

1 Senate BILL NO. 239  
2 INTRODUCED BY Dreely

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE TOWNSHIP  
5 TERRITORIAL LIMITS ON CONSTABLES; TO REQUIRE THE BOARD OF  
6 COUNTY COMMISSIONERS TO SET SALARIES FOR CONSTABLES; TO MAKE  
7 CONSTABLES APPOINTED COUNTY OFFICERS; AMENDING SECTIONS  
8 16-507, 16-2404, 16-2406, 16-3601, 16-3607, 16-4010, 66-205,  
9 93-7709, R.C.M. 1947; REPEALING SECTION 25-309, R.C.M. 1947;  
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 16-507, R.C.M. 1947, is amended to  
14 read as follows:

15 "16-507. Officers of new county--judicial district. At  
16 the election provided for in section 16-505 of this code,  
17 there shall be chosen such county, township, and district  
18 officers as are now or may hereafter by general law be  
19 provided for in counties of the class to which the said new  
20 county is determined to belong, as herein provided;  
21 provided, that all duly elected, qualified and acting  
22 officers of the county or counties, who may reside within  
23 the proposed new county, shall be deemed to be officers of  
24 said new county if they file with the board of county  
25 commissioners, whose duty it shall be to call the election,

1 within five days after the final hearing and determination  
2 of said petition for such proposed new county, their  
3 intention to become officers of said proposed new county,  
4 and the board of county commissioners issuing the  
5 proclamation of any election, as in this act provided, shall  
6 omit providing for the election of any such officers as may  
7 have filed their declaration as herein provided; and  
8 provided, also, that all duly elected, qualified, and acting  
9 justices of the peace and constables residing within the  
10 proposed new county ~~at the time of the division of such~~  
11 ~~county into townships, as hereinbefore in section 16-505~~  
12 ~~provided,~~ shall hold office as such justices of the peace or  
13 constables in said county for the remainder of the term for  
14 which they were elected ~~on qualifying as justices of the~~  
15 ~~peace or constables for the respective townships in which~~  
16 ~~they reside, when said townships are organized as provided~~  
17 ~~in this act;~~ provided, further, that all duly elected,  
18 qualified, and acting school trustees residing within the  
19 proposed new county at the time of the division of such  
20 county into school districts, as hereinbefore in section  
21 16-505 provided, shall hold office as school trustees in  
22 said new county for the remainder of the term for which they  
23 were elected on qualifying as school trustees for the  
24 respective districts in which they reside, as said districts  
25 are organized as provided by this act. Each person elected

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1 or appointed to fill an office of such new county under the  
 2 provisions of this act shall qualify in the manner provided  
 3 by law for such officers, except as herein otherwise  
 4 provided, and shall enter upon the discharge of the duties  
 5 of his office within such time as herein provided, after the  
 6 receipt of the certificate of his election. Each of such  
 7 officers may take the oath of office before any officers  
 8 authorized by the laws of the state of Montana to administer  
 9 oaths, and the bond of any officer from which a bond is  
 10 required shall be approved by any judge of the district  
 11 court of the district to which such new county is attached  
 12 for judicial purposes. The officers elected or appointed  
 13 under the provisions of this act shall each perform the  
 14 duties and receive the compensation now provided by general  
 15 law for the office to which he has been appointed or elected  
 16 in the counties of the class to which such new county shall  
 17 have been determined to belong, as herein provided under the  
 18 general classification of counties in this state.

19 Said new county, when created and organized in  
 20 pursuance of the provisions of this act, shall be attached  
 21 to such judicial district as may be designated by the  
 22 governor of the state of Montana, in a proclamation to be  
 23 issued by him, designating such new county as attached to  
 24 the particular judicial district for judicial purposes."

25 Section 2. Section 16-2404, R.C.M. 1947, is amended to

1 read as follows:

2 "16-2404. Township officers. The officers of townships  
 3 are ~~two constables, and~~ such other inferior and subordinate  
 4 officers as are provided for elsewhere in this code, or by  
 5 the board of county commissioners."

6 Section 3. Section 16-2406, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-2406. County and other officers, when elected or  
 9 appointed and term of office. There may be elected or  
 10 appointed in each county the following county officers who  
 11 shall possess the qualifications for suffrage prescribed by  
 12 the constitution of the state of Montana, and such other  
 13 qualifications as may be prescribed by law:

14 One (1) county attorney; one (1) clerk of the district  
 15 court; one (1) county clerk who shall be clerk of the board  
 16 of county commissioners and ex officio recorder; one (1)  
 17 sheriff; one (1) treasurer, who shall be collector of the  
 18 taxes; one (1) county superintendent of schools; one (1)  
 19 county surveyor; one (1) assessor; one (1) coroner; one (1)  
 20 public administrator; and at least one (1) justice of the  
 21 peace. Persons elected to the different offices named in  
 22 this section shall hold their respective offices for the  
 23 term of four (4) years, and until their successors are  
 24 elected and qualified. Persons appointed to the different  
 25 offices serve at the pleasure of the commissioners.

