

HOUSE BILL NO. 53

INTRODUCED BY EUDAILY

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 12, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 13, 1987	PRINTING REPORT.
JANUARY 14, 1987	SECOND READING, DO PASS.
JANUARY 15, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 95; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 21, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 19, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 25, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 26, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

CODE COMMISSIONER REPORT

1986

1987 CODE COMMISSIONER BILL SUMMARY

Section 1. 2-15-1857. Makes permanent bracketed language inserted to clarify that the governor has the appointing power.

Section 2. 2-18-703. In (4) substitutes "department of administration" for "department" which is not defined.

Section 3. 5-11-206. In (3) substitutes "code sections affected list" for "code index" to accurately reflect the content of the document.

Section 4. 5-11-208. Revises internal reference which included 5-11-204, the section authorizing the secretary of state to assign chapter numbers, not the legislative council.

Section 5. 7-2-2730. Section 6. 7-2-2748. Section 7. 7-2-2749. Revise reference to reflect repeal of 7-7-2105.

Section 8. 7-3-4264. Section 9. 7-3-4265. Revise reference to reflect repeal of 7-3-4263.

Section 10. 7-4-2631. In (1)(j) clarifies that fees are no longer contained in the statutes but are set by rule. (See 30-9-403(5) and (12).)

Section 11. 7-6-308. Removes reference to "7-6-304" because mill values are not used in that section.

Section 12. 7-6-4423. In (1)(c) substitutes "7-12-4182" for "7-12-4181" because that is the section providing for declaring the assessment delinquent.

Section 13. 7-6-4439. Revises reference to reflect repeal of 7-6-4433 and 7-6-4435.

Section 14. 7-6-4463. Revises outline form to remove internal inconsistency.

Section 15. 7-7-2302. Revises reference to reflect repeal of 7-7-2208 and 7-7-2271.

Section 16. 7-7-4302. Revises reference to reflect repeal of 7-7-4207 and 7-7-4271.

Section 17. 7-12-1103. Substitutes "7-12-1121" for "7-12-1112" to reflect that board of trustees is authorized in 7-12-1121.

Section 18. 7-12-4429. In (2) substitutes "7-12-4402" for "7-12-4405" because districts are created under 7-12-4402.

Section 19. 7-13-114. Deletes reference to "the powers and duties of the county commissioners" because not all sections referred to relate to county commissioners and adds language clarifying that the referenced sections are inapplicable if in conflict with Title 7, chapter 13, part 1.

Section 20. 7-13-2242. Substitutes "7-13-2239" for "7-13-2240" because 7-13-2239 contains the requirement for naming the person to whom the petition is returned.

Section 21. 7-13-2510. Section 22. 7-14-1133. Section 23. 7-14-2745. Section 25. 7-15-4322. Section 26. 7-31-112. Section 29. 7-34-2415. Section 71. 20-9-410. Section 128. 67-11-303. Section 129. 69-4-332. Clarify that 17-5-102 no longer limits interest but allows the governing body to set interest rates.

Section 24. 7-14-2823. In (2)(a) and (2)(c) inserts "on" for grammatical reasons.

Section 27. 7-32-4153. Revises reference to reflect the fact that the word "mayor" is not used in 7-32-4155 through 7-32-4159.

Section 28. 7-34-2131. Removes reference to "second or third class" school districts because there is no longer a difference in bonding for districts based on class.

Section 30. 10-4-101. Section 36. 15-6-135. Section 37. 15-8-111. Section 38. 15-8-201. Section 44. 15-23-701. Section 45. 15-24-901. Section 66. 20-3-108. Section 76. 30-10-103. Section 77. 30-10-204. Section 84. 33-20-1111. Section 90. 37-16-404. Section 93. 37-51-301. Section 94. 37-72-101. Section 97. 39-71-403. Section 105. 46-18-222. Section 106. 46-18-231. Section 107. 46-19-103. Section 111. 53-5-503. Section 112. 53-6-141. Section 113. 53-20-202. Section 115. 61-5-121. Section 131. 71-3-302. Section 138. 75-1-1101. Section 143. 82-4-232. Section 145. 85-2-322. Section 148. 85-2-507. Section 149. 85-8-350. Section 154. 90-8-104. Correct erroneous subsection references.

Section 31. 13-1-101. In (10) substitutes "or" for "and" because reference should be disjunctive rather than conjunctive.

Section 32. 13-1-203. Removes reference to mileage and expenses "for county officials" because 2-18-501 through 2-18-503 set rates for all state employees.

Section 33. 13-17-103. In (8) substitutes "is" for "will be" to reflect contractual requirement rather than future provision.

Section 34. 13-37-303. In (1) in last sentence inserts "to" for proper grammar.

Section 35. 15-1-101. Section 46. 15-24-1102. Section 47. 15-24-1103. Extend reference to include all classes of property.

Section 39. 15-10-203. Section 40. 15-10-204. Insert "or proposed" before "budget" to reflect name change of county preliminary budget created by Ch. 206, L. 1985.

Section 41. 15-16-305. Substitutes third "Tuesday" of February for third "Monday" because third Monday is Washington's birthday, a legal holiday.

Section 42. 15-17-101. Moves "that" in lead-in phrase for proper outline form.

Section 43. 15-23-616. Deletes reference to "net proceeds" because 15-23-602 does not use that phrase.

Section 48. 15-30-111. In (2)(i) inserts reference to 19-13-1003, to reflect tax exemption contained in firefighters' unified retirement system.

Section 49. 15-30-321. In (1) in second parenthetical makes language consistent with first parenthetical.

Section 50. 15-31-406. Revises reference to reflect repeal of 15-31-542.

Section 51. 15-35-102. In (12) revises definition to reflect that "surface mining" is not defined in 82-4-203.

Section 52. 15-59-121. Revises reference to reflect repeal of 15-59-103 and renumbering of 15-59-111 as this section.

Section 53. 16-1-105. Revises section to reflect repeal of Title 16, chapter 5.

Section 54. 16-1-306. Inserts references to reflect statutory assignment of revenues.

Section 55. 17-5-1202. Corrects improper citation to federal act.

Section 56. 17-6-103. Adds reference to bonds issued under Title 7, chapter 12, part 42, for consistency because part 42 is a continuation of part 41.

Section 57. 17-6-302. Substitutes "17-6-306" for "17-6-305" to reflect establishment of fund in 17-6-306.

Section 58. 18-1-103. In (1) and (4) deletes "18-1-112" because "resident" is not used in 18-1-112.

Section 59. 18-2-201. In (1) substitutes "85-1-219" for "18-1-219" to correct a typographical error and to correctly reflect codification of section 1 of Ch. 498, L. 1985. In (3) inserts "of" for grammatical purposes.

Section 60. 19-3-906. In (2)(b) inserts "he" for grammatical purposes to conform with (2)(a).

Section 61. 19-4-902. Revises section to reflect that only superannuation "allowance" is prescribed under Title 19, chapter 4, part 8.

Section 62. 19-7-101. Section 63. 19-7-405. Delete references to sheriffs' retirement board which no longer exists. System is administered by public employees retirement board.

Section 64. 19-10-202. In (2) in four places inserts references to town to reflect the content of the section.

Section 65. 19-11-203. Deletes reference to Title 19, chapter 11, part 3, which was repealed.

Section 67. 20-5-301. In (3)(e) revises text for proper outline form.

Section 68. 20-7-117. In (1) in two places substitutes "have" for "has" for proper grammatical use of tense.

Section 69. 20-9-165. Deletes "in accordance with 20-15-302" to reflect repeal of 20-15-302.

Section 70. 20-9-343. In (3)(c) inserts language to reflect distribution of funds under 15-35-108, in (3)(g) deletes redundant language, and in (4) removes bracketed language because there is no longer a permissive account.

Section 72. 20-15-403. Deletes reference to 7-8-2215 because "school district" is not used in that section.

Section 73. 20-15-404. In (4) extends reference to include 20-7-713.

Section 74. 20-25-302. At end of (2) clarifies that nonresident students are not defined in 20-25-421, but that charges are made under 20-25-421 for nonresident students.

Section 75. 30-4-302. Numbers subsections to reflect MCA style.

Section 78. 32-1-803. Revises reference to reflect repeal of 32-1-304.

Section 79. 33-1-104. Section 80. 33-1-313. Section 81. 33-1-317. Section 85. 33-30-111. Section 86. 33-30-112. Section 87. 33-30-113. Section 88. NEW. Make 33-30-1012, which was enacted without a codification instruction, subject to the general provisions of the insurance law.

Section 82. 33-17-211. In (9) clarifies that 33-17-212 requires an examination but does not prescribe the examination fee.

Section 83. 33-20-103. Revises reference to reflect renumbering of 33-20-109 as 33-20-131.

Section 89. 35-12-1308. Revises reference to reflect that this section itself is not included in those which may be violated.

Section 91. 37-30-425. In (7) revises language to conform to 37-30-203, which does not describe offenses but grants rulemaking authority.

Section 92. 37-42-305. Deletes reference to 37-42-301 because it does not refer to an examination.

Section 95. 39-51-201. In (4) hyphenates "52-consecutive-week" for proper usage, and in (11) inserts "to be paid" for readability.

Section 96. 39-71-118. In (1)(d) substitutes "superintendent of public instruction" for "board of public education" to reflect the superintendent's authority to approve vo-tech programs.

Section 98. 40-4-209. In (5) clarifies that the department of revenue is the agency to adopt guidelines for child support enforcement.

Section 99. 41-3-611. Substitutes "41-3-610" for "41-3-609" because other placement proceedings are held pursuant to 41-3-610.

Section 100. 41-5-206. Deletes (1)(a)(ii)(F) because it is covered under (1)(a)(i) and applies to youths over 12, and corrects internal reference as a result of this change.

Section 101. 41-5-523. In (2) inserts "a" for grammatical reasons.

Section 102. 44-1-403. Substitutes "five" for "12" to reflect the proper number of highway districts.

Section 103. 44-1-1005. In (3) substitutes "provided for" for "defined" because subsection (1)(a) does not define motor vehicle inspections but grants rulemaking authority.

Section 104. 46-18-201. In (4) corrects reference and adds language to clarify that the mandatory minimum sentence applies to aggravated assault rather than felony assault.

Section 108. 50-5-101. In (19) substitutes "youth care facilities" for "boarding or foster homes for children" to reflect the terminology used in Title 41, chapter 3.

Section 109. 50-73-102. Deletes definition of "following shot" because it is not used in Title 50, chapter 73.

Section 110. 53-2-813. Deletes reference to subsection (1)(b) and deletes the subsection in its entirety because it is no longer applicable.

Section 114. 61-3-102. Makes permanent the bracketed language "in performing its duties under this title".

Section 116. 61-9-402. In (6) deletes reference to subsections (1), (2), and (3) because amber lights aren't mentioned in those subsections.

Section 117. 61-10-108. Section 118. 61-10-122. Section 119. 61-10-124. Section 120. 61-01-128. Section 121. 61-10-141. Section 122. 61-10-142. Section 123. 61-10-143. Clarify that department referred to is highways. Title definition found in 61-1-301 refers to department of justice.

Section 124. 61-11-203. Makes subsection (3) freestanding for proper outline form.

Section 125. 67-3-101. In (2) inserts "sales" before "dealers" to conform to first clause of (2).

Section 126. 67-3-201. Section 127. 67-3-202. Clarify that subsection (3) of 67-3-201 applies to itself.

Section 130. 69-14-805. Revises reference to reflect repeal of 69-14-802.

Section 132. 71-3-603. In (1) substitutes "71-3-605" for "71-3-606" because 71-3-605 provides for filing by the lien claimant, and in (2) substitutes "71-3-606" for "71-3-605" because 71-3-606 provides for filing the claim of the landowner.

Section 133. 71-3-611. Substitutes "71-3-603" for "71-3-605" because 71-3-603 contains the 3-month time limit.

Section 134. 72-11-103. Substitutes "an ancestor" for "the ancestors" for grammatical propriety.

Section 135. 72-16-454. Substitutes "358" for "658" to reflect 1983 amendment of 72-16-452.

Section 136. 72-17-206. Substitutes "72-17-301(2)" for "72-17-310(2)" in two places to correct error and reflect renumbering of sections.

Section 137. 72-17-311. Removes an unclear reference to a subsection and rearranges terms for clarity.

Section 139. 75-20-216. Revises reference to reflect repeal of 75-20-214.

Section 140. 76-3-103. In (12) and (13) removes reference to former title of act and makes parenthetical code citation permanent.

Section 141. 80-4-427. Substitutes "80-4-428" for "80-4-429" because the criminal penalty for operating without a license is found in 80-4-428.

Section 142. 81-8-216. In two places revises reference to reflect repeal of 81-8-257.

Section 144. 82-11-131. Revises last sentence for comprehension.

Section 146. 85-2-421. Section 147. 85-2-422. Revise reference to reflect repeal of 85-2-425.

Section 150. 85-8-624. In (3)(a), (3)(c), and (3)(d) corrects erroneous subsection reference, and in (3)(b) substitutes "85-8-302" for "85-8-304" because 85-8-302 provides for the manner of conducting the election.

Section 151. 87-1-209. Clarifies that the notice requirement is found in subsection (3) (b) of this section.

Section 152. 87-3-101. Substitutes "61-1-202" for "61-1-201" because 61-1-202 defines public highway.

Section 153. 87-5-109. At end of (2) substitutes "87-5-105" for "87-5-104" because 87-5-105 grants the authority for issuing regulations.

Section 155. NEW. Requested by department of social and rehabilitation services to revise archaic terminology.

Section 156. Repealer. (1) Section 2-17-106 is no longer necessary, particularly because of the construction of the DNRC building. Section 2-17-101 governs space assignment generally.

(2) Section 2-17-109 and 2-17-110 were rendered ineffective by Ch. 33, Sp. L. June 1986, which transferred renovation funds to the long-range building debt service fund.

(3) Sections 7-15-4122 and 7-33-4203 were held to have been impliedly repealed by the state building code in 40 A.G. Op. 76 (1984).

(4) Sections 50-5-601 through 50-5-603 and 50-5-611 are identical to sections 50-5-421 through 50-5-424 and are therefore unnecessary.

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1 HOUSE BILL NO. 53
 2 INTRODUCED BY EUDALLY
 3 BY REQUEST OF THE CODE COMMISSIONER
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE MONTANA CODE ANNOTATED; AND REPEALING SECTIONS
 7 2-17-106, 2-17-109, 2-17-110, 7-15-4122, 7-33-4203, AND
 8 50-5-421 THROUGH 50-5-424, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-15-1857, MCA, is amended to read:

12 "2-15-1857. Board of cosmetologists. (1) There is a
 13 board of cosmetologists.

14 (2) The board consists of three licensed
 15 cosmetologists and one public member who is not engaged in
 16 the practice of cosmetology or electrology {appointed by the
 17 governor} with the consent of the senate. Each licensed
 18 cosmetologist member appointed shall have actively engaged
 19 in the profession of cosmetology for at least 5 years before
 20 his appointment and have been a resident of this state for
 21 at least 5 years immediately before his appointment. Each
 22 member shall be at least 18 years old and a graduate of a
 23 high school or its equivalent. No two members of the board
 24 may be members of or affiliated with a school of
 25 cosmetology.

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

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

4 Section 2. Section 2-18-703, MCA, is amended to read:
 5 "2-18-703. Contributions. (1) Each agency, as defined
 6 in 2-18-601, shall contribute the amount specified in this
 7 section towards the group benefits cost.

8 (2) For employees defined in 2-18-701, other than
 9 members of collective bargaining units, and for members of
 10 the legislature, the employer contribution for group
 11 benefits shall be \$105 per month for the fiscal year ending
 12 June 30, 1986, and \$115 per month for each fiscal year
 13 thereafter. Permanent part-time employees who are regularly
 14 scheduled to work less than 20 hours a week are not eligible
 15 for the group benefit contribution. An employee who elects
 16 not to be covered by a state-sponsored group benefit plan
 17 may not receive the state contribution as wages. A portion
 18 of the employer contribution for group benefits may be
 19 applied to an employee's costs for participation in Part B
 20 of medicare under Title XVIII of the Social Security Act of
 21 1965, as amended, if the state group benefit plan is the
 22 secondary payer and medicare the primary payer.

23 (3) For employees of elementary and high school
 24 districts and of local government units, the employer's
 25 premium contributions may exceed but may not be less than

1 \$10 per month.

2 (4) Unused employer contributions for any state
3 employee shall be transferred to an account established for
4 this purpose by the department of administration and upon
5 such transfer may be used to offset losses occurring to the
6 group of which the employee is eligible to be a member."

7 Section 3. Section 5-11-206, MCA, is amended to read:

8 "5-11-206. Index. (1) The legislative council shall
9 prepare a suitable index of all the laws and resolutions
10 passed or adopted at each session of the legislature. The
11 index shall be a thorough index of the laws and resolutions
12 and of each subject contained in or covered by the laws and
13 resolutions, together with a cross-index to assist in
14 readily finding any subject contained in each volume.

15 (2) For the purpose of uniformity in indexes, the
16 index of each succeeding publication of the session laws
17 shall conform as nearly as practicable with those of the
18 volumes preceding it.

19 (3) There shall also be prepared for each publication
20 of the session laws a ~~"code-index"~~ "code sections affected
21 list" showing what sections of the Montana Code Annotated
22 have been amended or repealed by any laws enacted by that
23 session of the legislature."

24 Section 4. Section 5-11-208, MCA, is amended to read:

25 "5-11-208. Expenses. The expenses incurred by the

1 legislative council in carrying into effect 5-11-202,
2 5-11-203, and 5-11-205 through 5-11-207, as amended; must be
3 paid out of money specifically appropriated for that
4 purpose."

5 Section 5. Section 7-2-2730, MCA, is amended to read:

6 "7-2-2730. Establishment of special warrant district
7 or special funding bond district in continuing county. (1)
8 After all warrants have been drawn and issued against the
9 funds of such adjoining county to pay the claims and demands
10 existing against such county on the date when the territory
11 of such abandoned and abolished county was attached to such
12 adjoining county, all money in the funds of such adjoining
13 county shall be used and applied in payment of the warrants
14 drawn against its respective funds. If such money is not
15 sufficient to pay all of such warrants, with the interest
16 thereon, then the board of county commissioners shall make
17 an order creating a special warrant district and shall
18 include within such district all of the territory of such
19 adjoining county but shall not include therein any of the
20 territory of such abandoned and abolished county and shall,
21 thereafter and at the time of making levies for county
22 purposes, levy a special tax against all taxable property in
23 such district to pay the warrants, with interest thereon,
24 outstanding against the funds of said county. The board may
25 in its discretion extend such tax levy over a period of not

1 to exceed 3 years.

2 (2) (a) If it shall appear to the board that it will
3 require too large a tax levy to pay such warrant
4 indebtedness, with interest thereon, within 3 years, such
5 board, instead of creating a special warrant district, shall
6 create and establish a special funding bond district and
7 shall include within the boundaries thereof all of the
8 territory within such adjoining county but shall not include
9 therein any of the territory of the abandoned and abolished
10 county attached to such adjoining county. After all money in
11 the several funds of said county applicable thereto has been
12 applied in payment of such outstanding warrants and interest
13 thereon and without submitting the question of doing so to
14 an election, such board may issue bonds in an amount
15 sufficient to pay and redeem all such warrants remaining
16 outstanding, with interest thereon.

17 (b) Such bonds shall be issued in the name of said
18 adjoining county and shall contain recitals to the effect
19 that the principal and interest thereof will be paid by
20 millage tax levies against the property situated within the
21 boundaries of said county as the same existed before the
22 territory of such abandoned and abolished county was
23 attached thereto and that none of the property within the
24 territory of such abandoned and abolished county will be
25 subjected to such levies. Except as otherwise provided

1 herein, said bonds shall be issued and sold and tax levies
2 shall be fixed and made to pay the principal and interest
3 thereof as the same becomes due in the manner provided by
4 7-7-107, 7-7-108, 7-7-123, 7-7-124, 7-7-2104, through
5 7-7-2106, and parts 22 and 23 of chapter 7 and all the
6 provisions thereof, so far as applicable thereto, shall
7 apply to such bonds."

8 Section 6. Section 7-2-2748, MCA, is amended to read:
9 "7-2-2748. Special funding bond district bonds. (1)
10 Bonds issued under 7-2-2747 shall not be issued for a longer
11 period than 10 years and shall be issued without submitting
12 the question of doing so to any election. Such bonds shall
13 be issued in the name of such district and shall be signed
14 by the trustees. The clerk shall attest the same and affix
15 the seal of the district thereof, and they shall be
16 registered in the office of the county treasurer, who shall
17 certify such registration on such bonds. Except as otherwise
18 provided herein and insofar as the same are not in conflict
19 herewith, all of the provisions of 7-7-107, 7-7-108,
20 7-7-123, 7-7-124, 7-7-2104, through 7-7-2106, and parts 22
21 and 23 of chapter 7 shall apply to, govern, and control the
22 issuance, sale, and payment of such bonds, with the interest
23 thereon, and the levying of taxes for such purposes.

24 (2) There shall be inserted and made a part of each
25 such bond statements setting forth the purpose for which the

1 same is issued and that said bonds do not incur, create, or
 2 constitute any indebtedness or obligation whatever on the
 3 part of the county of (naming the county whose board of
 4 county commissioners, acting as such trustees, are issuing
 5 such bonds) but that the principal and interest thereof will
 6 be paid by special millage taxes levied against all of the
 7 taxable property situated within the boundaries of such
 8 special funding bond district."

9 Section 7. Section 7-2-2749, MCA, is amended to read:

10 "7-2-2749. Payment of outstanding bonds of abandoned
 11 county. (1) If any abandoned and abolished county shall have
 12 any bonds outstanding and unpaid at the time it ceases to
 13 exist, the territory within the boundaries of such county as
 14 they existed when such county so ceased to exist shall
 15 constitute a special district for the payment thereof. The
 16 board of county commissioners of the county designated in
 17 the petition for abandonment as the county to which the
 18 territory of such county is to be attached and made a part
 19 shall annually levy a tax against all taxable property in
 20 such taxing district sufficient to pay the interest and
 21 principal of such bonds as the same become due, and all of
 22 the provisions of 7-7-107, 7-7-108, 7-7-123, 7-7-124,
 23 7-7-2104, through 7-7-2106, and parts 22 and 23 of chapter 7
 24 shall apply to, govern, and control the levying and
 25 collection of such taxes and the payment of interest and

1 principal thereof by the boards and officers of the county
 2 within which such district is situated.

3 (2) Any and all money in any bond sinking and interest
 4 funds of such abandoned and abolished county, when
 5 transmitted and paid over to the treasurer of the county to
 6 which the territory of such abandoned and abolished county
 7 has been attached, shall be credited to and deposited in a
 8 sinking and interest fund. All taxes levied for the payment
 9 of such bonds and interest and delinquent at the time such
 10 county ceased to exist, all taxes levied for such sinking
 11 and interest fund in accordance with the provisions of
 12 7-2-2742 through 7-2-2750, and all other money coming to the
 13 hands of such county treasurer for the use or benefit of
 14 such abandoned county, when not required for any other
 15 purposes under the provisions of this part, shall be
 16 deposited to the credit of such sinking and interest fund
 17 and used for the payment of the principal and interest of
 18 such bonds and for no other purpose."

19 Section 8. Section 7-3-4264, MCA, is amended to read:

20 "7-3-4264. Applicability of civil service provisions.
 21 The provisions of 7-3-4257 through 7-3-4262, 7-3-4264, and
 22 7-3-4265 shall apply to all appointive officers and
 23 employees of such city except those especially named in
 24 7-3-4254, commissioners of any kind, laborers whose
 25 occupation requires no special skill or fitness, election

1 officials, and mayor's secretary and assistant attorney,
2 where such officers are appointed."

3 Section 9. Section 7-3-4265, MCA, is amended to read:

4 "7-3-4265. Violations of civil service provisions. (1)
5 The council of such city shall have power to pass ordinances
6 imposing suitable penalties for the punishment of persons
7 violating any of the provisions of this part relating to the
8 civil service commission.

9 (2) It shall be unlawful for any candidate for office
10 in any such city, directly or indirectly, to give or promise
11 any person or persons any office, position, employment,
12 benefit, or anything of value for the purpose of influencing
13 or obtaining the political support, aid, or vote of any
14 person or persons.

15 (3) Any violation of the provisions of 7-3-4257
16 through ~~7-3-4265~~ 7-3-4262, 7-3-4264, or this section shall
17 be a misdemeanor and give ground grounds for the removal
18 from office."

19 Section 10. Section 7-4-2631, MCA, is amended to read:

20 "7-4-2631. Fees of county clerk. (1) Except as
21 provided in 7-4-2632, the county clerks must charge, for the
22 use of their respective counties:

23 (a) for recording and indexing each certificate of
24 location of a quartz or placer mining claim or millsite
25 claim, including a certificate that the instrument has been

1 recorded with seal affixed, \$6;

2 (b) for recording and indexing each affidavit of
3 annual labor on a mining claim, including certificate that
4 the instrument has been recorded with seal affixed:

5 (i) for the first mining claim in the affidavit, \$3;
6 and

7 (ii) for each additional mining claim included in it,
8 50 cents;

9 (c) for filing and indexing each writ of attachment,
10 execution, certificate of sale, lien, or other instrument
11 required by law to be filed and indexed, \$2;

12 (d) for filing of subdivision and townsite plats, \$5
13 plus:

14 (i) for each lot up to and including 100, 50 cents;

15 (ii) for each additional lot in excess of 100, 25
16 cents;

17 (e) for filing certificates of surveys and amendments
18 thereto, \$5 plus 50 cents per tract or lot;

19 (f) for a copy of a record or paper:

20 (i) for the first page of any document, 50 cents, and
21 25 cents for each subsequent page; and

22 (ii) for each certification with seal affixed, \$2;

23 (g) for searching an index record of files of the
24 office for each year when required in abstracting or
25 otherwise, 50 cents;

1 (h) for administering an oath with certificate and
2 seal, no charge;

3 (i) for taking and certifying an acknowledgment, with
4 seal affixed, for signature to it, no charge;

5 (j) for filing, indexing, or other services provided
6 for by 30-9-401 through 30-9-407, the fees prescribed in
7 under those sections;

8 (k) for recording each stock subscription and
9 contract, stock certificate, and articles of incorporation
10 for water users' associations, \$3;

11 (l) for filing a copy of notarial commission and
12 issuing a certificate of official character of such notary
13 public, \$2;

14 (m) for each certified copy of a birth certificate or
15 a death certificate, \$2;

16 (n) for filing, recording, or indexing any other
17 instrument not expressly provided for in this section or
18 7-4-2632, the same fee provided in this section or 7-4-2632
19 for a similar service.

20 (2) State agencies submitting documents to be put of
21 record shall pay the fees provided for in this section.
22 These fees must be paid by a state agency on a monthly
23 basis."

24 Section 11. Section 7-6-308, MCA, is amended to read:
25 "7-6-308. Population and taxable valuation figures to

1 be used. (1) Population figures used in 7-6-304, 7-6-306,
2 and 7-6-307 must be the most recent figures as determined by
3 the department of commerce.

4 (2) Mill values used in ~~7-6-304~~, 7-6-306, and 7-6-307
5 are the most recent taxable valuation figures as determined
6 by the department of revenue for the fiscal year in which
7 payments will be made."

8 Section 12. Section 7-6-4423, MCA, is amended to read:

9 "7-6-4423. Sales for delinquent taxes when
10 municipality collects municipal tax. (1) (a) Whenever, in a
11 city or town whose city treasurer or town clerk collects its
12 own taxes or special assessments or both, any such taxes or
13 assessments shall become delinquent, no tax sale shall be
14 held therefor by such city treasurer or town clerk but such
15 city treasurer or town clerk must, within 10 days after the
16 date the same become delinquent, certify all such delinquent
17 taxes and assessments to the county treasurer of the county
18 in which the city or town is situated.

19 (b) Such certificate shall contain:

20 (i) the description of each lot or parcel of land on
21 which any tax or assessment has become delinquent;

22 (ii) the name and address of the person to whom
23 assessed;

24 (iii) the date when the same became delinquent;

25 (iv) the amount of the delinquent tax or assessment,

1 the penalty to be added thereto, and the total amount of
2 such delinquent tax or assessment with penalty added.

3 (c) If any special assessment is payable in
4 installments and any installment thereof becomes delinquent,
5 the amount of such delinquent installment shall be included
6 in such certificate; provided, however, that if the city or
7 town council, by the adoption of an appropriate resolution,
8 shall declare the whole of the assessment remaining unpaid
9 to be delinquent as provided in ~~7-12-4181~~ 7-12-4182, then
10 the whole of the assessment remaining unpaid shall be
11 included in such certificate.

12 (2) Upon receipt of such certificate, the county
13 treasurer shall enter such delinquent taxes and assessments
14 in the delinquent tax list of the county, and the county
15 treasurer in selling property for delinquent taxes must
16 include all such city and town delinquent taxes and
17 assessments. There shall be but one sale for each piece of
18 property. Such sale shall cover the aggregate of such city
19 or town, county, and state taxes and special assessments,
20 with the penalties, interest, and costs provided by law."

21 Section 13. Section 7-6-4439, MCA, is amended to read:

22 "7-6-4439. Emergency provisions not affected. Nothing
23 in 7-6-4431, through 7-6-4432, 7-6-4434, 7-6-4436, and
24 7-6-4437 shall affect the emergency expenditures provided by
25 law."

1 Section 14. Section 7-6-4463, MCA, is amended to read:

2 "7-6-4463. Limit on resort community tax rate -- goods
3 and services subject to tax. (1) The rate of the resort tax
4 must be established by the election petition or resolution
5 provided for in 7-6-4464, but the rate may not exceed 3%.

6 (2) (a) The resort tax is a tax on the retail value of
7 all goods and services sold within the resort community by
8 the following establishments:

9 (i) hotels, motels, and other lodging or camping
10 facilities;

11 (ii) restaurants, fast food stores, and other food
12 service establishments; and

13 (iii) taverns, bars, night clubs, lounges, and other
14 public establishments that serve beer, wine, liquor, or
15 other alcoholic beverages by the drink ~~and~~.

16 (b) ~~establishments~~ Establishments that sell luxuries
17 must collect a tax on such luxuries."

18 Section 15. Section 7-7-2302, MCA, is amended to read:

19 "7-7-2302. Applicability of certain other bond
20 provisions. The provisions of 7-7-2203 through 7-7-2207,
21 7-7-2209 through 7-7-2211, 7-7-2222, and 7-7-2255 through
22 7-7-2270, and 7-7-2272 through 7-7-2274 apply to refunding
23 bonds issued under this part; however, the board of county
24 commissioners may at its option sell bonds issued under this
25 part at a private negotiated sale or at a public sale

1 conducted pursuant to the provisions of 7-7-2251 through
2 7-7-2254."

3 Section 16. Section 7-7-4302, MCA, is amended to read:

4 "7-7-4302. Applicability of certain other bond
5 provisions. The provisions of 7-7-4201 through 7-7-4206,
6 7-7-4208 through 7-7-4210, and 7-7-4255 through 7-7-4270,
7 and 7-7-4272 through 7-7-4274 apply to refunding bonds
8 issued under this part; however, the city or town council
9 may at its option sell bonds issued under this part at a
10 private negotiated sale or at a public sale conducted
11 pursuant to the provisions of 7-7-4251 through 7-7-4254."

12 Section 17. Section 7-12-1103, MCA, is amended to
13 read:

14 "7-12-1103. Definitions. As used in this part, the
15 following definitions apply:

16 (1) "Appointing authority" means the mayor in the case
17 of a municipality, the board of county commissioners in the
18 case of a county, or the chief executive of a consolidated
19 city-county government.

20 (2) "Board" means the board of trustees created in
21 ~~7-12-1112~~ 7-12-1121.

22 (3) "Business" means all types of business, including
23 professions.

24 (4) "District" means a business improvement district
25 created under this part.

1 (5) "Governing body" means the legislative body of a
2 local government.

3 (6) "Local government" means a municipality, a county,
4 or a consolidated city-county government.

5 (7) "Owner" means a person in whom appears the legal
6 title to real property by deed duly recorded in the county
7 records or a person in possession of real property under
8 claim of ownership for himself or as the personal
9 representative, agent, or guardian of the owner."

10 Section 18. Section 7-12-4429, MCA, is amended to
11 read:

12 "7-12-4429. Financial assistance from the United
13 States. Cities and towns are authorized to:

14 (1) enter into suitable agreements with the United
15 States of America for loans of money and for receiving
16 financial assistance to do the work and improvements
17 contemplated by 7-12-4405; and

18 (2) provide for the repayment thereof by yearly
19 payments from funds derived from districts created under
20 ~~7-12-4405~~ 7-12-4402, apportioned over a period of time not
21 exceeding 20 years."

22 Section 19. Section 7-13-114, MCA, is amended to read:

23 "7-13-114. Applicable provisions of laws relating to
24 rural improvement districts. The provisions of 7-12-2101,
25 7-12-2106, 7-12-2107, 7-12-2110, 7-12-2115 through

1 7-12-2120, 7-12-2131 through 7-12-2140, 7-12-2153,
 2 7-12-2154, 7-12-2161 through 7-12-2165, 7-12-2166(2),
 3 7-12-2168(2), and 7-12-2169 through 7-12-2174 pertaining to
 4 ~~the powers and duties of the county commissioners in~~ rural
 5 improvement districts shall likewise apply under the
 6 provisions of this part unless in conflict with the
 7 provisions of this part."

8 Section 20. Section 7-13-2242, MCA, is amended to
 9 read:

10 "7-13-2242. Examination of petition. (1) When a
 11 petition of nomination is presented for filing to the
 12 election administrator, he shall examine the same and
 13 ascertain whether or not it conforms to the provisions of
 14 7-13-2237 through 7-13-2247. If found not to conform
 15 thereto, he shall in writing designate on the petition the
 16 defect or omission or reason why the petition cannot be
 17 filed and shall return the petition to the individual named
 18 as the individual to whom it may be returned in accordance
 19 with ~~7-13-2240~~ 7-13-2239.

20 (2) The petition may then be amended and again
 21 presented to the election administrator as in the first
 22 instance but in no case may a petition be presented later
 23 than 75 days before the election. The election
 24 administrator shall proceed to examine the petition as
 25 hereinbefore provided."

1 Section 21. Section 7-13-2510, MCA, is amended to
 2 read:

3 "7-13-2510. Powers of district. A television district
 4 organized under this part, acting through its board of
 5 trustees herein provided for, may:

6 (1) perform all the acts and take all the necessary or
 7 proper steps to assure that there will be a fair, efficient,
 8 and equitable distribution of television services within the
 9 area in order that all persons within such service area
 10 shall be supplied by means of an appropriate electrical or
 11 electronic system for television program distribution, such
 12 authorized system to provide such flexibility as to permit
 13 radical improvements in technical quality without rendering
 14 inoperative receivers therein, but discontinuance of service
 15 by the district for improvements or repairs for a temporary
 16 period shall not be construed as rendering inoperative;

17 (2) if necessary or proper in the furtherance of the
 18 objects of this part, acquire, build, construct, repair,
 19 own, maintain, and operate any necessary stations
 20 transmitting simultaneous visual and aural signals intended
 21 to be received by the general public, relay stations, pickup
 22 stations, or any other necessary electrical or electronic
 23 system;

24 (3) make contracts to compensate any owner of land or
 25 other property for the use of such property for the purposes

1 of this part;

2 (4) make contracts with the United States, any state
3 or municipality, or any department or agency of those
4 entities for carrying out the general purposes for which the
5 district is formed;

6 (5) acquire, by gift, devise, bequest, lease, or
7 purchase, real and personal property, tangible or
8 intangible, including lands, rights-of-way, and easements,
9 necessary or convenient for its purposes;

10 (6) to make contracts of any lawful nature (including
11 labor contracts or those for employees' benefits) and employ
12 engineers, laboratory personnel, attorneys, other technical
13 or professional assistants, and any other assistants or
14 employees necessary to carry out the provisions of this
15 part;

16 (7) issue warrants, payable at the time stated
17 therein, to evidence the obligation to repay money borrowed
18 or any other obligation incurred by the district, warrants
19 so issued to draw interest at a rate fixed by the board,
20 payable annually or semiannually as the board may prescribe;

21 (8) contract indebtedness or borrow money for
22 corporate purposes and issue revenue bonds therefor to be
23 repaid from rates and charges, bearing interest ~~at a rate~~
24 ~~not exceeding the limitation of~~ as provided in 17-5-102
25 payable semiannually, the bonds not to be sold for less than

1 par and accrued interest;

2 (9) prescribe tax rates for the providing of services
3 throughout the area in accordance with the provisions of
4 this part;

5 (10) prescribe such installation or ready-to-serve
6 charges to be used for any costs connected with preparation,
7 acquisition, or construction of the system;

8 (11) apply for, accept, and be the holder of any permit
9 or license issued by or required under federal or state law;
10 and

11 (12) provide FM translator services if authorized as
12 provided in 7-13-2512."

