

SENATE BILL 20

IN THE SENATE

January 3, 1979

Introduced and referred to
Committee on Local Government.

April 20, 1979

Died in Committee.

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

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3 becomes effective] shall continue in effect until repealed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.

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 [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 when, 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 II, 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 assignments, 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. General definitions. In [SB 11, SB 12, SB
3 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21,
4 SB 22, and SB 23], unless otherwise provided or the context
5 requires a technical or other interpretation, definitions
6 established by 70-1-201 and other definitions established by
7 Title 70 shall apply.

8 Section 34. Federal and state requirements. (1)
9 [Section 33 through section 96 of SB 19] shall be so
10 interpreted and construed as to make uniform so far as
11 possible the laws and regulations of this state and other
12 states and of the government of the United States having to
13 do with the subject of local government airports.

14 (2) An airport and air navigation facility owned or
15 controlled by a local government shall be supplementary to
16 and coordinated in design and operation with those
17 established and operated by the state and federal
18 governments.

19 (3) All ordinances, resolutions, rules, regulations,
20 and orders issued by a local government pursuant to [section
21 33 through section 96 of SB 20] shall be kept in substantial
22 conformity with applicable federal and state laws,
23 regulations, and standards.

24 (4) No application may be made by a local government
25 for federal aid on behalf of an airport, air navigation

1 facility, or facility incidental to their operation unless
2 the project application shall have been approved by the
3 department of community affairs.

4 Section 35. Airport hazards. A local government may
5 acquire any easement or interest in airport hazards or other
6 property which its governing body considers necessary to
7 permit the safe and efficient operation of an airport and
8 may provide for the removal, elimination, marking, or
9 lighting of airport hazards or prevent the establishment of
10 airport hazards.

11 Section 36. Liens. To enforce the payment of any
12 charges for repairs or improvements to or storage or care of
13 any personal property made or furnished by the local
14 government or its agents in connection with the operation of
15 an airport or air navigation facility owned or controlled by
16 the local government, the local government may establish
17 liens on the property, which shall be enforceable by the
18 local government as provided by law.

19 Section 37. Establishment of airports on public waters
20 and reclaimed lands. A local government may acquire,
21 establish, operate, and maintain airports in, over, and upon
22 any public waters of this state, any submerged land under
23 the state's public waters, and any reclaimed lands which
24 prior to their reclamation constituted a portion of
25 submerged land under the state's public waters. This

1 authorization includes the establishment, operation, and
2 maintenance of all facilities incidental to the operation of
3 an airport.

4 Section 38. Airport zoning. In order to ensure public
5 safety and promote airport efficiency, local governments are
6 authorized to adopt airport zoning ordinances in the manner
7 provided in 67-5-101 through 67-6-101.

8 Section 39. Reserve fund for repair, maintenance, and
9 capital outlays. In addition to the capital improvement
10 program as provided in [section 82 of SB 22], a local
11 government may create a reserve fund and accumulate therein
12 the sum of \$5 million together with interest thereon for the
13 use, repairs, maintenance, and capital outlays of an
14 airport.

15 Section 40. Goods and services. A local government may
16 purchase and sell goods and services that are incidental to
17 the operation of an airport.

18 Section 41. 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 SP 23], unless otherwise provided or the context
21 requires a technical or other interpretation, the following
22 definitions apply:

23 (1) The definitions established by Title 61, chapter
24 1, apply.

25 (2) "Trafficway" means the entire area of the

1 right-of-way or other interest in property obtained by a
 2 local government or the state as a public way for the
 3 purposes of vehicular, pedestrian, bicycle, livestock, or
 4 other traffic. The term is used in [SB 11, SB 12, SB 13, SB
 5 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
 6 and SB 23] to include highways, roads, streets, alleys,
 7 malls, parking zones, bicycle ways, paths, bridges,
 8 shoulders, embankments, retaining walls, culverts, drains
 9 and ditches, sluices, drainage structures including curbs
 10 and gutters, railroad crossings, tunnels, overpasses, signs,
 11 guardrails, gates, fences, auto passes, and other
 12 appurtenances.

13 Section 42. Administration. Subject to such policies
 14 established by the governing body, the chief executive shall
 15 be responsible for the administration of all trafficway
 16 services including records, survey, maintenance, and
 17 construction.

18 Section 43. Local trafficway systems. (1) County
 19 trafficways are those rights-of-way acquired, opened,
 20 constructed, maintained, changed, and vacated in accordance
 21 with [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB
 22 18, SB 19, SB 20, SB 21, SB 22, and SB 23].

23 (2) Municipal trafficways are those rights-of-way
 24 acquired, opened, constructed, maintained, changed, or
 25 vacated in accordance with [SB 11, SB 12, SB 13, SB 14, SB

1 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB
 2 23].
 3 (3) County and municipal trafficways shall be
 4 classified as county roads and municipal streets as provided
 5 in Title 61.

6 (4) By July 1, 1983, each county governing body shall
 7 designate a county trafficway system.

8 (5) The county shall be responsible for maintenance of
 9 the county trafficway system.

10 (6) (a) The county governing body may enter into
 11 interlocal agreements with the department of highways for
 12 inclusion of additional roads in the county trafficway
 13 system.

14 (b) If a portion of a state highway or other
 15 trafficway under state jurisdiction is moved by mutual
 16 consent of the department of highways and a county governing
 17 body to a county trafficway system, the state of Montana
 18 shall transfer to the county all rights, privileges, and
 19 responsibilities concerning the trafficway necessary for the
 20 county to properly manage the trafficway.

21 (7) Within 1 year after the designation of the county
 22 trafficway system, each county shall have on record a map
 23 showing the county trafficway system. A copy of the map
 24 shall be sent to the department of highways.

25 Section 44. Standards. (1) Each governing body may by

1 resolution adopt standards and criteria which shall be met
 2 before any trafficway may be dedicated to public use,
 3 accepted, opened, vacated, changed, renumbered, renamed, or
 4 otherwise substantially made different.

5 (2) The governing body may adopt by ordinance or
 6 resolution maintenance and construction standards or goals
 7 and objectives for trafficways.

8 (3) Prior to the adoption of the annual budget, the
 9 governing body shall prepare a plan describing construction
 10 and maintenance priorities for the following year on
 11 trafficways presently under their jurisdiction. The plan
 12 shall contain:

13 (a) specific proposals for maintenance and
 14 construction of trafficways;

15 (b) a schedule for construction and maintenance by
 16 project; and

17 (c) a cost estimate by project.

