

SENATE BILL 22

IN THE SENATE

January 3, 1979

Introduced and referred to
Committee on Taxation.

April 20, 1979

Died in Committee.

1 SENATE BILL NO. 22

2 INTRODUCED BY WATT, JERGESEN3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
5 LAWS RELATING TO LOCAL GOVERNMENT FINANCES; AND PROVIDING AN
6 EFFECTIVE DATE."7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:9 Section 1. Liberal construction. The rule of law that
10 the powers of a local government shall be strictly construed
11 has no application to the powers of local governments in
12 Montana. Any reasonable doubt as to the existence of a
13 power or authority granted by law to local government shall
14 be resolved in favor of the power or authority's existence.15 Section 2. Powers vested in governing body. Unless
16 otherwise provided or the context otherwise requires, all
17 powers granted to local governments by law shall be vested
18 in the governing body of the local government.19 Section 3. Transition. (1) This [act] shall not affect
20 the validity of any bond, debt, contract, obligation, or
21 cause of action accrued prior to [the effective date of this
22 act]. The governing body may have the power and duty to do
23 all things required by prior law or by covenants and
24 agreements entered into pursuant to such laws for the
25 security of any such bond, debt, contract, or obligation.1 1 (2) All ordinances, resolutions, regulations, and
2 2 interlocal agreements in effect [at the time this act
3 3 becomes effective] shall continue in effect until repealed
4 4 or amended in the manner provided by law.5 5 (3) Each officer or employee affected by the
6 6 reorganization of local government under this [act] is
7 7 entitled to all rights which he possessed as a local
8 8 government officer or employee before [the effective date of
9 9 this act], including rights to tenure in position and of
10 rank or grade, rights to vacation and sick pay and leave,
11 rights under any retirement or personnel plan or labor union
12 contract, rights to compensatory time earned, and any other
13 rights under any law, ordinance, resolution, or
14 administrative policy. This section is not intended to
15 create any new rights for any officer or employee but to
16 continue only those rights in effect before [the effective
17 date of this act].18 18 (4) All local government officers and employees
19 19 holding offices or positions, whether elective or
20 20 appointive, on [the effective date of this act] shall
21 21 continue in the performance of the duties of their
22 22 respective offices and positions until provision is made for
23 23 the continued performance of the duties; the discontinuance
24 24 of such duties; the discontinuance or combination of such
25 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) When a local government is required by state law
24 to provide information to a state agency and fails to
25 provide the required information, the department of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (38) "May" confers a power.

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

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

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

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

1 an incorporated municipality.

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

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

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

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

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

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

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

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

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

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

10 (52) "Plan" 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 publications, 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. Strict accountability. In accordance with
3 Article VIII, section 12, of the Montana constitution, it is
4 the purpose of [section 33 through section 105 of SB 22] to
5 insure strict accountability of all local government finance
6 through minimum statutory standards, state technical
7 assistance and supervision, and effective local government
8 management.

9 Section 34. Local government finance advisory council.
10 (1) The department of community affairs shall establish a
11 local government finance advisory council in the manner
12 provided in 2-15-122. The council shall include, but not be
13 limited to, local and state officers and employees familiar
14 with local government finance administration. It shall
15 review all rules promulgated by any state agency pertaining
16 to local government financing, budgeting, accounting, and
17 reporting systems prior to their adoption.

18 (2) The provisions of 2-15-122(10) shall not apply to
19 the local government advisory review council.

20 (3) The terms of members of the council shall not
21 exceed 2 years.

22 Section 35. Technical assistance. The department of
23 community affairs may provide technical assistance upon
24 request to local governments in order to improve the
25 administration of local government finance.

1 Section 36. Financial rules and forms by the
2 department of community affairs. (1) The department of
3 community affairs shall adopt rules and forms for local
4 government financial accounting, budgeting, and reporting
5 procedures.

6 (2) The rules shall:

7 (a) permit the full utilization of a modern budgeting,
8 accounting, and reporting system;

9 (b) provide a system of internal control;

10 (c) provide citizens, local government governing
11 bodies, and officials with a greater measure of control over
12 public money;

13 (d) enable the records of local governments to
14 accurately reflect governmental cost and resources;

15 (e) provide for a uniform fund structure and chart of
16 accounts which shall be utilized in all budgeting,
17 accounting, and reporting systems; and

18 (f) coordinate the utilization of electronic data
19 processing systems for all local governmental purposes.

20 (3) The department shall, where practicable, utilize
21 the standards and recommendations established by the
22 national council of governmental accounting.

23 Section 37. Local finance ordinances. A governing body
24 may adopt ordinances regulating local government financial
25 administration. All ordinances must be consistent with the

1 constitution of Montana, the laws of Montana, and the
2 charter of the local government.

3 Section 38. Annual compilations by department of
4 community affairs. The department of community affairs shall
5 reproduce annual compilations of:

6 (1) local government budgets and mill levies; and
7 (2) local government annual financial reports.

8 Section 39. Audits. The department of community
9 affairs shall audit the affairs of local governments as
10 provided in 2-7-501 through 2-7-503.

11 Section 40. General definitions. In [SB 11, SB 12, SB
12 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21,
13 SB 22, and SB 23], unless otherwise provided or the context
14 requires a technical or other interpretation, the following
15 definitions apply:

16 (1) "Accounting system" means the total structure of
17 records and procedures which discover, record, classify, and
18 report information on the financial position and operations
19 of a local government or any of its funds, balanced account
20 groups, and organizational components.

21 (2) "Accrual basis" means the basis of accounting
22 under which revenues are recorded when earned and
23 expenditures are recorded as soon as they result in
24 liabilities for benefits received, notwithstanding that the
25 receipt of the revenue or the payment of the expenditure may

1 take place, in whole or in part, in another accounting
 2 period.

3 (3) "Activity" means a specific and distinguishable
 4 line of work performed by one or more organizational
 5 components of a local government for the purpose of
 6 accomplishing a function for which the local government is
 7 responsible.

8 (4) "Appropriation" means the authorization granted by
 9 a governing body to make expenditures and to incur
 10 obligations for specific purposes.

11 (5) "Assess" means to value property officially for
 12 the purpose of taxation.

13 (6) "Assessment" means the process of making the
 14 official valuation of property for purposes of taxation.

15 (7) "Assessed value" means the value placed on
 16 property for tax purposes by the assessment procedure.

17 (8) "Audit" means the examination of documents,
 18 records, reports, systems of internal control, accounting,
 19 and financial procedures.

20 (9) "Budget" means a plan of financial operation
 21 embodying an estimate of proposed expenditures for a given
 22 period and the proposed means of financing them. An adopted
 23 budget shall be considered the appropriation for the ensuing
 24 fiscal year.

25 (10) "Capital outlays" means expenditures which result

1 in the acquisition of or addition to fixed assets.

2 (11) "Capital program" means the plan for capital
 3 expenditures to be incurred each year over a fixed period of
 4 years to meet capital needs arising from the long-term work
 5 program or otherwise. It sets forth each project or other
 6 contemplated expenditure in which the government is to have
 7 a part and specifies the full resources estimated to be
 8 available to finance the projected expenditures.

9 (12) "Cash" means currency, coin, checks, postal and
 10 express money orders, and bankers' drafts on hand or on
 11 deposit with an officer or employee.

12 (13) "Cash basis" means the basis of accounting under
 13 which revenues are recorded when received in cash and
 14 expenditures are recorded when paid.

15 (14) "Character" means a basis for distinguishing
 16 expenditures according to the periods they are presumed to
 17 benefit.

18 (15) "Check" means a bill of exchange drawn on a bank
 19 and payable on demand or a written order on a bank to pay on
 20 demand a specified sum of money to a named person, to his
 21 order, or to bearer out of money on deposit to the credit of
 22 the maker.

23 (16) "Debt" means bonds, notes, and installment
 24 purchases as defined in [section 81 through section 102 of
 25 SB 22].

1 (17) "Debt service fund" means a fund established to
 2 finance and account for the payment of interest and
 3 principal on debt.

4 (18) "Delinquent tax" means a tax remaining unpaid on
 5 and after the date on which a penalty for nonpayment is
 6 attached. Even though the penalty may be subsequently waived
 7 and a portion of the tax may be abated or cancelled, the
 8 unpaid balance continues to be a delinquent tax until
 9 abated, cancelled, paid, or converted into a tax lien.

10 (19) "Disbursement" means payment in cash.

11 (20) "Effectiveness measure" means a criterion for
 12 measuring the degree to which the objective sought is
 13 attained.

14 (21) "Encumbrance" means a purchase order, contract, or
 15 salary commitment which is chargeable to an appropriation
 16 and for which a part of the appropriation is reserved. It
 17 ceases to be an encumbrance when paid or when the actual
 18 liability is set up.

19 (22) "Estimated revenue" means the amount of revenue
 20 estimated to be accrued during a given period regardless of
 21 whether or not it is all to be collected during the period.

22 (23) "Expenditures" means that where the accounts are
 23 kept on the accrual basis or the modified accrual basis,
 24 this term designates the cost of goods delivered or services
 25 rendered, whether paid or unpaid, including expenses.

1 provision for debt retirement not reported as a liability of
 2 the fund from which retirements and capital outlays. Where the
 3 accounts are kept on the cash basis, the term designates
 4 only actual cash disbursements for these purposes.

5 (24) "Functions" means a group of related activities
 6 aimed at accomplishing a major service or regulatory program
 7 of local government.

8 (25) "Fund" means an independent fiscal and accounting
 9 entity with a self-balancing set of accounts recording cash
 10 and other resources together with all related liabilities,
 11 obligations, reserves, and equities which are segregated for
 12 the purpose of carrying on specific activities or attaining
 13 certain objectives in accordance with special regulations,
 14 restrictions, or limitations.

15 (26) "Fund accounts" means all accounts necessary to
 16 set forth the financial operations and financial position of
 17 a fund.

18 (27) "General fund" means a fund used to account for
 19 all transactions of a local government which are not
 20 accounted for in another fund.

21 (28) "General revenue" means the revenues of a local
 22 government other than those derived from and retained in an
 23 enterprise.

24 (29) "Grant" means a contribution by one governmental
 25 unit to another unit. The contribution is usually made to

1 aid in the support of a specified function, but it is
2 sometimes also made for general purposes.

3 (30) "Income" is a term used in accounting for
4 governmental enterprises to represent the excess of revenues
5 earned over the expenses incurred in carrying on the
6 enterprise's operations.

7 (31) "Intergovernmental revenue" means the revenue
8 received from other governments in the form of grants,
9 shared revenues, or payments in lieu of taxes.

10 (32) "Internal control" means a plan of organization
11 under which employees' duties are so arranged and records
12 and procedures so designed as to make it possible to
13 exercise effective accounting control over assets,
14 liabilities, revenues, and expenditures. Under this system,
15 the work of employees is subdivided so that no single
16 employee performs a complete cycle of operations. Under
17 this system, the procedures to be followed are definitely
18 laid down and require proper authorization by designated
19 officials for all actions to be taken.

20 (33) "Judgment" means an amount to be paid or collected
21 by a local government as the result of a court decision,
22 including a condemnation award in payment for private
23 property taken for public use.

24 (34) "Levy" means to impose a tax, special assessment,
25 or service charge for the support of a governmental

1 activity, or the total amount of taxes, special assessments,
2 or service charges imposed by a governmental unit.

3 (35) "Modified accrual basis" means the basis of
4 accounting under which expenditures other than accrued
5 interest on general long-term debt are recorded at the time
6 liabilities are incurred and revenues are recorded when
7 received in cash, except for material and available revenues
8 which should be accrued to reflect properly the taxes levied
9 and the revenues earned.

10 (36) "Mortgage" shall include deeds of trust,
11 mortgages, building and loan contracts, or other instruments
12 conveying real or personal property as security for bonds
13 and conferring a right to foreclose and cause a sale
14 thereof.

15 (37) "Object" means (as used in expenditure
16 classification) the article purchased or the service
17 obtained (as distinguished from the results obtained from
18 expenditures).

19 (38) "Performance budget" means a budget wherein
20 expenditures are based primarily upon a measurable
21 performance of activities and work programs. A performance
22 budget may also incorporate other bases of expenditure
23 classification, such as character and object, but these are
24 given a subordinate status to activity performance.

25 (39) "Priority listing" means a ranking of proposed

1 expenditures in order of importance.

2 (40) "Program" means a combination of resources and
3 activities designed to achieve an objective or objectives.

4 (41) "Program budget" means a budget wherein
5 expenditures are based primarily on programs of work and
6 secondarily on character and object.

7 (42) "Program size" means the magnitude of a program
8 such as the size of clientele served, the volume of service
9 in relation to the population or area, or any other criteria
10 as considered appropriate.

11 (43) "Program size indicator" means a measure to
12 indicate the magnitude of a program.

13 (44) "Purchase order" means a document which authorizes
14 the delivery of specified merchandise or the rendering of
15 certain services and the making of a charge for them.

16 (45) "Registered warrant" means a warrant which is
17 registered by the finance administrator for future payment
18 because of present lack of funds and which is to be paid in
19 the order of its registration.

20 (46) "Requisition" means a written demand or request,
21 usually from one department to the purchasing officer or to
22 another department, for specified articles or services.

23 (47) "Reserve" means an account which records a portion
24 of the fund balance which must be segregated for some future
25 use and which is, therefore, not available for further

1 appropriation or expenditure.

