

1 SENATE BILL NO. 4
 2 INTRODUCTION BY ROSELL
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE LAWS
 5 RELATING TO HUSBANDS AND WIVES IN REGARD TO THEIR MUTUAL
 6 OBLIGATIONS OF SUPPORT, CONTROL OF THEIR INDIVIDUAL PROPERTY
 7 AND THEIR ABILITY TO ACT AS INDIVIDUALS, IN ORDER TO
 8 ELIMINATE SEXUAL DISCRIMINATION IN SUCH LAWS; AMENDING
 9 SECTIONS 5-106, 16-2902, 16-2905, 36-103, 36-110 THROUGH
 10 36-120, 36-127 THROUGH 36-130, 61-104, AND 61-117, R.C.M.
 11 1947; CREATING A NEW SECTION 36-118.1, R.C.M. 1947; AND
 12 REPEALING SECTIONS 36-102 AND 36-121, R.C.M. 1947."

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

15 Section 1. Section 36-103, R.C.M. 1947, is amended to
 16 read as follows:

17 "36-103. Duties of husband to wife as to support. ~~The~~
 18 ~~husband-must-support-himself-and-wife-out-of-his-property-or~~
 19 ~~by--his-labor--if-he-is-unable-to-do-so-she-must-assist-him~~
 20 ~~as-far-as-she-is-able,~~ Insofar as each is able, the husband
 21 and wife shall support each other out of their property and
 22 labor. As used in this section, the word "support" includes
 23 the non-monetary support provided by a spouse as homemaker."

24 Section 2. Section 36-110, R.C.M. 1947, is amended to
 25 read as follows:

1 "36-110. Married ~~women~~ person may prosecute actions. A
 2 married ~~women~~ person in ~~her~~ his own name may prosecute
 3 action for injuries to ~~her~~ his reputation, person, property,
 4 and character, or for the enforcement of any legal or
 5 equitable right, and may in like manner defend any action
 6 brought against ~~herself~~ himself."

7 Section 3. Section 36-111, R.C.M. 1947, is amended to
 8 read as follows:

9 "36-111. ~~Separate~~ Individual property of ~~wife~~ married
 10 person. All the property of ~~the-wife~~ a married person owned
 11 before ~~her~~ marriage and that acquired afterwards is ~~her~~
 12 separate his individual property. The ~~wife~~ married person
 13 may, without consent, agreement and signature of ~~her-husband~~
 14 his spouse, convey and transfer ~~her-separate~~ his individual
 15 property, real or personal, including the fee simple title
 16 to real property or execute a power of attorney for the
 17 conveyance and transfer thereof."

18 Section 4. Section 36-112, R.C.M. 1947, is amended to
 19 read as follows:

20 "36-112. Inventory of ~~separate~~ individual personal
 21 property of ~~wife~~ married person. ~~A--full--and--complete~~
 22 ~~inventory--of-the-separate-personal-property-of-the-wife-may~~
 23 ~~be-made-out-and-signed-by-her,-acknowledged-or-proved-in-the~~
 24 ~~same-manner-required-by-law-for-the-acknowledgment-or--proof~~
 25 ~~of--a--grant--of--real--property--by-an-unmarried-woman--and~~

INTRODUCED BILL

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1 recorded-in-the-office-of-the-county-clerk-of-the-county--in
 2 which--the--parties-reside. A married person's title to and
 3 ownership of his individual property may be proved or
 4 demonstrated in the same manner that a single person's
 5 ownership of or title to his individual property may be
 6 proved. Provided, however, that if a married person
 7 chooses, he may make out and sign an inventory of his
 8 individual personal property, which inventory shall be
 9 acknowledged or proved in the same manner required by law
 10 for the acknowledgment or proof of a grant of real property,
 11 and recorded in the office of the county clerk of the county
 12 in which the person lives."

13 Section 5. Section 36-113, R.C.M. 1947, is amended to
 14 read as follows:

15 "36-113. Effect of filing inventory. The filing of the
 16 inventory in the clerk's office is notice and prima facie
 17 evidence of the title of the wife person so filing."

18 Section 6. Section 36-114, R.C.M. 1947, is amended to
 19 read as follows:

20 "36-114. Earnings and accumulations of wife married
 21 person. The earnings and accumulations of the-wife a married
 22 person are not liable for the debts of the-husband that
 23 person's spouse except for debts incurred for necessary
 24 articles procured for the use and benefit of the married
 25 person, his spouse, or minor children."

1 Section 7. Section 36-115, R.C.M. 1947, is amended to
 2 read as follows:

3 "36-115. Same, when separated. The earnings and
 4 accumulations of the-wife a married person, and of her his
 5 minor children living with her him or in her his custody,
 6 while she he is living separate from her-husband his spouse,
 7 are the separate individual property of the--wife such
 8 person. Except that, to the extent that a mutual duty of
 9 support between the husband and wife as established by
 10 section 36-103 still exists, such earnings and accumulations
 11 are liable for debts incurred for necessary articles
 12 procured for the use and benefit of the married person, his
 13 spouse or minor children."

14 Section 8. Section 36-116, R.C.M. 1947, is amended to
 15 read as follows:

16 "36-116. Work and labor of wife married person. All
 17 work and labor performed by a married woman person for a
 18 person other than her-husband his spouse and children shall,
 19 unless there is a written agreement on her his part to the
 20 contrary, be presumed to be performed on her his separate
 21 account. This section does not affect the liability of
 22 earnings for debts incurred for necessary articles procured
 23 for the use and benefit of the married person, his spouse,
 24 or minor children, as established by sections 36-114,
 25 36-115, 36-118, and 36-118.1."

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1 Section 9. Section 36-117, R.C.M. 1947, is amended to
2 read as follows:

3 "36-117. Debts of wife spouse contracted before
4 marriage. The property of the-husband a married person is
5 not liable for the debts of the wife person's spouse
6 contracted before marriage."

7 Section 10. Section 36-118, R.C.M. 1947, is amended to
8 read as follows:

9 "36-118. Separate Individual property of wife married
10 person -- how far liable. ~~The-separate-property-of-the--wife~~
11 ~~shall--be--exempt--from--all--debts--and--liabilities-of-the~~
12 ~~husband,--unless-for-necessary-articles-procured-for-the--use~~
13 ~~and--benefit--of--herself--and-her-children-under-the-age-of~~
14 ~~eighteen-years,--but-such-exemption-shall-extend-only-to-such~~
15 ~~property-of-such-wife-as-shall-be-mentioned-in-an--inventory~~
16 ~~thereof,--as-provided-in-sections-36-112-and-36-113,--And-in~~
17 ~~no-case-shall-any-of-the-separate-property-of--the--wife--be~~
18 ~~liable-for-the-debts-of-the-husband,--unless-such-property-is~~
19 ~~in--the--sole--and--exclusive-possession-of-the-husband,--and~~
20 ~~then-only-to-such-persons-as-deal-with-the-husband--in--good~~
21 ~~faith--on--the-credit-of-such-property,--without-knowledge-or~~
22 ~~notice-that-the-property--belongs--to--the--wife.---But--the~~
23 ~~separate--property--of-the-wife-is-liable-for-her-own-debts,~~
24 ~~contracted-before-or-after-marriage. Individual property of~~
25 a married person listed in an inventory as provided in

1 sections 36-112 and 36-113, R.C.M. 1947, or otherwise proved
2 to be the individual property of the married person is
3 exempt from all debts and liabilities of that person's
4 spouse, except:

5 (1) when the debt or liability is for necessary
6 articles procured for the use and benefit of the married
7 person, the spouse, or minor children; or
8 (2) when the property is in the sole and exclusive
9 possession of the spouse and the creditors have dealt with
10 the spouse in good faith on the credit of the individual
11 property without knowledge that the property does not belong
12 to the spouse."

13 Section 11. There is a new R.C.M. section numbered
14 36-118.1 that reads as follows:

15 36-118.1. Necessity determined by standard of living.
16 For purposes of determining whether a married person's
17 earnings or individual property are exempt from the debts
18 incurred by the person's spouse, the phrase "necessary
19 articles" includes all such goods and services as are
20 reasonably required to provide for the health, welfare,
21 comfort, and education of the married person, his spouse,
22 and minor children taking into consideration the earnings,
23 resources, and general standard of living of such persons.

24 Section 12. Section 36-119, R.C.M. 1947, is amended to
25 read as follows:

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1 "36-119. Support of wife spouse. If ~~the--husband~~ a
2 married person who is financially able neglect neglects to
3 make adequate provision for the financial support of his
4 wife spouse, except in the cases mentioned in the next
5 section, any other person may in good faith supply her the
6 spouse with articles necessary for her support and recover
7 the reasonable value thereof from ~~her--husband~~ the married
8 person who has failed to provide such support."

9 Section 13. Section 36-120, R.C.M. 1947, is amended to
10 read as follows:

11 "36-120. Husband Married person not liable when
12 abandoned by wife spouse. A husband married person abandoned
13 by his wife spouse is not liable for her the spouse's
14 support until she the spouse offers to return, unless she
15 the spouse was justified, by ~~his~~ the person's misconduct, in
16 abandoning him; nor is he a married person liable for her
17 support when-she of a spouse who is living separate from him
18 by agreement, unless such support is stipulated in the
19 agreement."

20 Section 14. Section 36-127, R.C.M. 1947, is amended to
21 read as follows:

22 "36-127. Married woman person may act as ~~executrix~~
23 personal representative, guardian, conservator, or trustee.
24 A married woman person may be ~~an-executrix,--administratrix~~ a
25 personal representative, guardian, conservator, or trustee,

1 and may bind ~~herself~~ himself and the estate ~~she~~ he
2 represents without any act or assent on the part of her
3 husband the person's spouse."

4 Section 15. Section 36-128, R.C.M. 1947, is amended to
5 read as follows:

6 "36-128. May sue and be sued. A married woman person
7 may sue and be sued in the same manner as if ~~she~~ he were
8 sole."

9 Section 16. Section 36-129, R.C.M. 1947, is amended to
10 read as follows:

11 "36-129. Liable for her own contracts. The contracts
12 made by a married woman person, in respect to her-separate
13 his individual property, labor, or services, shall not be
14 binding upon her-husband the person's spouse, nor render him
15 nor his property liable therefor; but she the contracting
16 person and her-separate that person's individual property
17 shall be liable on such contracts in the same manner as if
18 she such person were sole."

19 Section 17. Section 36-130, R.C.M. 1947, is amended to
20 read as follows:

21 "36-130. May make contracts. A married woman person
22 may make contracts, oral or written, sealed or unsealed, and
23 may waive or relinquish any right or interest in any real
24 estate, either in person or by attorney, in the same manner,
25 to the same extent, and with the like effect as if she such

1 person were a-single-woman sole."

