HB 201 INTRODUCED BY CAMPBELL, ET AL. ABOLISHING DEPARTMENT OF INSTITUTIONS AND TRANSFERF FUNCTIONS

- 1/14 INTRODUCED
- 1/14 REFERRED TO STATE ADMINISTRATION
- 1/14 FISCAL NOTE REQUESTED
- 1/19 FISCAL NOTE RECEIVED
- 1/22 HEARING
- 1/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
- 2/10 REREFERRED TO STATE ADMINISTRATION
- 2/14 REREFERRED TO APPROPRIATIONS
- 2/18 HEARING
- 3/05 HEARING
- 3/05 TABLED IN COMMITTEE

1 !	HB BILL NO. 201
wh2	INTRODUCED BY Congres Courses Congression
300	Lune, of the of Maller Sunder Lack
The	A BILL FOR ACT ENTITLED: "AN ACT ABOLISHING THE COLO
7 (15/20)	DEPARTMENT OF INSTITUTIONS, TRANSFERRING THE FUNCTIONS OF
6	THE DEPARTMENT TO THE DEPARTMENTS OF SOCIAL AND FULL
7	REHABILITATION SERVICES, JUSTICE, AND HEALTH AND
8	ENVIRONMENTAL SCIENCES; AMENDING SECTIONS 2-15-104,
9	2-15-211, 2-15-2204, 2-15-2302, 2-18-103, 2-18-303, Miles
10	7-22-2151, 10-2-404, 17-3-1001, 17-3-1002, 18-4-133,
11	20-7-404, 20-7-422, 20-9-304, 41-3-1103, 41-3-1123
12	41-5-103, 44-5-202, 46-19-202, 46-19-303, 46-19-305, Free L
13	46-23-103, 46-23-401, 46-23-1001, 50-1-202, 50-3-102,
14	50-5-101, 50-8-101, 50-21-103, 53-1-105, 53-1-106, 53-1-201
15	THROUGH 53-1-204, 53-1-206, 53-1-301, 53-1-303, 53-1-304;
16	53-1-401, 53-6-301, 53-20-213, 53-20-214, 53-21-102, Me fore
17	53-21-201, 53-24-103, 53-30-212, AND 87-2-802, MCA; AND
18	REPEALING SECTIONS 2-15-2301 AND 53-1-101, MCA." Sen for Back
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20	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
21	Section 1. Section 2-15-104, MCA, is amended to read:
22	"2-15-104. Structure of executive branch. (1) In
23	accordance with the constitution, all executive and
24	administrative offices, boards, commissions, agencies, and
25	instrumentalities of the executive branch of state

government and their respective functions are allocated by 1 2 this chapter among and within the following departments or entities: (a) department of administration; 5 department of military affairs: (C) department of revenue; 7 state board of education; department of labor and industry; 9 department of commerce; 10 department of justice; 11 (h) department of health and environmental sciences; 12 (i) department of social and rehabilitation services; 13 fj)--department-of-institutions; tk)(j) department of highways; 14 15 t++(k) department of public service regulation; 16 (m)(l) department of agriculture; 17 fn (m) department of livestock; 18 to(n) department of state lands; 19 (p)(o) department of natural resources and 20 conservation; 21 tq)(p) department of fish, wildlife, and parks. 22 (2) For its internal structure, each department shall 23 adhere to the following standard terms:

(a) The principal unit of a department is a division.

Each division shall be headed by an administrator.

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- 1 (b) The principal unit of a division is a bureau. Each
 2 bureau shall be headed by a chief.
- 3 (c) The principal unit of a bureau is a section. Each
 4 section shall be headed by a supervisor."

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- NEW SECTION. Section 2. Functions of department of institutions transferred to department of social and rehabilitation services. (1) The following functions of the department of institutions and of the director of the department of institutions are transferred to the department of social and rehabilitation services and the director of the department of social and rehabilitation services as defined in Title 2, chapter 15, part 22:
- 13 (a) relating to the Montana veterans' home under Title
 14 10, chapter 2, part 4;
- (b) operating facilities for youth committed to the department as provided in 41-3-1104;
- 17 (c) relating to the Montana Youth Court Act in Title
 18 41, chapter 5;
- 19 (d) relating to custody of a defendant suffering from 20 a mental disease or defect under 46-14-221, 46-14-222, and 21 46-14-312;
- (e) transferring patients from the Galen campus
 facility of the Montana state hospital under 53-6-303;
- 24 (f) treating developmentally disabled persons under
 25 Title 53, chapter 20, part 1;

- 1 (g) relating to state-owned facilities under Title 53, 2 chapter 20, part 5;
- 3 (h) treating the mentally ill, aged, and youths under
 4 Title 53, chapter 21;
- 5 (i) acting as administrator of the interstate compact 6 on mental health under Title 53, chapter 22; and
 - (j) operating juvenile facilities under Title 53, chapter 30, part 2.
- 9 (2) Unless inconsistent with this act, any reference
 10 to the "department of institutions" or "department" (of
 11 institutions) in the sections listed in subsection (1) are
 12 changed to "department of social and rehabilitation
 13 services" or "department" (of social and rehabilitation
 14 services). The code commissioner shall conform internal
 15 references and grammar to these changes.
 - (3) The governor may by executive order assign to the department of social and rehabilitation services in a manner consistent with this act functions allocated to the department of institutions by the 50th legislature and not transferred by this act.
- 21 <u>NEW SECTION.</u> Section 3. Functions of department of institutions transferred to department of justice. (1) The following functions of the department of institutions and of the director of the department of institutions are transferred to the department of justice and the attorney

LC 0323/01

LC 0323/01

general as provided in Title 2, chapter 15, part 20:

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- 2 (a) paying inquest costs relating to a death at the 3 state prison under 7-4-2913:
- 4 (b) paying costs relating to criminal prosecution of 5 an offense committed in the state prison under 7-6-2427:
- 6 (c) advertising for bids before letting a contract
 7 under 18-2-301:
- 6 (d) relating to ensuring the accuracy of criminal
 9 history records under 44-5-213;
- 10 (e) relating to jurisdiction following revocation of a 11 suspended or deferred sentence under 46-18-203;
- 12 (f) certifying prison population statistics to the 13 board of pardons under 46-23-201;
- (g) relating to probation, parole, and clemency underTitle 46, chapter 23;
 - (h) establishing and charging rates for room and board for persons committed to residential community correctional programs under 53-1-501; and
- 19 (i) operating correctional institutions and facilities 20 for adult offenders under Title 53, chapter 30, part 1.
- 21 (2) Unless inconsistent with this act, any reference
 22 to the "department of institutions" or "department" (of
 23 institutions) in the sections listed in subsection (1) are
 24 changed to "department of justice" or "department" (of
 25 justice). The code commissioner shall conform internal

- references and grammar to these changes.
- 2 (3) The governor may by executive order assign to the 3 department of justice in a manner consistent with this act 4 functions allocated to the department of institutions by the 5 50th legislature and not transferred by this act.
- NEW SECTION. Section 4. Functions of department of institutions transferred to department of health and environmental sciences. (1) The following functions of the department of institutions and the director of the department of institutions are transferred to the department of health and environmental sciences and the director of the department of health and environmental sciences as defined in Title 2, chapter 15, part 21:
- 14 (a) concerning distribution of liquor license, beer,
 15 and wine tax revenues under 16-1-404, 16-1-408, and
 16 16-1-411;
- 17 (b) treating alcoholism and drug dependency under 18 Title 53, chapter 24; and
- 19 (c) relating to approved alcohol treatment programs
 20 for drivers under 61-8-714 and 61-8-722.
- 21 (2) Unless inconsistent with this act, any reference 22 to the "department of institutions" or "department" (of 23 institutions) in the sections listed in subsection (1) are 24 changed to "department of health and environmental sciences" 25 or "department" (of health and environmental sciences). The

LC 0323/01

code commissioner shall conform internal references and grammar to these changes.

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- (3) The governor may by executive order assign to the department of health and environmental sciences in a manner consistent with this act functions allocated to the department of institutions by the 50th legislature and not transferred by this act.
- 8 Section 5. Section 2-15-211, MCA, is amended to read:
 9 "2-15-211. Mental disabilities board of visitors -10 composition -- allocation. (1) The governor shall appoint a
 11 mental disabilities board of visitors.
 - representing but not limited to consumers, doctors of medicine, and the behavioral sciences, at least three of whom may not be professional persons and at least one of whom shall be a representative of an organization concerned with the care and welfare of the mentally ill and one representative of an organization concerned with the care and welfare of the mentally ill and one representative of an organization concerned with the care and welfare of the mentally retarded or developmentally disabled. No one may be a member of the board who is a full-time agent or employee of the department of institutions social and rehabilitation services or a mental health facility affected by Title 53, chapter 20, part 1, and chapter 21, part 1, except this prohibition does not affect any employee of a state college or university.

