CHAPTER NO. 263

## SENATE BILL NO. 338

## INTRODUCED BY PETERSON

## 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.
February	12, 1979		Considered correctly engrossed.
February	13, 1979		Third reading, passed. Transmitted to second house.
		IN THE HOUSE	Ξ
February	14, 1979		Introduced and referred to Committee on Local Government.
March 6,	1979		Committee recommend bill be concurred in. Report adopted.
March 8,	1979		Second reading, concurred in.
March 10,	1979		Third reading, concurred in.
		IN THE SENA	ГЕ
March 12,	, 1979		Returned from second house. Concurred in. Sent to enrolling.
·			Third reading, concurred in.

Reported correctly enrolled.  $\mathbb{Q}_{i}$ 

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1 The whole number of deputies allowed the sheriff is one 2 undersheriff and, in addition, not to exceed the following 3 number of deputies: 4 (1) six in counties of the first, second, and or third 5 class: 6 7

(2) two in counties of the fourth class: (3) one in counties of the fifth, sixth, or seventhy

#### and-sighth-classes class." 8

9 Section 3. Section 7-32-2121, MCA, is amended to read:

10 "7-32-2121. Outles of sheriff. The sheriff must:

11 (1) preserve the peace:

12 (2) arrest and take before the nearest magistrate for 13 examination all persons who attempt to commit or have 14 counitted a public offense;

15 (3) prevent and suppress all affrays. breaches of the 16 peace, riots, and insurrections which may come to his 17 knowledge:

18 (4) perform the duties of a humane officer within the 19 county with reference to the protection of dumb animals;

(5) attend all courts, except justices sunicipal, 20 21 justices! and city courts, at their respective terms or sessions held within the county and obey their lawful orders 22 23 and directions:

24 (6) command the aid of as many inhabitants of his the 25 county as may-be are necessary in the execution of these the

> -2- 58 338 INTRODUCED BILL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO GENERAL 6 7 EMERGENCY AND PROTECTIVE SERVICES, TO LAW ENFORCEMENT, TO 8 FIRE PROTECTION, AND TO CENETERY SERVICES: REPEALING 9 SECTIONS 11-1935 AND 11-2009. R.C.M. 1947.\*

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

BY REQUEST OF THE CODE COMMISSIONER

Acto BILL NO. 338

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12 Section 1. Section 7-31-110, MCA, is amended to read: 13 "7-31-110. Effect of election. (1) If it-oppears--from 14 the--result--of--such--election-thet a majority of the votes 15 cast were for the contract and bonds, then said the contract 16 shall-be is in full force and effect and the bonds shall be 17 issued and disposed of in the manner provided in this part. 18 (2) If it--shall--oppear--from--the--result--of--such 19 efection-that there was a tie vote or a majority of soid the votes were cast against the contract and bonds, then the 20 21 contract and surety bond given for its fulfillment shall--be null--end are void and-of-no-affect and said the bonds and 22 23 none-thereof shall not be issued."

Section 2. Section 7-32-2103, HCA, is amended to read: 24 25 97-32-2103. Limitation on number of deputy sheriffs.

1	sheriff's duties;	1	A sheriff who suffers fails to prevent the escape or rescu.
2	(7) take charge of and keep the county jail and the	2	of a person arrested in a civil action without the consent
3	prisoners therein;	3	or comminance of the party in whose behalf the arrest or
4	(8) endorse upon all notices and process the year+	4	imprisonment was made is liable as follows:
5	month, day, hour, and minute of reception and issue therefor	5	(a) When the arrest is upon an order to hold to <u>for</u>
6	to the person delivering them, on payment of fees, a	6	bail or upon a surrender in exoneration of bail before
7	certificate showing the names of the parties, the title of	7	judgment, he <u>the sheriff</u> is liable to the plaintiff as <u>for</u>
8	the paper, and the time of reception;	8	the bail.
9	(9) serve all process or notices in the manner	9	(b) When the arrest is on an execution or commitment
10	prescribed by law;	10	to enforce the payment of money, he the sheriff is liable
11	(10) certify in writing upon the process or notices the	11	for the amount expressed in the execution or commitment.
12	manner and time of service or, if he fails to make service,	12	(c) When the arrest is on an execution or commitment
13	the reasons of this failure, and return the same papers	13	other than to enforce the payment of money, he <u>the sheriff</u>
14	without delay; and	14	is liable for the actual damages sustained.
15	(11) perform such other duties as are required <del>of him</del>	15	(2) Upon being sued for damages for an escape or
16	by law."	16	rescue, he <u>the sheriff</u> may introduce evidence in mitigation
17	Section 4. Section 7-32-2123, MCA. is amended to read:	17	or exculpation.
18	*7-32-2123. Appointment of deputy sheriff to act as	18	(3) An action connot may not be maintained against a
19	jailer. The sheriff may appoint two deputies in counties of	19	sheriff for a rescue or for an escape of a person arrested
20	the first, second, and or third classes class and one deputy	20	upon an execution or commitment if, after his rescue or
21	in <u>counties of</u> the fourth, fifth, sixth, or seventh,and	21	escape and before the commencement of the action, the
22	eighth-closses class who shall act as jailer and receive the	22	prisoner returns to the jail or is retaken by the sheriff."
23	same salary as other deputy sheriffs."	23	Section 6. Section 7-32-2143, MCA, is amended to read:
24	Section 5. Section 7-32-2132, MCA, is amended to read:	24	*7-32-2143. Hileage and expenses of sheriff in
25	*7-32-2132. Liability for escape in civil actions. (1)	25	general. (1) Except as provided in 7-32-2144 and 7-32-2245,

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in addition to the fees specified in 7-32-2141 and 1 z 7-32-2142, the sheriff shall receive for each mile actually 3 traveled in serving any writ, process, order, or other paper, including a warrant of arrest, or in conveying a 4 person under arrest before a magistrate or to jail only his 5 actual expenses when such travel is made by railroad or 6 7 airline: and when travel is other than by railroad or 9 airline, he shall receive a mileage allowance as provided in 9 2-18-503 for each mile actually traveled by him both going 10 and returning and the actual expenses incurred by him in 11 conveying a person under arrest before a magistrate or to 12 jail. He shall receive the same mileage and his actual expenses for the person conveyed or transported under order 13 of court within the county, the same to be in full payment 14 for transporting and dieting feeding such persons during 15 such transportation. Where Whenever more than one person is 16 transported by the sheriff or when one or more papers are 17 13 served on the same trip made for the transportation of one 19 or more prisoners, but only one mileage shall may be 20 charged.

21 {2} No mileage shall may be paid by the county to 22 sheriffs whose vehicles are provided and maintained by the 23 county. All mileage paid to shoriffs whose vehicles are 24 provided and maintained by the county shall be paid over to 25 the county treasurer and deposited in the county general LC 0624/01

1 fund.

