

CHAPTER NO. 184

SENATE BILL NO. 375

INTRODUCED BY GRAHAM

BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

February 6, 1979	Introduced and referred to Committee on State Administration.
February 12, 1979	Committee recommend bill do pass as amended. Report adopted.
February 14, 1979	Printed and placed on members' desks.
February 15, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 20, 1979	Introduced and referred to Committee on State Administration.
March 5, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE SENATE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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Sen. Bill No. 375
Shahany

INTRODUCED BY _____
BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202, MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517, 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH 82-1308, AND 82-4324, R.C.M. 1947."

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

Section 1. Section 2-1-204, MCA, is amended to read:
"2-1-204. Military reservations — service of process.
(1) Authority is granted to and acknowledged in the United States to exercise exclusive legislation as provided by the constitution of the United States over the military reservations reservation of ~~Fort Assiniboine--Fort--Eustery~~ ~~Fort--Keogh--Fort--Meginnis~~ Fort Missoulay ~~and Fort--Shaw~~ as now established by law to the same extent and with the same effect as if ~~said--reservations~~ the reservation had been purchased by the United States by consent of the legislative assembly of the state of Montana so long as ~~said--pieces~~ remain it remains a military reservations reservation.

(2) All legal process of the state, both civil and

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criminal, may be served upon persons and property found within ~~any-of-said-reservations~~ the reservation in all cases where the United States ~~has--not~~ does not have exclusive jurisdiction."

Section 2. Section 2-1-302, MCA, is amended to read:

"2-1-302. Resolution of Indian tribes requesting state jurisdiction -- governor's proclamation -- consent of county commissioners. (1) Whenever the governor of this state ~~shall~~ receive receives from the tribal council or other governing body of the Confederated Salish and Kootenai Indian tribes or any other community, band, or group of Indians in this state, a resolution expressing its desire that its people and lands be subject to the criminal ~~and/or~~ civil jurisdiction, or both of the state of ~~Montana~~ to the extent authorized by federal law and regulation, he shall issue within 60 days a proclamation to the effect that such jurisdiction ~~shall apply~~ applies to those Indians and their territory or reservation in accordance with the provisions of this part.

(2) ~~He shall~~ the governor may not issue such the proclamation until such the resolution has been approved in the manner provided for by the charter, constitution, or other fundamental law of the tribe or tribes, if said document provides for such approval, and there has been first obtained the consent of the board of county

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:

4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:

11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter 14
15 ~~part-3 14.~~

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate-making~~ ratenaking, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, suspension,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, ~~must~~ shall
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, records, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--~~any--~~fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be paid--to
8 ~~the--state-treasurer-at-the-end-of-each-quarter--as-provided~~
9 ~~in-the-constitution deposited pursuant to 17-6-105."~~

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council--established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (?), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when. (1) If an officer, agent, or employee of
14 ~~the state or of a county, municipality, taxing district, or~~
15 ~~other political subdivision of the state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of ~~the state or~~

1 ~~of a county, municipality, taxing district, or other~~
2 ~~political subdivision of the state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental ~~unit~~ entity he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this act]~~ parts 1 through 3 of this chapter
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this act]~~ parts 1 through 3 shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this act]~~ parts 1 through 3,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officers, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those the duties prescribed by the constitution, the

1 governor ~~has the power and must~~ shall perform the following
2 duties:

3 (1) He ~~is to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

1 county attorney in the discharge of his duties.

2 (8) He may offer rewards not exceeding \$1,000 each,
3 payable out of the general fund, for the apprehension of any
4 convict who has escaped from the state prison or any person
5 who has committed or is charged with an offense punishable
6 by death.

7 (9) He ~~must~~ shall perform such duties respecting
8 fugitives from justice as are prescribed by Title 46,
9 chapter 30.

10 (10) He ~~must~~ shall issue and transmit election
11 proclamations, as prescribed by 13-11-101.

12 (11) He ~~must~~ shall issue land warrants and patents, as
13 prescribed in 77-2-342.

14 (12) He ~~must~~ ~~on or before the second Monday of~~
15 ~~November in the year 1892 and in each second year~~
16 ~~thereafter deliver to the secretary of state for~~
17 ~~publication of~~ shall prepare a biennial reports of officers
18 ~~and boards for the 2 preceding years report pursuant to~~
19 ~~2-7-102.~~

20 (13) He may require any officer or board to make
21 special reports to him, upon demand, in writing.

22 (14) He ~~must~~ shall discharge the duties of member of
23 the board of examiners, of nonvoting ex officio member of
24 the state board of education, and of member of the board of
25 land commissioners.

1 (15) He has such ~~the~~ other powers and must perform such
2 ~~the~~ other duties as are devolved upon him by this code or
3 any other law of this state.*

4 Section 11. Section 2-15-401, MCA, is amended to read:
5 "2-15-401. Duties of secretary of state. In addition
6 to the duties prescribed by the constitution, it is the duty
7 of the secretary of state to:

8 (1) attend at every session of the legislature for the
9 purpose of receiving bills and resolutions thereof and to
10 perform such other duties as may be devolved upon him by
11 resolution of the two houses or either of them;

12 (2) keep a register of and attest the official acts of
13 the governor, including all appointments made by him, with
14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to
16 commissions, pardons, and other public instruments to which
17 the official signature of the governor is required;

18 (4) record in proper books all conveyances made to the
19 state and all articles of incorporation filed in his office;

20 (5) receive and record in proper books the official
21 bonds of all the state officers and then deliver the
22 originals to the state treasurer;

23 (6) take and file in his office receipts for all books
24 distributed by him and direct the county clerk of each
25 county to do the same;

1 (7) certify to the governor the names of those persons
2 who have received at any election the highest number of
3 votes for any office, the incumbent of which is commissioned
4 by the governor;

5 (8) furnish, on demand, to any person paying the fees
6 therefor, a certified copy of all or any part of any law,
7 record, or other instrument filed, deposited, or recorded in
8 his office;

9 ~~(9) notify in writing the county attorney of the~~
10 ~~proper county of the failure of any officer in his county to~~
11 ~~file in his office the sworn statement of fees received by~~
12 ~~such officers;~~

13 ~~(10) present to the legislature at the commencement of~~
14 ~~each session thereof a full account of all purchases made~~
15 ~~and expenses incurred in furnishing fuel, lights, and~~
16 ~~stationery;~~

17 (11)(9) keep a fee book in which must be entered all
18 fees, commissions, and compensation of whatever nature or
19 kind by him earned, collected, or charged, with the date,
20 name of payer, paid or unpaid, and the nature of the service
21 in each case, which book must be verified annually by his
22 affidavit entered therein;

23 (12)(10) file in his office descriptions of seals in
24 use by the different state officers and furnish such
25 officers with new seals whenever required;

1 ~~(13)(11) discharge the duties of member of the board of~~
2 ~~examiners and of the board of land commissioners and all~~
3 ~~other duties required of him by law;~~

4 ~~(14)(12) report to the governor at the time as~~
5 ~~prescribed in 2-7-102 a detailed account of all official~~
6 ~~actions since his previous reports, accompanying the report~~
7 ~~with a detailed statement, under oath, of the manner in~~
8 ~~which all appropriations for his office have been expended;~~

9 (15)(13) receive, designate, and record trademarks as
10 provided in 30-13-103;

11 (16)(14) distribute the bound volumes of the decisions
12 of the supreme court in the manner provided by 3-2-604;

13 (17)(15) report annually to the legislative services
14 division of the legislative council all changes of names
15 received pursuant to 27-31-205 for publication in the
16 session laws;

17 (18)(16) report annually to the legislative services
18 division of the legislative council all watercourse name
19 changes received pursuant to 85-2-134 for publication in the
20 session laws.

21 (17) keep a register of all applications for pardon or
22 for commutation of any sentence, with a list of the official
23 signatures and recommendations in favor of each
24 application."

25 Section 12. Section 2-15-412, MCA, is amended to read:

1 "2-15-412. Board of state canvassers. The board of
2 state canvassers created in 13-15-502 is transferred
3 allocated to the office of the secretary of state for
4 administrative purposes only as prescribed in 2-15-121."

5 Section 13. Section 2-15-413, MCA, is amended to read:

6 "2-15-413. Board of election devices. There is a board
7 of election devices as provided in ~~13-18-101~~ 13-18-105. The
8 board is allocated to the office of the secretary of state
9 for administrative purposes only as prescribed in 2-15-121."

10 Section 14. Section 2-15-1111, MCA, is amended to
11 read:

12 "2-15-1111. Office of state coordinator of Indian
13 affairs. (1) The ~~There is an~~ office of the state coordinator
14 of Indian affairs ~~is hereby created~~. The office is allocated
15 to the department of community affairs for administrative
16 purposes only as prescribed in 2-15-121.

17 (2) The coordinator shall be appointed by the governor
18 from a list of five qualified Indian applicants agreed upon
19 by the tribal councils of the respective Indian tribes of
20 the state and shall serve at the pleasure of the governor."

21 Section 15. Section 2-15-1605, MCA, is amended to
22 read:

23 "2-15-1605. Board of medical examiners. (1) There is a
24 Montana state board of medical examiners.

25 (2) The board consists of seven members appointed by

1 the governor with the consent of the senate. Appointments
2 made when the ~~senate legislature~~ is not in session may be
3 confirmed at the next ~~senate~~ session.

4 (3) The members are:

5 (a) six members having the degree of doctor of
6 medicine; and

7 (b) one member having the degree of doctor of
8 osteopathy.

9 (4) The members having the degree of doctor of
10 medicine may not be from the same county. Each member shall
11 be a citizen of the United States. Each member shall have
12 been licensed and shall have practiced medicine in this
13 state for at least 5 years and shall have been a resident of
14 this state for at least 5 years; however, the 5-year
15 requirement of practice and residency shall be waived for
16 the initial term of appointment of the member having the
17 degree and license of doctor of osteopathy.

18 (5) Each member shall serve for a term of 7 years. A
19 term commences on September 1 of each year of appointment.
20 A member may, upon notice and hearing, be removed by the
21 governor for neglect of duty, incompetence, or
22 unprofessional or dishonorable conduct.

23 (6) The board is allocated to the department for
24 administrative purposes only as prescribed in 2-15-121."

25 Section 16. Section 2-15-1614, MCA, is amended to

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1 read:

2 "2-15-1614. Board of radiologic technologists. (1)
3 There is a board of radiologic technologists.

4 (2) The board consists of seven members appointed by
5 the governor:

6 (a) two members shall be radiologists licensed to
7 practice medicine in Montana;

8 (b) one member shall be a physician licensed to
9 practice medicine in Montana;

10 (c) one member shall be a chiropractor licensed to
11 practice in Montana; and

12 (d) three members shall be radiologic technologists
13 registered with the American registry of radiologic
14 technologists (ARRT) who, with the exception of the first
15 appointed members, are licensed radiologic technologists.

16 (3) Vacancies in unexpired terms shall be filled for
17 the remainder of the term.

18 (4) Each member shall serve for a term of 3 years.

19 ~~(5) The board is allocated to the department for~~
20 ~~administrative purposes only as prescribed in 2-15-121a."~~

21 Section 17. Section 2-15-1615, MCA, is amended to
22 read:

23 "2-15-1615. Board of speech pathologists and
24 audiologists. (1) There is a board of speech pathologists
25 and audiologists.

1 (2) The board consists of five members, four of whom
2 shall:

3 (a) be appointed by the governor from names submitted
4 to him by the Montana speech and hearing association;

5 (b) have been residents of this state for at least 1
6 year immediately preceding their appointment; and

7 (c) have been engaged in rendering services to the
8 public, teaching, or performing research in the field of
9 speech pathology or audiology for at least 5 years
10 immediately preceding their appointment.

11 (3) At least two members of the board shall be speech
12 pathologists and at least two shall be audiologists, with
13 the remaining member to be a public member who is a consumer
14 of speech pathology or audiology services and who is not a
15 licensee of the board or of any other board within the
16 department. All board members, except the public member,
17 shall at all times be validly licensed in speech pathology
18 or audiology.

19 (4) Not less than 60 days before the end of each
20 calendar year, the association shall recommend at least
21 three and not more than five persons for each vacancy
22 occurring at the end of the calendar year. In the event of
23 a vacancy for an unexpired term, the association shall
24 expeditiously recommend at least two and not more than three
25 persons to fill the vacancy and the governor shall appoint

1 one of those persons to fill the unexpired term.

2 (5) Appointments shall be for 3-year terms with no
3 person eligible to serve more than two full consecutive
4 terms. Terms begin on the first day of the calendar year
5 and end on the last day of the calendar year.

6 ~~(6) The board is allocated to the department for~~
7 ~~administrative purposes only as prescribed in 2-15-121."~~

8 Section 18. Section 2-15-1631, MCA, is amended to
9 read:

10 "2-15-1631. Board of sanitarians. (1) There is a board
11 of sanitarians.

12 (2) The board shall consist of three members appointed
13 by the governor. Each member shall be a resident of this
14 state and a registered sanitarian. Each member shall have a
15 minimum of 3 years of experience practicing as a sanitarian
16 in the state of Montana.

17 (3) Members shall serve for 3-year terms. One term
18 shall expire on July 1 of each year.

19 ~~(4) The board is allocated to the department for~~
20 ~~administrative purposes only as prescribed in 2-15-121."~~

21 Section 19. Section 2-15-1656, MCA, is amended to
22 read:

23 "2-15-1656. Board of warm air heating, ventilation,
24 and air conditioning. (1) There is a state board of warm
25 air heating, ventilation, and air conditioning.

1 (2) The board consists of seven members appointed by
2 the governor. The members are:

3 (a) two master and two journeyman mechanics, who shall
4 be ~~over the age of majority 18 years of age or older~~ and
5 residents of Montana for at least 1 year. Each mechanic
6 shall have been licensed pursuant to Title 37, chapter 70,
7 at least 2 years immediately preceding his appointment.

8 (b) one representative of the department of
9 administration responsible for the administration of parts 1
10 through 4 of Title 50, chapter 60, who shall act as
11 secretary;

12 (c) one attorney from the department; and

13 (d) one representative of the fire marshal bureau.

14 (3) Each member shall serve for a period of 4 years.

15 ~~(4) The board is allocated to the department for~~
16 ~~administrative purposes only as prescribed in 2-15-121."~~

17 Section 20. Section 2-15-1701, MCA, is amended to
18 read:

19 "2-15-1701. Department of labor and industry -- head.

20 (1) There is a department of labor and industry. As
21 prescribed in Article XII, section 2, of the Montana
22 constitution, the department head is the commissioner of
23 labor and industry.

24 (2) He shall be appointed by the governor, subject to
25 the confirmation of the senate. The term of office of the

1 commissioner shall be 4 years and until his successor is
2 appointed and qualified.

3 (3) The commissioner shall receive an annual salary in
4 such amount as may be specified by the legislature in the
5 appropriation to the department of labor and industry.

6 (4) Before entering on the duties of his office, he
7 must take and subscribe to the oath of office ~~prescribed by~~
8 ~~the Montana constitution.~~"

9 Section 21. Section 2-15-2004, MCA, is amended to
10 read:

11 "2-15-2004. Division of forensic science -- head. (1)
12 There is a division of forensic science in the department of
13 justice.

14 (2) The division head is an administrator whose title
15 is state medical examiner and who shall be appointed by the
16 ~~board of forensic science~~ director of the department. He
17 shall be a forensic pathologist qualified or certified by
18 the American board of pathology."

19 Section 22. Section 2-15-2006, MCA, is amended to
20 read:

21 "2-15-2006. Board of crime control -- composition --
22 allocation. (1) ~~The administratively created agency known as~~
23 ~~the governor's crime control commission is hereby created by~~
24 ~~law as the~~ There is a board of crime control, ~~and its~~
25 ~~functions are continued.~~

1 (2) The board is ~~transferred~~ allocated to the
2 department for administrative purposes only as prescribed in
3 2-15-121. However, the board may hire its own personnel, and
4 2-15-121(2)(d) does not apply.

5 (3) The board is composed of 18 members appointed by
6 the governor in accordance with 2-15-124, ~~Members are to be~~
7 ~~appointed in accordance with~~ and any special requirements of
8 Title I of the Omnibus Crime Control and Safe Streets Act,
9 as amended. The board shall be representative of state and
10 local law enforcement and criminal justice agencies,
11 including agencies directly related to the prevention and
12 control of juvenile delinquency, units of general local
13 government, and public agencies maintaining programs to
14 reduce and control crime and shall include representatives
15 of citizens and professional and community organizations,
16 including organizations directly related to delinquency
17 prevention."

18 Section 23. Section 2-15-3003, MCA, is amended to
19 read:

20 "2-15-3003. Board of hail insurance. (1) There is a
21 board of hail insurance of five members consisting of the
22 state auditor, the director of agriculture, who is secretary
23 of the board, and three other members to be appointed by the
24 governor from names submitted by farmer organizations having
25 a general membership throughout the state.

