

HOUSE BILL NO. 450

Introduced: 01/22/83

Referred to Committee on State Administration: 01/22/83

Hearing: 2/3/83

Report: 02/03/83, Do Pass

2nd Reading: 02/05/83, Do Pass

3rd Reading: 02/08/83, Do Pass

Transmitted to Senate: 2/8/83

Referred to Committee on State Administration: 02/09/83

Hearing: 3/15/83

Report: 03/22/83, Be Concurred In, As Amended

2nd Reading: 03/25/83, Be Not Concurred In

Bill Killed

1 *House* BILL NO. *450*  
 2 INTRODUCED BY *Brand-Allen Menahan*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE  
 5 DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF  
 6 THE DEPARTMENT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
 7 SCIENCES AND TO THE BOARD OF INSTITUTIONS; ESTABLISHING A  
 8 BOARD OF INSTITUTIONS; DEFINING THE POWERS AND DUTIES OF THE  
 9 BOARD; AMENDING SECTIONS 2-15-104, 2-15-211, 2-15-2204,  
 10 2-15-2302, 2-18-103, 2-18-303, 17-3-1001, 17-3-1002,  
 11 18-4-104, 20-7-404, 20-7-422, 20-9-304, 41-5-103, 41-5-206,  
 12 41-5-523, 41-5-902, 44-5-202, 46-19-202, 46-19-303,  
 13 46-19-305, 46-23-103, 46-23-401, 46-23-1001, 50-1-202,  
 14 50-3-102, 50-21-103, 53-1-101, 53-1-201 THROUGH 53-1-204,  
 15 53-1-301 THROUGH 53-1-304, 53-1-401, 53-10-101, 53-20-213,  
 16 53-21-102, 53-21-201, 53-24-103, 53-30-211, AND 87-2-802,  
 17 MCA; REPEALING SECTIONS 2-15-2301 AND 53-30-201, MCA."

18  
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 2-15-104, MCA, is amended to read:

21 "2-15-104. Structure of executive branch. (1) In  
 22 accordance with the constitution, all executive and  
 23 administrative offices, boards, commissions, agencies, and  
 24 instrumentalities of the executive branch of state  
 25 government and their respective functions are allocated by

1 this chapter among and within the following departments or  
 2 entities:

- 3 (a) department of administration;
- 4 (b) department of military affairs;
- 5 (c) department of revenue;
- 6 (d) state board of education;
- 7 (e) department of labor and industry;
- 8 (f) department of commerce;
- 9 (g) department of justice;
- 10 (h) department of health and environmental sciences;
- 11 (i) department of social and rehabilitation services;
- 12 ~~{j} department of institutions;~~
- 13 ~~{k} {l} department of highways;~~
- 14 ~~{+} {k} department of public service regulation;~~
- 15 ~~{+} {l} department of agriculture;~~
- 16 ~~{+} {m} department of livestock;~~
- 17 ~~{+} {n} department of state lands;~~
- 18 ~~{+} {o} department of natural resources and~~  
 19 conservation;
- 20 ~~{+} {p} department of fish, wildlife, and parks.~~

21 (2) For its internal structure, each department shall  
 22 adhere to the following standard terms:

- 23 (a) The principal unit of a department is a division.
- 24 Each division shall be headed by an administrator.
- 25 (b) The principal unit of a division is a bureau. Each

bureau shall be headed by a chief.

(c) The principal unit of a bureau is a section. Each section shall be headed by a supervisor."

NEW SECTION. Section 2. Department of institutions abolished. The department of institutions is abolished.

NEW SECTION. Section 3. Functions of department of institutions transferred to department of health and environmental sciences. (1) The following functions of the department of institutions and the director of the department of institutions are transferred to the department of health and environmental sciences and the director of the department of health and environmental sciences as defined in Title 2, chapter 15, part 21:

(a) treating developmentally disabled persons under Title 53, chapter 20, part 1;

(b) transferring funds by budget amendment for developmental disability systems under 53-20-214;

(c) relating to state-owned facilities under Title 53, chapter 20, part 5;

(d) treating mentally ill and aged persons under Title 53, chapter 21;

(e) acting as administrator of the Interstate Compact on Mental Health under Title 53, chapter 22;

(f) treating alcoholic and intoxicated persons under Title 53, chapter 24;

(g) relating to custody of a defendant suffering from a mental disease or defect under 46-14-221, 46-14-222, and 46-14-312;

(h) concerning distribution of liquor license, beer, and wine tax revenues under 16-1-404, 16-1-408, and 16-1-411;

(i) relating to the Montana veterans' home under Title 10, chapter 2, part 4;

(j) transferring patients from Galen state hospital under 53-6-303; and

(k) relating to approved alcohol treatment programs for intoxicated drivers under 61-8-714.

(2) Unless inconsistent with this act, any reference to the "department of institutions" or "department" (of institutions) in the sections listed in subsection (1) are changed to "department of health and environmental sciences" or "department" (of health and environmental sciences). The code commissioner shall conform internal references and grammar to these changes.

(3) The governor may by executive order assign to the department of health and environmental sciences in a manner consistent with this act functions allocated to the department of institutions by the 48th legislature and not transferred by this act.

NEW SECTION. Section 4. Functions of department of

1 Institutions transferred to board of institutions. (1) The  
2 following functions of the department of institutions and  
3 the director of the department of institutions are  
4 transferred to the board of institutions as defined in  
5 [section 5]:

6 (a) relating to the Montana Youth Court Act in Title  
7 41, chapter 5;

8 (b) operating correctional institutions and facilities  
9 for adult and youthful offenders under Title 53, chapter 30;

10 (c) paying inquest costs relating to a death at the  
11 state prison under 7-4-2913;

12 (d) paying costs relating to the criminal prosecution  
13 of an offense committed in the state prison under 7-6-2427;

14 (e) advertising for bids before letting a contract  
15 under 18-2-301;

16 (f) relating to ensuring the accuracy of criminal  
17 history records under 44-5-213;

18 (g) relating to jurisdiction following revocation of a  
19 suspended or deferred sentence under 46-18-203;

20 (h) establishing and charging rates for room and board  
21 for persons committed to residential community correctional  
22 programs under 53-1-501;

23 (i) relating to participation by institutions in  
24 research programs under 53-1-206; and

25 (j) relating to probation, parole, and clemency under

1 Title 46, chapter 23.

2 (2) (a) Unless inconsistent with this act, any  
3 reference to the "department of institutions" or  
4 "department" (of institutions) in the sections listed in  
5 subsections (1)(a) through (1)(i) are changed to "board of  
6 institutions" or "board" (of institutions). The code  
7 commissioner shall conform internal references and grammar  
8 to these changes.

9 (b) Unless inconsistent with this act, any reference  
10 to the "department of institutions" or "department" (of  
11 institutions) in the chapter referred to in subsection  
12 (1)(j) are changed to "board of institutions". The code  
13 commissioner shall conform internal references and grammar  
14 to these changes.

15 (3) The governor may by executive order assign to the  
16 board of institutions in a manner consistent with this act  
17 functions allocated to the department of institutions by the  
18 48th legislature and not transferred by this act.

19 NEW SECTION. Section 5. Board of institutions --  
20 allocation -- composition -- terms. (1) There is a board of  
21 institutions.

22 (2) The board is allocated to the department of  
23 administration for administrative purposes only as  
24 prescribed in 2-15-121, except that the board may hire its  
25 own personnel and 2-15-121(2)(d) does not apply.

(3) The board is composed of five members appointed by the governor. No more than three of the members may be from the same congressional district or affiliated with the same political party.

(4) The appointment of each member is subject to the confirmation of the senate. However, the governor may appoint a member to assume office before the senate meets at its next regular session to consider the appointment. A member so appointed has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder of the term.

(5) A vacancy must be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which he is appointed.

(6) The members shall serve terms of 5 years.

NEW SECTION. Section 6. Officers of board — compensation. (1) The members of the board shall elect a chairman and other necessary officers.

(2) Board members are entitled to receive \$25 a day while attending meetings or in the discharge of other board duties. Members are also entitled to be reimbursed for

actual and necessary expenses as provided in 2-18-501 through 2-18-503.

NEW SECTION. Section 7. Meetings -- quorum. (1) The board shall meet bimonthly and may hold additional meetings on the call of the chairman or at the request of any two board members.

(2) Three members constitute a quorum for the transaction of business.

NEW SECTION. Section 8. Powers and duties of board. The powers and duties of the board include but are not limited to:

(1) establishing the state's correctional policy;

(2) having control and supervision over the juvenile and adult correctional programs and institutions in the state;

(3) establishing general policies for the management of institutions and facilities under its jurisdiction; and

(4) consulting with and advising the governor on the management of these institutions and facilities.

NEW SECTION. Section 9. Institutions in board. The following institutions are under the control of the board:

(1) Montana state prison;

(2) Mountain View school;

(3) Pine Hills school;

(4) Swan River youth forest camp; and

(5) Any other institution that provides care and services for juvenile delinquents, including but not limited to youth forest camps and juvenile reception and evaluation centers.

Section 10. Section 2-15-211, MCA, is amended to read:

"2-15-211. Mental disabilities board of visitors -- composition -- allocation. (1) The governor shall appoint a mental disabilities board of visitors.

(2) The board shall consist of five persons representing but not limited to consumers, doctors of medicine, and the behavioral sciences, at least three of whom may not be professional persons and at least one of whom shall be a representative of an organization concerned with the care and welfare of the mentally ill and one representative of an organization concerned with the care and welfare of the mentally retarded or developmentally disabled. No one may be a member of the board who is a full-time agent or employee of the department of ~~institutions health and environmental sciences~~ or a mental health facility affected by Title 53, chapter 20, part 1, and chapter 21, part 1, except this prohibition does not affect any employee of a state college or university.

(3) The mental disabilities board of visitors shall be attached to the governor for administrative purposes. It may employ staff for the purpose of carrying out its duties

as set out in Title 53, chapter 20, part 1, and chapter 21, part 1."

Section 11. Section 2-15-2204, MCA, is amended to read:

"2-15-2204. Developmental disabilities planning and advisory council. (1) The governor shall appoint a developmental disabilities planning and advisory council in accordance with the provisions of this section.

(2) The council is composed of 22 members and consists of the following:

(a) the directors of the departments of social and rehabilitation services, and health and environmental sciences, ~~and institutions~~ or their designees;

(b) the superintendent of public instruction or a designee;

~~(c) the chairman of the board of institutions or his designee;~~

~~(d)~~ (d) one recognized private professional in each discipline of medicine, law, psychology, social work, and special education;

~~(e)~~ (e) two members of the state senate;

~~(f)~~ (f) two members of the state house of representatives;

~~(g)~~ (g) four consumers or representatives of consumers or consumer organizations in the discipline of developmental

1 disabilities; and

2 ~~(g)(h)~~ one member of each of the five regional  
3 councils provided for in 53-20-207, who shall also be  
4 consumers or representatives of consumers or consumer  
5 organizations in the discipline of developmental  
6 disabilities.

7 (3) (a) Each member or his designee who serves on the  
8 council pursuant to ~~subsection~~ subsections (2)(a) or through  
9 (2)(b)(c) of this section shall serve for a term concurrent  
10 with his respective term as a director, ~~or the~~  
11 superintendent of public instruction, or chairman of the  
12 board of institutions, as the case may be. Upon his removal  
13 from office, his or his designee's term as a member of the  
14 council is automatically terminated and his successor in  
15 office or his successor's designee is automatically a member  
16 of the council.

17 (b) Each member who serves on the council pursuant to  
18 subsection ~~(2)(d)(e)~~ or ~~(2)(e)(f)~~ of this section shall be  
19 appointed or reappointed annually by the governor.

20 (c) Eight of the members serving on the council  
21 pursuant to subsection ~~(2)(e)(d)~~, ~~(2)(f)(g)~~, or ~~(2)(g)(h)~~ of  
22 this section shall be appointed by the governor to serve for  
23 terms concurrent with the gubernatorial term and until their  
24 successors are appointed. The remaining six members serving  
25 on the council shall be appointed by the governor to serve

1 for terms ending on January 1 of the third year of the  
2 succeeding gubernatorial term and until their successors are  
3 appointed.

4 (4) The council is allocated to the department for  
5 administrative purposes only and, unless inconsistent with  
6 the provisions of this section and 53-20-206, the provisions  
7 of 2-15-121 apply."

8 Section 12. Section 2-15-2302, MCA, is amended to  
9 read:

10 "2-15-2302. Board of pardons — composition —  
11 allocation — quasi-judicial. (1) There is a board of  
12 pardons.

13 (2) The board consists of three members and an  
14 auxiliary member, at least one of whom shall have particular  
15 knowledge of Indian culture and problems. Members of the  
16 board, including the auxiliary member, shall possess  
17 academic training which has qualified them for professional  
18 practice in a field such as criminology, education,  
19 psychiatry, psychology, law, social work, sociology, or  
20 guidance and counseling. Related work experience in the  
21 areas listed may be substituted for these educational  
22 requirements.

23 (3) The auxiliary member shall attend any meeting that  
24 a regular board member is unable to attend, and at that time  
25 the auxiliary member has all the rights and responsibilities

1 of a regular board member.

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

6 (5) The board, including the auxiliary member, is  
7 designated as a quasi-judicial board for purposes of  
8 2-15-124, except board members shall be compensated as  
9 provided by legislative appropriation."

10 Section 13. Section 2-18-103, MCA, is amended to read:

11 "2-18-103. Officers and employees excepted. Parts 1  
12 and 2 do not apply to the following positions in state  
13 government:

- 14 (1) elected officials;
- 15 (2) county assessors and their chief deputy;
- 16 (3) officers and employees of the legislative branch;
- 17 (4) judges and employees of the judicial branch;
- 18 (5) members of boards and commissions appointed by the  
19 governor, appointed by the legislature, or appointed by  
20 other elected state officials;
- 21 (6) officers or members of the militia;
- 22 (7) agency heads appointed by the governor;
- 23 (8) academic and professional administrative personnel  
24 with individual contracts under the authority of the board  
25 of regents of higher education;

1 (9) academic and professional administrative personnel  
2 who have entered into individual contracts with the state  
3 school for the deaf and blind under the authority of the  
4 state board of public education;

5 (10) teachers under the authority of the department of  
6 health and environmental sciences and the board of  
7 institutions;

8 (11) investment officer and assistant investment  
9 officer of the board of investments; and

10 (12) four professional staff positions under the board  
11 of oil and gas conservation."

12 Section 14. Section 2-18-303, MCA, is amended to read:

13 "2-18-303. Procedures for utilizing pay schedules. (1)  
14 The pay schedules provided in [the adjusted schedules under]  
15 2-18-311 and 2-18-312 shall be implemented as follows:

16 (a) The pay schedule provided in [the adjusted  
17 schedule under] 2-18-311 indicates the annual compensation  
18 for the fiscal year ending June 30, 1982, for each grade and  
19 step for positions classified under the provisions of part 2  
20 of this chapter.

21 (b) The pay schedule provided in [the adjusted  
22 schedule under] 2-18-312 indicates the annual compensation  
23 for the fiscal year ending June 30, 1983, for each grade and  
24 step for positions classified under the provisions of part 2  
25 of this chapter.



(c) Each new employee shall advance from step 1 to step 2 of a grade after successfully completing 6 months of probationary service. The anniversary date of an employee shall be established at the end of the probationary period in accordance with rules promulgated by the department.

(d) (i) The compensation of each employee on the first day of the first pay period in fiscal year 1982 shall be that amount which corresponds to the grade and step occupied on the last day of the preceding fiscal year of 1981.

(ii) The compensation of each employee on the first day of the first pay period in fiscal year 1983 shall be that amount which corresponds to the grade and step occupied on the last day of the fiscal year 1982.

(iii) In compliance with rules adopted to implement this part, each employee is eligible on his anniversary date to advance one step in the pay matrix each fiscal year. However, if the employee's anniversary date falls between (inclusive) July 1 and the first day of the first pay period of fiscal year 1982 or 1983, as the case may be, he will advance one step on the first day of that pay period.

(2) The pay schedules provided in [the adjusted schedules under] 2-18-311 and 2-18-312 and the provisions of subsection (1) of this section do not apply to those institutional teachers, liquor store occupations, or blue-collar occupations compensated under the pay schedules

provided in [the adjusted schedules under] 2-18-313, 2-18-314, or 2-18-315.

(3) The pay schedules provided in [the adjusted schedules under] 2-18-313, 2-18-314, or 2-18-315 shall be implemented as follows:

(a) (i) The pay schedules provided in [the adjusted schedules under] 2-18-313 indicate the annual compensation for the contracted school term for teachers employed by institutions under the authority of the department of health and environmental sciences and the board of institutions for fiscal years 1982 and 1983.

(ii) The compensation of each teacher on the first day of the first pay period in July, 1981, shall be that amount which corresponds to his level of academic achievement and the next highest step from that occupied on June 30, 1981.

(iii) The compensation of each teacher on the first day of the first pay period in July, 1982, shall be that amount which corresponds to his level of achievement and the next highest step from that occupied on June 30, 1982.

(b) (i) The pay schedules provided in [the adjusted schedules under] 2-18-314 indicate the maximum hourly compensation for fiscal years ending June 30, 1982, and June 30, 1983, for those employees in liquor store occupations who have collectively bargained separate classification and pay plans.

(ii) The compensation of each employee on the first day of the first pay period in fiscal year 1982 or 1983, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.

(c) (i) The pay schedules provided in [the adjusted schedules under] 2-18-315 indicate the maximum hourly compensation for fiscal years ending June 30, 1982, and June 30, 1983, for employees in apprentice trades and crafts and other blue-collar occupations recognized in the state blue-collar classification plan who are members of units that have collectively bargained separate classification and pay plans.

(ii) The compensation of each employee on the first day of the first pay period in fiscal year 1982 or 1983, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.

(4) (a) (i) No member of a bargaining unit may receive the amounts indicated in the respective pay schedules provided in [the adjusted schedules under] 2-18-311 through 2-18-315 until the bargaining unit of which he is a member ratifies a completely integrated collective bargaining agreement covering the biennium ending June 30, 1983.

(ii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not

completed by July 1, 1981, retroactivity to that date may be negotiated.

(iii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not completed by July 1, 1981, members of the bargaining unit involved will continue to receive the compensation they were receiving as of June 30, 1981.

(b) Methods of administration not inconsistent with the purpose of this part and necessary to properly implement the pay schedules provided in [the adjusted schedules under] 2-18-313 through 2-18-315 may be provided for in collective bargaining agreements.