2 (3) (a) No mileage must may be allowed on an 3 attachment, order of arrest, order for delivery of personal property, or any other order, notice, or paper when the same 4 5 accompanies the summons and the service thereof may be made at the time of the service of the summons, unless except for 6 7 the distance actually traveled beyond that required to serve the summons. When two or more papers are served on the same 8 9 person at the same time or when any paper or papers are 10 served on more than one person on the same trip, but only 11 one mileage must may be allowed or charged; and in the 12 service of subpoenas, but only one mileage must may be 13 charged when the persons named therein live in the same 14 place or in the same direction; but mileage must may be 15 charged for the longest distance actually traveled. Any 16 writ. order. or other paper for service must be received at 17 any place in the county where a sheriff or a deputy is 18 found, and mileage must be computed only from such place to 19 the place of service. When two or more officers travel in the same automobile in the discharge of any duty, but only 20 21 one wilcage shall may be allowed.

(b) When any sheriff or constable serves more than one process in the same cause, not requiring more than one journey from his office, he shall receive mileage only for the more distant service, and no mileage in any case must

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gay be allowed for less than 1 mile actually traveled.\* 1 Section 7. Section 7-32-2144. MCA, is amended to read: z 3 "7-32-2144. Hilcage and expenses of sheriff for 4 delivery of prisoners and mentally ill persons. (1) Sheriffs 5 A sheriff delivering prisoners at the state prison or reform 6 school a juvenile correctional facility or mentally ill 7 persons at the <u>Ware Springs</u> state hospital shall-receive or 8 other mental health facility receives actual expenses 9 necessarily incurred in their transportation. The expenses 10 shall include the expenses of the sheriff in going to and returning from such the institution. They The sheriff shall 11 12 take vouchers for every item of expenses-incurred-by-them-in 13 such--transportation expense. The amount of these expenses. as shown by the vouchers when served presented by said the 14 sheriff, shall be audited and allowed by the department of 15 16 administration or by the board of county commissioners, as 17 the case may be, and paid out of the same money and in the 18 same manner as are other expense claims against the state or 19 counties. In determining the actual expense if travel is by 20 a privately owned vehicle, the mileage rate shall be allowed 21 as provided in subsection (2). No other or further **Z**2 compensation shell may be received by sheriffs for such 23 expenses.

24 (2) While Unless otherwise provided, while in the
 25 discharge of his duties, both civil and criminal, the

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1 sheriff shell--receive receives a mileage allowance as 2 provided in 2-18-503. The sheriff shall also be reimbursed 3 for actual and necessarily incurred expenses for 4 transporting, lodging, and meals-of feeding persons ordered 5 by the court as provided in 2-18-501 through 2-18-503. The county shall is not be liable for and the board of county 6 7 commissioners shall may not pay for any claim of the sheriff 8 or other officer for any other expenses incurred in travel 9 or for subsistence in cases where mileage is allowed under 10 this section, the fees for mileage named in this section 11 being in full for all such traveling expenses in both civil 12 and criminal work." 13 Section 8. Section 7-32-4112, MCA, is amended to read: 14 #7-32-4112. Qualifications of policemen. (1) tat-The 15 members-of-d-police-department-of-any-city-at--the--time--of 16 their--appointment-under-this-part-shall-net-be-less-then-29 17 years-of-age-or-more-than-40-years-of-age+ 18 the scubers of the police department on the active 19 list of any city at the time of their appointment under this part shall may not be less than 18 years of age or more than 20 21 35 years of age, but this restriction shall does not apply 22 to any member of any present police department as of July 2: 23 1973, to---police--reserves-provided-for-in-this-party-or to 24 honorably discharged persons who served in the armed forces

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of the United States in time of war, providing such ti . of

service be is not less than 3 months.or.to\_applicants\_for
reinstatement under\_7-32-4110.

3 (2) A police officer must be a citizen of the United
4 States and meet the minimum qualifying standards for
5 employment promulgated by the board of crime control."

Section 9. Section 7-32-4116. NCA. is amended to read: 6 7 "7-32-4116. Minimum wage of police in first- and second-class cities. (1) Each duly confirmed member of a 8 9 police department of cities of the first and second class of Montana is entitled to a minimum wave for a daily service of 10 11 8 hours' work of at least \$750 per month for the first year 12 of service and thereafter at least \$750 a month plus 1% of 13 the minimum base monthly salary of \$750 for each additional year of service up to and including the 20th year of 14 additional service. 15

16 (2) This section shall--apply applies to and-include 17 all cities and towns not of the first class which have 18 heretofore elected or-may-hereafter-elect to come under the 19 provisions of <u>fll-1817-to-ll-1830--inclusive</u>] <u>Chapter 1201</u> 20 <u>Laws of 1929, as amended, or Chapter 335, Laws of 1974, as</u> 21 amended."

22 Section 10. Section 7-32-4303, MCA, is amended to 23 read:

24 "7-32-4303. Control of shoplifting. The city or town
 25 council has-power-to may define shoplifting as theft--in

conformance--with--law provided in .46-6-501 and to punish

2 persons found guilty thereof.\*

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3 Section 11. Section 7-33-2312, MCA, is amended to 4 read:

5 "7-33-2312. Organization of fire company. (1) Every 6 such fire company organized pursuant to 7-33-2312 must 7 choose or elect a foreman, who is the presiding officer, a 8 secretary and a treasurer and may establish and adopt 9 bylaws and regulations and impose penalties, not exceeding 10 \$5 or expulsion for each offense.

11 (2) Every regularly organized fire department may 12 adopt a department seal, stating the name of the particular 13 fire department to which it belongsy. which-must-be The seal 14 is under the control of and for the use of the secretary and 15 shall be affixed by his to exempt certificates, certificates 16 of active membership, and such other documents as the bylaws 17 may provide. The secretary of every department having a seal 18 must take the constitutional oath of office and give such bond as the bylaws provide for the faithful performance of 19 his duties.\* 20

21 Section 12. Section 7-33-4102, MCA, is amended to 22 read:

23 "7-33-4102. Applicability of part. (1) The provisions
24 of this part shell-in-all--respects--be--applicable-to--and
25 shell govern and control fire departments in every such city

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or town organized under whatever form of municipal
 government except where this part is in conflict with the
 commission form of government provided for in part 42 of
 chapter 3.

5 (2) Where Whenever the provisions of this part de 6 conflict with the provisions of <u>chapter\_3</u>, part 42, 7 pertaining to the commission form of government, the 8 provisions pertaining to the commission form of government 9 shall prevail.