13 Section 22. Section 7-14-1133, MCA, is amended to
14 read:

15 "7-14-1133. Bonds and obligations. (1) An authority
16 may borrow money for any of its corporate purposes and issue
17 bonds therefor, including refunding bonds, in such form and
18 upon such terms as it determines, payable out of any
19 revenues of the authority, including revenues derived from:

20 (a) any port or transportation and storage facility;
21 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
22 (c) grants or contributions from the federal
23 government; or
24 (d) other sources.

25 (2) The bonds may be issued by resolution of the

1 authority, without an election and without any limitation of
 2 amount, except that no bonds may be issued at any time if
 3 the total amount of principal and interest to become due in
 4 any year on such bonds and on any then outstanding bonds for
 5 which revenues from the same source are pledged exceeds the
 6 amount of such revenues to be received in that year, as
 7 estimated in the resolution authorizing the issuance of the
 8 bonds. The authority shall take all action necessary and
 9 possible to impose, maintain, and collect rates, charges,
 10 rentals, and taxes, if any are pledged, sufficient to make
 11 the revenues from the pledged source in such year at least
 12 equal to the amount of principal and interest due in that
 13 year.

14 (3) The bonds may be sold at public or private sale
 15 and may bear interest ~~at a rate not exceeding the limitation~~
 16 ~~of as provided in~~ 17-5-102. Except as otherwise provided in
 17 this part, any bonds issued pursuant to this part by an
 18 authority may be payable as to principal and interest solely
 19 from revenues of the authority and shall state on their face
 20 the applicable limitations or restrictions regarding the
 21 source from which such principal and interest are payable.

22 (4) Bonds issued by an authority, county, or
 23 municipality pursuant to the provisions of this part are
 24 declared to be issued for an essential public and
 25 governmental purpose by a political subdivision within the

1 meaning of 15-30-111(2)(a).

2 (5) For the security of any such bonds, the authority,
 3 county, or municipality may by resolution make and enter
 4 into any covenant, agreement, or indenture and may exercise
 5 any additional powers authorized to be exercised by a
 6 municipality under Title 7, chapter 7, parts 44 and 45. The
 7 sums required from time to time to pay principal and
 8 interest and to create and maintain a reserve for the bonds
 9 may be paid from any revenues referred to in this part,
 10 prior to the payment of current costs of operation and
 11 maintenance of the facilities."

12 Section 23. Section 7-14-2745, MCA, is amended to
 13 read:

14 "7-14-2745. Mode of payment of assessment --
 15 installment payments. (1) Installment payments shall be made
 16 in six equal portions, in 1, 2, 3, 4, 5, and 6 years.

17 (2) Payments shall be in the form of bonds which shall
 18 draw interest, ~~not-to-exceed-the-limitations-of~~ as provided
 19 in 17-5-102, per-annum from the date they are issued until
 20 they are paid.

21 (3) If the mode of payment is to be by installments,
 22 the board and the committee shall approve and certify the
 23 assessment roll.

24 (4) The board and the assessor shall, at the time of
 25 levying the assessment and in their order setting the levy,

1 declare that the sum charged against each parcel of land may
 2 be paid in equal annual installments with interest upon the
 3 whole sum at the rate fixed by the board of county
 4 commissioners in accordance with law. The order shall
 5 specify the number of installments which shall be equal to
 6 the number of years for which the bonds may run.

7 (5) Each year thereafter, the treasurer shall collect
 8 one of the installments, together with the interest due
 9 thereon and the interest due on the installments thereafter
 10 to become due.

11 (6) Provisions concerning delinquency and the sale of
 12 land set forth with relation to the mode of immediate
 13 payment shall be likewise applicable to installment
 14 payments."

15 Section 24. Section 7-14-2823, MCA, is amended to
 16 read:

17 "7-14-2823. Hearing and decision on application. (1)
 18 At the hearing, proof of giving the notice required by
 19 7-14-2821 and 7-14-2822 must be made, and any person may
 20 appear and contest the application. If the board of
 21 commissioners finds that the ferry is either a public
 22 necessity or convenience and that the applicant is a
 23 suitable person and, by reason of the ownership of the
 24 landing or failure of the owner thereof to apply, is
 25 entitled thereto, authority to erect and take tolls on the

1 ferry may be granted to him for the term of 10 years. The
 2 board may at any time they see fit authorize and maintain
 3 ferds across any water within any distance of any ferry.

4 (2) The board granting authority to keep a public
 5 ferry must at the same time:

6 (a) fix the amount of a bond to be given by the person
 7 or corporation owning or taking tolls on the ferry for the
 8 benefit of the county and all persons crossing or desiring
 9 to cross on the same and provide for the annual renewal
 10 thereof;

11 (b) fix the amount of license tax to be paid by the
 12 person or corporation for taking tolls thereon, not less
 13 than \$3 or over \$100 per month, payable annually;

14 (c) fix the rate of tolls which may be collected for
 15 crossing on the ferry;

16 (d) make all necessary orders relative to the
 17 construction, erection, and business of ferries which they
 18 have by law the power to make.

19 (3) When a county commissioner is interested in an
 20 application to erect, construct, or take tolls on a ferry,
 21 he must not act in any such matters."

22 Section 25. Section 7-15-4322, MCA, is amended to
 23 read:

24 "7-15-4322. Details relating to urban renewal bonds.
 25 (1) Bonds issued under 7-15-4301 may be issued in one or

1 more series and shall bear such date or dates, be payable
 2 upon demand or mature at such time or times, bear interest
 3 ~~at such rate or rates not exceeding the limitation of~~ as
 4 provided in 17-5-102, be in such denomination or
 5 denominations, be in such form (either coupon or
 6 registered), carry such conversion or registration
 7 privileges, have such rank or priority, be executed in such
 8 manner, be payable in such medium of payment at such place
 9 or places, be subject to such terms of redemption (with or
 10 without premium), be secured in such manner, and have such
 11 other characteristics as may be provided by the resolution,
 12 ordinance, or trust indenture or mortgage authorized
 13 pursuant thereto.

14 (2) (a) The bonds may be sold at not less than 98% of
 15 par at public or private sale or may be exchanged for other
 16 bonds on the basis of par.

17 (b) The bonds may be sold to the federal government at
 18 private sale at not less than par, and if less than all of
 19 the authorized principal amount of the bonds is sold to the
 20 federal government, the balance may be sold at public or
 21 private sale at not less than 98% of par at an interest cost
 22 to the municipality of not to exceed the interest cost to
 23 the municipality of the portion of the bonds sold to the
 24 federal government."

25 Section 26. Section 7-31-112, MCA, is amended to read:

1 "7-31-112. Details relating to bonds. (1) The bonds to
 2 be issued upon the conditions and under the provisions
 3 aforesaid shall:

4 (a) bear the date of their issuance;

5 (b) be designated as sanitary coupon bonds of the
 6 county, city, or town issuing the same;

7 (c) be of a denomination not less than \$500 or more
 8 than \$1,000 each;

9 (d) be payable at such place in New York City or
 10 elsewhere, at the discretion of the board or council issuing
 11 the same;

12 (e) bear interest ~~at a rate not exceeding the~~
 13 ~~limitations of~~ as provided in 17-5-102, payable 30 years
 14 after the date thereof, with the privilege of paying the
 15 same at any time after 5 years from such date, which
 16 interest shall be payable semiannually at the place whereat
 17 the principal is payable and for which interest coupons
 18 shall be attached to said bonds.

19 (2) If said bonds and coupons are issued by any
 20 county, they shall be signed by the chairman of the board of
 21 county commissioners of such county and attested by the
 22 clerk thereof and his seal attached thereto. If the bonds
 23 and coupons are issued by any incorporated city or town, the
 24 same shall be signed by the mayor and attested to by the
 25 city or town clerk and the seal thereof attached."

1 Section 27. Section 7-32-4153, MCA, is amended to
2 read:

3 "7-32-4153. Meaning of word mayor. Wherever the word
4 "mayor" is used in 7-32-4109 and ~~7-32-4155~~ 7-32-4160 through
5 7-32-4163, it is intended to include "city manager", "city
6 commissioner", or any other name or designation used to
7 identify or designate the chief executive of any city or
8 municipality."

9 Section 28. Section 7-34-2131, MCA, is amended to
10 read:

11 "7-34-2131. Hospital district bonds authorized. (1) A
12 hospital district may borrow money by the issuance of its
13 bonds to provide funds for payment of part or all of the
14 cost of acquisition, furnishing, equipment, improvement,
15 extension, and betterment of hospital facilities and to
16 provide an adequate working capital for a new hospital.

17 (2) The amount of bonds issued for such purpose and
18 outstanding at any time may not exceed 22.5% of the taxable
19 value of the property therein as ascertained by the last
20 assessment for state and county taxes previous to the
21 issuance of such bonds.

22 (3) Such bonds shall be authorized, sold, and issued
23 and provisions made for their payment in the manner and
24 subject to the conditions and limitations prescribed for
25 bonds of ~~second--or-third-class~~ school districts by Title

1 20, chapter 9, part 4.

2 (4) Nothing herein shall be construed to preclude the
3 provisions of Title 50, chapter 6, part 1, allowing the
4 state to apply for and accept federal funds."

5 Section 29. Section 7-34-2415, MCA, is amended to
6 read:

7 "7-34-2415. Details of bonds. (1) The bonds may be
8 sold at public or private sale and shall bear interest at a
9 rate or rates ~~not-exceeding-the-limitation-of~~ as provided in
10 17-5-102. The bonds may be for a 40-year period.

11 (2) Except as otherwise provided in 7-34-2411 through
12 7-34-2418, any bonds issued pursuant to 7-34-2411 through
13 7-34-2418 by a county shall be payable as to principal and
14 interest solely from revenues of the county and shall state
15 on their face the applicable limitations or restrictions
16 regarding the source or sources from which such principal
17 and interest are payable."

18 Section 30. Section 10-4-101, MCA, is amended to read:

19 "10-4-101. (Effective January 1, 1987) Definitions. As
20 used in this chapter, unless the context requires otherwise,
21 the following definitions apply:

22 (1) "Account" means the 9-1-1 emergency
23 telecommunications account established in 10-4-301.

24 (2) "Department" means the department of
25 administration provided for in Title 2, chapter 15, part 10.

1 (3) "Direct dispatch method" means a 9-1-1 service in
2 which a public safety answering point, upon receipt of a
3 telephone request for emergency services, provides for a
4 decision as to the proper action to be taken and for
5 dispatch of appropriate emergency service units.

6 (4) "Emergency" means any event that requires dispatch
7 of a public or private safety agency.

8 (5) "Emergency services" means services provided by
9 any public or private safety agency, including law
10 enforcement, firefighting, ambulance or medical services,
11 and civil defense services.

12 (6) "Exchange access services" means:

13 (a) telephone exchange access lines or channels that
14 provide local access from the premises of a subscriber in
15 this state to the local telecommunications network to effect
16 the transfer of information; and

17 (b) unless a separate tariff rate is charged therefor,
18 any facility or service provided in connection with the
19 services described in subsection ~~(7)(a)~~ (6)(a).

20 (7) "Local government" means any city, county, or
21 political subdivision of the state and its agencies.

22 (8) "Minimum 9-1-1 service" means a telephone service
23 meeting the standards established in 10-4-102 that
24 automatically connects a person dialing the digits 9-1-1 to
25 an established public safety answering point. "Minimum

1 9-1-1 services" includes equipment for connecting and
2 outswitching 9-1-1 calls within a telephone central office,
3 trunking facilities from the central office to a public
4 safety answering point, and equipment, as appropriate, for
5 transferring the call to another point, when appropriate.

6 (9) A "9-1-1 jurisdiction" means a group of public or
7 private safety agencies who operate within or are affected
8 by one or more common central office boundaries and who have
9 agreed in writing to jointly plan a 9-1-1 emergency
10 telephone system.

11 (10) "Private safety agency" means any entity, except a
12 public safety agency, providing emergency fire, ambulance,
13 or medical services.

14 (11) "Provider" means a public utility, cooperative
15 telephone company, or any other entity that provides
16 telephone exchange access services.

17 (12) "Public safety agency" means the state and any
18 city, county, city-county consolidated government, municipal
19 corporation, chartered organization, public district, or
20 public authority located in whole or in part within this
21 state that provides or has authority to provide emergency
22 services.

23 (13) "Public safety answering point" means a
24 communications facility operated on a 24-hour basis that
25 first receives 9-1-1 calls from persons in a 9-1-1 service

1 area and which may, as appropriate, directly dispatch public
2 or private safety services or transfer or relay 9-1-1 calls
3 to appropriate public safety agencies.

4 (14) "Relay method" means a 9-1-1 service in which a
5 public safety answering point, upon receipt of a telephone
6 request for emergency services, notes the pertinent
7 information from the caller and relays such information to
8 the appropriate public safety agency, other agencies, or
9 other providers of emergency services for dispatch of an
10 emergency unit.

11 (15) "Subscriber" means an end user who receives
12 telephone exchange access services.

13 (16) "Transfer method" means a 9-1-1 service in which a
14 public safety answering point, upon receipt of a telephone
15 request for emergency services, directly transfers such a
16 request to an appropriate public safety answering agency or
17 other provider of emergency services."

18 Section 31. Section 13-1-101, MCA, is amended to read:

19 "13-1-101. Definitions. As used in this title, unless
20 the context clearly indicates otherwise, the following
21 definitions apply:

22 (1) "Anything of value" means any goods that have a
23 certain utility to the recipient that is real and that is
24 ordinarily not given away free but is purchased.

25 (2) "Candidate" means:

1 (a) an individual who has filed a declaration or
2 petition for nomination, acceptance of nomination or
3 appointment as a candidate for public office as required by
4 law;

5 (b) for the purposes of chapters 35, 36, or 37, an
6 individual who has publicly announced his intention to seek
7 nomination or election to public office by write-in vote and
8 who has received a contribution or made an expenditure or
9 has given an authorization to another person to receive a
10 contribution or make an expenditure for the purpose of
11 supporting his nomination or election.

12 (3) (a) "Contribution" means:

13 (i) an advance, gift, loan, conveyance, deposit,
14 payment, or distribution of money or anything of value to
15 influence an election;

16 (ii) a transfer of funds between political committees;

17 (iii) the payment by a person other than a candidate or
18 political committee of compensation for the personal
19 services of another person that are rendered to a candidate
20 or political committee.

21 (b) "Contribution" does not mean:

22 (i) services provided without compensation by
23 individuals volunteering a portion or all of their time on
24 behalf of a candidate or political committee or meals and
25 lodging provided by individuals in their private residence

1 for a candidate or other individual;

2 (ii) the cost of any bona fide news story, commentary,
3 or editorial distributed through the facilities of any
4 broadcasting station, newspaper, magazine, or other
5 periodical publication of general circulation;

6 (iii) the cost of any communication by any membership
7 organization or corporation to its members or stockholders
8 or employees, so long as such organization is not a primary
9 political committee; or

10 (iv) filing fees paid by the candidate.

11 (4) "Election" means a general, special, or primary
12 election held pursuant to the requirements of state law,
13 regardless of the time and/or purpose.

14 (5) "Election administrator" means the county clerk
15 and recorder or the individual designated by a county
16 governing body to be responsible for all election
17 administration duties, except that with regard to school
18 elections, the term means the school district clerk.

19 (6) "Elector" means an individual qualified and
20 registered to vote under state law.

21 (7) (a) "Expenditure" means a purchase, payment,
22 distribution, loan, advance, promise, pledge, or gift of
23 money or anything of value made for the purpose of
24 influencing the results of an election.

25 (b) "Expenditure" does not mean:

1 (i) services, food, or lodging provided in a manner
2 that they are not contributions under subsection (3);

3 (ii) payments by a candidate for his filing fee or for
4 personal travel expenses, food, clothing, lodging, or
5 personal necessities for himself and his family;

6 (iii) the cost of any bona fide news story, commentary,
7 or editorial distributed through the facilities of any
8 broadcasting station, newspaper, magazine, or other
9 periodical publication of general circulation; or

10 (iv) the cost of any communication by any membership
11 organization or corporation to its members or stockholders
12 or employees, so long as such organization is not a primary
13 political committee.

14 (8) "General election" means an election held for the
15 election of public officers throughout the state at times
16 specified by law, including elections for officers of
17 political subdivisions when the time of the election is set
18 on the same date for all similar political subdivisions in
19 the state. For ballot issues required by Article III,
20 section 6, or Article XIV, section 8, of the Montana
21 constitution to be submitted by the legislature to the
22 electors at a general election, "general election" means an
23 election held at the time provided in 13-1-104(1).

24 (9) "Individual" means a human being.

25 (10) "Issue" or "ballot issue" means a proposal

1 submitted to the people at an election for their approval or
 2 rejection, including but not limited to initiatives,
 3 referenda, proposed constitutional amendments, recall
 4 questions, school levy questions, bond issue questions, or a
 5 ballot question. For the purposes of chapters 35, 36, and or
 6 37, an issue becomes a "ballot issue" upon certification by
 7 the proper official that the legal procedure necessary for
 8 its qualification and placement upon the ballot has been
 9 completed, except that a statewide issue becomes an "issue"
 10 upon approval by the secretary of state of the form of the
 11 petition or referral.

12 (11) "Person" means an individual, corporation,
 13 association, firm, partnership, cooperative, committee,
 14 club, union, or other organization or group of individuals
 15 or a candidate as defined in subsection (2) of this section.

16 (12) "Political committee" means a combination of two
 17 or more individuals or a person other than an individual who
 18 makes a contribution or expenditure:

19 (a) to support or oppose a candidate or a committee
 20 organized to support or oppose a candidate or a petition for
 21 nomination; or

22 (b) to support or oppose a ballot issue or a committee
 23 organized to support or oppose a ballot issue; or

24 (c) as an earmarked contribution.

25 (13) "Political subdivision" means a county,

1 consolidated municipal-county government, municipality,
 2 special district, or any other unit of government, except
 3 school districts, having authority to hold an election for
 4 officers or on a ballot issue.

5 (14) "Primary" or "primary election" means an election
 6 held throughout the state to nominate candidates for public
 7 office at times specified by law, including nominations of
 8 candidates for offices of political subdivisions when the
 9 time for such nominations is set on the same date for all
 10 similar subdivisions in the state.

11 (15) "Public office" means a state, county, municipal,
 12 school, or other district office that is filled by the
 13 people at an election.

14 (16) "Registrar" means the county election
 15 administrator and any regularly appointed deputy or
 16 assistant election administrator.

17 (17) "Special election" means an election other than a
 18 statutorily scheduled primary or general election held at
 19 any time for any purpose provided by law. It may be held in
 20 conjunction with a statutorily scheduled election.

21 (18) "Voting machine or device" means any equipment
 22 used to record, tabulate, or in any manner process the vote
 23 of an elector."

24 Section 32. Section 13-1-203, MCA, is amended to read:
 25 "13-1-203. Chief election officer to advise, assist,

1 and train. The secretary of state shall advise and assist
 2 election administrators with regard to application,
 3 operation, and interpretation of Title 13, except for
 4 chapters 35, 36, or 37. He shall hold at least one workshop
 5 each year to provide training and assistance to election
 6 administrators. Election administrators shall be reimbursed,
 7 from funds appropriated to the secretary of state, for their
 8 mileage and expenses for attending the workshops at the
 9 rates set for mileage and expenses ~~for county officials as~~
 10 ~~provided for~~ in 2-18-501 through 2-18-503. At the discretion
 11 of the secretary of state and within the budget limits
 12 allowed for workshops, such workshops may be held in several
 13 sessions at separate locations in the state."

14 Section 33. Section 13-17-103, MCA, is amended to
 15 read:

16 "13-17-103. Required specifications for equipment. A
 17 voting machine or device may not be approved unless:

- 18 (1) an elector can vote in secrecy;
 19 (2) an elector is prevented from voting for any
 20 candidate or upon any ballot issue more than once and is
 21 also prevented from voting on any office or ballot issue for
 22 which he is not entitled to vote;
 23 (3) an elector can secretly select the party for which
 24 he wishes to vote in a primary election and the machine or
 25 device will count only votes for the candidates of that

1 party by the elector in the primary election;

2 (4) an elector can vote a split ticket in a general
 3 election if he desires;

4 (5) every valid vote cast is registered and recorded;

5 (6) the machine or device is constructed so that it
 6 cannot be tampered with for a fraudulent purpose and is also
 7 constructed so that during the progress of the voting no
 8 individual can see or know the number of votes registered
 9 for any candidate or on any ballot issue;

10 (7) it allows write-in voting; and

11 (8) a guarantee to provide training and assistance to
 12 election officials ~~will be~~ is included in each contract for
 13 purchase of the machine or device."

14 Section 34. Section 13-37-303, MCA, is amended to
 15 read:

16 "13-37-303. Donation by taxpayer. (1) An individual
 17 whose withheld income tax or payment of estimated tax
 18 exceeds by more than \$1 his income tax liability for the
 19 taxable year may donate \$1 to be paid to the fund. In the
 20 case of a joint return, as provided in 15-30-142, of a
 21 husband and wife having an income tax overpayment as defined
 22 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
 23 paid to the fund.

24 (2) An individual with an unpaid tax liability may at
 25 the time of payment donate an extra \$1 to be paid to the

1 fund.

2 (3) The department shall provide a place on the face
3 of the blank form of return, provided for in 15-30-144,
4 where an individual may make the donations provided for in
5 subsections (1) and (2). The form shall adequately explain
6 the individual's option to donate \$1 to the fund."

7 Section 35. Section 15-1-101, MCA, is amended to read:

8 "15-1-101. Definitions. (1) Except as otherwise
9 specifically provided, when terms mentioned in this section
10 are used in connection with taxation, they are defined in
11 the following manner:

12 (a) The term "agricultural" refers to the raising of
13 livestock, poultry, bees, and other species of domestic
14 animals and wildlife in domestication or a captive
15 environment, and the raising of field crops, fruit, and
16 other animal and vegetable matter for food or fiber.

17 (b) The term "assessed value" means the value of
18 property as defined in 15-8-111.

19 (c) The term "average wholesale value" means the value
20 to a dealer prior to reconditioning and profit margin shown
21 in national appraisal guides and manuals or the valuation
22 schedules of the department of revenue.

23 (d) (i) The term "commercial", when used to describe
24 property, means any property used or owned by a business, a
25 trade, or a nonprofit corporation as defined in 35-2-102 or

1 used for the production of income, except that property
2 described in subsection (ii).

3 (ii) The following types of property are not
4 commercial:

5 (A) agricultural lands;

6 (B) timberlands;

7 (C) single-family residences and ancillary
8 improvements and improvements necessary to the function of a
9 bona fide farm, ranch, or stock operation;

10 (D) mobile homes used exclusively as a residence
11 except when held by a distributor or dealer of trailers or
12 mobile homes as his stock in trade;

13 (E) all property described in 15-6-135;

14 (F) all property described in 15-6-136; and

15 (G) all property described in 15-6-146.

16 (e) The term "comparable property" means property that
17 has similar use, function, and utility; that is influenced
18 by the same set of economic trends and physical,
19 governmental, and social factors; and that has the potential
20 of a similar highest and best use.

21 (f) The term "credit" means solvent debts, secured or
22 unsecured, owing to a person.

23 (g) The term "improvements" includes all buildings,
24 structures, fences, and improvements situated upon, erected
25 upon, or affixed to land. When the department of revenue or

1 its agent determines that the permanency of location of a
 2 mobile home or housetrailer has been established, the mobile
 3 home or housetrailer is presumed to be an improvement to
 4 real property. A mobile home or housetrailer may be
 5 determined to be permanently located only when it is
 6 attached to a foundation which cannot feasibly be relocated
 7 and only when the wheels are removed.

8 (h) The term "leasehold improvements" means
 9 improvements to mobile homes and mobile homes located on
 10 land owned by another person. This property is assessed
 11 under the appropriate classification and the taxes are due
 12 and payable in two payments as provided in 15-24-202.
 13 Delinquent taxes on such leasehold improvements are a lien
 14 only on such leasehold improvements.

15 (i) The term "livestock" means cattle, sheep, swine,
 16 goats, horses, mules, and asses.

17 (j) The term "mobile home" means forms of housing
 18 known as "trailers", "housetrailer", or "trailer coaches"
 19 exceeding 8 feet in width or 45 feet in length, designed to
 20 be moved from one place to another by an independent power
 21 connected to them, or any "trailer", "housetrailer", or
 22 "trailer coach" up to 8 feet in width or 45 feet in length
 23 used as a principal residence.

24 (k) The term "personal property" includes everything
 25 that is the subject of ownership but that is not included

1 within the meaning of the terms "real estate" and
 2 "improvements".

3 (l) The term "poultry" includes all chickens, turkeys,
 4 geese, ducks, and other birds raised in domestication to
 5 produce food or feathers.

6 (m) The term "property" includes moneys, credits,
 7 bonds, stocks, franchises, and all other matters and things,
 8 real, personal, and mixed, capable of private ownership.
 9 This definition must not be construed to authorize the
 10 taxation of the stocks of any company or corporation when
 11 the property of such company or corporation represented by
 12 the stocks is within the state and has been taxed.

13 (n) The term "real estate" includes:

14 (i) the possession of, claim to, ownership of, or
 15 right to the possession of land;

16 (ii) all mines, minerals, and quarries in and under the
 17 land subject to the provisions of 15-23-501 and Title 15,
 18 chapter 23, part 8; all timber belonging to individuals or
 19 corporations growing or being on the lands of the United
 20 States; and all rights and privileges appertaining thereto.

21 (o) The term "taxable value" means the percentage of
 22 market or assessed value as provided for in 15-6-131 through
 23 ~~15-6-140~~ 15-6-149.

24 (2) The phrase "municipal corporation" or
 25 "municipality" or "taxing unit" shall be deemed to include a

1 county, city, incorporated town, township, school district,
2 irrigation district, drainage district, or any person,
3 persons, or organized body authorized by law to establish
4 tax levies for the purpose of raising public revenue.

5 (3) The term "state board" or "board" when used
6 without other qualification shall mean the state tax appeal
7 board."

8 Section 36. Section 15-6-135, MCA, is amended to read:

9 "15-6-135. Class five property -- description --
10 taxable percentage. (1) Class five property includes:

11 (a) all property used and owned by cooperative rural
12 electrical and cooperative rural telephone associations
13 organized under the laws of Montana, except property owned
14 by cooperative organizations described in subsection
15 (1)~~(e)~~(b) of 15-6-137;

16 (b) air and water pollution control equipment as
17 defined in this section;

18 (c) new industrial property as defined in this
19 section;

20 (d) any personal or real property used primarily in
21 the production of gasohol during construction and for the
22 first 3 years of its operation.

23 (2) (a) "Air and water pollution equipment" means
24 facilities, machinery, or equipment used to reduce or
25 control water or atmospheric pollution or contamination by

1 removing, reducing, altering, disposing, or storing
2 pollutants, contaminants, wastes, or heat. The department of
3 health and environmental sciences shall determine if such
4 utilization is being made.

5 (b) The department of health and environmental
6 sciences' determination as to air and water pollution
7 equipment may be appealed to the board of health and
8 environmental sciences and may not be appealed to either a
9 county tax appeal board or the state tax appeal board.
10 However, the appraised value of the equipment as determined
11 by the department of revenue may be appealed to the county
12 tax appeal board and the state tax appeal board.

13 (3) "New industrial property" means any new industrial
14 plant, including land, buildings, machinery, and fixtures,
15 used by new industries during the first 3 years of their
16 operation. The property may not have been assessed within
17 the state of Montana prior to July 1, 1961.

18 (4) (a) "New industry" means any person, corporation,
19 firm, partnership, association, or other group that
20 establishes a new plant in Montana for the operation of a
21 new industrial endeavor, as distinguished from a mere
22 expansion, reorganization, or merger of an existing
23 industry.

24 (b) New industry includes only those industries that:

25 (i) manufacture, mill, mine, produce, process, or

1 fabricate materials;

2 (ii) do similar work, employing capital and labor, in
3 which materials unserviceable in their natural state are
4 extracted, processed, or made fit for use or are
5 substantially altered or treated so as to create commercial
6 products or materials; or

7 (iii) engage in the mechanical or chemical
8 transformation of materials or substances into new products
9 in the manner defined as manufacturing in the 1972 Standard
10 Industrial Classification Manual prepared by the United
11 States office of management and budget.

12 (5) New industrial property does not include:

13 (a) property used by retail or wholesale merchants,
14 commercial services of any type, agriculture, trades, or
15 professions;

16 (b) a plant that will create adverse impact on
17 existing state, county, or municipal services; or

18 (c) property used or employed in any industrial plant
19 that has been in operation in this state for 3 years or
20 longer.

21 (6) Class five property is taxed at 3% of its market
22 value."

23 Section 37. Section 15-8-111, MCA, is amended to read:

24 "15-8-111. Assessment -- market value standard --
25 exceptions. (1) All taxable property must be assessed at

1 100% of its market value except as provided in subsection
2 ~~(5)~~ (6) of this section and in 15-7-111 through 15-7-114.

3 (2) (a) Market value is the value at which property
4 would change hands between a willing buyer and a willing
5 seller, neither being under any compulsion to buy or to sell
6 and both having reasonable knowledge of relevant facts.

7 (b) Except as provided in subsection (3), the market
8 value of all motor trucks; agricultural tools, implements,
9 and machinery; and vehicles of all kinds, including but not
10 limited to aircraft and boats and all watercraft, is the
11 average wholesale value shown in national appraisal guides
12 and manuals or the value of the vehicle before
13 reconditioning and profit margin. The department of revenue
14 shall prepare valuation schedules showing the average
15 wholesale value when no national appraisal guide exists.

16 (3) The department of revenue or its agents may not
17 adopt a lower or different standard of value from market
18 value in making the official assessment and appraisal of the
19 value of property in 15-6-134 through 15-6-140 and 15-6-145
20 through 15-6-149, except:

21 (a) the wholesale value for agricultural implements
22 and machinery is the loan value as shown in the Official
23 Guide, Tractor and Farm Equipment, published by the national
24 farm and power equipment dealers association, St. Louis,
25 Missouri; and

1 (b) for agricultural implements and machinery not
2 listed in the official guide, the department shall prepare a
3 supplemental manual where the values reflect the same
4 depreciation as those found in the official guide.

5 (4) For purposes of taxation, assessed value is the
6 same as appraised value.

7 (5) The taxable value for all property in classes four
8 through eleven and fifteen through nineteen is the
9 percentage of market value established for each class of
10 property in 15-6-134 through 15-6-141 and 15-6-145 through
11 15-6-149.

12 (6) The assessed value of properties in 15-6-131
13 through 15-6-133 is as follows:

14 (a) Properties in 15-6-131, under class one, are
15 assessed at 100% of the annual net proceeds after deducting
16 the expenses specified and allowed by 15-23-503.

17 (b) Properties in 15-6-132, under class two, are
18 assessed at 100% of the annual gross proceeds.

19 (c) Properties in 15-6-133, under class three, are
20 assessed at 100% of the productive capacity of the lands
21 when valued for agricultural purposes. All lands that meet
22 the qualifications of 15-7-202 are valued as agricultural
23 lands for tax purposes.

24 (d) Properties in 15-6-143, under class thirteen, are
25 assessed at 100% of the combined appraised value of the

1 standing timber and grazing productivity of the land when
2 valued as timberland.

3 (7) Land and the improvements thereon are separately
4 assessed when any of the following conditions occur:

5 (a) ownership of the improvements is different from
6 ownership of the land;

7 (b) the taxpayer makes a written request; or

8 (c) the land is outside an incorporated city or town.

9 (8) The taxable value of all property in 15-6-131 and
10 classes two, three, and thirteen is the percentage of
11 assessed value established in 15-6-131(2), 15-6-132,
12 15-6-133, and 15-6-143 for each class of property.
13 (Subsections (3)(a) and (3)(b) applicable to tax years
14 beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.
15 Subsection (6)(d) and references in (8) to class thirteen
16 and 15-6-143 terminate January 1, 1991--sec. 10, Ch. 681, L.
17 1985.)"

18 Section 38. Section 15-8-201, MCA, is amended to read:

19 "15-8-201. General assessment day. (1) The department
20 of revenue or its agent must, between January 1 and the
21 second Monday of July in each year, ascertain the names of
22 all taxable inhabitants and assess all property subject to
23 taxation in each county. The department or its agent must
24 assess property to the person by whom it was owned or
25 claimed or in whose possession or control it was at midnight

1 of January 1 next preceding. It must also ascertain and
 2 assess all mobile homes arriving in the county after
 3 midnight of January 1 next preceding. No mistake in the name
 4 of the owner or supposed owner of real property, however,
 5 renders the assessment invalid.

6 (2) The procedure provided by this section may not
 7 apply to:

8 (a) motor vehicles that are required by 15-8-202 to be
 9 assessed on January 1 or upon their anniversary registration
 10 date;

11 (b) automobiles and trucks having a rated capacity of
 12 three-quarters of a ton or less;

13 (c) motor homes and travel trailers subject to a fee
 14 in lieu of property tax;

15 (d) motorcycles and quadricycles;

16 (e) livestock;

17 (f) property defined in 61-1-104 as "special mobile
 18 equipment" that is subject to assessment for personal
 19 property taxes on the date that application is made for a
 20 special mobile equipment plate; and

21 (g) mobile homes held by a distributor or dealer of
 22 mobile homes as a part of his stock in trade.

23 (3) Credits must be assessed as provided in
 24 15-1-101(1)+(d)+(f)."

25 Section 39. Section 15-10-203, MCA, is amended to

1 read:

2 "15-10-203. Increase of tax revenue -- notice of
 3 intention required. No taxing authority may budget an
 4 increased amount of ad valorem tax revenue exclusive of
 5 revenue from ad valorem taxation on properties appearing for
 6 the first time on the assessment roll unless it gives notice
 7 of its intention to do so at the same time and in the same
 8 manner that it gives notice of its hearing on its
 9 preliminary or proposed budget for the forthcoming fiscal
 10 year."

11 Section 40. Section 15-10-204, MCA, is amended to
 12 read:

13 "15-10-204. Resolution or ordinance for increase over
 14 certified millage. No millage in excess of the department of
 15 revenue's certified millage may be levied until a resolution
 16 or ordinance is approved by the governing board of the
 17 taxing authority, which resolution or ordinance must be
 18 approved by the taxing authority according to the following
 19 procedure:

20 (1) The taxing authority shall publish notice of its
 21 intent to exceed the department's certified millage in the
 22 same manner that it gives notice of hearings on its
 23 preliminary or proposed budget for the forthcoming fiscal
 24 year. The notice must state that the taxing authority will
 25 meet on a day, at a time and place fixed in the notice,

1 which must be approximately 7 days after the day that the
2 notice is published, for the purpose of hearing comments
3 regarding the proposed increase and to explain the reasons
4 for the proposed increase. The meeting may coincide with the
5 meeting on the tentative budget as required by law.

6 (2) After the public hearing has been held in
7 accordance with the above procedures, the taxing authority
8 may adopt a resolution or ordinance levying a millage rate
9 in excess of the certified millage. If the resolution or
10 ordinance adopting such millage rate is not approved on the
11 day of the public hearing, the day, time, and place at which
12 the resolution or ordinance will be scheduled for
13 consideration and approval by the taxing authority must be
14 announced at the public hearing. If the resolution or
15 ordinance is to be considered at a day and time that is more
16 than 2 weeks from the public hearing, the taxing authority
17 must again publish notice in the same manner as provided in
18 subsection (1)."

19 Section 41. Section 15-16-305, MCA, is amended to
20 read:

21 "15-16-305. Disposition of delinquent list. (1) The
22 county treasurer must annually on the third ~~Monday~~ Tuesday
23 of February attend at the office of the county clerk and
24 recorder with the delinquent list. The county clerk and
25 recorder must then carefully compare the lists with the

1 assessments of persons and property not marked "paid" on the
2 assessment book, and when taxes have been paid, he must note
3 the fact in the appropriate column in the assessment book.

4 (2) The county clerk and recorder must then administer
5 to the county treasurer an oath, to be written and
6 subscribed in the delinquent list, that every person and all
7 property assessed in the delinquent list on which taxes have
8 been paid have been credited in the list with such payment.

