

SENATE BILL NO. 339

INTRODUCED BY RASMUSSEN

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.<br>Transmitted to second house.    |

IN THE HOUSE

|                   |   |
|-------------------|---|
| 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 SENATE

|                |   |
|----------------|---|
| March 12, 1979 | Returned from second house.<br>Concurred in. Sent to enrolling.<br><br>Reported correctly enrolled. |
|----------------|---|

1 *Senate* BILL NO. 339  
 2 INTRODUCED BY Rasmussen

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 FINANCIAL  
 7 ADMINISTRATION AND TAXATION; REPEALING SECTION 7-6-4433,  
 8 MCA."

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

11 Section 1. Section 7-6-106, MCA, is amended to read:

12 "7-6-106. Political subdivisions to receive county  
 13 warrants for share of in-lieu payments. (1) After  
 14 apportioning any payment to the several accounts as provided  
 15 in 7-6-105, the county treasurer shall prepare in duplicate  
 16 a complete itemized statement, one copy of which shall be  
 17 filed with the board of county commissioners and the other  
 18 of which shall be filed with the county clerk.

19 (2) The board shall, by appropriate resolution, order  
 20 warrants drawn on the county treasurer treasury to the order  
 21 of each political subdivision named in the itemized  
 22 statement and in the amount of the political subdivision's  
 23 share in the payment. The county clerk shall draw and sign  
 24 said ~~the~~ warrants, which shall also be signed by the  
 25 chairman of the board.

1 (3) (a) Except as provided in subsection (3)(b),  
 2 whenever such warrant is presented to the county treasurer,  
 3 he shall debit the proper account in the fund and shall pay  
 4 the amount of such warrant in full, without deduction, to  
 5 the political subdivision presenting the same.

6 (b) The county treasurer ~~shall~~ may not honor such  
 7 warrant unless it is endorsed by the president, chairman, or  
 8 other presiding officer of the governing body of ~~such the~~  
 9 political subdivision. The endorsement of any warrant by  
 10 ~~said the~~ presiding officer of the governing body of a  
 11 political subdivision as provided in this section ~~shall be~~  
 12 ~~construed as constitutes~~ an approval of the agreement under  
 13 which the payment was received. If any governing body of a  
 14 political subdivision ~~shall refuse~~ refuses to receive any  
 15 warrant delivered pursuant to this section, the amount of  
 16 the warrant shall be refunded to the United States by the  
 17 county."

18 Section 2. Section 7-6-207, MCA, is amended to read:

19 "7-6-207. Deposit security. (1) ~~Said the~~ local  
 20 governing body may require security only for ~~any such that~~  
 21 portion of ~~the~~ deposits ~~as which~~ is not guaranteed or  
 22 insured according to law. ~~Such the~~ security shall consist  
 23 of those enumerated in 17-6-103 or cashier's checks issued  
 24 to the depository institution by any federal reserve bank.

25 (2) When negotiable securities are furnished, such

1 securities may be placed in trust. The trustee's receipt may  
 2 be accepted in lieu of the actual securities when such  
 3 receipt is in favor of the treasurer or town clerk, his  
 4 successors, and the state of Montana and the form of receipt  
 5 and the trustee have been approved by the department of  
 6 community affairs. All warrants or other negotiable  
 7 securities must be properly assigned or endorsed in blank.  
 8 ~~It shall be~~ is the duty of the appropriate governing body,  
 9 upon the acceptance and approval of any of the  
 10 above-mentioned bonds or securities, to make a complete  
 11 minute entry of such ~~the~~ acceptance and approval upon the  
 12 record of their proceedings, and such ~~the~~ bonds and  
 13 securities shall be reapproved at least quarter-annually  
 14 thereafter.

15 ~~(3) (a) It shall be lawful for county, city or town~~  
 16 ~~officials charged by law with the duty of requiring security~~  
 17 ~~from depositories of their several public funds to accept~~  
 18 ~~from such depository bank as security for such deposits or~~  
 19 ~~any part thereof, cashier's checks issued to such depository~~  
 20 ~~bank by any federal reserve bank.~~

21 ~~(b) Subsection (3)(a) shall be deemed to be~~  
 22 ~~supplementary to the provisions of subsections (1) and (2),~~  
 23 ~~and shall not in any manner limit or affect the right of the~~  
 24 ~~several officers enumerated in said subsection to accept~~  
 25 ~~security of the character specified therein."~~

1 Section 3. Section 7-6-2112, MCA, is amended to read:  
 2 "7-6-2112. Treasurer's report reports to county  
 3 commissioners. (1) Each county treasurer must make a  
 4 detailed monthly report ~~at every regular meeting of~~ to the  
 5 board of county commissioners of his county, of all money  
 6 received by him and the disbursement thereof and of all  
 7 debts due to and from the county and of all other  
 8 proceedings in his office, so that the receipts into the  
 9 treasury and the amount of disbursements, together with the  
 10 debts due to and from the county, may appear clearly and  
 11 distinctly ~~appear~~.

12 (2) On the first Monday of January, April, July, and  
 13 October of each year the county treasurer must settle with  
 14 the board of county commissioners for all money collected,  
 15 and on ~~said~~ those days the treasurer must deliver to ~~said~~  
 16 the board affidavits verifying the reconciliation of the  
 17 balance on hand in the county treasury. After the approval  
 18 of such ~~the~~ statements and the accompanying affidavits, one  
 19 copy of such the quarterly report shall be filed with the  
 20 county clerk of ~~said~~ the county and one copy shall be  
 21 retained by the county treasurer."

22 Section 4. Section 7-6-2201, MCA, is amended to read:  
 23 "7-6-2201. Fiscal year for counties. The fiscal year  
 24 for county purposes commences on July 1 of each year and  
 25 ends on June 30 of each the following year."

1 Section 5. Section 7-6-2202, MCA, is amended to read:

2 "7-6-2202. Duties of county clerk related to finance.

3 (1) The county clerk must draw warrants on the county  
4 treasurer treasury in favor of all persons entitled thereto  
5 in payment:

6 (a) of all claims and demands chargeable against the  
7 county which have been legally examined, allowed, and  
8 ordered paid by the board of county commissioners;

9 (b) for all debts and demands against the county when  
10 the amounts are fixed by law and are not directed to be  
11 audited by some other person or tribunal.

12 (2) He The county clerk must keep accounts current  
13 with the treasurer. When any person deposits with the  
14 county treasurer any money paid into the treasury, the  
15 county clerk shall be furnished by the treasurer with a  
16 duplicate of the receipt issued to ~~such~~ the person, which  
17 duplicate receipt shall be filed in the office of the county  
18 clerk, and ~~such~~ the county clerk shall charge the treasurer  
19 with the amount thereof.

20 (3) He The county clerk must make the annual statement  
21 as prescribed in 7-6-2203."

22 Section 6. Section 7-6-2221, MCA, is amended to read:

23 "7-6-2221. ~~Limitation on amount of~~ Limitations on  
24 capital improvement fund. The capital improvement fund ~~shall~~  
25 may not exceed at any time a competent engineering estimate

1 of the cost of the adopted capital improvement program ~~and~~  
2 ~~provided that the funds are expended at least within each~~  
3 ~~10-year period. Money deposited in the fund must be expended~~  
4 within a 10-year period."

5 Section 7. Section 7-6-2302, MCA, is amended to read:

6 "7-6-2302. Role of department of community affairs.

7 The department of community affairs shall make rules and  
8 classifications and prescribe forms necessary to carry out  
9 the provisions of this part ~~except for 7-6-2329~~, to define  
10 what expenditures are chargeable to each budget account, and  
11 to establish accounting and cost systems necessary to  
12 provide accurate budget information."

13 Section 8. Section 7-6-2316, MCA, is amended to read:

14 "7-6-2316. Notice of hearing on preliminary budget.

15 (1) The board of county commissioners shall then have a  
16 notice published stating that:

17 (a) the board has completed its preliminary county  
18 budget for the current fiscal year;

19 (b) the budget is open to inspection in the office of  
20 the county clerk and recorder;

21 (c) the board will meet on the Wednesday before the  
22 second Monday in August to fix the final budget and make  
23 appropriations, stating the time and place of the meeting;  
24 and

25 (d) any taxpayer or resident of the county may appear

1 and be heard for or against any part of the budget.

2 (2) The notice shall be published at least one time in  
3 a newspaper of general circulation in the county."

4 Section 9. Section 7-6-2317, MCA, is amended to read:

5 "7-6-2317. Hearing on preliminary budget. (1) On the  
6 Wednesday before the second Monday in August, the county  
7 commissioners shall meet at the time and place designated in  
8 the notice provided for in 7-6-2316, at which time any  
9 taxpayer or resident of the county may appear and be heard  
10 for or against any part of the budget.

11 (2) The hearing shall be continued from day to day and  
12 shall be concluded and the budget approved and adopted on  
13 the second Monday in August, before the fixing of the tax  
14 levies by the board."

15 Section 10. Section 7-6-2342, MCA, is amended to read:

16 "7-6-2342. Procedure to make expenditures and incur  
17 liabilities in case of other emergencies. (1) In a public  
18 emergency other than such ~~as are specifically those~~  
19 described in 7-6-2341 and which could not reasonably have  
20 been foreseen at the time of making the budget, the board of  
21 county commissioners, by unanimous vote of the members  
22 present at any meeting (the time and place of which all the  
23 commissioners shall have had reasonable notice), shall adopt  
24 and enter upon their minutes a resolution stating the facts  
25 constituting the emergency and the estimated amount of money

1 required to meet such ~~the~~ emergency.

2 (2) The board shall publish the ~~same resolution,~~  
3 together with a notice that a public hearing will be held  
4 thereon on the resolution at the time and place designated  
5 therein in the notice, once in the official newspaper of the  
6 county and if there be is none, then in a newspaper of  
7 general circulation in the county. The hearing ~~shall~~ may not  
8 be less than 1 week after the date of said publication.

9 (3) Any taxpayer or resident of the county may appear  
10 at the hearing and be heard for or against the expenditure  
11 of money for such ~~the~~ alleged emergency.

12 (4) (a) Upon the conclusion of such ~~the~~ hearing, if  
13 the commissioners ~~shall~~ approve of ~~such the~~ emergency  
14 expenditure, they shall make and enter upon their official  
15 minutes, by unanimous vote of all of the members of the  
16 board present at such ~~the~~ meeting, an order setting forth  
17 the facts constituting such ~~the~~ emergency, together with the  
18 amount of expenditure authorized therefor by them. Subject  
19 to the limitations of subsection (4)(b), the order so  
20 entered ~~shall be~~ is lawful authorization for them to expend  
21 such amount, but no more, for such purpose.

22 (b) No expenditure ~~shall~~ may be made or liability  
23 incurred pursuant to ~~said the~~ order until 5 days, exclusive  
24 of the day of entry of said ~~the~~ order, ~~shall have elapsed~~  
25 elapse."

1 Section 11. Section 7-6-2343, MCA, is amended to read:

2 \*7-6-2343. Appeal of order for certain emergency  
3 expenditures. (1) During the 5-day period provided by  
4 7-6-2342(4)(b), any taxpayer or taxpayers resident of ~~said~~  
5 the county feeling aggrieved by the order issued pursuant to  
6 7-6-2342(4) may appeal therefrom to the district court for  
7 such county by filing with the clerk of ~~such the~~ court a  
8 verified petition, a copy of which ~~shall~~ has theretofore  
9 ~~have~~ been served upon the county clerk and recorder of ~~said~~  
10 the county as the clerk of the board of county  
11 commissioners. ~~Said the~~ petition shall set forth in detail  
12 the objections of the petitioner ~~or petitioners~~ to ~~said the~~  
13 order, giving ~~their~~ reasons why the emergency does not  
14 exist.

15 (2) Until final determination of the matter by the  
16 court, the service and filing of ~~such the~~ petition ~~shall~~  
17 ~~operate~~ operates to suspend ~~such the~~ emergency order and the  
18 authority to make any expenditure or incur any liability  
19 thereunder.

20 (3) Upon the filing of ~~such the~~ petition, the court  
21 shall immediately fix a time for hearing ~~such the~~ petition,  
22 which time shall be at the earliest convenient time. At ~~such~~  
23 the hearing the court shall hear the matter de novo and may  
24 take such testimony as it ~~deems~~ considers necessary. ~~Its the~~  
25 court's proceedings shall be summary and informal, and its

1 determination as to whether an emergency such as is  
2 contemplated within the meaning and provisions of this part  
3 exists or not and whether the expenditure authorized by ~~said~~  
4 the order is excessive or not ~~shall be~~ is final."

5 Section 12. Section 7-6-2344, MCA, is amended to read:

6 \*7-6-2344. Limitation on amount of emergency  
7 expenditures and liabilities -- election. (1) Unless the  
8 excess above the sums listed in subsections (1)(a), (1)(b),  
9 and (1)(c) ~~shall~~ is first ~~have been~~ authorized by a majority  
10 of the ~~taxpaying-freeholders~~ electors of ~~such the~~ county ~~who~~  
11 ~~are-registered-electors-therein~~, voting at a general or  
12 special election, the aggregate total of all expenditures  
13 made or liabilities incurred in any fiscal year to meet  
14 emergencies, other than ~~such as are those~~ caused by fire,  
15 flood, explosion, earthquake, epidemic, riot, or  
16 insurrection, ~~shall~~ may not exceed ~~the sum of~~:

17 (a) \$25,000 in counties of ~~classes~~ class 1, 2, 3, and  
18 or 4;

19 (b) \$15,000 in counties of ~~classes~~ class 5 and or 6;

20 and

21 (c) \$7,500 in counties of class 7.

22 (2) The question of authorizing ~~such the~~ excess  
23 expenditures shall be submitted in the following form,  
24 inserting in the ballot the amount of the excess proposed to  
25 be authorized and a description of the emergency to be met:

1 Shall the board of county commissioners of .... County,  
 2 Montana, be authorized to make additional expenditures and  
 3 incur additional liabilities in the amount of \$.... over and  
 4 above the sum of \$.... to meet an emergency caused by .....

- 5  YES  
 6  NO

7 (3) Notice of such ~~the~~ election shall be given by  
 8 posting notice thereof at least 15 days before such ~~the~~  
 9 election in three public places in each voting precinct  
 10 within the county and by publishing such ~~the~~ notice for not  
 11 less than 10 days before the date of such ~~the~~ election.

12 (4) The total of all emergency budgets and  
 13 appropriations made therein in any one year to be paid from  
 14 the county poor fund shall ~~may~~ not exceed the amount which  
 15 would be produced by a mill levy equal to the difference  
 16 between the mills levied in that year and the maximum mill  
 17 levy authorized by law to be made for such fund, computed  
 18 against the taxable value of the property subject to such  
 19 levy as shown by the last completed assessment roll of the  
 20 county."

21 Section 13. Section 7-6-2401, MCA, is amended to read:

22 "7-6-2401. Creation of office of county auditor. (1)  
 23 Except as provided in subsection (2), the office of county  
 24 auditor ~~is hereby created and the same shall exist~~ exists in  
 25 all counties of Montana of the first, second, third, and or

1 fourth classes class.

2 (2) The provisions of this part shall ~~do~~ not apply to  
 3 counties having a population of less than 15,000 persons  
 4 according to the ~~test~~ most recent federal census ~~of 1960.~~"

5 Section 14. Section 7-6-2402, MCA, is amended to read:

6 "7-6-2402. Optional election for county auditor. There  
 7 may be elected in ~~and for~~ each county of the classes named  
 8 in 7-6-2401 some person to serve as county auditor. He shall  
 9 ~~be elected for the term of 4 years and until his successor~~  
 10 ~~shall be elected and qualified. The term shall begin on the~~  
 11 ~~first Monday in January succeeding his election."~~

12 Section 15. Section 7-6-2403, MCA, is amended to read:

13 "7-6-2403. Qualifications of county auditor. No person  
 14 shall ~~be~~ is eligible to serve in the office of county  
 15 auditor of any county ~~within the state~~ who shall ~~not have~~  
 16 ~~arrived at the age of voting is not of voting age~~ and who  
 17 shall ~~has~~ not have been a bona-fide resident of the count  
 18 for which he shall ~~be~~ is elected or appointed for at least 2  
 19 years preceding his election or appointment."

20 Section 16. Section 7-6-2406, MCA, is amended to read:

21 "7-6-2406. Compensation of auditor. The county auditor  
 22 shall ~~receive~~ receives the annual compensation provided by  
 23 law, payable monthly by warrants drawn on the treasury of  
 24 the county ~~treasurer~~, and shall receive no other  
 25 compensation or emolument whatsoever for any service or

1 services rendered or performed by him, except actual  
2 expenses for living and traveling whenever the duties of his  
3 office require his presence at any place in the county other  
4 than the county seat, and then only after the ~~some~~ travel  
5 has been ordered and advised by the board of county  
6 commissioners."

7 Section 17. Section 7-6-2409, MCA, is amended to read:

8 "7-6-2409. Examination of county books and accounts.

9 (1) ~~It shall be~~ is the duty of the county auditor to ~~make an~~  
10 ~~examination of~~ examine the books and accounts of the county  
11 treasurer, the county clerk and recorder, the sheriff, the  
12 clerk of the district court, and all other county and  
13 township officers within 15 days ~~preceding each~~ prior to the  
14 first regular session of the board of county commissioners  
15 ~~at their next session immediately following such examination~~  
16 in March, June, September, and December of each year unless  
17 a longer time be is granted ~~him~~ to the auditor by the board  
18 ~~in which to report the same.~~

19 (2) ~~Said~~ The quarterly report shall contain a full and  
20 complete statement of the money received and disbursed by  
21 each of the officers since the last examination and report  
22 ~~of the same.~~ For the purpose of this section, the county  
23 auditor ~~shall have~~ has free access to all books and papers  
24 in each of ~~said~~ the offices."

25 Section 18. Section 7-6-2421, MCA, is amended to read:

1 "7-6-2421. Presentation of claims against county. (1)  
2 No account ~~must~~ may be allowed by the board unless the same  
3 is made out in separate items, with the nature of each item  
4 stated. If the claim is for official services for which no  
5 specified fees are fixed by law, the time actually and  
6 necessarily devoted to such services ~~must~~ be stated. No  
7 account ~~must~~ be necessarily passed upon by the board unless  
8 made out as prescribed in this section and filed by the  
9 clerk prior to the session at which it is asked to be heard.