18 (4) After public notice, a hearing shall be held on
 19 the plan.

20 Section 45. Trafficway record system. (1) Each county
 21 chief executive shall prepare by July 1, 1983, a record
 22 system for all county and municipal trafficways. The system
 23 shall thereafter be maintained on a permanent basis.
 24 Municipal officials shall cooperate in the preparation of
 25 the system and maintain possession of municipal records in

1 the system.

2 (2) The record system shall include all existing:
 3 (a) plats of trafficways;
 4 (b) records of dedication or other acquisition of
 5 property;
 6 (c) survey records;
 7 (d) records of proceedings to establish and change the
 8 grade of trafficways;
 9 (e) construction and maintenance plans and
 10 construction records;
 11 (f) names and numbers of trafficways and lot numbers
 12 in approved subdivisions;
 13 (g) records of all other official proceedings with
 14 reference to trafficways; and
 15 (h) maps of the county trafficway system as required
 16 by [section 43(7) of SB 20].

17 (3) Municipal records need not be physically placed
 18 with county records. An index of where municipal records may
 19 be found shall be included with the county records.

20 Section 46. Financing of trafficways. (1) Local
 21 governments may levy taxes authorized in [section 33 through
 22 section 105 of SB 22] for trafficway purposes.

23 (2) Taxes and other revenue for county trafficways
 24 shall be used for the acquisition, construction, repair, and
 25 maintenance of all trafficways within a county's trafficway

1 system unless otherwise determined by interlocal agreement.
 2 (3) Taxes and other revenue for county trafficways
 3 shall be used for the acquisition, construction, repair, and
 4 maintenance of all trafficways within a county's boundaries
 5 which are outside the boundaries of any municipality and are
 6 not state highways.

7 (4) Local governments may receive and expend any
 8 federal funds available for trafficways. The following
 9 federal funds shall be allocated:

10 (a) timber funds as provided by law;

11 (b) secondary road systems funds as provided in
 12 60-3-206 through 60-3-208;

13 (c) federal-aid urban highway funds as provided in
 14 60-3-211; and

15 (d) safer-off-system funds as provided by law.

16 (5) The following state funds available for
 17 trafficways shall be distributed to local governments:

18 (a) fuel taxes as provided in 15-70-101;

19 (b) funds for footpaths and bicycle paths as provided
 20 in 60-3-303 and 60-3-304;

21 (c) motor vehicle license and registration fees as
 22 provided in [section 47 of SB 20]; and

23 (d) public transportation aid as provided in [section
 24 85 of SB 20].

25 Section 47. Distribution of motor vehicle license and

1 registration fees. (1) All license and registration fees
 2 collected by the finance administrator of the county in
 3 which any motor vehicle is registered shall be credited to
 4 the county motor vehicle account.

5 (2) The county finance administrator shall segregate
 6 from the county motor vehicle account and designate as the
 7 "municipal road account" 50% of the net license fees derived
 8 from the registration of motor vehicles whose owners reside
 9 within the limits of any municipality.

10 (3) The balance of the county motor vehicle account
 11 remaining after segregation of the municipal road account
 12 shall be transferred to the county road account.

13 (4) At the end of each month, the county finance
 14 administrator shall pay to the appropriate municipal finance
 15 administrator the fees held in the municipal road account.

16 (5) The revenue shall be used by the county and the
 17 municipality for the construction and repair of trafficways
 18 within their respective jurisdictions, maintenance of
 19 trafficways within their respective jurisdictions unless
 20 interlocal agreements should determine otherwise,
 21 enforcement of trafficway safety, driver education, tourist
 22 promotion, and administrative collection costs, unless
 23 otherwise provided by ordinance.

24 Section 48. Right-of-way. (1) A governing body may
 25 acquire right-of-way for trafficways over private property.

1 (2) A governing body may acquire right-of-way through
2 acceptance by resolution of the dedications of trafficways
3 in subdivisions or by gift, grant, donation, purchase,
4 devise, bequest, or prescriptive use or by eminent domain
5 proceedings to acquire property for trafficways opened by
6 resolution of the governing body.

7 (3) (a) By taking or accepting interests in real
8 property for trafficways, the public acquires only the
9 right-of-way and the incidentals necessary to enjoy and
10 maintain it.

11 (b) When a right-of-way is vacated, the land shall
12 revert to the original owners or their grantees or
13 successors in interest, but such vacation shall not affect
14 the right of any public utility to continue to maintain its
15 plant and equipment in any such right-of-way.

16 (c) In platted townsites and subdivisions, the land
17 shall be evenly divided between the abutting property owners
18 within the same townsite or subdivision.

19 (d) Public right-of-way shall be taken off the tax
20 rolls, except for those rights-of-way acquired by
21 prescriptive use.

22 (4) No trafficway dedicated to public use shall be
23 considered accepted unless the dedication is accepted and
24 confirmed by resolution of the governing body or unless the
25 provisions relating to subdivisions have been complied with.

1 (5) (a) When a right-of-way is voluntarily given or
2 purchased, an instrument in writing conveying the
3 right-of-way and incidents thereto must be signed and
4 acknowledged by the person making it. It must then be
5 recorded in the office of the records administrator of the
6 county where the land is located.

7 (b) When a right-of-way is condemned, a certified copy
8 of the judgment of the court must be made and filed in the
9 office of the records administrator of the county where the
10 land is located.

11 (c) Both types of instruments shall particularly
12 describe the land, unless the right-of-way is noted on a
13 plat filed with the records administrator of the county
14 where the land is located.

15 (6) All trafficways and other public places designated
16 to public use under the provisions of sections 5060 through
17 5080 and sections 5100 to 5124 (Political Code of 1895) are
18 the property of the municipality for incorporated towns and
19 the county for unincorporated towns. The dedicated property
20 may be vacated as other dedicated property.

21 (7) (a) Unless otherwise provided by the governing
22 body, the width of all county trafficways, except bridges,
23 shall be 60 feet.

24 (b) Nothing in this section shall be construed as
25 increasing or decreasing the width of any trafficway already

1 acquired or in use.

2 Section 49. County acquisition of right-of-way. (1)
3 Any 10 electors of the county or any 10 or a majority of
4 freeholders of land abutting on the road petitioned for may
5 petition the governing body to acquire right-of-way for a
6 county trafficway.

7 (2) The petition must set forth:

8 (a) the particular trafficway to be opened;

9 (b) the general route thereof;

10 (c) the lands and owners affected;

11 (d) whether the owners who can be found consent
12 thereto;

13 (e) where consent is not given, the probable cost of
14 the right-of-way; and

15 (f) the necessity for and advantage of the petitioned
16 action.