9 (3) The county clerk and recorder must then foot up
10 the amount of taxes remaining unpaid and credit the
11 treasurer with the amount and have a final settlement with
12 him. The delinquent list must remain in the county clerk and
13 recorder's office.

14 (4) At the time mentioned in subsection (1) of this
15 section, the treasurer must make an affidavit, endorsed on
16 the list, that the taxes not marked "paid" have not been
17 paid and that he has not been able to discover any property
18 belonging to or in possession of the persons liable to pay
19 the sum whereof to collect them."

20 Section 42. Section 15-17-101, MCA, is amended to
21 read:

22 "15-17-101. Publication of notice of tax sales. (1) On
23 or before the last Monday of June of each year, the county
24 treasurer must publish in the manner and for the time
25 prescribed in this section a notice specifying that:

1 (a) that at a given time and place (to be designated
2 in the notice), all property in the county upon which
3 delinquent taxes are a lien will be sold at public auction
4 unless prior to said time said delinquent taxes, together
5 with all interest, penalties, and costs due thereon, are
6 paid;

7 (b) a complete delinquent list of all persons and
8 property in the county now owing taxes, including all city
9 and town property as to which taxes or taxes and assessments
10 are delinquent, is on file in the office of the county
11 treasurer and is subject to public inspection and
12 examination.

13 (2) The publication must be made once a week for 3
14 successive weeks in such newspaper published in the county
15 as the board of county commissioners directs; if there is no
16 newspaper published in the county, then by posting the
17 notice in three public places.

18 (3) The publication must designate the time and place
19 of sale.

20 (4) The time of sale must not be less than 21 or more
21 than 28 days from the first publication, and the place must
22 be in front of the county treasurer's office."

23 Section 43. Section 15-23-616, MCA, is amended to
24 read:

25 "15-23-616. Future returns to reflect reduced

1 deduction. (1) Except as provided in subsection (2), each
2 taxpayer who files a return for 1983 production must reflect
3 the reduced excise tax deduction pursuant to 15-23-603 and
4 15-23-605 for the period between January 1, 1980, and
5 October 1, 1983, on the ~~net--proceeds~~ statement required
6 under 15-23-602 in the first taxable year after October 1,
7 1983.

8 (2) Either the taxpayer or the department may adjust
9 the deduction under this section to reflect the actual
10 excise taxes paid by the operator."

11 Section 44. Section 15-23-701, MCA, is amended to
12 read:

13 "15-23-701. Reporting gross yield from coal. (1) Each
14 person engaged in mining coal must, on or before March 31
15 each year, file with the department of revenue a statement
16 of the gross yield from each coal mine owned or worked by
17 such person in the preceding calendar year and the value
18 thereof. The statement shall be in the form prescribed by
19 the department, which may be coordinated with the form used
20 under 15-35-104 and must be verified by an officer of the
21 firm. The statement shall include:

22 (a) the name and address of the owner or lessee or
23 operator of the mine;

24 (b) the location of the mine;

25 (c) the tons of coal extracted, treated, and sold from

1 the mine during the taxable period;

2 (d) the gross yield or value in dollars and cents
3 derived from the contract sales price as defined in
4 15-35-102~~(i)~~.

5 (2) Whenever value is imputed under 15-35-107(1)(b),
6 that value shall be used for purposes of reporting the value
7 of the gross yield of coal under this section."

8 Section 45. Section 15-24-901, MCA, is amended to
9 read:

10 "15-24-901. Definition. As used in this part,
11 "livestock" includes those animals specified in
12 15-1-101(1)~~(g)~~(i)."

13 Section 46. Section 15-24-1102, MCA, is amended to
14 read:

15 "15-24-1102. Federal property held under contract of
16 sale. When the property is held under a contract of sale or
17 other agreement whereby upon payment the legal title is or
18 may be acquired by the person, the real property shall be
19 assessed and taxed as defined in 15-6-131 through ~~15-6-140~~
20 15-6-149 and 15-8-111 without deduction on account of the
21 whole or any part of the purchase price or other sum due on
22 the property remaining unpaid. The lien for the tax may not
23 attach to, impair, or be enforced against any interest of
24 the United States in the real property."

25 Section 47. Section 15-24-1103, MCA, is amended to

1 read:

2 "15-24-1103. Federal property held under lease. When
3 the property is held under lease, other interest, or estate
4 therein less than the fee, except under contract of sale,
5 the property shall be assessed and taxed as for the value,
6 as defined in 15-6-131 through ~~15-6-140~~ 15-6-149 of such
7 leasehold, interest, or estate in the property and the lien
8 for the tax shall attach to and be enforced against only the
9 leasehold, interest, or estate in the property. When the
10 United States authorizes the taxation of the property for
11 the full assessed value of the fee thereof, the property
12 shall be assessed for full assessed value as defined in
13 15-8-111."

14 Section 48. Section 15-30-111, MCA, is amended to
15 read:

16 "15-30-111. Adjusted gross income. (1) Adjusted gross
17 income shall be the taxpayer's federal income tax adjusted
18 gross income as defined in section 62 of the Internal
19 Revenue Code of 1954 or as that section may be labeled or
20 amended and in addition shall include the following:

21 (a) interest received on obligations of another state
22 or territory or county, municipality, district, or other
23 political subdivision thereof;

24 (b) refunds received of federal income tax, to the
25 extent the deduction of such tax resulted in a reduction of

1 Montana income tax liability; and

2 (c) that portion of a shareholder's income under

3 subchapter S. of Chapter 1 of the Internal Revenue Code of

4 1954 that has been reduced by any federal taxes paid by the

5 subchapter S. corporation on the income.

6 (2) Notwithstanding the provisions of the federal

7 Internal Revenue Code of 1954 as labeled or amended,

8 adjusted gross income does not include the following which

9 are exempt from taxation under this chapter:

10 (a) all interest income from obligations of the United

11 States government, the state of Montana, county,

12 municipality, district, or other political subdivision

13 thereof;

14 (b) interest income earned by a taxpayer age 65 or

15 older in a taxable year up to and including \$800 for a

16 taxpayer filing a separate return and \$1,600 for each joint

17 return;

18 (c) all benefits received under the Federal Employees'

19 Retirement Act not in excess of \$3,600;

20 (d) all benefits, not in excess of \$360, received as

21 an annuity, pension, or endowment under any private or

22 corporate retirement plan or system;

23 (e) all benefits paid under the teachers' retirement

24 law which are specified as exempt from taxation by 19-4-706;

25 (f) all benefits paid under The Public Employees'

1 Retirement System Act which are specified as exempt from

2 taxation by 19-3-105;

3 (g) all benefits paid under the highway patrol

4 retirement law which are specified as exempt from taxation

5 by 19-6-705;

6 (h) all Montana income tax refunds or credits thereof;

7 (i) all benefits paid under 19-11-602, 19-11-604, and

8 19-11-605 to retired and disabled firefighters, their

9 surviving spouses and orphans or specified as exempt from

10 taxation by 19-13-1003;

11 (j) all benefits paid under the municipal police

12 officers' retirement system that are specified as exempt

13 from taxation by 19-9-1005;

14 (k) gain required to be recognized by a liquidating

15 corporation under 15-31-113(1)(a)(ii);

16 (l) all tips covered by section 3402(k) of the

17 Internal Revenue Code of 1954, as amended and applicable on

18 January 1, 1983, received by persons for services rendered

19 by them to patrons of premises licensed to provide food,

20 beverage, or lodging;

21 (m) all benefits received under the workers'

22 compensation laws; and

23 (n) all health insurance premiums paid by an employer

24 for an employee if attributed as income to the employee

25 under federal law.

1 (3) In the case of a shareholder of a corporation with
 2 respect to which the election provided for under subchapter
 3 S. of the Internal Revenue Code of 1954, as amended, is in
 4 effect but with respect to which the election provided for
 5 under 15-31-202, as amended, is not in effect, adjusted
 6 gross income does not include any part of the corporation's
 7 undistributed taxable income, net operating loss, capital
 8 gains or other gains, profits, or losses required to be
 9 included in the shareholder's federal income tax adjusted
 10 gross income by reason of the said election under subchapter
 11 S. However, the shareholder's adjusted gross income shall
 12 include actual distributions from the corporation to the
 13 extent they would be treated as taxable dividends if the
 14 subchapter S. election were not in effect.

15 (4) A shareholder of a DISC that is exempt from the
 16 corporation license tax under 15-31-102(1)(1) shall include
 17 in his adjusted gross income the earnings and profits of the
 18 DISC in the same manner as provided by federal law (section
 19 995, Internal Revenue Code) for all periods for which the
 20 DISC election is effective.

21 (5) A taxpayer who, in determining federal adjusted
 22 gross income, has reduced his business deductions by an
 23 amount for wages and salaries for which a federal tax credit
 24 was elected under section 44B of the Internal Revenue Code
 25 of 1954 or as that section may be labeled or amended is

1 allowed to deduct the amount of such wages and salaries paid
 2 regardless of the credit taken. The deduction must be made
 3 in the year the wages and salaries were used to compute the
 4 credit. In the case of a partnership or small business
 5 corporation, the deduction must be made to determine the
 6 amount of income or loss of the partnership or small
 7 business corporation.

8 (6) Married taxpayers filing a joint federal return
 9 who must include part of their social security benefits or
 10 part of their tier 1 railroad retirement benefits in federal
 11 adjusted gross income may split the federal base used in
 12 calculation of federal taxable social security benefits or
 13 federal taxable tier 1 railroad retirement benefits when
 14 they file separate Montana income tax returns. The federal
 15 base must be split equally on the Montana return.

16 (7) A taxpayer receiving retirement disability
 17 benefits who has not attained age 65 by the end of the
 18 taxable year and who has retired as permanently and totally
 19 disabled may exclude from adjusted gross income up to \$100
 20 per week received as wages or payments in lieu of wages for
 21 a period during which the employee is absent from work due
 22 to the disability. If the adjusted gross income before this
 23 exclusion and before application of the two-earner married
 24 couple deduction exceeds \$15,000, the excess reduces the
 25 exclusion by an equal amount. This limitation affects the

1 amount of exclusion, but not the taxpayer's eligibility for
 2 the exclusion. If eligible, married individuals shall apply
 3 the exclusion separately, but the limitation for income
 4 exceeding \$15,000 is determined with respect to the spouses
 5 on their combined adjusted gross income. For the purpose of
 6 this subsection, permanently and totally disabled means
 7 unable to engage in any substantial gainful activity by
 8 reason of any medically determined physical or mental
 9 impairment lasting or expected to last at least 12 months.
 10 (Subsection (2)(1) terminates on occurrence of
 11 contingency--sec. 3, Ch. 634, L. 1983.)"

12 Section 49. Section 15-30-321, MCA, is amended to
 13 read:

14 "15-30-321. Penalties for violation of chapter. (1) If
 15 any person, without purposely or knowingly violating any
 16 requirement imposed by this chapter, fails to file a return
 17 of income on or before its due date (determined with regard
 18 to an extension of time granted for filing the return),
 19 there shall be imposed a penalty of 5% of any balance of tax
 20 unpaid with respect to such return as of its due date, but
 21 in no event shall the penalty for failure to file a return
 22 by its due date be less than \$5. The department may abate
 23 the penalty if the taxpayer establishes that the failure to
 24 file on time was due to reasonable cause and was not due to
 25 neglect on his part. If any person, without purposely or

1 knowingly violating any requirement imposed by this chapter,
 2 fails to pay any tax on or before its due date (determined
 3 with regard to an extension of time granted for the filing
 4 of ~~a~~ the return), there shall be added to the tax a penalty
 5 of 10% of said tax, but not less than \$5, and interest shall
 6 accrue on the tax at the rate of 9% per annum for the entire
 7 period it remains unpaid. The department may abate the
 8 penalty if the taxpayer establishes that the failure to pay
 9 on time was due to reasonable cause and was not due to
 10 neglect on his part.

11 (2) If any person fails, purposely or knowingly
 12 violating any requirement imposed by this chapter, to make a
 13 return of income or to pay a tax if one is due at the time
 14 required by or under the provisions of this chapter, there
 15 shall be added to the tax an additional amount equal to 25%
 16 thereof, but such additional amount shall in no case be less
 17 than \$25, and interest at 1% for each month or fraction of a
 18 month during which the tax remains unpaid.

19 (3) Any individual, corporation, or partnership or any
 20 officer or employee of any corporation or member or employee
 21 of any partnership who, with intent to evade any tax or any
 22 requirement of this chapter or any lawful requirement of the
 23 department thereunder, purposely or knowingly, fails to pay
 24 the tax or to make, render, or sign any return or to supply
 25 any information within the time required by or under the

1 provisions of this chapter or who, with like intent,
 2 purposely or knowingly makes, renders, or signs any false or
 3 fraudulent return or statement or supplies any false or
 4 fraudulent information shall be liable to a penalty of not
 5 more than \$1,000, to be recovered by the attorney general in
 6 the name of the state by action in any court of competent
 7 jurisdiction, and shall also be guilty of a misdemeanor and
 8 shall upon conviction be fined not to exceed \$1,000 or be
 9 imprisoned not to exceed 1 year, or both, at the discretion
 10 of the court.

11 (4) With respect to the imposition of a civil penalty,
 12 evidence produced by the department to the effect that a tax
 13 has not been paid, that a return has not been filed, or that
 14 information has not been supplied as required under the
 15 provisions of this chapter is prima facie evidence that the
 16 tax has not been paid, the return has not been filed, or the
 17 information has not been supplied."

18 Section 50. Section 15-31-406, MCA, is amended to
 19 read:

20 "15-31-406. License tax sections incorporated by
 21 reference. The provisions of the following sections of this
 22 chapter are incorporated into this part by reference and
 23 made a part hereof:

24 (1) that part of 15-31-101 which defines the term
 25 "corporation" and 15-31-102, which specifies the classes of

1 organizations whose income shall not be taxed;

2 (2) sections 15-31-111 through 15-31-114; 15-31-141,
 3 15-31-142; 15-31-301 through 15-31-313; 15-31-501 through
 4 15-31-509; 15-31-525, 15-31-526; 15-31-531, 15-31-532; and
 5 15-31-541, ~~through~~ and 15-31-543, except that the term
 6 "gross income" shall be construed as excluding the net
 7 amount of interest income from valid obligations of the
 8 United States and except that wherever the words "tax",
 9 "license tax", "license fee", "corporation excise tax", or
 10 like words appear, referring to the tax imposed under part 1
 11 of this chapter, there shall be substituted the words
 12 "income tax"."

13 Section 51. Section 15-35-102, MCA, is amended to
 14 read:

15 "15-35-102. Definitions. As used in this chapter, the
 16 following definitions apply:

17 (1) "Agreement" means a signed contract that is valid
 18 under Montana law between a coal mine operator and a
 19 purchaser or broker for the sale of coal that is produced in
 20 Montana.

21 (2) "Base consumption level" for a purchaser means the
 22 greater of:

23 (a) the arithmetic average volume of coal purchased
 24 during calendar years 1983 and 1984 from all Montana coal
 25 mine operators; or

1 (b) 90% of the maximum tonnage provided for in any
2 agreement executed prior to January 1, 1985, for which the
3 highest scheduled minimum quantity of coal stipulated by the
4 terms of the agreement as they existed on January 1, 1985,
5 has not been purchased at any time during the term of the
6 agreement, plus the arithmetic average volume of coal
7 purchased during calendar years 1983 and 1984 from all
8 Montana coal mine operators under all other agreements.

9 (3) "Base production level" for a coal mine operator
10 means the arithmetic average volume of coal produced in
11 Montana and sold to a purchaser in calendar years 1983 and
12 1984.

13 (4) "Broker" means any person who resells Montana
14 coal.

15 (5) "Contract sales price" means either the price of
16 coal extracted and prepared for shipment f.o.b. mine,
17 excluding that amount charged by the seller to pay taxes
18 paid on production, or a price imputed by the department
19 under 15-35-107. Contract sales price includes all royalties
20 paid on production, no matter how such royalties are
21 calculated. However, with respect to royalties paid to the
22 government of the United States, the state of Montana, or a
23 federally recognized Indian tribe, the contract sales price
24 includes only:

25 (a) for quarterly periods ending on and after

1 September 30, 1984, 15 cents per ton plus 75% of the
2 difference between 15 cents per ton and the amount of such
3 federal, state, and tribal government royalties actually
4 paid;

5 (b) for quarterly periods ending on and after
6 September 30, 1985, 15 cents per ton plus 50% of the
7 difference between 15 cents per ton and the amount of such
8 federal, state, and tribal government royalties actually
9 paid;

10 (c) for quarterly periods ending on and after
11 September 30, 1986, 15 cents per ton plus 25% of the
12 difference between 15 cents per ton and the amount of such
13 federal, state, and tribal government royalties actually
14 paid; and

15 (d) for quarterly periods ending on and after
16 September 30, 1987, 15 cents per ton.

17 (6) "Department" means the department of revenue.

18 (7) "Energy conversion process" includes any process
19 by which coal in the solid state is transformed into slurry,
20 gas, electric energy, or any other form of energy.

21 (8) "Incremental production" means that quantity of
22 coal produced annually by a coal mine operator and sold to a
23 qualified purchaser that exceeds the base production level
24 of the coal mine operator for that purchaser, but only to
25 the extent the quantity of coal exceeds that purchaser's

1 base consumption level from all Montana producers.

2 (9) "Produced" means severed from the earth.

3 (10) "Purchaser" means a person who purchases or
4 contracts to purchase Montana coal directly from a coal mine
5 operator or indirectly from a broker and who utilizes that
6 coal in any industrial, commercial, or energy conversion
7 process. A coal broker or any other third party intermediary
8 is not a purchaser under the provisions of this chapter.

9 (11) "Qualified purchaser" means a purchaser whose
10 purchases of Montana coal in any given year exceed his base
11 consumption level. A purchaser of Montana coal who enters
12 into a coal agreement with another purchaser or a broker
13 that causes a reduction in the base consumption level of a
14 purchaser is not a qualified purchaser.

15 (12) "Strip mining" or "~~surface mining~~" is defined in
16 82-4-203 and includes "surface mining".

17 (13) "Taxes paid on production" includes any tax paid
18 to the federal, state, or local governments upon the
19 quantity of coal produced as a function of either the volume
20 or the value of production and does not include any tax upon
21 the value of mining equipment, machinery, or buildings and
22 lands, any tax upon a person's net income derived in whole
23 or in part from the sale of coal, or any license fee.

24 (14) "Ton" means 2,000 pounds.

25 (15) "Underground mining" means a coal mining method

1 utilizing shafts and tunnels and as further defined in
2 82-4-203."

3 Section 52. Section 15-59-121, MCA, is amended to
4 read:

5 "15-59-121. Penalty for violations. Any violation of
6 the provisions of 15-59-101, 15-59-102, 15-59-104 through
7 15-59-106, or 15-59-110, through 15-59-112, or 15-59-113
8 shall be deemed a misdemeanor and shall be punished by a
9 fine not exceeding \$500 or by imprisonment in the county
10 jail not exceeding 6 months or by both such fine and
11 imprisonment."

12 Section 53. Section 16-1-105, MCA, is amended to read:

13 "16-1-105. Divisions of code. This code is divided
14 into six chapters. Chapter 1 relates to the authority of
15 the department of revenue to administer this code and the
16 powers and functions of the department. Chapter 2 relates to
17 the establishment of state stores and the keeping and
18 selling of liquors. Chapter 3 relates to the control of
19 liquor, wine, and beer. Chapter 4 relates to license
20 administration. Chapter 5, relates now repealed, related to
21 identification cards. Chapter 6 relates to enforcement."

22 Section 54. Section 16-1-306, MCA, is amended to read:

23 "16-1-306. Revenue to be paid to state treasurer.
24 Except as provided in 16-1-404, 16-1-405, 16-1-408,
25 16-1-410, and 16-1-411, all fees, charges, taxes, and

1 revenues collected by or under authority of the department
2 shall be deposited with the state treasurer. He shall
3 deposit the funds to the credit of the state general fund."

4 Section 55. Section 17-5-1202, MCA, is amended to
5 read:

6 "17-5-1202. Definitions. As used in this part, unless
7 the context clearly requires otherwise, the following
8 definitions apply:

9 (1) "Department" means the department of
10 administration provided for in 2-15-1001.

11 (2) "Limit" or "private activity bond limit" means the
12 total state ceiling applicable to the state of Montana for
13 any calendar year for the issuance of tax exempt private
14 activity bonds, as determined under the provisions of the
15 reform act.

16 (3) "Private activity bond" means a tax-exempt private
17 activity bond, as defined under the provisions of the reform
18 act.

19 (4) "Reform act" means the federal Tax Reform Act of
20 1984 and particularly subtitle B of Title ~~VII~~ VI thereof,
21 entitled "Private Activity Bonds", which are a part of the
22 federal Deficit Reduction Act of 1984 (Public Law 98-369).

23 (5) "State issuer agencies" means those state agencies
24 authorized by state law to issue bonds that would qualify as
25 private activity bonds."

1 Section 56. Section 17-6-103, MCA, is amended to read:

2 "17-6-103. Security for deposits of public funds. The
3 following kinds of securities may be pledged or guarantees
4 may be issued to secure deposits of public funds:

5 (1) direct obligations of the United States;

6 (2) securities as to which the payment of principal
7 and interest is guaranteed by the United States;

8 (3) securities issued or fully guaranteed by the
9 following agencies of the United States or their successors,
10 whether or not guaranteed by the United States:

11 (a) commodity credit corporation;

12 (b) federal intermediate credit banks;

13 (c) federal land bank;

14 (d) bank for cooperatives;

15 (e) federal home loan banks;

16 (f) federal national mortgage association;

17 (g) government national mortgage association;

18 (h) small business administration;

19 (i) federal housing administration; and

20 (j) federal home loan mortgage corporation;

21 (4) general obligation bonds of the state or of any
22 county, city, school district, or other political
23 subdivision of the state;

24 (5) revenue bonds of any county, city, or other
25 political subdivision of the state, when backed by the full

1 faith and credit of such subdivision or when the revenues
 2 pledged to the payment of the bonds are derived from a water
 3 or sewer system and the issuer has covenanted to establish
 4 and maintain rates and charges for the system in an amount
 5 sufficient to produce revenues equal to at least 125% of the
 6 average annual principal and interest due on all bonds
 7 payable for such revenues during the outstanding term of
 8 such bonds;

9 (6) interest-bearing warrants of the state or of any
 10 county, city, school district, or other political
 11 subdivision of the state issued in evidence of claims in an
 12 amount which, with all other claims on the same fund, do not
 13 exceed the amount validly appropriated in the current budget
 14 for expenditure from the fund in the year in which they are
 15 issued;

16 (7) obligations of housing authorities of the state
 17 secured by a pledge of annual contributions or by a loan
 18 agreement made by the United States or any agency thereof
 19 providing for contributions or a loan sufficient with other
 20 funds pledged to pay the principal of and interest on the
 21 obligations when due. Subject to rules prescribed by the
 22 department of commerce, the bonds and other obligations made
 23 eligible for investment in 32-1-424(3) and 7-15-4505 may be
 24 used as security for all deposits of public funds or
 25 obligations for which depository bonds or any kind of bonds

1 or other securities are required or may by law be deposited
 2 as security.

3 (8) general obligation bonds of other states and of
 4 municipalities, counties, and school districts of other
 5 states;

6 (9) undertaking or guarantees issued by a surety
 7 company authorized to do business in the state;

8 (10) first mortgages and trust indentures on real
 9 property. The depository shall, on a quarterly basis,
 10 certify to the state treasurer that sufficient first
 11 mortgages and trust indentures on real property are
 12 available and segregated to secure deposits of public funds.
 13 The board of investments shall determine the amount of
 14 security required.

15 (11) bonds issued pursuant to Title 7, chapter 12,
 16 parts 21, and 41, and 42;

17 (12) bonds issued pursuant to Title 90, chapter 6, part
 18 1;

19 (13) revenue bonds issued by any unit of the university
 20 system of the state of Montana; and

21 (14) advance refunded bonds secured by direct
 22 obligations of the United States treasury held in
 23 irrevocable escrow."

24 Section 57. Section 17-6-302, MCA, is amended to read:

25 "17-6-302. Definitions. As used in this part, unless

1 the context requires otherwise, the following definitions
2 apply:

3 (1) "Board" means the Montana economic development
4 board established in 2-15-1805.

5 (2) "Clean and healthful environment" means an
6 environment that is relatively free from pollution which
7 threatens human health, including as a minimum, compliance
8 with federal and state environmental and health standards.

9 (3) "Employee-owned enterprise" means any enterprise
10 at least 51% of whose stock, partnership interests, or other
11 ownership interests is owned and controlled by residents of
12 Montana each of whose principal occupation is as an
13 employee, officer, or partner of the enterprise.

14 (4) "Financial institution" includes but is not
15 limited to a state- or federally chartered bank or a savings
16 and loan association, credit union, or development
17 corporation created pursuant to Title 32, chapter 4.

18 (5) "Loan participation" means loans or portions
19 thereof bought from a financial institution.

20 (6) "Locally owned enterprise" means any enterprise
21 51% of whose stock, partnership interests, or other
22 ownership interests are owned and controlled by residents of
23 Montana.

24 (7) "Long-term benefit to the Montana economy" means
25 an activity that strengthens the Montana economy and that

1 has the potential to maintain and create jobs, increase per
2 capita income, or increase Montana tax revenues in the
3 future to the people of Montana, either directly or
4 indirectly.

5 (8) "Montana economy" means any business activity in
6 the state of Montana, including those which continue
7 existing jobs or create new jobs in Montana.

8 (9) "Montana in-state investment fund" means the fund
9 established by ~~17-6-305~~ 17-6-306.

10 (10) "Service fees" means the fees normally charged by
11 a financial institution for servicing a loan, including
12 amounts charged for collecting payments and remitting
13 amounts to the fund."

14 Section 58. Section 18-1-103, MCA, is amended to read:
15 "18-1-103. Residence defined. (1) For the purpose of
16 18-1-102, and 18-1-103, ~~and-18-1-112,~~ the word "resident"
17 shall include actual residence of an individual within this
18 state for a period of more than 1 year immediately prior to
19 bidding.

20 (2) In a partnership enterprise or an association, the
21 majority of all partners or association members shall have
22 been actual residents of the state of Montana for more than
23 1 year immediately prior to bidding.

24 (3) Domestic corporations organized under the laws of
25 the state of Montana are prima facie eligible to bid as

1 residents, but this qualification may be set aside and a
 2 successful bid disallowed where it is shown to the
 3 satisfaction of the board, commission, officer, or
 4 individual charged with the responsibility for the execution
 5 of such contract that said corporation is a wholly owned
 6 subsidiary of a foreign corporation or that said corporation
 7 was formed for the purpose of circumventing the provisions
 8 relating to residence.

9 (4) Notwithstanding the foregoing, any bidder on a
 10 contract for purchase of products, materials, supplies, or
 11 equipment, whether an individual, partnership, or
 12 corporation, foreign or domestic and regardless of ownership
 13 thereof, whose offered materials, supplies, or equipment are
 14 manufactured or produced in this state by industry located
 15 in Montana and Montana labor shall be deemed to be a
 16 resident for the purpose of 18-1-102, and 18-1-103--~~and~~
 17 ~~18-1-112.~~"

18 Section 59. Section 18-2-201, MCA, is amended to read:
 19 "18-2-201. Bonding requirements. (1) Except as
 20 otherwise provided in ~~18-1-219~~ 85-1-219 and subsection (4)
 21 of this section, whenever any board, council, commission,
 22 trustees, or body acting for the state or any county,
 23 municipality, or any public body shall contract with any
 24 person or corporation to do any work for the state, county,
 25 or municipality or other public body, city, town, or

1 district, such board, council, commission, trustees, or body
 2 shall require the corporation, person, or persons with whom
 3 such contract is made to make, execute, and deliver to such
 4 board, council, commission, trustees, or body a good and
 5 sufficient bond with a licensed surety company as surety,
 6 conditioned that such corporation, person, or persons shall:

7 (a) faithfully perform all of the provisions of such
 8 contract;

9 (b) pay all laborers, mechanics, subcontractors, and
 10 materialmen; and

11 (c) pay all persons who shall supply such corporation,
 12 person or persons, or subcontractors with provisions,
 13 provender, material, or supplies for the carrying on of such
 14 work.

15 (2) A copy of such bond shall be filed with the county
 16 clerk and recorder of the county where such work is
 17 performed or improvement made or, if to be performed in more
 18 than one county, then with the county clerk of either
 19 county, except in cases of cities and towns, in which case
 20 such bond shall be filed with the city or town clerk
 21 thereof.

22 (3) Notwithstanding the provisions of (1) and (2)
 23 above, the state or other governmental entity may, in lieu
 24 of a surety bond, permit the deposit with the contracting
 25 governmental entity or agency of the following securities in

1 an amount at least equal to the contract sum to guarantee
 2 the faithful performance of the contract and the payment of
 3 all laborers, suppliers, materialmen, mechanics, and
 4 subcontractors:

- 5 (a) lawful money of the United States; or
 6 (b) a cashier's check, certified check, bank money
 7 order, or bank draft, drawn or issued by any banking
 8 corporation incorporated under the laws of the state of
 9 Montana or by a national banking association located in
 10 Montana; or
 11 (c) certificates of deposit or money market
 12 certificates issued by any bank or savings and loan
 13 association licensed to do business in Montana.

14 (4) Notwithstanding the provisions of subsections (1)
 15 and (2) above, any board, council, commission, trustee, or
 16 body acting for any county, municipality, or any public body
 17 other than the state may, in lieu of a bond from a licensed
 18 surety company, accept a good and sufficient bond with two
 19 or more sureties acceptable to the governmental body."

20 Section 60. Section 19-3-906, MCA, is amended to read:

21 "19-3-906. Early retirement allowance. (1) The annual
 22 amount of retirement allowance payable to a member following
 23 his early retirement is the actuarial equivalent of the
 24 accrued portion of the service retirement allowance which
 25 would have been payable to him commencing at age 60 or upon

1 completion of 30 years of creditable service pursuant to
 2 19-3-904.

3 (2) The early retirement allowance shall be determined
 4 as prescribed in 19-3-904 with the exception that the
 5 allowance must be reduced as follows:

6 (a) by 1/2 of 1% multiplied by the number of months up
 7 to a maximum of 60 months by which the retirement date
 8 precedes the date on which he would have retired had he
 9 attained 60 years of age or had he completed 30 years of
 10 creditable service; and

11 (b) by 3/10 of 1% multiplied by the number of months
 12 in excess of the 60 months in subsection (2)(a) but not to
 13 exceed 60 additional months that the retirement date
 14 precedes the date on which he would have retired had he
 15 attained 60 years of age or had he completed 30 years of
 16 creditable service."

17 Section 61. Section 19-4-902, MCA, is amended to read:

18 "19-4-902. Allowance for disability retirement. (1)
 19 Upon retirement for disability, a member shall receive the
 20 superannuation allowance ~~and other benefits~~ prescribed under
 21 part 8 of this chapter if he is eligible.

22 (2) If he is not eligible for the benefits allowance
 23 prescribed under part 8 of this chapter, he shall receive a
 24 disability retirement allowance which consists of:

25 (a) an annuity which is the actuarial equivalent of

1 his accumulated contributions at the time of retirement; and

2 (b) a pension which, together with his annuity,
3 provides a total retirement allowance equal to one-sixtieth
4 of his average final compensation multiplied by the number
5 of years of his creditable service, if such retirement
6 allowance exceeds one-fourth of his average final
7 compensation; otherwise, a pension which, together with his
8 annuity, provides a total retirement allowance equal to
9 one-fourth of his average final compensation.

10 (3) No allowance under subsection (2) may exceed
11 one-sixtieth of his average final compensation multiplied by
12 the number of years which would be creditable to him were
13 his service to continue until the attainment of the minimum
14 age for superannuation retirement."

15 Section 62. Section 19-7-101, MCA, is amended to read:

16 "19-7-101. Definitions. Unless the context requires
17 otherwise, the following definitions apply in this chapter:

18 (1) "Account" means the Montana sheriffs' retirement
19 pension trust fund administered by the sheriffs' retirement
20 board.

21 (2) "Accumulated contributions" or "accumulated
22 deductions" means the total amount deducted from the salary
23 of a member during a period of membership service plus the
24 total amount deducted during a period of prior service and
25 transferred from the public employees' retirement system

1 standing to the member's credit in the account, together
2 with the accrued interest.

3 (3) "Actuarial equivalent" means a benefit of equal
4 value when computed upon the basis of the actuarial tables
5 in use by the system.

6 (4) "Beneficiary" means a person who is nominated by
7 the member in an acknowledged document which is filed with
8 the board.

9 (5) "Board" means the public employees' retirement
10 board.

11 (6) "Creditable service" means the aggregate of all of
12 a member's current and prior service.

13 (7) "Death benefit" means a monthly annuity or
14 lump-sum payment made to a beneficiary on behalf of a member
15 who dies before retirement.

16 (8) "Final salary" means the average annual salary
17 received by a member, before any deductions are made and
18 exclusive of maintenance, allowances, and expenses, for any
19 3 years of continuous service from which contributions were
20 deducted or, in the event that a member has not served 3
21 years, the total salary earned divided by the number of
22 years served. Lump-sum payments for sick leave and annual
23 leave paid to an employee upon termination of employment may
24 be used in the calculation of a retirement allowance only to
25 the extent that they are used to replace, on a month for

1 month basis, the normal compensation for a month or months
2 included in the calculation of the final salary. A lump-sum
3 payment may not be added to a single month's compensation.

4 (9) "Member" means any person who has accumulated
5 deductions in the account to his credit.

6 (10) "Member's annuity" means payments for life derived
7 from contributions made by the member while employed.

8 (11) "Membership service" means service for which an
9 amount is deducted from the salary of a member and paid into
10 the account.

11 (12) "Prior service" means service for which credit was
12 granted by the public employees' retirement system of the
13 state of Montana.

14 (13) "Retired sheriff" means a person receiving a
15 retirement allowance under this chapter.

16 (14) "Retirement allowance" means the state annuity
17 plus the member's annuity.

18 (15) "Service" means employment as a sheriff.

19 (16) "Sheriff" means any elected or appointed county
20 sheriff, undersheriff, or regularly appointed and acting
21 deputy sheriff.

22 (17) "State annuity" means payments for life derived
23 from county contributions into the sheriffs' retirement
24 account, together with any supplemental legislative
25 appropriations to the account.

1 (18) "Vested retirement" means a retirement not for
2 cause and before retirement age."

3 Section 63. Section 19-7-405, MCA, is amended to read:
4 "19-7-405. Investment of account. Whenever there is
5 over \$25,000 on deposit in the account, that amount will be
6 invested by the board of investments as part of the
7 long-term investment fund. Any of the account in an amount
8 of \$25,000 or less shall be invested by the board of
9 investments as part of the short-term investment fund when
10 so directed by the sheriffs' retirement board."

11 Section 64. Section 19-10-202, MCA, is amended to
12 read:

13 "19-10-202. Limit on use of fund. (1) Except as
14 provided in subsection (2), a police retirement fund may not
15 be used for any purpose other than to make payments
16 authorized by this chapter to members of the police
17 department on the retired list and to make authorized
18 investments.

19 (2) When a city or town no longer employs a police
20 officer eligible to receive benefits paid from the city's or
21 town's police retirement fund and when there are no retired
22 police officers or beneficiaries eligible to receive
23 benefits from the fund, the city or town shall dissolve the
24 fund and pay to the state auditor, for deposit in the
25 general fund, an amount proportional to the prior

1 contributions made by the state under 19-10-305, as
 2 determined by the state auditor. Any remaining money in the
 3 fund must be transferred to the city or town general fund to
 4 be used by the city or town for any authorized city or town
 5 purpose."

6 Section 65. Section 19-11-203, MCA, is amended to
 7 read:

8 "19-11-203. Use of disability and pension fund. The
 9 fund may not be used for any purpose other than investment,
 10 as provided in parts-3-and part 4 of this chapter, and the
 11 payment of the following:

12 (1) a service pension to a member who, by reason of
 13 service, has become entitled to a service pension;

14 (2) a pension to a member who has become permanently
 15 maimed or disabled;

16 (3) a benefit or allowance to a member who has
 17 suffered a permanent disabling injury;

18 (4) a benefit or allowance to a member who has
 19 contracted a permanent disabling sickness;

20 (5) a benefit, not exceeding \$750, to defray the
 21 funeral expenses of a member;

22 (6) benefits to the surviving spouse, child, or
 23 children of a deceased member as provided in this chapter;

24 (7) premiums on a blanket policy of insurance covering
 25 the members of the fire department and providing for payment

1 of compensation in case of the death of or injury to any
 2 such member;

3 (8) the return of employee contributions as provided
 4 in this chapter."