2 (48) "Resources" means the actual assets of a local
3 government such as cash, taxes receivable, land, buildings,
4 and other assets, plus contingent assets such as estimated
5 revenues applying to the current fiscal year not accrued or
6 collected and bonds authorized and unissued.

7 (49) "Revenue" means designated additions to assets
8 which do not:

9 (a) increase any liability;
10 (b) represent the recovery of an expenditure;
11 (c) represent the cancellation of certain liabilities
12 without a corresponding increase in other liabilities or a
13 decrease in assets; and

14 (d) represent contributions of fund capital in
15 enterprise and intragovernmental service funds. The same
16 definition applies to those cases where revenues are
17 recorded on the modified accrual or cash basis, except that
18 additions would be partially or entirely to cash.

19 (50) "Shared revenue" means revenue which is levied by
20 one governmental unit but shared, usually in proportion to
21 the amount collected, with another unit of government or
22 class of government.

23 (51) "Special assessment" means a levy by a local
24 government on properties within its taxing jurisdiction,
25 situated in a local improvement district defined by the

1 governing body, to pay part or all of the cost of the
 2 capital outlay for a publicly owned improvement or of the
 3 current expense of a public service which is presumed to be
 4 of special benefit to such properties.

5 (52) "Taxable value" means the percentage of the
 6 assessed value of property of each class defined by law,
 7 which is required by law to be used in ascertaining the rate
 8 of taxation to be extended upon all taxable property within
 9 the taxing jurisdiction of a local government in order to
 10 produce the amount of taxes levied by it upon such property
 11 for collection in any fiscal year.

12 (53) "Warrant" means an order drawn by the finance
 13 administrator upon a fund of a local government, directing
 14 payment of a specified amount from that fund to a named
 15 person or to the bearer. A warrant is not a check but may be
 16 made a "check/warrant" by being printed on the same piece of
 17 paper as a check on a specified depository bank, payable to
 18 the warrant payee or order, which may be signed by the
 19 fiscal administrator if there is sufficient money on deposit
 20 in that bank applicable to expenditures of the fund on which
 21 the warrant is drawn. As used in [SB 11, SB 12, SB 13, SB
 22 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
 23 and SB 23], "warrant" shall include "check/warrant".

24 Section 41. Budget administrator. The authority to
 25 prepare the budget is vested in the officer or officers

1 specified in the form of government. Such officer or
 2 officers are designated the budget administrator.

3 Section 42. Fiscal year defined. The fiscal year of
 4 all local governments shall begin July 1 and end June 30.

5 Section 43. Transition. Local government budgets for
 6 fiscal year 1980 shall be adopted under the procedures
 7 provided in Title 7, chapter 6, part 23; Title 7, chapter
 8 26, part 42; and rules promulgated by the department of
 9 community affairs; but budgets so adopted shall be based on
 10 the sources of revenue provided in [SB 11, SB 12, SB 13, SB
 11 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
 12 and SB 23] and administered under the provisions of [SB 11,
 13 SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB
 14 20, SB 21, SB 22, and SB 23].

15 Section 44. Budget information and estimates. (1) On
 16 or before April 1, the budget administrator shall obtain
 17 from each department head his estimate of resources and
 18 expenditures for the following fiscal year and other
 19 information required for budget preparation.

20 (2) The department of community affairs shall report
 21 to each local government budget administrator on or before
 22 April 15 an estimate of all state-shared revenues and grants
 23 that will be distributed to the local government in the
 24 ensuing local government fiscal year.

25 Section 45. Budget preparation. (1) Each local

1 government shall adopt an annual budget which presents a
2 complete financial plan for the ensuing fiscal year.

3 (2) The budget shall set forth:

4 (a) all proposed appropriations of each department or
5 program including publicly-owned utilities and enterprises;
6 (b) the appropriations and actual or estimated
7 expenditures and resources from the 2 preceding fiscal
8 years;

9 (c) all debt redemptions and interest charges during
10 the budget year;

11 (d) proposed appropriations for capital projects to be
12 undertaken or executed during the budget year;

13 (e) all anticipated revenue and all other resources;
14 (f) proposed contingency funds; and
15 (g) proposed reserves.

16 (3) The budget administrator shall prepare a budget
17 message to be submitted with the proposed budget. The budget
18 message shall include:

19 (a) a statement of department goals and objectives and
20 a statement of goals and objectives for each program;

21 (b) an evaluation of how effective each program has
22 been in the past and the apparent reason for the level of
23 success attained;

24 (c) a general summary setting forth the aggregate
25 figures of the proposed budget and matching proposed

1 appropriations and anticipated resources;

2 (d) a statement contrasting the proposed budget
3 appropriations, resources, and expenditures for the 2
4 preceding fiscal years; and

5 (e) explanatory material which classifies the proposed
6 program appropriations by fund, function, activity, object,
7 and department and anticipated resources by source.

8 (4) The budget may anticipate the collection of
9 delinquent taxes, and anticipated tax revenue may be reduced
10 by anticipated delinquent taxes.

11 (5) The budget may include funds for contingencies.
12 These funds may be appropriated only by resolution.

13 (6) The budget may include a reserve to meet
14 expenditures to be made during the months of July and
15 November. The reserve may not exceed one-third of the total
16 proposed budget and may not exceed any mill levy limitation
17 imposed by state law, charter, or ordinance.

18 Section 46. Submission and public hearing. (1) The
19 budget administrator shall submit the proposed budget to the
20 local government governing body on or before the first
21 Monday of June.

22 (2) Upon receipt of the proposed budget, the governing
23 body of the local government shall publish notice including:

24 (a) a statement that the proposed budget is available
25 for distribution and inspection at the office of the local

1 government;

2 (b) a summary of the proposed budget showing the
 3 balanced relationship between the total proposed
 4 expenditures and total anticipated revenue, anticipated mill
 5 levies, and comparative information for the 2 preceding
 6 fiscal years;

7 (c) the date, time, and place of the public hearing on
 8 the proposed budget; and

9 (d) a statement that the governing body shall adopt a
 10 budget on or before June 30.

11 (3) The public hearing shall be held on or before the
 12 third Monday of June and prior to the adoption of the
 13 budget.

14 (4) The above notice shall contain the necessary
 15 information in order to comply with Title 15, chapter 10.

16 Section 47. Adoption of budget. (1) The governing body
 17 shall review the proposed budget and at its discretion may
 18 revise the budget.

19 (2) After consideration the governing body shall by
 20 resolution adopt a budget on or before June 30.

21 (3) Expenditures authorized by the budget shall not
 22 exceed anticipated resources.

23 (4) The resolution adopting the budget shall be
 24 considered as the appropriation for the ensuing fiscal year.

25 (5) The approved budget shall be reproduced and made

1 available for general distribution.

2 Section 48. Fixing levies. On or before the second
 3 Monday in August and after the adoption of the budget, the
 4 governing body shall fix by resolution each property tax
 5 levy at a rate, not exceeding limits prescribed by law or
 6 charter, that will raise the amount set out in the budget as
 7 the amount necessary to be raised by property taxes during
 8 the ensuing fiscal year.

9 Section 49. Filing of budget. The chief executive
 10 shall file a certified copy of the adopted budget and mill
 11 levies with the department of community affairs within 30
 12 days after the adoption of the budget and a certified copy
 13 of the mill levies with the county finance administrator no
 14 later than 7 days after the fixing of the tax levies.

15 Section 50. Unexpended appropriations. (1) After June
 16 30 of each fiscal year, all unexpended appropriations,
 17 except encumbered money, shall revert to the account from
 18 which originally appropriated and may not be expended until
 19 reappropriated.

20 (2) When the governing body determines by ordinance
 21 that the purpose for which a separate fund was established
 22 no longer exists, the governing body may eliminate the fund
 23 and the net resources shall be deposited as miscellaneous
 24 revenue to the general fund of the local government, in
 25 compliance with rules adopted by the department of community

1 affairs. This procedure shall not apply to the combining of
2 funds.

3 Section 51. Appropriation transfers. (1) Within a
4 program or department the chief executive may revise and
5 transfer appropriations.

6 (2) The governing body may approve the reallocation of
7 appropriations between departments and programs by
8 resolution.

9 (3) The governing body may rescind or defer any
10 appropriation in whole or in part by resolution. Rescinded
11 appropriations may be transferred to the contingency fund.

12 Section 52. Budget amendment. (1) If the authorization
13 of bonds pursuant to [section 81 through section 102 of SB
14 22] is made after the adoption of the budget, it is an
15 appropriation of the proceeds of the bonds to the purpose
16 for which they are authorized to be issued and an
17 appropriation of the taxes, special assessments, or revenues
18 pledged for the payment thereof, with interest and
19 redemption premiums. The appropriation shall be entered into
20 the approved budget as an amendment.

21 (2) The governing body may by resolution amend the
22 budget during any fiscal year by authorizing additional
23 expenditures of funds received or assured from loans or
24 grants in excess of revenues anticipated in the original
25 budget.

1 (3) After notice the governing body shall hold a
2 public hearing on all proposed budget amendments as provided
3 in subsection (2) of this section.

4 (4) Revenues may not be expended in excess of the
5 amount originally budgeted until a budget amendment is
6 adopted as provided by subsections (1) and (2) of this
7 section.

8 Section 53. Emergency appropriations. (1) In the case
9 of an emergency which was not foreseen at the time of the
10 adoption of the budget, the governing body may by resolution
11 authorize additional appropriations by two-thirds vote of
12 the whole governing body.

13 (2) The authorizing resolution shall be published once
14 and shall be included with facts concerning the emergency in
15 the minutes of the meeting at which the governing body
16 adopted the resolution.

17 Section 54. Financing for emergency appropriations.
18 (1) In the case of an emergency appropriation, the governing
19 body shall transfer from any unencumbered appropriation any
20 resources which, in the judgment of the governing body, will
21 not be needed for expenditures in the balance of the fiscal
22 year to the fund from which the emergency expenditure is to
23 be paid.

24 (2) If sufficient resources which can be transferred
25 are not available to meet the authorized emergency

1 appropriation, the governing body may register warrants. The
2 total amount of the registered warrants shall not exceed the
3 amount that can be raised by a 2-mill levy. An appropriation
4 to retire these registered warrants shall be included in the
5 budget for the ensuing fiscal year.

6 (3) The governing body may apply under 10-3-311(1) for
7 state financial assistance when it has agreed to utilize the
8 special emergency mill levy authorized by [section 75 of SB
9 22] and the emergency is beyond the financial capability of
10 the local government.

11 Section 55. Reports. (1) On or before November 1, the
12 chief executive of the local government shall submit to the
13 department of community affairs and the governing body a
14 certified annual financial report in the form prescribed by
15 the department of community affairs.

16 (2) The governing body shall publish the certified
17 annual financial report upon its receipt.

18 (3) The governing body shall publish a quarterly
19 financial report in a form approved by the department of
20 community affairs.

21 Section 56. Interim budget. In case the adoption of
22 the budget resolution is delayed until after July 1, the
23 governing body shall pass a continuing resolution for the
24 purpose of paying salaries, debt service payments, and the
25 usual ordinary expenses of the local government for the

1 interval between the beginning of the fiscal year and the
2 adoption of the budget resolution. Interim appropriations so
3 made shall be charged to the proper appropriations in the
4 budget resolution.

5 Section 57. General provisions. (1) The governing body
6 shall allocate the responsibilities for financial
7 administration established by [section 33 through section
8 105 of SB 22] by ordinance.

9 (2) All of the responsibilities of the finance
10 administrator may be allocated to a single department or
11 elected officer, or they may be allocated to separate
12 department heads or elected officers.

13 (3) Any allocation for responsibility for financial
14 administration shall provide for internal controls.

15 (4) The finance administrator shall perform the duties
16 of the treasurer as provided by law.

17 (5) The county treasurer and county clerk and recorder
18 and county auditor, if there is an elected auditor, shall
19 continue to perform their respective financial duties as
20 required by previous law until an ordinance is adopted
21 allocating the responsibilities of the finance
22 administrator.

23 Section 58. Trust and agency. (1) The county governing
24 body shall provide by ordinance for the administration of
25 school finance functions that are a responsibility of the

1 county as required by law.

2 (2) (a) The governing body shall provide by ordinance
3 for the collection, security, and disbursement by the
4 finance administrator of state, municipal, authority, and
5 other money as provided by law or ordinance.

6 (b) Trust and agency money received by the finance
7 administrator for other governmental entities shall be
8 transmitted on a timely basis.

9 (3) The municipal governing body may, by interlocal
10 agreement, contract with the county for the provision of
11 municipal financial administration.

12 Section 59. Accounting and reporting. The finance
13 administrator shall be responsible for:

14 (1) operation of the uniform budgeting, accounting,
15 and reporting systems specified by the department of
16 community affairs;

17 (2) providing information on financial transactions to
18 the chief executive and the governing body at their request;

19 (3) keeping a record showing revenues received by the
20 local government;

21 (4) keeping a record showing resources appropriated by
22 the adopted budget and the warrants drawn against the
23 appropriations;

24 (5) keeping a record of the transfer of appropriations
25 and of any authorized emergency appropriations;

1 (6) keeping records showing at all times the
2 unexpended balance in each of the budgeted funds;

3 (7) submitting a monthly report to the governing body
4 showing the revenues and expenditures to date and the
5 unexpended balance in each of the appropriated funds;

6 (8) submitting the annual financial report to the
7 chief executive on or before November 1; and

8 (9) providing the budget administrator with
9 information on resources, revenues, expenditures, and debt
10 necessary for preparation of the proposed budget.

