

# CHAPTER NO. 443.

SENATE BILL NO. 335

INTRODUCED BY LOCKREM

BY REQUEST OF THE CODE COMMISSIONER

## IN THE SENATE

February 2, 1979	Introduced and referred to Committee on Local Government.
February 8, 1979	Committee recommend bill do pass. Report adopted.
February 9, 1979	Printed and placed on members' desks.
February 10, 1979	Second reading, do pass as amended.
February 13, 1979	Correctly engrossed.
February 14, 1979	Third reading, passed. Transmitted to second house.

## IN THE HOUSE

February 15, 1979	Introduced and referred to Committee on Local Government.
March 6, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 8, 1979	Second reading, concurred in.
March 12, 1979	Third reading, concurred in as amended.

## IN THE SENATE

March 13, 1979	Returned from second house. Concurred in as amended.
March 14, 1979	Second reading, pass consideration.
March 15, 1979	Second reading, amendments adopted.

March 16, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

*Sench* BILL NO. 335

1 INTRODUCED BY LOCKREY  
2  
3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO LOCAL  
7 GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105,  
8 AND 25-603, R.C.M. 1947."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 7-4-2203, MCA, is amended to read:  
12 "7-4-2203. County officers. (1) There may be elected  
13 or appointed in each county the following county officers,  
14 who shall possess the qualifications for suffrage prescribed  
15 by the Montana constitution and such other qualifications as  
16 may be prescribed by law:

17 (a) one county attorney;  
18 (b) one clerk of the district court;  
19 (c) one county clerk;  
20 (d) one sheriff;  
21 (e) one treasurer;  
22 (f) one auditor if authorized by 7-6-2401;  
23 ~~one~~ one county superintendent of schools;  
24 ~~one~~ one county surveyor;  
25 ~~one~~ one assessor;

1 ~~one coroner;~~  
2 ~~one public administrator; and~~  
3 ~~at least one justice of the peace.~~  
4 (2) The commissioners may appoint at their discretion  
5 constables. Not more than one constable may be appointed  
6 for each justice of the peace court.

7 (3) ~~County--editors--and--all~~ All elective township  
8 officers may be elected at each general election as now  
9 provided by law."

10 Section 2. Section 7-4-2209, MCA, is amended to read:  
11 "7-4-2209. Authority to administer oaths. Every  
12 officer mentioned in former 16-2403, R.C.M. 1947, and every  
13 justice of the peace 7-4-2203(1) may administer and certify  
14 oaths."

15 Section 3. Section 7-4-2213, MCA, is amended to read:  
16 "7-4-2213. Inspection of official bonds. (1) At the a  
17 regular quarterly--meetings--of--all--boards meeting of the  
18 board of county commissioners in this state in March and  
19 September of each year, every the board of county  
20 commissioners shall carefully examine all official bonds of  
21 all county and township officials of its county then in  
22 force and effect and investigate the qualifications and  
23 financial condition and liability of all sureties thereon  
24 and their sufficiency.

25 (2) If it appears to the satisfaction of any such the

1 board or a majority of the members thereof that any surety  
 2 upon any such bond within-and-for-tes-county has, since the  
 3 approval and acceptance of such bond, died or withdrawn  
 4 therefrom or removed from left the state; or disposed of  
 5 all of his property in this state; or become insane mentally  
 6 ill, insolvent, financially embarrassed, or not good and  
 7 responsible for the amount of his liability thereon, such  
 8 the board shall immediately cause the clerk of said the  
 9 board to notify in writing the judge of the district court  
 10 of that district of its action and conclusion and all facts  
 11 in connection therewith and the reasons thereof.

12 (3) Said the judge shall forthwith take cognizance  
 13 thereof and investigate such matter and take steps, by order  
 14 to show cause or other order, citation, steps, or actions, as  
 15 may be necessary to make such bond good and sufficient  
 16 according to the requirements of law in-the-premises and  
 17 ample security for the amount thereof."

18 Section 4. Section 7-4-2301, MCA, is amended to read:  
 19 "7-4-2301. Authorization to consolidate county  
 20 offices. (1) Except as provided in subsection (2), the board  
 21 of county commissioners of any county may in its discretion  
 22 consolidate any two or more of the offices named in 7-4-2203  
 23 and combine the powers and the duties of the consolidated  
 24 offices.

25 (2) The office of the justice of the peace may not be

1 combined or consolidated with any other office other than  
 2 another justice of the peace office.

3 ~~(3)--The-provisions-hereof-shall-not--be--construed--as~~  
 4 ~~allowing-one-office--incumbent-to-be--entitled-to-the-generies~~  
 5 ~~and-emoluments-of-two-or-more-offices--"~~

6 Section 5. Section 7-4-2306, MCA, is amended to read:  
 7 "7-4-2306. Processing of petition -- resolution of  
 8 intent and hearing. (1) Upon the filing of any-such a  
 9 petition for consolidation, the board or boards of county  
 10 commissioners shall cause the county clerk or clerks to  
 11 forthwith examine the same petition and the registration  
 12 records of the county or counties.

13 (2) If after such examination such the county clerk or  
 14 clerks shall report to said the board or boards of county  
 15 commissioners that such the petition or-petitions--have has  
 16 been signed by not less than 15% of the qualified electors  
 17 of the county whose names appear on such the registration  
 18 records, said the board or boards shall set a date for a  
 19 hearing and pass a resolution of intent to consider said the  
 20 consolidation. Upon the passage of the resolution of intent  
 21 by the board or boards, proper notice and-a-date shall be  
 22 set given for a the hearing-to-consider-said--consolidation.  
 23 The date for the hearing shall-be may not be more than 20  
 24 days after the filing of such the petition or the passage of  
 25 the resolution of intent."

1       Section 6. Section 7-4-2310, MCA, is amended to read:  
 2       "7-4-2310. Order for consolidation of offices. (1) In  
 3       consolidating county offices, the board of county  
 4       commissioners shall, 6 months prior to the general election  
 5       held for the purpose of electing--the--aforesaid--officers  
 6       filling the offices to be consolidated or 6 months prior to  
 7       the appointment of-the-aforesaid-officers to the offices to  
 8       be consolidated, make and enter an order combining any two  
 9       or more of the within-named offices.

10       (2) Whenever ~~a~~ board or boards--shall--make an order  
 11       consolidating two or more offices is made, such the order  
 12       shall be entered in full on its the board's minutes of  
 13       proceedings.

14       (3) ~~at~~ Such The order shall be published in a  
 15       newspaper of general circulation, printed and published in  
 16       the county or counties affected, for a period of 2  
 17       successive weeks following the date of the making and entry  
 18       entering of ~~such~~ the order.

19       ~~at~~--The board shall cause the order to be published in  
 20       a--newspaper--published--and--circulated--generally--in--said  
 21       county--for--a--period--of--6--weeks--following--the--date--of--entry  
 22       of--said--order--"

23       Section 7. Section 7-4-2313, MCA, is amended to read:  
 24       "7-4-2313. Deputies and personnel for consolidated  
 25       offices. (1) Where Whenever county offices are consolidated

1       as--hereinbefore--described, the officers officer of the  
 2       consolidated officers--shall--have--any--deputies--they office  
 3       may appoint--who--shall--be as many deputies as are approved  
 4       by the board or boards of county commissioners.

5       (2) The board or boards shall determine the number of  
 6       deputies, stenographers, and clerks the officers may  
 7       appoint."

8       Section 8. Section 7-4-2501, MCA, is amended to read:  
 9       "7-4-2501. Compensation of county officers. (1) The  
 10       county surveyor if not receiving a salary under 7-4-28121,  
 11       the county coroner if not receiving a salary under  
 12       7-4-29221, and the public administrator--justice of the  
 13       peace--and--constable may collect and receive for their own  
 14       use, respectively, for official services, the fees and  
 15       emoluments prescribed in--this--chapter by law.

16       (2) All other county officers receive salaries."

17       Section 9. Section 7-4-2502, MCA, is amended to read:  
 18       "7-4-2502. Payment of salaries of county officials and  
 19       assistants. (1) ~~at~~ Except as provided in subsection (2),  
 20       the salaries of the several county officers and their  
 21       assistants must be paid monthly out of the general fund of  
 22       the county and upon the order of the board of county  
 23       commissioners.

24       ~~fb~~--Salaries must be allowed and paid monthly upon the  
 25       order of the board and paid out of the contingent fund"

1        (2) (a) The salary of the county attorney is payable  
 2 monthly, with one-half from the general fund of the county  
 3 and the other one-half from the state treasury upon the  
 4 warrant of the state auditor.

5        (b) The county commissioners of each county shall,  
 6 within 30 days after the election or appointment to fill a  
 7 vacancy for any cause in the office of any county attorney,  
 8 certify such the election or appointment to the state  
 9 auditor, who shall thereafter draw warrants for such salary  
 10 in the same manner as for state officers. In case of a  
 11 vacancy, the county commissioners shall immediately notify  
 12 the state auditor, and the auditor shall compute the salary  
 13 due on the basis of ~~and~~ the notification.

14        (3) The board has jurisdiction and power, under such  
 15 limitations and restrictions as are prescribed by law, to  
 16 fix the compensation of all county officers not otherwise  
 17 fixed ~~in--this--code--or~~ by general or special law and to  
 18 provide for the payment of the same."

19        Section 10. Section 7-4-2504, MCA, is amended to read:

20        "7-4-2504. Salaries to be fixed by resolution. The  
 21 county commissioners shall by resolution, on or before July  
 22 1 of each year, fix the salaries of the county treasurer,  
 23 county clerk, county assessor, county school superintendent,  
 24 county sheriff, and county attorney, and the clerk of the  
 25 district court; the county auditor (if there is one); the

1        county surveyor (if he receives a salary); and the county  
 2 coroner (if he receives a salary) for the following fiscal  
 3 year in conformity with the appropriate statutory salary  
 4 schedule pertaining to each office. The salary schedule used  
 5 for each office shall be the statutory schedule in effect on  
 6 the first day of the following fiscal year."

7        Section 11. Section 7-4-2511, MCA, is amended to read:  
 8        7-4-2511. Collection and disposal of fees. (1) All  
 9 Each salaried officers county officer of--the--several  
 10 counties must charge and collect for the use of their  
 11 respective--counties his county and pay into the county  
 12 treasury on the first Monday in each month all the fees now  
 13 or hereafter allowed by law, paid or chargeable in all  
 14 cases, except as provided in 25-10-403. Nothing in this  
 15 subsection ~~shall--be--held--to--apply~~ applies to the  
 16 compensation received by the sheriff as mileage while in the  
 17 performance of official duties or for the board of prisoners  
 18 or other persons while in his custody.

19        (2) No salaried county officer ~~shall~~ may receive for  
 20 his own use any fees, penalties, or emoluments of any kind,  
 21 except the salary as provided by law, for any official  
 22 service rendered by him, but Unless otherwise provided, all  
 23 fees, penalties, and emoluments of every kind must be  
 24 collected by him a salaried county officer are for the sole  
 25 use of the county and must be accounted for and paid to the

1 paid to the county treasurer as provided by subsection (1)  
2 and shall be credited to the general fund of the county.

3                   +3+--Every officer who fails or refuses to pay any fees  
4 collected by him to the county treasurer or fails to collect  
5 the same as provided by [this chapter] is guilty of a  
6 felony."

7 Section 12. Section 7-4-2512, MCA, is amended to read:

8 "7-4-2512. Statement and affidavit of fees collected.

9       (1) The fees and compensation collected and chargeable for  
10      the use of the county in each month must be paid to the  
11      county treasurer on the first Monday of the following month  
12      and must be accompanied by a statement and copy of the fee  
13      book for the preceding month, duly verified by the officer  
14      making such the payment.

15 (2) The affidavit must be in the following form:

16 State of Montana

17 County of ....

I, ...., of the county of ...., do swear that the fee  
book in my office contains a true statement in detail of all  
fees and compensation; of every kind and nature for official  
services rendered by me, paid or chargeable, or by my  
deputies or assistants for the month of ...., A.D. 19... and  
that said this fee book shows the full amount received or  
chargeable in said month and since my last monthly payment;  
and neither myself nor, to my knowledge or belief, any of my

1      deputies or assistants have rendered any official service,  
2      except for the county or state, which is not fully set out  
3      in said this fee book; and that the foregoing statement is a  
4      full, true, and correct copy thereof.

5 .....(Signature)

6 Subscr

7       ..... 19...

8 Seal \_\_\_\_\_ (Person authorized to take oaths)

9 \_\_\_\_\_  
10 437—Every officer who makes a false report of the fees  
11 received by him in virtue of a felony."

12 Section 13. Section 7-4-2519, MCA, is amended to read:

13        #7-4-2519. Prohibition upon receiving other fees. (1)

14 The officers named above must ~~may~~ receive no other fees for  
15 any services performed by them in any action or proceeding  
16 or for the performance of any service for which fees are  
17 allowed, and

18                   t27--in-case-of-any--variation--of--the--provisions--of  
19                   [this--chapter]v the party demanding or receiving any fees  
20                   not herein allowed is liable to refund the same to the party  
21                   aggrieved, with treble the amounts amount as damages.  
22                   besides--costs in addition to the cost of suit.\*

23 Section 14. Section 7-4-2613, MCA, is amended to read:

24 "7-4-2613. Documents subject to recording. The county  
25 clerk must, upon payment of his fees for the same, record.

