

SENATE BILL 23

IN THE SENATE

January 3, 1979

Introduced and referred to
Committee on Local Government.

April 20, 1979

Died in Committee.

SENATE BILL NO. 23

INTRODUCED BY

Jergeson, Thatt

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND AMEND THE LAWS RELATING TO LOCAL GOVERNMENT FOR CONSISTENCY WITH SENATE BILLS 11 THROUGH 22 OF THE 46TH LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

NEW SECTION. Section 3. Transition. (1) This [act] shall not affect the validity of any bond, debt, contract, obligation, or cause of action accrued prior to [the effective date of this act]. The governing body may have the

power and duty to do all things required by prior law or by covenants and agreements entered into pursuant to such laws for the security of any such bond, debt, contract, or obligation.

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and interlocal agreements in effect [at the time this act becomes effective] shall continue in effect until repealed or amended in the manner provided by law.

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

(4) All local government officers and employees holding offices or positions, whether elective or appointive, on [the effective date of this act] shall continue in the performance of the duties of their

1 respective offices and positions until provision is made for
 2 the continued performance of the duties; the discontinuance
 3 of such duties; the discontinuance or combination of such
 4 office or position; the transfer of the officer or employee
 5 to another position; or the termination of employment of the
 6 employee.

7 NEW SECTION. Section 4. State technical advice and
 8 assistance. (1) All state agencies are authorized and
 9 encouraged to provide technical assistance to local
 10 governments.

11 (2) The technical assistance services shall not
 12 include those that can be as reasonably and expeditiously
 13 obtained through business channels.

14 (3) State agencies are encouraged to develop the
 15 capacity to provide technical advice and assistance without
 16 charge to local governments, but they are also encouraged to
 17 establish service charges for special or extraordinary
 18 technical advice.

19 (4) The department of community affairs shall
 20 coordinate technical advice and assistance provided to local
 21 governments by state agencies.

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

24 NEW SECTION. Section 5. Penalty. (1) The failure of
 25 an officer or employee to perform a duty imposed by law or

1 ordinance is of official misconduct as defined in 45-7-401 and
 2 may be punished as such.

3 (2) Where a local government is required by state law
 4 to provide information to a state agency and fails to
 5 provide the required information, the department of
 6 community affairs may issue an order stopping payment of any
 7 state financial aid to the local government. Upon provision
 8 of the information, all financial aid which was stopped
 9 because of failure to provide the information shall be paid
 10 to the local government.

11 NEW SECTION. Section 6. Public servants. All local
 12 government officers and employees are public servants for
 13 the purpose of determining the offense of obstructing a
 14 public servant as provided in 45-7-302.

15 NEW SECTION. Section 7. Local government legislation.
 16 All local government legislation shall be consistent with
 17 the organization and terminology of state law and retain the
 18 constitutional distinction between general government
 19 powers, self-government powers, and duties of all local
 20 governments as agents of the state.

21 NEW SECTION. Section 8. Joint procedures. If two or
 22 more local governments act jointly, they may jointly perform
 23 any procedures required by law or the governing body of a
 24 local government may delegate to another local government
 25 the responsibility for complying with administrative

1 procedures such as publication or mailing of notices, but
 2 any public hearing shall be conducted by the respective
 3 governing bodies in their own jurisdiction or jointly and
 4 any final action shall be taken by each local government
 5 individually.

6 NEW SECTION. Section 9. General definitions. In this
 7 [act], unless otherwise provided or the context requires a
 8 technical or other interpretation, the following definitions
 9 apply:

10 (1) "Appointing authority" means the chief executive
 11 or officer of the local government empowered by the plan of
 12 government to appoint or remove specified officers,
 13 employees, or board members of the local government.

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

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

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

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

1 (6) "Business" includes all kinds of vocations,
 2 occupations, professions, enterprises, establishments, and
 3 all other kinds of activities any of which are conducted for
 4 private profit or benefit, either directly or indirectly.

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

8 (8) "Chief executive" means the elected executive in a
 9 government adopting the commission-executive form, the
 10 manager in a government adopting the commission-manager
 11 form, the chairman in a government adopting the
 12 commission-chairman form, the town chairman in a government
 13 adopting the town meeting form, the commission acting as a
 14 body in a government adopting the commission form, or the
 15 officer or officers so designated in the charter in a
 16 government adopting a charter.

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

20 (10) "Clerk of the governing body" means the person
 21 appointed by the governing body to perform clerical and
 22 other assigned duties to assist the governing body.

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

25 (12) "Commissioner" means a member of the local

1 government governing body.

2 (13) "Confederation" means a form of local government
3 that provides for the distribution of the governmental
4 authority between a county and one or more of the
5 municipalities which are located within the county.

6 (14) "Consolidation" means the joinder of one or more
7 municipalities with one or more counties to form a single
8 local government that is both a municipality and a county
9 for all purposes.

10 (15) "Consolidation plan" means a certificate prepared
11 by a study commission that contains the plan for
12 consolidation of existing local governments.

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

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

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

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

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

25 (21) "Emergency" means an unexpected condition that

1 exists which imminently affects public health, welfare, and
2 safety.

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

5 (23) "Executive branch" means that part of the local
6 government, including departments, offices, and boards,
7 charged with implementing actions approved and administering
8 policies adopted by the governing body of the local
9 government or performing the duties required in [section 33
10 through section 92 of SB 21].

11 (24) "Extraterritorial area" refers to the area beyond
12 the municipal limits of an incorporated municipality bounded
13 by those limits and an imaginary line paralleling the
14 municipal limits at a distance of 5 miles within which the
15 incorporated municipality may provide specified services and
16 facilities and exercise designated regulatory powers.

17 (25) "Facility" means a building, property, physical
18 improvement or system, or structural device that facilitates
19 the delivery of a service.

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

22 (27) "Folio" means 100 words, counting every two
23 figures necessarily used as a word, or any portion of a
24 folio, when in the whole paper there is not a complete
25 folio; and when there is an excess over the last folio

1 exceeding one-half, it may be computed as a folio.

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

5 (29) "Franchise" means an exclusive public privilege or
6 right granted by a local government to an individual,
7 corporation, or any other public or private entity in the
8 manner prescribed by [section 61 of SB 12].

9 (30) "Governing body" means the commission or town
10 meeting legislative body established in the alternative form
11 of local government.

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

15 (32) "Jurisdictional area" refers, in the case of
16 municipalities, to the area within the municipal limits and
17 the extraterritorial area within which the municipality is
18 providing any service or facilities or exercising any
19 regulatory powers. In the case of counties, it refers to the
20 entire geographical area enclosed within the county
21 boundaries.

22 (33) "Law" means a statute enacted by the legislature
23 of Montana and approved and signed by the governor or a
24 statute adopted by the people of Montana through statutory
25 initiative procedures.

1 (34) "Local court" means a justice court, municipal
2 court, or small claims court.

3 (35) "Local government" means either a municipality, a
4 county, or a consolidated or confederated unit of
5 government.

6 (36) "Local improvement district" means an area within
7 a local government established as provided in [section 90 of
8 SB 12] with specific boundaries in which property is
9 specially assessed to pay for a specific capital improvement
10 benefiting the property assessed.

11 (37) "Lot" includes the word "parcel" or portion of a
12 lot or parcel.

13 (38) "May" confers a power.

14 (39) "Merger" means the joinder into a single unit of
15 two or more like units of local government. If two counties
16 merge, the resultant entity is a single county. If two
17 municipalities merge, the resultant entity is a
18 municipality.

19 (40) "Metropolitan service area", which may be
20 established by agreement of municipal and county governing
21 bodies as provided in [section 60 of SB 14], refers to the
22 jurisdictional area of a municipality and any area beyond
23 the extraterritorial area within which a municipality is
24 authorized to provide any service or exercise any regulatory
25 power.

1 (41) "Multicounty agency" means any organization
2 authorized by state law consisting of two or more counties
3 which is created or required to be created to provide and
4 coordinate services. Participating local governments may
5 provide funding or members to serve on a board, if there is
6 a board, or both.

7 (42) "Municipal limits" means the corporate boundary of
8 an incorporated municipality.

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

13 (44) "Office of the local government" means the
14 permanent location of the seat of government from which the
15 records administrator carries out his duties or the office
16 of the clerk of the governing body where one is appointed.

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

20 (46) "Ordinance" means an act adopted and approved by a
21 local government through the procedures in [section 56 of SB
22 12] and having effect only within the jurisdiction of the
23 local government.

24 (47) "Owner", "record owner", or "owner of record"
25 means owner of record or purchaser of records.

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

3 (49) "Person" means any individual, firm, partnership,
4 company, corporation, trust, trustee, assignee or other
5 representative, association, or other organized group.

6 (50) "Personal property" means tangible property other
7 than real property, such as merchandise and stock in trade,
8 machinery and equipment, furniture and fixtures, motor
9 vehicles and vehicles, boats, vessels, and aircraft.

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

17 (52) "Plat" means a graphical representation of a tract
18 of annexed land, a townsite, or a subdivision showing the
19 division of land into lots, parcels, blocks, trafficways,
20 and other divisions and dedications.

21 (53) "Political subdivision" refers to a local
22 government, authority, school district, or multicounty
23 agency.

24 (54) "Population" means the number of inhabitants as
25 determined by an official federal, state, or local census or

1 official population estimate approved by the department of
2 community affairs.

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

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

6 (57) "Prosecuting attorney" means the person designated
7 by each county governing body to perform the duties
8 described in [section 53 of SB 21].

9 (58) "Public agency" means a political subdivision,
10 Indian tribal council, state and federal department or
11 office, and the Dominion of Canada or any provincial
12 department or office or political subdivision thereof.

13 (59) "Public property" means any and all property owned
14 by a local government or held in the name of a local
15 government by any of the departments, boards, or authorities
16 of the local government.

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

25 (61) "Records administrator" means the person

1 designated by the governing body as the individual
2 responsible for keeping the records which [section 36
3 through section 43 of SB 21] requires be kept.

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

6 (63) "Resolution" means a statement of policy by the
7 governing body or an order by the governing body that a
8 specific action be taken.

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

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

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

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

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

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

25 (70) "Subordinate service district" means an area

1 within a local government, established as provided in
2 [section 81 of SB 12], with specific boundaries in which
3 certain services are carried out and in which taxes may be
4 levied to finance the service.

5 (71) "Tribal council" means the governing body of an
6 Indian reservation.

7 NEW SECTION Section 10. Administrative rules. The
8 governing body may by ordinance authorize the chief
9 executive to adopt administrative rules. All administrative
10 rules shall be entered in an administrative code that shall
11 be available in the office of the local government.

12 NEW SECTION Section 11. Publish notice. (1) Unless
13 otherwise specifically provided, when a local government is
14 required to publish notice, publications shall be in a
15 newspaper, except that in a municipality with a population
16 of 500 or less or in which no newspaper is published,
17 publication may be made by posting in three public places in
18 the municipality which have been designated by ordinance.

19 (2) The newspaper shall be:

20 (a) of general paid circulation with a second-class
21 mailing permit;

22 (b) published at least once a week;

23 (c) published in the county;

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

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

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

7 NEW SECTION Section 12. Notice. Unless otherwise
8 specifically provided, when notice of a hearing or other
9 official act is required, the following shall apply:

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

14 (2) The published notice shall contain:

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

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

18 (c) the address and telephone number of the person who
19 can be contacted for further information on the action to be
20 taken; and

21 (d) any other information required by the specific
22 section requiring notice.

23 (3) A published notice required by law may be
24 supplemented by a radio or television broadcast of the
25 notice in the manner prescribed in 20-3-105 through

1 20-3-107.

2 NEW SECTION. Section 13. Mail notice. (1) Unless
3 otherwise specifically provided, when a local government is
4 required to give notice of a hearing or other official act
5 by mail, the requirement may be met by:

6 (a) deposit of the notice properly addressed in the
7 United States mail with postage paid at the first-class
8 rate;

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

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

14 (2) The notice shall contain:

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

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

18 (c) the address and telephone number of the person who
19 can be contacted for further information on the action to be
20 taken; and

21 (d) any other information required by the specific
22 section requiring mail notice.

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

25 NEW SECTION. Section 14. Petition. (1) Whenever a

1 petition is authorized, unless the section authorizing the
2 petition establishes different criteria, it shall be valid
3 if it is signed by 15% of the electors of the local
4 government and meets the following requirements:

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

8 (b) each signature is followed by the printed name of
9 the signer, the address of the signer's place of residence,
10 and the date of the signing; and

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

14 (2) Unless otherwise provided, all petitions shall be
15 filed with the county elections administrator who shall
16 determine the sufficiency of the signatures. No petition
17 filed after the deadline for filing the petition, if any,
18 shall be considered.

19 (3) Within 10 working days of the date the petition
20 was filed, the county elections administrator shall
21 determine the adequacy of the petition.

22 (4) Inadequate petitions shall be returned but may be
23 amended or supplementary signatures may be obtained and the
24 petition may be refiled prior to the deadline for filing the
25 petition.

1 (5) Within 10 days of its second filing, the elections
2 administrator shall again determine the adequacy of the
3 petition. If it is still determined inadequate, it shall be
4 rejected without prejudice to the filing of a new petition
5 to the same effect.

6 (6) If a petition is determined adequate, the
7 elections administrator shall certify its adequacy and
8 submit it to the governing body without delay.

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

12 (8) The department of community affairs in cooperation
13 with the secretary of state shall prepare and provide each
14 county and municipality with:

15 (a) a standard petition form;

16 (b) sample petition forms for initiatives,
17 referendums, and recall elections; and

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

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

22 NEW SECTION. Section 15. Public hearing. (1) When
23 required, the governing body shall conduct public hearings
24 for the purpose of providing reasonable opportunity for
25 citizen participation prior to final decisions.

1 (2) At a minimum, a public hearing shall provide for
2 submission of both oral and written testimony for and
3 against the action or matter at issue. If the hearing is
4 not held before the ultimate decision makers, provision
5 shall be made for the transmittal of a summary or transcript
6 of the testimony received to the ultimate decision makers
7 prior to their determination.

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

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

14 (5) Hearings may be adjourned from day to day or to a
15 date certain.

16 (6) Except for budget hearings, the governing body or
17 boards may designate a subcommittee or hearings examiner to
18 conduct public hearings.

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

22 NEW SECTION. Section 16. Protest. (1) Whenever a
23 protest is authorized, it is sufficient if it is in writing,
24 signed, and contains the following:

25 (a) a description of the action protested sufficient

1 to identify the action against which the protest is lodged;

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

5 (c) the address of the person protesting.

6 (2) Protests shall be submitted as provided by law and
7 ordinance. The person receiving protests for a local
8 government shall note on each protest the date it was
9 received.

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

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

16 (5) Signers are encouraged to print their names after
17 their signatures.

18 NEW SECTION. Section 17. Signatures. (1) The
19 signatures and addresses on petitions shall be the same as
20 the signatures and addresses on voter registration cards
21 and, if not registered or if not required by law to be an
22 elector, their common signature.

23 (2) The signatures on protests and waivers shall be
24 the accepted common signatures.

25 NEW SECTION. Section 18. Rights on behalf of

1 government or corporation. The chief executive of a local
2 government or political subdivision of the state, the
3 responsible agent of a federal or state agency, or the chief
4 executive officer of a corporation may exercise the right of
5 petition, protests or voting on behalf of property owned by
6 the government or corporation.

7 NEW SECTION. Section 19. Posting. (1) The governing
8 body shall specify by resolution a public location for
9 posting information and shall order erected a suitable
10 posting board.

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

14 NEW SECTION. Section 20. Oaths and marriages. The
15 chief executive, chairman of the legislative body, municipal
16 judges, justices of the peace, and judges of small claims
17 court may administer oaths and solemnize marriages. The
18 clerk of the district court and all elected local government
19 officers, except members of the governing body, may
20 administer oaths.

21 NEW SECTION. Section 21. Oath of office. Every
22 elected local government official shall take the oath of
23 office prescribed in Article III, section 4, of the Montana
24 constitution. The oath of office, certified by the official
25 before whom the same was taken, shall be filed with the

1 election administrator before the officer exercises any
2 official duties.

3 ~~NEW SECTION.~~ Section 22. Waiver of mail notice or
4 protest. (1) If all persons entitled to mail notice waive in
5 writing the mail notice requirement, the governing body may
6 proceed without the required mail notice.

7 (2) If all persons entitled to protest an action waive
8 in writing their right to protest, the governing body may
9 proceed without publishing notice or meeting other
10 requirements designed to permit protests to be filed.

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

13 (a) a description of the mailed notice or protest
14 right waived;

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

17 (c) the address of the person;

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

21 (4) Waivers shall be submitted as provided by law and
22 ordinance. The person receiving waivers for a local
23 government shall note on each waiver the date it was
24 received.

25 (5) A waiver which contains the required information

1 may be signed by more than one person. A waiver signed by
2 more than one person is a valid waiver by each signer.

3 (6) Signers are encouraged to print their names after
4 their signatures.

5 ~~NEW SECTION.~~ Section 23. Government in emergencies.

6 (1) In the event that no members of a county governing body
7 are available during or following an enemy attack or natural
8 disaster, the district judge or judges of the judicial
9 district in which the county is located shall appoint
10 successors to act in place of the unavailable members. If
11 the judge or judges of the judicial district in which the
12 vacancy occurs are not available to make the appointment, a
13 district judge of any other judicial district may make such
14 appointment; however, of the available judges in the state
15 of Montana, that judge who holds court in the county seat
16 closest to the county seat where the vacancy occurs shall be
17 responsible for making the appointment to fill the vacancy.

18 (2) In the event that no members of a municipal
19 governing body are available following an enemy attack or
20 natural disaster, the county governing body of the county in
21 which the municipality is located shall appoint successors
22 to act in place of the unavailable members.

23 (3) In the event that the chief executive of a local
24 government is unavailable to exercise the powers and
25 discharge the duties of his office following an enemy attack

1 or natural disaster, the members of that local government's
2 governing body available shall by majority vote choose a
3 successor to act as chief executive of the local government.

4 (4) Following an enemy attack or natural disaster in
5 which the seat of local government, in the opinion of the
6 governing body of that local government, is rendered
7 unsuitable for use in that capacity, the seat of government
8 may be moved by the governing body to another location which
9 it considers most suitable.

10 (5) If following an enemy attack or natural disaster
11 any local government governing body or board is unable to
12 assemble a quorum as defined by law or ordinance, those
13 members of the governing body available for duty shall
14 constitute a quorum. The quorum requirements shall be
15 suspended, and where the affirmative vote of a specified
16 proportion of members for the approval of any action would
17 otherwise be required, the same proportion of those voting
18 thereon shall be sufficient.

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

22 NEW SECTION. Section 24. Facsimile signature. Any
23 officer or employee may use a facsimile signature or seal as
24 provided in Title 2, chapter 16.

25 NEW SECTION. Section 25. Pardons. The chief executive

1 or the chairman of the governing body, if there is no
2 elected chief executive, may grant pardons and remit fines
3 and forfeitures for offenses against local government
4 ordinances when, in the chief executive's or chairman's
5 judgment, public justice would be thereby served; but the
6 chief executive or chairman must report all pardons granted,
7 with the reasons therefor, to the next session of the
8 governing body.

9 NEW SECTION. Section 26. Public meeting required. (1)
10 All meetings of local government governing bodies, boards,
11 authorities, committees, or other entities created by or
12 subordinate to a local government shall be open to the
13 public except as provided in 2-3-203.

14 (2) Appropriate minutes shall be kept of all public
15 meetings and shall be made available upon request to the
16 public for inspection and copying.

17 NEW SECTION. Section 27. Public participation. Each
18 local government governing body, committee, board,
19 authority, or entity, in accordance with Article II, section
20 8, of the 1972 Montana constitution and Title 2, chapter 3,
21 shall develop procedures for permitting and encouraging the
22 public to participate in decisions that are of significant
23 interest to the public.

24 NEW SECTION. Section 28. Participation. In any
25 meeting required to be open to the public, the governing

1 body, committee, board, authority, or entity shall adopt
2 rules for conducting the meeting affording citizens a
3 reasonable opportunity to participate prior to the final
4 decision.

5 NEW SECTION. Section 29. Public records. (1) Except
6 as provided in subsection (2), all records and other written
7 materials in the possession of a local government shall be
8 available for inspection and reproduction by any person
9 during normal office hours. The governing body may impose
10 reasonable fees for providing copies of public records.

11 (2) Personal records, medical records, and other
12 records which relate to matters in which the right to
13 individual privacy exceeds the merits of public disclosure
14 shall not be available to the public, unless the person they
15 concern requests they be made public.

16 (3) Except as provided by law and as determined by the
17 chief law enforcement administrator, law enforcement records
18 which relate to matters in which the right to individual
19 privacy or law enforcement security exceeds the merits of
20 public disclosure shall not be available to the public.

21 (4) In case of attachment, the clerk of the court with
22 whom the complaint is filed must not make public the fact of
23 the filing of the complaint or the issue of such attachment
24 until after the filing or return of service of the
25 attachment.

1 (5) No files in the office of the clerk of the
2 district court relating to the adoption of children shall be
3 open to examination or inspection by any person unless the
4 person desiring to examine or inspect any such file shall
5 first obtain written permission from the district judge, and
6 no district judge shall grant any applicant permission to
7 examine or inspect any such file in the office of clerk of
8 district court unless such applicant shall set forth in his
9 application good and sufficient cause for such examination
10 or inspection.

11 NEW SECTION. Section 30. Destruction of old records.
12 (1) The governing body may by ordinance establish a
13 procedure for routine destruction of old worthless reports,
14 papers, or records that have served their purpose or are
15 substantiated by permanent records. The ordinance is subject
16 to the approval of the department of community affairs and
17 the historical society.

18 (2) Termination statements filed under the Uniform
19 Commercial Code--Secured Transactions shall be retained by
20 the records administrator for a period of 8 years after
21 receipt, after which they may be destroyed. Financing
22 statements, continuation statements, statements of
23 assignment, and statements of release, the filing of which
24 is authorized by the Uniform Commercial Code--Secured
25 Transactions and as to which no termination statement has

1 been filed, shall be retained by the filing officer for a
2 period of 8 years after lapse of the original financing
3 statement or of the latest continuation statement, whichever
4 is later. At the expiration of this period all such
5 statements may be destroyed.

6 (3) Court records may be destroyed by order of the
7 district court only when the records have been reproduced.
8 The reproduction, identification, admissibility, and use of
9 the reproductions shall be in accordance with Title 3,
10 chapter 2.

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

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

17 NEW SECTION. Section 31. State reports. (1) Local
18 government governing bodies, chief executives, officers,
19 employees, departments, boards, and authorities shall file
20 with state agencies in a timely fashion all reports and
21 information required by state law.

22 (2) The department of community affairs shall
23 coordinate to the greatest extent possible the collection of
24 data by state and federal agencies in order to minimize the
25 requests of local governments and to maximize access to

1 information collected on local governments.

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

5 NEW SECTION. Section 32. Reports of departments,
6 boards, and authorities. (1) All departments, boards, and
7 authorities shall file an annual report with the chief
8 executive who shall compile the reports and present them to
9 the governing body.

10 (2) The chief executive may specify the form, content,
11 and deadline for filing reports.

12 Section 33. Section 2-2-201, MCA, is amended to read:
13 "2-2-201. Public officers and employees not to have
14 interest in contracts. Members ~~no member~~ of the legislature
15 ~~and no state--county--city--town or township local~~
16 ~~government~~ officers or any deputy or employee thereof ~~must~~
17 ~~not be interested may have an interest~~ in any contract made
18 by them in their official capacity or by any body, agency,
19 or board of which they are members or employees. In this
20 section the term:

21 (1) "be--interested ~~have an interest~~ in" does not
22 include holding a minority interest in a corporation;

23 (2) "contract" does not include:

24 (a) contracts awarded to the lowest responsible bidder
25 based on competitive bidding procedures;

1 (b) merchandise sold to the highest bidder at public
2 auctions;

3 (c) investments or deposits in financial institutions
4 which are in the business of loaning or receiving money; or

5 (d) contracts for professional services."

6 Section 34. Section 2-2-202, MCA, is amended to read:

7 "2-2-202. Public officers not to have interest in
8 sales or purchases. State~~y~~-count~~y~~-town~~y~~-township~~y~~ and city
9 local government officers ~~must~~ and employees may not be
10 purchasers at any sale or vendors at any purchase made by
11 them in their official capacity."

12 Section 35. Section 2-2-204, MCA, is amended to read:

13 "2-2-204. Dealings in warrants and other claims
14 prohibited. The state officers~~y~~-the~~--several--~~count~~y~~-city~~y~~
15 ~~towny~~ and township local government officers of this state
16 and their deputies and clerks~~y~~ are prohibited from
17 purchasing or selling or in any manner receiving to their
18 own use or benefit or to the use or benefit of any person or
19 persons whatever any state~~y~~-count~~y~~ or city local government
20 warrants, scrip, orders, demands, claims, or other evidences
21 of indebtedness against the state or ~~any~~-count~~y~~-city~~y~~-town~~y~~
22 ~~or township thereof~~ local government except evidences of
23 indebtedness issued to or held by them for services rendered
24 as such officer, deputy, or clerk~~y~~ and evidences of the
25 funded indebtedness of such state, count~~y~~-city~~y~~-township~~y~~

1 town local government, or corporation."

2 Section 36. Section 2-2-206, MCA, is amended to read:

3 "2-2-206. Officers not to pay illegal warrant.
4 Officers charged with the disbursement of public moneys must
5 not pay any warrant or other evidence of indebtedness
6 against the ~~state-county-city--towny~~ or township local
7 government when the same has been purchased, sold, received,
8 or transferred contrary to any of the provisions of this
9 part."

10 Section 37. Section 2-2-207, MCA, is amended to read:

11 "2-2-207. Settlements to be withheld on affidavit. (1)
12 Every officer charged with the disbursement of public moneys
13 who is informed by affidavit establishing probable cause
14 that any officer whose account is about to be settled,
15 audited, or paid by him has violated any of the provisions
16 of this part must suspend such settlement or payment and
17 cause such officer to be prosecuted for such violation by
18 the ~~county-attorney~~ public prosecutor of the county.

19 (2) In case there be judgment for the defendant upon
20 such prosecution, the proper officer may proceed to settle,
21 audit, or pay such account as if no such affidavit had been
22 filed."

23 Section 38. Section 2-6-104, MCA, is amended to read:

24 "2-6-104. Records of officers open to public
25 inspection. Except as provided in 40-8-126 and 27-18-111,

1 the public records and other matters in the office of any
2 state officer are at all times during office hours open to
3 the inspection of any person."

4 Section 39. Section 2-6-306, MCA, is amended to read:
5 "2-6-306. Attachment and warrant to enforce. The
6 execution of the order and delivery of the books and papers
7 may be enforced by attachment as for a witness and also, at
8 the request of the plaintiff, by a warrant directed to the
9 ~~sheriff or a constable~~ chief law enforcement administrator
10 of the county, commanding him to search for such books and
11 papers and to take and deliver them to the plaintiff."

12 Section 40. Section 2-15-501, MCA, is amended to read:
13 "2-15-501. General duties. It is the duty of the
14 attorney general:

15 (1) to attend the supreme court and prosecute or
16 defend all causes to which the state or any officer thereof
17 in his official capacity is a party and all causes to which
18 any county may be a party unless the interest of the county
19 is adverse to the state or some officer thereof acting in
20 his official capacity;

21 (2) after judgment in any of the causes referred to in
22 the preceding subsection, to direct the issuing of such
23 process as may be necessary to carry the same into
24 execution;

25 (3) to account for and pay over to the proper officer

1 all moneys which may come into his possession belonging to
2 the state or to any county;

3 (4) to keep a register of all cases in which he is
4 required to appear, which must during business hours be open
5 to the inspection of the public. The register must show the
6 county, district, and court in which the cases have been
7 instituted and tried and whether they are civil or criminal.
8 If civil, the register must show the nature of the demand,
9 the stage of proceedings and, when prosecuted to judgment, a
10 memorandum of the judgment, of any process issued thereon,
11 and whether satisfied or not. If not satisfied, the register
12 must show the return of the sheriff. If criminal, the
13 register must show the nature of the crime, the mode of
14 prosecution, the stage of proceedings and, when prosecuted
15 to sentence, a memorandum of the sentence and of the
16 execution thereof, if the same has been executed, and if not
17 executed, of the reason of the delay or prevention. The
18 attorney general must deliver the same to his successor in
19 office.

20 (5) to exercise supervisory powers over county
21 attorneys in all matters pertaining to the duties of their
22 offices and from time to time require of them reports as to
23 the condition of public business entrusted to their charge;
24 ~~The supervisory powers granted to the attorney general by~~
25 ~~this subsection include the power to order and direct county~~

~~attorneys in all matters pertaining to the duties of their offices--The county attorney must, when ordered or directed by the attorney general, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceedings~~

(6) when required by the public service or directed by the governor, to assist the county attorney of any county in the discharge of his duties;

(7) to give his opinion in writing, without fee, to the legislature or either house thereof, to any state officer, board, or commission, to any county attorney, to the city attorney of any city or town, and to the board of county commissioners of any county of the state when required upon any question of law relating to their respective offices. He shall give any such opinion within 3 months following the date it is requested unless he certifies in writing to the requesting party that the question is of sufficient complexity to require additional time. If an opinion issued by the attorney general conflicts with an opinion issued by a city attorney, county attorney, or an attorney employed or retained by any state officer, board, commission, or department, the attorney general's opinion shall be controlling unless overruled by a state district court or the supreme court.

(8) to bid upon and purchase in the name of the state and under the direction of the board of investments any property offered for sale under execution issued upon judgments in favor of or for the use of the state and to enter satisfaction, in whole or in part, of such judgments as the consideration for such purchases;

(9) whenever the property of a judgment debtor in any judgment mentioned in the preceding subsection has been sold under a prior judgment or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, under the direction of the board of investments, to redeem such property from such prior judgment, lien, or encumbrance. All sums of money necessary for such redemption must be paid out of any money appropriated for such purposes.

(10) when in his opinion it is necessary for the collection or enforcement of any judgment hereinbefore mentioned, to institute and prosecute, in behalf of the state, such suits or other proceedings as are necessary to set aside and annul all conveyances fraudulently made by such judgment debtors, the cost necessary to the prosecution must be paid out of any appropriations for the prosecution of delinquents;

(11) to discharge the duties of a member of the board of examiners and state board of land commissioners and other

1 duties prescribed by law;

2 (12) to report to the governor, at the time prescribed
3 by 2-7-102, the condition of the affairs of his department,
4 and to accompany the same with a copy of his docket and of
5 the reports received by him from county attorneys;

6 (13) to prescribe the form of blanks to be used by the
7 clerks of the district courts in issuing commitments to the
8 several state institutions, admission to which requires a
9 court commitment."

