

SENATE BILL NO. 491

INTRODUCED BY TURNAGE, BARDANOUE

IN THE SENATE

February 12, 1979	Introduced and referred to Committee on Judiciary.
February 19, 1979	Committee recommend bill do pass. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in. Report adopted.
March 20, 1979	Motion pass consideration.
March 21, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in.

IN THE SENATE

March 24, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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1 *Act* BILL NO. *441*  
 2 INTRODUCED BY *Turnage Babinoff*  
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT COURTS  
 5 NOT OF RECORD DO NOT HAVE JURISDICTION OVER ACTIONS THAT  
 6 MIGHT RESULT IN A JUDGMENT AGAINST THE STATE FOR THE PAYMENT  
 7 OF MONEY; AMENDING SECTIONS 3-5-302, 3-10-301, 3-11-103,  
 8 25-30-101, 25-31-101, 25-31-102, 25-34-105, AND 25-35-105,  
 9 MCA."  
 10

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

12 Section 1. Section 3-5-302, MCA, is amended to read:

13 "3-5-302. Original jurisdiction. (1) The district  
 14 court has original jurisdiction in:

- 15 (a) all criminal cases amounting to felony;
- 16 (b) all civil and probate matters;
- 17 (c) all cases at law and in equity;
- 18 (d) all cases of misdemeanor not otherwise provided  
 19 for; and
- 20 (e) all such special actions and proceedings as are  
 21 not otherwise provided for.

22 ~~(2) The district court has exclusive original~~  
 23 ~~jurisdiction in all civil actions that might result in a~~  
 24 ~~judgment against the state for the payment of money.~~

25 ~~(2)(3)~~ The district court has the power of

1 naturalization and of issuing papers therefor in all cases  
 2 where it is authorized to do so by the laws of the United  
 3 States.

4 ~~(3)(4)~~ The district court and its judges have power to  
 5 issue, hear, and determine writs of mandamus, quo warranto,  
 6 certiorari, prohibition, and injunction, other original  
 7 remedial writs, and all writs of habeas corpus on petition  
 8 by or on behalf of any person held in actual custody in  
 9 their respective districts. Injunctions and writs of  
 10 prohibition and habeas corpus may be issued and served on  
 11 legal holidays and nonjudicial days."

12 Section 2. Section 25-30-101, MCA, is amended to read:

13 "25-30-101. Applicability of district court and  
 14 justice's court rules. (1) The provisions of 3-10-222,  
 15 3-10-231 through 3-10-234, 3-10-305, 3-10-306, 3-10-704  
 16 through 3-10-706, ~~25-31-102(2)~~, 25-31-111, 25-31-114 through  
 17 25-31-116, 25-31-304, 25-31-402(2), 25-31-405, parts 7  
 18 through 11 of chapter 31 of this title (except 25-31-701,  
 19 25-31-915, 25-31-1002, 25-31-1004, and 25-31-1005), chapter  
 20 33 of this title, chapter 9, part 10 of chapter 16, and part  
 21 1 of chapter 17 of Title 27, 27-17-401, and part 15 of  
 22 chapter 18 of Title 27 are applicable to municipal courts  
 23 except when they are inconsistent with the provisions of  
 24 this chapter and chapter 6 of Title 3, the words "municipal  
 25 court" being substituted for justice's court and "judge" for

1 justice of the peace.

2 (2) Except as otherwise provided by this chapter and  
3 chapter 6 of Title 3, the proceedings and practice in  
4 municipal court shall be the same as in district court."