1 photograph, or correctly copy, separately, in large and  
 2 well-bound or to be bound separate books, either in a fair  
 3 hand or by printing, typewriting, or photographic process or  
 4 by the use of prepared blank forms:

5       (1) deeds, grants, transfers, certified copies of  
 6 final judgments or decrees partitioning or affecting the  
 7 title or possession of real property any part of which is  
 8 situated in the county, contracts to sell or convey real  
 9 estate and mortgages of real estate, releases of mortgages,  
 10 powers of attorney to convey real estate, leases which have  
 11 been acknowledged or proved, and abstracts of such  
 12 instruments which have been acknowledged or proved;

13       (2) certificates of births and deaths;

14       (3) wills devising real estate admitted to probate;

15       (4) official bonds;

16       (5) transcripts of judgments which by law are made  
 17 liens upon real estate;

18       ~~(6) instruments describing or relating to the  
 19 individual property of married persons and sole trader  
 20 judgments.~~

21       ~~(7) all orders and decrees made by the district  
 22 court in probate matters affecting real estate and which are  
 23 required to be recorded;~~

24       ~~(8) notice of preemption claims;~~

25       ~~(9) notice and declaration of water rights;~~

1       ~~(10) assignments for the benefit of creditors;~~  
 2       ~~(11) affidavits of annual work done on mining  
 3 claims;~~  
 4       ~~(12) notices of mining locations and declaratory  
 5 statements;~~  
 6       ~~(13) estrays and lost property;~~  
 7       ~~(14) a book containing appraisement of state lands;~~  
 8       ~~(15) such other writings as are required or  
 9 permitted by law to be recorded.~~"

10       Section 15. Section 7-4-2615, MCA, is amended to read:  
 11       "7-4-2615. Records of water users' associations. In  
 12 each county where water users' associations, organized in  
 13 conformity with the federal reclamation laws of the United  
 14 States under the Reclamation Act, have organized or wherein  
 15 such associations shall hereafter organize exist, the county  
 16 commissioners are required to furnish the county recorder  
 17 with books for the proper recording of stock subscriptions  
 18 and contracts, articles of incorporation, and stock  
 19 certificates of such companies associations, books--to  
 20 conform--to--such--articles--of--incorporation--stock  
 21 certificates, and contracts as are used by the secretary--of  
 22 such--water--users--associations, containing printed blank  
 23 forms of such the stock subscriptions, and contracts,  
 24 articles of incorporation, and stock certificates, in  
 25 accordance with the laws of the United States and of the

1 state--of--Montana--such ~~the~~ forms are to be prepared by the  
 2 attorney general and used by the county recorder for the  
 3 recording of all such stock subscriptions, contracts,  
 4 articles of incorporation, and stock certificates."

5 Section 16. Section 7-4-2619, MCA, is amended to read:  
 6 "7-4-2619. Indexes to recorded documents. Every county  
 7 clerk, as ex officio recorder, must keep:

8 (1) an index of deeds, grants, and transfers and  
 9 contracts to sell or convey real estate labeled "Grantors",  
 10 with each page divided into four columns headed,  
 11 respectively: "Names of grantors", "Names of grantees",  
 12 "Date of deeds, grants, transfers, or contracts", and "Where  
 13 recorded";

14 (2) an index of deeds labeled "Grantees", with each  
 15 page divided into four columns headed, respectively: "Names  
 16 of grantees", "Names of grantors", "Date of deeds, grants,  
 17 transfers, or contracts", and "Where recorded";

18 (3) an index of mortgages labeled "Mortgages of real  
 19 property", with the-pages-thereof ~~each~~ page divided into six  
 20 columns headed, respectively: "Names of mortgagors", "Names  
 21 of mortgagees", "Dates of mortgages", "Where recorded",  
 22 "When filed", and "When canceled";

23 (4) an index of mortgages labeled "Mortgages of real  
 24 property", with the-pages-thereof ~~each~~ page divided into six  
 25 columns headed, respectively: "Names of mortgagees", "Names

1 of mortgagors", "Date of mortgage", "Where recorded", "When  
 2 filed", and "When canceled";  
 3 (5) an index of mortgages labeled "Releases of  
 4 mortgages of real property--Mortgagees", with the--pages  
 5 thereof ~~each~~ page divided into six columns headed,  
 6 respectively: "Parties whose mortgages are released",  
 7 "Parties releasing", "Date of release", "Where recorded",  
 8 "Dates of mortgages released", and "Where mortgages released  
 9 are recorded";

10 (6) an index of powers of attorney labeled "Powers of  
 11 attorney", with each page divided into five columns headed,  
 12 respectively: "Names of parties executing powers", "To whom  
 13 powers are executed", "Date of powers", "Date of recording",  
 14 and "To whom powers are executed";

15 (7) an index of leases labeled "Leases", with each  
 16 page divided into four columns headed, respectively: "Names  
 17 of lessors", "Names of lessees", "Date of leases", and "When  
 18 and where recorded";

19 (8) an index of leases labeled "Lessees", with each  
 20 page divided into four columns headed, respectively: "Names  
 21 of lessees", "Names of lessors", "Date of leases", and "When  
 22 and where recorded";

23 (9) an index of marriage certificates labeled  
 24 "Marriage certificate--Men", with each page divided into six  
 25 columns headed, respectively: "Men married", "To whom

1 married", "When married", "By whom married", "Where  
 2 married", and "Where certificates are recorded";

3 (10) an index of marriage certificates labeled  
 4 "Marriage certificates--Women", with each page divided into  
 5 six columns headed, respectively: "Women married" (and under  
 6 this head placing the family names of the women), "To whom  
 7 married", "When married", "By whom married", "Where  
 8 married", and "Where certificates are recorded";

9 (11) an index of assignments of mortgages and leases  
 10 labeled "Assignments of mortgages and leases--Assignors",  
 11 with each page divided into five columns headed,  
 12 respectively: "Assignors", "Assignees", "Instruments  
 13 assigned", "Date of assignment", and "When and where  
 14 recorded";

15 (12) an index of assignments of mortgages and leases  
 16 labeled "Assignments of mortgages and leases--Assignees",  
 17 with each page divided into five columns headed,  
 18 respectively: "Assignees", "Assignors", "Instruments", "Date  
 19 of assignment", and "When and where recorded";

20 (13) an index of wills labeled "Wills", with each page  
 21 divided into four columns headed, respectively: "Names of  
 22 testators", "Date of will", "Date of probate", and "When and  
 23 where recorded";

24 (14) an index of official bonds labeled "Official  
 25 bonds", with each page divided into five columns headed,

1 respectively: "Names of officers", "Names of offices", "Date  
 2 of bond", "Amount of bond", and "When and where recorded";

3 (15) an index of notices of mechanics' liens labeled  
 4 "Mechanics' liens", with each page divided into three  
 5 columns headed, respectively: "Parties claiming liens",  
 6 "Against whom claimed", and "Notices, when filed";

7 (16) an index to transcripts of judgments labeled  
 8 "Transcripts of judgments", with each page divided into  
 9 seven columns headed, respectively: "Judgment debtors",  
 10 "Judgment creditors", "Amount of judgment", "Where  
 11 recovered", "When recovered", "When transcript filed", and  
 12 "When judgment satisfied";

13 (17) an index of attachments labeled "Attachments",  
 14 with each page divided into six columns headed,  
 15 respectively: "Parties against whom attachments are issued",  
 16 "Parties issuing attachments", "Notices of attachments",  
 17 "When filed", and "When attachments discharged";

18 (18) an index of notices of the pendency of actions  
 19 labeled "Notices of actions", with each page divided into  
 20 three columns headed, respectively: "Parties to actions",  
 21 "Notices, when recorded", and "When filed";

22 (19) an index of certificates of sale of real estate  
 23 sold under execution or under orders made in any judicial  
 24 proceedings labeled "Certificates of sale", with each page  
 25 divided into four columns headed, respectively: "Plaintiff",

1 "Defendant", "Purchaser at sale", and "Date of sale";  
 2 ~~t20} an index of the individual property of married~~  
 3 persons and sets of trader judgments labeled "individual  
 4 property of married persons and sets of traders" with each  
 5 page divided into five columns headed, respectively: "Names  
 6 of married persons", "Names of their spouses", "Nature of  
 7 instruments recorded", "When recorded", and "Where  
 8 recorded";  
 9 ~~t27} 201 an index to affidavits for annual work done on~~  
 10 mining claims labeled "Annual work on mining claims",  
 11 showing the name with each page divided into four columns  
 12 headed, respectively: "Name of the affiant", the name "Name  
 13 of the claim", where "Where situated", and the year "Year  
 14 when the work was done";  
 15 ~~t27} 211 an index of mining claims and declaratory~~  
 16 statements labeled "Notices of location of mining claims and  
 17 declaratory statements", with each page divided into four  
 18 columns headed, respectively: "Locators", "Name of claim",  
 19 "Notice, when filed", and "Where recorded";  
 20 ~~t23} 221 an index to the register of births and deaths;~~  
 21 ~~t24} 231 an index to notices and declarations of water~~  
 22 rights;  
 23 ~~t25} 241 an index to the "estray and lost property~~  
 24 book";  
 25 ~~t26} 251 an index to the record of assignments for the~~

1 benefit of creditors, containing names of assignor and  
 2 assignee, date and where recorded, and inventory, when  
 3 filed;  
 4 ~~t27} 261 an index to financing statements as provided~~  
 5 in Part 4 of the Uniform Commercial Code—Secured  
 6 Transactions;  
 7 ~~t28} 271 an index to filed subdivision plats,~~  
 8 containing number of lots, number of acres, filing date, and  
 9 the location of the quarter section of each subdivision;  
 10 ~~t29} 281 an index to the book of maps and plats, which~~  
 11 must contain the name of the proprietor of the town,  
 12 village, or addition platted and a general description of  
 13 the same;  
 14 ~~t30} 291 a miscellaneous index, in which must be~~  
 15 indexed papers not hereinbefore stated."

16 Section 17. Section 7-4-2703, MCA, is amended to read:  
 17 "7-4-2703. Limitation on number of deputies. The whole  
 18 number of deputies allowed the county attorney must not  
 19 exceed one chief deputy and one deputy in counties of the  
 20 first and second classes and in all other counties such  
 21 deputies as may be allowed by the board of county  
 22 commissioners not to exceed one chief deputy and one deputy  
 23 in counties of the first and second class, the county  
 24 attorney may appoint one chief deputy and one deputy in all  
 25 other counties, the county attorney may appoint a chief

1 deputy or a deputy only with the approval of the board of  
 2 county commissioners."

3 Section 18. Section 7-4-2714, MCA, is amended to read:  
 4 "7-4-2714. Recovery of illegally paid money. (2) If  
 5 Whenever the board of county commissioners, without  
 6 authority of law, orders any money paid as a salary or fee  
 7 or for any other purpose and such money has been actually  
 8 paid or if whenever any other county officer has drawn any a  
 9 warrant or--warrants in his own favor or in favor of any  
 10 other person without being authorized by the board or by law  
 11 and the same has been paid, the county attorney is empowered  
 12 and it is his duty to institute an action in the name of the  
 13 county against such person or--persons to recover the money  
 14 so--paid and 25% damages for the use thereof. No order of the  
 15 board therefor is necessary to maintain such this suit. When  
 16 Whenever the money has not been paid on such the order or  
 17 warrant, it is the duty of the county attorney, upon  
 18 receiving notice thereof, to commence an action in the name  
 19 of the county for restraining the payment of the same, and  
 20 no order of the board is necessary to maintain such the  
 21 action.

22 (2) Whenever any--board--without--authority--of--law  
 23 orders--any--money--paid--as--a--salary--or--fee--or--other  
 24 purposes--and--such--money--has--been--actually--paid--or--whenever  
 25 the--county--clerk--has--drawn--any--warrant--or--warrants--in--his

1 own--favor--or--in--favor--of--any--other--person--without--being  
 2 authorized--by--the--board--or--by--the--law--and--the--same--has--been  
 3 paid--by--the--county--attorney--of--such--county--must--institute--an  
 4 action--in--the--name--of--the--county--against--such--person--or  
 5 persons--to--recover--the--money--so--paid--and--25%--damages--for--the  
 6 use--thereof--No--order--of--the--board--therefor--is--necessary--in  
 7 order--to--maintain--such--action--When--the--money--has--not--been  
 8 paid--on--such--order--it--is--the--duty--of--the--county--attorney--to  
 9 commence--an--action--in--the--name--of--the--county--for--restraining  
 10 the--payment--of--the--same--and--no--order--of--the--board--therefor  
 11 is--necessary--to--maintain--such--action."

12 Section 19. Section 7-4-2803, MCA, is amended to read:  
 13 "7-4-2803. Situations involving use of other  
 14 surveyors. (1) When Whenever the county surveyor is  
 15 interested in any land the title to which is in dispute and  
 16 a survey thereof is necessary, the court must direct the  
 17 survey to be made by some disinterested person. The perso  
 18 so appointed is, for the purpose, authorized to administer  
 19 and certify oaths. He must shall return such the survey,  
 20 verified by his affidavit annexed thereto, and receive for  
 21 his services the same fees as the county surveyor would be  
 22 entitled to for similar services.

23 (2) If Whenever the county surveyor neglects, refuses,  
 24 or is incompetent to perform the duties prescribed in former  
 25 ~~16-3321-R-6-M-1947~~ this part, it shall be is the dut, of

1 the board of county commissioners to employ another  
 2 competent civil engineer, who shall be subject to the law  
 3 governing the county surveyor."

4 Section 20. Section 7-4-2911, MCA, is amended to read:  
 5 "7-4-2911. Duties of county coroner. (1) The coroner  
 6 must hold inquests as provided in Title 46, chapter 4, parts  
 7 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 sheriff or constable  
 11 for like services.

12 ~~t37--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 21. Section 7-4-2912, MCA, is amended to read:  
 17 "7-4-2912. Coroner's register. It is the duty of the  
 18 the county coroner of each county to shall keep an official  
 19 register, to be labeled "coroner's register", in which he  
 20 must enter as provided in 46-4-207.

21 ~~t17--the--date--of--holding--an--inquest--~~  
 22 ~~t27--the--name--of--the--deceased--when--known--and--such~~  
 23 ~~description--of--the--deceased--as--may--be--sufficient--for~~  
 24 ~~identification--when--not--known--~~

25 ~~t37--property--found--on--the--person--of--the--deceased--if~~

1 any  
 2 ~~t47--what--disposition--of--the--same--was--made--by--the~~  
 3 ~~coroner~~  
 4 ~~t57--the--cause--of--death--when--known--and~~  
 5 ~~t67--any--other--information--which--may--pertain--to--the~~  
 6 ~~identity--of--the--deceased--"~~

7 Section 22. Section 7-4-2913, MCA, is amended to read:  
 8 "7-4-2913. Payment of costs of inquest. Whenever an  
 9 inquest is held pursuant to 7-4-2911~~t37~~ because of the death  
 10 of an individual confined in the state prison, the county  
 11 clerk of the county where such the inquest is held shall  
 12 make out a statement of all the costs incurred by the county  
 13 in such the inquest, properly certified by the coroner of  
 14 the county. This statement shall be sent to the  
 15 department of institutions for approval, and after such  
 16 approval, the department ~~must--cause--the--amount--of--such~~ shall  
 17 ~~pay--the--costs--to--be--paid~~ out of the money appropriated for  
 18 the support of the state prison to the county treasurer of  
 19 the county where such the inquest was held."