17 (3) (a) Within 30 days after the filing of any
18 petition, the governing body shall investigate the
19 feasibility, desirability, and cost of granting the request.
20 The investigation shall be sufficient to properly determine
21 the merit of the petition.

22 (b) After a public hearing considering the petition
23 and the results of the investigation, the governing body may
24 adopt a resolution of intent to acquire right-of-way for the
25 trafficway.

1 (4) Within 10 days thereafter, the governing body
2 shall cause notice of its decision to be sent by certified
3 mail to all owners of land abutting the road petitioned for.
4 The owners shall be those listed on the last county
5 assessment roll and any affected government agencies.
6 Affected property owners may protest the acquisition of
7 right-of-way, as provided in subsection (5) of this section.

8 (5) The right-of-way shall not be acquired if, within
9 60 days after the notice has been mailed, protests are
10 received from the owners of more than one-half in assessed
11 value of the property or by more than one-half of the number
12 of property owners or the owners of more than one-half of
13 the area abutting the trafficway.

14 Section 50. Damages for county trafficways. (1) Except
15 for any right-of-way acquired by dedication, whenever the
16 governing body makes an order acquiring the right-of-way for
17 a trafficway, it must determine the following:

18 (a) the value of the property sought and all
19 improvements pertaining to the realty and of each and every
20 separate estate and interest; if it consists of different
21 parcels, the value of each parcel and each estate or
22 interest must be separately assessed;

23 (b) if the property sought constitutes only a part of
24 a larger parcel, the depreciation in value which will accrue
25 to the portion not sought by reason of its severance from

1 the portion sought and the construction of the trafficways
2 in the manner proposed by the governing body;

3 (c) separately, how much the portion not sought and
4 each estate or interest will be benefited, if at all, by the
5 construction of the trafficway proposed by the governing
6 body; and if the benefit is equal to the amount assessed
7 under subsection (b), the owner of the parcel shall be
8 allowed no compensation except the value of the portion
9 taken; but if the benefits are less than the amount assessed
10 under subsection (b), the former shall be deducted from the
11 latter and the remainder shall be the only amount allowed in
12 addition to the value.

13 (2) If damages are awarded, payment shall be made to
14 the owner or claimant, if known, upon his showing or
15 establishing his right or title to the lands or improvements
16 and furnishing deeds and releases.

17 (3) If all awards are accepted, the governing body
18 shall declare the road a county trafficway and open it.

19 (4) (a) If any award of damages provided for in this
20 section is not accepted within 20 days after the date of the
21 award, it shall be considered rejected by the owner. The
22 governing body may by order direct that proceedings to
23 procure the right-of-way be instituted under 70-30-101
24 through 70-30-109 by the county attorney against all
25 nonaccepting landowners.

1 (b) Such proceedings shall in no way be affected or
2 invalidated by the failure of the governing body to give any
3 notice or do any act provided for in [SB 11, SB 12, SB 13,
4 SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB
5 22, and SB 23]. Failure to give notice shall not be
6 considered by any court as a defense in any proceedings for
7 procuring right-of-way.

8 (c) The governing body shall not direct the county
9 attorney to initiate condemnation proceedings under
10 70-30-101 through 70-30-109 until it adopts an order
11 declaring that:

12 (i) public interest and necessity require the
13 construction of the trafficway;

14 (ii) the interest described in the order and sought to
15 be condemned is necessary to the trafficway;

16 (iii) the trafficway is planned and located in a manner
17 which will be compatible with the greatest public good and
18 the least private injury.

19 (d) The order required in subsection (c) of this
20 section creates and establishes a disputable presumption:

21 (i) of the public necessity of the proposed
22 trafficway;

23 (ii) that the taking of the interest sought is
24 necessary for the building of the trafficway;

25 (iii) that the proposed trafficway is planned or

1 located in a manner that will be most compatible with the
2 greatest public good and the least private injury.

3 (5) All awards of damages estimated by the governing
4 body or made by the proper court and all expenses, including
5 those of the members of the governing body and their per
6 diem, shall be paid out of the county trafficway account on
7 order of the governing body.

8 Section 51. Change of trafficway upon petition. (1) A
9 majority of the freeholders or electors residing on any
10 county trafficway or portion thereof may petition the
11 governing body in writing to so change the trafficway or
12 portion.

13 (2) The governing body shall investigate the
14 trafficway in the same manner as provided in [section 49 of
15 SB 20]. After investigation, the governing body may order
16 the making of the change if it can be done without material
17 damage, injury, or serious inconvenience to the public
18 customarily using the trafficway or portion.

19 (3) Those petitioning for the change shall bear all or
20 such portion of the cost and expense of making it as the
21 governing body may order.

22 Section 52. Stock lanes. (1) Upon presentation of a
23 proper petition, each county governing body may acquire the
24 right-of-way for, open, change, or vacate stock lanes when
25 it considers it expedient and necessary for the convenience

1 of the public and for the convenience of travel on
2 trafficways now opened. Any stock lane may adjoin and
3 parallel a county trafficway and shall be described in the
4 petition for creation and in the order of the governing body
5 creating it.

6 (2) A stock lane is a county trafficway opened and
7 maintained for the driving and travel of livestock. It shall
8 be not less than 60 feet wide unless the governing body
9 determines otherwise.

10 (3) The provisions of [section 49, section 50, section
11 '51, and section 60], and the general laws relating to
12 acquiring rights-of-way, opening, changing, or vacating
13 county trafficways, including the exercise of the right of
14 eminent domain, shall apply to stock lanes. References in
15 all petitions, orders, and proceedings shall be to "stock
16 lanes" in order to differentiate them from other
17 trafficways.

18 Section 53. County to transfer responsibility for
19 right-of-way. A county shall transfer its control over and
20 responsibility for a county trafficway when the department
21 of highways notifies it that:

22 (1) a federal-aid or state highway route has been
23 established and definitely located over a county trafficway;
24 (2) funds are available for immediate construction of
25 the trafficway; and

1 (3) the trafficway will be improved and maintained by
2 the highway department.

3 Section 54. Trafficway crossing railroad, canal, or
4 ditch. (1) Whenever any trafficway is opened on public lands
5 across any railroad, canal, or ditch, the owners thereof
6 must at their expense so prepare the railroad, canal, or
7 ditch that the road may cross it without damage or delay.

8 (2) When the right to cross is obtained through the
9 judgment of any court, no damages shall be awarded.