1 (2) The governor shall designate one of the appointive
2 members to act as chairman of the board.

3 (3) Whenever the term of any member expires, either by
4 death, resignation, removal for cause, or expiration of his
5 term of office, the governor shall appoint his successor and
6 shall also appoint one of the board for chairman in case of
7 a vacancy in that office.

8 (4) Each appointive member of the board shall be
9 appointed for 3 years, except where ~~when~~ such appointment is
10 made to fill a vacancy on the board, in which event such
11 appointee shall fill out the unexpired term of the member
12 whose place he fills.

13 (5) All members of the board shall be subject to
14 removal for cause by the governor.

15 (6) The board is ~~transferred~~ allocated to the
16 department of agriculture for administrative purposes only
17 as prescribed in 2-15-121."

18 Section 24. Section 2-15-3305, MCA, is amended to
19 read:

20 "2-15-3305. Rangeland resources committee. (1) The
21 governor may select a committee in accordance with
22 subsection (2) which is composed as follows:

- 23 (a) a chairman who is a rancher;
24 (b) a vice-chairman who is a rancher;
25 (c) a rancher from the eastern area of the state;

- 1 (d) a rancher from the northern area of the state;
2 (e) a rancher from the area of the state west of the
3 continental divide;
4 (f) a rancher from the southern area of the state;
5 (g) a representative from each of the following
6 agencies:
7 (i) Soil conservation service;
8 (ii) United States forest service;
9 (iii) Montana state university;
10 (iv) Farmers home administration;
11 (v) Montana stockgrowers association;
12 (vi) Office of economic development division;
13 (vii) School of forestry of the university of Montana;
14 (viii) Department of fish and game;
15 (ix) Bureau of land management;
16 (x) Montana wool growers association;
17 (xi) Department of natural resources and conservation;
18 (xii) Bureau of Indian affairs;
19 (xiii) Montana cattlemen's association;
20 (xiv) Department of state lands;
21 (xv) Society for range management;
22 (xvi) United States fish and wildlife service;
23 (xvii) United States agricultural and stabilization
24 service.

25 (2) (a) The governor shall select the members

1 described in subsections (1)(a) through (1)(f) from a list
 2 submitted by the executive committee of the association of
 3 conservation districts and the board of directors of the
 4 Montana association of state grazing districts.

5 (b) The governor shall select the members described in
 6 subsection (1)(g) from a list submitted by their respective
 7 agencies and/or organizations.

8 (3) The committee members shall serve without
 9 compensation.

10 (4) All persons appointed to the committee shall serve
 11 at the pleasure of the governor.

12 ~~(5) The committee is allocated to the department for~~
 13 ~~administrative purposes only as prescribed in 2-15-121a."~~

14 Section 25. Section 2-16-401, MCA, is amended to read:

15 "2-16-401. Salary commission meetings. (1) (a) There
 16 is created a Montana salary commission. The commission is
 17 composed of eight members, none of whom may be public
 18 officers, either elected or appointed. The commission shall
 19 be appointed in the following manner and in the following
 20 chronological order:

21 (i) First, the governor shall appoint one member from
 22 each of the two major political parties, equally divided
 23 between the United States congressional districts.

24 (ii) Next, the supreme court shall appoint one member
 25 from each of the two major political parties, equally

1 divided between the United States congressional districts.

2 (iii) Next, the majority floor leader of the senate
 3 shall appoint one member from his political party. The
 4 minority leader of the senate shall then appoint one member
 5 from his political party not from the same United States
 6 congressional district as the member appointed by the
 7 presiding-officer majority leader.

8 (iv) Next, the presiding speaker of the house of
 9 representatives shall appoint one member from his political
 10 party. Lastly, the minority leader in the house of
 11 representatives shall appoint one member from his political
 12 party not from the same United States congressional district
 13 as the member appointed by the speaker.

14 (b) All appointments shall be made not later than the
 15 60th legislative day.

16 (2) Commission members shall serve a term of 4 years.

17 (3) ~~in--the---event~~ If a vacancy occurs on the
 18 commission, the appointing authority of the vacated seat
 19 shall designate a successor.

20 (4) The commission shall choose one of its members as
 21 chairman at its initial meeting, and the executive director
 22 of the legislative council or his delegate shall serve as
 23 secretary to the commission and shall record and transcribe
 24 all minutes of commission meetings and prepare all
 25 correspondence, notices, and formal recommendations as

1 directed by the chairman.

2 (5) The salary commission shall hold at least two
3 meetings before submitting a report to the legislature as
4 provided in 2-16-402. The commission shall hold its meetings
5 in the year prior to each first regular session of the
6 biennium.

7 (6) All meetings shall be called by the chairman of
8 the commission, and notice of the meeting dates shall be
9 given by mail to each commission member at least 20 days
10 before the day scheduled for the meeting.

11 (7) A majority of members present at any meeting is
12 sufficient to transact any business to come before the
13 meeting; however, a majority of all commission members is
14 necessary to ratify the commission's recommendations to the
15 legislature.

16 (8) Commission members shall be reimbursed from the
17 appropriation to the office of the legislative council for
18 their travel expenses incurred, as provided for in 2-18-501
19 through 2-18-503, as amended, and \$25 per day while
20 attending meetings of the commission."

21 Section 26. Section 2-16-501, MCA, is amended to read:

22 "2-16-501. Vacancies created. An office becomes vacant
23 on the happening of either any one of the following events
24 before the expiration of the term of the incumbent:

25 (1) the death of the incumbent;

1 ~~(2) his insanity, found upon a commission of lunacy~~
2 ~~issued to determine the fact~~ a determination pursuant to
3 Title 53, chapter 21, part 1, that he is seriously mentally
4 ill;

5 (3) his resignation;

6 (4) his removal from office;

7 (5) his ceasing to be a resident of the state or, if
8 the office be local, of the district, city, county, town, or
9 township for which he was chosen or appointed or within
10 which the duties of his office are required to be
11 discharged;

12 (6) his absence from the state, without the permission
13 of the legislature, beyond the period allowed by law;

14 (7) his ceasing to discharge the duty of his office
15 for the period of 3 consecutive months, except when
16 prevented by sickness or when absent from the state by
17 permission of the legislature;

18 (8) his conviction of a felony or of any offense
19 involving moral turpitude or a violation of his official
20 duties;

21 (9) his refusal or neglect to file his official oath
22 or bond within the time prescribed;

23 (10) the decision of a competent tribunal declaring
24 void his election or appointment."

25 Section 27. Section 2-16-503, MCA, is amended to read:

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1 "2-16-503. Notice of removal. Whenever an officer is
2 removed, declared ~~insane~~ seriously mentally ill, or
3 convicted of a felony or offense involving moral turpitude
4 or a violation of his official duty or whenever his election
5 or appointment is declared void, the body, judge, or officer
6 before whom the proceedings were had must give notice
7 thereof to the officer authorized to fill the vacancy."

8 Section 28. Section 2-16-513, MCA, is amended to read:

9 "2-16-513. Succession in case of termination or
10 incapacitation of primary successors. (1) If, because of an
11 enemy attack upon the United States, the governor,
12 lieutenant governor, president pro tempore of the senate,
13 and speaker of the house are killed or rendered unable to
14 serve as governor, ~~the chairman of the board of county~~
15 ~~commissioners of the state's most populous county as~~
16 ~~determined by the last preceding official United States~~
17 ~~census shall have the power and it shall be his duty~~
18 ~~forthwith to call an emergency session of the state senate~~
19 ~~at any safe location within the state for the purpose of~~
20 ~~electing a president pro tempore who shall then assume the~~
21 ~~office of governor~~ the senior member of the legislature
22 shall act as governor.

23 (2) ~~Should such chairman of the board of county~~
24 ~~commissioners of the most populous county be dead or unable~~
25 ~~to act, the chairman of the board of the next most populous~~

1 ~~county shall exercise the power granted by this section. He~~
2 shall call an emergency session of the legislature at a safe
3 location within the state. The legislature meeting in joint
4 session shall elect a governor.

5 (3) For the purposes of this section, the member with
6 seniority is the member who has served in the legislature
7 for the longest continuous period of time up to and
8 including his current term. If two or more members of the
9 legislature have equal seniority, the line of succession
10 among them is from eldest to youngest in age."

11 Section 29. Section 2-18-405, MCA, is amended to read:

12 "2-18-405. Payroll based on actual, end-of-period
13 figures -- pay date -- change of payroll periods. (1) By
14 January 1, 1979, all state ~~central~~ payroll systems shall be
15 based upon actual payroll figures submitted after the end of
16 the payroll period and may not be based upon estimated
17 payroll.

18 (2) All state payroll systems shall provide for the
19 fixing of payroll periods and designated days on which
20 salaried employees shall be paid for the preceding payroll
21 period. Such ~~the~~ pay date shall be uniform for all employees
22 of each state agency employed in the same geographic area
23 and payroll warrants shall be distributed or mailed within
24 10 business days following the close of the payroll period.

25 (3) The payroll period of employees of a state agency

1 shall ~~may~~ not be changed by inclusion of the agency into the
 2 state ~~central~~ payroll system or by any revision or
 3 modification of the system unless notice of the proposed
 4 change has been given to each employee who will be affected
 5 by such change in the form and manner prescribed by the
 6 state auditor not less than 60 days prior to the effective
 7 date of the change."

8 Section 30. Section 2-18-601, MCA, is amended to read:

9 "2-18-601. Definitions. For the purpose of this part,
 10 the following definitions apply:

11 (1) "Agency" means any legally constituted department,
 12 board, or commission of state, county, or city government.

13 (2) "Employee" means any person employed by the state,
 14 county, or city governments except elected state, county,
 15 and city officials and school teachers.

16 (3) "Permanent employee" means an employee who
 17 regularly works for more than 6 months in any 12-month
 18 period.

19 (4) "Part-time employee" means an employee who
 20 normally works less than 40 hours a week.

21 (5) "Full-time employee" means an employee who
 22 normally works 40 hours a week.

23 (6) "Temporary position" means a position created for
 24 a definite period of time but not to exceed 6 months and the
 25 position is not renewable.

1 (7) "Seasonal position" means a position which,
 2 although temporary in nature, regularly occurs from season
 3 to season or from year to year.

4 (8) "Vacation leave" means a leave of absence with pay
 5 for the purpose of rest, relaxation, or personal business at
 6 the request of the employee and with the concurrence of the
 7 employer.

8 (9) "Sick leave" means a leave of absence with pay for
 9 a sickness suffered by an employee or his immediate family.

10 (10) "Transfer" means a change of employment from one
 11 agency to another agency in the same jurisdiction without a
 12 break in service of more than 5 working days.

13 (11) "Continuous employment" means working within the
 14 same jurisdiction without a break in service of more than 5
 15 working days or without a continuous absence without pay of
 16 more than 15 working days.

17 (12) "Break in service" means that period of time an
 18 employee takes to change employment from one agency to
 19 employment in another agency of the same jurisdiction."

20 Section 31. Section 2-18-702, MCA, is amended to read:

21 "2-18-702. Group insurance for public employees and
 22 officers. (1) All departments, bureaus, boards, commissions,
 23 and agencies of the state and all counties, cities, and
 24 towns shall upon approval by two-thirds vote of the officers
 25 and employees of each such department, bureau, board,

1 commission, agency, county, city, and town enter into group
 2 hospitalization, medical, health, including long-term
 3 disability, accident, and/or group life insurance contracts
 4 or plans for the benefit of their officers, and employees
 5 and their dependents.

6 (2) ~~The For state officers and employees, the~~ premiums
 7 required from time to time to maintain ~~such the~~ insurance in
 8 force shall be paid by the insured officers and employees,
 9 and the auditor shall deduct ~~said the~~ premiums from the
 10 salary or wages of each officer or employee who elects to
 11 become insured, on the ~~officer~~ officer's or employee's
 12 written order, and issue his warrant therefor to the
 13 insurer.

14 (3) For the purpose of ~~[40-3985, 1947]~~ ~~Ref. No. 1947~~ this
 15 ~~section,~~ the plans of health service corporations for
 16 defraying or assuming the cost of professional services of
 17 licentiates in the field of health, or the services of
 18 hospitals, clinics, or sanitariums, or both professional and
 19 hospital services, shall be construed as group insurance,
 20 and the dues payable under such plans shall be construed as
 21 premiums therefor."

22 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 23 MCA, are repealed.

24 Section 33. Repealer. Sections 25-506, 25-509,
 25 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,

1 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 2 are repealed.

-End-



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LC 0042

1979 Legislature
Code Commissioner Bill -- Summary

Senate Bill No. 375

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO GOVERNMENT STRUCTURE AND ADMINISTRATION.

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

Section 1. 2-1-204. Deleted "Fort Assiniboine, Fort Custer, Fort Keogh, Fort Maginnis...Fort Shaw". No longer military reservations.

Section 2. 2-1-302. Added "or any other" to correct grammatical error and clarify.

Section 3. 2-3-113. Added "respectively" to clarify that 2-4-623(6) describes method of publication, not obtaining judicial review.

Section 4. 2-4-102. The proposed amendment corrects an error in an internal reference made during recodification.

Section 5. 2-6-103. In subsection (3), changed deposit provisions to conform to 17-6-105. Constitution referred to in deleted language is the Montana Constitution of 1889.

Section 6. 2-6-302. Changed "any committees..." to "state records committee" because it was the committee "established by law to regulate the retention of public records..."

Section 7. 2-9-103. In (1) and (2) changed "the state or of a county, municipality, taxing district, or other political subdivision of the state" to "a governmental entity". Definition of governmental entity in 2-9-101 includes all those entities. Changed "unit" to "entity" for consistency.

Section 8. 2-9-306. Changed "this act" to "parts 1 through 3 of this chapter". Provision was thought to apply to section in parts 1 through 3 but because some sections were included in parts 1 through 3 that were not in the original act, the change is made by amendment rather than recodification. The reference is a general one and is not changed in meaning by the amendment.

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Section 9. 2-9-514. Added "given pursuant to 2-9-513(2)" to clarify which "additional bond".

Section 10. 2-15-201. Annual reports of state agencies, their publication, and the governor's report to the legislature are provided for in 2-7-102. Amendment conforms duty to that section.

Section 11. 2-15-401. Deleted subsections (9) and (10) as obsolete. Subsection (10) is function of department of administration. Changed subsection (12) to conform to 2-7-102 dealing with annual reports of state agencies. Part of subsection (2) and subsection (17) require recordkeeping that was done by secretary of state but was tasked by statute to governor.

Section 12. 2-15-412. Clarifies that the transfer is for administrative purposes only. A board, bureau, commission or agency may not remain unallocated, unless temporary. See Sec. 7, Art. VI, Montana Constitution, and Title 2, chapter 15, part 1, MCA. The board remains independent so far as performance of its functions is concerned. If the legislature feels that the board allocated to a department should retain the authority to hire its own personnel, add the following language. "The [board] may hire its own personnel, and subsection (2)(d) of 2-15-121 does not apply."

Section 13. 2-15-413. Same as section 12. The functions performed by the board are most closely akin to those of secretary of state so the board was allocated to that office.

Section 14. 2-15-1111. Same as section 12.

Section 15. 2-15-1605. In subsection (2) changed "senate" to "legislature". In (4) added "of" -- grammar.

Section 16. 2-15-1614. Same as section 12.

Section 17. 2-15-1615. Clarify to which association reference is made. See Title 37, chapter 15.

Section 18. 2-15-1631. Same as section 12.

Section 19. 2-15-1656. Changed "over the age of majority" to "18 years of age or older" to clarify. Same as section 12.

Section 20. 2-15-1701. Deleted reference to constitution because oath is no longer prescribed by constitution.

Section 21. 2-15-2004. Sec 9, Ch. 530, L. 1977 provides that upon termination of the board of forensic science on June 30, 1979, the attorney general is authorized to employ personnel for the division.

Section 22. 2-15-2006. Standardized language creating board. Changed "transferred" to "allocated". The transfer is complete. Allocation is the preferred term to describe the continuing legal relationship.

Section 23. 2-15-3003. Changed "transferred" to "allocated as prescribed in 2-15-121". Allocation is preferred term to describe the continuing legal relationship.

Section 24. 2-15-3305. Same as section 12.

Section 25. 2-16-401. Changed "presiding officer" to "majority leader" in (1)(a)(iii) to correct obvious error.

Section 26. 2-16-501. "Insanity" is not defined in MCA nor was it defined in RCM. In order to bring consistency to the use of terms involving mental disorders, undefined terms are being replaced by defined terms.

Section 27. 2-16-503. Same as section 25.

Section 28. 2-16-513. Sections 82-1309 and 82-3802, RCM, codified as 10-3-602, MCA, conflict, therefore a composite must be drafted. The section more recently enacted (82-3802, RCM 1947,) provided for extending the line of succession. As drafted the line of succession would be extended to determine the acting governor, who in turn would call a special session for the purpose of electing a governor. The section as drafted is more consistent with the other succession statutes, namely 2-16-512, which provides for electing a successor as did 82-1309. At the same time, the section provides an acting governor, which 82-3802 did.