10 (3)--This--port---shall---apply---to---organized---fire 11 depertments--in--every-city-and-town-of-the-state-of-Montana 12 regardless-of-the-form-of-government-under-which--said--city 13 or-town-may-be-operating-or-may-at-any-time-adopt\*\* 14 Section 13. Section 7-35-2122, MCA, is amended to

15 read:

16 #7-35-2122. County tax levy. The board of county 17 commissioners must, annually at the time of levying county taxes, fix and levy upon all property within said the 18 cemetery districty an amount sufficient to raise the amount 19 certified by the board of cemetery trustees to be raised by 20 a tax on the property of said the district. The tax so 21 levied-shall may not exceed 4 mills on each dollar of 22 taxable valuation on the property of said the district." 23 Section 14. Section 7-35-4104, NCA, is amended to 24 25 read:

1 #7-35-4104. Cemeteries on public lands. Incorporated cities or towns and, for unincorporated towns or villages, Z 3 the board of county commissioners of the county may survey. 4 lay out, and dedicate a portion of the public lands situated in or near such the city, town, or village, not exceeding 5 5 6 acres, for cemetery and burial purposes. The survey and 7 description thereof, together with a certified copy of the 8 order made constituting the same land as a cemetery, must be 9 recorded in the office of the county clerk of the county in 10 which the same land is located." 11 Section 15. Repealer. Sections 11-1935 and 11-2009.

12 R.C.M. 1947. are repealed.

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1979 Legislature Code Commissioner Bill - Summary

Junte Bill No. 538

AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO GENERAL EMERGENCY AND PROTECTIVE SERVICES, TO LAW ENFORCEMENT, TO FIRE PROTECTION, AND TO CEMETERY SERVICES; REPEALING SECTIONS 11-1935 AND 11-2009, R.C.M. 1947.

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

Section 1. 7-31-110. This section is rewritten for clarity. In subsection (2), "surety" is added to avoid confusion with the reference to financing bonds in the section.

Section 2. 7-32-2103. In subsection (3), a reference to an eighth class county is deleted. There are no such counties. The highest class of county is seven.

Section 3. 7-32-2121. The section is rewritten for clarity. In subsection (5), municipal courts are added to the list of courts which the sheriff is not required to attend. The municipal court law (Title 3, chapter 6) does not require the sheriff's attendance.

Section 4. 7-32-2123. A reference to eighth class counties is deleted. See section 2.

Section 5. <u>7-32-2132</u>. This section is rewritten for clarity and to utilize more modern usage.

Section 6. 7-32-2143. This section is rewritten for clarity. In subsection (3)(a), "unless" is changed to "except" for proper grammatical usage.

Section 7. 7-32-2144. This section is rewritten for clarity. In subsection (1), a reference to "reform school"

is changed to a "juvenile correctional facility" to use the present terminology; "state hospital" is changed to "Warm Springs state hospital" to use the correct terminology; and "other mental health facilities" is added for consistency with 53-21-132. In subsection (2), the introductory phrase "Unless otherwise provided for" is added to remove conflicts with other language (such as in subsection (1) for example).

Section 8. <u>7-32-4112</u>. Subsection (1)(a) is deleted as inconsistent with the more recent language found in subsection (1)(b). Subsection (1)(b) is rewritten for clarity and to delete the reference to police reserves which is meaningless following the 1977 laws on reserve and auxilliary officers (Chapter 85, Laws 1977). Because of the deletion of police reserves, the reference to 7-32-4110 is added as it appears individuals applying for reinstatement were not intended to be subject to the age restrictions.

Section 9. 7-32-4116. In subsection (2), the internal reference at the end of the sentence is changed to session law references. There is no precise M.C.A. reference which corresponds to the R.C.M. reference (most of which has been repealed).

Section 10. 7-32-4303. The section is rewritten to provide a reference to 46-6-501. Section 46-6-501 contains a definition of shoplifting and both 7-32-4303 and 46-6-501 were enacted by Chapter 274, Laws of 1974.

Section 11. 7-33-2312. This section is rewritten for clarity.

Section 12. 7-33-4102. The section is rewritten for clarity. In subsection (2), "part 42" is changed to "chapter 3, part 42" to correct an inaccurate reference created during recodification. Subsection (3) is deleted as redundant.

Section 13. 7-35-2122. The section is rewritten for clarity, and in the first sentence the words "an amount" are added for grammatical purposes.

Section 14. <u>7-35-4104</u>. This section is rewritten for clarity, and in the first sentence the words "a portion" are added for grammatical purposes.

Section 15. <u>Repealer</u>. Section 11-1935, R.C.M. 1947, is recommended for repeal. This section is superseded by 7-33-4128 for confirmed firefighters and by the minimum wage laws for probationary firefighters. Section 11-2009, R.C.M. 1947, is recommended for repeal. This section was held unconstitutional by the Montana Supreme Court in <u>Great Northern Railway Co. v.</u> <u>Roosevelt County</u>, 332 P2d 501. 46th Legislature

LC 0674/01

Approved by Comm. on Local Government 338 INTRODUCED BY BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: PAN ACT TO GENERALLY REVISE AND 5 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO GENERAL 6 7 EMERGENCY AND PROTECTIVE SERVICES, TO LAW ENFORCEMENT, TO FIRE PROTECTION, AND TO CEMETERY SERVICES: 8 REPEALING 9 SECTIONS 11-1935 AND 11-2009+ R.C.M. 1947.\*

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 7-31-110, MCA, is amended to read: 13 "7-31-110. Effect of election. (1) If it-oppears--from 14 the--result--of--such--election-that a majority of the votes 15 cast were for the contract and bonds, then said the contract 16 shall-be is in full force and effect and the bonds shall be 17 issued and disposed of in the manner provided in this part. 18 (2) If it--shall--oppoor--from--the--result--of--such 19 efection-that there was a tie vote or a majority of said the 20 votes were cast, against the contract and bonds, then the 21 contract and surety bond given for its fulfillment shall-be 22 null--and are void and-of-no-affect and soid the bonds and 23 none-thereof shall not be issued." 24 Section 2. Section 7-32-2103, MCA, is amended to read:

25 \*7-32-2103. Limitation on number of deputy sheriffs.

