

House Bill 708

In The House

February 10, 1981

Introduced and referred  
to Committee on Taxation.

March 11, 1981

Committee recommend bill  
do not pass.

1 *Agnew* *House* BILL NO. *708* *McBride*  
 2 INTRODUCED BY *Walter Meyer* *Richard*  
 3 *Phillips* *Richard* *Phillips*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A  
 5 DIFFERENT METHOD OF FINANCING PUBLIC ASSISTANCE PROGRAMS  
 6 ADMINISTERED LOCALLY BY COUNTY WELFARE DEPARTMENTS; TO SHIFT  
 7 PRIMARY FINANCIAL RESPONSIBILITY FOR THE PROGRAMS FROM THE  
 8 COUNTIES TO THE STATE; TO PROVIDE FOR A MANDATORY TAX ON  
 9 PROPERTY OF 6 MILLS TO BE LEVIED BY EACH COUNTY FOR THE  
 10 PURPOSE OF FUNDING THE PROGRAMS; AMENDING SECTIONS 7-6-2426,  
 11 15-16-117, 53-2-201, 53-2-207, 53-2-302, 53-2-304, 53-2-321,  
 12 53-2-608, 53-2-610, 53-3-103, 53-3-105, 53-3-201, 53-3-302,  
 13 53-3-304, 53-3-306, AND 53-3-307, MCA; AND REPEALING  
 14 SECTIONS 53-2-322, 53-2-323, AND 53-3-104, MCA."  
 15

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 17 Section 1. Section 7-6-2426, MCA, is amended to read:  
 18 "7-6-2426. Enumeration of county charges. The  
 19 following are county charges:  
 20 (1) charges incurred against the county by virtue of  
 21 any provision of this title;  
 22 (2) one-half of the salary of the county attorney and  
 23 all expenses necessarily incurred by him in criminal cases  
 24 arising within the county;  
 25 (3) the salary and actual expenses for traveling, when

1 on official duty, allowed by law to sheriffs and the  
 2 compensation allowed by law to constables for executing  
 3 process on persons charged with criminal offenses;  
 4 (4) the board of prisoners confined in jail;  
 5 (5) the sums required by law to be paid to grand and  
 6 trial jurors and witnesses in criminal cases;  
 7 (6) the accounts of the coroner of the county for such  
 8 services as are provided by law;  
 9 (7) all charges and accounts for services rendered by  
 10 any justice of the peace for services in the examination or  
 11 trial of persons charged with crime as provided for by law;  
 12 (8) the necessary expenses incurred in the support of  
 13 county hospitals ~~and--poorfarms--and-in-the-support-of-the~~  
 14 ~~indigent-sick-and-the-otherwise-dependent-poor-whose-support~~  
 15 ~~is-chargeable-to-the-county;~~  
 16 (9) the contingent expenses necessarily incurred for  
 17 the use and benefit of the county;  
 18 (10) every other sum directed by law to be raised for  
 19 any county purpose under the direction of the board of  
 20 county commissioners or declared to be a county charge."  
 21 Section 2. Section 15-16-117, MCA, is amended to read:  
 22 "15-16-117. Personal property -- treasurer's duty to  
 23 collect certain taxes on. (1) The county treasurer must  
 24 demand payment of ~~poor~~ taxes, authorized by 53-2-321, or  
 25 ~~[section 5]~~ and road taxes, authorized by 7-14-2206 or

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1 7-14-2501 through 7-14-2504, of every person liable therefor  
 2 whose name does not appear on the assessment lists, and on  
 3 the neglect or refusal of such person to pay the same, he  
 4 must collect by seizure and sale of any property owned by  
 5 such person.

6 (2) These taxes shall be added upon the assessment  
 7 lists to other taxes of persons liable therefor paying taxes  
 8 upon real and personal property and paid to the county  
 9 treasurer at the time of payment of other taxes, and all  
 10 personal property assessed against a person shall be liable  
 11 for the payment of such taxes.

12 (3) The procedure for the sale of such property by the  
 13 county treasurer for such taxes shall be regulated by  
 14 15-16-113 and chapter 17, part 9."