10 Section 55. County trafficway to follow subdivision or
11 section lines. County trafficways must be laid out and
12 opened when practicable upon subdivision or section lines.
13 However, when public purposes shall be best served thereby,
14 county trafficways may be laid out in diagonal lines.

15 Section 56. Survey. (1) The governing body may order
16 any trafficway surveyed.

17 (2) Prior to opening any trafficway, the governing
18 body shall order that the trafficway be surveyed.

19 (3) All surveying for trafficways shall be performed
20 by a registered land surveyor.

21 Section 57. Grade. (1) The governing body may
22 establish and change the grade of trafficways.

23 (2) When the grade has been established, it shall not
24 be changed except by vote of a majority of the members of
25 the governing body and not until the damage to property

1 owners caused by change of grade has been determined and
2 paid to the property owners. The amount of damages shall be
3 reduced by the consideration of benefits to the property
4 caused by the change in grade.

5 (3) When the grade of any trafficway in any
6 municipality is established by the governing body and a
7 building shall thereafter be constructed upon a lot abutting
8 the trafficway, no change may be made in the grade of the
9 trafficways which requires the raising or lowering of any
10 building so constructed until the damages which may accrue
11 by reason of the raising or lowering are ascertained and
12 paid as is provided herein.

13 (4) In case the governing body of the municipality and
14 the owner of the building are unable to agree upon the
15 amount of the damages, the governing body shall appoint
16 three disinterested freeholders of the municipality to
17 appraise the damages. After being duly sworn, the appraisers
18 must appraise the damage and make a written report signed by
19 at least a majority of them, copies of which shall be
20 delivered to the records administrator of the municipality
21 to be immediately filed in his office, and to the owner of
22 the building.

23 (5) The report shall be made and delivered within 10
24 days after the appointment of the appraisers.

25 (6) If either party is dissatisfied with the

1 appraisal, within 20 days after the report is filed with the
2 records administrator, the party may file a copy of the
3 report certified by the municipal records administrator to
4 the appropriate clerk of district court. The party filing
5 the report shall file a notice of appeal with the records
6 administrator and serve upon the opposing party a copy of
7 the notice of appeal. Upon receipt of the certified report,
8 the clerk of district court shall enter the proceedings on
9 the register of actions, designating the municipality as
10 plaintiff and the owner of the building as defendant.

11 (7) The report of the appraisers is the complaint, all
12 the material facts of which in reference to damages are
13 considered denied, and these constitute the issues to be
14 tried.

15 (8) In case the owner of the building appeals and the
16 damages are not increased or in case the municipality
17 appeals and the damages are decreased in the district court,
18 the costs shall be paid by the defendant. In all other cases
19 or when no appeal is taken, the costs shall be paid by the
20 municipality.

21 Section 58. Vacating of trafficways. (1) County
22 trafficways may be vacated by resolution of the county
23 governing body if it can be done without detriment to the
24 public interest. The resolution vacating the trafficway may
25 be adopted only after:

1 (a) petitions of 10 or a majority of freeholders of
2 land abutting on the trafficway are submitted;
3 (b) notice of intent to vacate the trafficway has been
4 sent by certified mail to all owners of land abutting on the
5 trafficway. The owners shall be those listed on the last
6 assessment roll and any affected government agencies.
7 (c) notice of intent to vacate the trafficway is
8 published and a public hearing is held.

9 (2) If the county trafficway was dedicated in a
10 subdivision, the trafficway may be vacated by resolution of
11 the county governing body upon the petition of all owners of
12 property abutting the trafficway and if it can be done
13 without detriment to the public interest. The resolution
14 vacating the trafficway may be adopted only after published
15 notice of intent to vacate the trafficway and a public
16 hearing.

17 (3) When a trafficway is on the dividing line between
18 two counties, the same procedures for acquiring right-of-way
19 or opening, changing, or vacating a trafficway shall be
20 followed, except that a copy of the petition shall be
21 presented to each governing body and the governing bodies
22 shall act jointly.

23 (4) (a) The governing body of a municipality may by
24 resolution, after a finding of public interest, order the
25 vacating or narrowing of any municipal trafficway.

9 (d) Any order provided for in this section which
10 vacates or narrows a municipal trafficway shall not impair
11 the right-of-way or easement of any lot owner.

12 (5) The vacating of a trafficway shall not affect the
13 right of any public utility to continue to maintain the
14 plant and equipment in the trafficway.

23 (7) (a) All previous actions by municipal governing
24 bodies to vacate trafficways in incorporated municipalities
25 are valid.

(b) All previous actions by county governing bodies to vacate trafficways in unincorporated townsites are valid.

Section 59. Closing of trafficways. (1) The governing body may by ordinance, after a finding of public interest, order the closing of any trafficway within its jurisdiction, except those trafficways acquired by prescriptive use.

(2) Notice shall be published and given to all property owners abutting the affected trafficway. Owners shall be those listed on the last tax assessment roll and all affected government agencies.

(3) The governing body may order the trafficway closed unless, within 10 days after notice has been given, protests are received from:

- (a) 51% of the abutting property owners;
- (b) the owners of more than one-half in assessed value of the abutting property; or
- (c) owners of more than one-half of the area abutting the trafficway.

(4) When closing a trafficway pursuant to this section, a local government retains its right-of-way over that trafficway.

(5) (a) A local government may upon a two-thirds majority vote of the governing body reopen any trafficway closed pursuant to this section.

(b) Any action re-opening a trafficway closed pursuant

1 to this section is not subject to protest.

2 (c) Notice shall be published and given to all
3 abutting property owners prior to the reopening of the
4 trafficway.

5 (6) Any closing action pursuant to this section shall
6 not impair local access.

7 Section 60. Initiation of actions by the governing
8 body. (1) The governing body may by resolution, after first
9 passing a resolution of intent showing public interest and
10 necessity, acquire right-of-way for, vacate, or change
11 trafficways within its jurisdiction.

12 (2) Notice of the resolution shall be published and
13 mailed to all property owners abutting the affected
14 trafficway. Owners shall be those listed on the last tax
15 assessment roll and all affected government agencies. A
16 public hearing shall be held.

17 (3) The governing body may order the trafficway
18 vacated or changed or the governing body may acquire the
19 right-of-way for the trafficway unless, within 60 days after
20 notice has been given, protests are received from:

21 (a) 51% of the number of abutting property owners;
22 (b) the owners of more than one-half in assessed value
23 of the abutting property; or
24 (c) owners of more than one-half of the area abutting
25 the trafficway.