(5) The current wage or salary of an employee shall not be reduced by the implementation of the pay schedules provided for in [the adjusted schedules under] 2-18-311 through 2-18-315.

(6) The department may authorize a separate pay schedule for medical doctors if the rates provided in [the adjusted schedules under] 2-18-311 and 2-18-312 are not sufficient to attract and retain fully licensed and qualified physicians at the state institutions.

(7) The department may develop programs which will enable the department to mitigate problems associated with difficult recruitment, retention, transfer, or other

1 exceptional circumstances. Insofar as the program may apply  
2 to employees within a collective bargaining unit, it shall  
3 be a negotiable subject under 39-31-305."

4 Section 15. Section 17-3-1001, MCA, is amended to  
5 read:

6 "17-3-1001. State institutions which may take by gift,  
7 bequest, or grant. (1) The state of Montana, units of the  
8 Montana university system, the Montana school for the deaf  
9 and blind, all institutions in the department of health and  
10 environmental sciences and the board of institutions, and  
11 any institutions now created or established or which may  
12 hereafter be created or established and supported in whole  
13 or in part by the state for any purpose may accept gifts,  
14 donations, grants, devises, or bequests of real or personal  
15 property from any source. Gifts, donations, grants,  
16 bequests, or devises may be made directly to the state, in  
17 the name of any of the institutions, to any officer or board  
18 of the institutions, or to any person in trust for the  
19 institutions.

20 (2) In the event it is made directly to any  
21 institution or to any officer or board of any institution,  
22 the gift, donation, grant, devise, or bequest is a gift,  
23 donation, grant, devise, or bequest to the state and shall  
24 be administered and used by the state for the particular  
25 purpose for which it was given, donated, granted,

1 bequeathed, or devised. In the event no particular purpose  
2 is mentioned in the gift, grant, devise, or bequest, then it  
3 shall be used for the general support, maintenance, or  
4 improvement of such institution by the state."

5 Section 16. Section 17-3-1002, MCA, is amended to  
6 read:

7 "17-3-1002. Persons who may make gifts to state  
8 institutions. (1) A donation, gift, grant, bequest, devise,  
9 or testamentary disposition of property, real or personal,  
10 may be made by any person over the age of 18 years and of  
11 sound mind to the state, a unit of the Montana university  
12 system, the state school for deaf and blind, an institution  
13 in the department of health and environmental sciences or  
14 the board of institutions, and any and all institutions now  
15 created or established or which may hereafter be created or  
16 established and supported, in whole or in part, by the state  
17 for any purpose. Any person, corporation, or association of  
18 persons may make any gift, donation, or grant of property,  
19 real or personal, to the state, or to any of the  
20 institutions above-named or referred to.

21 (2) In the event any gift, donation, grant, devise, or  
22 bequest shall be made to any such institution or to any  
23 officer or board of any such institution, the same shall be  
24 construed as a gift, donation, grant, devise, or bequest to  
25 the state and shall be administered and used for the state

for the particular purpose for which the same was given, donated, granted, bequeathed, or devised. In the event no particular purpose is mentioned in such gift, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of such institution by the state."

Section 17. Section 18-4-104, MCA, is amended to read:

"18-4-104. Purchases exempt from general requirements.

(1) Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as provided in this chapter. The department may allow a state agency or institution to purchase fresh fruits and vegetables. An itemized account shall be kept of these purchases and the account shall be furnished to the department.

(2) Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which the articles are usually bought and sold or the services engaged between individuals but under the direction of the department.

(3) The department of administration may exempt the department of health and environmental sciences and the board of institutions from the provisions of part 2 of this chapter for the purchase of suitable clothing by the

department of health and environmental sciences and the board of institutions for residents of its institutions and community-based programs.

(4) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community."

Section 18. Section 20-7-404, MCA, is amended to read:

"20-7-404. Cooperation of state agencies. The state department of health and environmental sciences, the ~~department~~ board of institutions, the department of social and rehabilitation services, and the state school for the deaf and blind shall cooperate with the superintendent of public instruction in assisting school districts in discovering children in need of special education. Nothing herein shall be construed to interfere with the purpose and function of these state agencies."

Section 19. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state tuition for special education children. (1) If the trustees of any district recommend to the superintendent of public instruction the attendance of a child in need of special education in a special education program offered outside of the state of Montana, such arrangements shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

1 (2) Whenever the attendance of a child at an  
 2 out-of-state special education program is approved by the  
 3 superintendent of public instruction, it shall be the  
 4 responsibility of the superintendent of public instruction,  
 5 in cooperation with the department of social and  
 6 rehabilitation services, and the department of health and  
 7 environmental sciences, and the board of institutions, to  
 8 negotiate the program for the child and the amount and  
 9 manner of payment of tuition. The amount of tuition shall be  
 10 included as a contracted service in 20-7-431(1)(a)(iii)(A)  
 11 in the maximum-budget-without-a-vote for special education."

12 Section 20. Section 20-9-304, MCA, is amended to read:

13 "20-9-304. Eligibility for and payment of state impact  
 14 aid. Any district which shall have children of employees of  
 15 a public institution may be eligible for state impact aid  
 16 under the following provisions:

17 (1) An "employee" means an employee of a public  
 18 institution under the administration of the department of  
 19 institutions health and environmental sciences, as defined  
 20 in 53-1-202, or under the administration of the board of  
 21 institutions, as defined in [section 5], who resides on the  
 22 property of such a public institution.

23 (2) A school district shall receive annually from  
 24 moneys available for state equalization aid \$150 for each  
 25 elementary pupil and \$250 for each high school pupil whose

1 parents are employees of an institution located in the  
 2 school district where the pupil attends school or in a  
 3 school district which has a tuition agreement with the  
 4 district where the pupil attends school.

5 (3) A district which is eligible for state impact aid  
 6 shall apply for such aid to the superintendent of public  
 7 instruction in the manner prescribed by the rules prescribed  
 8 by the superintendent of public instruction.

9 (4) The distribution of state impact aid shall be  
 10 deposited in the general fund of the district and shall not  
 11 be considered as a part of the state equalization aid but  
 12 shall be used to reduce the property tax in support of the  
 13 general fund of the district."

14 Section 21. Section 41-5-103, MCA, is amended to read:

15 "41-5-103. Definitions. For the purposes of the  
 16 Montana Youth Court Act, unless otherwise stated the  
 17 following definitions apply:

18 (1) "Adult" means an individual who is 18 years of age  
 19 or older.

20 (2) "Agency" means the department board of  
 21 institutions, the department of social and rehabilitation  
 22 services, and any division or department of either.

23 (3) "Commit" means to transfer to legal custody.

24 (4) "Court", when used without further qualification,  
 25 means the youth court of the district court.

1       (5) "Foster home" means a private residence approved  
2 by the court for placement of a youth.

3       (6) "Guardianship" means the status created and  
4 defined by law between a youth and an adult with the  
5 reciprocal rights, duties, and responsibilities.

6       (7) "Judge", when used without further qualification,  
7 means the judge of the youth court.

8       (8) (a) "Legal custody" means the legal status created  
9 by order of a court of competent jurisdiction that gives a  
10 person the right and duty to:

11       (i) have physical custody of the youth;

12       (ii) determine with whom the youth shall live and for  
13 what period;

14       (iii) protect, train, and discipline the youth; and

15       (iv) provide the youth with food, shelter, education,  
16 and ordinary medical care.

17       (b) An individual granted legal custody of a youth  
18 shall personally exercise his rights and duties as guardian  
19 unless otherwise authorized by the court entering the order.

20       (9) "Parent" means the natural or adoptive parent but  
21 does not include a person whose parental rights have been  
22 judicially terminated, nor does it include the putative  
23 father of an illegitimate youth unless his paternity is  
24 established by an adjudication or by other clear and  
25 convincing proof.

1       (10) "Youth" means an individual who is less than 18  
2 years of age without regard to sex or emancipation.

3       (11) "Youth court" means the court established pursuant  
4 to this chapter to hear all proceedings in which a youth is  
5 alleged to be a delinquent youth, a youth in need of  
6 supervision, or a youth in need of care and includes the  
7 youth court, the judge, and probation officers.

8       (12) "Delinquent youth" means a youth:

9       (a) who has committed an offense which, if committed  
10 by an adult, would constitute a criminal offense;

11       (b) who, having been placed on probation as a  
12 delinquent youth or a youth in need of supervision, violates  
13 any condition of his probation.

14       (13) "Youth in need of supervision" means a youth who  
15 commits an offense prohibited by law which, if committed by  
16 an adult, would not constitute a criminal offense, including  
17 but not limited to a youth who:

18       (a) violates any Montana municipal or state law  
19 regarding use of alcoholic beverages by minors;

20       (b) habitually disobeys the reasonable and lawful  
21 demands of his parents or guardian or is ungovernable and  
22 beyond their control;

23       (c) being subject to compulsory school attendance, is  
24 habitually truant from school; or

25       (d) has committed any of the acts of a delinquent

youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.

(14) "Youth in need of care" means a youth as defined in 41-3-102.

(15) "Custodian" means a person other than a parent or guardian to whom legal custody of the youth has been given but does not include a person who has only physical custody.

(16) "Necessary parties" include the youth, his parents, guardian, custodian, or spouse.

(17) "State youth correctional facility" means a residential facility for the rehabilitation of delinquent youth such as Pine Hills school in Miles City, and Mountain View school in Helena, and Swan River youth forest camp.

(18) "Shelter care" means the temporary care of youth in physically unrestricting facilities.

(19) "Detention" means the temporary care of youth in physically restricting facilities.

(20) "District youth guidance home" means a family-oriented residence established in a judicial district of the state of Montana as an alternative to existing state youth correctional facilities, the function of which is to provide a home and guidance through adult supervision for delinquent youths and youths in need of supervision.

(21) "Restitution" means payments in cash to the victim or with services to the victim or the general community when

these payments are made under the jurisdiction of a youth court proceeding."

Section 22. Section 41-5-206, MCA, is amended to read:

"41-5-206. Transfer to criminal court. (1) After a petition has been filed alleging delinquency, the court may, upon motion of the county attorney, before hearing the petition on its merits, transfer the matter of prosecution to the district court if:

(a) the youth charged was 16 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) criminal homicide as defined in 45-5-101;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) robbery as defined in 45-5-401;

(v) burglary or aggravated burglary as defined in 45-6-204;

(vi) sexual intercourse without consent as defined in 45-5-503;

(vii) aggravated kidnapping as defined in 45-5-303;

(viii) possession of explosives as defined in 45-8-335;

(ix) criminal sale of dangerous drugs for profit as included in 45-9-101;

(x) attempt as defined in 45-4-103 of any of the acts enumerated in subsections (1)(a)(i) through (1)(a)(ix);

1 (b) a hearing on whether the transfer should be made  
2 is held in conformity with the rules on a hearing on a  
3 petition alleging delinquency, except that the hearing will  
4 be to the youth court without a jury;

5 (c) notice in writing of the time, place, and purpose  
6 of the hearing is given to the youth, his counsel, and his  
7 parents, guardian, or custodian at least 10 days before the  
8 hearing; and

9 (d) the court finds upon the hearing of all relevant  
10 evidence that there are reasonable grounds to believe that:

11 (i) the youth committed the delinquent act alleged;

12 (ii) the seriousness of the offense and the protection  
13 of the community require treatment of the youth beyond that  
14 afforded by juvenile facilities; and

15 (iii) the alleged offense was committed in an  
16 aggressive, violent, or premeditated manner.

17 (2) In transferring the matter of prosecution to the  
18 district court, the court may also consider the following  
19 factors:

20 (a) the sophistication and maturity of the youth,  
21 determined by consideration of his home, environmental  
22 situation, and emotional attitude and pattern of living;

23 (b) the record and previous history of the youth,  
24 including previous contacts with the youth court, law  
25 enforcement agencies, youth courts in other jurisdictions,

1 prior periods of probation; and prior commitments to  
2 juvenile institutions. However, lack of a prior juvenile  
3 history with youth courts will not of itself be grounds for  
4 denying the transfer.

5 (c) the severity of the offense;

6 (d) the prospects for adequate protection of the  
7 public and the likelihood of reasonable rehabilitation of  
8 the youth by the use of procedures, services, and facilities  
9 currently available to the youth court.

10 (3) Upon transfer to district court, the judge shall  
11 make written findings of the reasons why the jurisdiction of  
12 the court was waived and the case transferred to district  
13 court.

14 (4) The transfer terminates the jurisdiction of the  
15 court over the youth with respect to the acts alleged in the  
16 petition. No youth may be prosecuted in the district court  
17 for a criminal offense originally subject to the  
18 jurisdiction of the youth court unless the case has been  
19 transferred as provided in this section.

20 (5) Upon order of the court transferring the case to  
21 the district court, the county attorney shall file the  
22 information against the youth without unreasonable delay.

23 (6) Any offense not enumerated in subsection (1)(a)  
24 that arises during the commission of a crime enumerated in  
25 subsection (1)(a) may be:



(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1)(a), upon motion of the county attorney and acceptance by the district court judge.

(7) If a youth is found guilty in district court of any of the offenses enumerated in subsection (1)(a) of this section and is sentenced to the state prison, his commitment shall be to the ~~department~~ board of institutions, which shall confine the youth in whatever institution under its jurisdiction that it considers proper."

Section 23. Section 41-5-523, MCA, is amended to read:

"41-5-523. Disposition of delinquent youth and youth in need of supervision. (1) If a youth is found to be delinquent or in need of supervision, the court may enter its judgment making the following disposition:

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to a district youth guidance home;

(d) transfer legal custody to the ~~department~~ board of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody does not authorize the ~~department~~ board of institutions to place the

youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;

(e) such further care and treatment or evaluation that the court considers beneficial to the youth, consistent with subsection (1)(d) of this section;

(f) order restitution by the youth.

(2) At any time after the youth has been taken into custody, the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated by the ~~department~~ board of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths; or

(b) in the case of a delinquent youth 16 years or older whom the court considers a suitable person for placement at a youth forest camp, notify the ~~director-of-the~~ department board of institutions of the finding. The ~~director-of-the-department board~~ of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the ~~department~~ board of institutions for a period not to exceed 45 days for the purpose of evaluation as to

the youth's suitability for placement and order the youth delivered for evaluation to the youth facility designated by the ~~director~~ board. If after the evaluation the ~~department~~ board of institutions reports to the court that such child is suitable for placement in a youth forest camp and if there is space available at a camp, the court may then commit such child directly to the youth forest camp under the terms of commitment of this chapter. If the ~~department~~ board of institutions reports and states the reasons to the court why the youth is not suitable for placement, the youth shall be returned to the court for such further disposition as the court may consider advisable under the provisions of this chapter. The costs of transporting the youth to the designated youth facility for evaluation and cost of returning the youth to the court shall be borne by the county of residence of the youth.

(3) No youth may be committed or transferred to a penal institution or other facility used for the execution of sentence of adult persons convicted of crimes except as provided by subsection (2)(b).

(4) Any order of the court may be modified at any time.

(5) Whenever the court vests legal custody in an agency, institution, or department, it must transmit with the dispositional judgment copies of a medical report and

such other clinical, predisposition, or other reports and information pertinent to the care and treatment of the youth.

(6) The order of commitment to the ~~department~~ board of institutions shall read as follows:

#### ORDER OF COMMITMENT

State of Montana )

) ss.

County of ..... )

In the district court for the .... Judicial District.

On the .... day of ....., 19... .., a minor of this county, .... years of age, was brought before me charged with ....., Upon due proof I find that .... is a suitable person to be committed to the ~~department~~ board of institutions.

It is ordered that .... be committed to the ~~department~~ board of institutions until .....

The names, addresses, and occupations of the parents are:

Name	Address	Occupation
.....	.....	.....
.....	.....	.....

The names and addresses of their nearest relatives are:

.....	.....
.....	.....

Witness my hand this .... day of ....., A.D. 19...

.....

Judge"

Section 24. Section 41-5-902, MCA, is amended to read:

"41-5-902. Rules. The ~~director of the department~~ board of institutions may adopt reasonable rules and standards to carry out the administration and purposes of this part."

Section 25. Section 44-5-202, MCA, is amended to read:

"44-5-202. Photographs and fingerprints. (1) The following agencies may, if authorized by subsections (2) through (5), collect, process, and preserve photographs and fingerprints:

(a) any criminal justice agency performing, under law, the functions of a police department or a sheriff's office, or both;

(b) the ~~department~~ board of institutions; and

(c) the department of justice.

(2) The ~~department~~ board of institutions may photograph and fingerprint anyone who is committed to an institution or program under the jurisdiction of the ~~division of corrections or its successor~~ board.

(3) A criminal justice agency described in subsection (1)(a) shall photograph and fingerprint a person who has been arrested or noticed or summoned to appear to answer an information or indictment if:

(a) the charge is the commission of a felony;

(b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

(4) Whenever a person charged with the commission of a felony is not arrested, he shall submit himself to the sheriff, chief of police, or other concerned law enforcement officer for fingerprinting at the time of his initial appearance in court to answer the information or indictment against him.

(5) A criminal justice agency described in subsection (1)(a) may photograph and fingerprint an accused if he has been arrested for the commission of a misdemeanor, except that an individual arrested for a traffic, regulatory, or fish and game offense may not be photographed or fingerprinted unless he is incarcerated.

(6) Within 10 days the originating agency shall send the state repository a copy of each fingerprint taken on a completed form provided by the state repository.

(7) The state repository shall compare the fingerprints received with those already on file in the state repository. If it is determined that the individual is wanted or is a fugitive from justice, the state repository shall at once inform the originating agency. If it is determined that the individual has a criminal record, the state repository shall send the originating agency a copy of

the individual's complete criminal history record.

(8) Photographs and fingerprints taken shall be returned by the state repository to the originating agency, which shall return all copies to the individual from whom they were taken:

(a) if a court so orders; or

(b) upon the request of the individual:

(i) if no charges were filed;

(ii) if a misdemeanor charge did not result in a conviction; or

(iii) if the individual was found innocent of the offense charged."

Section 26. Section 46-19-202, MCA, is amended to read:

"46-19-202. Proceedings following determination regarding fitness. (1) If it is found that defendant is mentally fit as provided in 46-19-201, the sheriff must execute the judgment.

(2) If it is found that he lacks fitness, the execution of judgment must be suspended and the court shall commit him to the custody of the superintendent of Warm Springs state hospital to be placed in an appropriate institution of the department of health and environmental sciences or the board of institutions for so long as the lack of fitness endures.