15 Section 3. Section 53-2-201, MCA, is amended to read:  
 16 "53-2-201. Powers and duties of department. (1) The  
 17 department shall:

18 (a) administer or supervise all forms of public  
 19 assistance, child protection, and child welfare, including  
 20 the provision of medical care payments in behalf of  
 21 recipients of public assistance;

22 (b) administer or supervise all child welfare  
 23 activities, including importation and exportation of  
 24 children; licensing and supervising of private and local  
 25 child-caring agencies; the care of dependent, neglected, and

1 delinquent children in foster family homes, especially  
 2 children placed for adoption or those of illegitimate birth;

3 (c) give consultant service to private institutions  
 4 providing care for the needy, indigent, handicapped, or  
 5 dependent adults;

6 (d) cooperate with other state agencies and develop  
 7 provisions for services to the blind, including the  
 8 prevention of blindness, the location of blind persons,  
 9 medical services for eye conditions, and vocational guidance  
 10 and training of the blind;

11 (e) provide services in respect to organization and  
 12 supervise county departments of public welfare and county  
 13 boards of public welfare in the administration of public  
 14 assistance functions and for efficiency and economy;

15 (f) assist and cooperate with other state and federal  
 16 departments, bureaus, agencies, and institutions, when so  
 17 requested, by performing services in conformity with public  
 18 assistance purposes;

19 (g) administer all ~~county,~~ state, and federal funds  
 20 allocated to the department for public assistance and do  
 21 all things necessary, in conformity with federal and state  
 22 law, for the proper fulfillment of public assistance  
 23 purposes; and

24 (h) make rules governing payment for services and  
 25 supplies provided to recipients of public assistance.

1 (2) The department may:

2 (a) purchase, exchange, condemn, or receive by gift  
3 either real or personal property which is necessary to carry  
4 out its public assistance functions. Title to property  
5 obtained under this subsection shall be taken in the name of  
6 the state of Montana for the use and benefit of the  
7 department.

8 (b) contract with the federal government to carry out  
9 its public assistance functions. The department may do all  
10 things necessary in order to avail itself of federal aid and  
11 assistance.

12 (c) make rules, consistent with state and federal law,  
13 establishing the amount, scope, and duration of services to  
14 be provided to recipients of public assistance."

15 Section 4. Section 53-2-207, MCA, is amended to read:

16 "53-2-207. Power of department in administering ~~state~~  
17 ~~grants-in-aid public assistance funds.~~ In administering or  
18 supervising any ~~county,~~ state, or federal funds appropriated  
19 or made available to the department for public assistance  
20 purposes, the department ~~shall have the authority to~~ may

21 ~~{1}--require-as-a-condition-for-receiving-grants-in-aid~~  
22 ~~that-the-county-shall-bear-the-proportion-of--the--total--of~~  
23 ~~total--public-assistance-as-is-fixed-by-law-relating-to-such~~  
24 ~~assistance;~~

25 ~~{2}--make-use-of-all-legal--processes--to--enforce--the~~

1 ~~minimum--standards--prescribed--by-the-department-under-laws~~  
2 ~~providing-for-grants-in-aid, provided--that--such--standards~~  
3 ~~shall--not--exceed--in--cost--the-amount-derived-from-levies~~  
4 ~~established-by-state-law-and~~

5 ~~{3} require that each part of the public assistance~~  
6 ~~laws shall be in effect in all counties of the state."~~

7 NEW SECTION. Section 5. Funding of public assistance  
8 programs administered locally. Each county of the state  
9 shall annually levy a tax of 6 mills on all of the taxable  
10 property within the county. The money collected by each  
11 county from the 6-mill levy required by this section shall  
12 be paid into the state treasury to the credit of an  
13 earmarked revenue fund account for the purpose of financing  
14 public assistance programs administered locally. The balance  
15 of the money needed to fund all of the public assistance  
16 programs administered locally by county welfare departments  
17 shall come from state appropriations, federal funds, and  
18 money received from any other source.