20 Section 23. Section 7-4-3006, MCA, is amended to read:  
 21 "7-4-3006. Limitation on number of deputy district  
 22 court clerks. The whole number of deputies allowed the clerk  
 23 of the district court ~~must~~ may not exceed one chief deputy  
 24 and ~~deputies--to--the--number--up--to:~~

25 (1) six deputies in counties of the first and or

1        second classes class;

2        (2) four deputies in counties of the third and or  
 3        fourth classes class having more than one district judge;  
 4        (3) two deputies in counties of the third and or  
 5        fourth classes class having one district judge;

6        (4) one deputy in counties of the fifth, sixth, or  
 7        seventh-and-eighth-classes class."

8        Section 24. Section 7-4-4105, MCA, is amended to read:  
 9        "7-4-4105. Authority to abolish appointive municipal  
 10      offices. (1) The city or town council ~~has the power to~~ may  
 11      abolish, by a majority vote of the council, any office the  
 12      appointment to which is made by the mayor with the advice  
 13      and consent of the council and may discharge any officer so  
 14      appointed.

15        {2}—No—offices—created—under—this—title—must—be  
 16      abolished—by—the—council."

17        Section 25. Section 7-4-4114, MCA, is amended to read:  
 18        "7-4-4114. Municipal executive officers. (1) The  
 19      executive officers of a city or town are the mayor, the  
 20      marshal if there is none, and such officers as the council  
 21      may provide for assessment, collection, collecting,  
 22      auditing, safekeeping, and disbursing the revenue; and  
 23      keeping the records and journals of the city or town.  
 24        (2) The mayor is the chief executive officer of the  
 25      city or town."

1        Section 26. Section 7-4-4201, MCA, is amended to read:

2        "7-4-4201. Salary of officers. (1) The council must by  
 3      ordinance fix the salaries and compensation of the city  
 4      officers, policemen, and other employees, which ~~must~~ may not  
 5      exceed the ~~amount~~ amounts specified in this code.

6        (2) The salary and compensation of an officer ~~must~~ may  
 7      not be increased or diminished during his term of office.

8        {3}—The maximum annuit-salary-of-a-mayor-must-be-fixed  
 9      by ordinance in all classes of cities.

10        {4}—The annuit-salary-and-compensation-of-the-treasurer  
 11      must-be-fixed-by-ordinance-and-must-be-for-all  
 12      services-rendered-by-such-treasurer-in-any-capacity.

13        {5}—The annuit-salary-and-compensation-of-the-city  
 14      attorney-must-be-fixed-by-ordinance.

15        {6}—The annuit-salary-and-compensation-of-the-city  
 16      clerk-must-be-fixed-by-ordinance.

17        {7}—The compensation-of-the-street-commissioner-chief  
 18      of-the-fire-department-city-surveyor-and-other-city  
 19      officers-not-provided-in-this-code-may-be-prescribed-by  
 20      ordinances."

21        Section 27. Section 7-4-4301, MCA, is amended to read:

22        "7-4-4301. Qualifications for mayor. (1) No person  
 23      shall be ~~is~~ eligible to for the office of mayor unless he  
 24      shall be:

25        (a) at least 21 years old and a taxpaying freeholder

1       within-the-limits-of-the-city-or-town;

2           (b) a resident of the state for at least 3 years; and  
 3           (c) a resident for at least 2 years preceding the  
 4       election to office of the city or town or an area which has  
 5       been annexed by the city or town for which he may be elected  
 6       mayor-2-years-preceding-his-election-to-said-office.

7           (2) A person elected mayor shall reside in the city or  
 8       town--for which he shall be elected mayor during his term of  
 9       office. The office of mayor of a city or town is considered  
 10       vacant if the individual elected as mayor ceases to be a  
 11       resident of the city or town."

12       Section 28. Section 7-4-4401, MCA, is amended to read:

13       "7-4-4401. Qualifications for alderman. No person  
 14       shall be is eligible to for the office of alderman unless he  
 15       shall be is

16       tit--a--taxpaying--freeholder--within--the--limits--of--a  
 17       city--and

18       tit--a resident for at least 60 days preceding the  
 19       election to office of the ward so electing him or a resident  
 20       of an area which has been annexed by the city or town and  
 21       placed in a the ward--for-at-least-60--days--preceding--such  
 22       election."

23       Section 29. Section 7-4-4402, MCA, is amended to read:

24       "7-4-4402. Term of office. (1) Except as provided in  
 25       subsection (2), each an alderman elected shall hold office

1       for a term of 4 years and until the qualification of his  
 2       successor.

3           (2) At the first annual election held after the  
 4       organization of a city or town under this title, the  
 5       electors of such the city or town must elect two aldermen  
 6       from each ward, who must, at the first meeting of the  
 7       council, decide by lot their terms of office, with one from  
 8       each ward to hold for a term of 2 1/2 years and one, for the a  
 9       term of 1-year 2 years and until the qualification of their  
 10       successors. In the next succeeding election and thereafter,  
 11       one alderman from each ward will be elected for a 4-year  
 12       term."

13       Section 30. Repeater. Sections 16-2616, 16-3105, and  
 14       25-603, R.C.M. 1947, are repealed.

-End-



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# Montana Legislative Council

State Capitol

Helena, 59601

(406) 449-3064

LC 0553

1979 Legislature  
Code Commissioner Bill - Summary

*Senate* Bill No. 335

AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS  
RELATING TO LOCAL GOVERNMENT OFFICERS.

(This summary does not include discussion of routine form or  
grammatical changes.)

Section 1. 7-4-2203. This section is rewritten to permit  
the inclusion of the county auditor (if authorized) in the list of  
county officers. This permits some language to be deleted in  
other sections.

Section 2. 7-4-2209. The reference to a repealed section  
of law, 16-2403, R.C.M. 1947, is replaced by 7-4-2203(1). Because  
of the amendment to 7-4-2203, the list of officers authorized to  
administer oaths will also include the county auditor, but this  
inclusion seems to reflect the intent that all county officers  
be able to administer oaths. The reference to justices of the  
peace is deleted since the justice of the peace is listed in  
7-4-2203(1).

Section 3. 7-4-2213. This section is rewritten for clarity.  
In subsection (1), a reference to the regular quarterly meeting  
is changed to a regular meeting to reflect the fact that in  
many counties the board of county commissioners meets more often  
than quarterly. In subsection (2), the term "insane" is changed  
to "mentally ill" for consistency and to utilize more up-to-date  
terminology.

Section 4. 7-4-2301. Subsection (3) is deleted in its  
entirety as redundant with and conceivably inconsistent with  
7-4-2312.

Section 5. 7-4-2306. This section is rewritten for clarity.  
In subsection (2), a phrase is added requiring passage of a  
resolution of intent. As presently written, this section refers  
to the passage of such a resolution but does not actually require  
passage. The added language resolves this minor inconsistency.

Section 6. 7-4-2310. In subsection (1), references to officers are changed to offices for consistency with the introductory prepositional phrase. In subsection (3), the language of subsection (3)(b) is deleted as inconsistent with that of subsection (3)(a), the more recently enacted language.

Section 7. 7-4-2313. Subsection (1) is rewritten for clarity to make clear that the board of county commissioners has final authority in determining the number of deputy officers for a consolidated office.

Section 8. 7-4-2501. In subsection (1), the justice of the peace and the constable are deleted from the list of officers entitled to fees since the justice of the peace and the constable now receive salaries (see 3-10-206 and 3-10-703). The references to the county surveyor and the county coroner are amended to accommodate the possibility that those officers may be salaried. The reference to fees prescribed by this chapter is changed to fees prescribed by law to allow for the relocation due to recodification of any fees formerly within the chapter.

Section 9. 7-4-2502. Subsection (1)(b) is deleted as redundant in part and inconsistent in part with subsection (1)(a). The reference to payment from the contingent fund is confusing, and the salaries of the officials appear to be paid from the general fund in actual practice, as specified in subsection (1)(a).

Section 10. 7-4-2504. The county auditor, surveyor, and coroner are added to the list of county officials whose salaries are to be set by resolution of the county commissioners. These additions reflect the possibility that the added officials may receive a salary under the existing law.

Section 11. 7-4-2511. In subsection (2), references to county officers are changed to salaried county office to eliminate a conflict with respect to county officers who receive fees for their own use. Language is also added to indicate an exception to the disposal of fees for consistency with such sections as 25-1-201. Subsection (3) is deleted in its entirety as the crime it creates is covered by official misconduct (45-7-401) in the criminal code. However, the nature of the offense is changed from a felony to a misdemeanor.

Section 12. 7-4-2512. In subsection (2), a signature line is added to the form for the affidavit. Subsection (3) is deleted in its entirety as the crime it creates is covered by false swearing (45-7-202) in the criminal code. However, under that section the nature of the offense is a misdemeanor rather than a felony.

Section 13. 7-4-2519. This section is rewritten for clarity. The introductory phrase in subsection (2) is deleted as redundant following the rearrangement of the section.

Section 14. 7-4-2613. Subsection (6) is deleted. The law relating to sole trader judgments has been repealed. The language relating to the individual property of married persons relates to sole trader judgments.

Section 15. 7-4-2615. This section is rewritten for clarity. A reference to the "Reclamation Act" is changed to a general reference to the federal reclamation laws because there is no such statute with the title "Reclamation Act" and the general reference is appropriate. A reference to forms used by the secretary of a water users' association is deleted because the last sentence requires the forms to be approved by the attorney general and hence the reference to the forms used by the secretary is superfluous. The phrase "in accordance with the laws of the United States and of the state of Montana" is deleted as redundant.

Section 16. 7-4-2619. Subsection (20) is deleted. The material relating to sole trade judgments has been repealed. Several other subsections are rewritten for consistency.

Section 17. 7-4-2703. The section is rewritten for clarity.

Section 18. 7-4-2714. Subsection (2) is deleted. Except for the figure of 20% near the end of the first sentence, the two subsections are redundant. The 25% figure was selected because it was the larger of the two figures. Both numbers were present in the 1895 Code, so the conflict has existed for many years.

Section 19. 7-4-2803. In subsection (2), an internal reference to "16-3311, R.C.M. 1947," is changed to "this part". Section 16-3311, R.C.M. 1947, was repealed, and given the intent of the language the use of the reference "this part" is appropriate.

Section 20. 7-4-2911. Subsection (3) is deleted. The language made the holding of an inquest discretionary while the language of 46-4-201 mandates an inquest. The language used in 46-4-201 is the result of more recent legislative action.

Section 21. 7-4-2912. The section is rewritten for consistency with 46-4-207, which is the more recent legislation.

Section 22. 7-4-2913. The section is rewritten for clarity. The reference to 7-4-2911(3) is replaced by a descriptive reference because of the amendment to 7-4-2911 (see section 20).

Section 23. 7-4-3006. In subsection (4), a reference to counties of the eighth class is deleted. The highest class of county is seven; there are no eighth class counties.

Section 24. 7-4-4105. Subsection (2) is deleted for clarity. The precise meaning of the deleted language is unclear. Since subsection (1) is a grant of power and imposes no duty to abolish an office, subsection (2) appears to be redundant.

Section 25. 7-4-4114. In subsection (1), the phrase "if there is one" is added after "marshal" to indicate that the office is not found in all municipalities.

Section 26. 7-4-4201. Subsections (3) through (7) are deleted as redundant with subsection (1).

Section 27. 7-4-4301. In subsection (1)(a), the requirement that a person be a taxpaying freeholder to be eligible for the office of mayor is deleted. Such a requirement was held unconstitutional in Sadler v. Connolly, 575 P. 2d 51 (1978). In subsection (1)(c) the language is rearranged for clarity and to better express the intent of the legislature based on the language as first enacted and subsequently amended. Subsection (2) is rewritten for clarity.

Section 28. 7-4-4401. Subsection (1) is deleted. The taxpaying freeholder requirement has held unconstitutional in Sadler v. Connolly, 575 P. 2d 51 (1978). Subsection (2) is rewritten for clarity and to reflect legislative intent based on the language as first enacted and subsequently amended.

Section 29. 7-4-4402. In subsection (2), references to "1 year" and "2 years" are changed to "2 years" and "4 years", respectively to reflect the change made in 1971 (Chapter 193, Laws of 1971) which changed the term of office from 2 years to 4 years.

Section 30. Repealer. Section 16-2616, R.C.M. 1947, is recommended for repeal. This section dealt with disposition of property by the county treasurer received from the county coroner. This material is superseded by the Montana Forensic Science System Act, (Chapter 530, Laws of 1977), specifically 44-3-402. Section 16-3105, R.C.M. 1947, is recommended for repeal. The section is unnecessary; it requires nothing which is not required elsewhere. Section 25-603, R.C.M. 1947, is recommended for repeal. The salary minimums are so out-of-date as to be meaningless.

Approved by Comm.  
on Local Government

*Decker* BILL NO. 335

*LOCKREY*

INTRODUCED BY LOCKREY

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO LOCAL GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105, AND 25-603, R.C.M. 1947."

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

Section 1. Section 7-4-2203, MCA, is amended to read:  
"7-4-2203. County officers. (1) There may be elected or appointed in each county the following county officers, who shall possess the qualifications for suffrage prescribed by the Montana constitution and such other qualifications as may be prescribed by law:

- (a) one county attorney;
- (b) one clerk of the district court;
- (c) one county clerk;
- (d) one sheriff;
- (e) one treasurer;
- (f) one auditor if authorized by 7-6-2401;
- (g) one county superintendent of schools;
- (h) one county surveyor;
- (i) one assessor;

There are no changes in 9.B.935 and due to length will not be run. Please refer to white copy for complete text.