(3) When the court, on its own motion or upon application of the superintendent of Warm Springs state hospital, the county prosecuting officer, or the defendant or his legal representative, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the sheriff shall be directed by the court to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to proceed with execution of the sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged."

Section 27. Section 46-19-303, MCA, is amended to read:

"46-19-303. Power of governor to enter into contracts. The governor is hereby empowered to designate the department of health and environmental sciences and the board of institutions to enter into such contracts recommended by the department and board on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to 46-19-301."

Section 28. Section 46-19-305, MCA, is amended to read:

"46-19-305. Hearings requested by other states. The

1 board of pardons, and the department of health and  
 2 ~~environmental sciences, and the board~~ of institutions shall  
 3 hold such hearings as may be requested by any other party  
 4 state pursuant to Article IV(6) of the Western Interstate  
 5 Corrections Compact."

6 Section 29. Section 46-23-103, MCA, is amended to  
 7 read:

8 "46-23-103. Definitions. Unless the context requires  
 9 otherwise, in this chapter the following definitions apply:

10 (1) "Board" means the board of pardons provided for in  
 11 2-15-2302.

12 ~~(2) "Department" means the department of institutions~~  
 13 ~~provided for in Title 2, chapter 15, part 23.~~

14 ~~(3)(2)~~ "Executive clemency" refers to the powers of  
 15 the governor as provided by section 12 of Article VI of the  
 16 constitution of Montana.

17 ~~(4)(3)~~ "Parole" means the release to the community of  
 18 a prisoner by the decision of the board of pardons prior to  
 19 the expiration of his term, subject to conditions imposed by  
 20 the board and subject to supervision of the department board  
 21 of institutions."

22 Section 30. Section 46-23-401, MCA, is amended to  
 23 read:

24 "46-23-401. Definitions. Unless the context requires  
 25 otherwise, in this part the following definitions apply:

1 (1) "Applicant" means any prisoner who is eligible  
 2 under 46-23-411 and who signs an application to participate  
 3 in the supervised release program.

4 (2) "Board" means the board of pardons provided for in  
 5 2-15-2302.

6 ~~(3) "Department" means the department of institutions~~  
 7 ~~provided for in 2-15-2301.~~

8 ~~(4)(3)~~ "Prisoner" means a person sentenced by a state  
 9 district court to a term of confinement in the state prison.

10 ~~(5)(4)~~ "State prison" means the Montana state prison  
 11 at Deer Lodge or any adult correctional facility designated  
 12 by the department board of institutions.

13 ~~(6)(5)~~ "Sponsor" means any federal, state, county,  
 14 local, or private agency, Indian tribe and reservation, or  
 15 any person, group, association, or organization approved by  
 16 the department board of institutions to undertake the  
 17 supervision of prisoners participating in the supervised  
 18 release program.

19 ~~(7)(6)~~ "Supervising agent" means a probation and  
 20 parole officer of the department board of institutions."

21 Section 31. Section 46-23-1001, MCA, is amended to  
 22 read:

23 "46-23-1001. Definitions. As used in this part, unless  
 24 the context requires otherwise, the following definitions  
 25 apply:

(1) "Board" means the board of pardons provided for in 2-15-2302.

~~{2}--"Department"--means the department of institutions provided for in Title 2, chapter 15, part 23.~~

~~{3}~~(2) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of his term, subject to conditions imposed by the board and subject to supervision of the department board of institutions.

~~{4}~~(3) "Probation" means the release by the court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department board of institutions upon direction of the court."

Section 32. Section 50-1-202, MCA, is amended to read:

"50-1-202. General powers and duties. The department shall:

(1) study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(2) make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(3) at the request of the governor, administer any federal health program for which responsibilities are

delegated to states;

(4) inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary and at other times on request of the governor;

(5) after each inspection made under subsection (4) of this section, submit a written report on sanitary conditions to the governor and to the ~~director of institutions~~ superintendents of those institutions under the department's jurisdiction, the board of institutions, or commissioner of higher education and include recommendations for improvement in conditions if necessary;

(6) advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;

(7) organize laboratory services and provide equipment and personnel for those services;

(8) develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;

(9) develop and administer a program to protect the health of mothers and children;

(10) conduct health education programs;

(11) provide consultation to school and local community

1 health nurses in the performance of their duties;  
 2 (12) consult with the superintendent of public  
 3 instruction on health measures for schools;  
 4 (13) develop and administer a program for services to  
 5 handicapped children including diagnosis, medical, surgical,  
 6 and corrective treatment, and after-care and related  
 7 services;  
 8 (14) provide consultation to local boards of health;  
 9 (15) bring actions in court for the enforcement of the  
 10 health laws and defend actions brought against the board or  
 11 department;  
 12 (16) accept and expend federal funds available for  
 13 public health services;  
 14 (17) have the power to use personnel of local  
 15 departments of health to assist in the administration of  
 16 laws relating to public health;  
 17 (18) adopt rules imposing fees for the tests and  
 18 services performed by the laboratory of the department. In  
 19 adopting a rule imposing fees, the department may establish  
 20 only a fee that will reimburse the department for the costs  
 21 incurred in performing tests and services. All fees shall be  
 22 deposited in the general fund.  
 23 (19) adopt and enforce rules regarding the definition  
 24 of communicable diseases and the reporting and control of  
 25 communicable diseases; and

1 (20) adopt and enforce rules regarding the  
 2 transportation of dead human bodies."  
 3 Section 33. Section 50-3-102, MCA, is amended to read:  
 4 "50-3-102. Powers and duties of state fire marshal.  
 5 (1) For the purpose of reducing the state's fire loss, the  
 6 state fire marshal shall:  
 7 (a) make at least one inspection a year of each state  
 8 institution under the control of the department of health  
 9 and environmental sciences and submit a copy of the report  
 10 to the department of ~~institutions~~ with recommendations in  
 11 regard to fire prevention, fire protection, and public  
 12 safety;  
 13 ~~(b) make at least one inspection a year of each state~~  
 14 ~~institution under the control of the board of institutions~~  
 15 ~~and submit a copy of the report to the board with~~  
 16 ~~recommendations in regard to fire prevention, fire~~  
 17 ~~protection, and public safety;~~  
 18 ~~(b)(c)~~ make at least one inspection a year of each  
 19 unit of the Montana university system and submit a copy of  
 20 the report to the commissioner of higher education with  
 21 recommendations in regard to fire prevention, fire  
 22 protection, and public safety;  
 23 ~~(c)(d)~~ inspect public, business, or industrial  
 24 buildings and require conformance to law and rules  
 25 promulgated under the provisions of this chapter;

(d)(e) assist local fire and law enforcement authorities in arson investigations and supervise such investigations when, in his judgment, supervision is necessary;

(e)(f) review all training programs on investigation of accidental and incendiary fires;

(f)(g) provide fire prevention and fire protection information to public officials and the general public;

(g)(h) encourage and assist local fire authorities in fire prevention programs and adopt standards and implement a program to encourage fire departments to meet such standards;

(h)(i) be the state entity primarily responsible for promoting fire safety at the state level and to represent the state in structural fire matters;

(i)(j) encourage coordination of all services and agencies in structural fire matters to reduce duplication and fill voids in services;

(j)(k) establish rules concerning responsibilities and procedures to be followed when there is a threat of explosive material in a building housing state offices;

(k)(l) keep in his office a record of all fires occurring in the state, the origin of the fires, and all facts, statistics, and circumstances relating thereto which have been determined by investigations under the provisions

of chapter 63 of this title; and, except for statements of witnesses given during an investigation and information that may be held in confidence under 50-63-403, the record shall be open at all times to public inspection; and

(l)(m) make an annual report to the attorney general containing a detailed statement of his official action and the transactions of his department, and the attorney general shall, in turn, submit the report to the governor with such recommendations and comments thereon as he considers necessary.

(2) The state fire marshal may:

(a) adopt rules necessary for safeguarding life and property from the hazards of fire and explosion and carrying into effect the fire prevention laws of this state; and

(b) if necessary to safeguard life and property under rules promulgated pursuant to this section, maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules."

Section 34. Section 50-21-103, MCA, is amended to read:

"50-21-103. Limitations on right to perform autopsy or dissection. The right to perform an autopsy, dissect a human body, or make any post-mortem examination involving dissection of any part of a body is limited to cases where:



1 (1) specifically authorized by law;

2 (2) a coroner is authorized to hold an inquest and  
3 then only to the extent that the coroner may authorize  
4 dissection or autopsy;

5 (3) authorized by a written statement of the deceased,  
6 whether the statement is of a testamentary character or  
7 otherwise;

8 (4) authorized by the husband, wife, or next of kin  
9 responsible by law for burial to determine the cause of  
10 death and then only to the extent so authorized;

11 (5) the decedent died in a hospital operated by the  
12 United States veterans administration, ~~the~~ Montana school  
13 for the deaf and blind, or an institution in the department  
14 ~~of health and environmental sciences or the board of~~  
15 institutions leaving no surviving husband, wife, or next of  
16 kin responsible by law for burial and the manager or  
17 superintendent of the hospital or institution where death  
18 occurred obtains authority on order of the district court to  
19 determine the cause of death and then only to the extent  
20 authorized by court order;

21 (6) the decedent died in the state, was a resident,  
22 but left no surviving husband, wife, or next of kin charged  
23 by law with the duty of burial and the attending physician  
24 obtains authority on order of the district court for the  
25 purpose of ascertaining the cause of death and then only to

1 the extent authorized by court order after it has been shown  
2 that the physician made diligent search for the next of kin  
3 responsible by law for burial."

4 Section 35. Section 53-1-101, MCA, is amended to read:  
5 "53-1-101. Definitions. Unless the context requires  
6 otherwise, in this chapter the following definitions apply:  
7 (1) "Board" means the board of institutions provided  
8 for in [section 5].

9 ~~{1}~~(2) "Department" means the department of  
10 institutions health and environmental sciences provided for  
11 in Title 2, chapter 15, part 23 21.

12 ~~{2}~~(3) "Director" means the director of institutions  
13 the department of health and environmental sciences provided  
14 for in ~~2-15-2301~~ 2-15-2102.

15 ~~{3}--"Institution"--means any of the institutions listed~~  
16 ~~in 53-1-202.~~

17 Section 36. Section 53-1-201, MCA, is amended to read:  
18 "53-1-201. Purpose of department. The department shall  
19 utilize at maximum efficiency the resources of state  
20 government in a coordinated effort to:

21 (1) restore the physically or mentally disabled;  
22 ~~{2}--rehabilitate the violators of laws~~  
23 ~~{3}~~(2) sustain the vigor and dignity of the aged;  
24 ~~{4}--provide for children in need of temporary~~  
25 ~~protection or correctional counseling;~~

1       ~~(5)(3)~~ train children of limited mental capacity to  
2 their best potential;

3       ~~(6)(4)~~ rededicate the resources of the state to the  
4 productive independence of its now dependent citizens; and

5       ~~(7)(5)~~ coordinate and apply the principles of modern  
6 institutional administration to the institutions of the  
7 state under its jurisdiction."

8       Section 37. Section 53-1-202, MCA, is amended to read:

9       "53-1-202. Institutions in department. (1) The  
10 following institutions are in the department:

11       (a) Galen state hospital;

12       (b) Montana veterans' home;

13       ~~(c) State prison;~~

14       ~~(d) Mountain View school;~~

15       ~~(e) Pine Hills school;~~

16       ~~(f)(c)~~ Boulder River school and hospital;

17       ~~(g)(d)~~ Warm Springs state hospital;

18       ~~(h)(e)~~ Montana center for the aged;

19       ~~(i) Swan River youth forest camp;~~

20       ~~(j)(f)~~ Eastmont training center~~s~~;

21       ~~(k) Any other institution which provides care and~~  
22 ~~services for juvenile delinquents, including but not limited~~  
23 ~~to youth forest camps and juvenile reception and evaluation~~  
24 ~~centers.~~

25       (2) A state institution may not be moved,

1 discontinued, or abandoned without prior consent of the  
2 legislature."

3       Section 38. Section 53-1-203, MCA, is amended to read:

4       "53-1-203. Powers and duties of department. The  
5 department shall:

6       (1) adopt rules for the admission, custody, transfer,  
7 and release of residents of institutions under its  
8 jurisdiction except as otherwise provided by law; however,  
9 no such rules may amend or alter the statutory powers and  
10 duties of the state board of pardons;

11       (2) subject to the functions of the department of  
12 administration, lease or purchase lands for use by  
13 institutions under its jurisdiction and classify those lands  
14 to determine which are of such character as to be most  
15 profitably used for agricultural purposes, taking into  
16 consideration the needs of all institutions for the food  
17 products that can be grown or produced on the lands and the  
18 relative value of agricultural programs in the treatment or  
19 rehabilitation of the persons confined in the institutions;

20       ~~(3) contract with private nonprofit Montana~~  
21 ~~corporations to establish and maintain community-based~~  
22 ~~pre-release centers for purposes of preparing inmates of the~~  
23 ~~Montana state prison who are approaching parole eligibility~~  
24 ~~or discharge for release into the community; the centers~~  
25 ~~shall provide a less restrictive environment than the prison~~

~~while--maintaining--adequate--security; the centers shall be operated in coordination with other department--correctional programs, including the supervised release program provided for in title 46, chapter 23, part 4. Nothing in this subsection shall affect the department's authority to operate and maintain community-based prerelease centers in existence on July 14, 1982.~~

~~(4)(3)~~ utilize the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

~~(5)(4)~~ propose programs to the legislature to meet the projected long-range needs of institutions under its jurisdiction, including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in institutions; and

~~(6)(5)~~ encourage the establishment of programs at the local level for the prevention and rehabilitation of physical and mental disability."

Section 39. Section 53-1-204, MCA, is amended to read:

"53-1-204. Responsibility of warden and superintendents of institutions. The warden or and the superintendents of institutions in the department and the board are responsible for the immediate management and control of their respective institutions, ~~subject to the~~

~~general policies and programs established by the department and shall communicate directly with the governor on matters concerning the operation of the institutions."~~

Section 40. Section 53-1-301, MCA, is amended to read:

"53-1-301. Permitted institutional industries, ~~powers of department and~~ incentive pay to inmates. ~~The Both the~~ department and the board may:

(1) establish industries in institutions under their jurisdiction which will result in the production or manufacture of such products and the rendering of such services as may be needed by any department or agency of the state or any political subdivision thereof, by any agency of the federal government, by any other states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of residents in institutions;

(2) contract with private industry for the sale of goods or components manufactured or produced in shops under its their jurisdiction;

(3) print catalogs describing goods manufactured or produced by institutions and distribute the catalogs;

(4) fix the sale price for goods produced or manufactured at institutions. Prices shall not exceed prices existing in the open market for goods of comparable quality.

(5) require institutions under their jurisdiction to

1 purchase needed goods from other institutions;  
 2 (6) provide for the repair and maintenance of property  
 3 and equipment of institutions by residents of institutions;  
 4 (7) provide for construction projects up to the  
 5 aggregate sum of \$25,000 per project, by residents of  
 6 institutions; provided, however, said construction work is  
 7 not covered by a collective bargaining agreement;  
 8 (8) provide for the repair and maintenance at an  
 9 institution of furniture and equipment of any state agency;  
 10 (9) provide for the manufacture at an institution of  
 11 motor vehicle license plates and other related articles;  
 12 (10) ~~with the approval of the department~~ sell  
 13 manufactured or agricultural products and livestock on the  
 14 open market;  
 15 (11) provide for the manufacture at an institution of  
 16 highway, road, and street marking signs for the use of the  
 17 state or any of its political subdivisions, except when the  
 18 manufacture of the signs is in violation of a collective  
 19 bargaining contract;  
 20 (12) (a) pay an inmate or resident of an institution  
 21 from receipts from the sale of products produced or  
 22 manufactured or services rendered in a program in which he  
 23 is working.  
 24 (b) Payment for the performance of work may be based  
 25 on the following criteria:

1 (i) knowledge and skill;  
 2 (ii) attitude toward authority;  
 3 (iii) physical effort;  
 4 (iv) responsibility for equipment and materials;  
 5 (v) regard for safety of others.  
 6 (c) The maximum rate of pay shall be determined by the  
 7 appropriation established for each program."  
 8 Section 41. Section 53-1-302, MCA, is amended to read:  
 9 "53-1-302. Disposition of receipts from sale of goods.  
 10 Receipts from the sale of goods produced or manufactured by  
 11 an institution in the department or the board shall be  
 12 deposited in the revolving fund account for the use of the  
 13 industries program of the institution. At the end of each  
 14 biennium, all unobligated revolving funds over a \$50,000  
 15 ending-fund balance, except for those funds reserved for  
 16 equipment replacement as determined by an equipment  
 17 replacement schedule, shall revert to the state general fund  
 18 account."  
 19 Section 42. Section 53-1-303, MCA, is amended to read:  
 20 "53-1-303. Prohibited acts. Unless permitted by the  
 21 department or the board, arranging for the labor of a  
 22 resident of an institution in the department or the board is  
 23 prohibited."  
 24 Section 43. Section 53-1-304, MCA, is amended to read:  
 25 "53-1-304. Supervision of industries program. The

1 industries program shall be supervised by the director of  
2 the department of ~~institutions~~ or his designated  
3 representative ~~or by the board~~, provided the administration  
4 of the industries program is separate from the  
5 administration of any institution where the program may be  
6 located."

7 Section 44. Section 53-1-401, MCA, is amended to read:

8 "53-1-401. Definitions. As used in this part, unless  
9 the context requires otherwise, the following definitions  
10 apply:

11 (1) "Ancillary charge" means identifiable, direct,  
12 resident service expenses as budgeted, including but not  
13 limited to operating room, anesthesia, x-ray, laboratory,  
14 blood bank, oxygen therapy, physical therapy, medical  
15 supply, drug, and specialized medical equipment expenses.

16 (2) "Care" means the care, treatment, support,  
17 maintenance, and other services rendered by the department  
18 to a resident.

19 (3) "Department" means the department of ~~institutions~~  
20 ~~health and environmental sciences~~ provided for in Title 2,  
21 chapter 15, part 23 ~~21~~.

22 (4) "Financially responsible person" means a spouse of  
23 a resident, the natural or adoptive parents of a resident  
24 under 18 years of age, or a guardian or conservator to the  
25 extent of the guardian's or conservator's responsibility for

1 the financial affairs of the person who is a resident under  
2 applicable Montana law establishing the duties and  
3 limitations of guardianships or conservatorships.