1 The whole number of deputies allowed the sheriff is one 2 undersheriff and, in addition, not to exceed the following 3 number of deputies: (1) six in counties of the first, second, and or third 4 classes class; 5 . (2) two in counties of the fourth class: 7 (3) one in counties of the fifth, sixth, or seventhe and-eighth-classes class.\* a Section 3. Section 7-32-2121, NCA, is amended to read: 9 10 "7-32-2121. Duties of sheriff. The sheriff must: 11 (1) preserve the peace: 12 (2) arrest and take before the nearest magistrate for 13 examination all persons who attempt to commit or have 14 committed a public offense; (3) prevent and suppress all affrays, breaches of the 15 peace, riots, and insurrections which may come to his 16 17 knowledge; 18 (4) perform the duties of a humane officer within the 19 county with reference to the protection of dumb animals; 20 (5) attend all courts, except justices municipal, 21 iustices, and city courts, at their respective terms or sessions hald within the county and obey their lawful orders 22 23 and directions; 24 (6) command the aid of as many inhabitants of his the

county as may-be are necessary in the execution of these the

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2 (7) take charge of and keep the county jail and the
3 prisoners therein;

(8) endorse upon all notices and process the year,
month, day, hour, and minute of reception and issue therefor
to the person delivering them, on payment of fees, a
certificate showing the names of the parties, the title of
the paper, and the time of reception;

9 (9) serve all process or notices in the manner
 10 prescribed by law;

11 (10) certify in writing upon the process or notices the 12 manner and time of service or, if he fails to make service, 13 the reasons of this failure, and return the seme papers 14 without delay; and

15 (11) perform such other duties as are required of-him
16 by law.\*

Section 4. Section 7-32-2123, MCA, is amended to read: "7-32-2123. Appointment of deputy sheriff to act as jailer. The sheriff may appoint two deputies in counties of the first, second, and or third classes class and one deputy in counties of the fourth, fifth, sixth, or seventhy--and eighth-classes class who shall act as jailer and receive the same salary as other deputy sheriffs."

Section 5. Section 7-32-2132, MCA, is amended to read:
"7-32-2132. Liability for escape in civil actions. (1)

A sheriff who suffers fails to prevent the escape or rescue
 of a person arrested in a civil action without the consent
 or connivance of the party in whose behalf the arrest or
 imprisonment was made is liable as follows:

5 (a) When the arrest is upon an order to hold to for
6 bail or upon a surrender in exoneration of bail before
7 judgment, he the sheriff is liable to the plaintiff as for
8 the bail.

9 (b) When the arrest is on an execution or commitment
10 to enforce the payment of money, he the sheriff is liable
11 for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment
other than to enforce the payment of money, he the sheriff
is liable for the actual damages sustained.

15 (2) Upon being sued for damages for an escape or
 16 rescues the shariff may introduce evidence in mitigation
 17 or excutpation.

18 (3) An action connot may not be maintained against # 19 sheriff for a rescue or for an escape of a person arrested upon an execution or commitment if, after his rescue or 20 escape and before the commencement of the action, the 21 prisoner returns to the jail or is retaken by the sheriff." 22 Section 6. Section 7-32-2143, MCA, is amended to read: 23 24 #7-32-2143. Nileage and expenses of sheriff in general. (1) Except as provided in 7-32-2144 and 7-32-2145. 25

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1 in addition to the fees specified in 7-32-2141 and z 7-32-2142, the sheriff shall receive for each mile actually 3 traveled in serving any write processe ordere or other 4 paper, including a warrant of arrest, or in conveying a 5 person under arrest before a pagistrate or to jail only his actual expenses when such travel is made by railroad or 6 7 airline; and when travel is other than by railroad or 8 airline, he shall receive a mileage allowance as provided in 9 2-18-503 for each mile actually traveled by him both going 10 and returning and the actual expenses incurred by him in 11 conveying a person under arrest before a magistrate or to 12 jail. He shall receive the same mileage and his actual 13 expenses for the person conveyed or transported under order 14 of court within the county, the same to be in full payment 15 for transporting and disting feeding such persons during such transportation. Where Whenever more than one person is 16 17 transported by the sheriff or when one or more papers are served on the same trip made for the transportation of one 13 or more prisoners, but only one mileage shall may be 19 20 charged.

(2) No mileage shall may be paid by the county to
 sheriffs whose vehicles are provided and maintained by the
 county. All mileage paid to sheriffs whose vehicles are
 provided and maintained by the county shall be paid over to
 the county treasurer and deposited in the county general

1 fund.

2 (3) (a) No mileage must may be allowed on an attachment, order of arrest, order for delivery of personal 3 property, or any other order, notice, or paper when the same 4 5 accompanies the summons and the service thereof may be made at the time of the service of the summons, unless except for 6 7 the distance actually traveled beyond that required to serve 8 the summons. When two or more papers are served on the same 9 person at the same time or when any paper or papers are served on more than one person on the same trip, but only 10 11 one mileage must may be allowed or charged; and in the 12 service of subpoenas, but only one mileage must may be 13 charged when the persons named therein live in the same 14 place or in the same direction; but mileage must may be charged for the longest distance actually traveled. Any 15 writ, order, or other paper for service must be received at 16 17 any place in the county where a sheriff or a deputy is 18 found, and mileage must be computed only from such place to 19 the place of service. When two or more officers travel in the same automobile in the discharge of any duty, but only 20 21 one mileage sholl may be allowed.

22 (b) When any sheriff or constable serves more than one 23 process in the same cause, not requiring more than one 24 journey from his office, he shall receive mileage only for 25 the more distant service, and no mileage in any case must

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24 (2) While Unless otherwise provided, while in the discharge of his duties, both civil and criminal, the 25

sheriff shelt--receive receives a mileage allowance as provided in 2-18-503. The sheriff shall also be reimbursed actual and necessarily incurred expenses for transporting, lodging, and meals-of feeding persons ordered by the court as provided in 2-18-501 through 2-18-503. The county shall is not be liable for and the board of county commissioners shell may not pay for any claim of the sheriff or other officer for any other expenses incurred in travel

9 or for subsistence in cases where mileage is allowed under 10 this section, the fees for mileage named in this section 11 being in full for all such traveling expenses in both civil 12 and criminal work."

13 Section 8. Section 7-32-4112, NCA, is amended to read: 14 #7-32-4112. Qualifications of policemen. (1) tot-The 15 members-df-a-bolice-department-of-any-city-at--the--time--of 16 their--oppointment-under-this-part-sheil-not-be-less-then-20 17 years-of-age-or-more-thon-40-years-of-age-18 fbi--The members of the police department on the activ 19 list of any city at the time of their appointment under this

20 part shall may not be less than 18 years of age or more than 21 35 years of age, but this restriction shall does not apply 22 to any member of any present police department as of July 2: 23 1973, to--police--reserves-provided-for-in-this-party-or to 24 nonorably discharged persons who served in the armed forces 25 of the United States in time of war, providing such time of

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2 reinstatement under 7-32-4110. 3 (2) A police officer must be a citizen of the United 4 States and meet the minimum qualifying standards for 5 employment promulgated by the board of crime control." Section 9. Section 7-32-4116, MCA, is amended to read: 6 7 "7-32-4116. Minimum wage of police in first- and second-class cities. (1) Each duly confirmed member of a 8 9 police department of cities of the first and second class of 10 Montana is entitled to a minimum wave for a daily service of 11 8 hours' work of at least \$750 per month for the first year 12 of service and thereafter at least \$750 a month plus 1% of 13 the minimum base monthly salary of \$750 for each additional year of service up to and including the 20th year of 14 15 additional service. 16 (2) This section shall--apply applies to and-include

service be is not less than 3 conths, or to applicants, for

1

17 all cities and towns not of the first class which have 18 heretofore elected or-may-hereafter-elect to come under the 19 provisions of <u>[ll-l817-to-ll-l836-inclusive]</u> <u>Chapter\_l20s</u> 20 <u>Laws of 1929s as amendeds or Chapter 335s Laws of 1974s as</u> 21 <u>amended.</u>"

22 Section 10. Section 7-32-4303, MCA, is amended to 23 read:

24 "7-32-4303. Control of shoplifting. The city or town
25 council has-power-to may define shoplifting as theft--in

1 conformance--with--lew provided in <u>46-6-501</u> and to punish 2 persons found quilty thereof."