1 The commissioners may appoint, at their discretion,  
 2 constables, but not more than one (1) constable for each  
 3 justice of the peace court.

4 County auditors, and all elective township officers,  
 5 may be elected at each general election as now provided by  
 6 law. The officers mentioned in this act must take office on  
 7 the first Monday of January next succeeding their election,  
 8 except the county treasurer, whose term begins on the first  
 9 Monday of March next succeeding his election.

10 Vacancies in all county, township and precinct offices,  
 11 except that of county commissioners, shall be filled by  
 12 appointment by the board of county commissioners, and the  
 13 appointee shall hold his office until the next general  
 14 election if elective, and if not elective, the appointee  
 15 serves at the pleasure of the commissioners; provided,  
 16 however, that the board of county commissioners of any  
 17 county may, in its discretion, consolidate any two or more  
 18 of the within named offices and combine the powers and the  
 19 duties of the said offices consolidated with the exception  
 20 of the office of the justice of the peace, which office may  
 21 not be combined or consolidated with any other office other  
 22 than another justice of the peace office; however, the  
 23 provisions hereof shall not be construed as allowing one (1)  
 24 office incumbent to be entitled to the salaries and  
 25 emoluments of two (2) or more offices; provided, further,

1 that in consolidating county offices, the board of county  
 2 commissioners shall, six (6) months prior to the general  
 3 election held for the purpose of electing the aforesaid  
 4 officers, or six (6) months prior to the appointment of  
 5 aforesaid officers, make and enter an order, combining any  
 6 two (2) or more of the within named offices, and shall cause  
 7 the said order to be published in a newspaper, published and  
 8 circulated generally in said county, for a period of six (6)  
 9 weeks next following the date of entry of said order."

10 Section 4. Section 16-3601, R.C.M. 1947, is amended to  
 11 read as follows:

12 "16-3601. Constables to attend justices' courts.  
 13 Constables must attend the courts of justices of the peace  
 14 within their ~~townships~~ counties whenever so required, and  
 15 ~~within-their-counties~~ execute, serve, and return all process  
 16 and notices directed or delivered to them by a justice of  
 17 the peace of such county, or by any competent authority."

18 Section 5. Section 16-3607, R.C.M. 1947, is amended to  
 19 read as follows:

20 "16-3607. Justice or constable purchasing judgment.  
 21 Every justice of the peace, or constable of the same  
 22 township county, who purchases or is interested in the  
 23 purchase of any judgment, or part thereof, on the docket of,  
 24 or on any docket in the possession of, such justice, is  
 25 guilty of a misdemeanor."

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1 Section 6. Section 16-4010, R.C.M. 1947, is amended to  
2 read as follows:

3 "16-4010. Townships--how disposed of, term of justices  
4 ~~and-constables~~. The townships of a county abandoned and  
5 abolished under this act shall be townships of the county to  
6 which the territory within such townships is attached until  
7 such time as they may be changed by the board of county  
8 commissioners of such county and the justices of the peace  
9 ~~and-constables~~ in such townships shall continue to hold such  
10 offices for the terms for which they were elected; provided  
11 that if a township of such abandoned county is divided and a  
12 part attached to one and a part attached to another  
13 adjoining county then the board of county commissioners of  
14 the county to which attached, until further order of such  
15 board, shall attach such territory to an adjoining township  
16 within such county, and the terms of office of the justices  
17 of the peace ~~and-constables~~ within such divided township  
18 shall cease and terminate at twelve (12:00) o'clock midnight  
19 of the thirtieth day of June immediately following."

20 Section 7. Section 66-205, R.C.M. 1947, is amended to  
21 read as follows:

22 "66-205. Auctioneers ex officio. In any ~~city--or--town~~  
23 county where there is no auctioneer, the sheriff or a  
24 constable thereof is ex officio auctioneer, and is permitted  
25 to sell any property, real or personal, at public auction;

1 and for any delinquency as such ex officio auctioneer he is  
2 liable on his official bond."

3 Section 8. Section 93-7709, R.C.M. 1947, is amended to  
4 read as follows:

5 "93-7709. Special constables--appointment. If in any  
6 township county there should be no duly ~~elected~~, appointed,  
7 or qualified constable, ~~but-not-otherwise-a-justice-of-the~~  
8 peace the board of county commissioners in the county may,  
9 at the request of a party, after being satisfied that it is  
10 expedient to do so, specially depute any proper person of  
11 suitable age not interested in the action to serve a  
12 summons, with or without an order to <sup>arrest</sup> the defendant,  
13 or with or without a writ of attachment, or to serve an  
14 execution. The justice shall be liable upon his official  
15 bond for all official acts of the person so deputed. Such  
16 deputation shall be in writing made on the process, and a  
17 note thereof made on the justice's docket."

18 Section 9. There is a new R.C.M. section that reads as  
19 follows:

20 Compensation of constables. The board of county  
21 commissioners shall, by resolution on or before July 1 of  
22 each year, fix the salary of constables for the following  
23 fiscal year. Constables shall receive mileage, at the rate  
24 provided by law, when performing their official duties.