4 (5) "Full-time equivalent resident load" means the  
5 total daily resident count for the fiscal year divided by  
6 the number of days in the year.

7 (6) "Long-term resident" means a resident in an  
8 institution listed in 53-1-402 for a continuous period in  
9 excess of 120 days. No absence of a resident from the  
10 institution due to a temporary or trial visit may be counted  
11 as interrupting the accrual of the 120 days required to  
12 attain the status of a long-term resident.

13 (7) "Per diem" means the gross daily cost of operating  
14 an institution as budgeted, excluding the cost of  
15 educational programs and ancillary charges, divided by the  
16 full-time equivalent resident load. However, a schedule of  
17 differing per diem charges may be computed, including a  
18 schedule of charges for residents treated on an outpatient  
19 basis, for each program established or funded by the  
20 legislature and assigned to an institution listed in  
21 53-1-402.

22 (8) "Resident" means any person who is receiving care  
23 from or who is a resident of an institution listed in  
24 53-1-402."

25 Section 45. Section 53-10-101, MCA, is amended to

1 read:

2 "53-10-101. Definitions. As used in this part, the  
3 following definitions apply:

4 (1) "Client" means a person served by or utilizing the  
5 services of a human services agency.

6 (2) "Colocation of agencies" means the placement of  
7 staff by two or more autonomous human services agencies in a  
8 common facility, where appropriate.

9 (3) "Human services agencies" means ~~the department--of~~  
10 ~~institutions~~ the department of social and rehabilitation  
11 services, and those portions of the department of health and  
12 environmental sciences, the department of labor and  
13 industry, and the office of the superintendent of public  
14 instruction which deal with human services.

15 (4) "Information and referral system" means a  
16 centralized information system that utilizes a single  
17 purpose application and referral form to provide for the  
18 assessment of client problems, identification of required  
19 service, assessment of eligibility, referral of clients to  
20 appropriate agencies, and followup of the referrals.

21 (5) "Multipurpose social worker and team management"  
22 means an arrangement in which one staff member, with the  
23 possible assistance of a number of staff members  
24 representing different services, helps a client to identify  
25 all appropriate services and advocates for the client to

1 confirm that the services are provided.

2 (6) "One-stop service" means a common intake system  
3 for two or more services provided to clients."

4 Section 46. Section 53-20-213, MCA, is amended to  
5 read:

6 "53-20-213. Departments to cooperate. The department  
7 ~~of institutions~~ the department of social and rehabilitation  
8 services, the department of health and environmental  
9 sciences, and the office of superintendent of public  
10 instruction shall cooperate on all aspects of each agency's  
11 respective programs for the developmentally disabled."

12 Section 47. Section 53-21-102, MCA, is amended to  
13 read:

14 "53-21-102. Definitions. As used in this part, the  
15 following definitions apply:

16 (1) "Board" or "mental disabilities board of visitors"  
17 means the mental disabilities board of visitors created by  
18 2-15-211.

19 (2) "Court" means any district court of the state of  
20 Montana.

21 (3) "Department" means the department of ~~institutions~~  
22 ~~health and environmental sciences~~ provided for in Title 2,  
23 chapter 15, part 23 21.

24 (4) "Emergency situation" means a situation in which  
25 any person is in imminent danger of death or serious bodily

harm from the activity of a person who appears to be seriously mentally ill.

(5) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.

(6) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center approved by the department. No correctional institution or facility or jail is a mental health facility within the meaning of this part.

(7) "Next of kin" shall include but need not be limited to the spouse, parents, adult children, and adult brothers and sisters of a person.

(8) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.

(9) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.

(10) "Professional person" means:

(a) a medical doctor; or

(b) a person trained in the field of mental health and certified by the department in accordance with standards of professional licensing boards, federal regulations, and the

joint commission on accreditation of hospitals.

(11) "Reasonable medical certainty" means reasonable certainty as judged by the standards of a professional person.

(12) "Respondent" means a person alleged in a petition filed pursuant to this part to be seriously mentally ill.

(13) "Friend of respondent" means any person willing and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for good cause shown, change its designation of the friend of respondent.

(14) "Seriously mentally ill" means suffering from a mental disorder which has resulted in self-inflicted injury or injury to others or the imminent threat thereof or which has deprived the person afflicted of the ability to protect

his life or health. For this purpose, injury means physical injury. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part.

(15) "State hospital" means the Warm Springs state hospital."

Section 48. Section 53-21-201, MCA, is amended to read:

"53-21-201. Definitions. As used in this part, the following definitions apply:

(1) "Public mental health facility" means any public service or group of services offering mental health care on an inpatient or outpatient basis to the mentally ill.

(2) "Community comprehensive mental health center" means a facility, not necessarily encompassed within one building, offering at least the following six basic mental health services to the public:

- (a) 24-hour inpatient care;
- (b) part-time hospitalization;
- (c) outpatient service;
- (d) emergency service;
- (e) consultation and education in mental health;

(f) precare and aftercare.

(3) "Mental health clinic" means an outpatient facility offering mental health care to the public.

(4) "Department" means the department of institutions health and environmental sciences provided for in Title 2, chapter 15, part 21."

Section 49. Section 53-24-103, MCA, is amended to read:

"53-24-103. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal relationships, or economic function of the individual or public health, welfare, or safety.

(2) "Approved private treatment facility" means a private nonprofit agency, receiving public funds (whose function is the treatment, rehabilitation, and prevention of alcoholism and drug dependence) meeting the standards prescribed in 53-24-208(1) and approved under 53-24-208.

(3) "Approved public treatment facility" means:

(a) a treatment agency operating under the direction and control of the department as a state agency and approved under 53-24-208; or



(b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208.

(4) "Department" means the department of ~~institutions health and environmental sciences~~ provided for in ~~2-15-2301~~ Title 2, chapter 15, part 21.

(5) "Family member" is the spouse, mother, father, child, or member of the household of an alcoholic whose life has been affected by the actions of the alcoholic and may require treatment.

(6) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(7) "Incompetent person" means a person who has been adjudged incompetent by the district court.

(8) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

(9) "Prevention" has meaning on four levels; these are:

(a) education to provide information to the school children and general public relating to alcohol dependence and alcoholism, treatment, and rehabilitative services and

to reduce the consequences of life experiences acquired by contact with an alcoholic;

(b) early detection and recovery from the illness before lasting emotional or physical damage, or both, have occurred;

(c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full disability has been reached;

(d) the provision of facility requirements to meet division program standards and improve public accessibility for services.

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to alcoholics, intoxicated persons, and family members."

Section 50. Section 53-30-211, MCA, is amended to read:

"53-30-211. Transfer of child to other facility or institution — notice. (1) The department board of institutions upon recommendation of the superintendent of a facility may transfer a child resident in one of its juvenile facilities to any other facility or institution under the jurisdiction and control of the department board.

With the approval of the department of health and environmental sciences, the board upon recommendation of the superintendent of a facility may transfer a child resident in one of its juvenile facilities to any facility or institution under the jurisdiction and control of the department.

(2) In the case of transfers of children in juvenile facilities to Warm Springs state hospital or Boulder River school and hospital and unless medical or psychiatric emergency exists, 15 days prior to the transfer the department board shall send notice of the proposed transfer to the parents or legal guardian of the child and to the district court who committed the child. In the case of an emergency transfer, the department board shall send notice within 72 hours after the time of transfer."

Section 51. Section 87-2-802, MCA, is amended to read:

"87-2-802. Veterans in VA hospitals and residents of state institutions. Any veteran who is a patient residing at a hospital operated by the veterans administration, within or outside the state, and residents of all institutions under the jurisdiction of the department of health and environmental sciences and the board of institutions, except the Montana state prison at Deer Lodge, will be entitled to fish without a license. Such residents shall carry a permit on a form prescribed by the department or board and signed

by the superintendent of the institution in lieu of a license."

NEW SECTION. Section 52. Codification instructions.

(1) Section 5 is intended to be codified as an integral part of Title 2, chapter 15, part 10, and the provisions of Title 2, chapter 15, apply to section 5.

(2) Sections 6 through 9 are intended to be codified as an integral part of Title 53, chapter 1, and the provisions of Title 53, chapter 1, apply to sections 6 through 9.

NEW SECTION. Section 53. Repealer. Sections 2-15-2301 and 53-30-201, MCA, are repealed.

-End-

## STATE OF MONTANA

REQUEST NO. 226-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 83, there is hereby submitted a Fiscal Note for House Bill 450 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

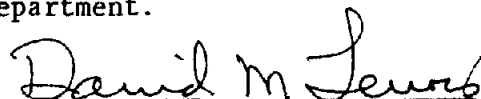
House Bill 450 abolishes the Department of Institutions and transfers the functions to the Department of Health and the Board of Institutions.

ASSUMPTIONS:

- 1) The appropriations for the Department of Institutions would be reduced to zero. Total amount requested for the 1985 Biennium Budget is \$147,072,026.
- 2) Two members are from the eastern district of Montana and three members are from the western district.

COMMENTS:

- 1) According to state and federal law, Warm Springs, Boulder, Galen Alcohol Treatment & Rehabilitation Center, Eastmont and Center for the Aged have stringent psychological, developmental, habilitative, and educational mandates that clearly distinguish them from the primary medical care focus of the typical hospital.
- 2) The department has developed the staff expertise necessary to negotiate with 17 unions and 46 bargaining units, approximately 16 unions and 34 units would move to the Health Department under this proposal, necessitating a duplication of labor relations/collective bargaining functions.
- 3) Under the current departmental organization, considerable coordination and communication exist between the Corrections Division and the Mental Health Division in several common areas, e.g., (1) the Warm Springs Forensic Unit is, for the most part, comprised of either prison inmates or patients who have come through the criminal court process; (2) the female offender program is located on Warm Springs campus, requiring day-to-day cooperation and coordination that would be difficult if two different state departments were involved; (3) A majority of juveniles placed at Warm Springs or the new Montana Youth Treatment Center in Billings come via the Yough Court Act and are, or will be, in the custody of the Corrections Division; (4) institutional transfers between the Prison, Pine Hills, Mountain View, and Warm Springs are an essential component of treatment of offenders that might not be available if this critical coordination and direction were not vested in a single department.

Continued

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1.31.83

- 4) Finally, transferring six institutions to the Health Department could create conflicts of interest inasmuch as (1) a single department would be licensing and regulating programs and facilities that it also administers; (2) a certificate-of-need, required for major renovation or new construction on an institutional campus would, of necessity, be requested by the department ultimately responsible for issuing the certificate.
- 5) The reimbursement function would not be appropriately placed in the Department of Health because the Department of Health is the licensing and certification agency for Medicaid and Medicare participation. The Department of Health will also be responsible for billing and collecting funds under these two programs.
- 6) The Data Processing Systems are integrated within the department. Duplication of systems to accommodate this transfer of functions to the two Departments would be cost inefficient.

#### FISCAL IMPACT:

The splitting of the Department of Institutions between two other agencies, i.e. Department of Health and Department of Administration, would create additional requirements for data processing, accounting and personnel/administration functions. The exact number of FTE's that would be needed is unknown, but the impact could be significant.

Additionally, the costs of creating the Board of Institutions would be:

	84 & 85
Mileage	\$ 2,664
Meals	810
Lodging	720
Per Diem	1,500
Total New Expenditures	<u>\$ 5,694</u>

Approved by Committee  
on State Administration

1 *House* BY L NO. *450*  
2 INTRODUCED BY *Brandt - Menahan*  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE  
5 DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF  
6 THE DEPARTMENT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
7 SCIENCES AND TO THE BOARD OF INSTITUTIONS; ESTABLISHING A  
8 BOARD OF INSTITUTIONS; DEFINING THE POWERS AND DUTIES OF THE  
9 BOARD; AMENDING SECTIONS 2-15-104, 2-15-211, 2-15-2204,  
10 2-15-2302, 2-18-103, 2-18-303, 17-3-1001, 17-3-1002,  
11 18-4-104, 20-7-404, 20-7-422, 20-9-304, 41-5-103, 41-5-206,  
12 41-5-523, 41-5-902, 44-5-202, 46-19-202, 46-19-303,  
13 46-19-305, 46-23-103, 46-23-401, 46-23-1001, 50-1-202,  
14 50-3-102, 50-21-103, 53-1-101, 53-1-201 THROUGH 53-1-204,  
15 53-1-301 THROUGH 53-1-304, 53-1-401, 53-10-101, 53-20-213,  
16 53-21-102, 53-21-201, 53-24-103, 53-30-211, AND 87-2-802,  
17 MCA; REPEALING SECTIONS 2-15-2301 AND 53-30-201, MCA."  
18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
20 Section 1. Section 2-15-104, MCA, is amended to read:  
21 "2-15-104. Structure of executive branch. (1) In  
22 accordance with the constitution, all executive and  
23 administrative offices, boards, commissions, agencies, and  
24 instrumentalities of the executive branch of state  
25 government and their respective functions are allocated by

1 this chapter among and within the following departments or  
2 entities:  
3 (a) department of administration;  
4 (b) department of military affairs;  
5 (c) department of revenue;  
6 (d) state board of education;  
7 (e) department of labor and industry;  
8 (f) department of commerce;  
9 (g) department of justice;  
10 (h) department of health and environmental sciences;  
11 (i) department of social and rehabilitation services;  
12 ~~(j) department of institutions;~~  
13 ~~(k)(j)~~ department of highways;  
14 ~~(l)(k)~~ department of public service regulation;  
15 ~~(m)(l)~~ department of agriculture;  
16 ~~(n)(m)~~ department of livestock;  
17 ~~(o)(n)~~ department of state lands;  
18 ~~(p)(o)~~ department of natural resources and  
19 conservation;  
20 ~~(q)(p)~~ department of fish, wildlife, and parks.  
21 (2) For its internal structure, each department shall  
22 adhere to the following standard terms:  
23 (a) The principal unit of a department is a division.  
24 Each division shall be headed by an administrator.  
25 (b) The principal unit of a division is a bureau. Each

1 (g) relating to custody of a defendant suffering from  
2 a mental disease or defect under 46-14-221, 46-14-222, and  
3 46-14-312;

4 (h) concerning distribution of liquor license, beer,  
5 and wine tax revenues under 16-1-404, 16-1-408, and  
6 16-1-411;

7 (i) relating to the Montana veterans' home under Title  
8 10, chapter 2, part 4;

9 (j) transferring patients from Galen state hospital  
10 under 53-6-303; and

11 (k) relating to approved alcohol treatment programs  
12 for intoxicated drivers under 61-8-714.

13 (2) Unless inconsistent with this act, any reference  
14 to the "department of institutions" or "department" (of  
15 institutions) in the sections listed in subsection (1) are  
16 changed to "department of health and environmental sciences"  
17 or "department" (of health and environmental sciences). The  
18 code commissioner shall conform internal references and  
19 grammar to these changes.

20 (3) The governor may by executive order assign to the  
21 department of health and environmental sciences in a manner  
22 consistent with this act functions allocated to the  
23 department of institutions by the 48th legislature and not  
24 transferred by this act.

25 NEW SECTION. Section 4. Functions of department of

1 bureau shall be headed by a chief.

2 (c) The principal unit of a bureau is a section. Each  
3 section shall be headed by a supervisor."

4 NEW SECTION. Section 2. Department of institutions  
5 abolished. The department of institutions is abolished.

6 NEW SECTION. Section 3. Functions of department of  
7 institutions transferred to department of health and  
8 environmental sciences. (1) The following functions of the  
9 department of institutions and the director of the  
10 department of institutions are transferred to the department  
11 of health and environmental sciences and the director of the  
12 department of health and environmental sciences as defined  
13 in Title 2, chapter 15, part 21:

14 (a) treating developmentally disabled persons under  
15 Title 53, chapter 20, part 1;

16 (b) transferring funds by budget amendment for  
17 developmental disability systems under 53-20-214;

18 (c) relating to state-owned facilities under Title 53,  
19 chapter 20, part 5;

20 (d) treating mentally ill and aged persons under Title  
21 53, chapter 21;

22 (e) acting as administrator of the Interstate Compact  
23 on Mental Health under Title 53, chapter 22;

24 (f) treating alcoholic and intoxicated persons under  
25 Title 53, chapter 24;

1 institutions transferred to board of institutions. (1) The  
2 following functions of the department of institutions and  
3 the director of the department of institutions are  
4 transferred to the board of institutions as defined in  
5 [section 5]:

6 (a) relating to the Montana Youth Court Act in Title  
7 41, chapter 5;

8 (b) operating correctional institutions and facilities  
9 for adult and youthful offenders under Title 53, chapter 30;

10 (c) paying inquest costs relating to a death at the  
11 state prison under 7-4-2913;

12 (d) paying costs relating to the criminal prosecution  
13 of an offense committed in the state prison under 7-6-2427;

14 (e) advertising for bids before letting a contract  
15 under 18-2-301;

16 (f) relating to ensuring the accuracy of criminal  
17 history records under 44-5-213;

18 (g) relating to jurisdiction following revocation of a  
19 suspended or deferred sentence under 46-18-203;

20 (h) establishing and charging rates for room and board  
21 for persons committed to residential community correctional  
22 programs under 53-1-501;

23 (i) relating to participation by institutions in  
24 research programs under 53-1-206; and

25 (j) relating to probation, parole, and clemency under

1 Title 46, chapter 23.

2 (2) (a) Unless inconsistent with this act, any  
3 reference to the "department of institutions" or  
4 "department" (of institutions) in the sections listed in  
5 subsections (1)(a) through (1)(i) are changed to "board of  
6 institutions" or "board" (of institutions). The code  
7 commissioner shall conform internal references and grammar  
8 to these changes.

9 (b) Unless inconsistent with this act, any reference  
10 to the "department of institutions" or "department" (of  
11 institutions) in the chapter referred to in subsection  
12 (1)(j) are changed to "board of institutions". The code  
13 commissioner shall conform internal references and grammar  
14 to these changes.

15 (3) The governor may by executive order assign to the  
16 board of institutions in a manner consistent with this act  
17 functions allocated to the department of institutions by the  
18 48th legislature and not transferred by this act.

19 NEW SECTION. Section 5. Board of institutions --  
20 allocation -- composition -- terms. (1) There is a board of  
21 institutions.

22 (2) The board is allocated to the department of  
23 administration for administrative purposes only as  
24 prescribed in 2-15-121, except that the board may hire its  
25 own personnel and 2-15-121(2)(d) does not apply.

1 (3) The board is composed of five members appointed by  
2 the governor. No more than three of the members may be from  
3 the same congressional district or affiliated with the same  
4 political party.