19 Section 6. Section 53-2-302, MCA, is amended to read:

20 "53-2-302. County commissioners ex officio county  
21 welfare board. The board of county commissioners shall be  
22 the ex officio county welfare board and is hereby authorized  
23 to devote such additional time for public assistance matters  
24 as may be found necessary. The members of the county welfare  
25 board shall receive the same compensation for their services

1 and the same mileage when acting as the county board of  
 2 public welfare as they receive when acting as the board of  
 3 county commissioners, ~~and the county welfare board~~ shall be  
 4 limited as to meetings as now provided by law, and the  
 5 compensation and mileage of the members of the board shall  
 6 be paid from ~~county state~~ funds. They may transact business  
 7 as a board of county commissioners and as a county welfare  
 8 board on the same day, and in such cases they shall be paid  
 9 as a board of county commissioners but may not receive  
 10 compensation for more than 1 day's work for all services  
 11 performed on the same calendar day."

12 Section 7. Section 53-2-304, MCA, is amended to read:

13 "53-2-304. Staff personnel of county department. (1)  
 14 Each county board shall select and appoint from a list of  
 15 qualified persons furnished by the department of social and  
 16 rehabilitation services such staff personnel as are  
 17 necessary. The staff personnel in each county shall consist  
 18 of at least one qualified staff worker (or investigator) and  
 19 such clerks and stenographers as may be decided necessary.  
 20 If conditions warrant, the county board, with the approval  
 21 of the department of social and rehabilitation services, may  
 22 appoint some fully qualified person listed by the department  
 23 as supervisor of its staff personnel. The staff personnel of  
 24 each county department are directly responsible to the  
 25 county board, but the department of social and

1 rehabilitation services may supervise such county employees  
 2 in respect to the efficient and proper performance of their  
 3 duties. The county board of public welfare may not dismiss  
 4 any member of the staff personnel without the approval of  
 5 the department of social and rehabilitation services, but  
 6 the department may request the county board to dismiss any  
 7 member of the staff personnel for inefficiency,  
 8 incompetence, or similar cause.

9 (2) Public assistance staff personnel attached to the  
 10 county board shall be paid from state public assistance  
 11 funds both their salaries and their travel expenses as  
 12 provided for in 2-18-501 through 2-18-503 when away from the  
 13 county seat in the performance of their duties, ~~but the~~  
 14 ~~county--board--of--public--welfare---shall---reimburse---the~~  
 15 ~~department--of--social--and--rehabilitation--services--from--county~~  
 16 ~~poor--funds--the--full--amount--of--the--salaries--and--travel~~  
 17 ~~expenses--not--reimbursed--to--the--department--by--the--federal~~  
 18 ~~government---and---the---full--amount--of--the--department's~~  
 19 ~~administrative--costs--which--are--allocated--by--the--department~~  
 20 ~~to--the--county--for--the--administration--of--county--welfare~~  
 21 ~~programs--and--not--reimbursed--to--the--department--by--the--federal~~  
 22 ~~government. Under circumstances prescribed by the department~~  
 23 ~~of--social--and--rehabilitation--services, the reimbursement--by~~  
 24 ~~the--county--board--of--public--welfare--may--be--less--than--the~~  
 25 ~~county--share--as--prescribed--above.~~ All other administrative

1 costs of the county department shall also be paid from  
2 county-poor state public assistance funds.

3 ~~{3}--On-or-before-the-20th-day-of-the--month--following~~  
4 ~~the--month--for--which-the-payments-to-the-public-assistance~~  
5 ~~staff-personnel-of-the-county-were-made, the--department--of~~  
6 ~~social--and--rehabilitation--services--shall--present--to--the~~  
7 ~~county-department-of-public-welfare-a-claim-for-the-required~~  
8 ~~reimbursements.---The---county---board---shall---make---such~~  
9 ~~reimbursements--within-20-days-after-the-presentation-of-the~~  
10 ~~claim-and--the--department--of--social--and--rehabilitation~~  
11 ~~services--shall--credit--(odd)--all--such--reimbursements--to--its~~  
12 ~~account-for-administrative-costs."~~

13 Section 8. Section 53-2-321, MCA, is amended to read:

14 "53-2-321. County ~~authorized-to-care-for-indigent-and~~  
15 ~~levy-taxes-therefor~~ hospitals and nursing homes -- tax levy.  
16 The board of county commissioners<sub>1</sub> ~~has-jurisdiction--and~~  
17 ~~power~~ under such limitations and restrictions as are  
18 prescribed by law<sub>1</sub> ~~to-provide-for-the-care--and--maintenance~~  
19 ~~of--the-indigent-sick, except-as-otherwise-provided-in-other~~  
20 ~~parts-of-this-title, or-the-otherwise-dependent-poor-of--the~~  
21 ~~county may:~~

22 (1) erect and maintain hospitals ~~therefor-or-otherwise~~  
23 ~~provide--for--the-same-and-for-said~~ a hospital or a nursing  
24 home. For these purposes to they may levy and collect  
25 annually a tax on property not exceeding ~~13-1/2~~ 6 mills,

1 which levy shall be made at the time other tax levies are  
2 made on property, as provided by law<sub>1</sub> ~~or~~

3 (2) form a public hospital district as provided in  
4 Title 7, chapter 34."