3 Section 11. Section 7-33-2312, MCA, is amended to 4 read:

5 "7-33-2312. Organization of fire company. (1) Every such fire company organized pursuant to 7-33-2312 must 7 choose or elect a foreman, who is the presiding officer, a 8 secretary, and a treasurer and may establish and adopt 9 .bylaws and regulations and impose penalties, not exceeding 10 \$5 or expulsion for each offense.

11 (2) Every regularly organized fire department may 12 adopt a department seal, stating the name of the particular 13 fire department to which it belongsy which-must-be The seal 14 is under the control of and for the use of the secretary and 15 shall be affixed by him to exampt certificates, certificates 16 of active membership, and such other documents as the bylaws 17 may provide. The secretary of every department having a seal 18 must take the constitutional oath of office and give such bond as the bylaws provide for the faithful performance of 19 20 his duties."

21 Section 12. Section 7-33-4102, MCA, is amended to 22 read:

23 "7-33-4102. Applicability of part. (1) The provisions
24 of this part shall-in-all-respects-be-applicable-to-and
25 shall govern and control fire departments in every such city

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1 town organized under whatever form of municipal or government except where this part is in conflict with the 2 3 commission form of government provided for in part 42 of 4 chapter 3.

5 (2) Where Whenever the provisions of this part de conflict with the provisions of chapter 31 part 421 6 pertaining to the commission form of government, the 7 8 provisions pertaining to the commission form of government 9 shall prevail.

10 +33---This--pert---shall---epply---to---orgenized---fire 11 departments--in--every-city-end-town-of-the-state-of-Hontane record?ess-of-the-form-of-covernment-under-which--soid--city 12 or-town-may-be-operating-or-way-st-any-time-sdoptu" 13

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25

#7-35-410%. Cemeteries on public lands. Incorporated 1 cities or towns and, for unincorporated towns or villages, 2 the board of county commissioners of the county may survey. 3 lay out, and dedicate a portion of the public lands situated 4 5 in or near such the city, town, or village, not exceeding 5 acres, for cemetery and burial purposes. The survey and 6 7 description thereof, together with a certified copy of the order made constituting the same land as a cemetery, must be 8 9 recorded in the office of the county clerk of the county in which the same land is located." 10

Section 15. Repealer. Sections 11-1935 and 11-2009. 11

R.C.M. 1947; are repealed. 12

-End-

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sete BILL NO. 338 1 INTRODUCED BY 2 BY REQUEST OF THE CODE COMMISSIONER ٦ 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO GENERAL EMERGENCY AND PROTECTIVE SERVICES, TO LAW ENFORCEMENT, TO 7 8 FIRE PROTECTION, AND TO CEMETERY SERVICES: REPEALING SECTIONS 11-1935 AND 11-2009, R.C.M. 1947.\* 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 Section 1. Section 7-31-110, MCA, is amended to read: 13 "7-31-110. Effect of election. (1) If it-appears--from the--result--of--such--election-that a majority of the votes 14 cast were for the contract and bonds, then said the contract 15 shall-be is in full force and effect and the bonds shall be 16 17 issued and disposed of in the manner provided in this part. (2) If it--shall--appear--from--the--result--of--such 18 election-that there was a tie vote or a majority of said the 19 votes were cast against the contract and bonds, then the 20 contract and surety bond given for its fulfillment shall-be 21 nuil--and are void and-of-no-effect and said the bonds and 22 none-thereof shall not be issued." 23 Section 2. Section 7+32-2103, MCA, is amended to read: 24 #7-32-2103. Limitation on number of deputy sheriffs. 25

The whole number of deputies allowed the sheriff is one 1 undersheriff and, in addition, not to exceed the following number of deputies: 3 (1) six in counties of the first, second, and or third 5 classes class; (2) two in counties of the fourth class: 7 (3) one in counties of the fifthe sixthe or seventhe 8 and-eighth-classes class." 9 Section 3. Section 7-32-2121, MCA, is amended to read: 10 "7-32-2121. Duties of sheriff. The sheriff must: 11 (1) preserve the peace; 12 (2) arrest and take before the nearest magistrate for 13 examination all persons who attempt to commit or have committed a public offense; 14 15 (3) prevent and suppress all affrays, breaches of the 16 peace, riots, and insurrections which may come to his 17 knowledge; 18 (4) perform the duties of a humane officer within the 19 county with reference to the protection of dumb animals; 20 (5) attend all courts, except justices municipals 21 justices\*, and city courts, at their respective terms or 22 sessions held within the county and obey their lawful orders 23 and directions: (6) command the aid of as many inhabitants of his the 24 county as may-be are necessary in the execution of these the 25 -2- 56 338 THIRD READIN

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1 shariff's duties;

2 (7) take charge of and keep the county jail and the
3 prisoners therein;

4 (8) endorse upon all notices and process the year,
5 month, day, hour, and minute of reception and issue therefor
b to the person delivering them, on payment of fees, a
7 certificate showing the names of the parties, the title of
8 the paper, and the time of reception;

9 (9) serve all process or notices in the manner10 prescribed by law;

11 (10) certify in writing upon the process or notices the 12 manner and time of service or, if he fails to make service, 13 the reasons of this failure, and return the seme papers 14 without delay; and

15 (11) perform such other duties as are required of-him 16 by law."

17 Section 4. Section 7-32-2123, MCA, is amended to read: 18 "7-32-2123. Appointment of deputy sheriff to act as 19 jailer. The sheriff may appoint two deputies in counties of 20 the first, second, and or third elasses class and one deputy 21 in counties of the fourth, fifth, sixth, or seventhy--and 22 eighth-classes class who shall act as jailer and receive the 23 same salary as other deputy sheriffs."

Section 5. Section 7-32-2132, MCA, is amended to read:
 "7-32-2132. Liability for escape in civil actions. (1)

a.

A sheriff who suffers fails to prevent the escape or rescue
 of a person arrested in a civil action without the consent
 or connivance of the party in whose behalf the arrest or
 imprisonment was made is liable as follows:

5 (a) When the arrest is upon an order to hold to for
bail or upon a surrender in exoneration of bail before
7 judgment, he the sheriff is liable to the plaintiff es for
8 the bail.

