

SENATE BILL NO. 85

INTRODUCED BY B. BROWN, VAN VALKENBURG,  
CRIPPEN, SPAETH, ADDY, MERCER

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE SENATE

January 10, 1985	Introduced and referred to Committee on Judiciary.
January 14, 1985	Fiscal Note requested.
January 19, 1985	Fiscal Note returned.
January 22, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
January 23, 1985	Bill printed and placed on members' desks.
January 24, 1985	Second reading, do pass.
January 25, 1985	Considered correctly engrossed.
January 26, 1985	Third reading, passed. Ayes, 42; Noes, 4.
	Transmitted to House.

IN THE HOUSE

January 28, 1985	Introduced and referred to Committee on Judiciary.
March 11, 1985	Committee recommend bill be concurrent in. Report adopted.

March 13, 1985

Motion pass consideration.

March 14, 1985

Second reading, concurred in.

March 16, 1985

Third reading, concurred in.

Returned to Senate.

IN THE SENATE

March 16, 1985

Received from House.

March 18, 1985

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *85*  
 2 INTRODUCED BY *Bob Brown*  
 3 *Ally* BY REQUEST OF THE BOARD OF CRIME CONTROL *MERCER*  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT  
 6 OF JUSTICE TO ESTABLISH A CRIMINAL INTELLIGENCE INFORMATION  
 7 SECTION WITHIN ITS CRIMINAL INVESTIGATION BUREAU; AMENDING  
 8 SECTIONS 44-5-102, 44-5-303, AND 44-5-402, MCA; AND  
 9 PROVIDING AN EFFECTIVE DATE."

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

12 NEW SECTION. Section 1. Creation of criminal  
 13 intelligence information section -- advisory council. (1)  
 14 The department of justice may create within the criminal  
 15 investigation bureau a criminal intelligence information  
 16 section directly responsible to the attorney general.

17 (2) (a) If a section is created under subsection (1),  
 18 the attorney general shall establish a criminal intelligence  
 19 information advisory council in accordance with 2-15-122,  
 20 consisting of one representative from the Montana chiefs of  
 21 police association, one representative from the Montana  
 22 sheriffs and peace officers association, one representative  
 23 from the Montana county attorneys association, one member of  
 24 the department of justice, a member of the judiciary  
 25 committee of either the house of representatives or the

1 senate, and a citizen at large.

2 (b) The representatives from the Montana chiefs of  
 3 police association and the Montana sheriffs and peace  
 4 officers association must be sworn officers of a  
 5 participating agency.

6 (c) The department of justice member may not be an  
 7 employee of the criminal investigation bureau or any of its  
 8 sections.

9 (d) Members of the advisory council serve at the  
 10 pleasure of the attorney general.

11 (e) The criminal investigation bureau shall provide  
 12 staff and support services for the advisory council.

13 NEW SECTION. Section 2. Definitions. In [sections 2  
 14 through 8] the following definitions apply:

15 (1) "Advisory council" means the criminal intelligence  
 16 information advisory council provided for in [section 1].

17 (2) "Section" means the criminal intelligence  
 18 information section provided for in [section 1].

19 NEW SECTION. Section 3. Duties of section. The  
 20 section may not initiate investigations to gather criminal  
 21 intelligence information, but subject to standards and  
 22 procedures provided by [sections 2 through 8] and to other  
 23 limitations imposed by law, the section shall:

24 (1) establish and maintain liaison with participating  
 25 law enforcement agencies to foster a meaningful exchange of



1 criminal intelligence information;  
 2 (2) develop and maintain a system for collecting,  
 3 reviewing, storing, referencing, indexing, and disseminating  
 4 criminal intelligence information;  
 5 (3) receive and collect information from participating  
 6 law enforcement agencies;  
 7 (4) develop an analytical capability to provide useful  
 8 strategic and tactical intelligence reports;  
 9 (5) maintain the integrity and security of all  
 10 information collected by the section; and  
 11 (6) develop methods of evaluating the effectiveness of  
 12 the section in accomplishing its goals and in safeguarding  
 13 the privacy of all individuals about whom the section has  
 14 information.

