

SENATE BILL 15

IN THE SENATE

January 3, 1979

Introduced and referred to
Committee on Local Government.

April 20, 1979

Died in Committee.

1 SENATE BILL NO. 152 INTRODUCED BY JERGESON, WATT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LOCAL GOVERNMENT LAWS RELATING TO AGRICULTURAL SERVICES; AND
6 PROVIDING AN EFFECTIVE DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Liberal construction. The rule of law that
10 the powers of a local government shall be strictly construed
11 has no application to the powers of local governments in
12 Montana. Any reasonable doubt as to the existence of a
13 power or authority granted by law to local government shall
14 be resolved in favor of the power or authority's existence.

15 Section 2. Powers vested in governing body. Unless
16 otherwise provided or the context otherwise requires, all
17 powers granted to local governments by law shall be vested
18 in the governing body of the local government.

19 Section 3. Transition. (1) This [act] shall not affect
20 the validity of any bond, debt, contract, obligation, or
21 cause of action accrued prior to [the effective date of this
22 act]. The governing body may have the power and duty to do
23 all things required by prior law or by covenants and
24 agreements entered into pursuant to such laws for the
25 security of any such bond, debt, contract, or obligation.

1 (2) All ordinances, resolutions, regulations, and
2 interlocal agreements in effect [at the time this act
3 becomes effective] shall continue in effect until repealed
4 or amended in the manner provided by law.

5 (3) Each officer or employee affected by the
6 reorganization of local government under this [act] is
7 entitled to all rights which he possessed as a local
8 government officer or employee before [the effective date of
9 this act], including rights to tenure in position and of
10 rank or grade, rights to vacation and sick pay and leave,
11 rights under any retirement or personnel plan or labor union
12 contract, rights to compensatory time earned, and any other
13 rights under any law, ordinance, resolution, or
14 administrative policy. This section is not intended to
15 create any new rights for any officer or employee but to
16 continue only those rights in effect before [the effective
17 date of this act].

18 (4) All local government officers and employees
19 holding offices or positions, whether elective or
20 appointive, on [the effective date of this act] shall
21 continue in the performance of the duties of their
22 respective offices and positions until provision is made for
23 the continued performance of the duties; the discontinuance
24 of such duties; the discontinuance or combination of such
25 office or position; the transfer of the officer or employee

1 to another position; or the termination of employment of the
2 employee.

3 Section 4. State technical advice and assistance. (1)
4 All state agencies are authorized and encouraged to provide
5 technical assistance to local governments.

6 (2) The technical assistance services shall not
7 include those that can be as reasonably and expeditiously
8 obtained through business channels.

9 (3) State agencies are encouraged to develop the
10 capacity to provide technical advice and assistance without
11 charge to local governments, but they are also encouraged to
12 establish service charges for special or extraordinary
13 technical advice.

14 (4) The department of community affairs shall
15 coordinate technical advice and assistance provided to local
16 governments by state agencies.

17 (5) State agencies may lend personnel, equipment, and
18 machinery to local governments.

19 Section 5. Penalty. (1) The failure of an officer or
20 employee to perform a duty imposed by law or ordinance is
21 official misconduct as defined in 45-7-401 and may be
22 punished as such.

23 (2) Where a local government is required by state law
24 to provide information to a state agency and fails to
25 provide the required information, the department of

1 community affairs may issue an order stopping payment of any
2 state financial aid to the local government. Upon provision
3 of the information, all financial aid which was stopped
4 because of failure to provide the information shall be paid
5 to the local government.

6 Section 6. Public servants. All local government
7 officers and employees are public servants for the purpose
8 of determining the offense of obstructing a public servant
9 as provided in 45-7-302.

10 Section 7. Local government legislation. All local
11 government legislation shall be consistent with the
12 organization and terminology of state law and retain the
13 constitutional distinction between general government
14 powers, self-government powers, and duties of all local
15 governments as agents of the state.

16 Section 8. Joint procedures. If two or more local
17 governments act jointly, they may jointly perform any
18 procedures required by law or the governing body of a local
19 government may delegate to another local government the
20 responsibility for complying with administrative procedures
21 such as publication or mailing of notices, but any public
22 hearing shall be conducted by the respective governing
23 bodies in their own jurisdiction or jointly and any final
24 action shall be taken by each local government individually.

25 Section 9. General definitions. In this [act], unless

1 otherwise provided or the context requires a technical or
2 other interpretation, the following definitions apply:

3 (1) "Appointing authority" means the chief executive
4 or officer of the local government empowered by the plan of
5 government to appoint or remove specified officers,
6 employees, or board members of the local government.

7 (2) "Apportionment plan" means a certificate prepared
8 by a governing body or a study commission that contains the
9 districts for electing members of the governing body.

10 (3) "Authority" means any one of the independent
11 authorities or districts which a local government is
12 authorized to create by [section 75 of SB 12].

13 (4) "Board member" means a person appointed to an
14 administrative or advisory board as provided in [section 53
15 of SB 12].

16 (5) "Budget administrator" means the person or persons
17 designated by the governing body to perform the duties
18 prescribed in [section 41 through section 56 of SB 22].

19 (6) "Business" includes all kinds of vocations,
20 occupations, professions, enterprises, establishments, and
21 all other kinds of activities any of which are conducted for
22 private profit or benefit, either directly or indirectly.

23 (7) "Charter" means a written document defining the
24 powers, structure, privileges, rights, and duties of the
25 government and limitations thereon.

1 (8) "Chief executive" means the elected executive in a
2 government adopting the commission-executive form, the
3 manager in a government adopting the commission-manager
4 form, the chairman in a government adopting the
5 commission-chairman form, the town chairman in a government
6 adopting the town meeting form, the commission acting as a
7 body in a government adopting the commission form, or the
8 officer or officers so designated in the charter in a
9 government adopting a charter.

10 (9) "Civil attorney" means the person designated by
11 the governing body as the legal counsel for the local
12 government as provided in [section 74 of SB 12].

13 (10) "Clerk of the governing body" means the person
14 appointed by the governing body to perform clerical and
15 other assigned duties to assist the governing body.

16 (11) "Commission" means the governing body of a local
17 government established by the plan of government.

18 (12) "Commissioner" means a member of the local
19 government governing body.

20 (13) "Confederation" means a form of local government
21 that provides for the distribution of the governmental
22 authority between a county and one or more of the
23 municipalities which are located within the county.

24 (14) "Consolidation" means the joinder of one or more
25 municipalities with one or more counties to form a single

1 local government that is both a municipality and a county
 2 for all purposes.

3 (15) "Consolidation plan" means a certificate prepared
 4 by a study commission that contains the plan for
 5 consolidation of existing local governments.

6 (16) "County" means an entity recognized as such by
 7 Article XI, section 1, of the Montana constitution.

8 (17) "County boundary" means an imaginary line defining
 9 the limits of a county.

10 (18) "County merger" means a form of local government
 11 that provides for the joinder of the corporate existence and
 12 government of two or more counties.

13 (19) "Elections administrator" means the person
 14 designated as the registrar by the governing body as
 15 provided in Title 13.

16 (20) "Elector" means a resident of the local government
 17 qualified and registered to vote under state law.

18 (21) "Emergency" means an unexpected condition that
 19 exists which imminently affects public health, welfare, and
 20 safety.

21 (22) "Employee" means a person other than an officer
 22 who is employed by a local government.

23 (23) "Executive branch" means that part of the local
 24 government, including departments, offices, and boards,
 25 charged with implementing actions approved and administering

1 policies adopted by the governing body of the local
 2 government or performing the duties required in [section 33
 3 through section 92 of SB 21].

4 (24) "Extraterritorial area" refers to the area beyond
 5 the municipal limits of an incorporated municipality bounded
 6 by those limits and an imaginary line paralleling the
 7 municipal limits at a distance of 5 miles within which the
 8 incorporated municipality may provide specified services and
 9 facilities and exercise designated regulatory powers.

10 (25) "Facility" means a building, property, physical
 11 improvement or system, or structural device that facilitates
 12 the delivery of a service.

13 (26) "Finance administrator" means the person or
 14 persons designated under [section 57 of SB 22].

15 (27) "Folio" means 100 words, counting every two
 16 figures necessarily used as a word, or any portion of a
 17 folio, when in the whole paper there is not a complete
 18 folio; and when there is an excess over the last folio
 19 exceeding one-half, it may be computed as a folio.

20 (28) "Form" means a specific and formal governmental
 21 organization authorized as an alternative form of government
 22 by Title 7, part 3.