11 Section 60. Cash management. (1) Beginning with the
12 fiscal year 1983, the finance administrator shall prepare
13 and submit to the chief executive a cash management plan by
14 October 1 of each fiscal year.

15 (2) The department of community affairs shall provide
16 local governments technical assistance on request in the
17 administration of cash management plans.

18 Section 61. Treasury functions. (1) The finance
19 administrator shall be responsible for and may delegate the
20 duties of:

21 (a) receiving and accounting for all money received by
22 the local government;

23 (b) providing a receipt for all money received by the
24 local government;

25 (c) custody of money and securities of the local

1 government;

2 (d) disbursement of money of the local government upon
3 proper authorization, including the payment of all warrants
4 presented for payment in the order in which they are
5 presented, when there is sufficient money in the fund; and
6 (e) maintaining the integrity of bond and other
7 dedicated funds.

8 (2) As authorized by law or ordinance, local
9 government departments and officers may receive and account
10 for money paid to the local government.

11 (a) Each officer or department shall provide a receipt
12 for all money received.

13 (b) All money collected by any other officer or
14 department shall be deposited on a timely basis with the
15 finance administrator.

16 Section 62. Deposit and investment of public money.
17 (1) The finance administrator of each local government shall
18 deposit all public money in his possession or under his
19 control in a bank, building and loan association, or savings
20 and loan association subject to state or national inspection
21 and designated by resolution of the governing body.

22 (2) The finance administrator may provide for the
23 investment of public money not necessary for immediate use
24 by the local government in any of the following manners:

25 (a) in time or savings deposits with any bank,

1 building and loan associations or savings and loan
2 association subject to state or national inspection. Such
3 deposits may be made either:

4 (i) on a pro rata basis, based on the amount of
5 property tax paid in the preceding year, in all such
6 institutions which are willing to accept public money and
7 are located within the local government; or

8 (ii) on the basis of bids by the institutions within
9 the county, provided that if there are less than two
10 institutions within the county, the governing body may
11 solicit bids from institutions in adjoining counties. If an
12 institution located within the local government agrees to
13 pay the same rate of return as an institution outside the
14 local government, the funds shall be deposited with the
15 institution within the local government.

16 (b) in any of the securities enumerated in 17-6-211;
17 (c) in the state investment fund as provided in
18 17-6-204.

19 (3) (a) No deposits of public money may be made in any
20 bank, building and loan association, or savings and loan
21 association until the governing body has approved securities
22 equal to the amount of deposits in excess of the amount
23 insured by federal law.

24 (b) The governing body shall approve as security only
25 items enumerated in 17-6-103.

1 (c) Securities for local government deposits shall be
 2 delivered to the finance administrator of the local
 3 government, except that when negotiable securities are
 4 furnished, the securities may be placed in trust and the
 5 trustee's receipt may be accepted when the receipt is in
 6 favor of the local government and the state of Montana. The
 7 department of community affairs shall approve the form for
 8 the receipts, the quality of securities, and their release.

9 (d) All negotiable securities must be properly
 10 assigned or endorsed in blank, unless payable to bearer.

11 (e) The governing body upon acceptance and approval of
 12 securities shall make a complete entry of the acceptance and
 13 approval in the minutes and shall reapprove the securities
 14 at least quarterly thereafter, or the governing body may
 15 delegate the responsibility of the approval of securities to
 16 the finance administrator. The finance administrator shall
 17 report to the governing body the securities accepted on a
 18 quarterly basis.

19 (4) Interest on local government money invested shall
 20 be taken up into its accounts in the manner provided by
 21 ordinance; except that interest on the proceeds of bonds and
 22 on money held in the debt service fund and in other trust
 23 and agency funds shall be credited to those funds. In the
 24 event that any such funds are combined in deposit accounts
 25 or investments with other funds, a proper portion of the

1 income from such deposits and investments shall be allocated
 2 to each such fund in proportion to the average amount of
 3 assets thereof deposited or invested during each fiscal
 4 year.

5 (5) When public money has been invested, or deposited
 6 as provided, neither the finance administrator nor the
 7 governing body or its members shall be liable for any loss
 8 occasioned through causes other than their neglect, fraud,
 9 or dishonorable conduct.

10 (6) The department of community affairs and the
 11 department of administration shall provide a local
 12 government assistance on request in the investment of public
 13 money.

14 (7) Interest requirements shall comply with the
 15 provisions of 17-6-104(2).

16 Section 63. Petty cash. (1) The finance administrator
 17 may, with the consent of the governing body, establish a
 18 petty cash fund for the purpose of paying incidental
 19 expenses as provided by ordinance.

20 (2) Each department shall provide the finance
 21 administrator an accounting of the expenditures from the
 22 account on a monthly basis. The account may be replenished
 23 at the discretion of the finance administrator.

24 Section 64. Expenditures. (1) The finance
 25 administrator of each local government shall be responsible,

1 for the proper expenditure of appropriations.

2 (2) No contract, requisition, purchase order, or
3 agreement requiring the payment of money may be made unless
4 an appropriation appears in the budget for the current
5 fiscal year or has been made by the authorization of bonds
6 or a grant and a sufficient unencumbered balance remains in
7 the appropriation.

8 (3) All invoices shall be paid by the issuance of a
9 warrant. The form of the warrant shall be approved by the
10 department of community affairs.

11 (4) All invoices shall be verified prior to their
12 submission to the finance administrator by the officer or
13 employee charged with administrating that portion of the
14 appropriation to which it is to be charged that goods or
15 services were received by the local government.

16 (5) Warrants issued by the local government shall be
17 valid for only 1 calendar year from the date of the issuance
18 of the warrant by the local government. This provision shall
19 not apply to registered warrants issued by the local
20 government.

21 (6) All warrants shall be signed and issued by the
22 finance administrator and countersigned by the chief
23 executive or by the chairman in the commission form.

24 (7) (a) When any warrant is presented to the finance
25 administrator for payment and there is insufficient money in

1 the funds in the account on which the warrant was drawn, he
2 shall register the warrant.

3 (b) The finance administrator shall endorse on the
4 warrant "not paid for insufficient money", the date of
5 presentation, and sign his name. From the date of
6 presentation until it is called for payment, the warrant
7 shall bear interest at a rate fixed by resolution.

8 (c) The finance administrator shall record the date of
9 presentation, the number, the date of the warrant, to whom
10 payable, the fund on which drawn, and the amount of the
11 warrant.

12 (d) Registered warrants shall be paid in order of
13 registration, and no subsequent warrants may be paid from
14 the same fund unless all registered warrants are paid.

15 (e) When there is sufficient money in the local
16 government treasury applicable to the payment of any
17 registered warrants, the finance administrator shall give
18 notice that he is ready to pay the registered warrants or
19 check personally or by certified mail to the payee or
20 assignee. From the time of notice the registered warrants
21 will cease to draw interest.

22 (f) Warrants issued for the payment of the local
23 government payroll shall be drawn by the finance
24 administrator on the order of the chief executive.

25 (g) The governing body may by resolution enter into an

1 agreement with a depository institution for the purchase of
 2 registered warrants at par, at an agreed interest rate not
 3 exceeding the contract usury rate provided by law. The rate
 4 may be related to the rate charged by the institution from
 5 time to time to prime commercial borrowers and may vary with
 6 that rate from month to month. The depository institution
 7 may enter into agreements with other financial institutions,
 8 within or outside the county or state, for participating in
 9 such financing.

10 (h) No warrant shall be required or issued for the
 11 payment of interest or principal of bonds when due or the
 12 charges of paying agents for bonds. Amounts sufficient for
 13 these payments shall be withdrawn from the debt service fund
 14 and transmitted by the finance administrator to the paying
 15 agent on or before the due dates.

16 (8) (a) Local governments are encouraged to use
 17 purchase orders for all purchases except for purchases made
 18 from petty cash. Purchase orders may be issued directly,
 19 following solicited bids, or following public bids.

20 (b) A purchase order may be issued by the chief
 21 executive or other officer or employee of the local
 22 government whom the chief executive designates the
 23 purchasing administrator.

24 Section 65. Purchasing. (1) A local government may
 25 make direct purchases not exceeding \$5,000.

1 (2) (a) A local government may make purchases
 2 exceeding \$5,000 and not exceeding \$10,000 only after
 3 solicitation of bids.

4 (b) The local government may compile a list of
 5 persons, firms, or corporations from whom they wish to
 6 receive solicitations for bids. Any person, firm, or
 7 corporation may file with the governing body of the local
 8 government a request for solicitations, stating which items
 9 or types of items it is interested in bidding on. Whenever
 10 an item listed is to be purchased by solicited bid, the
 11 governing body may notify such persons, firms, or
 12 corporations as it has entered and maintained on its list of
 13 prospective bidders.

14 (c) If a person, firm, or corporation which has
 15 requested notice of solicitations fails for a period of 1
 16 year to respond to any solicitations, the request for
 17 solicitations may be cancelled by the local government.

18 (d) The local government may solicit bids from other
 19 persons, firms, and corporations which have not requested
 20 solicitations. Except as provided in [section 66 of SB 22]
 21 and subject to the governing body's right to reject any or
 22 all bids, the purchase shall be made from the lowest and
 23 most responsible bidder. If the lowest bid is not accepted,
 24 the reasons shall be entered in the minutes.

25 (3) (a) A local government may make purchases of more

1 than \$10,000 only after public bid.

2 (b) The governing body shall give notice calling for
3 bids on all purchases required to be by public bid and may
4 also give notice in such trade journal or journals as the
5 governing body may consider advisable. The notice shall
6 describe in general terms the item or items to be purchased,
7 state where a copy of the detailed description may be
8 obtained, and state the last date on which the bid will be
9 accepted. When the item to be purchased is work and
10 materials required for a construction project, plans and
11 specifications for it shall be approved by the governing
12 body and made available to all bidders at a place or places
13 designated in the notice. No changes shall be made in plans
14 and specifications referred to in the notice, except by
15 addendum furnished to all persons who have requested plans
16 and specifications.

17 (c) The purchase shall be made from the lowest and
18 most responsible bidder subject to the requirements of
19 [section 66 of S3 22], except that the governing body may
20 reject any or all bids. If the lowest bid is not accepted,
21 the reasons shall be entered in the minutes.

22 (d) The governing body may, in its discretion, use
23 solicited bids for purchases of less than \$5,000 and public
24 bids for purchases of less than \$10,000.

25 (e) Local governments shall not circumvent the

1 provisions of this section by dividing into several parts a
2 purchase which constitutes an integral whole.

3 (f) Bids and tenders shall comply with Title 18,
4 chapter 1, part 2.

5 (g) The governing body may by motion approve the
6 purchase of an item or items of any kind from federal and
7 state agencies and local governments.

8 (h) The purchasing administrator may enter into an
9 agreement with the department of administration to utilize
10 the services of the state purchasing bureau.

11 (i) A contract for the rental or lease of any item or
12 items which provides that after a certain fixed amount has
13 been paid on the contract the item or items become the
14 property of the local government shall be considered a
15 contract for the purchase of the item or items.

16 (j) Before entering upon performance of the work, the
17 contractor shall comply with the requirements of Title 18,
18 chapter 2, part 2.

19 (k) Partial payments may be provided for in the
20 contract and paid upon approval of the officer or employee
21 of the governing body in charge of the project.

22 (l) The governing body may approve an agreement with a
23 contractor to modify or change the specification of a
24 contract. The agreement shall describe the modifications or
25 alterations and the price to be paid for the same and shall

1 be signed by the contractor.

2 (13) No contractor may be paid for extra work caused by
3 an alteration or modification unless a resolution is made
4 and an agreement signed as provided in the preceding
5 subsection. In any case, no contractor may be paid more for
6 the alteration than the price fixed by the agreement.

7 (14) A contract shall not be completed until the
8 governing body accepts by resolution all of the work
9 required by the contract.

10 (15) All contracts shall contain the freedom from
11 discrimination clause required by 49-3-207.

12 Section 66. Contractors, materials, and labor. (1) All
13 contracts awarded shall comply with the requirements of
14 Title 18, chapter 2, in regard to preference of Montana
15 contractors, materials, and labor.

16 (2) When there is no prevailing rate of wages set by
17 collective bargaining, the governing body shall determine
18 the prevailing rate to be stated in the contract. The rate
19 shall be consistent with the rates established by the
20 Montana commissioner of labor and industry.

21 Section 67. Exempt purchases. (1) Personnel may be
22 employed in the manner provided in [section 33 through
23 section 43 of SB 13].

24 (2) Legal, engineering, and other professional and
25 technical services may be purchased without complying with

1 [section 65 of SB 22].

2 (3) Real estate may be purchased without complying
3 with [section 65 of SB 22].

4 Section 68. Property control. The chief executive of
5 the local government shall annually conduct a physical
6 inventory of the fixed assets of the local government.

7 Section 69. Sale and lease of property. (1) A local
8 government may sell, lease, exchange, or otherwise dispose
9 of any interest in either real or personal property acquired
10 other than by tax deed.

11 (2) The governing body shall approve all sales,
12 leases, exchanges, or other dispositions of local government
13 property by resolution.

14 (3) (a) If the property interest to be sold, leased,
15 exchanged, or otherwise disposed of has an estimated value
16 of more than \$500, the governing body shall have the
17 property appraised and give notice of the sale, lease,
18 exchange, other disposition, the terms, and that bids will
19 be accepted on the property.

20 (b) At the regular meeting of the governing body
21 following the closing of bids, the governing body shall
22 examine the bids offered and order the property sold or
23 leased to the highest or most responsible bidder. The
24 governing body may reject any or all bids.

