to obey ~~the same, and it, or~~ to give
 12 testimony, ~~and or~~ to produce evidence as required ~~thereby by~~
 13 it, the ~~superintendent department~~ may apply to the judge of
 14 the court issuing ~~such~~ the subpoena for an attachment
 15 against ~~such~~ that person, as for a contempt. The judge,
 16 upon satisfactory proof of ~~such~~ the refusal, shall issue an
 17 attachment, directed to any sheriff, constable, or police
 18 officer, for the arrest of ~~such~~ that person, and upon his
 19 being brought before ~~such~~ the judge, proceed to a hearing of
 20 the case. The judge ~~shall have power to~~ may enforce
 21 obedience to ~~such~~ the subpoena, and the answering of any
 22 question, and the production of any evidence that ~~may~~ be
 23 proper by a fine, not exceeding one hundred dollars (\$100),
 24 or by imprisonment in the county jail, or by both fine and
 25 imprisonment, and to compel ~~such~~ the witness to pay the

costs of ~~such~~ the proceeding ~~to be taxed.~~"

Section ~~141~~. Section 82A-401, R.C.M. 1947, is amended to read as follows:

"82A-401. Department of business regulation — ~~creation~~ head. There is ~~created~~ a department of business regulation. The department head is ~~the state examiner provided for in article VII, section 8 of the Montana constitution. He shall serve at the pleasure of the governor, a director of business regulation appointed by the~~ governor in accordance with section 82A-106.

Section ~~142~~. There is a new section to be numbered 82A-401.1, R.C.M. 1947, which reads as follows:

82A-401.1. Functions of department. The department and its units are responsible for administering laws pertaining to business regulation, including, but not limited to, laws pertaining to:

- (1) Banks and banking (Title 5, chapters 1 through 14);
- (2) Building and loan associations (Title 7, chapter 1);
- (3) Credit unions (Title 14, chapter 1);
- (4) Consumer protection (Title 85, chapter 4);
- (5) Supervision of the milk industry (Title 27, chapter 4);
- (6) Consumer loans (Title 47, chapter 2);

- (7) Sale and marketing of coal (Title 50, chapter 6);
- (8) Unfair business practices (Title 51, chapter 1);
- (9) Regulation of petroleum products (Title 60, chapter 2);
- (10) Retail installment sales (Title 74, chapter 6);
- (11) Standard weights and measures (Title 90, chapter 1);
- (12) Proprietary post-secondary educational institutions (Title 75, chapter 92).

Section ~~143~~. Section 82A-406, R.C.M. 1947, is amended to read as follows:

"82A-406. ~~Milk control board continued renamed~~ Board of milk control — transfer — functions qualifications — allocated — designation. (1) ~~The Montana milk control board, created in Title 27, chapter 4, R.C.M. 1947, is continued, and the board is renamed the~~ There is a board of milk control.

(2) The board consists of five (5) members. A member may not be connected in any way with the production, processing, distribution, or wholesale or retail sale of milk or dairy products. A member may not have held an elective or appointive public office during the two (2) years immediately preceding his appointment, and a member may not hold a public office, either elective or appointive, during his term on the board. Not more than three (3)

members may be of the same political party or residents of the same congressional district.

~~(2)~~ (3) The board is ~~transferred~~ allocated to the department for administrative purposes only as prescribed in section 82A-108 ~~of this act.~~

~~(3) The board retains only the quasi-judicial functions contained in section 27-407, R.C.M. 1947 (pertaining to setting milk prices). Unless inconsistent with this act, any reference in section 27-407, R.C.M. 1947, to the Montana milk control board means the board of milk control.~~

(4) The board is designated as a quasi-judicial board for purposes of section 82A-112 ~~of this act."~~

Section 144. Section 86-703, R.C.M. 1947, is amended to read as follows:

"86-703. Report of institution holding deposited money. ~~Any~~ A banking institution, or savings or building and loan association, receiving money in trust under the ~~provisions of~~ section 86-702, shall report to the ~~superintendent of banks of the state of Montana, or or~~ department of business regulation before the first day of February 1 of each year, all amounts received and held in trust. This report shall show the name and address of each trustee and cestui que trust, the principal amount remaining and the interest or dividends paid on each such account."

Section 145. Section 89-1708, R.C.M. 1947, is amended to read as follows:

"89-1708. Delivery of bonds — disposition of proceeds. ~~In the event that~~ If bonds are sold for cash, they shall be delivered by the board of commissioners to the county treasurer of the county ~~wherein~~ in which the office of the district is located, who shall deliver them to the purchaser upon receipt of the purchase price ~~therefor~~, and after making a complete record of ~~the same~~ them. Delivery of the bonds ~~sold~~ may be made by the county treasurer to the purchaser at any place or places ~~within~~ inside or ~~without~~ the outside this state ~~of Montana~~, and ~~said~~ the county treasurer may receive the proceeds of the sale of ~~said~~ the bonds at ~~said~~ the place or places of delivery. The county treasurer shall ~~thereupon~~ place the proceeds of ~~said~~ the sale to the credit of ~~said~~ the district, and the ~~same~~ proceeds shall be paid out by the county treasurer only upon the written order of the board of commissioners, signed by the president and secretary under the seal of the district. ~~Said~~ The proceeds shall be ~~expended~~ spent only for the purpose ~~or purposes~~ for which ~~said~~ the bonds were issued, ~~and for no other. Provided, in case if~~ any portion of the funds realized from the sale of bonds ~~are~~ is not needed immediately for the purpose for which ~~said~~ the bonds were issued, the board of commissioners ~~whenever, in its~~