23 (29) "Franchise" means an exclusive public privilege or
 24 right granted by a local government to an individual,
 25 corporation, or any other public or private entity in the

1 manner prescribed by [section 61 of SB 12].

2 (30) "Governing body" means the commission or town
3 meeting legislative body established in the alternative form
4 of local government.

5 (31) "Guideline" means a suggested or recommended
6 standard or procedure to serve as an index of comparison and
7 is not enforceable as a regulation.

8 (32) "Jurisdictional area" refers, in the case of
9 municipalities, to the area within the municipal limits and
10 the extraterritorial area within which the municipality is
11 providing any service or facilities or exercising any
12 regulatory powers. In the case of counties, it refers to the
13 entire geographical area enclosed within the county
14 boundaries.

15 (33) "Law" means a statute enacted by the legislature
16 of Montana and approved and signed by the governor or a
17 statute adopted by the people of Montana through statutory
18 initiative procedures.

19 (34) "Local court" means a justice court, municipal
20 court, or small claims court.

21 (35) "Local government" means either a municipality, a
22 county, or a consolidated or confederated unit of
23 government.

24 (36) "Local improvement district" means an area within
25 a local government established as provided in [section 90 of

1 SB 12] with specific boundaries in which property is
2 specially assessed to pay for a specific capital improvement
3 benefiting the property assessed.

4 (37) "Lot" includes the word "parcel" or portion of a
5 lot or parcel.

6 (38) "May" confers a power.

7 (39) "Merger" means the joinder into a single unit of
8 two or more like units of local government. If two counties
9 merge, the resultant entity is a single county. If two
10 municipalities merge, the resultant entity is a
11 municipality.

12 (40) "Metropolitan service area", which may be
13 established by agreement of municipal and county governing
14 bodies as provided in [section 60 of SB 14], refers to the
15 jurisdictional area of a municipality and any area beyond
16 the extraterritorial area within which a municipality is
17 authorized to provide any service or exercise any regulatory
18 power.

19 (41) "Multicounty agency" means any organization
20 authorized by state law consisting of two or more counties
21 which is created or required to be created to provide and
22 coordinate services. Participating local governments may
23 provide funding or members to serve on a board, if there is
24 a board, or both.

25 (42) "Municipal limits" means the corporate boundary of

1 an incorporated municipality.

2 (43) "Municipality" or "municipal" means an entity
3 which incorporates as provided by [section 47 through
4 section 65 of SB 11] or which was incorporated under the
5 provisions of any prior law as a city or town.

6 (44) "Office of the local government" means the
7 permanent location of the seat of government from which the
8 records administrator carries out his duties or the office
9 of the clerk of the governing body where one is appointed.

10 (45) "Officer" means a person holding a position with a
11 local government which is ordinarily filled by election and
12 in those local governments with a manager, the manager.

13 (46) "Ordinance" means an act adopted and approved by a
14 local government through the procedures in [section 56 of SB
15 12] and having effect only within the jurisdiction of the
16 local government.

17 (47) "Owner", "record owner", or "owner of record"
18 means owner of record or purchaser of record.

19 (48) "Per diem" means actual cost of or a fixed rate
20 for meals, lodging, and incidental expenses.

21 (49) "Person" means any individual, firm, partnership,
22 company, corporation, trust, trustee, assignee or other
23 representative, association, or other organized group.

24 (50) "Personal property" means tangible property other
25 than real property, such as merchandise and stock in trade.

1 machinery and equipment, furniture and fixtures, motor
2 vehicles and vehicles, boats, vessels, and aircraft.

3 (51) "Plan of government" means a certificate submitted
4 by a study commission, a governing body, or petition from
5 the provisions of Title 7, part 3, that documents the basic
6 form of government selected including all applicable
7 suboptions. The plan must establish the terms of all
8 officers and the number of commissioners, if any, to be
9 elected.

10 (52) "Plat" means a graphical representation of a tract
11 of annexed land, a townsite, or a subdivision showing the
12 division of land into lots, parcels, blocks, trafficways,
13 and other divisions and dedications.

14 (53) "Political subdivision" refers to a local
15 government, authority, school district, or multicounty
16 agency.

17 (54) "Population" means the number of inhabitants as
18 determined by an official federal, state, or local census or
19 official population estimate approved by the department of
20 community affairs.

21 (55) "Printed" means the act of reproducing a design on
22 a surface by any process as defined by 1-1-203(3).

23 (56) "Property" means real and personal property.

24 (57) "Prosecuting attorney" means the person designated
25 by each county governing body to perform the duties

1 described in [section 53 of SB 21].

2 (58) "Public agency" means a political subdivision,
 3 Indian tribal council, state and federal department or
 4 office, and the Dominion of Canada or any provincial
 5 department or office or political subdivision thereof.

6 (59) "Public property" means any and all property owned
 7 by a local government or held in the name of a local
 8 government by any of the departments, boards, or authorities
 9 of the local government.

10 (60) "Real property" means lands, structures,
 11 buildings, and interests in land, including lands under
 12 water and riparian rights, and all things and rights usually
 13 included within the term real property, including not only
 14 fee simple absolute but also all lesser interests such as
 15 easements, rights-of-way, uses, leases, licenses, and all
 16 other incorporeal hereditaments and every estate, interest,
 17 or right, legal or equitable, pertaining to real property.

18 (61) "Records administrator" means the person
 19 designated by the governing body as the individual
 20 responsible for keeping the records which [section 36
 21 through section 43 of SB 21] requires be kept.

22 (62) "Reproduced" means the act of reproducing a design
 23 on any surface by any process.

24 (63) "Resolution" means a statement of policy by the
 25 governing body or an order by the governing body that a

1 specific action be taken.

2 (64) "School district" means any territory, regardless
 3 of county boundaries, organized under the provisions of
 4 Title 20 to provide public educational services under the
 5 jurisdiction of the trustees prescribed by that title.

6 (65) "Service" means an authorized function or activity
 7 performed by local government.

8 (66) "Shall" imposes a duty, is always mandatory, and
 9 is not merely directory.

10 (67) "Structure" means the entire governmental
 11 organization through which a local government carries out
 12 its duties, functions, and responsibilities.

13 (68) "Study commission" means a local government study
 14 commission established pursuant to [section 33 through
 15 section 49 of SB 12].

16 (69) "Study commissioner" means an elected or appointed
 17 member of a local government study commission.

18 (70) "Subordinate service district" means an area
 19 within a local government, established as provided in
 20 [section 81 of SB 12], with specific boundaries in which
 21 certain services are carried out and in which taxes may be
 22 levied to finance the service.

23 (71) "Tribal council" means the governing body of an
 24 Indian reservation.

25 Section 10. Administrative rules. The governing body

1 may by ordinance authorize the chief executive to adopt
2 administrative rules. All administrative rules shall be
3 entered in an administrative code that shall be available in
4 the office of the local government.

5 Section 11. Publish notice. (1) Unless otherwise
6 specifically provided, when a local government is required
7 to publish notice, publications shall be in a newspaper,
8 except that in a municipality with a population of 500 or
9 less or in which no newspaper is published, publication may
10 be made by posting in three public places in the
11 municipality which have been designated by ordinance.

12 (2) The newspaper shall be:

13 (a) of general paid circulation with a second-class
14 mailing permit;

15 (b) published at least once a week;

16 (c) published in the county;

17 (d) published continuously in the county for the 12
18 months preceding the awarding of the contract.

19 (3) In a county where no newspaper meets these
20 qualifications, publication shall be made in a qualified
21 newspaper in an adjacent county.

22 (4) If a person is required by law or ordinance to pay
23 for publication, the payment must be received before the
24 publication shall be made.

25 Section 12. Notice. Unless otherwise specifically

1 provided, when notice of a hearing or other official act is
2 required, the following shall apply:

3 (1) The notice shall be published two times with at
4 least 6 days separating each publication. The first
5 publication shall be no more than 21 days prior to the
6 action and the last no less than 3 days prior to the action.

7 (2) The published notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will occur;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring notice.

16 (3) A published notice required by law may be
17 supplemented by a radio or television broadcast of the
18 notice in the manner prescribed in 20-3-105 through
19 20-3-107.

20 Section 13. Mail notice. (1) Unless otherwise
21 specifically provided, when a local government is required
22 to give notice of a hearing or other official act by mail,
23 the requirement may be met by:

24 (a) deposit of the notice properly addressed in the
25 United States mail with postage paid at the first-class

1 rate;

2 (b) sending the notice by registered or certified mail
3 rather than first class; or

4 (c) mailing the notice at the bulk rate instead of
5 first class when notice is to be given by mail to all
6 electors or residents of a local government.