15 NEW SECTION. Section 4. Section supervisor and  
 16 personnel. (1) The chief of the criminal investigation  
 17 bureau of the department of justice shall designate a  
 18 section supervisor.  
 19 (2) The criminal investigation bureau may employ  
 20 necessary personnel for the efficient and secure operation  
 21 of the section, subject to approval of the personnel by the  
 22 attorney general.

23 NEW SECTION. Section 5. Functions of advisory  
 24 council. The advisory council shall:  
 25 (1) recommend general policies for the operation of

1 the section;  
 2 (2) recommend the approval or denial of an application  
 3 from an eligible agency for participation in the section;  
 4 (3) recommend the suspension of a participant agency  
 5 for due cause; and  
 6 (4) recommend, if appropriate, the reinstatement of a  
 7 suspended participant agency.

8 NEW SECTION. Section 6. Participating agencies. (1)  
 9 Agencies eligible for participation in the section are:  
 10 (a) municipal police departments;  
 11 (b) sheriff's departments; and  
 12 (c) sections of the criminal investigation bureau of  
 13 the department of justice.  
 14 (2) A participant in the section must be an eligible  
 15 agency that has been authorized by the attorney general to  
 16 receive criminal intelligence information from the section  
 17 under [sections 2 through 8].

18 NEW SECTION. Section 7. Protection of individual  
 19 privacy. The advisory council shall review and evaluate the  
 20 implementation of the section's safeguards of individual  
 21 privacy rights adopted pursuant to [section 8] and  
 22 periodically inspect all records relating to dissemination  
 23 of information to determine whether they are in compliance  
 24 with [sections 2 through 8] and with the standards and  
 25 procedures adopted by the section. The advisory council

1 shall make an annual report to the attorney general.

2 NEW SECTION. Section 8. Section standards and  
3 procedures. The attorney general, in conjunction with the  
4 criminal investigation bureau and after considering  
5 recommendations of the advisory council, shall adopt  
6 standards and procedures for the operation of the section.  
7 The standards and procedures must ensure compliance with  
8 [sections 2 through 8] by the section and must include  
9 safeguards of individual privacy rights.

10 Section 9. Section 44-5-102, MCA, is amended to read:

11 "44-5-102. Purpose. The purpose of this chapter is to  
12 require the photographing and fingerprinting of persons  
13 under certain circumstances, to ensure the accuracy and  
14 completeness of criminal history information, and to  
15 establish effective protection of individual privacy in  
16 confidential and nonconfidential criminal justice  
17 information recordkeeping collection, storage, and  
18 dissemination."

19 Section 10. Section 44-5-303, MCA, is amended to read:

20 "44-5-303. Dissemination of confidential criminal  
21 justice information. (1) Dissemination of confidential  
22 criminal justice information is restricted to criminal  
23 justice agencies or to those authorized by law to receive  
24 it. A criminal justice agency that accepts confidential  
25 criminal justice information assumes equal responsibility

1 for the security of such information with the originating  
2 agency. Whenever confidential criminal justice information  
3 is disseminated, it must be designated as confidential.

4 (2) If a criminal intelligence information section is  
5 created under [section 1], dissemination of criminal  
6 intelligence information is governed by [sections 2 through  
7 8]."

8 Section 11. Section 44-5-402, MCA, is amended to read:

9 "44-5-402. Automated equipment. (1) In an automated  
10 criminal justice information system, information shall be  
11 collected, processed, and preserved on a computer dedicated  
12 solely to criminal justice information, except that, if this  
13 is impractical, a central computer may be used if adequate  
14 safeguards are built into the criminal justice information  
15 system to prevent unauthorized inquiry, modification, or  
16 destruction of criminal justice information in conformity  
17 with the current federal regulations in 28 C.F.R. section  
18 20.21(f) or any amendment thereto.

