

1 Senate BILL NO. 40
 2 INTRODUCED BY Chris Turnage
 3 (Interim Judiciary Committee Bill)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AND CLARIFYING
 5 STATUTORY REFERENCES TO SOVEREIGN OR GOVERNMENTAL IMMUNITY
 6 TO COORDINATE THOSE REFERENCES WITH ARTICLE II, SECTION 18,
 7 OF THE CONSTITUTION OF THE STATE OF MONTANA OR PROVISIONS OF
 8 TITLE 82, CHAPTER 43, R.C.M. 1947, AS AMENDED; AMENDING
 9 SECTIONS 1-502, 16-1802, 17-205, 32-4722, 40-4401, 40-4402,
 10 75-8310, AND 93-2815, R.C.M. 1947; AND REPEALING SECTIONS
 11 11-1305, 11-1306, 16-2731, 16-2732, 16-2733, 31-172,
 12 69-6405, 75-5940, AND 76-243, R.C.M. 1947."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 1-502, R.C.M. 1947, is amended to
 16 read as follows:

17 "1-502. Aeronautics functions governmental -- no
 18 liability for torts. (†) The acquisition of lands for
 19 establishing airports or other air navigation facilities;
 20 the acquisition of airport protection privileges; the
 21 acquisition, establishment, construction, enlargement,
 22 improvement, maintenance, equipment, and operation of
 23 airports and other air navigation facilities whether by the
 24 state separately or jointly with a municipality; the
 25 assistance of this state in that acquisition, establishment,

1 construction, enlargement, improvement, maintenance,
 2 equipment, and operation; and the exercise of any other
 3 powers granted to the department are public and governmental
 4 functions, exercised for a public purpose, and matters of
 5 public necessity, and such lands and other property and
 6 privileges acquired and used by the state in the manner and
 7 for the purposes enumerated in this title are acquired and
 8 used for public and governmental purposes and as a matter of
 9 public necessity.

10 ~~(2) No suit in tort may be brought or maintained~~
 11 ~~against the state or any municipality of the state or their~~
 12 ~~officers, agents, servants, or employees, on account of an~~
 13 ~~act done in or about the construction, maintenance,~~
 14 ~~enlargement, operation, superintendency, or management of an~~
 15 ~~airport or other air navigation facility."~~

16 Section 2. Section 16-1802, R.C.M. 1947, is amended to
 17 read as follows:

18 "16-1802. Claims to be itemized -- time for
 19 presenting. No account must be allowed by the board unless
 20 the same is made out in separate items, the nature of each
 21 item stated; if it is for official services for which no
 22 specified fees are fixed by law, the time actually and
 23 necessarily devoted to such service must be stated. Claims
 24 against the county shall contain the following statement: "I
 25 certify that this claim is correct and just in all respects,"

1 and that payment or credit has not been received." Claims
 2 need not be verified by affidavit. Every claim against the
 3 county, except claims arising from injury to a person or
 4 property, which are limited under provisions of Title 82,
 5 chapter 43, as amended, must be presented within a year
 6 after the last item accrued."

7 Section 3. Section 17-205, R.C.M. 1947, is amended to
 8 read as follows:

9 "17-205. In actions other than contract. In an action
 10 for the breach of an obligation not arising from contract,
 11 and in every case of oppression, fraud, or malice, interest
 12 may be given, in the discretion of the jury. This section
 13 does not apply in actions for recovery of damages arising
 14 from injury to a person or property brought against a
 15 governmental entity under Title 82, chapter 43, as amended."

16 Section 4. Section 32-4722, R.C.M. 1947, is amended to
 17 read as follows:

18 "32-4722. Advertising deemed unlawful -- notice to
 19 remove -- hearing -- appeal to district court. (1) The
 20 following outdoor Advertising is unlawful:

21 (a) When when erected after June 24, 1971, contrary to
 22 this act, or erected after the effective date of this act
 23 beyond ~~six--hundred--sixty--{660}~~ feet of the nearest edge of
 24 the right-of-way of an interstate or primary highway outside
 25 of an urban area with the purpose of its message being read

1 from such ~~main-traveled~~ main-traveled way and visible from
 2 such ~~main-traveled~~ main-traveled way, unless such outdoor
 3 advertising meets the criteria of subsections (i), (ii), or
 4 (iii) of subsection (a) of section 32-4717; or

5 (b) ~~When when~~ a permit is not obtained as prescribed
 6 in this act; or

7 (c) ~~When when~~ a permittee fails to comply with a
 8 notice of violation as provided in section 32-4721.