- 1 (3) The mental disabilities board of visitors shall be 2 attached to the governor for administrative purposes. It 3 may employ staff for the purpose of carrying out its duties 4 as set out in Title 53, chapter 20, part 1, and chapter 21, 5 part 1."
- Section 6. Section 2-15-2204, MCA, is amended to read:

 "2-15-2204. Developmental disabilities planning and
 advisory council. (1) The governor shall appoint a
 developmental disabilities planning and advisory council in
 accordance with the provisions of this section.
- 11 (2) The council is composed of 22 21 members and 12 consists of the following:
- 13 (a) the directors of the departments of social and
 14 rehabilitation services, and health and environmental
 15 sciences, and institutions or their designees;
- 16 (b) the superintendent of public instruction or a
 17 designee;
- 18 (c) one recognized private professional in each
 19 discipline of medicine, law, psychology, social work, and
 20 special education;
 - (d) two members of the state senate;

- (e) two members of the state house of representatives;
- 23 (f) four consumers or representatives of consumers or 24 consumer organizations in the discipline of developmental 25 disabilities; and

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

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- (3) (a) Each member or his designee who serves on the council pursuant to subsection (2)(a) or (2)(b) of this section shall serve for a term concurrent with his respective term as a director or the superintendent of public instruction, as the case may be. Upon his removal from office, his or his designee's term as a member of the council is automatically terminated and his successor in office or his successor's designee is automatically a member of the council.
- (b) Each member who serves on the council pursuant to subsection (2)(d) or (2)(e) of this section shall be appointed or reappointed annually by the governor.
- (c) Eight of the members serving on the council pursuant to subsection (2)(c), (2)(f), or (2)(g) of this section shall be appointed by the governor to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining six members serving on the council shall be appointed by the governor to serve for terms ending on January 1 of the third year of the succeeding gubernatorial term and until their successors are appointed.

- 1 (4) The council is allocated to the department for 2 administrative purposes only and, unless inconsistent with 3 the provisions of this section and 53-20-206, the provisions 4 of 2-15-121 apply."
- Section 7. Section 2-15-2302, MCA, is amended to read:

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

 pardons.
- 9 (2) The board consists of three members and an auxiliary member, at least one of whom shall have particular 10 knowledge of Indian culture and problems. Members of the 11 board, including the auxiliary member, shall possess 12 academic training which has qualified them for professional 13 practice in a field such as criminology, 1.4 psychiatry, psychology, law, social work, sociology, or 15 quidance and counseling. Related work experience in the 16 areas listed may be substituted for these educational 17 requirements. 18
- 19 (3) The auxiliary member shall attend any meeting that
 20 a regular board member is unable to attend, and at that time
 21 the auxiliary member has all the rights and responsibilities
 22 of a regular board member.
- 23 (4) The board is allocated to the department of
 24 justice for administrative purposes only as prescribed in
 25 2-15-121. However, the board may hire its own personnel, and

1	2-15-121	21/	(d)	does	not	apply
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- 2 (5) The board, including the auxiliary member, is 3 designated as a quasi-judicial board for purposes of 4 2-15-124, except board members shall be compensated as 5 provided by legislative appropriation."
- 6 Section 8. Section 2-18-103, MCA, is amended to read:
- 7 "2-18-103. Officers and employees excepted. Parts 1
- $oldsymbol{8}$ and $oldsymbol{2}$ do not apply to the following positions in state
- 9 government:

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- 10 (1) elected officials;
 - (2) county assessors and their chief deputy;
- 12 (3) officers and employees of the legislative branch;
- 13 (4) judges and employees of the judicial branch;
- 14 (5) members of boards and commissions appointed by the 15 governor, appointed by the legislature, or appointed by
- 16 other elected state officials;
- 17 (6) officers or members of the militia;
 - (7) agency heads appointed by the governor:
- 19 (8) academic and professional administrative personnel
- 20 with individual contracts under the authority of the board
- 21 of regents of higher education:
- 22 (9) academic and professional administrative personnel
- 23 and live-in houseparents who have entered into individual
- 24 contracts with the state school for the deaf and blind under
- 25 the authority of the state board of public education;

- 1 (10) teachers under the authority of the department—of
 2 institutions departments of justice or social and
 3 rehabilitation services;
- 4 (11) investment officer and assistant investment
 5 officer of the board of investments; and
- 6 (12) four professional staff positions under the board7 of oil and gas conservation."
- 8 Section 9. Section 2-18-303, MCA, is amended to read:
- g "2-18-303. Procedures for utilizing pay schedules. (1)
- The pay schedules provided in 2-18-311 and 2-18-312 shall be
- 11 implemented as follows:

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- 12 (a) The pay schedule provided in 2-18-311 indicates
- 13 the annual compensation for the fiscal year ending June 30,
- 14 1986, for each grade and step for positions classified under
 - the provisions of part 2 of this chapter.
- 16 (b) The pay schedule provided in 2-18-312 indicates
- 17 the annual compensation for the fiscal year ending June 30,
- 18 1987, for each grade and step for positions classified under
- 19 the provisions of part 2 of this chapter.
- 20 (c) Each new employee shall advance from step 1 to
- 21 step 2 of a grade after successfully completing 6 months of
- 22 probationary service. The anniversary date of an employee
- 23 shall be established at the end of the probationary period
- 24 in accordance with rules promulgated by the department.
 - (d) (i) The compensation of each employee on the first

LC 0323/01

day of the first pay period in fiscal year 1986 shall be that amount which corresponds to the grade and step occupied on the last day of the preceding fiscal year of 1985.

- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1987 shall be that amount which corresponds to the grade and step occupied on the last day of the fiscal year 1985.
- (iii) In compliance with rules adopted to implement this part, each employee is eligible on his anniversary date to advance one step in the pay matrix for fiscal year 1987. However, if the employee's anniversary date falls between (inclusive) July 1 and the first day of the first pay period of fiscal year 1987, he will advance one step on the first day of that pay period.
- (2) The pay schedules provided in 2-18-311 and 2-18-312 and the provisions of subsection (1) of this section do not apply to those institutional teachers, liquor store occupations, or blue-collar occupations compensated under the pay schedules provided in 2-18-313, 2-18-314, or 2-18-315.
- (3) The pay schedules provided in 2-18-313, 2-18-314, or 2-18-315 shall be implemented as follows:
- 23 (a) (i) The pay schedules provided in 2-18-313
 24 indicate the annual compensation for the contracted school
 25 term for teachers employed by institutions under the

authority of the department-of-institutions departments of

justice or social and rehabilitation services for fiscal

vears 1986 and 1987.

LC 0323/01

- (ii) The compensation of each teacher on the first day of the first pay period in July, 1985, shall be that amount which corresponds to his level of academic achievement and the step occupied on June 30, 1985.
- (iii) The compensation of each teacher on the first day of the first pay period in July, 1986, shall be that amount which corresponds to his level of achievement and the step occupied on June 30, 1985.
- (b) (i) The pay schedules provided in 2-18-314 indicate the maximum hourly compensation for fiscal years ending June 30, 1986, and June 30, 1987, for those employees in liquor store occupations who have collectively bargained separate classification and pay plans.
- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1986 or 1987, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.
- (c) (i) The pay schedules provided in 2-18-315 indicate the maximum hourly compensation for fiscal years ending June 30, 1986, and June 30, 1987, for employees in apprentice trades and crafts and other blue-collar occupations recognized in the state blue-collar

1 classification plan who are members of units that have collectively bargained separate classification and pay plans.

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- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1986 or 1987, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.
- 8 (4) (a) (i) No member of a bargaining unit may receive 9 the amounts indicated in the respective pay schedules provided in 2-18-311 through 2-18-315 until the bargaining 10 unit of which he is a member ratifies a completely 11 12 integrated collective bargaining agreement covering the 13 biennium ending June 30, 1987.
 - (ii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not completed by July 1, 1985, retroactivity to that date may be negotiated.
 - (iii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not completed by July 1, 1985, members of the bargaining unit involved will continue to receive the compensation they were receiving as of June 30, 1985.
 - (b) Methods of administration not inconsistent with

- the purpose of this part and necessary to properly implement
- the pay schedules provided in 2-18-313 through 2-18-315 may 2
 - be provided for in collective bargaining agreements.

provided for in 2-18-311 through 2-18-315.