5 Section 3. Section 3-10-301, MCA, is amended to read:

6 "3-10-301. Civil jurisdiction. (1) ~~The Except as~~  
7 ~~provided in subsection (2), the justices' courts have~~  
8 ~~jurisdiction:~~

9 (1)(a) in actions arising on contract for the recovery  
10 of money only if the sum claimed does not exceed \$1,500,  
11 exclusive of court costs;

12 (1)(b) in actions for damages not exceeding \$1,500,  
13 exclusive of court costs, for taking, detaining, or injuring  
14 personal property or for injury to real property when no  
15 issue is raised by the verified answer of the defendant  
16 involving the title to or possession of the real property;

17 (1)(c) in actions for damages not exceeding \$1,500,  
18 exclusive of court costs, for injury to the person, except  
19 that, in actions for false imprisonment, libel, slander,  
20 criminal conversation, seduction, malicious prosecution,  
21 determination of paternity, and abduction, the justice of  
22 the peace does not have jurisdiction;

23 (1)(d) in actions to recover the possession of  
24 personal property if the value of the property does not  
25 exceed \$1,500;

1 (5)(g) in actions for a fine, penalty, or forfeiture  
2 not exceeding \$1,500, imposed by a statute or an ordinance  
3 of an incorporated city or town when no issue is raised by  
4 the answer involving the legality of any tax, impost,  
5 assessment, toll, or municipal fine;

6 (6)(f) in actions upon bonds or undertakings  
7 conditioned for the payment of money when the sum claimed  
8 does not exceed \$1,500, though the penalty may exceed that  
9 sum;

10 (7)(g) to take and enter judgment for the recovery of  
11 money on the confession of a defendant when the amount  
12 confessed does not exceed \$1,500, exclusive of court costs.

13 ~~(2) Justices' courts do not have jurisdiction in civil~~  
14 ~~actions that might result in a judgment against the state~~  
15 ~~for the payment of money."~~

16 Section 4. Section 25-31-101, MCA, is amended to read:

17 "25-31-101. Issues which cannot be presented in  
18 justice's court. (1) The parties to an action in a justice's  
19 court cannot give evidence upon any question which involves  
20 the title or possession of real property or the legality of  
21 any tax, impost, assessment, toll, or municipal fine, nor  
22 can any issue presenting such question be tried by such  
23 court; provided that, in cases of forcible entry and  
24 unlawful detainer of which justices' courts have  
25 jurisdiction, any evidence otherwise competent may be given,

1 and any question properly involved therein may be  
2 determined.

3 ~~(2) A justice's court may not hear evidence on or try  
4 any issue involving the state's liability to make a payment  
5 of money, regardless of the basis of the claim against the  
6 state."~~

7 Section 5. Section 25-31-102, MCA, is amended to read:

8 "25-31-102. Transfer to district court -- dismissal.

9 (1) If it appear from the answer of the defendant, verified  
10 by his oath, that the determination of the action will  
11 necessarily involve the question of title or possession to  
12 real property or the legality of any tax, impost,  
13 assessment, toll, or municipal fine, the justice must  
14 suspend all further proceedings in the action and certify  
15 the pleadings and, if any of the pleadings are oral, a  
16 transcript of the same from his docket to the clerk of the  
17 district court of the county; and from the time of filing  
18 such pleadings or transcript with the clerk, the district  
19 court shall have over the action the same jurisdiction as if  
20 it had been commenced therein. When the action is certified  
21 to the district court, upon the answer of the defendant, he  
22 must file an undertaking, to be approved by the justice, to  
23 the effect that he will pay all costs that may be awarded  
24 against him on the trial in the district court.

25 ~~(2) If it appears at any point in the proceedings in a~~

1 ~~justice's court that the determination of the action will  
2 involve the question of the state's liability to make a  
3 payment of money, the justice shall sever that issue and  
4 dismiss the action as to it. If the issue is not severable,  
5 the justice shall dismiss the entire action."~~

6 Section 6. Section 3-11-103, MCA, is amended to read:

7 "3-11-103. Exclusive jurisdiction. ~~The~~ Except as  
8 provided in (section 1), the city court has exclusive  
9 jurisdiction of:

10 (1) proceedings for the violation of an ordinance of  
11 the city or town, both civil and criminal;

12 (2) when the amount of the taxes or assessments sought  
13 does not exceed \$300, actions for the collection of taxes or  
14 assessments levied for any of the following purposes, except  
15 that no lien on the property taxed or assessed for the  
16 nonpayment of the taxes or assessment may be foreclosed in  
17 any such action:

- 18 (a) city or town purposes;
- 19 (b) the erection or improvement of public buildings;
- 20 (c) the laying out, opening, or improving of a public  
21 street, sidewalk, alley, or bridge;
- 22 (d) the acquisition or improvement of any public  
23 grounds; and
- 24 (e) public improvements made or ordered by the city or  
25 town within its limits;

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1 (3) actions for the collection of money due to the  
2 city or town or from the city or town to any person when the  
3 amount sought, exclusive of interest and costs, does not  
4 exceed \$300;

5 (4) when the amount claimed, exclusive of costs, does  
6 not exceed \$300, actions for:

7 (a) the breach of an official bond given by a city or  
8 town officer;

9 (b) the breach of any contract;

10 (c) damages when the city or town is a party or is in  
11 any way interested;

12 (d) the enforcement of forfeited recognizances given  
13 to, for the benefit of, or on behalf of the city or town;  
14 and

15 (e) collection on bonds given upon an appeal taken  
16 from the judgment of the court in any action mentioned in  
17 subsections (4)(a) through (4)(d);

18 (5) actions for the recovery of personal property  
19 belonging to the city or town when the value of the  
20 property, exclusive of the damages for the taking or  
21 detention, does not exceed \$300; and

22 (6) actions for the collection of a license fee  
23 required by an ordinance of the city or town.\*

24 NEW SECTION. Section 7. Exceptions to civil  
25 jurisdiction. City courts do not have jurisdiction in civil

1 actions that might result in a judgment against the state  
2 for the payment of money.

3 Section 8. Section 25-34-105, MCA, is amended to read:

4 \*25-34-105. Parties -- representation. (1) Parties in  
5 the small claims court may be individuals, partnerships,  
6 corporations, unions, associations, or any other kind of  
7 organization or entity, except the state or any agency  
8 thereof.

9 (2) A party may not be represented by an attorney  
10 unless all parties are represented by an attorney in a small  
11 claims court, except as set forth in subsection (3) herein.

12 (3) An individual shall represent himself in the small  
13 claims court. A partnership shall be represented by a  
14 partner or one of its employees. A union shall be  
15 represented by a union member or union employee. A  
16 corporation shall be represented by one of its employees.  
17 An association shall be represented by one of its members or  
18 by an employee of the association. Any other kind of  
19 organization or entity shall be represented by one of its  
20 members or employees.

21 (4) Only a party, natural or otherwise, who has been a  
22 party to the transaction with the defendant for which the  
23 claim is brought may file and prosecute a claim in the small  
24 claims court.

25 (5) No party may file an assigned claim in the small

1 claims court.

2 (6) Notwithstanding any other provision of this  
3 section, an executor or administrator of a decedent's  
4 estate, a guardian, or a conservator may be a party in the  
5 small claims court."

6 Section 9. Section 25-35-105, MCA, is amended to read:

7 "25-35-105. Parties -- representation. (1) Parties in  
8 the small claims court may be individuals, partnerships,  
9 corporations, unions, associations, or any other kind of  
10 organization or entity, except the state or any agency  
11 thereof.

12 (2) A party may not be represented by an attorney  
13 unless all parties are represented by an attorney in a small  
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16 claims court. A partnership may be represented by a partner  
17 or one of its employees. A union may be represented by a  
18 union member or union employee. A corporation may be  
19 represented by one of its employees. An association may be  
20 represented by one of its members or by an employee of the  
21 association. Any other kind of organization or entity may be  
22 represented by one of its members or employees.

23 (4) Only a party, natural or otherwise, who has been a  
24 party to the transaction with the defendant for which the  
25 claim is brought may file and prosecute a claim in the small

1 claims court.

2 (5) No party may file an assigned claim in the small  
3 claims court.

4 (6) No party may file more than three claims in any  
5 calendar year.

6 (7) Notwithstanding any other provision of this  
7 section, a personal representative of a decedent's estate, a  
8 guardian, or a conservator may be a party in the small  
9 claims court."

10 Section 10. Codification. Section 7 is intended to be  
11 codified as an integral part of Title 3, Chapter 11, part 1.