1 ~~judgment, the same may be to the best interests of the~~
2 ~~district, shall have the power and authority to~~ may direct
3 the investment of ~~such the~~ funds, and any other surplus
4 funds of the district, or any portion thereof, in
5 interest-bearing securities of the United States, or of the
6 state of Montana, or in interest-bearing certificates of
7 deposit of national or state banks approved by the ~~state~~
8 ~~superintendent of banks department of intergovernmental~~
9 ~~relations,~~ provided, however, that in the event of such
10 ~~deposit said banks~~ a bank shall first furnish an indemnity
11 bond to be approved by ~~said the~~ board of commissioners and
12 the ~~state superintendent of banks department of~~
13 ~~intergovernmental relations.~~ The county treasurer shall
14 transfer to the credit of the district, and place to the
15 credit of ~~such the~~ fund or funds as the board of
16 commissioners may direct, all interest received upon money
17 or securities of the district entrusted to his care."

18 Section 146. Section 90-153, R.C.M. 1947, is amended
19 to read as follows:

20 "90-153. Meaning of terms. ~~When used~~ Unless the
21 context requires otherwise, in this act:

22 (1) ~~The word "person" shall be construed to mean both~~
23 ~~the plural and singular, as the case demands, and shall~~
24 ~~include~~ "Person" includes individuals, partnerships,
25 corporations, companies, societies, and associations.

1 (2) ~~The words "weight(s) and (or) measure(s)" shall be~~
2 ~~construed to~~ "Weight," "measure," and "weights and measures"
3 mean all weights and measures of every kind, instruments and
4 devices for weighing and measuring, and any appliances and
5 accessories associated with ~~any or all such those~~
6 instruments and devices, ~~except that the term shall~~ The
7 terms do not be ~~construed to~~ include meters for the
8 measurement of electricity, gas (natural or manufactured),
9 or water when ~~the same they~~ are operated in a public utility
10 system. ~~Such electricity, gas, and water meters are hereby~~
11 ~~specifically excluded from the purview of this act, and none~~
12 ~~None~~ of the provisions of this act ~~shall be construed to~~
13 apply to ~~such electricity, gas, or water~~ meters operated in
14 a public utility system or to any appliances or accessories
15 associated ~~therewith~~ with them.

16 (3) ~~The words "sell" "Sell" and "sale" shall be~~
17 ~~construed to mean~~ include, but are not limited to, barter
18 and exchange.

19 (4) ~~The term "sealer" shall be construed to mean~~
20 "Department" means the state ~~dealer of weights and measures~~
21 department of business regulation provided for in Title 82A,
22 chapter 4.

23 (5) ~~The terms "chief sealer" and "deputy sealer" shall~~
24 ~~be construed to mean, respectively, the state chief sealer~~
25 ~~of weights and measures and the deputy sealer of weights and~~

1 ~~measures.~~

2 ~~(6) (5) The term "intrastate~~ "Intrastate commerce"
3 ~~shall be construed to mean means~~ any and all commerce or
4 trade that is begun, carried on, and completed wholly within
5 ~~the limits of the in this~~ state of Montana, and the phrase
6 "introduced into intrastate commerce" ~~shall be construed to~~
7 define defines the time and place at which the first sale
8 and delivery of a commodity is made ~~within the in this~~
9 state, the delivery being made either directly to the
10 purchaser or to a common carrier for shipment to the
11 purchaser.

12 ~~(7) (6) The term "commodity~~ "Commodity in package
13 ~~form" shall be construed to mean means a~~ commodity put up or
14 packaged in any manner in advance of sale in units suitable
15 for either wholesale or retail sale, exclusive, however, of
16 any auxiliary shipping container enclosing packages that
17 individually conform to the requirements of this act. An
18 individual item or lot of any commodity not in package form
19 as defined in this section, but on which there is marked a
20 selling price based on an established price per unit of
21 weight or of measure, ~~shall be construed to be is a~~
22 commodity in package form.

23 ~~(8) (7) A "consumer~~ "Consumer package" or "package of
24 ~~consumer commodity" shall be construed to mean means a~~
25 commodity in package form that is customarily produced or

1 distributed for sale through retail sales agencies or
2 instrumentalities for consumption by individuals or use by
3 individuals for the purposes of personal care or in the
4 performance of services ordinarily rendered in or about the
5 household or in connection with personal possessions.

6 ~~(9) (8) A "nonconsumer~~ "Nonconsumer package" or
7 "package of nonconsumer commodity" shall be construed to
8 ~~mean any means a~~ commodity in package form other than a
9 consumer package, and particularly a package designed solely
10 for industrial or institutional use or for wholesale
11 distribution only.

12 (9) "Barrel," when used in connection with fermented
13 liquor, means a unit of thirty-one (31) gallons.

14 (10) "Ton" means a unit of two thousand (2,000) pounds
15 avoirdupois weight.

16 (11) "Cord," when used in connection with wood intended
17 for fuel purposes, means the amount of wood that is
18 contained in a space of one hundred twenty-eight (128) cubic
19 feet when the wood is stacked and well stowed.