25 (4) Subsection (3) shall not apply to a sale, lease,

1 or exchange to or between two political subdivisions of the
 2 state or between a local government and a state or federal
 3 agency or to a sale or exchange which is made as a part of a
 4 contract to purchase similar property by the local
 5 government or to a lease which is approved by a two-thirds
 6 vote of the entire governing body.

7 (5) The governing body may establish by ordinance a
 8 schedule of rents and charges for the use of public
 9 property.

10 (6) A local government shall not circumvent the
 11 provisions of this section by dividing into several sales
 12 any transaction which constitutes an integral whole.

13 (7) Proceeds from the sale, lease, or other
 14 disposition of property shall be taken up into the accounts
 15 from which the property was purchased unless otherwise
 16 provided by ordinance.

17 Section 70. Excess expenditures not liability of local
 18 government; personal liability of officer. Liabilities
 19 incurred in excess of any of the budget appropriations are
 20 not a liability of the local government; but the official or
 21 employee making or incurring the expenditure in an amount
 22 known by him to be in excess of the unencumbered balance of
 23 the appropriation against which it is drawn is liable
 24 personally and upon his official bond.

25 Section 71. County printing board. (1) The purpose of

1 this section is to require the board of county printing to
 2 set maximum prices which may be charged for county printing
 3 and legal advertising.

4 (2) Unless the context requires otherwise, in this
 5 section "board" means the board of county printing provided
 6 for in 2-15-1102.

7 (3) The members of the board shall be compensated and
 8 reimbursed as are members of advisory councils in 2-15-122.

9 (4) The board shall:

10 (a) meet annually;

11 (b) adopt and publish a schedule of maximum prices to
 12 be charged for county printing and legal advertising. The
 13 prices shall be the full prices to be charged and shall
 14 include the paper stock specified, completion of all
 15 printing and other work, and delivery to the county
 16 courthouse.

17 (c) adopt necessary standards for sizes, weights, and
 18 grades of paper stock, which shall conform to the uniform
 19 scale of sizes, weights, and grades used by paper
 20 manufacturers, and for sizes and types of printing, ruling,
 21 and binding, which shall conform as nearly as possible to
 22 the ordinary standards in use in the printing industry. For
 23 this purpose, reference may be made to established standards
 24 or publications used in this state, and the board may
 25 provide for the adoption of a standard list for those items

1 not covered by the prices, regulations, or standards
2 published by the board.

3 (d) conduct hearings when required to determine
4 maximum rates for county printing. Notice of intention to
5 hold a hearing shall be published at least 30 days before
6 the date set for the hearing in a newspaper published in
7 Helena and a copy mailed to each county governing body.

8 (e) deliver free of charge to each county governing
9 body a copy of every schedule of maximum prices adopted by
10 the board within 30 days of its publication, together with a
11 notice of the date fixed by the board when the prices will
12 be effective.

13 Section 72. County printing contract. (1) Each county
14 governing board shall contract with one newspaper to do all
15 the printing for the county, including advertising required
16 by law and all printed forms required by the county, at a
17 rate not exceeding that set by the board. The newspaper
18 shall be as provided in [section 11 of SB 22].

19 (2) Nothing in this section shall limit or restrict
20 the power of a county governing body to call for competitive
21 bids from persons or firms qualified to bid on county
22 printing under the terms of this section or to let contracts
23 at prices less than the maximum fixed by the board of county
24 printing.

25 (3) (a) In any county in which no newspaper owns or

1 operates a commercial printing establishment, the county
2 governing body shall separate the printing contract into two
3 parts, one of which shall provide for the publication of
4 legal advertising only, such contract being let to a legally
5 qualified newspaper, and the other contract shall provide
6 for all printed forms, materials, and supplies required by
7 the county, which contract shall be let to a commercial
8 printing establishment which has been in business in the
9 county for at least 1 year; provided, however, that in no
10 case shall any contract call for payment by the county of
11 any prices in excess of the maximum fixed by the board of
12 county printing.

13 (b) The contract shall be let to the printing
14 establishment that, in the judgment of the county governing
15 body, is most suitable for performing the work; provided
16 that the county governing body shall require of any
17 contractor doing such county printing a good and sufficient
18 deposit in such sum as the governing body may consider
19 advisable, signed by at least two sufficient sureties,
20 conditioned to the effect that said contractor will
21 faithfully perform all of the conditions of said contract in
22 accordance with this act and the terms of such contract;
23 provided that nothing in this section shall be construed so
24 as to compel the acceptance of unsatisfactory work; also
25 provide that this requirement shall not affect any contract

1 made prior to the passage of this section. Such contract for
 2 printing shall extend for a period of not more than 2 years.
 3 All printing establishments which receive any contract for
 4 printing under this section and which are unable to execute
 5 any part of such contract shall be required to sublet such
 6 contract or portion of contract to some printing
 7 establishment within the county if such is available or, if
 8 not, within the state, which shall do the work under the
 9 contract so sublet entirely within the state and with
 10 Montana labor.

11 (4) The county governing body shall call for
 12 competitive bids from persons or firms qualified to bid on
 13 county printing under the terms of this section.

14 (5) None of the provisions of this section apply to
 15 any printing or advertising that may be required in
 16 connection with the holding of county fairs and expositions.

17 Section 73. Funding of mandated state services and
 18 facilities. (1) Any law enacted by the legislature after
 19 January 1, 1981, which imposes additional costs on a local
 20 government to provide a service or facility must provide a
 21 specific means to finance the service or facility other than
 22 the existing all-purpose mill levy. Any law that fails to
 23 provide a specific means to finance any service or facility
 24 other than the existing all-purpose mill levy shall not
 25 become effective until specific means of financing are

1 provided by the legislature.

2 (2) The legislature may provide for an increase in the
 3 all-purpose mill levy, special mill levies, or remission of
 4 money by the state of Montana to local governments; however,
 5 an increase in the all-purpose mill levy or any special mill
 6 levy must provide an amount necessary to finance the
 7 additional costs, and if financing is provided by remission
 8 of money by the state of Montana, the remission shall bear a
 9 reasonable relationship to the cost of providing the service
 10 or facility.

11 (3) The local government may refuse to comply with or
 12 enforce any law which does not meet the requirements of this
 13 section by resolution.

14 (4) This section shall not apply to any law under
 15 which the required expenditure of additional local funds is
 16 incidental to the main purpose of the law.

17 (5) No subsequent legislation shall be considered to
 18 supersede or modify any provision of this section, whether
 19 by implication or otherwise, except to the extent that the
 20 legislation shall do so expressly.

21 Section 74. Sources of revenue. Local governments with
 22 general government powers are authorized to finance any
 23 services and facilities from:

24 (1) taxes:

25 (a) the governing body may impose only those taxes

1 authorized by state law;

2 (b) the taxes shall be levied and collected as
3 provided by state law;

4 (2) licenses and permits:

5 (a) except as provided in subsection (2)(d), the
6 governing body may by ordinance provide for the licensing of
7 any occupation, business, and industry that affects the
8 general health, safety, well-being, or welfare of its
9 inhabitants and may issue permits for activities subject to
10 local government regulation;

11 (b) the governing body shall establish by ordinance
12 the amount for each kind or class of license or permit, the
13 manner in which licenses and permits are issued and revoked,
14 and the penalties for failure to comply with license and
15 permit requirements;

16 (c) the fee for licenses or permits shall be
17 reasonably related to the costs of regulating the activity
18 license;

19 (d) a governing body may not license a public utility
20 as defined in 69-3-101;

21 (3) intergovernmental revenues:

22 (a) the governing body may receive, budget, and
23 appropriate grants, shared revenues, and payments-in-lieu of
24 taxes;

25 (b) intergovernmental revenues may be expended only

1 for specified purposes;

2 (4) fees and charges for services:

3 (a) the governing body may impose a charge by
4 ordinance for any service which it provides and provide a
5 method of collection. Charges for services may be entered on
6 tax notices to be collected with taxes. If a property owner
7 fails to pay the charge for service, it shall become a lien
8 on the property.

9 (b) the charges may be used to recover all or any part
10 of the cost of providing the services. The governing body
11 may establish differing charges for various classes of
12 users.

13 (c) service charges shall be established at a rate or
14 rates which are reasonably calculated to recover no more
15 than the cost of providing the service and are not
16 discriminatory. Schedules of charges shall be submitted to
17 the public service commission when required by law. In
18 determining the cost of providing a service, the governing
19 body may include such items as actual operating expenses,
20 debt retirement, replacement of equipment or physical
21 plants, reserves, and general administrative costs.

22 (d) the governing body may charge any public
23 tax-exempt entity for the following essential services,
24 provided the service directly benefits the tax-exempt
25 entity:

1 (i) fire prevention and protection;
2 (ii) law enforcement protection;
3 (iii) water, sewage, and utility services; or
4 (iv) solid waste collection, treatment, and disposal
5 services, including recycling and resource recovery
6 services;
7 (e) the governing body may charge any private
8 tax-exempt entity for the following essential services,
9 provided the service directly benefits the tax-exempt
10 entity:
11 (i) water, sewage, and utility services; or
12 (ii) solid waste collection, treatment, and disposal
13 services, including recycling and resource recovery
14 services;
15 (f) the governing body shall by ordinance provide for
16 the procedure for the administration of fees and charges for
17 services delivered to public and private tax-exempt
18 entities. The ordinance shall be adopted prior to the
19 beginning of the fiscal year. Notwithstanding the
20 provisions of this subsection, the failure of a public or
21 private tax-exempt entity to pay charges imposed under this
22 subsection shall not give rise to a lien on the tax-exempt
23 property. A local government may cease to provide a service,
24 except fire and law enforcement services, to a tax-exempt
25 entity if charges for the service imposed under this

1 subsection remain unpaid.
2 (g) it is the duty of each officer, employee, or
3 department entitled to collect fees or service charges to
4 keep posted and have available a plain and legible statement
5 of fees and service charges allowed by law or ordinance;
6 (5) fines and forfeitures:
7 (a) the governing body may by ordinance establish
8 fines for the violation of ordinances;
9 (b) the governing body may receive budget, and
10 appropriate fines and forfeitures authorized by ordinance or
11 state law;
12 (c) the governing body may provide for the forfeiture
13 of performance bonds and other deposits by ordinance;
14 (6) interest earning:
15 (a) the governing body may budget and appropriate
16 interest earnings on public money;
17 (b) interest earnings shall be credited to the account
18 from which the interest was accrued, unless otherwise
19 provided by ordinance;
20 (7) rents, leases, and royalties:
21 (a) the governing body may by ordinance establish a
22 policy for the renting or leasing and receipt of royalties
23 for local government equipment, facilities, and property;
24 (b) the governing body may by resolution establish
25 rents and lease and rent schedules for local government

1 equipment, facilities, and property;

2 (c) the governing body may budget and appropriate the
3 proceeds from rents, leases, and royalties due the local
4 government;

5 (8) special assessments:

6 (a) the governing body may levy a special assessment
7 against the property within a local improvement district;

8 (b) the special assessment within a local improvement
9 district shall not exceed the amount established in the
10 payment plan adopted under [section 90 of SB 12];

11 (c) special assessments shall be a lien against the
12 property;

13 (9) sales of and compensation for loss of fixed
14 assets:

15 (a) the governing body may receive, budget, and
16 appropriate from the sale of fixed assets and proceeds from
17 compensation for loss of fixed assets;

18 (b) compensation for loss of fixed assets shall be
19 deposited to the fund from which the lost asset was
20 purchased;

21 (10) public enterprise charges:

22 (a) the governing body may receive, budget, and
23 appropriate proceeds of public enterprises only for
24 enterprise purposes, except as provided herein;

25 (b) the governing body may provide for the

1 reimbursement of public enterprise costs subsidized by
2 general government revenue by ordinance;

3 (c) any money not necessary for the operations,
4 maintenance, or service of debt may be transferred to the
5 general fund by ordinance;

6 (11) contributions and donations from private sources:

7 (a) the governing body may receive, budget, and
8 appropriate contributions and donations from private
9 sources;

10 (b) the governing body may comply with any condition
11 of the contribution or donation that is not contrary to the
12 public interest;

13 (12) premiums on bonds sold and proceeds from sale of
14 bonds:

15 (a) the governing body may receive, budget, and
16 appropriate premiums on bonds sold, proceeds from the sale
17 of bonds, and accrued interest, if any;

18 (b) proceeds from bond premiums, the sale of bonds,
19 and accrued interest, if any, shall be expended only for the
20 purposes for which the bonds were authorized or for the
21 retirement of the debt.

22 Section 75. Property taxes. (1) A local government is
23 granted the authority to impose ad valorem taxes on real and
24 personal property within the boundary or municipal limits of
25 the local government.

1 (2) Property taxes shall be levied against the taxable
2 value of the property as established and equalized by the
3 state.

4 (3) The governing body of a local government with
5 general government powers is authorized to levy the
6 following property taxes each fiscal year:

7 (a) (i) for counties, an all-purpose tax not exceeding
8 55 mills;

9 (ii) for municipalities, an all-purpose tax not
10 exceeding 65 mills;

11 (b) for counties, a tax for constructing, maintaining,
12 and improving trafficways except bridges not exceeding 18
13 mills. This tax shall not be levied in municipalities unless
14 the governing body of the municipality has authorized the
15 county to levy the tax in lieu of a municipal appropriation
16 from the all-purpose tax levy for trafficways.