2 Section 18. Section 5-106, R.C.M. 1947, is amended to
3 read as follows:

4 "5-106. Trust company defined--purposes for which may
5 be formed. The term "Trust Company," when used in this act,
6 means any corporation which is incorporated under the laws
7 of this state for any one or more of the following purposes:

8 1. To receive moneys in trust, and to accumulate the
9 same at such rates of interest as may be obtained or agreed
10 upon, or to allow such interest thereon as may be agreed
11 upon.

12 2. To accept and execute all such trusts and perform
13 such duties of every description as may be committed to them
14 by any person or persons whatsoever, or by any corporations,
15 or may be committed or transferred to them by order of any
16 of the courts of record of this state, or any other state,
17 or of the United States.

18 3. To take and accept by grant, assignment, transfer,
19 devise, or bequest, and hold any real or personal estate or
20 trust created in accordance with the laws of this state, or
21 any other state, or of the United States, and execute such
22 legal trusts in regard to the same on such terms as may be
23 declared, established, or agreed upon in regard thereto.

24 4. To act as agent for the investment of money for
25 other persons or corporations, and as agents for persons and

1 corporations for the purpose of issuing, registering,
2 transferring, or countersigning the certificates of stock,
3 bonds, or other evidence of debt of any corporation,
4 association, municipality, state, or public authority as may
5 be agreed upon.

6 5. To accept from and execute trusts for married women
7 persons in respect to their separate individual property,
8 whether real or personal, and act as agents for them in the
9 management of such property, and generally to have and
10 exercise such powers as are usually had and exercised by
11 trust companies.

12 6. To act as trustee, assignee, or receiver in all
13 cases where it shall be lawful for any court of record,
14 officer, corporation, or person to appoint a trustee,
15 assignee, or receiver, and to be appointed a trustee,
16 assignee, or receiver, and to be appointed, commissioned,
17 and act as administrator of any estate, executor of any last
18 will and testament of any deceased person, and as guardian
19 of the person and estate of any minor or minors, or of the
20 estate of any lunatic, imbecile, spendthrift, habitual
21 drunkard, or other persons disqualified or unable to manage
22 their estates.

23 7. To loan money upon unencumbered real estate,
24 collateral, or personal security, and execute and issue its
25 notes, debentures, payable at a future date, and to pledge

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1 its mortgages upon real estate and other securities as
2 security therefor.

3 8. To buy and sell government, state, county,
4 municipal, and other bonds, and all kinds of negotiable,
5 nonnegotiable, and commercial paper, stocks, and other
6 investment securities, buy and sell gold and silver bullion,
7 foreign coins, bills of exchange, and foreign and domestic
8 exchange.

9 9. To accept, receive, and hold money on deposit,
10 payable either on time or on demand, with or without
11 interest, as may be agreed upon with the depositors, and to
12 take and receive from any individual or corporation on
13 deposit for safekeeping and storage, gold and silver plate,
14 jewelry, stocks, and securities, and other valuable and
15 personal property, and to collect coupons, interest, and
16 dividends on said above described securities, and to rent
17 out the use of safes and other receptacles on their premises
18 upon such terms and for such compensation as may be agreed
19 upon."

20 Section 19. Section 16-2902, R.C.M. 1947, is amended
21 to read as follows:

22 "16-2902. What to be recorded. He must, upon payment
23 of his fees for the same, record, or photograph, or
24 correctly copy, separately, in large and well-bound, or to
25 be bound, separate books, either in a fair hand or by

1 printing or by typewriting, or by photographic process, or
2 by the use of prepared blank forms:

- 3 1. Deeds, grants, transfers, contracts to sell or
4 convey real estate and mortgages of real estate, releases of
5 mortgages, powers of attorney to convey real estate, and
6 leases which have been acknowledged or proved, and abstracts
7 of such instruments which have been acknowledged or proved;
- 8 2. Certificates of births and deaths;
- 9 3. Wills devising real estate admitted to probate;
- 10 4. Official bonds;
- 11 5. Transcripts of judgments which by law are made
12 liens upon real estate;
- 13 6. Instruments describing or relating to the separate
14 individual property of married women persons, and sole
15 trader judgments;
- 16 7. All orders and decrees made by the district court
17 in probate matters affecting real estate which are required
18 to be recorded;
- 19 8. Notice of pre-emption claims;
- 20 9. Notice and declaration of water rights;
- 21 10. Assignments for the benefit of creditors;
- 22 11. Affidavits of annual work done on mining claims;
- 23 12. Notices of mining locations and declaratory
24 statement;
- 25 13. Estrays and lost property;

1 14. A book containing appraisalment of state lands;

2 15. Such other writings as are required or permitted by
3 law to be recorded; provided, nothing herein shall be
4 construed as preventing the recording or photographing or
5 copying of such instruments, separately, upon a single or
6 loose page or pages of a book, if such page or pages shall
7 immediately become a part of such book or volume, which,
8 when completed, shall be firmly bound and the pages thereof
9 securely locked or sealed into the volume.

10 Whenever the laws of the state of Montana require or
11 permit any instrument to be recorded, such recording may be
12 made in the manner or by any of the processes hereinbefore
13 prescribed."

14 Section 20. Section 16-2905, R.C.M. 1947, is amended
15 to read as follows:

16 "16-2905. Indexes to be kept. Every county clerk, as
17 ex officio recorder, must keep:

18 1. An index of deeds, grants, and transfers, and
19 contracts to sell or convey real estate, labeled "Grantors,"
20 each page divided into four columns, headed respectively:
21 "Names of grantors," "Names of grantees," "Date of deeds,
22 grants, transfers, or contracts," and "Where recorded";

23 2. An index of deeds, labeled "Grantees," each page
24 divided into four columns, headed respectively: "Names of
25 grantees," "Names of grantors," "Date of deeds, grants,

1 transfers, or contracts," and "Where recorded";

2 3. An index of mortgages, labeled "Mortgages of real
3 property," with the pages thereof divided into six columns,
4 headed respectively: "Names of mortgagor," "Names of
5 mortgagees," "Dates of mortgages," "Where recorded," "When
6 filed," "When canceled";

7 4. An index of mortgages, labeled "Mortgages of real
8 property," with the pages thereof divided into six columns,
9 headed respectively: "Names of mortgagees," "Names of
10 mortgagors," "Date of mortgage," "Where recorded," "When
11 filed," "When canceled";

12 5. An index of mortgages, labeled "Releases of
13 mortgages of real property--Mortgagees," with the pages
14 thereof divided into six columns, headed respectively:
15 "Parties whose mortgages are released," "Parties releasing,"
16 "Date of release," "Where recorded," "Date of mortgages
17 released," "Where mortgages released are recorded."

18 6. An index of powers of attorney, labeled "Powers of
19 attorney," each page divided into five columns, headed
20 respectively: "Names of parties executing powers," "To whom
21 powers are executed," "Date of powers," "Date of recording,"
22 "To whom powers are executed";

23 7. An index of leases, labeled "Leases," each page
24 divided into four columns, headed respectively: "Names of
25 lessors," "Names of lessees," "Date of leases," "When and

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1 where recorded";

2 8. An index of leases, labeled "Lessees," each page
3 divided into four columns respectively: "Names of lessees,"
4 "Names of lessors," "Date of leases," "When and where
5 recorded";

6 9. An index of marriage certificates, labeled
7 "Marriage certificate--Men," each page divided into six
8 columns, headed respectively: "Men married," "To whom
9 married," "When married," "By whom married," "Where
10 married," "Where certificates are recorded";

11 10. An index of marriage certificates, labeled
12 "Marriage certificates -- Women," each page divided into six
13 columns, headed respectively: "Women married," (and under
14 this head placing the family names of the women), "To whom
15 married," "When married," "By whom married," "Where
16 married," "Where certificates are recorded";

17 11. An index of assignments of mortgages and leases,
18 labeled "Assignments of mortgages and leases--Assignors,"
19 each page divided into five columns, headed respectively:
20 "Assignors," "Assignees," "Instruments assigned," "Date of
21 assignment," "When and where recorded";

22 12. An index of assignments of mortgages and leases,
23 labeled "Assignments of mortgages and leases--Assignees,"
24 each page divided into five columns, headed respectively:
25 "Assignees," "Assignors," "Instruments," "Date of

1 assignments," "When and where recorded";

2 13. An index of wills, labeled "Wills," each page
3 divided into four columns, headed respectively: "Names of
4 testators," "Date of wills," "Date of probate," "When and
5 where recorded";

6 14. An index of official bonds, labeled "Official
7 bonds," each page divided into five columns, headed
8 respectively: "Names of officers," "Names of offices," "Date
9 of bonds," "Amount of bonds," "When and where recorded";

10 15. An index of notices of mechanics' liens, labeled
11 "Mechanics' liens," each page divided into three columns,
12 headed respectively: "Parties claiming liens," "Against whom
13 claimed," "Notices, when filed";

14 16. An index to transcripts of judgments, labeled
15 "Transcripts of judgments," each page divided into seven
16 columns, headed respectively: "Judgment debtors," "Judgment
17 creditors," "Amount of judgments," "Where recovered," "When
18 recovered," "When transcript filed," "When judgment
19 satisfied";

20 17. An index of attachments, labeled "Attachments,"
21 each page divided into six columns, headed respectively:
22 "Parties against whom attachments are issued," "Parties
23 issuing attachments," "Notices of attachments," "When
24 filed," "When attachments discharged";

25 18. An index of notices of the pendency of actions,

1 labeled "Notices of actions," each page divided into three
2 columns, headed respectively: "Parties to actions,"
3 "Notices, when recorded," "When filed";

4 19. An index of certificates of sale of real estate
5 sold under execution or under orders made in any judicial
6 proceedings, labeled "Certificates of sale," each page
7 divided into four columns, headed respectively: "Plaintiff,"
8 "Defendant," "Purchaser at sale," "Date of sale";

9 20. An index of the separate individual property of
10 married women persons and sole trader judgments labeled
11 "separate individual property of married women persons and
12 sole traders," each page divided into five columns, headed
13 respectively: "Names of married women persons," "Names of
14 their husbands spouses," "Nature of instruments recorded,"
15 "When recorded," "Where recorded";

16 21. An index to affidavits for annual work done on
17 mining claims, showing the name of the affiant, the name of
18 the claim, where situated, and the year when the work was
19 done, labeled "Annual work on mining claims";

20 22. An index of mining claims and declaratory
21 statements, labeled "Notices of location of mining claims
22 and declaratory statements," each page divided into four
23 columns, headed respectively: "Locators," "Name of claim,"
24 "Notice, when filed," "Where recorded";

25 23. An index to the register of births and deaths;

1 24. An index to notices and declarations of water
2 rights;

3 25. An index to the "Estray and lost property book";

4 26. An index to the record of assignments for the
5 benefit of creditors, containing names of assignor and
6 assignee, date and where recorded, and inventory when filed;

7 27. An index to financing statements as provided in
8 Part 4 of the Uniform Commercial Code--Secured Transactions.