- (5) The current wage or salary of an employee shall not be reduced by the implementation of the pay schedules
- (6) The department may authorize a separate pay 7 schedule for medical doctors if the rates provided in 2-18-311 and 2-18-312 are not sufficient to attract and retain fully licensed and qualified physicians at the state
- 11 institutions.

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- (7) The department may develop programs which will 12 13 enable the department to mitigate problems associated with 14 difficult recruitment, retention, transfer, or other 15 exceptional circumstances. Insofar as the program may apply
- 16 to employees within a collective bargaining unit, it shall
- 17 be a negotiable subject under 39-31-305."
- Section 10. Section 7-22-2151, MCA, is amended to 18 19 read:
- 20 "7-22-2151. Cooperative agreements. (1) Any state 21 agency controlling land within a district, including the 22 department of highways; the department of state lands; the 23 department of fish, wildlife, and parks; the department of 24 institutions justice; the department of natural resources
- and conservation; the department of social and

rehabilitation services; and the university system, shall
enter into a written agreement with the board. The agreement
must specify mutual responsibilities for noxious weed
management on state-owned or state-controlled land within
the district.

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- (2) The board and the governing body of each incorporated municipality within the district shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality. The board may implement management procedures described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.
- (3) A board may develop and carry out its noxious weed management program in cooperation with boards of other districts, with state and federal governments and their agencies, or with any person within the district. The board may enter into cooperative agreements with any of these parties."
- Section 11. Section 10-2-404, MCA, is amended to read:

 "10-2-404. Acceptance and deposit of federal moneys.

 The department of institutions social and rehabilitation
 services may accept moneys from the federal government that

become available to the state as a result of operating the
Montana veterans' home and shall deposit such moneys in the
state treasury for the benefit of the home. If the resident
of the home is transferred to another institution in the
department of social and rehabilitation services, as-defined
in--53-i-i0; the department of-institutions shall continue
to draw from the federal government any moneys available for
the maintenance of such former resident."

LC 0323/01

9 Section 12. Section 17-3-1001, MCA, is amended to read:

11 "17-3-1001. State institutions which may take by gift, bequest, or grant. (1) The state of Montana, units of the Montana university system, the Montana school for the deaf 13 14 blind, all institutions in the department -- of institutions departments of justice and social and 15 rehabilitation services, and any institutions now created or 16 established or which may hereafter be created or established 17 and supported in whole or in part by the state for any 18 purpose may accept gifts, donations, grants, devises, or 19 bequests of real or personal property from any source. 20 Gifts, donations, grants, bequests, or devises may be made 21 22 directly to the state, in the name of any of the 23 institutions, to any officer or board of the institutions, 24 or to any person in trust for the institutions.

25 (2) In the event it is made directly to any

1 institution or to any officer or board of any institution. 2 the gift, donation, grant, devise, or bequest is a gift, 3 donation, grant, devise, or bequest to the state and shall 4 be administered and used by the state for the particular 5 purpose for which it was given, donated, granted, bequeathed, or devised. In the event no particular purpose 7 is mentioned in the gift, grant, devise, or beguest, then it shall be used for the general support, maintenance, or 8 9 improvement of such institution by the state."

Section 13. Section 17-3-1002, MCA, is amended to

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read:

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

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(2) In the event any gift, donation, grant, devise, or beguest shall be made to any such institution or to any officer or board of any such institution, the same shall be construed as a gift, donation, grant, devise, or bequest to the state and shall be administered and used for the state for the particular purpose for which the same was given, donated, granted, bequeathed, or devised. In the event no particular purpose is mentioned in such gift, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of such institution by the state."

Section 14. Section 18-4-133, MCA, is amended to read: "18-4-133. Purchases exempt from general requirements. (1) Fresh fruits and vegetables (other than potatoes) shall not be included in the supplies to be purchased as provided in this chapter. The department may allow a state agency or institution to purchase fresh fruits and vegetables. An itemized account shall be kept of these purchases and the account shall be furnished to the department.

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

state, or to any of the institutions above-named or referred

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engaged between individuals but under the direction of the department.

- (3) The department of administration may exempt the department-of-institutions departments of justice and social and rehabilitation services from the provisions of this chapter for the purchase of suitable clothing by the department-of-institutions departments of justice and social and rehabilitation services for residents of its their institutions and community-based programs.
- (4) As used in this section, "suitable clothing" means styled, seasonable clothing, which will allow the resident to make a normal appearance in the community."
- Section 15. Section 20-7-404, MCA, is amended to read:

 "20-7-404. Cooperation of state agencies. The state
 department of health and environmental sciences, the
 department-of-institutions, the department of social and
 rehabilitation services, and the state school for the deaf
 and blind shall cooperate with the superintendent of public
 instruction in assisting school districts in discovering
 children in need of special education. Nothing herein shall
 be construed to interfere with the purpose and function of
 these state agencies."
- 23 Section 16. Section 20-7-422, MCA, is amended to read: 24 "20-7-422. Out-of-state tuition for special education 25 children. (1) If the trustees of any district recommend to

- the superintendent of public instruction the attendance of
 a child in need of special education in a special education
 program offered outside of the state of Montana, such
 arrangements shall not be subject to the out-of-state
 attendance provisions of the laws governing the attendance
 of pupils in schools outside the state of Montana.
 - (2) Whenever the attendance of a child at an out-of-state special education program is approved by the superintendent of public instruction, it shall be the responsibility of the superintendent of public instruction, in cooperation with the department of social and rehabilitation services and-the-department-of--institutions, to negotiate the program for the child and the amount and manner of payment of tuition. The amount of tuition shall be included as a contracted service in 20-7-431(1)(a)(iii)(A) in the maximum-budget-without-a-vote for special education."
 - Section 17. Section 20-9-304, MCA, is amended to read:
 "20-9-304. Eligibility for and payment of state impact
 aid. Any district which shall have children of employees of
 a public institution may be eligible for state impact aid
 under the following provisions:
 - (1) An "employee" means an employee of a public institution under the administration of the department of institutions justice or social and rehabilitation services, as-defined-in-53-i-2027 who resides on the property of such

1 a public institution.

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- (2) A school district shall receive annually from moneys available for state equalization aid \$150 for each elementary pupil and \$250 for each high school pupil whose parents are employees of an institution located in the school district where the pupil attends school or in a school district which has a tuition agreement with the district where the pupil attends school.
- (3) A district which is eligible for state impact aid shall apply for such aid to the superintendent of public instruction in the manner prescribed by the rules prescribed by the superintendent of public instruction.
- (4) The distribution of state impact aid shall be deposited in the general fund of the district and shall not be considered as a part of the state equalization aid but shall be used to reduce the property tax in support of the general fund of the district."
- 18 Section 18. Section 41-3-1103, MCA, is amended to read:
- 20 "41-3-1103. Powers and duties of department. (1) The department shall:
- 22 (a) administer all state and federal funds allocated 23 to the department for youth foster homes, youth group homes, 24 and child-care agencies for youth in need of care, youth in 25 need of supervision, and delinquent youth;

- (b) exercise licensing authority over all youth foster homes, youth group homes, and child-care agencies;
- 3 (c) collect and disseminate information relating to 4 youth in need of care, youth in need of supervision, and 5 delinquent youth;
- 6 (d) provide for training of program personnel
 7 delivering services;
- 8 (e) in cooperation with the-department-of-institutions
 9 and youth care facility providers, develop and implement
 10 standards for youth care facilities;
- 11 (f) apportion and allocate placement budgets to all
 12 judicial districts;
- 13 (g) maintain adequate data on placements it funds in 14 order to keep the legislature properly informed of the 15 following:
- 16 (i) the breakdown of youth in need of care, youth in 17 need of supervision, and delinquent youth by category in 18 out-of-home care facilities;
- (ii) the cost per facility for services rendered;
- 20 (iii) the type and level of care of services provided 21 by each facility;
- 22 (iv) a profile of out-of-home care placements by level
 23 of care; and
- 24 (v) a profile of public institutional placements; and
- 25 (h) administer all funds allocated to the department

- for residential alcohol and drug abuse treatment for indigent youths in need of care, youths in need of supervision, and delinquent youths who require such treatment.
- (2) The department may:

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- (a) enter into contracts with nonprofit corporations or associations or private organizations to provide facilities and services for youth in need of care, youth in need of supervision, and delinquent youth;
- (b) accept gifts, grants, and donations of money and property from public and private sources to initiate and maintain community-based services to youth;
- 13 (c) adopt rules to carry out the administration and 14 purposes of this part.
 - (3) The department shall pay for room, board, clothing, personal needs, transportation, and treatment in youth foster care homes and youth group homes other-than aftercare-homes-for-youths-committed-to-the-department-of institutions-who-need-to-be-placed-in-such-facilities. Youths-committed-to-the-department-of-institutions-and placed-in-residential-facilities-other-than-those-described above-shall-not-be-the-financial-responsibility-of-the department-of-social-and-rehabilitation-services-unless-such placements-have-been-approved-in-advance-by-the-department of-social-and-rehabilitation-services."