10 Section 41. Section 2-16-117, MCA, is amended to read:

11 "2-16-117. Office hours. Unless otherwise provided by
12 law, every state officer must keep his office open for the
13 transaction of business continuously from 8 a.m. until 5
14 p.m. each day except upon Saturdays and holidays. Every
15 officer shall keep his office open at such other times as
16 the accommodation of the public or the proper transaction of
17 business requires, excepting the state treasurer, who in his
18 discretion may, in the interest of the safekeeping of funds,
19 securities, and records under his control, close his office
20 during the period from ~~12~~ noon to 1 p.m. every day."

21 Section 42. Section 2-16-502, MCA, is amended to read:

22 "2-16-502. Resignations. Resignations must be in
23 writing and made as follows:

24 (1) by the governor and lieutenant governor, to the
25 legislature if it is in session and, if not, then to the

1 secretary of state;

2 (2) by all officers commissioned by the governor, to
3 the governor;

4 (3) by senators and members of the house of
5 representatives, if the legislature is not in session, to
6 the governor and, if it is in session, to the presiding
7 officer of the branch to which the member belongs, who must
8 immediately transmit the same to the governor;

9 ~~(4) by all county and township officers not~~
10 ~~commissioned by the governor, to the clerk of the board of~~
11 ~~commissioners of their respective counties;~~

12 (5)(4) by all other appointed officers, to the body or
13 officer that appointed them;

14 (6)(5) in all cases not otherwise provided for, by
15 filing the resignation in the office of the secretary of
16 state."

17 Section 43. Section 2-16-506, MCA, is amended to read:

18 "2-16-506. Filling vacancies -- recess appointments.

19 (1) When any state office becomes vacant and no mode is
20 provided by law for filling the vacancy, the governor shall
21 fill the vacancy by appointing a qualified person to fill
22 the unexpired term of the person whose office became vacant.

23 (2) If the legislature or one house of the legislature
24 must confirm an appointment of a person appointed by the
25 governor to fill a vacancy, the governor may appoint the

1 person to assume office before the legislature meets in its
 2 next regular session to consider the appointment. A person
 3 so appointed is vested with all the functions of the office
 4 upon assuming the office and is a de jure officer,
 5 notwithstanding the fact that the legislature has not yet
 6 confirmed the appointment. If the legislature does not
 7 confirm the appointment, the governor shall make a new
 8 appointment to fill the unexpired term."

9 Section 44. Section 2-16-507, MCA, is amended to read:
 10 "2-16-507. Powers and duties of officer filling
 11 unexpired term. Any person elected or appointed to fill a
 12 vacancy in a state office, after filing his official oath
 13 and bond, possesses all the rights and powers and is subject
 14 to all the liabilities, duties, and obligations as if he had
 15 been elected to the office for a full term."

16 Section 45. Section 2-18-501, MCA, is amended to read:
 17 "2-18-501. Meals, lodging, and transportation of
 18 persons in state service. Every elected state official,
 19 appointed members of boards, commissions, councils,
 20 department directors, and all other state employees shall be
 21 reimbursed for meals and lodging while away from the
 22 person's designated headquarters and engaged in official
 23 state business in accordance with the following provisions:

24 (1) For travel within the state of Montana, the
 25 following provisions apply:

1 (a) The governor shall be authorized actual and
 2 necessary expenses not to exceed \$40 per day.

3 (b) All other elected state officials, appointed
 4 members of boards, commissions, councils, department
 5 directors, and all other state employees shall be authorized
 6 the actual cost of lodging not exceeding \$18 per day plus \$2
 7 for the morning meal, \$3 for the midday meal, and \$5 for the
 8 evening meal. All claims for lodging expense reimbursement
 9 allowed under this section must be documented by an
 10 appropriate receipt.

11 (2) For travel out of the state of Montana, the
 12 following provisions apply:

13 (a) The governor shall be authorized actual and
 14 necessary travel expenses not to exceed \$70 per day.

15 (b) All other elected state officials, appointed
 16 members of boards, commissions, councils, department
 17 directors, and all other state employees shall be authorized
 18 the actual cost of lodging not exceeding \$37 per day plus \$3
 19 for the morning meal, \$4 for the midday meal, and \$6 for the
 20 evening meal. All claims for the lodging expense
 21 reimbursement allowed under this subsection must be
 22 documented by an appropriate receipt.

23 (3) When other than commercial, nonreceiptable lodging
 24 facilities are utilized by a state employee while conducting
 25 official state business in a travel status, the amount of \$7

1 will be authorized for lodging expenses for each day in
 2 which travel involves an overnight stay in lieu of the
 3 amount authorized in subsection (1)(b) or (2)(b) above.
 4 However, when overnight accommodations are provided at the
 5 expense of any government entity, no reimbursement may be
 6 claimed for lodging.

7 (4) The actual cost of reasonable transportation
 8 expenses and other necessary business expenses incurred by a
 9 state official or employee while in an official travel
 10 status shall be subject to reimbursement.

11 (5) The provisions of this section shall not be
 12 construed as affecting the validity of 5-2-301.

13 (6) The department of administration shall prescribe
 14 rules necessary to effectively administer this section for
 15 state government.

16 (7) All commercial air travel shall be by the least
 17 expensive class service available."

18 Section 46. Section 2-18-502, MCA, is amended to read:

19 "2-18-502. Computation of meal allowance. (1) To be
 20 eligible for the meal allowance provided in 2-18-501, an a
 21 state employee must have been in a travel status for more
 22 than 3 continuous hours. If eligible, an a state employee
 23 receives:

24 (a) the morning meal allowance if in a travel status
 25 between the hours of 12:01 a.m. and 10 a.m.;

1 (b) the midday meal allowance if in a travel status
 2 between the hours of 10:01 a.m. and 3 p.m.; and

3 (c) the evening meal allowance if in a travel status
 4 between the hours of 3:01 p.m. and 12 midnight;

5 (d) only one of the three meal allowances provided, if
 6 the travel was performed within the employee's assigned
 7 travel shift;

8 (e) a maximum of two meal allowances if the travel
 9 begins before or was completed after the employee's assigned
 10 travel shift and the travel did not exceed 24 hours.

11 (2) "Travel shift" is that period of time beginning 1
 12 hour before and terminating 1 hour after the employee's
 13 normally assigned work shift.

14 (3) The department of administration shall prescribe
 15 rules necessary to effectively administer this section for
 16 state government."

17 Section 47. Section 2-18-503, MCA, is amended to read:

18 "2-18-503. Mileage -- allowance. (1) Members of the
 19 legislature, state officers and employees, jurors,
 20 witnesses, county-agents, and all other persons who may be
 21 entitled to mileage paid from public funds, when using their
 22 own automobiles in the performance of official duties, are
 23 entitled to collect mileage for the distance actually
 24 traveled by automobile and no more unless otherwise
 25 specifically provided by law.

1 (2) When the individual is authorized to operate a
2 privately owned vehicle even though a government-owned or
3 leased vehicle is available, a rate of 3 cents less per mile
4 than the mileage rate allowed by the United States internal
5 revenue service for the preceding year shall be paid.

6 (3) When a privately owned vehicle is used because a
7 government-owned or leased vehicle is not available or
8 because such use is in the best interest of the governmental
9 entity, a rate equal to the mileage allotment allowed by
10 the United States internal revenue service for the preceding
11 year shall be paid for the first 1,000 miles and 3 cents per
12 mile less for all miles thereafter traveled within a given
13 calendar month.

14 (4) Members of the legislature, state officers and
15 employees, jurors, witnesses, county-agents and all other
16 persons who may be entitled to mileage paid from public
17 funds, when using their own airplanes in the performance of
18 official duties, are entitled to collect mileage for the
19 distance actually traveled at a rate of 20 cents per statute
20 mile and no more unless specifically provided by law.

21 (5) This section does not alter 5-2-301.

22 (6) The department of administration shall prescribe
23 rules necessary for the effective administration of this
24 section for state government."

25 Section 48. Section 2-18-511, MCA, is amended to read:

1 "2-18-511 Claim for expenses. ~~Every such person so~~
2 ~~engaged The governor, all other elected state officials,~~
3 ~~appointed members of boards, commissions, or councils,~~
4 ~~department directors, and all other state employees~~ shall
5 periodically submit a claim containing a schedule of
6 expenses and amounts claimed for said period. ~~Said the~~
7 schedule shall show in what capacity such person was engaged
8 each day while away from the department in which ~~said the~~
9 daily duties arose and shall show expense items of each day
10 in detail, such as the amount of per diem allowance claimed,
11 transportation fare, mileage, and other such items."

12 Section 49. Section 2-18-702, MCA, is amended to read:

13 "2-18-702. Group insurance for public employees and
14 officers. (1) All departments, bureaus, boards, commissions,
15 and agencies of the state ~~and all counties, cities, and~~
16 ~~towns~~ shall upon approval by two-thirds vote of the officers
17 and employees of each such department, bureau, board,
18 commission, ~~and agency, county, city, and town~~ enter into
19 group hospitalization, medical, health, including long-term
20 disability, accident, and/or group life insurance contracts
21 or plans for the benefit of their officers, employees, and
22 their dependents.

23 (2) The premiums required from time to time to
24 maintain such insurance in force shall be paid by the
25 insured officers and employees, and the auditor shall deduct

1 said premiums from the salary or wages of each officer or
2 employee who elects to become insured, on the officer or
3 employee's written order, and issue his warrant therefor to
4 the insurer.

5 (3) For the purpose of [40-3905.1, R.C.M. 1947], the
6 plans of health service corporations for defraying or
7 assuming the cost of professional services of licentiates in
8 the field of health, or the services of hospitals, clinics
9 or sanitariums, or both professional and hospital services,
10 shall be construed as group insurance, and the dues payable
11 under such plans shall be construed as premiums therefor."

12 Section 50. Section 2-18-703, MCA, is amended to read:

13 "2-18-703. Contributions. The respective
14 administrative ~~and-governing~~ bodies shall contribute the
15 amount specified in this section towards the insurance
16 premium:

17 (1) For employees defined in 2-18-701 other than
18 members of collective bargaining units, and for members of
19 the legislature, the employer contribution for insurance
20 shall be \$240 per year for the fiscal year ending June 30,
21 1978, and \$360 per year for each fiscal year thereafter. The
22 employer shall prorate this amount for employees who work
23 less than 2,080 hours per year.

24 (2) For state employee members of a collective
25 bargaining unit, the employer shall pay the amount

1 negotiated with the collective bargaining unit.

2 (3) For employees of elementary and high school
3 districts ~~and-of-local-government-units~~, the employer's
4 premium contributions may exceed but shall not be less than
5 \$10 per month."

6 Section 51. Section 3-5-504, MCA, is amended to read:

7 "3-5-504. Register of actions. The clerk must keep
8 among the records of the court a register of actions. He
9 must enter therein the title of the action with brief notes
10 under it, from time to time, of all papers filed and
11 proceedings had therein. ~~The register must also state the~~
12 ~~names of the attorneys and all fees charged in each action."~~

13 Section 52. Section 3-5-510, MCA, is amended to read:

14 "3-5-510. Duties relating to jurors and witnesses. The
15 clerk of the district court shall:

16 ~~(1) keep a book called "Book of Jurors' Certificates" which~~
17 ~~must contain the blank certificates and stubs to be~~
18 ~~filled as provided in 3-15-204;~~

19 ~~(2) keep a "Witness Book" which must contain blank~~
20 ~~certificates and stubs to be filled as provided in 3-5-511;~~

21 ~~(3) keep a record of the attendance of all jurors and~~
22 ~~witnesses in criminal actions and compute the amount due~~
23 ~~them for mileage (the distance from any point to the county~~
24 ~~seat must be determined by the shortest traveled route)."~~

25 Section 53. Section 7-1-101, MCA, is amended to read:

1 "7-1-101. Self-government powers. As provided by
2 Article XI, section 6, of the Montana constitution, a local
3 government unit with self-government powers may exercise any
4 power not prohibited by the constitution, law, or charter.
5 These powers include but are not limited to the powers
6 granted to general power governments by [section 33 through
7 section 37 of SB 14]."

8 Section 54. Section 7-1-102, MCA, is amended to read:

9 "7-1-102. Authorization for self-government services
10 and functions. A local government with self-government
11 powers may provide any services or perform any functions not
12 expressly prohibited by the Montana constitution, state law,
13 or its charter. These services and functions include but
14 are not limited to those services and functions which
15 general power government units are authorized to provide or
16 perform by [SB 14, SB 15, SB 16, SB 17, SB 18, SB 19, or SB
17 20]."

18 Section 55. Section 7-1-112, MCA, is amended to read:

19 "7-1-112. Powers requiring delegation. A local
20 government with self-government powers is prohibited the
21 exercise of the following powers unless the power is
22 specifically delegated by law:

23 (1) the power to authorize a tax on income or the sale
24 of goods or services, except that this section shall not be
25 construed to limit the authority of a local government to

1 levy any other tax or establish the rate of any other tax;

2 (2) the power to regulate private activity beyond its
3 geographic limits;

4 (3) the power to impose a duty on another unit of
5 local government, except that nothing in this limitation
6 shall affect the right of a self-government unit to enter
7 into and enforce an agreement on interlocal cooperation;

8 (4) the power to exercise any judicial function,
9 except as an incident to the exercise of an independent
10 self-government administrative power;

11 (5) the power to regulate any form of gambling,
12 lotteries, or gift enterprises;

13 (6) the power to acquire, open, vacate, or change the
14 grade of trafficways;

15 (7) the power to create authorities."

16 Section 56. Section 7-1-113, MCA, is amended to read:

17 "7-1-113. Consistency with state regulation required.

18 (1) A local government with self-government powers is
19 prohibited the exercise of any power in a manner
20 inconsistent with state law or administrative regulation in
21 any area affirmatively subjected by law to state regulation
22 or control.

23 (2) The exercise of a power is inconsistent with state
24 law or regulation if it establishes standards or
25 requirements which are lower or less stringent than those

1 imposed by state law or regulation.

2 (3) An area is affirmatively subjected to state
3 control if a state agency or officer is directed by law to
4 establish administrative rules governing the matter or if
5 enforcement of standards or requirements established by
6 statute is vested in a state officer or agency."

7 Section 57. Section 7-1-114, MCA, is amended to read:

8 "7-1-114. Mandatory provisions. (1) A local government
9 with self-government powers is subject to the following
10 provisions:

11 ~~(a) All state laws providing for the incorporation or~~
12 ~~disincorporation of cities and towns; for the annexation~~
13 ~~disannexation or exclusion of territory from a city or~~
14 ~~town; for the creation, abandonment, or boundary alteration~~
15 ~~of counties; and for city-county consolidation;~~

16 ~~(b) Sections 7-3-104, 7-3-105, 7-3-111 through~~
17 ~~7-3-114, and 7-3-1101 through 7-3-1105;~~

18 ~~(c) All laws establishing legislative procedures or~~
19 ~~requirements for units of local government;~~

20 ~~(d) All laws regulating the election of local~~
21 ~~officials;~~

22 (a) [section 1 through section 8 of SB 23] -- general
23 provisions;

24 (b) [section 9 of SB 23] -- definitions and
25 construction;

1 ~~(c) [section 10 through section 26 of SB 23] --~~
2 ~~provisions common to all forms of local government;~~

3 ~~(d) [section 33 through section 75 of SB 11] -- local~~
4 ~~government formation;~~

5 ~~(e) [section 33 through section 49 of SB 12] --~~
6 ~~reviews, amendments, and adoption of local government forms;~~

7 ~~(f) [section 50 through section 63 of SB 12] --~~
8 ~~legislative organization and procedure;~~

9 ~~(g) [section 100 through section 117 of SB 12] --~~
10 ~~elections;~~

11 ~~(h) [section 48 through section 63 of SB 12] --~~
12 ~~establishment and allocation of services;~~

13 ~~(e)(i) All laws which require or regulate land-use~~
14 ~~planning, or zoning, or subdivision of land;~~

15 ~~(f) Any law directing or requiring a local government~~
16 ~~or any officer or employee of a local government to carry~~
17 ~~out any function or provide any service;~~

18 ~~(g) Any law regulating the budget, finances, or~~
19 ~~borrowing procedures and powers of local governments, except~~
20 ~~that the mill-levy limits established by state law shall not~~
21 ~~apply;~~

22 ~~(j) [section 33 through section 92 of SB 21] -- duties~~
23 ~~of local governments as agents of the state;~~

24 ~~(k) [section 33 through section 40 of SB 22] --~~
25 ~~general provisions; [section 41 through section 56 of SB 22]~~

1 ~~-- budget and appropriation: [section 57 through section 72~~
 2 ~~of SB 22] -- local government financial administration:~~
 3 ~~[section 81 through section 102 of SB 22] -- debt~~
 4 ~~management: [section 103 through section 105 of SB 22] --~~
 5 ~~fiscal emergencies:~~

6 ~~(h)(1) Title 70, chapters 30 and 31v -- eminent~~
 7 ~~domain:~~

8 ~~(m) [section 45 of SB 20] -- trafficway record system;~~

9 ~~(n) [section 33 through section 67 of SB 15] -- the~~
 10 ~~power to manage agricultural and other pests;~~

11 ~~(o) [section 40 of SB 18] -- establishing minimum~~
 12 ~~physical and age requirements for firefighters; [section 61~~

13 ~~of SB 18] -- establishing minimum physical and age~~
 14 ~~requirements for law enforcement officers;~~

15 ~~(p) [section 37 of SB 13] -- hours of labor;~~

16 (2) These provisions are a prohibition on the
 17 self-government unit acting other than as provided."

18 Section 58. Section 7-3-416, MCA, is amended to read:

19 "7-3-416. Terms of commission members. (1) Commission
 20 members shall be elected for:

21 (1)(a) concurrent terms of office; or

22 (1)(b) overlapping terms of office.

23 (2) The term of office of commission members may not
 24 exceed 4 years."

25 Section 59. Section 7-3-418, MCA, is amended to read:

1 "7-3-418. Terms of elected officials. The term of
 2 office of elected officials may not exceed 4 years, ~~except~~
 3 ~~the term of office for commissioners in counties adopting~~
 4 ~~the form authorized by Article XI, section 3(2), of the~~
 5 ~~Montana constitution may not exceed 6 years. Terms of office~~
 6 shall be established when the form is adopted by the
 7 voters."

8 Section 60. Section 7-3-709, MCA, is amended to read:

9 "7-3-709. Amendment of charter. A charter may be
 10 amended only as provided by state law or charter."

11 Section 61. Section 7-4-101, MCA, is amended to read:

12 "7-4-101. Filing of oath of office. Every oath of
 13 office, certified by the officer before whom the same was
 14 taken, must be filed within the time required by law, except
 15 when otherwise specially provided ~~as follows:~~

16 ~~(1) in the office of the secretary of state for the~~
 17 ~~oath of all officers whose authority is not limited to any~~
 18 ~~particular county must be filed in the office of the~~
 19 ~~secretary of state;~~

20 ~~(2) in the office of the clerk of the respective~~
 21 ~~county for all elected or appointed officers for any county~~
 22 ~~all officers whose duties are local or whose residence in~~
 23 ~~any particular county is prescribed by law and the clerks~~
 24 ~~of the district courts."~~

25 Section 62. Section 7-4-2210, MCA, is amended to read:

1 "7-4-2210. Restriction on practice of law by
2 activities of certain officers. ~~(1) Sheriffs, clerks,~~
3 ~~constables, and their deputies are prohibited from~~
4 ~~practicing law or acting as attorneys or counselors at law~~
5 ~~or having as a partner a lawyer or one who acts as such.~~

6 (2) No county clerk, clerk of any court, or sheriff
7 shall act as agent or solicitor in the prosecution of any
8 claim or application for lands, pensions, patent rights, or
9 other proceedings before any department of the state or
10 general government or courts of the United States during his
11 continuance in office."

12 Section 63. Section 7-4-2515, MCA, is amended to read:

13 "7-4-2515. Fees Publication costs to be paid in
14 advance. ~~(1) The officers mentioned in this chapter must not~~
15 ~~in any case perform any official services unless the fees~~
16 ~~prescribed for such services are paid in advance. On such~~
17 ~~payments, the officers must perform the services required.~~
18 ~~For every failure or refusal to perform official duty when~~
19 ~~the fees are tendered, the officer is liable on his official~~
20 ~~bonds.~~

21 ~~(2) The county clerk is not bound to record any~~
22 ~~instrument, file any paper or notice, furnish any copies,~~
23 ~~or render any service connected with his office until the~~
24 ~~fee for the same as prescribed by law is, if demanded, paid~~
25 ~~or tendered.~~

1 ~~(3) When any publication is required by law to be made~~
2 ~~by an officer of any suit, process, notice, order, or other~~
3 ~~paper, the costs of the same must be first tendered by the~~
4 ~~party, if demanded, for whom such order of publication was~~
5 ~~granted before the officer is compelled to make such~~
6 ~~publication."~~

7 Section 64. Section 7-4-2516, MCA, is amended to read:

8 "7-4-2516. Fees not required in ~~certain cases~~ habeas
9 corpus proceedings. No fees ~~may~~ be charged ~~the state,~~
10 ~~any county, or any subdivision thereof, any public officer~~
11 ~~acting therefor, or in habeas corpus proceedings for~~
12 ~~official services rendered, and all such services must be~~
13 ~~performed without the payment of fees."~~

14 Section 65. Section 7-4-2611, MCA, is amended to read:

15 "7-4-2611. Role and duties of county clerk. ~~(1) The~~
16 ~~county clerk of any county is also clerk of the county~~
17 ~~commissioners and ex-officio recorder. Any duty imposed by~~
18 ~~law upon such officers, either as county clerk, clerk of the~~
19 ~~county commissioners, or as recorder, shall be performed by the~~
20 ~~county clerk, and any official act performed or certified by~~
21 ~~the county clerk shall be as valid and effectual as if~~
22 ~~performed and certified to by him as clerk of the county~~
23 ~~commissioners or as recorder.~~

24 ~~(2) The county clerk must~~

25 ~~(a) take charge of and safely keep or dispose of~~

1 according to law all books, papers, maps, and records which
2 may be filed or deposited in his office;

3 (b) record all the proceedings of the board;

4 (c) make full entries of all its resolutions and
5 decisions on all questions concerning the raising of money
6 for and the allowance of accounts against the county;

7 (d) record the vote of each member on any question
8 upon which there is a division or at the request of any
9 member present;

10 (e) sign all orders made and warrants issued by order
11 of the board for the payment of money and certify the same
12 to the county treasurer;

13 (f) record the reports of the county treasurer of the
14 receipts and disbursements of the county;

15 (g) preserve and file all accounts acted upon by the
16 board;

17 (h) preserve and file all petitions and applications
18 for franchises and record the action of the board thereon;

19 (i) record all orders levying taxes;

20 (j) designate upon every account allowed by the board
21 the amount allowed and deliver to any person who may demand
22 it a certified copy of any record in his office or any
23 account on file therein;

24 (k) as often as a new township is organized or the
25 boundaries of any township are altered, immediately make out

1 and transmit to the secretary of state a certified statement
2 of the names and boundaries and the boundaries of any
3 township altered;

4 (l) keep such other records and books and perform such
5 other duties as are prescribed by law or by rule or order of
6 the board;

7 (3) A county clerk and recorder shall:

8 (1) maintain all records and statements filed pursuant
9 to the provisions of Title 13 for a period of 10 years from
10 the date of receipt;

11 (4)(2) A county clerk and recorder shall accept and
12 file any information voluntarily supplied that exceeds the
13 requirements of Title 13;

14 (5)(3) A county clerk and recorder shall file, code,
15 and cross-index all reports and statements filed as
16 prescribed by the commissioner of campaign finances and
17 practices;

18 (6)(4) A county clerk and recorder shall make
19 statements and other information filed with his office
20 available for public inspection and copying during regular
21 office hours and make copying facilities available free of
22 charge or at a charge not to exceed actual cost."

23 Section 66. Section 7-4-2631, MCA, is amended to read:

24 "7-4-2631. Fees of county clerk. The county clerks
25 must charge, for the use of their respective counties, a

- 1 fee of 50 cents
- 2 (i) for recording and indexing a written instrument
- 3 allowed by law to be recorded except as otherwise provided
- 4 in 7-4-2632 and 7-4-2633
- 5 (e) for the first folio 60 cents and
- 6 (ii) for each subsequent folio or fraction of one 30
- 7 cents
- 8 (b) for each entry in index 20 cents
- 9 (c) for a certificate that an instrument has been
- 10 recorded with seal affixed 80
- 11 (2) for recording and indexing each real estate
- 12 mortgage or an assignment, renewal or release of a real
- 13 estate mortgage
- 14 (a) for each folio 40 cents
- 15 (b) for each entry in index 20 cents
- 16 (c) for a certificate that the mortgage assignment
- 17 or release has been recorded with seal affixed 80
- 18 (3) for recording and indexing each certificate of
- 19 location of a quartz or placer mining claim with the claim
- 20 or notice of appropriation of water including a certificate
- 21 that the instrument has been recorded with seal affixed 80
- 22 (4) for recording and indexing each affidavit of
- 23 annual labor on a mining claim including certificate that
- 24 the instrument has been recorded with seal affixed
- 25 (a) for the first mining claim in the affidavit 40
- 1 and
- 2 (b) for each additional mining claim included in it
- 3 50 cents
- 4 (5) for filing and indexing each writ of attachment
- 5 execution certificate of a sheriff or other instrument
- 6 required by law to be filed and indexed 80
- 7 (6) for filing and indexing each certificate of
- 8 incorporation or amendment of a corporation 20
- 9 (7) for recording and plotting each tomcate or map
- 10 (8) for each job up to and including 100 50 cents
- 11 (b) for each additional job in excess of 100 20
- 12 cents
- 13 (c) for recording the field notes of a survey of a
- 14 tomcate 50 cents per folio
- 15 (8) for a copy of a record or paper
- 16 (9) for each folio 30 cents and
- 17 (b) for each certification with seal affixed 80
- 18 (9) for searching an index record of files of the
- 19 office for each year when required in abstracting or
- 20 otherwise 30 cents
- 21 (10) for each entry of discharge or satisfaction of a
- 22 mortgage claim or other instrument on the margin of record
- 23 of it or upon the original instrument and noting the entry
- 24 in the index concerned 50 cents
- 25 (11) for administering an oath with certificate and

1 ~~secty no charges~~

2 ~~(12) for taking and certifying an acknowledgment, with~~

3 ~~sect affixed, for signature to it, no charges~~

4 ~~(13) for recording and indexing an instrument which may~~

5 ~~be recorded under 70-21-207 and which pertains to land~~

6 ~~offered to an Indian or land within an Indian reservation,~~

7 ~~except fee patents, no charges~~

8 ~~(14) for filing, indexing or other services provided~~

9 ~~for by 30-9-401 through 30-9-407, the fees prescribed in~~

10 ~~those sections;~~

11 ~~(15) for recording each stock subscription and~~

12 ~~contract, stock certificate, and articles of incorporation~~

13 ~~for water users' associations, 50 cents;~~

14 ~~(16) for filing an order creating a television district~~

15 ~~pursuant to 7-13-2509, 03;~~

16 ~~(17) for filing, recording, or indexing any other~~

17 ~~instrument not expressly provided for in this section,~~

18 ~~7-4-2632, or 7-4-2633, the same fee provided in this~~

19 ~~section, 7-4-2632, or 7-4-2633 for a similar service."~~

20 Section 67. Section 7-4-2902, MCA, is amended to read:

21 "7-4-2902. Justice Fee of Justice of peace to act

22 ~~acting as coroner in certain cases. (1) If the office of~~

23 ~~coroner is vacant or he is absent or unable to attend, the~~

24 ~~duties of his office may be discharged by any justice of the~~

25 ~~peace of the county with the like authority and subject to~~

1 ~~the same obligations and penalties as the coroner.~~

2 ~~(2) A justice of the peace acting as coroner is allowed~~

3 ~~the same fees as the coroner and no more."~~

4 Section 68. Section 7-4-2911, MCA, is amended to read:

5 "7-4-2911. Burial Fees of county coroner acting as

6 ~~sheriff. (1) The coroner must hold inquests as provided in~~

7 ~~Title 46, chapter 4, parts 1 and 2.~~

8 ~~(2) In the cases specified in 25-3-205, the coroner~~

9 ~~must discharge the duties of sheriff. If acting as sheriff,~~

10 ~~the coroner is allowed the same fees as the sheriff or~~

11 ~~constable for like services.~~

12 ~~(3) When a prisoner confined in the state prison dies~~

13 ~~the coroner of the county wherein the state prison is~~

14 ~~located may hold an inquest as provided in Title 46, chapter~~

15 ~~4, parts 1 and 2."~~

16 Section 69. Section 7-4-2921, MCA, is amended to read:

17 "7-4-2921. Fees of coroner. The coroner is entitled to

18 receive and collect for his own use the following fees:

19 (1) for each day or fraction of day engaged in making

20 an investigation relative to a death, whether an inquest is

21 later held or not, the sum of \$5; ~~provided that not more~~

22 ~~than 1 day's fees shall be charged for making an~~

23 ~~investigation in any one case except in counties of the~~

24 ~~first, second, and third class;~~

25 (2) for each day or fraction of day engaged in holding

1 an inquest, \$5; provided that not more than 2 days' fees
2 shall be charged for holding an inquest in any one case;

3 (3) for subpoenaing each witness, including copy of
4 subpoena, 30 cents;

5 (4) for summoning each juror, including copy of
6 summons, 30 cents;

7 (5) for each oath administered, 5 cents;

8 (6) for making transcript of testimony, 15 cents per
9 folio;

10 (7) for each mile actually traveled in the performance
11 of any duty, a mileage allowance as provided in 2-18-503;

12 (8) for filing papers, 5 cents each."