9 28. A miscellaneous index, in which must be indexed
10 papers not hereinbefore stated."

11 Section 21. Section 61-104, R.C.M. 1947, is amended to
12 read as follows:

13 "61-104. Obligations of parents for the support and
14 education of their children. The parent or parents entitled
15 to the custody of a child must give him support and
16 education suitable to his circumstances. ~~If the support and~~
17 ~~education which the father of a legitimate child is able to~~
18 ~~give are inadequate, the mother must assist him to the~~
19 ~~extent of her ability."~~

20 Section 22. Section 61-117, R.C.M. 1947, is amended to
21 read as follows:

22 "61-117. Husband Married person not bound for the
23 support of his wife's spouse's children by a former
24 marriage. A husband married person is not bound to support
25 his wife's spouse's children by a former husband marriage;

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1 but if he receives them into his family and supports them,
2 it is presumed that he does so as a parent, and, where such
3 is the case, they are not liable to him for their support,
4 nor he to them for their services."

5 Section 23. Sections 36-102 and 36-121, R.C.M. 1947,
6 are repealed.

-End-

Approved by Committee
on Judiciary

1 SENATE BILL NO. 4

2 INTRODUCED BY ROSELL, TURNAGE, REGAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE LAWS
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18 ~~The--husband--must--support--himself--and--wife--out--of--his~~
19 ~~property--or--by--his--labor--if--he--is--unable--to--do--so--she--must~~
20 ~~assist--him--as--far--as--she--is--able.~~ Insofar as each is able,
21 the husband and wife shall support each other out of their
22 property and labor. As used in this section, the word
23 "support" includes the non-monetary support provided by a
24 spouse as homemaker."

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13 separate his individual property. The ~~wife~~ married person
14 may, without consent, agreement and signature of ~~her-husband~~
15 his spouse, convey and transfer ~~her-separate~~ his individual
16 property, real or personal, including the fee simple title
17 to real property or execute a power of attorney for the
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19 Section 4. Section 36-112, R.C.M. 1947, is amended to
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21 "36-112. Inventory of ~~separate~~ individual personal
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23 ~~inventory--of--the--separate--personal--property--of--the--wife--may~~
24 ~~be--made--out--and--signed--by--her--acknowledged--or--proved--in--the~~
25 ~~same--manner--required--by--law--for--the--acknowledgment--or--proof~~

SECOND READING

1 ~~of--a--grant--of--real--property--by--an--unmarried--woman--and~~
 2 ~~recorded--in--the--office--of--the--county--clerk--of--the--county--in~~
 3 ~~which--the--parties--reside.~~ A married person's title to and
 4 ownership of his individual property may be proved or
 5 demonstrated in the same manner that a single person's
 6 ownership of or title to his individual property may be
 7 proved. Provided, however, that if a married person
 8 chooses, he may make out and sign an inventory of his
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16 "36-113. Effect of filing inventory. The filing of the
 17 inventory in the clerk's office is notice and prima facie
 18 evidence of the title of the wife person so filing."

19 Section 6. Section 36-114, R.C.M. 1947, is amended to
 20 read as follows:

21 "36-114. Earnings and accumulations of wife married
 22 person. The earnings and accumulations of the-wife a married
 23 person are not liable for the debts of the-husband that
 24 person's spouse except for debts incurred for necessary
 25 articles procured for the use and benefit of the married

1 person, his spouse, or minor children."

2 Section 7. Section 36-115, R.C.M. 1947, is amended to
 3 read as follows:

4 "36-115. Same, when separated. The earnings and
 5 accumulations of the-wife a married person, and of her his
 6 minor children living with her him or in her his custody,
 7 while she he is living separate from her-husband his spouse,
 8 are the separate individual property of the-wife such
 9 person. Except that, to the extent that a mutual duty of
 10 support between the husband and wife as established by
 11 section 36-103 still exists, such earnings and accumulations
 12 are liable for debts incurred for necessary articles
 13 procured for the use and benefit of the married person, his
 14 spouse or minor children."

15 Section 8. Section 36-116, R.C.M. 1947, is amended to
 16 read as follows:

17 "36-116. Work and labor of wife married person. All
 18 work and labor performed by a married woman person for a
 19 person other than her-husband his spouse and children shall,
 20 unless there is a written agreement on her his part to the
 21 contrary, be presumed to be performed on her his separate
 22 account. This section does not affect the liability of
 23 earnings for debts incurred for necessary articles procured
 24 for the use and benefit of the married person, his spouse,
 25 or minor children, as established by sections 36-114,

1 36-115, 36-118, and 36-118.1."

2 Section 9. Section 36-117, R.C.M. 1947, is amended to
3 read as follows:

4 "36-117. Debts of wife spouse contracted before
5 marriage. The property of the-husband a married person is
6 not liable for the debts of the wife person's spouse
7 contracted before marriage."

8 Section 10. Section 36-118, R.C.M. 1947, is amended to
9 read as follows:

10 "36-118. Separate Individual property of wife married
11 person -- how far liable. ~~The separate property of the wife~~
12 ~~shall be exempt from all debts and liabilities of the~~
13 ~~husband, unless for necessary articles procured for the use~~
14 ~~and benefit of herself and her children under the age of~~
15 ~~eighteen years, but such exemption shall extend only to such~~
16 ~~property of such wife as shall be mentioned in an inventory~~
17 ~~thereof, as provided in sections 36-112 and 36-113. And in~~
18 ~~no case shall any of the separate property of the wife be~~
19 ~~liable for the debts of the husband, unless such property is~~
20 ~~in the sole and exclusive possession of the husband, and~~
21 ~~then only to such persons as dealt with the husband in good~~
22 ~~faith on the credit of such property, without knowledge or~~
23 ~~notice that the property belongs to the wife. But the~~
24 ~~separate property of the wife is liable for her own debts,~~
25 ~~contracted before or after marriage.~~ Individual property of

1 a married person listed in an inventory as provided in
2 sections 36-112 and 36-113, R.C.M. 1947, or otherwise proved
3 to be the individual property of the married person is
4 exempt from all debts and liabilities of that person's
5 spouse, except:

6 (1) when the debt or liability is for necessary
7 articles procured for the use and benefit of the married
8 person, the spouse, or minor children; or

9 (2) when the property is in the sole and exclusive
10 possession of the spouse and the creditors have dealt with
11 the spouse in good faith on the credit of the individual
12 property without knowledge that the property does not belong
13 to the spouse."

14 Section 11. There is a new R.C.M. section numbered
15 36-118.1 that reads as follows:

16 36-118.1. Necessity determined by standard of living.
17 For purposes of determining whether a married person's
18 earnings or individual property are exempt from the debts
19 incurred by the person's spouse, the phrase "necessary
20 articles" includes all such goods and services as are
21 reasonably required to provide for the health, welfare,
22 comfort, and education of the married person, his spouse,
23 and minor children taking into consideration the earnings,
24 resources, and general standard of living of such persons.

25 Section 12. Section 36-119, R.C.M. 1947, is amended to

1 read as follows:

2 "36-119. Support of wife spouse. If ~~the--husband a~~
3 married person who is financially able neglect neglects to
4 make adequate provision for the financial support of his
5 wife spouse, except in the cases mentioned in the next
6 section, any other person may in good faith supply ~~her the~~
7 spouse with articles necessary for ~~her~~ support and recover
8 the reasonable value thereof from ~~her--husband the married~~
9 person who has failed to provide such support."

10 Section 13. Section 36-120, R.C.M. 1947, is amended to
11 read as follows:

12 "36-120. Husband Married person not liable when
13 abandoned by wife spouse. A husband married person abandoned
14 by his wife spouse is not liable for ~~her the spouse's~~
15 support until ~~she the spouse~~ offers to return, unless ~~she~~
16 the spouse was justified, by ~~his the person's~~ misconduct, in
17 abandoning him; nor is ~~he a married person~~ liable for ~~her~~
18 support ~~when-she of a spouse who~~ is living separate from him
19 by agreement, unless such support is stipulated in the
20 agreement."

21 Section 14. Section 36-127, R.C.M. 1947, is amended to
22 read as follows:

23 "36-127. Married woman person may act as ~~executrix~~
24 personal representative, guardian, conservator, or trustee.
25 A married woman person may be ~~an-executrix, administratrix a~~

1 personal representative, guardian, conservator, or trustee,
2 and may bind ~~herself himself~~ and the estate ~~she he~~
3 represents without any act or assent on the part of ~~her~~
4 husband the person's spouse."

5 Section 15. Section 36-128, R.C.M. 1947, is amended to
6 read as follows:

7 "36-128. May sue and be sued. A married woman person
8 may sue and be sued in the same manner as if ~~she he~~ were
9 sole."

10 Section 16. Section 36-129, R.C.M. 1947, is amended to
11 read as follows:

12 "36-129. Liable for ~~her own~~ contracts. The contracts
13 made by a married woman person, in respect to ~~her--separate~~
14 his individual property, labor, or services, shall not be
15 binding upon ~~her-husband the person's spouse~~, nor render him
16 nor his property liable therefor; but ~~she the contracting~~
17 person and ~~her--separate that person's individual~~ property
18 shall be liable on such contracts in the same manner as if
19 ~~she such person~~ were sole."

20 Section 17. Section 36-130, R.C.M. 1947, is amended to
21 read as follows:

22 "36-130. May make contracts. A married woman person
23 may make contracts, oral or written, sealed or unsealed, and
24 may waive or relinquish any right or interest in any real
25 estate, either in person or by attorney, in the same manner,

1 to the same extent, and with the like effect as if ~~she~~ such
2 person were ~~a-single-woman~~ sole."

3 Section 18. Section 5-106, R.C.M. 1947, is amended to
4 read as follows:

5 "5-106. Trust company defined--purposes for which may
6 be formed. The term "Trust Company," when used in this act,
7 means any corporation which is incorporated under the laws
8 of this state for any one or more of the following purposes:

9 1. To receive moneys in trust, and to accumulate the
10 same at such rates of interest as may be obtained or agreed
11 upon, or to allow such interest thereon as may be agreed
12 upon.

13 2. To accept and execute all such trusts and perform
14 such duties of every description as may be committed to them
15 by any person or persons whatsoever, or by any corporations,
16 or may be committed or transferred to them by order of any
17 of the courts of record of this state, or any other state,
18 or of the United States.

19 3. To take and accept by grant, assignment, transfer,
20 devise, or bequest, and hold any real or personal estate or
21 trust created in accordance with the laws of this state, or
22 any other state, or of the United States, and execute such
23 legal trusts in regard to the same on such terms as may be
24 declared, established, or agreed upon in regard thereto.