1       titlil one coroner;  
2       titlil one public administrator; and  
3       titlil at least one justice of the peace.  
4       (2) The commissioners may appoint at their discretion  
5       constables. Not more than one constable may be appointed  
6       for each justice of the peace court.  
7       (3) County auditors and all elective township  
8       officers may be elected at each general election as now  
9       provided by law."  
10      Section 2. Section 7-4-2209, MCA, is amended to read:  
11      "7-4-2209. Authority to administer oaths. Every  
12      officer mentioned in former 16-2403-Rev-1947-and-every  
13      justice-of-the-peace 7-4-2203(1) may administer and certify  
14      oaths."  
15      Section 3. Section 7-4-2213, MCA, is amended to read:  
16      "7-4-2213. Inspection of official bonds. (1) At the a  
17      regular quarterly-meetings--of--all--boards meeting of the  
18      board of county commissioners in this state in March and  
19      September of each year, every the board of county  
20      commissioners shall carefully examine all official bonds of  
21      all county and township officials of its county then in  
22      force and effect and investigate the qualifications and  
23      financial condition and liability of all sureties thereon  
24      and their sufficiency.  
25      (2) If it appears to the satisfaction of any such the

1 board or a majority of the members thereof that any surety  
 2 upon any such bond within-and-for-its-county has, since the  
 3 approval and acceptance of such bond, died or withdrawn  
 4 therefrom; or-removed-from left the state; or disposed of  
 5 all of his property in this state; or become ~~insane mentally~~  
 6 ill; insolvent; financially embarrassed; or not good and  
 7 responsible for the amount of his liability thereon; such  
 8 the board shall immediately cause the clerk of said the  
 9 board to notify in writing the judge of the district court  
 10 of that district of its action and conclusion and all facts  
 11 in connection therewith and the reasons thereof.

12 (3) Said the judge shall forthwith take cognizance  
 13 thereof and investigate such matter and take steps, by order  
 14 to show cause or other order, citation, step, or action, as  
 15 may be necessary to make such bond good and sufficient  
 16 according to the requirements of law in-the-premises and  
 17 ample security for the amount thereof."

18 Section 4. Section 7-4-2301, MCA, is amended to read:  
 19 "7-4-2301. Authorization to consolidate county  
 20 offices. (1) Except as provided in subsection (2), the board  
 21 of county commissioners of any county may in its discretion  
 22 consolidate any two or more of the offices named in 7-4-2203  
 23 and combine the powers and the duties of the consolidated  
 24 offices.

25 (2) The office of the justice of the peace may not be

1 combined or consolidated with any other office other than  
 2 another justice of the peace office.

3 ~~t37--The-provisions-hereof-shall-not--be--construed--as~~  
 4 ~~allowing-one-office-incumbent-to-be-entitled-to-the-salaries~~  
 5 ~~and-emoluments-of-two-or-more-offices"~~

6 Section 5. Section 7-4-2306, MCA, is amended to read:  
 7 "7-4-2306. Processing of petition -- resolution of  
 8 intent and hearing. (1) Upon the filing of any-such a  
 9 petition for consolidation, the board or boards of county  
 10 commissioners shall cause the county clerk or clerks to  
 11 forthwith examine the same petition and the registration  
 12 records of the county or counties.

13 (2) If after such examination such the county clerk or  
 14 clerks shall report to said the board or boards of county  
 15 commissioners that such the petition or-petitions--have has  
 16 been signed by not less than 15% of the qualified electors  
 17 of the county whose names appear on such the registration  
 18 records, said the board or boards shall set a date for a  
 19 hearing and pass a resolution of intent to consider said the  
 20 consolidation. Upon the passage of the resolution of intent  
 21 by the board or boards, proper notice and-a-date shall be  
 22 set given for a the hearing-to-consider-said--consolidation.  
 23 The date for the hearing shall-be may not be more than 20  
 24 days after the filing of such the petition or the passage of  
 25 the resolution of intent."

1 SENATE BILL NO. 335  
2 INTRODUCED BY LOCKREM  
3 BY REQUEST OF THE CODE COMMISSIONER

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO LOCAL  
7 GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105,  
8 AND 25-603, R.C.M. 1947."

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

11           Section 1. Section 7-4-2203, MCA, is amended to read:  
12           "7-4-2203. County officers. (1) There may be elected  
13           or appointed in each county the following county officers,  
14           who shall possess the qualifications for suffrage prescribed  
15           by the Montana constitution and such other qualifications as  
16           may be prescribed by law:

17 (a) one county attorney;  
18 (b) one clerk of the district court;  
19 (c) one county clerk;  
20 (d) one sheriff;  
21 (e) one treasurer;  
22 ~~if 1 one auditor if authorized by 7-6-24011~~  
23 ~~tftf1~~ one county superintendent of schools;  
24 ~~tgtb1~~ one county surveyor;  
25 ~~thf11~~ one assessor;

1               titl1 one coroner;  
2               titl1 one public administrator; and  
3               titl1 at least one justice of the peace.  
4               (2) The commissioners may appoint at their discretion  
5 constables. Not more than one constable may be appointed  
6 for each justice-of-the-peace JUSTICE'S court.  
7               (3) County--auditors--and--att All elective township  
8 officers may be elected at each general election as now  
9 provided by law.\*  
10              Section 2. Section 7-4-2209, MCA, is amended to read:  
11              "7-4-2209. Authority to administer oaths. Every  
12 officer mentioned in former-16-2403v-Rv6vMs-3947v-and-every  
13 justice-of-the-peace 7-4-2203111 may administer and certify  
14 oaths."  
15              Section 3. Section 7-4-2213, MCA, is amended to read:  
16              "7-4-2213. Inspection of official bonds. (1) At the a  
17 regular quarterly--meetings--of--att--boards meeting of the  
18 board of county commissioners in this--state in March and  
19 September of each year, every the board of county  
20 commissioners shall carefully examine all official bonds of  
21 all county and township officials of its county then in  
22 force and effect and investigate the qualifications and  
23 financial condition and liability of all sureties thereon  
24 and their sufficiency.  
25              (2) If it appears to the satisfaction of any such the

1 board or a majority of the members thereof that any surety  
 2 upon any such bond within-and-for-its-county has, since the  
 3 approval and acceptance of such bond, died or withdrawn  
 4 therefrom or removed from left the state or disposed of  
 5 all of his property in this state or become ~~insane mentally~~  
 6 ill, insolvent, financially embarrassed, or not good and  
 7 responsible for the amount of his liability thereon, such  
 8 the board shall immediately cause the clerk of said the  
 9 board to notify in writing the judge of the district court  
 10 of that district of its action and conclusion and all facts  
 11 in connection therewith and the reasons thereof.

12 (3) Said the judge shall forthwith take cognizance  
 13 thereof and investigate such matter and take steps, by order  
 14 to show cause or other order, citation, steps or actions as  
 15 may be necessary to make such bond good and sufficient  
 16 according to the requirements of law in-the-prentee and  
 17 ample security for the amount thereof."

18 Section 4. Section 7-4-2301, MCA, is amended to read:

19 "7-4-2301. Authorization to consolidate county  
 20 offices. (1) Except as provided in subsection (2), the board  
 21 of county commissioners of any county may in its discretion  
 22 consolidate any two or more of the offices named in 7-4-2203  
 23 and combine the powers and the duties of the consolidated  
 24 offices.

25 (2) The office of the justice of the peace may not be

1 combined or consolidated with any other office other than  
 2 another justice of the peace office.

3 ~~"37--The-provisions-hereof-shall-not--be--construed--as  
 4 allowing-one-office-incumbent-to-be-entitled-to-the-serties  
 5 and-emoluments-of-two-or-more-offices"~~

6 Section 5. Section 7-4-2306, MCA, is amended to read:  
 7 "7-4-2306. Processing of petition -- resolution of  
 8 intent and hearing. (1) Upon the filing of any such a  
 9 petition for consolidation, the board or boards of county  
 10 commissioners shall cause the county clerk or clerks to  
 11 forthwith examine the same petition and the registration  
 12 records of the county or counties.

13 (2) If after such examination such the county clerk or  
 14 clerks shall report to said the board or boards of county  
 15 commissioners that such the petition or petitions--have has  
 16 been signed by not less than 15% of the qualified electors  
 17 of the county whose names appear on such the registration  
 18 records, said the board or boards shall set a date for a  
 19 hearing and pass a resolution of intent to consider said the  
 20 consolidation. Upon the passage of the resolution of intent  
 21 by the board or boards, proper notice and-a-date shall be  
 22 set given for a the hearing-to-consider-said--consolidation.  
 23 The date for the hearing shall be may not be more than 20  
 24 days after the filing of such the petition or the passage of  
 25 the resolution of intent."

1       Section 6. Section 7-4-2310, MCA, is amended to read:  
 2       "7-4-2310. Order for consolidation of offices. (1) In  
 3 consolidating county offices, the board of county  
 4 commissioners shall, 6 months prior to the general election  
 5 held for the purpose of electing--the--aforesaid--officers  
 6 filling--the--offices--to--be--consolidated or 6 months prior to  
 7 the appointment of--the--aforesaid--officers to the offices to  
 8 be--consolidated, make and enter an order combining any two  
 9 or more of the within-named offices.

10       (2) Whenever a-board-or-boards--shall--make an order  
 11 consolidating two or more offices is made, such the order  
 12 shall be entered in full on the the board's minutes of  
 13 proceedings.

14       (3) ~~for~~ Such the order shall be published in a  
 15 newspaper of general circulation printed and published in  
 16 the county or counties affected, for a period of 2  
 17 successive weeks following the date of the making and entry  
 18 entering of such the order.

19       ~~that~~--The board shall cause the order to be published in  
 20 a--newspaper--published--and--circulated--generally--in--said  
 21 county for a period of 6 weeks following the date of entry  
 22 of said order."

23       Section 7. Section 7-4-2313, MCA, is amended to read:  
 24       "7-4-2313. Deputies and personnel for consolidated  
 25 offices. (1) Where whenever county offices are consolidated

1 as--hereinbefore--described, the officers officer of the  
 2 consolidated officers--shall--have--any--deputies--they office  
 3 may appoint--who--shall--be as many deputies as are approved  
 4 by the board or boards of county commissioners.

5       (2) The board or boards shall determine the number of  
 6 deputies, stenographers, and clerks the officers may  
 7 appoint."

8       Section 8. Section 7-4-2501, MCA, is amended to read:  
 9       "7-4-2501. Compensation of county officers. (1) The  
 10 county surveyor ~~if not receiving a salary under 7-4-2812~~,  
 11 the county coroner ~~if not receiving a salary under~~  
 12 ~~7-4-2922~~, and the public administrator--justice-of-the  
 13 peace--and--constable may collect and receive for their own  
 14 use, respectively, for official services, the fees and  
 15 emoluments prescribed in this chapter by law.

16       (2) All other county officers receive salaries."

17       Section 9. Section 7-4-2502, MCA, is amended to read:  
 18       "7-4-2502. Payment of salaries of county officials and  
 19 assistants. (1) ~~for~~ Except as provided in subsection (2),  
 20 the salaries of the several county officers and their  
 21 assistants must be paid monthly out of the general fund of  
 22 the county and upon the order of the board of county  
 23 commissioners.

24       ~~that~~--Salaries must be allowed and paid monthly upon the  
 25 order of the board and paid out of the contingent funds.

1       (2) (a) The salary of the county attorney is payable  
 2 monthly, with one-half from the general fund of the county  
 3 and the other one-half from the state treasury upon the  
 4 warrant of the state auditor.

5       (b) The county commissioners of each county shall  
 6 within 30 days after the election or appointment to fill a  
 7 vacancy for any cause in the office of any county attorney,  
 8 certify such election or appointment to the state  
 9 auditor, who shall thereafter draw warrants for such salary  
 10 in the same manner as for state officers. In case of a  
 11 vacancy, the county commissioners shall immediately notify  
 12 the state auditor, and the auditor shall compute the salary  
 13 due on the basis of said notification.

14       (3) The board has jurisdiction and power, under such  
 15 limitations and restrictions as are prescribed by law, to  
 16 fix the compensation of all county officers not otherwise  
 17 fixed in--this--code--or by general--or--special law and to  
 18 provide for the payment of the same."

19       Section 10. Section 7-4-2504, MCA, is amended to read:  
 20  
 21       "7-4-2504. Salaries to be fixed by resolution. The  
 22 county commissioners shall by resolution, on or before July  
 23 1 of each year, fix the salaries of the county treasurer,  
 24 county clerk, county assessor, county school superintendent,  
 25 county sheriff, and county attorney; and the clerk of the  
 district court; the county auditor (if there is one); the

1       county surveyor (if he receives a salary); and the county  
 2 coroner (if he receives a salary) for the following fiscal  
 3 year in conformity with the appropriate statutory salary  
 4 schedule pertaining to each office. The salary schedule used  
 5 for each office shall be the statutory schedule in effect on  
 6 the first day of the following fiscal year."

7       Section 11. Section 7-4-2511, MCA, is amended to read:  
 8  
 9       7-4-2511. Collection and disposal of fees. (1) All  
 10 each salaried officers county officer of--the--several  
 11 counties must charge and collect for the use of their  
 12 respective--counties his county and pay into the county  
 13 treasury on the first Monday in each month all the fees now  
 14 or hereafter allowed by law, paid or chargeable in all  
 15 cases, except as provided in 25-10-403. Nothing in this  
 16 subsection ~~shall be held to apply~~ applies to the  
 17 compensation received by the sheriff as mileage while in the  
 18 performance of official duties or for the board of prisoners  
 or other persons while in his custody.