25 Section 10. Section 25-309, R.C.M. 1947, is repealed.

LC 0496

1           Section 11. This act is effective on its passage and  
2 approval.

-End-

SB 209

STATE OF MONTANA

REQUEST NO. 100-75

FISCAL NOTE

Form BD-15

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In compliance with a written request received Jan. 28, 19 75, there is hereby submitted a Fiscal Note for Senate Bill 239 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.


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DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 239 deletes the township territorial limits on constables, requires the board of county commissioners to set constable salaries, makes constables appointed county officers and provides an immediate effective date.

CONCLUSIONS:

Enactment of Senate Bill 239 may result in an increased number of constables; the magnitude of the increase is indeterminable. The bill allows county commissioners to fix constable salaries but fails to provide any guidelines on the levels allowed. Therefore, it is not appropriate to provide any quantifiable fiscal estimates for Senate Bill 239.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: 2/1/75

Approved by Comm.  
on Local Government

1 SENATE BILL NO. 239  
2 INTRODUCED BY GREELY  
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7 CONSTABLES APPOINTED COUNTY OFFICERS; AMENDING SECTIONS  
8 16-507, 16-2404, 16-2406, 16-3601, 16-3607, 16-4010, 66-205,  
9 93-7709, R.C.M. 1947; REPEALING SECTION 25-309, R.C.M. 1947;  
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

13 Section 1. Section 16-507, R.C.M. 1947, is amended to  
14 read as follows:

15 "16-507. Officers of new county--judicial district. At  
16 the election provided for in section 16-505 of this code,  
17 there shall be chosen such county, township, and district  
18 officers as are now or may hereafter by general law be  
19 provided for in counties of the class to which the said new  
20 county is determined to belong, as herein provided;  
21 provided, that all duly elected, qualified and acting  
22 officers of the county or counties, who may reside within  
23 the proposed new county, shall be deemed to be officers of  
24 said new county if they file with the board of county  
25 commissioners, whose duty it shall be to call the election,

1 within five days after the final hearing and determination  
2 of said petition for such proposed new county, their  
3 intention to become officers of said proposed new county,  
4 and the board of county commissioners issuing the  
5 proclamation of any election, as in this act provided, shall  
6 omit providing for the election of any such officers as may  
7 have filed their declaration as herein provided; and  
8 provided, also, that all duly elected, qualified, and acting  
9 justices of the peace ~~and--constables~~ residing within the  
10 proposed new county ~~at--the--time--of--the--division--of--such~~  
11 ~~county--into--townships--as--hereinbefore--in--section--16-505~~  
12 ~~provided,~~ shall hold office as such justices of the peace ~~or~~  
13 ~~constables~~ in said county for the remainder of the term for  
14 which they were elected ~~on--qualifying--as--justices--of--the~~  
15 ~~peace--or--constables--for--the--respective--townships--in--which~~  
16 ~~they--reside--when--said--townships--are--organized--as--provided~~  
17 ~~in--this--act;~~ provided, further, that all duly elected,  
18 qualified, and acting school trustees residing within the  
19 proposed new county at the time of the division of such  
20 county into school districts, as hereinbefore in section  
21 16-505 provided, shall hold office as school trustees in  
22 said new county for the remainder of the term for which they  
23 were elected on qualifying as school trustees for the  
24 respective districts in which they reside, as said districts  
25 are organized as provided by this act. Each person elected

1 or appointed to fill an office of such new county under the  
 2 provisions of this act shall qualify in the manner provided  
 3 by law for such officers, except as herein otherwise  
 4 provided, and shall enter upon the discharge of the duties  
 5 of his office within such time as herein provided, after the  
 6 receipt of the certificate of his election. Each of such  
 7 officers may take the oath of office before any officers  
 8 authorized by the laws of the state of Montana to administer  
 9 oaths, and the bond of any officer from which a bond is  
 10 required shall be approved by any judge of the district  
 11 court of the district to which such new county is attached  
 12 for judicial purposes. The officers elected or appointed  
 13 under the provisions of this act shall each perform the  
 14 duties and receive the compensation now provided by general  
 15 law for the office to which he has been appointed or elected  
 16 in the counties of the class to which such new county shall  
 17 have been determined to belong, as herein provided under the  
 18 general classification of counties in this state.

19 Said new county, when created and organized in  
 20 pursuance of the provisions of this act, shall be attached  
 21 to such judicial district as may be designated by the  
 22 governor of the state of Montana, in a proclamation to be  
 23 issued by him, designating such new county as attached to  
 24 the particular judicial district for judicial purposes."

25 Section 2. Section 16-2404, R.C.M. 1947, is amended to

1 read as follows:

2 "16-2404. Township officers. The officers of townships  
 3 are ~~two-constables, and such other inferior and subordinate~~  
 4 ~~officers~~ as are provided for elsewhere in this code, or by  
 5 the board of county commissioners."