25 4. To act as agent for the investment of money for

1 other persons or corporations, and as agents for persons and
2 corporations for the purpose of issuing, registering,
3 transferring, or countersigning the certificates of stock,
4 bonds, or other evidence of debt of any corporation,
5 association, municipality, state, or public authority as may
6 be agreed upon.

7 5. To accept from and execute trusts for married ~~women~~
8 persons in respect to their ~~separate~~ individual property,
9 whether real or personal, and act as agents for them in the
10 management of such property, and generally to have and
11 exercise such powers as are usually had and exercised by
12 trust companies.

13 6. To act as trustee, assignee, or receiver in all
14 cases where it shall be lawful for any court of record,
15 officer, corporation, or person to appoint a trustee,
16 assignee, or receiver, and to be appointed a trustee,
17 assignee, or receiver, and to be appointed, commissioned,
18 and act as administrator of any estate, executor of any last
19 will and testament of any deceased person, and as guardian
20 of the person and estate of any minor or minors, or of the
21 estate of any lunatic, imbecile, spendthrift, habitual
22 drunkard, or other persons disqualified or unable to manage
23 their estates.

24 7. To loan money upon unencumbered real estate,
25 collateral, or personal security, and execute and issue its

1 notes, debentures, payable at a future date, and to pledge
2 its mortgages upon real estate and other securities as
3 security therefor.

4 8. To buy and sell government, state, county,
5 municipal, and other bonds, and all kinds of negotiable,
6 nonnegotiable, and commercial paper, stocks, and other
7 investment securities, buy and sell gold and silver bullion,
8 foreign coins, bills of exchange, and foreign and domestic
9 exchange.

10 9. To accept, receive, and hold money on deposit,
11 payable either on time or on demand, with or without
12 interest, as may be agreed upon with the depositors, and to
13 take and receive from any individual or corporation on
14 deposit for safekeeping and storage, gold and silver plate,
15 jewelry, stocks, and securities, and other valuable and
16 personal property, and to collect coupons, interest, and
17 dividends on said above described securities, and to rent
18 out the use of safes and other receptacles on their premises
19 upon such terms and for such compensation as may be agreed
20 upon."

21 Section 19. Section 16-2902, R.C.M. 1947, is amended
22 to read as follows:

23 "16-2902. What to be recorded. He must, upon payment
24 of his fees for the same, record, or photograph, or
25 correctly copy, separately, in large and well-bound, or to

1 be bound, separate books, either in a fair hand or by
2 printing or by typewriting, or by photographic process, or
3 by the use of prepared blank forms:

4 1. Deeds, grants, transfers, contracts to sell or
5 convey real estate and mortgages of real estate, releases of
6 mortgages, powers of attorney to convey real estate, and
7 leases which have been acknowledged or proved, and abstracts
8 of such instruments which have been acknowledged or proved;

9 2. Certificates of births and deaths;

10 3. Wills devising real estate admitted to probate;

11 4. Official bonds;

12 5. Transcripts of judgments which by law are made
13 liens upon real estate;

14 6. Instruments describing or relating to the separate
15 individual property of married women persons, and sole
16 trader judgments;

17 7. All orders and decrees made by the district court
18 in probate matters affecting real estate which are required
19 to be recorded;

20 8. Notice of pre-emption claims;

21 9. Notice and declaration of water rights;

22 10. Assignments for the benefit of creditors;

23 11. Affidavits of annual work done on mining claims;

24 12. Notices of mining locations and declaratory
25 statement;

1 13. Estrays and lost property;
 2 14. A book containing appraisal of state lands;
 3 15. Such other writings as are required or permitted by
 4 law to be recorded; provided, nothing herein shall be
 5 construed as preventing the recording or photographing or
 6 copying of such instruments, separately, upon a single or
 7 loose page or pages of a book, if such page or pages shall
 8 immediately become a part of such book or volume, which,
 9 when completed, shall be firmly bound and the pages thereof
 10 securely locked or sealed into the volume.

11 Whenever the laws of the state of Montana require or
 12 permit any instrument to be recorded, such recording may be
 13 made in the manner or by any of the processes hereinbefore
 14 prescribed."

15 Section 20. Section 16-2905, R.C.M. 1947, is amended
 16 to read as follows:

17 "16-2905. Indexes to be kept. Every county clerk, as
 18 ex officio recorder, must keep:

19 1. An index of deeds, grants, and transfers, and
 20 contracts to sell or convey real estate, labeled "Grantors,"
 21 each page divided into four columns, headed respectively:
 22 "Names of grantors," "Names of grantees," "Date of deeds,
 23 grants, transfers, or contracts," and "Where recorded";

24 2. An index of deeds, labeled "Grantees," each page
 25 divided into four columns, headed respectively: "Names of

1 grantees," "Names of grantors," "Date of deeds, grants,
 2 transfers, or contracts," and "Where recorded";

3 3. An index of mortgages, labeled "Mortgages of real
 4 property," with the pages thereof divided into six columns,
 5 headed respectively: "Names of mortgagor," "Names of
 6 mortgagees," "Dates of mortgages," "Where recorded," "When
 7 filed," "When canceled";

8 4. An index of mortgages, labeled "Mortgages of real
 9 property," with the pages thereof divided into six columns,
 10 headed respectively: "Names of mortgagees," "Names of
 11 mortgagors," "Date of mortgage," "Where recorded," "When
 12 filed," "When canceled";

13 5. An index of mortgages, labeled "Releases of
 14 mortgages of real property--Mortgagees," with the pages
 15 thereof divided into six columns, headed respectively:
 16 "Parties whose mortgages are released," "Parties releasing,"
 17 "Date of release," "Where recorded," "Date of mortgages
 18 released," "Where mortgages released are recorded."

19 6. An index of powers of attorney, labeled "Powers of
 20 attorney," each page divided into five columns, headed
 21 respectively: "Names of parties executing powers," "To whom
 22 powers are executed," "Date of powers," "Date of recording,"
 23 "To whom powers are executed";

24 7. An index of leases, labeled "Leases," each page
 25 divided into four columns, headed respectively: "Names of

1 lessors," "Names of lessees," "Date of leases," "When and
2 where recorded";

3 8. An index of leases, labeled "Lessees," each page
4 divided into four columns respectively: "Names of lessees,"
5 "Names of lessors," "Date of leases," "When and where
6 recorded";

7 9. An index of marriage certificates, labeled
8 "Marriage certificate--Men," each page divided into six
9 columns, headed respectively: "Men married," "To whom
10 married," "When married," "By whom married," "Where
11 married," "Where certificates are recorded";

12 10. An index of marriage certificates, labeled
13 "Marriage certificates -- Women," each page divided into six
14 columns, headed respectively: "Women married," (and under
15 this head placing the family names of the women), "To whom
16 married," "When married," "By whom married," "Where
17 married," "Where certificates are recorded";

18 11. An index of assignments of mortgages and leases,
19 labeled "Assignments of mortgages and leases--Assignors,"
20 each page divided into five columns, headed respectively:
21 "Assignors," "Assignees," "Instruments assigned," "Date of
22 assignment," "When and where recorded";

23 12. An index of assignments of mortgages and leases,
24 labeled "Assignments of mortgages and leases--Assignees,"
25 each page divided into five columns, headed respectively:

1 "Assignees," "Assignors," "Instruments," "Date of
2 assignments," "When and where recorded";

3 13. An index of wills, labeled "Wills," each page
4 divided into four columns, headed respectively: "Names of
5 testators," "Date of wills," "Date of probate," "When and
6 where recorded";

7 14. An index of official bonds, labeled "Official
8 bonds," each page divided into five columns, headed
9 respectively: "Names of officers," "Names of offices," "Date
10 of bonds," "Amount of bonds," "When and where recorded";

11 15. An index of notices of mechanics' liens, labeled
12 "Mechanics' liens," each page divided into three columns,
13 headed respectively: "Parties claiming liens," "Against whom
14 claimed," "Notices, when filed";

15 16. An index to transcripts of judgments, labeled
16 "Transcripts of judgments," each page divided into seven
17 columns, headed respectively: "Judgment debtors," "Judgment
18 creditors," "Amount of judgments," "Where recovered," "When
19 recovered," "When transcript filed," "When judgment
20 satisfied";

21 17. An index of attachments, labeled "Attachments,"
22 each page divided into six columns, headed respectively:
23 "Parties against whom attachments are issued," "Parties
24 issuing attachments," "Notices of attachments," "When
25 filed," "When attachments discharged";

1 18. An index of notices of the pendency of actions,
2 labeled "Notices of actions," each page divided into three
3 columns, headed respectively: "Parties to actions,"
4 "Notices, when recorded," "When filed";

5 19. An index of certificates of sale of real estate
6 sold under execution or under orders made in any judicial
7 proceedings, labeled "Certificates of sale," each page
8 divided into four columns, headed respectively: "Plaintiff,"
9 "Defendant," "Purchaser at sale," "Date of sale";

10 20. An index of the separate individual property of
11 married women persons and sole trader judgments labeled
12 "separate individual property of married women persons and
13 sole traders," each page divided into five columns, headed
14 respectively: "Names of married women persons," "Names of
15 their husbands spouses," "Nature of instruments recorded,"
16 "When recorded," "Where recorded";

17 21. An index to affidavits for annual work done on
18 mining claims, showing the name of the affiant, the name of
19 the claim, where situated, and the year when the work was
20 done, labeled "Annual work on mining claims";

21 22. An index of mining claims and declaratory
22 statements, labeled "Notices of location of mining claims
23 and declaratory statements," each page divided into four
24 columns, headed respectively: "Locators," "Name of claim,"
25 "Notice, when filed," "Where recorded";

1 23. An index to the register of births and deaths;

2 24. An index to notices and declarations of water
3 rights;

4 25. An index to the "Estray and lost property book";

5 26. An index to the record of assignments for the
6 benefit of creditors, containing names of assignor and
7 assignee, date and where recorded, and inventory when filed;

8 27. An index to financing statements as provided in
9 Part 4 of the Uniform Commercial Code--Secured Transactions.

10 28. A miscellaneous index, in which must be indexed
11 papers not hereinbefore stated."

12 Section 21. Section 61-104, R.C.M. 1947, is amended to
13 read as follows:

14 "61-104. Obligations of parents for the support and
15 education of their children. The parent or parents entitled
16 to the custody of a child must give him support and
17 education suitable to his circumstances. ~~if-the-support-and~~
18 ~~education--which-the-father-of-a-legitimate-child-is-able-to~~
19 ~~give-are-inadequate,-the--mother--must--assist--him--to--the~~
20 ~~extent-of-her-ability."~~

21 Section 22. Section 61-117, R.C.M. 1947, is amended to
22 read as follows:

23 "61-117. Husband Married person not bound for the
24 support of his wife's spouse's children by a former
25 marriage. A husband married person is not bound to support

1 his ~~wife's~~ spouse's children by a former husband marriage;
2 but if he receives them into his family and supports them,
3 it is presumed that he does so as a parent, and, where such
4 is the case, they are not liable to him for their support,
5 nor he to them for their services."