19 (2) If a criminal intelligence information section is  
20 created under [section 1], criminal intelligence information  
21 equipment and its use is governed by [sections 2 through  
22 8]."

23 NEW SECTION. Section 12. Codification instruction.  
24 Sections 2 through 8 are intended to be codified as an  
25 integral part of Title 44, chapter 5, and the provisions of

LC 0250/01

1 Title 44, chapter 5, apply to sections 2 through 8.  
2 NEW SECTION. Section 13. Effective date. This act is  
3 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN086-85

Form BD-15

In compliance with a written request received 01-14 19 85, there is hereby submitted a Fiscal Note for S.B. 85 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

An act allowing the Department of Justice to establish a criminal intelligence information section within its Criminal Investigation Bureau.

ASSUMPTIONS:

1. The Department of Justice has the authority, through the appropriation process, to create a criminal intelligence information section.
2. Should a criminal intelligence section be created there will be an advisory council.
3. The five members of the council will meet one day each quarter. Four members will require travel expenses, and travel an average of 150 miles to and from Helena. One member will require a stipend.

FISCAL IMPACT:

	<u>FY1986</u>	<u>FY1987</u>
Advisory Council	\$1,932	\$1,932

TECHNICAL NOTE:

The Department of Justice has requested funds, through the budget/appropriation process, to support 12 FTE's that would augment the general investigation section. This request includes the establishment of an intelligence information function. The request, if passed by the 49th Legislature, incorporates the intent of Senate Bill 85, and there would be no further fiscal impact except to pay the advisory council costs.

*David L. Hunter*

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Jan 19, 1985  
SB 85

APPROVED BY COMMITTEE  
ON JUDICIARY

1 STATEMENT OF INTENT

2 SENATE BILL 85

3 Senate Judiciary Committee

4

5 A statement of intent is needed for this bill because  
6 section 8 requires the attorney general to adopt standards  
7 and procedures for operation of the criminal intelligence  
8 information section.

9 The standards and procedures should particularly  
10 address relations and the exchange of information between  
11 the section and participating agencies, information  
12 processing and distribution systems, the security of such  
13 systems and the information collected, and the safeguarding  
14 of individual privacy.



SENATE BILL NO. 85

INTRODUCED BY B. BROWN, VAN VALKENBURG,

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BY REQUEST OF THE BOARD OF CRIME CONTROL

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO ESTABLISH A CRIMINAL INTELLIGENCE INFORMATION SECTION WITHIN ITS CRIMINAL INVESTIGATION BUREAU; AMENDING SECTIONS SECTION 44-5-102, 44-5-303, AND 44-5-402, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Creation of criminal intelligence information section -- advisory council. (1) The department of justice may create within the criminal investigation bureau a criminal intelligence information section directly responsible to the attorney general.

(2) (a) If a section is created under subsection (1), the attorney general shall establish a criminal intelligence information advisory council in accordance with 2-15-122, consisting of one representative from the Montana chiefs of police association, one representative from the Montana sheriffs and peace officers association, one representative from the Montana county attorneys association, one member of the department of justice, a member of the judiciary

committee of either the house of representatives or the senate, and a citizen at large.

(b) The representatives from the Montana chiefs of police association and the Montana sheriffs and peace officers association must be sworn officers of a participating agency.

(c) The department of justice member may not be an employee of the criminal investigation bureau or any of its sections.

(d) Members of the advisory council serve at the pleasure of the attorney general.

(e) The criminal investigation bureau shall provide staff and support services for the advisory council.

NEW SECTION. Section 2. Definitions. In [sections 2 through 8] the following definitions apply:

(1) "Advisory council" means the criminal intelligence information advisory council provided for in [section 1].

(2) "Section" means the criminal intelligence information section provided for in [section 1].