-End-

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1 *Amended* BILL NO. *491*  
 2 INTRODUCED BY *Turnage B. Anderson*  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT COURTS  
 5 NOT OF RECORD DO NOT HAVE JURISDICTION OVER ACTIONS THAT  
 6 MIGHT RESULT IN A JUDGMENT AGAINST THE STATE FOR THE PAYMENT  
 7 OF MONEY; AMENDING SECTIONS 3-5-302, 3-10-301, 3-11-103,  
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25 ~~(2)(3)~~ The district court has the power of

1 naturalization and of issuing papers therefor in all cases  
 2 where it is authorized to do so by the laws of the United  
 3 States.

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 5 issue, hear, and determine writs of mandamus, quo warranto,  
 6 certiorari, prohibition, and injunction, other original  
 7 remedial writs, and all writs of habeas corpus on petition  
 8 by or on behalf of any person held in actual custody in  
 9 their respective districts. Injunctions and writs of  
 10 prohibition and habeas corpus may be issued and served on  
 11 legal holidays and nonjudicial days."

12 Section 2. Section 25-30-101, MCA, is amended to read:

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 15 3-10-231 through 3-10-234, 3-10-305, 3-10-306, 3-10-704  
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 18 through 11 of chapter 31 of this title (except 25-31-701,  
 19 25-31-915, 25-31-1002, 25-31-1004, and 25-31-1005), chapter  
 20 33 of this title, chapter 9, part 10 of chapter 16, and part  
 21 1 of chapter 17 of Title 27, 27-17-401, and part 15 of  
 22 chapter 18 of Title 27 are applicable to municipal courts  
 23 except when they are inconsistent with the provisions of  
 24 this chapter and chapter 6 of Title 3, the words "municipal  
 25 court" being substituted for justice's court and "judge" for

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1 justice of the peace.

2 (2) Except as otherwise provided by this chapter and  
3 chapter 6 of Title 3, the proceedings and practice in  
4 municipal court shall be the same as in district court."

5 Section 3. Section 3-10-301, MCA, is amended to read:

6 "3-10-301. Civil jurisdiction. (1) ~~The Except as~~  
7 ~~provided in subsection (2), the justices' courts have~~  
8 ~~jurisdiction:~~

9 (1)(a) in actions arising on contract for the recovery  
10 of money only if the sum claimed does not exceed \$1,500,  
11 exclusive of court costs;

12 (1)(b) in actions for damages not exceeding \$1,500,  
13 exclusive of court costs, for taking, detaining, or injuring  
14 personal property or for injury to real property when no  
15 issue is raised by the verified answer of the defendant  
16 involving the title to or possession of the real property;

17 (1)(c) in actions for damages not exceeding \$1,500,  
18 exclusive of court costs, for injury to the person, except  
19 that, in actions for false imprisonment, libel, slander,  
20 criminal conversation, seduction, malicious prosecutions,  
21 determination of paternity, and abduction, the justice of  
22 the peace does not have jurisdiction;

23 (1)(d) in actions to recover the possession of  
24 personal property if the value of the property does not  
25 exceed \$1,500;

1 (5)(e) in actions for a fine, penalty, or forfeiture  
2 not exceeding \$1,500, imposed by a statute or an ordinance  
3 of an incorporated city or town when no issue is raised by  
4 the answer involving the legality of any tax, impost,  
5 assessment, toll, or municipal fine;

6 (6)(f) in actions upon bonds or undertakings  
7 conditioned for the payment of money when the sum claimed  
8 does not exceed \$1,500, though the penalty may exceed that  
9 sum;

10 (7)(g) to take and enter judgment for the recovery of  
11 money on the confession of a defendant when the amount  
12 confessed does not exceed \$1,500, exclusive of court costs.