6 Section 23. Sections 36-102 and 36-121, R.C.M. 1947,
7 are repealed.

-End-

SENATE BILL NO. 4

INTRODUCED BY ROSELL, TURNAGE, REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE LAWS RELATING TO HUSBANDS AND WIVES IN REGARD TO THEIR MUTUAL OBLIGATIONS OF SUPPORT, CONTROL OF THEIR INDIVIDUAL PROPERTY AND THEIR ABILITY TO ACT AS INDIVIDUALS, IN ORDER TO ELIMINATE SEXUAL DISCRIMINATION IN SUCH LAWS; AMENDING SECTIONS 5-106, 16-2902, 16-2905, 36-103, 36-110 THROUGH 36-120, 36-127 THROUGH 36-130, 61-104, AND 61-117, R.C.M. 1947; CREATING A NEW SECTION 36-118.1, R.C.M. 1947; AND REPEALING SECTIONS 36-102 AND 36-121, R.C.M. 1947."

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

Section 1. Section 36-103, R.C.M. 1947, is amended to read as follows:

"36-103. Duties of husband ~~to~~ AND wife as to support. ~~The--husband--must--support--himself--and--wife--out--of--his--property--or--by--his--labor.--If--he--is--unable--to--do--so--she--must--assist--him--as--far--as--she--is--able.~~ Insofar as each is able, the husband and wife shall support each other out of their property and labor. As used in this section, the word "support" includes the non-monetary support provided by a spouse as homemaker."

Section 2. Section 36-110, R.C.M. 1947, is amended to

read as follows:

"36-110. Married ~~women~~ person may prosecute actions. A married ~~woman~~ person in ~~her~~ his own name may prosecute action for injuries to ~~her~~ his reputation, person, property, and character, or for the enforcement of any legal or equitable right, and may in like manner defend any action brought against ~~herself~~ himself."

Section 3. Section 36-111, R.C.M. 1947, is amended to read as follows:

"36-111. Separate Individual property of wife married person. All the property of ~~the-wife~~ a married person owned before ~~her~~ marriage and that acquired afterwards is ~~her~~ separate his individual property. The ~~wife~~ married person may, without consent, agreement and signature of ~~her-husband~~ his spouse, convey and transfer ~~her-separate~~ his individual property, real or personal, including the fee simple title to real property or execute a power of attorney for the conveyance and transfer thereof."

Section 4. Section 36-112, R.C.M. 1947, is amended to read as follows:

"36-112. Inventory of separate individual personal property of wife married person. ~~A--full--and--complete--inventory--of--the--separate--personal--property--of--the--wife--may--be--made--out--and--signed--by--her,--acknowledged--or--proved--in--the--same--manner--required--by--law--for--the--acknowledgment--or--proof~~

1 ~~of--a--grant--of--real--property--by--an--unmarried--woman--and~~
 2 ~~recorded--in--the--office--of--the--county--clerk--of--the--county--in~~
 3 ~~which--the--parties--reside.~~ A married person's title to and
 4 ownership of his individual property may be proved or
 5 demonstrated in the same manner that a single person's
 6 ownership of or title to his individual property may be
 7 proved. Provided, however, that if a married person
 8 chooses, he may make out and sign an inventory of his
 9 individual personal property, which inventory shall be
 10 acknowledged or proved in the same manner required by law
 11 for the acknowledgment or proof of a grant of real property,
 12 and recorded in the office of the county clerk of the county
 13 in which the person lives."

14 Section 5. Section 36-113, R.C.M. 1947, is amended to
 15 read as follows:

16 "36-113. Effect of filing inventory. The filing of the
 17 inventory in the clerk's office is notice and prima facie
 18 evidence of the title of the wife person so filing."

19 Section 6. Section 36-114, R.C.M. 1947, is amended to
 20 read as follows:

21 "36-114. Earnings and accumulations of wife married
 22 person. The earnings and accumulations of the-wife a married
 23 person are not liable for the debts of the-husband that
 24 person's spouse except for debts incurred for necessary
 25 articles procured for the use and benefit of the married

1 person, his spouse, or minor children."

2 Section 7. Section 36-115, R.C.M. 1947, is amended to
 3 read as follows:

4 "36-115. Same, when separated. The earnings and
 5 accumulations of the-wife a married person, and of her his
 6 minor children living with her him or in her his custody,
 7 while she he is living separate from her-husband his spouse,
 8 are the separate individual property of the-wife such
 9 person. Except that, to the extent that a mutual duty of
 10 support between the husband and wife as established by
 11 section 36-103 still exists, such earnings and accumulations
 12 are liable for debts incurred for necessary articles
 13 procured for the use and benefit of the married person, his
 14 spouse or minor children."

15 Section 8. Section 36-116, R.C.M. 1947, is amended to
 16 read as follows:

17 "36-116. Work and labor of wife married person. All
 18 work and labor performed by a married woman person for a
 19 person other than her-husband his spouse and children shall,
 20 unless there is a written agreement on her his part to the
 21 contrary, be presumed to be performed on her his separate
 22 account. This section does not affect the liability of
 23 earnings for debts incurred for necessary articles procured
 24 for the use and benefit of the married person, his spouse,
 25 or minor children, as established by sections 36-114,

1 36-115, 36-118, and 36-118.1."

2 Section 9. Section 36-117, R.C.M. 1947, is amended to
3 read as follows:

4 "36-117. Debts of wife spouse contracted before
5 marriage. The property of the-husband a married person is
6 not liable for the debts of the wife person's spouse
7 contracted before marriage."

8 Section 10. Section 36-118, R.C.M. 1947, is amended to
9 read as follows:

10 "36-118. Separate Individual property of wife married
11 person -- how far liable. ~~The-separate-property-of-the-wife~~
12 ~~shall-be-exempt--from--all--debts--and--liabilities--of--the~~
13 ~~husband;--unless-for-necessary-articles-procured-for-the-use~~
14 ~~and-benefit-of-herself-and-her-children--under--the--age--of~~
15 ~~eighteen-years;--but-such-exemption-shall-extend-only-to-such~~
16 ~~property--of-such-wife-as-shall-be-mentioned-in-an-inventory~~
17 ~~thereof;--as-provided-in-sections-36-112-and-36-113;--And--in~~
18 ~~no--case--shall--any-of-the-separate-property-of-the-wife-be~~
19 ~~liable-for-the-debts-of-the-husband;--unless-such-property-is~~
20 ~~in-the-sole-and-exclusive-possession--of--the--husband;--and~~
21 ~~then--only--to-such-persons-as-deal-with-the-husband-in-good~~
22 ~~faith-on-the-credit-of-such-property;--without--knowledge--or~~
23 ~~notice--that--the--property--belongs--to--the-wife;--But-the~~
24 ~~separate-property-of-the-wife-is-liable-for-her--own--debts;~~
25 ~~contracted-before-or-after-marriage:~~ Individual property of

1 a married person listed in an inventory as provided in
2 sections 36-112 and 36-113, R.C.M. 1947, or otherwise proved
3 to be the individual property of the married person is
4 exempt from all debts and liabilities of that person's
5 spouse, except:

6 (1) when the debt or liability is for necessary
7 articles procured for the use and benefit of the married
8 person, the spouse, or minor children; or

9 (2) when the property is in the sole and exclusive
10 possession of the spouse and the creditors have dealt with
11 the spouse in good faith on the credit of the individual
12 property without knowledge that the property does not belong
13 to the spouse."

14 Section 11. There is a new R.C.M. section numbered
15 36-118.1 that reads as follows:

16 36-118.1. Necessity determined by standard of living.
17 For purposes of determining whether a married person's
18 earnings or individual property are exempt from the debts
19 incurred by the person's spouse, the phrase "necessary
20 articles" includes all such goods and services as are
21 reasonably required to provide for the health, welfare,
22 comfort, and education of the married person, his spouse,
23 and minor children taking into consideration the earnings,
24 resources, and general standard of living of such persons.

25 Section 12. Section 36-119, R.C.M. 1947, is amended to

1 read as follows:

2 "36-119. Support of wife spouse. If ~~the--~~husband a
3 married person who is financially able neglect neglects to
4 make adequate provision for the financial support of his
5 wife spouse, except in the cases mentioned in the next
6 section, any other person may in good faith supply ~~her~~ the
7 spouse with articles necessary for ~~her~~ support and recover
8 the reasonable value thereof from ~~her--~~husband the married
9 person who has failed to provide such support."

10 Section 13. Section 36-120, R.C.M. 1947, is amended to
11 read as follows:

12 "36-120. Husband Married person not liable when
13 abandoned by wife spouse. A husband married person abandoned
14 by his wife spouse is not liable for ~~her~~ the spouse's
15 support until she the spouse offers to return, unless she
16 the spouse was justified, by ~~his~~ the person's misconduct, in
17 abandoning him; nor is ~~he~~ a married person liable for ~~her~~
18 support ~~when-she~~ of a spouse who is living separate from him
19 by agreement, unless such support is stipulated in the
20 agreement."

21 Section 14. Section 36-127, R.C.M. 1947, is amended to
22 read as follows:

23 "36-127. Married woman person may act as executrix
24 personal representative, guardian, conservator, or trustee.
25 A married woman person may be ~~an-executrix,-administratrix a~~

1 personal representative, guardian, conservator, or trustee,
2 and may bind ~~herself~~ himself and the estate ~~she~~ he
3 represents without any act or assent on the part of ~~her~~
4 husband the person's spouse."

5 Section 15. Section 36-128, R.C.M. 1947, is amended to
6 read as follows:

7 "36-128. May sue and be sued. A married woman person
8 may sue and be sued in the same manner as if ~~she~~ he were
9 sole."

10 Section 16. Section 36-129, R.C.M. 1947, is amended to
11 read as follows:

12 "36-129. Liable for ~~her~~ own contracts. The contracts
13 made by a married woman person, in respect to ~~her--~~separate
14 his individual property, labor, or services, shall not be
15 binding upon ~~her-husband~~ the person's spouse, nor render him
16 nor his property liable therefor; but ~~she~~ the contracting
17 person and ~~her--~~separate that person's individual property
18 shall be liable on such contracts in the same manner as if
19 ~~she~~ such person were sole."

20 Section 17. Section 36-130, R.C.M. 1947, is amended to
21 read as follows:

22 "36-130. May make contracts. A married woman person
23 may make contracts, oral or written, sealed or unsealed, and
24 may waive or relinquish any right or interest in any real
25 estate, either in person or by attorney, in the same manner,

1 to the same extent, and with the like effect as if she such
 2 person were a-single-woman sole."