5 Section 66. Section 20-3-108, MCA, is amended to read:

6 "20-3-108. Division of resources and assessment
 7 enterprise fund. The superintendent of public instruction
 8 shall establish an enterprise fund within the office of
 9 public instruction for the division of resources and
 10 assessment. Funds derived from the sale of educational
 11 materials or services provided by the division of resources
 12 and assessment shall be deposited in the resources and
 13 assessment enterprise fund. In addition to other available
 14 funds, the superintendent of public instruction shall use
 15 these funds for the operation and maintenance of the
 16 division of resources and assessment as authorized by
 17 20-3-106~~(25)~~(23)."

18 Section 67. Section 20-5-301, MCA, is amended to read:

19 "20-5-301. Elementary tuition with mandatory approval.

20 (1) Any child may be enrolled in and attend an elementary
 21 school outside of the elementary district in which he
 22 resides when such elementary school is located in:

23 (a) any other district of the county of his residence;

24 (b) a county adjoining his county of residence; or

25 (c) a district of another state that is adjacent to

1 the county of his residence.

2 (2) When a parent or guardian of a child wishes to
3 have his child attend a school under the provisions of this
4 section, he shall apply to the county superintendent of the
5 county of his residence before July 1 of the school fiscal
6 year for which he seeks approval except in those cases when
7 substantial changes in circumstances occurred subsequently
8 to justify later application. The application shall be made
9 on a tuition agreement form supplied by the county
10 superintendent and shall be approved, before permission to
11 enroll in and attend school outside of the district under
12 the provisions of this section may be granted, by:

13 (a) the trustees of the elementary district in which
14 the child resides;

15 (b) the trustees of the district where the child
16 wishes to attend school; and

17 (c) the county superintendent of the child's
18 residence.

19 (3) In considering the approval of a tuition
20 application, the tuition approval agents prescribed in this
21 section shall approve such application for a resident child
22 when:

23 (a) the child resides less than 3 miles from the
24 school which he wishes to attend and more than 3 miles from
25 any school of his resident elementary district;

1 (b) the child resides more than 3 miles from any
2 school of his resident elementary district and such district
3 does not provide transportation under the provisions of this
4 title;

5 (c) the child resides more than 3 miles from any
6 school of his resident elementary district, the resident
7 district does not provide transportation under the
8 provisions of this title, and school bus transportation is
9 furnished by the district operating the school which he
10 wishes to attend;

11 (d) the child is a member of a family who must send
12 another child outside of the elementary district to attend
13 high school and the child of elementary age may more
14 conveniently attend an elementary school where the high
15 school is located, provided the child resides more than 3
16 miles from an elementary school of the resident district or
17 the parent must move to the elementary district where the
18 high school is located in order to enroll the other child in
19 high school;

20 (e) the child has been declared by a court of
21 competent jurisdiction to be an abused, neglected, or
22 dependent child, as defined in 41-3-102, or a delinquent
23 youth, as defined in 41-5-103, and has been ordered to be
24 placed in a licensed child care institution which is
25 approved by the department of social and rehabilitation

1 services and as a result of the order the child is required
 2 to attend elementary school outside of the district of his
 3 residence--~~For~~; for purposes of this subsection the
 4 prescribed geographic relationship of the receiving district
 5 to the district of residence does not apply; or

6 (f) the child is required to attend elementary school
 7 outside the district of residence as the result of an order
 8 of a court of competent jurisdiction. For the purposes of
 9 this subsection (f), the following do not apply:

10 (i) the prescribed geographic relationship of the
 11 receiving district to the district of residence in this
 12 subsection (3); or

13 (ii) an order issued under Title 40, chapter 4, part 2.

14 (4) The trustees of the district where the school to
 15 be attended is located may disapprove a tuition agreement
 16 that satisfies any of the mandatory approval conditions
 17 specified in subsection (3) above when they find that, due
 18 to insufficient room and overcrowding, the accreditation of
 19 the school would be adversely affected by the acceptance of
 20 the child. In the event of disapproval, the trustees shall
 21 so notify the parent in writing within 15 days of the first
 22 receipt of the application."

23 Section 68. Section 20-7-117, MCA, is amended to read:

24 "20-7-117. Five-year-old schooling and preschool
 25 programs. (1) The trustees of an elementary district may

1 establish a program capable of accommodating, at a minimum,
 2 all the children in the district who will be 5 years old on
 3 or before September 10 of the school year for which the
 4 program is to be conducted or ~~has~~ have been enrolled by
 5 special permission of the board of trustees. The program
 6 shall be an integral part of the elementary school and shall
 7 be financed and governed accordingly, provided that to be
 8 eligible for inclusion in the calculation of ANB pursuant to
 9 20-9-311, a child must have reached the age of 5 on or
 10 before September 10 of the school year covered by the
 11 calculation or ~~has~~ have been enrolled by special permission
 12 of the board of trustees.

13 (2) The trustees of an elementary school district may
 14 establish and operate a free preschool program for children
 15 between the ages of 3 and 5 years. When such preschool
 16 programs are established, they shall be an integral part of
 17 the elementary school and shall be governed accordingly.
 18 Financing of preschool programs shall not be supported by
 19 moneys available from state equalization aid."

20 Section 69. Section 20-9-165, MCA, is amended to read:

21 "20-9-165. Emergency budget limitation, preparation,
 22 and adoption procedures. (1) The meeting of the trustees to
 23 consider and adopt an emergency budget shall be open to the
 24 public, and any taxpayer in the district shall have the
 25 right to appear and be heard. If at such a meeting a

1 majority of the trustees present shall find that an
 2 emergency exists, the trustees may make and adopt a
 3 preliminary emergency budget, on the regular budget form,
 4 setting forth fully the facts constituting the emergency. In
 5 adopting the preliminary emergency budget, the trustees may
 6 budget for any fund which was included on the final budget
 7 of the district for the current school fiscal year. The
 8 budget shall be itemized to show the amount appropriated for
 9 each item as required on the budget form.

10 (2) When the emergency is due to any increase of
 11 enrollment, the maximum amount of the emergency budget for
 12 all funds shall be determined in the following manner:

13 (a) Determine the total amount in the final budget for
 14 the current school fiscal year of all funds affected by the
 15 emergency, less any amounts appropriated as capital outlay
 16 and any amount appropriated for addition to the cash
 17 reserve.

18 (b) Divide the amount determined in subsection (2)(a)
 19 by the number of pupils originally enrolled in such district
 20 during the immediately preceding school fiscal year. The
 21 resulting cost per pupil shall constitute the maximum
 22 permissible per-pupil expenditure in the emergency budget.

23 (c) Determine the enrollment increase of the current
 24 school fiscal year by subtracting the number of pupils
 25 originally enrolled during the immediately preceding school

1 fiscal year from the number of pupils enrolled for the
 2 current school year. The result shall be the enrollment
 3 increase for the current school fiscal year.

4 (d) Multiply the cost per pupil determined in
 5 subsection (2)(b) by the enrollment increase determined in
 6 subsection (2)(c). The result shall be the maximum
 7 limitation on an emergency budget for emergencies due to an
 8 increase of enrollment.

9 (e) In the case of a community college district, by
 10 budget amendment ~~in accordance with 20-15-302~~.

11 (3) In the event of any other type of emergency, the
 12 budget shall be limited by those expenditures deemed by the
 13 trustees to be reasonable and necessary to finance the
 14 stated conditions of the emergency and the preliminary
 15 emergency budget shall be accompanied with the details of
 16 the proposed expenditures.

17 (4) Whenever the trustees adopt a preliminary
 18 emergency budget for the transportation fund, the trustees
 19 shall attach to such budget a copy of each transportation
 20 contract which is connected with the emergency and which has
 21 been prepared and executed in accordance with the school
 22 transportation contract laws.

23 (5) After the trustees have adopted the emergency
 24 budget by a majority vote of the trustees, it shall be
 25 signed by the chairman of the trustees and the clerk of the

1 district and copies shall be sent to the county
2 superintendent, the county treasurer, and the superintendent
3 of public instruction. In the case of a community college
4 district, copies of the emergency budget shall be sent to
5 the county superintendent, the county treasurer, and the
6 board of regents."

7 Section 70. Section 20-9-343, MCA, is amended to read:

8 "20-9-343. Definition of and revenue for state
9 equalization aid. (1) As used in this title, the term "state
10 equalization aid" means those moneys deposited in the state
11 special revenue fund as required in this section plus any
12 legislative appropriation of moneys from other sources for
13 distribution to the public schools for the purpose of
14 equalization of the foundation program.

15 (2) The legislative appropriation for state
16 equalization aid shall be made in a single sum for the
17 biennium. The superintendent of public instruction has
18 authority to spend such appropriation, together with the
19 earmarked revenues provided in subsection (3), as required
20 for foundation program purposes throughout the biennium.

21 (3) The following shall be paid into the state special
22 revenue fund for state equalization aid to public schools of
23 the state:

24 (a) 25% of all moneys received from the collection of
25 income taxes under chapter 30 of Title 15;

1 (b) 25% of all moneys, except as provided in
2 15-31-702, received from the collection of corporation
3 license taxes under chapter 31 of Title 15, as provided by
4 15-1-501;

5 (c) ~~10%~~ the amount provided in 15-35-108 of the moneys
6 received from the collection of the severance tax on coal
7 under chapter 35 of Title 15;

8 (d) 100% of the moneys received from the treasurer of
9 the United States as the state's shares of oil, gas, and
10 other mineral royalties under the federal Mineral Lands
11 Leasing Act, as amended;

12 (e) interest and income moneys described in 20-9-341
13 and 20-9-342;

14 (f) income from the local impact and education trust
15 fund account; and

16 (g) in addition to these revenues, the surplus
17 revenues collected by the counties for foundation program
18 support according to 20-9-331 and 20-9-333 ~~shall be paid~~
19 ~~into the same state special revenue fund.~~

20 (4) Any surplus revenue in the state equalization aid
21 account in the second year of a biennium may be used to
22 reduce the appropriation required for the next succeeding
23 biennium ~~for--may--be--transferred--to--the--state--permissive~~
24 ~~account--if--revenues--in--that--fund--are--insufficient--to--meet~~
25 ~~the--state's--permissive--amount--obligation}.~~"

1 Section 71. Section 20-9-410, MCA, is amended to read:

2 "20-9-410. Limitation of term and interest -- timing
3 for redemption. School district bonds shall not be issued
4 for a term longer than 20 years, except that bonds issued to
5 refund or redeem outstanding bonds shall not be issued for a
6 term longer than 10 years unless the unexpired term of the
7 bonds to be refunded or redeemed is in excess of 10 years,
8 in which case the refunding or redeeming bonds may be issued
9 for such unexpired term. All bonds issued for a longer term
10 than 5 years shall be redeemable at the option of the school
11 district on any interest payment date after one-half of the
12 term for which they were issued has expired, and it shall be
13 so stated on the face of the bonds. The interest shall not
14 ~~exceed the limitation of~~ be as provided under 17-5-102 and
15 shall be payable semiannually."

16 Section 72. Section 20-15-403, MCA, is amended to
17 read:

18 "20-15-403. Applications of other school district
19 provisions. (1) When the term "school district" appears in
20 the following sections outside of Title 20, the term
21 includes community college districts and the provisions of
22 those sections applicable to school districts apply to
23 community college districts: 2-9-101, 2-9-111, 2-9-316,
24 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,
25 7-6-2801, 7-7-123, 7-8-2214, ~~7-8-2215~~, 7-8-2216, 7-11-103,

1 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703,
2 15-1-101, 15-6-204, 15-16-101, 15-16-601, 15-18-108,
3 15-55-106, 15-70-301, 15-70-322, 17-5-101, 17-5-202,
4 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-102, 18-1-112,
5 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404,
6 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,
7 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,
8 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206,
9 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304,
10 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and
11 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as
12 amended.

13 (2) When the term "school district" appears in a
14 section outside of Title 20 but the section is not listed in
15 subsection (1), the school district provision does not apply
16 to a community college district."

17 Section 73. Section 20-15-404, MCA, is amended to
18 read:

19 "20-15-404. Trustees to adhere to certain other laws.
20 Unless the context clearly indicates otherwise, the trustees
21 of a community college district shall:

22 (1) adhere to the teachers' retirement provisions of
23 Title 19, chapter 4, as amended;

24 (2) adhere to the provisions of 20-1-201, 20-1-205,
25 20-1-211, and 20-1-212, as amended;

1 (3) adhere to the school property provisions of
 2 20-6-605, 20-6-621, 20-6-622, 20-6-624, 20-6-631, and
 3 20-6-633 through 20-6-636, as amended;

4 (4) adhere to the adult education provisions of
 5 20-7-701 through ~~20-7-712~~ 20-7-713, as amended;

6 (5) adhere to the administration of finances
 7 provisions of 20-9-115, 20-9-134, subsections (2), (3), (4),
 8 and (5) of 20-9-161, 20-9-163, 20-9-165, 20-9-207, 20-9-208,
 9 20-9-210, 20-9-215, and 20-9-221 through 20-9-224, as
 10 amended;

11 (6) adhere to the school bond provisions of 20-9-401
 12 through 20-9-412, 20-9-421 through 20-9-446, 20-9-451
 13 through 20-9-456, and 20-9-461 through 20-9-465, as amended;

14 (7) adhere to the special purpose funds provisions of
 15 20-9-502, 20-9-503, 20-9-507, 20-9-508, and 20-9-511, as
 16 amended;

17 (8) adhere to the educational cooperative agreements
 18 provisions of 20-9-701 through 20-9-704, as amended;

19 (9) adhere to the school elections provisions of Title
 20 20, chapter 20, as amended;

21 (10) adhere to the students' rights provisions of
 22 20-25-511 through 20-25-516, as amended; and

23 (11) adhere to the health provisions of 50-1-206."
 24 Section 74. Section 20-25-302, MCA, is amended to
 25 read:

1 "20-25-302. Revenue-producing facilities -- powers of
 2 regents. The regents of the Montana university system may:
 3 (1) purchase, construct, equip, or improve, at any
 4 unit of the Montana university system, any of the following
 5 types of revenue-producing facilities:
 6 (a) land;
 7 (b) residence halls, dormitories, houses, apartments,
 8 and other housing facilities;
 9 (c) dining rooms and halls, restaurants, cafeterias,
 10 and other food service facilities;
 11 (d) student union buildings and facilities; and
 12 (e) those other facilities specifically authorized by
 13 joint resolution of the legislature;

14 (2) rent housing facilities and provide food and other
 15 services to the students, officers, guests, and employees of
 16 the unit at rates that will ensure a reasonable net income
 17 over operating expenses and will provide for debt service
 18 and reserves and provide for the collection of charges,
 19 admissions, and fees for the use of other facilities by
 20 students and other persons, which charges, admissions, and
 21 fees shall not be deemed to be tuition within the meaning of
 22 20-25-421 and may be collected from any or all students.
 23 Student building fees established and in effect on January
 24 1, 1965, which are imposed uniformly upon all students or
 25 upon all of a specified class of students in attendance at

1 any unit of the Montana university system shall not be
 2 increased without authorization by law unless absolutely
 3 necessary and then only to the extent necessary to pay
 4 principal or interest due on obligations for which such fees
 5 have been or shall be pledged or to maintain reserves
 6 securing the payment of such obligations in accordance with
 7 the indentures, resolutions, contracts, or other instruments
 8 authorizing the issuance of such obligations; provided that
 9 at any unit of the Montana university system where the
 10 aggregate amount of student building fees in effect on
 11 January 1, 1965, was less than \$50 per student per academic
 12 year, such fees may be increased or additional student
 13 building fees may be established to an aggregate amount not
 14 exceeding \$50 per student per academic year and provided
 15 further that additional student building fees may be
 16 established or existing student building fees may be
 17 increased at the university of Montana at Missoula to an
 18 aggregate amount not to exceed \$90 per student per academic
 19 year. This limitation shall not affect admission or use
 20 charges which are made to individual students or others in
 21 proportion to their use or occupancy of particular
 22 facilities or services and shall not affect any student
 23 building fees or other charges which are made pursuant to
 24 ~~nonresident-students-as-defined-in 20-25-421~~ for nonresident
 25 students.

1 (3) hold the net income derived from the operation of
 2 such facilities and the charges, admissions, and fees so
 3 collected and devote the revenues from these sources to debt
 4 service and reserves, repairs, replacements, and betterments
 5 of the facilities or, so far as such revenues have not been
 6 previously obligated for these purposes, to the acquisition,
 7 erection, equipping, enlarging, or improvement of additional
 8 facilities of the types described in this section;
 9 (4) exercise full control and complete management of
 10 such facilities;
 11 (5) rent the facilities to other public or private
 12 persons, firms, and corporations for such uses, at such
 13 times, for such periods, and at such rates as in the
 14 regents' judgment will be consistent with the full use
 15 thereof for academic purposes and will add to the revenues
 16 available for capital costs and debt service;
 17 (6) do all things necessary to plan for and propose
 18 financing, including all necessary loan applications, for:
 19 (a) classroom, laboratory, library, bookstore, and
 20 other instructional facilities;
 21 (b) office, recordkeeping, storage, equipment
 22 maintenance, and other administrative and operational
 23 facilities;
 24 (c) stadiums, fieldhouses, armories, arenas,
 25 gymnasiums, swimming pools, and other facilities for

1 athletic and military instruction, exhibitions, games, and
2 contests;

3 (d) auditoriums, theaters, music halls, and other
4 assembly, theatrical, musical, and entertainment facilities;

5 (e) hospital, nursing, and other health instruction
6 and service facilities;

7 (f) nurseries, barns, arenas, pavilions, and other
8 facilities for agricultural and livestock breeding,
9 development, and exhibition;

10 (g) parking lots and ramps and other parking
11 facilities; and

12 (h) land needed for such facilities."

13 Section 75. Section 30-4-302, MCA, is amended to read:

14 "30-4-302. Payor bank's responsibility for late return
15 of item. In the absence of a valid defense such as breach of
16 a presentment warranty (subsection (1) of 30-4-207),
17 settlement effected or the like, if an item is presented on
18 and received by a payor bank the bank is accountable for the
19 amount of:

20 ~~(a)~~(1) a demand item other than a documentary draft
21 whether properly payable or not if the bank, in any case
22 where it is not also the depository bank, retains the item
23 beyond midnight of the banking day of receipt without
24 settling for it or, regardless of whether it is also the
25 depository bank, does not pay or return the item or send

1 notice of dishonor until after its midnight deadline; or

2 ~~(b)~~(2) any other properly payable item unless within
3 the time allowed for acceptance or payment of that item the
4 bank either accepts or pays the item or returns it and
5 accompanying documents."

6 Section 76. Section 30-10-103, MCA, is amended to
7 read:

8 "30-10-103. Definitions. When used in parts 1 through
9 3 of this chapter, unless the context requires otherwise,
10 the following definitions apply:

11 (1) "Commissioner" means securities commissioner of
12 this state.

13 (2) "Salesman" means any individual other than a
14 broker-dealer who represents a broker-dealer or issuer in
15 effecting or attempting to effect sales of securities. A
16 partner, officer, or director of a broker-dealer or issuer
17 is a salesman only if he otherwise comes within this
18 definition. "Salesman" does not include an individual who
19 represents an issuer in:

20 (a) effecting a transaction in a security exempted by
21 subsections (1), (2), (3), (9), (10), (11), or (12) of
22 30-10-104;

23 (b) effecting transactions exempted by 30-10-105; or

24 (c) effecting transactions with existing employees,
25 partners, or directors of the issuer if no commission or

1 other remuneration is paid or given directly or indirectly
2 for soliciting any person in this state.

3 (3) "Broker-dealer" means any person engaged in the
4 business of effecting transactions in securities for the
5 account of others or for his own account. "Broker-dealer"
6 does not include:

7 (a) a salesman, issuer, bank, savings institution,
8 trust company, or insurance company; or

9 (b) a person who has no place of business in this
10 state if he effects transactions in this state exclusively
11 with or through the issuers of the securities involved in
12 the transactions, other broker-dealers, or banks, savings
13 institutions, trust companies, insurance companies,
14 investment companies as defined in the Investment Company
15 Act of 1940, pension or profit-sharing trusts, or other
16 financial institutions or institutional buyers, whether
17 acting for themselves or as trustee.

18 (4) "Registered broker-dealer" means a broker-dealer
19 registered pursuant to 30-10-201.

20 (5) "Guaranteed" means guaranteed as to payment of
21 principal, interest, or dividends.

22 (6) "Investment adviser" means any person who, for
23 compensation, engages in the business of advising others,
24 either directly or through publications or writings, as to
25 the value of securities or as to the advisability of

1 investing in, purchasing, or selling securities or who, for
2 compensation and as a part of a regular business, issues or
3 promulgates analyses or reports concerning securities.

4 "Investment adviser" does not include:

5 (a) a bank, savings institution, trust company, or
6 insurance company;

7 (b) a lawyer, accountant, engineer, or teacher whose
8 performance of these services is solely incidental to the
9 practice of his profession;

10 (c) a broker-dealer;

11 (d) a publisher of any bona fide newspaper, news
12 magazine, or business or financial publication of general,
13 regular, and paid circulation;

14 (e) a person whose advice, analyses, or reports relate
15 only to securities exempted by 30-10-104(1);

16 (f) a person who has no place of business in this
17 state if his only clients in this state are other investment
18 advisers, broker-dealers, banks, savings institutions, trust
19 companies, insurance companies, investment companies as
20 defined in the Investment Company Act of 1940, pension or
21 profit-sharing trusts, or other financial institutions or
22 institutional buyers, whether acting for themselves or as
23 trustees; or

24 (g) such other persons not within the intent of this
25 subsection ~~(5)~~(6) as the commissioner may by rule or order

1 designate.

2 (7) "Issuer" means any person who issues or proposes
3 to issue any security, except that with respect to
4 certificates of deposit, voting-trust certificates, or
5 collateral-trust certificates or with respect to
6 certificates of interest or shares in an unincorporated
7 investment trust not having a board of directors (or persons
8 performing similar functions) or of the fixed, restricted
9 management, or unit type, the term "issuer" means the person
10 or persons performing the acts and assuming the duties of
11 depositor or manager pursuant to the provisions of the trust
12 or other agreement or instrument under which the security is
13 issued.

14 (8) "Nonissuer" means not directly or indirectly for
15 the benefit of the issuer.

16 (9) "Person", for the purpose of parts 1 through 3 of
17 this chapter, means an individual, a corporation, a
18 partnership, an association, a joint-stock company, a trust
19 where the interests of the beneficiaries are evidenced by a
20 security, an unincorporated organization, a government, or a
21 political subdivision of a government.

22 (10) (a) "Sale" or "sell" includes every contract of
23 sale of, contract to sell, or disposition of a security or
24 interest in a security for value.

25 (b) "Offer" or "offer to sell" includes every attempt

1 or offer to dispose of or solicitation of an offer to buy a
2 security or interest in a security for value.

3 (c) Any security given or delivered with or as a bonus
4 on account of any purchase of securities or any other thing
5 is considered to constitute part of the subject of the
6 purchase and to have been offered and sold for value. A
7 purported gift of assessable stock is considered to involve
8 an offer and sale. Every sale or offer of a warrant or right
9 to purchase or subscribe to another security of the same or
10 another issuer, as well as every sale or offer of a security
11 which gives the holder a present or future right or
12 privilege to convert into another security of the same or
13 another issuer, is considered to include an offer of the
14 other security.

15 (11) "Securities Act of 1933", "Securities Exchange Act
16 of 1934", "Public Utility Holding Company Act of 1935", and
17 "Investment Company Act of 1940" mean the federal statutes
18 of those names as amended before or after July 1, 1961.

19 (12) "Security" means any note; stock; treasury stock;
20 bond; debenture; evidence of indebtedness; certificate of
21 interest or participation in any profit-sharing agreement;
22 collateral-trust certificate; preorganization certificate or
23 subscription; transferable shares; investment contract;
24 voting-trust certificate; certificate of deposit for a
25 security; certificate of interest or participation in an

1 oil, gas, or mining title or lease or in payments out of
 2 production under such a title or lease; or, in general, any
 3 interest or instrument commonly known as a security or any
 4 certificate of interest or participation in, temporary or
 5 interim certificate for, receipt for, guarantee of, or
 6 warrant or right to subscribe to or purchase any of the
 7 foregoing. "Security" does not include any insurance or
 8 endowment policy or annuity contract under which an
 9 insurance company promises to pay a sum of money either in a
 10 lump sum or periodically for life or some other specified
 11 period.

12 (13) "State" means any state, territory, or possession
 13 of the United States, as well as the District of Columbia
 14 and Puerto Rico."

15 Section 77. Section 30-10-204, MCA, is amended to
 16 read:

17 "30-10-204. Registration by coordination. (1) Any
 18 security for which a registration statement has been filed
 19 under the Securities Act of 1933 or any securities for which
 20 filings have been made pursuant to regulation A or
 21 regulation E, and amendments thereto, of the general rules
 22 and regulations of the United States securities and exchange
 23 commission, adopted pursuant to subsection (b) of section 3
 24 of said Securities Act of 1933, in connection with the same
 25 offering, may be registered by coordination. A registration

1 statement under this section shall contain the following
 2 information and be accompanied by the following documents,
 3 in addition to payment of the registration fee prescribed in
 4 30-10-209:

5 (a) three copies of the prospectus or offering
 6 circular and letter of notification filed under the
 7 Securities Act of 1933 or the general rules and regulations
 8 thereunder, together with all amendments thereto;

9 (b) the amount of securities to be offered in this
 10 state;

11 (c) the states in which a registration statement or
 12 similar document in connection with the offering has been or
 13 is expected to be filed;

14 (d) any adverse order, judgment, or decree previously
 15 entered in connection with the offering by any court or the
 16 securities and exchange commission;

17 (e) if the commissioner by rule or otherwise requires,
 18 a copy of the articles of incorporation and bylaws (or their
 19 substantial equivalents) currently in effect, a copy of any
 20 agreements with or among underwriters, a copy of any
 21 indenture or other instrument governing the issuance of the
 22 security to be registered, and a specimen or copy of the
 23 security;

24 (f) if the commissioner requests, any other
 25 information, or copies of any other documents, filed under

1 the Securities Act of 1933;

2 (g) an undertaking to forward promptly all amendments
3 to the federal registration statement or offering circular
4 and letter of notification, other than an amendment which
5 merely delays the effective date;

6 (h) a consent to service of process meeting the
7 requirements of 30-10-208; and

8 (i) such other information as the commissioner may
9 require.

10 (2) A registration statement by coordination under
11 this section automatically becomes effective at the moment
12 the federal registration statement or other filing becomes
13 effective if all the following conditions are satisfied:

14 (a) no stop order is in effect and no proceeding is
15 pending under 30-10-207;

16 (b) the registration statement has been on file with
17 the commissioner for at least 10 business days; and

18 (c) a statement of the maximum and minimum proposed
19 offering prices and the maximum underwriting discounts and
20 commissions has been on file for 2 business days or such
21 shorter period as the commissioner permits by rule or
22 otherwise and the offering is made within those limitations.

23 (3) The registrant shall promptly notify the
24 commissioner of the date and time when the federal
25 registration statement or other filings became effective and

1 the content of the price amendment, if any, and shall
2 promptly file a posteffective amendment containing the
3 information and documents in the price amendment. "Price
4 amendment" means the final federal amendment which includes
5 a statement of the offering price, underwriting and selling
6 discounts or commissions, amount of proceeds, conversion
7 rates, call prices, and other matters dependent upon the
8 offering price.

9 (4) Upon failure to receive the required notification
10 and posteffective amendment with respect to the price
11 amendment referred to in subsection ~~(2)~~(3) of this section,
12 the commissioner may enter a stop order, without notice or
13 hearing, retroactively denying effectiveness to the
14 registration statement or suspending its effectiveness until
15 compliance with ~~subsection~~ subsections (2) and (3) of this
16 section, if he promptly notifies the registrant of the
17 issuance of the order. If the registrant proves compliance
18 with the requirements as to notice and posteffective
19 amendment, the stop order is void as of the time of its
20 entry. The commissioner may by rule or otherwise waive
21 either or both of the conditions specified in subsections
22 (2)(b) and (2)(c) of this section. If the federal
23 registration statement or other filing becomes effective
24 before all these conditions are satisfied and they are not
25 waived, the registration statement automatically becomes

1 effective as soon as all conditions are satisfied. If the
 2 registrant advises the commissioner of the date when the
 3 federal registration statement or other filing is expected
 4 to become effective the commissioner shall promptly advise
 5 the registrant whether all the conditions are satisfied and
 6 whether he then contemplates the institution of a proceeding
 7 under 30-10-207; but this advice by the commissioner does
 8 not preclude the institution of such a proceeding at any
 9 time."

10 Section 78. Section 32-1-803, MCA, is amended to read:

11 "32-1-803. Organization of subsidiary trust companies.
 12 A subsidiary trust company shall be incorporated under the
 13 laws of this state in accordance with and subject to the
 14 provisions of 32-1-301 through 32-1-303, 32-1-305 through
 15 32-1-322, 32-1-324, 32-1-325, and 32-1-351 through 32-1-356
 16 or under the laws of the United States. To the extent not
 17 inconsistent with the provisions of this part, any
 18 subsidiary trust company incorporated under the laws of this
 19 state shall be subject to the laws of this state generally
 20 applicable to trust companies. A subsidiary trust company
 21 formed under the laws of the United States shall be subject,
 22 to the extent provided by the laws of the United States, to
 23 the laws of this state applicable to subsidiary trust
 24 companies incorporated under the laws of this state."

25 Section 79. Section 33-1-104, MCA, is amended to read:

1 "33-1-104. General penalty. Each violation of any
 2 provision of this code, ~~except 33-30-1012~~, with respect to
 3 which violation a greater penalty is not provided by other
 4 applicable laws of this state shall, in addition to any
 5 administrative penalty otherwise applicable thereto, upon
 6 conviction in a court of competent jurisdiction of this
 7 state be punishable by a fine of not less than \$50 or more
 8 than \$1,000 or by imprisonment in the county jail for not
 9 less than 30 days or more than 90 days or by both such fine
 10 and imprisonment."

11 Section 80. Section 33-1-313, MCA, is amended to read:

12 "33-1-313. Rules -- notice, hearing, and penalty. (1)
 13 The commissioner may make reasonable rules necessary for or
 14 as an aid to effectuation of any provision of this code,
 15 ~~except 33-30-1012~~. No such rule shall extend, modify, or
 16 conflict with any law of this state or the reasonable
 17 implications thereof. Any such rule affecting persons or
 18 matters other than the personnel or the internal affairs of
 19 the commissioner's office shall be made or amended only
 20 after a hearing thereon of which notice was given as
 21 required by 33-1-703. If reasonably possible the
 22 commissioner shall set forth the proposed rule or amendment
 23 in or with the notice of hearing. No such rule or amendment
 24 as to which a hearing is required shall be effective until
 25 it has been on file as a public record in the commissioner's

1 office for at least 10 days.

2 (2) In addition to any other penalty provided, willful
3 violation of any such rule shall subject the violator to
4 such administrative penalties as may be applicable under
5 this code as for violation of the provision as to which such
6 rule relates."

7 Section 81. Section 33-1-317, MCA, is amended to read:

8 "33-1-317. Penalty imposed by commissioner. The
9 commissioner may, after having conducted a hearing pursuant
10 to 33-1-701, impose a fine not to exceed the sum of \$5,000
11 upon a person found to have violated any provision of this
12 code, ~~except 33-30-1017~~ or regulation duly promulgated by
13 the commissioner, except that the fine imposed upon agents
14 or adjusters shall not exceed \$500. Said fine shall be in
15 addition to all other penalties imposed by the laws of this
16 state and shall be collected by the commissioner in the name
17 of the state of Montana. Imposition of any fine hereunder
18 shall be an order from which an appeal may be taken,
19 pursuant to the provisions of 33-1-711."

20 Section 82. Section 33-17-211, MCA, is amended to
21 read:

22 "33-17-211. Application for license. (1) Application
23 for an agent or solicitor license must be made to the
24 commissioner by the applicant and be signed and sworn to by
25 the applicant before a notary public or other person

1 authorized by law to take acknowledgments of deeds.

2 (2) The commissioner must designate and prepare forms
3 for application for license which must require full answers
4 to such questions as may reasonably be necessary to
5 determine the applicant's identity, residence, personal
6 history, business record, experience and training in
7 insurance, purpose for which the license is to be used, and
8 other facts as required by the commissioner to determine
9 whether the applicant meets the applicable qualifications
10 for the license applied for.

11 (3) If for an agent's license, the application must
12 state the kinds of insurance proposed to be transacted and
13 be accompanied by written appointment of the applicant as
14 agent by an authorized insurer, subject to issuance of the
15 license.

16 (4) If for a solicitor's license, the application must
17 be accompanied by written appointment of applicant as
18 solicitor by a licensed agent, subject to issuance of the
19 license.

20 (5) If the applicant for an agent license is a firm or
21 corporation, the application shall show, in addition, the
22 names of all members, officers, and directors and shall
23 designate each individual who is to exercise the powers to
24 be conferred by the license upon the firm or corporation.
25 Each such individual so designated shall furnish information

1 as to himself, as part of the application, as though for an
2 individual license.

3 (6) If the applicant for an agent license is an
4 agents' association pursuant to 33-17-205, the application
5 must show the names and residence addresses of the
6 association's officers and trustees.

7 (7) If for license as either agent or solicitor, the
8 application must also show whether applicant was ever
9 previously licensed to transact any kind of insurance in
10 this state or elsewhere; whether any such license was ever
11 refused, suspended, or revoked; whether any insurer, general
12 agent, or agent, in the case of a solicitor application,
13 claims applicant to be indebted to it and, if so, the
14 details thereof and the defenses, if any, of the applicant
15 thereto; and whether applicant ever had an agency contract
16 canceled and the facts thereof.

17 (8) The commissioner shall require as part of the
18 application for license the certificate of an officer or
19 representative of the insurer proposed to be represented, in
20 the case of applicants for license as agent, or of the
21 proposed employing agent, in the case of applicants for
22 license as solicitor, as to whether the applicant is known
23 to such officer or representative, whether the insurer or
24 agent has investigated the character and business record of
25 the applicant and the uses to be made of the license, if

1 granted, and his opinion, based on such investigation, as to
2 applicant's trustworthiness and competence and whether the
3 applicant will use the license principally for the purpose
4 of insuring the applicant's own risks or interests and those
5 of the applicant's relatives or employer.

6 (9) All such applications must be accompanied by the
7 applicable license fee, appointment of agent fee where
8 applicable, and examination fee where an examination is
9 required under 33-17-212, all in the respective amounts
10 stated in 33-2-708."

11 Section 83. Section 33-20-103, MCA, is amended to
12 read:

13 "33-20-103. Standard provisions required --
14 exceptions. (1) No policy of life insurance other than group
15 and pure endowments with or without return of premiums or of
16 premiums and interest shall be delivered or issued for
17 delivery in this state unless it contains in substance all
18 of the applicable provisions as required by 33-20-104
19 through 33-20-108, 33-20-110 through 33-20-116, and
20 33-20-131.

21 (2) This section shall not apply to annuity contracts
22 or to any provision of a life insurance policy, or contract
23 supplemental thereto, relating to disability benefits or to
24 additional benefits in the event of death by accident or
25 accidental means.

1 (3) Any of such provisions or portions thereof not
2 applicable to single premium or term policies shall to that
3 extent not be incorporated therein."

4 Section 84. Section 33-20-1111, MCA, is amended to
5 read:

6 "33-20-1111. Dependents of employee and labor union
7 groups -- coverage. Any group life policy issued under
8 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to
9 insure the employees or members against loss due to the
10 death of their spouses and minor children, or any class or
11 classes thereof, subject to the following requirements:

12 (1) The premium for the insurance shall be paid by the
13 policyholder, either from the employer's or union's funds or
14 funds contributed by the employer or union or from funds
15 contributed by the insured employees or members, or from
16 both. If any part of the premium is to be derived from funds
17 contributed by the insured employees or members, the
18 insurance with respect to spouses and children may be placed
19 in force only if at least 75% of the then eligible employees
20 or members, excluding any as to whose family members
21 evidence of insurability is not satisfactory to the insurer,
22 elect to make the required contribution. If no part of the
23 premium is to be derived from funds contributed by the
24 employees or members, all eligible employees or members,
25 excluding any as to whose family members evidence of

1 insurability is not satisfactory to the insurer, must be
2 insured with respect to their spouses and children.