1 (4) Once a project has been approved by the local
2 government, prior protest shall not prohibit eminent domain
3 proceedings from being brought pursuant to Title 70, chapter
4 30.

5 Section 61. Construction of trafficways. (1) The local
6 government may construct and reconstruct trafficways.

7 (2) The department of highways may assist local
8 governments in the location, establishment, construction,
9 reconstruction, maintenance, and improvement of any
10 trafficways.

11 Section 62. Maintenance of trafficways. (1) The local
12 government shall maintain all trafficways, and if any
13 trafficway becomes obstructed or dangerous for the passage
14 of vehicles or persons, the local government shall remove
15 the obstruction or repair the dangerous trafficway. For
16 purposes of this section, snow shall not be considered an
17 obstruction.

18 (2) Nothing in this section shall be construed as
19 holding the governing body or any official responsible or
20 liable for anything other than willful, intentional neglect
21 of an official act.

22 Section 63. Acquiring rights-of-way and construction
23 of trafficways. If a petition to acquire a right-of-way for
24 a trafficway as authorized by [section 49 of SB 20] also
25 meets the requirements for petition for a local improvement

1 district as established in [section 90 of SB 12] or a joint
2 subordinate service district as established in [section 87
3 of SB 12] or a joint subordinate service district and local
4 improvement district as provided in [section 89 of SB 12],
5 the districts may be created by the same proceedings which
6 open a trafficway.

7 Section 64. Contracts with highway department or
8 federal agencies. (1) The governing body may, whenever
9 trafficway construction work is to be financed in whole or
10 in part by federal funds, contract jointly or independently
11 with the department of highways, United States federal
12 highway administration, or other federal agency for the
13 construction or reconstruction of trafficways, to acquire
14 rights-of-way, and to do any other thing essential and
15 practical in securing these ends.

16 (2) Contracts related to local improvement districts,
17 sidewalks, curbing, and other public works projects on
18 right-of-way controlled by the department of highways are
19 subject to the approval of the department of highways.

20 (3) The contracts referred to in subsection (2) of
21 this section may be let by the local government.

22 Section 65. State payment of construction and
23 maintenance costs within municipalities. (1) The department
24 of highways shall pay the entire costs of construction and
25 maintenance of trafficways which are state highway routes.

1 (2) Maintenance and construction responsibilities
2 decided by interlocal agreement shall supersede subsection
3 (1) of this section. Such an interlocal agreement may not
4 be made a prerequisite for the approval of construction or
5 the letting of contracts by the department of highways.

6 Section 66. Bypassing of municipalities -- consent of
7 municipal governing body. (1) The department of highways may
8 not construct highway bypasses or highway relocation
9 projects without prior consent of the governing body of an
10 incorporated municipality when the bypasses or projects are
11 not part of the national system of interstate highways built
12 under the National Defense Highway Act.

13 (2) The department shall notify the governing body of
14 the municipality by certified mail that it proposes to
15 bypass the municipality. A contract may not be let or work
16 commenced until the governing body notifies the department
17 of its consent or until the lapse of 60 days after the
18 notice has been sent by the department to the municipality,
19 whichever occurs first. The failure of the municipality to
20 act and notify the department of its action within the
21 60-day period is implied consent to the bypass.

22 (3) Actual consent or refusal to bypass shall be in
23 the form of a resolution adopted by the governing body of
24 the municipality.

25 (4) The governing body may not withdraw consent after

1 the department has been notified of the consent.

2 Section 67. Drains and ditches. (1) Drains and ditches
3 may be constructed and maintained for making and preserving
4 trafficways. As little damage as possible shall be done to
5 adjoining land.

6 (2) A person who stops or obstructs any drain or ditch
7 is punishable by a fine not to exceed \$50 which may be
8 recovered in any justice or district court.

9 Section 68. Auto passes excluding livestock. (1) Auto
10 passes, appurtenances, fences, and gates may be constructed
11 and maintained on and adjacent to county trafficways by the
12 governing body or with its consent.

13 (2) Where a county trafficway connects with a state or
14 federal highway which is fenced on both sides, the local
15 government may construct and maintain extensions of the
16 fence across the right-of-way of the intersecting county
17 trafficway. The local government shall construct a pass
18 which will permit passage of vehicles but will prevent
19 unattended livestock from passing onto the state or federal
20 highway. In the extensions of the fence, a gate to permit
21 the passage of livestock and vehicles shall be maintained.

22 (3) A local government may construct on a county
23 trafficway passes which shall permit the travel of vehicles
24 but which shall prevent the passage of unattended livestock.
25 Where necessary, gates shall be maintained to permit the

1 passage of livestock. Such passes may be removed when, in
2 the judgment of the governing body, the need therefor no
3 longer exists.

4 (4) Auto passes do not deprive a fence of the
5 character of a legal fence under state law.

6 Section 69. Control of noxious plants on right-of-way.
7 The department of highways shall enter into an interlocal
8 agreement with each county providing for the management of
9 noxious plants along highway rights-of-way within the county
10 in compliance with the county noxious plant management
11 program as provided by [section 33 through section 67 of SB
12 15].

13 Section 70. Reseeding of right-of-way areas. Whenever
14 the natural sod cover or growth of beneficial plants on
15 right-of-way areas is disturbed by the construction or
16 maintenance of trafficways, the governing body shall require
17 that the disturbed area be reseeded as provided by [section
18 33 through section 67 of SB 15].

19 Section 71. Utility's use of right-of-way. As provided
20 for in 69-4-101, utilities regulated by the public service
21 commission have the right to use trafficways as provided in
22 [section 61 of SB 12] but they must compensate the local
23 government for any and all damages caused by the
24 construction or maintenance and necessary to restore the
25 trafficway to its former condition.

1 Section 72. Utility connections. A governing body may
2 compel the construction or reconstruction of sewer, water,
3 gas, electric, and other connections to abutting property
4 lines prior to the construction, repair, replacement, or
5 reconstruction of a trafficway. The cost shall be a
6 responsibility of the abutting property owner which may be
7 paid by special assessment as provided in [section 82 of 58
8 20] or may be paid in whole or part by the local government.

9 Section 73. Underground placement of utilities on
10 public right-of-way. A governing body has the authority to
11 compel the underground placement of electric, telephone,
12 cable television, and other utilities prior to the
13 construction or reconstruction of a trafficway. The cost may
14 be financed by creation of a local improvement district.

15 Section 74. Excavation Information. No person may make
16 or begin any excavation in a trafficway without complying
17 with Title 69, chapter 4, to determine the location of any
18 underground facility such as water and sewer pipes and
19 electric or telephone cables.