6 Section 3. Section 16-2406, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-2406. County and other officers, when elected or  
 9 appointed and term of office. There may be elected or  
 10 appointed in each county the following county officers who  
 11 shall possess the qualifications for suffrage prescribed by  
 12 the constitution of the state of Montana, and such other  
 13 qualifications as may be prescribed by law:

14 One (1) county attorney; one (1) clerk of the district  
 15 court; one (1) county clerk who shall be clerk of the board  
 16 of county commissioners and ex officio recorder; one (1)  
 17 sheriff; one (1) treasurer, who shall be collector of the  
 18 taxes; one (1) county superintendent of schools; one (1)  
 19 county surveyor; one (1) assessor; one (1) coroner; one (1)  
 20 public administrator; and at least one (1) justice of the  
 21 peace. Persons elected to the different offices named in  
 22 this section shall hold their respective offices for the  
 23 term of four (4) years, and until their successors are  
 24 elected and qualified. Persons appointed to the different  
 25 offices serve at the pleasure of the commissioners.



1       The commissioners may appoint, at their discretion,  
 2       constables, but not more than one (1) constable for each  
 3       justice of the peace court.

4       County auditors, and all elective township officers,  
 5       may be elected at each general election as now provided by  
 6       law. The officers mentioned in this act must take office on  
 7       the first Monday of January next succeeding their election,  
 8       except the county treasurer, whose term begins on the first  
 9       Monday of March next succeeding his election.

10       Vacancies in all county, township and precinct offices,  
 11       except that of county commissioners, shall be filled by  
 12       appointment by the board of county commissioners, and the  
 13       appointee shall hold his office until the next general  
 14       election if elective, and if not elective, the appointee  
 15       serves at the pleasure of the commissioners; provided,  
 16       however, that the board of county commissioners of any  
 17       county may, in its discretion, consolidate any two or more  
 18       of the within named offices and combine the powers and the  
 19       duties of the said offices consolidated with the exception  
 20       of the office of the justice of the peace, which office may  
 21       not be combined or consolidated with any other office other  
 22       than another justice of the peace office; however, the  
 23       provisions hereof shall not be construed as allowing one (1)  
 24       office incumbent to be entitled to the salaries and  
 25       emoluments of two (2) or more offices; provided, further,

1       that in consolidating county offices, the board of county  
 2       commissioners shall, six (6) months prior to the general  
 3       election held for the purpose of electing the aforesaid  
 4       officers, or six (6) months prior to the appointment of  
 5       aforesaid officers, make and enter an order, combining any  
 6       two (2) or more of the within named offices, and shall cause  
 7       the said order to be published in a newspaper, published and  
 8       circulated generally in said county, for a period of six (6)  
 9       weeks next following the date of entry of said order."

10       Section 4. Section 16-3601, R.C.M. 1947, is amended to  
 11       read as follows:

12       "16-3601. Constables to attend justices' courts.  
 13       Constables must attend the courts of justices of the peace  
 14       within their townships counties whenever so required, and  
 15       ~~within-their-counties~~ execute, serve, and return all process  
 16       and notices directed or delivered to them by a justice of  
 17       the peace of such county, or by any competent authority."

18       Section 5. Section 16-3607, R.C.M. 1947, is amended to  
 19       read as follows:

20       "16-3607. Justice or constable purchasing judgment.  
 21       Every justice of the peace, or constable of the same  
 22       township county, who purchases or is interested in the  
 23       purchase of any judgment, or part thereof, on the docket of,  
 24       or on any docket in the possession of, such justice, is  
 25       guilty of a misdemeanor."

1 Section 6. Section 16-4010, R.C.M. 1947, is amended to  
2 read as follows:

3 "16-4010. Townships--how disposed of,~~term-of-justices~~  
4 ~~and-constables~~. The townships of a county abandoned and  
5 abolished under this act shall be townships of the county to  
6 which the territory within such townships is attached until  
7 such time as they may be changed by the board of county  
8 commissioners of such county ~~and-the-justices-of-the-peace~~  
9 ~~and-constables-in-such-townships-shall-continue-to-hold-such~~  
10 ~~offices-for-the-terms-for-which-they-were-elected~~; provided  
11 that if a township of such abandoned county is divided and a  
12 part attached to one and a part attached to another  
13 adjoining county then the board of county commissioners of  
14 the county to which attached, until further order of such  
15 board, shall attach such territory to an adjoining township  
16 within such county,~~and-the-terms-of-office-of-the-justices~~  
17 ~~of-the-peace-and-constables--within--such--divided--township~~  
18 ~~shall-cease-and-terminate-at-twelve-(12:00)-o'clock-midnight~~  
19 ~~of-the-thirtieth-day-of-June-immediately-following."~~

20 Section 7. Section 66-205, R.C.M. 1947, is amended to  
21 read as follows:

22 "66-205. Auctioneers ex officio. In any ~~city--or--town~~  
23 county where there is no auctioneer, the sheriff or a  
24 constable thereof is ex officio auctioneer, and is permitted  
25 to sell any property, real or personal, at public auction;

1 and for any delinquency as such ex officio auctioneer he is  
2 liable on his official bond."