19       (2) No salaried county officer ~~shall~~ ~~may~~ receive for  
 20 his own use any fees, penalties, or emoluments of any kind,  
 21 except the salary as provided by law, for any official  
 22 service rendered by him~~s~~ but ~~unless otherwise provided~~, all  
 23 fees, penalties, and emoluments of every kind must be  
 24 collected by ~~him~~ a salaried county officer are for the sole  
 25 use of the county and must be accounted for and paid to the

1 paid to the county treasurer as provided by subsection (1)  
2 and shall be credited to the general fund of the county.

3                   {3}--Every-officer-who-fails-or-refuses-to-pay-any-fees  
4                   collected-by-him-to-the-county-treasurer-or-fails-to-collect  
5                   the-same-as-provided--by--{this--chapter}--is--guilty--of--a  
6                   felony."

7 Section 12. Section 7-4-2512, MCA, is amended to read:

**"7-4-2512- Statement and affidavit of fees collected.**

9 (1) The fees and compensation collected and chargeable for  
10 the use of the county in each month must be paid to the  
11 county treasurer on the first Monday of the following month  
12 and must be accompanied by a statement and copy of the fee  
13 book for the preceding month, duly verified by the officer  
14 making such the payment.

15 (2) The affidavit must be in the following form:

16 State of Montana

17 County of

18 I, ...., of the county of ...., do swear that the fee  
19 book in my office contains a true statement in detail of all  
20 fees and compensations of every kind and nature for official  
21 services rendered by me, paid or chargeable, or by my  
22 deputies or assistants for the month of ...., A.D. 19... and  
23 that said this fee book shows the full amount received or  
24 chargeable in said month and since my last monthly payment;  
25 and neither myself nor, to my knowledge or belief, any of my

1      deputies or assistants have rendered any official service,  
2      except for the county or state, which is not fully set out  
3      in said this fee book; and that the foregoing statement is a  
4      full, true, and correct copy thereof.

8 Seal \_\_\_\_\_ (Person authorized to take oaths)  
9 \_\_\_\_\_ (Title or notarial information)  
10 ~~47--Every officer who makes a false report of the fees~~  
11 received by him is guilty of a felony."

12                   Section 13. Section 7-4-2519, MCA, is amended to read:  
13                   "7-4-2519. Prohibition upon receiving other fees. (1)  
14                   The officers named above ~~must~~ may receive no other fees for  
15                   any services performed by them in any action or proceeding  
16                   or for the performance of any service for which fees are  
17                   allowed, and

{2}--in-case-of-any--violation--of--the--provisions--of  
[this--chapter]; the party demanding or receiving any fees  
not herein allowed is liable to refund the same to the party  
aggrieved, with treble the amounts amount as damages,  
besides--costs in addition to the cost of suit."

23 Section 14. Section 7-4-2613, MCA, is amended to read:  
24 "7-4-2613. Documents subject to recording. The county  
25 clerk must, upon payment of his fees for the same, record,

1 photograph, or correctly copy, separately, in large and  
 2 well-bound or to be bound separate books, either in a fair  
 3 hand or by printing, typewriting, or photographic process or  
 4 by the use of prepared blank forms:  
 5 (1) deeds, grants, transfers, certified copies of  
 6 final judgments or decrees partitioning or affecting the  
 7 title or possession of real property any part of which is  
 8 situated in the county, contracts to sell or convey real  
 9 estate and mortgages of real estate, releases of mortgages,  
 10 powers of attorney to convey real estate, leases which have  
 11 been acknowledged or proved, and abstracts of such  
 12 instruments which have been acknowledged or proved;  
 13 (2) certificates of births and deaths;  
 14 (3) wills devising real estate admitted to probate;  
 15 (4) official bonds;  
 16 (5) transcripts of judgments which by law are made  
 17 liens upon real estate;  
 18 ~~(6) instruments---describing---or---relating---to---the  
 19 individual property of married persons and sole trader  
 20 judgments~~  
 21 ~~(7) all orders and decrees made by the district  
 22 court in probate matters affecting real estate and which are  
 23 required to be recorded;~~  
 24 ~~(8) notice of preemption claims;~~  
 25 ~~(9) notice and declaration of water rights;~~

1 ~~(10) assignments for the benefit of creditors;~~  
 2 ~~(11) affidavits of annual work done on mining~~  
 3 ~~claims;~~  
 4 ~~(12) notices of mining locations and declaratory~~  
 5 ~~statements;~~  
 6 ~~(13) estrays and lost property;~~  
 7 ~~(14) a book containing appraisement of state lands;~~  
 8 ~~(15) such other writings as are required or~~  
 9 ~~permitted by law to be recorded."~~  
 10 Section 15. Section 7-4-2615, MCA, is amended to read:  
 11 "7-4-2615. Records of water users' associations. In  
 12 each county where water users' associations, organized in  
 13 conformity with the ~~federal reclamation laws~~ of the United  
 14 States ~~under-the-Reclamation-Act~~, have organized or wherein  
 15 such associations shall hereafter organize exist, the county  
 16 commissioners are required to furnish the county recorder  
 17 with books for the proper recording of stock subscriptions  
 18 and contracts, articles of incorporation, and stock  
 19 certificates of such companies associations, books---to  
 20 conform---to---such---articles---of---incorporation---stock  
 21 certificates---and---contracts---as---are---used---by---the---secretary---of  
 22 such---water---users---associations, containing printed blank  
 23 forms of such the stock subscriptions, and contracts,  
 24 articles of incorporation, and stock certificates, in  
 25 accordance with the laws of the United States and of the

1 state--of--Montenat--such the forms are to be prepared by the  
 2 attorney general and used by the county recorder for the  
 3 recording of all such stock subscriptions, contracts,  
 4 articles of incorporation, and stock certificates."

5 Section 16. Section 7-4-2619, MCA, is amended to read:  
 6 "7-4-2619. Indexes to recorded documents. Every county  
 7 clerk, as ex officio recorder, must keep:

8 (1) an index of deeds, grants, and transfers and  
 9 contracts to sell or convey real estate labeled "Grantors",  
 10 with each page divided into four columns headed,  
 11 respectively: "Names of grantors", "Names of grantees",  
 12 "Date of deeds, grants, transfers, or contracts", and "Where  
 13 recorded";

14 (2) an index of deeds labeled "Grantees", with each  
 15 page divided into four columns headed, respectively: "Names  
 16 of grantees", "Names of grantors", "Date of deeds, grants,  
 17 transfers, or contracts", and "Where recorded";

18 (3) an index of mortgages labeled "Mortgages of real  
 19 property", with the-pages-thereof each page divided into six  
 20 columns headed, respectively: "Names of mortgagors", "Names  
 21 of mortgagees", "Dates of mortgages", "Where recorded",  
 22 "When filed", and "When canceled";

23 (4) an index of mortgages labeled "Mortgages of real  
 24 property", with the-pages-thereof each page divided into six  
 25 columns headed, respectively: "Names of mortgagees", "Names

1 of mortgagors", "Date of mortgage", "Where recorded", "When  
 2 filed", and "When canceled";

3 (5) an index of mortgages labeled "Releases of  
 4 mortgages of real property--Mortgagees", with the--pages  
 5 thereof each page divided into six columns headed,  
 6 respectively: "Parties whose mortgages are released",  
 7 "Parties releasing", "Date of release", "Where recorded",  
 8 "Dates of mortgages released", and "Where mortgages released  
 9 are recorded";

10 (6) an index of powers of attorney labeled "Powers of  
 11 attorney", with each page divided into five columns headed,  
 12 respectively: "Names of parties executing powers", "To whom  
 13 powers are executed", "Date of powers", "Date of recording",  
 14 and "To whom powers are executed";

15 (7) an index of leases labeled "Leases", with each  
 16 page divided into four columns headed, respectively: "Names  
 17 of lessors", "Names of lessees", "Date of leases", and "When  
 18 and where recorded";

19 (8) an index of leases labeled "Lessees", with each  
 20 page divided into four columns headed, respectively: "Names  
 21 of lessees", "Names of lessors", "Date of leases", and "When  
 22 and where recorded";

23 (9) an index of marriage certificates labeled  
 24 "Marriage certificate--Men", with each page divided into six  
 25 columns headed, respectively: "Men married", "To whom

1 married", "When married", "By whom married", "Where  
 2 married", and "Where certificates are recorded";  
 3 (10) an index of marriage certificates labeled  
 4 "Marriage certificates--Women", with each page divided into  
 5 six columns headed, respectively: "Women married" (and under  
 6 this head placing the family names of the women), "To whom  
 7 married", "When married", "By whom married", "Where  
 8 married", and "Where certificates are recorded";  
 9 (11) an index of assignments of mortgages and leases  
 10 labeled "Assignments of mortgages and leases--Assignors",  
 11 with each page divided into five columns headed,  
 12 respectively: "Assignors", "Assignees", "Instruments  
 13 assigned", "Date of assignment", and "When and where  
 14 recorded";  
 15 (12) an index of assignments of mortgages and leases  
 16 labeled "Assignments of mortgages and leases--Assignees",  
 17 with each page divided into five columns headed,  
 18 respectively: "Assignees", "Assignors", "Instruments", "Date  
 19 of assignment", and "When and where recorded";  
 20 (13) an index of wills labeled "Wills", with each page  
 21 divided into four columns headed, respectively: "Names of  
 22 testators", "Date of will", "Date of probate", and "When and  
 23 where recorded";  
 24 (14) an index of official bonds labeled "Official  
 25 bonds", with each page divided into five columns headed,

1 respectively: "Names of officers", "Names of offices", "Date  
 2 of bond", "Amount of bond", and "When and where recorded";  
 3 (15) an index of notices of mechanics' liens labeled  
 4 "Mechanics' liens", with each page divided into three  
 5 columns headed, respectively: "Parties claiming liens",  
 6 "Against whom claimed", and "Notices, when filed";  
 7 (16) an index to transcripts of judgments labeled  
 8 "Transcripts of judgments", with each page divided into  
 9 seven columns headed, respectively: "Judgment debtors",  
 10 "Judgment creditors", "Amount of judgment", "Where  
 11 recovered", "When recovered", "When transcript filed", and  
 12 "When judgment satisfied";  
 13 (17) an index of attachments labeled "Attachments",  
 14 with each page divided into six columns headed,  
 15 respectively: "Parties against whom attachments are issued",  
 16 "Parties issuing attachments", "Notices of attachments",  
 17 "When filed", and "When attachments discharged";  
 18 (18) an index of notices of the pendency of actions  
 19 labeled "Notices of actions", with each page divided into  
 20 three columns headed, respectively: "Parties to actions",  
 21 "Notices, when recorded", and "When filed";  
 22 (19) an index of certificates of sale of real estate  
 23 sold under execution or under orders made in any judicial  
 24 proceedings labeled "Certificates of sale", with each page  
 25 divided into four columns headed, respectively: "Plaintiff",

1 "Defendant", "Purchaser at sale", and "Date of sale";  
 2 ~~t26~~ an index of the individual property of married  
 3 persons and sole traders judgments tabulated individual  
 4 property of married persons and sole traders" with each  
 5 page divided into five columns headed respectively "Names  
 6 of married persons" "Names of their spouses" "Nature of  
 7 instruments recorded" "When recorded" and "Where  
 8 recorded";  
 9 ~~t27~~ an index to affidavits for annual work done on  
 10 mining claims labeled "Annual work on mining claims",  
 11 showing the name with each page divided into four columns  
 12 headed respectively "Name of the affiant", the name "Name  
 13 of the claim", where "Where situated", and the year "Year  
 14 when the work was done";  
 15 ~~t28~~ an index of mining claims and declaratory  
 16 statements labeled "Notices of location of mining claims and  
 17 declaratory statements", with each page divided into four  
 18 columns headed respectively: "Locators", "Name of claim",  
 19 "Notice, when filed", and "Where recorded";  
 20 ~~t29~~ an index to the register of births and deaths;  
 21 ~~t30~~ an index to notices and declarations of water  
 22 rights;  
 23 ~~t31~~ an index to the "estray and lost property  
 24 book";  
 25 ~~t32~~ an index to the record of assignments for the

1 benefit of creditors, containing names of assignor and  
 2 assignee, date and where recorded, and inventory when  
 3 filed;  
 4 ~~t33~~ an index to financing statements as provided  
 5 in Part 4 of the Uniform Commercial Code-Secured  
 6 Transactions;  
 7 ~~t34~~ an index to filed subdivision plats,  
 8 containing number of lots, number of acres, filing date, and  
 9 the location of the quarter section of each subdivision;  
 10 ~~t35~~ an index to the book of maps and plats, which  
 11 must contain the name of the proprietor of the town,  
 12 village, or addition platted and a general description of  
 13 the same;  
 14 ~~t36~~ a miscellaneous index, in which must be  
 15 indexed papers not hereinbefore stated."  
 16 Section 17. Section 7-4-2703, MCA, is amended to read:  
 17 "7-4-2703. Limitation on number of deputies. The whole  
 18 number of deputies allowed the county attorney must not  
 19 exceed one chief deputy and one deputy in counties of the  
 20 first and second classes and in all other counties such  
 21 deputies as may be allowed by the board of county  
 22 commissioners not to exceed one chief deputy and one deputy  
 23 in counties of the first and second class the county  
 24 attorney may appoint one chief deputy and one deputy in all  
 25 other counties the county attorney may appoint a chief

1       deputy or a deputy only with the approval of the board of  
 2       county commissioners"

3       Section 18. Section 7-4-2714, MCA, is amended to read:  
 4       "7-4-2714. Recovery of illegally paid money. ~~77-77~~  
 5       whenever the board of county commissioners, without  
 6       authority of law, orders any money paid as a salary or fee  
 7       or for any other purpose and such money has been actually  
 8       paid or if whenever any other county officer has drawn any a  
 9       warrant or warrants in his own favor or in favor of any  
 10      other person without being authorized by the board or by law  
 11      and the same has been paid, the county attorney is empowered  
 12      and it is his duty to institute an action in the name of the  
 13      county against such person or persons to recover the money  
 14      so paid and 25% damages for the use thereof. No order of the  
 15      board therefor is necessary to maintain such this suit. When  
 16      whenever the money has not been paid on such the order or  
 17      warrant, it is the duty of the county attorney, upon  
 18      receiving notice thereof, to commence an action in the name  
 19      of the county for restraining the payment of the same, and  
 20      no order of the board is necessary to maintain such the  
 21      action.