9 (2) The department shall give notice in writing,
 10 either by certified mail or by personal service, to the
 11 owner or occupant of the land on which advertising believed
 12 to be unlawful is located and to the owner of the outdoor
 13 advertising structure, if the latter is known, or if
 14 unknown, by posting notice, in a conspicuous place on the
 15 structure, of its intention to remove the unlawful
 16 advertising. Within ~~forty-five--{45}~~ days after the notice,
 17 the owner of the land or of the structure may make a written
 18 request for a hearing before the commission to show cause
 19 why the structure should not be removed.

20 (3) If a hearing before the commission is not
 21 requested, or if there is no appeal taken from the
 22 commission's decision at the hearing, or if the commission's
 23 decision is affirmed on appeal, the department shall
 24 immediately remove, or cause to be removed, the unlawful
 25 outdoor advertising. The owner of the structure and the

1 owner or occupant of the land are jointly and severally
 2 liable for the costs of the removal. The department may
 3 enter upon lands bearing outdoor advertising and make
 4 examination of such advertising. The department may, upon
 5 final determination by the commission that an item of
 6 outdoor advertising is unlawful, enter upon lands bearing
 7 such advertising and remove the unlawful advertising. ~~The~~
 8 ~~department--incurs--no--liability--for--the--entry--or--entries~~
 9 ~~except--for--injuries--resulting--from--negligence--wantonness--or~~
 10 ~~malice."~~

11 Section 5. Section 40-4401, R.C.M. 1947, is amended to
 12 read as follows:

13 "40-4401. Waiver of defense of sovereign immunity
 14 required. All contracts or policies of casualty insurance
 15 covering state-owned properties or state risks must contain
 16 ~~therein--as--a--part--thereof~~ an agreement on the part of the
 17 insurer waiving all right to raise the defense of ~~sovereign~~
 18 immunity from suit. No money ~~shall~~ may be paid out of the
 19 state treasury to any person, firm, or corporation, as a
 20 consideration or premium on any such policy or contract of
 21 casualty insurance unless the policy or contract contains
 22 such an agreement."

23 Section 6. Section 40-4402, R.C.M. 1947, is amended to
 24 read as follows:

25 "40-4402. Sovereign---immunity Immunity defense

1 prohibited when liability insured -- reduction of award to
 2 policy limits. Whenever an insurer accepts any premium,
 3 money, or other consideration from a political subdivision
 4 of the state, municipality, or any public body, corporation,
 5 commission, board, agency, organization, or other public
 6 entity for casualty or liability insurance, neither such
 7 insured nor insurer ~~shall~~ may raise the defense of ~~sovereign~~
 8 ~~or--governmental~~ immunity from suit in any damage action
 9 brought against such insured or insurer, and any agreement
 10 in the insurance contract permitting the defense of
 11 ~~sovereign--or--governmental~~ immunity is hereby declared void.
 12 No attempt ~~shall~~ may be made in the trial of an action
 13 brought against such political subdivision of the state,
 14 municipality, or any public body, corporation, commission,
 15 board, agency, organization, or other public entity, to
 16 suggest the existence of any insurance which covers in whole
 17 or in part any judgment or award which may be rendered in
 18 favor of plaintiff. If the court ~~shall--determine~~ determines
 19 that the defendant could have successfully raised the
 20 defense of ~~sovereign--or--governmental~~ immunity, and if the
 21 verdict exceeds the limits of the applicable insurance, the
 22 court shall reduce the amount of such judgment or award to a
 23 sum equal to the applicable limit stated in the policy."

24 Section 7. Section 75-8310, R.C.M. 1947, is amended to
 25 read as follows:

1 "75-610. School safety patrols. (1) The trustees of
 2 any district or the administration of any private school
 3 ~~shall have the authority to~~ may organize and supervise
 4 school safety patrols for a school under their authority.
 5 The purpose of school safety patrols ~~shall be~~ is to
 6 influence and encourage other pupils of the school to
 7 refrain from crossing public highways at points other than
 8 regular crossings and to direct pupils as to when and where
 9 to cross highways.