10 (2) Claims against the county shall contain the  
11 following statement: "I certify that this claim is correct  
12 and just in all respects and that payment or credit has not  
13 been received." Claims need not be verified by affidavit.

14 (3) Every claim against the county, except claims  
15 arising from injury to a person or property, which are  
16 limited under provisions of Title 2, chapter 9, parts 1  
17 through 3, as amended, must be presented within 1 year after  
18 the last item accrued.

19 (4) No county officer ~~must~~ may, except for his own  
20 service, present any claim, account, or demand for allowance  
21 against the county or in any way advocate the relief asked  
22 on the claim or demand made by another.

23 (5) ~~if money~~ Money deposited in the county treasury  
24 pursuant to [former section 16-2616, R.C.M. 1947] ~~is~~  
25 ~~demanded within 6 years by the legal representatives of the~~



1 ~~decedent, the treasurer must pay it to them, after deducting~~  
 2 ~~the fees and expenses of the coroner and of the county in~~  
 3 ~~relation to the matter, or the same may be so paid at any~~  
 4 ~~time thereafter upon the order of the board of county~~  
 5 ~~commissioners, and not otherwise disposed of shall be~~  
 6 ~~transferred by the county treasurer to the state treasurer~~  
 7 ~~for deposit in the agency fund provided for in Title 72,~~  
 8 ~~chapter 14, part 2. The county treasurer may deduct the fees~~  
 9 ~~and expenses of the coroner and the county prior to~~  
 10 ~~transferring the money."~~

11 Section 19. Section 7-6-2422, MCA, is amended to read:

12 "7-6-2422. Opposition to claims. Any citizen ~~and~~  
 13 ~~resident or~~ taxpayer of the county in which he resides may  
 14 appear before the board and oppose the allowance of any  
 15 claim or demand made against the county."

16 Section 20. Section 7-6-2424, MCA, is amended to read:

17 "7-6-2424. Appeal of decision concerning claim. (1)  
 18 Whenever a claim against a county is disallowed in whole or  
 19 in part or when ~~whenever~~ any taxpayer ~~or resident~~ of the  
 20 county is not satisfied with any allowance made by the  
 21 board, the claimant, ~~or such taxpayers or resident~~ may  
 22 appeal from the decision of the board to the district court  
 23 for the county by causing a written notice of appeal to be  
 24 served on the clerk of the board within 30 days after the  
 25 making of the decision or allowance and executing a bond to

1 the county, with surety to be approved by the clerk of the  
 2 board, conditioned to prosecute such ~~the~~ appeal to effect  
 3 and to pay all costs that may be adjudged against the  
 4 appellant.

5 (2) The clerk of the board, upon an appeal being  
 6 taken, must immediately give notice thereof to the county  
 7 attorney and must make out a return of the proceedings in  
 8 the matter before the board, with its decision thereon, and  
 9 file the same, together with the bond and all the papers  
 10 therein in his possession, with the clerk of the district  
 11 court.

12 (3) Such ~~the~~ appeal must be entered, tried, and  
 13 determined the same as appeals from justices' courts, and  
 14 costs are awarded in like manner."

15 Section 21. Section 7-6-2428, MCA, is amended to read:

16 "7-6-2428. Procedure to collect charges when criminal  
 17 case is removed. (1) The district court of the county to  
 18 which such a criminal action is removed must certify the  
 19 amount of costs allowed and certified by the court to the  
 20 board of county commissioners of ~~its~~ the county ~~of the~~  
 21 district court. Such board shall audit the same and draw its  
 22 warrants therefor upon the treasurer treasury of the county  
 23 from which such ~~the~~ action was removed, ~~and such~~ the board  
 24 drawing the warrants shall forward to ~~said~~ the treasurer and  
 25 board of the county from which ~~said~~ the action was

1 transferred~~as-aforsaid~~, a certified copy of the total  
2 amount allowed by the court, giving each item as certified  
3 to them by the clerk of the district court and the court.

4 (2) The board receiving such ~~the~~ certified copy of  
5 said ~~the~~ costs allowed shall enter the same in its books as  
6 a charge against the ~~treasurer treasury~~ of its county. The  
7 county treasurer of the county from which such ~~the~~ action  
8 was removed must, immediately upon presentation, pay said  
9 warrant ~~the warrants~~ out of the general fund of said ~~that~~  
10 county, or if at the time of presentation, there is not  
11 sufficient money in the general fund to pay the same, he  
12 must endorse upon said ~~warrant the warrants~~ "Not paid for  
13 want of funds", and ~~said-warrant the warrants~~ must be  
14 registered and ~~shall~~ draw interest at the same rate and be  
15 paid in the same manner as though it had been drawn by the  
16 board of the county where the indictment was found or  
17 information filed."

18 Section 22. Section 7-6-2430, MCA, is amended to read:

19 "7-6-2430. Accounts to be examined, settled, and  
20 allowed. The board of county commissioners has jurisdiction  
21 and power, under such limitations and restrictions as are  
22 prescribed by law, at the regular meetings of the board, to  
23 examine, settle, and allow all accounts legally chargeable  
24 against the county, except salaries of officers, and order  
25 warrants to be drawn on the county ~~treasurer treasury~~

1 therefor and provide for the issuing of the same."

2 Section 23. Section 7-6-2601, MCA, is amended to read:

3 "7-6-2601. Details related to county warrants. (1)  
4 Warrants issued pursuant to 7-6-2202(1) shall be signed by  
5 the county clerk and the chairman of the board of county  
6 commissioners, except warrants drawn on the redemption fund.

7 (2) All warrants issued by the county clerk during  
8 each year, commencing with the first Monday in January, must  
9 be numbered consecutively. The number, date, and amount of  
10 each and the name of the person to whom payable and the  
11 purpose for which drawn must be stated thereon; and they ~~the~~  
12 ~~warrants~~ must, at the time they are issued, be registered by  
13 him.

14 (3) Warrants drawn by order of the board on the county  
15 ~~treasurer treasury~~ for the current expenses during each year  
16 must specify the liability for which they are drawn and when  
17 they ~~the liability~~ accrued."

18 Section 24. Section 7-6-2607, MCA, is amended to read:

19 "7-6-2607. Examination and processing of warrants. (1)  
20 The board, at its annual March session or oftener ~~more often~~  
21 if necessary, must examine the county warrants returned by  
22 the county treasurer by comparing each warrant with the  
23 record of warrants issued in the county clerk's office.

24 (2) The board must cause to be canceled all county  
25 warrants that have remained uncalled for 1 year or more in

SB 337

1 the county clerk's office, ~~the same~~ these warrants to be  
 2 canceled in the same manner as other county warrants. At the  
 3 same time, the county treasurer must deliver to the board  
 4 all warrants or vouchers that ~~he may have~~ are in his the  
 5 treasurer's possession for money disbursed by him as  
 6 treasurer and the clerk must receipt for the same.

7 (3) The board must cause to be entered on said the  
 8 record of warrants, opposite to the entry of each warrant  
 9 issued, the date when the ~~same~~ warrant was canceled and must  
 10 make a list of the canceled warrants so-canceled, specifying  
 11 the number, date, amount, and the person to whom the same  
 12 was payable, and enter must cause the same list to be  
 13 entered on the minutes of the board."

14 Section 25. Section 7-6-2801, MCA, is amended to read:  
 15 "7-6-2801. Management of school funds. The county  
 16 treasurer must:

17 (1) keep all school money in a separate fund and keep  
 18 a separate account of its disbursement to the several school  
 19 districts which are entitled to receive it, according to the  
 20 apportionment of the county superintendent of common  
 21 schools;

22 (2) notify the county superintendent of the amount of  
 23 the county school fund in the county treasury subject to  
 24 apportionment, whenever required, and inform him of the  
 25 amount of school money belonging to any other fund subject

1 to apportionment, or as otherwise provided by law;

2 (3) pay all warrants drawn on county or district  
 3 school money, in accordance with the provisions of law,  
 4 whenever such warrants are countersigned by the district  
 5 clerk and properly endorsed by the holders;

6 (4) make, annually, during the month of September, a  
 7 financial report for the preceding year ending August 31 to  
 8 the county superintendent, in such form as ~~may--be~~ is  
 9 required by him."

10 Section 26. Section 7-6-4101, MCA, is amended to read:

11 "7-6-4101. Fiscal year for municipalities. The fiscal  
 12 year of cities and towns commences on July 1 of each year  
 13 and ends on June 30 of each the following year."

14 Section 27. Section 7-6-4113, MCA, is amended to read:

15 "7-6-4113. Filing of annual financial statement. (1)  
 16 The city or town clerk must, not later than August 31  
 17 following the close of each fiscal year, transmit one copy  
 18 of the statement to the department of community affairs and  
 19 must present the other copy to the city or town council or  
 20 commission at its first regular meeting in September.

21 (2) If a city or town clerk fails to file a copy of  
 22 the statement with the department within the time specified,  
 23 the department, without delay, shall examine the books,  
 24 records, and accounts of the city or town. The department  
 25 shall make from its examination a statement of the financial

1 condition of the city or town for the preceding fiscal year  
 2 in the manner it should have been made by the city or town  
 3 clerk. The examination shall be considered a special  
 4 examination audit under the provisions of subsections (4)  
 5 and (5) of 2-7-503, and all of the provisions of subsections  
 6 (4) and (5) of 2-7-503 apply to it."

7 Section 28. Section 7-6-4121, MCA, is amended to read:  
 8 "7-6-4121. Authorization to conduct municipal business  
 9 on a cash basis. (1) In case the total indebtedness of a  
 10 city or town has reached 11% of the total taxable value of  
 11 the property of the city or town subject to taxation, as  
 12 ascertained by the last assessment for state and county  
 13 taxes, the city or town may conduct its affairs and business  
 14 on a cash basis as provided by subsection (2).

15 (2) (a) ~~in case the total indebtedness of a city or~~  
 16 ~~town has reached the limit of 5% of the value of taxable~~  
 17 ~~property therein, it shall be lawful for and said city or~~  
 18 ~~town is hereby authorized and empowered to thereafter manage~~  
 19 ~~and conduct~~ Whenever a city or town is conducting its  
 20 business affairs on a cash basis, ~~and pay~~ the reasonable and  
 21 necessary current expenses of the city or town may be paid  
 22 out of the cash in the city or town treasury and derived  
 23 from its current revenues, under such restrictions and  
 24 regulations as the city or town council may by ordinance  
 25 prescribe.

1 (b) In the event that payment be is made in advance,  
 2 the city or town ~~shall have power to~~ may require a cash  
 3 deposit as collateral security and indemnity, equal in  
 4 amount to such payment, and may hold the same as a special  
 5 deposit with the city treasurer or town clerk, in package  
 6 form, as a pledge for the fulfillment and performance of the  
 7 contract or obligation for which ~~said the~~ advance shall have  
 8 been is made.

9 (c) Before the payment of the current expenses  
 10 mentioned above, the city or town council shall first set  
 11 apart sufficient money to pay the interest upon its legal,  
 12 valid, and outstanding bonded indebtedness and any sinking  
 13 funds therein provided for and shall be authorized to pay  
 14 all valid claims against funds raised by tax especially  
 15 authorized by law for the purpose of paying such claims."

16 Section 29. Section 7-6-4227, MCA, is amended to read:  
 17 "7-6-4227. Notice of hearing on preliminary budget.  
 18 (1) The council shall then cause a notice to be published  
 19 stating that:

20 (a) ~~said the~~ council has completed its preliminary  
 21 municipal budget for the current fiscal year;

22 (b) ~~said the~~ budget has been placed on file and is  
 23 open to inspection in the office of the clerk of the  
 24 municipality;

25 (c) ~~said the~~ council will meet on the Wednesday

1 immediately preceding the second Monday in August thereafter  
 2 for the purpose of fixing the final budget and making  
 3 appropriations, designating the time and place when and  
 4 where such meeting will be held; and

5 (d) any taxpayer or resident may appear thereat at the  
 6 meeting and may be heard for or against any part of ~~said the~~  
 7 budget.

8 (2) ~~Said the~~ notice shall be published at least one  
 9 time in the official newspaper of the municipality or, if  
 10 there be is none, then in a newspaper of general circulation  
 11 in the county in which the municipality is situated."

12 Section 30. Section 7-6-4228, MCA, is amended to read:

13 "7-6-4228. Hearing on preliminary budget. (1) On the  
 14 Wednesday preceding the second Monday in August, the council  
 15 shall meet at the time and place designated in the notice  
 16 provided in 7-6-4227, at which time any taxpayer or resident  
 17 may appear and be heard for or against any part of the  
 18 budget. The council may call in the official in charge of an  
 19 office, department, service, or institution, at the time the  
 20 estimates for their respective offices are under  
 21 consideration, for examination concerning the estimates. The  
 22 official shall be called in by the council, upon the request  
 23 of a taxpayer or resident, for questioning upon the  
 24 estimates either by the council, ~~or a taxpayer, or resident.~~

25 (2) The hearing shall be continued from day to day and

1 shall be concluded and the budget finally approved and  
 2 adopted on the second Monday in August, prior to the fixing  
 3 of the tax levies by the council."

4 Section 31. Section 7-6-4232, MCA, is amended to read:

5 "7-6-4232. Fixing of tax levy. (1) On the second  
 6 Monday in August and after the approval and adoption of the  
 7 final budget, the council shall fix the tax levy for each  
 8 fund at a rate, not exceeding limits prescribed by law,  
 9 which will raise the amount set out in the budget as the  
 10 amount necessary to be raised by tax levy for that fund  
 11 during the current fiscal year. The taxable valuation of the  
 12 city for the current fiscal year shall be the basis for  
 13 determining the amount of the tax levy for each fund, and  
 14 each tax levy shall be at a rate no higher than is required  
 15 on that basis, without including any amount for anticipated  
 16 tax delinquency, to raise the amount set out in the budget.

17 (2) If the council considers that a levy made for  
 18 bond sinking or interest fund will not provide a sufficient  
 19 amount to pay all bond principal and interest becoming due  
 20 during the current fiscal year or within 6 months after the  
 21 current fiscal year because of anticipated tax delinquency,  
 22 the council may fix the levy at a rate it considers  
 23 necessary to raise the amount for making the payments of  
 24 principal and interest over and above the anticipated tax  
 25 delinquency.

1 (3) Each levy shall be made in the manner provided by  
2 15-10-201."

3 Section 32. Section 7-6-4252, MCA, is amended to read:  
4 "7-6-4252. Procedure to make expenditures and incur  
5 liabilities in case of other emergencies. (1) In a public  
6 emergency other than ~~such as are specifically those~~  
7 described in 7-6-4251 and which could not reasonably have  
8 been foreseen at the time of making the budget, the council,  
9 by unanimous vote of the members present at any meeting (the  
10 time and place of which all of the members shall have had  
11 reasonable notice), shall adopt and enter upon their minutes  
12 a resolution stating the facts constituting the emergency,  
13 the estimated amount of money required to meet ~~such the~~  
14 emergency, and the fund against which emergency warrants  
15 shall be drawn.

16 (2) The council shall publish the resolution, together  
17 with a notice that a public hearing will be held ~~thereon on~~  
18 ~~the resolution~~ at the time and place designated ~~therein in~~  
19 ~~the notice~~, once in the official newspaper of the  
20 municipality and, if there ~~be is~~ none, then in a newspaper  
21 of general circulation in the county in which the  
22 municipality is situated. The hearing ~~shall may~~ not be less  
23 than 1 week after the date of ~~said~~ publication.

24 (3) Any taxpayer ~~or resident of the municipality~~ may  
25 appear at the hearing and be heard for or against the

1 expenditure of money for ~~such the~~ alleged emergency.

2 (4) (a) Upon the conclusion of ~~such the~~ hearing, if  
3 the council ~~shall approve of such~~ approves the emergency  
4 expenditure, it shall make and enter upon its official  
5 minutes, by unanimous vote of all of the members of the  
6 council present at ~~such the~~ meeting, an order setting forth  
7 the facts constituting ~~such the~~ emergency, together with the  
8 amount of expenditure authorized therefor by them and the  
9 fund against which emergency warrants shall be drawn.  
10 Subject to the limitations of subsection (4)(b), the order  
11 ~~so entered shall be~~ is lawful authorization for them to  
12 expend such amount, but no more, for such purpose.

13 (b) No expenditure ~~shall may~~ be made or liability  
14 incurred pursuant to ~~said the~~ order until 5 days, exclusive  
15 of the day of entry of ~~said the~~ order, ~~shall have elapsed~~  
16 elapse."

17 Section 33. Section 7-6-4253, MCA, is amended to read:  
18 "7-6-4253. Appeal of order for certain emergency  
19 expenditures. (1) During the 5-day period provided by  
20 7-6-4252(4)(b), any taxpayer or ~~taxpayers~~ resident of ~~said~~  
21 ~~the~~ municipality feeling aggrieved by the order issued  
22 pursuant to 7-6-4252(4) may appeal therefrom to the district  
23 court for the county in which the municipality is situated  
24 by filing with the clerk of ~~such the~~ court a verified  
25 petition, a copy of which ~~shall has~~ theretofore have been

1 served upon the clerk of said ~~the~~ municipality. ~~Said the~~  
 2 petition shall set forth in detail the objections of the  
 3 petitioner ~~or-petitioners~~ to said ~~the~~ order, giving their  
 4 reasons why the said emergency does not exist.

5 (2) Until final determination of the matter by the  
 6 court, the service and filing of such ~~the~~ petition ~~shall~~  
 7 operate ~~operates~~ to suspend such ~~the~~ emergency order and the  
 8 authority to make any expenditure or incur any liability  
 9 thereunder.

10 (3) Upon the filing of such ~~the~~ petition, the court  
 11 shall immediately fix a time for hearing such ~~the~~ petition,  
 12 which ~~time~~ shall be at the earliest convenient time. At such  
 13 ~~the~~ hearing the court shall hear the matter de novo and may  
 14 take such testimony as it deems ~~considers~~ necessary. ~~Its the~~  
 15 ~~court's~~ proceedings shall be summary and informal, and its  
 16 determination as to whether an emergency such as is  
 17 contemplated within the meaning and provisions of this part  
 18 exists or not and whether the expenditure authorized by said  
 19 ~~the~~ order is excessive or not ~~shall-be is~~ final."