22       ~~(2) Whenever any board, without authority of law~~  
 23       orders any money paid as a salary or fee or for other  
 24       purposes and such money has been actually paid or whenever  
 25       the county clerk has drawn any warrant or warrants in his

1       own--favor--or--in--favor--of--any--other--person--without--being  
 2       authorized--by--the--board--or--by--the--law--and--the--same--has--been  
 3       paid--the--county--attorney--of--such--county--must--institute--an  
 4       action--in--the--name--of--the--county--against--such--person--or  
 5       persons--to--recover--the--money--so--paid--and--25--damages--for--the  
 6       use--thereof--No--order--of--the--board--therefor--is--necessary--in  
 7       order--to--maintain--such--action--When--the--money--has--not--been  
 8       paid--on--such--order--it--is--the--duty--of--the--county--attorney--to  
 9       commence--an--action--in--the--name--of--the--county--for--restraining  
 10      the--payment--of--the--same--and--no--order--of--the--board--therefor  
 11      is--necessary--to--maintain--such--action"

12       Section 19. Section 7-4-2803, MCA, is amended to read:  
 13       "7-4-2803. Situations involving use of other  
 14      surveyors. (1) When whenever the county surveyor is  
 15      interested in any land the title to which is in dispute and  
 16      a survey thereof is necessary, the court must direct the  
 17      survey to be made by some disinterested person. The person  
 18      so appointed is, for the purpose, authorized to administer  
 19      and certify oaths. He must shall return such the survey,  
 20      verified by his affidavit annexed thereto, and receive for  
 21      his services the same fees as the county surveyor would be  
 22      entitled to for similar services.

23       (2) If whenever the county surveyor neglects, refuses,  
 24      or is incompetent to perform the duties prescribed in former  
 25      ~~76-33-77-RevM-1947 this part, it shall be is~~ the duty of

1 the board of county commissioners to employ another  
 2 competent civil engineer, who shall be subject to the law  
 3 laws governing the county surveyor."

4 Section 20. Section 7-4-2911, MCA, is amended to read:  
 5 "7-4-2911. Duties of county coroner. (1) The coroner  
 6 must hold inquests as provided in Title 46, chapter 4, parts  
 7 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 sheriff or constable  
 11 for like services.

12 ~~t37--When-a-prisoner-confined-in-the-state-prison-doesn't~~  
 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 21. Section 7-4-2912, MCA, is amended to read:  
 17 "7-4-2912. Coroner's register. It is the duty of the  
 18 ~~the--county~~ coroner of each county to shall keep an official  
 19 register, to be labeled "coroner's register", in which he  
 20 must enter as provided in 46-4-207a

21 ~~t17--the--date--of--holding--an--inquest--~~  
 22 ~~t27--the--name--of--the--deceased--when--known--and--such~~  
 23 ~~description--of--the--deceased--as--may--be--sufficient--for~~  
 24 ~~identification--when--not--known--~~  
 25 ~~t37--property--found--on--the--person--of--the--deceased--if~~

1 anyt  
 2 ~~t47--what--disposition--of--the--same--was--made--by--the~~  
 3 ~~coronert~~  
 4 ~~t57--the--cause--of--deathy--when--knownnt--and~~  
 5 ~~t67--any--other--information--which--may--pertain--to--the~~  
 6 ~~identity--of--the--deceased--"~~

7 Section 22. Section 7-4-2913, MCA, is amended to read:  
 8 "7-4-2913. Payment of costs of inquest. Whenever an  
 9 inquest is held pursuant to 7-4-2911~~t37~~ because of the death  
 10 of an individual confined in the state prison, the county  
 11 clerk of the county where such the inquest is held shall  
 12 make out a statement of all the costs incurred by the county  
 13 in such the inquest, properly certified by the coroner of  
 14 said the county. This statement shall be sent to the  
 15 department of institutions for approval, and after such  
 16 approval, the department must cause the amount of such shall  
 17 pay the costs to be paid out of the money appropriated for  
 18 the support of the state prison to the county treasurer of  
 19 the county where such the inquest was held."

20 Section 23. Section 7-4-3006, MCA, is amended to read:  
 21 "7-4-3006. Limitation on number of deputy district  
 22 court clerks. The whole number of deputies allowed the clerk  
 23 of the district court must may not exceed one chief deputy  
 24 and deputies-to-the-number up to:  
 25 (1) six deputies in counties of the first and or

1       second classes class;

2       (2) four deputies in counties of the third and or  
3       fourth classes class having more than one district judge;

4       (3) two deputies in counties of the third and or  
5       fourth classes class having one district judge;

6       (4) one deputy in counties of the fifth, sixth, or  
7       seventh-and-eighth-classes class."

8       Section 24. Section 7-4-4105, MCA, is amended to read:

9       "7-4-4105. Authority to abolish appointive municipal  
10      offices. (1) The city or town council has the power to may  
11      abolish, by a majority vote of the council, any office the  
12      appointment to which is made by the mayor with the advice  
13      and consent of the council and may discharge any officer so  
14      appointed.

15       (2) No office created under this title must be  
16      abolished by the council."

17       Section 25. Section 7-4-4114, MCA, is amended to read:

18       "7-4-4114. Municipal executive officers. (1) The  
19      executive officers of a city or town are the mayor, the  
20      marshal if there is one, and such officers as the council  
21      may provide for assessment, collection, collecting,  
22      auditing, safekeeping, and disbursing the revenue; and  
23      keeping the records and journals of the city or town.

24       (2) The mayor is the chief executive officer of the  
25      city or town."

1       Section 26. Section 7-4-4201, MCA, is amended to read:  
2       "7-4-4201. Salary of officers. (1) The council must by  
3       ordinance fix the salaries and compensation of the city  
4       officers, policemen, and other employees, which must may not  
5       exceed the amount amounts specified in this code.

6       (2) The salary and compensation of an officer must may  
7       not be increased or diminished during his term of office.

8       (3) The maximum annual salary of a mayor must be fixed  
9       by ordinance in all classes of cities.

10       (4) The annual salary and compensation of the  
11      treasurer must be fixed by ordinance and must be for all  
12      services rendered by such treasurer in any capacity.  
13       (5) The annual salary and compensation of the city  
14      attorney must be fixed by ordinance.

15       (6) The annual salary and compensation of the city  
16      clerk must be fixed by ordinance.

17       (7) The compensation of the street commissioners, chief  
18      of the fire department, city surveyor, and other city  
19      officers not provided in this code may be prescribed by  
20      ordinance."

21       Section 27. Section 7-4-4301, MCA, is amended to read:

22       "7-4-4301. Qualifications for mayor. (1) No person  
23      shall be is eligible to for the office of mayor unless he  
24      shall be:

25       (a) at least 21 years old and a taxpaying freeholder

1       within-the-limits-of-the-city-or-town;

2           (b) a resident of the state for at least 3 years; and  
 3           (c) a resident for at least 2 years preceding the  
 4        election to office of the city or town or an area which has  
 5        been annexed by the city or town for which he may be elected  
 6        mayor 2 years preceding his election to said office.

7           (2) A person elected mayor shall reside in the city or  
 8        town for which he shall be elected mayor during his term of  
 9        office. The office of mayor of a city or town is considered  
 10      vacant if the individual elected as mayor ceases to be a  
 11      resident of the city or town."

12       Section 28. Section 7-4-4401, MCA, is amended to read:

13       "7-4-4401. Qualifications for alderman. No person  
 14      shall be eligible to for the office of alderman unless he  
 15      shall be a

16       tit--a-taxpaying-freeholder--within--the--limits--of--a  
 17      city--and

18       (2) a resident for at least 60 days preceding the  
 19        election to office of the ward so electing him or a resident  
 20        of an area which has been annexed by the city or town and  
 21        placed in a the ward for at least 60 days preceding such  
 22        election."

23       Section 29. Section 7-4-4402, MCA, is amended to read:

24       "7-4-4402. Term of office. (1) Except as provided in  
 25        subsection (2), each an alderman elected shall hold office

1       for a term of 4 years and until the qualification of his  
 2       successor.

3           (2) At the first annual election held after the  
 4        organization of a city or town under this title, the  
 5        electors of such the city or town must elect two aldermen  
 6        from each ward, who must, at the first meeting of the  
 7        council, decide by lot their terms of office, with one from  
 8        each ward to hold for a term of 2 1/2 years and one, for the a  
 9        term of 1-year 2 years and until the qualification of their  
 10        successors. In the next succeeding election and thereafter,  
 11        one alderman from each ward will be elected for a 4-year  
 12        term."

13       Section 30. Repeater. Sections 16-2616, 16-3105, and  
 14        25-603, R.C.M. 1947, are repealed.

-End-

SENATE BILL NO. 335

INTRODUCED BY LOCKREM

BY REQUEST OF THE CODE COMMISSIONER

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO LOCAL  
7 GOVERNMENT OFFICERS; REPEALING SECTIONS 16-2616, 16-3105,  
8 AND 25-603, R.C.M. 1947."

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

11       Section 1. Section 7-4-2203, MCA, is amended to read:  
12       "7-4-2203. County officers. (1) There may be elected  
13       or appointed in each county the following county officers,  
14       who shall possess the qualifications for suffrage prescribed  
15       by the Montana constitution and such other qualifications as  
16       may be prescribed by law:

(a) one county attorney;

(b) one clerk of the district court;

(c) one county clerk;

(d) one sheriff;

(e) one treasurer;

if 1 one auditor if authorized by 1-6-2901:

THE COUNTY SUPERINTENDENT OF SCHOOLS

1911 One County Surveyor,

### WILL THE GOVERNMENT

1 titill one coroner;

2 titikl one public administrator; and

3 fill at least one justice of the peace.

10       Section 2. Section 7-4-2209, MCA, is amended to read:  
11       "7-4-2209. Authority to administer oaths. Every  
12       officer mentioned in former 16-2403, RvEcMu-1947, and every  
13       justice-of-the-peace 7-4-2203(1)11 may administer and certify  
14       oaths."

25 (2) If it appears to the satisfaction of any such the

1 board or a majority of the members thereof that any surety  
 2 upon any such bond within-and-for-its-county has, since the  
 3 approval and acceptance of such bond, died or withdrawn  
 4 therefrom or removed from left the state or disposed of  
 5 all of his property in this state or become ~~mentally~~  
 6 ill, insolvent, financially embarrassed, or not good and  
 7 responsible for the amount of his liability thereon, such  
 8 the board shall immediately cause the clerk of said the  
 9 board to notify in writing the judge of the district court  
 10 of that district of its action and conclusion and all facts  
 11 in connection therewith and the reasons thereof.

12 (3) Said the judge shall forthwith take cognizance  
 13 thereof and investigate such matter and take steps, by order  
 14 to show cause or other order, citation, step, or action, as  
 15 may be necessary to make such bond good and sufficient  
 16 according to the requirements of law in-the-premises and  
 17 ample security for the amount thereof."

18 Section 4. Section 7-4-2301, MCA, is amended to read:  
 19 "7-4-2301. Authorization to consolidate county  
 20 offices. (1) Except as provided in subsection (2), the board  
 21 of county commissioners of any county may in its discretion  
 22 consolidate any two or more of the offices named in 7-4-2203  
 23 and combine the powers and the duties of the consolidated  
 24 offices.

25 (2) The office of the justice of the peace may not be

1 combined or consolidated with any other office other than  
 2 another justice of the peace office.  
 3 ~~"3}--The-provisions-hereof-shall-not--be--construed--as~~  
 4 ~~allowing-one-office--incumbent-to-be-entitled-to-the-salaries~~  
 5 ~~and-emoluments-of-two-or-more-offices"~~

6 Section 5. Section 7-4-2306, MCA, is amended to read:  
 7 "7-4-2306. Processing of petition -- resolution of  
 8 intent and hearing. (1) Upon the filing of any such a  
 9 petition for consolidation, the board or boards of county  
 10 commissioners shall cause the county clerk or clerks to  
 11 forthwith examine the same petition and the registration  
 12 records of the county or counties.

13 (2) If after such examination such the county clerk or  
 14 clerks shall report to said the board or boards of county  
 15 commissioners that such the petition or petitions--have has  
 16 been signed by not less than 15% of the qualified electors  
 17 of the county whose names appear on such the registration  
 18 records, said the board or boards shall set a date for a  
 19 hearing and pass a resolution of intent to consider said the  
 20 consolidation. Upon the passage of the resolution of intent  
 21 by the board or boards, proper notice and-a-date shall be  
 22 set given for a the hearing-to-consider-said--consolidation.  
 23 The date for the hearing shall be may not be more than 20  
 24 days after the filing of such the petition or the passage of  
 25 the resolution of intent."

1       Section 6. Section 7-4-2310, MCA, is amended to read:

2       "7-4-2310. Order for consolidation of offices. (1) In

3       consolidating county offices, the board of county

4       commissioners shall, 6 months prior to the general election

5       held for the purpose of electing--the--aforesaid--officers

6       filling--the--offices--to--be--consolidated or 6 months prior to

7       the appointment of--the--aforesaid--officers to--the--offices--to

8       be--consolidated, make and enter an order combining any two

9       or more of the within-named offices.

10       (2) Whenever a-board-or-boards--shall--make an order

11       consolidating two or more offices is made, such the order

12       shall be entered in full on its the board's minutes of

13       proceedings.

14       (3) ~~that~~ Such the order shall be published in a

15       newspaper of general circulation printed and published in

16       the county or counties affected, for a period of 2

17       successive weeks following the date of the making and entry

18       entering of such the order.

19       ~~that~~--The board shall cause the order to be published in

20       a--newspaper--published--and--circulated--generally--in--said

21       county--for--a--period--of--6--weeks--following--the--date--of--entry

22       of--said--orders"

23       Section 7. Section 7-4-2313, MCA, is amended to read:

24       "7-4-2313. Deputies and personnel for consolidated

25       offices. (1) Where whenever county offices are consolidated

1       as--hereinbefore--described, the officers officer of the

2       consolidated officers--shall--have--any--deputies--they office

3       may appoint--who--shall--be as--many--deputies--as--are approved

4       by the board or boards of county commissioners.