3 Section 8. Section 93-7709, R.C.M. 1947, is amended to  
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5 "93-7709. Special constables--appointment. If in any  
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7 or qualified constable, ~~but-not-otherwise,a-justice-of--the~~  
8 ~~peace~~ the board of county commissioners in the county may,  
9 at the request of a party, after being satisfied that it is  
10 expedient to do so, specially depute any proper person of  
11 suitable age not interested in the action to serve a  
12 summons, with or without an order to arrest the defendant,  
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15 bond for all official acts of the person so deputed. Such  
16 deputation shall be in writing made on the process, and a  
97 note thereof made on the justice's docket."

18 Section 9. There is a new R.C.M. section that reads as  
19 follows:

20 Compensation of constables. The board of county  
21 commissioners shall, by resolution on or before July 1 of  
22 each year, fix the salary of constables for the following  
23 fiscal year. Constables shall receive mileage, at the rate  
24 provided by law, when performing their official duties.

25 Section 10. Section 25-309, R.C.M. 1947, is repealed.

1           Section 11. This act is effective on its passage and  
2 approval.

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1 SENATE BILL NO. 239  
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 23 the proposed new county, shall be deemed to be officers of  
 24 said new county if they file with the board of county  
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1 within five days after the final hearing and determination  
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 4 and the board of county commissioners issuing the  
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 7 have filed their declaration as herein provided; and  
 8 provided, also, that all duly elected, qualified, and acting  
 9 justices of the peace ~~and--constables~~ residing within the  
 10 proposed new county ~~at--the--time--of--the--division--of--such~~  
 11 ~~county--into--townships--as--hereinbefore--in--section--16-505~~  
 12 ~~provided,~~ shall hold office as such justices of the peace ~~or~~  
 13 ~~constables~~ in said county for the remainder of the term for  
 14 which they were elected ~~on--qualifying--as--justices--of--the~~  
 15 ~~peace--or--constables--for--the--respective--townships--in--which~~  
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 17 ~~in--this--act;~~ provided, further, that all duly elected,  
 18 qualified, and acting school trustees residing within the  
 19 proposed new county at the time of the division of such  
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 21 16-505 provided, shall hold office as school trustees in  
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 24 respective districts in which they reside, as said districts  
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1 or appointed to fill an office of such new county under the  
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 5 of his office within such time as herein provided, after the  
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 10 required shall be approved by any judge of the district  
 11 court of the district to which such new county is attached  
 12 for judicial purposes. The officers elected or appointed  
 13 under the provisions of this act shall each perform the  
 14 duties and receive the compensation now provided by general  
 15 law for the office to which he has been appointed or elected  
 16 in the counties of the class to which such new county shall  
 17 have been determined to belong, as herein provided under the  
 18 general classification of counties in this state.

19 Said new county, when created and organized in  
 20 pursuance of the provisions of this act, shall be attached  
 21 to such judicial district as may be designated by the  
 22 governor of the state of Montana, in a proclamation to be  
 23 issued by him, designating such new county as attached to  
 24 the particular judicial district for judicial purposes."

25 Section 2. Section 16-2404, R.C.M. 1947, is amended to

1 read as follows:

2 "16-2404. Township officers. The officers of townships  
 3 are ~~two-constables, and such other inferior and subordinate~~  
 4 ~~officers~~ as are provided ~~for~~ elsewhere in this code, or by  
 5 the board of county commissioners."

6 Section 3. Section 16-2406, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-2406. County and other officers, when elected or  
 9 appointed and term of office. There may be elected or  
 10 appointed in each county the following county officers who  
 11 shall possess the qualifications for suffrage prescribed by  
 12 the constitution of the state of Montana, and such other  
 13 qualifications as may be prescribed by law:

14 One (1) county attorney; one (1) clerk of the district  
 15 court; one (1) county clerk who shall be clerk of the board  
 16 of county commissioners and ex officio recorder; one (1)  
 17 sheriff; one (1) treasurer, who shall be collector of the  
 18 taxes; one (1) county superintendent of schools; one (1)  
 19 county surveyor; one (1) assessor; one (1) coroner; one (1)  
 20 public administrator; and at least one (1) justice of the  
 21 peace. Persons elected to the different offices named in  
 22 this section shall hold their respective offices for the  
 23 term of four (4) years, and until their successors are  
 24 elected and qualified. Persons appointed to the different  
 25 offices serve at the pleasure of the commissioners.

1       The commissioners may appoint, at their discretion,  
 2       constables, but not more than one (1) constable for each  
 3       justice of the peace court.

4       County auditors, and all elective township officers,  
 5       may be elected at each general election as now provided by  
 6       law. The officers mentioned in this act must take office on  
 7       the first Monday of January next succeeding their election,  
 8       except the county treasurer, whose term begins on the first  
 9       Monday of March next succeeding his election.