20 Section 34. Section 7-6-4302, MCA, is amended to read:

21 "7-6-4302. Payment of claims by warrant. Except as  
 22 provided in 7-6-4121, all accounts and demands against a  
 23 city or town must be submitted to the council and, if found  
 24 correct, must be allowed and an order must be made that the  
 25 demand be paid ~~upon-which-the~~. ~~The~~ mayor must draw a

1 warrant upon the treasurer ~~treasury~~ in favor of the owner,  
 2 specifying for what purpose and by what authority it is  
 3 issued and out of what funds it is to be paid. The city  
 4 treasurer or town clerk must pay the same ~~warrant~~ out of the  
 5 proper fund."

6 Section 35. Section 7-6-4402, MCA, is amended to read:

7 "7-6-4402. Tax-related duties of city treasurer. It  
 8 ~~shall-be is~~ the duty of the city treasurer to perform such  
 9 duties in the collection of taxes, ~~licenses license fees~~, or  
 10 assessments as are ~~or-may-be~~ prescribed by law or  
 11 ordinance."

12 Section 36. Section 7-6-4404, MCA, is amended to read:

13 "7-6-4404. Tax-related duties of town clerk. It ~~shall~~  
 14 be ~~is~~ the duty of the town clerk to perform such duties in  
 15 the collection of taxes, ~~licenses license fees~~, or  
 16 assessments as are ~~or-may-be~~ prescribed by law or  
 17 ordinance."

18 Section 37. Section 7-6-4414, MCA, is amended to read:

19 "7-6-4414. Sales for delinquent taxes when county  
 20 collects municipal tax. (1) All publications for ~~of~~ sales  
 21 for delinquent taxes shall include such city or town taxes  
 22 ~~there-being-but~~. ~~There is only~~ one sale for each piece of  
 23 property. The sale shall cover the aggregate of such city  
 24 or town, county, and state taxes, with the penalties,  
 25 interest, and cost of advertising provided by law.

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

6 Section 38. Section 7-6-4431, MCA, is amended to read:

7 "7-6-4431. Authorization to exceed maximum mill levy  
8 -- election required. (1) Subject to the conditions of  
9 subsection (2), whenever the council of any city or town  
10 ~~shall deem~~ considers it necessary to raise money by  
11 taxation, in excess of the levy now allowed by law, for any  
12 purpose for which ~~said the~~ city or town is authorized to  
13 expend money raised by taxation in ~~said the~~ city or town, ~~it~~  
14 the council shall submit the question of such additional  
15 levy to the ~~legal~~ registered voters of ~~such the~~ city or town  
16 ~~who are taxpaying freeholders therein~~, either at the regular  
17 annual election held in ~~said the~~ city or town or at a  
18 special election called for that purpose by the council of  
19 ~~such the~~ city or town. If the majority voting on the  
20 question are in favor of ~~such an~~ additional levy-or-levies,  
21 the city or town council shall so certify and such  
22 additional levy or-levies-of-taxes shall be made by the city  
23 or town council for that year.

24 (2) Such additional levy ~~shall~~ may not exceed 5  
25 mills."

1 Section 39. Section 7-6-4438, MCA, is amended to read:

2 "7-6-4438. Tax levy and expenditures for municipal and  
3 administrative purposes when limits on municipal  
4 indebtedness exceeded. (1) All taxes levied and collected or  
5 to-be-collected for municipal and administrative purposes by  
6 any city or town in which the indebtedness equals or exceeds  
7 the limit allowed ~~in~~ by statute may be used in payment of  
8 current expenses during the fiscal year for which the taxes  
9 were levied, as if a special levy had been made for each of  
10 the purposes. The council of any such city or town may  
11 designate the amount of the general levy applicable to each  
12 of the purposes. The amount so designated constitutes a  
13 special fund for the special purpose of paying the expenses  
14 incurred for the purpose. The expenses shall be payable out  
15 of the fund and not otherwise.

16 (2) However, the aggregate of all taxes authorized for  
17 general ~~municipal~~ and administrative purposes may not exceed  
18 ~~5-1/2%~~ 1.5% annually of the taxable value of all property  
19 subject to taxation in ~~such the~~ city or town.

20 (3) Any city, the indebtedness of which equals or  
21 exceeds ~~said the~~ limit allowed by statute, ~~shall be~~  
22 ~~authorized to~~ may levy and collect special taxes for  
23 municipal and administrative purposes, and the city council  
24 in making ~~such--levy~~ special levies shall designate the  
25 amount thereof for each of ~~said the~~ purposes, and each tax,



1 when collected, ~~shall constitute~~ constitutes a fund out of  
 2 which the expenses incurred for the purpose for which ~~such~~  
 3 ~~the~~ tax was levied shall be paid. The expenses incurred for  
 4 any ~~such~~ particular purpose shall be paid out of the fund ~~so~~  
 5 ~~to-be~~ provided therefor and not otherwise."

6 Section 40. Section 7-6-4501, MCA, is amended to read:

7 "7-6-4501. Interest on unpaid warrants. When any  
 8 warrant drawn upon the ~~treasurer treasury~~ of a city or a  
 9 town ~~clerk~~ and pursuant to any ordinance or resolution or  
 10 direction of the council of ~~such the~~ city or town is  
 11 presented to the city treasurer or town clerk for payment  
 12 and the same is not paid for want of funds, ~~such the city~~  
 13 ~~treasurer or town clerk~~ must endorse thereon "Not paid for  
 14 want of funds", annexing the date of presentation, and  
 15 signing his name thereto. From that time until ~~such the~~  
 16 warrant is called for payment, the warrant ~~shall-bear~~ bears  
 17 interest at a rate fixed by ordinance."

18 Section 41. Section 7-6-4603, MCA, is amended to read:

19 "7-6-4603. Investment of municipal money in city or  
 20 town warrants. (1) Except as provided in 7-7-4102, whenever  
 21 the city or town has, under its control and in any fund, any  
 22 money for which there is no immediate demand and which, in  
 23 the judgment of the city or town council, it would be  
 24 advantageous to invest in city or town warrants, the city or  
 25 town council ~~is authorized in their discretion to may~~ direct

1 the city treasurer or town clerk to purchase legally issued  
 2 city or town general obligation warrants of the same city or  
 3 town thereafter issued against funds in which there is not  
 4 sufficient funds to pay such city or town warrants at the  
 5 time of issuance.

6 (2) (a) In case of such purchase, the city or town  
 7 council shall designate the fund or funds to be ~~so~~ invested  
 8 and shall fix the amount thereof and shall also designate  
 9 the city or town ~~warrant-or~~ warrants which are to be  
 10 purchased by such funds. The city or town clerk shall  
 11 thereupon cause to be attached to or stamped, written, or  
 12 printed upon the warrants ~~so~~ ordered to be purchased a  
 13 notice to the effect that the city or town will exercise its  
 14 preference right to purchase such warrant.

15 (b) The city treasurer or town clerk shall thereafter,  
 16 when such city or town warrant is presented to him, purchase  
 17 the ~~same~~ out of the proper fund as designated by the city or  
 18 town council. The warrant so purchased shall be registered  
 19 as other city or town warrants and bear interest as provided  
 20 by law.

21 (3) When the designated amounts have been invested,  
 22 the city treasurer ~~or town clerk~~ shall notify the city or  
 23 town clerk."

24 Section 42. Repealer. Section 7-6-4433, MCA, is  
 25 repealed.

SENATE MEMBERS

CARROLL GRAHAM  
CHAIRMAN

FRANK HAZEL BAKER  
VICE CHAIRMAN

CHET BLAYLOCK

PAT M. GOODOVER

DIANA S. DOWLING  
EXECUTIVE DIRECTOR  
CODE COMMISSIONER

ELEANOR ECK  
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY  
DIRECTOR, LEGISLATIVE SERVICES



# Montana Legislative Council

State Capitol  
Helena, 59601

(406) 449-3064

HOUSE MEMBERS

OSCAR KVALEN

REX MANUEL

ROBERT L. MARKS

JOHN VINCENT

H. DAVID COGLEY  
DIRECTOR, LEGAL SERVICES

ROBERT PERSON  
DIRECTOR, RESEARCH

SHAROLE CONNELLY  
DIRECTOR, ACCOUNTING DIVISION

LC 0555

1979 Legislature  
Code Commissioner Bill - Summary

*Handwritten:* Bill No. 334

AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO FINANCIAL ADMINISTRATION AND TAXATION.

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

Section 1. 7-6-106. In subsection (2), "county treasurer" is changed to "county treasury" to reflect the fact that warrants are drawn on the treasury, not the treasurer. Subsection (3)(b) is rewritten slightly for clarity.

Section 2. 7-6-207. Subsection (3) is deleted and the reference in subsection (3) to cashier's checks is added to subsection (1). In essence adding the reference in subsection (1) causes subsection (3) to be redundant.

Section 3. 7-6-2112. In subsection (1), a reference to submission of a report at every regular meeting is changed to a monthly submittal. This change reflects the actual practice in the counties. The existing law dates from a period when the county commissioners met quarterly. Today's law provides for more frequent meetings and the reference to every regular meeting is no longer appropriate. In the second sentence of subsection (2), "such report" is changed to the "quarterly report" for clarity. Both subsections (1) and (2) refer to reports. From the context it seems clear that the report referred to by "such report" is the report of that subsection, which is a quarterly report.

Section 4. 7-6-2201. This section is rewritten for clarity.

Section 5. 7-6-2202. In subsection (1), "county treasurer" is changed to "county treasury" to reflect the fact that warrants are drawn on the treasury and not the treasurer. In subsections (2) and (3), "He" is changed to "The county clerk" for clarity.

Section 6. 7-6-2221. This section is rewritten for clarity.

Section 7. 7-6-2302. A rulemaking exception relating to 7-6-2329 is deleted. The exception was added during the recodification

process when a reference to "act" was changed to "part" and the MCA part contained 7-6-2329, which was not contained in the original act. It would appear that the intent of the legislature is to permit rulemaking authority for the situation covered by 7-6-2329; hence the exception is recommended for deletion.

Sections 8 through 11. 7-6-2316, 7-6-2317, 7-6-2342, and 7-6-2343. Sections 7-6-2316, 7-6-2317, and 7-6-2342 are amended to permit any resident of the county to appear and be heard at the budget hearing. Having granted the right of participation to taxpayers, the rationale of various Montana and United States Supreme Court decisions would seem to indicate that it is appropriate that any resident be allowed to participate. Article II, section 8, of the Montana constitution provides for the right of participation. Similarly, 7-6-2343 is amended to permit any resident to appeal the decision of the county commissioners. In addition 7-6-2342 and 7-6-2343 are rewritten for clarity.

Section 12. 7-6-2344. This section is rewritten for clarity. In subsection (1), the qualification for voting is rewritten to permit all electors of the county to vote. The "taxpaying freeholder" requirement would appear to be unconstitutional in view of the decisions of the United States Supreme Court. (For discussion see 35 L. Ed.2d 843 (1974)).

Section 13. 7-6-2401. The section is rewritten for clarity. In subsection (2), a reference to the 1960 federal census is rewritten to refer to the current federal census. It appears to be the intent of the section that the ability to create the office of county auditor should hinge on current population and not the 1960 population.

Section 14. 7-6-2402. The last two sentences are deleted as redundant with 7-4-2205. Section 7-4-2203 is proposed to be amended to contain the county auditor in the list of county officers in 7-4-2203(1).

Section 15. 7-6-2403. This section is rewritten for clarity. At the end of the section, the words "or appointment" are added to reflect the fact that the county auditor may be elected or appointed.

Section 16. 7-6-2406. The phrase "treasury of the county treasurer" is changed to the "treasury of the county" to correct what appears to be an error.

Section 17. 7-6-2409. This section originated in 1891 at which time the commissioners met quarterly. Because the regular meetings of the county commissioners are held more frequently at present, the section is amended to refer to the regular meetings in March, June, September, and December and to quarterly reports to bring the language into better accord with the present meeting set-up for the county commissioners. The new language also more accurately reflects the actual procedure in the auditor's office.

Section 18. 7-6-2421. Subsection (5) is rewritten to accommodate the proposed repeal of 16-2616 (see section 30 of LC 0553). The language chosen provides a mechanism to treat the money referred to in the same manner as escheated property.

Section 19. 7-6-2422. The language is rewritten to permit any taxpayer or resident of the county to appear before the board of county commissioners and register opposition to a claim. (See discussion for sections 8 through 11.)

Section 20. 7-6-2424. Subsection (1) is rewritten to permit taxpayers or residents to appeal certain decisions of the board of county commissioners. (See discussion for sections 8 through 11.)

Sections 21 through 23. 7-6-2428, 7-6-2430, and 7-6-2601. References to the "treasurer" are changed to "treasury" to utilize the proper terminology. Sections 7-6-2428 and 7-6-2601 are rewritten for clarity.

Section 24. 7-6-2607. This section is rewritten for clarity.

Section 25. 7-6-2801. In subsection (1), "superintendent of common schools" is changed to "superintendent of schools" to utilize proper terminology.

Section 26. 7-6-4101. This section is rewritten for clarity.

Section 27. 7-6-4113. In subsection (2), "special examination" is changed to "special audit" to utilize the terminology of 2-7-503.

Section 28. 7-6-4121. Subsection (2)(a) is rewritten to delete a reference to a 5% limit on taxable value. This 5% limitation conflicts with the language of subsection (1), which is the more recent enactment.

Sections 29 and 30. 7-6-4227 and 7-6-4228. The right to appear and be heard at a hearing on the budget is extended to residents of the municipality. (See discussion sections 8 through 11.)

Section 31. 7-6-4232. In subsection (2), the word "principal" is added following bond to correct what appears to be an inadvertent omission of the term.

Sections 32 and 33. 7-6-4252 and 7-6-4253. Both sections are rewritten for clarity. In 7-6-4252 residents are extended the right to appear and be heard at certain budget hearings, and in 7-6-4253 residents are extended the right to appeal municipal council actions regarding the budget to district court. (See discussion sections 8 through 11.)

Section 34. 7-6-4302. "Treasurer" is changed to "treasury" to correct improper terminology. Warrants are drawn on the treasury, not the treasurer.

Sections 35 and 36. 7-6-4402 and 7-6-4404. "Licenses" is changed to "license fees" to correct improper terminology. Fees are collected, not the licenses themselves.

Section 37. 7-6-4414. This section is rewritten for clarity.

Section 38. 7-6-4431. This section is rewritten for clarity. In subsection (1), the requirement that voters in certain elections be taxpaying freeholders is deleted. The "taxpaying freeholder" requirement appears to be unconstitutional in view of several decisions of the United States Supreme Court. (See discussion 35 L.Ed.2d 843 (1974)).

Section 39. 7-6-4438. This section is rewritten for clarity. In subsection (2), "5½" is changed to "1.5%". Chapter 566, Laws of 1977, revised the property tax system. In present section 7-6-4405 a limit of 2.4% was retained by the 1977 amendments, but in 7-6-4438, a limit of 1.5% was changed to 5½%. This appears to have been an oversight and either the limit in 7-6-4405 should be increased or the limit in 7-6-4438 should be decreased. The proposed amendment decreases the figure in 7-6-4438 to the percentage used prior to the passage of Chapter 566. It also appears that the language originally employed in 7-6-4438 (per centum of the assessed value of all taxable property) has been construed as equivalent to the term taxable value, hence no change in the percentage figure should have been made in 1977.

Sections 7-6-4405 and 7-6-4438 provide limitations on the tax levy for general municipal or administrative purposes. Section 7-6-4405 relates to the ordinary operation of the municipality while 7-6-4438 deals with the situation when a municipality exceeds statutory debt limitations. Prior to the 1977 amendments, the percentage limitation on tax during normal operations (2.4%) exceeded the permissible limitation on tax during excess-debt operations (1.5%). The 1977 amendment by changing 1.5% to 5.5% altered this relationship. It would seem to be illogical to permit the city to tax more for general and administrative operations when the city is over the debt limits than when the city is controlling its debt. Thus a change is needed. As discussed above on the basis of the meaning of the language and the fact that 2.4% in 7-6-4405 was not changed, the 5.5% in 7-6-4438 has been changed back to the original figure of 1.5%.

Section 40. 7-6-4501. "Treasurer" is changed to "treasury" to correct improper terminology. Warrants are drawn upon the treasury, not the treasurer. References to the treasurer or town clerk are also rewritten to correlate with the assignment of town treasurer duties to the town clerk under 7-6-4108(2).

Section 41. 7-6-4603. In subsection (3), references to the town clerk are deleted. Under 7-6-4108(2), the town clerk assumes the functions of the town treasurer. Previously, the town treasurer was required to notify the town clerk of certain actions. Because of 7-6-4108(2), this becomes the town clerk notifying the town clerk, which is redundant and hence is deleted

Section 42. Repealer. Section 7-6-4433, MCA, is recommended for repeal. This section deals with registration of electors who are taxpaying freeholders for certain elections concerning mill levies. The section appears to be unconstitutional under the decisions of the United States Supreme Court. (See discussion 35 L. Ed.2d 843 (1974)).

Approved by Comm.  
on Local Government

*Senate* BILL NO. 339  
*Rasmussen*

INTRODUCED BY \_\_\_\_\_

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 FINANCIAL ADMINISTRATION AND TAXATION; REPEALING SECTION 7-6-4433, MCA."

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

Section 1. Section 7-6-106, MCA, is amended to read:

"7-6-106. Political subdivisions to receive county warrants for share of in-lieu payments. (1) After apportioning any payment to the several accounts as provided in 7-6-105, the county treasurer shall prepare in duplicate a complete itemized statement, one copy of which shall be filed with the board of county commissioners and the other of which shall be filed with the county clerk.

(2) The board shall, by appropriate resolution, order warrants drawn on the county treasurer ~~treasury~~ to the order of each political subdivision named in the itemized statement and in the amount of the political subdivision's share in the payment. The county clerk shall draw and sign ~~said the~~ warrants, which shall also be signed by the chairman of the board."