3 (2) The amounts of insurance must be based upon some
4 plan precluding individual selection either by the employees
5 or members or by the policyholder, employer, or union.

6 (3) Upon termination of the insurance with respect to
7 the members of the family of any employee or member by
8 reason of the employee's or member's termination of
9 employment, termination of membership in the class or
10 classes eligible for coverage under the policy, or death,
11 the spouse is entitled to have issued by the insurer,
12 without evidence of insurability, an individual policy of
13 life insurance, without disability or other supplementary
14 benefits, providing application for the individual policy
15 shall be made, and the first premium paid to the insurer,
16 within 31 days after such termination, subject to the
17 requirements of subsections ~~(1)~~~~--(2)~~~~(a), (1)(b),~~ and
18 ~~(3)~~~~(1)(c)~~ of 33-20-1209. If the group policy terminates or
19 is amended so as to terminate the insurance of any class of
20 employees or members and the employee or member is entitled
21 to have issued an individual policy under 33-20-1210, the
22 spouse is also entitled to have issued by the insurer an
23 individual policy, subject to the conditions and limitations
24 provided above. If the spouse dies within the period during
25 which he would have been entitled to have an individual

1 policy issued in accordance with this provision, the amount
 2 of life insurance which he would have been entitled to have
 3 issued under such individual policy shall be payable as a
 4 claim under the group policy, whether or not application for
 5 the individual policy or the payment of the first premium
 6 therefor has been made.

7 (4) Notwithstanding 33-20-1208, only one certificate
 8 need be issued for delivery to an insured person if a
 9 statement concerning any dependent's coverage is included in
 10 such certificate."

11 Section 85. Section 33-30-111, MCA, is amended to
 12 read:

13 "33-30-111. Notice of violation -- conference. If the
 14 commissioner shall for any reason have cause to believe that
 15 violation of this chapter, ~~except 33-30-1012~~, has occurred
 16 or is threatened, the commissioner may give written notice
 17 to the health service corporation and to the representatives
 18 or other persons who appear to be involved in the suspected
 19 violation to arrange a conference with the alleged violators
 20 or their authorized representative for the purpose of
 21 attempting to ascertain the facts relating to the suspected
 22 violation, and in the event it appears that a violation has
 23 occurred or is threatened, to arrive at an adequate and
 24 effective means of correcting or preventing the violation."

25 Section 86. Section 33-30-112, MCA, is amended to

1 read:

2 "33-30-112. Cease and desist order. (1) The
 3 commissioner acting in the name of the state may issue an
 4 order directing a health service corporation or a
 5 representative of a health service corporation to cease and
 6 desist from engaging in any act or practice in violation of
 7 the provisions of this chapter, ~~except 33-30-1012~~.

8 (2) Within 15 days after service of the order of cease
 9 and desist, the respondent may request a hearing on the
 10 question of whether acts or practices in violation of this
 11 chapter have occurred. These hearings shall be conducted
 12 under the Montana Administrative Procedure Act."

13 Section 87. Section 33-30-113, MCA, is amended to
 14 read:

15 "33-30-113. Injunctive relief. In the case of any
 16 violation of the provisions of this chapter, ~~except~~
 17 ~~33-30-1012~~, if the commissioner elects not to issue a cease
 18 and desist order or in the event of noncompliance with a
 19 cease and desist order issued under this chapter, the
 20 commissioner may institute a proceeding to obtain injunctive
 21 relief, receivership, or other appropriate relief in the
 22 district court of the county in which the violation occurs
 23 or in which the principal place of business of the health
 24 service corporation is located. Any proceeding under this
 25 section shall conform to the requirements of Title 27,

1 chapter 19 or 20, except that the commissioner shall not be
 2 required to allege facts tending to show the lack of an
 3 adequate remedy at law or tending to show irreparable damage
 4 or loss."

5 NEW SECTION. Section 88. Applicability. Section
 6 33-30-1012, MCA, is intended to be an integral part of Title
 7 33, and the provisions of Title 33 apply to 33-30-1012.

8 Section 89. Section 35-12-1308, MCA, is amended to
 9 read:

10 "35-12-1308. Action by attorney general. The attorney
 11 general may bring an action to restrain a foreign limited
 12 partnership from transacting business in this state in
 13 violation of 35-12-1301 through ~~35-12-1308~~ 35-12-1307."

14 Section 90. Section 37-16-404, MCA, is amended to
 15 read:

16 "37-16-404. Examination -- subject areas. The
 17 examination provided in 37-16-403~~{t}~~ shall consist of a test
 18 of knowledge and practical tests of proficiency, where they
 19 apply, in the following areas as they pertain to the fitting
 20 of hearing aids:

- 21 (1) acoustics:
 - 22 (a) general principles;
 - 23 (b) the decibel;
 - 24 (c) hearing and speech;
- 25 (2) the human ear:

- 1 (a) external;
- 2 (b) middle;
- 3 (c) inner;
- 4 (3) the hearing process;
- 5 (4) disorders of hearing:
 - 6 (a) conductive;
 - 7 (b) sensorineural;
 - 8 (c) central;
 - 9 (d) psychogenic;
- 10 (5) audiometry:
 - 11 (a) pure tone;
 - 12 (b) theory;
 - 13 (c) procedures;
 - 14 (d) speech;
 - 15 (6) the hearing analysis:
 - 16 (a) audiogram;
 - 17 (b) auditory area;
 - 18 (7) hearing aids:
 - 19 (a) history;
 - 20 (b) characteristics;
 - 21 (c) components;
 - 22 (8) practical use of the otoscope:
 - 23 (a) earmold;
 - 24 (b) impression;
 - 25 (9) fittings;

1 (a) hearing aid;
 2 (b) earmold;
 3 (10) delivery and checkup; or
 4 (11) any change as deemed necessary by the board."
 5 Section 91. Section 37-30-425, MCA, is amended to
 6 read:
 7 "37-30-425. Refusal, suspension, or revocation of
 8 license. The board may, after notice and opportunity for a
 9 hearing, either refuse to issue or renew or may suspend or
 10 revoke a barbershop or barber school or college license for
 11 any one or combination of the following causes:
 12 (1) the violation of any of the provisions of
 13 37-30-308; 37-30-403, except subsection (1)(f); 37-30-406;
 14 37-30-407; 37-30-412; 37-30-413; and 37-30-421;
 15 (2) gross malpractice or gross incompetency;
 16 (3) continued practice by a person knowingly having an
 17 infectious or contagious disease;
 18 (4) advertising by means of knowingly false or
 19 deceptive statements;
 20 (5) advertising, practicing, or attempting to practice
 21 under a trade name other than one's own;
 22 (6) habitual drunkenness or addiction to the use of
 23 morphine, cocaine, or other habit-forming drugs;
 24 (7) the ~~commission violation~~ of any of the offenses
 25 ~~described-in rules adopted pursuant to 37-30-203.~~"

1 Section 92. Section 37-42-305, MCA, is amended to
 2 read:
 3 "37-42-305. Certification without examination. The
 4 department may consider for certification the holder of a
 5 certificate issued by a governmental agency or equivalent
 6 certification board of another state on presentation to the
 7 department of satisfactory evidence that the applicant is in
 8 responsible charge of works located in this state requiring
 9 a certified operator and that he has successfully passed an
 10 examination at least equivalent to that required under
 11 37-42-202(2) ~~and 37-42-301.~~"
 12 Section 93. Section 37-51-301, MCA, is amended to
 13 read:
 14 "37-51-301. License required -- limited to persons.
 15 (1) It is unlawful for a person to engage in or conduct,
 16 directly or indirectly, or to advertise or hold himself out
 17 as engaging in or conducting the business or acting in the
 18 capacity of a real estate broker or a real estate salesman
 19 within this state without a license as a broker or salesman
 20 or otherwise complying with this chapter.
 21 (2) Corporations, partnerships, and associations may
 22 not be licensed under this chapter. A corporation or a
 23 partnership may act as a real estate broker if every
 24 corporate officer and every partner performing the functions
 25 of a "broker", as defined in 37-51-102(2), is licensed as a

1 broker. All officers of a corporation or all members of a
2 partnership acting as a broker are in violation of this
3 chapter unless there is full compliance with this
4 subsection."

5 Section 94. Section 37-72-101, MCA, is amended to
6 read:

7 "37-72-101. Construction blasting restrictions --
8 license required -- definitions -- exemptions. (1) No person
9 may engage in the practice of construction blasting unless
10 licensed or under the supervision of a person licensed as a
11 construction blaster by the workers' compensation division.

12 (2) For the purposes of this chapter:

13 (a) "construction blaster" means a person who engages
14 in construction blasting;

15 (b) "construction blasting" means the use of
16 explosives to:

17 (i) reduce, destroy, or weaken any residential,
18 commercial, or other building; or

19 (ii) excavate any ditch, trench, cut, or hole or
20 reduce, destroy, weaken, or cause a change in grade of any
21 land formation in the construction of any building, highway,
22 road, pipeline, sewerline, or electric or other utility
23 line;

24 (c) "division" means the workers' compensation
25 division of the department of labor and industry provided

1 for in 2-15-1702;

2 (d) "explosive" has the meaning given in {50-38-101};

3 (e) "magazine" has the meaning given in {50-38-101}.

4 (3) Nothing in this chapter applies to the private or
5 commercial use of explosives by persons engaged in farming,
6 ranching, logging, geophysical work, drilling or development
7 of water, oil, or gas wells, or mining of any kind or to the
8 private use of explosives in the removal of stumps and rocks
9 from land owned by the person using the explosives, except
10 that the persons exempted from this chapter by this
11 subsection must comply with rules adopted under
12 37-72-201(1)(c) and the provisions of 37-72-102 apply to a
13 violation of those rules by an exempted person.

14 (4) This chapter does not apply to persons conducting
15 blasting operations when the persons and operations are
16 subject to rules adopted under and implementing
17 82-4-231~~(3)(e)~~(10)(e)."

18 Section 95. Section 39-51-201, MCA, is amended to
19 read:

20 "39-51-201. General definitions. As used in this
21 chapter, unless the context clearly requires otherwise, the
22 following definitions apply:

23 (1) "Annual payroll" means the total amount of wages
24 paid by an employer, regardless of the time of payment, for
25 employment during a calendar year.

1 (2) "Base period" means the first four of the last
 2 five completed calendar quarters immediately preceding the
 3 first day of an individual's benefit year. However, in the
 4 case of a combined-wage claim pursuant to the arrangement
 5 approved by the secretary of labor of the United States, the
 6 base period shall be that applicable under the unemployment
 7 law of the paying state. For an individual who fails to
 8 meet the qualifications of 39-51-2105 due to a temporary
 9 total disability as defined in 39-71-116 or a similar
 10 statute of another state or the United States, the base
 11 period means the first four quarters of the last five
 12 quarters preceding the disability if a claim for
 13 unemployment benefits is filed within 24 months of the date
 14 on which the individual's disability was incurred.

15 (3) "Benefits" means the money payments payable to an
 16 individual, as provided in this chapter, with respect to his
 17 unemployment.

18 (4) "Benefit year", with respect to any individual,
 19 means the 52-consecutive-week period beginning with the
 20 first day of the calendar week in which such individual
 21 files a valid claim for benefits, except that the benefit
 22 year shall be 53 weeks if filing a new valid claim would
 23 result in overlapping any quarter of the base year of a
 24 previously filed new claim. A subsequent benefit year may
 25 not be established until the expiration of the current

1 benefit year. However, in the case of a combined-wage claim
 2 pursuant to the arrangement approved by the secretary of
 3 labor of the United States, the base period is the period
 4 applicable under the unemployment law of the paying state.

5 (5) "Board" means the board of labor appeals provided
 6 for in Title 2, chapter 15, part 17.

7 (6) "Calendar quarter" means the period of 3
 8 consecutive calendar months ending on March 31, June 30,
 9 September 30, or December 31.

10 (7) "Contributions" means the money payments to the
 11 state unemployment insurance fund required by this chapter
 12 but does not include assessments under 39-51-404(4).

13 (8) "Department" means the department of labor and
 14 industry provided for in Title 2, chapter 15, part 17.

15 (9) "Employing unit" means any individual or
 16 organization, including the state government, any of its
 17 political subdivisions or instrumentalities, any
 18 partnership, association, trust, estate, joint-stock
 19 company, insurance company, or corporation, whether domestic
 20 or foreign, or the receiver, trustee in bankruptcy, trustee
 21 or successor thereof, or the legal representative of a
 22 deceased person which has or subsequent to January 1, 1936,
 23 had in its employ one or more individuals performing
 24 services for it within this state, except as provided under
 25 subsections (8) and (9) of 39-51-203. All individuals

1 performing services within this state for any employing unit
 2 which maintains two or more separate establishments within
 3 this state are considered to be employed by a single
 4 employing unit for all the purposes of this chapter. Each
 5 individual employed to perform or assist in performing the
 6 work of any agent or employee of an employing unit is deemed
 7 to be employed by such employing unit for the purposes of
 8 this chapter, whether such individual was hired or paid
 9 directly by such employing unit or by such agent or
 10 employee, provided the employing unit has actual or
 11 constructive knowledge of the work.

12 (10) "Employment office" means a free public employment
 13 office or branch thereof operated by this state or
 14 maintained as a part of a state-controlled system of public
 15 employment offices or such other free public employment
 16 offices operated and maintained by the United States
 17 government or its instrumentalities as the department may
 18 approve.

19 (11) "Fund" means the unemployment insurance fund
 20 established by this chapter to which all contributions and
 21 payments in lieu of contributions are required to be paid
 22 and from which all benefits provided under this chapter
 23 shall be paid.

24 (12) "Gross misconduct" means a criminal act, other
 25 than a violation of a motor vehicle traffic law, for which

1 an individual has been convicted in a criminal court or has
 2 admitted or conduct which demonstrates a flagrant and wanton
 3 disregard of and for the rights or title or interest of a
 4 fellow employee or his employer.

5 (13) "Hospital" means an institution which has been
 6 licensed, certified, or approved by the state as a hospital.

7 (14) (a) "Institution of higher education", for the
 8 purposes of this part, means an educational institution
 9 which:

10 (i) admits as regular students only individuals having
 11 a certificate of graduation from a high school or the
 12 recognized equivalent of such a certificate;

13 (ii) is legally authorized in this state to provide a
 14 program of education beyond high school;

15 (iii) provides an educational program for which it
 16 awards a bachelor's or higher degree or provides a program
 17 which is acceptable for full credit toward such a degree, a
 18 program of postgraduate or postdoctoral studies, or a
 19 program of training to prepare students for gainful
 20 employment in a recognized occupation; and

21 (iv) is a public or other nonprofit institution.

22 (b) Notwithstanding any of the foregoing provisions of
 23 this subsection, all colleges and universities in this state
 24 are institutions of higher education for purposes of this
 25 part.

1 (15) "State" includes, in addition to the states of the
 2 United States of America, the District of Columbia, Puerto
 3 Rico, the Virgin Islands, and the Dominion of Canada.

4 (16) "Unemployment insurance administration fund" means
 5 the unemployment insurance administration fund established
 6 by this chapter from which administrative expenses under
 7 this chapter shall be paid.

8 (17) (a) "Wages" means all remuneration payable for
 9 personal services, including commissions and bonuses, the
 10 cash value of all remuneration payable in any medium other
 11 than cash, and backpay received pursuant to a dispute
 12 related to employment. The reasonable cash value of
 13 remuneration payable in any medium other than cash shall be
 14 estimated and determined in accordance with rules prescribed
 15 by the department.

16 (b) The term "wages" does not include:

17 (i) the amount of any payment made to or on behalf of
 18 an employee by an employer on account of:

19 (A) retirement;

20 (B) sickness or accident disability;

21 (C) medical and hospitalization expenses in connection
 22 with sickness or accident disability; or

23 (D) death;

24 (ii) remuneration paid by any county welfare office
 25 from public assistance funds for services performed at the

1 direction and request of such county welfare office.

2 (18) "Week" means a period of 7 consecutive calendar
 3 days ending at midnight on Saturday.

4 (19) An individual's "weekly benefit amount" means the
 5 amount of benefits he would be entitled to receive for 1
 6 week of total unemployment."

7 Section 96. Section 39-71-118, MCA, is amended to
 8 read:

9 "39-71-118. Employee, worker, and workman defined. (1)
 10 The terms "employee", "workman", or "worker" mean:

11 (a) each person in this state, including a contractor
 12 other than an independent contractor, who is in the service
 13 of an employer, as defined by 39-71-117, under any
 14 appointment or contract of hire, expressed or implied, oral
 15 or written. The terms include aliens and minors, whether
 16 lawfully or unlawfully employed, and all of the elected and
 17 appointed paid public officers and officers and members of
 18 boards of directors of quasi-public or private corporations
 19 while rendering actual service for such corporations for
 20 pay. Casual employees as defined by 39-71-116(3) are
 21 included as employees if they are not otherwise covered by
 22 workers' compensation and if an employer has elected to be
 23 bound by the provisions of the compensation law for these
 24 casual employments, as provided in 39-71-401(2). Household
 25 or domestic service is excluded.

1 (b) a recipient of general relief who is performing
2 work for a county of this state under the provisions of
3 53-3-303 through 53-3-305 and any juvenile performing work
4 under authorization of a district court judge in a
5 delinquency prevention or rehabilitation program;

6 (c) a person receiving on-the-job vocational
7 rehabilitation training or other on-the-job training under a
8 state or federal vocational training program, whether or not
9 under an appointment or contract of hire with an employer as
10 defined in this chapter and whether or not receiving payment
11 from a third party. However, this subsection does not apply
12 to students enrolled in vocational training programs as
13 outlined above while they are on the premises of a public
14 school or community college.

15 (d) students enrolled and in attendance in programs of
16 vocational-technical education approved by the state ~~board~~
17 ~~of-public-education~~ superintendent of public instruction at
18 designated postsecondary vocational-technical centers; or

19 (e) an airman or other person employed as a volunteer
20 under 67-2-105.

21 (2) If the employer is a partnership or sole
22 proprietorship, such employer may elect to include as an
23 employee within the provisions of this chapter any member of
24 such partnership or the owner of the sole proprietorship
25 devoting full time to the partnership or proprietorship

1 business. In the event of such election, the employer must
2 serve upon the employer's insurer written notice naming the
3 partners or sole proprietor to be covered, and no partner or
4 sole proprietor shall be deemed an employee within this
5 chapter until such notice has been given. For premium
6 ratemaking and for the determination of weekly wage for
7 weekly compensation benefits, the insurance carrier shall
8 assume a salary or wage of such electing employee to be not
9 less than \$900 a month and not more than 1 1/2 times the
10 average weekly wage as defined in this chapter."

11 Section 97. Section 39-71-403, MCA, is amended to
12 read:

13 "39-71-403. Plan three exclusive for state agencies --
14 election of plan by other public corporations. (1) Where a
15 state agency is the employer, the terms, conditions, and
16 provisions of compensation plan No. 3 shall be exclusive,
17 compulsory, and obligatory upon both employer and employee.
18 Any sums necessary to be paid under the provisions of this
19 chapter by any state agency shall be considered to be
20 ordinary and necessary expense of the agency, and the agency
21 shall make appropriation of and pay such sums into the state
22 compensation insurance fund at the time and in the manner
23 provided for in this chapter, notwithstanding that the state
24 agency may have failed to anticipate such ordinary and
25 necessary expense in any budget, estimate of expenses,

1 appropriations, ordinances, or otherwise.

2 (2) A public corporation, other than a state agency,
3 may elect coverage under compensation plan No. 1, employer;
4 plan No. 2, insurer; or plan No. 3, state insurance fund;
5 separately or jointly with any other public corporation,
6 other than a state agency. A public corporation electing
7 compensation plan No. 1 may purchase reinsurance. A public
8 corporation electing compensation plan No. 1 is subject to
9 the same provisions as a private employer electing
10 compensation plan No. 1.

11 (3) A public corporation, other than a state agency,
12 that elects plan No. 1 may establish a fund sufficient to
13 pay the compensation and benefits provided for in this
14 chapter and chapter 72 and to discharge all liabilities that
15 reasonably incur during the fiscal year for which the
16 election is effective. Proceeds from the fund must be used
17 only to pay claims covered by this chapter and chapter 72
18 and for actual and necessary expenses required for the
19 efficient administration of the fund.

20 (4) All money in the fund established under subsection
21 ~~(2)~~ (3) not needed to meet immediate expenditures must be
22 invested by the governing body of the public corporation,
23 and all proceeds of the investment shall be credited to the
24 fund."

25 Section 98. Section 40-4-209, MCA, is amended to read:

1 "40-4-209. Security or guaranty to secure support. (1)
2 Upon verified application by a person authorized to enforce
3 or collect a child support obligation, the department of
4 revenue, or the department of social and rehabilitation
5 services showing that a person obligated to pay child
6 support or maintenance pursuant to court or administrative
7 order is delinquent in an amount equal to the total of 6
8 months' support payments, the court may direct the obligated
9 person to appear and show cause why an order should not be
10 entered ordering that he post bond, give a mortgage, or
11 provide other security or guaranty for the payment of the
12 delinquency.

13 (2) If the court finds that a delinquency greater than
14 the total of 6 months of support is owed and that the
15 obligated person has the ability to post bond, give a
16 mortgage, or provide security or other guaranty, the court
17 may enter an order requiring him to post bond, give a
18 mortgage, or provide security or guaranty for so long as
19 there is a support delinquency.

20 (3) The bond or other security may be in an amount up
21 to the total support due for a 2-year period and must be
22 approved by the court. The bond must include the name and
23 address of the issuer. Any person issuing a bond under this
24 section must, if the bond is cancelled, notify the court and
25 the person or public agency entitled to receive payments

1 under the support order.

2 (4) If the person obligated to pay child support or
3 maintenance fails to make payments as required by the court
4 or administrative order, the person or public agency
5 entitled to receive payment may recover on the bond or other
6 security. The amount recovered on the bond or other security
7 must first be applied toward satisfaction of any support
8 arrearages.

9 (5) The department of revenue shall adopt guidelines
10 which take into account the payment record of the obligated
11 person, the availability of other remedies, and other
12 considerations which it determines relevant for determining
13 whether the procedure provided in this section would carry
14 out the purpose of enforcing payments of child support or
15 would be appropriate in the circumstances. If after
16 application of the guidelines the department determines an
17 application for an order requiring security is not
18 appropriate, it may not request the order."

19 Section 99. Section 41-3-611, MCA, is amended to read:

20 "41-3-611. Effect of decree. (1) An order for the
21 termination of the parent-child legal relationship divests
22 the child and the parents of all legal rights, powers,
23 immunities, duties, and obligations with respect to each
24 other as provided in Title 40, chapter 6, part 2, except the
25 right of the child to inherit from the parent.

1 (2) An order or decree entered pursuant to this part
2 may not disentitle a child to any benefit due him from any
3 third person, including but not limited to any Indian tribe,
4 agency, state, or the United States.

5 (3) After the termination of a parent-child legal
6 relationship, the former parent is neither entitled to any
7 notice of proceedings for the adoption of the child nor has
8 any right to object to the adoption or to participate in any
9 other placement proceedings held pursuant to 41-3-609
10 41-3-610."

11 Section 100. Section 41-5-206, MCA, is amended to
12 read:

13 "41-5-206. Transfer to criminal court. (1) After a
14 petition has been filed alleging delinquency, the court may,
15 upon motion of the county attorney, before hearing the
16 petition on its merits, transfer the matter of prosecution
17 to the district court if:

18 (a) (i) the youth charged was 12 years of age or more
19 at the time of the conduct alleged to be unlawful and the
20 unlawful act would constitute sexual intercourse without
21 consent as defined in 45-5-503, deliberate homicide as
22 defined in 45-5-102, or mitigated deliberate homicide as
23 defined in 45-5-103, or the attempt, as defined in 45-4-103,
24 of either deliberate or mitigated deliberate homicide if the
25 act had been committed by an adult; or

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

- 4 (A) negligent homicide as defined in 45-5-104;
- 5 (B) arson as defined in 45-6-103;
- 6 (C) aggravated assault as defined in 45-5-202;
- 7 (D) robbery as defined in 45-5-401;
- 8 (E) burglary or aggravated burglary as defined in

9 45-6-204;
10 ~~†F†--sexual-intercourse-without-consent-as--defined--in~~
11 ~~45-5-503;~~

12 †G†(F) aggravated kidnapping as defined in 45-5-303;

13 †H†(G) possession of explosives as defined in
14 45-8-335;

15 †I†(H) criminal sale of dangerous drugs for profit as
16 included in 45-9-101;

17 †J†(I) attempt as defined in 45-4-103 of any of the
18 acts enumerated in subsections (1)(a)(ii)(A) through
19 (1)(a)(ii)†K†(H);

20 (b) a hearing on whether the transfer should be made
21 is held in conformity with the rules on a hearing on a
22 petition alleging delinquency, except that the hearing will
23 be to the youth court without a jury;

24 (c) notice in writing of the time, place, and purpose
25 of the hearing is given to the youth, his counsel, and his

1 parents, guardian, or custodian at least 10 days before the
2 hearing; and

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

- 5 (i) the youth committed the delinquent act alleged;
- 6 (ii) the seriousness of the offense and the protection
7 of the community require treatment of the youth beyond that
8 afforded by juvenile facilities; and
- 9 (iii) the alleged offense was committed in an
10 aggressive, violent, or premeditated manner.

11 (2) In transferring the matter of prosecution to the
12 district court, the court may also consider the following
13 factors:

14 (a) the sophistication and maturity of the youth,
15 determined by consideration of his home, environmental
16 situation, and emotional attitude and pattern of living;

17 (b) the record and previous history of the youth,
18 including previous contacts with the youth court, law
19 enforcement agencies, youth courts in other jurisdictions,
20 prior periods of probation, and prior commitments to
21 juvenile institutions. However, lack of a prior juvenile
22 history with youth courts will not of itself be grounds for
23 denying the transfer.

24 (c) the severity of the offense;

25 (d) the prospects for adequate protection of the

1 public and the likelihood of reasonable rehabilitation of
2 the youth by the use of procedures, services, and facilities
3 currently available to the youth court.

4 (3) Upon transfer to district court, the judge shall
5 make written findings of the reasons why the jurisdiction of
6 the court was waived and the case transferred to district
7 court.

8 (4) The transfer terminates the jurisdiction of the
9 court over the youth with respect to the acts alleged in the
10 petition. No youth may be prosecuted in the district court
11 for a criminal offense originally subject to the
12 jurisdiction of the youth court unless the case has been
13 transferred as provided in this section.

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

17 (6) Any offense not enumerated in subsection (1) that
18 arises during the commission of a crime enumerated in
19 subsection (1) may be:

- 20 (a) tried in youth court;
21 (b) transferred to district court with an offense
22 enumerated in subsection (1), upon motion of the county
23 attorney and acceptance by the district court judge.

24 (7) If a youth is found guilty in district court of
25 any of the offenses enumerated in subsection (1) of this

1 section and is sentenced to the state prison, his commitment
2 shall be to the department of institutions which shall
3 confine the youth in whatever institution it considers
4 proper; however, no youth under 16 years of age may be
5 confined in the state prison."

6 Section 101. Section 41-5-523, MCA, is amended to
7 read:

8 "41-5-523. (Temporary) Disposition of delinquent youth
9 and youth in need of supervision. (1) If a youth is found to
10 be delinquent or in need of supervision, the court may enter
11 its judgment making the following disposition:

- 12 (a) place the youth on probation;
13 (b) place the youth for substitute care into a youth
14 care facility as defined in 41-3-1102 or a home approved by
15 the court;
16 (c) place the youth in a private agency responsible
17 for the care and rehabilitation of such a youth;
18 (d) transfer legal custody to the department of
19 institutions; provided, however, that in the case of a youth
20 in need of supervision, such transfer of custody does not
21 authorize the department of institutions to place the youth
22 in a state youth correctional facility and such custody may
23 not continue for a period of more than 6 months without a
24 subsequent court order after notice and hearing;
25 (e) such further care and treatment or evaluation that

1 the court considers beneficial to the youth; or

2 (f) order restitution by the youth.

3 (2) At any time after the youth has been taken into
4 custody, the court may, with the consent of the youth in the
5 manner provided in 41-5-303 for consent by a youth to a
6 waiver of his constitutional rights or after the youth has
7 been adjudicated delinquent or in need of supervision, order
8 the youth to be evaluated by the department of institutions
9 for a period not to exceed 45 days of evaluation at a
10 reception and evaluation center for youths.

11 (3) At any time after a youth has been taken into
12 custody, the court may request that the youth be evaluated
13 at the Montana youth treatment center, for a period not to
14 exceed 60 days, for the sole purpose of advising the court
15 as to whether the youth is seriously mentally ill, as
16 defined in 53-21-102, but the court must first find that
17 reasonable grounds exist to believe that the youth is
18 suffering from a mental disorder as defined in 53-21-102.

19 (4) No evaluation of a youth may be performed at the
20 Montana state hospital unless such youth is transferred to
21 the district court under 41-5-206.

22 (5) If the court determines that a delinquent youth or
23 youth in need of supervision is in need of treatment at the
24 Montana youth treatment center, the court must first
25 determine, based on testimony of a professional person, as

1 defined in 53-21-102, that the youth is seriously mentally
2 ill as defined in 53-21-102. The youth is entitled to all
3 rights provided by 53-21-114 through 53-21-119.

4 (6) Upon a finding of serious mental illness, the
5 court may commit a delinquent youth to the department of
6 institutions and recommend that the youth be placed at the
7 Montana youth treatment center. Upon release or discharge
8 from the center, if the court order has not expired or if
9 the youth is less than 21 years of age, he must be retained
10 under the supervision of the department until the expiration
11 of the court order or until he attains the age of 21.

12 (7) If the court finds that placement in a youth care
13 facility other than a youth group home or youth foster home
14 is necessary and in the best interests of the youth and the
15 community, the court shall determine if the youth can
16 receive appropriate treatment in a youth care facility
17 located in Montana as follows:

18 (a) If the court finds the youth can receive
19 appropriate treatment in a youth care facility located in
20 Montana that will accept the youth, the court may not place
21 the youth in a youth care facility located outside this
22 state unless an out-of-state facility can provide
23 appropriate treatment that:

24 (i) can be obtained at a cost less than that offered
25 by any available facility in this state; and

1 (ii) is available in closer proximity to the youth's
2 place of residence than any facility located in this state.

3 (b) When the department of social and rehabilitation
4 services is ordered to pay the costs of caring for the child
5 in a youth care facility other than a youth foster home or
6 youth group home, the court shall provide the department at
7 least 5 days' written notice and opportunity to be heard
8 before ordering the placement of the youth.

9 (8) No youth may be committed or transferred to a
10 penal institution or other facility used for the execution
11 of sentence of adult persons convicted of crimes.

12 (9) Any order of the court may be modified at any
13 time. In the case of a youth committed to the department of
14 institutions, an order pertaining to the youth may be
15 modified only upon notice to the department and subsequent
16 hearing.

17 (10) Whenever the court vests legal custody in an
18 agency, institution, or department, it must transmit with
19 the dispositional judgment copies of a medical report and
20 such other clinical, predisposition, or other reports and
21 information pertinent to the care and treatment of the
22 youth.

23 (11) The order of commitment to the department of
24 institutions shall read as follows:

25 ORDER OF COMMITMENT

1 State of Montana)

2) ss.

3 County of)

4 In the district court for the Judicial District.

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

9 It is ordered that be committed to the department
10 of institutions until

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

13 Name	Address	Occupation
14		
15		

16 The names and addresses of their nearest relatives are:

17

18

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

20

21 Judge

22 41-5-523. (Effective as provided in Compiler's
23 Comments) Disposition of delinquent youth and youth in need
24 of supervision. (1) If a youth is found to be delinquent or
25 in need of supervision, the court may enter its judgment

1 making the following disposition:

- 2 (a) place the youth on probation;
- 3 (b) place the youth for substitute care into a youth
4 care facility as defined in 41-3-1102 or a home approved by
5 the court;
- 6 (c) place the youth in a private agency responsible
7 for the care and rehabilitation of such a youth;
- 8 (d) transfer legal custody to the department of
9 institutions; provided, however, that in the case of a youth
10 in need of supervision, such transfer of custody does not
11 authorize the department of institutions to place the youth
12 in a state youth correctional facility and such custody may
13 not continue for a period of more than 6 months without a
14 subsequent court order after notice and hearing;
- 15 (e) such further care and treatment or evaluation that
16 the court considers beneficial to the youth; or
- 17 (f) order restitution by the youth.
- 18 (2) At any time after the youth has been taken into
19 custody, the court may, with the consent of the youth in the
20 manner provided in 41-5-303 for consent by a youth to a
21 waiver of his constitutional rights or after the youth has
22 been adjudicated delinquent or in need of supervision, order
23 the youth to be evaluated by the department of institutions
24 for a period not to exceed 45 days of evaluation at a
25 reception and evaluation center for youths.

1 (3) No evaluation of a youth may be performed at the
2 Montana state hospital unless such youth is transferred to
3 the district court under 41-5-206.

4 (4) If the court finds that placement in a youth care
5 facility other than a youth group home or youth foster home
6 is necessary and in the best interests of the youth and the
7 community, the court shall determine if the youth can
8 receive appropriate treatment in a youth care facility
9 located in Montana as follows:

10 (a) If the court finds the youth can receive
11 appropriate treatment in a youth care facility located in
12 Montana that will accept the youth, the court may not place
13 the youth in a youth care facility located outside this
14 state unless an out-of-state facility can provide
15 appropriate treatment that:

16 (i) can be obtained at a cost less than that offered
17 by any available facility in this state; and

18 (ii) is available in closer proximity to the youth's
19 place of residence than any facility located in this state.

20 (b) When the department of social and rehabilitation
21 services is ordered to pay the costs of caring for the child
22 in a youth care facility other than a youth foster home or
23 youth group home, the court shall provide the department at
24 least 5 days' written notice and opportunity to be heard
25 before ordering the placement of the youth.

1 (5) No youth may be committed or transferred to a
2 penal institution or other facility used for the execution
3 of sentence of adult persons convicted of crimes.

4 (6) Any order of the court may be modified at any
5 time. In the case of a youth committed to the department of
6 institutions, an order pertaining to the youth may be
7 modified only upon notice to the department and subsequent
8 hearing.

9 (7) Whenever the court vests legal custody in an
10 agency, institution, or department, it must transmit with
11 the dispositional judgment copies of a medical report and
12 such other clinical, predisposition, or other reports and
13 information pertinent to the care and treatment of the
14 youth.

15 (8) The order of commitment to the department of
16 institutions shall read as follows:

17 ORDER OF COMMITMENT

18 State of Montana)

19) ss.

20 County of)

21 In the district court for the Judicial District.

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

1 It is ordered that be committed to the department
2 of institutions until

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

5 Name	6 Address	7 Occupation
8	9	10
11	12	13

14 The names and addresses of their nearest relatives are:
15

16

17 Witness my hand this day of, A.D. 19...
18

19 Judge"
20 Section 102. Section 44-1-403, MCA, is amended to
21 read:

22 "44-1-403. Equal number of appointments from each
23 highway district. Replacements and additions to the highway
24 patrol force shall be chosen in equal numbers from the ±2
25 five highway districts. However, if sufficient qualified
applications are not received from any one district, the
department of justice may, in its discretion, substitute
other qualified applicants from any other districts."

26 Section 103. Section 44-1-1005, MCA, is amended to
27 read:

28 "44-1-1005. Motor carriers safety -- enforcement. (1)

1 The department of justice shall:

2 (a) adopt, by rule, standards for safety of operations
3 of motor carriers, each of whom is considered to consent
4 impliedly to reasonable safety inspections of its motor
5 vehicles utilized in furtherance of its business as a motor
6 carrier;

7 (b) provide standards for the safe operation of all
8 motor vehicles used in commerce that exceed 26,000 pounds
9 gross vehicle weight, except farm vehicles; and

10 (c) provide for the safe operation of vehicles of less
11 than 26,000 pounds gross vehicle weight if they are used to
12 transport passengers for hire or to transport hazardous
13 materials of a type or quantity that requires the vehicle to
14 be marked or placarded in accordance with rules adopted by
15 the department.