13 ~~(2) Justices' courts do not have jurisdiction in civil~~  
14 ~~actions that might result in a judgment against the state~~  
15 ~~for the payment of money."~~

16 Section 4. Section 25-31-101, MCA, is amended to read:

17 "25-31-101. Issues which cannot be presented in  
18 justice's court. (1) The parties to an action in a justice's  
19 court cannot give evidence upon any question which involves  
20 the title or possession of real property or the legality of  
21 any tax, impost, assessment, toll, or municipal fine, nor  
22 can any issue presenting such question be tried by such  
23 court; provided that, in cases of forcible entry and  
24 unlawful detainer of which justices' courts have  
25 jurisdiction, any evidence otherwise competent may be given.



1 and any question properly involved therein may be  
2 determined.

3 ~~(2) A justice's court may not hear evidence on or try~~  
4 ~~any issue involving the state's liability to make a payment~~  
5 ~~of money, regardless of the basis of the claim against the~~  
6 ~~state."~~

7 Section 5. Section 25-31-102, MCA, is amended to read:

8 "25-31-102. Transfer to district court -- dismissal.

9 (1) If it appear from the answer of the defendant, verified  
10 by his oath, that the determination of the action will  
11 necessarily involve the question of title or possession to  
12 real property or the legality of any tax, impost,  
13 assessment, toll, or municipal fine, the justice must  
14 suspend all further proceedings in the action and certify  
15 the pleadings and, if any of the pleadings are oral, a  
16 transcript of the same from his docket to the clerk of the  
17 district court of the county; and from the time of filing  
18 such pleadings or transcript with the clerk, the district  
19 court shall have over the action the same jurisdiction as if  
20 it had been commenced therein. When the action is certified  
21 to the district court, upon the answer of the defendant, he  
22 must file an undertaking, to be approved by the justice, to  
23 the effect that he will pay all costs that may be awarded  
24 against him on the trial in the district court.

25 ~~(2) If it appears at any point in the proceedings in a~~

1 ~~justice's court that the determination of the action will~~  
2 ~~involve the question of the state's liability to make a~~  
3 ~~payment of money, the justice shall sever that issue and~~  
4 ~~dismiss the action as to it. If the issue is not severable,~~  
5 ~~the justice shall dismiss the entire action."~~

6 Section 6. Section 3-11-103, MCA, is amended to read:

7 "3-11-103. Exclusive jurisdiction. ~~The~~ ~~Except as~~  
8 ~~provided in [section 7],~~ the city court has exclusive  
9 jurisdiction of:

10 (1) proceedings for the violation of an ordinance of  
11 the city or town, both civil and criminal;

12 (2) when the amount of the taxes or assessments sought  
13 does not exceed \$300, actions for the collection of taxes or  
14 assessments levied for any of the following purposes, except  
15 that no lien on the property taxed or assessed for the  
16 nonpayment of the taxes or assessment may be foreclosed in  
17 any such action:

18 (a) city or town purposes;

19 (b) the erection or improvement of public buildings;

20 (c) the laying out, opening, or improving of a public  
21 street, sidewalk, alley, or bridge;

22 (d) the acquisition or improvement of any public  
23 grounds; and

24 (e) public improvements made or ordered by the city or  
25 town within its limits;

1 (3) actions for the collection of money due to the  
2 city or town or from the city or town to any person when the  
3 amount sought, exclusive of interest and costs, does not  
4 exceed \$300;

5 (4) when the amount claimed, exclusive of costs, does  
6 not exceed \$300, actions for:

7 (a) the breach of an official bond given by a city or  
8 town officer;

9 (b) the breach of any contract;

10 (c) damages when the city or town is a party or is in  
11 any way interested;

12 (d) the enforcement of forfeited recognizances given  
13 to, for the benefit of, or on behalf of the city or town;  
14 and

15 (e) collection on bonds given upon an appeal taken  
16 from the judgment of the court in any action mentioned in  
17 subsections (4)(a) through (4)(d);

18 (5) actions for the recovery of personal property  
19 belonging to the city or town when the value of the  
20 property, exclusive of the damages for the taking or  
21 detention, does not exceed \$300; and

22 (6) actions for the collection of a license fee  
23 required by an ordinance of the city or town."

24 NEW SECTION. Section 7. Exceptions to civil  
25 jurisdiction. City courts do not have jurisdiction in civil

1 actions that might result in a judgment against the state  
2 for the payment of money.