10       Vacancies in all county, township and precinct offices,  
 11       except that of county commissioners, shall be filled by  
 12       appointment by the board of county commissioners, and the  
 13       appointee shall hold his office until the next general  
 14       election if elective, and if not elective, the appointee  
 15       serves at the pleasure of the commissioners; provided,  
 16       however, that the board of county commissioners of any  
 17       county may, in its discretion, consolidate any two or more  
 18       of the within named offices and combine the powers and the  
 19       duties of the said offices consolidated with the exception  
 20       of the office of the justice of the peace, which office may  
 21       not be combined or consolidated with any other office other  
 22       than another justice of the peace office; however, the  
 23       provisions hereof shall not be construed as allowing one (1)  
 24       office incumbent to be entitled to the salaries and  
 25       emoluments of two (2) or more offices; provided, further,

1       that in consolidating county offices, the board of county  
 2       commissioners shall, six (6) months prior to the general  
 3       election held for the purpose of electing the aforesaid  
 4       officers, or six (6) months prior to the appointment of  
 5       aforesaid officers, make and enter an order, combining any  
 6       two (2) or more of the within named offices, and shall cause  
 7       the said order to be published in a newspaper, published and  
 8       circulated generally in said county, for a period of six (6)  
 9       weeks next following the date of entry of said order."

10       Section 4. Section 16-3601, R.C.M. 1947, is amended to  
 11       read as follows:

12       "16-3601. Constables to attend justices' courts.  
 13       Constables must attend the courts of justices of the peace  
 14       within their ~~townships~~ counties whenever so required, and  
 15       ~~within-their-counties~~ execute, serve, and return all process  
 16       and notices directed or delivered to them by a justice of  
 17       the peace of such county, or by any competent authority."

18       Section 5. Section 16-3607, R.C.M. 1947, is amended to  
 19       read as follows:

20       "16-3607. Justice or constable purchasing judgment.  
 21       Every justice of the peace, or constable of the same  
 22       township county, who purchases or is interested in the  
 23       purchase of any judgment, or part thereof, on the docket of,  
 24       or on any docket in the possession of, such justice, is  
 25       guilty of a misdemeanor."

1 Section 6. Section 16-4010, R.C.M. 1947, is amended to  
2 read as follows:

3 "16-4010. Townships--how disposed of~~-term-of-justices~~  
4 ~~and-constables~~. The townships of a county abandoned and  
5 abolished under this act shall be townships of the county to  
6 which the territory within such townships is attached until  
7 such time as they may be changed by the board of county  
8 commissioners of such county ~~and-the-justices-of-the-peace~~  
9 ~~and-constables-in-such-townships-shall-continue-to-hold-such~~  
10 ~~offices-for-the-terms-for-which-they-were-elected~~; provided  
11 that if a township of such abandoned county is divided and a  
12 part attached to one and a part attached to another  
13 adjoining county then the board of county commissioners of  
14 the county to which attached, until further order of such  
15 board, shall attach such territory to an adjoining township  
16 within such county~~,and-the-terms-of-office-of-the-justices~~  
17 ~~of-the-peace-and-constables--within--such--divided--township~~  
18 ~~shall-cease-and-terminate-at-twelve-(12:00)-o'clock-midnight~~  
19 ~~of-the-thirtieth-day-of-June-immediately-following.~~"

20 Section 7. Section 66-205, R.C.M. 1947, is amended to  
21 read as follows:

22 "66-205. Auctioneers ex officio. In any city--or--town  
23 county where there is no auctioneer, the sheriff or a  
24 constable thereof is ex officio auctioneer, and is permitted  
25 to sell any property, real or personal, at public auction;

1 and for any delinquency as such ex officio auctioneer he is  
2 liable on his official bond."

3 Section 8. Section 93-7709, R.C.M. 1947, is amended to  
4 read as follows:

5 "93-7709. Special constables--appointment. If in any  
6 township county there should be no duly ~~elected~~, appointed,  
7 or qualified constable, ~~but-not-otherwise,-a-justice-of--the~~  
8 ~~peace~~ the board of county commissioners in the county may,  
9 at the request of a party, after being satisfied that it is  
10 expedient to do so, specially depute any proper person of  
11 suitable age not interested in the action to serve a  
12 summons, with or without an order to arrest the defendant,  
13 or with or without a writ of attachment, or to serve an  
14 execution. The justice shall be liable upon his official  
15 bond for all official acts of the person so deputed. Such  
16 deputation shall be in writing made on the process, and a  
17 note thereof made on the justice's docket."

18 Section 9. There is a new R.C.M. section that reads as  
19 follows:

20 Compensation of constables. The board of county  
21 commissioners shall, by resolution on or before July 1 of  
22 each year, fix the salary of constables for the following  
23 fiscal year. Constables shall receive mileage, at the rate  
24 provided by law, when performing their official duties.