20 Section 75. Excavations across trafficways -- permits
21 and bridging. (1) (a) Any person contemplating the
22 excavation or construction of any ditch, dike, flume, or
23 canal across a trafficway shall obtain a written permit from
24 the local government before beginning construction or
25 excavation.

1 (b) Any person obtaining written permit shall bridge
2 at once in accordance with plans and specifications approved
3 by the local government.

4 (2) The bridge shall be maintained by the local
5 government.

6 (3) Any person obtaining a construction permit or any
7 person using the water of the ditch, dike, flume, or canal
8 shall keep it in repair where the water may flow over or in
9 any way injure a trafficway.

10 Section 76. Liability for permitting water to
11 overflow. (1) Every person who excavates or constructs or
12 owns any ditch, dike, flume, or canal or stores,
13 distributes, or uses water for any purpose and permits the
14 water to flow over any trafficway to the injury thereof
15 must, upon notification by the local government, repair the
16 damages incurred. If the repairs are not made within a
17 reasonable time, the local government must make them and
18 recover the expense in an action at law.

19 (2) Every person constructing, owning, or using the
20 ditch or flume who permits an overflow is liable as provided
21 in 45-8-111.

22 Section 77. Encroachments -- power to remove. (1) If
23 any trafficway is encroached upon by fence, building, or
24 otherwise, the local government must give notice, orally or
25 in writing, requiring the encroachment to be removed from

1 the trafficway.

2 (2) If the encroachment obstructs and prevents the use
3 of the trafficway for vehicles or pedestrians, the local
4 government must immediately remove it.

5 (3) The governing body may at any time order the
6 immediate removal of any encroachment.

7 (4) Notice to remove the encroachment immediately,
8 specifying the width of the trafficway and the place and
9 extent of the encroachment, must be given to the occupant or
10 owner of the land or person owning or causing the
11 encroachment.

12 (5) Notice must be given in the following manners

13 (a) by leaving it at the owner's place of residence if
14 the person resides within the jurisdiction of the local
15 government; or

16 (b) by posting it on the encroachment if the person
17 does not reside within the jurisdiction of the local
18 government.

19 (6) If the encroachment is not removed immediately or
20 removal is not diligently conducted, the one who causes,
21 owns, or controls the encroachment is liable to the penalty
22 which may be set by the governing body in accordance with
23 [section 58 of SB 12].

24 (7) If the encroachment is denied, the local
25 government shall commence in the proper court an action to

1 abate the encroachment as a nuisance. If it recovers
2 judgment, the local government may have costs and \$10 for
3 every day the nuisance remains after notice.

4 (8) If the encroachment is not denied and is not
5 removed for 5 days after notice is complete, the local
6 government may remove it at the expense of the owner or
7 occupant of land or of the person owning or controlling the
8 encroachment. The local government may recover the expense
9 of removal, \$10 for each day the encroachment remained after
10 notice, and costs in an action brought for that purpose.

11 (9) The county or municipal attorney, upon complaint
12 of a local government officer, employee, or any other
13 person, shall prosecute all actions heretofore provided in
14 the name of the state of Montana. All penalties shall be
15 paid into the general fund of the local government.

16 (10) If the governing body chooses not to seek a remedy
17 in the proper court, the costs of removing the encroachment
18 plus \$10 for every day the nuisance remains after notice may
19 be assessed against the property. The costs may be assessed
20 and collected as provided in [section 64 through section 99
21 of SB 12].

22 Section 78. Bridges. (1) The county governing body
23 shall maintain all public bridges within the county except
24 those maintained by the department of highways.

25 (2) A municipality may provide for the construction,

1 repair, and maintenance of bridges only by following the
2 procedure prescribed by [section 59 of SB 14] and only with
3 the consent of the county governing body.

4 (3) After a municipality assumes responsibility for
5 the construction, repair, and maintenance of bridges, bridge
6 services provided in the area of the county excluding the
7 exempted municipality may be financed only through a
8 subordinate service district excluding the exempted
9 municipality and may not be financed by the county
10 all-purpose mill levy.

11 (4) Counties shall enter into interlocal agreements to
12 determine their respective responsibilities for construction
13 and maintenance of bridges that cross the boundary between
14 counties.

15 (5) Unless otherwise prohibited, state and federal
16 funds allocated for trafficways may be expended on bridges.

17 Section 79. Ferries. (1) The governing body of a
18 county may provide public ferry services across rivers or
19 streams within the county. Ferry service between counties
20 shall be provided under interlocal agreements between the
21 affected counties.

22 (2) A local government providing ferry services shall
23 proceed under the provisions for [SB 11, SB 12, SB 13, SB
24 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
25 and SB 23], except that the specified powers, procedures,

1 and instructions contained in [SB 14, SB 15, SB 16, SB 17,
2 SB 18, SB 19, and SB 20] shall be considered to be
3 additional powers and requirements or to supersede other
4 provisions of [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
5 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23].

6 (3) If a franchise for operating a public ferry is
7 granted, the notice must describe the landings of the
8 proposed ferry and the names of the owners, if known; if the
9 applicant is not the owner of the land, notices of the
10 person applying shall be served on the owner at least 10
11 days prior to the first reading of the ordinance for the
12 ferry franchise.

13 (4) At the hearing, proof of giving the notice,
14 required by the preceding section, must be made and any
15 person may appear and contest the application. If the board
16 finds that the ferry is either a public necessity or
17 convenience and that the applicant is a suitable person and
18 by reason of the ownership of the landing or failure of the
19 owner thereof to apply, authority to erect and take tolls on
20 the ferry may be granted to him for the term of 10 years.

21 (5) Franchises for a ferry over waters dividing two
22 counties shall be granted by the governing body of that
23 county situated on the left bank descending the river or
24 stream, but any license or franchise fee shall be equally
25 divided between the counties.

1 (6) Subject to regulations adopted by the governing
 2 body, ferrykeepers must make trips to accommodate all
 3 passengers who desire to cross and any failure to do so
 4 subjects the franchise to forfeiture.

5 (7) No ferry franchise may be established within 1
 6 mile immediately above or below a regularly established
 7 ferry unless the situation of a town, the crossing of a
 8 trafficway, or the intersection of some creek or ravine
 9 renders it necessary for public convenience. In addition to
 10 the public notice required, notice of intention to apply for
 11 authority to erect a ferry, as provided in this section,
 12 must be served upon the proprietor of the ferry already
 13 established at least 10 days prior to the first reading of
 14 the ordinance giving the time, place, and grounds of the
 15 application.