10 (2) The school safety patrol shall be formed from the
 11 children of the school who are ~~nine (9)~~ years of age or more
 12 or, if there are none, who are of the highest grade of such
 13 school. Before any child may serve on the school safety
 14 patrol, the parent or guardian of such child shall give
 15 written consent for his child to serve on the school safety
 16 patrol.

17 (3) No liability ~~shall attach either~~ attaches to the
 18 ~~school, educational institution, governing board, directing~~
 19 ~~authority, a member of the school safety patrol~~ or parent or
 20 guardian, ~~or any individual, director, member of the~~
 21 ~~trustees, district superintendent, principal, teacher, or~~
 22 ~~other school authority~~ by virtue of the organization,
 23 maintenance or operation of such school safety patrol
 24 because of injuries injury sustained by any pupil, whether a
 25 member of the patrol or otherwise by reason of the operation

1 and maintenance thereof unless that injury results from
 2 gross negligence or purposeful conduct of such person.

3 (4) Identification and operation of school safety
 4 patrols shall be uniform throughout the state and the method
 5 of identification and signals to be used shall be as
 6 prescribed by the superintendent of public instruction in
 7 cooperation with the Montana highway patrol.

8 (5) Any municipality, city, or town of this state may
 9 provide for the training of members of the school safety
 10 patrol at any authorized school patrol camp located in this
 11 state and may pay the expense necessarily incurred in
 12 providing such training out of any funds available for such
 13 purpose."

14 Section 8. Section 93-2815, R.C.M. 1947, is amended to
 15 read as follows:

16 "93-2815. Joinder of state as defendant in certain
 17 actions. In any action or proceeding brought in any district
 18 court of the state of Montana affecting the title to real or
 19 personal property in which the state of Montana has or
 20 claims to have an interest or claim, the state of Montana
 21 may be made a party defendant to such actions or
 22 proceedings, and its rights or interests adjudicated
 23 ~~provided, however, that in no event shall any money judgment~~
 24 ~~be rendered against the state of Montana in any action or~~
 25 ~~proceeding brought under the provisions of this act."~~

1 Section 9. Repealer. Sections 11-1305, 11-1306,
2 16-2731, 16-2732, 16-2733, 31-172, 46-243, 69-6405, and
3 75-5940, R.C.M.1947, are repealed.

-End-

Approved by Committee on Judiciary

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22 improvement, maintenance, equipment, and operation of
23 airports and other air navigation facilities whether by the
24 state separately or jointly with a municipality; the
25 assistance of this state in that acquisition, establishment,

1 construction, enlargement, improvement, maintenance,
2 equipment, and operation; and the exercise of any other
3 powers granted to the department are public and governmental
4 functions, exercised for a public purpose, and matters of
5 public necessity, and such lands and other property and
6 privileges acquired and used by the state in the manner and
7 for the purposes enumerated in this title are acquired and
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20 the same is made out in separate items, the nature of each
21 item stated; if it is for official services for which no
22 specified fees are fixed by law, the time actually and
23 necessarily devoted to such service must be stated. Claims
24 against the county shall contain the following statement: "I
25 certify that this claim is correct and just in all respects"

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 3 county, except claims arising from injury to a person or
 4 property, which are limited under provisions of Title 82,
 5 chapter 43, as amended, must be presented within a year
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7 Section 3. Section 17-205, R.C.M. 1947, is amended to
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 11 and in every case of oppression, fraud, or malice, interest
 12 may be given, in the discretion of the jury. This section
 13 does not apply in actions for recovery of damages arising
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 15 governmental entity under Title 82, chapter 43, as amended."

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 23 beyond ~~six--hundred--sixty--{660}~~ feet of the nearest edge of
 24 the right-of-way of an interstate or primary highway outside
 25 of an urban area with the purpose of its message being read

1 from such ~~main-traveled~~ main-traveled way and visible from
 2 such ~~main-traveled~~ main-traveled way, unless such outdoor
 3 advertising meets the criteria of subsections (i), (ii), or
 4 (iii) of subsection (a) of ~~section~~ 32-4717; or

5 (b) When when a permit is not obtained as prescribed
 6 in this act; or

7 (c) When when a permittee fails to comply with a
 8 notice of violation as provided in ~~section~~ 32-4721.