Section 29. 2-18-405. Deleted "central". Use of "all" suggests "central" was to have been deleted in S.B. 104, 1977 Legislative Session when "The uniform" was stricken. Introduced bill read "The uniform state central payroll system". The reference bill read "~~The uniform~~ BY JANUARY 1, 1979, ALL state central payroll ~~system~~ SYSTEMS..."

Section 30. 2-18-601. Section 59-1007, RCM 1947 excepted elected state, county, and city officials, and school teachers from the provisions on leave time. Section 59-1007, RCM 1947 is to be repealed by this bill and the exception it provides is amended into this definition.

Section 31. 2-18-702. In (2), added "For state officers and employees' because auditor refers to state auditor and he may only deduct from checks of state employees." Originally, that was clear. By combining two RCM sections, clarification was made necessary. Changed "40-3905.1, RCM 1947" to "this section". Technically subsection (3) does not apply to insurance and premiums for employees of political subdivisions. In practice though employees of political subdivisions do subscribe to Blue Cross and Blue Shield and whether it is an insurance contract or health plan for purposes of this section is a distinction without a difference.

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Section 32. Repealer. 2-1-103. This is an 1895 statute adopted from the California code and is quite archaic. Each subsection is a general statement of a procedure or right otherwise provided for more specifically, hence the section is also redundant.

2-15-202. This section is also an 1895 statute adopted from California laws, which has never been amended. Subsections (1) and (3) are functions the secretary of state essentially performs now. Subsection (2) is redundant with provisions on uniform accounting, Title 17, chapters 1 and 2.

Section 33. Repealer. 25-506. Compensation for officers and employees not provided for in 2-16-405 is provided for in Title 2, chapter 18. This section conflicts and is obsolete.

25-509. Quarterly salaries are no longer provided for by the constitution. Section is obsolete.

32-2504. Board of highway appeals was abolished. Section is otherwise redundant with 2-18-1001.

41-1604. This section is obsolete in light of executive reorganization (see 2-15-104 and 2-15-112).

59-517. Uniform accounting system provided for in Title 17, chapters 1 and 2 makes section obsolete.

59-537. Obsolete. Terms no longer used in travel, meals, and lodging reimbursement laws.

59-706 through 59-708. Semiannual property reports are no longer filed. Each agency accounts for its own personal property. Under 2-17-202 the department of administration may request a property inventory. These sections are obsolete (according to letter from secretary of state, March, 1976).

80-2001. Bureau of criminal investigation has been transferred to department of justice. Section conflicts.

82-1306. Governor's residence has been built. Section obsolete.

82-1307, 82-1308. Governor's personal staff is indirectly provided for in 2-18-104. Section obsolete.

82-4324. Provision concerning punitive damages is redundant with 2-9-105. Provision concerning interest conflicts with 2-9-317. Provision concerning attorney's fees conflicts with 2-9-314.

Approved by Committee
on State Administration

1 SENATE BILL NO. 375

2 INTRODUCED BY GRAHAM

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND
7 ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202,
8 MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517,
9 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH
10 82-1308, AND 82-4324, R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 2-1-204, MCA, is amended to read:

14 "2-1-204. Military reservations -- service of process.

15 (1) Authority is granted to and acknowledged in the United
16 States to exercise exclusive legislation as provided by the
17 constitution of the United States over the military
18 reservations reservation of Fort-Assiniboine--Fort-Eustery
19 Fort--Keogh--Fort-Maginnis, Fort Missoula, and Fort-Shaw as
20 now established by law to the same extent and with the same
21 effect as if ~~seid--reservations~~ the reservation had been
22 purchased by the United States by consent of the legislative
23 assembly of the state of Montana so long as ~~seid--pieces~~
24 remain it remains a military reservations reservation.

25 (2) All legal process of the state, both civil and

1 criminal, may be served upon persons and property found
2 within ~~any-of-seid-reservations~~ the reservation in all cases
3 where the United States ~~has--not~~ does not have exclusive
4 jurisdiction."

5 Section 2. Section 2-1-302, MCA, is amended to read:

6 "2-1-302. Resolution of Indian tribes requesting state
7 jurisdiction -- governor's proclamation -- consent of county
8 commissioners. (1) Whenever the governor of this state ~~shalt~~
9 receive receives from the tribal council or other governing
10 body of the Confederated Salish and Kootenai Indian tribes
11 ~~or any other~~ community, band, or group of Indians in this
12 state, a resolution expressing its desire that its people
13 and lands be subject to the criminal and/or civil
14 jurisdiction, ~~or both~~ of the state of Montana to the extent
15 authorized by federal law and regulation, he shall issue
16 within 60 days a proclamation to the effect that such
17 jurisdiction ~~shalt-apply~~ applies to those Indians and their
18 territory or reservation in accordance with the provisions
19 of this part.

20 (2) He ~~shalt~~ the governor may not issue such ~~the~~
21 proclamation until such ~~the~~ resolution has been approved in
22 the manner provided for by the charter, constitution, or
23 other fundamental law of the tribe or tribes, if said
24 document provides for such approval, and there has been
25 first obtained the consent of the board of county

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:

4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:

11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter 10,
15 ~~part 3 15.~~

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate--making~~ ratemaking, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, suspension,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, must ~~shall~~
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, record, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--~~any--fee~~ for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be paid--~~to~~
8 ~~the--state-treasurer-at-the-end-of-each-quarter--as-provided~~
9 ~~in-the-constitution~~ deposited pursuant to 17-6-105."

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (2), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when: (1) If an officer, agent, or employee of
14 ~~the state or of a county, municipality, taxing district, or~~
15 ~~other political subdivision of the state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of ~~the state or~~

1 ~~of a county, municipality, taxing district, or other~~
2 ~~political subdivision of the state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental ~~unit~~ entity he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this act]~~ parts 1 through 3 of this chapter
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this act]~~ parts 1 through 3 shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this act]~~ parts 1 through 3,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those the duties prescribed by the constitution, the

1 governor ~~has-the-power-and-must~~ shall perform the following
2 duties:

3 (1) He ~~is-to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is-to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is--to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is-to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He ~~is~~ is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

1 county attorney in the discharge of his duties.

2 (8) He may offer rewards not exceeding \$1,000 each,
3 payable out of the general fund, for the apprehension of any
4 convict who has escaped from the state prison or any person
5 who has committed or is charged with an offense punishable
6 by death.

7 (9) He ~~must~~ shall perform such duties respecting
8 fugitives from justice as are prescribed by Title 46,
9 chapter 30.

10 (10) He ~~must~~ shall issue and transmit election
11 proclamations, as prescribed by 13-11-101.

12 (11) He ~~must~~ shall issue land warrants and patents, as
13 prescribed in 77-2-342.

14 (12) He ~~must~~ shall ~~on or before the second Monday of~~
15 ~~November in the year 1892 and in each second year~~
16 ~~thereafter deliver to the secretary of state for~~
17 ~~publication and shall prepare a biennial report of officers~~
18 ~~and boards for the two preceding years report pursuant to~~
19 ~~2-7-102.~~

20 (13) He may require any officer or board to make
21 special reports to him, upon demand, in writing.

22 (14) He ~~must~~ shall discharge the duties of member of
23 the board of examiners, of nonvoting ex officio member of
24 the state board of education, and of member of the board of
25 land commissioners.

1 (15) He has ~~such the~~ other powers and must perform ~~such~~
2 ~~the~~ other duties as are devolved upon him by this code or
3 any other law of this state."

4 Section 11. Section 2-15-401, MCA, is amended to read:
5 "2-15-401. Duties of secretary of state. In addition
6 to the duties prescribed by the constitution, it is the duty
7 of the secretary of state to:

8 (1) attend at every session of the legislature for the
9 purpose of receiving bills and resolutions thereof and to
10 perform such other duties as may be devolved upon him by
11 resolution of the two houses or either of them;

12 (2) keep a register of and attest the official acts of
13 the governor, including all appointments made by him with
14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to
16 commissions, pardons, and other public instruments to which
17 the official signature of the governor is required;

18 (4) record in proper books all conveyances made to the
19 state and all articles of incorporation filed in his office;

20 (5) ~~receive and record in proper books the official~~
21 ~~bonds of all the state officers and then deliver the~~
22 ~~originals to the state treasurer;~~

23 (6) ~~(5)~~ take and file in his office receipts for all
24 books distributed by him and direct the county clerk of each
25 county to do the same;

1 §161 certify to the governor the names of those
 2 persons who have received at any election the highest number
 3 of votes for any office, the incumbent of which is
 4 commissioned by the governor;

5 §171 furnish, on demand, to any person paying the
 6 fees therefor, a certified copy of all or any part of any
 7 law, record, or other instrument filed, deposited, or
 8 recorded in his office;

9 §181 notify in writing the county attorney of the
 10 proper county of the failure of any officer in his county to
 11 file in his office the sworn statement of fees received by
 12 such officer;

13 §191 present to the legislature at the commencement of
 14 each session thereof a full account of all purchases made
 15 and expenses incurred in furnishing fuel, lights, and
 16 stationery;

17 §201 keep a fee book in which must be entered
 18 all fees, commissions, and compensation of whatever nature
 19 or kind by him earned, collected, or charged, with the date,
 20 name of payer, paid or unpaid, and the nature of the service
 21 in each case, which book must be verified annually by his
 22 affidavit entered therein;

23 §211 file in his office descriptions of seals
 24 in use by the different state officers and furnish such
 25 officers with new seals whenever required;

1 §221 discharge the duties of member of the
 2 board of examiners and of the board of land commissioners
 3 and all other duties required of him by law;

4 §231 report to the governor at the time as
 5 prescribed in 2-7-102 a detailed account of all official
 6 actions since his previous reports, accompanying the report
 7 with a detailed statement, under oath of the manner in
 8 which all appropriations for his office have been expended;

9 §241 receive, designate, and record trademarks
 10 as provided in 30-13-103;

11 §251 distribute the bound volumes of the
 12 decisions of the supreme court in the manner provided by
 13 3-2-604;

14 §261 report annually to the legislative
 15 services division of the legislative council all changes of
 16 names received pursuant to 27-31-205 for publication in the
 17 session laws;

18 §271 report annually to the legislative
 19 services division of the legislative council all watercourse
 20 name changes received pursuant to 85-2-134 for publication
 21 in the session laws.

22 §281 keep a register of all applications for pardon
 23 or for commutation of any sentence, with a list of the
 24 official signatures and recommendations in favor of each
 25 application."

1 Section 12. Section 2-15-412, MCA, is amended to read:
 2 "2-15-412. Board of state canvassers. The board of
 3 state canvassers created in 13-15-502 is transferred
 4 allocated to the office of the secretary of state for
 5 administrative purposes only as prescribed in 2-15-121."

6 Section 13. Section 2-15-413, MCA, is amended to read:
 7 "2-15-413. Board of election devices. There is a board
 8 of election devices as provided in ~~13-18-101~~ 13-18-105. The
 9 board is allocated to the office of the secretary of state
 10 for administrative purposes only as prescribed in 2-15-121."

11 Section 14. Section 2-15-1111, MCA, is amended to
 12 read:

13 "2-15-1111. Office of state coordinator of Indian
 14 affairs. (1) The there is an office of the state coordinator
 15 of Indian affairs is hereby created. The office is allocated
 16 to the department of community affairs for administrative
 17 purposes only as prescribed in 2-15-121.

18 (2) The coordinator shall be appointed by the governor
 19 from a list of five qualified Indian applicants agreed upon
 20 by the tribal councils of the respective Indian tribes of
 21 the state and shall serve at the pleasure of the governor."

22 Section 15. Section 2-15-1605, MCA, is amended to
 23 read:

24 "2-15-1605. Board of medical examiners. (1) There is a
 25 Montana state board of medical examiners.

1 (2) The board consists of seven members appointed by
 2 the governor with the consent of the senate. Appointments
 3 made when the senate legislature is not in session may be
 4 confirmed at the next senate session.

5 (3) The members are:

6 (a) six members having the degree of doctor of
 7 medicine; and

8 (b) one member having the degree of doctor of
 9 osteopathy.

10 (4) The members having the degree of doctor of
 11 medicine may not be from the same county. Each member shall
 12 be a citizen of the United States. Each member shall have
 13 been licensed and shall have practiced medicine in this
 14 state for at least 5 years and shall have been a resident of
 15 this state for at least 5 years; however, the 5-year
 16 requirement of practice and residency shall be waived for
 17 the initial term of appointment of the member having the
 18 degree and license of doctor of osteopathy.

19 (5) Each member shall serve for a term of 7 years. A
 20 term commences on September 1 of each year of appointment.
 21 A member may, upon notice and hearing, be removed by the
 22 governor for neglect of duty, incompetence, or
 23 unprofessional or dishonorable conduct.

24 (6) The board is allocated to the department for
 25 administrative purposes only as prescribed in 2-15-121."

1 Section 16. Section 2-15-1614, MCA, is amended to
2 read:

3 "2-15-1614. Board of radiologic technologists. (1)
4 There is a board of radiologic technologists.

5 (2) The board consists of seven members appointed by
6 the governor:

7 (a) two members shall be radiologists licensed to
8 practice medicine in Montana;

9 (b) one member shall be a physician licensed to
10 practice medicine in Montana;

11 (c) one member shall be a chiropractor licensed to
12 practice in Montana; and

13 (d) three members shall be radiologic technologists
14 registered with the American registry of radiologic
15 technologists (ARRT) who, with the exception of the first
16 appointed members, are licensed radiologic technologists.

17 (3) Vacancies in unexpired terms shall be filled for
18 the remainder of the term.

19 (4) Each member shall serve for a term of 3 years.

20 ~~(5) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 17. Section 2-15-1615, MCA, is amended to
23 read:

24 "2-15-1615. Board of speech pathologists and
25 audiologists. (1) There is a board of speech pathologists

1 and audiologists.

2 (2) The board consists of five members, four of whom
3 shall:

4 (a) be appointed by the governor from names submitted
5 to him by the Montana speech and hearing association;

6 (b) have been residents of this state for at least 1
7 year immediately preceding their appointment; and

8 (c) have been engaged in rendering services to the
9 public, teaching, or performing research in the field of
10 speech pathology or audiology for at least 5 years
11 immediately preceding their appointment.

12 (3) At least two members of the board shall be speech
13 pathologists and at least two shall be audiologists, with
14 the remaining member to be a public member who is a consumer
15 of speech pathology or audiology services and who is not a
16 licentiate of the board or of any other board within the
17 department. All board members, except the public member,
18 shall at all times be validly licensed in speech pathology
19 or audiology.

20 (4) Not less than 60 days before the end of each
21 calendar year, the association shall recommend at least
22 three and not more than five persons for each vacancy
23 occurring at the end of the calendar year. In the event of
24 a vacancy for an unexpired term, the association shall
25 expeditiously recommend at least two and not more than three

1 persons to fill the vacancy and the governor shall appoint
2 one of those persons to fill the unexpired term.

3 (5) Appointments shall be for 3-year terms with no
4 person eligible to serve more than two full consecutive
5 terms. Terms begin on the first day of the calendar year
6 and end on the last day of the calendar year.

7 ~~(6) The board is allocated to the department for~~
8 ~~administrative purposes only as prescribed in 2-15-121."~~

9 Section 18. Section 2-15-1631, MCA, is amended to
10 read:

11 "2-15-1631. Board of sanitarians. (1) There is a board
12 of sanitarians.

13 (2) The board shall consist of three members appointed
14 by the governor. Each member shall be a resident of this
15 state and a registered sanitarian. Each member shall have a
16 minimum of 3 years of experience practicing as a sanitarian
17 in the state of Montana.

18 (3) Members shall serve for 3-year terms. One term
19 shall expire on July 1 of each year.

20 ~~(4) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 19. Section 2-15-1656, MCA, is amended to
23 read:

24 "2-15-1656. Board of warm air heating, ventilation,
25 and air conditioning. (1) There is a state board of warm

1 air heating, ventilation, and air conditioning.

2 (2) The board consists of seven members appointed by
3 the governor. The members are:

4 (a) two master and two journeyman mechanics, who shall
5 be over-the-age-of-majority ~~18 years of age or older~~ and
6 residents of Montana for at least 1 year. Each mechanic
7 shall have been licensed pursuant to Title 37, chapter 70,
8 at least 2 years immediately preceding his appointment.

9 (b) one representative of the department of
10 administration responsible for the administration of parts 1
11 through 4 of Title 50, chapter 60, who shall act as
12 secretary;

13 (c) one attorney from the department; and

14 (d) one representative of the fire marshal bureau.

15 (3) Each member shall serve for a period of 4 years.