20 (12) "Weight," when used in connection with any
21 commodity, means net weight."

22 Section ~~147~~. Section 90-156, R.C.M. 1947, is amended
23 to read as follows:

24 "90-156. State standards of weight and measure. Such
25 Those weights and measures in conformity with the standards

1 of the United States as have been supplied to the state by
 2 the federal government or otherwise obtained by ~~Montana~~ this
 3 state for use as state standards shall, when ~~the case shall~~
 4 ~~they~~ have been certified as being satisfactory for use as
 5 such by the national bureau of standards, be the state
 6 standards of weight and measure. The state standards shall
 7 be kept in a safe and suitable place in the office or
 8 laboratory of the ~~state division of weights and measures,~~
 9 ~~they department.~~ They shall not be removed from ~~the said~~
 10 ~~office or laboratory~~ there except for repairs or for
 11 certification, and they shall be submitted at least once in
 12 ten (10) years to the national bureau of standards for
 13 certification."

14 Section 148. Section 90-159, R.C.M. 1947, is amended
 15 to read as follows:

16 "90-159. General powers and duties of ~~sealer~~
 17 department. The ~~sealer department~~ shall have the custody of
 18 the state standards of weight and measure and of the other
 19 standards and equipment provided for by this act, and shall
 20 keep accurate records of ~~the case then~~. The ~~sealer~~
 21 department shall enforce the provisions of this act. ~~It~~
 22 ~~shall have and keep a general supervision over~~ supervise the
 23 weights and measures offered for sale, sold, or in use in
 24 the this state."

25 Section 149. Section 90-160, R.C.M. 1947, is amended

1 to read as follows:

2 "90-160. Specific powers and duties of ~~sealer~~
 3 department — ~~regulations rules~~. The ~~sealer department~~ shall
 4 ~~issue adopt~~ from time to time reasonable ~~regulations rules~~
 5 for the enforcement of this act, which ~~regulations shall~~
 6 rules have the ~~force and~~ effect of law. These ~~regulations~~
 7 rules ~~may~~ include (1) schedules of fees for testing and
 8 certification, (2) standards of net weight, ~~measure~~, or
 9 count, and reasonable standards of fill for any commodity in
 10 package form, (3) rules governing the technical and
 11 reporting procedures to be followed and the report and
 12 record forms and marks of approval and rejection to be used
 13 by ~~sealers of weights and measures~~ the department in the
 14 discharge of ~~their~~ its official duties, (4) exemptions from
 15 the sealing or marking requirements of section ~~14 (90-166)~~
 16 90-166 ~~of this act~~ with respect to weights and measures of
 17 ~~such a~~ character or size that ~~such~~ sealing or marking would
 18 be inappropriate, impracticable, or damaging to the
 19 apparatus ~~in question involved~~, and (5) rules governing the
 20 voluntary registration of servicemen and service agencies.
 21 These ~~regulations rules~~ shall include specifications,
 22 tolerances, and other technical requirements for weights and
 23 measures ~~of the character of those specified in~~ subject to
 24 inspection and testing under section ~~14 (90-166)~~ 90-166 ~~of~~
 25 ~~this act~~, designed to eliminate from use, without prejudice

1 to apparatus that conforms as closely as practicable to the
 2 official standards, those (1) that are not accurate, (2)
 3 that are ~~of such construction that they are faulty (that is,~~
 4 ~~that are~~ not reasonably permanent in their adjustment or
 5 will not repeat their indications correctly}, or (3) that
 6 facilitate the perpetration of fraud. The specifications,
 7 tolerances, and other technical requirements for commercial
 8 weighing and measuring devices, together with amendments
 9 thereto, as recommended by the national bureau of standards
 10 and published in national bureau of standards handbook 44
 11 and supplements thereto, or in any publication revising or
 12 superseding handbook 44, ~~shall be~~ are the specifications,
 13 tolerances, and other technical requirements for commercial
 14 weighing and measuring devices of ~~the this state of Montana,~~
 15 except in so far as specifically modified, amended, or
 16 rejected by a ~~regulation rule~~ issued by the sealer. ~~For the~~
 17 ~~purposes of this act,~~ department. An apparatus shall be
 18 ~~deemed considered~~ to be "correct" when it conforms to all
 19 applicable requirements ~~promulgated~~ adopted as specified in
 20 this section. Other apparatus shall be ~~deemed~~ considered to
 21 be "incorrect."

22 Section 150. Section 90-161, R.C.M. 1947, is amended
 23 to read as follows:

24 "90-161. Sealer Department — testing at
 25 state-supported institutions. The ~~sealer~~ department shall

1 from time to time test all weights and measures used in
 2 checking the receipt or disbursement of supplies in every
 3 institution for the maintenance of which moneys are
 4 appropriated by the legislature, reporting ~~his~~ its findings,
 5 in writing, to the ~~supervisory board and to the~~ executive
 6 officer of the institution concerned."