9 (2) The department shall give notice in writing,
 10 either by certified mail or by personal service, to the
 11 owner or occupant of the land on which advertising believed
 12 to be unlawful is located and to the owner of the outdoor
 13 advertising structure, if the latter is known, or if
 14 unknown, by posting notice₂ in a conspicuous place on the
 15 structure, of its intention to remove the unlawful
 16 advertising. Within ~~forty-five--{45}~~ days after the notice,
 17 the owner of the land or of the structure may make a written
 18 request for a hearing before the commission to show cause
 19 why the structure should not be removed.

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 21 requested, or if there is no appeal taken from the
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 23 decision is affirmed on appeal, the department shall
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 14 required. All contracts or policies of casualty insurance
 15 covering state-owned properties or state risks must contain
 16 ~~therein--as--a--part--thereof~~ an agreement on the part of the
 17 insurer waiving all right to raise the defense of ~~sovereign~~
 18 immunity from suit. No money ~~shall~~ may be paid out of the
 19 state treasury to any person, firm, or corporation, as a
 20 consideration or premium on any such policy or contract of
 21 casualty insurance unless the policy or contract contains
 22 such an agreement."

23 Section 6. Section 40-4402, R.C.M. 1947, is amended to
 24 read as follows:

25 "40-4402. ~~Sovereign---~~immunity Immunity defense

1 prohibited when liability insured -- reduction of award to
 2 policy limits. Whenever an insurer accepts any premium,
 3 money, or other consideration from a political subdivision
 4 of the state, municipality, or any public body, corporation,
 5 commission, board, agency, organization, or other public
 6 entity for casualty or liability insurance, neither such
 7 insured nor insurer ~~shall~~ may raise the defense of ~~sovereign~~
 8 ~~or--governmental~~ immunity from suit in any damage action
 9 brought against such insured or insurer, and any agreement
 10 in the insurance contract permitting the defense of
 11 ~~sovereign--or--governmental~~ immunity is ~~hereby--declared~~ void.
 12 No attempt ~~shall~~ may be made in the trial of an action
 13 brought against such political subdivision of the state,
 14 municipality, or any public body, corporation, commission,
 15 board, agency, organization, or other public entity to
 16 suggest the existence of any insurance which covers in whole
 17 or in part any judgment or award which may be rendered in
 18 favor of plaintiff. If the court ~~shall--determine~~ determines
 19 that the defendant could have successfully raised the
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 21 verdict exceeds the limits of the applicable insurance, the
 22 court shall reduce the amount of such judgment or award to a
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 3 ~~shall have the authority to~~ may organize and supervise
 4 school safety patrols for a school under their authority.
 5 The purpose of school safety patrols ~~shall be~~ is to
 6 influence and encourage other pupils of the school to
 7 refrain from crossing public highways at points other than
 8 regular crossings and to direct pupils as to when and where
 9 to cross highways.

10 (2) The school safety patrol shall be formed from the
 11 children of the school who are ~~nine to~~ years of age or more
 12 or, if there are none, who are of the highest grade of such
 13 school. Before any child may serve on the school safety
 14 patrol, the parent or guardian of such child shall give
 15 written consent for his child to serve on the school safety
 16 patrol.

17 (3) No liability ~~shall attach either~~ attaches to the
 18 ~~school, educational institution, governing board, directing~~
 19 ~~authority, a member of the school safety patrol~~ or parent or
 20 guardian, ~~or any individual, directory member of the~~
 21 ~~trustees, district, superintendent, principal, teacher, or~~
 22 ~~other school authority~~ by virtue of the organization,
 23 maintenance, or operation of such school safety patrol
 24 because of ~~injuries~~ injury sustained by any pupil, whether a
 25 member of the patrol or otherwise by reason of the operation

1 and maintenance thereof unless that injury results from
 2 gross negligence or purposeful conduct of such person.

3 (4) Identification and operation of school safety
 4 patrols shall be uniform throughout the state and the method
 5 of identification and signals to be used shall be as
 6 prescribed by the superintendent of public instruction in
 7 cooperation with the Montana highway patrol.