- Section 19. Section 41-3-1123, MCA, is amended to read:
- 3 "41-3-1123. Investigation of parents' or guardians' financial ability -- financial status report. (1) Whenever a 4 disposition under 41-3-404, 41-5-403, 41-5-523, or 41-5-524 involves placement in a youth care facility and the department is responsible for all or part of the cost of 7 such placement, the probation officer or the court shall notify the department and order the county welfare 9 department in the youth's county of residence to conduct an 10 investigation of the financial status of the youth's parents 11 or quardianship assets. Following an adjudicatory hearing in 13 which a youth is determined to be a delinquent youth or a youth in need of supervision, the court may order the county 14 15 welfare department to conduct a financial status 16 investigation.
 - (2) (a) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the youth and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the youth:
- 23 (i) in the youth care facility; or

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24 (ii) as a child of limited emancipation, as may be 25 ordered under 41-3-406.

- 1 (b) A written report of the investigation shall be
 2 filed with the court having jurisdiction; and the department
 3 of-social-and-rehabilitation-services; and-the-department-of
 4 institutions, and a copy shall be sent to the parents or
 5 guardian of the youth or to any other party to the
 6 proceeding.
- 7 (3) A copy of the written report shall be provided to 8 all parties to the proceeding before the time set for the 9 dispositional hearing."
- Section 20. Section 41-5-103, MCA, is amended to read:

 "41-5-103. Definitions. For the purposes of the
 Montana Youth Court Act, unless otherwise stated the
 following definitions apply:
- 14 (1) "Adult" means an individual who is 18 years of age 15 or older.
- 16 (2) "Agency" means any entity of state or local
 17 government authorized by law to be responsible for the care
 18 or rehabilitation of youth.
 - (3) "Commit" means to transfer to legal custody.
- 20 (4) "Court", when used without further qualification, 21 means the youth court of the district court.

- (5) "Foster home" means a private residence approvedby the court for placement of a youth.
- 24 (6) "Guardianship" means the status created and 25 defined by law between a youth and an adult with the

- 1 reciprocal rights, duties, and responsibilities.
- 2 (7) "Judge", when used without further qualification,3 means the judge of the youth court.
- 4 (8) (a) "Legal custody" means the legal status created

by order of a court of competent jurisdiction that gives a

6 person the right and duty to:

convincing proof.

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- (i) have physical custody of the youth;
- 8 (ii) determine with whom the youth shall live and for
 9 what period;
- 10 (iii) protect, train, and discipline the youth; and
- (iv) provide the youth with food, shelter, education,
 and ordinary medical care.
- 13 (b) An individual granted legal custody of a youth 14 shall personally exercise his rights and duties as guardian 15 unless otherwise authorized by the court entering the order.
- 16 (9) "Parent" means the natural or adoptive parent but
 17 does not include a person whose parental rights have been
 18 judicially terminated, nor does it include the putative
 19 father of an illegitimate youth unless his paternity is
 20 established by an adjudication or by other clear and
- 22 (10) "Youth" means an individual who is less than 18.
 23 years of age without regard to sex or emancipation.
- 24 (11) "Youth court" means the court established pursuant 25 to this chapter to hear all proceedings in which a youth is

LC 0323/01 LC 0323/01

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alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.

(12) "Delinquent youth" means a youth:

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- 5 (a) who has committed an offense which, if committed 6 by an adult, would constitute a criminal offense:
- 7 (b) who, having been placed on probation as a 8 delinquent youth or a youth in need of supervision, violates 9 any condition of his probation.
- 10 (13) "Youth in need of supervision" means a youth who
 11 commits an offense prohibited by law which, if committed by
 12 an adult, would not constitute a criminal offense, including
 13 but not limited to a youth who:
- (a) violates any Montana municipal or state law regarding use of alcoholic beverages by minors;
- 16 (b) habitually disobeys the reasonable and lawful
 17 demands of his parents or guardian or is ungovernable and
 18 beyond their control;
- 19 (c) being subject to compulsory school attendance, is 20 habitually truant from school; or
 - (d) has committed any of the acts of a delinquent youth but whom the youth court in its discretion chooses to regard as a youth in need of supervision.
- 24 (14) "Youth in need of care" means a youth as defined 25 in 41-3-102.

1 (15) "Custodian" means a person other than a parent or 2 guardian to whom legal custody of the youth has been given 3 but does not include a person who has only physical custody.

- (16) "Necessary parties" include the youth, his parents, quardian, custodian, or spouse.
- 6 (17) "State youth correctional facility" means a
 7 residential facility for the rehabilitation of delinquent
 8 youth such as Pine Hills school in Miles City, and Mountain
 9 View school in Helena.
- 10 (18) "Shelter care" means the temporary substitute care
 11 of youth in physically unrestricting facilities.
 - (19) "Detention" means the temporary substitute care of youth in physically restricting facilities.
- 14 {20} "Restitution" means payments in cash to the victim
 15 or with services to the victim or the general community when
 16 these payments are made under the jurisdiction of a youth
 17 court proceeding.
 - (21) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who are removed from or without the care and supervision of their parents or guardian. Nothing in this definition is intended to include juvenile correctional facilities, evaluation facilities, mental health facilities and services, and aftercare

- programs operated by the department of institutions social

 and rehabilitation services."
- 3 Section 21. Section 44-5-202, MCA, is amended to read: 4 "44-5-202. Photographs and fingerprints. (1) The
- following agencies may, if authorized by subsections (2) through (5) (4), collect, process, and preserve photographs
- 7 and fingerprints:

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- 8. (a) any criminal justice agency performing, under law,
 9 the functions of a police department or a sheriff's office,
 10 or both;
- 11 (b)--the-department-of-institutions; and
- 12 (c)(b) the department of justice.
- 13 (2)--The-department-of-institutions-may-photograph--and 14 fingerprint-anyone-under-the-jurisdiction-of-the-division-of 15 corrections-or-its-successor:
 - #37(2) A criminal justice agency described in subsection (1)(a) shall photograph and fingerprint a person who has been arrested or noticed or summoned to appear to answer an information or indictment if:
 - (a) the charge is the commission of a felony:
 - (b) the identification of an accused is in issue; or
 - (c) it is required to do so by court order.
- 23 (4)(3) Whenever a person charged with the commission
 24 of a felony is not arrested, he shall submit himself to the
 25 sheriff, chief of police, or other concerned law enforcement

- officer for fingerprinting at the time of his initial
 appearance in court to answer the information or indictment
 against him.
- t5)(4) A criminal justice agency described in subsection (1)(a) may photograph and fingerprint an accused if he has been arrested for the commission of a misdemeanor, except that an individual arrested for a traffic, regulatory, or fish and game offense may not be photographed or fingerprinted unless he is incarcerated.
- 10 (67(5) Within 10 days the originating agency shall
 11 send the state repository a copy of each fingerprint taken
 12 on a completed form provided by the state repository.
- (7)(6) The state repository shall compare 13 fingerprints received with those already on file in the 14 state repository. If it is determined that the individual is 15 wanted or is a fugitive from justice, the state repository 16 shall at once inform the originating agency. If it is 17 determined that the individual has a criminal record, the 18 state repository shall send the originating agency a copy of 19 the individual's complete criminal history record. 20
- 21 (0)(7) Photographs and fingerprints taken shall be 22 returned by the state repository to the originating agency, 23 which shall return all copies to the individual from whom 24 they were taken:
 - (a) if a court so orders; or

LC 0323/01 LC 0323/01

- (b) upon the request of the individual:
- 2 (i) if no charges were filed;