7 Section 151. Section 90-162, R.C.M. 1947, is amended
 8 to read as follows:

9 "90-162. Sealer Department — general testing. When
 10 not otherwise provided by law, the ~~sealer shall have the~~
 11 ~~power to~~ department may inspect and test, to ascertain if
 12 they are correct, all weights and measures kept, offered, or
 13 exposed for sale. ~~It shall be the duty of the sealer~~ The
 14 department, within a twelve-month period, or less frequently
 15 if in accordance with a schedule issued by ~~him~~ it, and as
 16 ~~such oftener often~~ as he may deem it considers necessary, to
 17 shall inspect and test, to ascertain if they are correct,
 18 all weights and measures commercially used (1) in
 19 determining the weight, measurement, or count of commodities
 20 or things sold, or offered or exposed for sale, on the basis
 21 of weight, measure, or of count, or (2) in computing the
 22 basic charge or payment for services rendered on the basis
 23 of weight, measure, or of count. ~~Provided, that with~~ With
 24 respect to single-service devices ~~(that is, devices designed~~
 25 to be used commercially only once and to be then discarded}

and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of ~~such the~~ devices; and the lots of which ~~such the~~ samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on ~~such the~~ samples, ~~and provided further, that any~~ An itinerant peddler or hawker, using weights and measures, shall register his name and address with the ~~chief sealer of weights and measures~~ department, in order that his equipment can be tested in accordance with the provisions of this law."

Section 152. Section 90-163, R.C.M. 1947, is amended to read as follows:

"90-163. ~~Sealer~~ Department — investigations. The ~~sealer department~~ shall investigate complaints made to ~~him~~ ~~it~~ concerning violations of ~~the provisions of~~ this act, ~~and it~~ shall, upon ~~his~~ ~~its~~ own initiative, conduct ~~such~~ ~~those~~ investigations ~~as he deems it considers~~ appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations ~~of the provisions~~ of this act and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions."

Section 153. Section 90-164, R.C.M. 1947, is amended to read as follows:

"90-164. ~~Sealer~~ Department — inspection of packages. The ~~sealer department~~ shall, from time to time, weigh or measure and inspect packages or amounts of commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether ~~the case they~~ contain the amounts represented and whether they be kept, offered, or exposed for sale or sold in accordance with law. When ~~such~~ ~~those~~ packages or amounts of commodities are found not to contain the amounts represented, or are found to be kept, offered, or exposed for sale in violation of law, the ~~sealer~~ ~~department~~ may order them off sale and may so mark or tag them as to show them to be illegal. In carrying out the provisions of this section, the ~~sealer department~~ may employ recognized sampling procedures under which the compliance of a given lot of packages will be determined on the basis of the result obtained on a sample selected from and representative of ~~such that~~ lot. ~~No~~ A person ~~shall~~ ~~may not~~:

(1) sell, or keep, offer, or expose for sale, in intrastate commerce, any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section unless ~~and until such the~~ the package or amount of commodity has been brought into full compliance with all legal requirements, or

(2) dispose of any package or amount of commodity that has been ordered off sale or marked or tagged as provided in this section and that has not been brought into compliance with legal requirements, in any manner, except with the specific approval of the sealer department."

Section 154. Section 90-165, R.C.M. 1947, is amended to read as follows:

"90-165. Sealer Department — stop-use, stop-removal, and removal orders. The ~~sealer shall have the power to department may~~ issue stop-use orders, stop-removal orders, and removal orders with respect to weights and measures being, or susceptible of being, commercially used, and to issue stop-removal orders and removal orders with respect to packages or amounts or commodities kept, offered, or exposed for sale, sold, or in process of delivery, whenever in the course of ~~his~~ enforcement of ~~the provisions of~~ this act ~~he deems it considers~~ it necessary or expedient to issue ~~such those~~ orders, ~~and no~~ A person shall may not use, remove from the premises specified, or fail to remove from the premises specified, any weight, measure, or package or amount of commodity contrary to the terms of a stop-use order, stop-removal order, or removal order issued under the ~~authority of~~ this section."

Section 155. Section 90-166, R.C.M. 1947, is amended to read as follows:

"90-166. Sealer Department — disposition of correct and incorrect apparatus. The sealer department shall approve for use, and seal or mark with appropriate devices, ~~such those~~ weights and measures ~~as he which it~~ finds upon inspection and test to be "correct" as defined in section ~~8 [90-160] of this act~~ 90-160, and shall reject and mark or tag as "rejected" ~~such those~~ weights and measures ~~as he which it~~ finds, upon inspection or test, to be "incorrect" as defined in section ~~8 [90-160] of this act~~ 90-160, but which in ~~his~~ its best judgment are susceptible of satisfactory repair. ~~Provided, that, such sealing~~ Sealing or marking ~~shall are~~ not be required with respect to ~~such those~~ weights and measures ~~as which~~ may be exempted therefrom by a regulation rule of the sealer department issued under ~~the authority of~~ section ~~8 [90-160] of this act~~ 90-160. The sealer department shall condemn, and may seize and destroy, weights and measures found to be incorrect that, in ~~his~~ its best judgment, are not susceptible of satisfactory repair. Weights and measures that have been rejected may be confiscated and may be destroyed by the sealer department if not corrected as required by section ~~47 [90-169] of this act~~ 90-169, or if used or disposed of contrary to the requirements of section ~~47 [90-169] of this act~~ 90-169."