3 Section 18. Section 5-106, R.C.M. 1947, is amended to
 4 read as follows:

5 "5-106. Trust company defined--purposes for which may
 6 be formed. The term "Trust Company," when used in this act,
 7 means any corporation which is incorporated under the laws
 8 of this state for any one or more of the following purposes:

9 1. To receive moneys in trust, and to accumulate the
 10 same at such rates of interest as may be obtained or agreed
 11 upon, or to allow such interest thereon as may be agreed
 12 upon.

13 2. To accept and execute all such trusts and perform
 14 such duties of every description as may be committed to them
 15 by any person or persons whatsoever, or by any corporations,
 16 or may be committed or transferred to them by order of any
 17 of the courts of record of this state, or any other state,
 18 or of the United States.

19 3. To take and accept by grant, assignment, transfer,
 20 devise, or bequest, and hold any real or personal estate or
 21 trust created in accordance with the laws of this state, or
 22 any other state, or of the United States, and execute such
 23 legal trusts in regard to the same on such terms as may be
 24 declared, established, or agreed upon in regard thereto.

25 4. To act as agent for the investment of money for

1 other persons or corporations, and as agents for persons and
 2 corporations for the purpose of issuing, registering,
 3 transferring, or countersigning the certificates of stock,
 4 bonds, or other evidence of debt of any corporation,
 5 association, municipality, state, or public authority as may
 6 be agreed upon.

7 5. To accept from and execute trusts for married ~~women~~
 8 persons in respect to their ~~separate~~ individual property,
 9 whether real or personal, and act as agents for them in the
 10 management of such property, and generally to have and
 11 exercise such powers as are usually had and exercised by
 12 trust companies.

13 6. To act as trustee, assignee, or receiver in all
 14 cases where it shall be lawful for any court of record,
 15 officer, corporation, or person to appoint a trustee,
 16 assignee, or receiver, and to be appointed a trustee,
 17 assignee, or receiver, and to be appointed, commissioned,
 18 and act as administrator of any estate, executor of any last
 19 will and testament of any deceased person, and as guardian
 20 of the person and estate of any minor or minors, or of the
 21 estate of any lunatic, imbecile, spendthrift, habitual
 22 drunkard, or other persons disqualified or unable to manage
 23 their estates.

24 7. To loan money upon unencumbered real estate,
 25 collateral, or personal security, and execute and issue its

1 notes, debentures, payable at a future date, and to pledge
2 its mortgages upon real estate and other securities as
3 security therefor.

4 8. To buy and sell government, state, county,
5 municipal, and other bonds, and all kinds of negotiable,
6 nonnegotiable, and commercial paper, stocks, and other
7 investment securities, buy and sell gold and silver bullion,
8 foreign coins, bills of exchange, and foreign and domestic
9 exchange.

10 9. To accept, receive, and hold money on deposit,
11 payable either on time or on demand, with or without
12 interest, as may be agreed upon with the depositors, and to
13 take and receive from any individual or corporation on
14 deposit for safekeeping and storage, gold and silver plate,
15 jewelry, stocks, and securities, and other valuable and
16 personal property, and to collect coupons, interest, and
17 dividends on said above described securities, and to rent
18 out the use of safes and other receptacles on their premises
19 upon such terms and for such compensation as may be agreed
20 upon."

21 Section 19. Section 16-2902, R.C.M. 1947, is amended
22 to read as follows:

23 "16-2902. What to be recorded. He must, upon payment
24 of his fees for the same, record, or photograph, or
25 correctly copy, separately, in large and well-bound, or to

1 be bound, separate books, either in a fair hand or by
2 printing or by typewriting, or by photographic process, or
3 by the use of prepared blank forms:

4 1. Deeds, grants, transfers, contracts to sell or
5 convey real estate and mortgages of real estate, releases of
6 mortgages, powers of attorney to convey real estate, and
7 leases which have been acknowledged or proved, and abstracts
8 of such instruments which have been acknowledged or proved;

9 2. Certificates of births and deaths;

10 3. Wills devising real estate admitted to probate;

11 4. Official bonds;

12 5. Transcripts of judgments which by law are made
13 liens upon real estate;

14 6. Instruments describing or relating to the separate
15 individual property of married women persons, and sole
16 trader judgments;

17 7. All orders and decrees made by the district court
18 in probate matters affecting real estate which are required
19 to be recorded;

20 8. Notice of pre-emption claims;

21 9. Notice and declaration of water rights;

22 10. Assignments for the benefit of creditors;

23 11. Affidavits of annual work done on mining claims;

24 12. Notices of mining locations and declaratory
25 statement;

- 1 13. Estrays and lost property;
- 2 14. A book containing appraisalment of state lands;
- 3 15. Such other writings as are required or permitted by
- 4 law to be recorded; provided, nothing herein shall be
- 5 construed as preventing the recording or photographing or
- 6 copying of such instruments, separately, upon a single or
- 7 loose page or pages of a book, if such page or pages shall
- 8 immediately become a part of such book or volume, which,
- 9 when completed, shall be firmly bound and the pages thereof
- 10 securely locked or sealed into the volume.

11 Whenever the laws of the state of Montana require or
 12 permit any instrument to be recorded, such recording may be
 13 made in the manner or by any of the processes hereinbefore
 14 prescribed."

15 Section 20. Section 16-2905, R.C.M. 1947, is amended
 16 to read as follows:

17 "16-2905. Indexes to be kept. Every county clerk, as
 18 ex officio recorder, must keep:

19 1. An index of deeds, grants, and transfers, and
 20 contracts to sell or convey real estate, labeled "Grantors,"
 21 each page divided into four columns, headed respectively:
 22 "Names of grantors," "Names of grantees," "Date of deeds,
 23 grants, transfers, or contracts," and "Where recorded";

24 2. An index of deeds, labeled "Grantees," each page
 25 divided into four columns, headed respectively: "Names of

1 grantees," "Names of grantors," "Date of deeds, grants,
 2 transfers, or contracts," and "Where recorded";

3 3. An index of mortgages, labeled "Mortgages of real
 4 property," with the pages thereof divided into six columns,
 5 headed respectively: "Names of mortgagor," "Names of
 6 mortgagees," "Dates of mortgages," "Where recorded," "When
 7 filed," "When canceled";

8 4. An index of mortgages, labeled "Mortgages of real
 9 property," with the pages thereof divided into six columns,
 10 headed respectively: "Names of mortgagees," "Names of
 11 mortgagors," "Date of mortgage," "Where recorded," "When
 12 filed," "When canceled";

13 5. An index of mortgages, labeled "Releases of
 14 mortgages of real property--Mortgagees," with the pages
 15 thereof divided into six columns, headed respectively:
 16 "Parties whose mortgages are released," "Parties releasing,"
 17 "Date of release," "Where recorded," "Date of mortgages
 18 released," "Where mortgages released are recorded."

19 6. An index of powers of attorney, labeled "Powers of
 20 attorney," each page divided into five columns, headed
 21 respectively: "Names of parties executing powers," "To whom
 22 powers are executed," "Date of powers," "Date of recording,"
 23 "To whom powers are executed";

24 7. An index of leases, labeled "Leases," each page
 25 divided into four columns, headed respectively: "Names of

1 lessors," "Names of lessees," "Date of leases," "When and
2 where recorded";

3 8. An index of leases, labeled "Lessees," each page
4 divided into four columns respectively: "Names of lessees,"
5 "Names of lessors," "Date of leases," "When and where
6 recorded";

7 9. An index of marriage certificates, labeled
8 "Marriage certificate--Men," each page divided into six
9 columns, headed respectively: "Men married," "To whom
10 married," "When married," "By whom married," "Where
11 married," "Where certificates are recorded";

12 10. An index of marriage certificates, labeled
13 "Marriage certificates -- Women," each page divided into six
14 columns, headed respectively: "Women married," (and under
15 this head placing the family names of the women), "To whom
16 married," "When married," "By whom married," "Where
17 married," "Where certificates are recorded";

18 11. An index of assignments of mortgages and leases,
19 labeled "Assignments of mortgages and leases--Assignors,"
20 each page divided into five columns, headed respectively:
21 "Assignors," "Assignees," "Instruments assigned," "Date of
22 assignment," "When and where recorded";

23 12. An index of assignments of mortgages and leases,
24 labeled "Assignments of mortgages and leases--Assignees,"
25 each page divided into five columns, headed respectively:

1 "Assignees," "Assignors," "Instruments," "Date of
2 assignments," "When and where recorded";

3 13. An index of wills, labeled "Wills," each page
4 divided into four columns, headed respectively: "Names of
5 testators," "Date of wills," "Date of probate," "When and
6 where recorded";

7 14. An index of official bonds, labeled "Official
8 bonds," each page divided into five columns, headed
9 respectively: "Names of officers," "Names of offices," "Date
10 of bonds," "Amount of bonds," "When and where recorded";

11 15. An index of notices of mechanics' liens, labeled
12 "Mechanics' liens," each page divided into three columns,
13 headed respectively: "Parties claiming liens," "Against whom
14 claimed," "Notices, when filed";

15 16. An index to transcripts of judgments, labeled
16 "Transcripts of judgments," each page divided into seven
17 columns, headed respectively: "Judgment debtors," "Judgment
18 creditors," "Amount of judgments," "Where recovered," "When
19 recovered," "When transcript filed," "When judgment
20 satisfied";

21 17. An index of attachments, labeled "Attachments,"
22 each page divided into six columns, headed respectively:
23 "Parties against whom attachments are issued," "Parties
24 issuing attachments," "Notices of attachments," "When
25 filed," "When attachments discharged";

1 18. An index of notices of the pendency of actions,
2 labeled "Notices of actions," each page divided into three
3 columns, headed respectively: "Parties to actions,"
4 "Notices, when recorded," "When filed";

5 19. An index of certificates of sale of real estate
6 sold under execution or under orders made in any judicial
7 proceedings, labeled "Certificates of sale," each page
8 divided into four columns, headed respectively: "Plaintiff,"
9 "Defendant," "Purchaser at sale," "Date of sale";

10 20. An index of the separate individual property of
11 married women persons and sole trader judgments labeled
12 "separate individual property of married women persons and
13 sole traders," each page divided into five columns, headed
14 respectively: "Names of married women persons," "Names of
15 their husbands spouses," "Nature of instruments recorded,"
16 "When recorded," "Where recorded";

17 21. An index to affidavits for annual work done on
18 mining claims, showing the name of the affiant, the name of
19 the claim, where situated, and the year when the work was
20 done, labeled "Annual work on mining claims";

21 22. An index of mining claims and declaratory
22 statements, labeled "Notices of location of mining claims
23 and declaratory statements," each page divided into four
24 columns, headed respectively: "Locators," "Name of claim,"
25 "Notice, when filed," "Where recorded";

1 23. An index to the register of births and deaths;

2 24. An index to notices and declarations of water
3 rights;

4 25. An index to the "Estray and lost property book";

5 26. An index to the record of assignments for the
6 benefit of creditors, containing names of assignor and
7 assignee, date and where recorded, and inventory when filed;

8 27. An index to financing statements as provided in
9 Part 4 of the Uniform Commercial Code--Secured Transactions.