3 Section 8. Section 25-34-105, MCA, is amended to read:

4 "25-34-105. Parties -- representation. (1) Parties in  
5 the small claims court may be individuals, partnerships,  
6 corporations, unions, associations, or any other kind of  
7 organization or entity, except the state or any agency  
8 thereof.

9 (2) A party may not be represented by an attorney  
10 unless all parties are represented by an attorney in a small  
11 claims court, except as set forth in subsection (3) herein.

12 (3) An individual shall represent himself in the small  
13 claims court. A partnership shall be represented by a  
14 partner or one of its employees. A union shall be  
15 represented by a union member or union employee. A  
16 corporation shall be represented by one of its employees.  
17 An association shall be represented by one of its members or  
18 by an employee of the association. Any other kind of  
19 organization or entity shall be represented by one of its  
20 members or employees.

21 (4) Only a party, natural or otherwise, who has been a  
22 party to the transaction with the defendant for which the  
23 claim is brought may file and prosecute a claim in the small  
24 claims court.

25 (5) No party may file an assigned claim in the small

1 claims court.

2 (6) Notwithstanding any other provision of this  
3 section, an executor or administrator of a decedent's  
4 estate, a guardian, or a conservator may be a party in the  
5 small claims court."

6 Section 9. Section 25-35-105, MCA, is amended to read:

7 "25-35-105. Parties -- representation. (1) Parties in  
8 the small claims court may be individuals, partnerships,  
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5 calendar year.

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7 section, a personal representative of a decedent's estate, a  
8 guardian, or a conservator may be a party in the small  
9 claims court."

10 Section 10. Codification. Section 7 is intended to be  
11 codified as an integral part of Title 3, chapter 11, part 1.

-End-

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## 1 SENATE BILL NO. 491

2 INTRODUCED BY TURNAGE, BARDANOUVE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT COURTS  
5 NOT OF RECORD DO NOT HAVE JURISDICTION OVER ACTIONS THAT  
6 MIGHT RESULT IN A JUDGMENT AGAINST THE STATE FOR THE PAYMENT  
7 OF MONEY; AMENDING SECTIONS 3-5-302, 3-10-301, 3-11-103,  
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15 3-10-231 through 3-10-234, 3-10-305, 3-10-306, 3-10-704  
16 through 3-10-706, ~~25-31-102(2),~~ 25-31-111, 25-31-114 through  
17 25-31-116, 25-31-304, 25-31-402(2), 25-31-405, parts 7  
18 through 11 of chapter 31 of this title (except 25-31-701,  
19 25-31-915, 25-31-1002, 25-31-1004, and 25-31-1005), chapter  
20 33 of this title, chapter 9, part 10 of chapter 16, and part  
21 1 of chapter 17 of Title 27, 27-17-401, and part 15 of  
22 chapter 18 of Title 27 are applicable to municipal courts  
23 except when they are inconsistent with the provisions of  
24 this chapter and chapter 6 of Title 3, the words "municipal  
25 court" being substituted for justice's court and "judge" for

1 justice of the peace.

2 (2) Except as otherwise provided by this chapter and  
3 chapter 6 of Title 3, the proceedings and practice in  
4 municipal court shall be the same as in district court."

5 Section 3. Section 3-10-301, MCA, is amended to read:

6 "3-10-301. Civil jurisdiction. ~~(1) The Except as~~  
7 ~~provided in subsection (2), the justices' courts have~~  
8 jurisdiction:

9 ~~(a)~~ in actions arising on contract for the recovery  
10 of money only if the sum claimed does not exceed \$1,500,  
11 exclusive of court costs;

12 ~~(b)~~ in actions for damages not exceeding \$1,500,  
13 exclusive of court costs, for taking, detaining, or injuring  
14 personal property or for injury to real property when no  
15 issue is raised by the verified answer of the defendant  
16 involving the title to or possession of the real property;

17 ~~(c)~~ in actions for damages not exceeding \$1,500,  
18 exclusive of court costs, for injury to the person, except  
19 that, in actions for false imprisonment, libel, slander,  
20 criminal conversation, seduction, malicious prosecution,  
21 determination of paternity, and abduction, the justice of  
22 the peace does not have jurisdiction;