17 (c) for counties and municipalities, a tax for paying
18 the interest and principal due during the fiscal year and
19 reserves as necessary on each series or issue of outstanding
20 general obligation bonds. The levy must be high enough to
21 raise an amount sufficient to pay all interest and principal
22 of the bonds as will become due and payable during the
23 ensuing fiscal year and to establish reserves as necessary.

24 (d) for counties and municipalities, a tax for paying
25 any judgment against the local government if there is

1 insufficient money available from the all-purpose tax to pay
2 the judgment. Payments for judgment may be prorated for a
3 period of 3 years from its presentation.

4 (e) for counties and municipalities, a tax to maintain
5 a local improvement district revolving fund at an amount not
6 exceeding the maximum amount of the principal and interest
7 on outstanding local improvement bonds in any fiscal year;

8 (f) for counties and municipalities, a tax to pay
9 premiums for comprehensive insurance as authorized in
10 2-9-212;

11 (g) for counties and municipalities, a tax not
12 exceeding 4 mills for the fire department relief association
13 fund when the cash balance of the fund is less than 2% of
14 the taxable value of the property within the local
15 government;

16 (h) for municipalities, a tax not exceeding 3 mills
17 for the police reserve fund if the obligations against the
18 fund cannot be met by the all-purpose mill levy;

19 (i) for counties and municipalities, a tax to finance
20 services provided in subordinate service districts levied
21 only on property within the district not to exceed the
22 maximum mill levy established by the ordinance creating the
23 district;

24 (j) for counties and municipalities, a tax not
25 exceeding the amount or the mill levy limit established by

1 vote of the electors on a voted mill levy approved by the
 2 electors in a special or general election. The voted levy
 3 may exceed the statutory mill levy limits for either the
 4 county or municipality. The voted property tax mill levy
 5 shall be in effect for the period of time approved by the
 6 electors.

7 (k) for counties and municipalities, a tax not
 8 exceeding 2 mills for emergency purposes as authorized in
 9 [section 54 of SB 22];

10 (1) for municipalities, a tax not exceeding 4 mills to
 11 pay group insurance premiums for firefighters and law
 12 enforcement officers as authorized in [section 52(4) of SB
 13];

14 (m) for counties and municipalities, a tax not
 15 exceeding 8 mills for cultural and educational services if
 16 there is insufficient money available from the all-purpose
 17 levy to fund the services. Educational and cultural services
 18 may include but need not be limited to libraries, museums,
 19 art centers, theaters, civic center auditoriums, and other
 20 educational, historic, scientific, or cultural services.
 21 This tax may not be for the purpose of supporting any free
 22 public education system except where the services purchased
 23 or provided by this tax are made available to the general
 24 public.

25 Section 76. Local income tax. (1) Any county with

1 general or self-government powers is authorized to impose a
 2 local income tax on its residents and on all other persons
 3 earning or receiving income from activities carried out in
 4 the county not exceeding 20% of an individual's state income
 5 tax liability.

6 (2) (a) The rate of the income tax shall be determined
 7 by ordinance, or the rate may be determined by the electors
 8 when voting on the question. The governing body of the
 9 county shall certify the rate of the tax to the department
 10 of revenue on or before October 1.

11 (b) The governing body of a county imposing an income
 12 tax, with the consent of the governing bodies of the
 13 municipalities of the county, may suspend for any fiscal
 14 year the collection of the county income tax only after
 15 first giving at least 120 days notice of the suspension to
 16 the department of revenue. The suspension shall be
 17 effective the first day of the next calendar year. The
 18 suspension shall not impair the authority of the county to
 19 impose the tax in subsequent years.

20 (c) Any portion or all of the proceeds of the income
 21 tax may be utilized for the reduction of property taxes in
 22 the local government.

23 (3) (a) The local income tax shall be administered by
 24 the department of revenue under rules adopted by the
 25 department. The rules for the administration of the state

1 income tax shall apply to the local income tax except when,
 2 in the judgment of the department of revenue, the rules
 3 would be inconsistent or not feasible for proper
 4 administration.

5 (b) The department of revenue is authorized to make
 6 refunds to taxpayers pursuant to [SB 11, SB 12, SB 13, SB
 7 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
 8 and SB 23].

9 (c) Money collected pursuant to [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] shall be accounted for separately and shall
 12 be credited to a separate local income tax account which is
 13 hereby established in the state treasury.

14 (d) The department of revenue may deduct from the
 15 money collected an amount not exceeding 1% to cover
 16 necessary costs incurred by the department in administering
 17 the local income tax.

18 (4) (a) In the case of a nonresident, the local income
 19 tax liability shall be limited solely to his place of
 20 employment or business, provided such jurisdiction imposes a
 21 local income tax. One-half of the tax imposed by the
 22 jurisdiction of employment or business shall be credited by
 23 the department of revenue to the nonresident's place of
 24 residence provided the jurisdiction also imposes the local
 25 income tax.

1 (b) In the event the nonresident lives in a county
 2 that does not impose a tax but earns income in a county that
 3 does impose a tax, the department of revenue shall credit
 4 one-half of the total net proceeds of the nonresident's tax
 5 liability to the jurisdiction of employment or business and
 6 refund the remainder to the taxpayer.

7 (c) In the event the nonresident derives income in a
 8 county that does not impose a local income tax but resides
 9 in a jurisdiction which does impose such a tax, the
 10 department of revenue shall credit the proceeds of the local
 11 income tax exclusively to the jurisdiction of residence.

12 (5) All money collected pursuant to this section shall
 13 be distributed by the department of community affairs to the
 14 county of origin on a monthly basis after the following
 15 deductions are made:

16 (a) the amount for refunds;
 17 (b) a reserve for expected or anticipated refunds; and
 18 (c) the costs of administering the tax.

19 (6) All revenues collected pursuant to this section
 20 shall be credited to a special local income tax fund which
 21 is hereby established in the state treasury. After deducting
 22 the amount of refunds made, a reserve for expected or
 23 anticipated refunds, and the costs of administering the tax,
 24 the remaining sums shall be distributed by the department of
 25 community affairs to the county of origin on a quarterly

1 basis.

2 (7) The county finance administrator shall distribute
 3 the revenues according to the terms and conditions of an
 4 interlocal agreement between the county and all
 5 municipalities within the county. The interlocal agreement
 6 shall be adopted by all the municipalities and the county
 7 prior to the calling of the election.

8 (8) In the absence of an interlocal agreement, the
 9 proceeds of the income tax shall be distributed in the
 10 following manner:

11 (a) One-half of the proceeds shall be distributed
 12 between the municipalities and county in a ratio based on
 13 the total income tax collections in each jurisdiction. For
 14 this purpose the municipality jurisdiction shall include all
 15 taxpayers residing in the municipality. The county
 16 jurisdiction shall include only taxpayers residing in the
 17 county outside of municipalities.

18 (b) The remainder of the proceeds shall be distributed
 19 to local governments in the county in the same proportion
 20 that their populations bear to the county total. For this
 21 purpose the population of the county shall include all
 22 county residents including municipal residents and shall be
 23 added to the population of the municipalities to calculate
 24 the proportions.

25 (9) The department of community affairs shall provide

1 the necessary information for the proper distribution of the
 2 revenues to the county finance administrator.

3 Section 77. Motor vehicle license fees (1) A
 4 governing body of a local government may by ordinance impose
 5 a license fee up to 50% of the motor vehicle license fees
 6 established in 61-4-102.

7 (2) The registrar of motor vehicles shall by rule
 8 provide for the collection by counties of the license fee
 9 and the distribution of proceeds to counties and
 10 municipalities imposing the license fee.

11 (3) A county may impose the fee only in that portion
 12 of the county that is not within a municipality, and a
 13 municipality may impose the fee only within the
 14 municipality.

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

22 Section 78. Selective excise taxes. A governing body
 23 of a local government with general or self-government powers
 24 may impose the following selective excise taxes by
 25 ordinance:

1 (1) (a) A tax on the use of hotel or motel facilities,
 2 as defined in subsections (3) and (6) of 50-51-102, shall
 3 not exceed 10% of the room rental.

4 (b) The imposing local government shall provide for
 5 the administration and the collection of this tax.

6 (2) (a) A tax on the purchase of fuels taxable under
 7 Title 15, chapter 70, shall not exceed an amount equal to 2
 8 cents for each gallon of fuel.

9 (b) The fuels tax shall be imposed countywide. The
 10 administration, collection, and distribution of the proceeds
 11 from the fuels tax shall be according to the terms and
 12 conditions of an interlocal agreement between the county and
 13 all the municipalities within the county. The interlocal
 14 agreement shall be adopted by the county and all
 15 municipalities prior to the imposition of this tax and may
 16 be subsequently modified by agreement of the governing
 17 bodies.

18 (c) The proceeds of the tax shall be used in a manner
 19 that is consistent with the provisions of Article VIII,
 20 section 6, of the Constitution of the State of Montana.

21 Section 79. Election required to impose certain taxes.
 22 (1) A local government may impose or repeal a tax authorized
 23 by [section 76, section 77, or section 78 of SB 22] only
 24 after an affirmative vote of the electors of the local
 25 government who are residents of the jurisdiction which is or

1 will be subject to the tax.

2 (2) The question may be presented to the electors of
 3 the local government by:

4 (a) a petition of the electors of the local
 5 government; or

6 (b) a resolution of the governing body of the local
 7 government.

8 (3) Upon the receipt of a petition or a resolution
 9 requesting an election, the question on the local tax shall
 10 be placed on the ballot at the next regularly scheduled
 11 election of the local government.

12 (4) The question shall be presented substantially in
 13 the form:

14 FOR the local government (insert name of tax).

15 AGAINST the local government (insert name of tax).

16 (5) The question of imposition of a local tax may not
 17 be placed before the electors more than one time in any one
 18 fiscal year.

19 Section 80. Intergovernmental revenues. (1) The
 20 department of community affairs shall coordinate the
 21 distribution to local governments of all state-shared
 22 revenues, state grants, and payments-in-lieu of taxes.

23 (2) Any state agency that administers a program that
 24 provides revenue to local governments shall provide the
 25 necessary information to the department of community affairs

1 so that the distribution of revenue may be coordinated by
2 the department of community affairs in an efficient manner.

3 (3) All revenue that is to be distributed to local
4 governments shall be placed in the necessary accounts to the
5 credit of the department of community affairs to be
6 distributed by the department in the manner or manners
7 provided by law and on instructions of the responsible
8 departments.

9 (4) Revenues received by a local government shall be
10 expended only for those purposes provided by law.

11 (5) All state agencies shall notify the department of
12 community affairs of any state or federal grants, shared
13 revenues, or payments administered by the agency and
14 distributed to a local government.

15 (6) The department of community affairs shall review
16 and evaluate all state-aid programs to determine the extent
17 that they meet fiscal, administrative, and program
18 objectives.

19 (7) The department of community affairs shall evaluate
20 and provide information on federal-aid programs, including
21 direct federal-local-aid programs, in terms of their
22 compatibility with state objectives and their fiscal and
23 administrative impact on state and local programs.

24 Section 81. General definitions. In [SB 11, SB 12, SB
25 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21,

1 SB 22, and SB 23], unless otherwise provided or the context
2 requires a technical or other interpretation, the following
3 definitions apply:

4 (1) "Bond" means an obligation of a local government
5 to pay a fixed sum of money at a fixed future date. It does
6 not include a payment under a purchase or lease contract.

7 (2) "General obligation bond" means a bond which is
8 secured by the full faith and credit of a local government
9 pledged for the principal and interest.

10 (3) "Local improvement bond" means a bond which is
11 payable solely from the proceeds of special assessment
12 levied on property within a local improvement district,
13 together with any revenues pledged therefor as provided in
14 [section 89 of SB 22].

15 (4) "Project cost" means the expense of any or all of
16 the following kinds of work and materials that are foreseen
17 or subsequently ascertained to be necessary to accomplish
18 the purpose or purposes for which bonds are authorized to be
19 issued:

20 (a) acquisition of land, structures, fixtures,
21 easements, and other interests in land, air, and water
22 rights, including but not limited to the acquisition thereof
23 by eminent domain and the payment of damages for the
24 invasion thereof as determined by agreement or by a court in
25 eminent domain or other judicial proceedings;

1 (b) acquisition of machinery, equipment, furnishings,
 2 and other personal property constituting capital items under
 3 accepted accounting practice, whether or not included in a
 4 construction contract;

5 (c) construction, including demolition, reconstruction, remodelling, extension, addition, renting of
 6 construction equipment, supply, and installation of
 7 materials and equipment and, without limitation, any other
 8 operation called for in plans and specifications and
 9 furnished by a contractor or the local government for the
 10 purpose of producing an improvement of a capital nature
 11 under accepted accounting standards;

12 (d) the local government's agreed share of the
 13 acquisition and construction of an improvement under an
 14 agreement entered into by authority of the governing body
 15 with one or more other local governments or the state or
 16 federal government or an agency or instrumentality thereof;

17 (e) administration and supervision of a project by
 18 officers and employees of the local government, including
 19 but not limited to planning, engineering, accounting, levy
 20 and collection of special assessments, inspection, hearings,
 21 and bond issuance and payment; the cost of which may be
 22 estimated and averaged among projects as a percentage of
 23 other costs or may be accounted for in such other manner as
 24 the governing body may determine reasonable to allocate a

1 proper share of the compensation of government employees to
 2 time expended on project construction, assessment, and
 3 financing;

4 (f) engineering, surveying, planning, testing, design,
 5 accounting, legal, printing, publications, and other
 6 professional service needed, other than that furnished by
 7 government employees;

8 (g) interest, if any, estimated to accrue on all money
 9 borrowed for the project, prior to the receipt of taxes,
 10 special assessments, or revenues pledged to pay bonds issued
 11 for the project; and

12 (h) without limitation, any other real or personal
 13 property, the cost of which is of a capital nature under
 14 accepted accounting standards.