16 (2) Standards of safety adopted pursuant to
17 subsections (1)(b) and (1)(c) must be the same as prescribed
18 for motor carriers, and the same inspection standards and
19 procedures apply. However, standards relating to drivers,
20 other than drivers for motor carriers, do not apply to a
21 vehicle operated exclusively within a 200-mile radius of its
22 work reporting location.

23 (3) The highway patrol has responsibility for
24 enforcement of standards adopted pursuant to subsection
25 (1)(a). Inspection of a vehicle based in Montana may, at

1 the request of the carrier, be made at the place of business
2 or domicile of the vehicle owner or, if that is not a
3 practicable inspection site, at a designated location and at
4 a mutually agreeable time. After inspection, a vehicle
5 found to conform to the standards adopted pursuant to
6 subsection (1)(a) is entitled to certification and
7 identification to exempt it from further safety inspection
8 until the next required periodic inspection or until a
9 nonconformity with standards is apparent. Nothing in this
10 section prohibits the inspection of a motor vehicle as
11 defined provided for by subsection (1)(a) at a safe location
12 on a public road.

13 (4) The department shall cooperate with the department
14 of highways to assure minimum duplication and maximum
15 coordination of enforcement effort."

16 Section 104. Section 46-18-201, MCA, is amended to
17 read:

18 "46-18-201. Sentences that may be imposed. (1)
19 Whenever a person has been found guilty of an offense upon a
20 verdict or a plea of guilty, the court may:

21 (a) defer imposition of sentence, excepting sentences
22 for driving under the influence of alcohol or drugs, for a
23 period, except as otherwise provided, not exceeding 1 year
24 for any misdemeanor or for a period not exceeding 3 years
25 for any felony. The sentencing judge may impose upon the

1 defendant any reasonable restrictions or conditions during
 2 the period of the deferred imposition. Such reasonable
 3 restrictions or conditions may include:

4 (i) jail base release;
 5 (ii) jail time not exceeding 180 days;
 6 (iii) conditions for probation;
 7 (iv) restitution;
 8 (v) payment of the costs of confinement;
 9 (vi) payment of a fine as provided in 46-18-231;
 10 (vii) payment of costs as provided in 46-18-232 and
 11 46-18-233;
 12 (viii) payment of costs of court appointed counsel as
 13 provided in 46-8-113;
 14 (ix) community service;
 15 (x) any other reasonable conditions considered
 16 necessary for rehabilitation or for the protection of
 17 society; or
 18 (xi) any combination of the above.

19 (b) suspend execution of sentence up to the maximum
 20 sentence allowed for each particular offense. The sentencing
 21 judge may impose on the defendant any reasonable
 22 restrictions or conditions during the period of suspended
 23 sentence. Such reasonable restrictions or conditions may
 24 include any of those listed in subsections (1)(a)(i) through
 25 (1)(a)(xi).

1 (c) impose a fine as provided by law for the offense;
 2 (d) require payment of costs as provided in 46-18-232
 3 or payment of costs of court-appointed counsel as provided
 4 in 46-8-113;
 5 (e) commit the defendant to a correctional institution
 6 with or without a fine as provided by law for the offense;
 7 (f) impose any combination of subsections (1)(b)
 8 through (1)(e).

9 (2) If any financial obligation is imposed as a
 10 condition under subsection (1)(a), sentence may be deferred
 11 for a period not exceeding 2 years for any misdemeanor or
 12 for a period not exceeding 6 years for any felony,
 13 regardless of whether any other conditions are imposed.

14 (3) If any restrictions or conditions imposed under
 15 subsection (1)(a) or (1)(b) are violated, any elapsed time,
 16 except jail time, is not a credit against the sentence
 17 unless the court orders otherwise.

18 (4) Except as provided in 46-18-222, the imposition or
 19 execution of the first 2 years of a sentence of imprisonment
 20 imposed under the following sections may not be deferred or
 21 suspended: 45-5-103(2), 45-5-202+2}(3) relating to
 22 aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2),
 23 45-5-503(2) and (3), 45-9-101(2) and (3), 45-9-102(3), and
 24 45-9-103(2).

25 (5) Except as provided in 46-18-222, the imposition or

1 execution of the first 10 years of a sentence of
2 imprisonment imposed under 45-5-102(2) may not be deferred
3 or suspended.

4 (6) Except as provided in 46-18-222, imposition of
5 sentence in a felony case may not be deferred in the case of
6 a defendant who has been convicted of a felony on a prior
7 occasion whether or not the sentence was imposed, imposition
8 of the sentence was deferred, or execution of the sentence
9 was suspended.

10 (7) If the victim was less than 16 years old, the
11 imposition or execution of the first 30 days of a sentence
12 of imprisonment imposed under 45-5-502(3), 45-5-503,
13 45-5-504, 45-5-505, or 45-5-507 may not be deferred or
14 suspended. Section 46-18-222 does not apply to the first 30
15 days of such imprisonment."

16 Section 105. Section 46-18-222, MCA, is amended to
17 read:

18 "46-18-222. Exceptions to mandatory minimum sentences
19 and restrictions on deferred imposition and suspended
20 execution of sentence. All mandatory minimum sentences
21 prescribed by the laws of this state and the restrictions on
22 deferred imposition and suspended execution of sentence
23 prescribed by subsections ~~(3)~~, (4), (5), and ~~(5)~~ (6) of
24 46-18-201, 46-18-221(3), 46-18-224, and 46-18-502(3) do not
25 apply if:

1 (1) the defendant was less than 18 years of age at the
2 time of the commission of the offense for which he is to be
3 sentenced;

4 (2) the defendant's mental capacity, at the time of
5 the commission of the offense for which he is to be
6 sentenced, was significantly impaired, although not so
7 impaired as to constitute a defense to the prosecution.
8 However, a voluntarily induced intoxicated or drugged
9 condition may not be considered an impairment for the
10 purposes of this subsection.

11 (3) the defendant, at the time of the commission of
12 the offense for which he is to be sentenced, was acting
13 under unusual and substantial duress, although not such
14 duress as would constitute a defense to the prosecution;

15 (4) the defendant was an accomplice, the conduct
16 constituting the offense was principally the conduct of
17 another, and the defendant's participation was relatively
18 minor; or

19 (5) where applicable, no serious bodily injury was
20 inflicted on the victim unless a weapon was used in the
21 commission of the offense."

22 Section 106. Section 46-18-231, MCA, is amended to
23 read:

24 "46-18-231. Fines in felony and misdemeanor cases. (1)
25 Whenever, upon a verdict or a plea of guilty, a person has

1 been found guilty of an offense for which a felony penalty
 2 of imprisonment could be imposed, the court may impose a
 3 fine, only in accordance with subsection (3), and in lieu of
 4 or in addition to a sentence of imprisonment. For those
 5 crimes for which penalties are provided in 45-5-103(2),
 6 45-5-202~~(2)~~(3), 45-5-302(2), 45-5-303(2), 45-5-401(2),
 7 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2) and (3),
 8 45-9-102(3), and 45-9-103(2), a fine may be imposed in
 9 accordance with subsection (3) in addition to a sentence of
 10 imprisonment.

11 (2) Whenever, upon a verdict or plea of guilty, a
 12 person has been found guilty of an offense for which a
 13 misdemeanor penalty of a fine could be imposed, the court
 14 may impose a fine only in accordance with subsection (3).

15 (3) The court may not sentence a defendant to pay a
 16 fine unless the defendant is or will be able to pay the
 17 fine. In determining the amount and method of payment, the
 18 court shall take into account the nature of the crime
 19 committed, the financial resources of the defendant, and the
 20 nature of the burden that payment of the fine will impose.

21 (4) Any fine levied under this section in a felony
 22 case shall be in an amount fixed by the court not to exceed
 23 \$50,000."

24 Section 107. Section 46-19-103, MCA, is amended to
 25 read:

1 "46-19-103. Execution of death sentence. (1) In
 2 pronouncing the sentence of death, the court shall set the
 3 date of execution which must not be less than 30 days or
 4 more than 60 days from the date the sentence is pronounced.
 5 If execution has been stayed by any court and the date set
 6 for execution has passed prior to dissolution of the stay,
 7 the court in which the defendant was previously sentenced
 8 shall, upon dissolution of the stay, set a new date of
 9 execution for not less than 5 or more than 90 days from the
 10 day the date is set. The defendant is entitled to be present
 11 in court on the day the new date of execution is set.

12 (2) Pending execution of a sentence of death, the
 13 sheriff may deliver the defendant to the state prison for
 14 confinement, and the state shall bear the costs of
 15 imprisoning the defendant from the date of delivery.

16 (3) The punishment of death must be inflicted by
 17 hanging the defendant by the neck until he is dead or, at
 18 the election of the defendant, by administration of a
 19 continuous, intravenous injection of a lethal quantity of an
 20 ultra-fast-acting barbiturate in combination with a chemical
 21 paralytic agent until a licensed physician pronounces that
 22 the defendant is dead according to accepted standards of
 23 medical practice.

24 (4) The warden of the Montana state prison shall
 25 provide a suitable and efficient room or place in which

1 executions will be carried out, enclosed from public view,
 2 within the walls of the state prison, and shall provide all
 3 implements necessary to the execution. The warden shall,
 4 subject to subsection ~~(4)~~ (5), select the person to perform
 5 the execution, and the warden or his designee shall
 6 supervise the execution.

7 (5) An execution carried out by lethal injection must
 8 be performed by a person selected by the warden and trained
 9 to administer the injection. The person administering the
 10 injection need not be a physician, registered nurse, or
 11 licensed practical nurse licensed or registered under the
 12 laws of this or any other state. The warden must allow the
 13 execution to be observed by 12 witnesses, 3 of whom may be
 14 designated by the person to be executed.

15 (6) After the execution, the warden shall make a
 16 return upon the death warrant showing time, mode, and manner
 17 in which it was executed."

18 Section 108. Section 50-5-101, MCA, is amended to
 19 read:

20 "50-5-101. (Effective July 1, 1987) Definitions. As
 21 used in parts 1 through 4 of this chapter, unless the
 22 context clearly indicates otherwise, the following
 23 definitions apply:

- 24 (1) "Accreditation" means a designation of approval.
 25 (2) "Adult day-care center" means a facility,

1 freestanding or connected to another health care facility,
 2 which provides adults, on an intermittent basis, with the
 3 care necessary to meet the needs of daily living.

4 (3) "Ambulatory surgical facility" means a facility,
 5 not part of a hospital, which provides surgical treatment to
 6 patients not requiring hospitalization. This type of
 7 facility may include observation beds for patient recovery
 8 from surgery or other treatment.

9 (4) "Board" means the board of health and
 10 environmental sciences, provided for in 2-15-2104.

11 (5) "Clinical laboratory" means a facility for the
 12 microbiological, serological, chemical, hematological,
 13 radiobioassay, cytological, immunohematological,
 14 pathological, or other examination of materials derived from
 15 the human body for the purpose of providing information for
 16 the diagnosis, prevention, or treatment of any disease or
 17 assessment of a medical condition.

18 (6) "College of American pathologists" means the
 19 organization nationally recognized by that name with
 20 headquarters in Traverse City, Michigan, that surveys
 21 clinical laboratories upon their requests and accredits
 22 clinical laboratories that it finds meet its standards and
 23 requirements.

24 (7) "Department" means the department of health and
 25 environmental sciences provided for in Title 2, chapter 15,

1 part 21.

2 (8) "Federal acts" means federal statutes for the
3 construction of health care facilities.

4 (9) "Governmental unit" means the state, a state
5 agency, a county, municipality, or political subdivision of
6 the state, or an agency of a political subdivision.

7 (10) "Health care facility" or "facility" means any
8 institution, building, or agency or portion thereof, private
9 or public, excluding federal facilities, whether organized
10 for profit or not, used, operated, or designed to provide
11 health services, medical treatment, or nursing,
12 rehabilitative, or preventive care to any person or persons.
13 The term does not include offices of private physicians or
14 dentists. The term includes but is not limited to ambulatory
15 surgical facilities, health maintenance organizations, home
16 health agencies, hospices, hospitals, infirmaries, kidney
17 treatment centers, long-term care facilities, mental health
18 centers, outpatient facilities, public health centers,
19 rehabilitation facilities, and adult day-care centers.

20 (11) "Health maintenance organization" means a public
21 or private organization organized as defined in 42 U.S.C.
22 300e, as amended.

23 (12) "Health systems agency" means an entity which is
24 organized and operated in the manner described in 42 U.S.C.
25 3001-2 and which is capable, as determined by the secretary

1 of the United States department of health and human
2 services, of performing each of the functions described in
3 42 U.S.C. 3001-2.

4 (13) "Home health agency" means a public agency or
5 private organization or subdivision thereof which is engaged
6 in providing home health services to individuals in the
7 places where they live. Home health services must include
8 the services of a licensed registered nurse and at least one
9 other therapeutic service and may include additional support
10 services.

11 (14) "Hospice" means a coordinated program of home and
12 inpatient health care that provides or coordinates
13 palliative and supportive care to meet the needs of a
14 terminally ill patient and his family arising out of
15 physical, psychological, spiritual, social, and economic
16 stresses experienced during the final stages of illness and
17 dying and that includes formal bereavement programs as an
18 essential component.

19 (15) "Hospital" means a facility providing, by or under
20 the supervision of licensed physicians, services for medical
21 diagnosis, treatment, rehabilitation, and care of injured,
22 disabled, or sick persons. Services provided may or may not
23 include obstetrical care, emergency care, or any other
24 service as allowed by state licensing authority. A hospital
25 has an organized medical staff which is on call and

1 available within 20 minutes, 24 hours per day, 7 days per
 2 week, and provides 24-hour nursing care by licensed
 3 registered nurses. This term includes hospitals specializing
 4 in providing health services for psychiatric, mentally
 5 retarded, and tubercular patients.

6 (16) "Infirmery" means a facility located in a
 7 university, college, government institution, or industry for
 8 the treatment of the sick or injured, with the following
 9 subdefinitions:

10 (a) an "infirmery--A" provides outpatient and
 11 inpatient care;

12 (b) an "infirmery--B" provides outpatient care only.

13 (17) "Joint commission on accreditation of hospitals"
 14 means the organization nationally recognized by that name
 15 with headquarters in Chicago, Illinois, that surveys health
 16 care facilities upon their requests and grants accreditation
 17 status to any health care facility that it finds meets its
 18 standards and requirements.

19 (18) "Kidney treatment center" means a facility which
 20 specializes in treatment of kidney diseases, including
 21 freestanding hemodialysis units.

22 (19) (a) "Long-term care facility" means a facility or
 23 part thereof which provides skilled nursing care,
 24 intermediate nursing care, or intermediate developmental
 25 disability care to a total of two or more persons or

1 personal care to more than four persons who are not related
 2 to the owner or administrator by blood or marriage. The
 3 term does not include adult foster care licensed under
 4 53-5-303, community homes for the developmentally disabled
 5 licensed under 53-20-305, community homes for physically
 6 disabled persons licensed under 53-19-111, ~~boarding--or~~
 7 ~~foster--homes--for--children~~ youth care facilities licensed
 8 under 41-3-1142, hotels, motels, boardinghouses,
 9 roominghouses, or similar accommodations providing for
 10 transients, students, or persons not requiring institutional
 11 health care, or juvenile and adult correctional facilities
 12 operating under the authority of the department of
 13 institutions.

14 (b) "Skilled nursing care" means the provision of
 15 nursing care services, health-related services, and social
 16 services under the supervision of a licensed registered
 17 nurse on a 24-hour basis.

18 (c) "Intermediate nursing care" means the provision of
 19 nursing care services, health-related services, and social
 20 services under the supervision of a licensed nurse to
 21 patients not requiring 24-hour nursing care.

22 (d) "Intermediate developmental disability care" means
 23 the provision of nursing care services, health-related
 24 services, and social services for the developmentally
 25 disabled, as defined in 53-20-102(4), or persons with

1 related problems.

2 (e) "Personal care" means the provision of services
3 and care which do not require nursing skills to residents
4 needing some assistance in performing the activities of
5 daily living.

6 (20) "Mental health center" means a facility providing
7 services for the prevention or diagnosis of mental illness,
8 the care and treatment of mentally ill patients or the
9 rehabilitation of such persons, or any combination of these
10 services.

11 (21) "Nonprofit health care facility" means a health
12 care facility owned or operated by one or more nonprofit
13 corporations or associations.

14 (22) "Observation bed" means a bed occupied for not
15 more than 6 hours by a patient recovering from surgery or
16 other treatment.

17 (23) "Offer" means the holding out by a health care
18 facility that it can provide specific health services.

19 (24) "Outpatient facility" means a facility, located in
20 or apart from a hospital, providing, under the direction of
21 a licensed physician, either diagnosis or treatment, or
22 both, to ambulatory patients in need of medical, surgical,
23 or mental care. An outpatient facility may have observation
24 beds.

25 (25) "Patient" means an individual obtaining services,

1 including skilled nursing care, from a health care facility.

2 (26) "Person" means any individual, firm, partnership,
3 association, organization, agency, institution, corporation,
4 trust, estate, or governmental unit, whether organized for
5 profit or not.

6 (27) "Public health center" means a publicly owned
7 facility providing health services, including laboratories,
8 clinics, and administrative offices.

9 (28) "Rehabilitation facility" means a facility which
10 is operated for the primary purpose of assisting in the
11 rehabilitation of disabled persons by providing
12 comprehensive medical evaluations and services,
13 psychological and social services, or vocational evaluation
14 and training or any combination of these services and in
15 which the major portion of the services is furnished within
16 the facility.

17 (29) "Resident" means a person who is in a long-term
18 care facility for intermediate or personal care.

19 (30) "State health plan" means the plan prepared by the
20 department pursuant to 42 U.S.C. 300m-2(a)(2)."

21 Section 109. Section 50-73-102, MCA, is amended to
22 read:

23 "50-73-102. Definitions. As used in this chapter, the
24 following definitions apply:

25 (1) "Division" means the division of workers'

1 compensation of the department of labor and industry
2 provided for in 2-15-170 and the state coal mine inspectors
3 employed by the division.

4 (2) "Excavations" and "workings" mean all parts of a
5 mine excavated or being excavated, including shafts, slopes,
6 tunnels, entries, rooms, and working places, whether
7 abandoned or in use.

8 ~~{3}--"Following--shot"--means-a-shot-which-is-dependent
9 in-its-action-on-the-result-of-another-shot-~~

10 ~~{4}{3}~~ "Gassy mine" means a mine is considered to be
11 potentially gassy. The division may further define this term
12 in its rules.

13 ~~{5}{4}~~ "Mine" and "coal mine" mean all parts of the
14 property of a mining plant under one management which
15 contribute, directly or indirectly, to the mining or
16 handling of coal.

17 ~~{6}{5}~~ "Mine examiner" means a person charged with the
18 examination of the condition of the mine before the miners
19 are permitted to enter it and who is commonly known as the
20 "fire boss".

21 ~~{7}{6}~~ "Mine foreman" means a person who is charged
22 with the general direction of the underground work or both
23 the underground work and the outside work of a coal mine and
24 who is commonly known and designated as "mine boss".

25 ~~{8}{7}~~ "Operator", as applied to the party in control

1 of a mine under this chapter, means the person, firm, or
2 body corporate which is the immediate proprietor as owner or
3 lessee of the plant and, as such, is responsible for the
4 condition and management thereof.

5 ~~{9}{8}~~ "Shaft" means any vertical opening through the
6 strata which is or may be used for the purpose of
7 ventilation or escape or for hoisting or lowering of men or
8 material in connection with the mining of coal.

9 ~~{10}{9}~~ "Slope" and "drift" mean respectively an
10 incline or horizontal way, opening, or tunnel to a seam of
11 coal to be used for the same purpose as a shaft."

12 Section 110. Section 53-2-813, MCA, is amended to
13 read:

14 "53-2-813. Mill levy for counties transferring public
15 assistance and protective services. (1) ~~{a}~~--Except--as
16 provided--in--subsection--{i}{b}7--for For the purpose of this
17 part, 12 mills must be levied annually in those counties
18 opting for state assumption.

19 ~~{b}~~--A--county--that--levied--an--amount--less--than--12--mills
20 for--purposes--of--its--county--poor--fund--during--fiscal--year--1982
21 must--levy--an--equivalent--amount--to--the--poor--fund--mill--levy
22 assessed--by--that--county--during--fiscal--year--1982--plus--1-5
23 mills,--not--to--exceed--a--total--of--12--mills,--less--a--mill--levy
24 equivalent--to--an--amount--the--county--can--demonstrate--was--spent
25 during--fiscal--year--1982--for--the--building--or--operation--of--a

~~medical facility. The reduced mill levy exception provided in this subsection (1)(b) continues in effect until June 30, 1984. After that date 12 mills must be levied in all counties where state assumption is in effect.~~

(2) The proceeds of the mill levy established in subsection (1) must be deposited in the state special revenue fund in the state treasury for the purpose of paying the expenses of the department. The mill levy may not exceed 12 mills, notwithstanding actual expenditures made by the department.

(3) For a county retaining or reassuming operational responsibility for medical assistance or monetary payments to needy persons as provided in 53-2-812, the levy provided in subsection (1) must be reduced by the mill levy equivalent expended by that county or the department for such purposes in the fiscal year immediately preceding the option to retain or reassume such responsibility."

Section 111. Section 53-5-503, MCA, is amended to read:

"53-5-503. Definitions. As used in this part, the following definitions apply:

(1) "Abuse" means the infliction of physical or mental injury or the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person without lawful authority. A declaration

made pursuant to 50-9-103 constitutes lawful authority.

(2) "Exploitation" means the unreasonable use of an older person, his money, or his property to the advantage of another by means of duress, menace, fraud, or undue influence.

(3) "Long-term care facility" means a facility defined in 50-5-101(20).

(4) "Mental injury" means an identifiable and substantial impairment of an older person's intellectual or psychological functioning or well-being.

(5) "Neglect" means the failure of a guardian, employee of a public or private residential institution, facility, home, or agency, or any other person legally responsible in a residential setting for an older person's welfare to care for an older person by failing to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person.

(6) "Older person" means a person who is at least 60 years of age. For purposes of prosecution under 53-5-525(2), the person 60 years of age or older must be unable to protect himself from abuse, neglect, or exploitation because of a mental or physical impairment or because of frailties or dependencies brought about by advanced age.

(7) "Physical injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ

1 or function."

2 Section 112. Section 53-6-141, MCA, is amended to
3 read:

4 "53-6-141. Amount, scope, and duration of assistance.

5 (1) The amount, scope, and duration of medical assistance
6 granted eligible persons shall be determined by the
7 department of social and rehabilitation services. Payments
8 on behalf of persons in state-operated institutions shall be
9 made only from funds appropriated specifically for this
10 purpose, as such funds are available.

11 (2) If available funds are not sufficient to provide
12 medical care for all eligible persons, the department shall
13 have the authority to set priorities to limit, reduce, or
14 otherwise curtail the amount, scope, or duration of the
15 medical care and services made available.

16 (3) For the purpose of determining eligibility and
17 amount of assistance to be granted to those individuals
18 covered in subsections ~~(2)(g)~~ (1)(g) and ~~(2)(h)~~ (1)(h) of
19 53-6-131, the department shall establish a maintenance
20 standard."

21 Section 113. Section 53-20-202, MCA, is amended to
22 read:

23 "53-20-202. Definitions. As used in this part, the
24 following definitions apply:

25 (1) "Comprehensive developmental disability system"

1 means a system of services, including but not limited to the
2 following basic services, with the intention of providing
3 alternatives to institutionalization:

4 (a) evaluation services;

5 (b) diagnostic services;

6 (c) treatment services;

7 (d) day-care services;

8 (e) training services;

9 (f) education services;

10 (g) employment services;

11 (h) recreation services;

12 (i) personal-care services;

13 (j) domiciliary-care services;

14 (k) special living arrangements services;

15 (l) counseling services;

16 (m) information and referral services;

17 (n) follow-along services;

18 (o) protective and other social and sociolegal
19 services; and

20 (p) transportation services.

21 (2) "Department" means the department of social and
22 rehabilitation services.

23 (3) "Developmental disabilities" means disabilities
24 attributable to mental retardation, cerebral palsy,
25 epilepsy, autism, or any other neurological handicapping

1 condition closely related to mental retardation and
 2 requiring treatment similar to that required by mentally
 3 retarded individuals if the disability originated before the
 4 person attained age 18, has continued or can be expected to
 5 continue indefinitely, and constitutes a substantial
 6 handicap of the person.

7 (4) "Developmental disabilities facility" means any
 8 service or group of services offering care to the
 9 developmentally disabled on an inpatient, outpatient,
 10 residential, clinical, or other programmatic basis.

11 (5) "Planning and advisory council" or "council" means
 12 the developmental disabilities planning and advisory council
 13 created in 2-15-2204~~(1)~~~~(2)~~~~(3)~~~~and~~~~(10)~~."

14 Section 114. Section 61-3-102, MCA, is amended to
 15 read:

16 "61-3-102. General fund reimbursement. Any moneys
 17 appropriated from the general fund for the operation of the
 18 department ~~in performing its duties under this title~~ or
 19 for the manufacture of number plates shall be reimbursed to
 20 the general fund from the motor vehicle account, state
 21 special revenue fund, if there are moneys in the account
 22 above the amount required for the normal operation of the
 23 department ~~in performing its duties under this title~~."

24 Section 115. Section 61-5-121, MCA, is amended to
 25 read:

1 "61-5-121. Disposition of fees. (1) The disposition of
 2 the fees from driver's licenses provided for in
 3 61-5-111~~(6)~~~~(a)~~~~(7)~~~~(a)~~, motorcycle endorsements provided for
 4 in 61-5-111~~(6)~~~~(b)~~~~(7)~~~~(b)~~, and duplicate driver's licenses
 5 provided for in 61-5-114 is as follows:

6 (a) The amount of 33 1/3% of each driver's license fee
 7 and of each duplicate driver's license fee must be deposited
 8 into the Montana highway patrolmen's retirement pension
 9 trust fund.

10 (b) (i) If the fees are collected by a county
 11 treasurer or other agent of the department, the amount of
 12 3 1/3% of each driver's license fee and of each duplicate
 13 driver's license fee must be deposited into the county
 14 general fund.

15 (ii) If the fees are collected by the department, the
 16 amount provided for in subsection (1)(b)(i) must be
 17 deposited into the state special revenue fund for use by the
 18 department to defray the costs of issuing licenses or
 19 duplicate licenses.

20 (c) (i) If the fee is collected by a county treasurer
 21 or other agent of the department, the amount of 5% of each
 22 motorcycle endorsement must be deposited into the county
 23 general fund.

24 (ii) If the fee is collected by the department, the
 25 amount provided for in subsection (1)(c)(i) must be

1 deposited into the state special revenue fund for use by the
2 department to defray the costs of issuing motorcycle
3 endorsements.

4 (d) The amount of 23 1/3% of each driver's license fee
5 and of each duplicate driver's license fee and the amount of
6 35% of each motorcycle endorsement fee must be deposited
7 into the state traffic education account.

8 (e) The amount of 40% of each driver's license fee and
9 of each duplicate driver's license fee and the amount of 60%
10 of each motorcycle endorsement fee must be deposited into
11 the state general fund.

12 (2) (a) If fees from driver's licenses, motorcycle
13 endorsements, and duplicate driver's licenses are collected
14 by a county treasurer or other agent of the department, he
15 shall deposit the amounts provided for in subsections
16 (1)(b)(i) and (1)(c)(i) into the county general fund. He
17 shall then remit to the state treasurer all remaining fees,
18 together with a statement indicating what portion of each
19 fee is to be deposited into the Montana highway patrolmen's
20 retirement pension trust fund, the state traffic education
21 account, and the state general fund. The state treasurer,
22 upon receipt of the fees and statement, shall deposit the
23 fees as provided in subsections (1)(a), (1)(d), and (1)(e).

24 (b) If fees from driver's licenses, motorcycle
25 endorsements, and duplicate driver's licenses are collected

1 by the department, it shall remit all fees to the state
2 treasurer, together with a statement indicating what portion
3 of each fee is to be deposited into the Montana highway
4 patrolmen's retirement pension trust fund, the state special
5 revenue fund, the state traffic education account, and the
6 state general fund. The state treasurer, upon receipt of the
7 fees and statement, shall deposit the fees as provided in
8 subsections (1)(a), (1)(b)(ii), (1)(c)(ii), (1)(d), and
9 (1)(e)."

10 Section 116. Section 61-9-402, MCA, is amended to
11 read:

12 "61-9-402. Audible and visual signals on police and
13 emergency vehicles and on-scene command vehicles. (1) A
14 police vehicle shall be equipped with a siren capable of
15 giving an audible signal and may, but need not, be equipped
16 with alternately flashing or rotating red or blue lights as
17 specified herein. The use of signal equipment described
18 herein shall impose upon the drivers of other vehicles the
19 obligation to yield right-of-way and/or to stop and to
20 proceed past such signal or light only with caution and at a
21 speed which is no greater than is reasonable and proper
22 under the conditions existing at the point of operation.

23 (2) Every authorized emergency vehicle shall, in
24 addition to any other equipment and distinctive markings
25 required by this chapter, be equipped with a siren and an

1 alternately flashing or rotating red light as specified
2 herein.

3 (3) Every authorized emergency vehicle shall, in
4 addition to any other equipment and distinctive markings
5 required by this chapter, be equipped with signal lamps
6 mounted as high and as widely spaced laterally as
7 practicable, which shall be capable of displaying to the
8 front two alternately flashing red lights located at the
9 same level and to the rear two alternately flashing red
10 lights located at the same level, and these lights shall
11 have sufficient intensity to be visible at 500 feet in
12 normal sunlight.

13 (4) Every bus used for the transportation of school
14 children shall, in addition to any other equipment and
15 distinctive markings required by this chapter, be equipped
16 with signal lamps mounted as high and as widely spaced
17 laterally as practicable, displaying to the front two red
18 and two amber alternating flashing lights and to the rear
19 two red and two amber alternating flashing lights. These
20 lights shall have sufficient intensity to be visible at 500
21 feet in normal sunlight. The warning lights shall be of a
22 type and located on each bus as prescribed by the state
23 board of education and approved by the department.

24 (5) Police vehicles and authorized emergency vehicles
25 may, and emergency service vehicles shall, in addition to

1 any other equipment and distinctive markings required by
2 this chapter be equipped with alternately flashing or
3 rotating amber lights as specified herein. The use of
4 signal equipment described herein shall impose upon the
5 drivers of other vehicles the obligation to yield
6 right-of-way and/or to stop and to proceed past such signal
7 or light only with caution and at a speed which is no
8 greater than is reasonable and proper under the conditions
9 existing at the point of operation.

10 (6) Blue, red, and amber lights required in
11 ~~subsections--(1)--(2)--and--(3)--~~of this section shall be
12 mounted as high as and as widely spaced laterally as
13 practicable and capable of displaying to the front two
14 alternately flashing lights of the specified color located
15 at the same level and to the rear two alternately flashing
16 lights of the specified color located at the same level or
17 as an alternative, one rotating light of the specified
18 color, mounted as high as is practicable which shall be both
19 visible front and rear. These lights shall have sufficient
20 intensity to be visible at 500 feet in normal sunlight. The
21 use of blue lights as required in subsection (1) of this
22 section shall be restricted to police vehicles as defined in
23 61-1-118.

24 (7) Every police car and authorized emergency vehicle
25 may be equipped with a portable signal lamp that is green in

1 color and capable of magnetic attachment to the exterior
2 roof of the vehicle for purposes of designation as the
3 on-scene command and control vehicle in an emergency or
4 disaster. The green light shall have sufficient intensity to
5 be visible at 500 feet in normal sunlight."

6 Section 117. Section 61-10-108, MCA, is amended to
7 read:

8 "61-10-108. Reduction under special circumstances. The
9 maximum axle and axle group loads stated in 61-10-105 are
10 subject to reasonable reduction in the discretion of the
11 department of highways during periods when road subgrades
12 have been weakened by water saturation or other causes."

13 Section 118. Section 61-10-122, MCA, is amended to
14 read:

15 "61-10-122. Discretion of issuer -- conditions. The
16 department of highways or local authority may issue or
17 withhold a special permit at its discretion or, if the
18 permit is issued, limit the number of trips or establish
19 seasonal or other time limitations within which the vehicle,
20 combination of vehicles, load, object, or other thing
21 described may be operated on the public highways indicated,
22 or otherwise limit or prescribe conditions of operation of
23 the vehicle, combination of vehicles, load, object, or other
24 thing when necessary to assure against damage to the road
25 foundation, surfaces, or structures or safety of traffic,

1 and may require an undertaking or other security considered
2 necessary to compensate for injury to a roadway or road
3 structure. During harvest no permit may be denied to
4 oversize harvest or harvest-related agricultural machinery
5 solely on the grounds that the travel takes place on a
6 Saturday or Sunday. No permit may be denied to dealers in
7 implements of husbandry and self-propelled machinery solely
8 on the grounds that the travel may take place on a Saturday
9 or Sunday."

10 Section 119. Section 61-10-124, MCA, is amended to
11 read:

12 "61-10-124. Special permits -- fee. (1) Except as
13 provided in subsection (2)(b), in addition to the regular
14 registration and gross vehicle weight fees, a fee of \$10 for
15 each trip permit and a fee of \$75 for each term permit
16 issued for size and weight in excess of that specified in
17 61-10-101 through 61-10-110 shall be paid for all movements
18 under special permits on the public highways under the
19 jurisdiction of the department of highways.

20 (2) (a) Except as provided in subsection (2)(b), term
21 or blanket permits may not be issued for an overwidth
22 vehicle, combination of vehicles, load, or other thing in
23 excess of 15 feet; an overlength vehicle, combination of
24 vehicles, load, object, or other thing in excess of 95 feet;
25 and an overheight vehicle, combination of vehicles, load, or

1 other thing in excess of 13 1/2 feet, or of a limit
 2 determined by the department. A vehicle, combination of
 3 vehicles, load, or other thing in excess of these dimensions
 4 is limited to trip permits. Special permits for vehicle
 5 combinations of more than two trailers are not permitted
 6 under this section. Special permits for vehicle combinations
 7 may specify highway routing and otherwise limit or prescribe
 8 conditions of operation of the vehicle or combination,
 9 including but not limited to required equipment, speed,
 10 stability, operational procedures, and insurance.

11 (b) A term permit may be issued to a dealer in
 12 implements of husbandry and self-propelled machinery for an
 13 overwidth or overlength vehicle referred to in subsection
 14 (2)(a). The fee for this permit is \$75. This permit covers a
 15 period of 1 year and expires on December 31 of each year
 16 with no grace period.

17 (c) With payment of the appropriate gross weight fee
 18 required by 61-10-203 and with payment of the fee prescribed
 19 in subsection (1), allowable gross weight of a five-axle
 20 combination logging vehicle is 80,000 pounds.

21 (3) Except as provided in subsection (2)(b), a permit
 22 may not be issued for a period of time greater than the
 23 period for which the GVW license is valid as provided in
 24 this title, including grace periods allowed by this title.
 25 Owners of vehicles licensed in other jurisdictions may, at

1 the discretion of the department of highways, purchase
 2 permits to expire with their registration. A license
 3 required by the state governs the issuance of a special
 4 permit."

5 Section 120. Section 61-10-128, MCA, is amended to
 6 read:

7 "61-10-128. When authorities may restrict right to use
 8 roadway. (1) A local authority may not alter the limitations
 9 provided in 61-10-101 through 61-10-110 or substitute other
 10 limitations or requirements, except as provided in this
 11 section.

12 (2) The department of highways by order, or a local
 13 road authority by ordinance or resolution, may prohibit the
 14 operation of or impose restrictions on the weight and speed
 15 of a vehicle traveling on a public highway under its
 16 respective jurisdiction and for which it is responsible for
 17 maintenance whenever the highway will be seriously damaged
 18 or destroyed by deterioration, rain, snow, or other climatic
 19 conditions, unless the use of vehicles on the highway is
 20 prohibited or the permissible vehicle weights and speed are
 21 reduced. The department of highways or the authority which
 22 enacts the ordinance or resolution shall erect signs
 23 designating the department's order or the authority's
 24 ordinance or resolution at each end of that portion of the
 25 highway affected, and the order or ordinance or resolution

1 is not effective until the signs are erected. The
 2 department, or the authority by ordinance or resolution, may
 3 prohibit the operation of trucks or other commercial
 4 vehicles, or impose limitations on their weight on
 5 designated highways. These prohibitions and limitations
 6 shall be designated by appropriate signs placed on the
 7 highways."