8 (5) Any municipality, city, or town of this state may
 9 provide for the training of members of the school safety
 10 patrol at any authorized school patrol camp located in this
 11 state and may pay the expense necessarily incurred in
 12 providing such training out of any funds available for such
 13 purpose."

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 18 court of the state of Montana affecting the title to real or
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 21 may be made a party defendant to such actions or
 22 proceedings, and its rights or interests adjudicated
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1 Section 9. Repealer. Sections 11-1305, 11-1306,
2 16-2731, 16-2732, 16-2733, 31-172, 46-243, 69-6405, and
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 2 INTRODUCED BY TOWE, TURNAGE
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 5 functions, exercised for a public purpose, and matters of
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 2 from such ~~main-traveled~~ main-traveled way and visible from
 3 such ~~main-traveled~~ main-traveled way, unless such outdoor
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 5 (iii) of subsection (a) of section 32-4717; or

6 (b) ~~When when~~ a permit is not obtained as prescribed
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 9 notice of violation as provided in section 32-4721.

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 14 advertising structure, if the latter is known, or if
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 19 request for a hearing before the commission to show cause
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 21 consideration or premium on any such policy or contract of
 22 casualty insurance unless the policy or contract contains
 23 such an agreement."

24 Section 6. Section 40-4402, R.C.M. 1947, is amended to
 25 read as follows:

1 "40-4402. ~~Sovereign---~~immunity Immunity defense
 2 prohibited when liability insured -- reduction of award to
 3 policy limits. Whenever an insurer accepts any premium,
 4 money, or other consideration from a political subdivision
 5 of the state, municipality, or any public body, corporation,
 6 commission, board, agency, organization, or other public
 7 entity for casualty or liability insurance, neither such
 8 insured nor insurer ~~shall~~ may raise the defense of ~~sovereign~~
 9 ~~or--governmental~~ immunity from suit in any damage action
 10 brought against such insured or insurer, and any agreement
 11 in the insurance contract permitting the defense of
 12 ~~sovereign--or--governmental~~ immunity is hereby ~~declared~~ void.
 13 No attempt ~~shall~~ may be made in the trial of an action
 14 brought against such political subdivision of the state,
 15 municipality, or any public body, corporation, commission,
 16 board, agency, organization, or other public entity, to
 17 suggest the existence of any insurance which covers in whole
 18 or in part any judgment or award which may be rendered in
 19 favor of plaintiff. If the court ~~shall--determine~~ determines
 20 that the defendant could have successfully raised the
 21 defense of ~~sovereign--or--governmental~~ immunity, and if the
 22 verdict exceeds the limits of the applicable insurance, the
 23 court shall reduce the amount of such judgment or award to a
 24 sum equal to the applicable limit stated in the policy."

25 Section 7. Section 75-8310, R.C.M. 1947, is amended to

1 read as follows:

2 "75-8310. School safety patrols. ~~11~~ The trustees of
3 any district or the administration of any private school
4 ~~shall have the authority to~~ may organize and supervise
5 school safety patrols for a school under their authority.
6 The purpose of school safety patrols ~~shall be~~ is to
7 influence and encourage other pupils of the school to
8 refrain from crossing public highways at points other than
9 regular crossings and to direct pupils as to when and where
10 to cross highways.

11 ~~12~~ The school safety patrol shall be formed from the
12 children of the school who are ~~nine to~~ years of age or more
13 or, if there are none, who are of the highest grade of such
14 school. Before any child may serve on the school safety
15 patrol, the parent or guardian of such child shall give
16 written consent for his child to serve on the school safety
17 patrol.

18 ~~13~~ No liability ~~shall attach either~~ attaches to the
19 ~~school, educational institution, governing board, or directing~~
20 ~~authority, a member of the school safety patrol~~ or parent or
21 guardian, ~~or any individual, director, member of the~~
22 ~~trustees, district superintendent, principal, teacher, or~~
23 ~~other school authority~~ by virtue of the organization,
24 maintenance, or operation of such school safety patrol
25 because of injuries ~~injury~~ sustained by any pupil, whether a

1 member of the patrol or otherwise by reason of the operation
2 and maintenance thereof unless that injury results from
3 gross negligence or purposeful conduct of such person.