5       (2) The board or boards shall determine the number of

6       deputies, stenographers, and clerks the officers may

7       appoint."

8       Section 8. Section 7-4-2501, MCA, is amended to read:

9       "7-4-2501. Compensation of county officers. (1) The

10       county surveyor ~~if not receiving a salary under 7-4-2812~~,

11       the county coroner ~~if not receiving a salary under~~

12       ~~7-4-2922~~, and the public administrator--justice-of-the

13       peace--and--constable may collect and receive for their own

14       use, respectively, for official services, the fees and

15       emoluments prescribed in--this--chapter by law.

16       (2) All other county officers receive salaries."

17       Section 9. Section 7-4-2502, MCA, is amended to read:

18       "7-4-2502. Payment of salaries of county officials and

19       assistants. (1) ~~that~~ Except as provided in subsection (2),

20       the salaries of the several county officers and their

21       assistants must be paid monthly out of the general fund of

22       the county and upon the order of the board of county

23       commissioners.

24       ~~that~~--Salaries--must--be--allowed--and--paid--monthly--upon--the

25       order--of--the--board--and--paid--out--of--the--contingent--funds

1       (2) (a) The salary of the county attorney is payable  
 2 monthly, with one-half from the general fund of the county  
 3 and the other one-half from the state treasury upon the  
 4 warrant of the state auditor.

5       (b) The county commissioners of each county shall  
 6 within 30 days after the election or appointment to fill a  
 7 vacancy for any cause in the office of any county attorney  
 8 certify such the election or appointment to the state  
 9 auditor, who shall thereafter draw warrants for such salary  
 10 in the same manner as for state officers. In case of a  
 11 vacancy, the county commissioners shall immediately notify  
 12 the state auditor, and the auditor shall compute the salary  
 13 due on the basis of and the notification.

14       (3) The board has jurisdiction and power, under such  
 15 limitations and restrictions as are prescribed by law, to  
 16 fix the compensation of all county officers not otherwise  
 17 fixed ~~in--this--code--or~~ by general-or-special law and to  
 18 provide for the payment of the same."

19       Section 10. Section 7-4-2504, MCA, is amended to read:  
 20       "7-4-2504. Salaries to be fixed by resolution. The  
 21 county commissioners shall by resolution, on or before July  
 22 1 of each year, fix the salaries of the county treasurer,  
 23 county clerk, county assessor, county school superintendent,  
 24 county sheriff, and county attorney; and the clerk of the  
 25 district court; the county auditor if there is one; the

1       county surveyor if he receives a salary; and the county  
 2 coroner if he receives a salary for the following fiscal  
 3 year in conformity with the appropriate statutory salary  
 4 schedule pertaining to each office. The salary schedule used  
 5 for each office shall be the statutory schedule in effect on  
 6 the first day of the following fiscal year."

7       Section 11. Section 7-4-2511, MCA, is amended to read:  
 8       7-4-2511. Collection and disposal of fees. (1) All  
 9       Each salaried officers county officer of--the--several  
 10       counties must charge and collect for the use of their  
 11       respective--counties his county and pay into the county  
 12       treasury on the first Monday in each month all the fees now  
 13       or hereafter allowed by law, paid or chargeable in all  
 14       cases, except as provided in 25-10-403. Nothing in this  
 15       subsection ~~shall be held to apply~~ applies to the  
 16       compensation received by the sheriff as mileage while in the  
 17       performance of official duties or for the board of prisoners  
 18       or other persons while in his custody.

19       (2) No salaried county officer ~~shall~~ may receive for  
 20       his own use any fees, penalties, or emoluments of any kind,  
 21       except the salary as provided by law, for any official  
 22       service rendered by him; but unless otherwise provided, all  
 23       fees, penalties, and emoluments of every kind must be  
 24       collected by him a salaried county officer are for the sole  
 25       use of the county and must be accounted for and paid to the

1 paid to the county treasurer as provided by subsection (1)  
2 and shall be credited to the general fund of the county.

3                   t37--Every-officer-who-fails-or-refuses-to-pay-any-fees  
4                   collected-by-him-to-the-county-treasurer-or-fails-to-collect  
5                   the--same--as--provided--by--[this--chapter]--is-guilty-of-a  
6                   felony."

7 Section 12. Section 7-4-2512, MCA, is amended to read:

**8 7-4-2512- Statement and affidavit of fees collected.**

9       (1) The fees and compensation collected and chargeable for  
10      the use of the county in each month must be paid to the  
11      county treasurer on the first Monday of the following month  
12      and must be accompanied by a statement and copy of the fee  
13      book for the preceding month, duly verified by the officer  
14      making such the payment.

(2) The affidavit must be in the following form:

16 State of Montana

17 County of ~~xxxx~~

18 I, ...., of the county of ...., do swear that the fee  
19 book in my office contains a true statement in detail of all  
20 fees and compensations of every kind and nature for official  
21 services rendered by me, paid or chargeable, or by my  
22 deputies or assistants for the month of ...., A.D. 19..., and  
23 that said THIS fee book shows the full amount received  
24 chargeable in said month and since my last monthly payment;  
25 and neither myself nor, to my knowledge or belief, any of my

1      deputies or assistants have rendered any official service,  
2      except for the county or state, which is not fully set out  
3      in said this fee book; and that the foregoing statement is a  
4      full, true, and correct copy thereof.

8 Seal \_\_\_\_\_ (Person authorized to take oaths)  
9 \_\_\_\_\_ (Title or notarial information)  
10 ¶3--Every officer who makes a false report of the fees  
11 received by him is guilty of a felony."

12           Section 13. Section 7-4-2519, MCA, is amended to read:  
13           "7-4-2519. Prohibition upon receiving other fees. (1)  
14          The officers named above must pay receive no other fees for  
15          any services performed by them in any action or proceeding  
16          or for the performance of any service for which fees are  
17          allowed, and

18        t~~e~~7--in--case--of--any--violation--of--the--provisions--of  
19  [t~~e~~7--in--case--of--any--violation--of--the--provisions--of  
20  the party demanding or receiving any fees  
21  not herein allowed is liable to refund the same to the party  
22  adjudicated, with treble the amount as damages,  
23  besides--costs in addition to the cost of suit."

23 Section 14. Section 7-4-2613, MCA, is amended to read:  
24 "7-4-2613. Documents subject to recording. The county  
25 clerk, justice, upon payment of his fees for the same, records

1 photographs or correctly copy, separately, in large and  
 2 well-bound or to be bound separate books, either in a fair  
 3 hand or by printing, typewriting, or photographic process or  
 4 by the use of prepared blank forms:

5 (1) deeds, grants, transfers, certified copies of  
 6 final judgments or decrees partitioning or affecting the  
 7 title or possession of real property any part of which is  
 8 situated in the county, contracts to sell or convey real  
 9 estate and mortgages of real estate, releases of mortgages,  
 10 powers of attorney to convey real estate, leases which have  
 11 been acknowledged or proved, and abstracts of such  
 12 instruments which have been acknowledged or proved;

13 (2) certificates of births and deaths;

14 (3) wills devising real estate admitted to probate;

15 (4) official bonds;

16 (5) transcripts of judgments which by law are made  
 17 liens upon real estate;

18 (6) instruments--describing--or--relating--to--the  
 19 individual--property--of--married--persons--and--male--trader  
 20 judgments;

21 161 INSTRUMENTS DESCRIBING OR RELATING TO THE  
 22 INDIVIDUAL PROPERTY OF MARRIED PERSONS:

23 (7) all orders and decrees made by the district  
 24 court in probate matters affecting real estate and which are  
 25 required to be recorded;

1 (8) (9) (10) notice of preemption claims;  
 2 (11) notice and declaration of water rights;  
 3 (12) assignments for the benefit of creditors;  
 4 (13) affidavits of annual work done on mining  
 5 claims;  
 6 (14) notices of mining locations and  
 7 declaratory statements;  
 8 (15) estrays and lost property;  
 9 (16) a book containing appraisement of state  
 10 lands;  
 11 (17) such other writings as are required or  
 12 permitted by law to be recorded."

13 Section 15. Section 7-4-2615, MCA, is amended to read:  
 14 "7-4-2615. Records of water users' associations. In  
 15 each county where water users' associations, organized in  
 16 conformity with the federal reclamation laws of the United  
 17 States under-the-Reclamation-Act--have-organized--or--wherein  
 18 such associations shall hereafter organize exist, the county  
 19 commissioners are required to furnish the county recorder  
 20 with books for the proper recording of stock subscriptions,  
 21 and contracts, articles of incorporation and stock  
 22 certificates of such companies associations, books--to  
 23 conform--to--such--articles--of--the incorporation--stock  
 24 certificates--and--contracts--as--are--used--by--the--secretary--of  
 25 such--water--users--associations, containing printed blank

1 forms of such the stock subscriptions, and contracts,  
 2 articles of incorporation, and stock certificates, in  
 3 accordance-with-the-laws-of-the-United--States--and--of--the  
 4 state--of--Montana+ such the forms are to be prepared by the  
 5 attorney general and used by the county recorder for the  
 6 recording of all such stock subscriptions, contracts,  
 7 articles of incorporation, and stock certificates."

8 Section 16. Section 7-4-2619, MCA, is amended to read:  
 9       "7-4-2619. Indexes to recorded documents. Every county  
 10 clerk, as ex officio recorder, must keep:

11       (1) an index of deeds, grants, and transfers, and  
 12 contracts to sell or convey real estate labeled "Grantors",  
 13 with each page divided into four columns headed,  
 14 respectively: "Names of grantors", "Names of grantees",  
 15 "Date of deeds, grants, transfers, or contracts", and "Where  
 16 recorded";

17       (2) an index of deeds labeled "Grantees", with each  
 18 page divided into four columns headed, respectively: "Names  
 19 of grantees", "Names of grantors", "Date of deeds, grants,  
 20 transfers, or contracts", and "Where recorded";

21       (3) an index of mortgages labeled "Mortgages of real  
 22 property", with the-peges-thereof each\_page divided into six  
 23 columns headed, respectively: "Names of mortgagors", "Names  
 24 of mortgagees", "Dates of mortgages", "Where recorded",  
 25 "When filed", and "When canceled";

1       (4) an index of mortgages labeled "Mortgages of real  
 2 property", with the-peges-thereof each\_page divided into six  
 3 columns headed, respectively: "Names of mortgagees", "Names  
 4 of mortgagors", "Date of mortgage", "Where recorded", "When  
 5 filed", and "When canceled";

6       (5) an index of mortgages labeled "Releases of  
 7 mortgages of real property--Mortgagors", with the--pages  
 8 thereof each--page divided into six columns headed,  
 9 respectively: "Parties whose mortgages are released",  
 10 "Parties releasing", "Date of release", "Where recorded",  
 11 "Dates of mortgages released", and "Where mortgages released  
 12 are recorded";

13       (6) an index of powers of attorney labeled "Powers of  
 14 attorney", with each page divided into five columns headed,  
 15 respectively: "Names of parties executing powers", "To whom  
 16 powers are executed", "Date of powers", "Date of recording",  
 17 and "To whom powers are executed";

18       (7) an index of leases labeled "Leases", with each  
 19 page divided into four columns headed, respectively: "Names  
 20 of lessors", "Names of lessees", "Date of leases", and "Where  
 21 and where recorded";

22       (8) an index of leases labeled "Lessees", with each  
 23 page divided into four columns headed, respectively: "Names  
 24 of lessees", "Names of lessors", "Date of leases", and "When  
 25 and where recorded";

1        (9) an index of marriage certificates labeled  
 2        "Marriage certificate--Men", with each page divided into six  
 3        columns headed, respectively: "Men married", "To whom  
 4        married", "When married", "By whom married", "Where  
 5        married", and "Where certificates are recorded";

6        (10) an index of marriage certificates labeled  
 7        "Marriage certificates--Women", with each page divided into  
 8        six columns headed, respectively: "Women married" (and under  
 9        this head placing the family names of the women), "To whom  
 10       married", "When married", "By whom married", "Where  
 11       married", and "Where certificates are recorded";

12       (11) an index of assignments of mortgages and leases  
 13       labeled "Assignments of mortgages and leases--Assignors",  
 14       with each page divided into five columns headed,  
 15       respectively: "Assignors", "Assignees", "Instruments  
 16       assigned", "Date of assignment", and "When and where  
 17       recorded";

18       (12) an index of assignments of mortgages and leases  
 19       labeled "Assignments of mortgages and leases--Assignees",  
 20       with each page divided into five columns headed,  
 21       respectively: "Assignees", "Assignors", "Instruments", "Date  
 22       of assignment", and "When and where recorded";

23       (13) an index of wills labeled "Wills", with each page  
 24       divided into four columns headed, respectively: "Names of  
 25       testators", "Date of will", "Date of probate", and "When and

1        where recorded";

2        (14) an index of official bonds labeled "Official  
 3        bonds", with each page divided into five columns headed,  
 4        respectively: "Names of officers", "Names of offices", "Date  
 5        of bond", "Amount of bond", and "When and where recorded";

6        (15) an index of notices of mechanics' liens labeled  
 7        "Mechanics' liens", with each page divided into three  
 8        columns headed, respectively: "Parties claiming liens",  
 9        "Against whom claimed", and "Notices, when filed";

10       (16) an index to transcripts of judgments labeled  
 11       "Transcripts of judgments", with each page divided into  
 12       seven columns headed, respectively: "Judgment debtors",  
 13       "Judgment creditors", "Amount of judgment", "Where  
 14       recovered", "When recovered", "When transcript filed", and  
 15       "When judgment satisfied";

16       (17) an index of attachments labeled "Attachments",  
 17       with each page divided into six columns headed,  
 18       respectively: "Parties against whom attachments are issued",  
 19       "Parties issuing attachments", "Notices of attachments",  
 20       "When filed", and "When attachments discharged";

21       (18) an index of notices of the pendency of actions  
 22       labeled "Notices of actions", with each page divided into  
 23       three columns headed, respectively: "Parties to actions",  
 24       "Notices, when recorded", and "When filed";

25       (19) an index of certificates of sale of real estate

1 sold under execution or under orders made in any judicial  
 2 proceedings labeled "Certificates of sale", with each page  
 3 divided into four columns headed, respectively: "Plaintiff",  
 4 "Defendant", "Purchaser at sale", and "Date of sale";

5 ~~t287-on-index-of-the--individual--property--of--married~~  
 6 persons---and--sets--trader--judgments--labeled--"Individual  
 7 property-of-married-persons-and--sets--traders"--with--each  
 8 page--divided-into-five-columns-headed--respectively--"Names  
 9 of-married-persons"--"Names-of-their--spouses"--"Nature--of  
 10 instruments---recorded"--"When--recorded"--and--"Where  
 11 recorded";

12 (20) AN INDEX OF THE INDIVIDUAL PROPERTY OF MARRIED  
 13 PERSONS LABELED "INDIVIDUAL PROPERTY OF MARRIED PERSONS".  
 14 WITH EACH PAGE DIVIDED INTO FIVE COLUMNS HEADED,  
 15 RESPECTIVELY: "NAMES OF MARRIED PERSONS", "NAMES OF THEIR  
 16 SPOUSES", "NATURE OF INSTRUMENTS RECORDED", "WHEN RECORDED",  
 17 AND "WHERE RECORDED".