16 ~~(4) The board is allocated to the department for~~
17 ~~administrative purposes only as prescribed in 2-15-121."~~

18 Section 20. Section 2-15-1701, MCA, is amended to
19 read:

20 "2-15-1701. Department of labor and industry -- head.

21 (1) There is a department of labor and industry. As
22 prescribed in Article XII, section 2, of the Montana
23 constitution, the department head is the commissioner of
24 labor and industry.

25 (2) He shall be appointed by the governor, subject to

1 the confirmation of the senate. The term of office of the
2 commissioner shall be 4 years and until his successor is
3 appointed and qualified.

4 (3) The commissioner shall receive an annual salary in
5 such amount as may be specified by the legislature in the
6 appropriation to the department of labor and industry.

7 (4) Before entering on the duties of his office, he
8 must take and subscribe to the oath of office prescribed by
9 the ~~Montana~~ constitution PRESCRIBED BY THE MONTANA
10 CONSTITUTION."

11 Section 21. Section 2-15-2004, MCA, is amended to
12 read:

13 "2-15-2004. Division of forensic science -- head. (1)
14 There is a division of forensic science in the department of
15 justice.

16 (2) The division head is an administrator whose title
17 is state medical examiner and who shall be appointed by the
18 ~~board of forensic science~~ director of the department. He
19 shall be a forensic pathologist qualified or certified by
20 the American board of pathology."

21 Section 22. Section 2-15-2006, MCA, is amended to
22 read:

23 "2-15-2006. Board of crime control -- composition --
24 allocation. (1) ~~The administratively created agency known as~~
25 ~~the governor's crime control commission is hereby created by~~

1 ~~law--as--the~~ There is a board of crime control, ~~and its~~
2 ~~functions are continued.~~

3 (2) The board is transferred allocated to the
4 department for administrative purposes only as prescribed in
5 2-15-121. However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with 2-15-124. ~~Members are to be~~
9 ~~appointed in accordance with~~ and any special requirements of
10 Title I of the Omnibus Crime Control and Safe Streets Act,
11 as amended. The board shall be representative of state and
12 local law enforcement and criminal justice agencies,
13 including agencies directly related to the prevention and
14 control of juvenile delinquency, units of general local
15 government, and public agencies maintaining programs to
16 reduce and control crime and shall include representatives
17 of citizens and professional and community organizations,
18 including organizations directly related to delinquency
19 prevention."

20 Section 23. Section 2-15-3003, MCA, is amended to
21 read:

22 "2-15-3003. Board of hail insurance. (1) There is a
23 board of hail insurance of five members consisting of the
24 state auditor, the director of agriculture, who is secretary
25 of the board, and three other members to be appointed by the

1 governor from names submitted by farmer organizations having
2 a general membership throughout the state.

3 (2) The governor shall designate one of the appointive
4 members to act as chairman of the board.

5 (3) Whenever the term of any member expires, either by
6 death, resignation, removal for cause, or expiration of his
7 term of office, the governor shall appoint his successor and
8 shall also appoint one of the board for chairman in case of
9 a vacancy in that office.

10 (4) Each appointive member of the board shall be
11 appointed for 3 years, except where ~~when~~ such appointment is
12 made to fill a vacancy on the board, in which event such
13 appointee shall fill out the unexpired term of the member
14 whose place he fills.

15 (5) All members of the board shall be subject to
16 removal for cause by the governor.

17 (6) The board is transferred ~~allocated~~ to the
18 department of agriculture for administrative purposes only
19 as prescribed in 2-15-121."

20 Section 24. Section 2-15-3305, MCA, is amended to
21 read:

22 "2-15-3305. Rangeland resources committee. (1) The
23 governor may select a committee in accordance with
24 subsection (2) which is composed as follows:

25 (a) a chairman who is a rancher;

1 (b) a vice-chairman who is a rancher;

2 (c) a rancher from the eastern area of the state;

3 (d) a rancher from the northern area of the state;

4 (e) a rancher from the area of the state west of the
5 continental divide;

6 (f) a rancher from the southern area of the state;

7 (g) a representative from each of the following
8 agencies:

9 (i) Soil conservation service;

10 (ii) United States forest service;

11 (iii) Montana state university;

12 (iv) Farmers home administration;

13 (v) Montana stockgrowers association;

14 (vi) Office of economic development division;

15 (vii) School of forestry of the university of Montana;

16 (viii) Department of fish and game;

17 (ix) Bureau of land management;

18 (x) Montana wool growers association;

19 (xi) Department of natural resources and conservation;

20 (xii) Bureau of Indian affairs;

21 (xiii) Montana cattlemen's association;

22 (xiv) Department of state lands;

23 (xv) Society for range management;

24 (xvi) United States fish and wildlife service;

25 (xvii) United States agricultural and stabilization

1 service.

2 (2) (a) The governor shall select the members
3 described in subsections (1)(a) through (1)(f) from a list
4 submitted by the executive committee of the association of
5 conservation districts and the board of directors of the
6 Montana association of state grazing districts.

7 (b) The governor shall select the members described in
8 subsection (1)(g) from a list submitted by their respective
9 agencies and/or organizations.

10 (3) The committee members shall serve without
11 compensation.

12 (4) All persons appointed to the committee shall serve
13 at the pleasure of the governor.

14 ~~(5) The committee is allocated to the department for~~
15 ~~administrative purposes only as prescribed in 2-15-121a"~~

16 Section 25. Section 2-16-401, MCA, is amended to read:

17 "2-16-401. Salary commission meetings. (1) (a) There
18 is created a Montana salary commission. The commission is
19 composed of eight members, none of whom may be public
20 officers, either elected or appointed. The commission shall
21 be appointed in the following manner and in the following
22 chronological order:

23 (i) First, the governor shall appoint one member from
24 each of the two major political parties, equally divided
25 between the United States congressional districts.

1 (ii) Next, the supreme court shall appoint one member
2 from each of the two major political parties, equally
3 divided between the United States congressional districts.

4 (iii) Next, the majority floor leader of the senate
5 shall appoint one member from his political party. The
6 minority leader of the senate shall then appoint one member
7 from his political party not from the same United States
8 congressional district as the member appointed by the
9 ~~presiding-officer majority leader.~~

10 (iv) Next, the presiding speaker of the house of
11 representatives shall appoint one member from his political
12 party. Lastly, the minority leader in the house of
13 representatives shall appoint one member from his political
14 party not from the same United States congressional district
15 as the member appointed by the speaker.

16 (b) All appointments shall be made not later than the
17 60th legislative day.

18 (2) Commission members shall serve a term of 4 years.

19 (3) ~~in---the---event~~ If a vacancy occurs on the
20 commission, the appointing authority of the vacated seat
21 shall designate a successor.

22 (4) The commission shall choose one of its members as
23 chairman at its initial meeting, and the executive director
24 of the legislative council or his delegate shall serve as
25 secretary to the commission and shall record and transcribe

1 all minutes of commission meetings and prepare all
2 correspondence, notices, and formal recommendations as
3 directed by the chairman.

4 (5) The salary commission shall hold at least two
5 meetings before submitting a report to the legislature as
6 provided in 2-16-402. The commission shall hold its meetings
7 in the year prior to each first regular session of the
8 biennium.

9 (6) All meetings shall be called by the chairman of
10 the commission, and notice of the meeting dates shall be
11 given by mail to each commission member at least 20 days
12 before the day scheduled for the meeting.

13 (7) A majority of members present at any meeting is
14 sufficient to transact any business to come before the
15 meeting; however, a majority of all commission members is
16 necessary to ratify the commission's recommendations to the
17 legislature.

18 (8) Commission members shall be reimbursed from the
19 appropriation to the office of the legislative council for
20 their travel expenses incurred, as provided for in 2-18-501
21 through 2-18-503, as amended, and \$25 per day while
22 attending meetings of the commission."

23 Section 26. Section 2-16-501, MCA, is amended to read:
24 "2-16-501. Vacancies created. An office becomes vacant
25 on the happening of either any one of the following events

1 before the expiration of the term of the incumbent:

2 (1) the death of the incumbent;

3 (2) ~~his insanity found upon a commission of lunacy~~
4 ~~issued to determine the fact~~ a determination pursuant to
5 Title 53, chapter 21, part 1, that he is seriously mentally
6 ill;

7 (3) his resignation;

8 (4) his removal from office;

9 (5) his ceasing to be a resident of the state or, if
10 the office be local, of the district, city, county, town, or
11 township for which he was chosen or appointed or within
12 which the duties of his office are required to be
13 discharged;

14 (6) his absence from the state, without the permission
15 of the legislature, beyond the period allowed by law;

16 (7) his ceasing to discharge the duty of his office
17 for the period of 3 consecutive months, except when
18 prevented by sickness or when absent from the state by
19 permission of the legislature;

20 (8) his conviction of a felony or of any offense
21 involving moral turpitude or a violation of his official
22 duties;

23 (9) his refusal or neglect to file his official oath
24 or bond within the time prescribed;

25 (10) the decision of a competent tribunal declaring

1 void his election or appointment."

2 Section 27. Section 2-16-503, MCA, is amended to read:

3 "2-16-503. Notice of removal. Whenever an officer is
4 removed, declared insane seriously mentally ill, or
5 convicted of a felony or offense involving moral turpitude
6 or a violation of his official duty or whenever his election
7 or appointment is declared void, the body, judge, or officer
8 before whom the proceedings were had must give notice
9 thereof to the officer authorized to fill the vacancy."

10 Section 28. Section 2-16-513, MCA, is amended to read:

11 "2-16-513. Succession in case of termination or
12 incapacitation of primary successors. (1) If, because of an
13 enemy attack upon the United States, the governor,
14 lieutenant governor, president pro tempore of the senate,
15 and speaker of the house are killed or rendered unable to
16 serve as governor, ~~the chairman of the board of county~~
17 ~~commissioners of the state's most populous county as~~
18 ~~determined by the last preceding official United States~~
19 ~~census shall have the power and it shall be his duty~~
20 ~~forthwith to call an emergency session of the state senate~~
21 ~~at any safe location within the state for the purpose of~~
22 ~~electing a president pro tempore who shall then assume the~~
23 ~~office of governor~~ the senior member of the legislature
24 shall act as governor.

25 (2) ~~Should such chairman of the board of county~~

1 ~~commissioners of the most populous county be dead or unable~~
2 ~~to act, the chairman of the board of the next most populous~~
3 ~~county shall exercise the power granted by this section. He~~
4 ~~shall call an emergency session of the legislature at a safe~~
5 ~~location within the state. The legislature meeting in joint~~
6 ~~session shall elect a governor.~~

7 (3) For the purposes of this section, the member with
8 seniority is the member who has served in the legislature
9 for the longest continuous period of time up to and
10 including his current term. If two or more members of the
11 legislature have equal seniority, the line of succession
12 among them is from eldest to youngest in age."

13 Section 29. Section 2-18-405, MCA, is amended to read:

14 "2-18-405. Payroll based on actual, end-of-period
15 figures -- pay date -- change of payroll periods. (1) By
16 January 1, 1979, all state central payroll systems shall be
17 based upon actual payroll figures submitted after the end of
18 the payroll period and may not be based upon estimated
19 payroll.

20 (2) All state payroll systems shall provide for the
21 fixing of payroll periods and designated days on which
22 salaried employees shall be paid for the preceding payroll
23 period. Such the pay date shall be uniform for all employees
24 of each state agency employed in the same geographic area
25 and payroll warrants shall be distributed or mailed within

1 10 business day following the close of the payroll period.

2 (3) The payroll period of employees of a state agency
3 shall ~~may~~ not be changed by inclusion of the agency into the
4 state ~~central~~ payroll system or by any revision or
5 modification of the system unless notice of the proposed
6 change has been given to each employee who will be affected
7 by such change in the form and manner prescribed by the
8 state auditor not less than 60 days prior to the effective
9 date of the change."

10 Section 30. Section 2-18-601, MCA, is amended to read:

11 "2-18-601. Definitions. For the purpose of this part,
12 the following definitions apply:

13 (1) "Agency" means any legally constituted department,
14 board, or commission of state, county, or city government.

15 (2) "Employee" means any person employed by the state,
16 county, or city governments ~~except elected state, county,~~
17 ~~and city officials and school teachers.~~

18 (3) "Permanent employee" means an employee who
19 regularly works for more than 6 months in any 12-month
20 period.

21 (4) "Part-time employee" means an employee who
22 normally works less than 40 hours a week.

23 (5) "Full-time employee" means an employee who
24 normally works 40 hours a week.

25 (6) "Temporary position" means a position created for

1 a definite period of time but not to exceed 6 months and the
2 position is not renewable.

3 (7) "Seasonal position" means a position which,
4 although temporary in nature, regularly occurs from season
5 to season or from year to year.

6 (8) "Vacation leave" means a leave of absence with pay
7 for the purpose of rest, relaxation, or personal business at
8 the request of the employee and with the concurrence of the
9 employer.

10 (9) "Sick leave" means a leave of absence with pay for
11 a sickness suffered by an employee or his immediate family.

12 (10) "Transfer" means a change of employment from one
13 agency to another agency in the same jurisdiction without a
14 break in service of more than 5 working days.

15 (11) "Continuous employment" means working within the
16 same jurisdiction without a break in service of more than 5
17 working days or without a continuous absence without pay of
18 more than 15 working days.

19 (12) "Break in service" means that period of time an
20 employee takes to change employment from one agency to
21 employment in another agency of the same jurisdiction."

22 Section 31. Section 2-18-702, MCA, is amended to read:

23 "2-18-702. Group insurance for public employees and
24 officers. (1) All departments, bureaus, boards, commissions,
25 and agencies of the state and all counties, cities, and

1 towns shall upon approval by two-thirds vote of the officers
 2 and employees of each such department, bureau, board,
 3 commission, agency, county, city, and town enter into group
 4 hospitalization, medical, health, including long-term
 5 disability, accident, and/or group life insurance contracts
 6 or plans for the benefit of their officers, and employees
 7 and their dependents.

8 (2) ~~The For state officers and employees, the premiums~~
 9 required from time to time to maintain such ~~the~~ insurance in
 10 force shall be paid by the insured officers and employees,
 11 and the auditor shall deduct ~~said the~~ premiums from the
 12 salary or wages of each officer or employee who elects to
 13 become insured, on the officer ~~officer's~~ or employee's
 14 written order, and issue his warrant therefor to the
 15 insurer.

16 (3) For the purpose of ~~[49-3905-iv-R.C.M.-1947]~~ ~~this~~
 17 ~~section~~, the plans of health service corporations for
 18 defraying or assuming the cost of professional services of
 19 licentiates in the field of health, or the services of
 20 hospitals, clinics, or sanitariums, or both professional and
 21 hospital services, shall be construed as group insurance,
 22 and the dues payable under such plans shall be construed as
 23 premiums therefor."

24 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 25 MCA, are repealed.

1 Section 33. Repealer. Sections 25-506, 25-509,
 2 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,
 3 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 4 are repealed.

-End-

1 SENATE BILL NO. 375

2 INTRODUCED BY GRAHAM

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND
7 ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202,
8 MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517,
9 59-537, 59-706 THROUGH 59-708, 80-2001, 82-1306 THROUGH
10 82-1308, AND 82-4324, R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 2-1-204, MCA, is amended to read:

14 "2-1-204. Military reservations -- service of process.

15 (1) Authority is granted to and acknowledged in the United
16 States to exercise exclusive legislation as provided by the
17 constitution of the United States over the military
18 reservations ~~reservation~~ of Fort-Assiniboin~~y~~--Fort--Eastern
19 Fort--Keogh--Fort-Meginnis, Fort Missoulay--and--Fort-Shaw as
20 now established by law to the same extent and with the same
21 effect as if ~~said--reservations~~ ~~the reservation~~ had been
22 purchased by the United States by consent of the legislative
23 assembly of the state of Montana so long as ~~said--pieces~~
24 ~~remain~~ ~~it remains~~ a military reservations ~~reservation~~.

25 (2) All legal process of the state, both civil and

1 criminal, may be served upon persons and property found
2 within ~~any-of-said-reservations~~ ~~the reservation~~ in all cases
3 where the United States ~~has--not~~ ~~does not have~~ exclusive
4 jurisdiction."

5 Section 2. Section 2-1-302, MCA, is amended to read:

6 "2-1-302. Resolution of Indian tribes requesting state
7 jurisdiction -- governor's proclamation -- consent of county
8 commissioners. (1) Whenever the governor of this state ~~shall~~
9 ~~receive~~ ~~receives~~ from the tribal council or other governing
10 body of the Confederated Salish and Kootenai Indian tribes
11 ~~or any other~~ community, band, or group of Indians in this
12 state, a resolution expressing its desire that its people
13 and lands be subject to the criminal ~~and/or~~ civil
14 jurisdiction, ~~or both~~ of the state of Montana to the extent
15 authorized by federal law and regulation, he shall issue
16 within 60 days a proclamation to the effect that such
17 jurisdiction ~~shall apply~~ ~~applies~~ to those Indians and their
18 territory or reservation in accordance with the provisions
19 of this part.