4 ~~14~~ Identification and operation of school safety
5 patrols shall be uniform throughout the state and the method
6 of identification and signals to be used shall be as
7 prescribed by the superintendent of public instruction in
8 cooperation with the Montana highway patrol.

9 ~~15~~ Any municipality, city, or town of this state may
10 provide for the training of members of the school safety
11 patrol at any authorized school patrol camp located in this
12 state and may pay the expense necessarily incurred in
13 providing such training, out of any funds available for such
14 purpose."

15 Section 8. Section 93-2815, R.C.M. 1947, is amended to
16 read as follows:

17 "93-2815. Joinder of state as defendant in certain
18 actions. In any action or proceeding brought in any district
19 court of the state of Montana affecting the title to real or
20 personal property in which the state of Montana has, or
21 claims to have, an interest or claim, the state of Montana
22 may be made a party defendant to such actions or
23 proceedings, and its rights or interests adjudicated,
24 ~~provided, however, that in no event shall any money judgment~~
25 ~~be rendered against the state of Montana in any action or~~

1 ~~proceeding-brought-under-the-provisions-of-this-act."~~
2 Section 9. Repealer. Sections 11-1305, 11-1306,
3 16-2731, 16-2732, 16-2733, 31-172, 46-243, 69-6405, and
4 75-5940, R.C.M.1947, are repealed.

-End-

March 10, 1977

HOUSE COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL 40

third reading copy, be amended as follows:

1. Amend page 7, section 7, subsection (3), line 25 through line 3 on page 8.

Following: "pupil"

Strike: line 25 on page 7 through line 3 on page 8 in their entirety

Insert: "."

AS AMENDED BE CONCURRED IN

1 SENATE BILL NO. 40
 2 INTRODUCED BY TOWE, TURNGAGE
 3 (INTERIM JUDICIARY COMMITTEE BILL)
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AND CLARIFYING
 6 STATUTORY REFERENCES TO SOVEREIGN OR GOVERNMENTAL IMMUNITY
 7 TO COORDINATE THOSE REFERENCES WITH ARTICLE II, SECTION 18,
 8 OF THE CONSTITUTION OF THE STATE OF MONTANA OR PROVISIONS OF
 9 TITLE 82, CHAPTER 43, R.C.M. 1947, AS AMENDED; AMENDING
 10 SECTIONS 1-502, 16-1802, 17-205, 32-4722, 40-4401, 40-4402,
 11 75-8310, AND 93-2815, R.C.M. 1947; AND REPEALING SECTIONS
 12 11-1305, 11-1306, 16-2731, 16-2732, 16-2733, 31-172,
 13 69-6405, 75-5940, AND 76-243 ~~46-243~~, R.C.M. 1947."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 1-502, R.C.M. 1947, is amended to
 17 read as follows:

18 "1-502. Aeronautics functions governmental -- no
 19 liability for torts. ~~(1)~~ The acquisition of lands for
 20 establishing airports or other air navigation facilities;
 21 the acquisition of airport protection privileges; the
 22 acquisition, establishment, construction, enlargement,
 23 improvement, maintenance, equipment, and operation of
 24 airports and other air navigation facilities whether by the
 25 state separately or jointly with a municipality; the

1 assistance of this state in that acquisition, establishment,
 2 construction, enlargement, improvement, maintenance,
 3 equipment, and operation; and the exercise of any other
 4 powers granted to the department are public and governmental
 5 functions, exercised for a public purpose, and matters of
 6 public necessity, and such lands and other property and
 7 privileges acquired and used by the state in the manner and
 8 for the purposes enumerated in this title are acquired and
 9 used for public and governmental purposes and as a matter of
 10 public necessity.