5 Section 9. Section 53-2-608, MCA, is amended to read:

6 "53-2-608. Method of issuing assistance grants. (1)  
7 Checks in payment of public assistance ~~with--the--exception~~  
8 ~~of--general--relief~~ shall be issued by the department of  
9 social and rehabilitation services upon approved  
10 certificates of award and reports of changes of such  
11 eligible grantees as are forwarded by the county department  
12 to the state department, and all such checks will be mailed  
13 to the individual recipient or the appropriate vendor. The  
14 checks in payment of public assistance shall be issued in  
15 the full approved amount for each eligible approved grantee,  
16 and the original monthly payment shall be from the state  
17 public assistance accounts. All public assistance checks  
18 shall represent cash on demand at full par value to the  
19 recipient and vendor.

20 (2) Whenever the department of social and  
21 rehabilitation services, acting pursuant to standards  
22 established by the department, determines that any otherwise  
23 eligible recipient of old-age assistance, aid to the needy  
24 blind, or aid to the permanently and totally disabled has,  
25 by reason of any physical or mental condition, such

1 inability to manage funds that making payments to him would  
 2 be contrary to his welfare, the department may, under  
 3 standards established under the state plan, make the public  
 4 assistance payment on behalf of such recipient to another  
 5 person found by the department to be interested in or  
 6 concerned with the welfare of such needy individual. Before  
 7 such payments may be paid to such other person, such person  
 8 shall give a bond, with adequate corporate surety and in  
 9 form to be approved by the department, running in favor of  
 10 the needy individual and the state of Montana, conditioned  
 11 upon the faithful use by such other person of the funds for  
 12 the welfare of the needy individual. Such bond shall be in  
 13 an amount equal to six times the amount of the monthly  
 14 payment involved."

15 Section 10. Section 53-2-610, MCA, is amended to read:  
 16 "53-2-610. ~~County~~ State  
 17 department to act as agency in assistance to ward Indians.  
 18 ~~{1}--On or before the 29th of each month, the department of~~  
 19 ~~social and rehabilitation services shall present a claim for~~  
 20 ~~reimbursement to each county department for its~~  
 21 ~~proportionate share of public assistance granted in the~~  
 22 ~~county to recipients during the month and for vendor medical~~  
 23 ~~payments made on behalf of recipients in the previous month.~~  
 24 ~~The county department shall make the reimbursement to the~~  
 25 ~~department of social and rehabilitation services within 20~~

1 ~~days after the claim is presented.~~

2 ~~{2}--The counties shall not be required to reimburse~~  
 3 ~~the department of social and rehabilitation services for any~~  
 4 ~~portion of old age assistance, medical assistance, aid to~~  
 5 ~~needy dependent children, aid to needy blind, or aid to the~~  
 6 ~~totally disabled paid to ward Indians or for any payment on~~  
 7 ~~behalf of any person in a state operated medical~~  
 8 ~~institution. The federal government may reimburse the state~~  
 9 ~~of Montana in behalf of counties providing general relief to~~  
 10 ~~ward Indians a sum in lieu of taxes which the counties a~~  
 11 ~~county would collect have collected pursuant to [section 5]~~  
 12 ~~if the lands of such ward Indians within the county were not~~  
 13 ~~in trust status.~~

14 ~~{3}--{a}--From the original date of entrustment or the~~  
 15 ~~original date of state residency, whichever is earlier,~~  
 16 ~~recipients of public assistance who become wards or patients~~  
 17 ~~in a licensed nursing home or hospital, foster home, or~~  
 18 ~~private charitable institution shall be the financial~~  
 19 ~~responsibility of the appropriate county as provided in~~  
 20 ~~subsections {3}{b}, {3}{c}, and {3}{d} of this section.~~