23 ~~(d)~~ in actions to recover the possession of  
24 personal property if the value of the property does not  
25 exceed \$1,500;

1 ~~(5)(a)~~ in actions for a fine, penalty, or forfeiture  
2 not exceeding \$1,500, imposed by a statute or an ordinance  
3 of an incorporated city or town when no issue is raised by  
4 the answer involving the legality of any tax, impost,  
5 assessment, toll, or municipal fine;

6 ~~(6)(f)~~ in actions upon bonds or undertakings  
7 conditioned for the payment of money when the sum claimed  
8 does not exceed \$1,500, though the penalty may exceed that  
9 sum;

10 ~~(7)(g)~~ to take and enter judgment for the recovery of  
11 money on the confession of a defendant when the amount  
12 confessed does not exceed \$1,500, exclusive of court costs.

13 ~~(2) Justices' courts do not have jurisdiction in civil~~  
14 ~~actions that might result in a judgment against the state~~  
15 ~~for the payment of money."~~

16 Section 4. Section 25-31-101, MCA, is amended to read:

17 "25-31-101. Issues which cannot be presented in  
18 justice's court. (1) The parties to an action in a justice's  
19 court cannot give evidence upon any question which involves  
20 the title or possession of real property or the legality of  
21 any tax, impost, assessment, toll, or municipal fine, nor  
22 can any issue presenting such question be tried by such  
23 court; provided that, in cases of forcible entry and  
24 unlawful detainer of which justices' courts have  
25 jurisdiction, any evidence otherwise competent may be given;

1 and any question properly involved therein may be  
2 determined.

3 ~~(2) A justice's court may not hear evidence on or try~~  
4 ~~any issue involving the state's liability to make a payment~~  
5 ~~of money, regardless of the basis of the claim against the~~  
6 ~~state."~~

7 Section 5. Section 25-31-102, MCA, is amended to read:

8 "25-31-102. Transfer to district court -- dismissal.

9 (1) If it appear from the answer of the defendant, verified  
10 by his oath, that the determination of the action will  
11 necessarily involve the question of title or possession to  
12 real property or the legality of any tax, impost,  
13 assessment, toll, or municipal fine, the justice must  
14 suspend all further proceedings in the action and certify  
15 the pleadings and, if any of the pleadings are oral, a  
16 transcript of the same from his docket to the clerk of the  
17 district court of the county; and from the time of filing  
18 such pleadings or transcript with the clerk, the district  
19 court shall have over the action the same jurisdiction as if  
20 it had been commenced therein. When the action is certified  
21 to the district court, upon the answer of the defendant, he  
22 must file an undertaking, to be approved by the justice, to  
23 the effect that he will pay all costs that may be awarded  
24 against him on the trial in the district court.

25 ~~(2) If it appears at any point in the proceedings in a~~

1 ~~justice's court that the determination of the action will~~  
2 ~~involve the question of the state's liability to make a~~  
3 ~~payment of money, the justice shall sever that issue and~~  
4 ~~dismiss the action as to it. If the issue is not severable,~~  
5 ~~the justice shall dismiss the entire action."~~

6 Section 6. Section 3-11-103, MCA, is amended to read:

7 "3-11-103. Exclusive jurisdiction. ~~the~~ ~~Except as~~  
8 ~~provided in [section 7],~~ the city court has exclusive  
9 jurisdiction of:

10 (1) proceedings for the violation of an ordinance of  
11 the city or town, both civil and criminal;

12 (2) when the amount of the taxes or assessments sought  
13 does not exceed \$300, actions for the collection of taxes or  
14 assessments levied for any of the following purposes, except  
15 that no lien on the property taxed or assessed for the  
16 nonpayment of the taxes or assessment may be foreclosed in  
17 any such action:

18 (a) city or town purposes;

19 (b) the erection or improvement of public buildings;

20 (c) the laying out, opening, or improving of a public  
21 street, sidewalk, alley, or bridge;