25 Section 10. Section 25-309, R.C.M. 1947, is repealed.

1           Section 11. This act is effective on its passage and  
2 approval.

-End-



1 SENATE BILL NO. 239  
 2 INTRODUCED BY GREELY  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE TOWNSHIP  
 5 TERRITORIAL LIMITS ON CONSTABLES; TO REQUIRE THE BOARD OF  
 6 COUNTY COMMISSIONERS TO SET SALARIES FOR CONSTABLES; TO MAKE  
 7 CONSTABLES APPOINTED COUNTY OFFICERS; AMENDING SECTIONS  
 8 16-507, 16-2404, 16-2406, 16-3601, 16-3607, 16-4010, 66-205,  
 9 93-7709, R.C.M. 1947; REPEALING SECTION 25-309, R.C.M. 1947;  
 10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

12 Section 1. Section 16-507, R.C.M. 1947, is amended to  
13 read as follows:  
14

15 "16-507. Officers of new county--judicial district. At  
 16 the election provided for in section 16-505 of this code,  
 17 there shall be chosen such county, township, and district  
 18 officers as are now or may hereafter by general law be  
 19 provided for in counties of the class to which the said new  
 20 county is determined to belong, as herein provided;  
 21 provided, that all duly elected, qualified and acting  
 22 officers of the county or counties, who may reside within  
 23 the proposed new county, shall be deemed to be officers of  
 24 said new county if they file with the board of county  
 25 commissioners, whose duty it shall be to call the election,

1 within five days after the final hearing and determination  
 2 of said petition for such proposed new county, their  
 3 intention to become officers of said proposed new county,  
 4 and the board of county commissioners issuing the  
 5 proclamation of any election, as in this act provided, shall  
 6 omit providing for the election of any such officers as may  
 7 have filed their declaration as herein provided; and  
 8 provided, also, that all duly elected, qualified, and acting  
 9 justices of the peace ~~and--constables~~ residing within the  
 10 proposed new county ~~at--the--time--of--the--division--of--such~~  
 11 ~~county--into--townships--as--hereinbefore--in--section--16-505~~  
 12 ~~provided,~~ shall hold office as such justices of the peace ~~or~~  
 13 ~~constables~~ in said county for the remainder of the term for  
 14 which they were elected ~~en-qualifying--as--justices--of--the~~  
 15 ~~peace--or--constables--for--the--respective--townships--in--which~~  
 16 ~~they--reside--when--said--townships--are--organized--as--provided~~  
 17 ~~in--this--act;~~ provided, further, that all duly elected,  
 18 qualified, and acting school trustees residing within the  
 19 proposed new county at the time of the division of such  
 20 county into school districts, as hereinbefore in section  
 21 16-505 provided, shall hold office as school trustees in  
 22 said new county for the remainder of the term for which they  
 23 were elected on qualifying as school trustees for the  
 24 respective districts in which they reside, as said districts  
 25 are organized as provided by this act. Each person elected

1 or appointed to fill an office of such new county under the  
 2 provisions of this act shall qualify in the manner provided  
 3 by law for such officers, except as herein otherwise  
 4 provided, and shall enter upon the discharge of the duties  
 5 of his office within such time as herein provided, after the  
 6 receipt of the certificate of his election. Each of such  
 7 officers may take the oath of office before any officers  
 8 authorized by the laws of the state of Montana to administer  
 9 oaths, and the bond of any officer from which a bond is  
 10 required shall be approved by any judge of the district  
 11 court of the district to which such new county is attached  
 12 for judicial purposes. The officers elected or appointed  
 13 under the provisions of this act shall each perform the  
 14 duties and receive the compensation now provided by general  
 15 law for the office to which he has been appointed or elected  
 16 in the counties of the class to which such new county shall  
 17 have been determined to belong, as herein provided under the  
 18 general classification of counties in this state.

19 Said new county, when created and organized in  
 20 pursuance of the provisions of this act, shall be attached  
 21 to such judicial district as may be designated by the  
 22 governor of the state of Montana, in a proclamation to be  
 23 issued by him, designating such new county as attached to  
 24 the particular judicial district for judicial purposes."

25 Section 2. Section 16-2404, R.C.M. 1947, is amended to

1 read as follows:

2 "16-2404. Township officers. The officers of townships  
 3 are ~~two constables, and such other inferior and subordinate~~  
 4 ~~officers~~ as are provided for elsewhere in this code, or by  
 5 the board of county commissioners."

6 Section 3. Section 16-2406, R.C.M. 1947, is amended to  
 7 read as follows:

8 "16-2406. County and other officers, when elected or  
 9 appointed and term of office. There may be elected or  
 10 appointed in each county the following county officers who  
 11 shall possess the qualifications for suffrage prescribed by  
 12 the constitution of the state of Montana, and such other  
 13 qualifications as may be prescribed by law:

14 One (1) county attorney; one (1) clerk of the district  
 15 court; one (1) county clerk who shall be clerk of the board  
 16 of county commissioners and ex officio recorder; one (1)  
 17 sheriff; one (1) treasurer, who shall be collector of the  
 18 taxes; one (1) county superintendent of schools; one (1)  
 19 county surveyor; one (1) assessor; one (1) coroner; one (1)  
 20 public administrator; and at least one (1) justice of the  
 21 peace. Persons elected to the different offices named in  
 22 this section shall hold their respective offices for the  
 23 term of four (4) years, and until their successors are  
 24 elected and qualified. Persons appointed to the different  
 25 offices serve at the pleasure of the commissioners.

1       The commissioners may appoint, at their discretion,  
 2       constables, but not more than one (1) constable for each  
 3       justice of the peace court.

4       County auditors, and all elective township officers,  
 5       may be elected at each general election as now provided by  
 6       law. The officers mentioned in this act must take office on  
 7       the first Monday of January next succeeding their election,  
 8       except the county treasurer, whose term begins on the first  
 9       Monday of March next succeeding his election.