13 Section 70. Section 7-4-2922, MCA, is amended to read:

14 "7-4-2922. Limitation on and alternative to fees. (1)
15 Except as provided in subsection (2), the total amount of
16 fees allowed by the board of county commissioners to a
17 coroner, except when acting as sheriff, must not exceed
18 ~~\$2,100 in any one year, including compensation paid all~~
19 ~~clerks, stenographers, and other clerical assistants~~
20 ~~employed by him an amount established by ordinance.~~

21 (2) ~~In a county having a population of 45,000 or more~~
22 ~~according to the latest federal census enumeration, the~~ the ~~the~~
23 ~~coroner may, at the discretion of the county commissioners,~~
24 ~~receive a salary not to exceed \$3,750 per year and mileage~~
25 ~~as provided in 7-4-2921 established by ordinance in lieu of~~

1 all fees mentioned in 7-4-2921 ~~and all clerical and~~
2 ~~stenographic help, except as provided in 7-4-2923, shall be~~
3 ~~included in such salary."~~

4 Section 71. Section 7-5-2142, MCA, is amended to read:

5 "7-5-2142. Membership Expenses in connection with
6 membership in associations of clerk and recorders. ~~(1) The~~
7 ~~county clerk and recorders of the counties of Montana are~~
8 ~~hereby authorized and empowered to take out county~~
9 ~~membership in and to cooperate with associations and~~
10 ~~organizations of county clerk and recorders of this state~~
11 ~~and of other states for the furtherance of good government~~
12 ~~and the protection of county interests.~~

13 ~~(2) All county clerk and recorders of the various~~
14 ~~counties throughout the state shall be allowed actual~~
15 ~~transportation expenses and per diem allowance for~~
16 ~~attendance upon any general meeting of the Montana~~
17 ~~association of county clerk and recorders held within the~~
18 ~~state not more often than once a year, and the proportionate~~
19 ~~expenses and charges against each county as a member of such~~
20 ~~association shall be paid by such county."~~

21 Section 72. Section 7-5-2143, MCA, is amended to read:

22 "7-5-2143. Membership Expenses in connection with
23 membership in associations of clerks of district courts. ~~(1)~~
24 ~~The county clerks of the district courts of the counties of~~
25 ~~Montana are hereby authorized and empowered to take out~~

~~1 county membership in and to cooperate with associations and
2 organizations of county clerks of the district courts of
3 this state and of other states for the furtherance of good
4 government and the protection of county interests.~~

(2) All county clerks of the district court of the various counties throughout the state shall be allowed actual transportation expenses and per diem allowance for attendance upon any general meeting of the Montana association of clerks of court held within the state not more often than once a year, and the proportionate expenses and charges against each county as a member of such association shall be paid by such county."

Section 73. Section 7-5-2144, MCA, is amended to read:

"7-5-2144. Membership Expenses in connection with ~~membership~~ in associations of county treasurers. ~~(1) County treasurers are authorized and empowered to take out county membership in and to cooperate with associations and organizations of county treasurers of this state for the furtherance of good government and the protection of county interests. Payment for membership in such associations or organizations shall be made from county funds in such amount as shall be approved by the board of county commissioners.~~

(2) All county treasurers of the various counties throughout the state shall be allowed actual transportation expenses and per diem allowance for attendance upon any

1 general meeting of the Montana association of county
2 treasurers held within the state not more often than once a
3 year, and the proportionate expenses and charges against
4 each county as a member of such association shall be paid by
5 such county."

Section 74. Section 7-6-4413, MCA, is amended to read:

"7-6-4413. Collection of taxes. (1) ~~Except in case of such cities of the first, second, and third classes as may provide by ordinance for the city treasurer to collect the taxes from such corrected assessment books, the~~ the county treasurer finance administrator of each county must collect the tax levied by all cities and towns municipalities in his respective county.

(2) The county treasurer ~~must~~ finance administrator shall collect such city or town municipal taxes ~~including unpaid road poll taxes,~~ at the same time as the state and county taxes and with the same penalties and interest in case of delinquency."

Section 75. Section 7-6-4414, MCA, is amended to read:

"7-6-4414. Sales for delinquent taxes when county collects municipal tax. (1) All ~~publications~~ notices for sales for delinquent taxes shall include such city ~~or town~~ municipal taxes, there being but one sale for each piece of property. The sale shall cover the aggregate of such city ~~or town~~ municipal, county, and state taxes, with the

1 penalties, interest, and cost of advertising provided by
2 law.

3 (2) All money received from sales and redemptions and
4 from sales by the county, after deed given by the county
5 treasurer ~~finance administrator~~ as provided by law, shall be
6 credited to the state, county, and ~~city or town~~ municipality
7 pro rata in the same proportions as provided in 15-18-108."

8 Section 76. Section 7-7-121, MCA, is amended to read:

9 "7-7-121. Misconduct in relation to bond funds.

10 (1) (a) Except as provided in subsection (1)(b), when any
11 officer or officers or board or body of officers of any
12 ~~county, city, or other municipal~~ local government or public
13 corporation of the state are ~~or shall be~~ required by law to
14 provide by a levy of taxes or by certifying the amount of
15 money required or otherwise a sinking fund or fund required
16 to pay at maturity any bonds hereafter issued or created,
17 such officer or officers and the members of such board or
18 body of officers shall be jointly and severally liable to
19 the ~~county, city, or other municipal~~ local government or
20 public corporation which they represent if they shall fail
21 to perform any such duties required by law, as specified in
22 this section, in an amount equal to the sum which would have
23 been added to such fund had they performed such duty.

24 (b) When any such board shall fail or neglect to
25 perform any such duty, no minority member of said board who

1 shall have moved said board or voted in favor of a
2 performance of such duty shall be held liable.

3 (2) Any person or persons who shall take, use, or
4 appropriate or permit to be taken, used, or appropriated any
5 portion of any such fund as herein specified for any purpose
6 other than that permitted by law shall be jointly and
7 severally liable to the ~~county, city, or other municipal~~
8 local government or public corporation to which said fund
9 shall belong for the portion of such fund so unlawfully
10 taken, used, or appropriated."

11 Section 77. Section 7-7-122, MCA, is amended to read:

12 "7-7-122. Prosecution for misconduct. It shall be the
13 duty of the county ~~prosecuting~~ attorney in each county to
14 commence and prosecute all actions to enforce any liability
15 created in 7-7-121. Such actions shall be tried as civil
16 actions at law."

17 Section 78. Section 7-13-4304, MCA, is amended to
18 read:

19 "7-13-4304. Authority to charge for services. ~~(1) The~~
20 ~~governing body of such municipality shall have full power~~
21 ~~and authority and it is hereby made its duty to fix and~~
22 ~~establish, by ordinance or resolution, and collect rates,~~
23 ~~rentals, and charges for the services, facilities, and~~
24 ~~benefits directly or indirectly afforded by the system on~~
25 ~~the basis of water consumed or any other equitable basis.~~

~~{2} Sewer charges may take into consideration the quantity of sewage produced and its concentration and water pollution qualities in general and the cost of disposal of sewage and storm waters. The sewer charges may be fixed on the basis of water consumption or any other equitable basis the governing body may deem appropriate. The rates for sewer charges may be fixed in advance or otherwise and shall be uniform for like services in all parts of the municipality. If the governing body determines that the sewage treatment and/or storm water disposal prevents pollution of sources of water supply, the sewer charges may be established as a surcharge on the water bills of water consumers or on any other equitable basis of measuring the use and benefits of such facilities and services.~~

{3} An original charge for the connecting sewerline between the lot line and the sewer main may be assessed when such connecting sewerline is installed."

Section 79. Section 7-14-101, MCA, is amended to read:

"7-14-101. Acquisition of property for controlled-access facility. The highway authorities of the counties, ~~incorporated cities, and towns~~ and municipalities, respectively or in cooperation with each other or the state, may acquire private or public property and property rights for controlled-access highways or controlled-access facilities and service roads. Such rights

may include rights of access, air, view, and light. They may be acquired by gift, devise, purchase, or condemnation in the same manner as may now or hereafter be authorized by law for the acquisition of property or property rights in connection with highways, roads, and streets in their respective jurisdictions."

Section 80. Section 7-33-2313, MCA, is amended to read:

"7-33-2313. Duties of chief. ~~{1} The chief of every fire department must inquire into the cause of every fire occurring in the town in which he is chief and keep a record thereof. He must aid in the enforcement of all duly enacted fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and when directed by the proper authorities institute prosecutions therefor and perform such other duties as may be imposed upon him by proper authority. His compensation, if any, must be fixed and paid by the city or town authorities. He must attend all fires, with his badge of office conspicuously displayed. He must prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, shall be fixed by a justice of the peace.~~

1 ~~(2) He~~ The chief of every fire department must devise
 2 and formulate or cause to be devised and formulated a course
 3 or plan of instruction or training program making available
 4 to each regular member of his department not less than 30
 5 hours of instruction per year in matters pertaining to
 6 firefighting, and he must supervise the operation of such
 7 plan or program."

8 Section 81. Section 13-1-101, MCA, is amended to read:
 9 "13-1-101. Definitions. As used in this title, unless
 10 the context clearly indicates otherwise, the following
 11 definitions apply:

12 (1) "Anything of value" means any goods that have a
 13 certain utility to the recipient that is real and that
 14 ordinarily is not given away free but is purchased.

15 (2) "Candidate" means an individual who has filed a
 16 declaration of nomination, certificate of nomination, or
 17 acceptance of nomination for public office as required by
 18 law but does not include a candidate for national office who
 19 is subject to the provisions of federal election campaign
 20 laws.

21 (3) "City" means any incorporated city ~~or town~~
 22 municipality.

23 (4) "Commissioners" means the ~~board of county~~
 24 commissioners governing body of a county.

25 (5) "Contribution" means:

1 (a) an advance, gift, loan, conveyance, deposit,
 2 payments or distribution of money or anything of value to
 3 influence an election;

4 (b) a transfer of funds between political committees;

5 (c) the payment by a person other than a candidate or
 6 political committee of compensation for the personal
 7 services of another person that are rendered to a candidate
 8 or political committee; but

9 (d) not services provided without compensation by
 10 individuals volunteering a portion or all of their time on
 11 behalf of a candidate or political committee or meals and
 12 lodging provided by individuals in their private residence
 13 for a candidate or other individual.

14 (6) "Council" means any municipal council ~~or~~
 15 commission governing body.

16 (7) "Election" means a general, special, or primary
 17 election held to choose a public officer or submit an issue
 18 for the approval or rejection of the people.

19 (8) "Expenditure" means a purchase, payment,
 20 distribution, loan, advance, promise, pledge, or gift of
 21 money or anything of value made for the purpose of
 22 influencing the results of an election, but "expenditure"
 23 does not mean:

24 (a) services, food, or lodging provided in a manner
 25 that they are not contributions under subsection (5); or

1 (b) payments by a candidate for his personal travel
2 expenses or for food, clothing, lodging, or personal
3 necessities for himself and his family.

4 (9) "General election" means an election held for the
5 election of public officers throughout the state at times
6 specified by law.

7 (10) "Individual" means a human being.

8 (11) "Issue" or "ballot issue" means a proposal
9 submitted to the people at an election for their approval or
10 rejection including but not limited to initiatives,
11 referenda, proposed constitutional amendments, recall
12 questions, school levy questions, bond issue questions, or a
13 ballot question.

14 (12) "Party" means any political organization which at
15 the last preceding election for governor polled at least 3%
16 of the votes for governor.

17 (13) "Person" means an individual, corporation,
18 association, firm, partnership, cooperative, committee,
19 club, union, or other organization or group of individuals
20 or a candidate as defined in subsection (2) of this section.

21 (14) "Political committee" means a combination of two
22 or more individuals or a person other than an individual,
23 the primary or incidental purpose of which is to support or
24 oppose a candidate or issue or to influence the result of an
25 election by any expenditure.

1 (15) "Primary" or "primary election" means a statutory
2 procedure for nominating candidates to public office at the
3 polls.

4 (16) "Public office" means a state, county, municipal,
5 school, or other district office that is filled by the
6 people at an election.

7 (17) "Registrar" means the county clerk and recorder
8 ~~officer or employee designated by the governing body to~~
9 ~~perform the duties of the election administrator~~ and any
10 regularly appointed deputy clerk and recorder.

11 (18) "Special election" means an election ~~called by the~~
12 ~~proper authorities to fill vacancies or to raise money held~~
13 ~~on a date other than the date of a school, primary, general,~~
14 ~~or other election regularly scheduled by law or an election~~
15 ~~on one or more particular issues held in conjunction with~~
16 ~~but not required by law to coincide with a regularly~~
17 ~~scheduled election.~~

18 (19) "Taxpayer" means a person who has paid a tax on
19 property assessed on a county or city assessment roll next
20 preceding the election at which a question is to be
21 submitted to the vote of the taxpayers.

22 (20) "Vacancy" means an office which does not have an
23 incumbent who has a right to exercise its functions and take
24 its fees or emoluments."

25 Section 82. Section 13-2-101, MCA, is amended to read:

1 ~~"13-2-101. County clerk-as-county registrar. (1) Each~~
 2 ~~county clerk and recorder is ex-officio county registrar. He~~
 3 ~~shall serve without extra pay or compensation~~ appoint an
 4 elections administrator as registrar.

5 (2) The official register of electors is an official
 6 record of the ~~county clerk and recorder.~~"

7 Section 83. Section 13-2-102, MCA, is amended to read:

8 "13-2-102. Deputy registrars. (1) All notaries public
 9 are deputy registrars in the county in which they reside.

10 (2) The ~~commissioners~~ county governing body shall
 11 appoint a minimum of two deputy registrars who are not
 12 notaries public, a minimum of one from each of the two major
 13 political parties, for each precinct in the county from
 14 lists of persons recommended by the political parties. If
 15 the parties fail to submit lists, the ~~commissioners~~
 16 governing body shall appoint deputy registrars without
 17 recommendations from the parties. The number of appointed
 18 deputy registrars for each county shall always be equally
 19 divided between the two major political parties. An
 20 appointed deputy registrar shall be a qualified resident
 21 elector in the precinct for which he is appointed.

22 (3) No deputy registrar may register a voter until
 23 that deputy registrar has been issued a certificate of
 24 approval by the county registrar certifying that the deputy
 25 registrar has received instructions on registration

1 procedure from the county registrar.

2 (4) A deputy registrar who has been issued the
 3 certificate required by subsection (3) may register electors
 4 residing in any precinct of the county for which he is a
 5 deputy registrar.

6 (5) Within 3 days after a registration card is filled
 7 out, deputy registrars shall forward the card to the
 8 registrar. Registration cards properly executed prior to the
 9 registration deadline shall be accepted by the registrar for
 10 3 days after the deadline."

11 Section 84. Section 13-2-111, MCA, is amended to read:

12 "13-2-111. Custody and care of records. Unless
 13 otherwise provided, the county ~~clerk and recorder~~ registrar
 14 shall have custody of registration books, cards, and other
 15 records required by the election laws of this state."

16 Section 85. Section 13-3-101, MCA, is amended to read:

17 "13-3-101. Establishment of election precincts. (1)
 18 The territorial unit for elections is the election precinct.
 19 All election precincts shall be designated by numbers,
 20 names, or both.

21 (2) The ~~commissioners~~ governing body of each county
 22 shall establish a convenient number of election precincts
 23 equalizing the number of electors in each precinct as nearly
 24 as possible."

25 Section 86. Section 13-3-102, MCA, is amended to read:

1 "13-3-102. Precinct Boundaries. (1) The ~~commissioners~~
 2 ~~county governing body~~ may change the boundaries of precincts
 3 but not between January 1 and December 1 in any year during
 4 which a general biennial election will be held, except that
 5 the ~~commissioners governing body~~ may change the boundaries
 6 of precincts in the year during which a general biennial
 7 election will be held when the changes are required to make
 8 precinct boundaries conform to legislative district
 9 boundaries following the adoption of reapportionment plans
 10 under Article V, section 14, of the 1972 Montana
 11 constitution. In those instances, the changing of precinct
 12 boundaries must be accomplished within 60 days of the filing
 13 of the final reapportionment plan.

14 (2) All changes must be certified to the registrar 3
 15 days or less after the change is made.

16 (3) The boundaries of election precincts may conform
 17 to the ~~words of cities of the first, second, and third class~~
 18 ~~commissioner election districts of counties and to the~~
 19 ~~commissioner election districts of municipalities with a~~
 20 ~~population greater than 1,500 and may conform to the~~
 21 boundaries of first-class school districts."

22 Section 87. Section 13-3-103, MCA, is amended to read:

23 "13-3-103. Certification of boundary changes. ~~(1)~~ Not
 24 more than 10 days after an order of the ~~commissioners~~ county
 25 governing body has established or changed the boundaries of

1 an election precinct, the ~~commissioners governing body~~ shall
 2 cause to be prepared and delivered a map to the registrar
 3 showing the borders of all precincts and school districts
 4 within the county.

5 ~~(2) Not more than 10 days after ward boundaries have~~
 6 ~~been changed, the city council must certify any changes or~~
 7 ~~alteration in the ward boundaries to the registrar and~~
 8 ~~deliver to his a map showing boundaries of the wards, the~~
 9 ~~streets, avenues, and alleys by name, and the words by~~
 10 ~~numbers"~~

11 Section 88. Section 13-3-104, MCA, is amended to read:

12 "13-3-104. Precincts and wards commissioner election
 13 districts. (1) A word commissioner election district or
 14 school district may be divided into two or more precincts,
 15 and a precinct may be divided into two or more polling
 16 places.

17 (2) In ~~cities not of the first, second, or third class~~
 18 a municipality with a population of less than 1,500,
 19 precincts may include two or more words commissioner
 20 election districts or may comprise territory included by one
 21 or more words commissioner election districts together with
 22 contiguous territory lying outside the incorporated limits
 23 of the ~~cities~~ municipality."

24 Section 89. Section 13-3-105, MCA, is amended to read:

25 "13-3-105. Designation of polling place. (1) The

1 ~~commissioners shall make an order designating the polling~~
 2 ~~place for each precinct, at the session at which election~~
 3 ~~judges are appointed. Such order may provide for polling~~
 4 ~~places to be located outside the boundaries of the precinct.~~
 5 Polling places shall be designated as provided in [section
 6 106 of SB 12].

7 (2) Not more than 10 or less than 3 days before an
 8 election, the registrar ~~or city clerk~~ shall publish in a
 9 newspaper of general circulation in the county, a statement
 10 of the locations of the precinct polling places."

11 Section 90. Section 13-4-101, MCA, is amended to read:

12 *13-4-101. Appointment of election judges and clerks
 13 -- second board of election judges. (1) ~~(a)~~ At their regular
 14 meeting next preceding a general primary election, the
 15 ~~commissioners county governing body~~ shall appoint five
 16 election judges and two clerks for each precinct having 200
 17 or more electors and three election judges and two clerks
 18 for each precinct having less than 200 electors. Judges for
 19 new precincts shall be appointed based upon the estimated
 20 number of electors.

21 ~~(2)(b)~~ If a precinct has 350 or more electors, the
 22 ~~commissioners county governing body~~ may appoint a second
 23 board of five election judges and two clerks who shall have
 24 the same qualifications as the first board.

25 (2) The municipal governing body shall appoint

1 election judges and clerks for all municipal elections in
 2 the manner provided by this chapter. At the option of the
 3 municipal governing body, the number of election judges and
 4 clerks required by subsection (1) may be based on the number
 5 of votes cast at the last general municipal election rather
 6 than on the number of electors in the precinct. The election
 7 judges and clerks so appointed shall perform the duties of
 8 their offices as specified by this title for all municipal
 9 elections."

10 Section 91. Section 13-10-202, MCA, is amended to
 11 read:

12 *13-10-202. Filing fees. Filing fees are as follows:

13 (1) for offices having an annual salary of \$1,000 or
 14 less, \$10, except candidates for the legislature must pay
 15 \$15;

16 (2) for offices having an annual salary of more than
 17 \$1,000, 1% of the total annual salary;

18 ~~(3) for the office of county commissioner;~~

19 ~~(a) in counties of the first class, \$40;~~

20 ~~(b) in counties of the second class, \$35;~~

21 ~~(c) in counties of the third class, \$30;~~

22 ~~(d) in counties of the fourth class, \$25;~~

23 ~~(e) in counties of other classes, \$10;~~

24 ~~(4)(i)~~ for offices in which compensation is paid in
 25 fees, \$5;

1 ~~(5)(4)~~ for state, county, and precinct committeemen,
2 delegates to national conventions, and presidential
3 electors, no fees are required."

4 Section 92. Section 13-11-102, MCA, is amended to
5 read:

6 "13-11-102. Publication and posting by county
7 ~~commissioners governing body~~. When a proclamation prescribed
8 by 13-11-101 is received, the ~~commissioners governing body~~
9 shall have a copy published in a newspaper published in the
10 county if a newspaper is published therein, otherwise in a
11 newspaper of general circulation therein, and shall post a
12 copy 10 days or more before the election at each polling
13 place."

14 Section 93. Section 13-11-103, MCA, is amended to
15 read:

16 "13-11-103. Election proclamation by county
17 ~~commissioners governing body~~. When a special election is
18 ordered by the ~~commissioners, they governing body~~, it must
19 issue an election proclamation containing the statement
20 contained in 13-11-101(1). The statement must be published
21 and posted in the same manner as a proclamation issued by
22 the governor."

23 Section 94. Section 13-12-102, MCA, is amended to
24 read:

25 "13-12-102. Items to be furnished by commissioners.

1 The commissioner shall:

2 (1) furnish pollbooks to each election precinct in a
3 form prescribed by the secretary of state;

4 (2) furnish printed blanks for precinct registers,
5 pollbooks, tally sheets, lists of electors, tickets, and
6 returns, together with envelopes in which to enclose the
7 returns; and

8 (3) furnish for each polling precinct a ballot box or
9 canvas pouch with a lock and key for the ballots and
10 detached stubs.

11 ~~(4) provide all poll lists, proclamations of~~
12 ~~elections, and other appropriate and necessary appliances~~
13 ~~for holding all elections in the county and allow reasonable~~
14 ~~charges therefor, and~~

15 ~~(5) provide for the transmission and return of the~~
16 ~~same to the proper officers."~~

17 Section 95. Section 13-12-103, MCA, is amended to
18 read:

19 "13-12-103. ~~City clerk~~ Municipal elections
20 administrator to act in city municipal elections. In city
21 municipal elections, the ~~city clerk~~ municipal elections
22 administrator shall perform all duties prescribed for
23 registrars in this chapter."

24 Section 96. Section 13-13-105, MCA, is amended to
25 read:

1 "13-13-105. Provision and use of election booths. (1)
2 All officers who designate polling places shall:

3 (a) provide in each polling place a sufficient number
4 of booths. The officers must furnish each booth with a door
5 or curtain to screen the voter from observation.

6 (b) furnish the booths adequately to enable the
7 elector to prepare his ballot;

8 (c) furnish at least one booth for every 50 electors
9 registered in the precinct or as provided in subsection (3).

10 (2) No more than one person may occupy a booth at one
11 time. No person may occupy a booth longer than is reasonably
12 necessary to prepare his ballot, after which the election
13 judges may eject him.

14 (3) At the option of the municipal governing body, for
15 municipal elections, the number of booths required by
16 subsection (1)(c) may be based on the number of votes cast
17 at the last general municipal election rather than on the
18 number of electors in the precinct."

19 Section 97. Section 13-16-505, MCA, is amended to
20 read:

21 "13-16-505. Tie in election for county commissioner.
22 If there is a tie vote for commissioner, the senior district
23 judge shall appoint an eligible person to fill the office--
24 ~~in other cases of vacancy."~~

25 Section 98. Section 13-16-506, MCA, is amended to

1 read:

2 "13-16-506. Tie in election for other county officers.
3 If there is a tie vote for clerk of the district court,
4 county attorney, or any county officer, except county
5 commissioner, ~~the commissioners shall appoint~~ an eligible
6 person shall be appointed as in case of other vacancies in
7 the office."

8 Section 99. Section 10-2-228, MCA, is amended to read:

9 ~~"10-2-228. Absence for military service creates no~~
10 ~~vacancy in office created by absence for military service.~~
11 It is specifically provided that the provisions of 2-16-112,
12 subsections (5), (6), and (7) of 2-16-501, and ~~7-4-2200~~
13 [section 70 of SB 12], shall not be, and the same are
14 declared not to be, applicable insofar as they relate to
15 absence or residence of any officer of the state or
16 political subdivision thereof caused by the military service
17 of such officer as set forth in 10-2-221. It is
18 specifically declared that the absence of such officer
19 caused by such military service shall not create a vacancy
20 in the office to which he was elected."

21 Section 100. Section 10-3-606, MCA, is amended to
22 read:

23 "10-3-606. Quorum requirement. If, following an enemy
24 attack, the legislature or any state ~~or local government~~
25 council, board, or commission is unable to assemble a quorum

1 as defined by the constitution of Montana or by statute,
 2 then those legislators or members of the council, board, or
 3 commission available for duty shall constitute the
 4 legislature, board, or commission and quorum requirements
 5 shall be suspended. Where the affirmative vote of a
 6 specified proportion of members for the approval of any
 7 action would otherwise be required, the same proportion of
 8 those voting thereon shall be sufficient."

9 Section 101. Section 15-8-102, MCA, is amended to
 10 read:

11 "15-8-102. County assessor as agent of department --
 12 counties to furnish office space. (1) The county assessors
 13 of the various counties of the state are agents of the
 14 department of revenue for the purpose of locating and
 15 providing the department a description of all taxable
 16 property within the county, together with other pertinent
 17 information, and for the purpose of performing such other
 18 administrative duties as are required for placing taxable
 19 property on the assessment rolls. The assessors shall
 20 perform such other duties as are required by law, not in
 21 conflict with the provisions of this subsection.

22 (2) The county-commissioners governing body of the
 23 various counties shall provide existing office space in the
 24 county courthouse for use by the county assessor, his
 25 deputies and staff, and the state appraiser and staff, if

1 such space is reasonably available. If such space is not
 2 reasonably available in the courthouse and the same must be
 3 contracted for, the department shall pay the cost thereof
 4 ~~rent for the office space in the courthouse and for any~~
 5 ~~space contracted for by the department.~~ Additional personal
 6 property required by the department for the assessor to
 7 perform his duties as agent of the department shall be
 8 provided by the department.

9 (3) The department must provide maps for the use of
 10 its agents, showing the private lands owned or claimed in
 11 the county and, if surveyed under authority of the United
 12 States, the divisions and subdivisions of the survey. Maps
 13 of cities municipalities and villages or school districts
 14 may in like manner be provided. The cost of making such maps
 15 is a state charge and must be paid from the state general
 16 fund."

17 Section 102. Section 15-10-203, MCA, is amended to
 18 read:

19 "15-10-203. Increase of tax revenue -- advertising of
 20 intention required. No taxing authority shall budget an
 21 increased amount of ad valorem tax revenue exclusive of
 22 revenue from ad valorem taxation on properties appearing for
 23 the first time on the assessment roll unless it advertises
 24 ~~gives notice of~~ its intention to do so at the same time that
 25 it advertises ~~gives notice of~~ its intention to fix its

1 budget for the forthcoming fiscal year. ~~For the purposes of~~
 2 ~~this section, notice shall mean the same as provided in~~
 3 ~~[section 12 of SB 23]."~~

4 Section 103. Section 15-10-204, MCA, is amended to
 5 read:

6 "15-10-204. Resolution or ordinance for increase over
 7 certified millage. No millage in excess of the department of
 8 revenue's certified millage shall be levied until a
 9 resolution or ordinance has been approved by the governing
 10 board of the taxing authority, which resolution or ordinance
 11 ~~must~~ shall be approved by said taxing authority according to
 12 the following procedure:

13 (1) The taxing authority shall ~~advertise~~ give notice
 14 of its intent to exceed the department's certified millage
 15 in a newspaper of general circulation in the county, as
 16 provided in 15-10-203. The advertisement notice shall state
 17 that the taxing authority will meet on a day, at a time and
 18 place fixed in the advertisement notice, which shall be
 19 ~~approximately 7 days after the day that the advertisement is~~
 20 ~~published~~ for the purpose of hearing comments regarding the
 21 proposed increase and to explain the reasons for the
 22 proposed increase. The meeting may coincide with the meeting
 23 on the tentative proposed budget as required by law.

24 (2) After the public hearing has been held in
 25 accordance with the above procedures, the taxing authority

1 may adopt a resolution or ordinance levying a millage rate
 2 in excess of the certified millage. If the resolution or
 3 ordinance adopting said millage rate is not approved on the
 4 day of the public hearing, the day, time, and place at which
 5 the resolution or ordinance will be scheduled for
 6 consideration and approval by the taxing authority ~~must~~
 7 shall be announced at the public hearing. If the resolution
 8 or ordinance is to be considered at a day and time that is
 9 more than 2 weeks from the public hearing, the taxing
 10 authority ~~must~~ again ~~advertise~~ give notice in the same
 11 manner as provided in 15-10-203 and subsection (1) of this
 12 section.

13 (3) Public notice given and public hearings held in
 14 compliance with the requirements of Title 20, chapter 9,
 15 part 1, in setting school budgets satisfy the requirements
 16 contained in this section."

17 Section 104. Section 15-10-207, MCA, is amended to
 18 read:

19 "15-10-207. Additional millage increase --
 20 ~~re-advertising~~ new notice and revoting. If, after the initial
 21 millage vote provided for in 15-10-203 the taxing authority
 22 determines that it requires a greater millage or fails to
 23 act in the specified period, it shall ~~re-advertise~~ give new
 24 notice and revote as required in 15-10-203 and 15-10-204."

25 Section 105. Section 15-30-111, MCA, is amended to

1 read:

2 "15-30-111. Adjusted gross income. (1) Adjusted gross
3 income shall be the taxpayer's federal income tax adjusted
4 gross income as defined in section 62 of the Internal
5 Revenue Code of 1954 or as that section may be labeled or
6 amended and in addition shall include the following:

7 (a) interest received on obligations of another state
8 or territory or county, municipality, district, or other
9 political subdivision thereof;

10 (b) refunds received of federal income tax, to the
11 extent the deduction of such tax resulted in a reduction of
12 Montana income tax liability.

13 (2) Adjusted gross income does not include the
14 following which are exempt from taxation under this chapter:

15 (a) interest income from obligations of the United
16 States government, the state of Montana, county,
17 municipality, district, or other political subdivision
18 thereof;

19 (b) all benefits received under the Federal Employees'
20 Retirement Act not in excess of \$3,600;

21 (c) all benefits paid under the teachers' retirement
22 law which are specified as exempt from taxation by 19-4-706;

23 (d) all benefits paid under The Public Employees'
24 Retirement System Act which are specified as exempt from
25 taxation by 19-3-105;

1 (e) all benefits paid under the highway patrol
2 retirement law which are specified as exempt from taxation
3 by 19-6-705;

4 (f) all Montana income tax refunds or credits thereof;

5 (g) all benefits paid under 19-11-602, 19-11-604, and
6 19-11-605 to retired and disabled firefighters, their
7 surviving spouses and orphans;

8 (h) all benefits paid by ~~first- or second-class cities~~
9 for under the policemen's retirement system provided for by
10 Title 19, chapter 9.