(3) (a) Except as provided in subsection (3)(b), whenever such warrant is presented to the county treasurer he shall debit the proper account in the fund and shall pay the amount of such warrant in full, without deduction, to the political subdivision presenting the same.

(b) The county treasurer ~~shall~~ may not honor such warrant unless it is endorsed by the president, chairman, or other presiding officer of the governing body of ~~such the~~ political subdivision. The endorsement of any warrant by ~~said the~~ presiding officer of the governing body of a political subdivision as provided in this section ~~shall be construed as constitutes~~ an approval of the agreement under which the payment was received. If any governing body of a political subdivision ~~shall refuse~~ refuses to receive any warrant delivered pursuant to this section, the amount of the warrant shall be refunded to the United States by the county."

Section 2. Section 7-6-207, MCA, is amended to read:

"7-6-207. Deposit security. (1) ~~said the~~ local governing body may require security only for ~~any such that~~ portion of ~~the~~ deposits ~~as which~~ is not guaranteed or insured according to law. ~~Such the~~ security shall consist of those enumerated in 17-6-103 or cashier's checks issued to the depository institution by any federal reserve bank.

(2) When negotiable securities are furnished, such

There are no changes in SB 339 and due to length will not be re-run. Please refer to white copy for complete text.

1 securities may be placed in trust. The trustee's receipt may  
 2 be accepted in lieu of the actual securities when such  
 3 receipt is in favor of the treasurer or town clerk, his  
 4 successors, and the state of Montana and the form of receipt  
 5 and the trustee have been approved by the department of  
 6 community affairs. All warrants or other negotiable  
 7 securities must be properly assigned or endorsed in blank.  
 8 It shall be ~~is~~ the duty of the appropriate governing body,  
 9 upon the acceptance and approval of any of the  
 10 above-mentioned bonds or securities, to make a complete  
 11 minute entry of such ~~the~~ acceptance and approval upon the  
 12 record of their proceedings, and such ~~the~~ bonds and  
 13 securities shall be reapproved at least quarter-annually  
 14 thereafter.

15 ~~(3) (e) It shall be lawful for county, city, or town~~  
 16 ~~officials charged by law with the duty of requiring security~~  
 17 ~~from depositories of their several public funds to accept~~  
 18 ~~from such depository bank as security for such deposits or~~  
 19 ~~any part thereof, cashier's checks issued to such depository~~  
 20 ~~bank by any federal reserve bank~~

21 ~~(b) Subsection (3)(e) shall be deemed to be~~  
 22 ~~supplementary to the provisions of subsections (1) and (2),~~  
 23 ~~and shall not in any manner limit or effect the right of the~~  
 24 ~~several officers enumerated in said subsection to accept~~  
 25 ~~security of the character specified therein."~~

1 Section 3. Section 7-6-2112, MCA, is amended to read:  
 2 "7-6-2112. Treasurer's report ~~reports~~ to county  
 3 commissioners. (1) Each county treasurer must make a  
 4 detailed monthly report ~~at every regular meeting of~~ to the  
 5 board of county commissioners of his county, of all money  
 6 received by him and the disbursement thereof and of all  
 7 debts due to and from the county and of all other  
 8 proceedings in his office, so that the receipts into the  
 9 treasury and the amount of disbursements, together with the  
 10 debts due to and from the county, ~~may appear~~ clearly and  
 11 distinctly ~~appear~~.

12 (2) On the first Monday of January, April, July, and  
 13 October of each year the county treasurer must settle with  
 14 the board of county commissioners for all money collected,  
 15 and on ~~said those~~ those days ~~the treasurer~~ must deliver to ~~said~~  
 16 ~~the~~ board affidavits verifying the reconciliation of the  
 17 balance on hand in the county treasury. After the approval  
 18 of such ~~the~~ statements and the accompanying affidavits, one  
 19 copy of such ~~the~~ quarterly report shall be filed with the  
 20 county clerk of ~~said the~~ county and one copy shall be  
 21 retained by the county treasurer."

22 Section 4. Section 7-6-2201, MCA, is amended to read:  
 23 "7-6-2201. Fiscal year for counties. The fiscal year  
 24 for county purposes commences on July 1 of each year and  
 25 ends on June 30 of each the following year."



1 *State* BILL NO. 339  
2 INTRODUCED BY Rasmussen

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 FINANCIAL  
7 ADMINISTRATION AND TAXATION; REPEALING SECTION 7-6-4433,  
8 MCA."

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

11 Section 1. Section 7-6-106, MCA, is amended to read:

12 "7-6-106. Political subdivisions to receive county  
13 warrants for share of in-lieu payments. (1) After  
14 apportioning any payment to the several accounts as provided  
15 in 7-6-105, the county treasurer shall prepare in duplicate  
16 a complete itemized statement, one copy of which shall be  
17 filed with the board of county commissioners and the other  
18 of which shall be filed with the county clerk.

19 (2) The board shall, by appropriate resolution, order  
20 warrants drawn on the county treasurer ~~treasury~~ to the order  
21 of each political subdivision named in the itemized  
22 statement and in the amount of the political subdivision's  
23 share in the payment. The county clerk shall draw and sign  
24 said ~~the~~ warrants, which shall also be signed by the  
25 chairman of the board.

1 (3) (a) Except as provided in subsection (3)(b),  
2 whenever such warrant is presented to the county treasurer,  
3 he shall debit the proper account in the fund and shall pay  
4 the amount of such warrant in full, without deduction, to  
5 the political subdivision presenting the same.

6 (b) The county treasurer ~~shall~~ ~~may~~ not honor such  
7 warrant unless it is endorsed by the president, chairman, or  
8 other presiding officer of the governing body of ~~such the~~  
9 political subdivision. The endorsement of any warrant by  
10 ~~said the~~ presiding officer of the governing body of a  
11 political subdivision as provided in this section ~~shall be~~  
12 ~~construed as constitutes~~ an approval of the agreement under  
13 which the payment was received. If any governing body of a  
14 political subdivision ~~shall refuse~~ ~~refuses~~ to receive any  
15 warrant delivered pursuant to this section, the amount of  
16 the warrant shall be refunded to the United States by the  
17 county."

18 Section 2. Section 7-6-207, MCA, is amended to read:

19 "7-6-207. Deposit security. (1) ~~Said the~~ local  
20 governing body may require security only for ~~any such that~~  
21 portion of ~~the~~ deposits as ~~which~~ is not guaranteed or  
22 insured according to law. ~~Such the~~ security shall consist  
23 of those enumerated in 17-6-103 ~~or cashier's checks issued~~  
24 ~~to the depository institution by any federal reserve bank.~~

25 (2) When negotiable securities are furnished, such

1 securities may be placed in trust. The trustee's receipt may  
 2 be accepted in lieu of the actual securities when such  
 3 receipt is in favor of the treasurer or town clerk, his  
 4 successors, and the state of Montana and the form of receipt  
 5 and the trustee have been approved by the department of  
 6 community affairs. All warrants or other negotiable  
 7 securities must be properly assigned or endorsed in blank.  
 8 It shall be is the duty of the appropriate governing body  
 9 upon the acceptance and approval of any of the  
 10 above-mentioned bonds or securities, to make a complete  
 11 minute entry of ~~such~~ the acceptance and approval upon the  
 12 record of their proceedings, and ~~such~~ the bonds and  
 13 securities shall be reapproved at least quarter-annually  
 14 thereafter.

15 ~~(3) (a) It shall be lawful for county, city, or town~~  
 16 ~~officials charged by law with the duty of requiring security~~  
 17 ~~from depositories of their several public funds to accept~~  
 18 ~~from such depository bank as security for such deposits or~~  
 19 ~~any part thereof, cashier's checks issued to such depository~~  
 20 ~~bank by any federal reserve bank~~

21 ~~(b) Subsection (3)(a) shall be deemed to be~~  
 22 ~~supplementary to the provisions of subsections (1) and (2) and~~  
 23 ~~shall not in any manner limit or effect the right of the~~  
 24 ~~several officers enumerated in said subsection to accept~~  
 25 ~~security of the character specified therein."~~

1 Section 3. Section 7-6-2112, MCA, is amended to read:  
 2 "7-6-2112. Treasurer's report reports to county  
 3 commissioners. (1) Each county treasurer must make a  
 4 detailed monthly report, ~~at every regular meeting of~~ to the  
 5 board of county commissioners of his county, of all money  
 6 received by him and the disbursement thereof and of all  
 7 debts due to and from the county and of all other  
 8 proceedings in his office, so that the receipts into the  
 9 treasury and the amount of disbursements, together with the  
 10 debts due to and from the county, may appear clearly and  
 11 distinctly ~~appear~~.

12 (2) On the first Monday of January, April, July, and  
 13 October of each year the county treasurer must settle with  
 14 the board of county commissioners for all money collected,  
 15 and on ~~said~~ these days the treasurer must deliver to ~~said~~  
 16 the board affidavits verifying the reconciliation of the  
 17 balance on hand in the county treasury. After the approval  
 18 of ~~such~~ the statements and the accompanying affidavits, or  
 19 copy of ~~such~~ the quarterly report shall be filed with the  
 20 county clerk of ~~said~~ the county and one copy shall be  
 21 retained by the county treasurer."

22 Section 4. Section 7-6-2201, MCA, is amended to read:  
 23 "7-6-2201. Fiscal year for counties. The fiscal year  
 24 for county purposes commences on July 1 of each year and  
 25 ends on June 30 of each the following year."

1 Section 5. Section 7-6-2202, MCA, is amended to read:

2 \*7-6-2202. Duties of county clerk related to finance.

3 (1) The county clerk must draw warrants on the county  
4 treasurer treasury in favor of all persons entitled thereto  
5 in payment:

6 (a) of all claims and demands chargeable against the  
7 county which have been legally examined, allowed, and  
8 ordered paid by the board of county commissioners;

9 (b) for all debts and demands against the county when  
10 the amounts are fixed by law and are not directed to be  
11 audited by some other person or tribunal.

12 (2) ~~He~~ The county clerk must keep accounts current  
13 with the treasurer. When any person deposits with the  
14 county treasurer any money paid into the treasury, the  
15 county clerk shall be furnished by the treasurer with a  
16 duplicate of the receipt issued to ~~such~~ the person, which  
17 duplicate receipt shall be filed in the office of the county  
18 clerk, and ~~such~~ the county clerk shall charge the treasurer  
19 with the amount thereof.

20 (3) ~~He~~ The county clerk must make the annual statement  
21 as prescribed in 7-6-2203."

22 Section 6. Section 7-6-2221, MCA, is amended to read:

23 \*7-6-2221. ~~Limitation on amount of~~ Limitations on  
24 capital improvement fund. The capital improvement fund ~~shall~~  
25 may not exceed at any time a competent engineering estimate

1 of the cost of the adopted capital improvement program ~~and~~  
2 ~~provided that the funds are expended at least within each~~  
3 ~~10-year period. Money deposited in the fund must be expended~~  
4 within a 10-year period."

5 Section 7. Section 7-6-2302, MCA, is amended to read:

6 \*7-6-2302. Role of department of community affairs.

7 The department of community affairs shall make rules and  
8 classifications and prescribe forms necessary to carry out  
9 the provisions of this part ~~except for 7-6-2329~~, to define  
10 what expenditures are chargeable to each budget account, and  
11 to establish accounting and cost systems necessary to  
12 provide accurate budget information."

13 Section 8. Section 7-6-2316, MCA, is amended to read:

14 \*7-6-2316. Notice of hearing on preliminary budget.

15 (1) The board of county commissioners shall then have a  
16 notice published stating that:

17 (a) the board has completed its preliminary county  
18 budget for the current fiscal year;

19 (b) the budget is open to inspection in the office of  
20 the county clerk and recorder;

21 (c) the board will meet on the Wednesday before the  
22 second Monday in August to fix the final budget and make  
23 appropriations, stating the time and place of the meeting;  
24 and

25 (d) any taxpayer or resident of the county may appear

1 and be heard for or against any part of the budget.

2 (2) The notice shall be published at least one time in  
3 a newspaper of general circulation in the county."

4 Section 9. Section 7-6-2317, MCA, is amended to read:

5 "7-6-2317. Hearing on preliminary budget. (1) On the  
6 Wednesday before the second Monday in August, the county  
7 commissioners shall meet at the time and place designated in  
8 the notice provided for in 7-6-2316, at which time any  
9 taxpayer or resident of the county may appear and be heard  
10 for or against any part of the budget.

11 (2) The hearing shall be continued from day to day and  
12 shall be concluded and the budget approved and adopted on  
13 the second Monday in August, before the fixing of the tax  
14 levies by the board."

15 Section 10. Section 7-6-2342, MCA, is amended to read:

16 "7-6-2342. Procedure to make expenditures and incur  
17 liabilities in case of other emergencies. (1) In a public  
18 emergency other than ~~such as are specifically those~~  
19 described in 7-6-2341 and which could not reasonably have  
20 been foreseen at the time of making the budget, the board of  
21 county commissioners, by unanimous vote of the members  
22 present at any meeting (the time and place of which all the  
23 commissioners shall have had reasonable notice), shall adopt  
24 and enter upon their minutes a resolution stating the facts  
25 constituting the emergency and the estimated amount of money

1 required to meet ~~such the~~ emergency.

2 (2) The board shall publish the ~~same resolution,~~  
3 together with a notice that a public hearing will be held  
4 thereon on the resolution at the time and place designated  
5 therein in the notice, once in the official newspaper of the  
6 county and if there be is none, then in a newspaper of  
7 general circulation in the county. The hearing ~~shall~~ may not  
8 be less than 1 week after the date of ~~said~~ publication.

9 (3) Any taxpayer or resident of the county may appear  
10 at the hearing and be heard for or against the expenditure  
11 of money for ~~such the~~ alleged emergency.

12 (4) (a) Upon the conclusion of ~~such the~~ hearing, if  
13 the commissioners ~~shall~~ approve ~~of such the~~ emergency  
14 expenditure, they shall make and enter upon their official  
15 minutes, by unanimous vote of all of the members of the  
16 board present at ~~such the~~ meeting, an order setting forth  
17 the facts constituting ~~such the~~ emergency, together with the  
18 amount of expenditure authorized therefor by them. Subject  
19 to the limitations of subsection (4)(b), the order ~~so~~  
20 ~~entered--shall-be~~ is lawful authorization for them to expend  
21 such amount, but no more, for such purpose.

22 (b) No expenditure ~~shall~~ may be made or liability  
23 incurred pursuant to ~~said the~~ order until 5 days, exclusive  
24 of the day of entry of ~~said the~~ order, ~~shall--have--elapsed~~  
25 elapse."

1 Section 11. Section 7-6-2343, MCA, is amended to read:

2 "7-6-2343. Appeal of order for certain emergency  
3 expenditures. (1) During the 5-day period provided by  
4 7-6-2342(4)(b), any taxpayer or taxpayers resident of said  
5 the county feeling aggrieved by the order issued pursuant to  
6 7-6-2342(4) may appeal therefrom to the district court for  
7 such county by filing with the clerk of such the court a  
8 verified petition, a copy of which ~~shall~~ has theretofore  
9 have been served upon the county clerk and recorder of said  
10 the county as the clerk of the board of county  
11 commissioners. ~~Said~~ The petition shall set forth in detail  
12 the objections of the petitioner ~~or~~ petitioners to said the  
13 order, giving ~~their~~ reasons why the emergency does not  
14 exist.

15 (2) Until final determination of the matter by the  
16 court, the service and filing of such the petition ~~shall~~  
17 ~~operate~~ operates to suspend such the emergency order and the  
18 authority to make any expenditure or incur any liability  
19 thereunder.

20 (3) Upon the filing of such the petition, the court  
21 shall immediately fix a time for hearing such the petition,  
22 which time shall be at the earliest convenient time. At such  
23 the hearing the court shall hear the matter de novo and may  
24 take such testimony as it ~~deems~~ considers necessary. ~~Its~~ The  
25 court's proceedings shall be summary and informal, and its

1 determination as to whether an emergency such as is  
2 contemplated within the meaning and provisions of this part  
3 exists or not and whether the expenditure authorized by said  
4 the order is excessive or not ~~shall be~~ is final."

5 Section 12. Section 7-6-2344, MCA, is amended to read:

6 "7-6-2344. Limitation on amount of emergency  
7 expenditures and liabilities -- election. (1) Unless the  
8 excess above the sums listed in subsections (1)(a), (1)(b),  
9 and (1)(c) ~~shall~~ is first ~~have been~~ authorized by a majority  
10 of the ~~taxpaying-freeholders~~ electors of such the county ~~who~~  
11 ~~are-registered-electors-therein~~, voting at a general or  
12 special election, the aggregate total of all expenditures  
13 made or liabilities incurred in any fiscal year to meet  
14 emergencies, other than such ~~as are~~ those caused by fire,  
15 flood, explosion, earthquake, epidemic, riot, or  
16 insurrection, ~~shall~~ may not exceed ~~the sum of~~:

17 (a) \$25,000 in counties of ~~classes~~ class 1, 2, 3, and  
18 or 4;

19 (b) \$15,000 in counties of ~~classes~~ class 5 and or 6;

20 and

21 (c) \$7,500 in counties of class 7.

22 (2) The question of authorizing such the excess  
23 expenditures shall be submitted in the following form,  
24 inserting in the ballot the amount of the excess proposed to  
25 be authorized and a description of the emergency to be met:

1 Shall the board of county commissioners of .... County,  
2 Montana, be authorized to make additional expenditures and  
3 incur additional liabilities in the amount of \$.... over and  
4 above the sum of \$..... to meet an emergency caused by .....

5  YES

6  NO

7 (3) Notice of such ~~the~~ election shall be given by  
8 posting notice thereof at least 15 days before ~~such the~~  
9 election in three public places in each voting precinct  
10 within the county and by publishing ~~such the~~ notice for not  
11 less than 10 days before the date of ~~such the~~ election.

12 (4) The total of all emergency budgets and  
13 appropriations made therein in any one year to be paid from  
14 the county poor fund ~~shall~~ may not exceed the amount which  
15 would be produced by a mill levy equal to the difference  
16 between the mills levied in that year and the maximum mill  
17 levy authorized by law to be made for such fund, computed  
18 against the taxable value of the property subject to such  
19 levy as shown by the last completed assessment roll of the  
20 county."