10       Vacancies in all county, township and precinct offices,  
 11       except that of county commissioners, shall be filled by  
 12       appointment by the board of county commissioners, and the  
 13       appointee shall hold his office until the next general  
 14       election if elective, and if not elective, the appointee  
 15       serves at the pleasure of the commissioners; provided,  
 16       however, that the board of county commissioners of any  
 17       county may, in its discretion, consolidate any two or more  
 18       of the within named offices and combine the powers and the  
 19       duties of the said offices consolidated with the exception  
 20       of the office of the justice of the peace, which office may  
 21       not be combined or consolidated with any other office other  
 22       than another justice of the peace office; however, the  
 23       provisions hereof shall not be construed as allowing one (1)  
 24       office incumbent to be entitled to the salaries and  
 25       emoluments of two (2) or more offices; provided, further,

1       that in consolidating county offices, the board of county  
 2       commissioners shall, six (6) months prior to the general  
 3       election held for the purpose of electing the aforesaid  
 4       officers, or six (6) months prior to the appointment of  
 5       aforesaid officers, make and enter an order, combining any  
 6       two (2) or more of the within named offices, and shall cause  
 7       the said order to be published in a newspaper, published and  
 8       circulated generally in said county, for a period of six (6)  
 9       weeks next following the date of entry of said order."

10       Section 4. Section 16-3601, R.C.M. 1947, is amended to  
 11       read as follows:

12       "16-3601. Constables to attend justices' courts.  
 13       Constables must attend the courts of justices of the peace  
 14       within their ~~townships~~ counties whenever so required, and  
 15       ~~within-their-counties~~ execute, serve, and return all process  
 16       and notices directed or delivered to them by a justice of  
 17       the peace of such county, or by any competent authority."

18       Section 5. Section 16-3607, R.C.M. 1947, is amended to  
 19       read as follows:

20       "16-3607. Justice or constable purchasing judgment.  
 21       Every justice of the peace, or constable of the same  
 22       township county, who purchases or is interested in the  
 23       purchase of any judgment, or part thereof, on the docket of,  
 24       or on any docket in the possession of, such justice, is  
 25       guilty of a misdemeanor."

1 Section 6. Section 16-4010, R.C.M. 1947, is amended to  
2 read as follows:

3 "16-4010. Townships--how disposed of,~~term-of-justices~~  
4 ~~and-constables~~. The townships of a county abandoned and  
5 abolished under this act shall be townships of the county to  
6 which the territory within such townships is attached until  
7 such time as they may be changed by the board of county  
8 commissioners of such county ~~and-the-justices-of-the-peace~~  
9 ~~and-constables-in-such-townships-shall-continue-to-hold-such~~  
10 ~~offices-for-the-terms-for-which-they-were-elected~~; provided  
11 that if a township of such abandoned county is divided and a  
12 part attached to one and a part attached to another  
13 adjoining county then the board of county commissioners of  
14 the county to which attached, until further order of such  
15 board, shall attach such territory to an adjoining township  
16 within such county,~~and-the-terms-of-office-of-the-justices~~  
17 ~~of-the-peace-and-constables--within--such--divided--township~~  
18 ~~shall-cess-and-terminate-at-twelve-(12:00)-o'clock-midnight~~  
19 ~~of-the-thirtieth-day-of-June-immediately-following."~~

20 Section 7. Section 66-205, R.C.M. 1947, is amended to  
21 read as follows:

22 "66-205. Auctioneers ex officio. In any ~~city--or--town~~  
23 county where there is no auctioneer, the sheriff or a  
24 constable thereof is ex officio auctioneer, and is permitted  
25 to sell any property, real or personal, at public auction;

1 and for any delinquency as such ex officio auctioneer he is  
2 liable on his official bond."

3 Section 8. Section 93-7709, R.C.M. 1947, is amended to  
4 read as follows:

5 "93-7709. Special constables--appointment. If in any  
6 township county there should be no duly ~~elected~~, appointed,  
7 or qualified constable, ~~but-not-otherwise-a-justice-of--the~~  
8 peace the board of county commissioners in the county may,  
9 at the request of a party, after being satisfied that it is  
10 expedient to do so, specially depute any proper person of  
11 suitable age not interested in the action to serve a  
12 summons, with or without an order to arrest the defendant,  
13 or with or without a writ of attachment, or to serve an  
14 execution. The justice shall be liable upon his official  
15 bond for all official acts of the person so deputed. Such  
16 deputation shall be in writing made on the process, and a  
17 note thereof made on the justice's docket."

18 Section 9. There is a new R.C.M. section that reads as  
19 follows:

20 Compensation of constables. The board of county  
21 commissioners shall, by resolution on or before July 1 of  
22 each year, fix the salary of constables for the following  
23 fiscal year. Constables shall receive mileage, at the rate  
24 provided by law, when performing their official duties.

25 Section 10. Section 25-309, R.C.M. 1947, is repealed.

1           Section 11. This act is effective on its passage and  
2 approval.

-End-