5 (4) The appointment of each member is subject to the  
6 confirmation of the senate. However, the governor may  
7 appoint a member to assume office before the senate meets at  
8 its next regular session to consider the appointment. A  
9 member so appointed has all the powers of the office upon  
10 assuming that office and is a de jure officer,  
11 notwithstanding the fact that the senate has not yet  
12 confirmed the appointment. If the senate does not confirm  
13 the appointment of a member, the governor shall appoint a  
14 new member to serve for the remainder of the term.

15 (5) A vacancy must be filled in the same manner as  
16 regular appointments, and the member appointed to fill a  
17 vacancy shall serve for the unexpired term to which he is  
18 appointed.

19 (6) The members shall serve terms of 5 years.

20 NEW SECTION. Section 6. Officers of board --  
21 compensation. (1) The members of the board shall elect a  
22 chairman and other necessary officers.

23 (2) Board members are entitled to receive \$25 a day  
24 while attending meetings or in the discharge of other board  
25 duties. Members are also entitled to be reimbursed for

1 actual and necessary expenses as provided in 2-18-501  
2 through 2-18-503.

3 NEW SECTION. Section 7. Meetings -- quorum. (1) The  
4 board shall meet bimonthly and may hold additional meetings  
5 on the call of the chairman or at the request of any two  
6 board members.

7 (2) Three members constitute a quorum for the  
8 transaction of business.

9 NEW SECTION. Section 8. Powers and duties of board.  
10 The powers and duties of the board include but are not  
11 limited to:

12 (1) establishing the state's correctional policy;

13 (2) having control and supervision over the juvenile  
14 and adult correctional programs and institutions in the  
15 state;

16 (3) establishing general policies for the management  
17 of institutions and facilities under its jurisdiction; and

18 (4) consulting with and advising the governor on the  
19 management of these institutions and facilities.

20 NEW SECTION. Section 9. Institutions in board. The  
21 following institutions are under the control of the board:

22 (1) Montana state prison;

23 (2) Mountain View school;

24 (3) Pine Hills school;

25 (4) Swan River youth forest camp; and



(5) Any other institution that provides care and services for juvenile delinquents, including but not limited to youth forest camps and juvenile reception and evaluation centers.

Section 10. Section 2-15-211, MCA, is amended to read:

"2-15-211. Mental disabilities board of visitors -- composition -- allocation. (1) The governor shall appoint a mental disabilities board of visitors.

(2) The board shall consist of five persons representing but not limited to consumers, doctors of medicine, and the behavioral sciences, at least three of whom may not be professional persons and at least one of whom shall be a representative of an organization concerned with the care and welfare of the mentally ill and one representative of an organization concerned with the care and welfare of the mentally retarded or developmentally disabled. No one may be a member of the board who is a full-time agent or employee of the department of ~~institutions health and environmental sciences~~ or a mental health facility affected by Title 53, chapter 20, part 1, and chapter 21, part 1, except this prohibition does not affect any employee of a state college or university.

(3) The mental disabilities board of visitors shall be attached to the governor for administrative purposes. It may employ staff for the purpose of carrying out its duties

as set out in Title 53, chapter 20, part 1, and chapter 21, part 1."

Section 11. Section 2-15-2204, MCA, is amended to read:

"2-15-2204. Developmental disabilities planning and advisory council. (1) The governor shall appoint a developmental disabilities planning and advisory council in accordance with the provisions of this section.

(2) The council is composed of 22 members and consists of the following:

(a) the directors of the departments of social and rehabilitation services, and health and environmental sciences, ~~and institutions~~ or their designees;

(b) the superintendent of public instruction or a designee;

~~(c) the chairman of the board of institutions or his designee;~~

~~(d)~~ (d) one recognized private professional in each discipline of medicine, law, psychology, social work, and special education;

~~(e)~~ (e) two members of the state senate;

~~(f)~~ (f) two members of the state house of representatives;

~~(g)~~ (g) four consumers or representatives of consumers or consumer organizations in the discipline of developmental

1 disabilities; and

2 ~~(g)(h)~~ one member of each of the five regional  
3 councils provided for in 53-20-207, who shall also be  
4 consumers or representatives of consumers or consumer  
5 organizations in the discipline of developmental  
6 disabilities.

7 (3) (a) Each member or his designee who serves on the  
8 council pursuant to ~~subsection subsections (2)(a) or through~~  
9 ~~(2)(b)(c)~~ of this section shall serve for a term concurrent  
10 with his respective term as a director, ~~or the~~  
11 ~~superintendent of public instruction, or chairman of the~~  
12 ~~board of institutions,~~ as the case may be. Upon his removal  
13 from office, his or his designee's term as a member of the  
14 council is automatically terminated and his successor in  
15 office or his successor's designee is automatically a member  
16 of the council.

17 (b) Each member who serves on the council pursuant to  
18 subsection ~~(2)(d)(e)~~ or ~~(2)(e)(f)~~ of this section shall be  
19 appointed or reappointed annually by the governor.

20 (c) Eight of the members serving on the council  
21 pursuant to subsection ~~(2)(e)(d)~~, ~~(2)(f)(g)~~, or ~~(2)(g)(h)~~ of  
22 this section shall be appointed by the governor to serve for  
23 terms concurrent with the gubernatorial term and until their  
24 successors are appointed. The remaining six members serving  
25 on the council shall be appointed by the governor to serve

1 for terms ending on January 1 of the third year of the  
2 succeeding gubernatorial term and until their successors are  
3 appointed.

4 (4) The council is allocated to the department for  
5 administrative purposes only and, unless inconsistent with  
6 the provisions of this section and 53-20-206, the provisions  
7 of 2-15-121 apply."

8 Section 12. Section 2-15-2302, MCA, is amended to  
9 read:

10 "2-15-2302. Board of pardons -- composition --  
11 allocation -- quasi-judicial. (1) There is a board of  
12 pardons.

13 (2) The board consists of three members and an  
14 auxiliary member, at least one of whom shall have particular  
15 knowledge of Indian culture and problems. Members of the  
16 board, including the auxiliary member, shall possess  
17 academic training which has qualified them for professional  
18 practice in a field such as criminology, education,  
19 psychiatry, psychology, law, social work, sociology, or  
20 guidance and counseling. Related work experience in the  
21 areas listed may be substituted for these educational  
22 requirements.

23 (3) The auxiliary member shall attend any meeting that  
24 a regular board member is unable to attend, and at that time  
25 the auxiliary member has all the rights and responsibilities

1 of a regular board member.

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

6 (5) The board, including the auxiliary member, is  
7 designated as a quasi-judicial board for purposes of  
8 2-15-124, except board members shall be compensated as  
9 provided by legislative appropriation."

10 Section 13. Section 2-18-103, MCA, is amended to read:

11 "2-18-103. Officers and employees excepted. Parts 1  
12 and 2 do not apply to the following positions in state  
13 government:

- 14 (1) elected officials;
- 15 (2) county assessors and their chief deputy;
- 16 (3) officers and employees of the legislative branch;
- 17 (4) judges and employees of the judicial branch;
- 18 (5) members of boards and commissions appointed by the  
19 governor, appointed by the legislature, or appointed by  
20 other elected state officials;
- 21 (6) officers or members of the militia;
- 22 (7) agency heads appointed by the governor;
- 23 (8) academic and professional administrative personnel  
24 with individual contracts under the authority of the board  
25 of regents of higher education;

1 (9) academic and professional administrative personnel  
2 who have entered into individual contracts with the state  
3 school for the deaf and blind under the authority of the  
4 state board of public education;

5 (10) teachers under the authority of the department of  
6 health and environmental sciences and the board of  
7 institutions;

8 (11) investment officer and assistant investment  
9 officer of the board of investments; and

10 (12) four professional staff positions under the board  
11 of oil and gas conservation."

12 Section 14. Section 2-18-303, MCA, is amended to read:

13 "2-18-303. Procedures for utilizing pay schedules. (1)  
14 The pay schedules provided in [the adjusted schedules under]  
15 2-18-311 and 2-18-312 shall be implemented as follows:

16 (a) The pay schedule provided in [the adjusted  
17 schedule under] 2-18-311 indicates the annual compensation  
18 for the fiscal year ending June 30, 1982, for each grade and  
19 step for positions classified under the provisions of part 2  
20 of this chapter.

21 (b) The pay schedule provided in [the adjusted  
22 schedule under] 2-18-312 indicates the annual compensation  
23 for the fiscal year ending June 30, 1983, for each grade and  
24 step for positions classified under the provisions of part 2  
25 of this chapter.

(c) Each new employee shall advance from step 1 to step 2 of a grade after successfully completing 6 months of probationary service. The anniversary date of an employee shall be established at the end of the probationary period in accordance with rules promulgated by the department.

(d) (i) The compensation of each employee on the first day of the first pay period in fiscal year 1982 shall be that amount which corresponds to the grade and step occupied on the last day of the preceding fiscal year of 1981.

(ii) The compensation of each employee on the first day of the first pay period in fiscal year 1983 shall be that amount which corresponds to the grade and step occupied on the last day of the fiscal year 1982.

(iii) In compliance with rules adopted to implement this part, each employee is eligible on his anniversary date to advance one step in the pay matrix each fiscal year. However, if the employee's anniversary date falls between (inclusive) July 1 and the first day of the first pay period of fiscal year 1982 or 1983, as the case may be, he will advance one step on the first day of that pay period.

(2) The pay schedules provided in [the adjusted schedules under] 2-18-311 and 2-18-312 and the provisions of subsection (1) of this section do not apply to those institutional teachers, liquor store occupations, or blue-collar occupations compensated under the pay schedules

provided in [the adjusted schedules under] 2-18-313, 2-18-314, or 2-18-315.

(3) The pay schedules provided in [the adjusted schedules under] 2-18-313, 2-18-314, or 2-18-315 shall be implemented as follows:

(a) (i) The pay schedules provided in [the adjusted schedules under] 2-18-313 indicate the annual compensation for the contracted school term for teachers employed by institutions under the authority of the department of health and environmental sciences and the board of institutions for fiscal years 1982 and 1983.

(ii) The compensation of each teacher on the first day of the first pay period in July, 1981, shall be that amount which corresponds to his level of academic achievement and the next highest step from that occupied on June 30, 1981.

(iii) The compensation of each teacher on the first day of the first pay period in July, 1982, shall be that amount which corresponds to his level of achievement and the next highest step from that occupied on June 30, 1982.

(b) (i) The pay schedules provided in [the adjusted schedules under] 2-18-314 indicate the maximum hourly compensation for fiscal years ending June 30, 1982, and June 30, 1983, for those employees in liquor store occupations who have collectively bargained separate classification and pay plans.

1 (ii) The compensation of each employee on the first day  
2 of the first pay period in fiscal year 1982 or 1983, as the  
3 case may be, shall be that amount which corresponds to that  
4 grade occupied on the last day of the preceding fiscal year.

5 (c) (i) The pay schedules provided in [the adjusted  
6 schedules under] 2-18-315 indicate the maximum hourly  
7 compensation for fiscal years ending June 30, 1982, and June  
8 30, 1983, for employees in apprentice trades and crafts and  
9 other blue-collar occupations recognized in the state  
10 blue-collar classification plan who are members of units  
11 that have collectively bargained separate classification and  
12 pay plans.

13 (ii) The compensation of each employee on the first day  
14 of the first pay period in fiscal year 1982 or 1983, as the  
15 case may be, shall be that amount which corresponds to that  
16 grade occupied on the last day of the preceding fiscal year.

17 (4) (a) (i) No member of a bargaining unit may receive  
18 the amounts indicated in the respective pay schedules  
19 provided in [the adjusted schedules under] 2-18-311 through  
20 2-18-315 until the bargaining unit of which he is a member  
21 ratifies a completely integrated collective bargaining  
22 agreement covering the biennium ending June 30, 1983.

23 (ii) In the event that negotiation and ratification of  
24 a completely integrated collective bargaining agreement as  
25 required by subsection (4)(a)(i) of this section are not

1 completed by July 1, 1981, retroactivity to that date may be  
2 negotiated.

3 (iii) In the event that negotiation and ratification of  
4 a completely integrated collective bargaining agreement as  
5 required by subsection (4)(a)(i) of this section are not  
6 completed by July 1, 1981, members of the bargaining unit  
7 involved will continue to receive the compensation they were  
8 receiving as of June 30, 1981.

9 (b) Methods of administration not inconsistent with  
10 the purpose of this part and necessary to properly implement  
11 the pay schedules provided in [the adjusted schedules under]  
12 2-18-313 through 2-18-315 may be provided for in collective  
13 bargaining agreements.

14 (5) The current wage or salary of an employee shall  
15 not be reduced by the implementation of the pay schedules  
16 provided for in [the adjusted schedules under] 2-18-311  
17 through 2-18-315.

18 (6) The department may authorize a separate pay  
19 schedule for medical doctors if the rates provided in [the  
20 adjusted schedules under] 2-18-311 and 2-18-312 are not  
21 sufficient to attract and retain fully licensed and  
22 qualified physicians at the state institutions.

23 (7) The department may develop programs which will  
24 enable the department to mitigate problems associated with  
25 difficult recruitment, retention, transfer, or other

exceptional circumstances. Insofar as the program may apply to employees within a collective bargaining unit, it shall be a negotiable subject under 39-31-305."

Section 15. Section 17-3-1001, MCA, is amended to read:

"17-3-1001. State institutions which may take by gift, bequest, or grant. (1) The state of Montana, units of the Montana university system, the Montana school for the deaf and blind, all institutions in the department of health and environmental sciences and the board of institutions, and any institutions now created or established or which may hereafter be created or established and supported in whole or in part by the state for any purpose may accept gifts, donations, grants, devises, or bequests of real or personal property from any source. Gifts, donations, grants, bequests, or devises may be made directly to the state, in the name of any of the institutions, to any officer or board of the institutions, or to any person in trust for the institutions.

(2) In the event it is made directly to any institution or to any officer or board of any institution, the gift, donation, grant, devise, or bequest is a gift, donation, grant, devise, or bequest to the state and shall be administered and used by the state for the particular purpose for which it was given, donated, granted,

bequeathed, or devised. In the event no particular purpose is mentioned in the gift, grant, devise, or bequest, then it shall be used for the general support, maintenance, or improvement of such institution by the state."

Section 16. Section 17-3-1002, MCA, is amended to read:

"17-3-1002. Persons who may make gifts to state institutions. (1) A donation, gift, grant, bequest, devise, or testamentary disposition of property, real or personal, may be made by any person over the age of 18 years and of sound mind to the state, a unit of the Montana university system, the state school for deaf and blind, an institution in the department of health and environmental sciences or the board of institutions, and any and all institutions now created or established or which may hereafter be created or established and supported, in whole or in part, by the state for any purpose. Any person, corporation, or association of persons may make any gift, donation, or grant of property, real or personal, to the state, or to any of the institutions above-named or referred to.

(2) In the event any gift, donation, grant, devise, or bequest shall be made to any such institution or to any officer or board of any such institution, the same shall be construed as a gift, donation, grant, devise, or bequest to the state and shall be administered and used for the state

for the particular purpose for which the same was given, donated, granted, bequeathed, or devised. In the event no particular purpose is mentioned in such gift, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of such institution by the state."

Section 17. Section 18-4-104, MCA, is amended to read:

"18-4-104. Purchases exempt from general requirements.

(1) Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as provided in this chapter. The department may allow a state agency or institution to purchase fresh fruits and vegetables. An itemized account shall be kept of these purchases and the account shall be furnished to the department.

(2) Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which the articles are usually bought and sold or the services engaged between individuals but under the direction of the department.

(3) The department of administration may exempt the department of health and environmental sciences and the board of institutions from the provisions of part 2 of this chapter for the purchase of suitable clothing by the

department of health and environmental sciences and the board of institutions for residents of its institutions and community-based programs.

(4) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community."

Section 18. Section 20-7-404, MCA, is amended to read:

"20-7-404. Cooperation of state agencies. The state department of health and environmental sciences, the ~~department board~~ of institutions, the department of social and rehabilitation services, and the state school for the deaf and blind shall cooperate with the superintendent of public instruction in assisting school districts in discovering children in need of special education. Nothing herein shall be construed to interfere with the purpose and function of these state agencies."

Section 19. Section 20-7-422, MCA, is amended to read:

"20-7-422. Out-of-state tuition for special education children. (1) If the trustees of any district recommend to the superintendent of public instruction the attendance of a child in need of special education in a special education program offered outside of the state of Montana, such arrangements shall not be subject to the out-of-state attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

1 (2) Whenever the attendance of a child at an  
 2 out-of-state special education program is approved by the  
 3 superintendent of public instruction, it shall be the  
 4 responsibility of the superintendent of public instruction,  
 5 in cooperation with the department of social and  
 6 rehabilitation services, ~~and the department of health and~~  
 7 ~~environmental sciences, and the board of~~ institutions, to  
 8 negotiate the program for the child and the amount and  
 9 manner of payment of tuition. The amount of tuition shall be  
 10 included as a contracted service in 20-7-431(1)(a){iii}(A)  
 11 in the maximum-budget-without-a-vote for special education."

12 Section 20. Section 20-9-304, MCA, is amended to read:

13 "20-9-304. Eligibility for and payment of state impact  
 14 aid. Any district which shall have children of employees of  
 15 a public institution may be eligible for state impact aid  
 16 under the following provisions:

17 (1) An "employee" means an employee of a public  
 18 institution under the administration of the department of  
 19 ~~institutions health and environmental sciences~~, as defined  
 20 in 53-1-202, ~~or under the administration of the board of~~  
 21 ~~institutions, as defined in [section 5]~~, who resides on the  
 22 property of such a public institution.

23 (2) A school district shall receive annually from  
 24 moneys available for state equalization aid \$150 for each  
 25 elementary pupil and \$250 for each high school pupil whose

1 parents are employees of an institution located in the  
 2 school district where the pupil attends school or in a  
 3 school district which has a tuition agreement with the  
 4 district where the pupil attends school.

5 (3) A district which is eligible for state impact aid  
 6 shall apply for such aid to the superintendent of public  
 7 instruction in the manner prescribed by the rules prescribed  
 8 by the superintendent of public instruction.

9 (4) The distribution of state impact aid shall be  
 10 deposited in the general fund of the district and shall not  
 11 be considered as a part of the state equalization aid but  
 12 shall be used to reduce the property tax in support of the  
 13 general fund of the district."