7 (2) The notice shall contain:

8 (a) the date, time, and place at which the hearing or
9 other action will be taken;

10 (b) a brief statement of the action to be taken;

11 (c) the address and telephone number of the person who
12 can be contacted for further information on the action to be
13 taken; and

14 (d) any other information required by the specific
15 section requiring mail notice.

16 (3) When notice by mail is required, the requirement
17 shall apply only to persons whose addresses are known.

18 Section 14. Petition. (1) Whenever a petition is
19 authorized, unless the section authorizing the petition
20 establishes different criteria, it shall be valid if it is
21 signed by 15% of the electors of the local government and
22 meets the following requirements:

23 (a) contains a statement of the purpose for which it
24 is circulated sufficient to meet the specific criteria set
25 out in the section authorizing the petition;

1 (b) each signature is followed by the printed name of
2 the signer, the address of the signer's place of residence,
3 and the date of the signing; and

4 (c) the petition contains the date it was first
5 circulated and a statement that all signatures must be
6 collected within 90 days of that date.

7 (2) Unless otherwise provided, all petitions shall be
8 filed with the county elections administrator who shall
9 determine the sufficiency of the signatures. No petition
10 filed after the deadline for filing the petition, if any,
11 shall be considered.

12 (3) Within 10 working days of the date the petition
13 was filed, the county elections administrator shall
14 determine the adequacy of the petition.

15 (4) Inadequate petitions shall be returned but may be
16 amended or supplementary signatures may be obtained and the
17 petition may be refiled prior to the deadline for filing the
18 petition.

19 (5) Within 10 days of its second filing, the elections
20 administrator shall again determine the adequacy of the
21 petition. If it is still determined inadequate, it shall be
22 rejected without prejudice to the filing of a new petition
23 to the same effect.

24 (6) If a petition is determined adequate, the
25 elections administrator shall certify its adequacy and

1 submit it to the governing body without delay.

2 (7) A person may in writing withdraw his signature
3 from a previously filed petition at any time prior to final
4 action of the governing body.

5 (8) The department of community affairs in cooperation
6 with the secretary of state shall prepare and provide each
7 county and municipality with:

8 (a) a standard petition form;

9 (b) sample petition forms for initiatives,
10 referendums, and recall elections; and

11 (c) sample petition forms for creation of subordinate
12 service districts and local improvement districts.

13 (9) Each county and municipality shall make available
14 to the public on request sample petition forms.

15 Section 15. Public hearing. (1) When required, the
16 governing body shall conduct public hearings for the purpose
17 of providing reasonable opportunity for citizen
18 participation prior to final decisions.

19 (2) At a minimum, a public hearing shall provide for
20 submission of both oral and written testimony for and
21 against the action or matter at issue. If the hearing is
22 not held before the ultimate decision makers, provision
23 shall be made for the transmittal of a summary or transcript
24 of the testimony received to the ultimate decision makers
25 prior to their determination.

1 (3) Public hearings may be held at regular or special
2 meetings of the governing body.

3 (4) Petitions and letters received by the governing
4 body or executive prior to the hearing shall be entered by
5 reference into the minutes of the governing body and
6 considered as other testimony received at the hearing.

7 (5) Hearings may be adjourned from day to day or to a
8 date certain.

9 (6) Except for budget hearings, the governing body or
10 boards may designate a subcommittee or hearings examiner to
11 conduct public hearings.

12 (7) When a joint hearing between the governing bodies
13 of a county and a municipality is authorized, the county
14 shall be responsible for conducting the hearing.

15 Section 16. Protest. (1) Whenever a protest is
16 authorized, it is sufficient if it is in writing, signed,
17 and contains the following:

18 (a) a description of the action protested sufficient
19 to identify the action against which the protest is lodged;

20 (b) a statement of the protester's qualifications to
21 protest the action against which the protest is lodged,
22 including ownership of property affected by the action; and

23 (c) the address of the person protesting.

24 (2) Protests shall be submitted as provided by law and
25 ordinance. The person receiving protests for a local

1 government shall note on each protest the date it was
 2 received.

3 (3) A protest which contains the required information
 4 may be signed by more than one person. A protest signed by
 5 more than one person is a valid protest by each signer.

6 (4) A person may in writing withdraw a previously
 7 filed protest at any time prior to final action by the
 8 governing body.

9 (5) Signers are encouraged to print their names after
 10 their signatures.

11 Section 17. Signatures. (1) The signatures and
 12 addresses on petitions shall be the same as the signatures
 13 and addresses on voter registration cards and, if not
 14 registered or if not required by law to be an elector, their
 15 common signature.

16 (2) The signatures on protests and waivers shall be
 17 the accepted common signatures.

18 Section 18. Rights on behalf of government or
 19 corporation. The chief executive of a local government or
 20 political subdivision of the state, the responsible agent of
 21 a federal or state agency, or the chief executive officer of
 22 a corporation may exercise the right of petition, protest,
 23 or voting on behalf of property owned by the government or
 24 corporation.

25 Section 19. Posting. (1) The governing body shall

1 specify by resolution a public location for posting
 2 information and shall order erected a suitable posting
 3 board.

4 (2) When posting is required, a copy of the document
 5 shall be placed on the posting board, and a copy shall be
 6 available at the local government office.

7 Section 20. Oaths and marriages. The chief executive,
 8 chairman of the legislative body, municipal judges, justices
 9 of the peace, and judges of small claims court may
 10 administer oaths and solemnize marriages. The clerk of the
 11 district court and all elected local government officers,
 12 except members of the governing body, may administer oaths.

13 Section 21. Oath of office. Every elected local
 14 government official shall take the oath of office prescribed
 15 in Article III, section 4, of the Montana constitution. The
 16 oath of office, certified by the official before whom the
 17 same was taken, shall be filed with the election
 18 administrator before the officer exercises any official
 19 duties.

20 Section 22. Waiver of mail notice or protest. (1) If
 21 all persons entitled to mail notice waive in writing the
 22 mail notice requirement, the governing body may proceed
 23 without the required mail notice.

24 (2) If all persons entitled to protest an action waive
 25 in writing their right to protest, the governing body may

1 proceed without publishing notice or meeting other
2 requirements designed to permit protests to be filed.

3 (3) A waiver is sufficient if it is in writing,
4 signed, and contains the following:

5 (a) a description of the mailed notice or protest
6 right waived;

7 (b) a statement of the protester's qualifications to
8 waive the mailed notice or protest right;

9 (c) the address of the person;

10 (d) a statement that the waiver of notice is
11 voluntarily and knowingly given, with knowledge of the
12 signer's constitutional rights to notice.

13 (4) Waivers shall be submitted as provided by law and
14 ordinance. The person receiving waivers for a local
15 government shall note on each waiver the date it was
16 received.

17 (5) A waiver which contains the required information
18 may be signed by more than one person. A waiver signed by
19 more than one person is a valid waiver by each signer.

20 (6) Signers are encouraged to print their names after
21 their signatures.

22 Section 23. Government in emergencies. (1) In the
23 event that no members of a county governing body are
24 available during or following an enemy attack or natural
25 disaster, the district judge or judges of the judicial

1 district in which the county is located shall appoint
2 successors to act in place of the unavailable members. If
3 the judge or judges of the judicial district in which the
4 vacancy occurs are not available to make the appointment, a
5 district judge of any other judicial district may make such
6 appointment; however, of the available judges in the state
7 of Montana, that judge who holds court in the county seat
8 closest to the county seat where the vacancy occurs shall be
9 responsible for making the appointment to fill the vacancy.

10 (2) In the event that no members of a municipal
11 governing body are available following an enemy attack or
12 natural disaster, the county governing body of the county in
13 which the municipality is located shall appoint successors
14 to act in place of the unavailable members.

15 (3) In the event that the chief executive of a local
16 government is unavailable to exercise the powers and
17 discharge the duties of his office following an enemy attack
18 or natural disaster, the members of that local government's
19 governing body available shall by majority vote choose a
20 successor to act as chief executive of the local government.

21 (4) Following an enemy attack or natural disaster in
22 which the seat of local government, in the opinion of the
23 governing body of that local government, is rendered
24 unsuitable for use in that capacity, the seat of government
25 may be moved by the governing body to another location which

1 it considers most suitable.