Section 156. Section 90-167, R.C.M. 1947, is amended

to read as follows:

"90-167. Sealer Department — police powers. — ~~right of entry and stoppage. With respect to the enforcement of this act and any other acts dealing with weights and measures that he is or may be empowered to enforce, the sealer is hereby vested with special police powers, and is authorized to arrest, without formal warrant, any violator of the said acts, and to seize for use as evidence, without formal warrant, incorrect or unsealed weights and measures or amounts of packages of commodity found to be used, retained, offered, or exposed for sale or sold in violation of law. In the performance of his official duties, the sealer is authorized to enter and go into or upon, without formal warrant, any structure or premises, and to stop any person whatsoever and to require him to proceed, with or without any vehicle of which he may be in charge, to some place which the sealer may specify. In enforcing the provisions of this act or any other law pertaining to weights and measures, the department may, in the manner provided by law for peace officers, arrest violators, conduct searches and inspections, and seize for use as evidence incorrect or unsealed weights and measures or packages of commodities unlawfully used, possessed, offered, or exposed for sale or unlawfully sold."~~

Section 157. Section 90-169, R.C.M. 1947, is amended

to read as follows:

"90-169. Duty of owners of incorrect apparatus. Weights and measures that have been rejected under the authority of the ~~sealer or of a deputy sealer~~ department shall remain subject to the control of the ~~rejecting authority~~ department until such time as suitable repair or disposition thereof ~~of them~~ has been made as required by this section. The ~~owners~~ owner of such rejected weights and measures shall ~~cause the same to be made correct then~~ within thirty (30) days or ~~such a~~ longer period as may be authorized by the ~~rejecting authority; or, in lieu of this, the owner~~ department. ~~In place of this, the owner may dispose of the same then, but only in such a manner as is specifically authorized by the rejecting authority~~ department. Weights and measures that have been rejected shall ~~may~~ not again be used commercially until they have been officially re-examined and found to be correct, or until specific written permission for ~~such that~~ use is issued by the ~~rejecting authority~~ department, or until the rejection tag has been removed and the rejected device repaired and placed in service by a person ~~duly~~ properly registered to perform ~~such those~~ acts under a ~~regulation rule~~ issued by the ~~sealer department~~ for the registration of weights and measures servicemen and service agencies."

Section 158. Section 90-170, R.C.M. 1947, is amended

1 to read as follows:

2 "90-170. Method of sale of commodities — general.
3 Commodities in liquid form shall be sold only ~~[by]~~ by liquid
4 measure or by weight, and, except as otherwise provided in
5 this act, commodities not in liquid form shall be sold only
6 by weight, by measure of length or area, or by count.
7 ~~Provided, that liquid~~ Liquid commodities may be sold by
8 weight and commodities not in liquid form may be sold by
9 count only if ~~such~~ those methods give accurate information
10 as to the quantity of commodity sold. ~~And provided~~
11 ~~further, that the provisions of this~~ This section ~~shall~~ does
12 not apply:

13 (1) to commodities when sold for immediate consumption
14 on the premises where sold,

15 (2) to vegetables when sold by the head or bunch,

16 (3) to commodities in containers standardized by a law
17 of this state or by federal law,

18 (4) to commodities in package form when there exists a
19 general consumer usage to express the quantity in some other
20 manner,

21 (5) to concrete aggregates, concrete mixtures, and
22 loose solid materials such as earth, soil, gravel, crushed
23 stone, and the like, when sold by cubic measure, or

24 (6) to unprocessed vegetable and animal fertilizer
25 when sold by cubic measure.

1 The ~~sealer department~~ may ~~issue such~~ adopt reasonable
2 ~~regulations as are~~ rules necessary to assure that amounts of
3 commodity sold are determined in accordance with good
4 commercial practice and are so determined and represented as
5 to be accurate and informative to all parties at interest."

6 Section 159. Section 90-171, R.C.M. 1947, is amended
7 to read as follows:

8 "90-171. Method of sale of commodities — packages —
9 declarations of quantity and origin — variations —
10 exemptions. (1) Except as otherwise provided in this act,
11 ~~any~~ a commodity in package form introduced or delivered for
12 introduction into or received in intrastate commerce, kept
13 for the purpose of sale, or offered or exposed for sale in
14 intrastate commerce, shall bear on the outside of the
15 package ~~such~~ definite, plain, and conspicuous declarations
16 of: (1) (a) the identity of the commodity in the package
17 unless ~~the same~~ it can easily be identified through the
18 wrapper or container, (2) (b) the net quantity of the
19 contents in terms of weight, measure, or count, and (3) (c)
20 in the case of any package kept, offered, or exposed for
21 sale, or sold in any place other than on the premises where
22 packed, the name and place of business of the manufacturer,
23 packer, or distributor, as may be prescribed by ~~regulation~~
24 ~~issued~~ rules adopted by the ~~director~~ department. ~~provided,~~
25 ~~that, in connection with the declaration required under~~

1 ~~clause (2), neither the qualifying term "when packed" or any~~
 2 ~~words of similar import, nor any term qualifying a unit of~~
 3 ~~weight, measure, or count (for example, "jumbo," "giant,"~~
 4 ~~"full," and the like) that tends to exaggerate the amount of~~
 5 ~~commodity in a package shall be used. And provided further,~~
 6 ~~that under clause (2) the scaler shall, by regulation,~~
 7 ~~establish (a) reasonable variations to be allowed, which may~~
 8 ~~include variations below the declared weight or measure~~
 9 ~~caused by ordinary and customary exposure, only after the~~
 10 ~~commodity is introduced into intrastate commerce, to~~
 11 ~~conditions that normally occur in good distribution practice~~
 12 ~~and that unavoidably result in decreased weight or measure,~~
 13 ~~(b) exceptions as to small packages, and (c) exemptions as~~
 14 ~~to commodities put up in variable weights or sizes for sale~~
 15 ~~intact and either customarily not sold as individual units~~
 16 ~~or customarily weighed or measured at time of sale to the~~
 17 ~~consumer.~~

18 (2) In connection with the declaration required under
 19 subsection 1(b), neither the qualifying term "when packed,"
 20 nor words of similar import, nor any term qualifying a unit
 21 of weight, measure, or count (for example, "jumbo," "giant,"
 22 "full," and the like) that tends to exaggerate the amount of
 23 commodity in a package may be used.