11 (3) In the case of a shareholder of a corporation with
12 respect to which the election provided for under subchapter
13 S. of the Internal Revenue Code of 1954, as amended, is in
14 effect but with respect to which the election provided for
15 under 15-31-202, as amended, is not in effect, adjusted
16 gross income does not include any part of the corporation's
17 undistributed taxable income, net operating loss, capital
18 gains or other gains, profits, or losses required to be
19 included in the shareholder's federal income tax adjusted
20 gross income by reason of the said election under subchapter
21 S. However, the shareholder's adjusted gross income shall
22 include actual distributions from the corporation to the
23 extent they would be treated as taxable dividends if the
24 subchapter S. election were not in effect."

25 Section 106. Section 16-1-205, MCA, is amended to

1 read:

2 "16-1-205. Local option. The electors of a county may,
3 by approving an initiative as provided under ~~Title 7,~~
4 ~~chapter 5, part 22~~ [section 50 through section 63 of SB 12],
5 prohibit the sale and consumption of liquor or of all
6 alcoholic beverages within the county. If such initiative is
7 presented to the ~~board of county commissioners governing~~
8 ~~body~~, the board may not approve it but shall submit the
9 proposal to the people under ~~7-5-2211 through 7-5-2214~~
10 [section 62 of SB 12]."

11 Section 107. Section 17-5-101, MCA, is amended to
12 read:

13 "17-5-101. Definitions. The following terms as used in
14 this part have the following meanings:

15 (1) "Bonds" include bonds, notes, warrants,
16 debentures, certificates of indebtedness, temporary bonds,
17 temporary notes, interim receipts, interim certificates, and
18 all instruments or obligations evidencing or representing
19 indebtedness or evidencing or representing the borrowing of
20 money or evidencing or representing a charge, lien, or
21 encumbrance on specific revenues, special assessments,
22 income, or property of a political subdivision, including
23 all instruments or obligations payable from a special fund.

24 (2) "Political subdivision" includes a county, city,
25 town, school district, irrigation district, drainage

1 district, ~~special improvement district~~ or any other
2 governmental subdivision of the state but shall not include
3 ~~counties, municipalities,~~ the state of Montana, the board of
4 examiners, the division of water resources of the department
5 of natural resources and conservation, the state highway
6 commission, or any other board, agency, or commission of the
7 state.

8 (3) "Governing body" means the board, council,
9 commission, or other body charged with the general control
10 of the issuance of bonds of a political subdivision."

11 Section 108. Section 17-5-102, MCA, is amended to
12 read:

13 "17-5-102. Rate of interest on bonds to be determined
14 by governing bodies -- limitations and exceptions. Bonds of
15 a political subdivision shall bear interest at such rate or
16 rates as its governing body shall determine, except that no
17 such rate shall exceed 7% except revenue bonds ~~issued under~~
18 ~~the terms of Title 7, chapter 7, parts 44 and 45, Title 7,~~
19 ~~chapter 13, part 43, and 90-5-101 through 90-5-113,~~ which
20 rate shall not exceed 9%."

21 Section 109. Section 17-6-103, MCA, is amended to
22 read:

23 "17-6-103. Security for deposits of public funds. The
24 following kinds of securities may be pledged or guarantees
25 may be issued to secure deposits of public funds:

- 1 (1) direct obligations of the United States;
- 2 (2) securities as to which the payment of principal
3 and interest is guaranteed by the United States;
- 4 (3) securities issued or fully guaranteed by the
5 following agencies of the United States, whether or not
6 guaranteed by the United States:
- 7 (a) commodity credit corporation;
- 8 (b) federal intermediate credit banks;
- 9 (c) federal land bank;
- 10 (d) bank for cooperatives;
- 11 (e) federal home loan banks;
- 12 (f) federal national mortgage association;
- 13 (g) government national mortgage association;
- 14 (h) small business administration; and
- 15 (i) federal housing administration (not including
16 insured mortgages);
- 17 (4) general obligation bonds of the state or of any
18 county, city, school district, or other political
19 subdivision of the state;
- 20 (5) revenue bonds of any county, city, or other
21 political subdivision of the state, when backed by the full
22 faith and credit of such subdivision;
- 23 (6) interest-bearing warrants of the state or of any
24 county, city, school district, or other political
25 subdivision of the state issued in evidence of claims in an

1 amount which, with all other claims on the same fund, do not
2 exceed the amount validly appropriated in the current budget
3 for expenditure from the fund in the year in which they are
4 issued;

5 (7) obligations of housing authorities of the state
6 secured by a pledge of annual contributions or by a loan
7 agreement made by the United States or any agency thereof
8 providing for contributions or a loan sufficient with other
9 funds pledged to pay the principal of and interest on the
10 obligations when due; ~~Subject to rules prescribed by the~~
11 ~~department of community affairs, the bonds and other~~
12 ~~obligations are eligible for investment in 32-1-424(3) and~~
13 ~~7-15-4505 may be used as security for all deposits of public~~
14 ~~funds or obligations for which depository bonds or any kind~~
15 ~~of bonds or other securities are required or may by law be~~
16 ~~deposited as security.~~

17 (8) general obligation bonds of other states and of
18 municipalities and counties of other states; and

19 (9) undertaking or guarantees issued by a surety
20 company authorized to do business in the state."

21 Section 110, Section 19-10-404, MCA, is amended to
22 read:

23 "19-10-404. Reinstatement to retired list. An
24 applicant ~~for reinstatement under the provisions of~~
25 ~~7-32-416 may be reinstated and passed into a police officer~~

1 ~~who has retired from a police department and who~~
 2 ~~subsequently rejoins the police department may later pass to~~
 3 the retired list of police officers so as to enjoy all the
 4 benefits, pensions, and rights which accrue to police
 5 officers placed on the retired list in said city or town.
 6 The pension benefits to be allowed to such reinstated
 7 officer shall be computed upon the basis of his last full
 8 year of active service on said police force.*

9 Section 111. Section 19-11-107, MCA, is amended to
 10 read:

11 "19-11-107. Retention of firefighters' rights when
 12 local government consolidated. A firefighter who has vested
 13 rights in a disability and pension fund maintains prior
 14 vested rights in the fund upon its transfer to a
 15 consolidated county municipality. A disability and pension
 16 fund established as required by law in a ~~city or town~~
 17 ~~municipality~~ of the county prior to the ~~election and~~
 18 ~~qualification of a commission under Title 7 or other acts of~~
 19 consolidation or disincorporation shall be continued as one
 20 such fund for the fire department of the municipality,
 21 subject, however, to the prior vested rights of firefighters
 22 employed by any fire department established as required by
 23 law in a ~~city or town~~ municipality of the county prior to
 24 the ~~election and qualification of a commission under Title 7~~
 25 ~~or other acts of~~ consolidation or disincorporation. The

1 board of trustees of the disability and pension fund shall
 2 continue as provided in 19-11-104. Except as provided in
 3 this section, the disability and pension fund shall be
 4 continued and administered in the manner prescribed by law
 5 for such funds.*

6 Section 112. Section 20-3-205, MCA, is amended to
 7 read:

8 "20-3-205. Powers and duties. The county
 9 superintendent has general supervision of the schools of the
 10 county within the limitations prescribed by this title and
 11 shall perform the following duties or acts:

12 (1) determine, establish, and reestablish trustee
 13 nominating districts and fill additional trustee position
 14 vacancies in accordance with the provisions of 20-3-352,
 15 20-3-353, and 20-3-354;

16 (2) administer and file the oaths of members of the
 17 boards of trustees of the districts in his county in
 18 accordance with the provisions of 20-3-307;

19 (3) fill by appointment any trustee position vacancies
 20 when required under the provisions of 20-3-309;

21 (4) register the teacher certificate or emergency
 22 authorization of employment of any person employed in the
 23 county as a teacher, principal, or district superintendent
 24 in accordance with the provisions of 20-4-202;

25 (5) act on each tuition application submitted to him

1 in accordance with the provisions of 20-5-301, 20-5-302,
2 20-5-304, and 20-5-311 and transmit the tuition information
3 required by 20-5-312;

4 (6) file a copy of the audit report for a district in
5 accordance with the provisions of 20-9-203;

6 (7) classify districts in accordance with the
7 provisions of 20-6-201 and 20-6-301;

8 (8) keep a transcript and reconcile the district
9 boundaries of the county in accordance with the provisions
10 of 20-6-103;

11 (9) fulfill all responsibilities assigned to him under
12 the provisions of this title regulating the organization,
13 alteration, or abandonment of districts;

14 (10) act on any unification proposition and, if
15 approved, establish additional trustee nominating districts
16 in accordance with 20-6-312 and 20-6-313;

17 (11) estimate the average number belonging (ANB) of an
18 opening school in accordance with the provisions of
19 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

20 (12) process and, when required, act on school
21 isolation applications in accordance with the provisions of
22 20-9-302;

23 (13) complete the budgets, compute the budgeted
24 revenues and tax levies, give notices of the budget
25 meetings, file final and emergency budgets, and fulfill such

1 other responsibilities assigned to him under the provisions
2 of this title regulating school budgeting systems;

3 (14) submit an annual financial report to the
4 superintendent of public instruction in accordance with the
5 provisions of 20-9-211;

6 (15) quarterly, unless otherwise provided by law, order
7 the county treasurer, ~~finance administrator~~ to apportion
8 state moneys, county school moneys, and any other school
9 moneys subject to apportionment in accordance with the
10 provisions of 20-9-212, 20-9-334, 20-9-347, 20-9-351,
11 20-10-145, or 20-10-146;

12 (16) act on any request to transfer average number
13 belonging (ANB) in accordance with the provisions of
14 20-9-313(3);

15 (17) calculate the estimated budgeted general fund
16 sources of revenue in accordance with the provisions of
17 20-9-348 and the other general fund revenue provisions of
18 the general fund part of this title;

19 (18) compute the revenues and the district and county
20 levy requirements for each fund included on each district's
21 final budget and report such computations to the ~~board~~ of
22 county commissioners ~~governing body~~ in accordance with the
23 provisions of the general fund, transportation, bonds, and
24 other school funds parts of this title;

25 (19) file and forward bus driver certifications,

1 transportation contracts, and state transportation
2 reimbursement claims in accordance with the provisions of
3 20-10-103, 20-10-143, or 20-10-145;

4 (20) for districts which do not employ a district
5 superintendent or principal, recommend library book and
6 textbook selections in accordance with the provisions of
7 20-7-204 or 20-7-602;

8 (21) notify the superintendent of public instruction of
9 a textbook dealer's activities when required under the
10 provisions of 20-7-605 and otherwise comply with the
11 textbook dealer provisions of this title;

12 (22) act on district requests to allocate federal
13 moneys for indigent children for school food services in
14 accordance with the provisions of 20-10-205;

15 (23) perform any other duty prescribed from time to
16 time by this title, any other act of the legislature, an
17 ordinance of the county governing body, the policies of the
18 board of public education, or the rules of the
19 superintendent of public instruction;

20 (24) administer the oath of office to trustees without
21 the receipt of pay for administering the oath;

22 (25) keep a record of his official acts, preserve all
23 reports submitted to him under the provisions of this title,
24 preserve all books and instructional equipment or supplies,
25 keep all documents applicable to the administration of the

1 officer, and surrender such records, books, supplies, and
2 equipment to his successor;

3 (26) within 90 days after the close of the school
4 fiscal year, publish an annual report in the county
5 newspaper stating the following financial information for
6 the school fiscal year just ended for each district of the
7 county:

8 (a) the total of the cash balances of all funds
9 maintained by the district at the beginning of the year;

10 (b) the total receipts that were realized in each fund
11 maintained by the district;

12 (c) the total expenditures that were made from each
13 fund maintained by the district; and

14 (d) the total of the cash balances of all funds
15 maintained by the district at the end of the school fiscal
16 year; and

17 (27) hold meetings for the members of the trustees from
18 time to time at which matters for the good of the districts
19 shall be discussed."

20 Section 113. Section 20-9-142, MCA, is amended to
21 read:

22 "20-9-142. Fixing and levying taxes by ~~board of county~~
23 ~~commissioners governing body~~. (1) On the second Monday in
24 August, the county superintendent shall place before the
25 ~~board of county commissioners governing body~~ the final

1 adopted budget of the district and any emergency budget
 2 adopted by the district during the previous school fiscal
 3 year. It shall be the duty of the board--of county
 4 commissioners governing body to fix and levy on all the
 5 taxable value of all the real and personal property within
 6 the district all district and county taxation required to
 7 finance, within the limitations provided by law, the final
 8 budget and any emergency budget of the district.

9 ~~(2) The mill levies established by the county~~
 10 ~~governing body shall be certified to the county finance~~
 11 ~~administrator for collection within 7 days of the date of~~
 12 ~~the fixing."~~

13 Section 114. Section 20-9-152, MCA, is amended to
 14 read:

15 "20-9-152. Fixing and levying taxes for joint
 16 districts. (1) At the time of fixing levies for county and
 17 school purposes on the second Monday in August, the board-of
 18 county commissioners governing body of each county in which
 19 a part of a joint district is located shall fix and levy
 20 taxes on that portion of the joint district located in such
 21 board's governing body's county at the number of mills for
 22 each such levy recommended by the joint statement of the
 23 county superintendents.

24 (2) The board--of county commissioners governing body
 25 shall include in the amounts to be raised by the county

1 levies for school, all the amounts required for the final
 2 budget of each part of a joint district located in the
 3 county, in accordance with the recommendations of the county
 4 superintendent.

5 ~~(3) The mill levies established by the county~~
 6 ~~governing body shall be certified to the county finance~~
 7 ~~administrator for collection within 7 days of the date of~~
 8 ~~the fixing."~~

9 Section 115. Section 20-9-212, MCA, is amended to
 10 read:

11 "20-9-212. Duties of county treasurer finance
 12 administrator. The county treasurer finance administrator of
 13 each county shall:

14 (1) receive and hold all school moneys subject to
 15 apportionment and keep a separate accounting of their
 16 apportionment to the several districts which are entitled to
 17 a portion of such moneys according to the apportionments
 18 ordered by the county superintendent. A separate accounting
 19 shall be maintained for each county fund supported by a
 20 countywide levy for a specific, authorized purpose,
 21 including:

22 (a) the basic county tax in support of the elementary
 23 foundation programs;

24 (b) the basic special tax for high schools in support
 25 of the high school foundation programs;

1 (c) the county tax in support of the county's high
2 school transportation obligation;

3 (d) the county tax in support of the high school
4 obligations to the retirement systems of the state of
5 Montana;

6 (e) any additional county tax required by law to
7 provide for deficiency financing of the elementary
8 foundation programs;

9 (f) any additional county tax required by law to
10 provide for deficiency financing of the high school
11 foundation programs;

12 (g) the county tax for a postsecondary
13 vocational-technical center when levied by the ~~board~~ of
14 county ~~commissioners~~ governing body; and

15 (h) any other county tax for schools which may be
16 authorized by law and levied by the county ~~commissioners~~
17 governing body;

18 (2) whenever requested, notify the county
19 superintendent and the superintendent of public instruction
20 of the amount of county school moneys on deposit in each of
21 the funds enumerated in subsection (1) of this section and
22 the amount of any other school moneys subject to
23 apportionment and apportion such county and other school
24 moneys to the districts in accordance with the apportionment
25 ordered by the county superintendent;

1 (3) keep a separate accounting of the expenditures for
2 each budgeted fund included on the final budget of each
3 district;

4 (4) keep a separate accounting of the receipts,
5 expenditures, and cash balances for each budgeted fund
6 included on the final budget of each district and for each
7 nonbudgeted fund established by each district;

8 (5) except as otherwise limited by law, pay all
9 warrants properly drawn on the county or district school
10 moneys and properly endorsed by their holders;

11 (6) receive all revenue collected by and for each
12 district and deposit these receipts in the fund designated
13 by law or by the district if no fund is designated by law.
14 Interest and penalties on delinquent school taxes shall be
15 credited to the same fund and district for which the
16 original taxes were levied.

17 (7) send all revenues received for a joint district,
18 part of which is situated in his county, to the county
19 ~~treasurer~~ finance administrator designated as the custodian
20 of such revenues, no later than December 15 of each year and
21 every 3 months thereafter until the end of the school fiscal
22 year;

23 (8) register district warrants drawn on a budgeted
24 fund in accordance with 7-6-2684 [section 33 through section
25 105 of SB 22] when there are insufficient moneys available

1 in the sum of moneys in all funds of the district to make
 2 payment of such warrant. Redemption of registered warrants
 3 shall be made in accordance with ~~7-6-2116, 7-6-2685, and~~
 4 ~~7-6-2686~~ [section 33 through section 105 of SB 22].

5 (9) invest the moneys of any district as directed by
 6 the trustees of the district; and

7 (10) give to the trustees of each district, at least
 8 quarterly, an itemized report for each fund maintained by
 9 the district showing the paid warrants, outstanding
 10 warrants, registered warrants, amount and types of revenue
 11 received, and the cash balance."

12 Section 116. Section 20-9-215, MCA, is amended to
 13 read:

14 "20-9-215. Destruction of certain financial records.
 15 Any claim, warrant, voucher, bond, or treasurer's general
 16 receipt may be destroyed by any county, ~~city or town,~~ local
 17 government or school district officer after a period of 25
 18 years."

19 Section 117. Section 20-9-406, MCA, is amended to
 20 read:

21 "20-9-406. Limitations on amount of bond issue. (1)
 22 The maximum amount for which each school district may become
 23 indebted by the issuance of bonds, including all
 24 indebtedness represented by outstanding bonds of previous
 25 issues and registered warrants, is 29% of the taxable value

1 of the property subject to taxation as ascertained by the
 2 last completed assessment for state, county, and school
 3 taxes previous to the incurring of such indebtedness. The
 4 29% maximum, however, may not pertain to indebtedness
 5 imposed by special improvement district obligations or
 6 assessments against the school district. All bonds issued
 7 in excess of such amount shall be null and void, except as
 8 provided in this section.

9 (2) When the total indebtedness of a school district
 10 has reached the 29% limitation prescribed in this section,
 11 the school district may pay all reasonable and necessary
 12 expenses of the school district on a cash basis in
 13 accordance with the financial administration provisions of
 14 this chapter.

15 (3) Whenever bonds are issued for the purpose of
 16 refunding bonds, any moneys to the credit of the debt
 17 service fund for the payment of the bonds to be refunded are
 18 applied towards the payment of such bonds and the refunding
 19 bond issue is decreased accordingly.

20 ~~(4) No county may issue general obligation bonds~~
 21 ~~which, with all outstanding general obligation bonds for the~~
 22 ~~same purposes, will exceed 2.1/2% of the assessed value of~~
 23 ~~the property in the county, for the purpose of acquiring~~
 24 ~~land for a site for county high school buildings and for~~
 25 ~~erecting or acquiring buildings thereon and furnishing and~~

1 equipping the same for county high school purposes."

2 Section 118. Section 20-9-435, MCA, is amended to
3 read:

4 "20-9-435. Delivery of school district bonds and
5 disposition of sale moneys. (1) After the school district
6 bonds have been registered, the county treasurer finance
7 administrator shall:

8 (a) when the board of land commissioners has purchased
9 such bonds, forward the bonds to such state board which, in
10 turn, shall cause the bonds to be sent to the state
11 treasurer and shall cause the bonds to be paid for in the
12 manner provided by law; or

13 (b) when the purchaser is anybody other than the board
14 of land commissioners, deliver the bonds to such purchaser
15 when full payment of the bonds has been made by the
16 purchaser.

17 (2) If any of the trustees shall fail or refuse to pay
18 into the proper county treasury the money arising from the
19 sale of any bonds, he shall be deemed considered guilty of a
20 felony. If convicted, he shall be punished by imprisonment
21 in the state prison for not less than 1 year or more than 10
22 years.

23 (3) All moneys realized from the sale of school
24 district bonds shall be paid to the county treasurer finance
25 administrator, and he shall credit such moneys to the

1 building fund of the school district issuing such bonds,
2 except moneys realized for the purposes defined in
3 20-9-403(1)(c) and (1)(d) shall be deposited in the debt
4 service fund for the purchase of such bonds. The moneys
5 realized from the sale of school district bonds shall be
6 immediately available to such school district, and the
7 trustees may expend such moneys without budgeted
8 authorization for the purpose or purposes, but only for such
9 purposes, for which the bonds were authorized by the school
10 district bond election. Under the provisions of ~~7-6-2002~~
11 ~~[section 62 of SB 22]~~, the trustees may invest such moneys
12 for which there is no immediate demand ~~and the interest~~
13 ~~earned by such investment shall be used in the manner~~
14 ~~provided therein. Interest earned from such investments,~~
15 ~~except interest on the sale of bonds accrued in the period~~
16 ~~between the date of issue and the time of purchase which~~
17 ~~must be credited to the sinking funds, may be credited to the~~
18 ~~sinking fund of the county high school, provided that in the~~
19 ~~event construction of the buildings is delayed for a period~~
20 ~~longer than 6 months due to court action or other causes~~
21 ~~beyond the control of the trustees, the trustees may direct~~
22 ~~that interest earned be credited to the fund from which the~~
23 ~~money was withdrawn. The trustees may authorize~~
24 ~~expenditures from interest earned, except as provided above,~~
25 ~~for furnishing and equipping the buildings for which the~~

1 ~~bonds were sold.~~ After the full accomplishment of the
 2 purpose or purposes of a bond issue, the excess moneys
 3 realized from such bond issue shall be transferred to the
 4 debt service fund of the school district to be used for the
 5 redemption or purchase of bonds of such issue."

6 Section 119. Section 20-9-445, MCA, is amended to
 7 read:

8 "20-9-445. Liability for misuse of bond payment fund.
 9 Any person or persons who shall take, use, appropriate, or
 10 permit to be taken, used, or appropriated any portion of any
 11 such fund as herein specified for any purpose other than
 12 that permitted by law shall be jointly and severally liable
 13 to the ~~county-city local government,~~ school district,
 14 irrigation district, or ~~other municipal~~ or public
 15 corporation to which said fund shall belong for the portion
 16 of such fund so unlawfully taken, used, or appropriated."

17 Section 120. Section 20-9-446, MCA, is amended to
 18 read:

19 "20-9-446. Duty of county prosecuting attorney to
 20 prosecute. It shall be the duty of the county prosecuting
 21 attorney in each county to commence and prosecute all
 22 actions to enforce any liability created by 20-9-444 or
 23 20-9-445. Such actions shall be tried as civil actions at
 24 law."

25 Section 121. Section 25-3-201, MCA, is amended to

1 read:

2 "25-3-201. Delivery of papers to officer. (1) It is
 3 the duty of the clerk of any district court, at the request
 4 of a party in any civil action pending in such court or his
 5 agent or attorney, to forward by mail any process, summons,
 6 or other papers required in the cause; and it is the duty of
 7 the sheriff or other officer to whom said papers may be
 8 directed to receive the same at the place where the same are
 9 directed. When process in one county is intended for service
 10 in another, it is the duty of the clerk to forward the same
 11 in like manner.

12 ~~(2) Any writ, order, or other paper for service must~~
 13 ~~be received at any place in the county where a sheriff or a~~
 14 ~~deputy is found, but if papers are delivered for service~~
 15 ~~away from the county seat, all necessary copies thereof must~~
 16 ~~be furnished for service.~~

17 ~~(3)(2)~~ If any sheriff or other officer refuse to
 18 receive any summons or other process at the point where
 19 directed to him or to serve the same, he is guilty of a
 20 misdemeanor and upon conviction thereof must be fined in any
 21 sum not exceeding \$100."

22 Section 122. Section 32-1-424, MCA, is amended to
 23 read:

24 "32-1-424. Investments of financial institutions. (1)
 25 Trust and investment companies may lease, purchase, hold,

1 and convey all such real or personal property as may be
 2 necessary to carry on their authorized business, as well as
 3 such real or personal property as the board of directors may
 4 deem necessary to acquire in the enforcement or settlement
 5 of any claims or demands arising out of business
 6 transactions and may execute and issue, in the transaction
 7 of their business, all necessary receipts, certificates, and
 8 contracts.

9 (2) The board of directors of any such corporation is
 10 authorized to invest the capital and assets of said
 11 corporation and keep the same invested in securities to be
 12 approved by the board, and it shall be lawful for the board
 13 to make such investments of its capital and assets and of
 14 the funds accumulated by its business, including money,
 15 deposits, or any part thereof, in negotiable or
 16 nonnegotiable notes or bonds, mortgages on unencumbered real
 17 estate, stocks and bonds of corporations, or bonds and
 18 warrants of any county, city, town, or school district of
 19 this state or any other state of the United States legally
 20 authorized to issue the same, or bonds or obligations of the
 21 United States.

22 ~~(3) Notwithstanding other provisions of the law, it~~
 23 ~~shall be lawful for any bank, trust company, investment~~
 24 ~~company and other financial institutions operating under the~~
 25 ~~laws of this state to invest the funds or moneys in their~~

1 ~~custody or possession eligible for investment in bonds of~~
 2 ~~the Home Owners' Loan Corporation, in debentures issued by~~
 3 ~~the federal housing administrator, and in obligations of~~
 4 ~~National Mortgage Associations."~~

5 Section 123. Section 32-2-406, MCA, is amended to
 6 read:

7 "32-2-406. Investments. (1) A building and loan
 8 association may invest the money of the association in:
 9 (a) the bonds and securities of the United States,
 10 bonds and other obligations guaranteed as to interest and
 11 principal by the United States, and the stocks, bonds,
 12 debentures, and other securities and obligations of any
 13 federal home loan bank created under the laws of the United
 14 States;

15 (b) the bonds and warrants of any state and of any
 16 county, city, or school district of the state of Montana;

17 (c) the obligations of the federal savings and loan
 18 insurance corporation lawfully issued pursuant to Title IV
 19 of the National Housing Act;

20 (d) improved real estate which has been sold under
 21 contract, including suburban homes but not including farm
 22 lands or mining property. However, the total amount
 23 remaining so invested, excluding real estate otherwise
 24 acquired, shall at no time exceed 15% of its assets. The
 25 amount so invested may not exceed 85% of the price

1 stipulated in the contract of sale or 85% of the value of
2 the property so purchased, whichever is the lesser.

3 (e) other bonds and securities, not to exceed 10% of
4 the association assets.

5 (2) Not over 10% of the assets of an association may
6 be invested in home office buildings, furniture, and
7 fixtures. Other real property acquired in any manner or for
8 any purpose may not be held for more than 5 years, except by
9 permission of the department.

10 ~~(3) Notwithstanding other provisions of the law, it~~
11 ~~shall be lawful for any building and loan association and~~
12 ~~other financial institution operating under the laws of this~~
13 ~~state to invest the funds or moneys in their custody or~~
14 ~~possession, eligible for investment, in bonds of the Home~~
15 ~~Owners' Loan Corporation in debentures issued by the~~
16 ~~federal housing administrator, and in obligations of~~
17 ~~National Mortgage Associations."~~

18 Section 124. Section 37-2-301, MCA, is amended to
19 read:

20 "37-2-301. Duty to report cases of communicable
21 disease. (1) If a physician or other practitioner of the
22 healing arts examines or treats a person whom he believes
23 has a communicable disease or a disease declared reportable
24 by the department of health and environmental sciences, he
25 shall immediately report the case to the local health

1 officer. The report shall be in the form and contain
2 information prescribed by the department of ~~health and~~
3 ~~environmental sciences.~~

4 (2) A person who violates the provisions of this
5 section or rules adopted by the department of ~~health and~~
6 ~~environmental sciences~~ under the provisions of this chapter
7 is guilty of a misdemeanor. On conviction, he shall be
8 fined not less than \$10 or more than \$500, imprisoned for
9 not more than 90 days, or both. Each day of violation
10 constitutes a separate offense. Fines shall be paid to the
11 county treasurer ~~finance administrator~~ of the county in
12 which the violation occurs."

13 Section 125. Section 37-40-102, MCA, is amended to
14 read:

15 "37-40-102. Exemptions. Persons exempt from the
16 requirements of this chapter, unless practicing the
17 profession of sanitarian, are:

18 (1) any person teaching, lecturing, or engaging in
19 research in environmental sanitation, but only insofar as
20 such activities are performed as part of an academic
21 position in a college or university;

22 (2) any person who is a sanitary engineer, public
23 health engineer, registered professional engineer, or
24 engineer-in-training;

25 (3) any public health officer employed pursuant to

1 ~~50-2-216 [section 44 through section 50 of SB 71]; and~~

2 (4) any person employed by a federal governmental
3 agency, but only at such times as the person is carrying out
4 the functions of his employment."

5 Section 126. Section 37-61-212, MCA, is amended to
6 read:

7 "37-61-212. Collection of delinquent license tax. If
8 any practicing attorney or counselor at law shall fail,
9 neglect, or refuse to pay to the clerk of the supreme court
10 the license tax imposed by this chapter for a period of 30
11 days after the same is due and payable, it shall be the duty
12 of the clerk of the supreme court to take such action for
13 the collection of the same ~~as is required of the county~~
14 ~~treasurer in cases of nonpayment of other licenses, as~~
15 ~~provided by 7-21-2116, and the provisions of 7-21-2115~~
16 ~~through 7-21-2117 shall control in said proceedings so far~~
17 ~~as the same are applicable thereto~~ license tax."

18 Section 127. Section 39-3-402, MCA, is amended to
19 read:

20 "39-3-402. Definitions. As used in this part the
21 following definitions apply:

22 (1) "Commissioner" means the commissioner of labor and
23 industry.

24 (2) "Employ" means to suffer or permit to work.

25 (3) "Employee" includes any individual employed by an

1 employer, ~~including local government law enforcement~~
2 ~~officers and firefighters.~~

3 (4) "Farm or ranch" shall mean any endeavor primarily
4 engaged in cultivating the soil or in connection with
5 raising or harvesting any agricultural or horticultural
6 commodity, including the raising, shearing, feeding, caring
7 for, training, and management of livestock, bees, and
8 poultry and fur-bearing animals and wildlife.

9 (5) "Farm worker" means any person employed to do any
10 service performed on a farm or ranch.

11 (6) "Occupation" means any occupation, service, trade,
12 business, industry, or branch or group of industries or
13 employment or class of employment in which employees are
14 gainfully employed.

15 (7) "Wage" means compensation due to an employee by
16 reason of his employment, payable in legal tender of the
17 United States or check on banks convertible into cash on
18 demand at full face value, subject to such allowance as may
19 be permitted by regulations of the commissioner under
20 39-3-403. The term "wage" includes the reasonable cost to
21 the employer of furnishing such employee with board,
22 lodging, or other facilities, if such board, lodging, or
23 other facilities are customarily furnished by such employer
24 to his employees; provided, however, that in no case shall
25 such inclusion exceed an amount equal to 40% of the total

1 wage paid by such employer to such employee."