15 (5) "Revenue bond" means a bond of a local government
 16 which is secured by the revenues from charges for a service
 17 pledged to payment of the principal and interest on the
 18 bond.

19 (6) "Series" means all the bonds or notes to be sold
 20 and delivered at one time in respect to one project or to
 21 any two or more projects which have been combined for
 22 purposes of financing or where the bonds or notes have been
 23 combined for sale as provided in [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].

1 Section 82. Capital improvement programs. (1) A local
2 government may establish and amend by ordinance a capital
3 improvement program which anticipates needed expenditures
4 for acquisition or replacement of property, plant, or
5 equipment which costs in excess of \$5,000 and has a life
6 expectancy of 5 years or more, or for the acquisitions of
7 library materials.

8 (2) A capital improvement program may be financed by:
9 (a) allocating not more than 5% of each fund included
10 in the capital improvement and replacement program to that
11 fund's credit in the capital improvement program fund; and
12 (b) any other resources available to the local
13 government.

14 (3) The ordinance establishing the capital improvement
15 program shall state:

16 (a) the purposes for which the fund is created;
17 (b) the approximate periods of time during which the
18 money is to be accumulated for each purpose;

19 (c) the approximate amounts to be accumulated for each
20 purpose; and

21 (d) the sources from which money for each purpose will
22 be derived.

23 (4) Appropriations from the capital improvement
24 program fund shall be included in the annual budget.

25 Section 83. Lease or installment purchases. (1) When

1 the amount to be paid on a contract for a capital
2 acquisition of real or personal property exceeds \$5,000, the
3 governing body may provide for payment in installments
4 extending over not more than 5 years with interest not to
5 exceed the contract usury rate provided by law.

6 (2) Except as provided by subsection (3), no
7 installment contract or lease-purchase agreement may be
8 entered into unless there is an unencumbered appropriation
9 in the current fiscal year available and sufficient to pay
10 the portion of the contract price that is payable during the
11 current fiscal year; and the budget for each following year,
12 in which any portion of the purchase price is to be paid,
13 shall contain an appropriation for the purpose of paying the
14 same.

15 (3) The governing body may enter into an installment
16 contract or lease-purchase agreement, for a term not
17 exceeding 5 years, providing for the acquisition of title
18 upon completion of all payments thereunder, without
19 obligation to provide such payment in its annual budget,
20 provided that the remedy for enforcement of the contract or
21 agreement is limited to the repossession of the property in
22 the event of nonpayment.

23 (4) Installment contracts of more than 5 years may be
24 entered into only if approved by a vote of the electors,
25 except that nothing herein shall preclude the governing body

1 from entering into a contract for such term of years as it
2 may determine, for a supply of or outlet for utility
3 services to be furnished by the local government to the
4 public.

5 Section 84. Department of community affairs --
6 rulemaking and technical assistance. (1) The department of
7 community affairs shall prepare suggested forms for bonds,
8 bond authorizing ordinances, and notices and suggested
9 procedures for execution of bonds.

10 (2) The department of community affairs and the
11 department of administration may provide a local government
12 with technical advice and assistance on request in planning,
13 preparing, presenting, and issuing any bond authorized by
14 [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB
15, SB 20, SB 21, SB 22, and SB 23].

16 (3) The governing body may retain private technical
17 advice and assistance in planning, preparing, presenting,
18 marketing, and issuing any bond authorized by [SB 11, SB 12,
19 SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB
20, SB 21, SB 22, and SB 23].

21 Section 85. Application to pending and outstanding
22 bonds. (1) Where, prior to the enactment of [SB 11, SB 12,
23 SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB
24 21, SB 22, and SB 23], proceedings for the issue and sale of
25 bonds by any local government under its powers as set forth

1 in the Montana Code Annotated, have been commenced or
2 completed in accordance with the provisions of the Montana
3 Code Annotated, the proceedings shall be held valid and
4 sufficient and the completion of the proceedings under the
5 authority of [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
6 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23] is hereby
7 authorized, and the proceedings when completed shall be of
8 the same force and effect as if the provisions of [SB 11, SB
9 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20,
10 SB 21, SB 22, and SB 23] had been in effect when the
11 proceedings were commenced.

12 (2) Proceedings for the issue and sale of bonds by any
13 local government commenced prior to the enactment of [SB 11,
14 SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB
15 20, SB 21, SB 22, and SB 23] shall be completed under prior
16 law, except that bonds authorized for sale prior to the
17 enactment of [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
18 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23] may be
19 sold in the manner provided in [SB 11, SB 12, SB 13, SB 14,
20 SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and
21 SB 23].

22 (3) All of the provisions of [SB 11, SB 12, SB 13, SB
23 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
24 and SB 23] with reference to the payment of principal and
25 interest of bonds, redemption and payment thereof,

1 investment of debt service funds, levying of taxes for
2 payment of principal and interest, maintenance of debt
3 service funds, and all other provisions of [SB 11, SB 12, SB
4 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21,
5 SB 22, and SB 23] which can be made applicable thereto shall
6 apply to all bonds heretofore lawfully issued by any local
7 government under any law or laws of this state, which bonds
8 shall be outstanding at the time [SB 11, SB 12, SB 13, SB
9 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
10 and SB 23] takes effect; except nothing herein shall be
11 construed to modify or invalidate any covenants or
12 agreements entered into prior to the effective date of [SB
13 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19,
14 SB 20, SB 21, SB 22, and SB 23].

15 Section 86. Debt limits. (1) (a) Except as provided
16 below, no county may issue general obligation bonds which
17 would cause the total amount of its outstanding general
18 obligation bonds less funds held and appropriated for their
19 payment to exceed 2 1/2% of the assessed value of all
20 taxable property in the county.

21 (b) The governing body may issue general obligation
22 bonds which would cause its outstanding general obligation
23 bonds less funds held and appropriated for their payment to
24 exceed 2 1/2 but not 5% of the assessed value of all
25 taxable property in the county, when necessary for the

1 purpose of replacing, rebuilding, or repairing county
2 buildings, bridges, or highways which have been destroyed or
3 damaged by accident or catastrophe.

4 (c) The governing body may issue additional general
5 obligation bonds for the purposes of a county water
6 distribution and supply system, sewage collection and
7 treatment system, or public transportation system, in an
8 amount which will at no time cause the total amount of bonds
9 issued for these purposes less funds held and appropriated
10 for their payment to exceed 10% of the assessed value of the
11 taxable property in the county.

12 (2) (a) Except as provided below, no municipality may
13 issue general obligation bonds which would cause the total
14 amount of its general obligation bonds less funds held and
15 appropriated for their payment to exceed 5% of the assessed
16 value of all taxable property in the municipality.

17 (b) The governing body may issue additional general
18 obligation bonds for the purposes of a municipal water
19 distribution and supply system, a sewage collection and
20 treatment system, or public transportation system, in an
21 amount which will at no time cause the total amount of
22 general obligation bonds issued for these purposes less
23 funds held and appropriated for their payment to exceed 10%
24 of the assessed value of the taxable property in the
25 municipality.

1 (3) (a) Except as provided below, no consolidated
2 local government may issue general obligation bonds which
3 would cause the total amount of its general obligation bonds
4 less funds held and appropriated for their payment to exceed
5 7 1/2% of the assessed value of all taxable property in the
6 consolidated local government.

7 (b) The governing body may issue additional general
8 obligation bonds for the purpose of a local government water
9 distribution and supply system, sewage collection and
10 treatment system, or public transportation system, in an
11 amount which will at no time cause the total amount of
12 general obligation bonds issued for the purposes less funds
13 held and appropriated for their payment to exceed 10% of the
14 assessed value of the taxable property in consolidated local
15 government.

16 (4) General obligation-revenue bonds issued under the
17 provisions of [section 89(3) of SB 22] shall not be included
18 in applying any of the limitations on general obligation
19 bonds provided in this section.

20 (5) General obligation bonds issued for school
21 purposes shall not be included as a part of a local
22 government's outstanding general obligation bonds for
23 purposes of determining whether or not the debt limit of the
24 local government has been reached. The bonds shall be
25 limited as provided in 20-9-406.

1 (6) The assessed value of property in a local
2 government shall be ascertained by the last assessment for
3 state and county taxes that has been completed before the
4 date of delivery of the bonds. Any bonds issued within the
5 limit as of the date of delivery shall be and remain valid
6 notwithstanding any subsequent change in the assessed value.

7 Section 87. General obligation bonds. (1) A local
8 government may, in the manner provided by [section 33
9 through section 105 of SB 22], issue general obligation
10 bonds to finance the project costs of a project to perform
11 any service or function authorized by [SB 11, SB 12, SB 13,
12 SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB
13 22, and SB 23].

14 (2) Except as provided in [section 90 of SB 22],
15 general obligation bonds may be issued only after the
16 electors have approved a bond authorization ordinance as
17 provided in [section 80 of SB 22]. The bond authorization
18 ordinance shall contain the purpose or purposes of the bonds
19 and the amount or amounts of proceeds to be expended for
20 each purpose.

21 (3) A bond authorization ordinance may be submitted to
22 the electors either through the adoption of the ordinance by
23 the governing body or by initiative of the electors.

24 (4) If the bond authorization ordinance is submitted
25 to the electors by initiative, the governing body shall

1 carry out all acts required to comply with [section 88 of SB
 2 22].

3 (5) General obligation bonds may not be issued for a
 4 term exceeding 20 years, except general obligation revenue
 5 bonds may be issued for a term not to exceed 40 years.

6 (6) The maximum annual interest rate of any general
 7 obligation bonds may not exceed 7%.

8 Section 8d. Election on general obligation bonds. (1)
 9 A local government may issue general obligation bonds only
 10 after a bond authorization ordinance is approved by a
 11 majority of those voting on the question at a regular or
 12 special election.

13 (2) The election shall be conducted as provided in
 14 [section 92 of SB 22].

15 (3) An individual bond issue may not be placed before
 16 the electors more than one time in any one fiscal year.

17 (4) The approval of a general obligation bond
 18 authorization ordinance by the electors does not obligate
 19 the governing body to issue the bonds but merely grants them
 20 the authority to issue them.

21 Section 89. Terms of sale and payment. (1) After
 22 approval of the bond authorizing ordinance by the electors,
 23 the governing body shall fix the date of issue,
 24 denominations, maturities, redemption terms, and
 25 registration privileges by resolution.

1 (2) (a) The full faith and credit of the local
 2 government is pledged for the payment of principal and
 3 interest on general obligation bonds.

4 (b) The governing body shall levy for each fiscal year
 5 an ad valorem tax on all taxable property within its taxing
 6 jurisdiction in an amount sufficient, with any funds on hand
 7 and appropriated for the purpose, to pay the principal and
 8 interest which will fall due during the fiscal year and to
 9 establish a reserve at least sufficient to meet such
 10 payments due in the first 6 months of the following fiscal
 11 year. Such taxes shall not be subject to any limitation of
 12 rate or amount, and the obligation to levy and collect them
 13 shall be an irrevocable covenant with the holders of the
 14 bonds.

15 (3) The full faith and credit of a local government
 16 may be pledged for the payment of principal and interest
 17 with respect to revenue bonds issued to finance the project
 18 costs for a revenue producing facility, including a combined
 19 facility, needed for the furnishing of one or more
 20 governmental services provided that:

21 (a) the governing body shall throughout the term of
 22 the bonds impose and collect charges for such service or
 23 services, payable at the times and in the amounts necessary
 24 to pay all reasonable and current expenses of operation,
 25 administration, and maintenance and to produce net revenues

1 adequate to pay when due the principal of and interest on
 2 these bonds and any other bonds for which such revenues may
 3 theretofore or thereafter be pledged;

4 (b) any taxpayer may enforce this obligation as
 5 provided in [section 102 of SB 22]; and

6 (c) such bonds shall be designated as general
 7 obligation revenue bonds and may be issued only after the
 8 approval of the electors of the local government as provided
 9 in [section 88 of SB 22], and they shall not be subject to
 10 the limitations in [section 86 of SB 22].

11 (4) In financing a redevelopment project, the local
 12 government may use money from the tax allocation plan as
 13 provided in [section 122 of SB 16] for the payment of
 14 principal and interest on general obligation bonds.

15 Section 90. General obligation bonds issued without a
 16 vote. A governing body may adopt a bond authorizing
 17 ordinance to issue general obligation bonds without
 18 submitting the question to the electors for the following
 19 purposes:

20 (1) for the purpose of enabling a county to liquidate
 21 its indebtedness to another county incident to the creation
 22 of a new county or the changing of any county boundary line;

23 (2) for the purpose of funding, paying in full, or
 24 compromising, settling, and satisfying any judgment in a
 25 court of competent jurisdiction when there are not

1 sufficient funds available to pay the judgment by an annual
 2 tax levy of 10 mills levied on all the taxable property
 3 within the local government through a period of 3 years. The
 4 ordinance providing for the issue of the bonds must recite
 5 the facts concerning the judgment to be funded and the terms
 6 of any compromise agreement which may have been entered into
 7 between the governing body and the judgment creditor.