2 (5) If following an enemy attack or natural disaster
 3 any local government governing body or board is unable to
 4 assemble a quorum as defined by law or ordinance, those
 5 members of the governing body available for duty shall
 6 constitute a quorum. The quorum requirements shall be
 7 suspended, and where the affirmative vote of a specified
 8 proportion of members for the approval of any action would
 9 otherwise be required, the same proportion of those voting
 10 thereon shall be sufficient.

11 (6) The provisions of this section shall become
 12 inoperative when the governing body, a district judge, or
 13 the state legislature declares the emergency terminated.

14 Section 24. Facsimile signature. Any officer or
 15 employee may use a facsimile signature or seal as provided
 16 in Title 2, chapter 16.

17 Section 25. Pardons. The chief executive or the
 18 chairman of the governing body, if there is no elected chief
 19 executive, may grant pardons and remit fines and forfeitures
 20 for offenses against local government ordinances where in
 21 the chief executive's or chairman's judgment, public justice
 22 would be thereby served; but the chief executive or chairman
 23 must report all pardons granted, with the reasons therefor,
 24 to the next session of the governing body.

25 Section 26. Public meeting required. (1) All meetings

1 of local government governing bodies, boards, authorities,
 2 committees, or other entities created by or subordinate to a
 3 local government shall be open to the public except as
 4 provided in 2-3-203.

5 (2) Appropriate minutes shall be kept of all public
 6 meetings and shall be made available upon request to the
 7 public for inspection and copying.

8 Section 27. Public participation. Each local
 9 government governing body, committee, board, authority, or
 10 entity, in accordance with Article III, section 8, of the
 11 1972 Montana constitution and Title 2, chapter 3, shall
 12 develop procedures for permitting and encouraging the public
 13 to participate in decisions that are of significant interest
 14 to the public.

15 Section 28. Participation. In any meeting required to
 16 be open to the public, the governing body, committee, board,
 17 authority, or entity shall adopt rules for conducting the
 18 meeting affording citizens a reasonable opportunity to
 19 participate prior to the final decision.

20 Section 29. Public records. (1) Except as provided in
 21 subsection (2), all records and other written materials in
 22 the possession of a local government shall be available for
 23 inspection and reproduction by any person during normal
 24 office hours. The governing body may impose reasonable fees
 25 for providing copies of public records.

1 (2) Personal records, medical records, and other
2 records which relate to matters in which the right to
3 individual privacy exceeds the merits of public disclosure
4 shall not be available to the public, unless the person they
5 concern requests they be made public.

6 (3) Except as provided by law and as determined by the
7 chief law enforcement administrator, law enforcement records
8 which relate to matters in which the right to individual
9 privacy or law enforcement security exceeds the merits of
10 public disclosure shall not be available to the public.

11 (4) In case of attachment, the clerk of the court with
12 whom the complaint is filed must not make public the fact of
13 the filing of the complaint or the issue of such attachment
14 until after the filing or return of service of the
15 attachment.

16 (5) No files in the office of the clerk of the
17 district court relating to the adoption of children shall be
18 open to examination or inspection by any person unless the
19 person desiring to examine or inspect any such file shall
20 first obtain written permission from the district judge, and
21 no district judge shall grant any applicant permission to
22 examine or inspect any such file in the office of clerk of
23 district court unless such applicant shall set forth in his
24 application good and sufficient cause for such examination
25 or inspection.

1 Section 30. Destruction of old records. (1) The
2 governing body may by ordinance establish a procedure for
3 routine destruction of old worthless reports, papers, or
4 records that have served their purpose or are substantiated
5 by permanent records. The ordinance is subject to the
6 approval of the department of community affairs and the
7 historical society.

8 (2) Termination statements filed under the Uniform
9 Commercial Code--Secured Transactions shall be retained by
10 the records administrator for a period of 8 years after
11 receipt, after which they may be destroyed. Financing
12 statements, continuation statements, statements of
13 assignment, and statements of release, the filing of which
14 is authorized by the Uniform Commercial Code--Secured
15 Transactions and as to which no termination statement has
16 been filed, shall be retained by the filing officer for a
17 period of 8 years after lapse of the original financing
18 statement or of the latest continuation statement, whichever
19 is later. At the expiration of this period all such
20 statements may be destroyed.

21 (3) Court records may be destroyed by order of the
22 district court only when the records have been reproduced.
23 The reproduction, identification, admissibility, and use of
24 the reproductions shall be in accordance with Title 3,
25 chapter 2.

1 (4) Any claim, warrant, voucher, bond, or general
 2 receipt may be destroyed after a period of 25 years.

3 (5) Records relating to the operation of any public
 4 utility by a local government may be destroyed only after
 5 the expiration of the period during which the public service
 6 commission specifies that they must be kept.

7 Section 31. State reports. (1) Local government
 8 governing bodies, chief executives, officers, employees,
 9 departments, boards, and authorities shall file with state
 10 agencies in a timely fashion all reports and information
 11 required by state law.

12 (2) The department of community affairs shall
 13 coordinate to the greatest extent possible the collection of
 14 data by state and federal agencies in order to minimize the
 15 requests of local governments and to maximize access to
 16 information collected on local governments.

17 (3) Prior to requesting reports from local
 18 governments, all state agencies shall notify the department
 19 of community affairs of the intended request.

20 Section 32. Reports of departments, boards, and
 21 authorities. (1) All departments, boards, and authorities
 22 shall file an annual report with the chief executive who
 23 shall compile the reports and present them to the governing
 24 body.

25 (2) The chief executive may specify the form, content,

1 and deadline for filing reports.

2 Section 33. Special powers. A county may do all things
 3 necessary and appropriate to:

4 (1) hold a county agriculture fair or a junior fair,
 5 or both;

6 (2) use and permit the use of the fairgrounds,
 7 buildings, and facilities for other recreational and
 8 educational activities and services;

9 (3) supervise and manage the fairgrounds, buildings,
 10 and facilities;

11 (4) hold special purebred livestock shows and sales;
 12 and

13 (5) prepare, transport, and care for any exhibition
 14 related to the products and resources of the county.

15 Section 34. Finances. (1) The county governing body
 16 may budget, appropriate, and expend each year out of money
 17 available to the county such money as it considers advisable
 18 for the purpose of:

19 (a) securing, equipping, maintaining, and operating a
 20 county fair or a junior fair, or both, including the
 21 acquisition of land for the fair, the construction of such
 22 buildings and facilities as may be necessary, and the
 23 maintenance of those properties;

24 (b) providing other recreational and educational
 25 activities and services;

1 (c) conducting special purebred livestock shows and
2 sales in the county;

3 (d) defraying the expenses of collecting,
4 transporting, and taking care of any exhibit from the county
5 at any state fair, county agricultural fair, 4-H club or
6 future farmers fair, seed show, or other agricultural
7 exhibit held within the state or county; and

8 (e) advertising the agricultural resources of the
9 county, as directed by the governing body or through the
10 department of agriculture, or assisting the department of
11 agriculture in presenting exhibits of Montana products at
12 fairs or expositions outside the state.

13 (2) The county governing body may permit the use,
14 rent, and lease for limited periods of time of the county
15 and junior fairgrounds and buildings and facilities on the
16 fairgrounds, provided that:

17 (a) any such rental contract or lease shall not
18 conflict with the operation of the county fair;

19 (b) the county shall establish policies necessary to
20 regulate the use of those properties by public and private
21 groups during the fair season and during the balance of the
22 year;

23 (c) these policies shall specify schedules for rents
24 and charges, liability responsibilities, insurance and
25 police protection requirements, and such other matters as

1 the governing body may consider advisable; and may allow for
2 the use of the fairgrounds and buildings without charge;

3 (d) the renter or lessee shall give a bond such as the
4 governing body shall consider sufficient;

5 (e) any rental contract or lease may be immediately
6 canceled if the renter or lessee fails to adhere to any term
7 of the lease; and

8 (f) nothing herein shall be construed so as to prevent
9 the county governing body from permitting schools to use the
10 fairgrounds, buildings, and facilities for athletic and
11 other public school purposes.

12 (3) Unless otherwise provided by ordinance, all
13 revenue generated by the county fair and by the rental and
14 leasing of the county fairgrounds, buildings, and facilities
15 shall be deposited to the fair account and may be used in
16 any manner authorized by this section.

17 (4) Unless otherwise provided by ordinance, if a
18 junior fair is held separately from the county fair, all
19 revenue generated by the junior fair and by the rental and
20 leasing of the fairgrounds, buildings, and facilities shall
21 be deposited to the junior fair account and may be used in
22 any manner authorized by this section.