2 Section 128. Section 39-4-107, MCA, is amended to
3 read:

4 "39-4-107. State ~~and municipal~~ governments government,
5 school districts, mines, mills, and smelters. (1) A period
6 of 8 hours shall constitute a day's work in all works and
7 undertakings carried on or aided by ~~any municipality, county~~
8 or state government or first-class school districts and
9 on all contracts let by them and for all janitors, ~~except in~~
10 ~~courthouses of sixth and seventh class counties,~~ engineers,
11 firemen firefighters, caretakers, custodians, and laborers
12 employed in or about any buildings, works, or grounds used
13 or occupied for any purpose by ~~any municipality, county, or~~
14 state government government or school districts of first
15 class, and in mills and smelters for the treatment of ores,
16 in underground mines, and in the washing, reducing, and
17 treatment of coals, except in cases of emergency when life or
18 property is in imminent danger.

19 ~~(2) for firefighters in cities of the first and second~~
20 ~~class, a work week shall be a period of a maximum of 40~~
21 ~~hours during a 5-day week.~~

22 ~~(3) in counties where regular road and bridge~~
23 ~~departments are maintained, the county commissioners may~~
24 ~~with the approval of the employees or their duly constituted~~
25 ~~representative, establish a 49-hour work week consisting of~~

1 ~~4 consecutive 8-hour days. No employee shall be required~~
2 ~~to work in excess of 8 hours in any one work day if he~~
3 ~~prefers not to.~~

4 ~~(4)(2)~~ Every person, corporation, stock company, or
5 association of persons who violates any of the provisions of
6 this section shall be guilty of a misdemeanor and upon
7 conviction thereof shall be punished by a fine of not less
8 than \$100 or more than \$600 or by imprisonment in the county
9 jail for not less than 30 days or more than 7 months or by
10 both such fine and imprisonment."

11 Section 129. Section 40-3-114, MCA, is amended to
12 read:

13 "40-3-114. Budget. The provisions of the county budget
14 system, ~~title 7, chapter 6, part 23,~~ [section 41 through
15 section 56 of SB 22] shall, except as provided by
16 40-3-125(3), be applicable to expenditures for the court of
17 conciliation ~~provided, however, that the court may submit~~
18 ~~to the board of county commissioners the information~~
19 ~~required by 7-6-2311 on or before July 1 of each year."~~

20 Section 130. Section 45-8-201, MCA, is amended to
21 read:

22 "45-8-201. Obscenity. (1) A person commits the offense
23 of obscenity when, with knowledge of the obscene nature
24 thereof, he purposely or knowingly:

25 (a) sells, delivers, or provides or offers or agrees

1 to sell, deliver, or provide any obscene writing, pictures,
2 records, or other representation or embodiment of the obscene
3 to anyone under the age of 18;

4 (b) presents or directs an obscene play, dance, or
5 other performance, or participates in that portion thereof
6 which makes it obscene, to anyone under the age of 18;

7 (c) publishes, exhibits, or otherwise makes available
8 anything obscene to anyone under the age of 18;

9 (d) performs an obscene act or otherwise presents an
10 obscene exhibition of his body to anyone under the age of
11 18;

12 (e) creates, buys, procures, or possesses obscene
13 matter or material with the purpose to disseminate it to
14 anyone under the age of 18; or

15 (f) advertises or otherwise promotes the sale of
16 obscene material or materials represented or held out by him
17 to be obscene.

18 (2) A thing is obscene if:

19 (a) (i) it is a representation or description of
20 perverted ultimate sexual acts, actual or simulated;

21 (ii) it is a patently offensive representation or
22 description of normal ultimate sexual acts, actual or
23 simulated; or

24 (iii) it is a patently offensive representation or
25 description of masturbation, excretory functions, or lewd

1 exhibition of the genitals; and

2 (b) taken as a whole the material:

3 (i) applying contemporary Montana standards, appeals
4 to the prurient interest in sex;

5 (ii) portrays conduct described in (2)(a)(i), (ii), or
6 (iii) of this section in a patently offensive way; and

7 (iii) lacks serious literary, artistic, political, or
8 scientific value.

9 (3) In any prosecution for an offense under this
10 section, evidence shall be admissible to show:

11 (a) the predominant appeal of the material and what
12 effect, if any, it would probably have on the behavior of
13 people;

14 (b) the artistic, literary, scientific, educational,
15 or other merits of the material;

16 (c) the degree of public acceptance of the material in
17 this state;

18 (d) appeal to prurient interest or absence thereof in
19 advertising or other promotion of the material; or

20 (e) purpose of the author, creator, publisher, or
21 disseminator.

22 (4) A person convicted of obscenity shall be fined at
23 least \$500 but not more than \$1,000 or imprisoned in the
24 county jail for a term not to exceed 6 months, or both.

25 (5) No city--or municipal or county ordinance may be

1 adopted which is more restrictive as to obscenity than the
2 provisions of this section and 45-8-202."

3 Section 131. Section 46-6-202, MCA, is amended to
4 read:

5 "46-6-202. Form of warrant -- execution. (1) A warrant
6 of arrest shall:

7 (a) be in writing in the name of the state of Montana
8 or in the name of ~~a municipality~~ the local government if a
9 violation of a ~~municipal~~ local government ordinance is
10 charged;

11 (b) set forth the nature of the offense;

12 (c) command that the person against whom the complaint
13 was made be arrested and brought before the court issuing
14 the warrant or, if the judge is absent or unable to act,
15 before the nearest or most accessible court in the same
16 county or the adjoining county;

17 (d) specify the name of the person to be arrested or,
18 if his name is unknown, designate the person by any name or
19 description by which he can be identified with reasonable
20 certainty;

21 (e) state the date when issued and the municipality or
22 county where issued; and

23 (f) be signed by the judge of the court with the title
24 of his office.

25 (2) The warrant of arrest may specify the amount of

1 bail.

2 (3) The warrant shall be directed to all peace
3 officers in the state. It shall be executed by a peace
4 officer and may be executed in any county of the state.
5 However, warrants issued for the violation of city ~~or county~~
6 ordinances cannot be executed outside the city ~~or county~~
7 limits, except as otherwise provided by ~~7-22-4300~~ and
8 ~~7-22-4302~~ [section 60 of SB 14] for municipalities.

9 (4) If an arrest is made in a county other than the
10 one in which the warrant was issued, the arrested person
11 shall be taken without unnecessary delay before the nearest
12 and most accessible judge in the county where the arrest was
13 made or the adjoining county."

14 Section 132. Section 50-1-104, MCA, is amended to
15 read:

16 "50-1-104. ~~General penalty. Violations of public health~~
17 ~~laws or rules. (1) If a person refuses or neglects to comply~~
18 ~~with a written order of a state or local health officer or~~
19 ~~other local public health personnel acting in the~~
20 ~~performance of their duties within a reasonable time~~
21 ~~specified in the order, the state or local health officer~~
22 ~~may:~~

23 ~~(a) obtain a court order enforcing compliance with the~~
24 ~~order or:~~

25 ~~(b) if the conditions indicate an imperative threat to~~

1 public health, take whatever action is necessary to
2 alleviate the conditions which prompted the order.

3 (2) The state or local health officer may initiate an
4 action to recover any expenses incurred from the person who
5 refused or neglected to comply with the order. The action to
6 recover expenses shall be brought in the name of the county
7 involved.

8 (3) No person may remove or deface any placard or
9 notice posted by the local health officer or other local
10 public health personnel acting in the performance of their
11 duties or violate a quarantine regulation.

12 (4) Anyone who knowingly violates a public health law
13 or a rule adopted by the board or the department of health
14 and environmental sciences or a local health department for
15 which no penalty is specified is guilty of a misdemeanor."

16 Section 133. Section 50-1-202, MCA, is amended to
17 read:

18 "50-1-202. General powers and duties. The department
19 shall:

20 (1) study conditions affecting the citizens of the
21 state by making use of birth, death, and sickness records;

22 (2) make investigations, disseminate information, and
23 make recommendations for control of diseases and improvement
24 of public health to persons, groups, or the public;

25 (3) at the request of the governor, administer any

1 federal health program for which responsibilities are
2 delegated to states;

3 (4) inspect and work in conjunction with custodial
4 institutions and Montana university system units
5 periodically as necessary and at other times on request of
6 the governor;

7 (5) after each inspection made under subsection (4) of
8 this section, submit a written report on sanitary conditions
9 to the governor and to the director of institutions or
10 commissioner of higher education and include recommendations
11 for improvement in conditions if necessary;

12 (6) advise state agencies on location, drainage, water
13 supply, disposal of excreta, heating, plumbing, sewer
14 systems, and ventilation of public buildings;

15 (7) organize laboratory services and provide equipment
16 and personnel for those services;

17 (8) develop and administer activities for the
18 protection and improvement of dental health and supervise
19 dentists employed by the ~~state-tooth-boards-of--healthy~~ or
20 schools;

21 (9) develop and administer a program to protect the
22 health of mothers and children;

23 (10) conduct health education programs;

24 ~~(11) supervise school and local public health nurses in~~
25 ~~the performance of their duties;~~

1 ~~(12)~~(11) consult with the superintendent of public
2 instruction on health measures for schools;

3 ~~(13)~~(12) develop and administer a program for services
4 to handicapped children including diagnosis, medical,
5 surgical, and corrective treatment, and after-care and
6 related services;

7 ~~(14) supervise local boards of health;~~

8 ~~(15)~~(13) bring actions in court for the enforcement of
9 the health laws and defend actions brought against the board
10 or department;

11 ~~(16) evaluate programs and services provided by local~~
12 ~~health departments;~~

13 ~~(17)~~(15) accept and expend federal funds available for
14 public health services;

15 ~~(18)~~(16) have the power to use personnel of local
16 departments of health to assist in the administration of
17 laws relating to public health--~~and, if such personnel are~~
18 ~~utilized for these purposes, however, local health~~
19 ~~departments shall be reimbursed for the costs involved out~~
20 ~~of money from any sources available to the department.~~

21 ~~(19)~~(17) adopt rules imposing fees for the tests and
22 services performed by the laboratory of the department. In
23 adopting a rule imposing fees, the department may establish
24 only a fee that will reimburse the department for the costs
25 incurred in performing tests and services. All fees shall be

1 deposited in the general fund."

2 Section 134. Section 50-3-103, MCA, is amended to
3 read:

4 "50-3-103. Rules promulgated by state fire marshal.
5 (1) Rules promulgated by the state fire marshal by authority
6 of 50-3-102 shall be reasonable and calculated to effect the
7 purposes of this chapter. They shall include but not be
8 limited to requirements for design, construction,
9 installation, operation, storage, handling, maintenance, or
10 use of structural requirements for various types of
11 construction; building restrictions within congested
12 districts; exit facilities from structures; fire alarm
13 systems and fire extinguishing systems; fire emergency
14 drills; flue and chimney construction; heating devices;
15 electrical wiring and equipment; air conditioning,
16 ventilating, and other duct systems; refrigeration systems;
17 flammable liquids; oil and gas wells; application of
18 flammable finishes; explosives, acetylene, liquefied
19 petroleum gas, and similar products; calcium carbide and
20 acetylene generators; flammable motion picture film,
21 combustible fibers; hazardous chemicals; rubbish, open flame
22 devices; parking of vehicles; dust explosions; lightning
23 protection; and other special fire hazards.

24 (2) If rules relate to building and equipment
25 standards covered by the state or a ~~municipal~~ local

1 ~~government~~ building code, the rules are effective upon
2 approval of the department of administration and filing with
3 the secretary of state.

4 (3) Standards of the national fire protection
5 association, United States bureau of standards, and American
6 insurance association may be adopted in whole or in part by
7 reference.

8 (4) Rules shall be adopted as prescribed in the
9 Montana Administrative Procedure Act.

10 (5) Any person violating any rule made under the
11 provisions of this part shall be guilty of a misdemeanor."

12 Section 135. Section 50-37-102, MCA, is amended to
13 read:

14 "50-37-102. Where chapter not to apply. (1) Nothing in
15 this chapter shall be construed to prohibit the sale of any
16 kind of fireworks to a person holding a permit from any
17 municipality or county at the display covered by such
18 permits, the use of fireworks by railroads or other
19 transportation agencies for signal purposes or illumination
20 or when--used ~~the use of fireworks~~ in quarrying or blasting
21 or other industrial use, or the sale or use of blank
22 cartridges for a show or theater, for signal or ceremonial
23 purposes in athletics or sports, or for use by military
24 organizations or organizations composed of veterans of the
25 United States army, navy, or marine corps.

1 (2) This chapter does not apply to toy paper caps
2 containing less than one-fourth of a grain of explosive
3 composition per cap, to the manufacture, storage, sale, or
4 use of signals necessary for the safe operation of railroads
5 or other classes of public or private transportation, to the
6 military or naval forces of the United States or this state,
7 to peace officers, or to the sale or use of blank cartridges
8 for ceremonial, theatrical, or athletic events."

9 Section 136. Section 50-37-107, MCA, is amended to
10 read:

11 "50-37-107. Supervised public display of fireworks
12 authorized. (1) The state fire marshal and the governing
13 body of a ~~city-town~~ municipality or county may, under
14 reasonable rules adopted by them, grant permits for
15 supervised public displays of fireworks to be held by
16 municipalities, ~~counties~~, fair associations, amusement
17 parks, and other organizations or groups of individuals.

18 (2) Each display shall:

19 (a) be handled by a competent operator, who must be
20 approved by the state fire marshal or the governing body of
21 the ~~county or~~ municipality in which the display is to be
22 held; and

23 (b) be located, discharged, or fired as, in the
24 opinion of the chief of the fire department or other officer
25 designated by the governing body of the ~~county or~~

1 municipality after proper inspection, not to be hazardous to
2 persons or property.

3 (3) Application for permits shall be made in writing
4 at least 15 days prior to the date of the display.

5 (4) After the privilege has been granted, sales,
6 possession, use, and distribution of fireworks for the
7 display are lawful for that purpose only.

8 (5) No permit granted under this section is
9 transferable.

10 ~~(6) The term "municipalities" includes cities and~~
11 ~~incorporated towns."~~

12 Section 137. Section 50-37-108, MCA, is amended to
13 read:

14 "50-37-108. Damage indemnity bond required for public
15 display. The governing body of the municipality or county
16 shall require a bond ~~deemed~~ considered adequate by the
17 municipality or county from the licensee in a sum not less
18 than \$500, conditioned for the payment of all damages which
19 may be caused either to a person or persons or to property
20 by reason of the licensee display and arising from any acts
21 of the licensee, his agents, employees, or subcontractors."

22 Section 138. Section 50-50-201, MCA, is amended to
23 read:

24 "50-50-201. License required. (1) A person operating
25 an establishment shall procure an annual license from the

1 department.

2 (2) A separate license is required for each
3 establishment, but if more than one type of establishment is
4 operated on the same premises and under the same management,
5 only one license is required.

6 (3) Only one license is required for a person owning
7 and operating one or more vending machines.

8 ~~(4) No license issued under this chapter is valid~~
9 ~~until countersigned by the local health officer having~~
10 ~~jurisdiction in each county in which the business will be~~
11 ~~conducted. The department shall refer all licenses to the~~
12 ~~local health officer for his signature prior to the issuance~~
13 ~~of a license by the department. The initial license and~~
14 ~~subsequent renewals shall be invalid until the validation~~
15 ~~signature is affixed. The validation signature shall be~~
16 ~~affixed only after the local health officer is satisfied~~
17 ~~that the establishment has met sanitary conditions required~~
18 ~~by rules of the department. The local health officer shall,~~
19 ~~within 30 days after the department has made a decision to~~
20 ~~issue a license under this chapter, make a final decision on~~
21 ~~whether the license will be validated. If the local health~~
22 ~~officer refuses to validate the license, he shall notify the~~
23 ~~applicant, the department, and any other interested person~~
24 ~~in writing. The applicant may appeal the decision to the~~
25 ~~state board of health and environmental sciences within 30~~

1 days after receiving written notice of the local health
 2 officer's decision. The hearing before the state board of
 3 health and environmental sciences shall be held pursuant to
 4 the contested case procedures of the Montana Administrative
 5 Procedure Act."

6 Section 139. Section 50-50-202, MCA, is amended to
 7 read:

8 "50-50-202. Publicly owned establishment exempt from
 9 license requirement. Establishments owned or operated by the
 10 state or a political subdivision of the state are exempt
 11 from licensure but must comply with the requirements of this
 12 chapter and rules adopted by the department of health and
 13 environmental sciences under this chapter."

14 Section 140. Section 50-50-208, MCA, is amended to
 15 read:

16 "50-50-208. Local board health department to report
 17 number of licensees to department. Before June 1 of each
 18 year, the local board-of health department shall submit to
 19 the department of health and environmental sciences a list
 20 of the establishments in each jurisdiction that are licensed
 21 under this chapter."

22 Section 141. Section 50-50-305, MCA, is amended to
 23 read:

24 "50-50-305. Department to pay local board for
 25 inspections. (1) Before June 30 of each year, the department

1 shall pay to a local board--of health department, as
 2 established under ~~50-2-104, 50-2-106, or 50-2-107~~ [section
 3 ~~44 through section 50 of SB 21~~] an amount from any general
 4 fund appropriation to the department which is for the
 5 purpose of inspecting establishments licensed under this
 6 chapter; provided, however, that there is a functioning
 7 local board-of health department and that the local board-of
 8 health department, local health officers, and sanitarians
 9 assist in the enforcement of the provisions of this chapter
 10 and the rules adopted under it.

11 (2) The funds received by the local board--of health
 12 department shall be deposited with the appropriate local
 13 fiscal authority and shall be in addition to the funds
 14 appropriated under ~~50-2-100--through--50-2-114~~ [section ~~57~~
 15 ~~through section 72 of SB 22~~]."

16 Section 142. Section 50-51-201, MCA, is amended to
 17 read:

18 "50-51-201. License required. (1) Each year, every
 19 person engaged in the business of conducting or operating a
 20 hotel, motel, tourist home, retirement home, or roominghouse
 21 shall procure a license issued by the department.

22 (2) A separate license is required for each
 23 establishment; however, where more than one of each type of
 24 establishment is operated on the same premises and under the
 25 same management, only one license is required which shall

1 enumerate on the certificate thereof the types of
2 establishments licensed.

3 ~~(3) No license issued under this chapter is valid
4 until countersigned by the local health officer having
5 jurisdiction in each county in which the business will be
6 conducted. The department shall refer all licenses to the
7 local health officer for his signature prior to the issuance
8 of a license by the department. The initial license and
9 subsequent renewals shall be invalid until the validation
10 signature is affixed. The validation signature shall be
11 affixed only after the local health officer is satisfied
12 that the establishment has met sanitary conditions required
13 by rules of the department. The local health officer shall,
14 within 30 days after the department has made a decision to
15 issue a license under this chapter, make a final decision on
16 whether the license will be validated. If the local health
17 officer refuses to validate the license, he shall notify the
18 applicant, the department, and any other interested person
19 in writing. The applicant may appeal the decision to the
20 state board of health and environmental sciences within 30
21 days after receiving written notice of the local health
22 officer's decision. The hearing before the state board of
23 health and environmental sciences shall be held pursuant to
24 the contested case procedures of the Montana Administrative
25 Procedure Act."~~

1 Section 13. Section 50-51-208, MCA, is amended to
2 read:

3 "50-51-208. Local ~~board health department~~ to report
4 number of licensees to ~~state~~ department. Before June 1 of
5 each year, the local ~~board of health department~~ shall submit
6 to the department ~~of health and environmental sciences~~ a
7 list of the establishments in each jurisdiction that are
8 licensed pursuant to this part."

9 Section 14. Section 50-51-303, MCA, is amended to
10 read:

11 "50-51-303. ~~Department State department~~ to pay local
12 ~~board health department of health and environmental sciences~~
13 for inspections. (1) Before June 30 of each year, the
14 department shall pay to a local ~~board of health department~~,
15 as established under ~~50-2-104, 50-2-106, or 50-2-107~~
16 ~~[section 44 through section 50 of SB 21]~~, an amount from any
17 general fund appropriation to the department ~~of health and~~
18 ~~environmental sciences~~ which is for the purpose of
19 inspecting establishments licensed under this chapter;
20 provided, however, that there is a functioning local ~~board~~
21 of health ~~department~~ and the local ~~board of health~~
22 ~~department~~, local health officers, and sanitarians assist in
23 the enforcement of the provisions of this chapter and the
24 rules adopted under it.

25 (2) The funds received by the local ~~board of health~~

1 department shall be deposited with the appropriate local
 2 fiscal authority and shall be in addition to the funds
 3 appropriated under ~~50-2-100--through--50-2-114~~ [section 44
 4 through section 50 of SB 21]."

5 Section 145. Section 50-52-201, MCA, is amended to
 6 read:

7 "50-52-201. Application for license ~~== local approval~~
 8 required. (1) Application for a license ~~is~~ shall be made to
 9 the department on forms containing information required by
 10 the department.

11 ~~(2) No license issued under this chapter is valid~~
 12 ~~until countersigned by the local health officer having~~
 13 ~~jurisdiction in each county in which the business will be~~
 14 ~~conducted. The department shall refer all licenses to the~~
 15 ~~local health officer for his signature prior to the issuance~~
 16 ~~of a license by the department. The initial license and~~
 17 ~~subsequent renewals shall be invalid until the validation~~
 18 ~~signature is affixed. The validation signature shall be~~
 19 ~~affixed only after the local health officer is satisfied~~
 20 ~~that the establishment has met sanitary conditions required~~
 21 ~~by rules of the department. The local health officer shall,~~
 22 ~~within 30 days after the department has made a decision to~~
 23 ~~issue a license under this chapter, make a final decision on~~
 24 ~~whether the license will be validated. If the local health~~
 25 ~~officer refuses to validate the license, he shall notify the~~

1 applicant, the department, and any other interested person
 2 in writing. The applicant may appeal the decision to the
 3 state board of health and environmental sciences within 30
 4 days after receiving written notice of the local health
 5 officer's decision. The hearing before the state board of
 6 health and environmental sciences shall be held pursuant to
 7 the contested case procedures of the Montana Administrative
 8 Procedure Act."

9 Section 146. Section 50-52-204, MCA, is amended to
 10 read:

11 "50-52-204. Local board health department to report
 12 number of licensees to state department. Before June 1 of
 13 each year, the local board of health department shall submit
 14 to the department of health and environmental sciences a
 15 list of the establishments in each jurisdiction which are
 16 licensed under this part."

17 Section 147. Section 50-52-302, MCA, is amended to
 18 read:

19 "50-52-302. Department to pay local board for
 20 inspection. (1) Before June 30 of each year, the department
 21 shall pay to a local board of health department, as
 22 established under ~~50-2-104, 50-2-106, or 50-2-107~~ [section
 23 33 through section 92 of SB 21], an amount from any general
 24 fund appropriation to the department which is for the
 25 purpose of inspecting establishments licensed under this

1 chapter; provided, however, that ~~there is a functioning~~
 2 ~~local board of health and that~~ the local board of health
 3 ~~department,~~ local health officers, and sanitarians assist in
 4 the enforcement of the provisions of this chapter and the
 5 rules adopted under it.

6 (2) The funds received by the local board of health
 7 ~~department~~ shall be deposited with the ~~appropriate local~~
 8 ~~fire~~ authority county finance administrator and shall be
 9 in addition to the funds appropriated under ~~50-2-100 through~~
 10 ~~50-2-114 [section 33 through section 92 of SB 71]."~~

11 Section 148. Section 50-60-101, MCA, is amended to
 12 read:

13 "50-60-101. Definitions. As used in parts 1 through 4
 14 of this chapter, unless the context requires otherwise, the
 15 following definitions apply:

16 (1) "Building" means a combination of any materials,
 17 whether mobile, portable, or fixed, used to form a structure
 18 and the related facilities for the use or occupancy by
 19 persons or property. The word "building" shall be construed
 20 as though followed by the words "or part or parts thereof".

21 (2) "Building regulations" means any law, rule,
 22 resolution, regulation, ordinance, or code, general or
 23 special, or compilation thereof enacted or adopted by the
 24 state or any municipality local government, including
 25 departments, boards, bureaus, commissions, or other agencies

1 of the state or municipality local government relating to
 2 the design, construction, reconstruction, alteration,
 3 conversion, repair, inspection, or use of buildings and
 4 installation of equipment in buildings. The term does not
 5 include zoning ordinances.

6 (3) "Construction" means the original construction and
 7 equipment of buildings and requirements or standards
 8 relating to or affecting materials used, including
 9 provisions for safety and sanitary conditions.

10 (4) "Department" means the department of
 11 administration provided for in Title 2, chapter 15, part 10.

12 (5) "equipment" means plumbing, heating, electrical,
 13 ventilating, air conditioning, and refrigerating equipment,
 14 elevators, dumbwaiters, escalators, and other mechanical
 15 additions or installations.

16 (6) "Local building department" means the agency or
 17 agencies of any municipality local government charged with
 18 the administration, supervision, or enforcement of building
 19 regulations, approval of plans, inspection of buildings, or
 20 the issuance of permits, licenses, certificates, and similar
 21 documents prescribed or required by state or local building
 22 regulations.

23 (7) "Local government" means a municipal county,
 24 consolidated, or confederated unit of local government
 25 authorized by law.

1 ~~(7)(8)~~ "Local legislative body" means the council or
2 commission charged with governing the ~~municipality~~ local
3 government.

4 ~~(8)(9)~~ "Municipality" means any incorporated ~~city or~~
5 ~~town~~ municipality and its jurisdictional area as defined by
6 subsection ~~(9)~~ (10) of this section.

7 ~~(9)(10)~~ (a) "Municipal jurisdictional area" means the
8 area within the limits of an incorporated municipality
9 unless the area is extended ~~at the written request of a~~
10 ~~municipality as provided in [section 60 of SB 14] and~~
11 ~~subsection (10)(b) of this section.~~

12 (b) Upon ~~written~~ request ~~by a local government~~, the
13 council may approve extension of the jurisdictional area to
14 include:

15 (i) all or part of the area within ~~4-1/2~~ 5 miles of
16 the corporate limits of a municipality;

17 (ii) all of any platted subdivision which is partially
18 within ~~4-1/2~~ 5 miles of the corporate limits of a
19 municipality; and

20 (iii) all of any zoning district adopted pursuant to
21 ~~Title 76, chapter 2, part 1 or 2, [section 33 through~~
22 ~~section 124 of SB 16]~~ and which is partially within ~~4-1/2~~ 5
23 miles of the corporate limits of a municipality.

24 (c) Distances shall be measured in a straight line in
25 a horizontal plane.

1 ~~(10)(11)~~ "Owner" means the owner or owners of the
2 premises or lesser estate, a mortgagee or vendee in
3 possession, assignee of rents, receiver, executor, trustee,
4 lessee, or other person, firm, or corporation in control of
5 a building.

6 ~~(11)(12)~~ "Public place" means any place which a
7 ~~municipality local government~~ or state maintains for the use
8 of the public or a place where the public has the right to
9 go and be.

10 ~~(12)(13)~~ "Recreational vehicle" means anything defined
11 as a recreational vehicle in the edition of NFPA No. 501C or
12 ANSI A119.2 most recently adopted by the state in accordance
13 with 50-60-401.

14 ~~(13)(14)~~ "State agency" means any state officer,
15 department, board, bureau, commission, or other agency of
16 this state.

17 ~~(14)(15)~~ "State building code" means the state building
18 code provided for in 50-60-203 or any portion of the code of
19 limited application and any of its modifications or
20 amendments."

21 Section 149. Section 50-60-102, MCA, is amended to
22 read:

23 "50-60-102. Applicability. (1) Outside municipalities
24 and their jurisdictional area, as defined by 50-60-101(9),
25 parts 1 through 4 apply to "public places", as defined in

1 50-60-101(1), unless a county governing body has adopted a
 2 local building code.

3 (2) Where good and sufficient cause exists, a written
 4 request for limitation of the state building code may be
 5 filed with the department for filing as a permanent record.

6 (3) The department may limit the application of any
 7 rule or portion of the state building code to include or
 8 exclude:

9 (a) specified classes or types of buildings according
 10 to use or other distinctions as may make differentiation or
 11 separate classification or regulation necessary, proper, or
 12 desirable;

13 (b) specified areas of the state based upon size,
 14 population density, special conditions prevailing therein,
 15 or other factors which make differentiation or separate
 16 classification or regulation necessary, proper, or
 17 desirable.

18 (4) A county governing body may adopt, as provided in
 19 50-60-301, local building codes to apply to any area of the
 20 county not regulated by a building code adopted by a
 21 municipal government."

22 Section 150. Section 50-60-106, MCA, is amended to
 23 read:

24 "50-60-106. Powers and duties of ~~municipalities~~ local
 25 government. (1) The examination, approval, or disapproval of

1 plans and specifications, the issuance and revocation of
 2 building permits, licenses, certificates, and similar
 3 documents, the inspection of buildings, and the
 4 administration and enforcement of building regulations
 5 within the ~~municipal~~ local government jurisdictional area
 6 shall be the responsibility of the ~~municipalities~~ local
 7 governments of the state.

8 (2) Each ~~municipality~~ local government may:

9 (a) examine, approve, or disapprove plans and
 10 specifications for the construction of any building, the
 11 construction of which is pursuant or purports to be pursuant
 12 to the provisions of the state or ~~municipal~~ local government
 13 building code, and direct the inspection of the buildings
 14 during and in the course of construction;

15 (b) require that construction of buildings be in
 16 accordance with the applicable provisions of the state or
 17 ~~municipal~~ local government building code, subject to the
 18 powers of variance or modification granted to the
 19 department;

20 (c) order in writing the remedying of any condition
 21 found to exist in, on, or about any building in violation of
 22 the state or ~~municipal~~ local government building code;
 23 orders may be served upon the owner or his authorized agent
 24 personally or by sending by registered or certified mail a
 25 copy of the order to the owner or his authorized agent at

1 the address set forth in the application for permission for
 2 the construction of the building; any local building
 3 department, by action of an authorized officer, may grant in
 4 writing such time as may be reasonably necessary for
 5 achieving compliance with the order;

6 (d) issue certificates of occupancy, permits,
 7 licenses, and such other documents in connection with the
 8 construction of the buildings as required;

9 (e) make, amend, and repeal rules for the
 10 administration and enforcement of the provisions of this
 11 section and for the collection of reasonable fees, which
 12 shall be comparable to fees imposed or prescribed by
 13 existing local building regulations;

14 (f) prohibit the commencement of construction until a
 15 permit has been issued by the local building department
 16 after a showing of compliance with the requirements of the
 17 applicable provisions of the state or ~~municipal~~ local
 18 government building code."

19 Section 151. Section 50-60-107, MCA, is amended to
 20 read:

21 "50-60-107. Certificate of occupancy. (1) A
 22 certificate of occupancy for a building constructed in
 23 accordance with the provisions of the state or ~~municipal~~
 24 local government building code shall certify that the
 25 building conforms to the requirements of the building

1 regulations applicable to it.