9 (b) When the arrest is on an execution or commitment
10 to enforce the payment of money, he the sheriff is liable
11 for the amount expressed in the execution or commitment.

12 (c) When the arrest is on an execution or commitment
13 other than to enforce the payment of money, he <u>the sheriff</u>
14 is liable for the actual damages sustained.

15 (2) Upon being sued for damages for an escape or
 16 rescue, he <u>the sheriff</u> may introduce evidence in mitigation
 17 or exculpation.

18 (3) An action connot may not be maintained against u 19 sheriff for a rescue or for an escape of a person arrested upon an execution or commitment if, after his rescue or 20 escape and before the commencement of the action, the 21 prisoner returns to the jail or is retaken by the sheriff." 22 Section 6. Section 7-32-2143. MCA, is amended to read: 23 24 "7-32-2143. Nileage and expenses of sheriff in general. (1) Except as provided in 7-32-2144 and 7-32-2145, 25

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in addition to the fees specified in 7-32-2141 and 1 2 7-32-2142, the sheriff shall receive for each mile actually traveled in serving any writ, process, order, or other 3 paper, including a warrant of arrest, or in conveying a 4 -5 person under arrest before a magistrate or to jail only his 6 actual expenses when such travel is made by railroad or 7 airline; and when travel is other than by railroad or airline, he shall receive a mileage allowance as provided in 8 2-18-503 for each mile actually traveled by him both going 9 10 and returning and the actual expenses incurred by him in conveying a person under arrest before a magistrate or to 11 12 jail. He shall receive the same mileage and his actual expenses for the person conveyed or transported under order 13 of court within the county, the same to be in full payment 14 for transporting and disting feeding such persons during 15 16 such transportation. Where Whenever more than one person is 17 transported by the sheriff or when one or more papers are served on the same trip made for the transportation of one 13 or more prisoners, but only one mileage shall may be 19 charged. 20

21 (2) No mileage shall may be paid by the county to 22 sheriffs whose vehicles are provided and maintained by the 23 county. All mileage paid to sheriffs whose vehicles are 24 provided and maintained by the county shall be paid over to 25 the county treasurer and deposited in the county general LC 0624/01

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2 (3) (a) No mileage must may be allowed on an 3 attachment, order of arrest, order for delivery of personal 4 property, or any other order, notice, or paper when the same 5 accoupanies the summons and the service thereof may be made 6 at the time of the service of the summons, unless except for 7 the distance actually traveled beyond that required to serve 8 the summons. When two or more papers are served on the same 9 person at the same time or when any paper or papers are 10 served on more than one person on the same trip, but only 11 one mileage must may be allowed or charged; and in the service of subpoenas, but only one mileage must may be 12 13 charged when the persons named therein live in the same place or in the same direction; but mileage must may be 14 charged for the longest distance actually traveled. Any 15 16 writ, order, or other paper for service sust be received at 17 any place in the county where a sheriff or a deputy is 18 found, and mileage must be computed only from such place to 19 the place of service. When two or more officers travel in 20 the same automobile in the discharge of any duty, but only 21 one mileage shell may be allowed.

(b) When any sheriff or constable serves more than one process in the same cause, not requiring more than one journey from his office, he shall receive mileage only for the more distant service, and no mileage in any case most

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1 may be allowed for less than 1 mile actually traveled." Section 7. Section 7-32-2144, MCA, is amended to read: 2 3 \*7-32-2144. Hileage and expenses of sheriff for 4 delivery of prisoners and mentally ill persons. (1) Sheriffs 5 A sheriff delivering prisoners at the state prison or reform 6 school a luvenile correctional facility or mentally ill 7 persons at the <u>Warm Springs</u> state hospital shell-receive or 8 other mental health facility receives actual expenses 9 necessarily incurred in their transportation. The expenses shell include the expenses of the sheriff in going to and 10 11 returning from such the institution. They Inc. sheriff shall 12 take vouchers for every item of expenses-incurred-by-them-in such--transportation expense. The amount of these expenses, 13 14 as shown by the vouchers when served presented by said the 15 sheriff, shall be audited and allowed by the department of 16 administration or by the board of county commissioners, as 17 the case may be, and paid out of the same money and in the same manner as are other expense claims against the state or 18 19 counties. In determining the actual expense if travel is by 20 a privately owned vehicle, the mileage rate shall be allowed 21 provided in subsection (2). No other or further as 22 compensation shall may be received by sheriffs for such 23 expenses.

24 (2) While Unless otherwise provided, while in the 25 discharge of his duties, both civil and criminal, the

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1 sheriff shall--receive receives a mileage allowance as 2 provided in 2-18-503. The sheriff shall also be reimbursed з for actual and necessarily incurred expenses for 4 transporting, lodging, and weats-of feeding persons ordered 5 by the court as provided in 2-18-501 through 2-18-503. The 6 county shall is not be liable for and the board of county 7 commissioners shell may not pay for any claim of the sheriff 8 or other officer for any other expenses incurred in travel 9 or for subsistence in cases where mileage is allowed under 10 this section, the fees for mileage named in this section 11 being in full for all such traveling expenses in both civil 12 and criminal work."

13 Section 8. Section 7-32-4112, NCA, is amended to read: 14 #7-32-4112. Qualifications of policemen. (1) tet-The 15 members-of-a-police-department-of-any-city-at--the--time--of 16 their--appointment-under-this-part-shail-not-be-less-than-20 17 years-of-age-or-more-than-40-years-of-age-

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(2) This section shall--apply applies to and-include 16 17 all cities and towns not of the first class which have heretofore elected or-may-hereafter-elect to come under the 18 provisions of [11-1017-to-11-1030--inclusive] Chapter\_\_1201 19 Laws of 1929. as amended, or Chapter 335. Laws of 1974. as 20 amended." 21

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or town organized under whatever form of municipal
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 10
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 11
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 12
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#### 46th Legislature

58 0338/02

SENATE BILL NO. 338 1 INTRODUCED BY PETERSON 2 BY REDUEST OF THE CODE COMMISSIONER 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND 5 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO GENERAL 6 EMERGENCY AND PROTECTIVE SERVICES. TO LAW ENFORCEMENT. TO 7 FIRE PROTECTION, AND TO CEMETERY SERVICES; REPEALING 8 9 SECTIONS 11-1935 AND 11-2009+ R.C.M. 1947." 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 7-31-110, MCA, is amended to read: 12 13 "7-31-110. Effect of election. (1) If it-appears--from the--result--of--such--election-that a majority of the votes 14 15 cast were for the contract and bonds, then said the contract shall-be is in full force and effect and the bonds shall be -16 17 issued and disposed of in the manner provided in this part. (2) If it--shall--oppear--from--the--result--of--such 18 19 election-that there was a tie yote or a majority of said the votes were cast against the contract and bonds, then the 20 21 contract and surety bond given for its fulfillment shell-be null--end are void end-of-no-effect and said the bonds end 22 23 none-thereof shall not be issued." Section 2. Section 7-32-2103, MCA, is amended to read:

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REFERENCE BILL

1 sheriff!s duties: 2 (7) take charge of and keep the county jail and the 3 prisoners therein; (8) endorse upon all notices and process the year+ 4 month, day, hour, and minute of reception and issue therefor 5 to the person delivering them, on payment of fees, a 6 certificate showing the names of the parties, the title of 7 the paper, and the time of reception; R (9) serve all process or notices in the manner 9 10 prescribed by law; (10) certify in writing upon the process or notices the 11 12 manner and time of service or, if he fails to make service. the reasons of this failure, and return the some papers 13 14 without delay: and 15 (11) perform such other duties as are required of-him by law.\* 16 Section 4. Section 7-32-2123, MCA, is amended to read: 17 18 "7-32-2123. Appointment of deputy sheriff to act as 19 jailer. The sheriff may appoint two deputies in counties of 20 the first, second, and or third classes class and one deputy in counties of the fourth, fifth, sixth, or seventhy--and 21 eighth-closes class who shall act as jailer and receive the 22 23 same salary as other deputy sheriffs." 24 Section 5. Section 7-32-2132, MCA, is amended to read: "7-32-2132. Liability for escape in civil actions. (1) 25

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A sheriff who suffers fails to prevent the escape or rescue 1 of a person arrested in a civil action without the consent 2 ъ or connivance of the party in whose behalf the arrest or imprisonment was made is liable as follows: 4 (a) When the arrest is upon an order to hold to for 5 bail or upon a surrender in exoneration of bail before 6 judgment, he the sheriff is liable to the plaintiff as for 7 the bail. A 9 (b) When the arrest is on an execution or commitment to enforce the payment of money, he the sheriff is liable 10 for the amount expressed in the execution or commitment. 11 12 (c) When the arrest is on an execution or commitment 13 other than to enforce the payment of money, he the sheriff 14 is liable for the actual damages sustained. 15 (2) Upon being sued for damages for an escape or 16 rescue, he the sheriff may introduce evidence in mitigation or exculpation. 17 18 (3) An action connot may not be maintained against a 19 sheriff for a rescue or for an escape of a person arrested 20 upon an execution or commitment if after his rescue or 21 escape and before the commencement of the action, the 22 prisoner returns to the jail or is retaken by the sheriff." Section 6. Section 7-32-2143. MCA. is amended to read: 23 24 #7-32-2143. Mileage and expenses of sheriff in general. (1) Except as provided in 7-32-2144 and 7-32-2145. 25

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in addition to the fees specified in 7-32-2141 and 1 7-32-2142, the sheriff shall receive for each mile actually 2 3 traveled in serving any writ, process, order, or other paper, including a warrant of arrest, or in conveying a 4 person under arrest before a magistrate or to jail only his 5 actual expenses when such travel is made by railroad or 6 airline; and when travel is other than by railroad or 7 airline, he shall receive a mileage allowance as provided in 8 2-18-503 for each mile actually traveled by him both going 9 and returning and the actual expenses incurred by him in 10 11 conveying a person under arrest before a magistrate or to 12 jail. He shall receive the same mileage and his actual expenses for the person conveyed or transported under order 13 of court within the county, the same to be in full payment 14 15 for transporting and dieting feeding such persons during 16 such transportation. Where <u>Whenever</u> more than one person is transported by the sheriff or when one or more papers are 17 18 served on the same trip made for the transportation of one or more prisoners, but only one mileage shall may be 19 20 charged.

21 (2) No mileage shell may be paid by the county to 22 sheriffs whose vehicles are provided and maintained by the 23 county. All mileage paid to sheriffs whose vehicles are 24 provided and maintained by the county shall be paid over to 25 the county treasurer and deposited in the county general

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(3) (a) No mileage must may be allowed on an 2 attachment, order of arrest, order for delivery of personal 3 property, or any other order, notice, or paper when the same accompanies the summons and the service thereof may be made 5 at the time of the service of the summons, unless except for ٨ the distance actually traveled beyond that required to serve 7 the summons. When two or more papers are served on the same я person at the same time or when any paper or papers are • served on more than one person on the same trip, but only 10 one mileage must may be allowed or charged; and in the 11 12 service of subpoenas, but only one mileage must may be 13 charged when the persons named therein live in the same 14 place or in the same direction; but mileage must gay be 15 charged for the longest distance actually traveled. Any 16 writ, order, or other paper for service must be received at 17 any place in the county where a sheriff or a deputy is found, and mileage must be computed only from such place to 18 19 the place of service. When two or more officers travel in the same automobile in the discharge of any duty, but only 20 one mileage shall may be allowed. 21 22 (b) When any sheriff or constable serves more than one

23 process in the same cause, not requiring more than one 24 journey from his office, he shall receive mileage only for 25 the more distant service, and no mileage in any case must

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may be allowed for less than 1 mile actually traveled." 1 z Section 7. Section 7-32-2144, MCA+ is amended to read: 3 #7-32-2144, Hileage and expenses of sheriff for delivery of prisoners and mentally ill persons. (1) Sheriffs 4 A sheriff delivering prisoners at the state prison or reform 5 6 school a juvenile correctional facility or mentally ill persons at the <u>Ware\_Springs</u> state hospital shall-receive or 7 other mental health facility receives actual expenses 8 9 necessarily incurred in their transportation. The expenses 10 shall include the expenses of the sheriff in going to and 11 returning from such the institution. They The shariff shall take vouchers for every item of expenses-incurred-by-them-in 12 suck-transportation expense. The amount of these expenses, 13 14 as shown by the vouchers when served presented by soid the sheriff. shall be audited and allowed by the department of 15 administration or by the board of county commissioners. As 16 17 the case may be, and paid out of the same money and in the same manner as are other expense claims against the state or 18 counties. In determining the actual expense if travel is by 19 a privately owned vehicle, the mileage rate shall be allowed 20 21 provided in subsection (2). No other or further 22 compensation shall may be received by sheriffs for such 23 expenses.