11 ~~(2) -- No suit in tort may be brought or maintained~~
 12 ~~against the state or any municipality of the state or their~~
 13 ~~officers, agents, servants, or employees, on account of an~~
 14 ~~act done in or about the construction, maintenance,~~
 15 ~~enlargement, operation, superintendency, or management of an~~
 16 ~~airport or other air navigation facility."~~

17 Section 2. Section 16-1802, R.C.M. 1947, is amended to
 18 read as follows:

19 "16-1802. Claims to be itemized -- time for
 20 presenting. No account must be allowed by the board unless
 21 the same is made out in separate items, the nature of each
 22 item stated; if it is for official services for which no
 23 specified fees are fixed by law, the time actually and
 24 necessarily devoted to such service must be stated. Claims
 25 against the county shall contain the following statement: "I

1 certify that this claim is correct and just in all respects
 2 and that payment or credit has not been received." Claims
 3 need not be verified by affidavit. Every claim against the
 4 county, except claims arising from injury to a person or
 5 property, which are limited under provisions of Title 82,
 6 chapter 43, as amended, must be presented within a year
 7 after the last item accrued."

8 Section 3. Section 17-205, R.C.M. 1947, is amended to
 9 read as follows:

10 "17-205. In actions other than contract. In an action
 11 for the breach of an obligation not arising from contract
 12 and in every case of oppression, fraud, or malice, interest
 13 may be given, in the discretion of the jury. This section
 14 does not apply in actions for recovery of damages arising
 15 from injury to a person or property brought against a
 16 governmental entity under Title 82, chapter 43, as amended."

17 Section 4. Section 32-4722, R.C.M. 1947, is amended to
 18 read as follows:

19 "32-4722. Advertising deemed unlawful -- notice to
 20 remove -- hearing -- appeal to district court. (1) The
 21 following outdoor advertising is unlawful:

22 (a) When when erected after June 24, 1971, contrary to
 23 this act, or erected after the effective date of this act
 24 beyond ~~six--hundred-sixty~~ {660} feet of the nearest edge of
 25 the right-of-way of an interstate or primary highway outside

1 of an urban area with the purpose of its message being read
 2 from such ~~main-traveled~~ main-traveled way and visible from
 3 such ~~main-traveled~~ main-traveled way, unless such outdoor
 4 advertising meets the criteria of subsections (i), (ii), or
 5 (iii) of subsection (a) of section 32-4717; or

6 (b) When when a permit is not obtained as prescribed
 7 in this act; or

8 (c) When when a permittee fails to comply with a
 9 notice of violation as provided in section 32-4721.

10 (2) The department shall give notice in writing,
 11 either by certified mail or by personal service, to the
 12 owner or occupant of the land on which advertising believed
 13 to be unlawful is located and to the owner of the outdoor
 14 advertising structure, if the latter is known, or if
 15 unknown, by posting notice in a conspicuous place on the
 16 structure, of its intention to remove the unlawful
 17 advertising. Within ~~forty-five~~ {45} days after the notice,
 18 the owner of the land or of the structure may make a written
 19 request for a hearing before the commission to show cause
 20 why the structure should not be removed.

21 (3) If a hearing before the commission is not
 22 requested, or if there is no appeal taken from the
 23 commission's decision at the hearing, or if the commission's
 24 decision is affirmed on appeal, the department shall
 25 immediately remove, or cause to be removed, the unlawful

1 outdoor advertising. The owner of the structure and the
 2 owner or occupant of the land are jointly and severally
 3 liable for the costs of the removal. The department may
 4 enter upon lands bearing outdoor advertising and make
 5 examination of such advertising. The department may, upon
 6 final determination by the commission that an item of
 7 outdoor advertising is unlawful, enter upon lands bearing
 8 such advertising and remove the unlawful advertising. The
 9 department ~~incurs no liability for the entry or entries~~
 10 ~~except for injuries resulting from negligence, wantonness or~~
 11 ~~malice."~~

12 Section 5. Section 40-4401, R.C.M. 1947, is amended to
 13 read as follows:

14 "40-4401. Waiver of defense of sovereign immunity
 15 required. All contracts or policies of casualty insurance
 16 covering state-owned properties or state risks must contain
 17 therein ~~as a part thereof~~ an agreement on the part of the
 18 insurer waiving all right to raise the defense of ~~sovereign~~
 19 immunity from suit. No money ~~shall~~ may be paid out of the
 20 state treasury to any person, firm, or corporation as a
 21 consideration or premium on any such policy or contract of
 22 casualty insurance unless the policy or contract contains
 23 such an agreement."