NEW SECTION. Section 3. Duties of section. The section may not initiate investigations to gather criminal intelligence information, but subject to standards and procedures provided by [sections 2 through 8] and to other limitations imposed by law, the section shall:

(1) establish and maintain liaison with participating

1 law enforcement agencies to foster a meaningful exchange of  
2 criminal intelligence information;

3 (2) develop and maintain a system for collecting,  
4 reviewing, storing, referencing, indexing, and disseminating  
5 criminal intelligence information;

6 (3) receive and collect information from participating  
7 law enforcement agencies;

8 (4) develop an analytical capability to provide useful  
9 strategic and tactical intelligence reports;

10 (5) maintain the integrity and security of all  
11 information collected by the section; and

12 (6) develop methods of evaluating the effectiveness of  
13 the section in accomplishing its goals and in safeguarding  
14 the privacy of all individuals about whom the section has  
15 information.

16 NEW SECTION. Section 4. Section supervisor and  
17 personnel. (1) The chief of the criminal investigation  
18 bureau of the department of justice shall designate a  
19 section supervisor.

20 (2) The criminal investigation bureau may employ  
21 necessary personnel for the efficient and secure operation  
22 of the section, subject to approval of the personnel by the  
23 attorney general.

24 NEW SECTION. Section 5. Functions of advisory  
25 council. The advisory council shall:

1 (1) recommend general policies for the operation of  
2 the section;

3 (2) recommend the approval or denial of an application  
4 from an eligible agency for participation in the section;

5 (3) recommend the suspension of a participant agency  
6 for due cause; and

7 (4) recommend, if appropriate, the reinstatement of a  
8 suspended participant agency.

9 NEW SECTION. Section 6. Participating agencies. (1)  
10 Agencies eligible for participation in the section are:

11 (a) municipal police departments;

12 (b) sheriff's departments; and

13 (c) sections of the criminal investigation bureau of  
14 the department of justice.

15 (2) A participant in the section must be an eligible  
16 agency that has been authorized by the attorney general to  
17 receive criminal intelligence information from the section  
18 under [sections 2 through 8].

19 NEW SECTION. Section 7. Protection of individual  
20 privacy. The advisory council shall review and evaluate the  
21 implementation of the section's safeguards of individual  
22 privacy rights adopted pursuant to [section 8] and  
23 periodically inspect all records relating to dissemination  
24 of information to determine whether they are in compliance  
25 with [sections 2 through 8] and with the standards and

1 procedures adopted by the section. The advisory council  
2 shall make an annual report to the attorney general.

3 NEW SECTION. Section 8. Section standards and  
4 procedures. The attorney general, in conjunction with the  
5 criminal investigation bureau and after considering  
6 recommendations of the advisory council, shall adopt  
7 standards and procedures for the operation of the section.  
8 The standards and procedures must ensure compliance with  
9 [sections 2 through 8] by the section and must include  
10 safeguards of individual privacy rights AS PROVIDED IN THE  
11 MONTANA CRIMINAL JUSTICE INFORMATION ACT OF 1979, TITLE 44,  
12 CHAPTER 5.

13 Section 9. Section 44-5-102, MCA, is amended to read:

14 "44-5-102. Purpose. The purpose of this chapter is to  
15 require the photographing and fingerprinting of persons  
16 under certain circumstances, to ensure the accuracy and  
17 completeness of criminal history information, and to  
18 establish effective protection of individual privacy in  
19 confidential and nonconfidential criminal justice  
20 information recordkeeping collection, storage, and  
21 dissemination."

22 Section-10.--Section-44-5-303,-MCA,-is-amended-to-read:

23 "44-5-303.--Dissemination--of--confidential--criminal  
24 justice--information: (1) Dissemination--of--confidential  
25 criminal--justice--information--is--restricted--to--criminal

1 justice--agencies--or--to--those--authorized--by--law--to--receive  
2 it.--A--criminal--justice--agency--that--accepts--confidential  
3 criminal--justice--information--assumes--equal--responsibility  
4 for--the--security--of--such--information--with--the--originating  
5 agency.--Whenever--confidential--criminal--justice--information  
6 is--disseminated,-it-must-be-designated-as-confidential-