2 (2) Every certificate of occupancy, unless and until
 3 set aside or vacated by a court of competent jurisdiction,
 4 is binding and conclusive upon all ~~municipal~~ local
 5 government agencies as to all matters set forth, and no
 6 order, directive, or requirement at variance therewith may
 7 be made or issued by any other state or ~~municipal~~ local
 8 government agency."

9 Section 152. Section 50-60-109, MCA, is amended to
 10 read:

11 "50-60-109. Injunctions authorized. (1) The
 12 construction or use of the building in violation of any
 13 provision of the state or ~~municipal~~ local government
 14 building code or any lawful order of a state building
 15 official or a local building department may be enjoined by a
 16 judge of the district court in the judicial district in
 17 which the building is located.

18 (2) This section will be governed by the Montana Rules
 19 of Civil Procedure."

20 Section 153. Section 50-60-110, MCA, is amended to
 21 read:

22 "50-60-110. Violation a misdemeanor. Any person served
 23 with an order pursuant to the provisions of parts 1 through
 24 4 who fails to comply with the order not later than 30 days
 25 after service or within the time fixed by the department or

1 a local building department for compliance, whichever is the
 2 greater, or any owner, builder, architect, tenant,
 3 contractor, subcontractor, construction superintendent,
 4 their agents, or any person taking part or assisting in the
 5 construction or use of any building who knowingly violates
 6 any of the applicable provisions of the state building code
 7 or a ~~municipal~~ local government building code is guilty of a
 8 misdemeanor."

9 Section 154. Section 50-60-205, MCA, is amended to
 10 read:

11 "50-60-205. When state building code applies. If a
 12 ~~municipality-or-county~~ local government does not adopt a
 13 building code as provided in 50-60-301, the state building
 14 code applies within the ~~municipal-or-county~~ local government
 15 jurisdictional area and the state will enforce the code in
 16 these areas."

17 Section 155. Section 50-60-301, MCA, is amended to
 18 read:

19 "50-60-301. ~~Municipal--and--county~~ Local government
 20 building codes authorized. (1) The local legislative body of
 21 a ~~municipality--or--county~~ local government may adopt a
 22 building code by ordinance to apply to the ~~municipal--or~~
 23 county local government jurisdictional area.

24 (2) A ~~municipal--or--county~~ local government building
 25 code may include only codes adopted by the department."

1 Section 156. Section 50-60-302, MCA, is amended to
 2 read:

3 "50-60-302. Certification of ~~municipal--and--county~~
 4 local government building codes. (1) A ~~county--or~~
 5 ~~municipality~~ local government may not enforce a building
 6 code unless the code adopted and a plan for enforcement of
 7 the code have been filed with the department.

8 (2) The department shall set forth rules and standards
 9 governing the certification of ~~municipal--and--county~~ local
 10 government building code programs as required in subsection
 11 (1)."

12 Section 157. Section 50-60-303, MCA, is amended to
 13 read:

14 "50-60-303. ~~Municipal~~ Local ~~government~~ appeal
 15 procedure. (1) If a ~~municipality~~ local government adopts a
 16 ~~municipal~~ local government building code, it shall also
 17 establish an appeal procedure by ordinance which is
 18 acceptable to the department.

19 (2) If a ~~municipality~~ local government does not adopt
 20 a code, appeals on the application of the state building
 21 code within the ~~municipal~~ local government jurisdictional
 22 area shall be made to the department."

23 Section 158. Section 50-62-101, MCA, is amended to
 24 read:

25 "50-62-101. Entering of buildings for purpose of

1 examination authorized. The state fire marshal, his deputies
 2 and subordinates, the chief of the fire department of each
 3 ~~municipality local government~~ or district where a fire
 4 department is established, or the county sheriff where no
 5 fire department exists at all reasonable hours may enter
 6 into all buildings and upon all premises within their
 7 jurisdiction for the purpose of determining whether the
 8 building or premise conforms to laws and rules relating to
 9 fire hazards and fire safety."

10 Section 159. Section 50-63-202, MCA, is amended to
 11 read:

12 "50-63-202. Fire chief or sheriff to conduct
 13 investigation. If the fire occurs within a municipality, an
 14 organized county fire department's jurisdiction or an
 15 organized fire district, the chief of the fire department
 16 shall make the investigation. If the fire occurs outside a
 17 municipality, an organized county fire department's
 18 jurisdiction, or an organized fire district, the county
 19 sheriff shall make the investigation."

20 Section 160. Section 53-2-323, MCA, is amended to
 21 read:

22 "53-2-323. Grants from state funds to counties. A
 23 county may apply to the department for an emergency
 24 grant-in-aid, and the grant shall be made to the county upon
 25 the following conditions:

1 (1) The ~~board of county commissioners governing body~~
 2 or a duly elected or appointed executive officer of the
 3 county shall make written application to the department for
 4 emergency assistance and shall show by written report and
 5 sworn affidavit of the county clerk and recorder and
 6 chairman of the ~~board of county commissioners governing body~~
 7 or other duly elected or appointed executive officer of the
 8 county the following:

9 (a) that the county will not be able to meet its
 10 obligations under law to provide assistance to the needy of
 11 the county or meet its proportionate share of any public
 12 assistance activity carried on jointly with the department;

13 (b) that all lawful sources of revenue and other
 14 income to the county poor fund will be exhausted;

15 (c) that all expenditures from the county poor fund
 16 have been lawfully made; and

17 (d) any other information required by the department.

18 (2) Within 10 days of receipt of the application and
 19 affidavit, the department shall determine whether the county
 20 poor fund will be depleted and shall give notice to the
 21 county of the department's intention to deny or allow the
 22 grant-in-aid. ~~Before a grant-in-aid for any fiscal year may~~
 23 ~~be made to a county under this section, any money credited~~
 24 ~~during that fiscal year to the depletion allowance reserve~~
 25 ~~fund from the sources provided by 7-34-2402(2) shall be~~

~~transferred to the county poor fund to be used for lawful poor fund expenditures. The amount of the grant-in-aid shall be determined after all sources of income available to the poor fund, including the depletion allowance reserve fund transfers, have been exhausted.~~

(3) Within 10 days of receiving notice from the department that a grant-in-aid will be made to the county, the board of county commissioners or other duly elected or appointed executive officer of the county shall adopt an emergency budget. There is no requirement of notice and hearing for that emergency budget. The emergency budget shall state the amount required to meet the obligation of the county and shall allocate that whole amount among the various classes of expenditures for which the grant was made.

(4) Upon receipt and approval of the county emergency budget, the department shall issue a warrant to the county treasurer of the county for the total amount stated in the approved emergency budget.

(5) The grant-in-aid received by the county shall be placed in an emergency fund account to be kept separate and distinct from the poor fund account. All expenditures from the emergency fund account shall be made by a separate series of warrants or checks marked as emergency warrants or checks.

(6) The grants-in-aid from the department may be used only for public assistance activities lawfully conducted by the county, including but not limited to medical aid, hospitalization, and institutional care. No part of a grant-in-aid may be used, directly or indirectly, to pay for the erection or improvement of any county building or for furniture, fixtures, appliances, or equipment for a county building.

(7) In the event the county poor fund is replenished by other lawful sources of revenue, the county shall issue warrants to meet its obligations from the county poor fund until such time as that fund is again so depleted that warrants can no longer lawfully be drawn on that account. Upon depletion of the county poor fund, the county may again make disbursements from the emergency fund account as provided in subsection (5). At the close of the county fiscal year, the county shall return to the department any amounts remaining in the county poor fund and the emergency fund account, but the remaining amount to be returned may not exceed the total amount of the emergency grant-in-aid for that fiscal year.

(8) Any amount which is unlawfully disbursed or transferred from the emergency fund account or used for a purpose other than that specified in the grant-in-aid shall be returned by the county to the department."

1 Section 161. Section 53-8-101, MCA, is amended to
2 read:

3 "53-8-101. Purpose and intent. It is the purpose of
4 this part to enable the state of Montana ~~and the counties~~
5 ~~cities, towns,~~ school districts, and other governmental
6 subdivisions of the state and other organizations or
7 agencies authorized to receive federal assistance under
8 Public Law 88-452, 88th congress, to secure for the citizens
9 of Montana the benefits offered by the United States
10 government to the several states and their citizens in the
11 law of August 20, 1964 (Public Law 88-452 of the 88th
12 congress; 78 Stats. 508) for economic betterment and the
13 relief of poverty. It is the intent of this part to grant to
14 the state and its subdivisions the widest possible
15 authority, within the limits set by law, to cooperate and
16 combine their efforts with those of the appropriate federal
17 agencies and to comply with any federal regulations not in
18 conflict with the laws of the state of Montana to carry out
19 the purposes of the congressional act and secure the
20 resulting benefits for Montana and its people."

21 Section 162. Section 53-8-102, MCA, is amended to
22 read:

23 "53-8-102. Agreements with federal agencies
24 authorized. The state of Montana and all offices, agencies,
25 departments, and divisions thereof ~~and all counties, cities,~~

1 towns, school districts, and other governmental subdivisions
2 of the state and other organizations or agencies authorized
3 to receive federal assistance under Public Law 88-452, 88th
4 congress, singly or in combination, are hereby authorized
5 and empowered, within the limits set by the respective laws
6 governing them, to enter into and carry out contracts,
7 agreements, and plans with any authorized agency of the
8 United States government for the implementation and
9 operation within the areas of their respective jurisdictions
10 of the act of congress of August 20, 1964 (Public Law 88-452
11 of the 88th congress; 78 Stats. 508)."

12 Section 163. Section 53-8-103, MCA, is amended to
13 read:

14 "53-8-103. Expenditure of public funds to carry out
15 agreements. The agencies of the state ~~and local government~~
16 ~~enumerated in the preceding section~~ may, within the limits
17 of the laws governing their respective authorities to raise
18 and expend public moneys, budget for and/or expend public
19 moneys in order to enter into and carry out contracts,
20 agreements, and plans under this part and Public Law 88-452.
21 Any such expenditures must be made from the budgets, budget
22 items, or appropriations set up for the general purpose to
23 be served by the project."

24 Section 164. Section 53-21-132, MCA, is amended to
25 read:

1 "53-21-132. Cost of examination and commitment. (1)
 2 The cost of the examination, committal, and taking a person
 3 who is seriously mentally ill to a mental health facility
 4 must be paid by the county in which he resides at the time
 5 he is adjudged to be seriously mentally ill. The sheriff
 6 must be allowed the actual expenses incurred in taking a
 7 person who is seriously mentally ill to the facility, as
 8 provided by 7-32-2144 [section 60 of SB 21].

9 (2) The county of residence shall also pay all
 10 precommitment expenses, including transportation to a mental
 11 health facility, incurred in connection with the detention,
 12 examination, and precommitment custody of the respondent.
 13 The fact that a person is examined, hospitalized, or
 14 receives medical, psychological, or other mental health
 15 treatment pursuant to this part does not relieve a third
 16 party from a contractual obligation to pay for the cost of
 17 the examination, hospitalization, or treatment."

18 Section 165. Section 53-21-204, MCA, is amended to
 19 read:

20 "53-21-204. Mental health corporations. (1) Mental
 21 health regions shall be established in the state mental
 22 health plan and shall conform to the mental health regions
 23 as established in the state mental health construction plan
 24 promulgated by the board of health and environmental
 25 sciences under the federal Community Mental Health Centers

1 Act.

2 (2) The mental health regions shall establish
 3 themselves under Title 35, chapter 2. Upon incorporation, a
 4 mental health region may enter into contracts with the
 5 department in order to carry out the department's
 6 comprehensive plan for mental health. These nonprofit
 7 corporations shall not be considered agencies of the
 8 department or the state of Montana; however, they may retain
 9 and enter into retirement programs as established under
 10 Title 19, chapter 3, The Public Employees' Retirement System
 11 Act. Upon the establishment of the mental health regions,
 12 the county commissioners governing body in each of the
 13 various counties in the region shall designate a person from
 14 their respective county to serve as a representative of the
 15 county on the regional mental health corporation board. The
 16 board shall be established under guidelines adopted by the
 17 bylaws of the corporation. All appointments to the board
 18 shall be for terms of 2 years, and the department shall be
 19 notified in writing of all appointments.

20 (3) The duties of an organized regional mental health
 21 corporation board include:

22 (a) annual review and evaluation of mental health
 23 needs and services within the region;

24 (b) preparation and submission to the department and
 25 to each of the counties in the region of plans and budget

1 proposals to provide and support mental health services
2 within the region;

3 (c) establishment of a recommended proportionate level
4 of financial participation of each of the counties within
5 the region in the provision of mental health services within
6 the limits of this section;

7 (d) receipt and administration of moneys and other
8 support made available for the purposes of providing mental
9 health services by the participating agencies, including
10 grants from the United States government and other agencies,
11 receipts for established fees for services rendered, tax
12 moneys, gifts, donations, and any other type of support or
13 income. All funds received by the board in accordance with
14 this part shall be used to carry out the purposes of this
15 part.

16 (e) supervision of appropriate administrative staff
17 personnel of the operation of community mental health
18 services within the region;

19 (f) keeping all records of the board and making
20 reports required by the department.

21 (4) Regional mental health board members shall be
22 reimbursed from funds of the board for actual and necessary
23 expenses incurred in attending meetings and in the discharge
24 of board duties when assigned by the board.

25 (5) Prior to June 10 of each year, the board of mental

1 health shall submit to the board of county commissioners
2 ~~governing body~~ of each of the counties within the
3 constituted mental health region an annual budget,
4 specifying each county's recommended proportionate share. If
5 the board of county commissioners ~~governing body~~ includes in
6 the county budget the county's proportionate share of the
7 regional board's budget, it shall be designated as a
8 participating county. Funds for each participating county's
9 proportionate share for the operation of mental health
10 services within the region shall be derived from the
11 county's general fund. ~~If the general fund is insufficient~~
12 ~~to meet the approved budget, a levy not to exceed 1 mill may~~
13 ~~be made on the taxable valuation of the county in addition~~
14 ~~to all other taxes allowed by law to be levied on such~~
15 ~~property.~~

16 (6) The regional board of mental health with the
17 approval of the department shall establish a schedule of
18 fees for mental health services. The fees may be received by
19 the board and used to implement the budget in accordance
20 with 53-21-204(3)(d)."

21 Section 166. Section 60-1-102, MCA, is amended to
22 read:

23 "60-1-102. Legislative policy and intent. Consistent
24 with the foregoing determinations and declarations, the
25 legislature intends:

1 (1) to place a high degree of trust in the hands of
2 those officials whose duty it is, within the limits of
3 available funds, to plan, develop, operate, maintain, and
4 protect the highway facilities of this state for present as
5 well as for future use;

6 (2) to make the department of highways custodian of
7 the federal-aid and state highways and to impose similar
8 responsibilities upon the ~~boards~~ of county commissioners
9 ~~governments~~ with respect to county roads and upon municipal
10 officials with respect to the streets under their
11 jurisdiction;

12 (3) that the state shall have integrated systems of
13 highways, roads, and streets and that the department of
14 highways, the counties, and ~~the~~ municipalities assist and
15 cooperate with each other to that end;

16 (4) to provide sufficiently broad authority to enable
17 the highway officials at all levels of government to
18 function adequately and efficiently in all areas of their
19 respective responsibilities, subject to the limitations of
20 the constitution and the legislative mandate hereinafter
21 imposed.*

22 Section 167, Section 60-1-103, MCA, is amended to
23 read:

24 *60-1-103. General definitions. Subject to additional
25 definitions contained in this title which are applicable to

1 specific chapters or sections and unless the context
2 otherwise requires, terms are defined as follows:

3 (1) "abandonment"--cessation of use of right-of-way
4 (easement) or activity thereon with no intention to reclaim
5 or use again (sometimes called vacation);

6 (2) "commission"--highway commission provided for in
7 2-15-2502;

8 (3) "condemnation"--taking by exercise of the right of
9 eminent domain;

10 (4) "construction"--supervising, inspecting, actual
11 building, and all expenses incidental to the construction or
12 reconstruction of a highway, including locating, surveying,
13 mapping, and costs of right-of-way or other interests in
14 land and elimination of hazards at railway grade crossings;

15 (5) "control of access"--the condition in which the
16 right of owners or occupants of abutting land or other
17 persons to access, light, air, or view in connection with a
18 highway is fully or partially controlled by public
19 authority;

20 (6) "county road"--any public highway opened,
21 established, constructed, maintained, abandoned, or
22 discontinued by a county in accordance with ~~title 7, chapter~~
23 ~~14~~ [section 33 through section 98 of SB 20];

24 (7) "department"--department of highways provided for
25 in Title 2, chapter 15, part 25;

1 (8) "director"--director of highways, a position
2 provided for in 2-15-2501;

3 (9) "easement"--a right acquired by public authority
4 to use or control property for a designated purpose;

5 (10) "eminent domain"--the right of the state to take
6 private property for public use;

7 (11) "federal-aid highway"--any public highway which is
8 a portion of any of the federal-aid highway systems;

9 (12) "federal-aid highway systems"--all of the systems
10 named hereafter and their urban extensions;

11 (13) "federal-aid interstate system"--that system of
12 public highways selected by the commission in cooperation
13 with adjoining states, subject to the approval of the
14 secretary of commerce, as provided in the Federal Highway
15 Act, as amended;

16 (14) "federal-aid primary system"--that system of
17 connected public highways designated by the commission,
18 subject to the approval of the secretary of commerce, as
19 provided in the Federal Highway Act, as amended;

20 (15) "federal-aid secondary system"--that system of
21 public highways not on the federal-aid primary or interstate
22 systems selected by the commission in cooperation with the
23 ~~boards of county commissioners governing bodies~~, subject to
24 the approval of the secretary of commerce, as provided in
25 the Federal Highway Act, as amended;

1 (16) "fee simple"--an absolute estate or ownership in
2 property including unlimited power of alienation;

3 (17) "highway"--includes rights-of-way or other
4 interests in land, embankments, retaining walls, culverts,
5 sluices, drainage structures, bridges, railroad-highway
6 crossings, tunnels, signs, guardrails, and protective
7 structures;

8 (18) "highway", "road", "street"--whether they appear
9 together or separately or are preceded by the adjective
10 "public", these are general terms denoting a public way for
11 purposes of vehicular travel, including the entire area
12 within the right-of-way;

13 (19) "highway authority(ies)"--the entity(ies) at any
14 level of government authorized by law to construct and
15 maintain highways;

16 (20) "maintenance"--preservation of the entire highway,
17 including surface, shoulders, roadsides, structures, and
18 such traffic-control devices as are necessary for its safe
19 and efficient utilization;

20 (21) "public highways"--all streets, roads, highways,
21 bridges, and related structures which have been or shall be:

22 (a) built and maintained with appropriated funds of
23 the United States or the state or any political subdivision
24 thereof;

25 (b) dedicated to public use;

1 (c) acquired by eminent domain;

2 (d) acquired by adverse user by the public,
3 jurisdiction having been assumed by the state or any
4 political subdivision thereof;

5 (22) "right-of-way"--a general term denoting land,
6 property, or any interest therein, usually in a strip,
7 acquired for or devoted to highway purposes;

8 (23) "state highway"--any public highway planned, laid
9 out, altered, constructed, reconstructed, improved,
10 repaired, maintained, or abandoned by the department;

11 (24) "toll bridge"--any bridge constructed by the
12 department, together with all appurtenances, additions,
13 alterations, improvements, replacements, and the approaches
14 thereto, lands used therefor, and improvements thereon."

15 Section 168. Section 60-1-201, MCA, is amended to
16 read:

17 "60-1-201. Classification -- highways and roads. (1)
18 Public highways of this state are classed as follows:

- 19 (a) federal-aid highways;
- 20 (b) state highways;
- 21 (c) county roads;
- 22 (d) city streets.

23 (2) All highways which are not designated, selected,
24 or established by the commission constructed or maintained
25 by the department are county roads or city municipal

1 streets.

2 (3) County roads are those opened, established,
3 constructed, maintained, changed, abandoned, or discontinued
4 by a county in accordance with ~~Title 7, chapter 14~~ [section
5 41 through section 83 of SB 20].

6 (4) ~~City~~ Municipal streets are those public highways
7 under the jurisdiction of municipal officials."

8 Section 169. Section 60-2-104, MCA, is amended to
9 read:

10 "60-2-104. Designation of federal-aid primary
11 highways. (1) The commission shall designate such public
12 highways in the state as shall be classed as the federal-aid
13 primary system.

14 (2) The commission shall, in cooperation with the
15 ~~board of county commissioners governing body~~, select such
16 public highways in the state as shall be classed as the
17 federal-aid secondary system, taking into consideration the
18 traffic count on those highways, the continuity of the
19 highways in relation to the state highway systems as they
20 may connect or tie into a unified system of federal-aid
21 highways, and the taxable valuations which are affected by
22 those public highways.

23 (3) The commission shall, in cooperation with
24 adjoining states, select the routes of the federal-aid
25 interstate system.

1 (4) The commission shall designate such public
2 highways in the state as shall be classed as state
3 highways."

4 Section 170. Section 60-2-111, MCA, is amended to
5 read:

6 "60-2-111. Letting of contracts on state and
7 federal-aid highways. All contracts for work on state and
8 federal-aid highways, including portions in ~~cities and towns~~
9 ~~municipalities~~, and all contracts entered into under
10 ~~7-14-4100 state law~~ shall be let by the commission. Except
11 as otherwise specifically provided, the commission may enter
12 such types of contracts and upon such terms as it may
13 decide. All contracts shall meet the requirements of Title
14 18, chapter 2, part 4. When there is no prevailing rate of
15 wages set by collective bargaining, the commission shall
16 determine the prevailing rate to be stated in the contract."

17 Section 171. Section 60-2-206, MCA, is amended to
18 read:

19 "60-2-206. Compilation of statistics -- investigation
20 -- consultation. (1) The department shall compile statistics
21 regarding public highways throughout the state and collect
22 all related information ~~deemed considered~~ expedient.

23 (2) It shall investigate various methods of
24 construction adapted to different sections of the state and
25 decide the best methods of construction and maintenance of

1 highways, bridges, and road markers.

2 (3) The department may be consulted at all reasonable
3 times by county ~~and municipal~~ officers having care and
4 authority over highways and bridges and shall advise them on
5 construction, repair, alteration, or maintenance.

6 (4) The department shall furnish such information and
7 advice as may be requested by persons interested in the
8 construction, maintenance, and marking of public highways.
9 It shall at all times lend its aid in promoting highway
10 improvement throughout the state.

11 ~~(5) Each local government chief executive shall make~~
12 ~~reports relating to trafficways under the local government's~~
13 ~~supervision which are requested by the department."~~

14 Section 172. Section 60-4-105, MCA, is amended to
15 read:

16 "60-4-105. Acquisition of whole parcel -- sale of
17 excess. (1) Whenever any interest in a part of a parcel of
18 land or other real property is to be acquired for highway
19 purposes leaving the remainder in a shape or condition as to
20 be of little market value or to give ~~giving~~ rise to claims
21 or litigation over severance or other damage, the department
22 may acquire the whole parcel. It may sell or exchange the
23 remainder for other property needed for highway purposes.

24 (2) Whenever a part of a parcel of land acquired for
25 highway purposes is in a shape or size as to come within

1 ~~[(1-614)] Title 76, chapter 3,~~ the department shall prepare
2 and file the required plat in the office of the county clerk
3 ~~and recorder records administrator."~~

4 Section 173. Section 60-5-104, MCA, is amended to
5 read:

6 "60-5-104. Powers of highway authorities. (1) Those
7 authorities of the state, counties, and municipalities
8 authorized to participate in construction and maintenance of
9 highways may plan, designate, establish, regulate, vacate,
10 alter, improve, maintain, and provide controlled-access
11 facilities for public use. Each such authority shall by
12 resolution make the findings and determinations provided for
13 in 60-5-103.

14 (2) The highway authorities of the state, counties,
15 ~~incorporated cities,~~ and towns ~~municipalities,~~ respectively
16 or in cooperation each with the other, may acquire private
17 or public property and property rights for controlled-access
18 highways or controlled-access facilities and service roads.
19 Such rights may include rights of access, air, view, and
20 light. They may be acquired by gift, devise, purchase, or
21 condemnation, in the same manner as may now or hereafter be
22 authorized by law for the acquisition of property or
23 property rights in connection with highways, roads, and
24 streets in their respective jurisdictions.

25 (3) Within ~~incorporated cities and towns~~

1 ~~municipalities;~~ and upon county roads or secondary highways,
2 the department of highways shall not control access without
3 the consent of the appropriate governing body.

4 (4) Each authority may also exercise with relation to
5 controlled-access facilities any and all additional
6 authority now or hereafter vested in it over highways,
7 roads, or streets within its respective jurisdiction. It may
8 regulate, restrict, or prohibit the use of controlled-access
9 facilities by any vehicles or traffic."

10 Section 174. Section 61-2-102, MCA, is amended to
11 read:

12 "61-2-102. Definitions. Unless the context requires
13 otherwise, in this part the following definitions apply:

14 (1) "Highway traffic safety program" means a program
15 designed to reduce traffic accidents, deaths, injuries to
16 persons, and damage to property. The program shall be in
17 accordance with uniform standards established by the
18 secretary of commerce of the United States under Title 23,
19 U.S.C., as amended. Nothing in this part restricts or
20 prohibits the establishment of standards which enlarge or
21 implement the federal standards.

22 (2) "Political subdivisions" means every county,
23 ~~incorporated city or town,~~ and ~~municipality,~~ or school
24 district within the boundaries of the state.

25 (3) "Department" means the department of community

1 affairs provided for in part 11, chapter 15, Title 2."

2 Section 175. Section 61-7-116, MCA, is amended to
3 read:

4 "~~61-7-116. Any incorporated city--permitted Authority~~
5 ~~of local government~~ to require accident reports. Any
6 ~~incorporated city--town--village--or--other--municipality~~
7 local government may by ordinance require that the driver of
8 a vehicle involved in an accident shall also file with a
9 designated city department a report of such accident or a
10 copy of any report herein required to be filed with the
11 division. All such reports shall be for the confidential use
12 of the city designated department and subject to the
13 provisions of 61-7-114."

14 Section 176. Section 61-8-301, MCA, is amended to
15 read:

16 "61-8-301. Reckless driving. (1) A person commits the
17 offense of reckless driving if he:

18 (a) operates any vehicle in willful or wanton
19 disregard for the safety of persons or property; or

20 (b) flees or attempts to flee from or elude a peace
21 officer who is lawfully in pursuit and whose vehicle is at
22 the time in compliance with the requirements of 61-9-402.

23 (2) Each ~~municipality~~ local government in this state
24 may enact and enforce 61-8-715 and subsection (1) of this
25 section as an ordinance."

1 Section 177. Section 61-8-308, MCA, is amended to
2 read:

3 "61-8-308. Permission of authorities to hold speed
4 contest. No race or contest for speed shall be held and no
5 person shall engage in or aid or abet in any motor vehicle
6 speed contest or exhibition of speed on a public highway or
7 street without written permission of the authorities of the
8 state, county, or ~~city~~ municipality having jurisdiction and
9 unless the same is fully and efficiently patrolled for the
10 entire distance over which such race or contest for speed is
11 to be held."

12 Section 178. Section 61-8-401, MCA, is amended to
13 read:

14 "61-8-401. Persons under the influence of alcohol or
15 drugs. (1) It is unlawful and punishable as provided in
16 61-8-714(1) for any person who is under the influence of
17 alcohol or any narcotic drug or any other drug to a degree
18 which renders him incapable of safely driving a motor
19 vehicle to drive or be in actual physical control of a motor
20 vehicle within this state. The fact that any person charged
21 with a violation of this subsection is or has been entitled
22 to use such a drug under the laws of this state does not
23 constitute a defense against any charge of violating this
24 subsection.

25 (2) In any criminal prosecution for a violation of

1 subsection (1) of this section relating to driving a vehicle
2 while under the influence of alcohol, the amount of alcohol
3 in the defendant's blood at the time alleged, as shown by
4 chemical analysis of the defendant's blood, urine, breath,
5 or other bodily substance, shall give rise to the following
6 presumptions:

7 (a) If there was at that time 0.05% or less by weight
8 of alcohol in the defendant's blood, it shall be presumed
9 that the defendant was not under the influence of alcohol.

10 (b) If there was at that time in excess of 0.05% but
11 less than 0.10% by weight of alcohol in the defendant's
12 blood, such fact shall not give rise to any presumption that
13 the defendant was or was not under the influence of alcohol,
14 but such fact may be considered with other competent
15 evidence in determining the guilt or innocence of the
16 defendant.

17 (c) If there was at that time 0.10% or more by weight
18 of alcohol in the defendant's blood, it shall be presumed
19 that the defendant was under the influence of alcohol.

20 (3) Percent by weight of alcohol in the blood shall be
21 based upon grams of alcohol per 100 cubic centimeters of
22 blood.

23 (4) Each ~~municipality~~ local government in this state
24 is given authority to enact 61-8-714 and subsections (1)
25 through (3) of this section, with the word "state" in the

1 first sentence of subsection (1) of this section changed to
2 read "municipality" or "county", as an ordinance and is
3 given jurisdiction of the enforcement of the ordinance and
4 of the imposition of the fines and penalties therein
5 provided."

6 Section 179. Section 61-8-704, MCA, is amended to
7 read:

8 "61-8-704. Erection of signs. (1) No operator of a
9 motor vehicle may be arrested under 61-8-703 unless signs
10 have been placed at or near the state line on the primary
11 highway system, outside ~~towns--or--cities~~ municipalities
12 having over 2,500 population, and outside county seats on
13 the primary highways to indicate the legal rate of speed.

14 (2) Any ~~municipality~~ local government which uses radio
15 microwaves or other electrical device for law enforcement
16 purposes shall erect and maintain appropriate signs giving
17 notice of such use at a conspicuous place at or near the
18 corporate limits of the municipality, upon each state
19 highway and arterial street or highway entering the
20 municipality, and at such other places as may be deemed
21 ~~considered~~ necessary by the ~~municipal~~ local government
22 authorities for the information of the traveling public.

23 (3) Signs giving notice that the speed of vehicles may
24 be measured by radio microwaves or other electrical device
25 shall be placed as required for speed signs in subsection

1 (1) above. However, the absence of such signs shall not in
2 itself invalidate an otherwise proper arrest."

3 Section 180. Section 61-10-225, MCA, is amended to
4 read:

5 "61-10-225. Disposition of fees collected by county
6 treasurer finance administrator. At the time of collecting
7 the fees provided for in 61-10-222, each county treasurer
8 finance administrator shall retain 5% of the fees collected
9 by him for the cost of administration and for deposit in the
10 general fund of the county. The remaining 95% shall be
11 remitted monthly to the state treasurer for deposit to the
12 credit of the department of highways. The remittance shall
13 be made on forms furnished to the county treasurer finance
14 administrator by the department."