8 (3) for the purpose of funding, paying, and retiring
 9 outstanding warrants when there is not sufficient money in
 10 the accounts against which warrants are drawn to pay and
 11 retire the warrants, and the levying of taxes sufficient to
 12 pay and retire the warrants within a period of 3 years
 13 would, in the judgment of the governing body, work a
 14 hardship and be an undue burden on the taxpayers of the
 15 local government; and

16 (4) for the purpose of refunding bonds as provided in
 17 [section 95 of SB 22].

18 Section 91. Revenue bonds. (1) A local government may,
 19 in the manner provided by [SB 11, SB 12, SB 13, SB 14, SB
 20 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB
 21 23], issue revenue bonds to finance the project costs for
 22 any revenue-producing facility needed for the furnishing of
 23 one or more services authorized by [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].

1 (2) (a) No election is required to authorize the issue
2 and sale of revenue bonds.

3 (b) A revenue bond authorizing ordinance may be
4 submitted to the electorate by the governing body or by
5 initiative or referendum.

6 (c) If the revenue bond authorizing ordinance is
7 submitted to the electors, the election shall be conducted
8 as provided in [section 92 of SB 22], and approval by a
9 majority of those voting on the question is required for
10 adoption. A revenue bond authorization ordinance initiated
11 or referred to the electors and not approved by the required
12 majority may not be reinitiated or referred or adopted by
13 the governing body within the same fiscal year.

14 (d) An individual bond issue may not be placed before
15 the voters more than one time in any fiscal year.

16 (3) Revenue bonds may not be issued for a term
17 exceeding 40 years.

18 (4) The maximum annual interest rate of any revenue
19 bond shall not exceed 9%.

20 (5) The governing body shall by ordinance fix or
21 approve the execution of an indenture fixing the date of
22 issue, the amount of principal, denominations, maturities,
23 redemption terms and other terms of the bonds and the
24 covenants and agreements to be established for their
25 security, which may include such provisions on the following

1 matters as the governing body may consider advisable:
2 (a) the purposes to which the proceeds of sale of the
3 bonds may be applied and the use and disposition thereof,
4 including the establishment of a bond reserve;
5 (b) the use and disposition of the revenue from the
6 service for which a facility is needed, including the
7 creation and maintenance of reserves;
8 (c) the payment from the general funds of the local
9 government of amounts equal to the annual cost of furnishing
10 the local government with the services of the facility;
11 (d) the conditions for the issuance of other or
12 additional bonds payable from the revenue from the same
13 service;
14 (e) the operation and maintenance of the facility;
15 (f) the insurance to be carried and the use and
16 disposition of insurance money;
17 (g) financial records and their inspection and audit;
18 (h) the relative priority of liens on the revenues in
19 favor of bonds of one or more series or issues, whether
20 issued concurrently or at different times;
21 (i) the naming of a trustee, which may be a trust
22 company or bank having the power of a trust company within
23 or outside the state;
24 (j) the terms and conditions upon which the
25 bondholders or any proportion of them or any trustee shall

1 be entitled to the appointment of a receiver by the district
 2 court, which shall have jurisdiction in the proceedings and
 3 may authorize the receiver to enter and take possession of
 4 the facility, operate and maintain it, prescribe rates,
 5 fees, or charges, and collect, receive, and apply all
 6 revenue of the facility in the same manner as the local
 7 government itself might do;

8 (k) make any other covenants and agreements and as to
 9 actions to be taken by the local governments as may be
 10 necessary, convenient, or desirable in order to secure the
 11 bonds or in the discretion of the governing body to make the
 12 bonds more marketable.

13 Section 92. Payment on revenue bonds. (1) A local
 14 government which has issued revenue bonds to finance a
 15 revenue-producing facility may use money received from
 16 charges for the services which are needed in order to:

17 (a) pay when due all bonds and interest for the
 18 payment of which the revenue is pledged, charged, or
 19 otherwise encumbered;

20 (b) provide for all costs of operation and
 21 maintenance;

22 (c) pay and discharge notes, bonds, or other
 23 obligations and interest thereon for the payment of which
 24 the revenue is pledged, charged, or encumbered;

25 (d) pay and discharge notes, bonds, or other

1 obligations and interest thereon which do not constitute a
 2 lien, charge, or encumbrance on the revenue of the facility
 3 and which shall have been issued for the purpose of
 4 financing the acquisition, purchase, construction,
 5 reconstruction, improvement, or extension of the facility;
 6 and

7 (e) provide for reserves.

8 (2) No local government may transfer the revenue of
 9 the facility to its general fund until adequate provision
 10 has been made for the foregoing purposes.

11 (3) No holder or holders of any revenue bonds shall
 12 ever have the right to compel any exercise of taxing power
 13 of a local government to pay revenue bonds or the interest
 14 thereon. However, nothing herein shall preclude the use of
 15 the local government's taxing power for the payment of
 16 principal or interest on revenue bonds.

17 (4) In financing a redevelopment project, the local
 18 government may use money from the tax allocation plan as
 19 provided in [section 122 of SB 16] for the payment of
 20 principal and interest on revenue bonds.

21 Section 93. Facilities to be self-supporting. A
 22 governing body issuing revenue bonds pursuant to [SB 11, SB
 23 12, SB 13, SB 14, SE 15, SB 16, SB 17, SB 18, SB 19, SB 20,
 24 SB 21, SB 22, and SH 23] shall, subject to the approval of
 25 the public service commission where required, prescribe and

1 collect reasonable and nondiscriminatory charges for the use
 2 and services of the facility and shall revise the rates,
 3 fees, or charges from time to time whenever necessary so
 4 that the facility shall be and always remain
 5 self-supporting. The charges prescribed shall produce
 6 revenue at least sufficient to:

7 (1) pay when due all bonds and interest thereon for
 8 the payment of which the revenue is pledged, charged, or
 9 otherwise encumbered, including reserves; and
 10 (2) provide for all expenses of operation and
 11 maintenance of the facility, including reserves.

12 Section 94. Local improvement bonds. (1) The governing
 13 body may by ordinance authorize the issue and sale of local
 14 improvement bonds to pay all or part of the project cost of
 15 an improvement in a local improvement district as authorized
 16 by an improvement plan. The principal and interest of bonds
 17 issued shall be payable from the levy of special assessments
 18 against the property to be benefited and other revenues
 19 appropriated by the governing body. Proceeds from the
 20 special assessments shall be credited to the debt service
 21 fund for the payment of principal and interest on the bonds.

22 (2) Local improvement bonds may not be issued for a
 23 term exceeding 20 years. Local improvement bonds shall
 24 mature and bear interest payable at such times and in such
 25 amounts that the principal and interest payable with respect

1 to the special assessments pledged for the payment will be
 2 sufficient to pay the bonds and interest thereon when due;
 3 provided that the governing body may by resolution pledge
 4 the net revenues of a water, sanitary, storm sewer, parking,
 5 or other revenue producing system to pay part of the
 6 principal and interest on bonds for facilities included in
 7 the systems in which case the bond maturities may be fixed
 8 by reference also to the revenues annually available.

9 (3) (a) Before the governing body may issue local
 10 improvement bonds, it shall establish a local improvement
 11 revolving fund in order to secure prompt payment of
 12 principal and interest on any local improvement bond and
 13 appropriate to the account annually from the general fund or
 14 any other fund or by the levy of a tax as provided for in
 15 [section 75(3)(e) of S. 22] a sum adequate to cover any
 16 anticipated deficiency in meeting payments of principal or
 17 interest on local improvement bonds by reason of nonpayment
 18 of special assessments when due. The governing body shall
 19 maintain the revolving fund at such amounts as may be
 20 necessary by its ordinance pursuant to which the bonds are
 21 issued; provided that the required amount shall not at any
 22 time exceed the maximum amount of interest and principal to
 23 become due on outstanding local improvement bonds in any
 24 fiscal year.

25 (b) Should a local improvement district lack

1 sufficient revenues to meet principal and interest payments
 2 due, the governing body by resolution shall loan to the
 3 desired fund a sum sufficient to meet principal and interest
 4 payments due from the local improvement district revolving
 5 fund at the interest rate that equals that of the
 6 outstanding bonds.

7 (c) Whenever a loan is made to any local improvement
 8 district from the revolving fund, the revolving fund shall
 9 have a lien on all unpaid special assessments and
 10 installments of special assessments of the district and all
 11 money thereafter coming into the district fund to the amount
 12 of the loan and interest from the time the loan was made.

13 (d) Whenever there is money in a district fund which
 14 is not required for bond or interest payments, a portion of
 15 the money as may be necessary to pay the loan shall be
 16 transferred to the revolving fund by resolution.

17 (e) Money received from an action taken against
 18 property for nonpayment of a special assessment shall be
 19 credited to the local improvement district fund.

20 (f) Any remaining money in a local improvement fund
 21 after all outstanding bonds and interest are fully paid
 22 shall be transferred to the local improvement district
 23 revolving fund by resolution.

24 (4) The local government may collect delinquent
 25 special assessments in the same manner as delinquent

1 property taxes.

2 (5) Except for the purpose of funding the local
 3 improvement district revolving fund, no holder or holders of
 4 any local improvement district bonds shall have the right to
 5 compel any exercise of taxing power of a local government to
 6 pay the bonds or interest.

7 (6) The maximum annual interest rate on local
 8 improvement bonds may not exceed 10%.

9 Section 95a Refunding bonds. (1) If a local government
 10 has outstanding general obligation bonds and revenue bonds,
 11 and the governing body determines that it would be
 12 financially advantageous to refund the bonds, the governing
 13 body may provide for the issue of general obligation or
 14 revenue refunding bonds by ordinance.

15 (2) The refunding bonds may take up and refund all or
 16 any part of the outstanding bonds at or before their
 17 maturity or redemption date. The governing body may include
 18 various series and issues of bonds in a single issue of
 19 refunding bonds by ordinance.

20 (3) Refunding bonds may bear interest at a rate lower
 21 or higher than the bonds refunded thereby if they are issued
 22 to refund matured principal or interest for the payment of
 23 which revenues on hand are not sufficient or if the
 24 refunding bonds are combined with an issue of new bonds for
 25 reconstruction, improvement, betterment, or extension, and

1 the lien of such new bonds upon the revenues of the
2 undertaking must be junior and subordinate to the lien of
3 the outstanding bonds refunded, under the terms of the
4 ordinances or resolutions authorizing the outstanding bonds,
5 as applied to circumstances existing on the date of
6 refunding. Except as authorized in the preceding sentence,
7 refunding bonds shall not be issued unless their average
8 annual interest rate, computed to their stated maturity
9 dates and excluding any premium from such computation, is at
10 least 3/8 of 1% less than the average annual interest rate
11 on the bonds refunded thereby, computed to their respective
12 stated maturity dates.

13 (4) No election is required to authorize the issue and
14 sale of refunding bonds. Refunding bond issues may be
15 authorized and all proceedings with reference to them
16 prescribed by ordinance of the governing body. However, when
17 it is desirable to use general obligation bonds to refund a
18 revenue bond issue, the governing body shall call an
19 election on the question.

20 (5) General obligation refunding bonds are payable
21 according to [section 89 of SB 22]. Revenue refunding bonds
22 are payable according to [section 92 of SB 22].

23 (6) General obligation or revenue refunding bonds may,
24 in the discretion of the governing body, be sold at public
25 or private sale for an amount not less than par and accrued

1 interest. They may be issued and delivered at any time
2 before the date of maturity or redemption of the bonds being
3 refunded.

4 (7) The issuing of bonds for refunding outstanding
5 bonds is not the incurring of a new or additional
6 obligation, but merely the changing of the evidences of
7 outstanding obligation.

8 (8) In any case where refunding bonds are issued and
9 sold 6 months or more before the date on which all bonds
10 refunded thereby mature or have been called for prepayment
11 in accordance with their terms, the proceeds of the
12 refunding bonds, including any premium and accrued interest,
13 shall be deposited in escrow with a suitable bank or trust
14 company having its principal place of business within or
15 without the state, which is a member of the federal reserve
16 system and has a combined capital and surplus not less than
17 \$1 million and shall, with other funds of the local
18 government available and appropriated by the governing body
19 for this purpose, be invested in such amount and in
20 securities maturing on such dates and bearing interest at
21 such rates as shall be required to provide funds sufficient
22 to pay when due the interest to accrue on each bond refunded
23 to its maturity or, if it is prepayable, to the prior date
24 upon which such bond has been called for redemption and to
25 pay and redeem the principal amount of each such bond at

1 maturity or, if prepayable, at the date upon which it has
 2 been called for redemption and any premium required for
 3 redemption on such date; and the resolution or ordinance
 4 authorizing the refunding bonds shall irrevocably
 5 appropriate for these purposes the escrow fund and all
 6 income therefrom and shall provide for the call of all bonds
 7 which have been called for prepayment in accordance with
 8 their terms. The securities to be purchased with the escrow
 9 fund shall be limited to general obligations of the United
 10 States, securities whose principal and interest payments are
 11 guaranteed by the United States, and securities issued by
 12 the following United States government agencies: banks for
 13 cooperatives, federal home loan banks, federal intermediate
 14 credit banks, federal land banks, and the federal national
 15 mortgage association.

16 (9) Revenues and other money on hand, in excess of
 17 amounts pledged by ordinances and resolutions authorizing
 18 outstanding bonds for the payment of principal and interest
 19 currently due thereon and reserves securing such payment,
 20 may be used to pay the expenses incurred by the local
 21 government for the purpose of such refunding, including but
 22 without limitation the cost of advertising and printing
 23 refunding bonds, legal and financial advice and assistance
 24 in connection therewith, and the reasonable and customary
 25 charges of escrow agents and paying agents. Revenues and

1 other funds on hand, including reserves pledged for the
 2 payment and security of outstanding revenue bonds, may be
 3 deposited in an escrow fund created for the retirement of
 4 such bonds and may be invested and disbursed as provided in
 5 subsection (8) hereof to the extent consistent with the
 6 ordinances or resolutions authorizing such outstanding
 7 bonds.