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- 3 (ii) if a misdemeanor charge did not result in a 4 conviction; or
- 5 (iii) if the individual was found innocent of the 6 offense charged."
- 7 Section 22. Section 46-19-202, MCA, is amended to 8 read:
- 9 "46-19-202. Proceedings following determination 10 regarding fitness. (1) If it is found that defendant is 11 mentally fit as provided in 46-19-201, the warden of the 12 Montana state prison shall execute the judgment.
 - (2) If it is found that he lacks fitness, the execution of judgment must be suspended and the court shall commit him to the custody of the superintendent of the Montana state hospital to be placed in an appropriate institution of the department of institutions justice or social and rehabilitation services for so long as the lack of fitness endures.
 - (3) When the court, on its own motion or upon application of the superintendent of the Montana state hospital, the county prosecuting officer, or the defendant or his legal representative, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the warden must be directed by the court

- to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of
- 3 the defendant that it would be unjust to proceed with
- 4 execution of the sentence, the court may suspend the
- 5 execution of the sentence and may order the defendant to be
- 6 discharged."
- 7 Section 23. Section 46-19-303, MCA, is amended to 8 read:
- 9 "46-19-303. Power of governor to enter into contracts.
- 10 The governor is hereby empowered to designate the department
- 11 departments of institutions justice and social and
- 12 rehabilitation services to enter into such contracts
- 13 recommended by the department departments on behalf of this
- 14 state as may be appropriate to implement the participation
 - of this state in the Western Interstate Corrections Compact
- 16 pursuant to 46-19-301."
- 17 Section 24. Section 46-19-305, MCA, is amended to
- 18 read:

- 19 "46-19-305. Hearings requested by other states. The
- 20 board of pardons and the department departments of
- 21 institutions justice and social and rehabilitation services
- 22 shall hold such hearings as may be requested by any other
- 23 party state pursuant to Article IV(6) of the Western
- 24 Interstate Corrections Compact."
- 25 Section 25. Section 46-23-103, MCA, is amended to

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- 2 "46-23-103. Definitions. Unless the context requires 3 otherwise, in this chapter the following definitions apply:
- 4 (1) "Board" means the board of pardons provided for in 2-15-2302.
 - (2) "Department" means the department of institutions justice provided for in Title 2, chapter 15, part 23 20.
- 8 (3) "Executive clemency" refers to the powers of the 9 governor as provided by section 12 of Article VI of the 10 constitution of Montana.
- 11 (4) "Parole" means the release to the community of a
 12 prisoner by the decision of the board prior to the
 13 expiration of his term, subject to conditions imposed by the
 14 board and subject to supervision of the department of
 15 institutions justice."
- Section 26. Section 46-23-401, MCA, is amended to read:
- 18 "46-23-401. Definitions. Unless the context requires
 19 otherwise, in this part the following definitions apply:
- 20 (1) "Applicant" means any prisoner who is eligible
 21 under 46-23-411 and who signs an application to participate
 22 in the supervised release program.
- 23 (2) "Board" means the board of pardons provided for in 24 2-15-2302.
- 25 (3) "Department" means the department of institutions

- justice provided for in 2-15-2301 2-15-2001.
- 2 (4) "Prisoner" means a person sentenced by a state
 3 district court to a term of confinement in the state prison.
- 4 (5) "State prison" means the Montana state prison at
 5 Deer Lodge or any adult correctional facility designated by
 6 the department.
- 7 (6) "Sponsor" means any federal, state, county, local,
 8 or private agency, Indian tribe and reservation, or any
 9 person, group, association, or organization approved by the
 10 department to undertake the supervision of prisoners
 11 participating in the supervised release program.
- 12 (7) "Supervising agent" means a probation and parole
 13 officer of the department."
- 16 "46-23-1001. Definitions. As used in this part, unless.
- 17 the context requires otherwise, the following definiti
- 18 apply:
- 19 (1) "Board" means the board of pardons provided for in 20 = 2-15-2302.
- 21 (2) "Department" means the department of institutions
 22 justice provided for in Title 2, chapter 15, part 23 20.
- 23 (3) "Parole" means the release to the community of a 24 prisoner by the decision of the board prior to the 25 expiration of his term, subject to conditions imposed by the

1 board and subject to supervision of the department.

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- (4) "Probation" means the release by the court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court."
- 8 Section 28. Section 50-1-202, MCA, is amended to read:
 9 "50-1-202. General powers and duties. The department
 10 shall:
- 11 (1) study conditions affecting the citizens of the 12 state by making use of birth, death, and sickness records;
- 13 (2) make investigations, disseminate information, and 14 make recommendations for control of diseases and improvement 15 of public health to persons, groups, or the public;
- 16 (3) at the request of the governor, administer any 17 federal health program for which responsibilities are 18 delegated to states;
- 19 (4) inspect and work in conjunction with custodial
 20 institutions and Montana university system units
 21 periodically as necessary and at other times on request of
 22 the governor;
- 23 (5) after each inspection made under subsection (4) of 24 this section, submit a written report on sanitary conditions 25 to the governor and to the appropriate department director

- of--institutions or to the commissioner of higher education
 and include recommendations for improvement in conditions if
 necessary;
- 4 (6) advise state agencies on location, drainage, water
 5 supply, disposal of excreta, heating, plumbing, sewer
 6 systems, and ventilation of public buildings:
- 7 (7) organize laboratory services and provide equipment 8 and personnel for those services;
- 9 (8) develop and administer activities for the 10 protection and improvement of dental health and supervise 11 dentists employed by the state, local boards of health, or 12 schools:
 - standards for participation in and operation of programs to protect the health of mothers and children, which rules may include programs for nutrition, family planning services, improved pregnancy outcome, and those authorized by Title X

(9) develop, adopt, and administer rules setting

- 18 of the federal Public Health Service Act and Title V of the
- 19 federal Social Security Act;

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- 20 (10) conduct health education programs;
- 21 (11) provide consultation to school and local community 22 health nurses in the performance of their duties;
- 23 (12) consult with the superintendent of public 24 instruction on health measures for schools:
- 25 (13) develop, adopt, and administer rules setting

standards for a program to provide services to handicapped children, including standards for:

3 (a) diagnosis;

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- 4 (b) medical, surgical, and corrective treatment:
- (c) after-care and related services; and
- (d) eligibility;
- 7 (14) provide consultation to local boards of health;
- 8 (15) bring actions in court for the enforcement of the 9 health laws and defend actions brought against the board or 10 department;
- 11 (16) accept and expend federal funds available for 12 public health services;
- 13 (17) have the power to use personnel of local
 14 departments of health to assist in the administration of
 15 laws relating to public health;
 - (18) adopt rules imposing fees for the tests and services performed by the laboratory of the department, except fees relating to water analysis, which are imposed by the board pursuant to 75-6-103(2)(b). Fees, established on an annual basis, should reflect the actual costs of the tests or services provided. The department may not establish fees exceeding the costs incurred in performing tests and services. All fees shall be deposited in the state special revenue fund for the use of the department in performing tests and services.

- 1 (19) adopt and enforce rules regarding the definition
 2 of communicable diseases and the reporting and control of
 3 communicable diseases; and
- 4 (20) adopt and enforce rules regarding the 5 transportation of dead human bodies."
- 6 Section 29. Section 50-3-102, MCA, is amended to read:
- 7 "50-3-102. Powers and duties of state fire marshal.
- 8 (1) For the purpose of reducing the state's fire loss, the 9 state fire marshal shall:
- (a) make at least one inspection a year of each state 10 institution in the departments of justice or social and 11 rehabilitation services and submit a copy of the report to 12 of---institutions with department appropriate 1.3 fire recommendations in regard to fire prevention, 14 protection, and public safety; 15
- 16 (b) make at least one inspection a year of each unit
 17 of the Montana university system and submit a copy of the
 18 report to the commissioner of higher education with
 19 recommendations in regard to fire prevention, fire
 20 protection, and public safety;
- 21 (c) inspect public, business, or industrial buildings 22 and require conformance to law and rules promulgated under 23 the provisions of this chapter;
- 24 (d) assist local fire and law enforcement authorities 25 in arson investigations and supervise such investigations

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when, in his judgment, supervision is necessary;