7 (2)--If--a--criminal--intelligence--information--section--is  
8 created--under--{section--i},--dissemination--of--criminal  
9 intelligence--information--is--governed--by--{sections--2--through  
10 8}:"

11 Section-11.--Section-44-5-402,-MCA,-is-amended-to-read:

12 "44-5-402.--Automated--equipment: (1) In-an-automated  
13 criminal-justice-information-system,-information--shall--be  
14 collected,-processed,-and-preserved-on-a-computer-dedicated  
15 solely-to-criminal-justice-information,-except-that,-if-this  
16 is-impractical,-a-central-computer-may-be-used--if--adequate  
17 safeguards--are--built-into-the-criminal-justice-information  
18 system-to-prevent--unauthorized--inquiry,-modification,-or  
19 destruction--of--criminal--justice-information-in-conformity  
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22 (2)--If--a--criminal--intelligence--information--section--is  
23 created--under--{section--i},--criminal--intelligence--information  
24 equipment--and--its--use--is--governed--by--{sections--2--through  
25 8}:"

1        NEW SECTION. Section 10. Codification instruction.

2        Sections 2 through 8 are intended to be codified as an  
3        integral part of Title 44, chapter 5, and the provisions of  
4        Title 44, chapter 5, apply to sections 2 through 8.

5        NEW SECTION. Section 11. Effective date. This act is  
6        effective July 1, 1985.

-End-

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STATEMENT OF INTENT

SENATE BILL 85

Senate Judiciary Committee

A statement of intent is needed for this bill because section 8 requires the attorney general to adopt standards and procedures for operation of the criminal intelligence information section.

The standards and procedures should particularly address relations and the exchange of information between the section and participating agencies, information processing and distribution systems, the security of such systems and the information collected, and the safeguarding of individual privacy.

THIRD READING

SB 85



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3 CRIPPEN, SPAETH, ADDY, MERCER

4 BY REQUEST OF THE BOARD OF CRIME CONTROL

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17 section ~~directly responsible to the attorney general.~~

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20 information advisory council in accordance with 2-15-122,  
21 consisting of one representative from the Montana chiefs of  
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1 committee of either the house of representatives or the  
2 senate, and a citizen at large.

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SB 0085/02

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3 Senate Judiciary Committee

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REFERENCE BILL

SB 85

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12 (e) The criminal investigation bureau shall provide  
13 staff and support services for the advisory council.

14 NEW SECTION. Section 2. Definitions. In [sections 2  
15 through 8] the following definitions apply:

16 (1) "Advisory council" means the criminal intelligence  
17 information advisory council provided for in [section 1].

18 (2) "Section" means the criminal intelligence  
19 information section provided for in [section 1].

20 NEW SECTION. Section 3. Duties of section. The  
21 section may not initiate investigations to gather criminal  
22 intelligence information, but subject to standards and  
23 procedures provided by [sections 2 through 8] and to other  
24 limitations imposed by law, the section shall:

25 (1) establish and maintain liaison with participating

1 law enforcement agencies to foster a meaningful exchange of  
2 criminal intelligence information;

3 (2) develop and maintain a system for collecting,  
4 reviewing, storing, referencing, indexing, and disseminating  
5 criminal intelligence information;

6 (3) receive and collect information from participating  
7 law enforcement agencies;

8 (4) develop an analytical capability to provide useful  
9 strategic and tactical intelligence reports;

10 (5) maintain the integrity and security of all  
11 information collected by the section; and

12 (6) develop methods of evaluating the effectiveness of  
13 the section in accomplishing its goals and in safeguarding  
14 the privacy of all individuals about whom the section has  
15 information.

16 NEW SECTION. Section 4. Section supervisor and  
17 personnel. (1) The chief of the criminal investigation  
18 bureau of the department of justice shall designate a  
19 section supervisor.

20 (2) The criminal investigation bureau may employ  
21 necessary personnel for the efficient and secure operation  
22 of the section, subject to approval of the personnel by the  
23 attorney general.