8 **Section 96. Bond anticipation borrowing.** (1) A local
 9 government may borrow money in anticipation of the sale of
 10 general obligation bonds, revenue bonds, and local
 11 improvement district bonds if the governing body has applied
 12 for a grant or loan of state or federal funds to aid in
 13 payment of the project costs and:

14 (a) the general obligation bonds to be sold have been
 15 authorized and ratified at a regular or special election;
 16 (b) the revenue bonds to be sold have been authorized
 17 by ordinance; or
 18 (c) the local improvement district bonds to be sold
 19 have been authorized.

20 (2) The governing body shall issue negotiable or
 21 nonnegotiable notes for the amounts borrowed with a maturity
 22 date not to exceed 3 years from the date of issue. All notes
 23 and the interest on them are payable at fixed places on or
 24 before a fixed time from the proceeds of the sale of bonds
 25 in anticipation of which the original note or notes were

1 issued, unless the bonds have not been sold by the maturity
 2 date of the notes.

3 (3) In this event the proceeds of the grant or loan
 4 received shall be irrevocably appropriated to the debt
 5 service account for the bond anticipation notes. Any amount
 6 of bond anticipation notes which cannot be paid at maturity
 7 from the proceeds of the grant or loan or from any other
 8 money appropriated by the governing body for this purpose
 9 shall be paid from the proceeds of definitive bonds to be
 10 issued and sold before the maturity date; or if sufficient
 11 money is not available for payment in full of the temporary
 12 bonds at maturity, the holders thereof shall have the right
 13 to require the issuance in exchange therefor of definitive
 14 bonds secured in the manner provided by law and agreed to by
 15 the local government.

16 Section 97. Repayment of notes. (1) Every bond
 17 anticipation note is payable from the proceeds of the sale
 18 of bonds which the notes anticipated or from the proceeds of
 19 the sale of new bond anticipation notes.

20 (2) (a) Notwithstanding any other provisions of
 21 [section 33 through section 105 of SB 22] as to payment of
 22 notes, notes issued in anticipation of the sale of general
 23 obligation bonds and the interest on them are secured by the
 24 full faith, credit, taxing power, and resources of the local
 25 government. The local government may levy ad valorem taxes

1 for payment without limitation of rate or amount.

2 (b) Notes issued in anticipation of the sale of
 3 revenue bonds and the interest on them are secured in the
 4 same manner as are local improvement district bonds in
 5 anticipation of which the notes are issued.

6 (c) Notes issued in anticipation of the sale of local
 7 improvement district bonds and the interest on them are
 8 secured in the same manner as are local improvement district
 9 bonds in anticipation of which the notes are issued.

10 Section 98. Limitations. (1) The total amount of notes
 11 issued and outstanding shall at no time exceed the total
 12 amount of bonds authorized to be issued.

13 (2) The proceeds from the sale of notes shall be used
 14 only for the purposes for which the proceeds from the sale
 15 of bonds may be used or to meet payment of outstanding bond
 16 anticipation notes.

17 (3) Notes issued under [section 33 through section 105
 18 of SB 22] shall be sold by the local government in the
 19 manner and at the price it determines at either public or
 20 private sale, but no note may be sold for less than par and
 21 accrued interest.

22 Section 99. Conditions of sale and miscellaneous
 23 provisions. (1) Except as provided in [SB 11, SB 12, SB 13,
 24 SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB
 25 22, and SB 23], the governing body shall give notice of the

1 sale of bonds, except that bonds may be sold at a private
 2 sale to an agency or subdivision of the state or federal
 3 government. The notice shall state:

4 (a) the type of bond to be sold;
 5 (b) the purpose or purposes for the bond to be issued;
 6 (c) the amount of the issue; and
 7 (d) where and when bids for the purchase of the bonds
 8 will be accepted.

9 (2) The governing body shall consider the bids
 10 submitted and may reject any and all bids and sell the bonds
 11 at a private sale if they consider it to be in the best
 12 interest of the local government.

13 (3) A bond may not be sold at less than par and
 14 accrued interest to date of delivery.

15 (4) A bond or note may be made subject to redemption
 16 before maturity as stated in the authorization or in the
 17 bond or note.

18 (5) All bonds and notes shall be payable as stated in
 19 the authorization or in the bond or note.

20 (6) Bonds shall be negotiable investment securities as
 21 provided in Title 30, chapter 8.

22 (7) The governing body may, in its discretion, provide
 23 that bonds may be issued and sold in two or more series or
 24 installments.

25 (8) If the authorized bonds have not been sold and

1 issued within 3 years from the date of the bonding election
 2 and no vested rights have accrued thereunder, the governing
 3 body may rescind the authority to sell and issue the bonds
 4 by resolution wherein is recited the reason for the
 5 rescission of the authority.

6 (9) All local governments shall include as a condition
 7 of sale for any bond or note submission by the bidder of
 8 security as provided in Title 18, chapter 1, part 2.

9 (10) At least 15 days prior to the date set for sale,
 10 notice of the sale shall be mailed to the board of
 11 investments.

12 (11) After the sale, the bonds or notes may not be
 13 delivered to the purchaser until payment in full has been
 14 received for the bonds or notes.

15 (12) Subsection (9) shall not apply to the board of
 16 investments as a bidder or purchaser.

17 (13) All general obligation bond issues shall be
 18 submitted to the attorney general prior to sale as provided
 19 in 20-9-462.

20 (14) The governing body may designate one or more banks
 21 or trust companies in the United States as the paying agents
 22 for the local government for the payment of interest and
 23 principal on bonds issued by the local government.

24 (15) The governing body may authorize local government
 25 employees to perform the work necessary for any project

1 financed by the bonds authorized in [SB 11, SB 12, SB 13, SB
 2 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB 21, SB 22,
 3 and SB 23], or they may let the project to bid under the
 4 procedures of [section 35 of SB 22].

5 (16) Local government bonds may be validated as
 6 provided by law.

7 Section 100. Bond record. (1) The finance
 8 administrator shall maintain a record of all bonds. The bond
 9 record shall show the number and amount of each bond, the
 10 date of issue, date redeemable, the date when the same will
 11 become due, the amount of all payments of both principal and
 12 interest required to be made on each bond with the dates
 13 when the same are required to be made, and the name and
 14 address of the purchaser.

15 (2) All payments on bonds and interest coupons and the
 16 date of payment shall be entered on the bond records.

17 (3) All bonds and interest coupons paid shall be
 18 cancelled.

19 Section 101. Validity of bonds. (1) Bonds bearing the
 20 signatures of officers in office on the date of signing
 21 thereof shall be valid and binding obligations,
 22 notwithstanding that before the delivery thereof and payment
 23 any or all the persons whose signatures appear thereon shall
 24 have ceased to be officers of the local government issuing
 25 the bonds.

1 (2) (a) Judicial review to determine the validity of
 2 the procedures whereby any bond issue is authorized may be
 3 had by petition of any one citizen filing with the district
 4 court within 60 days after the bond authorization ordinance
 5 has been approved. The petitioner may in the court's
 6 discretion be awarded costs which may include reasonable
 7 attorney's fees.

8 (b) No action shall be brought or maintained after the
 9 expiration of 30 days from the date of the approval of the
 10 bond authorizing ordinance, in which an issue is raised as
 11 to the validity of the bond authorization therein. The bond
 12 authorizing ordinance or bonds sold shall not be considered
 13 invalid on account of any procedural error or omission
 14 unless it is shown that the error or omission materially and
 15 substantially affected such adoption.

16 (3) The validity of the bonds shall not be dependent
 17 on or affected by the validity or regularity of any
 18 proceedings relating to the acquisition, purchase,
 19 construction, reconstruction, improvement, betterment, or
 20 extension of the undertaking for which the bonds are issued.

21 (4) The ordinances authorizing the bonds may provide
 22 that the bonds shall contain a recital that they are issued
 23 pursuant to [SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB
 24 17, SB 18, SB 19, SB 20, SB 21, SB 22, and SB 23], which
 25 recital shall be conclusive evidence of their validity and

1 of the regularity of their issuance.

2 Section 102. Insufficient levy of taxes, service
 3 charges, and special assessments by the governing body. (1)
 4 If the governing body shall fail, neglect, or refuse in any
 5 year to make an ad valorem property tax levy or special
 6 assessment or establish charges sufficient to pay the
 7 interest on and principal of any issue or series of general
 8 obligation, local improvement district, or revenue bonds,
 9 the holder of any bond of the issue or series or any
 10 taxpayer paying taxes or special assessments on property
 11 situated in the jurisdiction may apply to the district court
 12 for a writ of mandate to compel the governing body to make a
 13 proper and sufficient levy of service charges or special
 14 assessment for such purposes.

15 (2) If, upon the hearing of the application, it shall
 16 appear to the satisfaction of the court that the governing
 17 body has failed, neglected, or refused to make any levy of
 18 service charges or special assessment whatever for such
 19 purposes, or has made a levy of service charges or special
 20 assessment but that the same is insufficient, the court
 21 shall determine the amount of the deficiency and shall issue
 22 a writ of mandate directed to and requiring the governing
 23 body, at its next meeting for the purpose of making and
 24 fixing levies of service charges and special assessments, to
 25 raise the amount of the deficiency.

1 (3) The levy of service charge or special assessment
 2 shall be in addition to the levy or special assessment
 3 required to be made for the then current fiscal year.

4 (4) Any costs which may be allowed or awarded the
 5 petitioner shall be paid by the members of the governing
 6 body and shall not be a charge against the local government.
 7 (5) Officers of the local government who willfully
 8 fail to make a levy for the debt service fund are liable as
 9 provided in 85-7-2142.

10 Section 103. Local government fiscal emergencies. (1)
 11 The department of community affairs, with the approval of
 12 the local government finance advisory council, may declare a
 13 financial emergency to exist in any local government upon
 14 determination that one or more of the following conditions
 15 have occurred:

16 (a) The local government fails to pay loans from banks
 17 or principal or interest due on notes or bonded debt in full
 18 within 28 days of the due date.

19 (b) The local government for a period of 28 days or
 20 more fails to transfer to the appropriate agency:

21 (i) taxes withheld on the income of employees; or
 22 (ii) employer and employee contributions for federal
 23 social security or any pension, retirement, or benefit plan
 24 of an employee.

25 (c) The unit of local government fails for a period of

1 28 days to pay:

2 (i) wages and salaries owed to employees; or
3 (ii) pension and retirement benefits owed to former
4 employees.

5 (2) The department of community affairs is authorized
6 to take the following actions with respect to any local
7 government in which a financial emergency has been declared:

8 (a) to make an analysis of all factors and
9 circumstances contributing to the financial condition of the
10 local government and to recommend steps to be taken to
11 correct such conditions;

12 (b) to amend or revise or to approve or disapprove the
13 budget of the local government and to limit the total amount
14 of funds appropriated or expended pursuant to the budget
15 during the period of financial emergency;

16 (c) to require and to approve or disapprove or to
17 amend or revise a plan of liquidating warrants for the
18 payment of current expenses;

19 (d) to require and prescribe the form of special
20 reports to be made by the finance administrator to the
21 governing body, the creditors, the agency, or the public;

22 (e) to have access to all records and books of account
23 and to require the attendance of witnesses and the
24 production of books, papers, contracts, and other documents
25 relevant to an analysis of the financial condition of the

1 local government;

2 (f) to approve or disapprove any appropriation,
3 contract, expenditure, loan, the creation of any new
4 position, or the filling of any vacancy in a permanent
5 position by the local government;

6 (g) to approve or disapprove payrolls or other claims
7 against the local government prior to payment;

8 (h) to act as an agent of the local government in
9 collective bargaining with employees or representatives and
10 to approve any agreement prior to its becoming effective;
11 (i) to appoint a local administrator of finance to
12 exercise the authority of the department of community
13 affairs with respect to the local government, and to perform
14 duties under the general supervision of the department of
15 community affairs;

16 (j) to employ or contract for, at the expense of the
17 local government, such auditors and other personnel as may
18 be necessary to carry out the provisions of [SB 11, SB 12,
19 SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, SB 20, SB
20 21, SB 22, and SB 23];

21 (k) to require compliance with orders of the
22 department of community affairs by court action if
23 necessary; and

24 (l) to provide a temporary cash loan or the guarantee
25 of a loan from private sources sufficient to the immediate

1 needs of the city.

2 (3) The declaration of a local financial emergency in
3 a local government shall be withdrawn and revoked if the
4 local government completes 1 fiscal year in which none of
5 the conditions enumerated in subsection (1) occurs.

6 (4) The department of community affairs shall
7 represent the interests of the state and all local
8 governments in any proceedings under the Federal Bankruptcy
9 Act which pertain to the financial distress of any local
10 government and is further authorized to perform any
11 administrative or supervisory function requested by the
12 court as part of, or pursuant to, such proceedings.

13 Section 104. Severability. If a part of this act is
14 invalid, all valid parts that are severable from the invalid
15 part remain in effect. If a part of this act is invalid in
16 one or more of its applications, the part remains in effect
17 in all valid applications that are severable from the
18 invalid applications.

19 Section 105. Effective date. This act is effective on
20 July 1, 1981.

-End-