24 (2) White Unless otherwise provideds while in the
 25 discharge of his duties, both civil and criminal, the

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sheriff shall--receives receives a mileage allowance as 1 provided in 2-18-503. The sheriff shall also be reimbursed 2 actual and necessarily incurred expenses for 3 for transporting. lodging, and meaks-of feeding persons ordered 4 by the court as provided in 2-18-501 through 2-18-503. The 5 county shall is not be liable for and the board of county 6 7 commissioners shall may not pay for any claim of the sheriff or other officer for any other expenses incurred in travel 8 • or for subsistence in cases where mileage is allowed under 10 this section, the fees for mileage named in this section 11 being in full for all such traveling expenses in both civil 12 and criminal work." 13 Section 8. Section 7-32-4112, MCA, is amended to read: 14 #7-32-4112. Qualifications of policemen. (1) tat-The members-of-s-sofice-department-of-any-city-st--the--time--of 15 16 their--appointment-under-this-part-shall-not-be-less-than-20 17 years-of-age-or-more-than-40-years-of-ages +b+--The members of the police department on the active 18 19 list of any city at the time of their appointment under this part shall may not be less than 18 years of age or more than 20 35 years of age, but this restriction shall does not apply 21 22 to any member of any present police department as of July 2: 23 1973, to--police--reserves-provided-for-in-this-pertr-or to honorably discharged persons who served in the armed forces 24 of the United States in time of war, providing such time of 25

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service be is not less than 3 months, or to \_applicants\_for 1 2 reinstatement\_under\_7=32=4110+ (2) A police officer must be a citizen of the United 3 States and meet the minimum qualifying standards for 4 employment promulgated by the board of crime control." 5 6 Section 9. Section 7-32-4116, MCA, is amended to read: "7-32-4116. Minimum wage of police in first- and 7 second-class cities. (1) Each duly confirmed member of a я police department of cities of the first and second class of 9 Montana is entitled to a minimum wage for a daily service of 10 8 hours' work of at least \$750 per month for the first year 11 of service and thereafter at least \$750 a month plus 1% of 12 the minimum base monthly salary of \$750 for each additional 13 year of service up to and including the 20th year of 14 15 additional service. (2) This section shell--apply applies to and-include 16 17 all cities and towns not of the first class which have heretofore elected or-may-hereofter-elect to come under the 18 19 provisions of F11-1817-to-11-1838--inclusive } Chapter 120: Laws of 1929, as amended, or Chapter 335, Laws of 1974, as 20 21 amended." 22 Section 10. Section 7-32-4303. MCA. is amended to 23 read:

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24 "7-32-4303. Control of shoplifting. The city or town
25 council hos-power-to may define shoplifting as theft--in

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1 conformance--with--law provided in 46-6-501 and to punish

2 persons found guilty thereof."

3 Section 11. Section 7-33-2312, MCA, is amended to 4 read:

5 #7-33-2312. Organization of fire company. (1) Every 6 such fire company <u>organized\_pursuant\_to\_7-33-2312</u> must 7 choose or elect a foreman, who is the presiding officer, a 8 secretary<sub>1</sub> and <u>a</u> treasurer and may establish and adopt 9 bylaws and regulations and impose penalties, not exceeding 10 \$5 or expulsion for each offense.

11 (2) Every regularly organized fire department may 12 adopt a department seal, stating the name of the particular 13 fire department to which it belongsy. which-must-be The\_seal 14 is under the control of and for the use of the secretary and 15 shall be affixed by him to exempt certificates, certificates 16 of active membership, and such other documents as the bylaws 17 may provide. The secretary of every department having a seal 18 must take the constitutional oath of office and give such 19 bond as the bylaws provide for the faithful performance of 20 his duties."

21 Section 12. Section 7-33-4102, MCA, is amended to 22 read:

23 #7-33-4102\* Applicability of parts (1) The provisions
 24 of this part shall-in-all--respects--be--applicable--to--and
 25 shall govern and control fire departments in every such city

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or town organized under whatever form of municipal
 government except where this part is in conflict with the
 commission form of government provided for in part 42 of
 chapter 3.

5 (2) Where <u>Whanever</u> the provisions of this part do 6 conflict with the provisions of <u>chapter</u>...3: part 42: 7 pertaining to the commission form of <u>qovernment</u>. the 8 provisions pertaining to the commission form of <u>government</u> 9 shell prevail.

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 t3t--This--pert--shall---apply--to--organized--fire

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 departments--in--every-city-and-town-of-the-state-of-Montana

 12
 regardless-ef-the-form-of-government-under-which--seld--city

 13
 or-town-may-be-operating-or-may-at-my-time-adopts\*

14 Section 13. Section 7-35-2122, MCA, is amended to 15 read:

#7-35-2122. County tax levy. The board of county 16 commissioners must, annually at the time of lavying county 17 taxes, fix and levy upon all property within said the 18 cenetery districts an amount sufficient to raise the amount 19 certified by the board of cemetery trustees to be raised by 20 a tax on the property of said the district. The tax so 21 tevied-shell may not exceed 4 mills on each dollar of 22 23 taxable valuation on the property of sold the district." Section 14. Section 7-35-4104, MCA, is amended to 24

read:

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1 \*7-35-4104. Cemeteries on public lands. Incorporated 2 cities or towns and, for unincorporated towns or villages, the board of county commissioners of the county may survey. 3 4 lay out, and dedicate a nortion of the public lands situated 5 in or near such the city, town, or village, not exceeding 5 6 acress for cemetery and burial purposes. The survey and 7 description thereof, together with a certified copy of the 8 order made constituting the same land as a cemetery, must be recorded in the office of the county clerk of the county in 9 10 which the some land is located." 11 Section 15. Repeater. Sections 11-1935 and 11-2009,

12 R.C.N. 1947, are repeated.

-End-

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reinstatement\_under\_7-32-4110. 2 (2) A police officer must be a citizen of the United 3 States and meet the minimum qualifying standards for 4 employment promulgated by the board of crime control." 5 Section 9. Section 7-32-4116, NCA, is amended to read: 6 "7-32-4116. Minimum wage of police in first- and 7 second-class cities. (1) Each duly confirmed member of a 8 9 police department of cities of the first and second class of Montana is entitled to a minimum wage for a daily service of 10 8 hours\* work of at least \$750 per month for the first year 11 of service and thereafter at least \$750 a month plus 1% of 12 the minimum base monthly salary of \$750 for each additional 13 year of service up to and including the 20th year of 14 additional service. 15 (2) This section shall--apply applies to and-include 16 eff cities and towns not of the first class which have 17 heretofore elected or-may-hereafter-elect to come under the 18

service be is not less than 3 months, or to applicants for

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19 provisions of [11-1017-to-11-1030--inclusive] Chapter\_120: 20 Laws\_of\_1929: as\_amended:\_or\_Chapter\_335:\_Laws\_of\_1974:\_as 21 amended.\*\*

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 government except where this part is in conflict with the
 commission form of government provided for in part 42 of
 chapter 3.

5 (2) Where Whenever the provisions of this part do 6 conflict with the provisions of <u>chapter</u>...31 part 421 7 pertaining to the commission form of government, the 8 provisions pertaining to the commission form of government 9 shall prevail.

 10
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 11
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