8 Section 121. Section 61-10-141, MCA, is amended to
 9 read:

10 "61-10-141. Officers authorized to weigh vehicles and
 11 require removal of excessive loads -- enforcement of motor
 12 carrier safety standards. (1) A peace officer, officer of
 13 the highway patrol, or employee of the department of
 14 highways may weigh any vehicle regulated by 61-10-101
 15 through 61-10-110, either by means of portable or stationary
 16 scales, and may require that the vehicle be driven to the
 17 nearest scales if those scales are within 2 miles. That
 18 person may then require the driver to unload immediately
 19 that portion of the load necessary to decrease the weight of
 20 the vehicle to conform to the maximum allowable weights
 21 specified in 61-10-101 through 61-10-110.

22 (2) Commodities and material unloaded as required by
 23 this section shall be cared for and removed from the highway
 24 right-of-way by the owner or operator of the vehicle at the
 25 risk of that owner or operator. The removal shall be within

1 a reasonable time designated by the person who has compelled
 2 the unloading.

3 (3) The department of highways may establish,
 4 maintain, and operate weigh stations, either intermittently
 5 or on a continuous schedule, and may require vehicles,
 6 except passenger cars and pickup trucks under 8,000 pounds
 7 G.V.W., to enter for the purpose of weighing and inspection
 8 for compliance with all laws pertaining to their operation
 9 and safety requirements.

10 (4) The department of highways shall work with the
 11 highway patrol in the enforcement of safety standards
 12 adopted pursuant to 44-1-1005. For the purposes of such
 13 joint enforcement, the highway patrol is designated as the
 14 lead agency. The highway patrol and the department of
 15 highways shall cooperate to assure minimum duplication and
 16 maximum coordination of enforcement effort.

17 (5) In order to enforce compliance with safety
 18 standards adopted pursuant to 44-1-1005, the department of
 19 highways shall designate employees as peace officers. The
 20 designated employees must be employed in the administration
 21 of the gross vehicle weight functions of the department of
 22 highways. Each employee so designated as a peace officer
 23 may:

24 (a) issue citations and make arrests in connection
 25 with violations of safety standards adopted under 44-1-1005;

1 (b) issue summons;

2 (c) accept bail;

3 (d) serve warrants for arrest;

4 (e) make reasonable inspections of cargo carried by
5 commercial motor vehicles;

6 (f) make reasonable safety inspections of commercial
7 motor vehicles utilized by motor carriers; and

8 (g) require production of documents relating to the
9 cargo, driver, routing, or ownership of such vehicles.

10 (6) In addition to other enforcement duties assigned
11 under this section, an employee of the department of
12 highways has the same authority to enforce provisions of the
13 motor carriers law as that granted the public service
14 commission under 69-12-203."

15 Section 122. Section 61-10-142, MCA, is amended to
16 read:

17 "61-10-142. Display of permit. A special permit issued
18 under 61-10-121 shall be carried in the vehicle or
19 combination of vehicles to which it refers and shall be open
20 to inspection by any peace officer, officer of the highway
21 patrol, or employee of the department of highways."

22 Section 123. Section 61-10-143, MCA, is amended to
23 read:

24 "61-10-143. Confiscation -- action by commission. A
25 peace officer, officer of the highway patrol, or employee of

1 the department of highways who finds a person operating a
2 vehicle, combination of vehicles, load, object, or other
3 thing in violation of the conditions of a special permit may
4 confiscate the permit and forward it to the commission. The
5 commission may return it to the permittee or revoke, cancel,
6 or suspend it without refund. The commission shall keep a
7 record of all action taken upon confiscated permits, and if
8 a permit is returned to the permittee, the action taken by
9 the commission shall be endorsed on it. A permittee whose
10 permit is suspended or revoked may, upon request, receive a
11 hearing before the commission or person designated by the
12 commission. The commission, after the hearing, may reinstate
13 the permit or revise its previous action."

14 Section 124. Section 61-11-203, MCA, is amended to
15 read:

16 "61-11-203. Definitions. As used in this part, the
17 following definitions apply:

18 (1) "Conviction" means a finding of guilt by duly
19 constituted judicial authority, a plea of guilty, or a
20 forfeiture of bail, bond, or other security deposited to
21 secure appearance by a person charged with having committed
22 any offense relating to the use or operation of a motor
23 vehicle which is prohibited by law, ordinance, or
24 administrative order.

25 (2) "Habitual traffic offender" means any person who

1 within a 3-year period accumulates 30 or more conviction
2 points according to the schedule specified in this
3 subsection:

4 (a) deliberate homicide resulting from the operation
5 of a motor vehicle, 15 points;

6 (b) mitigated deliberate homicide or negligent
7 homicide resulting from operation of a motor vehicle, 12
8 points;

9 (c) any offense punishable as a felony under the motor
10 vehicle laws of Montana or any felony in the commission of
11 which a motor vehicle is used, 12 points;

12 (d) driving while under the influence of intoxicating
13 liquor or narcotics or drugs of any kind or operation of a
14 motor vehicle by a person with alcohol concentration of 0.10
15 or more, 10 points;

16 (e) operating a motor vehicle while his license to do
17 so has been suspended or revoked, 6 points;

18 (f) failure of the driver of a motor vehicle involved
19 in an accident resulting in death or injury to any person to
20 stop at the scene of the accident and give the required
21 information and assistance, as defined in 61-7-105, 8
22 points;

23 (g) willful failure of the driver involved in an
24 accident resulting in property damage of \$250 to stop at the
25 scene of the accident and give the required information or

1 to otherwise fail to report an accident in violation of the
2 law, 4 points;

3 (h) reckless driving, 5 points;

4 (i) illegal drag racing or engaging in a speed contest
5 in violation of the law, 5 points;

6 (j) operating a motor vehicle without a license to do
7 so, 2 points (this subsection (j) does not apply to
8 operating a motor vehicle within a period of 180 days from
9 the date the license expired);

10 (k) speeding, 3 points;

11 (l) all other moving violations, 2 points.

12 (3) There shall be no multiple application of
13 cumulative points when two or more charges are filed
14 involving a single occurrence. If there are two or more
15 convictions involving a single occurrence, only the number
16 of points for the specific conviction carrying the highest
17 points shall be chargeable against that defendant.

18 ~~(3)~~(4) "License" means any type of license or permit
19 to operate a motor vehicle."

20 Section 125. Section 67-3-101, MCA, is amended to
21 read:

22 "67-3-101. Regulation and licensing -- general
23 provisions. In order to promote the general public interest
24 and safety and to carry out the purposes of this title, the
25 department may:

1 (1) require the annual registration of federal
 2 licenses, permits, or certificates of civil aircraft engaged
 3 in air navigation within this state, of airmen engaged in
 4 aeronautics within this state, and of aeronautics
 5 instructors giving instruction in flying subjects and may
 6 issue certificates of registration. The certificates of
 7 registration constitute licenses of the aircraft, airmen,
 8 and instructors for operations within this state to the
 9 extent permitted by the federal licenses, certificates, or
 10 permits so registered. The department may charge a fee for
 11 the registration of each federal license, certificate, or
 12 permit not exceeding \$10. It may accept as evidence of the
 13 holding of a federal license, certificate, or permit the
 14 verified application of the owner of the aircraft, the
 15 airman, or the instructor. The application shall contain
 16 information which the department may by rule or order
 17 prescribe.

18 (2) register aircraft repair shops, aircraft, aircraft
 19 parts and sales dealers, and other persons operating in
 20 aviation and license aircraft repair shops, aircraft,
 21 aircraft parts and sales dealers, and other persons
 22 operating in aviation, air schools, and aeronautics
 23 instructors giving instruction in ground subjects, in
 24 accordance with rules to be adopted by the department, and
 25 may annually renew these licenses. It may charge for the

1 original licensing of aircraft repair shops, aircraft,
 2 aircraft parts and sales dealers, and other persons
 3 operating in aviation, air schools, and aeronautics
 4 instructors not more than \$10 and for the renewal of a
 5 license not more than \$10.

6 (3) upon notification by the federal aviation
 7 administration that it has revoked the license or
 8 certificate of an aircraft, airman, air school, or
 9 aeronautics instructor, temporarily or permanently revoke
 10 the license or certificate of registration issued for that
 11 aircraft, airman, air school, or aeronautics instructor,
 12 giving reasons for the action."

13 Section 126. Section 67-3-201, MCA, is amended to
 14 read:

15 "67-3-201. Aircraft registration and licensing. (1)
 16 Except as provided in 67-3-102 and in subsection (7) of this
 17 section, a person may not operate or cause or authorize to
 18 be operated a civil aircraft within this state unless the
 19 aircraft has an appropriate effective registration, license,
 20 certificate, or permit issued or approved by the United
 21 States government which has been registered with the
 22 department and the registration with the department is in
 23 force.

24 (2) Aircraft customarily kept in this state shall be
 25 registered with the department, which may charge a fee

1 therefor of not more than \$10. The registration shall be
2 renewed annually on or before March 1 each year.

3 (3) Section 67-3-202 and subsections (2) and (4)
4 through (7) of this section shall not apply to:

5 (a) aircraft owned and operated by the federal
6 government, the state, or any political subdivision thereof;

7 (b) aircraft owned and held by an aircraft dealer
8 solely for the purpose of resale;

9 (c) aircraft operated by an airline company and
10 regularly scheduled for the primary purpose of carrying
11 persons or property for hire in interstate or international
12 transportation; or

13 (d) dismantled or otherwise nonflyable aircraft.

14 (4) An aircraft shall be registered as property within
15 a particular county of the state. This county shall be the
16 county of the owner's principal residence, if the owner is a
17 natural person, or the owner's principal place of doing
18 business in the state, if the owner is not a natural person.
19 However, if the owner declares by affidavit that the
20 aircraft is customarily kept at a landing facility in
21 another county within the state, he may register the
22 aircraft as property within such other county.

23 (5) Except as provided in 15-6-210, all aircraft shall
24 be subject to all state, county, and school district tax
25 levies and all other levies designated for aircraft- or

1 airport-related uses. Such aircraft shall not be liable for
2 other city tax levies.

3 (6) Aircraft not registered in the state but entering
4 the state to engage in commercial operations shall be
5 registered prior to commencing operation.

6 (7) Owners of ultralight aircraft for which no
7 appropriate effective license, certificate, or permit is
8 issued by the United States government shall file with the
9 department an appropriate registration recognized and
10 approved by the United States government."

11 Section 127. Section 67-3-202, MCA, is amended to
12 read:

13 "67-3-202. Penalty for registration violations. (1)
14 When an aircraft required to be registered under the
15 provisions of subsections (2) and (4) through (7) of
16 67-3-201 is not registered on or before March 1 of the
17 current calendar year, a penalty fee of \$100 shall be added
18 to the registration fee and collected. Registration of an
19 aircraft in the name of the applicant for the year
20 immediately preceding the year for which application for
21 registration is made shall be prima facie evidence that the
22 aircraft has been based in this state during the year for
23 which application for registration is made.

24 (2) Except for aircraft exempt from property taxation
25 as provided in 15-6-210, an application for registration

1 shall be accompanied by a copy of the receipt for or
 2 statement of personal property tax paid, signed by the
 3 treasurer of the county where the aircraft is registered, or
 4 a statement of lien assignment against real property, signed
 5 by the county assessor where the aircraft is registered. A
 6 person who pays personal property tax on his aircraft to any
 7 jurisdiction other than the county where the aircraft is
 8 required to be registered is liable for the tax in that
 9 county without credit for such other taxes paid. In addition
 10 to this civil liability, a person who attempts to establish
 11 the situs of his aircraft in any jurisdiction other than the
 12 county where the aircraft is required to be registered with
 13 intent to avoid payment of taxes to that county commits the
 14 offense of false swearing as defined in 45-7-202.

15 (3) A person who operates an aircraft required to be
 16 registered in the state without having displayed upon such
 17 aircraft a certificate of registration issued by the
 18 department for that aircraft commits a misdemeanor."

19 Section 128. Section 67-11-303, MCA, is amended to
 20 read:

21 "67-11-303. Bonds and obligations. (1) An authority
 22 may borrow money for any of its corporate purposes and issue
 23 its bonds therefor, including refunding bonds, in such form
 24 and upon such terms as it may determine, payable out of any
 25 revenues of the authority, including revenues derived from:

1 (a) an airport or air navigation facility or
 2 facilities;

3 (b) taxes levied pursuant to 67-11-301 or other law
 4 for airport purposes;

5 (c) grants or contributions from the federal
 6 government; or

7 (d) other sources.

8 (2) The bonds may be issued by resolution of the
 9 authority, without an election and without any limitation of
 10 amount, except that no such bonds may be issued at any time
 11 if the total amount of principal and interest to become due
 12 in any year on such bonds and on any then outstanding bonds
 13 for which revenues from the same source or sources are
 14 pledged exceeds the amount of such revenues to be received
 15 in that year as estimated in the resolution authorizing the
 16 issuance of the bonds. The authority shall take all action
 17 necessary and possible to impose, maintain, and collect
 18 rates, charges, rentals, and taxes, if any are pledged,
 19 sufficient to make the revenues from the pledged source in
 20 such year at least equal to the amount of such principal and
 21 interest due in that year.

22 (3) The bonds may be sold at public or private sale
 23 and may bear interest ~~at a rate not exceeding the limitation~~
 24 of as provided in 17-5-102. Except as otherwise provided
 25 herein, any bonds issued pursuant to this chapter by an

1 authority may be payable as to principal and interest solely
 2 from revenues of the authority and shall state on their face
 3 the applicable limitations or restrictions regarding the
 4 source from which such principal and interest are payable.

5 (4) Bonds issued by an authority or municipality
 6 pursuant to the provisions of this chapter are declared to
 7 be issued for an essential public and governmental purpose
 8 by a political subdivision within the meaning of
 9 15-30-111(2)(a).

10 (5) For the security of any such bonds, the authority
 11 or municipality may by resolution make and enter into any
 12 covenant, agreement, or indenture and may exercise any
 13 additional powers authorized to be exercised by a
 14 municipality under Title 7, chapter 7, parts 44 and 45. The
 15 sums required from time to time to pay principal and
 16 interest and to create and maintain a reserve for the bonds
 17 may be paid from any revenues referred to in this chapter,
 18 prior to the payment of current costs of operation and
 19 maintenance of the facilities.

20 (6) Subject to the conditions stated in this
 21 subsection (6), the governing body of any municipality
 22 having a population in excess of 10,000, with respect to
 23 bonds issued pursuant to this chapter by the municipality or
 24 by an authority in which the municipality is included, may
 25 by resolution covenant that in the event that at any time

1 all revenues, including taxes, appropriated and collected
 2 for such bonds are insufficient to pay principal or interest
 3 then due, it will levy a general tax upon all of the taxable
 4 property in the municipality for the payment of such
 5 deficiency; and may further covenant that at any time a
 6 deficiency is likely to occur within 1 year for the payment
 7 of principal and interest due on such bonds, it will levy a
 8 general tax upon all the taxable property in the
 9 municipality for the payment of such deficiency, and such
 10 taxes are not subject to any limitation of rate or amount
 11 applicable to other municipal taxes but are limited to a
 12 rate estimated to be sufficient to produce the amount of the
 13 deficiency. In the event more than one municipality having a
 14 population in excess of 10,000 is included in an authority
 15 issuing bonds pursuant to this chapter, the municipalities
 16 may apportion the obligation to levy taxes for the payment
 17 of, or in anticipation of, a deficiency in the revenues
 18 appropriated for such bonds in such manner as the
 19 municipalities may determine. The resolution shall state the
 20 principal amount and purpose of the bonds and the substance
 21 of the covenant respecting deficiencies. No such resolution
 22 becomes effective until the question of its approval has
 23 been submitted to the qualified electors of the municipality
 24 at a special election called for that purpose by the
 25 governing body of the municipality and a majority of the

1 electors voting on the question have voted in favor thereof.
 2 The notice and conduct of the election is governed, to the
 3 extent applicable, as provided for municipal general
 4 obligation bonds in Title 7, chapter 7, part 42, for an
 5 election called by cities and towns, and as provided for
 6 county general obligation bonds in Title 7, chapter 7, part
 7 22, for an election called by counties. If a majority of the
 8 electors voting thereon vote against approval of the
 9 resolution, the municipality has no authority to make the
 10 covenant or to levy a tax for the payment of deficiencies
 11 pursuant to this section, but such municipality or authority
 12 may nevertheless issue bonds under this chapter payable
 13 solely from the sources referred to in subsection (1)
 14 above."

15 Section 129. Section 69-4-332, MCA, is amended to
 16 read:

17 "69-4-332. Issuance of bonds. (1) After the expiration
 18 of 30 days from the date of the adoption of the ordinance
 19 levying the assessments, the governing body may issue
 20 negotiable, interest-bearing bonds in a principal amount not
 21 exceeding the unpaid balance of the assessments levied.
 22 Whenever any ordinance authorizing the issuance of any bonds
 23 pursuant to the improvement contemplated shall have been
 24 adopted, such ordinance shall be published once in a
 25 newspaper in which the original notice of hearing was

1 published.

2 (2) The bonds shall bear interest ~~at a rate not~~
 3 ~~exceeding the limitations of~~ as provided in 17-5-102,
 4 payable as specified by the governing body over a period not
 5 exceeding 20 years. The bonds shall be of such form and
 6 denomination and shall be payable in principal and interest
 7 at such times and place and shall be sold, authorized, and
 8 issued in such manner as the governing body may determine.
 9 The bonds shall be dated no earlier than the date on which
 10 the special assessment shall begin to bear interest and
 11 shall be secured by and payable from the levy and collection
 12 of the special assessments in anticipation of the collection
 13 of which they are issued. Any premium received on the sale
 14 of the bonds may be applied as other bond proceeds, or if
 15 not so applied, the same shall be placed in the fund for the
 16 payment of principal of and interest on the bonds.

17 (3) The bonds shall be signed by a member of the
 18 governing body designated by the governing body and shall be
 19 countersigned by the appropriate treasurer, with the
 20 corporate seal thereto affixed as appropriate, and attested
 21 to by the clerk of the governing body. Interest may be
 22 evidenced by interest coupons attached to such bonds and
 23 signed by a facsimile signature of one of the individuals
 24 who signed the bond."

25 Section 130. Section 69-14-805, MCA, is amended to

1 read:

2 "69-14-805. Violations of loading platform provisions.
3 Every railroad company neglecting or refusing to comply with
4 the requirements of 69-14-801 and 69-14-803 through
5 69-14-805 shall be deemed guilty of a misdemeanor and be
6 subject to a fine of not less than \$500 for every 30 days
7 such failure shall continue after notice as aforesaid."

8 Section 131. Section 71-3-302, MCA, is amended to
9 read:

10 "71-3-302. Priority in case of death of employer. In
11 case of the death of any employer, the wages of each miner,
12 mechanic, salesperson, clerk, servant, and laborer for
13 services rendered within 4 months next preceding the death
14 of the employer, in the amount actually owed, are preferred
15 debts under 72-3-807(1)~~(e)~~(d) and must be paid before other
16 claims against the estate of the deceased person."

17 Section 132. Section 71-3-603, MCA, is amended to
18 read:

19 "71-3-603. Extent of liens. (1) The person rendering
20 the service or doing the work or labor named in 71-3-601(1)
21 through (3) is only entitled to the liens as provided herein
22 for services, work, or labor for the period of 3 calendar
23 months, or any part thereof next preceding the filing of the
24 claim, as provided in ~~71-3-606~~ 71-3-605.

25 (2) The person granting the privilege mentioned in

1 71-3-601(4) is only entitled to the lien as provided therein
2 for sawlogs, piling, railroad ties, cordwood, or other
3 timber cut during the 3 months next preceding the filing of
4 the claim, as provided in ~~71-3-605~~ 71-3-606."

5 Section 133. Section 71-3-611, MCA, is amended to
6 read:

7 "71-3-611. Enforcement of lien. (1) The liens provided
8 for in this part shall be enforced by a civil action in the
9 district court of the county wherein the lien was filed and
10 shall be governed by the laws regulating the proceedings in
11 civil actions touching the mode and manner of trial and the
12 proceedings and laws to secure property, so as to hold it
13 for the satisfaction of any lien that may be against it.

14 (2) Any person who shall bring a civil action to
15 enforce the lien provided for, any person having a lien as
16 provided for, or who shall be made a party to any such civil
17 action has the right to demand that such lien be enforced
18 against the whole or any part of the sawlogs, piling,
19 railroad ties, cordwood, or other timber or manufactured
20 lumber or shingles upon which he has performed labor or
21 which he has assisted in securing or obtaining or which he
22 has cut on his timberland during the 3 months next preceding
23 the filing of his lien, for all his labor upon or for all
24 his assistance in obtaining or securing said sawlogs,
25 piling, railroad ties, cordwood, or other timber or in

1 manufacturing said lumber into shingles during the whole or
2 any part of the 3 months mentioned in ~~71-3-605~~ 71-3-603, or
3 for timber cut during the whole or any part of the 3 months
4 above mentioned.

5 (3) Where proceedings are commenced against any lot of
6 sawlogs, piling, railroad ties, cordwood or other timber or
7 lumber or shingles, as herein provided, and some of the
8 lienors claim liens against these specific sawlogs, piling,
9 railroad ties, cordwood, or other timber or lumber or
10 shingles proceeded against and others against the same
11 generally to secure their claim for work and labor, the
12 priority of the liens shall be determined as hereinbefore
13 provided."

14 Section 134. Section 72-11-103, MCA, is amended to
15 read:

16 "72-11-103. Degrees of kindred -- ascending and
17 descending direct line. The direct line is divided into a
18 direct line descending and a direct line ascending. The
19 first is that which connects ~~the-ancestors~~ an ancestor with
20 those who descend from him. The second is that which
21 connects a person with those from whom he descends."

22 Section 135. Section 72-16-454, MCA, is amended to
23 read:

24 "72-16-454. Farmhouses and other structures taken into
25 account. For the purposes of the ~~65%~~ 35% requirement of

1 72-16-452, an interest in a closely held business that is
2 the business of farming includes an interest in residential
3 buildings and related improvements on the farm which are
4 occupied on a regular basis by the owner or lessee of the
5 farm or by persons employed by the owner or lessee for
6 purposes of operating or maintaining the farm."

7 Section 136. Section 72-17-206, MCA, is amended to
8 read:

9 "72-17-206. Designation of physician by donor --
10 absence of designation. The donor may designate in his will,
11 card, or other document of gift the surgeon or physician to
12 carry out the appropriate procedures, except as provided in
13 72-17-205 and ~~72-17-310(2)~~ 72-17-301(2). In the absence of a
14 designation or if the designee is not available, the donee
15 or other person authorized to accept the gift may employ or
16 authorize any surgeon or physician for the purpose, except
17 as provided in 72-17-205 and ~~72-17-310(2)~~ 72-17-301(2)."

18 Section 137. Section 72-17-311, MCA, is amended to
19 read:

20 "72-17-311. Eye enucleations -- technicians --
21 qualifications. (1) Eye enucleations for purposes of
22 anatomical gifts may be performed:

- 23 (a) by a licensed physician or surgeon; or
24 (b) by a technician trained in eye enucleation.
25 (2) ~~A~~ An acceptable course in eye enucleation

1 ~~acceptable-under-subsection-(1)~~ must include the anatomy and
2 physiology of the eye, instruction in maintaining a sterile
3 field during the enucleation procedure, and use of
4 appropriate instruments and sterile procedures for removal
5 and preservation of corneal tissue.

6 (3) Certification of satisfactory completion of a
7 course in eye enucleation must be provided by the
8 ophthalmologist who teaches the course. This certification
9 qualifies a technician to perform eye enucleations for a
10 period of 3 years from the date of completion of the
11 course."

12 Section 138. Section 75-1-1101, MCA, is amended to
13 read:

14 "75-1-1101. Environmental contingency account
15 objectives. (1) There is created an environmental
16 contingency account within the state special revenue fund
17 established in 17-2-102. The environmental contingency
18 account is controlled by the governor.

19 (2) Except as provided in subsection ~~(5)~~ (4), at the
20 beginning of each fiscal year, 5% of the funds appropriated
21 to the department of natural resources and conservation from
22 the resource indemnity trust interest account, not to exceed
23 \$175,000 in fiscal year 1987, must be allocated to the
24 environmental contingency account.

25 (3) Funds are statutorily appropriated, as provided in

1 17-7-502, from the environmental contingency account upon
2 the authorization of the governor to meet unanticipated
3 public needs consistent with the following objectives:

4 (a) to support water development projects in
5 communities that face an emergency or imminent need for such
6 services or to prevent the physical failure of a water
7 project;

8 (b) to preserve vegetation, water, soil, fish,
9 wildlife, or other renewable resources from an imminent
10 physical threat or during an emergency, not including:

11 (i) natural disasters adequately covered by other
12 funding sources; or

13 (ii) fire;

14 (c) to respond to an emergency or imminent threat to
15 persons, property, or the environment caused by mineral
16 development; and

17 (d) to fund the environmental quality protection fund
18 provided for in 75-10-704 or to take other necessary
19 actions, including the construction of facilities, to
20 respond to actual or potential threats to persons, property,
21 or the environment caused by hazardous wastes or other
22 hazardous materials.

23 (4) The environmental contingency account may receive
24 no additional allocation for any fiscal year in which the
25 balance in the account exceeds \$1,000,000 at the beginning

1 of that fiscal year.

2 (5) Interest from funds in the environmental
3 contingency account accrues to the resource indemnity trust
4 interest account.

5 (6) The governor shall submit to the legislature at
6 the beginning of each regular session a complete financial
7 report on the environmental contingency account, including a
8 description of all expenditures made since the preceding
9 report."

10 Section 139. Section 75-20-216, MCA, is amended to
11 read:

12 "75-20-216. Study, evaluation, and report on proposed
13 facility -- assistance by other agencies. (1) After receipt
14 of an application, the department and department of health
15 shall within 90 days notify the applicant in writing that:

16 (a) the application is in compliance and is accepted
17 as complete; or

18 (b) the application is not in compliance and list the
19 deficiencies therein; and upon correction of these
20 deficiencies and resubmission by the applicant, the
21 department and department of health shall within 30 days
22 notify the applicant in writing that the application is in
23 compliance and is accepted as complete.

24 (2) Upon receipt of an application complying with
25 75-20-211 through 75-20-213, 75-20-215, and this section,

1 the department shall commence an intensive study and
2 evaluation of the proposed facility and its effects,
3 considering all applicable criteria listed in 75-20-301 and
4 75-20-503 and the department of health shall commence a
5 study to enable it or the board of health to issue a
6 decision, opinion, order, certification, or permit as
7 provided in subsection (3). The department and department of
8 health shall use, to the extent they consider applicable,
9 valid and useful existing studies and reports submitted by
10 the applicant or compiled by a state or federal agency.

11 (3) The department of health shall within 1 year
12 following the date of acceptance of an application and the
13 board of health or department of health, if applicable,
14 within an additional 6 months issue any decision, opinion,
15 order, certification, or permit required under the laws
16 administered by the department of health or the board of
17 health and this chapter. The department of health and the
18 board of health shall determine compliance with all
19 standards, permit requirements, and implementation plans
20 under their jurisdiction for the primary and reasonable
21 alternate locations in their decision, opinion, order,
22 certification, or permit. The decision, opinion, order,
23 certification, or permit, with or without conditions, is
24 conclusive on all matters that the department of health and
25 board of health administer, and any of the criteria

1 specified in subsections (2) through (7) of 75-20-503 that
 2 are a part of the determinations made under the laws
 3 administered by the department of health and the board of
 4 health. Although the decision, opinion, order,
 5 certification, or permit issued under this subsection is
 6 conclusive, the board retains authority to make the
 7 determination required under 75-20-301(2)(c). The decision,
 8 opinion, order, certification, or permit of the department
 9 of health or the board of health satisfies the review
 10 requirements by those agencies and shall be acceptable in
 11 lieu of an environmental impact statement under the Montana
 12 Environmental Policy Act. A copy of the decision, opinion,
 13 order, certification, or permit shall be served upon the
 14 department and the board and shall be utilized as part of
 15 their final site selection process. Prior to the issuance of
 16 a preliminary decision by the department of health and
 17 pursuant to rules adopted by the board of health, the
 18 department of health shall provide an opportunity for public
 19 review and comment.

20 (4) Within 22 months following acceptance of an
 21 application for a facility as defined in (a) and (d) of
 22 75-20-104(10) and for a facility as defined in (b) and (c)
 23 of 75-20-104(10) which is more than 30 miles in length and
 24 within 1 year for a facility as defined in (b) and (c) of
 25 75-20-104(10) which is 30 miles or less in length, the

1 department shall make a report to the board which shall
 2 contain the department's studies, evaluations,
 3 recommendations, other pertinent documents resulting from
 4 its study and evaluation, and an environmental impact
 5 statement or analysis prepared pursuant to the Montana
 6 Environmental Policy Act, if any. If the application is for
 7 a combination of two or more facilities, the department
 8 shall make its report to the board within the greater of the
 9 lengths of time provided for in this subsection for either
 10 of the facilities.

11 (5) The departments of highways; commerce; fish,
 12 wildlife, and parks; state lands; revenue; and public
 13 service regulation shall report to the department
 14 information relating to the impact of the proposed site on
 15 each department's area of expertise. The report may include
 16 opinions as to the advisability of granting, denying, or
 17 modifying the certificate. The department shall allocate
 18 funds obtained from filing fees to the departments making
 19 reports to reimburse them for the costs of compiling
 20 information and issuing the required report."

21 Section 140. Section 76-3-103, MCA, is amended to
 22 read:

23 "76-3-103. Definitions. As used in this chapter,
 24 unless the context or subject matter clearly requires
 25 otherwise, the following words or phrases shall have the

1 following meanings:

2 (1) "Certificate of survey" means a drawing of a field
3 survey prepared by a registered surveyor for the purpose of
4 disclosing facts pertaining to boundary locations.

5 (2) "Dedication" means the deliberate appropriation of
6 land by an owner for any general and public use, reserving
7 to himself no rights which are incompatible with the full
8 exercise and enjoyment of the public use to which the
9 property has been devoted.

10 (3) "Division of land" means the segregation of one or
11 more parcels of land from a larger tract held in single or
12 undivided ownership by transferring or contracting to
13 transfer title to or possession of a portion of the tract or
14 properly filing a certificate of survey or subdivision plat
15 establishing the identity of the segregated parcels pursuant
16 to this chapter.

17 (4) "Examining land surveyor" means a registered land
18 surveyor duly appointed by the governing body to review
19 surveys and plats submitted for filing.

20 (5) "Governing body" means a board of county
21 commissioners or the governing authority of any city or town
22 organized pursuant to law.

23 (6) "Irregularly shaped tract of land" means a parcel
24 of land other than an aliquot part of the United States
25 government survey section or a United States government lot,

1 the boundaries or areas of which cannot be determined
2 without a survey or trigonometric calculation.

3 (7) "Occasional sale" means one sale of a division of
4 land within any 12-month period.

5 (8) "Planned unit development" means a land
6 development project consisting of residential clusters,
7 industrial parks, shopping centers, office building parks,
8 or any combination thereof which comprises a planned mixture
9 of land uses built in a prearranged relationship to each
10 other and having open space and community facilities in
11 common ownership or use.

12 (9) "Plat" means a graphical representation of a
13 subdivision showing the division of land into lots, parcels,
14 blocks, streets, alleys, and other divisions and
15 dedications.

16 (10) "Preliminary plat" means a neat and scaled drawing
17 of a proposed subdivision showing the layout of streets,
18 alleys, lots, blocks, and other elements of a subdivision
19 which furnish a basis for review by a governing body.

20 (11) "Final plat" means the final drawing of the
21 subdivision and dedication required by this chapter to be
22 prepared for filing for record with the county clerk and
23 recorder and containing all elements and requirements set
24 forth in this chapter and in regulations adopted pursuant
25 thereto.

1 (12) "Registered land surveyor" means a person licensed
2 in conformance with the ~~the--Montana--Professional-Engineers--~~
3 ~~Registration--Act--(Title 37, chapter 67)~~_L to practice
4 surveying in the state of Montana.

5 (13) "Registered professional engineer" means a person
6 licensed in conformance with the ~~the--Montana--Professional~~
7 ~~Engineers--Registration--Act--(Title 37, chapter 67)~~_L to
8 practice engineering in the state of Montana.

9 (14) "Subdivider" means any person who causes land to
10 be subdivided or who proposes a subdivision of land.

11 (15) "Subdivision" means a division of land or land so
12 divided which creates one or more parcels containing less
13 than 20 acres, exclusive of public roadways, in order that
14 the title to or possession of the parcels may be sold,
15 rented, leased, or otherwise conveyed and shall include any
16 resubdivision and shall further include any condominium or
17 area, regardless of its size, which provides or will provide
18 multiple space for recreational camping vehicles, or mobile
19 homes."

20 Section 141. Section 80-4-427, MCA, is amended to
21 read:

22 "80-4-427. Injunction. If a person without a license
23 is found to have engaged in any business for which a license
24 is required under parts 5 and 6 of this chapter, the court
25 shall enjoin him from further business until he has been

1 duly licensed. It is not necessary that the department show
2 that an individual has been injured by the actions
3 complained of in order to issue the injunction. The
4 procedure for injunctive relief is the same as any other
5 action for an injunction under Title 27. The injunction
6 provided by this section is an additional remedy to the
7 criminal penalty provided for in ~~80-4-429~~ 80-4-428."

8 Section 142. Section 81-8-216, MCA, is amended to
9 read:

10 "81-8-216. Penalties. (1) A person who violates any
11 provision of 81-8-214, 81-8-215, and 81-8-251 through
12 81-8-256, and 81-8-258 through 81-8-263 or rules adopted by
13 the department under 81-8-231 is guilty of a misdemeanor and
14 upon conviction shall be fined not less than \$100 or more
15 than \$600, imprisoned in the county jail not less than 30
16 days or more than 6 months, or both. A person convicted of
17 a subsequent violation of 81-8-214, 81-8-215, and 81-8-251
18 through 81-8-256, and 81-8-258 through 81-8-263 or rules
19 adopted to implement those sections shall be fined not less
20 than \$200 or more than \$1,000, imprisoned in the county jail
21 for not less than 3 months or more than 6 months, or both,
22 and the department may cancel his certificate.

23 (2) Of all fines assessed and collected under this
24 section, 50% shall be paid into the state treasury and
25 credited to the special revenue fund for the use of the

1 department and 50% shall be paid into the general revenue
2 fund of the county in which the conviction occurred."

3 Section 143. Section 82-4-232, MCA, is amended to
4 read:

5 "82-4-232. Area mining required -- bond -- alternative
6 plan. (1) Area strip mining, a method of operation which
7 does not produce a bench or fill bench, is required where
8 strip mining is proposed. All highwalls must be reduced and
9 the steepest slope of the reduced highwall shall be no
10 greater than 20 degrees from the horizontal. Highwall
11 reduction shall be commenced at or beyond the top of the
12 highwall and sloped to the graded spoil bank. Reduction,
13 backfilling, and grading shall eliminate all highwalls and
14 spoil peaks. The area of land affected shall be restored to
15 the approximate original contour of the land. When directed
16 by the department, the operator shall construct in the final
17 grading such diversion ditches, depressions, or terraces as
18 will accumulate or control the water runoff. Additional
19 restoration work may be required by the department according
20 to rules adopted by the board.

21 (2) In addition to the backfilling and grading
22 requirements, the operator's method of operation on steep
23 slopes may be regulated and controlled according to rules
24 adopted by the board. These rules may require any measure
25 whatsoever to accomplish the purpose of this part.

1 (3) For coal mining on prime farmlands, the board
2 shall establish by rule specifications for soil removal,
3 storage, replacement, and reconstruction, and the operator
4 shall as a minimum be required to:

5 (a) segregate the A horizon of the natural soil,
6 except where it can be shown that other available soil
7 materials will create a final soil having a greater
8 productive capacity; and if not utilized immediately,
9 stockpile this material separately from other spoil and
10 provide needed protection from wind and water erosion or
11 contamination by other acid or toxic material;

12 (b) segregate the B horizon of the natural soil, or
13 underlying C horizon or other strata, or a combination of
14 such horizons or other strata that are shown to be both
15 texturally and chemically suitable for plant growth and that
16 can be shown to be equally or more favorable for plant
17 growth than the B horizon in sufficient quantities to create
18 in the regraded final soil a root zone of comparable depth
19 and quality to that which existed in the natural soil; and
20 if not utilized immediately, stockpile this material
21 separately from other spoil and provide needed protection
22 from wind and water erosion or contamination by acid or
23 toxic material;

24 (c) replace and regrade the root zone material
25 described in (b) above with proper compaction and uniform

1 depth over the regraded spoil material; and

2 (d) redistribute and grade in a uniform manner the
3 surface soil horizon described in (a) above.