20 (2) ~~He shall~~ ~~the governor~~ may not issue such ~~the~~
21 proclamation until such ~~the~~ resolution has been approved in
22 the manner provided for by the charter, constitution, or
23 other fundamental law of the tribe or tribes, if said
24 document provides for such approval, and there has been
25 first obtained the consent of the board of county

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:
4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:

11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter ~~10,~~
15 part-5 14.

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate--making~~ rate-making, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, suspensio ,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, ~~must~~ shall
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, record, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--~~any~~--fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be paid--to
8 ~~the--state-treasurer-at-the-end-of-each-quarter,--as-provided~~
9 ~~in-the-constitution deposited pursuant to 17-6-105."~~

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (2), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when: (1) If an officer, agent, or employee of
14 ~~the state or of a county, municipality, taxing district, or~~
15 ~~other political subdivision of the state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of the state or

1 ~~of a county, municipality, taxing district, or other~~
2 ~~political subdivision of the state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental ~~unit~~ entity he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this act] parts 1 through 3 of this chapter~~
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this act] parts 1 through 3~~ shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this act] parts 1 through 3~~,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:

6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:

24 "2-15-201. Powers and duties of governor. In addition
25 to those the duties prescribed by the constitution, the

1 governor ~~has-the-power-and-must~~ shall perform the following
2 duties:

3 (1) He ~~is-to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is-to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is--to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is-to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

1 county attorney in the discharge of his duties.

2 (8) He may offer rewards not exceeding \$1,000 each,
3 payable out of the general fund, for the apprehension of any
4 convict who has escaped from the state prison or any person
5 who has committed or is charged with an offense punishable
6 by death.

7 (9) He must ~~shall~~ perform such duties respecting
8 fugitives from justice as are prescribed by Title 46,
9 chapter 30.

10 (10) He must ~~shall~~ issue and transmit election
11 proclamations, as prescribed by 13-11-101.

12 (11) He must ~~shall~~ issue land warrants and patents, as
13 prescribed in 77-2-342.

14 (12) He ~~musty--on--or--before--the--second--Monday--of~~
15 ~~November---in---the---year---1892--and--in--each--second--year~~
16 ~~thereof---deliver--to--the---secretary---of---state---for~~
17 ~~publication--at--shall prepare a biennial reports--of--officers~~
18 ~~and--boards--for--the--2--preceding--years report pursuant to~~
19 ~~2-7-102.~~

20 (13) He may require any officer or board to make
21 special reports to him, upon demand, in writing.

22 (14) He must ~~shall~~ discharge the duties of member of
23 the board of examiners, of nonvoting ex officio member of
24 the state board of education, and of member of the board of
25 land commissioners.

1 (15) He has such ~~the~~ other powers and must perform such
2 ~~the~~ other duties as are devolved upon him by this code or
3 any other law of this state."

4 Section 11. Section 2-15-401, MCA, is amended to read:
5 "2-15-401. Duties of secretary of state. In addition
6 to the duties prescribed by the constitution, it is the duty
7 of the secretary of state to:

8 (1) attend at every session of the legislature for the
9 purpose of receiving bills and resolutions thereof and to
10 perform such other duties as may be devolved upon him by
11 resolution of the two houses or either of them;

12 (2) keep a register of and attest the official acts of
13 the governor, including all appointments made by him, with
14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to
16 commissions, pardons, and other public instruments to which
17 the official signature of the governor is required;

18 (4) record in proper books all conveyances made to the
19 state and all articles of incorporation filed in his office;

20 ~~(5)---receive--and--record--in--proper--books--the--official~~
21 ~~bonds--of--at--the--state--officers--and--then--deliver--the~~
22 ~~originals--to--the--state--treasurer~~

23 ~~(6)(5)~~ take and file in his office receipts for all
24 books distributed by him and direct the county clerk of each
25 county to do the same;

1 ~~(7)(6)~~ certify to the governor the names of those
2 persons who have received at any election the highest number
3 of votes for any office, the incumbent of which is
4 commissioned by the governor;

5 ~~(8)(7)~~ furnish, on demand, to any person paying the
6 fees therefor, a certified copy of all or any part of any
7 law, record, or other instrument filed, deposited, or
8 recorded in his office;

9 ~~(9)~~ notify in writing the county attorney of the
10 proper county of the failure of any officer in his county to
11 file in his office the sworn statement of fees received by
12 such officer;

13 ~~(10)~~ present to the legislature at the commencement of
14 each session thereof a full account of all purchases made
15 and expenses incurred in furnishing fuel, lights, and
16 stationery;

17 ~~(11)(9)(8)~~ keep a fee book in which must be entered
18 all fees, commissions, and compensation of whatever nature
19 or kind by him earned, collected, or charged, with the date,
20 name of payer, paid or unpaid, and the nature of the service
21 in each case, which book must be verified annually by his
22 affidavit entered therein;

23 ~~(12)(10)(9)~~ file in his office descriptions of seals
24 in use by the different state officers and furnish such
25 officers with new seals whenever required;

1 ~~(13)(11)(10)~~ discharge the duties of member of the
2 board of examiners and of the board of land commissioners
3 and all other duties required of him by law;

4 ~~(14)(12)(11)~~ report to the governor at the time as
5 prescribed in 2-7-102, a detailed account of all official
6 actions since his previous reports, accompanying the report
7 with a detailed statement, under oath, of the manner in
8 which all appropriations for his office have been expended;

9 ~~(15)(13)(12)~~ receive, designate, and record trademarks
10 as provided in 30-13-103;

11 ~~(16)(14)(13)~~ distribute the bound volumes of the
12 decisions of the supreme court in the manner provided by
13 3-2-604;

14 ~~(17)(15)(14)~~ report annually to the legislative
15 services division of the legislative council all changes of
16 names received pursuant to 27-31-205 for publication in the
17 session laws;

18 ~~(18)(16)(15)~~ report annually to the legislative
19 services division of the legislative council all watercourse
20 name changes received pursuant to 85-2-134 for publication
21 in the session laws.

22 ~~(19)(16)~~ keep a register of all applications for pardon
23 or for commutation of any sentence, with a list of the
24 official signatures and recommendations in favor of each
25 application."

1 Section 12. Section 2-15-412, MCA, is amended to read:

2 "2-15-412. Board of state canvassers. The board of
3 state canvassers created in 13-15-502 is transferred
4 allocated to the office of the secretary of state for
5 administrative purposes only as prescribed in 2-15-121."

6 Section 13. Section 2-15-413, MCA, is amended to read:

7 "2-15-413. Board of election devices. There is a board
8 of election devices as provided in ~~13-18-101~~ 13-18-105. The
9 board is allocated to the office of the secretary of state
10 for administrative purposes only as prescribed in 2-15-121."

11 Section 14. Section 2-15-1111, MCA, is amended to
12 read:

13 "2-15-1111. Office of state coordinator of Indian
14 affairs. (1) ~~The~~ There is an office of the state coordinator
15 of Indian affairs ~~is hereby created. The office is allocated~~
16 to the department of community affairs for administrative
17 purposes only as prescribed in 2-15-121.

18 (2) The coordinator shall be appointed by the governor
19 from a list of five qualified Indian applicants agreed upon
20 by the tribal councils of the respective Indian tribes of
21 the state and shall serve at the pleasure of the governor."

22 Section 15. Section 2-15-1605, MCA, is amended to
23 read:

24 "2-15-1605. Board of medical examiners. (1) There is a
25 Montana state board of medical examiners.

1 (2) The board consists of seven members appointed by
2 the governor with the consent of the senate. Appointments
3 made when the senate legislature is not in session may be
4 confirmed at the next senate session.

5 (3) The members are:

6 (a) six members having the degree of doctor of
7 medicine; and

8 (b) one member having the degree of doctor of
9 osteopathy.

10 (4) The members having the degree of doctor of
11 medicine may not be from the same county. Each member shall
12 be a citizen of the United States. Each member shall have
13 been licensed and shall have practiced medicine in this
14 state for at least 5 years and shall have been a resident of
15 this state for at least 5 years; however, the 5-year
16 requirement of practice and residency shall be waived for
17 the initial term of appointment of the member having the
18 degree and license of doctor of osteopathy.

19 (5) Each member shall serve for a term of 7 years. A
20 term commences on September 1 of each year of appointment.
21 A member may, upon notice and hearing, be removed by the
22 governor for neglect of duty, incompetence, or
23 unprofessional or dishonorable conduct.

24 (6) The board is allocated to the department for
25 administrative purposes only as prescribed in 2-15-121."

1 Section 16. Section 2-15-1614, MCA, is amended to
2 read:

3 "2-15-1614. Board of radiologic technologists. (1)
4 There is a board of radiologic technologists.

5 (2) The board consists of seven members appointed by
6 the governor:

7 (a) two members shall be radiologists licensed to
8 practice medicine in Montana;

9 (b) one member shall be a physician licensed to
10 practice medicine in Montana;

11 (c) one member shall be a chiropractor licensed to
12 practice in Montana; and

13 (d) three members shall be radiologic technologists
14 registered with the American registry of radiologic
15 technologists (ARRT) who, with the exception of the first
16 appointed members, are licensed radiologic technologists.

17 (3) Vacancies in unexpired terms shall be filled for
18 the remainder of the term.

19 (4) Each member shall serve for a term of 3 years.

20 ~~(5) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 17. Section 2-15-1615, MCA, is amended to
23 read:

24 "2-15-1615. Board of speech pathologists and
25 audiologists. (1) There is a board of speech pathologists

1 and audiologists.

2 (2) The board consists of five members, four of whom
3 shall:

4 (a) be appointed by the governor from names submitted
5 to him by the ~~Montana speech and hearing~~ association;

6 (b) have been residents of this state for at least 1
7 year immediately preceding their appointment; and

8 (c) have been engaged in rendering services to the
9 public, teaching, or performing research in the field of
10 speech pathology or audiology for at least 5 years
11 immediately preceding their appointment.

12 (3) At least two members of the board shall be speech
13 pathologists and at least two shall be audiologists, with
14 the remaining member to be a public member who is a consumer
15 of speech pathology or audiology services and who is not a
16 licentiate of the board or of any other board within the
17 department. All board members, ~~except the public member,~~
18 shall at all times be validly licensed in speech pathology,
19 or audiology.

20 (4) Not less than 60 days before the end of each
21 calendar year, the association shall recommend at least
22 three and not more than five persons for each vacancy
23 occurring at the end of the calendar year. In the event of
24 a vacancy for an unexpired term, the association shall
25 expeditiously recommend at least two and not more than three

1 persons to fill the vacancy and the governor shall appoint
2 one of those persons to fill the unexpired term.

3 (5) Appointments shall be for 3-year terms with no
4 person eligible to serve more than two full consecutive
5 terms. Terms begin on the first day of the calendar year
6 and end on the last day of the calendar year.

7 ~~(6) The board is allocated to the department for~~
8 ~~administrative purposes only as prescribed in 2-15-121.~~"

9 Section 18. Section 2-15-1631, MCA, is amended to
10 read:

11 "2-15-1631. Board of sanitarians. (1) There is a board
12 of sanitarians.

13 (2) The board shall consist of three members appointed
14 by the governor. Each member shall be a resident of this
15 state and a registered sanitarian. Each member shall have a
16 minimum of 3 years of experience practicing as a sanitarian
17 in the state of Montana.

18 (3) Members shall serve for 3-year terms. One term
19 shall expire on July 1 of each year.

20 ~~(4) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121.~~"

22 Section 19. Section 2-15-1656, MCA, is amended to
23 read:

24 "2-15-1656. Board of warm air heating, ventilation,
25 and air conditioning. (1) There is a state board of warm

1 air heating, ventilation, and air conditioning.

2 (2) The board consists of seven members appointed by
3 the governor. The members are:

4 (a) two master and two journeyman mechanics, who shall
5 be over-the-age-of-majority ~~18 years of age or older~~ and
6 residents of Montana for at least 1 year. Each mechanic
7 shall have been licensed pursuant to Title 37, chapter 70,
8 at least 2 years immediately preceding his appointment.

9 (b) one representative of the department of
10 administration responsible for the administration of parts 1
11 through 4 of Title 50, chapter 60, who shall act as
12 secretary;

13 (c) one attorney from the department; and

14 (d) one representative of the fire marshal bureau.

15 (3) Each member shall serve for a period of 4 years.

16 ~~(4) The board is allocated to the department for~~
17 ~~administrative purposes only as prescribed in 2-15-121.~~"

18 Section 20. Section 2-15-1701, MCA, is amended to
19 read:

20 "2-15-1701. Department of labor and industry -- head.

21 (1) There is a department of labor and industry. As
22 prescribed in Article XII, section 2, of the Montana
23 constitution, the department head is the commissioner of
24 labor and industry.

25 (2) He shall be appointed by the governor, subject to

1 the confirmation of the senate. The term of office of the
2 commissioner shall be 4 years and until his successor is
3 appointed and qualified.

4 (3) The commissioner shall receive an annual salary in
5 such amount as may be specified by the legislature in the
6 appropriation to the department of labor and industry.

7 (4) Before entering on the duties of his office, he
8 must take and subscribe to the oath of office prescribed by
9 the Montana constitution PRESCRIBED BY THE MONTANA
10 CONSTITUTION."

11 Section 21. Section 2-15-2004, MCA, is amended to
12 read:

13 "2-15-2004. Division of forensic science -- head. (1)
14 There is a division of forensic science in the department of
15 justice.

16 (2) The division head is an administrator whose title
17 is state medical examiner and who shall be appointed by the
18 ~~board of forensic science~~ director of the department. He
19 shall be a forensic pathologist qualified or certified by
20 the American board of pathology."

21 Section 22. Section 2-15-2006, MCA, is amended to
22 read:

23 "2-15-2006. Board of crime control -- composition --
24 allocation. (1) ~~The administratively-created agency known as~~
25 ~~the governor's crime control commission is hereby created by~~

1 ~~law--as--the~~ There is a board of crime control, and its
2 ~~functions are continued.~~

3 (2) The board is transferred allocated to the
4 department for administrative purposes only as prescribed in
5 2-15-121. However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with 2-15-124. ~~Members are to be~~
9 ~~appointed in accordance with~~ and any special requirements of
10 Title I of the Omnibus Crime Control and Safe Streets Act,
11 as amended. The board shall be representative of state and
12 local law enforcement and criminal justice agencies,
13 including agencies directly related to the prevention and
14 control of juvenile delinquency, units of general local
15 government, and public agencies maintaining programs to
16 reduce and control crime and shall include representatives
17 of citizens and professional and community organizations,
18 including organizations directly related to delinquency
19 prevention."

20 Section 23. Section 2-15-3003, MCA, is amended to
21 read:

22 "2-15-3003. Board of hail insurance. (1) There is a
23 board of hail insurance of five members consisting of the
24 state auditor, the director of agriculture, who is secretary
25 of the board, and three other members to be appointed by the

1 governor from names submitted by farmer organizations having
2 a general membership throughout the state.

3 (2) The governor shall designate one of the appointive
4 members to act as chairman of the board.

5 (3) Whenever the term of any member expires, either by
6 death, resignation, removal for cause, or expiration of his
7 term of office, the governor shall appoint his successor and
8 shall also appoint one of the board for chairman in case of
9 a vacancy in that office.

10 (4) Each appointive member of the board shall be
11 appointed for 3 years, except where ~~where~~ when such appointment is
12 made to fill a vacancy on the board, in which event such
13 appointee shall fill out the unexpired term of the member
14 whose place he fills.

15 (5) All members of the board shall be subject to
16 removal for cause by the governor.

17 (6) The board is ~~transferred~~ allocated to the
18 department of agriculture for administrative purposes only
19 as prescribed in 2-15-121."

20 Section 24. Section 2-15-3305, MCA, is amended to
21 read:

22 "2-15-3305. Rangeland resources committee. (1) The
23 governor may select a committee in accordance with
24 subsection (2) which is composed as follows:

25 (a) a chairman who is a rancher;

1 (b) a vice-chairman who is a rancher;

2 (c) a rancher from the eastern area of the state;

3 (d) a rancher from the northern area of the state;

4 (e) a rancher from the area of the state west of the
5 continental divide;

6 (f) a rancher from the southern area of the state;

7 (g) a representative from each of the following
8 agencies:

9 (i) Soil conservation service;

10 (ii) United States forest service;

11 (iii) Montana state university;

12 (iv) Farmers home administration;

13 (v) Montana stockgrowers association;

14 (vi) Office of economic development division;

15 (vii) School of forestry of the university of Montana;

16 (viii) Department of fish and game;

17 (ix) Bureau of land management;

18 (x) Montana wool growers association;

19 (xi) Department of natural resources and conservation;

20 (xii) Bureau of Indian affairs;

21 (xiii) Montana cattlemen's association;

22 (xiv) Department of state lands;

23 (xv) Society for range management;

24 (xvi) United States fish and wildlife service;

25 (xvii) United States agricultural and stabilization

1 service.