14 Section 21. Section 41-5-103, MCA, is amended to read:

15 "41-5-103. Definitions. For the purposes of the  
 16 Montana Youth Court Act, unless otherwise stated the  
 17 following definitions apply:

18 (1) "Adult" means an individual who is 18 years of age  
 19 or older.

20 (2) "Agency" means the department board of  
 21 institutions, the department of social and rehabilitation  
 22 services, and any division or department of either.

23 (3) "Commit" means to transfer to legal custody.

24 (4) "Court", when used without further qualification,  
 25 means the youth court of the district court.



1 (5) "Foster home" means a private residence approved  
2 by the court for placement of a youth.

3 (6) "Guardianship" means the status created and  
4 defined by law between a youth and an adult with the  
5 reciprocal rights, duties, and responsibilities.

6 (7) "Judge", when used without further qualification,  
7 means the judge of the youth court.

8 (8) (a) "Legal custody" means the legal status created  
9 by order of a court of competent jurisdiction that gives a  
10 person the right and duty to:

11 (i) have physical custody of the youth;

12 (ii) determine with whom the youth shall live and for  
13 what period;

14 (iii) protect, train, and discipline the youth; and

15 (iv) provide the youth with food, shelter, education,  
16 and ordinary medical care.

17 (b) An individual granted legal custody of a youth  
18 shall personally exercise his rights and duties as guardian  
19 unless otherwise authorized by the court entering the order.

20 (9) "Parent" means the natural or adoptive parent but  
21 does not include a person whose parental rights have been  
22 judicially terminated, nor does it include the putative  
23 father of an illegitimate youth unless his paternity is  
24 established by an adjudication or by other clear and  
25 convincing proof.

1 (10) "Youth" means an individual who is less than 18  
2 years of age without regard to sex or emancipation.

3 (11) "Youth court" means the court established pursuant  
4 to this chapter to hear all proceedings in which a youth is  
5 alleged to be a delinquent youth, a youth in need of  
6 supervision, or a youth in need of care and includes the  
7 youth court, the judge, and probation officers.

8 (12) "Delinquent youth" means a youth:

9 (a) who has committed an offense which, if committed  
10 by an adult, would constitute a criminal offense;

11 (b) who, having been placed on probation as a  
12 delinquent youth or a youth in need of supervision, violates  
13 any condition of his probation.

14 (13) "Youth in need of supervision" means a youth who  
15 commits an offense prohibited by law which, if committed by  
16 an adult, would not constitute a criminal offense, including  
17 but not limited to a youth who:

18 (a) violates any Montana municipal or state law  
19 regarding use of alcoholic beverages by minors;

20 (b) habitually disobeys the reasonable and lawful  
21 demands of his parents or guardian or is ungovernable and  
22 beyond their control;

23 (c) being subject to compulsory school attendance, is  
24 habitually truant from school; or

25 (d) has committed any of the acts of a delinquent

1 youth but whom the youth court in its discretion chooses to  
2 regard as a youth in need of supervision.

3 (14) "Youth in need of care" means a youth as defined  
4 in 41-3-102.

5 (15) "Custodian" means a person other than a parent or  
6 guardian to whom legal custody of the youth has been given  
7 but does not include a person who has only physical custody.

8 (16) "Necessary parties" include the youth, his  
9 parents, guardian, custodian, or spouse.

10 (17) "State youth correctional facility" means a  
11 residential facility for the rehabilitation of delinquent  
12 youth such as Pine Hills school in Miles City, and Mountain  
13 View school in Helena, and Swan River youth forest camp.

14 (18) "Shelter care" means the temporary care of youth  
15 in physically unrestricting facilities.

16 (19) "Detention" means the temporary care of youth in  
17 physically restricting facilities.

18 (20) "District youth guidance home" means a  
19 family-oriented residence established in a judicial district  
20 of the state of Montana as an alternative to existing state  
21 youth correctional facilities, the function of which is to  
22 provide a home and guidance through adult supervision for  
23 delinquent youths and youths in need of supervision.

24 (21) "Restitution" means payments in cash to the victim  
25 or with services to the victim or the general community when

1 these payments are made under the jurisdiction of a youth  
2 court proceeding."

3 Section 22. Section 41-5-206, MCA, is amended to read:

4 "41-5-206. Transfer to criminal court. (1) After a  
5 petition has been filed alleging delinquency, the court may,  
6 upon motion of the county attorney, before hearing the  
7 petition on its merits, transfer the matter of prosecution  
8 to the district court if:

9 (a) the youth charged was 16 years of age or more at  
10 the time of the conduct alleged to be unlawful and the  
11 unlawful act is one or more of the following:

12 (i) criminal homicide as defined in 45-5-101;

13 (ii) arson as defined in 45-6-103;

14 (iii) aggravated assault as defined in 45-5-202;

15 (iv) robbery as defined in 45-5-401;

16 (v) burglary or aggravated burglary as defined in  
17 45-6-204;

18 (vi) sexual intercourse without consent as defined in  
19 45-5-503;

20 (vii) aggravated kidnapping as defined in 45-5-303;

21 (viii) possession of explosives as defined in 45-8-335;

22 (ix) criminal sale of dangerous drugs for profit as  
23 included in 45-9-101;

24 (x) attempt as defined in 45-4-103 of any of the acts  
25 enumerated in subsections (1)(a)(i) through (1)(a)(ix);

1 (b) a hearing on whether the transfer should be made  
2 is held in conformity with the rules on a hearing on a  
3 petition alleging delinquency, except that the hearing will  
4 be to the youth court without a jury;

5 (c) notice in writing of the time, place, and purpose  
6 of the hearing is given to the youth, his counsel, and his  
7 parents, guardian, or custodian at least 10 days before the  
8 hearing; and

9 (d) the court finds upon the hearing of all relevant  
10 evidence that there are reasonable grounds to believe that:

11 (i) the youth committed the delinquent act alleged;

12 (ii) the seriousness of the offense and the protection  
13 of the community require treatment of the youth beyond that  
14 afforded by juvenile facilities; and

15 (iii) the alleged offense was committed in an  
16 aggressive, violent, or premeditated manner.

17 (2) In transferring the matter of prosecution to the  
18 district court, the court may also consider the following  
19 factors:

20 (a) the sophistication and maturity of the youth,  
21 determined by consideration of his home, environmental  
22 situation, and emotional attitude and pattern of living;

23 (b) the record and previous history of the youth,  
24 including previous contacts with the youth court, law  
25 enforcement agencies, youth courts in other jurisdictions,

1 prior periods of probation, and prior commitments to  
2 juvenile institutions. However, lack of a prior juvenile  
3 history with youth courts will not of itself be grounds for  
4 denying the transfer.

5 (c) the severity of the offense;

6 (d) the prospects for adequate protection of the  
7 public and the likelihood of reasonable rehabilitation of  
8 the youth by the use of procedures, services, and facilities  
9 currently available to the youth court.

10 (3) Upon transfer to district court, the judge shall  
11 make written findings of the reasons why the jurisdiction of  
12 the court was waived and the case transferred to district  
13 court.

14 (4) The transfer terminates the jurisdiction of the  
15 court over the youth with respect to the acts alleged in the  
16 petition. No youth may be prosecuted in the district court  
17 for a criminal offense originally subject to the  
18 jurisdiction of the youth court unless the case has been  
19 transferred as provided in this section.

20 (5) Upon order of the court transferring the case to  
21 the district court, the county attorney shall file the  
22 information against the youth without unreasonable delay.

23 (6) Any offense not enumerated in subsection (1)(a)  
24 that arises during the commission of a crime enumerated in  
25 subsection (1)(a) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1)(a), upon motion of the county attorney and acceptance by the district court judge.

(7) If a youth is found guilty in district court of any of the offenses enumerated in subsection (1)(a) of this section and is sentenced to the state prison, his commitment shall be to the ~~department~~ board of institutions, which shall confine the youth in whatever institution under its jurisdiction that it considers proper."

Section 23. Section 41-5-523, MCA, is amended to read:

"41-5-523. Disposition of delinquent youth and youth in need of supervision. (1) If a youth is found to be delinquent or in need of supervision, the court may enter its judgment making the following disposition:

(a) place the youth on probation;

(b) place in a licensed foster home or a home approved by the court;

(c) place the youth in a private agency responsible for the care and rehabilitation of such a youth, including but not limited to a district youth guidance home;

(d) transfer legal custody to the ~~department~~ board of institutions; provided, however, that in the case of a youth in need of supervision, such transfer of custody does not authorize the ~~department~~ board of institutions to place the

youth in a state youth correctional facility and such custody may not continue for a period of more than 6 months without a subsequent court order after notice and hearing;

(e) such further care and treatment or evaluation that the court considers beneficial to the youth, consistent with subsection (1)(d) of this section;

(f) order restitution by the youth.

(2) At any time after the youth has been taken into custody, the court may, with the consent of the youth in the manner provided in 41-5-303 for consent by a youth to waiver of his constitutional rights or after the youth has been adjudicated delinquent or in need of supervision:

(a) order the youth to be evaluated by the ~~department~~ board of institutions for a period not to exceed 45 days of evaluation at a reception and evaluation center for youths; or

(b) in the case of a delinquent youth 16 years or older whom the court considers a suitable person for placement at a youth forest camp, notify the ~~director-of-the~~ department board of institutions of the finding. The ~~director-of-the-department~~ board of institutions shall then designate to the court the facility to which the youth shall be delivered for evaluation. The court may then commit the youth to the ~~department~~ board of institutions for a period not to exceed 45 days for the purpose of evaluation as to

1 the youth's suitability for placement and order the youth  
 2 delivered for evaluation to the youth facility designated by  
 3 the ~~director~~ board. If after the evaluation the ~~department~~  
 4 board of institutions reports to the court that such child  
 5 is suitable for placement in a youth forest camp and if  
 6 there is space available at a camp, the court may then  
 7 commit such child directly to the youth forest camp under  
 8 the terms of commitment of this chapter. If the ~~department~~  
 9 board of institutions reports and states the reasons to the  
 10 court why the youth is not suitable for placement, the youth  
 11 shall be returned to the court for such further disposition  
 12 as the court may consider advisable under the provisions of  
 13 this chapter. The costs of transporting the youth to the  
 14 designated youth facility for evaluation and cost of  
 15 returning the youth to the court shall be borne by the  
 16 county of residence of the youth.

17 (3) No youth may be committed or transferred to a  
 18 penal institution or other facility used for the execution  
 19 of sentence of adult persons convicted of crimes except as  
 20 provided by subsection (2)(b).

21 (4) Any order of the court may be modified at any  
 22 time.

23 (5) Whenever the court vests legal custody in an  
 24 agency, institution, or department, it must transmit with  
 25 the dispositional judgment copies of a medical report and

1 such other clinical, predisposition, or other reports and  
 2 information pertinent to the care and treatment of the  
 3 youth.

4 (6) The order of commitment to the ~~department~~ board of  
 5 institutions shall read as follows:

6 ORDER OF COMMITMENT

7 State of Montana )

8 ) ss.

9 County of ..... )

10 In the district court for the .... Judicial District.

11 On the .... day of ....., 19..., ....., a minor of this  
 12 county, .... years of age, was brought before me charged  
 13 with ....., Upon due proof I find that .... is a suitable  
 14 person to be committed to the ~~department~~ board of  
 15 institutions.

16 It is ordered that .... be committed to the ~~department~~  
 17 board of institutions until .....

18 The names, addresses, and occupations of the parents  
 19 are:

20 Name	Address	Occupation
21 .....	.....	.....
22 .....	.....	.....

23 The names and addresses of their nearest relatives are:

24 .....	.....
25 .....	.....

Witness my hand this .... day of ....., A.D. 19...

.....

Judge"

Section 24. Section 41-5-902, MCA, is amended to read:

"41-5-902. Rules. The ~~director-of-the-department board~~ of institutions may adopt reasonable rules and standards to carry out the administration and purposes of this part."

Section 25. Section 44-5-202, MCA, is amended to read:

"44-5-202. Photographs and fingerprints. (1) The following agencies may, if authorized by subsections (2) through (5), collect, process, and preserve photographs and fingerprints:

(a) any criminal justice agency performing, under law, the functions of a police department or a sheriff's office, or both;

(b) the ~~department board~~ of institutions; and

(c) the department of justice.

(2) The ~~department board~~ of institutions may photograph and fingerprint anyone who is committed to an institution or program under the jurisdiction of the ~~division-of-corrections-or-its-successor board~~.

(3) A criminal justice agency described in subsection (1)(a) shall photograph and fingerprint a person who has been arrested or noticed or summoned to appear to answer an information or indictment if:

(a) the charge is the commission of a felony;

(b) the identification of an accused is in issue; or

(c) it is required to do so by court order.

(4) Whenever a person charged with the commission of a felony is not arrested, he shall submit himself to the sheriff, chief of police, or other concerned law enforcement officer for fingerprinting at the time of his initial appearance in court to answer the information or indictment against him.

(5) A criminal justice agency described in subsection (1)(a) may photograph and fingerprint an accused if he has been arrested for the commission of a misdemeanor, except that an individual arrested for a traffic, regulatory, or fish and game offense may not be photographed or fingerprinted unless he is incarcerated.

(6) Within 10 days the originating agency shall send the state repository a copy of each fingerprint taken on a completed form provided by the state repository.

(7) The state repository shall compare the fingerprints received with those already on file in the state repository. If it is determined that the individual is wanted or is a fugitive from justice, the state repository shall at once inform the originating agency. If it is determined that the individual has a criminal record, the state repository shall send the originating agency a copy of

1 the individual's complete criminal history record.

2 (8) Photographs and fingerprints taken shall be  
 3 returned by the state repository to the originating agency,  
 4 which shall return all copies to the individual from whom  
 5 they were taken:

6 (a) if a court so orders; or  
 7 (a) upon the request of the individual:  
 8 (i) if no charges were filed;  
 9 (ii) if a misdemeanor charge did not result in a  
 10 conviction; or  
 11 (iii) if the individual was found innocent of the  
 12 offense charged."

13 Section 26. Section 46-19-202, MCA, is amended to  
 14 read:

15 "46-19-202. Proceedings following determination  
 16 regarding fitness. (1) If it is found that defendant is  
 17 mentally fit as provided in 46-19-201, the sheriff must  
 18 execute the judgment.

19 (2) If it is found that he lacks fitness, the  
 20 execution of judgment must be suspended and the court shall  
 21 commit him to the custody of the superintendent of Warm  
 22 Springs state hospital to be placed in an appropriate  
 23 institution of the department of health and environmental  
 24 sciences or the board of institutions for so long as the  
 25 lack of fitness endures.

1 (3) When the court, on its own motion or upon  
 2 application of the superintendent of Warm Springs state  
 3 hospital, the county prosecuting officer, or the defendant  
 4 or his legal representative, determines after a hearing, if  
 5 a hearing is requested, that the defendant has regained  
 6 fitness to proceed, the sheriff shall be directed by the  
 7 court to carry out the execution. If, however, the court is  
 8 of the view that so much time has elapsed since the  
 9 commitment of the defendant that it would be unjust to  
 10 proceed with execution of the sentence, the court may  
 11 suspend the execution of the sentence and may order the  
 12 defendant to be discharged."

13 Section 27. Section 46-19-303, MCA, is amended to  
 14 read:

15 "46-19-303. Power of governor to enter into contracts.  
 16 The governor is hereby empowered to designate the department  
 17 of health and environmental sciences and the board of  
 18 institutions to enter into such contracts recommended by the  
 19 department and board on behalf of this state as may be  
 20 appropriate to implement the participation of this state in  
 21 the Western Interstate Corrections Compact pursuant to  
 22 46-19-301."

23 Section 28. Section 46-19-305, MCA, is amended to  
 24 read:

25 "46-19-305. Hearings requested by other states. The

1 board of pardons, ~~and the department of health and~~  
 2 ~~environmental sciences, and the board~~ of institutions shall  
 3 hold such hearings as may be requested by any other party  
 4 state pursuant to Article IV(6) of the Western Interstate  
 5 Corrections Compact."

6 Section 29. Section 46-23-103, MCA, is amended to  
 7 read:

8 "46-23-103. Definitions. Unless the context requires  
 9 otherwise, in this chapter the following definitions apply:

10 (1) "Board" means the board of pardons provided for in  
 11 2-15-2302.

12 ~~(2) "Department" means the department of institutions~~  
 13 ~~provided for in Title 2, chapter 15, part 23.~~

14 ~~(3)(2)~~ "Executive clemency" refers to the powers of  
 15 the governor as provided by section 12 of Article VI of the  
 16 constitution of Montana.

17 ~~(4)(3)~~ "Parole" means the release to the community of  
 18 a prisoner by the decision of the board of pardons prior to  
 19 the expiration of his term, subject to conditions imposed by  
 20 the board and subject to supervision of the department board  
 21 of institutions."

22 Section 30. Section 46-23-401, MCA, is amended to  
 23 read:

24 "46-23-401. Definitions. Unless the context requires  
 25 otherwise, in this part the following definitions apply:

1 (1) "Applicant" means any prisoner who is eligible  
 2 under 46-23-411 and who signs an application to participate  
 3 in the supervised release program.

4 (2) "Board" means the board of pardons provided for in  
 5 2-15-2302.

6 ~~(3) "Department" means the department of institutions~~  
 7 ~~provided for in 2-15-2302.~~

8 ~~(4)(3)~~ "Prisoner" means a person sentenced by a state  
 9 district court to a term of confinement in the state prison.

10 ~~(5)(4)~~ "State prison" means the Montana state prison  
 11 at Deer Lodge or any adult correctional facility designated  
 12 by the department board of institutions.

13 ~~(6)(5)~~ "Sponsor" means any federal, state, county,  
 14 local, or private agency, Indian tribe and reservation, or  
 15 any person, group, association, or organization approved by  
 16 the department board of institutions to undertake the  
 17 supervision of prisoners participating in the supervised  
 18 release program.

19 ~~(7)(6)~~ "Supervising agent" means a probation and  
 20 parole officer of the department board of institutions."

21 Section 31. Section 46-23-1001, MCA, is amended to  
 22 read:

23 "46-23-1001. Definitions. As used in this part, unless  
 24 the context requires otherwise, the following definitions  
 25 apply:



(1) "Board" means the board of pardons provided for in 2-15-2302.

~~(2) "Department" means the department of institutions provided for in Title 2, chapter 15, part 23.~~

~~(3)~~ (2) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of his term, subject to conditions imposed by the board and subject to supervision of the department board of institutions.

~~(4)~~ (3) "Probation" means the release by the court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department board of institutions upon direction of the court."