10 28. A miscellaneous index, in which must be indexed
11 papers not hereinbefore stated."

12 Section 21. Section 61-104, R.C.M. 1947, is amended to
13 read as follows:

14 "61-104. Obligations of parents for the support and
15 education of their children. The parent or parents entitled
16 to the custody of a child must give him support and
17 education suitable to his circumstances. ~~if-the-support-and~~
18 ~~education--which-the-father-of-a-legitimate-child-is-able-to~~
19 ~~give-are-inadequate,-the--mother--must--assist--him--to--the~~
20 ~~extent-of-her-ability."~~

21 Section 22. Section 61-117, R.C.M. 1947, is amended to
22 read as follows:

23 "61-117. Husband Married person not bound for the
24 support of his wife's spouse's children by a former
25 marriage. A husband married person is not bound to support

1 his wife's spouse's children by a former husband marriage;
2 but if he receives them into his family and supports them,
3 it is presumed that he does so as a parent, and, where such
4 is the case, they are not liable to him for their support,
5 nor he to them for their services."

6 Section 23. Sections 36-102 and 36-121, R.C.M. 1947,
7 are repealed.

-End-

SENATE BILL NO. 4

INTRODUCED BY ROSELL, TURNAGE, REGAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE LAWS RELATING TO HUSBANDS AND WIVES IN REGARD TO THEIR MUTUAL OBLIGATIONS OF SUPPORT, CONTROL OF THEIR INDIVIDUAL PROPERTY AND THEIR ABILITY TO ACT AS INDIVIDUALS, IN ORDER TO ELIMINATE SEXUAL DISCRIMINATION IN SUCH LAWS; AMENDING SECTIONS 5-106, 16-2902, 16-2905, 36-103, 36-110 THROUGH 36-120, 36-127 THROUGH 36-130, 61-104, AND 61-117, R.C.M. 1947; CREATING A NEW SECTION 36-118.1, R.C.M. 1947; AND REPEALING SECTIONS 36-102 AND 36-121, R.C.M. 1947."

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

Section 1. Section 36-103, R.C.M. 1947, is amended to read as follows:

"36-103. Duties of husband ~~to~~ AND wife as to support. ~~The--husband--must--support--himself--and--wife--out--of--his--property--or--by--his--labor.--If--he--is--unable--to--do--so--she--must--assist--him--as--far--as--she--is--able.~~ Insofar as each is able, the husband and wife shall support each other out of their property and labor. As used in this section, the word "support" includes the non-monetary support provided by a spouse as homemaker."

Section 2. Section 36-110, R.C.M. 1947, is amended to

read as follows:

"36-110. Married ~~women~~ person may prosecute actions. A married ~~woman~~ person in ~~her~~ his own name may prosecute action for injuries to ~~her~~ his reputation, person, property, and character, or for the enforcement of any legal or equitable right, and may in like manner defend any action brought against ~~herself~~ himself."

Section 3. Section 36-111, R.C.M. 1947, is amended to read as follows:

"36-111. ~~Separate~~ Individual property of ~~wife~~ married person. All the property of ~~the-wife~~ a married person owned before ~~her~~ marriage and that acquired afterwards is ~~her~~ separate his individual property. The ~~wife~~ married person may, without consent, agreement and signature of ~~her-husband~~ his spouse, convey and transfer ~~her-separate~~ his individual property, real or personal, including the fee simple title to real property or execute a power of attorney for the conveyance and transfer thereof."

Section 4. Section 36-112, R.C.M. 1947, is amended to read as follows:

"36-112. Inventory of ~~separate~~ individual personal property of ~~wife~~ married person. ~~A--full--and--complete--inventory--of--the--separate--personal--property--of--the--wife--may--be--made--out--and--signed--by--her;--acknowledged--or--proved--in--the--same--manner--required--by--law--for--the--acknowledgment--or--proof~~

1 ~~of--a--grant--of--real--property--by--an--unmarried--woman--and~~
 2 ~~recorded--in--the--office--of--the--county--clerk--of--the--county--in~~
 3 ~~which--the--parties--reside.~~ A married person's title to and
 4 ownership of his individual property may be proved or
 5 demonstrated in the same manner that a single person's
 6 ownership of or title to his individual property may be
 7 proved. Provided, however, that if a married person
 8 chooses, he may make out and sign an inventory of his
 9 individual personal property, which inventory shall be
 10 acknowledged or proved in the same manner required by law
 11 for the acknowledgment or proof of a grant of real property,
 12 and recorded in the office of the county clerk of the county
 13 in which the person lives."

14 Section 5. Section 36-113, R.C.M. 1947, is amended to
 15 read as follows:

16 "36-113. Effect of filing inventory. The filing of the
 17 inventory in the clerk's office is notice and prima facie
 18 evidence of the title of the wife person so filing."

19 Section 6. Section 36-114, R.C.M. 1947, is amended to
 20 read as follows:

21 "36-114. Earnings and accumulations of wife married
 22 person. The earnings and accumulations of the-wife a married
 23 person are not liable for the debts of the-husband that
 24 person's spouse except for debts incurred for necessary
 25 articles procured for the use and benefit of the married

1 person, his spouse, or minor children."

2 Section 7. Section 36-115, R.C.M. 1947, is amended to
 3 read as follows:

4 "36-115. Same, when separated. The earnings and
 5 accumulations of the-wife a married person, and of her his
 6 minor children living with her him or in her his custody,
 7 while she he is living separate from her-husband his spouse,
 8 are the separate individual property of the-wife such
 9 person. Except that, to the extent that a mutual duty of
 10 support between the husband and wife as established by
 11 section 36-103 still exists, such earnings and accumulations
 12 are liable for debts incurred for necessary articles
 13 procured for the use and benefit of the married person, his
 14 spouse or minor children."

15 Section 8. Section 36-116, R.C.M. 1947, is amended to
 16 read as follows:

17 "36-116. Work and labor of wife married person. All
 18 work and labor performed by a married woman person for a
 19 person other than her-husband his spouse and children shall,
 20 unless there is a written agreement on her his part to the
 21 contrary, be presumed to be performed on her his separate
 22 account. This section does not affect the liability of
 23 earnings for debts incurred for necessary articles procured
 24 for the use and benefit of the married person, his spouse,
 25 or minor children, as established by sections 36-114,

1 36-115, 36-118, and 36-118.1."

2 Section 9. Section 36-117, R.C.M. 1947, is amended to
3 read as follows:

4 "36-117. Debts of wife spouse contracted before
5 marriage. The property of ~~the-husband~~ a married person is
6 not liable for the debts of the wife person's spouse
7 contracted before marriage."

8 Section 10. Section 36-118, R.C.M. 1947, is amended to
9 read as follows:

10 "36-118. Separate Individual property of wife married
11 person -- how far liable. ~~The-separate-property-of-the-wife~~
12 ~~shall-be-exempt--from--all--debts--and--liabilities--of--the~~
13 ~~husband7--unless-for-necessary-articles-procured-for-the-use~~
14 ~~and-benefit-of-herself-and-her-children--under--the--age--of~~
15 ~~eighteen-years7-but-such-exemption-shall-extend-only-to-such~~
16 ~~property--of-such-wife-as-shall-be-mentioned-in-an-inventory~~
17 ~~thereof7-as-provided-in-sections-36-112-and-36-1137--And--in~~
18 ~~no--case--shall--any-of-the-separate-property-of-the-wife-be~~
19 ~~liable-for-the-debts-of-the-husband7-unless-such-property-is~~
20 ~~in-the-sole-and-exclusive-possession--of--the--husband7--and~~
21 ~~then--only--to-such-persons-as-deal-with-the-husband-in-good~~
22 ~~faith-on-the-credit-of-such-property7-without--knowledge--or~~
23 ~~notice--that--the--property--belongs--to--the-wife7--But--the~~
24 ~~separate-property-of-the-wife-is-liable-for-her--own--debts7~~
25 ~~contracted-before-or-after-marriage7~~ Individual property of

1 a married person listed in an inventory as provided in
2 sections 36-112 and 36-113, R.C.M. 1947, or otherwise proved
3 to be the individual property of the married person is
4 exempt from all debts and liabilities of that person's
5 spouse, except:

6 (1) when the debt or liability is for necessary
7 articles procured for the use and benefit of the married
8 person, the spouse, or minor children; or

9 (2) when the property is in the sole and exclusive
10 possession of the spouse and the creditors have dealt with
11 the spouse in good faith on the credit of the individual
12 property without knowledge that the property does not belong
13 to the spouse."

14 Section 11. There is a new R.C.M. section numbered
15 36-118.1 that reads as follows:

16 36-118.1. Necessity determined by standard of living.
17 For purposes of determining whether a married person's
18 earnings or individual property are exempt from the debts
19 incurred by the person's spouse, the phrase "necessary
20 articles" includes all such goods and services as are
21 reasonably required to provide for the health, welfare,
22 comfort, and education of the married person, his spouse,
23 and minor children taking into consideration the earnings,
24 resources, and general standard of living of such persons.

25 Section 12. Section 36-119, R.C.M. 1947, is amended to

1 read as follows:

2 "36-119. Support of wife spouse. If ~~the--husband~~ a
3 married person who is financially able neglect neglects to
4 make adequate provision for the financial support of his
5 wife spouse, except in the cases mentioned in the next
6 section, any other person may in good faith supply ~~her~~ the
7 spouse with articles necessary for ~~her~~ support and recover
8 the reasonable value thereof from ~~her--husband~~ the married
9 person who has failed to provide such support."

10 Section 13. Section 36-120, R.C.M. 1947, is amended to
11 read as follows:

12 "36-120. Husband Married person not liable when
13 abandoned by wife spouse. A husband married person abandoned
14 by his wife spouse is not liable for ~~her~~ the spouse's
15 support until she the spouse offers to return, unless she
16 the spouse was justified, by ~~his~~ the person's misconduct, in
17 abandoning him; nor is ~~he~~ a married person liable for ~~her~~
18 support ~~when-she~~ of a spouse who is living separate from him
19 by agreement, unless such support is stipulated in the
20 agreement."

21 Section 14. Section 36-127, R.C.M. 1947, is amended to
22 read as follows:

23 "36-127. Married woman person may act as executrix
24 personal representative, guardian, conservator, or trustee.
25 A married woman person may be ~~an-executrix-administratrix~~ a

1 personal representative, guardian, conservator, or trustee,
2 and may bind ~~herself~~ himself and the estate ~~she~~ he
3 represents without any act or assent on the part of ~~her~~
4 husband the person's spouse."