21 ~~{b}--The county in which commitment of an adult is~~  
 22 ~~initiated is considered the county of financial~~  
 23 ~~responsibility except where court decree declares the~~  
 24 ~~residency to be otherwise. When an adult is transferred from~~  
 25 ~~a facility or institution to one of the above enumerated~~

1 facilities, the county which initiated the original  
 2 commitment is considered the county of financial  
 3 responsibility except in the case of an adult transfer from  
 4 an out-of-state institution in which case the county in  
 5 which the facility is located is considered the county of  
 6 financial responsibility.

7 (c) In all cases where a minor patient or ward is  
 8 involved, the county of financial responsibility is the  
 9 county in which the parent or guardian resides, if the  
 10 custody of a minor is entrusted to a state agency, the  
 11 agency may make a reasonable declaration of the county  
 12 residency of its ward using applicable guidelines enumerated  
 13 in this section.

14 (d) If a person is or becomes an adult while in an  
 15 institution, he may determine his own county of residence  
 16 when he is restored to competency and released. Such a  
 17 person becomes the financial responsibility of the new  
 18 county of residence.

19 Section 11. Section 53-3-103, MCA, is amended to read:  
 20 "53-3-103. Medical aid and hospitalization for  
 21 indigent. (1) Except as provided in other parts of this  
 22 title, medical aid and hospitalization for county residents  
 23 and nonresidents within the county unable to provide these  
 24 necessities for themselves are the legal and financial  
 25 responsibility of the county commissioners department and

1 are payable from the county poor fund state public  
 2 assistance funds. The county commissioners department shall  
 3 make provisions for competent and skilled medical or  
 4 surgical services as are approved by the department of  
 5 health and environmental sciences or the state medical  
 6 association or in the case of osteopathic practitioners by  
 7 the state osteopathic association or in the case of  
 8 chiropractors by the state chiropractic association or in  
 9 the case of optometrical services by the Montana optometric  
 10 association or in the case of dental services by the  
 11 dental association. "Medical" or "medicine" as used in this  
 12 section refers to the healing art as practiced by licensed  
 13 practitioners.

14 (2) The board department, in arranging for medical  
 15 care for those unable to provide it for themselves, may have  
 16 the care provided by physicians appointed by the county  
 17 welfare board who shall be known as county physicians or  
 18 deputy county physicians and may fix a rate of compensation  
 19 for the furnishing of the medical attendance.

20 (3) The department may promulgate rules to determine  
 21 under what circumstances persons in the county are unable to  
 22 provide eligible for medical aid and hospitalization for  
 23 themselves, including the power to define the term  
 24 "medically needy". However, the definition may not allow  
 25 payment by the county for general assistance medical for

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1 persons whose income exceeds 300% of the limitation for  
 2 obtaining regular county general relief assistance or for  
 3 persons who are eligible for medicaid in accordance with  
 4 Title 53, chapter 6, part 1, or for persons who have the  
 5 right or are entitled to medical aid and hospitalization  
 6 from the federal government or any agency thereof.

7 (4) In any case where the county-or state pays medical  
 8 expenses or hospitalization for an individual, the county-or  
 9 state is subrogated to the claims of the physician or  
 10 hospital to the extent of payment. To the extent necessary  
 11 for reimbursement of medical benefits paid to or on behalf  
 12 of an individual, the county-or state is subrogated to the  
 13 rights of the individual to recover from a third party who  
 14 may be liable to pay the medical expenses. The provisions of  
 15 53-2-612 which relate to medical benefits provided under  
 16 Title XIX or XX of the Social Security Act apply to medical  
 17 benefits provided for in this section."

18 Section 12. Section 53-3-105, MCA, is amended to read:

19 "53-3-105. Burial of indigent. The board of county  
 20 commissioners shall make suitable arrangements to provide  
 21 respectable burial for county residents and nonresidents  
 22 within the county for whom the expenses are not otherwise  
 23 available. The cost of burial shall be paid by the  
 24 department from state public assistance funds."

25 Section 13. Section 53-3-201, MCA, is amended to read:

1 "53-3-201. Residency requirements. (1) Any person  
 2 otherwise qualified who makes his home in Montana with the  
 3 intent to become a resident shall be eligible for general  
 4 relief.