16 (8) The owner of the land on either of the waters to
 17 be crossed and the owner of the land on the left bank
 18 descending, over the owner of the land on the right bank, is
 19 entitled to preference in procuring a ferry franchise, but
 20 where the owner fails or neglects to apply for the authority
 21 within a reasonable time after the necessity arises, the
 22 governing body may grant the authority to another person.

23 (9) When there are lands necessary for the
 24 construction, erection, or use of the ferry which cannot be
 25 procured by agreement between the owner and landowner, the

1 right-of-way and all other lands necessary for the use and
 2 construction or erection thereof may be acquired by
 3 condemnation.

4 Section 80. Number and naming of trafficways, houses,
 5 and lots. The governing body may name and rename trafficways
 6 and number and renumber trafficways, houses, and lots by
 7 resolution.

8 Section 81. Dumping of garbage on trafficways. As
 9 provided in 75-10-212(2), the dumping of garbage or other
 10 debris or refuse on a trafficway is unlawful.

11 Section 82. Sidewalks, curbs, gutters, and alley
 12 approaches. (1) In addition to other methods for
 13 constructing and financing sidewalks, curbs, gutters, and
 14 alley approaches, the governing body may by resolution order
 15 sidewalks, curbs, gutters, and alley approaches constructed
 16 or repaired. After adoption of the resolution, mailed
 17 notices of the resolution shall be given the owner or agent
 18 of each property affected.

19 (2) The construction or repair of sidewalks, curbs,
 20 and gutters is a responsibility of owners of property
 21 abutting the sidewalk, curb, or gutter.

22 (3) The construction or repair of alley approaches is
 23 a responsibility of owners having access to their properties
 24 by the alley approach.

25 (4) The local government may pay all or part of the

1 costs of sidewalks, curbs, gutters, and alley approaches.

2 (5) If the owners shall fail or neglect for a period
3 of 30 days after the date of mailed notice to cause the
4 sidewalks, curbs, gutters, or alley approaches to be
5 constructed or repaired, the local government may construct
6 the sidewalk, curb, gutter, or alley approach and assess all
7 project costs enumerated in [section 90 of SB 12] against
8 the property.

9 (6) The costs may be assessed and collected as
10 provided in [section 64 through section 99 of SB 12].

11 (7) Special local improvement district bonds for the
12 payment of costs may be issued.

13 (8) This special procedure for sidewalks, curbs,
14 gutters, and alley approaches is not subject to the petition
15 and protest procedures available under other local
16 improvement district procedures in [section 64 through
17 section 99 of SB 12].

18 Section 83. Traffic regulations. (1) As provided in
19 61-8-103, traffic on all local government trafficways is
20 subject to the provisions of Title 61, chapter 8.

21 (2) Local governments may adopt additional traffic
22 regulations which are not in conflict with [SB 14, SB 15, SB
23 16, SB 17, SB 18, SB 19, and SB 20], and local governments
24 may regulate traffic as authorized in 61-12-101.

25 (3) Local governments may place and maintain traffic

1 control devices as provided in 61-8-203 and 61-8-206.

2 (4) Local governments may regulate pedestrians and
3 establish crosswalks as provided in 61-8-508.

4 (5) Local governments may regulate driving by persons
5 under the influence of intoxicating liquor or drugs as
6 provided in 61-8-404.

7 (6) Local governments may regulate reckless driving as
8 provided in 61-8-301.

9 (7) Local governments may regulate speed contests on
10 public highways as provided in 61-8-308.

11 (8) Local governments may establish speed limits as
12 provided in 61-8-310.

13 (9) Local governments may establish through highways
14 and establish stop intersections as provided in 61-8-344.

15 (10) Any local government may require accident reports
16 as authorized in 61-7-116.

17 (11) Local governments may conduct highway traffic
18 safety programs as provided in Title 75, chapter 15.

19 (12) A local government may restrict, limit, or
20 otherwise restrict the weight of public vehicles on highways
21 only as provided in 61-10-128(1), 61-10-122, and
22 61-10-128(2).

23 (13) Local governments may plan, designate, acquire,
24 regulate, vacate, change, improve, maintain, and provide
25 controlled access facilities for public use as provided in

1 7-14-2134, 7-14-2136, and 7-14-2137.

2 (14) Local governments may regulate outdoor advertising
3 along trafficways as provided for in Title 75, chapter 15.

4 Section 84. Exemptions from motor carrier act. Public
5 transportation systems operated by local government are
6 subject to all the provisions of the motor carrier act Title
7 69, except that a local government may be issued a
8 certificate of public convenience and necessity without
9 proof of the existence of public convenience and necessity,
10 and the local government is exempt from the payment of fees
11 provided by Title 69, chapter 12.

12 Section 85. Aid for public transportation. (1) The
13 department of community affairs shall allocate each year
14 one-half of the funds appropriated for the purposes of this
15 section among the local governments of the state which
16 operate or contract for the operation of a public bus or
17 other public transportation system. A local government is
18 eligible for an allocation based upon the amount of the
19 operating deficit of the system as follows: the proportion
20 of the operating deficits of all local government public
21 transportation systems in the state represented by the
22 operating deficit of the applicant local government,
23 multiplied by the rate of system usage based on bus
24 passengers per mile in the applicant local government where
25 full usage of the system would have a value of one. Each

1 applicant local government shall compute its operating
2 deficit and rate of usage for a fiscal year immediately
3 following the end of the year and shall apply allocations
4 received against that deficit.

5 (2) One-half of the funds appropriated for the
6 purposes of this section shall be paid by the state
7 treasurer to the counties of the state in the manner
8 provided in 15-70-101. Money distributed to counties under
9 this section shall be used by the counties for trafficways
10 or other transportation purposes.

11 (3) A local government may not receive more than 50%
12 of any year's operating deficit as an allocation under this
13 section.

14 (4) The department of community affairs may make rules
15 for the keeping of accounts for and otherwise implementing
16 this section.

17 Section 86. Applicability. [Section 84 through section
18 93 of SB 20] applies only to urban transportation districts
19 organized before [the effective date of this act].

20 Section 87. Transportation board -- selection --
21 composition. (1) The district shall be governed by a
22 transportation board. The transportation board shall consist
23 of three members.

24 (2) The board members shall be elected on a
25 nonpartisan basis and shall serve 4-year terms. Any elector

1 in the district may file a declaration of nomination as
2 provided in [section 109 of SB 12] with the county elections
3 administrator of the county where the district is located.
4 No filing fee shall be required. The nonpartisan election of
5 board members shall be conducted as provided in [section 110
6 of SB 12].