23 (5) The county governing body upon the recommendation
24 of the county finance administrator shall determine the
25 procedure to be utilized in the county for making payments

1 required during fair time to fair employees, performers,
2 exhibitors, and others. The procedure shall provide for
3 adequate internal controls and recordkeeping.

4 (6) No county tax levy shall be expended for
5 horseracing.

6 Section 35. Policy and purpose. It is policy of this
7 state that:

8 (1) the management of agricultural and other pests is
9 primarily the responsibility of the owner or occupier of the
10 land. However, pest infestations of unusual nature,
11 proportion, or density may require resources and cooperative
12 efforts beyond the capabilities of individuals.

13 (2) to prevent and reduce injury and economic loss to
14 agriculture, related industries, and the public health, a
15 county may provide pest management programs;

16 (3) precautions shall be taken to protect and preserve
17 human health and the environment.

18 Section 36. General definitions. In [SB 11, SB 12, SB
19 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21,
20 SB 22, and SB 23], unless otherwise provided or the context
21 requires a technical or other interpretation, the following
22 definitions apply:

23 (1) "Agreement" means a written understanding and
24 expression of intention between the county and a person or a
25 public agency with respect to certain facts, performances,

1 and mutual obligations concerning their rights and duties
2 within a specified county pest management program.

3 (2) "Agricultural insect pest" means those insects
4 which reduce the quantity or quality of foods, feed, forage,
5 or fiber during production; damage commodities during
6 harvesting or storage; or transmit disease organisms to
7 valuable plants.

8 (3) "Infestation" means that a pest exists in such
9 numbers, under such conditions, or at such times as to
10 threaten human health or to destroy, damage, or threaten to
11 destroy livestock, agricultural crops, or natural resources.

12 (4) "Land" means all land and water area, including
13 but not limited to structures, buildings, contrivances, and
14 machinery appurtenant thereto or situated thereon, fixed or
15 mobile, including any used for harvest or transportation
16 which are owned, controlled, leased, or occupied by any
17 person or public agency.

18 (5) "Management" means those short- or long-term
19 programs and procedures which may be employed to reduce,
20 eliminate, or prevent the adverse economic or public health
21 effect of designated pests or pest populations within the
22 county.

23 (6) "Management plan" means the ongoing policies and
24 processes of an active management program.

25 (7) "Nontarget organism" means any plant or animal

1 which has not been designated a pest and which is not the
 2 intended target of the specific management measure.

3 (8) "Noxious plant" means any weed plant which is
 4 capable of becoming established in a suitable habitat by
 5 seed, root parts, or modified stem; which is extremely
 6 resistant to mechanical, biological, and chemical control
 7 techniques; and which may render land unfit for use, damage
 8 livestock or wildlife, or be injurious to humans. The
 9 following plants, plant parts, and their seed are declared
 10 to be noxious and subject to county noxious plant management
 11 programs: *Cardaria draba* (whitetop); *Carduus nutans* (musk
 12 thistle); *Centaurea repens* (Russian knapweed); *Cirsium
 13 arvense* (Canada thistle); *Convolvulus arvensis* (field
 14 bindweed); *Euphorbia esula* (leafy spurge); *Halogeton
 15 glomeratus* (halogeton); *Hypericum perforatum*
 16 (St.-Johnswort); *Linaria dalmatica* (dalmation toadflax);
 17 *Linaria vulgaris* (common toadflax); *Sonchus arvensis*
 18 (perennial sowthistle); *Tanacetum vulgare* L. (common tansy).

19 (9) "Owner or occupier" means any person or public
 20 agency which owns, leases, occupies, controls, or manages
 21 any land within the county and within the boundaries of the
 22 specified pest management program.

23 (10) "Pest" means an organism or a species of organism,
 24 plant or animal, which by its presence or by its action
 25 causes economic loss to agriculture and related industries.

1 damages natural resources, or threatens human health.
 2 Agricultural and other pests as defined by this section
 3 include agricultural insect pests, mosquitoes and other
 4 vectors, noxious plants, and vertebrate pests.

5 (11) "Pest management program" means any or all county
 6 programs for the management of any agricultural or other
 7 pests, defined and designated as provided by [section 33
 8 through section 67 of Ed 15]

9 (12) "Pest management supervisor" means the person or
 10 persons authorized by the county to supervise or administer
 11 any or all county pest management programs.

12 (13) "Serious infestation" means an infestation which
 13 cannot be managed in an economically or environmentally
 14 sound way on an individual basis, pest management plan
 15 basis, or single county basis.

16 (14) "Vector" means a living organism which may
 17 adversely affect the public health and well-being by
 18 directly or indirectly transporting or transmitting a
 19 disease-causing agent or which may cause other health
 20 trauma. Vector includes but is not limited to mosquitoes.

21 (15) "Vertebrate pest" means, individually or as a
 22 species, a four-legged, carnivorous mammal predatory in
 23 nature, a rodent, or a designated bird when that animal by
 24 its presence or by its actions causes a significant
 25 economic, environmental, or human health problem. Each of

1 the following animals, individually or as a species, is
 2 designated as a potential vertebrate pest which may be
 3 included in a county vertebrate pest management program when
 4 that animal becomes a pest: *Columba livia* (rock dove);
 5 *Sturnus vulgaris* (starling); *Passer domesticus* (house
 6 sparrow); *Euphagus cyanocephalus* (brewer's blackbird);
 7 *Corvus brachyrhynchos* (crows); *Pica pica* (magpies);
 8 *Spermophilus columbianus* (columbian ground squirrel);
 9 *Spermophilus richardsonii* (richardson ground squirrel);
 10 *Thomomys talpoides* (northern pocket gopher); *Mus musculus*
 11 (house mouse); *Rattus norvegicus* (Norway rat); *Myocaster*
 12 *coypus* (nutria); *Mustela frenata* (long-tailed weasel);
 13 *Mephitis mephitis* (striped skunk); *Canis latrans* (coyote).

14 (16) "Weed" means any living plant which by its
 15 presence reduces land use for man's benefit.

16 Section 37. Creation of pest management program. (1) A
 17 county may provide immediate and long-range pest management
 18 services. The county shall take precautions to protect and
 19 preserve human health and the environment, particularly
 20 beneficial and nontarget organisms and their habitat. A
 21 program may provide for varying levels of financing and
 22 services through such mechanisms as subordinate service
 23 districts. Fifteen percent of the electors or 15% of the
 24 owners or occupiers of property within the boundaries of a
 25 proposed pest management program may petition for the

1 creation of that program, as provided by [section 81 of SB
 2 12].
 3 (2) Before implementing a pest management program, the
 4 county shall prepare a management plan as a basis for that
 5 program. The management plan shall include:
 6 (a) a statement of objectives of the proposed pest
 7 management program;
 8 (b) the specific pest species to be managed;
 9 (c) the apparent density and boundaries of the pest
 10 population or populations;
 11 (d) the actual hazard, damage, and economic loss
 12 caused by the pest or pest population;
 13 (e) the proposed boundaries of the pest management
 14 program;
 15 (f) the proposed pest management methods including
 16 alternatives;
 17 (g) the probable effect of management measures on the
 18 pests and on nontarget organisms in the area;
 19 (h) the estimated costs of the proposed program and
 20 how they may be apportioned. The plan shall specify any
 21 subordinate service district to be created by the
 22 implementation of the plan;
 23 (i) a statement of the specific priorities of the
 24 program elements in the management plan;
 25 (j) any other relevant information.

1 (3) In preparing its management plan, the county shall
2 invite input and assistance from the public and from
3 resource persons.

4 (4) Before adopting a management plan and except as
5 otherwise provided, the county shall:

6 (a) provide notice within the county of the intent to
7 create the pest management program. In addition to other
8 requirements for the notice, the notice shall specify the
9 proposed boundaries of the program.

10 (b) hold a public hearing on the proposed plan and
11 program as provided by [SB 11, SB 12, SB 13, SB 14, SB 15,
12 SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23].

13 (5) Not less than 6 days after the public hearing on
14 the management plan, the county may by ordinance adopt the
15 management plan.

16 (6) In addition to any pest designated by [section 36
17 of SB 15], a county governing body may include in a pest
18 management plan and program any other weed species, vector
19 species, or vertebrate pest species when that organism has
20 become a pest and when the county has requested and received
21 approval from the appropriate state agencies. A county shall
22 request approval from the following agencies for the
23 designation of an additional pest in its management plan:
24 for weed species, the cooperative extension service and the
25 agricultural experiment station; for vectors, the

1 departments of health and environmental sciences, livestock,
2 and fish and game; for vertebrate pests, the departments of
3 health and environmental sciences, livestock, and fish and
4 game. A majority of the agencies must approve or disapprove
5 the request in writing within 21 days, except if additional
6 information is requested and a specified extension of time
7 is agreed upon. If the agencies approve or if no action is
8 taken by the agencies within the established time, the
9 county governing body may by ordinance include that pest in
10 its management plan and program.