4 (4) All available topsoil shall be removed in a
5 separate layer, guarded from erosion and pollution, and kept
6 in such a condition that it can sustain vegetation of at
7 least the quality and variety it sustained prior to removal,
8 provided that the operator shall accord substantially the
9 same treatment to any subsurface deposit of material that is
10 capable, as determined by the department, of supporting
11 surface vegetation virtually as well as the present topsoil.
12 After the operation has been backfilled and graded, the
13 topsoil or the best available subsurface deposit of material
14 which is best able to support vegetation shall be returned
15 as the top layer.

16 (5) As determined by rules of the board, time limits
17 shall be established requiring backfilling, grading,
18 subsidence stabilization, water control, highwall reduction,
19 topsoiling, planting, and revegetation to be kept current.
20 All backfilling, subsidence stabilization, sealing, grading,
21 and topsoiling shall be completed before necessary equipment
22 is moved from the operation.

23 (6) (a) The permittee may file a request with the
24 department for the release of all or part of a performance
25 bond or deposit. Within 30 days after any application for

1 bond or deposit release has been filed with the department,
2 the permittee shall submit a copy of an advertisement notice
3 placed at least once a week for 4 successive weeks in a
4 newspaper of general circulation in the locality of the
5 prospecting or mining operation. The notice is considered
6 part of any bond release application and must contain a
7 notification of the precise location of the land affected,
8 the number of acres, the permit and the date approved, the
9 amount of the bond filed and the portion sought to be
10 released, the type and appropriate dates of reclamation work
11 performed, and a description of the results achieved as they
12 relate to the permittee's approved reclamation plan. In
13 addition, as part of any bond release application, the
14 permittee shall submit copies of letters that he has sent to
15 adjoining property owners, local governmental bodies,
16 planning agencies, and sewage and water treatment
17 authorities or water companies in the locality of the
18 operation, notifying them of his intention to seek release
19 from the bond.

20 (b) Upon receipt of the request and copies of the
21 notification made under subsection (6)(a), the department
22 shall, within 30 days, conduct an inspection and evaluation
23 of the reclamation work involved. In the evaluation, the
24 department shall consider, among other things, the degree of
25 difficulty in completing any remaining reclamation, whether

1 pollution of surface and subsurface water is occurring, the
 2 probability of continuance or future occurrence of such
 3 pollution, and the estimated cost of abating such pollution.
 4 The department shall notify the permittee in writing of its
 5 decision to release or not to release all or part of the
 6 performance bond within 60 days of the filing of the request
 7 if no public hearing is held pursuant to subsection (6)(f)
 8 or, if a public hearing is held pursuant to that subsection,
 9 within 30 days thereafter.

10 (c) The department may release the bond or deposit in
 11 whole or in part if it is satisfied the reclamation covered
 12 by the bond or deposit or portion thereof has been
 13 accomplished as required by this part according to the
 14 following schedule:

15 (i) When the permittee completes the plugging,
 16 backfilling, regrading, and drainage control of a bonded
 17 area in accordance with his approved reclamation plan, the
 18 department shall release 60% of the bond or collateral for
 19 the applicable permit area.

20 (ii) After revegetation has been established on the
 21 regraded lands in accordance with the approved reclamation
 22 plan, the department shall, for the period specified for
 23 operator responsibility of reestablishing revegetation,
 24 retain that amount of bond for the revegetated area that
 25 would be sufficient for a third party to cover the cost of

1 reestablishing revegetation. Whenever a silt dam is to be
 2 retained as a permanent impoundment, the portion of bond may
 3 be released under this subsection (6)(c)(ii) if provisions
 4 for sound future maintenance by the operator or the
 5 landowner have been made with the department. No part of the
 6 bond or deposit may be released under this subsection
 7 (6)(c)(ii):

8 (A) as long as the lands to which the release would be
 9 applicable are contributing suspended solids to streamflow
 10 or runoff outside the permit area in excess of the
 11 requirements of 82-4-231+3}{k}{10}(k); or

12 (B) before soil productivity for prime farm lands to
 13 which the release would be applicable has returned to
 14 equivalent levels of yield as nonmined land of the same soil
 15 type in the surrounding area under equivalent management
 16 practices, as determined from the soil survey.

17 (iii) When the permittee has successfully completed all
 18 prospecting, mining, and reclamation activities, the
 19 department shall release the remaining portion of the bond,
 20 but not before the expiration of the period specified for
 21 responsibility and not until all reclamation requirements of
 22 this part are fully met.

23 (d) If the department disapproves the application for
 24 release of the bond or portion thereof, it shall notify the
 25 permittee, in writing, stating the reasons for disapproval

1 and recommending corrective actions necessary to secure the
2 release and allowing opportunity for a public hearing.

3 (e) When an application for total or partial bond
4 release is filed with the department, it shall notify the
5 municipality in which a prospecting or mining operation is
6 located by certified mail at least 30 days prior to the
7 release of all or a portion of the bond.

8 (f) Any person with a valid legal interest that might
9 be adversely affected by release of the bond or the
10 responsible officer or head of any federal, state, or local
11 governmental agency which has jurisdiction by law or special
12 expertise with respect to any environmental, social, or
13 economic impact involved in the operation or is authorized
14 to develop and enforce environmental standards with respect
15 to such operations has the right to file written objections
16 to the proposed release from bond to the department within
17 30 days after the last publication of the notice provided
18 for in subsection (6)(a). If written objections are filed
19 and a hearing requested, the department shall inform all the
20 interested parties of the time and place of the hearing and,
21 within 30 days of the request for such hearing, hold a
22 public hearing in the locality of the operation proposed for
23 bond release. The date, time, and location of the public
24 hearing must be advertised by the department in a newspaper
25 of general circulation in the locality for 2 consecutive

1 weeks, and the hearing must be held in the locality of the
2 operation proposed for bond release or at the state capital,
3 at the option of the objector, within 30 days of the request
4 for such hearing.

5 (g) Without prejudice to the rights of the objectors
6 or the permittee or the responsibilities of the department
7 pursuant to this section, the department may establish an
8 informal conference to resolve such written objections.

9 (h) For the purpose of the hearing under subsection
10 (6)(f), the department may administer oaths; subpoena
11 witnesses or written or printed materials; compel the
12 attendance of witnesses or the production of materials; and
13 take evidence, including but not limited to site inspections
14 of the land affected and other operations carried on by the
15 permittee in the general vicinity. A verbatim record of each
16 public hearing required by this section must be made, and a
17 transcript must be made available on the motion of any party
18 or by order of the department.

19 (7) An operator may propose alternative plans other
20 than backfilling, grading, highwall reduction, topsoiling,
21 or seeding to a permanent diverse vegetative cover if the
22 restoration will be consistent with the purpose of this
23 part. These plans shall be submitted to the department, and
24 after consultation with the landowner, if the plans are
25 approved by the board and complied with within the time

1 limits as may be determined by the board as being reasonable
 2 for carrying out the plans, the backfilling, grading,
 3 highwall reduction, topsoiling, or revegetation requirements
 4 of this part may be modified by the board. An operator who
 5 proposes alternative plans that will affect an existing
 6 permit shall comply with the notice requirement of
 7 82-4-222(1)(k).

8 (8) If alternate revegetation is proposed, a
 9 management plan must be submitted showing how the area will
 10 be utilized and any data necessary to show that the
 11 alternate postmining land use can be achieved. Any plan must
 12 require the operation as a minimum to:

13 (a) restore the land affected to a condition capable
 14 of supporting the use which it was capable of supporting
 15 prior to any mining operation or to a higher or better use
 16 of which there is a reasonable likelihood, if the use or
 17 uses do not present any actual or probable threat of water
 18 diminution or pollution, and if the permit applicant's
 19 proposed land use following reclamation is not deemed to be
 20 impractical, unreasonable, or inconsistent with applicable
 21 land use policies and plans, would not involve unreasonable
 22 delay in implementation, and would not violate federal,
 23 state, or local law; and

24 (b) prevent soil erosion to the extent achieved prior
 25 to mining."

1 Section 144. Section 82-11-131, MCA, is amended to
 2 read:

3 "82-11-131. Privilege and license tax. (1) For the
 4 purpose of providing funds for defraying the expenses of the
 5 operation and enforcement of this chapter and expenses of
 6 the board, an operator or producer of oil and gas shall pay
 7 an assessment not to exceed 2/10 of 1% of the market value
 8 of each barrel of crude petroleum originally produced, saved
 9 and marketed, or stored within the state or exported from
 10 the state and the same rate on the market value of each
 11 10,000 cubic feet of natural gas produced, saved and
 12 marketed, or stored within the state or exported therefrom.

13 (2) The board shall, by rule adopted pursuant to the
 14 provisions of the Montana Administrative Procedure Act, fix
 15 the amount of the assessment and may from time to time
 16 reduce or increase the amount thereof as the expenses
 17 chargeable against the oil and gas conservation fund may
 18 require. However, the assessment fixed by the board may not
 19 exceed the limits prescribed in this section. The amount of
 20 the assessment shall be a percentage factor (not to exceed
 21 100%) of the rate set forth in subsection (1) above, and the
 22 same percentage factor shall be applied by the board in
 23 fixing the amount of the assessment on each barrel of crude
 24 production and each 10,000 cubic feet of natural gas
 25 mentioned in that subsection. A producer of the crude

1 and recommending corrective actions necessary to secure the
2 release and allowing opportunity for a public hearing.

3 (e) When an application for total or partial bond
4 release is filed with the department, it shall notify the
5 municipality in which a prospecting or mining operation is
6 located by certified mail at least 30 days prior to the
7 release of all or a portion of the bond.

8 (f) Any person with a valid legal interest that might
9 be adversely affected by release of the bond or the
10 responsible officer or head of any federal, state, or local
11 governmental agency which has jurisdiction by law or special
12 expertise with respect to any environmental, social, or
13 economic impact involved in the operation or is authorized
14 to develop and enforce environmental standards with respect
15 to such operations has the right to file written objections
16 to the proposed release from bond to the department within
17 30 days after the last publication of the notice provided
18 for in subsection (6)(a). If written objections are filed
19 and a hearing requested, the department shall inform all the
20 interested parties of the time and place of the hearing and,
21 within 30 days of the request for such hearing, hold a
22 public hearing in the locality of the operation proposed for
23 bond release. The date, time, and location of the public
24 hearing must be advertised by the department in a newspaper
25 of general circulation in the locality for 2 consecutive

1 weeks, and the hearing must be held in the locality of the
2 operation proposed for bond release or at the state capital,
3 at the option of the objector, within 30 days of the request
4 for such hearing.

5 (g) Without prejudice to the rights of the objectors
6 or the permittee or the responsibilities of the department
7 pursuant to this section, the department may establish an
8 informal conference to resolve such written objections.

9 (h) For the purpose of the hearing under subsection
10 (6)(f), the department may administer oaths; subpoena
11 witnesses or written or printed materials; compel the
12 attendance of witnesses or the production of materials; and
13 take evidence, including but not limited to site inspections
14 of the land affected and other operations carried on by the
15 permittee in the general vicinity. A verbatim record of each
16 public hearing required by this section must be made, and a
17 transcript must be made available on the motion of any party
18 or by order of the department.

19 (7) An operator may propose alternative plans other
20 than backfilling, grading, highwall reduction, topsoiling,
21 or seeding to a permanent diverse vegetative cover if the
22 restoration will be consistent with the purpose of this
23 part. These plans shall be submitted to the department, and
24 after consultation with the landowner, if the plans are
25 approved by the board and complied with within the time

1 limits as may be determined by the board as being reasonable
 2 for carrying out the plans, the backfilling, grading,
 3 highwall reduction, topsoiling, or revegetation requirements
 4 of this part may be modified by the board. An operator who
 5 proposes alternative plans that will affect an existing
 6 permit shall comply with the notice requirement of
 7 82-4-222(1)(k).

8 (8) If alternate revegetation is proposed, a
 9 management plan must be submitted showing how the area will
 10 be utilized and any data necessary to show that the
 11 alternate postmining land use can be achieved. Any plan must
 12 require the operation as a minimum to:

13 (a) restore the land affected to a condition capable
 14 of supporting the use which it was capable of supporting
 15 prior to any mining operation or to a higher or better use
 16 of which there is a reasonable likelihood, if the use or
 17 uses do not present any actual or probable threat of water
 18 diminution or pollution, and if the permit applicant's
 19 proposed land use following reclamation is not deemed to be
 20 impractical, unreasonable, or inconsistent with applicable
 21 land use policies and plans, would not involve unreasonable
 22 delay in implementation, and would not violate federal,
 23 state, or local law; and

24 (b) prevent soil erosion to the extent achieved prior
 25 to mining."

1 Section 144. Section 82-11-131, MCA, is amended to
 2 read:

3 "82-11-131. Privilege and license tax. (1) For the
 4 purpose of providing funds for defraying the expenses of the
 5 operation and enforcement of this chapter and expenses of
 6 the board, an operator or producer of oil and gas shall pay
 7 an assessment not to exceed 2/10 of 1% of the market value
 8 of each barrel of crude petroleum originally produced, saved
 9 and marketed, or stored within the state or exported from
 10 the state and the same rate on the market value of each
 11 10,000 cubic feet of natural gas produced, saved and
 12 marketed, or stored within the state or exported therefrom.

13 (2) The board shall, by rule adopted pursuant to the
 14 provisions of the Montana Administrative Procedure Act, fix
 15 the amount of the assessment and may from time to time
 16 reduce or increase the amount thereof as the expenses
 17 chargeable against the oil and gas conservation fund may
 18 require. However, the assessment fixed by the board may not
 19 exceed the limits prescribed in this section. The amount of
 20 the assessment shall be a percentage factor (not to exceed
 21 100%) of the rate set forth in subsection (1) above, and the
 22 same percentage factor shall be applied by the board in
 23 fixing the amount of the assessment on each barrel of crude
 24 production and each 10,000 cubic feet of natural gas
 25 mentioned in that subsection. A producer of the crude

1 petroleum and natural gas shall pay the assessment on each
 2 barrel of crude petroleum and each 10,000 cubic feet of
 3 natural gas produced for himself, as well as for another,
 4 including a royalty holder, and the producer shall be
 5 reimbursed for the payments made on crude oil and natural
 6 gas produced for another in the same manner as he is
 7 reimbursed for net proceeds tax paid under 15-23-607 on
 8 crude petroleum or natural gas produced for another under
 9 15-23-607.

10 (3) The department of revenue shall collect the
 11 privilege and license tax assessment in the same manner as
 12 the oil and gas severance tax is collected under Title 15,
 13 chapter 36."

14 Section 145. Section 85-2-322, MCA, is amended to
 15 read:

16 "85-2-322. Hearing -- order. (1) The department shall
 17 conduct a hearing on the proposed suspension or closure, or
 18 both. Notice of the hearing must be published at least once
 19 in each week for 3 successive weeks, not less than 30 days
 20 before the date of the hearing, in a newspaper of general
 21 circulation in the county or counties in which the source is
 22 located. The department shall serve by mail a copy of the
 23 notice and proposal not less than 30 days before the hearing
 24 upon each person or public agency known from the examination
 25 of the records of the department to be a claimant,

1 appropriator, or permitholder of water in the source.

2 (2) The department may by order suspend action on and
 3 shall close the source and refuse to accept a class of
 4 applications if it finds on the basis of the hearing that
 5 there is substantial evidence in support of the allegations
 6 required by 85-2-321 to be contained in the proposal.

7 (3) As part of fulfilling the requirements of 2-4-623,
 8 the order must define the source and must state the class of
 9 applications to which the suspension or closure, or both,
 10 applies.

11 (4) Upon adoption of the order, the department shall
 12 refuse to accept any application for a permit under this
 13 part for the class of application for which closure is
 14 ordered under this section and 85-2-321. If the order
 15 suspends action on pending applications, the department
 16 shall notify the applicant that action on his application is
 17 suspended.

18 (5) Upon notice under 85-2-307 of intent to combine
 19 the hearings under 85-2-309 with the hearings under this
 20 section, the department may suspend action on pending
 21 applications of the class until the hearing is conducted
 22 under this section and, as part of its final order, may
 23 grant, deny, or condition the applications under
 24 85-2-306~~(2)~~(3), 85-2-310, and 85-2-311 or continue the
 25 suspension under this section."

1 Section 146. Section 85-2-421, MCA, is amended to
2 read:

3 "85-2-421. Purpose. The purpose of 85-2-421 through
4 85-2-424 and 85-2-426 is to facilitate the maintenance of a
5 reliable record of water right ownership on both the state
6 and local levels by requiring that water right transfers be
7 filed with the department and that the department notify the
8 water court and the county clerk and recorder of each
9 transfer filed."

10 Section 147. Section 85-2-422, MCA, is amended to
11 read:

12 "85-2-422. Definition. As used in 85-2-421 through
13 85-2-424 and 85-2-426, "water right" means the right to use
14 water as documented by a claim to an existing right, a
15 permit, or a certificate of water right."

16 Section 148. Section 85-2-507, MCA, is amended to
17 read:

18 "85-2-507. Limiting withdrawals -- modification of
19 order. (1) At the time set for the hearing, the board shall
20 proceed to hear oral and written evidence relevant to the
21 designation or modification of the controlled groundwater
22 area presented by the bureau, the department, and any other
23 interested party. A full record shall be kept of all
24 evidence taken at the hearing. The procedure shall be such
25 as to secure a full, fair, and orderly proceeding and to

1 permit all relevant evidence to be received. The common-law
2 and statutory rules of evidence shall apply only upon
3 stipulation of all parties.

4 (2) After the conclusion of the hearing, the board
5 shall make written findings and an order. The board shall by
6 order declare the area in question to be a controlled
7 groundwater area if the board finds on the basis of the
8 hearing that:

9 (a) the public health, safety, or welfare requires a
10 corrective control be adopted; and

11 (b) (i) there is a wasteful use of water from existing
12 wells or undue interference with existing wells;

13 (ii) any proposed use or well will impair or
14 substantially interfere with existing rights to appropriate
15 surface water or groundwater by others; or

16 (iii) the facts alleged in the petition as required by
17 85-2-506(2) are true.

18 (3) The order shall define the boundary of the
19 controlled groundwater area and shall indicate which of the
20 groundwater aquifers located within the area in question are
21 included within the controlled groundwater area. Any number
22 of groundwater aquifers which wholly or partially overlie
23 one another may be included in the same controlled
24 groundwater area.

25 (4) The order may include the following corrective

1 control provisions:

2 (a) a provision closing the controlled groundwater
3 area to further appropriation of groundwater, in which event
4 the department shall thereafter refuse to accept any
5 applications for beneficial water use permits to appropriate
6 groundwater located within such controlled area;

7 (b) a provision determining a permissible total
8 withdrawal of groundwater in the controlled area by day,
9 month, or year and permitting the board to apportion such
10 permissible total withdrawal among the appropriators holding
11 valid rights to the groundwater in the controlled area in
12 accordance with the relative dates of priority of such
13 rights;

14 (c) a provision according preference, without
15 reference to relative priorities, to withdrawals of
16 groundwater in the controlled area for domestic and
17 livestock purposes first and thereafter to withdrawals for
18 other beneficial purposes, including but not limited to
19 agricultural, industrial, municipal (other than domestic),
20 and recreational purposes, in such order as the board
21 considers advisable under the circumstances;

22 (d) a provision reducing the permissible withdrawal of
23 groundwater by any appropriator or well in the controlled
24 area;

25 (e) when two or more wells in the controlled area are

1 used by the same appropriator, a provision adjusting the
2 total permissible withdrawal of groundwater by the
3 appropriator or a provision forbidding the use of one or
4 more such wells;

5 (f) a provision requiring and specifying a system of
6 rotation of use of groundwater in the controlled area;

7 (g) provisions making such additional requirements as
8 are necessary to protect the public health, safety, and
9 welfare in accordance with the intent, purposes, and
10 requirements of this part and the laws of the state.

11 (5) (a) If at the conclusion of the hearing the board
12 finds that sufficient facts are not available to designate
13 or modify a permanent controlled groundwater area, the board
14 may by order designate the area in question to be a
15 temporary controlled groundwater area. Such order may
16 include the corrective control provisions contained in
17 subsection (4). A temporary controlled groundwater area
18 shall be designated as such for a period not to exceed 2
19 years from the date of the board's order designating the
20 temporary controlled groundwater area. The board may, for
21 sufficient cause, extend the time period for an additional 2
22 years, and in this case all groundwater appropriators in the
23 controlled groundwater area shall be notified of the
24 extension.

25 (b) During the 2-year period, the department shall

1 commence studies necessary to obtain the facts needed to
 2 assist in the designation or modification of a permanent
 3 controlled groundwater area. Facts gathered during the study
 4 period shall be presented at a hearing prior to the
 5 designation or modification of a permanent controlled
 6 groundwater area. All parties appearing at the first hearing
 7 shall be served notice of this hearing by mail at least 30
 8 days prior to the date set for the hearing. The service
 9 shall be complete upon deposit of notice at the post office,
 10 postage prepaid, addressed to each person on whom service is
 11 to be made. Mailing of the notice, when completed, shall be
 12 considered to be sufficient notice of the hearing to all
 13 persons directly affected. The department shall file in its
 14 records proof of service by its own affidavit. The hearing
 15 shall be conducted by the board in the manner of the first
 16 hearing, and the board shall make written findings of fact
 17 and conclusions of law and issue an order according to the
 18 provisions set forth in subsections (1) through (4). In the
 19 event the department does not complete the necessary study
 20 in the 2-year period or extension thereof, the temporary
 21 controlled groundwater area designation will terminate at
 22 the end of the 2-year period or extension.

23 (6) The department may enforce the order and bring an
 24 action for an injunction in a district court of a district
 25 in which all or part of the area affected is located, in

1 addition to all other remedies.

2 (7) The order of the board shall be published and
 3 mailed by the department in the manner and for the length of
 4 time as prescribed by 85-2-506 for the publication and
 5 mailing of the notice of hearing, except that a copy of the
 6 written findings and order of the board shall be mailed
 7 instead of a copy of the proposal and, except further, that
 8 a copy of the order, together with a copy of the written
 9 findings, shall be mailed to each petitioner at his
 10 last-known address. The department shall file a copy of the
 11 order with the county clerk of each county within which any
 12 part of the controlled groundwater area lies, and the county
 13 clerk shall record the order without fee. The department
 14 shall file in its records proof of service by its own
 15 affidavit of service. Upon publication and mailing of such
 16 order as prescribed herein, the order shall be final and
 17 conclusive unless an appeal therefrom is taken.

18 (8) The board may by order suspend, modify, or revoke
 19 any order made as provided in this section upon such notice
 20 and in such manner as is reasonable under the circumstances.
 21 A copy of each suspension, modification, or revocation shall
 22 be served or filed and recorded as provided for orders in
 23 subsection ~~(7)~~ (7).

24 (9) While a matter is pending before the board, the
 25 department may restrict further development of the subarea."

1 Section 149. Section 85-8-350, MCA, is amended to
2 read:

3 "85-8-350. Judgment on dismissal of proceedings --
4 assessment of costs. (1) In case the petition or proceedings
5 are dismissed as provided in 85-8-327, a judgment shall be
6 entered for the costs, expenses, and liabilities incurred in
7 said proceedings against the petitioners and in favor of the
8 commissioners, but for the benefit of those who have
9 rendered services or advanced money in the prosecution of
10 said proceedings or have recovered costs on successful
11 contests therein.

12 (2) In case the proceedings are dismissed at any time
13 or the district is discontinued for any cause subsequent to
14 the time provided in ~~subsections (1) and (2) of~~ 85-8-327, a
15 judgment shall be entered directing the commissioners of the
16 district to assess the costs, expenses, and liabilities
17 incurred in said proceedings, up to and including the time
18 of such dismissal and discontinuation, on an acreage basis
19 against the lands in said district, which assessment shall
20 be a lien upon said lands from the date of said judgment
21 superior to the lien of any other judgment, mortgage, or
22 mechanic's lien against said lands. Said assessment shall be
23 verified by the commissioners of the district the same as
24 assessments to pay costs of construction. Such assessments
25 shall be spread upon the tax rolls of the counties in which

1 said district is situated and shall be collected by the
2 county treasurers of such counties the same as assessments
3 to pay costs of construction are collected. Such assessments
4 shall be payable on or before November 30 following the date
5 upon which they are so spread upon the assessment roll of
6 such counties. The money so collected shall be paid out upon
7 warrants issued by the commissioners of the district to
8 those who have rendered service or advanced money in
9 connection with said district or have recovered costs on
10 successful contests therein. Should such assessment, for any
11 cause, be not sufficient for all such costs, expenses, and
12 liabilities, then additional assessments shall be made and
13 collected in like manner until sufficient funds have been
14 raised to pay all such costs, expenses, and liabilities."

15 Section 150. Section 85-8-624, MCA, is amended to
16 read:

17 "85-8-624. Assessments on improvements -- taxpayers'
18 approval, limitations, and election procedures. (1) It shall
19 require a vote of the persons on the assessment rolls in any
20 existing district to make Chapter 409, Laws of 1973,
21 applicable to such districts.

22 (2) Nothing in Chapter 409, Laws of 1973, confers upon
23 districts created for drainage purposes only the authority
24 to levy assessments on benefits to improvements.

25 (3) The election provided for by subsection (1) shall

1 be governed by the following rules:

2 (a) Notice of the election shall be as provided in
3 13-1-401~~(3)~~(4).

4 (b) The manner of conducting the election shall be as
5 provided in ~~85-8-304~~ 85-8-302 and as nearly as practicable
6 in accordance with the provisions of the general election
7 laws of the state, except that no registration may be
8 required.

9 (c) The qualifications of electors shall be as
10 provided in 85-8-305, except that, in addition to persons
11 holding title or evidence of title to lands within the
12 district, any person as therein defined who does not own
13 land within the district but has been assessed or will have
14 his improvements assessed under Chapter 409, Laws of 1973,
15 or who will be assessed for benefits received shall be
16 entitled to one vote. Commissioners shall prepare a list of
17 such persons and the election administrator or deputy
18 election administrator shall give them notice as provided in
19 13-1-401~~(3)~~(4).

20 (d) The commissioners of any district in existence
21 prior to March 21, 1973, who wish to hold an election to
22 determine if the district shall be governed by Chapter 409,
23 Laws of 1973, shall at any regular or special meeting adopt
24 a resolution calling for an election to determine whether or
25 not the voters of said district wish to be governed by

1 Chapter 409, Laws of 1973. The resolution shall contain a
2 short summary of the changes made by Chapter 409, Laws of
3 1973, and the summary must be included in the notice
4 provided for by 13-1-401~~(3)~~(4). In addition, the commission
5 shall provide copies of Chapter 409, Laws of 1973, to any
6 person interested in obtaining a copy of the same and the
7 notice to the persons in the district calling the election
8 shall describe where and how copies may be obtained. The
9 commissioners may authorize a reasonable charge for
10 providing said copies, not to exceed 20 cents per page.

11 (e) The ballot shall include the summary as provided
12 for in the preceding subsection and the form of the ballot
13 shall conform as closely as possible to that provided for in
14 Title 13, chapter 27.

15 (f) A simple majority of those who cast valid ballots
16 shall determine the outcome of the election."

17 Section 151. Section 87-1-209, MCA, is amended to
18 read:

19 "87-1-209. Acquisition and sale of lands or waters.

20 (1) The department, with the consent of the commission and,
21 in the case of land acquisition involving more than 100
22 acres or \$100,000 in value, the approval of the board of
23 land commissioners, may acquire by purchase, lease,
24 agreement, gift, or devise and may acquire easements upon
25 lands or waters for the purposes listed in this subsection.

1 The department may develop, operate, and maintain acquired
2 lands or waters:

3 (a) for fish hatcheries, nursery ponds, or game farms;

4 (b) as lands or water suitable for game, bird, fish,
5 or fur-bearing animal restoration, propagation, or
6 protection;

7 (c) for public hunting, fishing, or trapping areas;

8 (d) to capture, propagate, transport, buy, sell, or
9 exchange any game, birds, fish, fish eggs, or fur-bearing
10 animals needed for propagation or stocking purposes or to
11 exercise control measures of undesirable species;

12 (e) for state parks and outdoor recreation;

13 (f) to extend and consolidate by exchange, lands or
14 waters suitable for these purposes.

15 (2) The department, with the consent of the
16 commission, may acquire by condemnation lands or structures
17 for the preservation of historical or archaeological sites
18 that are threatened with destruction or alteration.

19 (3) (a) The department, with the consent of the
20 commission, may dispose of lands and waters acquired by it
21 on those terms after ~~that~~ public notice as required by
22 subsection (3)(b), without regard to other laws which
23 provide for sale or disposal of state lands and with or
24 without reservation, as it considers necessary and
25 advisable.

1 (b) Notice of sale describing the lands or waters to
2 be disposed of shall be published once a week for 3
3 successive weeks in a newspaper with general circulation
4 printed and published in the county where the lands or
5 waters are situated or, if no newspaper is published in that
6 county, then in any newspaper with general circulation in
7 that county.

8 (c) The notice shall advertise for cash bids to be
9 presented to the director within 60 days from the date of
10 the first publication. Each bid must be accompanied by a
11 cashier's check or cash deposit in an amount equal to 10% of
12 the amount bid. The highest bid shall be accepted upon
13 payment of the balance due within 10 days after mailing
14 notice by registered or certified mail to the highest
15 bidder. If that bidder defaults on payment of the balance
16 due, then the next highest bidders shall be similarly
17 notified in succession until a sale is completed. Deposits
18 shall be returned to the unsuccessful bidders except bidders
19 defaulting after notification.

20 (d) The department shall reserve the right to reject
21 any bids which do not equal or exceed the full market value
22 of the lands and waters as determined by the department. If
23 the department does not receive a bid that equals or exceeds
24 fair market value, it may then sell the lands or waters at
25 private sale. The price accepted on any private sale must

1 exceed the highest bid rejected in the bid process. The
 2 department shall convey the lands and waters without
 3 covenants of warranty by deed executed by the governor or in
 4 his absence or disability by the lieutenant governor,
 5 attested by the secretary of state and further countersigned
 6 by the director.

7 (4) The department, with the consent of the
 8 commission, is authorized to utilize the installment
 9 contract method to facilitate the acquisition of wildlife
 10 management areas in which game and nongame fur-bearing
 11 animals and game and nongame birds may breed and replenish
 12 and areas which provide access to fishing sites for the
 13 public. In no case may the total cost of such installment
 14 contracts exceed the cost of purchases authorized by the
 15 department and appropriated by the legislature."

16 Section 152. Section 87-3-101, MCA, is amended to
 17 read:

18 "87-3-101. General restrictions. Except as provided in
 19 87-2-803(4), it is unlawful for anyone to take, capture,
 20 shoot, kill, or attempt to take, capture, shoot, or kill any
 21 game animal or game bird:

22 (1) from any self-propelled or drawn vehicle;

23 (2) on, from, or across any public highway or the
 24 shoulder, berm, or borrow-pit right-of-way of any public
 25 highway, as defined in ~~61-1-201~~ 61-1-202, in the state of

1 Montana; or

2 (3) by the aid or with the use of any set gun,
 3 jacklight or other artificial light, trap, snare, or salt
 4 lick; nor may any such set gun, jacklight or other
 5 artificial light, trap, snare, salt lick, or other device to
 6 entrap or entice game animals or game birds be used, made,
 7 or set."

8 Section 153. Section 87-5-109, MCA, is amended to
 9 read:

10 "87-5-109. Taking of species for educational,
 11 scientific, or other purposes. (1) The director may permit
 12 the taking, possession, transportation, exportation, or
 13 shipment of species or subspecies of wildlife which appear
 14 on the state list of endangered species, on the United
 15 States' list of endangered native fish and wildlife, as
 16 amended and accepted in accordance with 87-5-107(5), or on
 17 the United States' list of endangered foreign fish and
 18 wildlife, as such list may be modified hereafter, for
 19 scientific, zoological, or educational purposes, for
 20 propagation in captivity of such wildlife, or for other
 21 special purposes.

22 (2) Upon good cause shown and where necessary to
 23 alleviate damage to property or to protect human health,
 24 endangered species may be removed, captured, or destroyed
 25 but only pursuant to permit issued by the director and,

1 where possible, by or under the supervision of an agent of
 2 the department. Endangered species may be removed, captured,
 3 or destroyed without permit by any person in emergency
 4 situations involving an immediate threat to human life.
 5 Provisions for removal, capture, or destruction of nongame
 6 wildlife for the purposes set forth above shall be set forth
 7 in regulations issued by the department pursuant to ~~87-5-104~~
 8 87-5-105."

9 Section 154. Section 90-8-104, MCA, is amended to
 10 read:

11 "90-8-104. Definitions. As used in this chapter,
 12 unless the context requires otherwise, the following
 13 definitions apply:

14 (1) "Board" means the Montana economic development
 15 board provided for in 2-15-1805.

16 (2) "Capital base" means equity capital or net worth.

17 (3) "Certified Montana capital company" means:

18 (a) a development credit corporation created pursuant
 19 to Title 32, chapter 4; or

20 (b) a profit or nonprofit entity organized and
 21 existing under the laws of Montana, created for the purpose
 22 of making venture or risk capital available for qualified
 23 investments and that has been certified by the board.

24 (4) "Montana business" means a business which is
 25 located or principally based within Montana.

1 (5) "Qualified investment" means a debt or equity
 2 financing of or a purchase and leaseback financing of a
 3 Montana business that meets both of the following criteria:

4 (a) the business is engaged in one or more of the
 5 following activities:

6 (i) manufacturing;

7 (ii) agricultural, fishery, or forestry production and
 8 processing;

9 (iii) mineral production and processing, except for
 10 conventional oil and gas exploration;

11 (iv) recognized nonfossil forms of energy generation as
 12 defined in 15-32-102(5);

13 (v) transportation;

14 (vi) research and development of products or processes
 15 associated with any of the activities enumerated in (i)
 16 through (v) above;

17 (vii) wholesale or retail distribution activities for
 18 which products produced in Montana comprise 50% or more of
 19 the gross sales receipts;

20 (viii) any activity conducted in the state for which
 21 50% or more of the gross receipts are derived from the sale
 22 of products or services outside Montana; and

23 (ix) tourism; and

24 (b) the business is a small business as defined in
 25 rules adopted by the board.

1 (6) "Qualified Montana capital company" means a
2 certified Montana capital company that has been designated a
3 qualified capital company under the provisions of 90-8-202
4 so that investors in the company may receive the tax credits
5 authorized in 90-8-202."

6 NEW SECTION. Section 155. Code commissioner
7 instruction -- short form amendment. Wherever the phrase
8 "aid to dependent children" appears in the Montana Code
9 Annotated or in any legislation enacted during the 50th
10 legislative session, the code commissioner is instructed to
11 substitute "aid to families with dependent children".

12 NEW SECTION. Section 156. Repealer. Sections
13 2-17-106, 2-17-109, 2-17-110, 7-15-4122, 7-33-4203, and
14 50-5-421 through 50-5-424, MCA, are repealed.

-End-

1 HOUSE BILL NO. 53
 2 INTRODUCED BY EUDAILY
 3 BY REQUEST OF THE CODE COMMISSIONER

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 6 CLARIFY THE MONTANA CODE ANNOTATED; AND REPEALING SECTIONS
 7 2-17-106, 2-17-109, 2-17-110, 7-15-4122, 7-33-4203, AND
 8 50-5-421 THROUGH 50-5-424, MCA."

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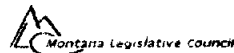
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 2-15-1857, MCA, is amended to read:
 12 "2-15-1857. Board of cosmetologists. (1) There is a
 13 board of cosmetologists.

14 (2) The board consists of three licensed
 15 cosmetologists and one public member who is not engaged in
 16 the practice of cosmetology or electrology appointed by the
 17 governor with the consent of the senate. Each licensed
 18 cosmetologist member appointed shall have actively engaged
 19 in the profession of cosmetology for at least 5 years before
 20 his appointment and have been a resident of this state for
 21 at least 5 years immediately before his appointment. Each
 22 member shall be at least 18 years old and a graduate of a
 23 high school or its equivalent. No two members of the board
 24 may be members of or affiliated with a school of
 25 cosmetology.

SECOND READING

There are no changes in HB 53 (code Commissioner bill) and due to length will not be reprinted. Please refer to introduced bill (white) for complete text.



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CODE COMMISSIONER REPORT

1986

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