21 Section 13. Section 7-6-2401, MCA, is amended to read:

22 "7-6-2401. Creation of office of county auditor. (1)  
23 Except as provided in subsection (2), the office of county  
24 auditor ~~is hereby created and the same shall exist~~ exists in  
25 all counties ~~of Montana~~ of the first, second, third, and or

1 fourth classes class.

2 (2) The provisions of this part ~~shall~~ do not apply to  
3 counties having a population of less than 15,000 persons  
4 according to the ~~last~~ most recent federal census ~~of 1960.~~"

5 Section 14. Section 7-6-2402, MCA, is amended to read:

6 "7-6-2402. Optional election for county auditor. There  
7 may be elected in ~~and for~~ each county of the classes named  
8 in 7-6-2401 some person to serve as county auditor. He ~~shall~~  
9 ~~be elected for the term of 4 years and until his successor~~  
10 ~~shall be elected and qualified. The term shall begin on the~~  
11 ~~first Monday in January succeeding his election.~~"

12 Section 15. Section 7-6-2403, MCA, is amended to read:

13 "7-6-2403. Qualifications of county auditor. No person  
14 ~~shall be~~ is eligible to serve in the office of county  
15 auditor of any county ~~within the state who shall not have~~  
16 ~~arrived at the age of voting is not of voting age~~ and who  
17 ~~shall~~ has not have been a bona-fide resident of the county  
18 for which he ~~shall be~~ is elected or appointed for at least  
19 years preceding his election or appointment."

20 Section 16. Section 7-6-2406, MCA, is amended to read:

21 "7-6-2406. Compensation of auditor. The county auditor  
22 ~~shall receive~~ receives the annual compensation provided by  
23 law, payable monthly by warrants drawn on the treasury of  
24 the county ~~treasurer~~, and shall receive no other  
25 compensation or emolument whatsoever for any service or

1 services rendered or performed by him, except actual  
2 expenses for living and traveling whenever the duties of his  
3 office require his presence at any place in the county other  
4 than the county seat, and then only after the ~~same~~ travel  
5 has been ordered and advised by the board of county  
6 commissioners."

7 Section 17. Section 7-6-2409, MCA, is amended to read:

8 "7-6-2409. Examination of county books and accounts.

9 (1) It ~~shall be~~ is the duty of the county auditor to ~~make an~~  
10 ~~examination of~~ examine the books and accounts of the county  
11 treasurer, the county clerk and recorder, the sheriff, the  
12 clerk of the district court, and all other county and  
13 township officers within 15 days ~~preceding each~~ prior to the  
14 first regular session of the board of county commissioners  
15 ~~at their next session immediately following such examination~~  
16 in March, June, September, and December of each year unless  
17 a longer time be is granted him to the auditor by the board  
18 ~~in which to report the same.~~

19 (2) ~~Said~~ The quarterly report shall contain a full and  
20 complete statement of the money received and disbursed by  
21 each of the officers since the last examination and report  
22 ~~of the same.~~ For the purpose of this section, the county  
23 auditor ~~shall have~~ has free access to all books and papers  
24 in each of ~~said~~ the offices."

25 Section 18. Section 7-6-2421, MCA, is amended to read:

1 "7-6-2421. Presentation of claims against county. (1)  
2 No account ~~must~~ may be allowed by the board unless the same  
3 is made out in separate items, with the nature of each item  
4 stated. If the claim is for official services for which no  
5 specified fees are fixed by law, the time actually and  
6 necessarily devoted to such services must be stated. No  
7 account must be necessarily passed upon by the board unless  
8 made out as prescribed in this section and filed by the  
9 clerk prior to the session at which it is asked to be heard.

10 (2) Claims against the county shall contain the  
11 following statement: "I certify that this claim is correct  
12 and just in all respects and that payment or credit has not  
13 been received." Claims need not be verified by affidavit.

14 (3) Every claim against the county, except claims  
15 arising from injury to a person or property, which are  
16 limited under provisions of Title 2, chapter 9, parts 1  
17 through 3, as amended, must be presented within 1 year after  
18 the last item accrued.

19 (4) No county officer ~~must~~ may, except for his own  
20 service, present any claim, account, or demand for allowance  
21 against the county or in any way advocate the relief asked  
22 on the claim or demand made by another.

23 (5) ~~If money~~ Money deposited in the county treasury  
24 pursuant to [former section 16-2616, R.C.M. 1947] ~~is~~  
25 ~~demanded within 6 years by the legal representatives of the~~

1 ~~decedent, the treasurer must pay it to them, after deducting~~  
 2 ~~the fees and expenses of the coroner and of the county in~~  
 3 ~~relation to the matter or the same may be so paid at any~~  
 4 ~~time thereafter upon the order of the board of county~~  
 5 ~~commissioners, and not otherwise disposed of shall be~~  
 6 ~~transferred by the county treasurer to the state treasurer~~  
 7 ~~for deposit in the agency fund provided for in Title 72,~~  
 8 ~~chapter 14, part 2. The county treasurer may deduct the fees~~  
 9 ~~and expenses of the coroner and the county prior to~~  
 10 ~~transferring the money."~~

11 Section 19. Section 7-6-2422, MCA, is amended to read:

12 "7-6-2422. Opposition to claims. Any citizen--and  
 13 resident or taxpayer of the county in which he resides may  
 14 appear before the board and oppose the allowance of any  
 15 claim or demand made against the county."

16 Section 20. Section 7-6-2424, MCA, is amended to read:

17 "7-6-2424. Appeal of decision concerning claim. (1)  
 18 Whenever a claim against a county is disallowed in whole or  
 19 in part or when ~~whenever~~ any taxpayer or resident of the  
 20 county is not satisfied with any allowance made by the  
 21 board, the claimant, ~~or such taxpayers, or resident~~ may  
 22 appeal from the decision of the board to the district court  
 23 for the county by causing a written notice of appeal to be  
 24 served on the clerk of the board within 30 days after the  
 25 making of the decision or allowance and executing a bond to

1 the county, with surety to be approved by the clerk of the  
 2 board, conditioned to prosecute such ~~the~~ appeal to effect  
 3 and to pay all costs that may be adjudged against the  
 4 appellant.

5 (2) The clerk of the board, upon an appeal being  
 6 taken, must immediately give notice thereof to the county  
 7 attorney and must make out a return of the proceedings in  
 8 the matter before the board, with its decision thereon, and  
 9 file the same, together with the bond and all the papers  
 10 therein in his possession, with the clerk of the district  
 11 court.

12 (3) Such ~~the~~ appeal must be entered, tried, and  
 13 determined the same as appeals from justices' courts, and  
 14 costs are awarded in like manner."

15 Section 21. Section 7-6-2428, MCA, is amended to read:

16 "7-6-2428. Procedure to collect charges when criminal  
 17 case is removed. (1) The district court of the county to  
 18 which such a criminal action is removed must certify the  
 19 amount of costs allowed and certified by the court to the  
 20 board of county commissioners of ~~its~~ the county of the  
 21 district court. Such board shall audit the same and draw its  
 22 warrants therefor upon the ~~treasurer~~ treasury of the county  
 23 from which such ~~the~~ action was removed, ~~and such~~, The board  
 24 drawing the warrants shall forward to ~~said~~ the treasurer and  
 25 board of the county from which ~~said~~ the action was



1 transferred, ~~as aforesaid~~, a certified copy of the total  
2 amount allowed by the court, giving each item as certified  
3 to them by the clerk of the district court and the court.

4 (2) The board receiving ~~such the~~ certified copy of  
5 ~~said the~~ costs allowed shall enter the same in its books as  
6 a charge against the treasurer treasury of its county. The  
7 county treasurer of the county from which ~~such the~~ action  
8 was removed must, immediately upon presentation, pay ~~said~~  
9 ~~warrant the warrants~~ out of the general fund of ~~said that~~  
10 county, or if at the time of presentation, there is not  
11 sufficient money in the general fund to pay the same, he  
12 must endorse upon ~~said warrant the warrants~~ "Not paid for  
13 want of funds", and ~~said warrant the warrants~~ must be  
14 registered and ~~shall~~ draw interest at the same rate and be  
15 paid in the same manner as though it had been drawn by the  
16 board of the county where the indictment was found or  
17 information filed."

18 Section 22. Section 7-6-2430, MCA, is amended to read:  
19 "7-6-2430. Accounts to be examined, settled, and  
20 allowed. The board of county commissioners has jurisdiction  
21 and power, under such limitations and restrictions as are  
22 prescribed by law, at the regular meetings of the board, to  
23 examine, settle, and allow all accounts legally chargeable  
24 against the county, except salaries of officers, and order  
25 warrants to be drawn on the county treasurer treasury

1 therefor and provide for the issuing of the same."

2 Section 23. Section 7-6-2601, MCA, is amended to read:

3 "7-6-2601. Details related to county warrants. (1)  
4 Warrants issued pursuant to 7-6-2202(1) shall be signed by  
5 the county clerk and the chairman of the board of county  
6 commissioners, except warrants drawn on the redemption fund.

7 (2) All warrants issued by the county clerk during  
8 each year, commencing with the first Monday in January, must  
9 be numbered consecutively. The number, date, and amount of  
10 each and the name of the person to whom payable and the  
11 purpose for which drawn must be stated thereon; and ~~they the~~  
12 ~~warrants~~ must, at the time they are issued, be registered by  
13 him.

14 (3) Warrants drawn by order of the board on the county  
15 treasurer treasury for the current expenses during each year  
16 must specify the liability for which they are drawn and when  
17 they the liability accrued."

18 Section 24. Section 7-6-2607, MCA, is amended to read:

19 "7-6-2607. Examination and processing of warrants. (1)  
20 The board, at its annual March session or ~~oftener~~ more often  
21 if necessary, must examine the county warrants returned by  
22 the county treasurer by comparing each warrant with the  
23 record of warrants issued in the county clerk's office.

24 (2) The board must cause to be canceled all county  
25 warrants that have remained uncalled for 1 year or more in

1 the county clerk's office, ~~the same~~ these warrants to be  
 2 canceled in the same manner as other county warrants. At the  
 3 same time, the county treasurer must deliver to the board  
 4 all warrants or vouchers that ~~he may have~~ are in his ~~the~~  
 5 treasurer's possession for money disbursed by him as  
 6 treasurer and the clerk must receipt for the same.

7 (3) The board must cause to be entered on ~~said~~ the  
 8 record of warrants, opposite to the entry of each warrant  
 9 issued, the date when the ~~same warrant~~ was canceled and must  
 10 make a list of the ~~canceled~~ warrants ~~so connected~~, specifying  
 11 the number, date, amount, and the person to whom the same  
 12 was payable, and enter must cause the ~~same list to be~~  
 13 entered on the minutes of the board."

14 Section 25. Section 7-6-2801, MCA, is amended to read:  
 15 "7-6-2801. Management of school funds. The county  
 16 treasurer must:

17 (1) keep all school money in a separate fund and keep  
 18 a separate account of its disbursement to the several school  
 19 districts which are entitled to receive it, according to the  
 20 apportionment of the county superintendent of common  
 21 schools;

22 (2) notify the county superintendent of the amount of  
 23 the county school fund in the county treasury subject to  
 24 apportionment, whenever required, and inform him of the  
 25 amount of school money belonging to any other fund subject

1 to apportionment, or as otherwise provided by law;

2 (3) pay all warrants drawn on county or district  
 3 school money, in accordance with the provisions of law,  
 4 whenever such warrants are countersigned by the district  
 5 clerk and properly endorsed by the holders;

6 (4) make, annually, during the month of September, a  
 7 financial report for the preceding year ending August 31 to  
 8 the county superintendent, in such form as ~~may--be~~ is  
 9 required by him."

10 Section 26. Section 7-6-4101, MCA, is amended to read:  
 11 "7-6-4101. Fiscal year for municipalities. The fiscal  
 12 year of cities and towns commences on July 1 of each year  
 13 and ends on June 30 of each the following year."

14 Section 27. Section 7-6-4113, MCA, is amended to read:  
 15 "7-6-4113. Filing of annual financial statement. (1)  
 16 The city or town clerk must, not later than August 31  
 17 following the close of each fiscal year, transmit one copy  
 18 of the statement to the department of community affairs or  
 19 must present the other copy to the city or town council or  
 20 commission at its first regular meeting in September.

21 (2) If a city or town clerk fails to file a copy of  
 22 the statement with the department within the time specified,  
 23 the department, without delay, shall examine the books,  
 24 records, and accounts of the city or town. The department  
 25 shall make from its examination a statement of the financial

1 condition of the city or town for the preceding fiscal year  
 2 in the manner it should have been made by the city or town  
 3 clerk. The examination shall be considered a special  
 4 ~~examination~~ audit under the provisions of subsections (4)  
 5 and (5) of 2-7-503, and all of the provisions of subsections  
 6 (4) and (5) of 2-7-503 apply to it."

7 Section 28. Section 7-6-4121, MCA, is amended to read:

8 "7-6-4121. Authorization to conduct municipal business  
 9 on a cash basis. (1) In case the total indebtedness of a  
 10 city or town has reached 11% of the total taxable value of  
 11 the property of the city or town subject to taxation, as  
 12 ascertained by the last assessment for state and county  
 13 taxes, the city or town may conduct its affairs and business  
 14 on a cash basis as provided by subsection (2).

15 (2) (a) ~~in case the total indebtedness of a city or~~  
 16 ~~town has reached the limit of 5% of the value of taxable~~  
 17 ~~property therein it shall be lawful for and said city or~~  
 18 ~~town is hereby authorized and empowered to thereafter manage~~  
 19 ~~and conduct~~ Whenever a city or town is conducting its  
 20 business affairs on a cash basis, ~~and pay~~ the reasonable and  
 21 necessary current expenses of the city or town may be paid  
 22 out of the cash in the city or town treasury and derived  
 23 from its current revenues, under such restrictions and  
 24 regulations as the city or town council may by ordinance  
 25 prescribe.

1 (b) In the event that payment be is made in advance,  
 2 the city or town ~~shall have power to~~ may require a cash  
 3 deposit as collateral security and indemnity, equal in  
 4 amount to such payment, and may hold the same as a special  
 5 deposit with the city treasurer or town clerk, in package  
 6 form, as a pledge for the fulfillment and performance of the  
 7 contract or obligation for which ~~said the~~ advance ~~shall have~~  
 8 been is made.

9 (c) Before the payment of the current expenses  
 10 mentioned above, the city or town council shall first set  
 11 apart sufficient money to pay the interest upon its legal,  
 12 valid, and outstanding bonded indebtedness and any sinking  
 13 funds therein provided for and shall be authorized to pay  
 14 all valid claims against funds raised by tax especially  
 15 authorized by law for the purpose of paying such claims."

16 Section 29. Section 7-6-4227, MCA, is amended to read:

17 "7-6-4227. Notice of hearing on preliminary budget.

18 (1) The council shall then cause a notice to be published  
 19 stating that:

20 (a) ~~said the~~ council has completed its preliminary  
 21 municipal budget for the current fiscal year;

22 (b) ~~said the~~ budget has been placed on file and is  
 23 open to inspection in the office of the clerk of the  
 24 municipality;

25 (c) ~~said the~~ council will meet on the Wednesday

1 immediately preceding the second Monday in August thereafter  
 2 for the purpose of fixing the final budget and making  
 3 appropriations, designating the time and place when and  
 4 where such meeting will be held; and

5 (d) any taxpayer or resident may appear thereat at the  
 6 meeting and may be heard for or against any part of said the  
 7 budget.

8 (2) ~~Said the~~ notice shall be published at least one  
 9 time in the official newspaper of the municipality or, if  
 10 there be is none, then in a newspaper of general circulation  
 11 in the county in which the municipality is situated."

12 Section 30. Section 7-6-4228, MCA, is amended to read:  
 13 "7-6-4228. Hearing on preliminary budget. (1) On the  
 14 Wednesday preceding the second Monday in August, the council  
 15 shall meet at the time and place designated in the notice  
 16 provided in 7-6-4227, at which time any taxpayer or resident  
 17 may appear and be heard for or against any part of the  
 18 budget. The council may call in the official in charge of an  
 19 office, department, service, or institution, at the time the  
 20 estimates for their respective offices are under  
 21 consideration, for examination concerning the estimates. The  
 22 official shall be called in by the council, upon the request  
 23 of a taxpayer or resident, for questioning upon the  
 24 estimates either by the council, ~~or a~~ taxpayer, or resident.

25 (2) The hearing shall be continued from day to day and

1 shall be concluded and the budget finally approved and  
 2 adopted on the second Monday in August, prior to the fixing  
 3 of the tax levies by the council."

4 Section 31. Section 7-6-4232, MCA, is amended to read:  
 5 "7-6-4232. Fixing of tax levy. (1) On the second  
 6 Monday in August and after the approval and adoption of the  
 7 final budget, the council shall fix the tax levy for each  
 8 fund at a rate, not exceeding limits prescribed by law,  
 9 which will raise the amount set out in the budget as the  
 10 amount necessary to be raised by tax levy for that fund  
 11 during the current fiscal year. The taxable valuation of the  
 12 city for the current fiscal year shall be the basis for  
 13 determining the amount of the tax levy for each fund, and  
 14 each tax levy shall be at a rate no higher than is required  
 15 on that basis, without including any amount for anticipated  
 16 tax delinquency, to raise the amount set out in the budget.

17 (2) If the council considers that a levy made for a  
 18 bond sinking or interest fund will not provide a sufficient  
 19 amount to pay all bond principal and interest becoming due  
 20 during the current fiscal year or within 6 months after the  
 21 current fiscal year because of anticipated tax delinquency,  
 22 the council may fix the levy at a rate it considers  
 23 necessary to raise the amount for making the payments of  
 24 principal and interest over and above the anticipated tax  
 25 delinquency.

1 (3) Each levy shall be made in the manner provided by  
2 15-10-201."