24 (3) Under subsection 1(b) the department shall, by
 25 rule, establish: (a) reasonable variations to be allowed,

1 which may include variations below the declared weight or
 2 measure caused by ordinary and customary exposure, only
 3 after the commodity is introduced into intrastate commerce,
 4 to conditions that normally occur in good distribution
 5 practice and that unavoidably result in decreased weight or
 6 measure, (b) exemptions as to small packages, and (c)
 7 exemptions as to commodities put up in variable weights or
 8 sizes for sale intact and either customarily not sold as
 9 individual units or customarily weighed or measured at time
 10 of sale to the consumer.

11 (4) The marking provisions of this section do not
 12 apply to unwrapped loaves of bread or to berries and small
 13 fruits, sold in conformance with the applicable provisions
 14 of this act."

15 Section 160. Section 90-173, R.C.M. 1947, is amended
 16 to read as follows:

17 "90-173. Method of sale of commodities — misleading
 18 packages. ~~No~~ A commodity in package form ~~shall~~ may not be ~~so~~
 19 wrapped, ~~nor shall it be~~ or in a container ~~so~~ made, formed,
 20 or filled, so as to mislead the purchaser as to the quantity
 21 of the contents of the package, ~~and the~~ The contents of a
 22 container ~~shall~~ may not fall below ~~even~~ a reasonable
 23 standard of fill ~~as which may have been~~ be prescribed for
 24 ~~the that~~ that commodity ~~in question~~ by the scaler department."

25 Section 161. Section 90-175, R.C.M. 1947, is amended

1 to read as follows:

2 "90-175. Sale by net weight. ~~The word "weight" as used~~
 3 ~~in this act in connection with any commodity shall mean net~~
 4 ~~weight. Whenever any~~ When a commodity is sold on the basis
 5 of weight, the net weight of the commodity shall be
 6 employed, and all contracts concerning commodities shall be
 7 so construed."

8 Section 162. Section 90-178, R.C.M. 1947, is amended
 9 to read as follows:

10 "90-178. Bread. Each loaf of bread and each unit of a
 11 twin or multiple loaf of bread ~~manufactured~~ produced or
 12 procured for sale, kept, offered, exposed for sale, or sold,
 13 whether or not the bread is wrapped or sliced, shall weigh
 14 one-half (1/2) pound, one (1) pound, one and one-half (1
 15 1/2) pounds, or a multiple of one (1) pound, avoirdupois
 16 weight, within reasonable variations or tolerances that
 17 shall be ~~promulgated~~ adopted by regulation by rules of the
 18 ~~sealer; provided, that the provisions of this department.~~
 19 This section shall does not apply to biscuits, buns, or
 20 rolls weighing eight (8) ounces or less, or to "stale bread"
 21 sold and expressly represented at the time of sale as such.
 22 ~~and that the marking provisions of section 19 [90-171] shall~~
 23 ~~not apply to unwrapped loaves of bread."~~

24 Section 163. Section 90-182, R.C.M. 1947, is amended
 25 to read as follows:

1 "90-182. Bulk deliveries sold in terms of weight and
 2 delivered by vehicle. When a vehicle delivers to an
 3 individual purchaser a commodity in bulk, and the commodity
 4 is sold in terms of weight units, the delivery shall be
 5 accompanied by a duplicate delivery ticket with the
 6 following information clearly stated, in ink or by means of
 7 other indelible marking equipment and, in clarity, equal to
 8 type or printing: (1) the name and address of the vendor,
 9 (2) the name and address of the purchaser, and (3) the net
 10 weight of the delivery expressed in pounds, ~~and, if~~ If the
 11 net weight is derived from determinations of gross and tare
 12 weights, ~~each~~ the gross and tare weights also shall be
 13 stated in terms of pounds. One of these tickets shall be
 14 retained by the vendor, and the other shall be delivered to
 15 the purchaser at the time of delivery of the commodity, or
 16 shall be surrendered, on demand, to the ~~sealer, or the chief~~
 17 ~~sealer or deputy sealer, who, if he~~ department. If the
 18 department desires to retain it as evidence, it shall issue
 19 a weight slip in ~~lieu thereof~~ place of the ticket for
 20 delivery to the purchaser, ~~provided, that, if~~ If the
 21 purchaser ~~himself~~, carries away his purchase, the vendor
 22 shall be required only to give to the purchaser at the time
 23 of sale a delivery ticket stating the number of pounds of
 24 commodity delivered to him."