11 (7) The provisions of [section 51(3) of SB 15, section
12 55(4) of SB 15, and section 65(5) of SB 15] for dealing with
13 emergency or precipitous pest situations supersede the
14 requirements of subsections (4), (5), and (6) of this
15 section.

16 (8) Any county which is at present providing a pest
17 management service under current law may continue to do so
18 until two years after [the effective date of this act]. By
19 that date, the county by ordinance shall adopt a management
20 plan for each pest management program the county continues
21 to provide. Only pests as defined by [section 36 of SB 15]
22 may be included in any continuing program and its plans,
23 except as provided by [section 37(6) of SB 15]. Before
24 adopting a management plan for a current pest management
25 service, the county shall publish notice and hold a public

1 hearing on the management plan, as provided by [section 37
2 of SB 15].

3 (9) A county may by ordinance terminate any pest
4 management program it is authorized to create, except that
5 each county shall provide a noxious plant management
6 program.

7 Section 38. Administrative appeal. (1) A person
8 substantially or adversely affected by a pest management
9 program or any part of that program may protest or appeal
10 any decision or action of the county regarding that program.

11 (2) The appeal or protest shall be:

12 (a) (i) submitted to the governing body or other
13 entity prescribed by the governing body in a manner provided
14 by ordinance;

15 (ii) submitted before or within 30 days of the
16 passage, adoption, or implementation of the ordinance or
17 resolution constituting the decision being protested or
18 appealed;

19 (iii) submitted before or within 30 days of an action
20 protested; and

21 (b) heard within 30 days of the filing of the appeal
22 or protest, if a hearing is granted.

23 (3) The decision on the appeal or protest shall be
24 made within 30 days of the hearing and shall be in writing
25 setting out in detail the contested issues and the facts

1 relied upon in rendering the decision.

2 (4) If the initial appeal was to an entity other than
3 the governing body, the decision may be appealed to the
4 governing body in the same manner as the initial appeal.

5 (5) A person granted a hearing may be represented by
6 counsel.

7 Section 39. Judicial review. (1) Judicial review in
8 district court may be commenced:

9 (a) by any person substantially or adversely affected
10 by a pest management program or any part of a program and
11 who seeks injunctive relief; or

12 (b) a party wishing to appeal the decision of the
13 administrative hearing provided for in [section 38 of SB
14 15].

15 (2) Judicial review shall be commenced by notice of
16 appeal or petition within 30 days of the:

17 (a) administrative hearing decision; or

18 (b) adoption, passage, or implementation of the
19 ordinance, resolution, or action constituting the decision
20 of the county to be enjoined and reviewed.

21 (3) In a judicial review of the county action
22 concerning a pest management program or any part of a
23 program or administrative appeal, the court shall sustain
24 the findings of the county with respect to questions of fact
25 if supported by substantial evidence when considered on the

1 record as a whole.

2 Section 40. Special powers. (1) A county may enter
3 any land in the county for purposes of a pest management
4 program, provided that the county makes a reasonable effort
5 to inform the owner or occupier of the land.

6 (2) A county may provide survey and detection services
7 for any designated or potential pest and may enter any land
8 in the county for that purpose.

9 (3) Prior to entering land for the implementation or
10 enforcement of a program, other than survey and detection,
11 the county shall obtain the written permission of the owner
12 or occupier or shall notify the owner or occupier by
13 certified or registered mail no less than 5 days before
14 entering the land or shall obtain a warrant.

15 (4) In case of a serious infestation constituting a
16 public health hazard and requiring prompt attention, the
17 county governing body with the concurrence of the local,
18 state, or federal health officer may authorize entry on the
19 land for the purpose of abating the health hazard.

20 (5) A county may enter into a pest management
21 agreement with any person or public agency for purposes of
22 carrying out a pest management program.

23 (6) A county may use quarantine procedures consistent
24 with the purposes of [section 33 through section 67 of SB
25 15].

1 (7) A county may submit any pest management plan to
2 any appropriate state agency for review and comment and may
3 request technical, planning, consulting, and other
4 assistance from any public agency.

5 Section 41. Role of state agencies. (1) A county
6 having developed a management plan shall notify each of the
7 following public agencies and, upon request by an agency,
8 shall submit a copy of that plan and of any substantial
9 modifications to that plan to the agency for review and
10 comment: departments of agriculture, fish and game, health
11 and environmental sciences, livestock, natural resources and
12 conservation, the Montana agricultural experiment station,
13 and the Montana cooperative extension service.

14 (2) A state agency may provide the county with
15 technical, planning, consulting, and other services.

16 (3) The department of agriculture for noxious plants
17 and agricultural insect pests, the department of health and
18 environmental sciences for mosquitoes and other vectors, and
19 the department of livestock for vertebrate pests, in
20 cooperation with the counties and other public agencies,
21 may:

22 (a) collect data pertinent to the management of pests
23 in the specified category;

24 (b) analyze the economic and environmental impact of
25 the pests in the counties;

1 (c) prepare and periodically revise a report based on
2 that analysis. The report may include both prevailing and
3 minority interpretations, if any.

4 (d) promptly inform the county of any potential or
5 existing infestation observed on lands within and adjacent
6 to the county; and

7 (e) prepare and distribute to all counties on which
8 the agencies have information and in which such a pest
9 population is known to exist a periodic and reasonably
10 current report on the situation in those counties with
11 regard to those pests, their impact, and the results of
12 state and local pest management programs.

13 Section 42. Services. (1) A county may sell materials,
14 rent or lease equipment, and provide assistance to conduct a
15 pest management program authorized by [SB 14, SB 15, SB 16,
16 SB 17, SB 18, SB 19, and SB 20] and a management plan
17 adopted under [SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, and
18 SB 20]. The materials, equipment, and assistance are to be
19 available, distributed, and used only in compliance with the
20 priorities of the pest management plan and applicable
21 county, state, and federal laws and regulations. The charge
22 for materials and equipment shall be not less than actual
23 costs including depreciation and administration. Operational
24 assistance for noxious plant management must also comply
25 with [section 43(2) of SB 15 or section 48(1) of SB 15].

1 Charges for materials and equipment for noxious plant
2 management must be at a rate equivalent to the local or
3 prevalent commercial rate for similar services.

4 (2) Nothing in [section 35 through section 63 of SB
5 15] shall be construed to authorize a county to manage or
6 assist in the management on private or public lands of any
7 pests other than those specifically designated by the pest
8 management plan.

9 Section 43. Finances. (1) A county may finance a pest
10 management program in any manner authorized by [SB 11, SB
11 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20,
12 SB 21, SB 22, and SB 23], including but not limited to any
13 manner authorized by [section 33 through section 67 of SB
14 15].

15 (2) A county may enter into financial or operational
16 agreements to assist owners or occupiers of land within a
17 pest management program with a portion of the cost of
18 managing pests designated by that program. The county
19 governing body may budget and appropriate from the general
20 fund and from the appropriate pest management account such
21 money as it considers advisable for the purpose of sharing
22 the costs of pest management with the owners and occupiers
23 of land within the program. If the county agrees to assist
24 the owners or occupiers financially or operationally, any
25 assistance shall be equitably available to all owners or

1 occupiers in the boundaries of the program and shall be in
2 accord with the priorities established by the pest
3 management plan.

4 (3) Any money generated and costs recovered by a pest
5 management program shall be deposited to the account of that
6 program, unless otherwise provided by ordinance. The money
7 may be used during the current year or a subsequent year for
8 purposes of the program as provided by appropriation.

9 (4) All fines and penalties collected under the pest
10 management provisions of [section 33 through section 67 of
11 SB 15] shall be paid to the county finance administrator and
12 deposited to the county general fund, unless otherwise
13 provided by ordinance.

14 Section 44. Policy and purpose. (1) Noxious plants are
15 an economic problem requiring intensive, long-term
16 management.

17 (2) The management of noxious plants is primarily the
18 responsibility of landowners and occupiers. Each owner or
19 occupier of land is encouraged to learn to identify noxious
20 plants, to survey his land and denote the presence or
21 absence of noxious plants, to manage any noxious plants on
22 his land with the goal of lasting reductions or elimination
23 of those noxious plants, to enter into a long-term agreement
24 with the county that he will manage the noxious plants on
25 his land, and to assist the noxious plant management

1 supervisor as much as is practical in carrying out the
2 provisions and intent of [section 33 through section 67 of
3 SB 15].