5 Section 15. Section 36-128, R.C.M. 1947, is amended to
6 read as follows:

7 "36-128. May sue and be sued. A married woman person
8 may sue and be sued in the same manner as if ~~she~~ he were
9 sole."

10 Section 16. Section 36-129, R.C.M. 1947, is amended to
11 read as follows:

12 "36-129. Liable for ~~her~~ own contracts. The contracts
13 made by a married woman person, in respect to ~~her--separate~~
14 his individual property, labor, or services, shall not be
15 binding upon ~~her-husband~~ the person's spouse, nor render him
16 nor his property liable therefor; but ~~she~~ the contracting
17 person and ~~her--separate~~ that person's individual property
18 shall be liable on such contracts in the same manner as if
19 ~~she~~ such person were sole."

20 Section 17. Section 36-130, R.C.M. 1947, is amended to
21 read as follows:

22 "36-130. May make contracts. A married woman person
23 may make contracts, oral or written, sealed or unsealed, and
24 may waive or relinquish any right or interest in any real
25 estate, either in person or by attorney, in the same manner,

1 to the same extent, and with the like effect as if ~~she~~ such
2 person were ~~a-single-woman~~ sole."

3 Section 18. Section 5-106, R.C.M. 1947, is amended to
4 read as follows:

5 "5-106. Trust company defined--purposes for which may
6 be formed. The term "Trust Company," when used in this act,
7 means any corporation which is incorporated under the laws
8 of this state for any one or more of the following purposes:

9 1. To receive moneys in trust, and to accumulate the
10 same at such rates of interest as may be obtained or agreed
11 upon, or to allow such interest thereon as may be agreed
12 upon.

13 2. To accept and execute all such trusts and perform
14 such duties of every description as may be committed to them
15 by any person or persons whatsoever, or by any corporations,
16 or may be committed or transferred to them by order of any
17 of the courts of record of this state, or any other state,
18 or of the United States.

19 3. To take and accept by grant, assignment, transfer,
20 devise, or bequest, and hold any real or personal estate or
21 trust created in accordance with the laws of this state, or
22 any other state, or of the United States, and execute such
23 legal trusts in regard to the same on such terms as may be
24 declared, established, or agreed upon in regard thereto.

25 4. To act as agent for the investment of money for

1 other persons or corporations, and as agents for persons and
2 corporations for the purpose of issuing, registering,
3 transferring, or countersigning the certificates of stock,
4 bonds, or other evidence of debt of any corporation,
5 association, municipality, state, or public authority as may
6 be agreed upon.

7 5. To accept from and execute trusts for married ~~women~~
8 persons in respect to their ~~separate~~ individual property,
9 whether real or personal, and act as agents for them in the
10 management of such property, and generally to have and
11 exercise such powers as are usually had and exercised by
12 trust companies.

13 6. To act as trustee, assignee, or receiver in all
14 cases where it shall be lawful for any court of record,
15 officer, corporation, or person to appoint a trustee,
16 assignee, or receiver, and to be appointed a trustee,
17 assignee, or receiver, and to be appointed, commissioned,
18 and act as administrator of any estate, executor of any last
19 will and testament of any deceased person, and as guardian
20 of the person and estate of any minor or minors, or of the
21 estate of any lunatic, imbecile, spendthrift, habitual
22 drunkard, or other persons disqualified or unable to manage
23 their estates.

24 7. To loan money upon unencumbered real estate,
25 collateral, or personal security, and execute and issue its

1 notes, debentures, payable at a future date, and to pledge
2 its mortgages upon real estate and other securities as
3 security therefor.

4 8. To buy and sell government, state, county,
5 municipal, and other bonds, and all kinds of negotiable,
6 nonnegotiable, and commercial paper, stocks, and other
7 investment securities, buy and sell gold and silver bullion,
8 foreign coins, bills of exchange, and foreign and domestic
9 exchange.

10 9. To accept, receive, and hold money on deposit,
11 payable either on time or on demand, with or without
12 interest, as may be agreed upon with the depositors, and to
13 take and receive from any individual or corporation on
14 deposit for safekeeping and storage, gold and silver plate,
15 jewelry, stocks, and securities, and other valuable and
16 personal property, and to collect coupons, interest, and
17 dividends on said above described securities, and to rent
18 out the use of safes and other receptacles on their premises
19 upon such terms and for such compensation as may be agreed
20 upon."

21 Section 19. Section 16-2902, R.C.M. 1947, is amended
22 to read as follows:

23 "16-2902. What to be recorded. He must, upon payment
24 of his fees for the same, record, or photograph, or
25 correctly copy, separately, in large and well-bound, or to

1 be bound, separate books, either in a fair hand or by
2 printing or by typewriting, or by photographic process, or
3 by the use of prepared blank forms:

4 1. Deeds, grants, transfers, contracts to sell or
5 convey real estate and mortgages of real estate, releases of
6 mortgages, powers of attorney to convey real estate, and
7 leases which have been acknowledged or proved, and abstracts
8 of such instruments which have been acknowledged or proved;

9 2. Certificates of births and deaths;

10 3. Wills devising real estate admitted to probate;

11 4. Official bonds;

12 5. Transcripts of judgments which by law are made
13 liens upon real estate;

14 6. Instruments describing or relating to the ~~separate~~
15 individual property of married ~~women~~ persons, and sole
16 trader judgments;

17 7. All orders and decrees made by the district court
18 in probate matters affecting real estate which are required
19 to be recorded;

20 8. Notice of pre-emption claims;

21 9. Notice and declaration of water rights;

22 10. Assignments for the benefit of creditors;

23 11. Affidavits of annual work done on mining claims;

24 12. Notices of mining locations and declaratory
25 statement;

1 13. Estrays and lost property;
 2 14. A book containing appraisement of state lands;
 3 15. Such other writings as are required or permitted by
 4 law to be recorded; provided, nothing herein shall be
 5 construed as preventing the recording or photographing or
 6 copying of such instruments, separately, upon a single or
 7 loose page or pages of a book, if such page or pages shall
 8 immediately become a part of such book or volume, which,
 9 when completed, shall be firmly bound and the pages thereof
 10 securely locked or sealed into the volume.

11 Whenever the laws of the state of Montana require or
 12 permit any instrument to be recorded, such recording may be
 13 made in the manner or by any of the processes hereinbefore
 14 prescribed."

15 Section 20. Section 16-2905, R.C.M. 1947, is amended
 16 to read as follows:

17 "16-2905. Indexes to be kept. Every county clerk, as
 18 ex officio recorder, must keep:

19 1. An index of deeds, grants, and transfers, and
 20 contracts to sell or convey real estate, labeled "Grantors,"
 21 each page divided into four columns, headed respectively:
 22 "Names of grantors," "Names of grantees," "Date of deeds,
 23 grants, transfers, or contracts," and "Where recorded";

24 2. An index of deeds, labeled "Grantees," each page
 25 divided into four columns, headed respectively: "Names of

1 grantees," "Names of grantors," "Date of deeds, grants,
 2 transfers, or contracts," and "Where recorded";

3 3. An index of mortgages, labeled "Mortgages of real
 4 property," with the pages thereof divided into six columns,
 5 headed respectively: "Names of mortgagor," "Names of
 6 mortgagees," "Dates of mortgages," "Where recorded," "When
 7 filed," "When canceled";

8 4. An index of mortgages, labeled "Mortgages of real
 9 property," with the pages thereof divided into six columns,
 10 headed respectively: "Names of mortgagees," "Names of
 11 mortgagors," "Date of mortgage," "Where recorded," "When
 12 filed," "When canceled";

13 5. An index of mortgages, labeled "Releases of
 14 mortgages of real property--Mortgagees," with the pages
 15 thereof divided into six columns, headed respectively:
 16 "Parties whose mortgages are released," "Parties releasing,"
 17 "Date of release," "Where recorded," "Date of mortgages
 18 released," "Where mortgages released are recorded."

19 6. An index of powers of attorney, labeled "Powers of
 20 attorney," each page divided into five columns, headed
 21 respectively: "Names of parties executing powers," "To whom
 22 powers are executed," "Date of powers," "Date of recording,"
 23 "To whom powers are executed";

24 7. An index of leases, labeled "Leases," each page
 25 divided into four columns, headed respectively: "Names of

1 lessors," "Names of lessees," "Date of leases," "When and
2 where recorded";

3 8. An index of leases, labeled "Lessees," each page
4 divided into four columns respectively: "Names of lessees,"
5 "Names of lessors," "Date of leases," "When and where
6 recorded";

7 9. An index of marriage certificates, labeled
8 "Marriage certificate--Men," each page divided into six
9 columns, headed respectively: "Men married," "To whom
10 married," "When married," "By whom married," "Where
11 married," "Where certificates are recorded";

12 10. An index of marriage certificates, labeled
13 "Marriage certificates -- Women," each page divided into six
14 columns, headed respectively: "Women married," (and under
15 this head placing the family names of the women), "To whom
16 married," "When married," "By whom married," "Where
17 married," "Where certificates are recorded";

18 11. An index of assignments of mortgages and leases,
19 labeled "Assignments of mortgages and leases--Assignors,"
20 each page divided into five columns, headed respectively:
21 "Assignors," "Assignees," "Instruments assigned," "Date of
22 assignment," "When and where recorded";

23 12. An index of assignments of mortgages and leases,
24 labeled "Assignments of mortgages and leases--Assignees,"
25 each page divided into five columns, headed respectively:

1 "Assignees," "Assignors," "Instruments," "Date of
2 assignments," "When and where recorded";

3 13. An index of wills, labeled "Wills," each page
4 divided into four columns, headed respectively: "Names of
5 testators," "Date of wills," "Date of probate," "When and
6 where recorded";

7 14. An index of official bonds, labeled "Official
8 bonds," each page divided into five columns, headed
9 respectively: "Names of officers," "Names of offices," "Date
10 of bonds," "Amount of bonds," "When and where recorded";

11 15. An index of notices of mechanics' liens, labeled
12 "Mechanics' liens," each page divided into three columns,
13 headed respectively: "Parties claiming liens," "Against whom
14 claimed," "Notices, when filed";

15 16. An index to transcripts of judgments, labeled
16 "Transcripts of judgments," each page divided into seven
17 columns, headed respectively: "Judgment debtors," "Judgment
18 creditors," "Amount of judgments," "Where recovered," "When
19 recovered," "When transcript filed," "When judgment
20 satisfied";

21 17. An index of attachments, labeled "Attachments,"
22 each page divided into six columns, headed respectively:
23 "Parties against whom attachments are issued," "Parties
24 issuing attachments," "Notices of attachments," "When
25 filed," "When attachments discharged";