2 (2) (a) The governor shall select the members
3 described in subsections (1)(a) through (1)(f) from a list
4 submitted by the executive committee of the association of
5 conservation districts and the board of directors of the
6 Montana association of state grazing districts.

7 (b) The governor shall select the members described in
8 subsection (1)(g) from a list submitted by their respective
9 agencies and/or organizations.

10 (3) The committee members shall serve without
11 compensation.

12 (4) All persons appointed to the committee shall serve
13 at the pleasure of the governor.

14 ~~(5) The committee is allocated to the department for~~
15 ~~administrative purposes only as prescribed in 2-15-121."~~

16 Section 25. Section 2-16-401, MCA, is amended to read:

17 "2-16-401. Salary commission meetings. (1) (a) There
18 is created a Montana salary commission. The commission is
19 composed of eight members, none of whom may be public
20 officers, either elected or appointed. The commission shall
21 be appointed in the following manner and in the following
22 chronological order:

23 (1) First, the governor shall appoint one member from
24 each of the two major political parties, equally divided
25 between the United States congressional districts.

1 (ii) Next, the supreme court shall appoint one member
2 from each of the two major political parties, equally
3 divided between the United States congressional districts.

4 (iii) Next, the majority floor leader of the senate
5 shall appoint one member from his political party. The
6 minority leader of the senate shall then appoint one member
7 from his political party not from the same United States
8 congressional district as the member appointed by the
9 presiding-officer majority leader.

10 (iv) Next, the presiding speaker of the house of
11 representatives shall appoint one member from his political
12 party. Lastly, the minority leader in the house of
13 representatives shall appoint one member from his political
14 party not from the same United States congressional district
15 as the member appointed by the speaker.

16 (b) All appointments shall be made not later than the
17 60th legislative day.

18 (2) Commission members shall serve a term of 4 years.

19 (3) ~~in---the---event~~ If a vacancy occurs on the
20 commission, the appointing authority of the vacated seat
21 shall designate a successor.

22 (4) The commission shall choose one of its members as
23 chairman at its initial meeting, and the executive director
24 of the legislative council or his delegate shall serve as
25 secretary to the commission and shall record and transcribe

1 all minutes of commission meetings and prepare all
2 correspondence, notices, and formal recommendations as
3 directed by the chairman.

4 (5) The salary commission shall hold at least two
5 meetings before submitting a report to the legislature as
6 provided in 2-16-402. The commission shall hold its meetings
7 in the year prior to each first regular session of the
8 biennium.

9 (6) All meetings shall be called by the chairman of
10 the commission, and notice of the meeting dates shall be
11 given by mail to each commission member at least 20 days
12 before the day scheduled for the meeting.

13 (7) A majority of members present at any meeting is
14 sufficient to transact any business to come before the
15 meeting; however, a majority of all commission members is
16 necessary to ratify the commission's recommendations to the
17 legislature.

18 (8) Commission members shall be reimbursed from the
19 appropriation to the office of the legislative council for
20 their travel expenses incurred, as provided for in 2-18-501
21 through 2-18-503, as amended, and \$25 per day while
22 attending meetings of the commission."

23 Section 26. Section 2-16-501, MCA, is amended to read:

24 "2-16-501. Vacancies created. An office becomes vacant
25 on the happening of either any one of the following events

1 before the expiration of the term of the incumbent:

2 (1) the death of the incumbent;

3 (2) ~~his insanity found upon a commission of lunacy~~
4 ~~issued to determine the fact~~ a determination pursuant to
5 Title 53, chapter 21, part 1, that he is seriously mentally
6 ill;

7 (3) his resignation;

8 (4) his removal from office;

9 (5) his ceasing to be a resident of the state or, if
10 the office be local, of the district, city, county, town, or
11 township for which he was chosen or appointed or within
12 which the duties of his office are required to be
13 discharged;

14 (6) his absence from the state, without the permission
15 of the legislature, beyond the period allowed by law;

16 (7) his ceasing to discharge the duty of his office
17 for the period of 3 consecutive months, except when
18 prevented by sickness or when absent from the state by
19 permission of the legislature;

20 (8) his conviction of a felony or of any offense
21 involving moral turpitude or a violation of his official
22 duties;

23 (9) his refusal or neglect to file his official oath
24 or bond within the time prescribed;

25 (10) the decision of a competent tribunal declaring

1 void his election or appointment."

2 Section 27. Section 2-16-503, MCA, is amended to read:

3 "2-16-503. Notice of removal. Whenever an officer is
4 removed, declared insane seriously mentally ill, or
5 convicted of a felony or offense involving moral turpitude
6 or a violation of his official duty or whenever his election
7 or appointment is declared void, the body, judge, or officer
8 before whom the proceedings were had must give notice
9 thereof to the officer authorized to fill the vacancy."

10 Section 28. Section 2-16-513, MCA, is amended to read:

11 "2-16-513. Succession in case of termination or
12 incapacitation of primary successors. (1) If, because of an
13 enemy attack upon the United States, the governor,
14 lieutenant governor, president pro tempore of the senate,
15 and speaker of the house are killed or rendered unable to
16 serve as governor, ~~the chairman of the board of county~~
17 ~~commissioners of the state's most populous county, as~~
18 ~~determined by the last preceding official United States~~
19 ~~census, shall have the power and it shall be his duty~~
20 ~~forthwith to call an emergency session of the state senate~~
21 ~~at any safe location within the state for the purpose of~~
22 ~~electing a president pro tempore who shall then assume the~~
23 ~~office of governor~~ the senior member of the legislature
24 shall act as governor.

25 (2) ~~Should such chairman of the board of county~~

1 ~~commissioners of the most populous county be dead or unable~~
2 ~~to elect the chairman of the board of the next most populous~~
3 ~~county shall exercise the power granted by this section. He~~
4 shall call an emergency session of the legislature at a safe
5 location within the state. The legislature meeting in joint
6 session shall elect a governor.

7 (3) For the purposes of this section, the member with
8 seniority is the member who has served in the legislature
9 for the longest continuous period of time up to and
10 including his current term. If two or more members of the
11 legislature have equal seniority, the line of succession
12 among them is from eldest to youngest in age."

13 Section 29. Section 2-18-405, MCA, is amended to read:

14 "2-18-405. Payroll based on actual, end-of-period
15 figures -- pay date -- change of payroll periods. (1) By
16 January 1, 1979, all state central payroll systems shall be
17 based upon actual payroll figures submitted after the end of
18 the payroll period and may not be based upon estimated
19 payroll.

20 (2) All state payroll systems shall provide for the
21 fixing of payroll periods and designated days on which
22 salaried employees shall be paid for the preceding payroll
23 period. Such the pay date shall be uniform for all employees
24 of each state agency employed in the same geographic area
25 and payroll warrants shall be distributed or mailed within

1 10 business days following the close of the payroll period.
 2 (3) The payroll period of employees of a state agency
 3 shall ~~may~~ not be changed by inclusion of the agency into the
 4 state central payroll system or by any revision or
 5 modification of the system unless notice of the proposed
 6 change has been given to each employee who will be affected
 7 by such change in the form and manner prescribed by the
 8 state auditor not less than 60 days prior to the effective
 9 date of the change."

10 Section 30. Section 2-18-601, MCA, is amended to read:
 11 "2-18-601. Definitions. For the purpose of this part,
 12 the following definitions apply:

13 (1) "Agency" means any legally constituted department,
 14 board, or commission of state, county, or city government.

15 (2) "Employee" means any person employed by the state,
 16 county, or city governments ~~except elected state, county,~~
 17 ~~and city officials and school teachers.~~

18 (3) "Permanent employee" means an employee who
 19 regularly works for more than 6 months in any 12-month
 20 period.

21 (4) "Part-time employee" means an employee who
 22 normally works less than 40 hours a week.

23 (5) "Full-time employee" means an employee who
 24 normally works 40 hours a week.

25 (6) "Temporary position" means a position created for

1 a definite period of time but not to exceed 6 months and the
 2 position is not renewable.

3 (7) "Seasonal position" means a position which,
 4 although temporary in nature, regularly occurs from season
 5 to season or from year to year.

6 (8) "Vacation leave" means a leave of absence with pay
 7 for the purpose of rest, relaxation, or personal business at
 8 the request of the employee and with the concurrence of the
 9 employer.

10 (9) "Sick leave" means a leave of absence with pay for
 11 a sickness suffered by an employee or his immediate family.

12 (10) "Transfer" means a change of employment from one
 13 agency to another agency in the same jurisdiction without a
 14 break in service of more than 5 working days.

15 (11) "Continuous employment" means working within the
 16 same jurisdiction without a break in service of more than 5
 17 working days or without a continuous absence without pay of
 18 more than 15 working days.

19 (12) "Break in service" means that period of time an
 20 employee takes to change employment from one agency to
 21 employment in another agency of the same jurisdiction."

22 Section 31. Section 2-18-702, MCA, is amended to read:
 23 "2-18-702. Group insurance for public employees and
 24 officers. (1) All departments, bureaus, boards, commissions,
 25 and agencies of the state and all counties, cities, and

1 towns shall upon approval by two-thirds vote of the officers
 2 and employees of each such department, bureau, board,
 3 commission, agency, county, city, and town enter into group
 4 hospitalization, medical, health, including long-term
 5 disability, accident, and/or group life insurance contracts
 6 or plans for the benefit of their officers, and employees
 7 and their dependents.

8 (2) ~~The For state officers and employees, the premiums~~
 9 required from time to time to maintain such ~~the~~ insurance in
 10 force shall be paid by the insured officers and employees,
 11 and the auditor shall deduct said ~~the~~ premiums from the
 12 salary or wages of each officer or employee who elects to
 13 become insured, on the officer's ~~officer's~~ or employee's
 14 written order, and issue his warrant therefor to the
 15 insurer.

16 (3) For the purpose of [40-3985v1, Rev. M. v. 1947] ~~this~~
 17 ~~section,~~ the plans of health service corporations for
 18 defraying or assuming the cost of professional services of
 19 licentiates in the field of health, or the services of
 20 hospitals, clinics, or sanitariums, or both professional and
 21 hospital services, shall be construed as group insurance,
 22 and the dues payable under such plans shall be construed as
 23 premiums therefor."

24 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 25 MCA, are repealed.

1 Section 33. Repealer. Sections 25-506, 25-509,
 2 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,
 3 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 4 are repealed.

-End-

1 SENATE BILL NO. 375

2 INTRODUCED BY GRAHAM

3 BY REQUEST OF THE CODE COMMISSIONER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LAW RELATING TO GOVERNMENT STRUCTURE AND
7 ADMINISTRATION; REPEALING SECTIONS 2-1-103 AND 2-15-202,
8 MCA, AND SECTIONS 25-506, 25-509, 32-2504, 41-1604, 59-517,
9 59-537, 59-706 THROUGH 59-708, 90-2001, 82-1306 THROUGH
10 82-1308, AND 82-4324, R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 2-1-204, MCA, is amended to read:

14 "2-1-204. Military reservations -- service of process.

15 (1) Authority is granted to and acknowledged in the United
16 States to exercise exclusive legislation as provided by the
17 constitution of the United States over the military
18 reservations ~~reservation~~ of Fort-Assiniboin~~ey~~--Fort--Eustev
19 Fort--Keogh~~y~~--Fort-Maginnis~~y~~ Fort Missoula~~y~~--and--Fort-Shaw as
20 now established by law to the same extent and with the same
21 effect as if ~~said--reservations~~ the reservation had been
22 purchased by the United States by consent of the legislative
23 assembly of the state of Montana so long as ~~said--places~~
24 remain it remains a military reservations reservation.

25 (2) All legal process of the state, both civil and

1 criminal, may be served upon persons and property found
2 within ~~any-of-said-reservations~~ the reservation in all cases
3 where the United States ~~has--not~~ does not have exclusive
4 jurisdiction."

5 Section 2. Section 2-1-302, MCA, is amended to read:

6 "2-1-302. Resolution of Indian tribes requesting state
7 jurisdiction -- governor's proclamation -- consent of county
8 commissioners. (1) Whenever the governor of this state ~~shall~~
9 receive ~~receives~~ from the tribal council or other governing
10 body of the Confederated Salish and Kootenai Indian tribes
11 ~~or any other~~ community, band, or group of Indians in this
12 state, a resolution expressing its desire that its people
13 and lands be subject to the criminal ~~and/or~~ civil
14 jurisdiction, ~~or both~~ of the state of ~~Montana~~ to the extent
15 authorized by federal law and regulation, he shall issue
16 within 60 days a proclamation to the effect that such
17 jurisdiction ~~shall apply~~ applies to those Indians and their
18 territory or reservation in accordance with the provisions
19 of this part.

20 (2) He ~~shall~~ the governor may not issue such the
21 proclamation until such ~~the~~ resolution has been approved in
22 the manner provided for by the charter, constitution, or
23 other fundamental law of the tribe or tribes, if said
24 document provides for such approval, and there has been
25 first obtained the consent of the board of county

1 commissioners of each county which encompasses any portion
2 of the reservation of such tribe or tribes."

3 Section 3. Section 2-3-113, MCA, is amended to read:
4 "2-3-113. Declaratory rulings to be published. The
5 declaratory rulings of any board, bureau, commission,
6 department, authority, agency, or officer of the state which
7 is not subject to the Montana Administrative Procedure Act
8 shall be published and be subject to judicial review as
9 provided under 2-4-623(6) and 2-4-501, respectively."

10 Section 4. Section 2-4-102, MCA, is amended to read:
11 "2-4-102. Definitions. For purposes of this chapter,
12 the following definitions apply:

13 (1) "Administrative code committee" or "committee"
14 means the committee provided for in Title 5, chapter 10,
15 ~~part 3 14.~~

16 (2) "Agency" means any agency, as defined in 2-3-102,
17 of the state government, except that the provisions of this
18 chapter do not apply to the following:

19 (a) the state board of pardons, except that the board
20 shall be subject to the requirements of 2-4-103, 2-4-201,
21 2-4-202, and 2-4-306 and its rules shall be published in the
22 administrative rules of Montana and Montana administrative
23 register;

24 (b) the supervision and administration of any penal
25 institution with regard to the institutional supervision,

1 custody, control, care, or treatment of youths or prisoners;

2 (c) the board of regents and the Montana university
3 system;

4 (d) the financing, construction, and maintenance of
5 public works.

6 (3) "ARM" means the administrative rules of Montana.

7 (4) "Contested case" means any proceeding before an
8 agency in which a determination of legal rights, duties, or
9 privileges of a party is required by law to be made after an
10 opportunity for hearing. The term includes but is not
11 restricted to ~~rate-making catemaking~~, price fixing, and
12 licensing.

13 (5) "License" includes the whole or part of any agency
14 permit, certificate, approval, registration, charter, or
15 other form of permission required by law but does not
16 include a license required solely for revenue purposes.

17 (6) "Licensing" includes any agency process respecting
18 the grant, denial, renewal, revocation, suspension,
19 annulment, withdrawal, limitation, transfer, or amendment of
20 a license.

21 (7) "Party" means any person or agency named or
22 admitted as a party or properly seeking and entitled as of
23 right to be admitted as a party, but nothing herein shall be
24 construed to prevent an agency from admitting any person or
25 agency as a party for limited purposes.

1 (8) "Person" means any individual, partnership,
2 corporation, association, governmental subdivision, or
3 public organization of any character other than an agency.

4 (9) "Register" means the Montana administrative
5 register.

6 (10) "Rule" means each agency regulation, standard, or
7 statement of general applicability that implements,
8 interprets, or prescribes law or policy or describes the
9 organization, procedures, or practice requirements of an
10 agency. The term includes the amendment or repeal of a prior
11 rule but does not include:

12 (a) statements concerning only the internal management
13 of an agency and not affecting private rights or procedures
14 available to the public;

15 (b) declaratory rulings issued pursuant to 2-4-501;

16 (c) rules relating to the use of public works,
17 facilities, streets, and highways when the substance of such
18 rules is indicated to the public by means of signs or
19 signals;

20 (d) seasonal rules adopted annually relating to
21 hunting, fishing, and trapping when there is a statutory
22 requirement for the publication of such rules and rules
23 adopted annually relating to the seasonal recreational use
24 of lands and waters owned or controlled by the state when
25 the substance of such rules is indicated to the public by

1 means of signs or signals;

2 (e) rules implementing the state personnel
3 classification plan, the state wage and salary plan, or the
4 statewide budgeting and accounting system;

5 (f) uniform rules adopted pursuant to interstate
6 compact, except that such rules shall be filed in accordance
7 with 2-4-306 and shall be published in the administrative
8 rules of Montana.

9 (11) "Substantive rules" are either:

10 (a) legislative rules, which if adopted in accordance
11 with this chapter and under expressly delegated authority
12 have the force of law and when not so adopted are invalid;
13 or

14 (b) adjective or interpretive rules, which may be
15 adopted in accordance with this part and under express or
16 implied authority to codify an interpretation of a statute
17 although such interpretation lacks the force of law."