5 (2) If a person is absent from the state voluntarily,  
 6 he is ineligible for general relief in Montana.

7 (3) Aliens found to be illegally within the United  
 8 States are not eligible for relief from state funds.

9 (4) Nonresidents or interstate transients may receive  
 10 temporary relief from county state public assistance funds  
 11 in cases of extreme necessity and destitution until they are  
 12 returned at state expense to their state of residence or  
 13 origin."

14 Section 14. Section 53-3-302, MCA, is amended to read:

15 "53-3-302. Payment by check or disbursing order. All  
 16 general relief disbursements by ~~county-departments-of-public~~  
 17 ~~welfare the department~~ shall be by warrant or check.  
 18 However, if the ~~county-welfare~~ department finds that a  
 19 recipient is in the habit of dissipating general relief  
 20 allowances instead of using them for the purposes intended  
 21 or that for any other reason it is better for the recipient  
 22 and his family to receive the allowance through disbursing  
 23 orders, then disbursing orders shall be used instead of cash  
 24 payments. All such disbursing orders must be written in such  
 25 form that the goods and merchandise to be provided may be

1 furnished by any regular dealer in such goods and  
2 merchandise within the county of the recipient's residence."

3 Section 15. Section 53-3-304, MCA, is amended to read:

4 "53-3-304. Power of county department to require  
5 recipient to perform county work. If the county has work  
6 available which a recipient of general relief is capable of  
7 performing, then the county department of public welfare may  
8 require the recipient to perform the work at the prevailing  
9 rate of wages paid by that county for similar work, to be  
10 paid from ~~the county poor fund~~ state public assistance funds  
11 in place of granting him general relief. The county  
12 department of public welfare shall provide coverage under  
13 the Workers' Compensation Act for those recipients of  
14 general relief working under the provisions hereof and may  
15 enter into such agreements with the division of workers'  
16 compensation of the department of labor and industry as may  
17 be necessary to carry out the provisions of this section."

18 Section 16. Section 53-3-306, MCA, is amended to read:

19 "53-3-306. County State liability for general relief.  
20 ~~{1}~~ General relief assistance shall be paid from ~~the poor~~  
21 ~~fund of the county where the eligible person resides~~ state  
22 public assistance funds.

23 ~~{2}~~ ~~A person who leaves Montana with the intent to~~  
24 ~~reside in another state and later returns to reside in~~  
25 ~~Montana is considered a new resident for the purposes of~~

1 ~~this chapter and 53-2-610{3}.~~

2 ~~{3} When a person who receives general relief~~  
3 ~~assistance moves to reside in another county, he becomes the~~  
4 ~~financial responsibility of the new county from the date he~~  
5 ~~begins to reside in that new county."~~

6 Section 17. Section 53-3-307, MCA, is amended to read:

7 "53-3-307. County medical assistance not to interstate  
8 transients to be paid from state funds ~~---exception.~~ ~~{1}~~  
9 ~~County medical assistance under 53-3-103 shall not be~~  
10 ~~entitled to be paid from state funds.~~

11 ~~{2}~~ Medical expenses arising from accidental injury to  
12 interstate transients shall be paid from county funds and  
13 reimbursed by the state upon submission of a proper claim."

14 NEW SECTION. Section 18. Funding, scope, and duration  
15 of public assistance to be determined by department. The  
16 funding, scope, and duration of public assistance to be  
17 administered locally under Title 53 shall be determined by  
18 the department. If available funds are not sufficient to  
19 provide public assistance for all eligible persons, the  
20 department may set priorities to limit, reduce, or otherwise  
21 curtail the funding, scope, or duration of local assistance.

22 Section 19. Codification instruction. Sections 5 and  
23 18 are intended to be codified as an integral part of Title  
24 53, chapter 2, and the provisions of Title 53, chapter 2,  
25 apply to sections 5 and 18.

LC 1130/01

1       Section 20. Saving clause. This act does not affect  
2 rights and duties that matured, penalties that were  
3 incurred, or proceedings that were begun before the  
4 effective date of this act.

5       Section 21. Repealer. Sections 53-2-322, 53-2-323, and  
6 53-3-104, MCA, are repealed.

-End-