22 (d) the acquisition or improvement of any public  
23 grounds; and

24 (e) public improvements made or ordered by the city or  
25 town within its limits;

1 (3) actions for the collection of money due to the  
 2 city or town or from the city or town to any person when the  
 3 amount sought, exclusive of interest and costs, does not  
 4 exceed \$300;

5 (4) when the amount claimed, exclusive of costs, does  
 6 not exceed \$300, actions for:

7 (a) the breach of an official bond given by a city or  
 8 town officer;

9 (b) the breach of any contract;

10 (c) damages when the city or town is a party or is in  
 11 any way interested;

12 (d) the enforcement of forfeited recognizances given  
 13 to, for the benefit of, or on behalf of the city or town;  
 14 and

15 (e) collection on bonds given upon an appeal taken  
 16 from the judgment of the court in any action mentioned in  
 17 subsections (4)(a) through (4)(d);

18 (5) actions for the recovery of personal property  
 19 belonging to the city or town when the value of the  
 20 property, exclusive of the damages for the taking or  
 21 detention, does not exceed \$300; and

22 (6) actions for the collection of a license fee  
 23 required by an ordinance of the city or town."

24 NEW SECTION. Section 7. Exceptions to civil  
 25 jurisdiction. City courts do not have jurisdiction in civil

1 actions that might result in a judgment against the state  
 2 for the payment of money.

3 Section 8. Section 25-34-105, MCA, is amended to read:

4 "25-34-105. Parties -- representation. (1) Parties in  
 5 the small claims court may be individuals, partnerships,  
 6 corporations, unions, associations, or any other kind of  
 7 organization or entity, except the state or any agency  
 8 thereof.

9 (2) A party may not be represented by an attorney  
 10 unless all parties are represented by an attorney in a small  
 11 claims court, except as set forth in subsection (3) herein.

12 (3) An individual shall represent himself in the small  
 13 claims court. A partnership shall be represented by a  
 14 partner or one of its employees. A union shall be  
 15 represented by a union member or union employee. A  
 16 corporation shall be represented by one of its employees.  
 17 An association shall be represented by one of its members or  
 18 by an employee of the association. Any other kind of  
 19 organization or entity shall be represented by one of its  
 20 members or employees.

21 (4) Only a party, natural or otherwise, who has been a  
 22 party to the transaction with the defendant for which the  
 23 claim is brought may file and prosecute a claim in the small  
 24 claims court.

25 (5) No party may file an assigned claim in the small

1 claims court.

2 (6) Notwithstanding any other provision of this  
3 section, an executor or administrator of a decedent's  
4 estate, a guardian, or a conservator may be a party in the  
5 small claims court."

6 Section 9. Section 25-35-105, MCA, is amended to read:

7 "25-35-105. Parties -- representation. (1) Parties in  
8 the small claims court may be individuals, partnerships,  
9 corporations, unions, associations, or any other kind of  
10 organization or entity, except the state or any agency  
11 thereof.

12 (2) A party may not be represented by an attorney  
13 unless all parties are represented by an attorney in a small  
14 claims court.

15 (3) An individual may represent himself in a small  
16 claims court. A partnership may be represented by a partner  
17 or one of its employees. A union may be represented by a  
18 union member or union employee. A corporation may be  
19 represented by one of its employees. An association may be  
20 represented by one of its members or by an employee of the  
21 association. Any other kind of organization or entity may be  
22 represented by one of its members or employees.

23 (4) Only a party, natural or otherwise, who has been a  
24 party to the transaction with the defendant for which the  
25 claim is brought may file and prosecute a claim in the small

1 claims court.

2 (5) No party may file an assigned claim in the small  
3 claims court.

4 (6) No party may file more than three claims in any  
5 calendar year.

6 (7) Notwithstanding any other provision of this  
7 section, a personal representative of a decedent's estate, a  
8 guardian, or a conservator may be a party in the small  
9 claims court."

10 Section 10. Codification. Section 7 is intended to be  
11 codified as an integral part of Title 3, chapter 11, part 1.

-End-