18 ~~t297f281(21)~~ an index to affidavits for annual work done  
 19 on mining claims labeled "Annual work on mining claims",  
 20 showing--the--name with each page divided into four columns  
 21 headed, respectively: "Name of the affiant", the-name "Name  
 22 of the claim", where "Where situated", and the-year "Year  
 23 when the work was done";

24 ~~t227f2231(22)~~ an index of mining claims and declaratory  
 25 statements labeled "Notices of location of mining claims and

1 declaratory statements", with each page divided into four  
 2 columns headed, respectively: "Locators", "Name of claim",  
 3 "Notice, when filed", and "Where recorded";

4 ~~t237f2231(23)~~ an index to the register of births and  
 5 deaths;

6 ~~t247f2231(24)~~ an index to notices and declarations of  
 7 water rights;

8 ~~t257f2231(25)~~ an index to the "estray and lost property  
 9 book";

10 ~~t267f2231(26)~~ an index to the record of assignments for  
 11 the benefit of creditors, containing names of assignor and  
 12 assignee, date and where recorded, and inventory, when  
 13 filed;

14 ~~t277f2231(27)~~ an index to financing statements as  
 15 provided in Part 4 of the Uniform Commercial Code—Secured  
 16 Transactions;

17 ~~t287f2231(28)~~ an index to filed subdivision plats,  
 18 containing number of lots, number of acres, filing date, and  
 19 the location of the quarter section of each subdivision;

20 ~~t297f2231(29)~~ an index to the book of maps and plats,  
 21 which must contain the name of the proprietor of the town,  
 22 village or addition platted and a general description of  
 23 the same;

24 ~~t307f2231(30)~~ a miscellaneous index, in which must be  
 25 indexed papers not hereinbefore stated."

1       Section 17. Section 7-4-2703, MCA, is amended to read:

2       "7-4-2703. Limitation on number of deputies. The whole  
 3       number of deputies allowed--the--county--attorney--must--not  
 4       exceed--one--chief--deputy--and--one--deputy--in--counties--of--the  
 5       first--and--second--classes--and--in--all--other--counties,--such  
 6       deputies--as--may--be--allowed--by--the--board--of--county  
 7       commissioners--not--to--exceed--one--chief--deputy--and--one--deputy--  
 8       in--counties--of--the--first--and--second--class,--the--county  
 9       attorney--may--appoint--one--chief--deputy--and--one--deputy. In--all  
 10      other--counties,--the--county--attorney--may--appoint--a--chief  
 11      deputy--or--a--deputy--only--with--the--approval--of--the--board--of  
 12      county--commissioners"

13       Section 18. Section 7-4-2714, MCA, is amended to read:

14       "7-4-2714. Recovery of illegally paid money. (f) If  
 15      whenever the board of county commissioners, without  
 16      authority of law, orders any money paid as a salary or fee  
 17      or for any other purpose and such money has been actually  
 18      paid or if whenever any other county officer has drawn any a  
 19      warrant or warrants in his own favor or in favor of any  
 20      other person without being authorized by the board or by law  
 21      and the same has been paid, the county attorney is empowered  
 22      and it is his duty to institute an action in the name of the  
 23      county against such person or persons to recover the money  
 24      so paid and 25% damages for the use thereof. No order of the  
 25      board therefor is necessary to maintain such this suit. When

1       Whenever the money has not been paid on such the order or  
 2       warrant, it is the duty of the county attorney, upon  
 3       receiving notice thereof, to commence an action in the name  
 4       of the county for restraining the payment of the same, and  
 5       no order of the board is necessary to maintain such the  
 6       action.

7       (f) Whenever any board, without authority of law,  
 8       orders any money paid as a salary or fee or for other  
 9       purposes and such money has been actually paid or whenever  
 10      the county clerk has drawn any warrant or warrants in his  
 11      own favor or in favor of any other person without being  
 12      authorized by the board or by the law and the same has been  
 13      paid, the county attorney of such county must institute an  
 14      action in the name of the county against such person or  
 15      persons to recover the money so paid and 25% damages for the  
 16      use thereof. No order of the board therefor is necessary in  
 17      order to maintain such action. When the money has not been  
 18      paid on such order, it is the duty of the county attorney to  
 19      commence an action in the name of the county for restraining  
 20      the payment of the same and no order of the board therefor  
 21      is necessary to maintain such action."

22       Section 19. Section 7-4-2803, MCA, is amended to read:

23       "7-4-2803. Situations involving use of other  
 24      surveyors. (1) When whenever the county surveyor is  
 25      interested in any land the title to which is in dispute and

1 a survey thereof is necessary, the court must direct the  
 2 survey to be made by some disinterested person. The person  
 3 so appointed is, for the purpose, authorized to administer  
 4 and certify oaths. He ~~must~~ shall return such the survey,  
 5 verified by his affidavit annexed thereto, and receive for  
 6 his services the same fees as the county surveyor would be  
 7 entitled to for similar services.

8 (2) ~~If whenever~~ the county surveyor neglects, refuses,  
 9 or is incompetent to perform the duties prescribed in former  
 10 ~~16-3311-Rev-Me-1947~~ ~~this part~~, it ~~shall~~ be ~~is~~ the duty of  
 11 the board of county commissioners to employ another  
 12 competent civil engineer, who shall be subject to the ~~law~~  
 13 laws governing the county surveyor."

14 Section 20. Section 7-4-2911, MCA, is amended to read:  
 15 "7-4-2911. Duties of county coroner. (1) The coroner  
 16 must hold inquests as provided in Title 46, chapter 4, parts  
 17 1 and 2.

18 (2) In the cases specified in 25-3-205, the coroner  
 19 must discharge the duties of sheriff. If acting as sheriff,  
 20 the coroner is allowed the same fees as sheriff or constable  
 21 for like services.

22 ~~t37-When-a-prisoner-confined-in-the-state-prison-dies~~  
 23 ~~the-coroner-of--the--county--wherein--the--state--prison--is~~  
 24 ~~located--may--hold--an--inquest--as--provided--in--Title--46--chapter~~  
 25 ~~4--parts--1--and--2--"~~

1 Section 21. Section 7-4-2912, MCA, is amended to read:  
 2 "7-4-2912. Coroner's register. ~~It is the duty of the~~  
 3 ~~the county coroner of each county to~~ shall keep an official  
 4 register, to be labeled "coroner's register", in which he  
 5 ~~must enter as provided in 46-4-207a~~

6 ~~t37--the--date--of--holding--an--inquest~~  
 7 ~~t27--the--name--of--the--deceased--when--known--and--such~~  
 8 ~~description--of--the--deceased--as--may--be--sufficient--for~~  
 9 ~~identification--when--not--known~~

10 ~~t37--property--found--on--the--person--of--the--deceased--if~~  
 11 ~~any~~  
 12 ~~t44--what--disposition--of--the--same--was--made--by--the~~  
 13 ~~coroner~~

14 ~~t55--the--cause--of--death--when--known--and~~  
 15 ~~t67--any--other--information--which--may--pertain--to--the~~  
 16 ~~identity--of--the--deceased~~"

17 Section 22. Section 7-4-2913, MCA, is amended to read:  
 18 "7-4-2913. Payment of costs of inquest. Whenever an  
 19 inquest is held ~~pursuant to 7-4-2911 t37~~ ~~because of the death~~  
 20 ~~of an individual confined in the state prison~~, the county  
 21 clerk of the county where such the inquest is held shall  
 22 make out a statement of all the costs incurred by the county  
 23 in such the inquest, properly certified by the coroner of  
 24 said the county. This statement shall be sent to the  
 25 department of institutions for approval, and after such

1 approval, the department ~~must cause the amount of such shall~~  
 2 ~~pay the costs to be paid~~ out of the money appropriated for  
 3 the support of the state prison to the county treasurer of  
 4 the county where such the inquest was held held."

5 Section 23. Section 7-4-3006, MCA, is amended to read:  
 6 "7-4-3006. Limitation on number of deputy district  
 7 court clerks. The whole number of deputies allowed the clerk  
 8 of the district court ~~must~~ ~~may~~ not exceed one chief deputy  
 9 and ~~deputies to the number up to:~~

10 (1) six deputies in counties of the first and or  
 11 second ~~classes~~ class;

12 (2) four deputies in counties of the third and or  
 13 fourth ~~classes~~ class having more than one district judge;

14 (3) two deputies in counties of the third and or  
 15 fourth ~~classes~~ class having one district judge;

16 (4) one deputy in counties of the fifth, sixth, or  
 17 seventh-and-eighth-~~classes~~ class."

18 Section 24. Section 7-4-4105, MCA, is amended to read:  
 19 "7-4-4105. Authority to abolish appointive municipal  
 20 offices. (1) The city or town council ~~has the power to~~ may  
 21 abolish, by a majority vote of the council, any office the  
 22 appointment to which is made by the mayor with the advice  
 23 and consent of the council and ~~may~~ discharge any officer so  
 24 appointed.

25 {2}--No--office--created--under--this--title--must--be

1 ~~established by the council~~"

2 Section 25. Section 7-4-4114, MCA, is amended to read:  
 3 "7-4-4114. Municipal executive officers. (1) The  
 4 executive officers of a city or town are the mayor, the  
 5 marshal ~~if there is one~~, and such officers as the council  
 6 may provide for assessing, collecting, auditing, safekeeping,  
 7 disbursing the revenue, and keeping the records and journals of the city or town.

8 (2) The mayor is the chief executive officer of the  
 9 city or town."

10 Section 26. Section 7-4-4201, MCA, is amended to read:  
 11 "7-4-4201. Salary of officers. (1) The council must by  
 12 ordinance fix the salaries and compensation of the city  
 13 officers, policemen, and other employees, which ~~must~~ ~~may~~ not  
 14 exceed the amount amounts specified in this code.

15 (2) The salary and compensation of an officer ~~must~~ ~~may~~  
 16 not be increased or diminished during his term of office.

17 {3}--The maximum annuit-salary of a mayor must be fixed  
 18 by ordinance in all classes of cities

19 {4}--The annuit-salary and compensation of the  
 20 treasurer must be fixed by ordinance and must be for all  
 21 services rendered by such treasurer in any capacity.

22 {5}--The annuit-salary and compensation of the city  
 23 attorney must be fixed by ordinance.

24 {6}--The annuit-salary and compensation of the city

1 clerk-must-be-fixed-by-ordinances"

2       ~~(7) The compensation of the street commissioner, chief~~  
 3 of the fire department, city surveyor and other city  
 4 officers not provided in this code may be prescribed by  
 5 ordinances."

6       Section 27. Section 7-4-4301, MCA, is amended to read:  
 7       "7-4-4301. Qualifications for mayor. (1) No person  
 8 shall be eligible to for the office of mayor unless he  
 9 shall be:

10       (a) at least 21 years old and a taxpaying freeholder  
 11 within the limits of the city or town;

12       (b) a resident of the state for at least 3 years; and  
 13       (c) a resident for at least 2 years preceding the  
 14 election to office of the city or town or an area which has  
 15 been annexed by the city or town for which he may be elected  
 16 mayor 2 years preceding his election to said office.

17       (2) A person elected mayor shall reside in the city or  
 18 town for which he shall be elected mayor during his term of  
 19 office. The office of mayor of a city or town is considered  
 20 vacant if the individual elected as mayor ceases to be a  
 21 resident of the city or town."

22       Section 28. Section 7-4-4401, MCA, is amended to read:  
 23       "7-4-4401. Qualifications for alderman. No person  
 24 shall be eligible to for the office of alderman unless he  
 25 shall be is

1       ~~(7) a taxpaying freeholder within the limits of a~~  
 2 city and  
 3       ~~(2) a resident for at least 60 days preceding the~~  
 4 election to office of the ward so electing him or a resident  
 5 of an area which has been annexed by the city or town and  
 6 placed in a ~~the~~ ward for at least 60 days preceding such  
 7 election."

8       Section 29. Section 7-4-4402, MCA, is amended to read:  
 9       "7-4-4402. Term of office. (1) Except as provided in  
 10 subsection (2), each an alderman elected shall hold office  
 11 for a term of 4 years and until the qualification of his  
 12 successor.

13       (2) At the first annual election held after the  
 14 organization of a city or town under this title, the  
 15 electors of such the city or town must elect two aldermen  
 16 from each ward, who must, at the first meeting of the  
 17 council, decide by lot their terms of office, with one from  
 18 each ward to hold for a term of 2 1/2 years and one, for the a  
 19 term of 2-year 2 years and until the qualification of their  
 20 successors. In the next succeeding election and thereafter,  
 21 one alderman from each ward will be elected for a 4-year  
 22 term."

23       Section 30. Repealer. Sections 16-2011, 16-3105, un'  
 24 25-603, R.C.M. 1947, are repealed.

-End-