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- (e) review all training programs on investigation of accidental and incendiary fires;
- (f) provide fire prevention and fire protection information to public officials and the general public;
- (g) encourage and assist local fire authorities in fire prevention programs and adopt standards and implement a program to encourage fire departments to meet such standards:
- 10 (h) be the state entity primarily responsible for 11 promoting fire safety at the state level and to represent 12 the state in structural fire matters;
 - (i) encourage coordination of all services and agencies in structural fire matters to reduce duplication and fill voids in services;
 - (j) establish rules concerning responsibilities and procedures to be followed when there is a threat of explosive material in a building housing state offices;
 - (k) keep in his office a record of all fires occurring in the state, the origin of the fires, and all facts, statistics, and circumstances relating thereto which have been determined by investigations under the provisions of chapter 63 of this title; and, except for statements of witnesses given during an investigation and information that may be held in confidence under 50-63-403, the record shall

be open at all times to public inspection; and

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

LC 0323/01

- (2) The state fire marshal may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state.
- (3) The state fire marshal shall adopt rules based on nationally recognized standards necessary for safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale, and use of explosive materials.
- (4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the state fire marshal may maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules."
- Section 30. Section 50-5-101, MCA, is amended to read:

 "50-5-101. (Temporary) Definitions. As used in parts 1

 through 4 of this chapter, unless the context clearly

 indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

- (2) "Adult day-care center" means a facility, freestanding or connected to another health care facility, which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.
- (3) "Affected persons" means the applicant, members of the public who are to be served by the proposal, health care facilities located in the geographic area affected by the application, agencies which establish rates for health care facilities, third-party payers who reimburse health care facilities in the area affected by the proposal, and agencies which plan or assist in planning for such facilities, including any agency qualifying as a health systems agency pursuant to Title XV of the Public Health Service Act.
- (4) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.
- (5) "Batch" means those letters of intent and applications of a specified category and within a specified region of the state, as established by department rule, that are accumulated during a single batching period.
 - (6) "Batching period" means a period, not exceeding 1

- month, established by department rule during which letters of intent for specified categories of new institutional health services and for specified regions of the state may be accumulated pending further processing of all letters of intent within the batch.
- (7) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.
- 8 (B) "Capital expenditure" means an expenditure made by
 9 or on behalf of a health care facility that, under generally
 10 accepted accounting principles, is not properly chargeable
 11 as an expense of operation and maintenance.
- 12 (9) "Certificate of need" means a written 13 authorization by the department for a person to proceed with 14 a proposal subject to 50-5-301.
 - (10) "Challenge period" means a period, not exceeding 1 month, established by department rule during which any person may apply for comparative review with an applicant whose letter of intent has been received during the preceding batching period.
 - (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or

LC 0323/01

assessment of a medical condition.

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- (12) "College of American pathologists" means the organization nationally recognized by that name with headquarters in Traverse City, Michigan, that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.
 - (13) "Comparative review" means a joint review of two or more certificate of need applications within a given batch which are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.
- (14) "Construction" means the physical erection of a health care facility and any stage thereof, including ground breaking, or remodeling, replacement, or renovation of an existing health care facility.
- 18 (15) "Department" means the department of health and 19 environmental sciences provided for in Title 2, chapter 15, 20 part 21.
- 21 (16) "Federal acts" means federal statutes for the 22 construction of health care facilities.
- 23 (17) "Governmental unit" means the state, a state 24 agency, a county, municipality, or political subdivision of 25 the state, or an agency of a political subdivision.

- (18) "Health care facility" or "facility" means any 1 institution, building, or agency or portion thereof, private 2 or public, excluding federal facilities, whether organized 3 for profit or not, used, operated, or designed to provide health services, medical treatment. nursing. 5 rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or 7 dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney 10 treatment centers, long-term care facilities, mental health 11 centers, outpatient facilities, public health centers, 12 1.3 rehabilitation facilities, and adult day-care centers.
- 14 (19) "Health maintenance organization" means a public
 15 or private organization organized as defined in 42 U.S.C.
 16 300e, as amended.
 17 (20) "Health systems agency" means an entity which is

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- (20) "Health systems agency" means an entity which is organized and operated in the manner described in 42 U.S.C. 3001-2 and which is capable, as determined by the secretary of the United States department of health and human services, of performing each of the functions described in 42 U.S.C. 3001-2.
- 23 (21) "Home health agency" means a public agency or 24 private organization or subdivision thereof which is engaged 25 in providing home health services to individuals in the

places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

- (22) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.
- (23) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.
- (24) "Infirmary" means a facility located in a

- university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:
- 4 (a) an "infirmary--A" provides outpatient and inpatient care;
- 6 (b) an "infirmary--B" provides outpatient care only.
- 7 (25) "Joint commission on accreditation of hospitals"
 8 means the organization nationally recognized by that name
 9 with headquarters in Chicago, Illinois, that surveys health
 10 care facilities upon their requests and grants accreditation
 11 status to any health care facility that it finds meets its
 12 standards and requirements.
- 13 (26) "Kidney treatment center" means a facility which 14 specializes in treatment of kidney diseases, including 15 freestanding hemodialysis units.
 - (27) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for physically disabled persons licensed under 53-19-111, boarding or

- 1 foster homes for children licensed under 41-3-1142, hotels. motels, boardinghouses. roominghouses, 2 similar accommodations providing for transients, students, or 3 persons not requiring institutional health care, or juvenile 4 5 and adult correctional facilities operating under the authority of the department of institutions justice or 6 7 social and rehabilitation services.
 - (b) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

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- (c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.
- (d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with related problems.
- (e) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.
 - (28) "Major medical equipment" means a single unit of

- medical equipment or a single system of components with related functions which is used to provide medical or other health services.
- 4 (29) "Mental health center" means a facility providing 5 services for the prevention or diagnosis of mental illness, 6 the care and treatment of mentally ill patients or the 7 rehabilitation of such persons, or any combination of these 8 services.
- 9 (30) "Nonprofit health care facility" means a health 10 care facility owned or operated by one or more nonprofit 11 corporations or associations.
- 12 (31) "Observation bed" means a bed occupied for not
 13 more than 6 hours by a patient recovering from surgery or
 14 other treatment.
- 15 (32) "Offer" means the holding out by a health care 16 facility that it can provide specific health services.
- 17 (33) "Outpatient facility" means a facility, located in
 18 or apart from a hospital, providing, under the direction of
 19 a licensed physician, either diagnosis or treatment, or
 20 both, to ambulatory patients in need of medical, surgical,
 21 or mental care. An outpatient facility may have observation
 22 beds.
- (34) "Patient" means an individual obtaining services,including skilled nursing care, from a health care facility.
- 25 (35) "Person" means any individual, firm, partnership,

- association, organization, agency, institution, corporation,
 - trust, estate, or governmental unit, whether organized for
- 3 profit or not.

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- 4 (36) "Public health center" means a publicly owned
- 5 facility providing health services, including laboratories,
- 6 clinics, and administrative offices.
- 7 (37) "Rehabilitation facility" means a facility which
- 8 is operated for the primary purpose of assisting in the
- 9 rehabilitation of disabled persons by providing
- 10 comprehensive medical evaluations and services.
- 11 psychological and social services, or vocational evaluation
- 12 and training or any combination of these services and in
- and the second s
- 13 which the major portion of the services is furnished within
- 14 the facility.
- 15 (38) "Resident" means a person who is in a long-term
- 16 care facility for intermediate or personal care.
- 17 (39) "State health plan" means the plan prepared by the
- 18 department pursuant to 42 U.S.C. 300m-2(a)(2).
- 19 50-5-101. (Effective July 1, 1987) Definitions. As
- 20 used in parts 1 through 4 of this chapter, unless the
- 21 context clearly indicates otherwise, the following
- 22 definitions apply:

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- (1) "Accreditation" means a designation of approval.
- 24 (2) "Adult day-care center" means a facility,
- 25 freestanding or connected to another health care facility,

- 1 which provides adults, on an intermittent basis, with the
- 2 care necessary to meet the needs of daily living.
- 3 (3) "Ambulatory surgical facility" means a facility,
- 4 not part of a hospital, which provides surgical treatment to
- 5 patients not requiring hospitalization. This type of
- facility may include observation beds for patient recovery
- 7 from surgery or other treatment.
- 8 (4) "Board" means the board of health and
- 9 environmental sciences, provided for in 2-15-2104.
- 10 (5) "Clinical laboratory" means a facility for the
- 11 microbiological, serological, chemical, hematological,
- 12 radiobioassay, cytological, immunohematological,
- pathological, or other examination of materials derived from
- 14 the human body for the purpose of providing information for
- 15 the diagnosis, prevention, or treatment of any disease or
- 16 assessment of a medical condition.
- 17 (6) "College of American pathologists" means th
- 18 organization nationally recognized by that name with
- 19 headquarters in Traverse City, Michigan, that surveys
- 20 clinical laboratories upon their requests and accredits
- 21 clinical laboratories that it finds meet its standards and
- 22 requirements.
- 23 (7) "Department" means the department of health and
- 24 environmental sciences provided for in Title 2, chapter 15,
- 25 part 21.