3 Section 32. Section 7-6-4252, MCA, is amended to read:  
4 "7-6-4252. Procedure to make expenditures and incur  
5 liabilities in case of other emergencies. (1) In a public  
6 emergency other than ~~such as are specifically those~~  
7 described in 7-6-4251 and which could not reasonably have  
8 been foreseen at the time of making the budget, the council,  
9 by unanimous vote of the members present at any meeting (the  
10 time and place of which all of the members shall have had  
11 reasonable notice), shall adopt and enter upon their minutes  
12 a resolution stating the facts constituting the emergency,  
13 the estimated amount of money required to meet ~~such the~~  
14 emergency, and the fund against which emergency warrants  
15 shall be drawn.

16 (2) The council shall publish the resolution, together  
17 with a notice that a public hearing will be held thereon ~~on~~  
18 the resolution at the time and place designated ~~therein in~~  
19 the notice, once in the official newspaper of the  
20 municipality and, if there be ~~is~~ none, then in a newspaper  
21 of general circulation in the county in which the  
22 municipality is situated. The hearing ~~shall~~ may not be less  
23 than 1 week after the date of ~~said~~ publication.

24 (3) Any taxpayer or resident of the municipality ~~may~~  
25 appear at the hearing and be heard for or against the

1 expenditure of money for ~~such the~~ alleged emergency.

2 (4) (a) Upon the conclusion of ~~such the~~ hearing, if  
3 the council ~~shall approve of such~~ approves the emergency  
4 expenditure, it shall make and enter upon its official  
5 minutes, by unanimous vote of all of the members of the  
6 council present at ~~such the~~ meeting, an order setting forth  
7 the facts constituting ~~such the~~ emergency, together with the  
8 amount of expenditure authorized therefor by them and the  
9 fund against which emergency warrants shall be drawn.  
10 Subject to the limitations of subsection (4)(b), the order  
11 ~~so entered shall be~~ is lawful authorization for them to  
12 expend such amount, but no more, for such purpose.

13 (b) No expenditure ~~shall~~ may be made or liability  
14 incurred pursuant to ~~said the~~ order until 5 days, exclusive  
15 of the day of entry of ~~said the~~ order, ~~shall have elapsed~~  
16 elapse."

17 Section 33. Section 7-6-4253, MCA, is amended to read:  
18 "7-6-4253. Appeal of order for certain emergency  
19 expenditures. (1) During the 5-day period provided by  
20 7-6-4252(4)(b), any taxpayer or taxpayers resident of ~~said~~  
21 the municipality feeling aggrieved by the order issued  
22 pursuant to 7-6-4252(4) may appeal therefrom to the district  
23 court for the county in which the municipality is situated  
24 by filing with the clerk of ~~such the~~ court a verified  
25 petition, a copy of which ~~shall~~ has theretofore ~~have~~ been

1 served upon the clerk of ~~said the~~ municipality. ~~Said the~~ petition shall set forth in detail the objections of the  
2 petitioner or ~~petitioners~~ to ~~said the~~ order, giving their  
3 reasons why the ~~said~~ emergency does not exist.

4 (2) Until final determination of the matter by the  
5 court, the service and filing of ~~such the~~ petition shall  
6 ~~operate operates~~ to suspend ~~such the~~ emergency order and the  
7 authority to make any expenditure or incur any liability  
8 thereunder.

9 (3) Upon the filing of ~~such the~~ petition, the court  
10 shall immediately fix a time for hearing ~~such the~~ petition,  
11 which ~~time~~ shall be at the earliest convenient time. At ~~such~~  
12 ~~the~~ hearing the court shall hear the matter de novo and may  
13 take such testimony as it ~~deems~~ ~~considers~~ necessary. ~~its the~~  
14 ~~court's~~ proceedings shall be summary and informal, and its  
15 determination as to whether an emergency such as is  
16 contemplated within the meaning and provisions of this part  
17 exists or not and whether the expenditure authorized by ~~said~~  
18 ~~the~~ order is excessive or not shall ~~be is~~ final."

19 Section 34. Section 7-6-4302, MCA, is amended to read:

20 "7-6-4302. Payment of claims by warrant. Except as  
21 provided in 7-6-4121, all accounts and demands against a  
22 city or town must be submitted to the council and, if found  
23 correct, must be allowed and an order must be made that the  
24 demand be paid ~~upon--which--the,~~ ~~the~~ mayor must draw a  
25

1 warrant upon the treasurer ~~treasury~~ in favor of the owner,  
2 specifying for what purpose and by what authority it is  
3 issued and out of what funds it is to be paid. The city  
4 treasurer or town clerk must pay the ~~same~~ ~~warrant~~ out of the  
5 proper fund."

6 Section 35. Section 7-6-4402, MCA, is amended to read:  
7 "7-6-4402. Tax-related duties of city treasurer. It  
8 shall ~~be is~~ the duty of the city treasurer to perform such  
9 duties in the collection of taxes, ~~licenses~~ ~~license~~ ~~fees~~, or  
10 assessments as are ~~or--may--be~~ prescribed by law or  
11 ordinance."

12 Section 36. Section 7-6-4404, MCA, is amended to read:  
13 "7-6-4404. Tax-related duties of town clerk. It shall  
14 be ~~is~~ the duty of the town clerk to perform such duties in  
15 the collection of taxes, ~~licenses~~ ~~license~~ ~~fees~~, or  
16 assessments as are ~~or--may--be~~ prescribed by law or  
17 ordinance."

18 Section 37. Section 7-6-4414, MCA, is amended to read:  
19 "7-6-4414. Sales for delinquent taxes when county  
20 collects municipal tax. (1) All publications ~~for of~~ sales  
21 for delinquent taxes shall include ~~such~~ city or town taxes  
22 ~~there-being-but,~~ ~~There is only~~ one sale for each piece of  
23 property. The sale shall cover the aggregate of ~~such~~ city  
24 or town, county, and state taxes, with the penalties,  
25 interest, and cost of advertising provided by law.

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

6 Section 38. Section 7-6-4431, MCA, is amended to read:  
7 "7-6-4431. Authorization to exceed maximum mill levy  
8 -- election required. (1) Subject to the conditions of  
9 subsection (2), whenever the council of any city or town  
10 ~~shall deem~~ considers it necessary to raise money by  
11 taxation, in excess of the levy now allowed by law, for any  
12 purpose for which ~~said the~~ city or town is authorized to  
13 expend money raised by taxation in ~~said the~~ city or town, ~~it~~  
14 the council shall submit the question of such additional  
15 levy to the ~~legal registered~~ voters of ~~such the~~ city or town  
16 ~~who are taxpaying freeholders therein~~, either at the regular  
17 annual election held in ~~said the~~ city or town or at a  
18 special election called for that purpose by the council of  
19 ~~such the~~ city or town. If the majority voting on the  
20 question are in favor of ~~such an~~ additional levy ~~or levies~~,  
21 the city or town council shall so certify and such  
22 additional levy ~~or levies of taxes~~ shall be made by the city  
23 or town council for that year.

24 (2) Such additional levy ~~shall~~ may not exceed 5  
25 mills."

1 Section 39. Section 7-6-4438, MCA, is amended to read:  
2 "7-6-4438. Tax levy and expenditures for municipal and  
3 administrative purposes when limits on municipal  
4 indebtedness exceeded. (1) All taxes levied and collected or  
5 ~~to be collected~~ for municipal and administrative purposes by  
6 any city or town in which the indebtedness equals or exceeds  
7 the limit allowed ~~in~~ by statute may be used in payment of  
8 current expenses during the fiscal year for which the taxes  
9 were levied, as if a special levy had been made for each of  
10 the purposes. The council of any such city or town may  
11 designate the amount of the general levy applicable to each  
12 of the purposes. The amount so designated constitutes a  
13 special fund for the special purpose of paying the expenses  
14 incurred for the purpose. The expenses shall be payable out  
15 of the fund and not otherwise.

16 (2) However, the aggregate of all taxes authorized for  
17 general municipal and administrative purposes may not exceed  
18 ~~5-2/28 1.5%~~ 1.5% annually of the taxable value of all property  
19 subject to taxation in ~~such the~~ city or town.

20 (3) Any city, the indebtedness of which equals or  
21 exceeds ~~said the~~ limit allowed by statute, ~~shall be~~  
22 ~~authorized to~~ may levy and collect special taxes for  
23 municipal and administrative purposes, and the city council  
24 in making ~~such~~ special levies shall designate the  
25 amount thereof for each of ~~said the~~ purposes, and each tax.

1 when collected, ~~shall constitute~~ constitutes a fund out of  
 2 which the expenses incurred for the purpose for which such  
 3 ~~the~~ tax was levied shall be paid. The expenses incurred for  
 4 any such particular purpose shall be paid out of the fund so  
 5 ~~to-be~~ provided therefor and not otherwise."

6 Section 40. Section 7-6-4501, MCA, is amended to read:

7 "7-6-4501. Interest on unpaid warrants. When any  
 8 warrant drawn upon the treasurer ~~treasury~~ of a city or a  
 9 town clerk and pursuant to any ordinance or resolution or  
 10 direction of the council of such ~~the~~ city or town is  
 11 presented to the city treasurer or town clerk for payment  
 12 and the same is not paid for want of funds, such ~~the city~~  
 13 treasurer or town clerk must endorse thereon "Not paid for  
 14 want of funds", annexing the date of presentation, and  
 15 signing his name thereto. From that time until such ~~the~~  
 16 warrant is called for payment, the warrant ~~shall-bear~~ bears  
 17 interest at a rate fixed by ordinance."

18 Section 41. Section 7-6-4603, MCA, is amended to read:

19 "7-6-4603. Investment of municipal money in city or  
 20 town warrants. (1) Except as provided in 7-7-4102, whenever  
 21 the city or town has, under its control and in any fund, any  
 22 money for which there is no immediate demand and which, in  
 23 the judgment of the city or town council, it would be  
 24 advantageous to invest in city or town warrants, the city or  
 25 town council ~~is authorized in their discretion to may~~ direct

1 the city treasurer or town clerk to purchase legally issued  
 2 city or town general obligation warrants of the same city or  
 3 town thereafter issued against funds in which there is not  
 4 sufficient funds to pay such city or town warrants at the  
 5 time of issuance.

6 (2) (a) In case of such purchase, the city or town  
 7 council shall designate the fund or funds to be ~~so~~ invested  
 8 and shall fix the amount thereof and shall also designate  
 9 the city or town warrant~~---or~~ warrants which are to be  
 10 purchased by such funds. The city or town clerk shall  
 11 thereupon cause to be attached to or stamped, written, or  
 12 printed upon the warrants ~~so~~ ordered to be purchased a  
 13 notice to the effect that the city or town will exercise its  
 14 preference right to purchase such warrant.

15 (b) The city treasurer or town clerk shall thereafter,  
 16 when such city or town warrant is presented to him, purchase  
 17 the same out of the proper fund as designated by the city or  
 18 town council. The warrant so purchased shall be register:  
 19 as other city or town warrants and bear interest as provided  
 20 by law.

21 (3) When the designated amounts have been invested,  
 22 the city treasurer ~~or town clerk~~ shall notify the city or  
 23 town clerk."

24 Section 42. Repealer. Section 7-6-4433, MCA, is  
 25 repealed.



1                   SENATE BILL NO. 339  
 2                   INTRODUCED BY RASMUSSEN  
 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 FINANCIAL  
 7   ADMINISTRATION AND TAXATION; REPEALING SECTION 7-6-4433,  
 8   MCA."

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

11       Section 1. Section 7-6-106, MCA, is amended to read:  
 12       "7-6-106. Political subdivisions to receive county  
 13       warrants for share of in-lieu payments. (1) After  
 14       apportioning any payment to the several accounts as provided  
 15       in 7-6-105, the county treasurer shall prepare in duplicate  
 16       a complete itemized statement, one copy of which shall be  
 17       filed with the board of county commissioners and the other  
 18       of which shall be filed with the county clerk.

19       (2) The board shall, by appropriate resolution, order  
 20       warrants drawn on the county treasurer ~~treasury~~ to the order  
 21       of each political subdivision named in the itemized  
 22       statement and in the amount of the political subdivision's  
 23       share in the payment. The county clerk shall draw and sign  
 24       said ~~the~~ warrants, which shall also be signed by the  
 25       chairman of the board.

1                   (3) (a) Except as provided in subsection (3)(b),  
 2                   whenever such warrant is presented to the county treasurer,  
 3                   he shall debit the proper account in the fund and shall pay  
 4                   the amount of such warrant in full, without deduction, to  
 5                   the political subdivision presenting the same.

6                   (b) The county treasurer ~~shall~~ ~~may~~ not honor such  
 7                   warrant unless it is endorsed by the president, chairman, or  
 8                   other presiding officer of the governing body of ~~such~~ ~~the~~  
 9                   political subdivision. The endorsement of any warrant by  
 10                  said ~~the~~ presiding officer of the governing body of a  
 11                  political subdivision as provided in this section ~~shall~~-be  
 12                  construed-as ~~constitutes~~ an approval of the agreement under  
 13                  which the payment was received. If any governing body of a  
 14                  political subdivision ~~shall~~-refuse ~~refuses~~ to receive any  
 15                  warrant delivered pursuant to this section, the amount of  
 16                  the warrant shall be refunded to the United States by the  
 17                  county."

18       Section 2. Section 7-6-207, MCA, is amended to read:

19       "7-6-207. Deposit security. (1) Said ~~the~~ local  
 20       governing body may require security only for any-such ~~that~~  
 21       portion of ~~the~~ deposits as ~~which~~ is not guaranteed or  
 22       insured according to law. Such ~~the~~ security shall consist  
 23       of those enumerated in 17-6-103 or cashier's checks issued  
 24       to the depository institution by any federal reserve bank.

25       (2) When negotiable securities are furnished, such

1 securities may be placed in trust. The trustee's receipt may  
 2 be accepted in lieu of the actual securities when such  
 3 receipt is in favor of the treasurer or town clerk, his  
 4 successors, and the state of Montana and the form of receipt  
 5 and the trustee have been approved by the department of  
 6 community affairs. All warrants or other negotiable  
 7 securities must be properly assigned or endorsed in blank.  
 8 It shall be ~~is~~ the duty of the appropriate governing body,  
 9 upon the acceptance and approval of any of the  
 10 above-mentioned bonds or securities, to make a complete  
 11 minute entry of such ~~the~~ acceptance and approval upon the  
 12 record of their proceedings, and such ~~the~~ bonds and  
 13 securities shall be reapproved at least quarter-annually  
 14 thereafter.

15 ~~{3}--(a)--it--shall--be--lawful--for--county--city--or--town~~  
 16 ~~officials--charged--by--law--with--the--duty--of--requiring--security~~  
 17 ~~from--depositories--of--their--several--public--funds--to--accept~~  
 18 ~~from--such--depository--bank--as--security--for--such--deposits--or~~  
 19 ~~any--part--thereof--cashier's--checks--issued--to--such--depository~~  
 20 ~~bank--by--any--federal--reserve--bank~~

21 ~~{b}--Subsection--(3)(a)--shall--be--deemed--to--be~~  
 22 ~~supplementary--to--the--provisions--of--subsections--(1)--and--(2)~~  
 23 ~~and--shall--not--in--any--manner--limit--or--effect--the--right--of--the~~  
 24 ~~several--officers--enumerated--in--said--subsection--to--accept~~  
 25 ~~security--of--the--character--specified--therein."~~

1 Section 3. Section 7-6-2112, MCA, is amended to read:  
 2 "7-6-2112. Treasurer's report ~~reports~~ to county  
 3 commissioners. (1) Each county treasurer must make a  
 4 detailed ~~monthly~~ report, ~~at every regular meeting of~~ the  
 5 board of county commissioners of his county, of all money  
 6 received by him and the disbursement thereof and of all  
 7 debts due to and from the county and of all other  
 8 proceedings in his office, so that the receipts into the  
 9 treasury and the amount of disbursements, together with the  
 10 debts due to and from the county, ~~may appear~~ clearly and  
 11 distinctly ~~appear~~.

12 (2) On the first Monday of January, April, July, and  
 13 October of each year the county treasurer must settle with  
 14 the board of county commissioners for all money collected,  
 15 and on said ~~those~~ days ~~the treasurer~~ must deliver to said  
 16 ~~the~~ board affidavits verifying the reconciliation of the  
 17 balance on hand in the county treasury. After the approval  
 18 of such ~~the~~ statements and the accompanying affidavits, one  
 19 copy of such ~~the~~ quarterly report shall be filed with the  
 20 county clerk of said ~~the~~ county and one copy shall be  
 21 retained by the county treasurer."

22 Section 4. Section 7-6-2201, MCA, is amended to read:  
 23 "7-6-2201. Fiscal year for counties. The fiscal year  
 24 for county purposes commences on July 1 of each year and  
 25 ends on June 30 of each ~~the following~~ year."

1 Section 5. Section 7-6-2202, MCA, is amended to read:

2 "7-6-2202. Duties of county clerk related to finance.

3 (1) The county clerk must draw warrants on the county  
4 treasurer ~~treasury~~ in favor of all persons entitled thereto  
5 in payment:

6 (a) of all claims and demands chargeable against the  
7 county which have been legally examined, allowed, and  
8 ordered paid by the board of county commissioners;

9 (b) for all debts and demands against the county when  
10 the amounts are fixed by law and are not directed to be  
11 audited by some other person or tribunal.

12 (2) He ~~The county clerk~~ must keep accounts current  
13 with the treasurer. When any person deposits with the  
14 county treasurer any money paid into the treasury, the  
15 county clerk shall be furnished by the treasurer with a  
16 duplicate of the receipt issued to such ~~the~~ person, which  
17 duplicate receipt shall be filed in the office of the county  
18 clerk, and such ~~the~~ county clerk shall charge the treasurer  
19 with the amount thereof.

20 (3) He ~~The county clerk~~ must make the annual statement  
21 as prescribed in 7-6-2203."

22 Section 6. Section 7-6-2221, MCA, is amended to read:

23 "7-6-2221. ~~Limitation--on--amount--of~~ Limitations on  
24 capital improvement fund. The capital improvement fund shall  
25 may not exceed at any time a competent engineering estimate

1 of the cost of the adopted capital improvement program and  
2 ~~provided that the funds are expended at least within each~~  
3 ~~10-year period. Money deposited in the fund must be expended~~  
4 within a 10-year period."