24 NEW SECTION. Section 5. Functions of advisory  
25 council. The advisory council shall:

1 (1) recommend general policies for the operation of  
2 the section;

3 (2) recommend the approval or denial of an application  
4 from an eligible agency for participation in the section;

5 (3) recommend the suspension of a participant agency  
6 for due cause; and

7 (4) recommend, if appropriate, the reinstatement of a  
8 suspended participant agency.

9 NEW SECTION. Section 6. Participating agencies. (1)  
10 Agencies eligible for participation in the section are:

11 (a) municipal police departments;

12 (b) sheriff's departments; and

13 (c) sections of the criminal investigation bureau of  
14 the department of justice.

15 (2) A participant in the section must be an eligible  
16 agency that has been authorized by the attorney general to  
17 receive criminal intelligence information from the section  
18 under [sections 2 through 8].

19 NEW SECTION. Section 7. Protection of individual  
20 privacy. The advisory council shall review and evaluate the  
21 implementation of the section's safeguards of individual  
22 privacy rights adopted pursuant to [section 8] and  
23 periodically inspect all records relating to dissemination  
24 of information to determine whether they are in compliance  
25 with [sections 2 through 8] and with the standards and

1 procedures adopted by the section. The advisory council  
2 shall make an annual report to the attorney general.

3 NEW SECTION. Section 8. Section standards and  
4 procedures. The attorney general, in conjunction with the  
5 criminal investigation bureau and after considering  
6 recommendations of the advisory council, shall adopt  
7 standards and procedures for the operation of the section.  
8 The standards and procedures must ensure compliance with  
9 [sections 2 through 8] by the section and must include  
10 safeguards of individual privacy rights AS PROVIDED IN THE  
11 MONTANA CRIMINAL JUSTICE INFORMATION ACT OF 1979, TITLE 44,  
12 CHAPTER 5.

13 Section 9. Section 44-5-102, MCA, is amended to read:

14 "44-5-102. Purpose. The purpose of this chapter is to  
15 require the photographing and fingerprinting of persons  
16 under certain circumstances, to ensure the accuracy and  
17 completeness of criminal history information, and to  
18 establish effective protection of individual privacy in  
19 confidential and nonconfidential criminal justice  
20 information recordkeeping collection, storage, and  
21 dissemination."

22 Section 10. Section 44-5-303, MCA, is amended to read:

23 "44-5-303. Dissemination of confidential criminal  
24 justice information: (1) Dissemination of confidential  
25 criminal justice information is restricted to criminal

1 justice agencies or to those authorized by law to receive  
2 it. A criminal justice agency that accepts confidential  
3 criminal justice information assumes equal responsibility  
4 for the security of such information with the originating  
5 agency. Whenever confidential criminal justice information  
6 is disseminated, it must be designated as confidential.

7 (2) If a criminal intelligence information section is  
8 created under [section 1], dissemination of criminal  
9 intelligence information is governed by [sections 2 through  
10 8]."

11 Section 11. Section 44-5-402, MCA, is amended to read:

12 "44-5-402. Automated equipment: (1) In an automated  
13 criminal justice information system, information shall be  
14 collected, processed, and preserved on a computer dedicated  
15 solely to criminal justice information, except that, if this  
16 is impractical, a central computer may be used if adequate  
17 safeguards are built into the criminal justice information  
18 system to prevent unauthorized inquiry, modification, or  
19 destruction of criminal justice information in conformity  
20 with the current federal regulations in 28 C.F.R. section  
21 20.21(f) or any amendment thereto.

22 (2) If a criminal intelligence information section is  
23 created under [section 1], criminal intelligence information  
24 equipment and its use is governed by [sections 2 through  
25 8]."

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1        NEW SECTION. Section 10. Codification instruction.  
2 Sections 2 through 8 are intended to be codified as an  
3 integral part of Title 44, chapter 5, and the provisions of  
4 Title 44, chapter 5, apply to sections 2 through 8.  
5        NEW SECTION. Section 11. Effective date. This act is  
6 effective July 1, 1985.

-End-