25 Section 164. Section 90-184, R.C.M. 1947, is amended

1 to read as follows:

2 "90-184. Berries and small fruits. Berries and small
3 fruits shall be offered and exposed for sale and sold by
4 weight, or by measure in open containers having capacities
5 of one-half (1/2) dry pint, one (1) dry pint, or one (1) dry
6 quart, ~~provided, that the marking provisions of section 49~~
7 ~~[90-171] of this act shall not apply to such containers."~~

8 Section 165. Section 90-186, R.C.M. 1947, is amended
9 to read as follows:

10 "90-186. Hindering or obstructing officer —
11 penalties. ~~Any~~ A person who ~~shall hinder~~ hinders or ~~obstruct~~
12 obstructs in any way the ~~sealer, the chief sealer, or any~~
13 ~~one of the deputy sealers~~ department, in the performance of
14 his its official duties ~~shall be is~~ guilty of a misdemeanor,
15 and upon conviction thereof shall be ~~punished by a fine of~~
16 fined not less than twenty dollars ~~(\$20.00)~~ (\$20) or more
17 than two hundred dollars ~~(\$200.00)~~ (\$200), or by
18 ~~imprisonment for imprisoned~~ not more than three (3) months,
19 or by both such fine fined and ~~imprisonment imprisoned~~."

20 Section 166. Section 90-187, R.C.M. 1947, is amended
21 to read as follows:

22 "90-187. Impersonation of officer — penalties. ~~Any~~ A
23 person who ~~shall impersonate~~ impersonates in any way the
24 ~~sealer, the chief sealer, or any one of the deputy sealers a~~
25 person charged with enforcement of this act by the

1 department, by the use of ~~his~~ its seal or a counterfeit of
2 ~~his its~~ seal, or in any other manner, ~~shall be is~~ guilty of
3 a misdemeanor, and upon conviction thereof shall be ~~punished~~
4 ~~by a fine of fined~~ not less than one hundred dollars
5 ~~(\$100.00)~~ (\$100) or more than five hundred dollars ~~(\$500.00)~~
6 (\$500), or by ~~imprisonment imprisoned~~ for not more than one
7 (1) year, or by both such fine fined and ~~imprisonment~~
8 imprisoned."

9 Section 167. Section 90-188, R.C.M. 1947, is amended
10 to read as follows:

11 "90-188. Offenses and penalties. ~~Any person who, by~~
12 ~~himself, or by his servant or agent, or as the servant or~~
13 ~~agent of another person, performs any one of the acts~~
14 ~~enumerated in subparagraphs (1) through (9) of this section~~
15 ~~shall be guilty of a misdemeanor and, upon a first~~
16 ~~conviction thereof, shall be punished by a fine of not less~~
17 ~~than twenty dollars (\$20.00) or more than two hundred~~
18 ~~dollars (\$200.00), or by imprisonment for not more than~~
19 ~~three (3) months, or by both such fine and imprisonment.~~
20 ~~Upon a second or subsequent conviction thereof, he shall be~~
21 ~~punished by a fine of not less than fifty dollars (\$50.00)~~
22 ~~or more than five hundred dollars (\$500.00), or by~~
23 ~~imprisonment for not more than one (1) year, or by both such~~
24 ~~fine and imprisonment.~~

25 (1) A person may not:

1 (a) Use or ~~have in possession~~ possess for the purpose
2 of using for ~~any a~~ commercial purpose specified in section
3 ~~40-162~~ 90-162, sell, offer, or expose for sale or hire,
4 or ~~have in possession~~ possess for the purpose of selling or
5 hiring, an incorrect weight or measure or any device or
6 instrument used to or calculated to falsify any weight or
7 measure-;

8 ~~(2)-(b)~~ Use, or ~~have in possession~~ possess for the
9 purpose of current use for ~~any a~~ commercial purpose
10 specified in section ~~40-162~~ 90-162, a weight or measure
11 that does not bear a seal or mark ~~such as is~~ specified in
12 section ~~44-166~~ 90-166, unless ~~such that~~ weight or
13 measure has been exempted from testing by ~~the provisions of~~
14 section ~~40-162~~ 90-162 or by a regulation rule of the
15 ~~sealer department~~ issued under the ~~authority of~~ section 8
16 ~~90-160~~ 90-160, or unless the device has been placed in
17 service as provided by a regulation rule of the ~~sealer~~
18 ~~department~~ issued under the ~~authority of~~ section 8 ~~90-160~~
19 90-160, ~~of this act: provided, that, any a person or persons~~
20 ~~making use of~~ using weighing or measuring devices subject to
21 this act must report to the ~~sealer of weights and measures~~
22 ~~or his deputies department~~, in writing, the number and
23 location of ~~said the~~ weighing or measuring device and must
24 promptly report the installation of any new weighing or
25 measuring device-;

1 ~~(3)-(c)~~ Dispose of ~~any a~~ rejected or condemned weight
2 or measure in a manner contrary to law or ~~regulation~~ rule;

3 ~~(4)-(d)~~ Remove from ~~any a~~ weight or measure, contrary
4 to law or ~~regulation~~ rule, any tag, seal, or mark placed
5 ~~thereon on it~~ by the appropriate authority-;

6 ~~(5)-(e)~~ Sell, or offer or expose for sale, less than
7 the quantity he represents of ~~any a~~ commodity, thing, or
8 service-;