5 Section 7. Section 7-6-2302, MCA, is amended to read:

6 "7-6-2302. Role of department of community affairs.

7 The department of community affairs shall make rules and  
8 classifications and prescribe forms necessary to carry out  
9 the provisions of this part ~~except for 7-6-2329~~, to define  
10 what expenditures are chargeable to each budget account, and  
11 to establish accounting and cost systems necessary to  
12 provide accurate budget information."

13 Section 8. Section 7-6-2316, MCA, is amended to read:

14 "7-6-2316. Notice of hearing on preliminary budget.

15 (1) The board of county commissioners shall then have a  
16 notice published stating that:

17 (a) the board has completed its preliminary county  
18 budget for the current fiscal year;

19 (b) the budget is open to inspection in the office of  
20 the county clerk and recorder;

21 (c) the board will meet on the Wednesday before the  
22 second Monday in August to fix the final budget and make  
23 appropriations, stating the time and place of the meeting;  
24 and

25 (d) any taxpayer or resident of the county may appear

1 and be heard for or against any part of the budget.

2 (2) The notice shall be published at least one time in  
3 a newspaper of general circulation in the county."

4 Section 9. Section 7-6-2317, MCA, is amended to read:

5 "7-6-2317. Hearing on preliminary budget. (1) On the  
6 Wednesday before the second Monday in August, the county  
7 commissioners shall meet at the time and place designated in  
8 the notice provided for in 7-6-2316, at which time any  
9 taxpayer or resident of the county may appear and be heard  
10 for or against any part of the budget.

11 (2) The hearing shall be continued from day to day and  
12 shall be concluded and the budget approved and adopted on  
13 the second Monday in August, before the fixing of the tax  
14 levies by the board."

15 Section 10. Section 7-6-2342, MCA, is amended to read:

16 "7-6-2342. Procedure to make expenditures and incur  
17 liabilities in case of other emergencies. (1) In a public  
18 emergency other than ~~such--as--are--specifically~~ those  
19 described in 7-6-2341 and which could not reasonably have  
20 been foreseen at the time of making the budget, the board of  
21 county commissioners, by unanimous vote of the members  
22 present at any meeting (the time and place of which all the  
23 commissioners shall have had reasonable notice), shall adopt  
24 and enter upon their minutes a resolution stating the facts  
25 constituting the emergency and the estimated amount of money

1 required to meet such ~~the~~ emergency.

2 (2) The board shall publish the ~~same~~ resolution,  
3 together with a notice that a public hearing will be held  
4 thereon on the resolution at the time and place designated  
5 therein in the notice, once in the official newspaper of the  
6 county and if there be is none, then in a newspaper of  
7 general circulation in the county. The hearing ~~shall~~ may not  
8 be less than 1 week after the date of said publication.

9 (3) Any taxpayer or resident of the county may appear  
10 at the hearing and be heard for or against the expenditure  
11 of money for such ~~the~~ alleged emergency.

12 (4) (a) Upon the conclusion of such ~~the~~ hearing, if  
13 the commissioners ~~shall~~ approve of--such ~~the~~ emergency  
14 expenditure, they shall make and enter upon their official  
15 minutes, by unanimous vote of all of the members of the  
16 board present at such ~~the~~ meeting, an order setting forth  
17 the facts constituting such ~~the~~ emergency, together with the  
18 amount of expenditure authorized therefor by them. Subject  
19 to the limitations of subsection (4)(b), the order so  
20 entered--~~shall~~ be is lawful authorization for them to expend  
21 such amount, but no more, for such purpose.

22 (b) No expenditure ~~shall~~ may be made or liability  
23 incurred pursuant to said ~~the~~ order until 5 days, exclusive  
24 of the day of entry of said ~~the~~ order, ~~shall~~ have--elapsed  
25 elapse."

1 Section 11. Section 7-6-2343, MCA, is amended to read:

2 "7-6-2343. Appeal of order for certain emergency  
3 expenditures. (1) During the 5-day period provided by  
4 7-6-2342(4)(b), any taxpayer or taxpayers resident of said  
5 the county feeling aggrieved by the order issued pursuant to  
6 7-6-2342(4) may appeal therefrom to the district court for  
7 such county by filing with the clerk of such the court a  
8 verified petition, a copy of which shall has theretofore  
9 have been served upon the county clerk and recorder of said  
10 the county as the clerk of the board of county  
11 commissioners. Said the petition shall set forth in detail  
12 the objections of the petitioner or-petitioners to said the  
13 order, giving their reasons why the emergency does not  
14 exist.

15 (2) Until final determination of the matter by the  
16 court, the service and filing of such the petition shall  
17 operate operates to suspend such the emergency order and the  
18 authority to make any expenditure or incur any liability  
19 thereunder.

20 (3) Upon the filing of such the petition, the court  
21 shall immediately fix a time for hearing such the petition,  
22 which time shall be at the earliest convenient time. At such  
23 the hearing the court shall hear the matter de novo and may  
24 take such testimony as it deems considers necessary. Its the  
25 court's proceedings shall be summary and informal, and its

1 determination as to whether an emergency such as is  
2 contemplated within the meaning and provisions of this part  
3 exists or not and whether the expenditure authorized by said  
4 the order is excessive or not shall-be is final."

5 Section 12. Section 7-6-2344, MCA, is amended to read:

6 "7-6-2344. Limitation on amount of emergency  
7 expenditures and liabilities -- election. (1) Unless the  
8 excess above the sums listed in subsections (1)(a), (1)(b),  
9 and (1)(c) shall is first have-been authorized by a majority  
10 of the taxpaying-freeholders electors of such the county-who  
11 are-registered-electors-therein, voting at a general or  
12 special election, the aggregate total of all expenditures  
13 made or liabilities incurred in any fiscal year to meet  
14 emergencies, other than such-as-are those caused by fire,  
15 flood, explosion, earthquake, epidemic, riot, or  
16 insurrection, shall may not exceed-the-sum-of:

17 (a) \$25,000 in counties of classes class 1, 2, 3, and  
18 or 4;

19 (b) \$15,000 in counties of classes class 5 and or 6;  
20 and

21 (c) \$7,500 in counties of class 7.

22 (2) The question of authorizing such the excess  
23 expenditures shall be submitted in the following form,  
24 inserting in the ballot the amount of the excess proposed to  
25 be authorized and a description of the emergency to be met:

1 Shall the board of county commissioners of .... County,  
2 Montana, be authorized to make additional expenditures and  
3 incur additional liabilities in the amount of \$.... over and  
4 above the sum of \$.... to meet an emergency caused by .....

5  YES

6  NO

7 (3) Notice of such ~~the~~ election shall be given by  
8 posting notice thereof at least 15 days before such ~~the~~  
9 election in three public places in each voting precinct  
10 within the county and by publishing such ~~the~~ notice for not  
11 less than 10 days before the date of such ~~the~~ election.

12 (4) The total of all emergency budgets and  
13 appropriations made therein in any one year to be paid from  
14 the county poor fund shall ~~may~~ not exceed the amount which  
15 would be produced by a mill levy equal to the difference  
16 between the mills levied in that year and the maximum mill  
17 levy authorized by law to be made for such fund, computed  
18 against the taxable value of the property subject to such  
19 levy as shown by the last completed assessment roll of the  
20 county."

21 Section 13. Section 7-6-2401, MCA, is amended to read:

22 "7-6-2401. Creation of office of county auditor. (1)  
23 Except as provided in subsection (2), the office of county  
24 auditor ~~is hereby created and the same shall exist~~ exists in  
25 all counties of Montana of the first, second, third, and ~~or~~

1 fourth ~~classes~~ class.

2 (2) The provisions of this part shall ~~do~~ not apply to  
3 counties having a population of less than 15,000 persons  
4 according to the ~~test~~ most recent federal census of 1960."

5 Section 14. Section 7-6-2402, MCA, is amended to read:

6 "7-6-2402. Optional election for county auditor. There  
7 may be elected in ~~and for~~ each county of the classes named  
8 in 7-6-2401 some person to serve as county auditor. He shall  
9 ~~be elected for the term of 4 years and until his successor~~  
10 ~~shall be elected and qualified, the term shall begin on the~~  
11 ~~first Monday in January succeeding his election."~~

12 Section 15. Section 7-6-2403, MCA, is amended to read:

13 "7-6-2403. Qualifications of county auditor. No person  
14 shall ~~be~~ is eligible to serve in the office of county  
15 auditor of any county within the state who shall ~~not have~~  
16 ~~arrived at the age of voting~~ is not of voting age and who  
17 shall ~~has~~ not have been a bona-fide resident of the county  
18 for which he shall ~~be~~ is elected or appointed for at least 2  
19 years preceding his election or appointment."

20 Section 16. Section 7-6-2406, MCA, is amended to read:

21 "7-6-2406. Compensation of auditor. The county auditor  
22 shall ~~receive~~ receives the annual compensation provided by  
23 law, payable monthly by warrants drawn on the treasury of  
24 the county ~~treasurer~~, and shall receive no other  
25 compensation or emolument whatsoever for any service or

1 services rendered or performed by him, except actual  
 2 expenses for living and traveling whenever the duties of his  
 3 office require his presence at any place in the county other  
 4 than the county seat, and then only after the same travel  
 5 has been ordered and advised by the board of county  
 6 commissioners."

7 Section 17. Section 7-6-2409, MCA, is amended to read:

8 "7-6-2409. Examination of county books and accounts.

9 (1) It ~~shall be~~ is the duty of the county auditor to ~~make an~~  
 10 ~~examination--of~~ examine the books and accounts of the county  
 11 treasurer, the county clerk and recorder, the sheriff, the  
 12 clerk of the district court, and all other county and  
 13 township officers within 15 days ~~preceding each~~ prior to the  
 14 ~~first~~ regular session of the board of county commissioners  
 15 ~~at their next session immediately following such examination~~  
 16 ~~in March, June, September, and December of each year~~ unless  
 17 a longer time ~~be~~ is granted him to the auditor by the board  
 18 ~~in which to report the same.~~

19 (2) ~~Said~~ The quarterly report shall contain a full and  
 20 complete statement of the money received and disbursed by  
 21 each of the officers since the last examination and report  
 22 ~~of--the--same.~~ For the purpose of this section, the county  
 23 auditor ~~shall have~~ has free access to all books and papers  
 24 in each of ~~said~~ the offices."

25 Section 18. Section 7-6-2421, MCA, is amended to read:

1 "7-6-2421. Presentation of claims against county. (1)  
 2 No account ~~must~~ may be allowed by the board unless the same  
 3 is made out in separate items, with the nature of each item  
 4 stated. If the claim is for official services for which no  
 5 specified fees are fixed by law, the time actually and  
 6 necessarily devoted to such services must be stated. No  
 7 account must be necessarily passed upon by the board unless  
 8 made out as prescribed in this section and filed by the  
 9 clerk prior to the session at which it is asked to be heard.

10 (2) Claims against the county shall contain the  
 11 following statement: "I certify that this claim is correct  
 12 and just in all respects and that payment or credit has not  
 13 been received." Claims need not be verified by affidavit.

14 (3) Every claim against the county, except claims  
 15 arising from injury to a person or property, which are  
 16 limited under provisions of Title 2, chapter 9, parts 1  
 17 through 3, as amended, must be presented within 1 year after  
 18 the last item accrued.

19 (4) No county officer ~~must~~ may, except for his own  
 20 service, present any claim, account, or demand for allowance  
 21 against the county or in any way advocate the relief asked  
 22 on the claim or demand made by another.

23 (5) ~~If--money~~ MONEY deposited in the county treasury  
 24 pursuant to [former section 16-2616, R.C.M. 1947]---~~is~~  
 25 ~~demanded--within-6-years-by-the-legat-representatives-of-the~~

1 ~~decedent, the treasurer must pay it to them, after deducting~~  
 2 ~~the fees and expenses of the coroner and of the county in~~  
 3 ~~relation to the matter, or the same may be so paid at any~~  
 4 ~~time thereafter upon the order of the board of county~~  
 5 ~~commissioners, and not otherwise disposed of shall be~~  
 6 ~~transferred by the county treasurer to the state treasurer~~  
 7 ~~for deposit in the agency fund provided for in Title 72,~~  
 8 ~~chapter 14, part 2. The county treasurer may deduct the fees~~  
 9 ~~and expenses of the coroner and the county prior to~~  
 10 ~~transferring the money."~~

11 Section 19. Section 7-6-2422, MCA, is amended to read:

12 "7-6-2422. Opposition to claims. Any citizen ~~and~~  
 13 ~~resident or~~ taxpayer of the county in which he resides may  
 14 appear before the board and oppose the allowance of any  
 15 claim or demand made against the county."

16 Section 20. Section 7-6-2424, MCA, is amended to read:

17 "7-6-2424. Appeal of decision concerning claim. (1)  
 18 Whenever a claim against a county is disallowed in whole or  
 19 in part or when ~~whenever~~ any taxpayer ~~or resident~~ of the  
 20 county is not satisfied with any allowance made by the  
 21 board, the claimant, ~~or such taxpayers or resident~~ may  
 22 appeal from the decision of the board to the district court  
 23 for the county by causing a written notice of appeal to be  
 24 served on the clerk of the board within 30 days after the  
 25 making of the decision or allowance and executing a bond to

1 the county, with surety to be approved by the clerk of the  
 2 board, conditioned to prosecute ~~the~~ appeal to effect  
 3 and to pay all costs that may be adjudged against the  
 4 appellant.

5 (2) The clerk of the board, upon an appeal being  
 6 taken, must immediately give notice thereof to the county  
 7 attorney and must make out a return of the proceedings in  
 8 the matter before the board, with its decision thereon, and  
 9 file the same, together with the bond and all the papers  
 10 therein in his possession, with the clerk of the district  
 11 court.

12 (3) ~~Such the~~ appeal must be entered, tried, and  
 13 determined the same as appeals from justices' courts, and  
 14 costs are awarded in like manner."

15 Section 21. Section 7-6-2428, MCA, is amended to read:

16 "7-6-2428. Procedure to collect charges when criminal  
 17 case is removed. (1) The district court of the county to  
 18 which ~~a criminal~~ action is removed must certify the  
 19 amount of costs allowed and certified by the court to the  
 20 board of county commissioners of ~~the~~ the county ~~of the~~  
 21 ~~district court~~. Such board shall audit the same and draw its  
 22 warrants therefor upon the treasurer ~~treasury~~ of the county  
 23 from which ~~such the~~ action was removed ~~and such the~~ board  
 24 ~~drawing the warrants~~ shall forward to ~~said the~~ treasurer and  
 25 board of the county from which ~~said the~~ action was



1 transferred-as-~~es-aforsaid~~, a certified copy of the total  
2 amount allowed by the court, giving each item as certified  
3 to them by the clerk of the district court and the court.

4 (2) The board receiving such ~~the~~ certified copy of  
5 said ~~the~~ costs allowed shall enter the same in its books as  
6 a charge against the treasurer ~~treasury~~ of its county. The  
7 county treasurer of the county from which such ~~the~~ action  
8 was removed must, immediately upon presentation, pay said  
9 warrant ~~the\_warrants~~ out of the general fund of said ~~that~~  
10 county, or if at the time of presentation, there is not  
11 sufficient money in the general fund to pay the same, he  
12 must endorse upon said-warrant ~~the\_warrants~~ "Not paid for  
13 want of funds", and said--warrant ~~the\_warrants~~ must be  
14 registered and ~~shall~~ draw interest at the same rate and be  
15 paid in the same manner as though it had been drawn by the  
16 board of the county where the indictment was found or  
17 information filed."

18 Section 22. Section 7-6-2430, MCA, is amended to read:  
19 "7-6-2430. Accounts to be examined, settled, and  
20 allowed. The board of county commissioners has jurisdiction  
21 and power, under such limitations and restrictions as are  
22 prescribed by law, at the regular meetings of the board, to  
23 examine, settle, and allow all accounts legally chargeable  
24 against the county, except salaries of officers, and order  
25 warrants to be drawn on the county treasurer ~~treasury~~

1 therefor and provide for the issuing of the same."

2 Section 23. Section 7-6-2601, MCA, is amended to read:  
3 "7-6-2601. Details related to county warrants. (1)  
4 Warrants issued pursuant to 7-6-2202(1) shall be signed by  
5 the county clerk and the chairman of the board of county  
6 commissioners, except warrants drawn on the redemption fund.

7 (2) All warrants issued by the county clerk during  
8 each year, commencing with the first Monday in January, must  
9 be numbered consecutively. The number, date, and amount of  
10 each and the name of the person to whom payable and the  
11 purpose for which drawn must be stated thereon; and they ~~the~~  
12 ~~warrants~~ must, at the time they are issued, be registered by  
13 him.

14 (3) Warrants drawn by order of the board on the county  
15 treasurer ~~treasury~~ for the current expenses during each year  
16 must specify the liability for which they are drawn and when  
17 they ~~the\_liability~~ accrued."

18 Section 24. Section 7-6-2607, MCA, is amended to read:  
19 "7-6-2607. Examination and processing of warrants. (1)  
20 The board, at its annual March session or oftener ~~more\_often~~  
21 if necessary, must examine the county warrants returned by  
22 the county treasurer by comparing each warrant with the  
23 record of warrants issued in the county clerk's office.

24 (2) The board must cause to be canceled all county  
25 warrants that have remained uncalled for 1 year or more in

1 the county clerk's office, ~~the same~~ these warrants to be  
 2 canceled in the same manner as other county warrants. At the  
 3 same time, the county treasurer must deliver to the board  
 4 all warrants or vouchers that ~~he may have~~ are in his ~~the~~  
 5 ~~treasurer's~~ possession for money disbursed by him as  
 6 treasurer and the clerk must receipt for the same.

7 (3) The board must cause to be entered on ~~said the~~  
 8 record of warrants, opposite to the entry of each warrant  
 9 issued, the date when the ~~same warrant~~ was canceled and must  
 10 make a list of the canceled warrants ~~so canceled~~, specifying  
 11 the number, date, amount, and the person to whom the same  
 12 was payable, and enter must cause the same list to be  
 13 entered on the minutes of the board."