7 (3) The board members shall serve without pay except
8 for necessary transportation expenses.

9 Section 88. Powers of transportation board. (1) The
10 board shall have all powers necessary and proper to the
11 establishment, operation, improvement, maintenance, and
12 administration of the transportation district. The district
13 shall primarily serve the residents within the district
14 boundaries but may authorize service outside the district
15 boundaries where deemed appropriate.

16 (2) The board shall employ a qualified administrative
17 officer for the district. The board shall give public notice
18 of its solicitation of applications for a qualified
19 administrative officer.

20 Section 89. Budget -- mill levy authorized. The board
21 shall annually present its budget to the county finance
22 administrator and certify the amount of money necessary and
23 proper for the ensuing year. The county governing body
24 shall annually at the time of levying county taxes fix and
25 levy a tax in mills upon all property within the

1 transportation district clearly sufficient to raise the
2 amount certified by the board. The tax so levied for all
3 transportation district purposes other than payment of
4 bonded indebtedness shall not in any year exceed 12 mills on
5 each dollar of taxable valuation of property within the
6 district.

7 Section 90. Duties of county finance administrator --
8 warrants issued by board. The procedure for the collection
9 of the tax shall be in accordance with the existing laws of
10 the state of Montana. The funds collected under the tax levy
11 shall be held by the county finance administrator, the ex
12 officio treasurer for the transportation district, who shall
13 keep a detailed account of all tax money paid into the fund,
14 all other money from any source received by the district,
15 and all payments and disbursements from the fund. Funds
16 shall be paid out on warrants issued by direction of the
17 board and signed by a majority of its membership.

18 Section 91. Bond issues authorized. A transportation
19 district may borrow money by the issuance of general
20 obligation or revenue bonds or a combination thereof to
21 provide funds for the district, but the amount of bonds
22 issued for such purpose and outstanding at any time shall
23 not exceed 5% of taxable property therein as ascertained by
24 the last assessment for state and county taxes previous to
25 the issuance of such bonds.

1 Section 92. Enlargement of district -- procedures. The
2 boundaries of any transportation district may be enlarged if
3 at least 51% of the electors of the area to be added to the
4 existing district sign a petition requesting addition to the
5 district; however, each addition must be approved by a
6 majority vote of the transportation board. All property
7 within any addition to the transportation district shall be
8 subject to all existing indebtedness of the district.

9 Section 93. Procedure for dissolving district. (1) Any
10 transportation district may be dissolved upon presentation
11 to the county elections administrator a petition signed by
12 at least 51% of the electors of such district. If it is
13 found that the petition is in proper form and bears the
14 requisite number of signatures of qualified petitioners, the
15 county governing body shall by resolution call for a public
16 hearing on the dissolution of the transportation district.
17 If such petition is found to be lacking in the number of
18 signatures, the county elections administrator shall declare
19 the petition void.

20 (2) A notice of such hearing shall be published once
21 each week for at least 2 weeks in a newspaper having general
22 circulation in the district, the last publication to be at
23 least 2 weeks before the hearing. If there is no newspaper
24 having general circulation in the district, the notice of
25 the hearing shall be posted in at least three public places

1 in the district for 2 weeks before the hearing. The notice
2 shall state the time, date, place, and purpose of the
3 hearing.

4 (3) If upon such hearing the county governing body
5 finds that the district is not indebted beyond funds
6 immediately available to extinguish all of its debts and
7 obligations and that there is good reason for the
8 dissolution of such district, the governing body shall enter
9 upon their minutes an order dissolving such district. Such
10 order shall be filed of record and the dissolution shall be
11 effective for all purposes 6 months after the date of filing
12 the order of dissolution, provided that at or before such
13 time the board of the district certifies to the county
14 governing body that all debts and obligations of the
15 district have been paid, discharged, or irrevocably settled,
16 together with proof thereof. Any assets of the district
17 remaining after all debts and obligations of the district
18 have been paid, discharged, or irrevocably settled shall be
19 evenly divided between the county and any municipalities
20 within or partially within the dissolved district.

21 Section 94. Civil defense and disaster preparedness
22 services. A local government providing civil defense and
23 disaster preparedness services shall proceed under the
24 provisions of [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
25 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23], except

1 that the specified powers granted, procedures, and
2 instructions contained in the Montana Disaster Act of 1977
3 shall be considered to be additional powers and additional
4 requirements or to supersede the provisions of [SB 11, SB
5 12, SB 13, SB 14, SB 15, SE 16, SB 17, SB 18, SB 19, SB 20,
6 SB 21, SB 22, and SB 23].

7 Section 95. Armories and home guard. (1) A local
8 government providing armories and home guard facilities
9 shall proceed under the provisions of [SB 11, SB 12, SB 13,
10 SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB
11 22, and SB 23], except that the specific powers, procedures,
12 and instructions contained in [section 33 through section 96
13 of SB 20] and Title 10 shall be considered to be additional
14 powers and additional requirements or to supersede the
15 provisions of [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
16 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23].

17 (2) The governing body may make available to the home
18 guard any facility or property belonging to or under
19 contract to the local government.

20 Section 96. Ambulance and emergency medical services.
21 (1) A local government providing ambulance services shall
22 proceed under the provisions of [SB 11, SB 12, SB 13, SB 14,
23 SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and
24 SB 23], except that the specified powers granted and
25 procedures, instructions, and licensing requirements

1 contained in Title 50, chapter 6, shall be considered to be
2 additional powers and additional requirements or to
3 supersede other provisions of [SB 11, SB 12, SB 13, SB 14,
4 SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and
5 SB 23].

6 (2) A local government providing emergency medical
7 services shall proceed under the provisions of [SB 11, SB
8 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20,
9 SB 21, SB 22, and SB 23], except that the specified powers
10 granted, and procedures, instructions, and licensing
11 requirements contained in Title 50, chapter 6, part 2, shall
12 be considered to be additional powers and additional
13 requirements or to supersede other provisions of [SB 11, SB
14 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20,
15 SB 21, SB 22, and SB 23].

16 Section 97. Severability. If a part of this act is
17 invalid, all valid parts that are severable from the invalid
18 part remain in effect. If a part of this act is invalid in
19 one or more of its applications, the part remains in effect
20 in all valid applications that are severable from the
21 invalid applications.

22 Section 98. Effective date. This act is effective on
23 July 1, 1981.

-End-

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