4 (3) When infestations of noxious plants are of an
5 unusual nature, proportion, or density, the cooperation and
6 resources of individuals, communities, and governmental
7 entities may be desirable to manage infestations. Therefore,
8 every county is to develop and implement an immediate and
9 long-range noxious plant management program throughout the
10 county. Management methods should include the use of grazing
11 systems which encourage vigorous native ranges; the
12 reseeding of disturbed areas; and the replacement of noxious
13 plant infestations with beneficial plants, especially native
14 plants where desirable and practical.

15 Section 45. Creation. (1) Each county, as provided by
16 [section 37 of SB 15] and in cooperation with the owners and
17 occupiers of land in the county, shall provide a program for
18 the immediate and long-term management of noxious plants on
19 all land within the county. Long-term programs shall be not
20 less than 3 years in duration and shall be updated
21 periodically to apply new management priorities and
22 techniques and to reflect changes in ownership and control
23 of the lands involved.

24 (2) The county governing body may modify the list of
25 noxious plants subject to the county noxious plant

1 management plan and program. Additions to the list shall be
2 made as provided by [section 37(4) of SB 15].

3 Section 46. Prohibitive statement. Management of
4 noxious plants is primarily the responsibility of the owner
5 or occupier of the infested land. After due notice and
6 opportunity to enter into a noxious plant management
7 agreement as provided by [section 40 and section 48 of SB
8 15], it is unlawful for an owner or occupier of land in the
9 county to willfully allow any noxious plant designated by
10 the county noxious plant management plan to go to seed or to
11 self-propagate by root part or modified stem on that land.
12 An owner or occupier who enters into and adheres to a
13 noxious plant management agreement with the county meets the
14 requirements of this provision.

15 Section 47. Administration. (1) The county shall:

16 (a) designate a noxious plant management supervisor,
17 as provided by [section 33 of SB 13] or by interlocal
18 agreement between two or more counties;

19 (b) submit its noxious plant management plan and
20 substantial modifications of that plan to the cooperative
21 extension service and the departments of agriculture, fish
22 and game, health and environmental sciences, highways, and
23 state lands;

24 (c) conduct periodic comprehensive surveys and
25 analyses of all noxious plant populations within the county;

1 (d) investigate alternative methods of managing
2 noxious plants with the goal of achieving lasting reductions
3 in noxious plant densities and consult and advise upon
4 matters pertaining to the best and most practical methods of
5 noxious plant management;

6 (e) engage in educational activities designed to
7 assist owners and occupiers of land in the county to
8 identify, survey, and manage noxious plants on their land;

9 (f) cooperate with and assist noxious plant management
10 supervisors of other counties;

11 (g) prepare an annual written report and evaluation of
12 the noxious plant management program and such other reports
13 as may be required by the county governing body. The county
14 shall submit a copy of any report, upon request, to the
15 cooperative extension service and the department of
16 agriculture.

17 (2) The county and the department of highways shall
18 enter into an interlocal agreement, to be reviewed and
19 revised periodically, specifying their mutual
20 responsibilities with respect to the management of noxious
21 plants by the county on state highway rights-of-way.

22 (3) The county governing body and the governing body
23 of each included municipality shall cooperatively plan for
24 the management of noxious plants within the boundaries of
25 the municipality. The county shall implement management

1 procedures for noxious plants only as described within the
 2 plan for within the boundaries of the municipality. The
 3 county shall plan, implement, and enforce its noxious plant
 4 management program equitably within and without the
 5 boundaries of the municipality. Control of nuisance weeds
 6 within the municipality remains the responsibility of the
 7 municipality.

8 Section 48. Special powers. (1) The county may
 9 implement noxious plant management measures on land within
 10 the county in accord with its noxious plant management plan
 11 when:

12 (a) the land is county owned or controlled or involves
 13 the rights-of-way of municipal, county, state, or federal
 14 trafficways;

15 (b) the land is determined by the county to have an
 16 infestation of a size, nature, or density that is beyond the
 17 reasonable capacity of the owner or occupier to manage, that
 18 is in the best interests of the county to manage, or both;
 19 and

20 (c) an owner or occupier of land in the county is in
 21 violation of [section 45 of SB 15] and, after being served
 22 the appropriate notice, refuses to enter into an agreement
 23 and to implement management measures. Nothing in [SB 14, SB
 24 15, SB 16, SB 17, SB 18, SB 19, and SB 20] shall be
 25 construed to permit or require a county to enter any state

1 or federally owned lands for other than survey and
 2 investigatory purposes except by agreement with the agency
 3 responsible for managing those lands. For purposes of this
 4 section, lands leased by the state as provided by [section
 5 50(2) of SB 15] shall be considered as private lands.

6 (2) Where complaint has been made or the noxious plant
 7 management supervisor has reason to believe that noxious
 8 plants are present upon lands in the county, the supervisor
 9 or his representative shall inspect those lands, as provided
 10 by [section 40 of SB 15]. If noxious plants are found, the
 11 county by certified mail shall inform the owner or occupier
 12 of the infested land, directing him to comply within a
 13 reasonable, specified period of time with the county noxious
 14 plant management plan as required by [section 46 of SB 15].
 15 If the notification is not observed within the specified
 16 period of time, the county by certified mail shall inform
 17 the owner or occupier and shall institute management
 18 measures on the infested land. The supervisor shall provide
 19 the county finance administrator and the owner or occupier
 20 of the infested land with an itemized account of services
 21 and expenses, a legal description of the infested land, and
 22 such other information as the finance administrator may
 23 require. Expenses, including penalty, if any, shall be paid
 24 as provided by [section 50 of SB 15].

25 (3) Tax-exempt lands as defined in 15-6-201 through

1 15-6-208 are subject to [section 44 through section 50 of SB
2 15] and may be assessed or charged a fee as other land under
3 [section 48(2) and section 50(1) of S3 15].

4 (4) (a) Whenever the natural sod cover or growth of
5 beneficial plants on right-of-way areas is seriously
6 disturbed by construction or maintenance of municipal and
7 county trafficways, irrigation ditches, drain ditches,
8 subdivisions, or otherwise, the governing body shall require
9 that the disturbed areas be seeded to beneficial native
10 plants, an adaptable perennial grass, or a combination of
11 perennial grasses and legumes. Every effort shall be made to
12 establish a sod cover or a growth of beneficial plants on
13 the disturbed area.

14 (b) All seed used shall meet certified standards.

15 (c) Time and method of seeding, fertilizing practices,
16 and grass species may be those recommended by the Montana
17 cooperative extension service.

18 (d) Nothing in this section shall be construed to
19 prevent or discourage the use of seeds or parts of native
20 species where desirable and practicable.

21 (5) The county may adopt and enforce regulations for
22 implementing a quarantine for farm products, machinery, and
23 equipment containing noxious plants, their parts and seeds,
24 to be transported within the county. County regulations
25 shall be at least as stringent as the minimum standards

1 established for the counties by the department of
2 agriculture.

3 (6) The county shall cooperate with and assist the
4 department of agriculture in enforcing any inspection and
5 certification program and any embargo in order to prevent
6 the introduction from other states of designated or new
7 noxious plants, their parts or seeds.

8 (7) The county governing body, because of particular
9 economic, environmental, or human health considerations, may
10 exempt one or more specific areas of the county from the
11 noxious plant management program or from the use of specific
12 management techniques. The governing body may modify or
13 terminate an exemption.

14 Section 49. Roles of state agencies. (1) In
15 cooperation with the counties, the cooperative extension
16 service and the department of agriculture shall perform and
17 coordinate the following duties and responsibilities:

18 (a) provide technical assistance to the county noxious
19 plant management programs, which shall include at least:

20 (i) determining suitable methods for managing noxious
21 plants;

22 (ii) providing training sessions to help supervisors
23 improve their noxious plant management programs; and

24 (iii) providing and distributing such information,
25 materials, personnel, and funds as are available to assist

1 county personnel in the management of their programs;

2 (b) develop, compile, and maintain records of noxious

3 plant infestations in the counties, which shall at least

4 denote the presence or absence in each county of each

5 noxious plant species designated by [section 36(6) of SB

6 15]; determine the number of acres infested with each

7 noxious plant species in each county; and define the noxious

8 plant infestations per county, watershed, or other

9 appropriate geographical region of the state;

10 (c) assist in the development of noxious plant

11 management programs appropriate to the size, nature, and

12 density of each infestation and including all or parts of

13 one or more counties;

14 (d) provide funds and personnel, if available, to

15 manage or assist in managing serious infestation of a

16 potentially noxious plant newly introduced into the state;

17 (e) assist in the development of watershed, regional,

18 and statewide noxious plant management programs, including

19 the acquisition of state and federal funds for noxious plant

20 management; and

21 (f) acquire state and federal funds for noxious plant

22 management on state and federal lands.