24 Section 6. Section 40-4402, R.C.M. 1947, is amended to
 25 read as follows:

1 "40-4402. Sovereign ~~immunity~~ Immunity defense
 2 prohibited when liability insured -- reduction of award to
 3 policy limits. Whenever an insurer accepts any premium,
 4 money, or other consideration from a political subdivision
 5 of the state, municipality, or any public body, corporation,
 6 commission, board, agency, organization, or other public
 7 entity for casualty or liability insurance, neither such
 8 insured nor insurer ~~shall~~ may raise the defense of ~~sovereign~~
 9 ~~or governmental~~ immunity from suit in any damage action
 10 brought against such insured or insurer, and any agreement
 11 in the insurance contract permitting the defense of
 12 ~~sovereign or governmental~~ immunity is ~~hereby declared~~ void.
 13 No attempt ~~shall~~ may be made in the trial of an action
 14 brought against such political subdivision of the state,
 15 municipality, or any public body, corporation, commission,
 16 board, agency, organization, or other public entity, to
 17 suggest the existence of any insurance which covers in whole
 18 or in part any judgment or award which may be rendered in
 19 favor of plaintiff. If the court ~~shall determine~~ determines
 20 that the defendant could have successfully raised the
 21 defense of ~~sovereign or governmental~~ immunity, and if the
 22 verdict exceeds the limits of the applicable insurance, the
 23 court shall reduce the amount of such judgment or award to a
 24 sum equal to the applicable limit stated in the policy."

25 section 7. Section 75-8310, R.C.M. 1947, is amended to

1 read as follows:

2 "73-8310. School safety patrols. (1) The trustees of
3 any district or the administration of any private school
4 ~~shall have the authority to~~ may organize and supervise
5 school safety patrols for a school under their authority.
6 The purpose of school safety patrols ~~shall be~~ is to
7 influence and encourage other pupils of the school to
8 refrain from crossing public highways at points other than
9 regular crossings and to direct pupils as to when and where
10 to cross highways.

11 (2) The school safety patrol shall be formed from the
12 children of the school who are ~~nine~~ (9) years of age or more
13 or, if there are none, who are of the highest grade of such
14 school. Before any child may serve on the school safety
15 patrol, the parent or guardian of such child shall give
16 written consent for his child to serve on the school safety
17 patrol.

18 (3) No liability ~~shall attach either~~ attaches to the
19 ~~school, educational institution, governing board, directing~~
20 ~~authority, a member of the school safety patrol~~ or parent or
21 guardian, or ~~any individual, director, member of the~~
22 ~~trustees, district superintendent, principal, teacher, or~~
23 ~~other school authority~~ by virtue of the organization,
24 maintenance, or operation of such school safety patrol
25 because of injuries ~~injury~~ sustained by any pupil, whether a

1 ~~member of the patrol or otherwise by reason of the operation~~
2 ~~and maintenance thereof unless that injury results from~~
3 ~~gross negligence or purposeful conduct of such person.~~

4 (4) Identification and operation of school safety
5 patrols shall be uniform throughout the state and the method
6 of identification and signals to be used shall be as
7 prescribed by the superintendent of public instruction in
8 cooperation with the Montana highway patrol.

9 (5) Any municipality, city, or town of this state may
10 provide for the training of members of the school safety
11 patrol at any authorized school patrol camp located in this
12 state and may pay the expense necessarily incurred in
13 providing such training, out of any funds available for such
14 purpose."

15 Section 8. Section 93-2815, R.C.M. 1947, is amended to
16 read as follows:

17 "93-2815. Joinder of state as defendant in certain
18 actions. In any action or proceeding brought in any district
19 court of the state of Montana affecting the title to real or
20 personal property in which the state of Montana has, or
21 claims to have, an interest or claim, the state of Montana
22 may be made a party defendant to such actions or
23 proceedings, and its rights or interests adjudicated,
24 ~~provided, however, that in no event shall any money judgment~~
25 ~~be rendered against the state of Montana in any action or~~

1 ~~proceeding-brought-under-the-provisions-of-this-act."~~

2 Section 9. Repealer. Sections 11-1305, 11-1306,

3 16-2731, 16-2732, 16-2733, 31-172, 46-243, 69-6405, and

4 75-5940, R.C.M. 1947, are repealed.

-End-