14 Section 25. Section 7-6-2801, MCA, is amended to read:  
 15 "7-6-2801. Management of school funds. The county  
 16 treasurer must:

17 (1) keep all school money in a separate fund and keep  
 18 a separate account of its disbursement to the several school  
 19 districts which are entitled to receive it, according to the  
 20 apportionment of the county superintendent of common  
 21 schools;

22 (2) notify the county superintendent of the amount of  
 23 the county school fund in the county treasury subject to  
 24 apportionment, whenever required, and inform him of the  
 25 amount of school money belonging to any other fund subject

1 to apportionment, or as otherwise provided by law;

2 (3) pay all warrants drawn on county or district  
 3 school money, in accordance with the provisions of law,  
 4 whenever such warrants are countersigned by the district  
 5 clerk and properly endorsed by the holders;

6 (4) make, annually, during the month of September, a  
 7 financial report for the preceding year ending August 31 to  
 8 the county superintendent, in such form as ~~may--be is~~  
 9 required by him."

10 Section 26. Section 7-6-4101, MCA, is amended to read:  
 11 "7-6-4101. Fiscal year for municipalities. The fiscal  
 12 year of cities and towns commences on July 1 of each year  
 13 and ends on June 30 of each the following year."

14 Section 27. Section 7-6-4113, MCA, is amended to read:  
 15 "7-6-4113. Filing of annual financial statement. (1)  
 16 The city or town clerk must, not later than August 31  
 17 following the close of each fiscal year, transmit one copy  
 18 of the statement to the department of community affairs and  
 19 must present the other copy to the city or town council or  
 20 commission at its first regular meeting in September.

21 (2) If a city or town clerk fails to file a copy of  
 22 the statement with the department within the time specified,  
 23 the department, without delay, shall examine the books,  
 24 records, and accounts of the city or town. The department  
 25 shall make from its examination a statement of the financial

1 condition of the city or town for the preceding fiscal year  
 2 in the manner it should have been made by the city or town  
 3 clerk. The examination shall be considered a special  
 4 examination audit under the provisions of subsections (4)  
 5 and (5) of 2-7-503, and all of the provisions of subsections  
 6 (4) and (5) of 2-7-503 apply to it."

7 Section 28. Section 7-6-4121, MCA, is amended to read:  
 8 "7-6-4121. Authorization to conduct municipal business  
 9 on a cash basis. (1) In case the total indebtedness of a  
 10 city or town has reached 11% of the total taxable value of  
 11 the property of the city or town subject to taxation, as  
 12 ascertained by the last assessment for state and county  
 13 taxes, the city or town may conduct its affairs and business  
 14 on a cash basis as provided by subsection (2).

15 (2) (a) ~~in case the total indebtedness of a city or~~  
 16 ~~town has reached the limit of 5% of the value of taxable~~  
 17 ~~property therein, it shall be lawful for and said city or~~  
 18 ~~town is hereby authorized and empowered to thereafter manage~~  
 19 ~~and conduct whenever a city or town is conducting its~~  
 20 business affairs on a cash basis, and pay the reasonable and  
 21 necessary current expenses of the city or town may be paid  
 22 out of the cash in the city or town treasury and derived  
 23 from its current revenues, under such restrictions and  
 24 regulations as the city or town council may by ordinance  
 25 prescribe.

1 (b) in the event that payment be is made in advance,  
 2 the city or town ~~shall have power to~~ may require a cash  
 3 deposit as collateral security and indemnity, equal in  
 4 amount to such payment, and may hold the same as a special  
 5 deposit with the city treasurer or town clerk, in package  
 6 form, as a pledge for the fulfillment and performance of the  
 7 contract or obligation for which ~~said the~~ advance ~~shall have~~  
 8 been is made.

9 (c) Before the payment of the current expenses  
 10 mentioned above, the city or town council shall first set  
 11 apart sufficient money to pay the interest upon its legal,  
 12 valid, and outstanding bonded indebtedness and any sinking  
 13 funds therein provided for and shall be authorized to pay  
 14 all valid claims against funds raised by tax especially  
 15 authorized by law for the purpose of paying such claims."

16 Section 29. Section 7-6-4227, MCA, is amended to read:  
 17 "7-6-4227. Notice of hearing on preliminary budget.  
 18 (1) The council shall then cause a notice to be published  
 19 stating that:

20 (a) ~~said the~~ council has completed its preliminary  
 21 municipal budget for the current fiscal year;

22 (b) ~~said the~~ budget has been placed on file and is  
 23 open to inspection in the office of the clerk of the  
 24 municipality;

25 (c) ~~said the~~ council will meet on the Wednesday

1 immediately preceding the second Monday in August thereafter  
 2 for the purpose of fixing the final budget and making  
 3 appropriations, designating the time and place when and  
 4 where such meeting will be held; and

5 (d) any taxpayer or resident may appear thereat at the  
 6 meeting and may be heard for or against any part of said the  
 7 budget.

8 (2) Said the notice shall be published at least one  
 9 time in the official newspaper of the municipality or, if  
 10 there be is none, then in a newspaper of general circulation  
 11 in the county in which the municipality is situated."

12 Section 30. Section 7-6-4228, MCA, is amended to read:

13 "7-6-4228. Hearing on preliminary budget. (1) On the  
 14 Wednesday preceding the second Monday in August, the council  
 15 shall meet at the time and place designated in the notice  
 16 provided in 7-6-4227, at which time any taxpayer or resident  
 17 may appear and be heard for or against any part of the  
 18 budget. The council may call in the official in charge of an  
 19 office, department, service, or institution, at the time the  
 20 estimates for their respective offices are under  
 21 consideration, for examination concerning the estimates. The  
 22 official shall be called in by the council, upon the request  
 23 of a taxpayer or resident, for questioning upon the  
 24 estimates either by the council, or a taxpayer, or resident.

25 (2) The hearing shall be continued from day to day and

1 shall be concluded and the budget finally approved and  
 2 adopted on the second Monday in August, prior to the fixing  
 3 of the tax levies by the council."

4 Section 31. Section 7-6-4232, MCA, is amended to read:

5 "7-6-4232. Fixing of tax levy. (1) On the second  
 6 Monday in August and after the approval and adoption of the  
 7 final budget, the council shall fix the tax levy for each  
 8 fund at a rate, not exceeding limits prescribed by law,  
 9 which will raise the amount set out in the budget as the  
 10 amount necessary to be raised by tax levy for that fund  
 11 during the current fiscal year. The taxable valuation of the  
 12 city for the current fiscal year shall be the basis for  
 13 determining the amount of the tax levy for each fund, and  
 14 each tax levy shall be at a rate no higher than is required  
 15 on that basis, without including any amount for anticipated  
 16 tax delinquency, to raise the amount set out in the budget.

17 (2) If the council considers that a levy made for a  
 18 bond sinking or interest fund will not provide a sufficient  
 19 amount to pay all bond principal and interest becoming due  
 20 during the current fiscal year or within 6 months after the  
 21 current fiscal year because of anticipated tax delinquency,  
 22 the council may fix the levy at a rate it considers  
 23 necessary to raise the amount for making the payments of  
 24 principal and interest over and above the anticipated tax  
 25 delinquency.

1 (3) Each levy shall be made in the manner provided by  
2 15-10-291."

3 Section 32. Section 7-6-4252, MCA, is amended to read:  
4 "7-6-4252. Procedure to make expenditures and incur  
5 liabilities in case of other emergencies. (1) In a public  
6 emergency other than ~~such--as--are--specifically those~~  
7 described in 7-6-4251 and which could not reasonably have  
8 been foreseen at the time of making the budget, the council,  
9 by unanimous vote of the members present at any meeting (the  
10 time and place of which all of the members shall have had  
11 reasonable notice), shall adopt and enter upon their minutes  
12 a resolution stating the facts constituting the emergency,  
13 the estimated amount of money required to meet such ~~the~~  
14 emergency, and the fund against which emergency warrants  
15 shall be drawn.

16 (2) The council shall publish the resolution, together  
17 with a notice that a public hearing will be held thereon ~~on~~  
18 ~~the resolution~~ at the time and place designated therein ~~in~~  
19 ~~the notice~~, once in the official newspaper of the  
20 municipality and, if there be ~~is~~ none, then in a newspaper  
21 of general circulation in the county in which the  
22 municipality is situated. The hearing shall ~~may~~ not be less  
23 than 1 week after the date of ~~said~~ publication.

24 (3) Any taxpayer ~~or resident of the municipality~~ may  
25 appear at the hearing and be heard for or against the

1 expenditure of money for such ~~the~~ alleged emergency.

2 (4) (a) Upon the conclusion of such ~~the~~ hearing, if  
3 the council shall ~~approve of such~~ approves the emergency  
4 expenditure, it shall make and enter upon its official  
5 minutes, by unanimous vote of all of the members of the  
6 council present at such ~~the~~ meeting, an order setting forth  
7 the facts constituting such ~~the~~ emergency, together with the  
8 amount of expenditure authorized therefor by them and the  
9 fund against which emergency warrants shall be drawn.  
10 Subject to the limitations of subsection (4)(b), the order  
11 ~~so--entered--shall--be~~ is lawful authorization for them to  
12 expend such amount, but no more, for such purpose.

13 (b) No expenditure shall ~~may~~ be made or liability  
14 incurred pursuant to said ~~the~~ order until 5 days, exclusive  
15 of the day of entry of said ~~the~~ order, shall ~~--have--elapsed~~  
16 elapse."

17 Section 33. Section 7-6-4253, MCA, is amended to read:  
18 "7-6-4253. Appeal of order for certain emergency  
19 expenditures. (1) During the 5-day period provided by  
20 7-6-4252(4)(b), any taxpayer or taxpayers resident of said  
21 ~~the~~ municipality feeling aggrieved by the order issued  
22 pursuant to 7-6-4252(4) may appeal therefrom to the district  
23 court for the county in which the municipality is situated  
24 by filing with the clerk of such ~~the~~ court a verified  
25 petition, a copy of which shall ~~has~~ theretofore have been

1 served upon the clerk of said ~~the~~ municipality. Said ~~the~~  
 2 petition shall set forth in detail the objections of the  
 3 petitioner or-petitioners to said ~~the~~ order, giving their  
 4 reasons why the said emergency does not exist.

5 (2) Until final determination of the matter by the  
 6 court, the service and filing of such ~~the~~ petition shall  
 7 operate ~~operates~~ to suspend such ~~the~~ emergency order and the  
 8 authority to make any expenditure or incur any liability  
 9 thereunder.

10 (3) Upon the filing of such ~~the~~ petition, the court  
 11 shall immediately fix a time for hearing such ~~the~~ petition,  
 12 which ~~time~~ shall be at the earliest convenient time. At such  
 13 ~~the~~ hearing the court shall hear the matter de novo and may  
 14 take such testimony as it deems ~~considers~~ necessary. ~~Its~~ ~~the~~  
 15 ~~court's~~ proceedings shall be summary and informal, and its  
 16 determination as to whether an emergency such as is  
 17 contemplated within the meaning and provisions of this part  
 18 exists or not and whether the expenditure authorized by said  
 19 ~~the~~ order is excessive or not shall ~~be~~ ~~is~~ final."

20 Section 34. Section 7-6-4302, MCA, is amended to read:

21 "7-6-4302. Payment of claims by warrant. Except as  
 22 provided in 7-6-4121, all accounts and demands against a  
 23 city or town must be submitted to the council and, if found  
 24 correct, must be allowed and an order must be made that the  
 25 demand be paid, upon--which--the, ~~the~~ mayor must draw a

1 warrant upon the treasurer ~~TREASURY~~ in favor of the owner,  
 2 specifying for what purpose and by what authority it is  
 3 issued and out of what funds it is to be paid. The city  
 4 treasurer or town clerk must pay the same ~~warrant~~ out of the  
 5 proper fund."

6 Section 35. Section 7-6-4402, MCA, is amended to read:

7 "7-6-4402. Tax-related duties of city treasurer. It  
 8 shall--be ~~is~~ the duty of the city treasurer to perform such  
 9 duties in the collection of taxes, ~~licenses~~ ~~license~~ ~~fees~~, or  
 10 assessments as are or--may--be prescribed by law or  
 11 ordinance."

12 Section 36. Section 7-6-4404, MCA, is amended to read:

13 "7-6-4404. Tax-related duties of town clerk. It shall  
 14 be ~~is~~ the duty of the town clerk to perform such duties in  
 15 the collection of taxes, ~~licenses~~ ~~license~~ ~~fees~~, or  
 16 assessments as are or--may--be prescribed by law or  
 17 ordinance."

18 Section 37. Section 7-6-4414, MCA, is amended to read:

19 "7-6-4414. Sales for delinquent taxes when county  
 20 collects municipal tax. (1) All publications for ~~of~~ sales  
 21 for delinquent taxes shall include such city or town taxes,  
 22 ~~there-being-but,~~ ~~There~~ ~~is~~ ~~only~~ one sale for each piece of  
 23 property. The sale shall cover the aggregate of such city  
 24 or town, county, and state taxes, with the penalties,  
 25 interest, and cost of advertising provided by law.

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

6 Section 38. Section 7-6-4431, MCA, is amended to read:

7 "7-6-4431. Authorization to exceed maximum mill levy  
 8 -- election required. (1) Subject to the conditions of  
 9 subsection (2), whenever the council of any city or town  
 10 shall--deem considers it necessary to raise money by  
 11 taxation, in excess of the levy now allowed by law, for any  
 12 purpose for which said ~~the~~ city or town is authorized to  
 13 expend money raised by taxation in said ~~the~~ city or town, ~~it~~  
 14 ~~the council~~ shall submit the question of such additional  
 15 levy to the ~~legal~~ registered voters of such ~~the~~ city or town  
 16 who-are-taxpaying-freeholders-therein, either at the regular  
 17 annual election held in said ~~the~~ city or town or at a  
 18 special election called for that purpose by the council of  
 19 such ~~the~~ city or town. If the majority voting on the  
 20 question are in favor of such ~~an~~ additional levy-or-levies,  
 21 the city or town council shall so certify and such  
 22 additional levy or-levies-of-taxes shall be made by the city  
 23 or town council for that year.

24 (2) Such additional levy shall may not exceed 5  
 25 mills."

1 Section 39. Section 7-6-4438, MCA, is amended to read:

2 "7-6-4438. Tax levy and expenditures for municipal and  
 3 administrative purposes when limits on municipal  
 4 indebtedness exceeded. (1) All taxes levied and collected or  
 5 ~~to-be-collected~~ for municipal and administrative purposes by  
 6 any city or town in which the indebtedness equals or exceeds  
 7 the limit allowed ~~in~~ by statute may be used in payment of  
 8 current expenses during the fiscal year for which the taxes  
 9 were levied, as if a special levy had been made for each of  
 10 the purposes. The council of any such city or town may  
 11 designate the amount of the general levy applicable to each  
 12 of the purposes. The amount so designated constitutes a  
 13 special fund for the special purpose of paying the expenses  
 14 incurred for the purpose. The expenses shall be payable out  
 15 of the fund and not otherwise.

16 (2) However, the aggregate of all taxes authorized for  
 17 general municipal and administrative purposes may not exceed  
 18 ~~5-1/2%~~ 1.2% annually of the taxable value of all property  
 19 subject to taxation in such ~~the~~ city or town.

20 (3) Any city, the indebtedness of which equals or  
 21 exceeds said ~~the~~ limit allowed by statute, shall--be  
 22 authorized--to may levy and collect special taxes for  
 23 municipal and administrative purposes, and the city council  
 24 in making such--levy special levies shall designate the  
 25 amount thereof for each of said ~~the~~ purposes, and each tax,

1 when collected, ~~shall constitute~~ constitutes a fund out of  
 2 which the expenses incurred for the purpose for which such  
 3 ~~the~~ tax was levied shall be paid. The expenses incurred for  
 4 any such particular purpose shall be paid out of the fund so  
 5 to be provided therefor and not otherwise."

6 Section 40. Section 7-6-4501, MCA, is amended to read:

7 "7-6-4501. Interest on unpaid warrants. When any  
 8 warrant drawn upon the treasurer treasury of a city or a  
 9 town ~~clerk~~ and pursuant to any ordinance or resolution or  
 10 direction of the council of such ~~the~~ city or town is  
 11 presented to the city treasurer or town clerk for payment  
 12 and the same is not paid for want of funds, such ~~the city~~  
 13 treasurer ~~or town clerk~~ must endorse thereon "Not paid for  
 14 want of funds", annexing the date of presentation, and  
 15 signing his name thereto. From that time until such ~~the~~  
 16 warrant is called for payment, the warrant shall bear bears  
 17 interest at a rate fixed by ordinance."

18 Section 41. Section 7-6-4603, MCA, is amended to read:

19 "7-6-4603. Investment of municipal money in city or  
 20 town warrants. (1) Except as provided in 7-7-4102, whenever  
 21 the city or town has, under its control and in any fund, any  
 22 money for which there is no immediate demand and which, in  
 23 the judgment of the city or town council, it would be  
 24 advantageous to invest in city or town warrants, the city or  
 25 town council ~~is authorized in their discretion to may~~ direct

1 the city treasurer or town clerk to purchase legally issued  
 2 city or town general obligation warrants of the same city or  
 3 town thereafter issued against funds in which there is not  
 4 sufficient funds to pay such city or town warrants at the  
 5 time of issuance.

6 (2) (a) In case of such purchase, the city or town  
 7 council shall designate the fund or funds to be so invested  
 8 and shall fix the amount thereof and shall also designate  
 9 the city or town warrant--or warrants which are to be  
 10 purchased by such funds. The city or town clerk shall  
 11 thereupon cause to be attached to or stamped, written, or  
 12 printed upon the warrants so ordered to be purchased a  
 13 notice to the effect that the city or town will exercise its  
 14 preference right to purchase such warrant.

15 (b) The city treasurer or town clerk shall thereafter,  
 16 when such city or town warrant is presented to him, purchase  
 17 the same out of the proper fund as designated by the city or  
 18 town council. The warrant so purchased shall be registered  
 19 as other city or town warrants and bear interest as provided  
 20 by law.

21 (3) When the designated amounts have been invested,  
 22 the city treasurer ~~or town clerk~~ shall notify the city or  
 23 town clerk."

24 Section 42. Repealer. Section 7-6-4433, MCA, is  
 25 repealed.