15 Section 181. Section 61-10-227, MCA, is amended to
16 read:

17 "61-10-227. Blank forms furnished county treasurers
18 finance administrators. The department shall furnish all
19 county treasurers finance administrators with the following:

20 (1) blank application forms and affidavit forms
21 outlining and providing for the information needed in each
22 classification of registration required;

23 (2) registration, license, or certificates in a form
24 determined most suitable by the department;

25 (3) the other forms, stickers, certificates, or blanks

1 the department considers necessary to carry out this part."

2 Section 182. Section 67-6-202, MCA, is amended to
3 read:

4 "67-6-202. Airport zoning regulations -- procedure --
5 commission. (1) In adopting, amending, ~~and~~ or repealing
6 airport zoning regulations under this chapter, the political
7 subdivision or joint airport zoning board shall follow the
8 procedure prescribed by the laws of this state for the
9 adoption, amendment, or repeal of comprehensive zoning
10 regulations, as provided in ~~title 76, chapter 2, part 3~~
11 [section 73 through section 77 of SB 16].

12 (2) Prior to the initial zoning of any airport hazard
13 area under this chapter, the political subdivision or joint
14 airport zoning board which is to adopt the regulations shall
15 appoint a commission board, to be known as the airport
16 zoning commission board, to recommend the boundaries of the
17 various zones to be established and the regulations to be
18 adopted therefor. Such commission board shall make a
19 preliminary report and hold public hearings thereon before
20 submitting its final report, and the legislative body of the
21 political subdivision or the joint airport zoning board
22 shall not hold its public hearings or take other action
23 until it has received the final report of such commission
24 board. Where a city planning commission board or
25 comprehensive zoning commission board already exists, it may

1 be appointed as the airport zoning ~~commission board.~~"

2 Section 183. Section 67-6-206, MCA, is amended to
3 read:

4 "67-6-206. Board of adjustment. All airport zoning
5 regulations adopted under this chapter shall provide for a
6 board of adjustment to be appointed in the manner and have
7 and exercise all the powers provided in ~~76-2-321 through~~
8 ~~76-2-328 [section 78 through section 79 of SB 16]~~, and each
9 and all of the provisions of ~~said these~~ sections relating to
10 appeals and judicial review shall be applicable to this
11 chapter."

12 Section 184. Section 67-11-301, MCA, is amended to
13 read:

14 "67-11-301. Municipal tax levy. The airport authority
15 may certify annually to the governing bodies the amount of
16 tax to be levied by each municipality participating in the
17 creation of the airport authority, and the municipality
18 shall levy the amount certified, pursuant to ~~the~~ provisions
19 of ~~law authorizing cities and other political subdivisions~~
20 ~~of this state to levy taxes for airport purposes 67-11-302.~~
21 The levy made shall not exceed the maximum levy permitted by
22 ~~the laws of this state for airport purposes 67-11-302~~ or any
23 such lower limit as may have been established by the
24 municipality or municipalities in the resolution creating
25 the authority. The ~~municipality shall collect the~~ taxes

1 certified by the airport authority shall be collected in the
2 ~~same~~ manner as other taxes are ~~levied and~~ collected and ~~make~~
3 ~~payment shall be made~~ to the airport authority. The proceeds
4 of such taxes when and as paid to the airport authority
5 shall be deposited in a special account or accounts in which
6 other revenues of the authority are deposited and may be
7 expended by the authority as provided for in this chapter.
8 Prior to the issuance of bonds under 67-11-303, the airport
9 authority or the municipality may by resolution covenant and
10 agree that the total amount of such taxes then authorized by
11 law, or such portion thereof as may be specified by the
12 resolution, will be certified, levied, and deposited
13 annually as herein provided until the bonds and interest
14 thereon are fully paid."

15 Section 185. Section 67-11-302, MCA, is amended to
16 read:

17 "67-11-302. County Municipal tax levy. In counties
18 ~~municipalities~~ supporting airports or airport authorities, a
19 ~~levy as provided for in 67-10-402 may be made for such~~
20 ~~purposes tax may be levied for such purpose against the~~
21 ~~taxable property therein in an amount not to exceed 2 mills~~
22 ~~on the value thereof, and such tax shall be in addition to~~
23 ~~all other taxes authorized to be levied by the~~
24 ~~municipality."~~

25 Section 186. Section 67-11-303, MCA, is amended to

1 read:

2 "67-11-303. Bonds and obligations. (1) An authority
3 may borrow money for any of its corporate purposes and issue
4 its bonds therefor, including refunding bonds, in such form
5 and upon such terms as it may determine, payable out of any
6 revenues of the authority, including revenues derived from:

7 (a) an airport or air navigation facility or
8 facilities;

9 (b) taxes levied pursuant to 67-11-301 or other law
10 for airport purposes;

11 (c) grants or contributions from the federal
12 government; or

13 (d) other sources.

14 (2) The bonds may be issued by resolution of the
15 authority, without an election and without any limitation of
16 amount, except that no such bonds may be issued at any time
17 if the total amount of principal and interest to become due
18 in any year on such bonds and on any then outstanding bonds
19 for which revenues from the same source or sources are
20 pledged exceeds the amount of such revenues to be received
21 in that year as estimated in the resolution authorizing the
22 issuance of the bonds. The authority shall take all action
23 necessary and possible to impose, maintain, and collect
24 rates, charges, rentals, and taxes, if any are pledged,
25 sufficient to make the revenues from the pledged source in

1 such year at least equal to the amount of such principal and
2 interest due in that year.

3 (3) The bonds may be sold at public or private sale
4 and may bear interest at a rate not exceeding 10% a year.
5 Except as otherwise provided herein, any bonds issued
6 pursuant to this chapter by an authority may be payable as
7 to principal and interest solely from revenues of the
8 authority and shall state on their face the applicable
9 limitations or restrictions regarding the source from which
10 such principal and interest are payable.

11 (4) Bonds issued by an authority or municipality
12 pursuant to the provisions of this chapter are declared to
13 be issued for an essential public and governmental purpose
14 by a political subdivision within the meaning of
15 15-30-111(2)(a).

16 (5) For the security of any such bonds, the authority
17 or municipality may by resolution make and enter into any
18 covenant, agreement, or indenture and may exercise any
19 additional powers authorized to be exercised by a
20 municipality under ~~title 7, chapter 7, parts 44 and 45~~
21 [section 81 through section 102 of SB 22]. The sums required
22 from time to time to pay principal and interest and to
23 create and maintain a reserve for the bonds may be paid from
24 any revenues referred to in this chapter, prior to the
25 payment of current costs of operation and maintenance of the

1 facilities.

2 (6) Subject to the conditions stated in this
3 subsection (6), the governing body of any municipality
4 having a population in excess of 10,000, with respect to
5 bonds issued pursuant to this chapter by the municipality or
6 by an authority in which the municipality is included, may
7 by resolution covenant that in the event that at any time
8 all revenues, including taxes, appropriated and collected
9 for such bonds are insufficient to pay principal or interest
10 then due, it will levy a general tax upon all of the taxable
11 property in the municipality for the payment of such
12 deficiency; and may further covenant that at any time a
13 deficiency is likely to occur within 1 year for the payment
14 of principal and interest due on such bonds, it will levy a
15 general tax upon all the taxable property in the
16 municipality for the payment of such deficiency, and such
17 taxes are not subject to any limitation of rate or amount
18 applicable to other municipal taxes but shall be limited to
19 a rate estimated to be sufficient to produce the amount of
20 the deficiency. In the event more than one municipality
21 having a population in excess of 10,000 is included in an
22 authority issuing bonds pursuant to this chapter, the
23 municipalities may apportion the obligation to levy taxes
24 for the payment of, or in anticipation of, a deficiency in
25 the revenues appropriated for such bonds in such manner as

1 the municipal ties may determine. The resolution shall state
2 the principal amount and purpose of the bonds and the
3 substance of the covenant respecting deficiencies. No such
4 resolution becomes effective until the question of its
5 approval has been submitted to the qualified electors of the
6 municipality at a special election called for that purpose
7 by the governing body of the municipality and a majority of
8 the electors voting on the question have voted in favor
9 thereof. The notice and conduct of the election shall be
10 governed, to the extent applicable, by ~~7-7-4227 through~~
11 ~~7-7-4232 for an election called by cities and towns, and~~
12 ~~7-7-2229 through 7-7-2234 for an election called by counties~~
13 [section 113 of SB 12]. If a majority of the electors voting
14 thereon vote against approval of the resolution, the
15 municipality has no authority to make the covenant or to
16 levy a tax for the payment of deficiencies pursuant to this
17 section, but such municipality or authority may nevertheless
18 issue bonds under this chapter payable solely from the
19 sources referred to in subsection (1) above."

20 Section 187. Section 69-3-301, MCA, is amended to
21 read:

22 "69-3-301. Schedule of rates, tolls, and charges. (1)
23 Every public utility shall file with the commission, within
24 a time fixed by the commission, schedules which shall be
25 open to public inspection showing all rates, tolls, and

1 charges which it has established and are in force at the
 2 time for any service performed by it within the state or for
 3 any service in connection therewith or performed by any
 4 public utility controlled or operated by it. The rates,
 5 tolls, and charges shown on such schedules shall not exceed
 6 the rates, tolls, and charges in force on March 4, 1913.
 7 Every public utility shall file with and as a part of such
 8 schedule all rules that in any manner affect the rates
 9 charged or to be charged for any service. When a schedule of
 10 joint rates or charges is or may be in force between two or
 11 more public utilities, such schedule shall in like manner be
 12 printed and filed with the commission.

13 (2) A copy of so much of said ~~the~~ schedule as the
 14 commission ~~shall deem~~ considers necessary for the use of the
 15 public shall be printed in plain type and kept on file in
 16 every station or office of such public utility where
 17 payments are made by the consumers or users, open to the
 18 public and in such form and place as to be readily
 19 accessible to the public and as can be conveniently
 20 inspected.

21 (3) Rates for water or sewer supply and distribution
 22 services provided by municipalities and counties shall be
 23 established as provided in [section 44 of SB 19] and are not
 24 subject to 69-3-301 through 69-3-304."

25 Section 188. Section 69-3-321, MCA, is amended to

1 read:

2 *69-3-321. Complaints against public utility --
 3 hearing. (1) The commission shall proceed, with or without
 4 notice, to make such investigation as it may deem necessary
 5 upon a complaint made against any public utility or local
 6 government providing water or sewer services by any
 7 mercantile, agricultural, or manufacturing society or club;
 8 by any body politic or municipal organization or
 9 association, the same being interested; or by any person,
 10 firm, or corporation, provided such person, firm, or
 11 corporation is directly affected thereby, that:

12 (a) any of the rates, tolls, charges, or schedules or
 13 any joint rate or rates are in any way unreasonable or
 14 unjustly discriminatory;

15 (b) any regulations, measurements, practices, or acts
 16 whatsoever affecting or relating to the production,
 17 transmission, delivery, or furnishing of heat, light, water,
 18 or power or any service in connection therewith or the
 19 conveyance of any telegraph or telephone message or any
 20 service in connection therewith is in any respect
 21 unreasonable, insufficient, or unjustly discriminatory; or

22 (c) any service is inadequate.

23 (2) No order affecting such rates, tolls, charges,
 24 schedules, regulations, measurements, practices, or acts
 25 complained of shall be entered without a formal hearing,

1 except the commission may issue an order to provide service
 2 to a residential consumer pending a hearing on a complaint
 3 by such consumer or by the consumer counsel on behalf of
 4 such consumer against a public utility or local government,
 5 providing that the hearing is held within 20 days unless
 6 further delayed by consent of all parties."

7 Section 189. Section 69-3-325, MCA, is amended to
 8 read:

9 "69-3-325. Notice of hearing. The commission shall
 10 give the public utility or local government and the
 11 complainant or complainants at least 10 days' notice of the
 12 time when and the place where such hearing will be held."

13 Section 190. Section 69-3-326, MCA, is amended to
 14 read:

15 "69-3-326. Conduct of hearing. At the hearing both the
 16 complainant and the public utility or local government shall
 17 have the right to appear by counsel or otherwise and be
 18 fully heard. Either party shall be entitled to an order by
 19 the commission for the appearance of witnesses or the
 20 production of books, papers, and documents containing
 21 material testimony. Witnesses appearing upon the order of
 22 the commission shall be entitled to the same fees and
 23 mileage as witnesses in civil cases in the courts of the
 24 state, and the same shall be paid out of the state treasury
 25 in the same manner as other claims against the state are

1 paid. No fee or mileage shall be allowed unless the
 2 chairman of the commission shall certify to the correctness
 3 of the claim."

4 Section 191. Section 69-4-101, MCA, is amended to
 5 read:

6 "69-4-101. Use of public right-of-way for utility
 7 lines and facilities. A telegraph, telephone, natural gas,
 8 electric light, or electric power line corporation or public
 9 body or any other person owning or operating such is hereby
 10 authorized to install its respective plants and appliances
 11 necessary for service and to supply and distribute
 12 electricity or natural gas for lighting, heating, power, and
 13 other purposes and to that end, to construct such telegraph,
 14 telephone, natural gas, electric light, or electric power
 15 lines, from point to point, along and under or upon any of
 16 the public roads, streets, and highways in the state, by the
 17 erection of necessary fixtures, including posts, piers, and
 18 abutments necessary for the wires or lines. The same shall
 19 be so constructed as not to ~~incommode~~ impede or endanger the
 20 public in the use of said roads, streets, or highways, and
 21 nothing herein shall be so construed as to restrict the
 22 powers of ~~city or town councils~~ local governments."

23 Section 192. Section 72-15-301, MCA, is amended to
 24 read:

25 "72-15-301. Compensation of public administrator. The

1 public administrator shall receive ~~and collect for his own~~
 2 use as full compensation for his services, including
 3 attorney's fees, the amounts provided for in 72-3-631 and
 4 72-3-633; provided, that in no case shall the compensation
 5 be less than \$25."

6 Section 193. Section 75-2-301, MCA, is amended to
 7 read:

8 "75-2-301. Local air pollution control programs. (1) A
 9 ~~municipality or county local government~~ may establish a
 10 local air pollution control program ~~on being petitioned by~~
 11 ~~15% of the qualified electors in its jurisdiction~~ and, if
 12 the program is consistent with this chapter and is approved
 13 by the board after a public hearing conducted under
 14 75-2-111, may thereafter administer in its jurisdiction the
 15 air pollution control program which:

16 (a) provides by ordinance ~~or local law~~ for
 17 requirements compatible with, more stringent, or more
 18 extensive than those imposed by 75-2-203, 75-2-212, and
 19 75-2-402 and rules issued under these sections;

20 (b) provides for the enforcement of these requirements
 21 by appropriate administrative and judicial process; and

22 (c) provides for administrative organization, staff,
 23 financial, and other resources necessary to effectively and
 24 efficiently carry out its program.

25 (2) If the board finds that the location, character,

1 or extent of particular concentrations of population, air
 2 contaminant sources, or geographic, topographic, or
 3 meteorological considerations or any combination of these
 4 are such as to make impracticable the maintenance of
 5 appropriate levels of air quality without an areawide air
 6 pollution control program, the board may determine the
 7 boundaries within which the program is necessary and require
 8 it as the only acceptable alternative to direct state
 9 administration.

10 (3) If the board has reason to believe that an air
 11 pollution control program in force under this section is
 12 inadequate to prevent and control air pollution in the
 13 jurisdiction to which the program relates or that the
 14 program is being administered in a manner inconsistent with
 15 this chapter, the board shall, on notice, conduct a hearing
 16 on the matter.

17 (4) If, after the hearing, the board determines that
 18 the program is inadequate to prevent and control air
 19 pollution in the jurisdiction to which it relates or that it
 20 is not accomplishing the purposes of this chapter, it shall
 21 require that necessary corrective measures be taken within a
 22 reasonable time, not to exceed 60 days.

23 (5) If the jurisdiction fails to take these measures
 24 within the time required, the department shall administer
 25 within such jurisdiction all of the provisions of this

1 chapter. The department's control program supersedes all
 2 ~~municipal-or-county local government~~ air pollution laws,
 3 rules, ordinances, and requirements in the affected
 4 jurisdiction. The cost of the program shall be a charge on
 5 the ~~municipality-or-county local government.~~

6 (6) If the board finds that the control of a
 7 particular class of air contaminant source because of its
 8 complexity or magnitude is beyond the reasonable capability
 9 of the local jurisdiction or may be more efficiently and
 10 economically performed at the state level, it may direct the
 11 department to assume and retain control over that class of
 12 air contaminant source. No charge may be assessed against
 13 the jurisdiction therefor. Findings made under this
 14 subsection may be either on the basis of the nature of the
 15 sources involved or on the basis of their relationship to
 16 the size of the communities in which they are located.

17 (7) A jurisdiction in which the department administers
 18 its air pollution control program under subsection (5) of
 19 this section may, with the approval of the board, establish
 20 or resume an air pollution control program which meets the
 21 requirements of subsection (1) of this section.

22 ~~(8) A municipality or county may administer all or~~
 23 ~~part of its air pollution control program in cooperation~~
 24 ~~with one or more municipalities or counties of this state or~~
 25 ~~of other states."~~

1 Section 14. Section 75-10-214, MCA, is amended to
 2 read:

3 "75-10-214. Exclusions -- exceptions to exclusions.

4 (1) (a) This part may not be construed to prohibit a person
 5 from disposing of his own solid waste, except hazardous
 6 waste, upon land owned, leased, or covered by easement or
 7 permit as long as it does not create a nuisance or public
 8 health hazard.

9 (b) A person may dispose of his own hazardous wastes
 10 upon land owned, leased, or covered by easement or permit
 11 after complying with the licensing requirements of this part
 12 and the rules that shall be adopted to regulate the disposal
 13 or transport of hazardous wastes.

14 (c) The exclusion contained in subsection (1)(a) of
 15 this section does not apply to a division of land of 5 acres
 16 or less made after July 1, 1977, which falls within the
 17 definition of subdivision in Title 76, chapter 4, part 1, or
 18 the Montana Subdivision and Platting Act in Title 76,
 19 chapter 3.

20 (2) The licensing requirements of this part do not
 21 apply to the transportation of marketable hazardous wastes
 22 to a manufacturing or processing center.

23 ~~(3) The county or district board of health may adopt~~
 24 ~~rules controlling the disposal of solid waste on private~~
 25 ~~land to prevent development of a public nuisance."~~

1 Section 195. Section 75-10-231, MCA, is amended to
2 read:

3 "75-10-231. Actions. The department may, through the
4 attorney general or appropriate county prosecuting attorney,
5 initiate and maintain in district court enforcement actions
6 as provided in this part, including actions to collect a
7 criminal penalty or to enjoin the operation of a solid waste
8 management system that is in violation of this part or a
9 rule adopted by the department or order issued as provided
10 in this part."

11 Section 196. Section 75-15-103, MCA, is amended to
12 read:

13 "75-15-103. Definitions. As used in this part, the
14 following definitions apply:

15 (1) "Commercial or industrial activities" means for
16 purposes of subsection (14) those activities generally
17 recognized as commercial or industrial by zoning authorities
18 in this state, except that none of the following activities
19 shall be considered commercial or industrial:

20 (a) agricultural, forestry, grazing, farming, and
21 related activities, including wayside fresh produce stands;

22 (b) transient or temporary activities;

23 (c) activities not visible from the main-traveled way;

24 (d) activities conducted in a building principally
25 used as a residence;

1 (e) railroad tracks and minor sidings;

2 (f) activities more than 660 feet from the nearest
3 edge of the right-of-way.

4 (2) "Commercial or industrial zone" means an area
5 which is used or reserved for business, commerce, or trade
6 pursuant to comprehensive local zoning ordinances or
7 regulations or enabling state legislation or state
8 legislation itself, including highway service areas lawfully
9 zoned as highway service zones, where the primary use of the
10 land is ~~or is reserved~~ for commercial and roadside services,
11 other than outdoor advertising, to serve the traveling
12 public. Areas temporarily zoned as commercial or industrial
13 by an interim regulation or map adopted as an emergency
14 measure pursuant to ~~76-2-206~~ [section 73 of SB 22] shall not
15 be considered as covered by this definition.

16 (3) "Commission" means the highway commission of
17 Montana.

18 (4) "Department" means the department of highways.

19 (5) "Information center" means an area or site
20 established or maintained at safety rest areas for the
21 purpose of informing the public of places of interest within
22 the state and providing such other information as the
23 commission may consider desirable.

24 (6) "Interchange" or "intersection" means those areas
25 and their approaches where traffic is channeled off or onto

1 an interstate route, including the deceleration lanes or
2 acceleration lanes from or to another federal, state,
3 county, city, or other route.

4 (7) "Interstate system" means that portion of the
5 national system of interstate and defense highways located
6 within this state as officially designated or as may
7 hereafter be so designated by the commission and approved by
8 the secretary pursuant to the provisions of Title 23, United
9 States Code, "Highways".

10 (8) "Maintain" means to allow to exist, subject to the
11 provisions of this part.

12 (9) "Maintenance" means to repair, refurbish, repaint,
13 or otherwise keep an existing sign structure in a state
14 suitable for use.

15 (10) "Outdoor advertising" means any outdoor sign,
16 display, light, device, figure, painting, drawing, message,
17 plaque, poster, billboard, or other structure which is
18 designed, intended, or used to advertise or inform and which
19 is visible from any place on the main-traveled way of the
20 interstate or primary systems.

21 (11) "Primary system" means that portion of connected
22 main highways as officially designated or as may hereafter
23 be so designated by the commission and approved by the
24 secretary pursuant to the provisions of Title 23, United
25 States Code, "Highways"

1 (12) "Safety rest area" means an area or site
2 established and maintained within or adjacent to the
3 right-of-way, by or under public supervision or control, for
4 the convenience of the traveling public.

5 (13) "Secretary" means the secretary of the United
6 States department of transportation.

7 (14) "Unzoned commercial or industrial area" means an
8 area not zoned by state or local law, regulation, or
9 ordinance which is occupied by one or more industrial or
10 commercial activities, other than outdoor advertising, on
11 the lands along the highway for a distance of 600 feet
12 immediately adjacent to the activities and those lands
13 directly opposite on the other side of the highway to the
14 extent of the same dimensions and to a maximum depth of 660
15 feet when measured from the highway right-of-way; provided
16 those lands on the opposite side of the highway are not
17 deemed considered scenic or having aesthetic value as
18 determined by the commission.

19 (15) "Urban area" means an urbanized area or place, as
20 designated by the United States bureau of the census, having
21 a population of 5,000 or more and within boundaries fixed by
22 the department of highways, which boundaries shall as a
23 minimum encompass the entire urban place designated by said
24 bureau of the census.

25 (16) "Visible" means capable of being seen and legible

1 without visual aid by a person of normal visual acuity."

2 Section 197. Section 76-3-103, MCA, is amended to
3 read:

4 "76-3-103. Definitions. As used in this chapter,
5 unless the context or subject matter clearly requires
6 otherwise, the following words or phrases shall have the
7 following meanings:

8 (1) "Certificate of survey" means a drawing of a field
9 survey prepared by a registered surveyor for the purpose of
10 disclosing facts pertaining to boundary locations.

11 (2) "Dedication" means the deliberate appropriation of
12 land by an owner for any general and public use, reserving
13 to himself no rights which are incompatible with the full
14 exercise and enjoyment of the public use to which the
15 property has been devoted.

16 (3) "Division of land" means the segregation of one or
17 more parcels of land from a larger tract held in single or
18 undivided ownership by transferring or contracting to
19 transfer title to or possession of a portion of the tract or
20 properly filing a certificate of survey or subdivision plat
21 establishing the identity of the segregated parcels pursuant
22 to this chapter.

23 (4) "Examining land surveyor" means a registered land
24 surveyor duly appointed by the governing body to review
25 surveys and plats submitted for filing.

1 ~~(5) "Governing body" means a board of county~~
2 ~~commissioners or the governing authority of any city or town~~
3 ~~organized pursuant to law.~~

4 ~~(6) "Irregularly shaped tract of land" means a~~
5 ~~parcel of land other than an aliquot part of the United~~
6 ~~States government survey section or a United States~~
7 ~~government lot, the boundaries or areas of which cannot be~~
8 ~~determined without a survey or trigonometric calculation.~~

9 ~~(7) "Occasional sale" means one sale of a division~~
10 ~~of land within any 12-month period.~~

11 ~~(8) "Planned unit development" means a land~~
12 ~~development project consisting of residential clusters,~~
13 ~~industrial parks, shopping centers, office building parks,~~
14 ~~or any combination thereof which comprises a planned mixture~~
15 ~~of land uses built in a prearranged relationship to each~~
16 ~~other and having open space and community facilities in~~
17 ~~common ownership or use.~~

18 ~~(9) "Plat" means a graphical representation of a~~
19 ~~subdivision showing the division of land into lots, parcels,~~
20 ~~blocks, streets, alleys, and other divisions and~~
21 ~~dedications.~~

22 ~~(10) "Preliminary plat" means a neat and scaled~~
23 ~~drawing of a proposed subdivision showing the layout of~~
24 ~~streets, alleys, lots, blocks, and other elements of a~~
25 ~~subdivision which furnish a basis for review by a governing~~

1 body.

2 ~~(11)(10)~~ "Final plat" means the final drawing of the
3 subdivision and dedication required by this chapter to be
4 prepared for filing for record with the county clerk and
5 recorder and containing all elements and requirements set
6 forth in this chapter and in regulations adopted pursuant
7 thereto.

8 ~~(12)(11)~~ "Registered land surveyor" means a person
9 licensed in conformance with the Montana Professional
10 Engineers' Registration Act (Title 37, chapter 67) to
11 practice surveying in the state of Montana.

12 ~~(13)(12)~~ "Registered professional engineer" means a
13 person licensed in conformance with the Montana Professional
14 Engineers' Registration Act (Title 37, chapter 67) to
15 practice engineering in the state of Montana.

16 ~~(14)(13)~~ "Subdivider" means any person who causes land
17 to be subdivided or who proposes a subdivision of land.

18 ~~(15)(14)~~ "Subdivision" means a division of land or land
19 so divided which creates one or more parcels containing less
20 than 20 acres, exclusive of public roadways, in order that
21 the title to or possession of the parcels may be sold,
22 rented, leased, or otherwise conveyed and shall include any
23 resubdivision and shall further include any condominium or
24 area, regardless of its size, which provides or will provide
25 multiple space for recreational camping vehicles, or mobile

1 homes."

2 Section 198. Section 76-3-601, MCA, is amended to
3 read:

4 "76-3-601. Submission of preliminary plat for review.

5 (1) Except where a plat is eligible for summary approval,
6 the subdivider shall present to the governing body or the
7 agent or agency designated thereby the preliminary plat of
8 the proposed subdivision for local review. The preliminary
9 plat shall show all pertinent features of the proposed
10 subdivision and all proposed improvements.

11 (2) (a) When the proposed subdivision lies within the
12 boundaries of ~~an incorporated city or town~~ a municipality,
13 the preliminary plat shall be submitted to and approved by
14 the ~~city or town~~ municipal governing body.

15 (b) When the proposed subdivision is situated
16 entirely in an unincorporated area, the preliminary plat
17 shall be submitted to and approved by the governing body of
18 the county. However, ~~if the proposed subdivision lies within~~
19 ~~1 mile of a third class city or town or within 2 miles of a~~
20 ~~second class city or within 3 miles of a first class city,~~
21 ~~the county governing body shall submit the preliminary plat~~
22 ~~to the city or town governing body or its designated agent~~
23 ~~for review and comment.~~ a municipality may by resolution
24 establish its authority to review and comment on
25 subdivisions within its extraterritorial area.

1 (c) If the proposed subdivision lies partly within an
2 incorporated city or town municipality, the proposed plat
3 thereof must be submitted to and approved by both the city
4 or town municipal and the county governing bodies.

5 ~~(3) This section and 76-3-604, 76-3-605, and 76-3-606~~
6 ~~through 76-3-610 do not limit the authority of certain~~
7 ~~municipalities to regulate subdivisions beyond their~~
8 ~~corporate limits pursuant to 7-3-444.~~

9 Section 199. Section 76-4-121, MCA, is amended to
10 read:

11 "76-4-121. Restrictions on subdivision activities.
12 Until the local governing body has certified that a
13 subdivision is to be provided with municipal facilities for
14 a supply of water and disposal of sewage and solid waste or
15 that the department has indicated that the subdivision is
16 subject to no restrictions, a person may not file a
17 subdivision plat with a county clerk and recorder records
18 administrator, make disposition of any lot within a
19 subdivision, erect any facility for the supply of water or
20 disposal of sewage or solid waste, erect any building or
21 shelter in a subdivision which requires facilities for the
22 supply of water or disposal of sewage or solid waste, or
23 occupy any permanent buildings in a subdivision."

24 Section 200. Section 76-4-122, MCA, is amended to
25 read:

1 "76-4-122. Filing or recording of noncomplying map or
2 plat prohibited. (1) The county clerk and recorder records
3 administrator shall not file or record any map or plat
4 showing a subdivision unless it complies with the provisions
5 of this part.

6 (2) A county clerk and recorder records administrator
7 may not accept a subdivision plat for filing until one of
8 the following conditions has been met:

9 (a) the person wishing to file the plat has obtained
10 approval of the local health officer having jurisdiction and
11 has filed the approval with the department, and the
12 department has indicated by stamp or certificate that it has
13 approved the plat and plans and specifications and that the
14 subdivision is subject to no sanitary restriction whenever
15 department approval is necessary; or

16 (b) whenever department approval is not necessary, the
17 person wishing to file the plat has obtained a certificate
18 from the governing body that the subdivision is inside a
19 master planning area and will be provided with municipal
20 facilities for the supply of water and disposal of sewage
21 and solid waste."

22 Section 201. Section 76-4-123, MCA, is amended to
23 read:

24 "76-4-123. Department review and approval required
25 outside master planning areas. Outside master planning areas

1 adopted pursuant to chapter 1, a person may not file a
 2 subdivision plat with a county ~~clerk-and-recorder records~~
 3 ~~administrator~~, make disposition of a lot within a
 4 subdivision, erect any facility for the supply of water or
 5 disposal of sewage or solid waste, erect a building or
 6 shelter in a subdivision which requires facilities for the
 7 supply of water or disposal of sewage or solid waste, or
 8 occupy a permanent building in a subdivision until the
 9 department has indicated that the subdivision is subject to
 10 no sanitary restriction."