Section 32. Section 50-1-202, MCA, is amended to read:

"50-1-202. General powers and duties. The department shall:

(1) study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(2) make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(3) at the request of the governor, administer any federal health program for which responsibilities are

delegated to states;

(4) inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary and at other times on request of the governor;

(5) after each inspection made under subsection (4) of this section, submit a written report on sanitary conditions to the governor and to the ~~director of institutions superintendents of those institutions under the department's jurisdiction, the board of institutions,~~ or commissioner of higher education and include recommendations for improvement in conditions if necessary;

(6) advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;

(7) organize laboratory services and provide equipment and personnel for those services;

(8) develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;

(9) develop and administer a program to protect the health of mothers and children;

(10) conduct health education programs;

(11) provide consultation to school and local community

1 health nurses in the performance of their duties;  
 2 (12) consult with the superintendent of public  
 3 instruction on health measures for schools;  
 4 (13) develop and administer a program for services to  
 5 handicapped children including diagnosis, medical, surgical,  
 6 and corrective treatment, and after-care and related  
 7 services;  
 8 (14) provide consultation to local boards of health;  
 9 (15) bring actions in court for the enforcement of the  
 10 health laws and defend actions brought against the board or  
 11 department;  
 12 (16) accept and expend federal funds available for  
 13 public health services;  
 14 (17) have the power to use personnel of local  
 15 departments of health to assist in the administration of  
 16 laws relating to public health;  
 17 (18) adopt rules imposing fees for the tests and  
 18 services performed by the laboratory of the department. In  
 19 adopting a rule imposing fees, the department may establish  
 20 only a fee that will reimburse the department for the costs  
 21 incurred in performing tests and services. All fees shall be  
 22 deposited in the general fund.  
 23 (19) adopt and enforce rules regarding the definition  
 24 of communicable diseases and the reporting and control of  
 25 communicable diseases; and

1 (20) adopt and enforce rules regarding the  
 2 transportation of dead human bodies.\*  
 3 Section 33. Section 50-3-102, MCA, is amended to read:  
 4 "50-3-102. Powers and duties of state fire marshal.  
 5 (1) For the purpose of reducing the state's fire loss, the  
 6 state fire marshal shall:  
 7 (a) make at least one inspection a year of each state  
 8 institution under the control of the department of health  
 9 and environmental sciences and submit a copy of the report  
 10 to the department ~~of institutions~~ with recommendations in  
 11 regard to fire prevention, fire protection, and public  
 12 safety;  
 13 ~~(b) make at least one inspection a year of each state~~  
 14 ~~institution under the control of the board of institutions~~  
 15 ~~and submit a copy of the report to the board with~~  
 16 ~~recommendations in regard to fire prevention, fire~~  
 17 ~~protection, and public safety;~~  
 18 ~~(b)(c)~~ make at least one inspection a year of each  
 19 unit of the Montana university system and submit a copy of  
 20 the report to the commissioner of higher education with  
 21 recommendations in regard to fire prevention, fire  
 22 protection, and public safety;  
 23 ~~(e)(d)~~ inspect public, business, or industrial  
 24 buildings and require conformance to law and rules  
 25 promulgated under the provisions of this chapter;

1        ~~(d)~~(e) assist local fire and law enforcement  
2 authorities in arson investigations and supervise such  
3 investigations when, in his judgment, supervision is  
4 necessary;

5        ~~(e)~~(f) review all training programs on investigation  
6 of accidental and incendiary fires;

7        ~~(f)~~(g) provide fire prevention and fire protection  
8 information to public officials and the general public;

9        ~~(g)~~(h) encourage and assist local fire authorities in  
10 fire prevention programs and adopt standards and implement a  
11 program to encourage fire departments to meet such  
12 standards;

13        ~~(h)~~(i) be the state entity primarily responsible for  
14 promoting fire safety at the state level and to represent  
15 the state in structural fire matters;

16        ~~(i)~~(j) encourage coordination of all services and  
17 agencies in structural fire matters to reduce duplication  
18 and fill voids in services;

19        ~~(j)~~(k) establish rules concerning responsibilities and  
20 procedures to be followed when there is a threat of  
21 explosive material in a building housing state offices;

22        ~~(k)~~(l) keep in his office a record of all fires  
23 occurring in the state, the origin of the fires, and all  
24 facts, statistics, and circumstances relating thereto which  
25 have been determined by investigations under the provisions

1 of chapter 63 of this title; and, except for statements of  
2 witnesses given during an investigation and information that  
3 may be held in confidence under 50-63-403, the record shall  
4 be open at all times to public inspection; and

5        ~~(l)~~(m) make an annual report to the attorney general  
6 containing a detailed statement of his official action and  
7 the transactions of his department, and the attorney general  
8 shall, in turn, submit the report to the governor with such  
9 recommendations and comments thereon as he considers  
10 necessary.

11        (2) The state fire marshal may:

12        (a) adopt rules necessary for safeguarding life and  
13 property from the hazards of fire and explosion and carrying  
14 into effect the fire prevention laws of this state; and

15        (b) if necessary to safeguard life and property under  
16 rules promulgated pursuant to this section, maintain an  
17 action to enjoin the use of all or a portion of a building  
18 or restrain a specific activity until there is compliance  
19 with the rules."

20        Section 34. Section 50-21-103, MCA, is amended to  
21 read:

22        "50-21-103. Limitations on right to perform autopsy or  
23 dissection. The right to perform an autopsy, dissect a human  
24 body, or make any post-mortem examination involving  
25 dissection of any part of a body is limited to cases where:

(1) specifically authorized by law;

(2) a coroner is authorized to hold an inquest and then only to the extent that the coroner may authorize dissection or autopsy;

(3) authorized by a written statement of the deceased, whether the statement is of a testamentary character or otherwise;

(4) authorized by the husband, wife, or next of kin responsible by law for burial to determine the cause of death and then only to the extent so authorized;

(5) the decedent died in a hospital operated by the United States veterans administration, ~~the Montana school for the deaf and blind, or an institution in the department of health and environmental sciences or the board of~~ institutions leaving no surviving husband, wife, or next of kin responsible by law for burial and the manager or superintendent of the hospital or institution where death occurred obtains authority on order of the district court to determine the cause of death and then only to the extent authorized by court order;

(6) the decedent died in the state, was a resident, but left no surviving husband, wife, or next of kin charged by law with the duty of burial and the attending physician obtains authority on order of the district court for the purpose of ascertaining the cause of death and then only to

the extent authorized by court order after it has been shown that the physician made diligent search for the next of kin responsible by law for burial."

Section 35. Section 53-1-101, MCA, is amended to read:

"53-1-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Board" means the board of institutions provided for in [section 5].

~~(1)(2)~~ "Department" means the department of institutions health and environmental sciences provided for in Title 2, chapter 15, part 23 ~~21~~.

~~(2)(3)~~ "Director" means the director of institutions the department of health and environmental sciences provided for in ~~2-15-2301~~ 2-15-2102.

~~(3) "Institution" means any of the institutions listed in 53-1-202."~~

Section 36. Section 53-1-201, MCA, is amended to read:

"53-1-201. Purpose of department. The department shall utilize at maximum efficiency the resources of state government in a coordinated effort to:

(1) restore the physically or mentally disabled;

~~(2) rehabilitate the violators of law;~~

~~(3)(2)~~ sustain the vigor and dignity of the aged;

~~(4) provide for children in need of temporary protection or correctional counseling;~~

~~(5)(3)~~ train children of limited mental capacity to their best potential;

~~(6)(4)~~ rededicate the resources of the state to the productive independence of its now dependent citizens; and

~~(7)(5)~~ coordinate and apply the principles of modern institutional administration to the institutions of the state under its jurisdiction."

Section 37. Section 53-1-202, MCA, is amended to read:

"53-1-202. Institutions in department. (1) The

following institutions are in the department:

(a) Galen state hospital;

(b) Montana veterans' home;

~~(c) State prison;~~

~~(d) Mountain View school;~~

~~(e) Pine Hills school;~~

~~(f)(c)~~ Boulder River school and hospital;

~~(g)(d)~~ Warm Springs state hospital;

~~(h)(e)~~ Montana center for the aged;

~~(i) Swan River youth forest camp;~~

~~(j)(f)~~ Eastmont training center;

~~(k) Any other institution which provides care and services for juvenile delinquents, including but not limited to youth forest camps and juvenile reception and evaluation centers.~~

(2) A state institution may not be moved,

discontinued, or abandoned without prior consent of the legislature."

Section 38. Section 53-1-203, MCA, is amended to read:

"53-1-203. Powers and duties of department. The department shall:

(1) adopt rules for the admission, custody, transfer, and release of residents of institutions under its jurisdiction except as otherwise provided by law; however, no such rules may amend or alter the statutory powers and duties of the state board of pardons;

(2) subject to the functions of the department of administration, lease or purchase lands for use by institutions under its jurisdiction and classify those lands to determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in the institutions;

~~(3) contract with private nonprofit Montana corporations to establish and maintain community-based prerelease centers for purposes of preparing inmates of the Montana state prison who are approaching parole eligibility or discharge for release into the community; the centers shall provide a less restrictive environment than the prison~~

1 while maintaining adequate security, the centers shall be  
 2 operated in coordination with other department correctional  
 3 programs, including the supervised release program provided  
 4 for in Title 46, chapter 23, part 4. Nothing in this  
 5 subsection shall affect the department's authority to  
 6 operate and maintain community-based prerelease centers in  
 7 existence on July 14, 1982.

8 (4)(3) utilize the staff and services of other state  
 9 agencies and units of the Montana university system, within  
 10 their respective statutory functions, to carry out its  
 11 functions under this title;

12 (5)(4) propose programs to the legislature to meet the  
 13 projected long-range needs of institutions under its  
 14 jurisdiction, including programs and facilities for the  
 15 diagnosis, treatment, care, and aftercare of persons placed  
 16 in institutions; and

17 (6)(5) encourage the establishment of programs at the  
 18 local level for the prevention and rehabilitation of  
 19 physical and mental disability."

20 Section 39. Section 53-1-204, MCA, is amended to read:

21 "53-1-204. Responsibility of warden and  
 22 superintendents of institutions. The warden or and the  
 23 superintendents of institutions in the department and the  
 24 board are responsible for the immediate management and  
 25 control of their respective institutions, ~~subject to the~~

1 general policies and programs established by the department  
 2 and shall communicate directly with the governor on matters  
 3 concerning the operation of the institutions."

4 Section 40. Section 53-1-301, MCA, is amended to read:

5 "53-1-301. Permitted institutional industries, powers  
 6 of department, and == incentive pay to inmates. The Both the  
 7 department and the board may:

8 (1) establish industries in institutions under their  
 9 jurisdiction which will result in the production or  
 10 manufacture of such products and the rendering of such  
 11 services as may be needed by any department or agency of the  
 12 state or any political subdivision thereof, by any agency of  
 13 the federal government, by any other states or their  
 14 political subdivisions, or by nonprofit organizations and  
 15 that will assist in the rehabilitation of residents in  
 16 institutions;

17 (2) contract with private industry for the sale of  
 18 goods or components manufactured or produced in shops under  
 19 its their jurisdiction;

20 (3) print catalogs describing goods manufactured or  
 21 produced by institutions and distribute the catalogs;

22 (4) fix the sale price for goods produced or  
 23 manufactured at institutions. Prices shall not exceed prices  
 24 existing in the open market for goods of comparable quality.

25 (5) require institutions under their jurisdiction to

1 purchase needed goods from other institutions;

2 (6) provide for the repair and maintenance of property

3 and equipment of institutions by residents of institutions;

4 (7) provide for construction projects up to the

5 aggregate sum of \$25,000 per project, by residents of

6 institutions; provided, however, said construction work is

7 not covered by a collective bargaining agreement;

8 (8) provide for the repair and maintenance at an

9 institution of furniture and equipment of any state agency;

10 (9) provide for the manufacture at an institution of

11 motor vehicle license plates and other related articles;

12 (10) ~~with the approval of the department~~ sell

13 manufactured or agricultural products and livestock on the

14 open market;

15 (11) provide for the manufacture at an institution of

16 highway, road, and street marking signs for the use of the

17 state or any of its political subdivisions, except when the

18 manufacture of the signs is in violation of a collective

19 bargaining contract;

20 (12) (a) pay an inmate or resident of an institution

21 from receipts from the sale of products produced or

22 manufactured or services rendered in a program in which he

23 is working.

24 (b) Payment for the performance of work may be based

25 on the following criteria:

1 (i) knowledge and skill;

2 (ii) attitude toward authority;

3 (iii) physical effort;

4 (iv) responsibility for equipment and materials;

5 (v) regard for safety of others.

6 (c) The maximum rate of pay shall be determined by the

7 appropriation established for each program."

8 Section 41. Section 53-1-302, MCA, is amended to read:

9 "53-1-302. Disposition of receipts from sale of goods.

10 Receipts from the sale of goods produced or manufactured by

11 an institution in the department or the board shall be

12 deposited in the revolving fund account for the use of the

13 industries program of the institution. At the end of each

14 biennium, all unobligated revolving funds over a \$50,000

15 ending-fund balance, except for those funds reserved for

16 equipment replacement as determined by an equipment

17 replacement schedule, shall revert to the state general fund

18 account."

19 Section 42. Section 53-1-303, MCA, is amended to read:

20 "53-1-303. Prohibited acts. Unless permitted by the

21 department or the board, arranging for the labor of a

22 resident of an institution in the department or the board is

23 prohibited."

24 Section 43. Section 53-1-304, MCA, is amended to read:

25 "53-1-304. Supervision of industries program. The

1 industries program shall be supervised by the director of  
 2 the department of ~~institutions~~ or his designated  
 3 representative ~~or by the board~~, provided the administration  
 4 of the industries program is separate from the  
 5 administration of any institution where the program may be  
 6 located."

7 Section 44. Section 53-1-401, MCA, is amended to read:

8 "53-1-401. Definitions. As used in this part, unless  
 9 the context requires otherwise, the following definitions  
 10 apply:

11 (1) "Ancillary charge" means identifiable, direct,  
 12 resident service expenses as budgeted, including but not  
 13 limited to operating room, anesthesia, x-ray, laboratory,  
 14 blood bank, oxygen therapy, physical therapy, medical  
 15 supply, drug, and specialized medical equipment expenses.

16 (2) "Care" means the care, treatment, support,  
 17 maintenance, and other services rendered by the department  
 18 to a resident.

19 (3) "Department" means the department of ~~institutions~~  
 20 health and environmental sciences provided for in Title 2,  
 21 chapter 15, part ~~23~~ 21.

22 (4) "Financially responsible person" means a spouse of  
 23 a resident, the natural or adoptive parents of a resident  
 24 under 18 years of age, or a guardian or conservator to the  
 25 extent of the guardian's or conservator's responsibility for

1 the financial affairs of the person who is a resident under  
 2 applicable Montana law establishing the duties and  
 3 limitations of guardianships or conservatorships.

4 (5) "Full-time equivalent resident load" means the  
 5 total daily resident count for the fiscal year divided by  
 6 the number of days in the year.

7 (6) "Long-term resident" means a resident in an  
 8 institution listed in 53-1-402 for a continuous period in  
 9 excess of 120 days. No absence of a resident from the  
 10 institution due to a temporary or trial visit may be counted  
 11 as interrupting the accrual of the 120 days required to  
 12 attain the status of a long-term resident.

13 (7) "Per diem" means the gross daily cost of operating  
 14 an institution as budgeted, excluding the cost of  
 15 educational programs and ancillary charges, divided by the  
 16 full-time equivalent resident load. However, a schedule of  
 17 differing per diem charges may be computed, including a  
 18 schedule of charges for residents treated on an outpatient  
 19 basis, for each program established or funded by the  
 20 legislature and assigned to an institution listed in  
 21 53-1-402.

22 (8) "Resident" means any person who is receiving care  
 23 from or who is a resident of an institution listed in  
 24 53-1-402."

25 Section 45. Section 53-10-101, MCA, is amended to



1 read:

2 "53-10-101. Definitions. As used in this part, the

3 following definitions apply:

4 (1) "Client" means a person served by or utilizing the

5 services of a human services agency.

6 (2) "Colocation of agencies" means the placement of

7 staff by two or more autonomous human services agencies in a

8 common facility, where appropriate.

9 (3) "Human services agencies" means ~~the department--of~~

10 ~~institutions,~~ the department of social and rehabilitation

11 services, and those portions of the department of health and

12 environmental sciences, the department of labor and

13 industry, and the office of the superintendent of public

14 instruction which deal with human services.

15 (4) "Information and referral system" means a

16 centralized information system that utilizes a single

17 purpose application and referral form to provide for the

18 assessment of client problems, identification of required

19 service, assessment of eligibility, referral of clients to

20 appropriate agencies, and followup of the referrals.

21 (5) "Multipurpose social worker and team management"

22 means an arrangement in which one staff member, with the

23 possible assistance of a number of staff members

24 representing different services, helps a client to identify

25 all appropriate services and advocates for the client to

1 confirm that the services are provided.

2 (6) "One-stop service" means a common intake system

3 for two or more services provided to clients."

4 Section 46. Section 53-20-213, MCA, is amended to

5 read:

6 "53-20-213. Departments to cooperate. The ~~department~~

7 ~~of institutions,~~ the department of social and rehabilitation

8 services, the department of health and environmental

9 sciences, and the office of superintendent of public

10 instruction shall cooperate on all aspects of each agency's

11 respective programs for the developmentally disabled."

12 Section 47. Section 53-21-102, MCA, is amended to

13 read:

14 "53-21-102. Definitions. As used in this part, the

15 following definitions apply:

16 (1) "Board" or "mental disabilities board of visitors"

17 means the mental disabilities board of visitors created by

18 2-15-211.

19 (2) "Court" means any district court of the state of

20 Montana.

21 (3) "Department" means the department of ~~institutions~~

22 ~~health and environmental sciences~~ provided for in Title 2,

23 chapter 15, part ~~23~~ 21.

24 (4) "Emergency situation" means a situation in which

25 any person is in imminent danger of death or serious bodily

1 harm from the activity of a person who appears to be  
2 seriously mentally ill.

3 (5) "Mental disorder" means any organic, mental, or  
4 emotional impairment which has substantial adverse effects  
5 on an individual's cognitive or volitional functions.