23 (2) The department of agriculture shall establish

24 minimum standards for county noxious plant quarantine.

25 (3) A public agency which reviews and comments on a

1 county noxious plant management plan may recommend to the

2 county specific areas which for economic, environmental, or

3 human health reasons might be exempted from the county

4 noxious plant management program or from one or more

5 management techniques of the program.

6 Section 50. Finances. (1) (a) The cost of noxious

7 plant management on his land; remains the responsibility of

8 the owner or occupier when the county implements management

9 measures as provided by [section 48(2) of SB 15]. The county

10 shall levy a special assessment against the land on which

11 the infestation occurs or shall impose a charge as provided

12 by [section 48(3) of SB 15]. The special assessment or

13 charge shall include the total actual costs of services

14 rendered and expenses incurred, including administration,

15 depreciation, and penalty, if any.

16 (b) The county governing body may establish a uniform

17 schedule of penalties to be paid by an owner or occupier who

18 fails to comply with [section 48(2) of SB 15].

19 (2) The state board of land commissioners shall

20 provide in the lease of any state lands that the lessee of

21 the lands shall assume and pay all service charges, special

22 assessments, and taxes levied by the county for the county

23 noxious plant management program and shall be responsible

24 for noxious plant management on those lands as provided by

25 [section 33 through section 63 of SB 15]. The charges,

1 special assessments, and taxes shall be levied and collected
2 as are other property taxes in the county or as provided by
3 ordinance.

4 (3) The actual costs of conducting a noxious plant
5 management program on the rights-of-way for state highways
6 shall be levied against the state department of highways and
7 shall be paid by the state department of highways in
8 compliance with an interlocal agreement between the county
9 and the department. A county shall include all state
10 highways in the county in its noxious plant management plan
11 and shall submit a copy of that plan to the department of
12 highways for review and approval of that portion of the plan
13 affecting the department.

14 (4) Money for the reseeding of right-of-way areas off
15 county trafficways, as provided by [section 48(3) of SB 15],
16 may be allocated from the money available for county
17 trafficways.

18 Section 51. Creation. (1) A county may plan and
19 implement a program for the timely surveillance and
20 management of agricultural insect pest infestations in the
21 county as provided by [section 37 of SB 15].

22 (2) A county shall submit its management plan to the
23 department of agriculture for review and comment. When the
24 plan involves financial assistance from the state, it shall
25 be submitted to the department of agriculture for review and

1 approval.

2 (3) When the county governing body has cause to
3 believe that a serious agricultural pest infestation exists
4 which may require prompt management measures in the county:
5 (a) the county shall develop a management plan for
6 managing the infestation;

7 (b) the county shall make a reasonable attempt to
8 inform the owners and occupiers of all lands in the infested
9 area and of adjacent lands which might be affected by the
10 management program. Notification may be by mail, telephone,
11 radio, or other means. Notification shall include:

12 (i) the nature and estimated degree of infestation;
13 (ii) the apparent boundaries of the infested areas;
14 and
15 (iii) the time, place, and purpose of a public hearing
16 in the vicinity at which the owners or occupiers of land in
17 the affected area may express their approval or opposition
18 to the proposed management program;

19 (c) the county shall hold a public hearing to discuss
20 the proposed management program not less than 24 hours after
21 notification has been given. If the county governing body
22 considers such action necessary and advisable, it may create
23 the proposed agricultural insect pest management program by
24 enacting an emergency ordinance as provided by [section
25 53(2) and section 56(4) of SB 12].

1 (4) The owner or occupier of land in an infested area
2 may protest implementation of the proposed program on his
3 lands, in which case the program may not be implemented on
4 those lands, provided that:

5 (a) the owner or occupier remains liable for his share
6 of the costs of any management program which encompasses or
7 is contiguous to his infested lands; or

8 (b) the owner or occupier may provide for his lands an
9 alternative management method approved by the county and by
10 the department of agriculture.

11 Section 52. Special powers. (1) Through its
12 agricultural insect pest management program, a county may
13 provide for survey, surveillance, planning, and technical
14 assistance to the owners or occupiers of lands in the
15 county.

16 (2) In case of a serious agricultural insect pest
17 infestation, the county may aid in the implementation of and
18 may share the costs of the program.

19 (3) A county may cooperate with the department of
20 agriculture as provided by 80-7-501 through 80-7-506.

21 Section 53. Role of state agencies. The department of
22 agriculture:

23 (1) shall review and comment on all agricultural
24 insect pest management programs proposed by the county. The
25 department shall review and approve all proposed

1 agricultural insect pest management programs in which the
2 state assists the county financially.

3 (2) may assist the county as provided in 80-7-501
4 through 80-7-506.

5 Section 54. Finance. (1) The county governing body may
6 budget, appropriate, and expend such money as is necessary
7 to an agricultural insect pest management program and such
8 money as may reasonably be expected to be needed for
9 managing and sharing the anticipated costs of a potentially
10 serious agricultural insect pest infestation. In determining
11 the amount to be budgeted for a potentially serious
12 infestation, the county governing body shall take into
13 consideration the results and recommendations of recent
14 agricultural insect pest surveys conducted by county, state,
15 or federal agencies.

16 (2) A county may finance the management program for a
17 previously unforeseen serious agricultural insect pest
18 infestation as provided by [section 53 and section 54 of SB
19 22]. The county shall be reimbursed for the program by the
20 owners and occupiers of land within the program area in any
21 manner authorized by [SB 11, SB 12, SB 13, SB 14, SB 15, SB
22 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23].
23 The amount to be appropriated, the amount of county
24 cost-sharing, if any, and the method and timing of
25 reimbursement shall be as specified at the time the program

1 agencies.

2 Section 63. Finance. (1) The county governing body may
3 budget and appropriate annually such money as it considers
4 advisable for a vertebrate pest management program and may:

5 (a) levy a tax not to exceed 2 mills on all
6 agricultural, horticultural, grazing, and timber lands and
7 their improvements within the boundaries of a rodent
8 management program, for use in that program; and

9 (b) collect a service charge not to exceed the amount
10 established in the petition of the owners of sheep, cattle,
11 and other livestock within the boundaries of a predator
12 management program for use by that program.

13 (2) A county may pay bounty for the skins and furs of
14 predatory animals subject to the county vertebrate pest
15 management program, provided that in its vertebrate pest
16 management plan the county establishes regulations which
17 include but are not limited to the time of year the bounty
18 program is in effect; the method of verifying that the
19 predator was taken within the boundaries of the program; and
20 the method of marking the skin or fur so that it cannot be
21 resubmitted for bounty. A county having a bounty program
22 shall establish a bounty fee schedule and a predatory animal
23 bounty account.

24 Section 64. Definition. In [section 33 through section
25 63 of SB 15], unless otherwise provided or the context

1 requires a technical or other interpretation, "agent" means
2 that person designated and employed as a county cooperative
3 extension agent as a result of an interlocal agreement
4 between the governing body of a county and Montana state
5 university.

6 Section 65. Creation. The governing body of any county
7 may cooperate with Montana state university and the U.S.
8 department of agriculture for the purpose of carrying on
9 extension work in agriculture, home economics, youth and
10 community development, and such other services as may be
11 authorized or implied by [SB 11, SB 12, SB 13, SB 14, SB 15,
12 SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23].
13 The governing body may enter into an interlocal agreement
14 with Montana state university which shall specify:

15 (1) the minimum amount of the appropriation in the
16 county for extension services;

17 (2) the method of its expenditure;

18 (3) the responsibility for the direction of the work;

19 (4) the procedure for appointing the extension agents;

20 (5) the compensation and conditions of service of the
21 agents; and

22 (6) such other stipulations as the governing body and
23 the university shall include.

24 Section 66. Severability. If a part of this act is
25 invalid, all valid parts that are severable from the invalid

1 part remain in effect. If a part of this act is invalid in
2 one or more of its applications, the part remains in effect
3 in all valid applications that are severable from the
4 invalid applications.

5 Section 67. Effective date. This act is effective on
6 July 1, 1981.

-End-