11 Section 202. Section 76-4-127, MCA, is amended to
 12 read:

13 "76-4-127. Notice of certification to department that
 14 water and waste services will be provided by local
 15 government. (1) When a subdivision is reviewed under the
 16 master plan provisions of 76-4-124, the local governing body
 17 shall, within 20 days after receiving an application under
 18 the Montana Subdivision and Platting Act, send notice of
 19 certification to the department that a subdivision has been
 20 submitted for approval and that municipal facilities for the
 21 supply of water and disposal of sewage and solid waste will
 22 be provided for the subdivision.

23 (2) The notice of certification shall include the
 24 following:

25 (a) the name and address of the applicant;

1 (b) a copy of the preliminary plat or a final plat
 2 where a preliminary plat is not necessary;

3 (c) the number of proposed parcels in the subdivision;

4 (d) a copy of any applicable zoning ordinances in
 5 effect;

6 (e) how construction of the sewage disposal and water
 7 supply systems or extensions will be financed;

8 (f) a copy of the master plan if one has not yet been
 9 submitted to the department;

10 (g) the relative location of the subdivision to the
 11 ~~city-or-town municipality~~; and

12 (h) certification that adequate municipal facilities
 13 for the supply of water and disposal of sewage and solid
 14 waste are available or will be provided within 1 year after
 15 the notice of certification is issued."

16 Section 203. Section 76-5-1117, MCA, is amended to
 17 read:

18 "76-5-1117. Bonds authorized -- procedure. Cities,
 19 towns, and counties are hereby authorized to ~~contract~~
 20 ~~indebtedness issue general obligation or revenue bonds~~ and
 21 ~~to issue special local improvement district or rural~~
 22 ~~improvement district bonds~~ to provide funds for the payment
 23 of the cost of improvements contemplated by this part by
 24 following the following procedures ~~prescribed in section~~
 25 ~~33 through section 105 of SB 221.~~

1 ~~(1) The governing body of the city, town, or county~~
 2 ~~may call a special election to vote upon the proposition of~~
 3 ~~issuing said bonds or may submit the proposition as a~~
 4 ~~special question at a regular municipal or general election.~~

5 ~~(2) The notice of the election and the election itself~~
 6 ~~shall be carried out in accordance with Title 7, chapter 12,~~
 7 ~~parts 41 and 42 as to cities and in accordance with Title 7,~~
 8 ~~chapter 12, part 21 as to the counties.~~

9 ~~(3) Tax assessments for the payment of said bonds~~
 10 ~~shall be levied in accordance with Title 7, chapter 12,~~
 11 ~~parts 41 and 42, and Title 7, chapter 12, part 21 as to~~
 12 ~~cities and counties, respectively."~~

13 Section 204. Section 76-6-104, MCA, is amended to
 14 read:

15 "76-6-104. Definitions. The following terms whenever
 16 used or referred to in this chapter shall have the following
 17 meanings unless a different meaning is clearly indicated by
 18 the context:

19 ~~(1) "Comprehensive planning" means planning for~~
 20 ~~development and shall include:~~

21 ~~(a) preparation of general physical plans with respect~~
 22 ~~to the pattern and intensity of land use and the provision~~
 23 ~~of public facilities, including transportation facilities,~~
 24 ~~together with long-range fiscal plans for such development~~
 25 ~~as a guide for long-range development;~~

1 ~~(b) programming and financing plans for capital~~
 2 ~~improvements;~~

3 ~~(c) coordination of all related plans and planned~~
 4 ~~activities of both the intragovernmental and~~
 5 ~~intergovernmental levels; and~~

6 ~~(d) preparation of regulatory and administrative~~
 7 ~~measures in support of the foregoing.~~

8 ~~(2)(1) "Conservation easement" means an easement or~~
 9 ~~restriction, running with the land and assignable, whereby~~
 10 ~~an owner of land voluntarily relinquishes to the holder of~~
 11 ~~such easement or restriction any or all rights to construct~~
 12 ~~improvements upon the land or to substantially alter the~~
 13 ~~natural character of the land or to permit the construction~~
 14 ~~of improvements upon the land or the substantial alteration~~
 15 ~~of the natural character of the land, except as this right~~
 16 ~~is expressly reserved in the instruments evidencing the~~
 17 ~~easement or restriction.~~

18 ~~(3)(2) "Open-space land" means any land which is~~
 19 ~~provided or preserved for:~~

- 20 ~~(a) park or recreational purposes;~~
- 21 ~~(b) conservation of land or other natural resources;~~
- 22 ~~(c) historic or scenic purposes; or~~
- 23 ~~(d) assisting in the shaping of the character,~~
 24 ~~direction, and timing of community development.~~

25 ~~(4)(3) "Public body" means the state, counties,~~

~~cities, towns, and other municipalities.~~

~~(5)(4)~~ "Qualified private organization" means a private organization:

(a) competent to own interests in real property;

(b) which qualifies and holds a general tax exemption under the federal Internal Revenue Code, section 501(c); and

(c) whose organizational purposes are designed to further the purposes of this chapter.

~~(6)(5)~~ "Urban area" means any area which is urban in character, including surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities."

Section 205. Section 76-6-107, MCA, is amended to read:

"76-6-107. Conversion or diversion of open-space land.

(1) No open-space land, the title to or interest or right in which has been acquired under this chapter, ~~shall~~ ~~may~~ be converted or diverted from open-space land use unless the conversion or diversion is:

(a) necessary to the public interest;

(b) not in conflict with ~~the progress of~~ comprehensive

~~local government~~ planning for the area; and

(c) permitted by the conditions imposed at the time of the creation of the conservation easement.

(2) Other real property of at least equal fair market value and of as nearly as feasible equivalent usefulness and location for use as open-space land shall be substituted within a reasonable period not exceeding 1 year for any real property converted or diverted from open-space land use. Property substituted is subject to the provisions of this chapter."

Section 206. Section 76-6-109, MCA, is amended to read:

"76-6-109. Powers of public bodies. (1) A public body shall have all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the following powers in addition to others granted by this chapter:

(a) to borrow funds and make expenditures necessary to carry out the purposes of this chapter;

(b) to advance or accept advances of public funds;

(c) to apply for and accept and utilize grants and any other assistance from the federal government and any other public or private sources, to give such security as may be required, to enter into and carry out contracts or agreements in connection with the assistance, and to include

1 in any contract for assistance from the federal government
 2 such conditions imposed pursuant to federal laws as the
 3 public body may ~~deem~~ consider reasonable and appropriate and
 4 which are not inconsistent with the purposes of this
 5 chapter;

6 (d) to make and execute contracts and other
 7 instruments necessary or convenient to the exercise of its
 8 powers under this chapter;

9 (e) in connection with the real property acquired or
 10 designated for the purposes of this chapter, to provide or
 11 to arrange or contract for the provision, construction,
 12 maintenance, operation, or repair by any person or agency,
 13 public or private, of services, privileges, works, streets,
 14 roads, public utilities, or other facilities or structures
 15 that may be necessary to the provision, preservation,
 16 maintenance, and management of the property as open-space
 17 land;

18 (f) to insure or provide for the insurance of any real
 19 or personal property or operations of the public body
 20 against any risks or hazards, including the power to pay
 21 premiums on the insurance;

22 (g) to demolish or dispose of any structures or
 23 facilities which may be detrimental to or inconsistent with
 24 the use of real property as open-space land; and

25 (h) to exercise any or all of its functions and powers

1 under this chapter jointly or cooperatively with public
 2 bodies of one or more states, if they are so authorized by
 3 state law, and with one or more public bodies of this state
 4 and to enter into agreements for joint or cooperative
 5 action.

6 (2) For the purposes of this chapter, the state or--
 7 city, town, other municipality, or county may:

8 (a) appropriate funds;

9 ~~(b) levy taxes and assessments according to existing~~
 10 ~~codes and statutes not to exceed 1 mill;~~

11 ~~(c)(b)~~ issue and sell its general obligation bonds in
 12 the manner and within the limitations prescribed by the
 13 applicable laws of the state; and

14 ~~(d)(c)~~ exercise its powers under this chapter through
 15 a board or commission or through such office or officers as
 16 its governing body by resolution determines or as the
 17 governor determines in the case of the state.

18 ~~(3) For the purposes of this chapter, municipalities~~
 19 ~~and counties shall proceed according to the provisions of~~
 20 ~~[SB 11, SB 12, SB 13, SB 14, SB 15, SB 16, SB 17, SB 18, SB~~
 21 ~~19, SB 20, SB 21, and SB 22]."~~

22 Section 207. Section 76-6-110, MCA, is amended to
 23 read:

24 "76-6-110. Authorization ~~and--funding~~ for planning
 25 ~~commission -- requirements.~~ (1) The state, counties, cities,

1 ~~towns, or other~~ and municipalities in an urban area, acting
 2 jointly or in cooperation, are authorized to perform
 3 comprehensive planning for the urban area and to establish
 4 and maintain a planning ~~commission for this purpose and~~
 5 ~~related planning activities agency.~~

6 ~~(2) Funds may be appropriated and made available for~~
 7 ~~the comprehensive planning financial or other assistance~~
 8 ~~from the federal government and any other public or private~~
 9 ~~sources may be accepted and utilized for the planning. The~~
 10 planning authorized by subsection (1) shall include:

11 (a) the preparation of a long-range development
 12 program which includes elements pertaining to:

13 (i) the nature and extent of the use of lands;

14 (ii) the provision of public facilities;

15 (iii) the provision of transportation facilities; and

16 (iv) a long-range fiscal plan for implementation of the
 17 elements;

18 (b) a capital improvements program;

19 (c) the preparation of regulatory and administrative
 20 measures necessary to implement the various elements.

21 (3) The planning required by this section shall be
 22 coordinated with any local government planning taking place
 23 in the vicinity of the urban area.

24 (4) A government conducting the planning authorized by
 25 this section may finance the planning through any money

1 available to it

2 Section 263, Section 76-6-203, MCA, is amended to
 3 read:

4 "76-6-203. Types of permissible easements. (1)
 5 Easements or restrictions under this chapter may prohibit or
 6 limit any or all of the following:

7 (a) ~~structures~~ construction or placing of buildings,
 8 camping trailers, house trailers, mobile homes, roads, signs,
 9 billboards or other advertising, utilities, or other
 10 structures on or above the ground;

11 (b) ~~landfill~~ dumping or placing of soil or other
 12 substance or material as landfill or dumping or placing of
 13 trash, waste, or unsightly or offensive materials;

14 (c) ~~vegetation~~ removal or destruction of trees,
 15 shrubs, or other vegetation;

16 (d) ~~loam, peat, gravel, etc.~~ excavation, dredging, or
 17 removal of loam, peat, gravel, soil, rock, or other material
 18 substance;

19 (e) ~~surface use~~ surface use except for such purposes
 20 permitting the land or water area to remain predominantly in
 21 its existing condition;

22 (f) ~~acts detrimental to conservation~~ activities
 23 detrimental to drainage, flood control, water conservation,
 24 erosion control, soil conservation, or fish and wildlife
 25 habitat and preservation;

1 (g) ~~subdivision of land~~ subdivision of land as
2 defined in ~~76-3-103, 76-3-104, and 76-3-202~~ 76-4-102;

3 (h) ~~other acts~~ other acts or uses detrimental to such
4 retention of land or water areas in their existing
5 conditions.

6 (2) The term "land" in subsections (1)(b) and (1)(c)
7 above includes land under water, water, and water surface."

8 Section 209. Section 76-6-206, MCA, is amended to
9 read:

10 "76-6-206. Review by local planning ~~authority~~ agency.
11 In order to minimize conflict with local ~~comprehensive~~
12 planning, all conservation easements shall be subject to
13 review prior to recording by the appropriate local planning
14 ~~authority~~ agency for the county within which the land lies.
15 It shall be the responsibility of the entity acquiring the
16 conservation easement to present the proposed conveyance of
17 the conservation easement to the appropriate local planning
18 ~~authority~~ agency. The local planning ~~authority~~ agency shall
19 have 90 days from receipt of the proposed conveyance within
20 which to review and to comment upon the relationship of the
21 proposed conveyance to ~~comprehensive~~ planning for the area.
22 Such comments will not be binding on the proposed grantor or
23 grantee but shall be merely advisory in nature. The
24 proposed conveyance may be recorded after comments have been
25 received from the local planning ~~authority~~ agency or the

1 local planning ~~authority~~ agency has indicated in writing it
2 will have no comments or 90 days have elapsed, whichever
3 occurs first."

4 Section 210. Section 76-6-207, MCA, is amended to
5 read:

6 "76-6-207. Recording and description of easement. (1)
7 All conservation easements shall be duly recorded in the
8 county where the land lies so as to effect their titles in
9 the manner of other conveyances of interest in land and
10 shall describe the land subject to said conservation
11 easement by adequate legal description or by reference to a
12 recorded plat showing its boundaries.

13 (2) The county ~~clerk~~ ~~and~~ ~~recorder~~ ~~records~~
14 ~~administrator~~ shall upon recording ~~cause~~ place a copy of the
15 conservation easement ~~to be placed~~ in a separate file within
16 the office of the county ~~clerk~~ ~~and~~ ~~recorder~~ ~~records~~
17 ~~administrator~~ and ~~shall~~ ~~cause~~ mail a copy of the
18 conservation easement ~~to be mailed~~ to the department of
19 revenue."

20 Section 211. Section 76-15-506, MCA, is amended to
21 read:

22 "76-15-506. Bonds authorized — election. (1) Whenever
23 a board of supervisors ~~deems~~ considers it necessary, it may
24 issue bonds payable from revenues, assessments, or both, or
25 the district may use other financing as provided for by this

1 part and part 6 for the cost of works.

2 (2) The board of supervisors may call a special
3 election to vote upon the proposition of issuing the bonds
4 or may submit the proposition as a special question at a
5 regular or general election. The notice of the election and
6 the election itself shall be carried out in accordance with
7 76-15-605 and 76-15-606. If from the returns of the election
8 it appears that the majority of votes cast at such election
9 was in favor of and assented to the incurring of the
10 indebtedness, then the board of supervisors may by
11 resolution provide for the issuance of such bonds.

12 (3) The authorization of such undertaking, the form,
13 and content shall be carried out in accordance with
14 ~~7-7-4426, 7-7-4427, and 7-7-4432 through 7-7-4435~~ [section
15 ~~33 through section 105 of SB 22~~]. Validity of such bonds,
16 use of revenue, and refunding shall be in accordance with
17 the provisions of ~~7-7-4425, 7-7-4430, 7-7-4501 (2) and (3),~~
18 ~~and 7-7-4502 through 7-7-4505~~ [section 33 through section
19 ~~105 of SB 22~~].

20 (4) Any bonds issued under this part and part 6 have
21 the same force, value, and use as bonds issued by a
22 municipality and are exempt from taxation as property within
23 ~~the state of Montana.~~

24 Section 212. Section 77-1-104, MCA, is amended to
25 read:

1 "77-1-104. Survey of lands. If the board considers it
2 necessary that any of the lands mentioned in 77-1-102 be
3 surveyed, it shall have the lands surveyed ~~by the county~~
4 ~~surveyor of the county in which the lands are located. If~~
5 ~~there is no county surveyor, if the county surveyor is~~
6 ~~unable to make the survey, or if the best interests of the~~
7 ~~state require, the~~ The board shall appoint a qualified
8 surveyor to make the surveys. The ~~county surveyor or other~~
9 ~~surveyor appointed shall make an actual survey thereof~~
10 ~~establishing four corners of every quarter section and~~
11 ~~connecting the same with a United States survey and within~~
12 ~~30 days after such survey file with the county clerk and~~
13 ~~recorder records administrator of that county a copy under~~
14 ~~oath of his field notes and plat and a duly certified copy~~
15 ~~of his field notes and plat with the department. For the~~
16 ~~services required in connection with the survey, the county~~
17 ~~surveyor or other surveyor appointed is entitled to fees as~~
18 ~~prescribed in 7-4-2821. Such fees shall be paid in the same~~
19 ~~manner as other expenses of the department."~~

20 Section 213. Section 80-7-501, MCA, is amended to
21 read:

22 "80-7-501. Definitions. As used in this part, the
23 following definitions apply:

24 (1) "Agricultural insect pest" means those insects
25 which reduce the quantity or quality of food, feed, forage,

1 ~~timber or fiber during production; damage commodities during~~
 2 ~~harvest or storage; or transmit disease organisms to~~
 3 ~~valuable plants. Agricultural insect pests include but are~~
 4 ~~not limited to grasshoppers, cutworms, pale western~~
 5 ~~cutworms, army cutworms, chinch bugs, and any other insect~~
 6 ~~or arthropod generally recognized as a destroyer of grains~~
 7 ~~hay, range, or horticultural crops.~~

8 (1)(2) "Alternative control program" means a system of
 9 controlling insect pest populations through biological or
 10 other means not involving toxic chemicals.

11 (2)(3) "Cropland" means land used for the production
 12 of foods, ~~timber~~, and forage, including the headlands,
 13 ditches, and rights-of-way adjacent to such land.

14 (3)(4) "Cropland spraying program" means the
 15 application of chemical or other substances to croplands for
 16 the purpose of preventing or destroying insect pests.

17 (4)(5) "Emergency" means a serious insect pest
 18 infestation that meets the conditions of 10-3-311.

19 (5)(6) "Infestation" means that a pest exists in such
 20 numbers, under certain conditions, ~~and~~ or at certain times
 21 as to destroy or substantially damage or threaten to destroy
 22 livestock or other agricultural crops ~~or damage or threaten~~
 23 ~~to damage human health.~~

24 (6)(7) "Insect pest" includes the grasshopper,
 25 cutworm, pale western cutworm, ~~spayworm~~ ~~army worm~~, chinch

1 bug, and any other insect or arthropod generally recognized
 2 as a destroyer of grain, hay, range, and horticulture crops.

3 (8) ~~"Insect pest detection and surveillance program"~~
 4 ~~means annual field surveys of cropland for the purpose of~~
 5 ~~detecting new or unusual insect pests and monitoring the~~
 6 ~~number and movement of insect pest populations."~~

7 Section 214. Section 80-7-502, MCA, is amended to
 8 read:

9 "80-7-502. Insect detection ~~and surveillance~~ and
 10 ~~control programs~~ ~~cropland spraying program~~. The department
 11 may:

12 (1) employ permanent and seasonal personnel to
 13 administer this part;

14 (2) survey for and maintain surveillance of
 15 ~~agricultural~~ insect pests during appropriate seasons and
 16 enter upon any croplands in the course of conducting such
 17 surveillance;

18 (3) provide insect pest management services to
 19 particular agricultural commodity groups for the resolution
 20 of special or unusual insect pest problems;

21 (4) determine or assist a county to determine, upon
 22 investigation, whether a serious infestation exists or
 23 threatens to occur within a county;

24 (5) declare that an insect pest infestation
 25 constitutes a serious infestation;

1 (6) operate, contract for, or assist a county to
2 obtain spraying or other appropriate services to counteract
3 an actual or threatening serious infestation, having first
4 determined that any person contracting to supply such
5 services is properly equipped to apply substances designated
6 and approved by the department;

7 (7) conduct, cooperate in, or coordinate upon request
8 by any affected county, insect pest management services for
9 serious pest infestations in one or more counties;

10 (8) assist counties, upon request, to coordinate
11 county insect pest management programs in contiguous
12 counties;

13 ~~(9) assist a county as provided in [section 4] and~~
14 ~~section 62 of SB 15]."~~

15 Section 215. Section ~~80-7-503~~ MCA is amended to
16 read:

17 "80-7-503. Duties of department. The department shall:

18 (1) develop and publish a list of pesticides approved
19 for control of insect pests;

20 (2) develop and publish technical guidelines on
21 techniques of controlling insect pests;

22 (3) notify a county of its survey results and state
23 whether the infestation is normal or serious;

24 (4) review and comment on or review and approve all
25 county agricultural insect pest management plans as provided

1 by local government statutes [section 62 of SB 41] and
2 consider whether the plan conforms to the technical
3 guidelines of the department and whether implementation of
4 the plan will probably counteract the condition of insect
5 pest infestation in a timely and proper manner;

6 (5) consider whether an alternative control program
7 would be as efficient as spraying on a ratio of total costs
8 to total benefits and provide the county with a summary of
9 its findings prior to conducting or approving any cropland
10 spraying program. If the alternative control program is
11 considered adequate, the department may conduct or approve
12 such a program."

13 Section 216. Section 80-7-504, MCA, is amended to
14 read:

15 "80-7-504. Financing of control program. (1) One-third
16 of the costs of a cropland spraying program or alternative
17 program conducted by the state shall be paid by the state.
18 ~~One-third of the costs shall be paid by the county in which~~
19 ~~the program is conducted. One-third of the costs shall be~~
20 ~~paid by the owners of cropland in the county or within the~~
21 ~~boundaries of the program.~~ Prior to the implementation of
22 any state or county control program, the department and the
23 governing body of any county for which the program is
24 proposed shall enter into an interlocal or ~~management~~
25 agreement on the maximum amount of moneys each shall

1 appropriate or provide toward the proposed program. If
2 either party does not sign and approve the agreement, the
3 program may not be conducted.

4 ~~(2) Individual farm and ranch landowners may formally~~
5 ~~petition by written affidavit protesting their inclusion~~
6 ~~within the proposed cropland spraying program. The~~
7 ~~department or local governing body shall refrain from~~
8 ~~spraying any land petitioned to be excluded. Such excluded~~
9 ~~land remains subject to assessment under 80-7-505. The~~
10 governing body of any county for which a control program is
11 intended shall proceed as provided by ~~local government~~
12 statutes [section 51 through section 54 of SB 15].

13 (3) If the department conducts the program, it shall
14 pay all costs of the program. The county shall pay its share
15 and the landowner's share as provided in 80-7-505 to the
16 department for deposit in the appropriate fund.

17 (4) If the county conducts the program, it shall pay
18 all costs of the program including its share. The department
19 shall pay one-third of the costs of the cropland spraying
20 program from moneys appropriated for that purpose to the
21 county in which the program was conducted. The county
22 treasurer finance administrator shall collect the
23 landowner's special assessment as provided in 80-7-505."

24 Section 217. Section 80-7-505, MCA, is amended to
25 read:

1 "80-7-505. Computation and collection of assessments
2 on landowners. Each owner of cropland benefited benefiting
3 under a cropland spraying program is liable for such portion
4 of the landowner's share of the program costs as his
5 cropland is a portion of all cropland within the boundaries
6 of the program. The county treasurer finance administrator
7 shall compute each landowner's liability and mail a special
8 assessment therefor to each owner or occupier of land within
9 the boundaries of the program. Unless otherwise mutually
10 agreed upon, this assessment is due and payable within 32
11 days of mailing or 30 days of receipt if receipt is shown to
12 be more than 2 days after mailing. A delinquent assessment
13 is a lien upon the land assessed."

14 Section 218. Section 80-7-701, MCA, is amended to
15 read:

16 "80-7-701. Embargo against introduction of noxious
17 weed plant seed from other states. If the department
18 believes that movements of grain, plants, seed, tubers,
19 nursery stock, hay, straw, fruit, or other materials
20 containing noxious weed plant seed or plants dangerous or
21 inimical to the horticultural or agricultural industries are
22 about to be introduced into the state, ~~it may the department~~
23 shall advise the governor. The governor shall, by
24 proclamation, declare an embargo against the importation or
25 shipment of the grain, plants, tubers, nursery stock, seed,

1 hay, straw, fruit, or other materials into the state, except
2 under restrictions established in this part and provided in
3 the rules adopted by the department."

4 Section 219. Section 80-7-702, MCA, is amended to
5 read:

6 "80-7-702. Rules for enforcement of interstate
7 embargo. The department of agriculture shall may promulgate
8 and adopt all necessary rules in for the enforcement of on
9 any such embargo prior to or upon its being proclaimed--as
10 provided in--80-7-701. The department in adopting the rules
11 may provide for the establishment of inspection stations,
12 the appointment of inspectors, the establishment of the
13 inspection fees, the issuance of certificates, the methods
14 of transporting and packaging, and other rules and
15 procedures necessary to carry out ~~80-7-701 through--80-7-704~~
16 the embargo."

17 Section 220. Section 80-7-703, MCA, is amended to
18 read:

19 "80-7-703. Violations of interstate embargo --
20 penalty. Any person who refuses to obey an order of an
21 appointed inspector or willfully disobeys the embargo
22 provisions of 80-7-701 through--80-7-704 shall be guilty of a
23 misdemeanor and upon conviction shall be fined not less than
24 \$50 and not more than \$100."

25 Section 221. Section 80-7-704, MCA, is amended to

1 read:

2 "80-7-704. Disposition of fines and inspection fees.
3 All fines levied ~~as provided in 80-7-703 for violations of~~
4 embargo provisions and all fees collected from inspections
5 shall be deposited with the state treasurer to the credit of
6 the earmarked revenue fund for the use of the department for
7 the purpose of administering and enforcing ~~80-7-701 through~~
8 80-7-704 the embargo."

9 Section 222. Section 81-4-403, MCA, is amended to
10 read:

11 "81-4-403. Impounding animals -- duties of ~~cities and~~
12 towns local governments. When any livestock or domestic
13 animals of any kind are impounded, seized, restrained, or
14 held by any ~~city or town~~ local government or its officers or
15 agents, it shall be the duty of such ~~city--or--town~~ local
16 government, its officers or agents, to give notice to the
17 owner of such livestock or domestic animals so impounded,
18 seized, restrained, or held by such ~~city or town~~ local
19 government, if the owner is known, in the manner hereinafter
20 provided."

21 Section 223. Section 81-4-408, MCA, is amended to
22 read:

23 "81-4-408. Duty of officers to ascertain brands. It
24 shall be the duty of such ~~city or town~~ local government and
25 its officers or agents to use reasonable diligence to

1 ascertain any and all marks and brands on such stock, and in
 2 case such animals are not branded or marked or the brand or
 3 marks are mutilated or undeterminable, such facts shall be
 4 noted in ~~said~~ the notice."

5 Section 224. Section 81-4-409, MCA, is amended to
 6 read:

7 "81-4-409. Department to ascertain owner -- notice.
 8 When the notice is served, the department shall ascertain
 9 the owner of the stock, if possible, and when the owner is
 10 ascertained, immediately furnish the owner with the
 11 information contained in the notice. The department shall
 12 notify the ~~city or town local government~~, its officers or
 13 agents, of the name and post-office address of the owner."

14 Section 225. Section 85-7-2143, MCA, is amended to
 15 read:

16 "85-7-2143. Prosecution for misconduct. It shall be
 17 the duty of the ~~county prosecuting~~ attorney in each county
 18 to commence and prosecute all actions to enforce any
 19 liability created in 85-7-2142. Such actions shall be tried
 20 as civil actions at law."

21 Section 226. Severability. If a part of this act is
 22 invalid, all valid parts that are severable from the invalid
 23 part remain in effect. If a part of this act is invalid in
 24 one or more of its applications, the part remains in effect
 25 in all valid applications that are severable from the

1 invalid applications.

2 Section 227. Repealer. Sections 1-2-112, 2-9-701
 3 through 2-9-704, 2-9-801 through 2-9-805, 2-15-1102,
 4 2-18-504, 7-1-2101 through 7-1-4118, 7-2-101 through
 5 7-2-103, 7-2-2104, 7-2-2105, 7-2-2301 through 7-2-4920,
 6 7-3-104 through 7-3-114, 7-3-1101 through 7-3-4466, 7-4-2101
 7 through 7-4-2209, 7-4-2211 through 7-4-2403, 7-4-2405
 8 through 7-4-2514, 7-4-2517 through 7-4-2601, 7-4-2612
 9 through 7-4-2614, 7-4-2616 through 7-4-2623, 7-4-2632
 10 through 7-4-2901, 7-4-2903, 7-4-2912 through 7-4-2914,
 11 7-4-2923, 7-4-3006 through 7-4-4701, 7-5-101 through
 12 7-5-2107, 7-5-2121 through 7-5-2131, 7-5-2141, 7-5-2201
 13 through 7-5-4110, 7-5-4112 through 7-5-4124, 7-5-4201
 14 through 7-5-4409, 7-6-201 through 7-6-2118, 7-6-2202 through
 15 7-6-2802, 7-6-4102, 7-6-4104 through 7-6-4124, 7-6-4133,
 16 7-6-4201 through 7-6-4405, 7-6-4408, 7-6-4501 through
 17 7-6-4603, 7-7-107, 7-7-108, 7-7-123 through 7-7-4102,
 18 7-7-4111 through 7-7-4633, 7-8-101 through 7-8-2233,
 19 7-8-2308 through 7-8-2403, 7-8-260 through 7-8-4201,
 20 7-11-101 through 7-11-230, 7-12-2101 through 7-12-4504,
 21 7-13-101 through 7-13-2104, 7-13-2401 through 7-13-4303,
 22 7-13-4305 through 7-13-4308, 7-13-4310 through 7-13-4406,
 23 7-14-102 through 7-14-2103, 7-14-2105 through 7-14-4801,
 24 7-15-2101 through 7-15-4532, 7-16-101 through 7-16-4309,
 25 7-21-2101 through 7-21-4211, 7-22-2101 through 7-22-4101,

1 7-23-101 through 7-23-4104, 7-31-101 through 7-31-4207,
2 7-32-101 through 7-32-4106, 7-32-4108 through 7-32-4118,
3 7-32-4151 through 7-32-4311, 7-33-2101 through 7-33-2209,
4 7-33-2301 through 7-33-2312, 7-33-2314 through 7-33-4127,
5 7-33-4130, 7-33-4132 through 7-33-4208, 7-34-101 through
6 7-34-104, 7-34-2201 through 7-34-4101, 7-35-2101 through
7 7-35-4109, 10-1-108, 10-3-405, 10-3-603 through 10-3-605,
8 10-3-608, 15-10-104, 15-16-103, 15-16-117, 17-3-231,
9 17-3-232, 20-3-201 through 20-3-204, 20-7-801 through
10 20-7-804, 33-2-833, 49-4-311, 49-4-312, 50-1-203, 50-1-205,
11 50-2-101 through 50-2-124, 53-8-104, 53-20-208, 60-2-210,
12 60-2-211, 67-10-101 through 67-10-406, 69-4-301 through
13 69-4-305, 69-4-311 through 69-4-333, 69-4-351 through
14 69-4-358, 71-3-705, 71-3-810, 72-31-102, 75-7-201 through
15 75-7-216, 76-1-101 through 76-1-606, 76-2-101 through
16 76-2-328, 77-6-114, 81-4-102, 81-7-201 through 81-7-206,
17 81-7-301 through 81-7-305, 81-8-503, 81-8-504, 90-5-101
18 through 90-5-113, MCA, are repealed.

19 Section 228. Effective date. This act is effective on
20 July 1, 1981.

-End-