9 ~~(6)-(f)~~ Take more than the quantity he represents of
10 ~~any a~~ commodity, thing, or service, when, as buyer, he
11 furnishes the weight or measure by means of which the amount
12 of the commodity, thing, or service is determined-;

13 ~~(7)-(g)~~ Keep for the purpose of sale, advertise, or
14 offer or expose for sale, or sell ~~any a~~ commodity, thing, or
15 service in a condition or manner contrary to law or
16 ~~regulation~~ rule;

17 ~~(8)-(h)~~ Use in retail trade, except in the
18 preparation of packages put up in advance of sale and of
19 medical prescriptions, a weight or measure that is not so
20 positioned that its indications may be accurately read and
21 the weighing or measuring operation observed from some
22 position which may reasonably be assumed by a customer-;

23 ~~(9)-(i)~~ Violate ~~any a~~ provision of this act or of the
24 ~~regulations promulgated~~ rules adopted under the ~~provisions~~
25 of this act for which a specific penalty ~~has~~ is not been

1 prescribed.

2 (2) A person who violates, or who knowingly allows an
 3 employee or agent to violate, this section is guilty of a
 4 misdemeanor and, upon a first conviction, shall be fined not
 5 less than twenty dollars (\$20) or more than two hundred
 6 dollars (\$200), or imprisoned for not more than three (3)
 7 months, or both fined and imprisoned. Upon a second or
 8 subsequent conviction, he shall be fined not less than fifty
 9 dollars (\$50) or more than five hundred dollars (\$500), or
 10 imprisoned for not more than one (1) year, or both fined and
 11 imprisoned."

12 Section 168. Section 90-189, R.C.M. 1947, is amended
 13 to read as follows:

14 "90-189. Injunction. The ~~sealer is authorized to~~
 15 department may apply to any court of competent jurisdiction
 16 for, and ~~such that~~ court upon hearing and for cause shown
 17 may grant, a temporary or permanent injunction restraining
 18 ~~any a~~ person from violating any provision of this act."

19 Section 169. Section 90-190, R.C.M. 1947, is amended
 20 to read as follows:

21 "90-190. Presumptive evidence. For the purposes of
 22 this act, proof of the existence of a weight or measure or a
 23 weighing or measuring device in or about any building,
 24 enclosure, stand, or vehicle in which or from which is shown
 25 that buying or selling is commonly carried on, ~~shall is~~, in

1 the absence of ~~conclusive~~ credible evidence to the contrary,
 2 ~~be~~ presumptive proof of the regular use of ~~such that~~ weight
 3 or measure or weighing or measuring device for commercial
 4 purposes and of ~~such the~~ use by the person in charge of ~~such~~
 5 the building, enclosure, stand, or vehicle."

6 Section 170. Wherever the words "superintendent,"
 7 "superintendent of banks," or "state superintendent of
 8 banks" appear in sections 5-205, 5-206, 5-207, 5-209, 5-211,
 9 5-510, 5-704, 5-803, 5-908, 5-909, 5-1006, 5-1014, 5-1020,
 10 5-1025, 5-1026, 5-1027, 5-1028, 5-1029, 5-1030, 5-1032,
 11 5-1036, 5-1046, 5-1130, 5-1204, 7-104, 7-105, 7-107,
 12 7-113.1, 7-124, 7-128, 7-129, 7-137, 7-151, 74-603, the word
 13 "department" is substituted therefor.

14 Section 171. Wherever the words "superintendent of
 15 banks" appear in section 5-1021, the words "state banking
 16 board" are substituted therefor.

17 ~~Section 184. Wherever the word "supervisor" appears in~~
 18 ~~sections 14-142, 14-143, 14-149, 14-154, 14-155, 14-156, the~~
 19 ~~word "department" is substituted therefor.~~

20 Section 172. Wherever the words "consumer loan
 21 commissioner" or "commissioner" appear in sections 47-205,
 22 47-208, 47-209, 47-212, 47-216, 47-217, 47-221, 47-224,
 23 47-226, 47-227, the word "department" is substituted
 24 therefor.

25 Section 173. Wherever the words "commissioner of

1 agriculture" or "commissioner" appear in sections 60-203.3,
2 60-204, 60-205, 60-210, 60-211, 60-212, 60-213, 60-214, the
3 word "department" is substituted therefor.

4 Section 174. Wherever the word "board" appears in
5 sections 51-113, 51-114, 51-115, the word "department" shall
6 be substituted therefor.

7 Section 175. The publishers of the Revised Codes of
8 Montana, 1947, are directed, under the supervision of the
9 Supreme Court of Montana, to make the substitutions
10 enumerated in sections ~~190, 190A, 191, 192, 193, and 193A~~
11 182, 183, 184, 185, 186, AND 187 of this act when reprinting
12 sections or portions of sections of the Revised Codes in
13 either supplements to or replacement volumes for the Revised
14 Codes.

15 Section 176. Sections 5-108, 5-601 through 5-603,
16 5-606, 5-608, 5-902, 5-1009 through 5-1011, 5-1013, 5-1119
17 through 5-1121, 5-1301 through 5-1311, 7-152, 27-404,
18 27-418, 27-420, 27-425, 27-428, 27-429, 47-225, 82-1001
19 through 82-1011, 82A-402, 82A-403, 90-155, 90-158, 90-168,
20 90-193, 90-194, 90-621 are repealed.

-End-