18 Section 5. Section 2-6-103, MCA, is amended to read:

19 "2-6-103. Filing and copying fees. (1) The secretary
20 of state, for services performed in his office, ~~must~~ shall
21 charge and collect the following fees:

22 (a) for each copy of any law, resolution, record, or
23 other document or paper on file in his office, except
24 corporate papers, 40 cents per folio or, if the copy is made
25 by any process of reproduction by photographic, photostatic,

1 or similar process, the fee shall be 50 cents per page or
2 fraction thereof;

3 (b) for affixing certificate and seal, \$2;

4 (c) for receiving and recording each official bond,
5 \$10;

6 (d) for each commission or other document signed by
7 the governor and attested by the secretary of state (pardon,
8 military commissions, and extraditions excepted), \$5;

9 (e) for filing each trademark, \$5;

10 (f) for filing and recording each assignment of a
11 trademark, \$5;

12 (g) for issuing each certificate of record, \$5;

13 (h) for filing and recording miscellaneous papers,
14 records, or other documents, \$5;

15 (i) for filing and recording any other paper not
16 otherwise herein provided for, \$5;

17 (j) for filing and recording any paper, record, or
18 other document or other than a standard form when
19 recommended by the secretary of state, \$5;

20 (k) when a copy of any law, resolution, record, or
21 other document or paper on file in the office of the
22 secretary of state is presented for comparison and
23 certification, 10 cents per folio must be charged and
24 collected for proofreading the same.

25 (2) No member of the legislature or state or county

1 officer ~~can~~ may be charged for any search relative to
2 matters appertaining to the duties of his office or be
3 charged--any--fee for a certified copy of any law or
4 resolution passed by the legislature relative to his
5 official duties.

6 (3) Fees ~~must~~ shall be collected in advance and when
7 collected by the secretary of state ~~must shall~~ be ~~paid--to~~
8 ~~the--state-treasurer-at-the-end-of-each-quarter--as-provided~~
9 ~~in-the-constitution deposited pursuant to 17-6-105."~~

10 Section 6. Section 2-6-302, MCA, is amended to read:

11 "2-6-302. Official records management -- powers and
12 duties. In order to insure the proper management and
13 safeguarding of official records, the Montana historical
14 society shall:

15 (1) establish and operate the state archives as
16 authorized by appropriation for the purpose of storing and
17 servicing official records transferred to the custody of the
18 state archives;

19 (2) in cooperation with the department of
20 administration and ~~any-committee-or-council-established-by~~
21 ~~law-to-regulate-the-retention-of-public-records,~~ the state
22 records committee provided for in 2-15-1013 establish
23 guidelines for the inventorying, cataloging, retention, and
24 transfer of all official records;

25 (3) maintain and enforce restrictions on access to

1 official records in the custody of the state archives in
2 accordance with the provisions of this part;

3 (4) provide adequate housing and care of official
4 records in the custody of the state archives to insure their
5 proper preservation and use by the public;

6 (5) in accordance with the guidelines established
7 pursuant to subsection (2), remove and destroy duplicate
8 official records and official records of insignificant
9 historical value from the records deposited in the state
10 archives."

11 Section 7. Section 2-9-103, MCA, is amended to read:

12 "2-9-103. Actions under invalid law or rule -- same as
13 if valid -- when. (1) If an officer, agent, or employee of
14 ~~the state or of a county, municipality, taxing district, or~~
15 ~~other political subdivision of the state~~ a governmental
16 entity acts in good faith, without malice or corruption, and
17 under the authority of law and that law is subsequently
18 declared invalid as in conflict with the constitution of
19 Montana or the constitution of the United States, neither he
20 nor any other officer or employee of the governmental entity
21 he represents nor the governmental entity he represents is
22 civilly liable in any action in which he, such other
23 officer, or such governmental entity would not have been
24 liable had the law been valid.

25 (2) If an officer, agent, or employee of ~~the state or~~

1 ~~of a county, municipality, taxing district, or other~~
2 ~~political subdivision of the state~~ a governmental entity
3 acts in good faith, without malice or corruption, and under
4 the authority of a duly promulgated rule or ordinance and
5 that rule or ordinance is subsequently declared invalid,
6 neither he nor any other officer, agent, or employee of the
7 governmental ~~entt~~ entity he represents nor the governmental
8 entity he represents is civilly liable in any action in
9 which no liability would attach had the rule or ordinance
10 been valid."

11 Section 8. Section 2-9-306, MCA, is amended to read:

12 "2-9-306. Construction of policy conditions --
13 customary exclusions. Any insurance policy, rider, or
14 endorsement issued and purchased after July 1, 1973, to
15 insure against any risk which may arise as a result of the
16 application of ~~[this act]~~ parts 1 through 3 of this chapter
17 which contains any condition or provision not in compliance
18 with the requirements of ~~[this act]~~ parts 1 through 3 shall
19 not be rendered invalid thereby but shall be construed and
20 applied in accordance with such conditions and provisions as
21 would have applied had such policy, rider, or endorsement
22 been in full compliance with ~~[this act]~~ parts 1 through 3,
23 provided the policy is otherwise valid. This section ~~shall~~
24 ~~may~~ not be construed to prohibit any such insurance policy,
25 rider, or endorsements from containing standard and

1 customary exclusions of coverages which ~~that~~ the department
2 of administration ~~deems--to--be~~ considers reasonable and
3 prudent upon considering the availability and the cost of
4 such insurance coverages."

5 Section 9. Section 2-9-514, MCA, is amended to read:
6 "2-9-514. Additional security. (1) The additional bond
7 given pursuant to 2-9-513(2) must be in such penalty as
8 directed by the court, judge, board, officer, or other
9 person and in all other respects similar to the original
10 bond and approved by and filed with the same officer as
11 required in case of the approval and filing of the original
12 bond.

13 (2) Every such additional bond so filed and approved
14 is of like force and obligation upon the principal and
15 sureties therein, from the time of its execution, and
16 subjects the officer and his sureties to the same
17 liabilities, suits, and actions as are prescribed respecting
18 the original bonds of officers.

19 (3) In no case is the original bond discharged or
20 affected when an additional bond has been given, but the
21 same remains of like force and obligation as if such
22 additional bond had not been given."

23 Section 10. Section 2-15-201, MCA, is amended to read:
24 "2-15-201. Powers and duties of governor. In addition
25 to these the duties prescribed by the constitution, the

1 governor ~~has the power and must~~ shall perform the following
2 duties:

3 (1) He ~~is to~~ shall supervise the official conduct of
4 all executive and ministerial officers.

5 (2) He ~~is to~~ shall see that all offices are filled and
6 the duties thereof performed or, in default thereof, apply
7 such remedy as the law allows. If the remedy is imperfect,
8 he ~~is to~~ shall acquaint the legislature therewith at its
9 next session.

10 (3) He ~~is to~~ shall make the appointments and supply
11 the vacancies as required by law.

12 (4) He is the sole official organ of communication
13 between the government of this state and the government of
14 any other state or of the United States.

15 (5) Whenever any suit or legal proceeding is pending
16 against this state or which may affect the title of this
17 state to any property or which may result in any claim
18 against the state, he may direct the attorney general to
19 appear on behalf of the state and may employ such additional
20 counsel as he may judge expedient.

21 (6) He may require the attorney general or county
22 attorney of any county to inquire into the affairs or
23 management of any corporation existing under the laws of
24 this state.

25 (7) He may require the attorney general to aid the

1 county attorney in the discharge of his duties.

2 (8) He may offer rewards not exceeding \$1,000 each,
3 payable out of the general fund, for the apprehension of any
4 convict who has escaped from the state prison or any person
5 who has committed or is charged with an offense punishable
6 by death.

7 (9) He ~~must~~ shall perform such duties respecting
8 fugitives from justice as are prescribed by Title 46,
9 chapter 30.

10 (10) He ~~must~~ shall issue and transmit election
11 proclamations, as prescribed by 13-11-101.

12 (11) He ~~must~~ shall issue land warrants and patents, as
13 prescribed in 77-2-342.

14 (12) He ~~musty--on--or--before--the--second--Monday--of~~
15 ~~November---in---the--year--1892--and--in--each--second--year~~
16 ~~thereafter;--deliver--to--the--secretary--of--state--for~~
17 ~~publication--at--shall prepare a~~ biennial reports of officers
18 ~~and--boards--for--the--2--preceding years~~ report pursuant to
19 2-7-102.

20 (13) He may require any officer or board to make
21 special reports to him, upon demand, in writing.

22 (14) He ~~must~~ shall discharge the duties of member of
23 the board of examiners, of nonvoting ex officio member of
24 the state board of education, and of member of the board of
25 land commissioners.

1 (15) He has such ~~the~~ other powers and must perform such
2 ~~the~~ other duties as are devolved upon him by this code or
3 any other law of this state."

4 Section 11. Section 2-15-401, MCA, is amended to read:
5 "2-15-401. Duties of secretary of state. In addition
6 to the duties prescribed by the constitution, it is the duty
7 of the secretary of state to:

8 (1) attend at every session of the legislature for the
9 purpose of receiving bills and resolutions thereof and to
10 perform such other duties as may be devolved upon him by
11 resolution of the two houses or either of them;

12 (2) keep a register of and attest the official acts of
13 the governor, including all appointments made by him, with
14 date of commission and names of appointees and predecessors;

15 (3) affix the great seal, with his attestation, to
16 commissions, pardons, and other public instruments to which
17 the official signature of the governor is required;

18 (4) record in proper books all conveyances made to the
19 state and all articles of incorporation filed in his office;

20 (5) ~~receive--and--record--in--proper--books--the--official~~
21 ~~bonds--of--at--the--state--officers--and--then--deliver--the~~
22 ~~originals--to--the--state--treasurer;~~

23 (6) (5) take and file in his office receipts for all
24 books distributed by him and direct the county clerk of each
25 county to do the same;

1 ~~†7†(6)~~ certify to the governor the names of those
2 persons who have received at any election the highest number
3 of votes for any office, the incumbent of which is
4 commissioned by the governor;

5 ~~†8†(7)~~ furnish, on demand, to any person paying the
6 fees therefor, a certified copy of all or any part of any
7 law, record, or other instrument filed, deposited, or
8 recorded in his office;

9 ~~†9†~~ notify in writing the county attorney of the
10 proper county of the failure of any officer in his county to
11 file in his office the sworn statement of fees received by
12 such officer;

13 ~~†10†~~ present to the legislature at the commencement of
14 each session thereof, a full account of all purchases made
15 and expenses incurred in furnishing fuel, lights, and
16 stationery;

17 ~~†11††19†(8)~~ keep a fee book in which must be entered
18 all fees, commissions, and compensation of whatever nature
19 or kind by him earned, collected, or charged, with the date,
20 name of payer, paid or unpaid, and the nature of the service
21 in each case, which book must be verified annually by his
22 affidavit entered therein;

23 ~~†12††10†(9)~~ file in his office descriptions of seals
24 in use by the different state officers and furnish such
25 officers with new seals whenever required;

1 ~~†13††11†(10)~~ discharge the duties of member of the
2 board of examiners and of the board of land commissioners
3 and all other duties required of him by law;

4 ~~†14††12†(11)~~ report to the governor at the time as
5 prescribed in 2-7-102 a detailed account of all official
6 actions since his previous reports, accompanying the report
7 with a detailed statement under oath of the manner in
8 which all appropriations for his office have been expended;

9 ~~†15††13†(12)~~ receive, designate, and record trademarks
10 as provided in 30-13-103;

11 ~~†16††14†(13)~~ distribute the bound volumes of the
12 decisions of the supreme court in the manner provided by
13 3-2-604;

14 ~~†17††15†(14)~~ report annually to the legislative
15 services division of the legislative council all changes of
16 names received pursuant to 27-31-205 for publication in the
17 session laws;

18 ~~†18††16†(15)~~ report annually to the legislative
19 services division of the legislative council all watercourse
20 name changes received pursuant to 85-2-134 for publication
21 in the session laws.

22 ~~†17†(16)~~ keep a register of all applications for pardon
23 or for commutation of any sentence, with a list of the
24 official signatures and recommendations in favor of each
25 application."

1 Section 12. Section 2-15-412, MCA, is amended to read:

2 "2-15-412. Board of state canvassers. The board of
3 state canvassers created in 13-15-502 is transferred
4 allocated to the office of the secretary of state for
5 administrative purposes only as prescribed in 2-15-121."

6 Section 13. Section 2-15-413, MCA, is amended to read:

7 "2-15-413. Board of election devices. There is a board
8 of election devices as provided in ~~13-10-101~~ 13-18-105. The
9 board is allocated to the office of the secretary of state
10 for administrative purposes only as prescribed in 2-15-121."

11 Section 14. Section 2-15-1111, MCA, is amended to
12 read:

13 "2-15-1111. Office of state coordinator of Indian
14 affairs. (1) There is an office of the state coordinator
15 of Indian affairs ~~is hereby created~~. The office is allocated
16 to the department of community affairs for administrative
17 purposes only as prescribed in 2-15-121.

18 (2) The coordinator shall be appointed by the governor
19 from a list of five qualified Indian applicants agreed upon
20 by the tribal councils of the respective Indian tribes of
21 the state and shall serve at the pleasure of the governor."

22 Section 15. Section 2-15-1605, MCA, is amended to
23 read:

24 "2-15-1605. Board of medical examiners. (1) There is a
25 Montana state board of medical examiners.

1 (2) The board consists of seven members appointed by
2 the governor with the consent of the senate. Appointments
3 made when the senate legislature is not in session may be
4 confirmed at the next senate session.

5 (3) The members are:

6 (a) six members having the degree of doctor of
7 medicine; and

8 (b) one member having the degree of doctor of
9 osteopathy.

10 (4) The members having the degree of doctor of
11 medicine may not be from the same county. Each member shall
12 be a citizen of the United States. Each member shall have
13 been licensed and shall have practiced medicine in this
14 state for at least 5 years and shall have been a resident of
15 this state for at least 5 years; however, the 5-year
16 requirement of practice and residency shall be waived for
17 the initial term of appointment of the member having the
18 degree and license of doctor of osteopathy.

19 (5) Each member shall serve for a term of 7 years. A
20 term commences on September 1 of each year of appointment.
21 A member may, upon notice and hearing, be removed by the
22 governor for neglect of duty, incompetence, or
23 unprofessional or dishonorable conduct.

24 (6) The board is allocated to the department for
25 administrative purposes only as prescribed in 2-15-121."

1 Section 16. Section 2-15-1614, MCA, is amended to
2 read:

3 "2-15-1614. Board of radiologic technologists. (1)
4 There is a board of radiologic technologists.

5 (2) The board consists of seven members appointed by
6 the governor:

7 (a) two members shall be radiologists licensed to
8 practice medicine in Montana;

9 (b) one member shall be a physician licensed to
10 practice medicine in Montana;

11 (c) one member shall be a chiropractor licensed to
12 practice in Montana; and

13 (d) three members shall be radiologic technologists
14 registered with the American registry of radiologic
15 technologists (ARRT) who, with the exception of the first
16 appointed members, are licensed radiologic technologists.

17 (3) Vacancies in unexpired terms shall be filled for
18 the remainder of the term.

19 (4) Each member shall serve for a term of 3 years.

20 ~~(5) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 17. Section 2-15-1615, MCA, is amended to
23 read:

24 "2-15-1615. Board of speech pathologists and
25 audiologists. (1) There is a board of speech pathologists

1 and audiologists.

2 (2) The board consists of five members, four of whom
3 shall:

4 (a) be appointed by the governor from names submitted
5 to him by the ~~Montana speech and hearing~~ association;

6 (b) have been residents of this state for at least 1
7 year immediately preceding their appointment; and

8 (c) have been engaged in rendering services to the
9 public, teaching, or performing research in the field of
10 speech pathology or audiology for at least 5 years
11 immediately preceding their appointment.

12 (3) At least two members of the board shall be speech
13 pathologists and at least two shall be audiologists, with
14 the remaining member to be a public member who is a consumer
15 of speech pathology or audiology services and who is not a
16 licentiate of the board or of any other board within the
17 department. All board members, ~~except the public member,~~
18 shall at all times be validly licensed in speech pathology
19 or audiology.

20 (4) Not less than 60 days before the end of each
21 calendar year, the association shall recommend at least
22 three and not more than five persons for each vacancy
23 occurring at the end of the calendar year. In the event of
24 a vacancy for an unexpired term, the association shall
25 expeditiously recommend at least two and not more than three

1 persons to fill the vacancy and the governor shall appoint
2 one of those persons to fill the unexpired term.

3 (5) Appointments shall be for 3-year terms with no
4 person eligible to serve more than two full consecutive
5 terms. Terms begin on the first day of the calendar year
6 and end on the last day of the calendar year.