6 (6) "Mental health facility" or "facility" means a  
7 public hospital or a licensed private hospital which is  
8 equipped and staffed to provide treatment for persons with  
9 mental disorders or a community mental health center or any  
10 mental health clinic or treatment center approved by the  
11 department. No correctional institution or facility or jail  
12 is a mental health facility within the meaning of this part.

13 (7) "Next of kin" shall include but need not be  
14 limited to the spouse, parents, adult children, and adult  
15 brothers and sisters of a person.

16 (8) "Patient" means a person committed by the court  
17 for treatment for any period of time or who is voluntarily  
18 admitted for treatment for any period of time.

19 (9) "Peace officer" means any sheriff, deputy sheriff,  
20 marshal, policeman, or other peace officer.

21 (10) "Professional person" means:

22 (a) a medical doctor; or

23 (b) a person trained in the field of mental health and  
24 certified by the department in accordance with standards of  
25 professional licensing boards, federal regulations, and the

1 joint commission on accreditation of hospitals.

2 (11) "Reasonable medical certainty" means reasonable  
3 certainty as judged by the standards of a professional  
4 person.

5 (12) "Respondent" means a person alleged in a petition  
6 filed pursuant to this part to be seriously mentally ill.

7 (13) "Friend of respondent" means any person willing  
8 and able to assist a seriously mentally ill person or person  
9 alleged to be seriously mentally ill in dealing with legal  
10 proceedings, including consultation with legal counsel and  
11 others. The friend of respondent may be the next of kin, the  
12 person's conservator or legal guardian, if any,  
13 representatives of a charitable or religious organization,  
14 or any other person appointed by the court to perform the  
15 functions of a friend of respondent set out in this part.  
16 Only one person may at any one time be the friend of  
17 respondent within the meaning of this part. In appointing a  
18 friend of respondent, the court shall consider the  
19 preference of the respondent. The court may at any time, for  
20 good cause shown, change its designation of the friend of  
21 respondent.

22 (14) "Seriously mentally ill" means suffering from a  
23 mental disorder which has resulted in self-inflicted injury  
24 or injury to others or the imminent threat thereof or which  
25 has deprived the person afflicted of the ability to protect

his life or health. For this purpose, injury means physical injury. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part.

(15) "State hospital" means the Warm Springs state hospital."

Section 48. Section 53-21-201, MCA, is amended to read:

"53-21-201. Definitions. As used in this part, the following definitions apply:

(1) "Public mental health facility" means any public service or group of services offering mental health care on an inpatient or outpatient basis to the mentally ill.

(2) "Community comprehensive mental health center" means a facility, not necessarily encompassed within one building, offering at least the following six basic mental health services to the public:

- (a) 24-hour inpatient care;
- (b) part-time hospitalization;
- (c) outpatient service;
- (d) emergency service;
- (e) consultation and education in mental health;

(f) precare and aftercare.

(3) "Mental health clinic" means an outpatient facility offering mental health care to the public.

(4) "Department" means the department of ~~institutions~~ health and environmental sciences provided for in Title 2, chapter 15, part 21."

Section 49. Section 53-24-103, MCA, is amended to read:

"53-24-103. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal relationships, or economic function of the individual or public health, welfare, or safety.

(2) "Approved private treatment facility" means a private nonprofit agency, receiving public funds (whose function is the treatment, rehabilitation, and prevention of alcoholism and drug dependence) meeting the standards prescribed in 53-24-208(1) and approved under 53-24-208.

(3) "Approved public treatment facility" means:

(a) a treatment agency operating under the direction and control of the department as a state agency and approved under 53-24-208; or

(b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208.

(4) "Department" means the department of ~~institutions~~ health and environmental sciences provided for in ~~2-15-2302~~ Title 2, chapter 15, part 21.

(5) "Family member" is the spouse, mother, father, child, or member of the household of an alcoholic whose life has been affected by the actions of the alcoholic and may require treatment.

(6) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(7) "Incompetent person" means a person who has been adjudged incompetent by the district court.

(8) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.

(9) "Prevention" has meaning on four levels; these are:

(a) education to provide information to the school children and general public relating to alcohol dependence and alcoholism, treatment, and rehabilitative services and

to reduce the consequences of life experiences acquired by contact with an alcoholic;

(b) early detection and recovery from the illness before lasting emotional or physical damage, or both, have occurred;

(c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full disability has been reached;

(d) the provision of facility requirements to meet division program standards and improve public accessibility for services.

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to alcoholics, intoxicated persons, and family members."

Section 50. Section 53-30-211, MCA, is amended to read:

"53-30-211. Transfer of child to other facility or institution — notice. (1) The ~~department board~~ of institutions upon recommendation of the superintendent of a facility may transfer a child resident in one of its juvenile facilities to any other facility or institution under the jurisdiction and control of the ~~department board~~.

1 With the approval of the department of health and  
 2 environmental sciences, the board upon recommendation of the  
 3 superintendent of a facility may transfer a child resident  
 4 in one of its juvenile facilities to any facility or  
 5 institution under the jurisdiction and control of the  
 6 department.

7 (2) In the case of transfers of children in juvenile  
 8 facilities to Warm Springs state hospital or Boulder River  
 9 school and hospital and unless medical or psychiatric  
 10 emergency exists, 15 days prior to the transfer the  
 11 department board shall send notice of the proposed transfer  
 12 to the parents or legal guardian of the child and to the  
 13 district court who committed the child. In the case of an  
 14 emergency transfer, the department board shall send notice  
 15 within 72 hours after the time of transfer."

16 Section 51. Section 87-2-802, MCA, is amended to read:

17 "87-2-802. Veterans in VA hospitals and residents of  
 18 state institutions. Any veteran who is a patient residing at  
 19 a hospital operated by the veterans administration, within  
 20 or outside the state, and residents of all institutions  
 21 under the jurisdiction of the department of health and  
 22 environmental sciences and the board of institutions, except  
 23 the Montana state prison at Deer Lodge, will be entitled to  
 24 fish without a license. Such residents shall carry a permit  
 25 on a form prescribed by the department or board and signed

1 by the superintendent of the institution in lieu of a  
 2 license."

3 NEW SECTION. Section 52. Codification instructions.  
 4 (1) Section 5 is intended to be codified as an integral part  
 5 of Title 2, chapter 15, part 10, and the provisions of Title  
 6 2, chapter 15, apply to section 5.

7 (2) Sections 6 through 9 are intended to be codified  
 8 as an integral part of Title 53, chapter 1, and the  
 9 provisions of Title 53, chapter 1, apply to sections 6  
 10 though 9.

11 NEW SECTION. Section 53. Repealer. Sections 2-15-2301  
 12 and 53-30-201, MCA, are repealed.

-End-

1 *House* BILL NO. *450*  
2 INTRODUCED BY *Brand-Catell Menahan*  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE  
5 DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF  
6 THE DEPARTMENT TO THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
7 SCIENCES AND TO THE BOARD OF INSTITUTIONS; ESTABLISHING A  
8 BOARD OF INSTITUTIONS; DEFINING THE POWERS AND DUTIES OF THE  
9 BOARD; AMENDING SECTIONS 2-15-104, 2-15-211, 2-15-2204,  
10 2-15-2302, 2-18-103, 2-18-303, 17-3-1001, 17-3-1002,  
11 18-4-104, 20-7-404, 20-7-422, 20-9-304, 41-5-103, 41-5-206,  
12 41-5-523, 41-5-902, 44-5-202, 46-19-202, 46-19-303,  
13 46-19-305, 46-23-103, 46-23-401, 46-23-1001, 50-1-202,  
14 50-3-102, 50-21-103, 53-1-101, 53-1-201 THROUGH 53-1-204,  
15 53-1-301 THROUGH 53-1-304, 53-1-401, 53-10-101, 53-20-213,  
16 53-21-102, 53-21-201, 53-24-103, 53-30-211, AND 87-2-802,  
17 MCA; REPEALING SECTIONS 2-15-2301 AND 53-30-201, MCA."

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 2-15-104, MCA, is amended to read:

21 "2-15-104. Structure of executive branch. (1) In  
22 accordance with the constitution, all executive and  
23 administrative offices, boards, commissions, agencies, and  
24 instrumentalities of the executive branch of state  
25 government and their respective functions are allocated by

There are no changes in H B 450 and due to length will not be rerun. Please refer to white (introduced) or yellow (second reading) for complete text.

THIRD READING

March 22, 1983

SENATE STANDING COMMITTEE  
REPORT  
(State Administration)

That House Bill No. 450 be amended as follows:

1. Title, line 7.  
Following: "SCIENCES"  
Insert: ", TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES,"
2. Title, line 7.  
Following: "TO"  
Strike: remainder of line 7 through "INSTITUTIONS" on line 8  
Insert: "THE DIVISION OF CORRECTIONS CREATED IN THIS ACT"
3. Title, line 9.  
Strike: "BOARD"  
Insert: "DIVISION OF CORRECTIONS"
4. Page 3, lines 14 through 19.  
Strike: subsections (a), (b) and (c)  
Renummer: all subsequent subsections
5. Page 5, line 1.  
Strike: "board of institutions"  
Insert: "division of corrections"
6. Page 5, line 4.  
Strike: "board of institutions"  
Insert: "division of corrections"
7. Page 6, lines 5 and 6.  
Strike: "board of institutions"  
Insert: "division of corrections"
8. Page 6, line 6.  
Strike: "'board" (of institutions)"  
Insert: "'division" (of corrections)"
9. Page 6, line 12.  
Strike: "board of institutions"  
Insert: "division of corrections"
10. Page 6, line 16.  
Strike: "board of institutions"  
Insert: "division of corrections"
11. Page 6, line 19 through page 8, line 8.  
Strike: sections 5 through 7 in their entirety  
Insert: "Section 5. Division of corrections. There is a division of corrections within the department of administration.  
Section 6. Rules. The division of corrections may adopt rules for the administration of the institutions, facilities, and programs for which it is responsible."

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12. Page 8, line 9.  
Strike: "board"  
Insert: "division"
13. Page 8, line 10.  
Strike: "board"  
Insert: "division"
14. Page 8, line 15.  
Following: "state;"  
Insert: "and"
15. Page 8, line 17.  
Following: "jurisdiction"  
Strike: remainder of line 17 through "facilities" on line 19
16. Page 8, line 20.  
Strike: "board"  
Insert: "division"
17. Page 8, line 21.  
Strike: "board"  
Insert: "division"
18. Page 9.  
Following: line 4  
Insert: "Section 9. Functions of the department of institutions transferred to the department of social and rehabilitation services. (1) The following functions of the department of institutions and the director of the department of institutions are transferred to the department of social and rehabilitation services and the director of social and rehabilitation services as defined in Title 2, chapter 15, part 22:  
(a) treating developmentally disabled persons under Title 53, chapter 20, part 1;  
(b) transferring funds by budget amendment for developmental disability systems under 53-20-214; and  
(c) relating to state-owned facilities under Title 53, chapter 20, part 5.  
(2) Unless inconsistent with this act, any reference to the "department of institutions" or "department" (of institutions) in the sections listed in subsection (1) are changed to "department of social and rehabilitation services" or "department" (of social and rehabilitation services). The code commission shall conform internal references and grammar to these changes.  
(3) The governor may by executive order assign to the department of social and rehabilitation services in a manner consistent with this act functions allocated to the department of institutions by the 48th legislature and not transferred by this act.  
Section 10. Institutions in department of social and rehabilitation services. The following institutions are in the department:  
(1) Boulder River school and hospital;  
(2) Eastmont training center."

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Section 11. Rules. The department of social and rehabilitation services may adopt reasonable rules to carry out the administration of those institutions in the department, designated by [section 10], and to provide procedures and criteria for the purposes of Title 53, chapter 20, part 1.

Section 12. Administration. The department of social and rehabilitation services shall administer Boulder River school and hospital and Eastmont training center in accordance with Title 53, chapter 20, part 1."

Renumber: all subsequent sections.

19. Page 9, line 19.

Following: "~~institutions~~"

Insert: "social and rehabilitation services or the department of"

20. Page 10, lines 16 and 17.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

21. Page 11, line 8.

Following: "pursuant to"

Strike: "~~subsections~~"

Insert: "subsection"

Following: "~~or~~"

Strike: "~~through~~"

Insert: "or"

22. Page 11, line 9.

Following: "(2) ~~b~~"

Strike: "(c)"

Insert: "(b)"

23. Page 11, line 10.

Following: "director"

Strike: "~~L~~"

Following: "~~or~~"

Insert: "or"

24. Page 11, lines 11 and 12.

Following: "instruction"

Strike: "chairman of the board of institutions,"

25. Page 11, line 18.

Following: "subsection (2) ~~d~~"

Strike: "(e)"

Insert: "(d)"

Following: "or (2) ~~e~~"

Strike: "(f)"

Insert: "(e)"

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26. Page 11, line 21.

Following: "subsection (2) ~~e~~"

Strike: "(d)"

Insert: "(e)"

Following: "(2) ~~f~~"

Strike: "(g)"

Insert: "(f)"

Following: "or (2) ~~g~~"

Strike: "(h)"

Insert: "(g)"

27. Page 14, line 6.

Following: "sciences"

Strike: remainder of line 6 through "institutions" on line 7  
Insert: ", the department of social and rehabilitation services, and the division of corrections"

28. Page 16, line 10.

Following: "sciences"

Strike: "and the board of institutions"

Insert: ", the department of social and rehabilitation services, and the division of corrections"

29. Page 19, line 10.

Following: "sciences"

Strike: "and the board of institutions"

Insert: ", the department of social and rehabilitation services, and the division of corrections"

30. Page 20, line 13.

Following: "sciences"

Strike: "or the board of institutions"

Insert: ", the department of social and rehabilitation services, and the division of corrections"

31. Page 21, line 23.

Following: "sciences"

Strike: "and the board of institutions"

Insert: ", the department of social and rehabilitation services, and the division of corrections"

32. Page 22, line 1.

Following: "sciences"

Strike: "and the board of institutions"

Insert: ", the department of social and rehabilitation services, and the division of corrections"

33. Page 22, line 10.

Strike: "board of institutions"

Insert: "division of corrections"



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34. Page 23, lines 6 and 7.  
Following: "services"  
Strike: "L"  
Following: "and"  
Strike: "the department of health and environmental sciences,"

35. Page 23, line 7.  
Strike: "board of institutions"  
Insert: "division of corrections"

36. Page 23, line 20.  
Following: "in 53-1-202,"  
Insert: "the department of social and rehabilitation services,  
as defined in [section 9],"

37. Page 23, lines 20 and 21.  
Strike: "board of institutions"  
Insert: "division of corrections"

38. Page 24, lines 20 and 21.  
Strike: "board of institutions"  
Insert: "division of corrections"

39. Page 31, lines 8, 22, 23, and 25.  
Strike: "board of institutions"  
Insert: "division of corrections"

40. Page 32, lines 14, 20, 21, and 24.  
Strike: "board of institutions"  
Insert: "division of corrections"

41. Page 33, line 4.  
Strike: "board"  
Insert: "division"

42. Page 33, lines 4 and 9.  
Strike: "board of institutions"  
Insert: "division of corrections"

43. Page 34, lines 4, 5, 14, 15, and 17.  
Strike: "board of institutions"  
Insert: "division of corrections"

44. Page 35, lines 5, 6, 16, and 18.  
Strike: "board of institutions"  
Insert: "division of corrections"

45. Page 37, line 24.  
Strike: "board of institutions"  
Insert: "division of corrections"

46. Page 38, lines 17 and 18.  
Strike: "board of institutions"  
Insert: "division of corrections"

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47. Page 38, line 19.  
Strike: "board"  
Insert: "division"

48. Page 39, lines 2, 20, and 21.  
Strike: "board of institutions"  
Insert: "division of corrections"

49. Page 40, lines 12, 16, and 20.  
Strike: "board of institutions"  
Insert: "division of corrections"

50. Page 41, lines 8, 9, and 14.  
Strike: "board of institutions"  
Insert: "division of corrections"

51. Page 42, line 10.  
Following: "jurisdiction,"  
Insert: "the department of social and rehabilitation services,"  
Strike: "board of institutions"  
Insert: "division of corrections"

52. Page 44, line 14.  
Strike: "board of institutions"  
Insert: "division of corrections"

53. Page 44, line 15.  
Strike: "board"  
Insert: "division"

54. Page 44.  
Following: line 17  
Insert: "(c) make at least one inspection a year of each state  
institution under the control of the department of social and  
rehabilitation services and submit a copy of the report to the  
department with recommendations in regard to fire prevention,  
fire protection, and public safety;"  
Renumber: subsequent subsections

55. Page 47, line 14.  
Following: "sciences"  
Strike: "or the board of institutions"  
Insert: "the department of social and rehabilitation services,  
or the division of corrections"

56. Page 48, line 7.  
Strike: "Board"  
Insert: "Division"  
Strike: "board of institutions"  
Insert: "division of corrections"

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57. Page 48, line 21.  
Strike: subsection (1) in its entirety  
Renumber: all subsequent subsections

58. Page 49, lines 1 and 2.  
Strike: subsection (3) in its entirety  
Renumber: all subsequent subsections

59. Page 49, line 16.  
Strike: subsection (c) in its entirety  
Renumber: all subsequent subsections

60. Page 49, line 20.  
Strike: subsection (f) in its entirety  
Renumber: all subsequent subsections

61. Page 51, line 11.  
Following: "title;"  
Insert: "and"

62. Page 51, line 16.  
Following: "institutions"  
Strike: remainder of line 16 through "disability" on line 19

63. Page 51, line 24.  
Strike: "board"  
Insert: "division"

64. Page 52, line 7.  
Strike: "board"  
Insert: "division"

65. Page 54, lines 11, 21, and 22.  
Strike: "board"  
Insert: "division"

66. Page 55, line 3.  
Strike: "board"  
Insert: "division"

67. Page 55, line 21.  
Following: "21"  
Insert: "or the department of social and rehabilitation  
services, as provided for in Title 2, chapter 15, part 22"

68. Page 64, lines 21 and 22.  
Strike: "board of institutions"  
Insert: "division of corrections"

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69. Page 64, line 25.  
Strike: "board"  
Insert: "division"

70. Page 65, lines 2, 11, 14, and 25.  
Strike: "board"  
Insert: "division"

71. Page 65, line 22.  
Strike: "board of institutions"  
Insert: "division of corrections"

72. Page 66, lines 7 and 10.  
Strike: "9"  
Insert: "8"

73. Page 66.  
Following: line 10  
Insert: "(3) Sections 9 through 12 are intended to be codified  
as an integral part of Title 53, chapter 20."

REFERENCE BILL

MISSING