7 ~~(6) The board is allocated to the department for~~
8 ~~administrative purposes only as prescribed in 2-15-121."~~

9 Section 18. Section 2-15-1631, MCA, is amended to
10 read:

11 "2-15-1631. Board of sanitarians. (1) There is a board
12 of sanitarians.

13 (2) The board shall consist of three members appointed
14 by the governor. Each member shall be a resident of this
15 state and a registered sanitarian. Each member shall have a
16 minimum of 3 years of experience practicing as a sanitarian
17 in the state of Montana.

18 (3) Members shall serve for 3-year terms. One term
19 shall expire on July 1 of each year.

20 ~~(4) The board is allocated to the department for~~
21 ~~administrative purposes only as prescribed in 2-15-121."~~

22 Section 19. Section 2-15-1656, MCA, is amended to
23 read:

24 "2-15-1656. Board of warm air heating, ventilation,
25 and air conditioning. (1) There is a state board of warm

1 air heating, ventilation, and air conditioning.

2 (2) The board consists of seven members appointed by
3 the governor. The members are:

4 (a) two master and two journeyman mechanics, who shall
5 be ~~over-the-age-of-majority 18 years of age or older~~ and
6 residents of Montana for at least 1 year. Each mechanic
7 shall have been licensed pursuant to Title 37, chapter 70,
8 at least 2 years immediately preceding his appointment.

9 (b) one representative of the department of
10 administration responsible for the administration of parts 1
11 through 4 of Title 50, chapter 60, who shall act as
12 secretary;

13 (c) one attorney from the department; and

14 (d) one representative of the fire marshal bureau.

15 (3) Each member shall serve for a period of 4 years.

16 ~~(4) The board is allocated to the department for~~
17 ~~administrative purposes only as prescribed in 2-15-121."~~

18 Section 20. Section 2-15-1701, MCA, is amended to
19 read:

20 "2-15-1701. Department of labor and industry -- head.

21 (1) There is a department of labor and industry. As
22 prescribed in Article XII, section 2, of the Montana
23 constitution, the department head is the commissioner of
24 labor and industry.

25 (2) He shall be appointed by the governor, subject to

1 the confirmation of the senate. The term of office of the
2 commissioner shall be 4 years and until his successor is
3 appointed and qualified.

4 (3) The commissioner shall receive an annual salary in
5 such amount as may be specified by the legislature in the
6 appropriation to the department of labor and industry.

7 (4) Before entering on the duties of his office, he
8 must take and subscribe to the oath of office prescribed by
9 the--Montana--constitution PRESCRIBED BY THE MONTANA
10 CONSTITUTION."

11 Section 21. Section 2-15-2004, MCA, is amended to
12 read:

13 "2-15-2004. Division of forensic science -- head. (1)
14 There is a division of forensic science in the department of
15 justice.

16 (2) The division head is an administrator whose title
17 is state medical examiner and who shall be appointed by the
18 board--of--forensic--science director of the department. He
19 shall be a forensic pathologist qualified or certified by
20 the American board of pathology."

21 Section 22. Section 2-15-2006, MCA, is amended to
22 read:

23 "2-15-2006. Board of crime control -- composition --
24 allocation. (1) ~~The administratively-created agency known as~~
25 ~~the governor's crime control commission is hereby created by~~

1 ~~law--as--the~~ There is a board of crime control, ~~and its~~
2 ~~functions are continued.~~

3 (2) The board is transferred allocated to the
4 department for administrative purposes only as prescribed in
5 2-15-121. However, the board may hire its own personnel, and
6 2-15-121(2)(d) does not apply.

7 (3) The board is composed of 18 members appointed by
8 the governor in accordance with 2-15-124, ~~Members are to be~~
9 ~~appointed in accordance with~~ and any special requirements of
10 Title I of the Omnibus Crime Control and Safe Streets Act,
11 as amended. The board shall be representative of state and
12 local law enforcement and criminal justice agencies,
13 including agencies directly related to the prevention and
14 control of juvenile delinquency, units of general local
15 government, and public agencies maintaining programs to
16 reduce and control crime and shall include representatives
17 of citizens and professional and community organizations,
18 including organizations directly related to delinquency
19 prevention."

20 Section 23. Section 2-15-3003, MCA, is amended to
21 read:

22 "2-15-3003. Board of hail insurance. (1) There is a
23 board of hail insurance of five members consisting of the
24 state auditor, the director of agriculture, who is secretary
25 of the board, and three other members to be appointed by the

1 governor from names submitted by farmer organizations having
2 a general membership throughout the state.

3 (2) The governor shall designate one of the appointive
4 members to act as chairman of the board.

5 (3) Whenever the term of any member expires, either by
6 death, resignation, removal for cause, or expiration of his
7 term of office, the governor shall appoint his successor and
8 shall also appoint one of the board for chairman in case of
9 a vacancy in that office.

10 (4) Each appointive member of the board shall be
11 appointed for 3 years, except where ~~where~~ when such appointment is
12 made to fill a vacancy on the board, in which event such
13 appointee shall fill out the unexpired term of the member
14 whose place he fills.

15 (5) All members of the board shall be subject to
16 removal for cause by the governor.

17 (6) The board is ~~transferred~~ ~~allocated~~ to the
18 department of agriculture for administrative purposes only
19 as prescribed in 2-15-121."

20 Section 24. Section 2-15-3305, MCA, is amended to
21 read:

22 "2-15-3305. Rangeland resources committee. (1) The
23 governor may select a committee in accordance with
24 subsection (2) which is composed as follows:

25 (a) a chairman who is a rancher;

1 (b) a vice-chairman who is a rancher;

2 (c) a rancher from the eastern area of the state;

3 (d) a rancher from the northern area of the state;

4 (e) a rancher from the area of the state west of the
5 continental divide;

6 (f) a rancher from the southern area of the state;

7 (g) a representative from each of the following
8 agencies:

9 (i) Soil conservation service;

10 (ii) United States forest service;

11 (iii) Montana state university;

12 (iv) Farmers home administration;

13 (v) Montana stockgrowers association;

14 (vi) Office of economic development division;

15 (vii) School of forestry of the university of Montana;

16 (viii) Department of fish and game;

17 (ix) Bureau of land management;

18 (x) Montana wool growers association;

19 (xi) Department of natural resources and conservation;

20 (xii) Bureau of Indian affairs;

21 (xiii) Montana cattlemen's association;

22 (xiv) Department of state lands;

23 (xv) Society for range management;

24 (xvi) United States fish and wildlife service;

25 (xvii) United States agricultural and stabilization

1 service.

2 (2) (a) The governor shall select the members
3 described in subsections (1)(a) through (1)(f) from a list
4 submitted by the executive committee of the association of
5 conservation districts and the board of directors of the
6 Montana association of state grazing districts.

7 (b) The governor shall select the members described in
8 subsection (1)(g) from a list submitted by their respective
9 agencies and/or organizations.

10 (3) The committee members shall serve without
11 compensation.

12 (4) All persons appointed to the committee shall serve
13 at the pleasure of the governor.

14 ~~(5) The committee is allocated to the department for~~
15 ~~administrative purposes only as prescribed in 2-15-121a."~~

16 Section 25. Section 2-16-401, MCA, is amended to read:

17 "2-16-401. Salary commission meetings. (1) (a) There
18 is created a Montana salary commission. The commission is
19 composed of eight members, none of whom may be public
20 officers, either elected or appointed. The commission shall
21 be appointed in the following manner and in the following
22 chronological order:

23 (i) First, the governor shall appoint one member from
24 each of the two major political parties, equally divided
25 between the United States congressional districts.

1 (ii) Next, the supreme court shall appoint one member
2 from each of the two major political parties, equally
3 divided between the United States congressional districts.

4 (iii) Next, the majority floor leader of the senate
5 shall appoint one member from his political party. The
6 minority leader of the senate shall then appoint one member
7 from his political party not from the same United States
8 congressional district as the member appointed by the
9 presiding-officer majority leader.

10 (iv) Next, the presiding speaker of the house of
11 representatives shall appoint one member from his political
12 party. Lastly, the minority leader in the house of
13 representatives shall appoint one member from his political
14 party not from the same United States congressional district
15 as the member appointed by the speaker.

16 (b) All appointments shall be made not later than the
17 60th legislative day.

18 (2) Commission members shall serve a term of 4 years.

19 (3) ~~in---the---event~~ If a vacancy occurs on the
20 commission, the appointing authority of the vacated seat
21 shall designate a successor.

22 (4) The commission shall choose one of its members as
23 chairman at its initial meeting, and the executive director
24 of the legislative council or his delegate shall serve as
25 secretary to the commission and shall record and transcribe

1 all minutes of commission meetings and prepare all
2 correspondence, notices, and formal recommendations as
3 directed by the chairman.

4 (5) The salary commission shall hold at least two
5 meetings before submitting a report to the legislature as
6 provided in 2-16-402. The commission shall hold its meetings
7 in the year prior to each first regular session of the
8 biennium.

9 (6) All meetings shall be called by the chairman of
10 the commission, and notice of the meeting dates shall be
11 given by mail to each commission member at least 20 days
12 before the day scheduled for the meeting.

13 (7) A majority of members present at any meeting is
14 sufficient to transact any business to come before the
15 meeting; however, a majority of all commission members is
16 necessary to ratify the commission's recommendations to the
17 legislature.

18 (8) Commission members shall be reimbursed from the
19 appropriation to the office of the legislative council for
20 their travel expenses incurred, as provided for in 2-18-501
21 through 2-18-503, as amended, and \$25 per day while
22 attending meetings of the commission."

23 Section 26. Section 2-16-501, MCA, is amended to read:

24 "2-16-501. Vacancies created. An office becomes vacant
25 on the happening of either any one of the following events

1 before the expiration of the term of the incumbent:

- 2 (1) the death of the incumbent;
- 3 (2) ~~his insanity, found upon a commission of lunacy~~
4 ~~issued to determine the fact~~ a determination pursuant to
5 Title 53, chapter 21, part 1, that he is seriously mentally
6 ill;
- 7 (3) his resignation;
- 8 (4) his removal from office;
- 9 (5) his ceasing to be a resident of the state or, if
10 the office be local, of the district, city, county, town, or
11 township for which he was chosen or appointed or within
12 which the duties of his office are required to be
13 discharged;
- 14 (6) his absence from the state, without the permission
15 of the legislature, beyond the period allowed by law;
- 16 (7) his ceasing to discharge the duty of his office
17 for the period of 3 consecutive months, except when
18 prevented by sickness or when absent from the state by
19 permission of the legislature;
- 20 (8) his conviction of a felony or of any offense
21 involving moral turpitude or a violation of his official
22 duties;
- 23 (9) his refusal or neglect to file his official oath
24 or bond within the time prescribed;
- 25 (10) the decision of a competent tribunal declaring

1 void his election or appointment."

2 Section 27. Section 2-16-503, MCA, is amended to read:

3 "2-16-503. Notice of removal. Whenever an officer is
4 removed, declared insane seriously mentally ill, or
5 convicted of a felony or offense involving moral turpitude
6 or a violation of his official duty or whenever his election
7 or appointment is declared void, the body, judge, or officer
8 before whom the proceedings were had must give notice
9 thereof to the officer authorized to fill the vacancy."

10 Section 28. Section 2-16-513, MCA, is amended to read:

11 "2-16-513. Succession in case of termination or
12 incapacitation of primary successors. (1) If, because of an
13 enemy attack upon the United States, the governor,
14 lieutenant governor, president pro tempore of the senate,
15 and speaker of the house are killed or rendered unable to
16 serve as governor, ~~the chairman of the board of county~~
17 ~~commissioners of the state's most populous county as~~
18 ~~determined by the last preceding official United States~~
19 ~~census shall have the power and it shall be his duty~~
20 ~~forthwith to call an emergency session of the state senate~~
21 ~~at any safe location within the state for the purpose of~~
22 ~~electing a president pro tempore who shall then assume the~~
23 ~~office of governor~~ the senior member of the legislature
24 shall act as governor.

25 (2) ~~Should such chairman of the board of county~~

1 ~~commissioners of the most populous county be dead or unable~~
2 ~~to act, the chairman of the board of the next most populous~~
3 ~~county shall exercise the power granted by this section. He~~
4 ~~shall call an emergency session of the legislature at a safe~~
5 ~~location within the state. The legislature meeting in joint~~
6 ~~session shall elect a governor.~~

7 (3) For the purposes of this section, the member with
8 seniority is the member who has served in the legislature
9 for the longest continuous period of time up to and
10 including his current term. If two or more members of the
11 legislature have equal seniority, the line of succession
12 among them is from eldest to youngest in age."

13 Section 29. Section 2-18-405, MCA, is amended to read:

14 "2-18-405. Payroll based on actual, end-of-period
15 figures -- pay date -- change of payroll periods. (1) By
16 January 1, 1979, all state central payroll systems shall be
17 based upon actual payroll figures submitted after the end of
18 the payroll period and may not be based upon estimated
19 payroll.

20 (2) All state payroll systems shall provide for the
21 fixing of payroll periods and designated days on which
22 salaried employees shall be paid for the preceding payroll
23 period. Such ~~the~~ pay date shall be uniform for all employees
24 of each state agency employed in the same geographic area
25 and payroll warrants shall be distributed or mailed within

1 10 business days following the close of the payroll period.

2 (3) The payroll period of employees of a state agency
3 shall ~~may~~ not be changed by inclusion of the agency into the
4 state ~~central~~ payroll system or by any revision or
5 modification of the system unless notice of the proposed
6 change has been given to each employee who will be affected
7 by such change in the form and manner prescribed by the
8 state auditor not less than 60 days prior to the effective
9 date of the change."

10 Section 30. Section 2-18-601, MCA, is amended to read:

11 "2-18-601. Definitions. For the purpose of this part,
12 the following definitions apply:

13 (1) "Agency" means any legally constituted department,
14 board, or commission of state, county, or city government.

15 (2) "Employee" means any person employed by the state,
16 county, or city governments except elected state, county,
17 and city officials and school teachers.

18 (3) "Permanent employee" means an employee who
19 regularly works for more than 6 months in any 12-month
20 period.

21 (4) "Part-time employee" means an employee who
22 normally works less than 40 hours a week.

23 (5) "Full-time employee" means an employee who
24 normally works 40 hours a week.

25 (6) "Temporary position" means a position created for

1 a definite period of time but not to exceed 6 months and the
2 position is not renewable.

3 (7) "Seasonal position" means a position which,
4 although temporary in nature, regularly occurs from season
5 to season or from year to year.

6 (8) "Vacation leave" means a leave of absence with pay
7 for the purpose of rest, relaxation, or personal business at
8 the request of the employee and with the concurrence of the
9 employer.

10 (9) "Sick leave" means a leave of absence with pay for
11 a sickness suffered by an employee or his immediate family.

12 (10) "Transfer" means a change of employment from one
13 agency to another agency in the same jurisdiction without a
14 break in service of more than 5 working days.

15 (11) "Continuous employment" means working within the
16 same jurisdiction without a break in service of more than 5
17 working days or without a continuous absence without pay of
18 more than 15 working days.

19 (12) "Break in service" means that period of time an
20 employee takes to change employment from one agency to
21 employment in another agency of the same jurisdiction."

22 Section 31. Section 2-18-702, MCA, is amended to read:

23 "2-18-702. Group insurance for public employees and
24 officers. (1) All departments, bureaus, boards, commissions,
25 and agencies of the state and all counties, cities, and

1 towns shall upon approval by two-thirds vote of the officers
 2 and employees of each such department, bureau, board,
 3 commission, agency, county, city, and town enter into group
 4 hospitalization, medical, health, including long-term
 5 disability, accident, and/or group life insurance contracts
 6 or plans for the benefit of their officers, and employees
 7 and their dependents.

8 (2) ~~The For state officers and employees, the premiums~~
 9 required from time to time to maintain such ~~the~~ insurance in
 10 force shall be paid by the insured officers and employees,
 11 and the auditor shall deduct ~~said the~~ premiums from the
 12 salary or wages of each officer or employee who elects to
 13 become insured, on the ~~officer~~ officer's or employee's
 14 written order, and issue his warrant therefor to the
 15 insurer.

16 (3) For the purpose of ~~[40-3905iv-RvEvMv-1947]~~ this
 17 section, the plans of health service corporations for
 18 defraying or assuming the cost of professional services of
 19 licentiates in the field of health, or the services of
 20 hospitals, clinics, or sanitariums, or both professional and
 21 hospital services, shall be construed as group insurance,
 22 and the dues payable under such plans shall be construed as
 23 premiums therefor."

24 Section 32. Repealer. Sections 2-1-103 and 2-15-202,
 25 MCA, are repealed.

1 Section 33. Repealer. Sections 25-506, 25-509,
 2 32-2504, 41-1604, 59-517, 59-537, 59-706 through 59-708,
 3 80-2001, 82-1306 through 82-1308, and 82-4324, R.C.M. 1947,
 4 are repealed.

-End-