LC 0323/01 LC 0323/01

(8) "Federal acts" means federal statutes for the construction of health care facilities.

- (9) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.
- (10) "Health care facility" or "facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or dentists. The term includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, hospitals, infirmaries, kidney treatment centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and adult day-care centers.
- (11) "Health maintenance organization" means a public or private organization organized as defined in 42 U.S.C. 300e, as amended.
- (12) "Health systems agency" means an entity which is organized and operated in the manner described in 42 U.S.C. 3001-2 and which is capable, as determined by the secretary of the United States department of health and human

- services, of performing each of the functions described in 42 U.S.C. 3001-2.
- 3 (13) "Home health agency" means a public agency or
 4 private organization or subdivision thereof which is engaged
 5 in providing home health services to individuals in the
 6 places where they live. Home health services must include
 7 the services of a licensed registered nurse and at least one
 8 other therapeutic service and may include additional support
 9 services.
- (14) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.
- the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per

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week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing in providing health services for psychiatric, mentally retarded, and tubercular patients.

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- (16) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:
- 9 (a) an "infirmary--A" provides outpatient and 10 inpatient care;
 - (b) an "infirmary--B" provides outpatient care only.
 - (17) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their requests and grants accreditation status to any health care facility that it finds meets its standards and requirements.
 - (18) "Kidney treatment center" means a facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.
 - (19) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related

- to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled 3 licensed under 53-20-305, community homes for physically disabled persons licensed under 53-19-111, boarding or foster homes for children licensed under 41-3-1142, hotels, roominghouses, or similar boardinghouses, accommodations providing for transients, students. or persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the 10 authority of the department of institutions justice or 11 social and rehabilitation services. 12
 - (b) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.
 - (c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.
- 21 (d) "Intermediate developmental disability care" means
 22 the provision of nursing care services, health-related
 23 services, and social services for the developmentally
 24 disabled, as defined in 53-20-102(4), or persons with
 25 related problems.

(e) "Personal care" means the provision of services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.

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- (20) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness. the care and treatment of mentally ill patients or the rehabilitation of such persons, or any combination of these services.
- (21) "Nonprofit health care facility" means a health 10 11 care facility owned or operated by one or more nonprofit corporations or associations. 12
- 13 (22) "Observation bed" means a bed occupied for not 14 more than 6 hours by a patient recovering from surgery or 15 other treatment.
- 16 (23) "Offer" means the holding out by a health care 17 facility that it can provide specific health services.
- (24) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, 22 or mental care. An outpatient facility may have observation beds.
- 24 (25) "Patient" means an individual obtaining services. including skilled nursing care, from a health care facility. 25

- (26) "Person" means any individual, firm, partnership, 1 association, organization, agency, institution, corporation, 2 trust, estate, or governmental unit, whether organized for 4 profit or not.
- (27) "Public health center" means a publicly owned facility providing health services, including laboratories, clinics, and administrative offices.
- (28) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the q, rehabilitation of disabled 10 persons by providing comprehensive medical evaluations and services. 11 psychological and social services, or vocational evaluation 12 13 and training or any combination of these services and in which the major portion of the services is furnished within 14 15 the facility.
- (29) "Resident" means a person who is in a long-term 16 care facility for intermediate or personal care. 17
- (30) "State health plan" means the plan prepared by the 18 19 department pursuant to 42 U.S.C. 300m-2(a)(2)."
- Section 31. Section 50-8-101, MCA, is amended to read: 20 "50-8-101. Definitions. As used in this part, the 21 following definitions apply: 22
- (1) "Department" means the department of institutions; 23 the department of health and environmental sciences; and the 24 department of social and rehabilitation services.

LC 0323/01

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1	(2) "Facility" means:
2	(a)forthedepartmentofinstitutions,-nonmedical
3	facilities-including:
4	(i)mental-health-transitional-living-facilities;and
5	<pre>fit)-inpatientfreestandingorintermediate</pre>
6	transitional-living-facilities-for-alcohol/drug-treatment-or
7	emergency-detoxification;
8	<pre>fb;(a) for the department of social and rehabilitation</pre>
9	services:
.0	(i) adult services homes for the developmentally
1	disabled, adult independent and semi-independent living
.2	facilities, and adult foster care facilities;
. 3	(ii) children's services achievement homes, maternity
. 4	homes, attention homes, aftercare group homes, district
.5	youth guidance homes, foster family care facilities,
.6	child-care agencies, and community homes for the
.7	developmentally disabled; and
.8	(iii) nonmedical facilities, including mental health
9	transitional living facilities;
0	+c+(b) for the department of health and environmental
21	sciences:
22	(i) public accommodations, including roominghouses and
23	retirement homes, hotels, and motels;
24	(ii) health care facilities or services, including
5	hospitals, skilled and intermediate pursing home services.

L	and intermediate care nursing home services for the mentally
2	retarded;
3	(iii) freestanding medical facilities or care,
4	including infirmaries, kidney treatment centers, and home
5	health agencies; and
6	(iv) personal care facilities; and
7	(v) nonmedical facilities, including inpatient
В	freestanding or intermediate transitional living facilities
9	for alcohol/drug treatment or emergency detoxification.
0	(3) "Inspecting authority" means the department or
1	agency authorized by statute to perform a given inspection
2	necessary for certification for licensure.
3	(4) "Licensing agency" means the agency that is
4	authorized by statute to issue the license."
5	Section 32. Section 50-21-103, MCA, is amended to
6	read:
7	"50-21-103. Limitations on right to perform autopsy or
8	dissection. The right to perform an autopsy, dissect a human

body, or make any post-mortem examination involving

dissection of any part of a body is limited to cases where:

then only to the extent that the coroner may authorize

(2) a coroner is authorized to hold an inquest and

(3) authorized by a written statement of the deceased,

(1) specifically authorized by law;

dissection or autopsy;

whether the statement is of a testamentary character or
thereise;

- (4) authorized by the husband, wife, or next of kin responsible by law for burial to determine the cause of death and then only to the extent so authorized;
- (5) the decedent died in a hospital operated by the United States veterans administration, the Montana school for the deaf and blind, or an institution in the department of institutions justice or social and rehabilitation services leaving no surviving husband, wife, or next of kin responsible by law for burial and the manager or superintendent of the hospital or institution where death occurred obtains authority on order of the district court to determine the cause of death and then only to the extent authorized by court order;
 - (6) the decedent died in the state, was a resident, but left no surviving husband, wife, or next of kin charged by law with the duty of burial and the attending physician obtains authority on order of the district court for the purpose of ascertaining the cause of death and then only to the extent authorized by court order after it has been shown that the physician made diligent search for the next of kin responsible by law for burial."
- Section 33. Section 53-1-105, MCA, is amended to read:

 "53-1-105. Disposition of contraband in correctional

- institution. (1) Cash possessed in excess of the amount allowed by the policy of an adult or youth correctional institution or obtained in violation of such a policy may be confiscated and deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund.
 - (2) The department departments of institutions justice and social and rehabilitation services shall adopt policies for the disposition of other contraband confiscated from inmates or residents in adult or youth correctional institutions. Receipts from the sale of contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund."
 - Section 34. Section 53-1-106, MCA, is amended to read:

 "53-1-106. Exchange of offenders under treaty. If a treaty in effect between the United States and a foreign country provides for the transfer, by exchange or otherwise, of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the state and subject to the terms of the treaty, authorize the director of the department of institutions justice or social and rehabilitation services to consent to the transfer or exchange of offenders in Montana institutions and take any other action necessary to initiate the participation of this state in the treaty."
- 25 Section 35. Section 53-1-201, MCA, is amended to read:

1	"53-1-201. Purpose of department of social and
2	rehabilitation services. The department of social and
3	rehabilitation services shall utilize at maximum efficiency
4	the resources of state government in a coordinated effort
5	to:
6	restore the physically or mentally disabled;
7	†2}rehabilitate-the-wiolators-of-law;
8	(3) sustain the vigor and dignity of the aged;
9	<pre>+4+(3) provide for children in need of temporary</pre>
10	protection or correctional counseling;
11	+5+(4) train children of limited mental capacity to
12	their best potential;
13	<pre>f6}[5] rededicate the resources of the state to the</pre>
14	productive independence of its now dependent citizens; and
15	+7+(6) coordinate and apply the principles of modern
16	institutional administration to the institutions ofthe
17	state in the department."
18	Section 36. Section 53-1-202, MCA, is amended to read:
19	"53-1-202. (Temporary) Institutions in department
20	departments. (1) The following institutions are in the
21	department of social and rehabilitation services:
22	(a) Montana state hospital;
23	(b) Montana veterans' home;
24	{c}State-prison;

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te>(d) Pine Hills school;
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          (f)(e) Montana developmental center;
          fg)(f) Montana center for the aged;
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          th}--Swan-River-youth-forest-camp;
          fi)(g) Eastmont human services center;
          (j)(h) Montana youth treatment center; and
          (k)(i) Any any other institution which provides care
     and services for juvenile delinquents, including but not
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     limited to youth forest camps, except the Swan River youth
     forest camp, and juvenile reception and evaluation centers.
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          (2) The following institutions are in the department
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     of justice:
          (a) State prison; and
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          (b) Swan River youth forest camp.
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          (2)(3) A state institution may
                                                not be moved,
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     discontinued, or abandoned without prior consent of the
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     legislature.
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          53-1-202. (Effective as provided in Compiler's
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     Comments) Institutions in department departments. (1) The
     following institutions are in the department of social and
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      rehabilitation services:
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          (a) Montana state hospital;
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          (b) Montana veterans' home;
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          {c}--State-prison;
          (d)(c) Mountain View school;
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(d)(c) Mountain View school;

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1 tet(d) Pine Hills school: 2 ff(e) Montana developmental center; (g)(f) Montana center for the aged: 3 th)--Swan-River-youth-forest-camp; 5 tit(g) Eastmont human services center; and (j)(h) Any any other institution which provides care and services for juvenile delinquents, including but not 7 8 limited to youth forest camps, except the Swan River youth 9 forest camp, and juvenile reception and evaluation centers. 10 (2) The following institutions are in the department 11 of justice: 12 (a) State prison; and 13 (b) Swan River youth forest camp. 14 (2)(3) A state institution may not be moved, 15 discontinued, or abandoned without prior consent of the 16 legislature." 17 Section 37. Section 53-1-203, MCA, is amended to read: "53-1-203. Powers 18 and duties department 19 departments. (1) The department departments of justice and social and rehabilitation services shall: 20

(2)(b) subject to the functions of the department of administration, lease or purchase lands for use by institutions in that department and classify those lands to determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in the institutions; (3)--contract---with----private----nonprofit----Montana corporations--to--establish--and--maintain--community--based prerelease-centers-for-purposes-of-preparing-inmates-of--the Montana--state-prison-who-are-approaching-parole-eligibility or-discharge-for-release-into--the--community;--the--centers shall-provide-a-less-restrictive-environment-than-the-prison while--maintaining--adequate--security;-the-centers-shall-be operated-in-coordination-with-other-department--correctional programs, -- including-the-supervised-release-program-provided for-in-Title-467--chapter--237--part--47---Nothing--in--this subsection---shall--affect--the--department's--authority--to operate-and-maintain-community-based-prerelease--centers--in existence-on-July-147-1982-

LC 0323/01

(4+)(c) utilize the staff and services of other state
agencies and units of the Montana university system, within
their respective statutory functions, to carry out its their

duties of the state board of pardons;

(1) (a) adopt rules for the admission, custody.

transfer, and release of residents of institutions in their

departments except as otherwise provided by law: however, no

such rules may amend or alter the statutory powers and

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LC 0323/01 LC 0323/01

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functions under this title:

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f5+(d) propose programs to the legislature to meet the projected long-range needs of institutions in their department, including programs and facilities for the diagnosis, treatment, care, and aftercare of persons placed in institutions; and

7 (6)(e) encourage the establishment of programs at the local level for the prevention and rehabilitation of physical and mental disability.

(2) In addition to the duties listed in subsection (1), the department of justice shall contract with private nonprofit Montana corporations to establish and maintain community based prerelease centers for purposes of preparing inmates of the Montana state prison who are approaching parole eligibility or discharge for release into the community. The centers must provide a less restrictive environment than the prison while maintaining adequate security and must operate in coordination with other department of justice correctional programs, including the supervised release program provided for in Title 46, chapter 23, part 4. Nothing in this subsection affects the authority of the department of justice to operate and maintain community based prerelease centers in existence on July 14, 1982."

Section 38. Section 53-1-204, MCA, is amended to read:

"53-1-204. Responsibility of warden and 1 superintendents of institutions. The warden or and the of institutions in the department superintendents departments of justice and social and rehabilitation services are responsible for the immediate management and control of their respective institutions, subject to the general policies and programs established by the department departments."

Section 39. Section 53-1-206, MCA, is amended to read: "53-1-206. Participation by institutions in research programs. The department of justice may direct a penal and corrective institution of the state to participate in and cooperate with programs of research and development being conducted and carried on by any units of the Montana university system, by any of the other educational institutions of the state of Montana, or by any foundation agency thereof in the fields of science, health, education, and natural resources. These programs may include the voluntary participation of the inmates of the institution in testing and experimental work conducted as a part thereof. Any funds received from the authorized programs may be shared with the participating inmates or otherwise held and used for the welfare and rehabilitation thereof and may not become a part of the regular budgeted operation of the institution."

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1	Section 40. Section 53-1-301, MCA, is amended to read:
2	*53-1-301. Permitted institutional industries, powers
3	of department departments, and incentive pay to inmates. (1)
4	Except as provided in subsection (3), the department of
5	justice or social and rehabilitation services may:

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- (a) establish industries in institutions in that department which will result in the production or manufacture of such products and the rendering of such services as may be needed by any department or agency of the state or any political subdivision thereof, by any agency of the federal government, by any other states or their political subdivisions, or by nonprofit organizations and that will assist in the rehabilitation of residents in institutions;
- (b) contract with private industry for the sale of goods or components manufactured or produced in shops under its jurisdiction;
- (c) print catalogs describing goods manufactured or produced by institutions <u>in that department</u> and distribute the catalogs;
- (d) fix the sale price for goods produced or manufactured at institutions in that department. Prices shall not exceed prices existing in the open market for goods of comparable quality.
- 25 (e) require institutions in that department to

purchase needed goods from other institutions;

- 2 (f) provide for the repair and maintenance of property
 3 and equipment of institutions in that department by
 4 residents of institutions:
- 5 (g) provide for construction projects up to the 6 aggregate sum of \$25,000 per project, by residents of 7 institutions,--provided,-however,-said in that department if 8 the construction work is not covered by a collective 9 bargaining agreement;
- 10 (h) provide for the repair and maintenance at an institution in that department of furniture and equipment of 12 any state agency;
- 13 (i) provide for the manufacture at an institution in
 14 that department of motor vehicle license plates and other
 15 related articles;
- 16 (j) with-the-approval-of--the--department; sell
 17 manufactured or agricultural products and livestock on the
 18 open market;
- (k) provide for the manufacture at an institution in

 that department of highway, road, and street marking signs

 for the use of the state or any of its political

 subdivisions, except when the manufacture of the signs is in

 violation of a collective bargaining contract;
- 24 (1) pay an inmate or resident of an institution in 25 that department from receipts from the sale of products

LC 0323/01

produced or manufactured or services rendered in a program
in which he is working.

- 3 (2) (a) Payment for the performance of work may be 4 based on the following criteria:
- 5 (i) knowledge and skill:
- 6 (ii) attitude toward authority;
- 7 (iii) physical effort;

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- 8 (iv) responsibility for equipment and materials:
- 9 (v) regard for safety of others.
- 10 (b) The maximum rate of pay shall be determined by the 11 appropriation established for each program.
 - (3) Except as provided in subsection (4), furniture made in the prison may be purchased by state agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made furniture may be sold only through licensed wholesale or retail furniture outlets or through export firms for sale to international markets.
 - (4) Any state institution, facility, or program operated by the department of justice may purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter 4."
- Section 41. Section 53-1-303, MCA, is amended to read:
 "53-1-303. Prohibited acts. Unless permitted by the
- 24 department of justice or social and rehabilitation services,
- 25 arranging for the labor of a resident of an institution is

prohibited."

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Section 42. Section 53-1-304, MCA, is amended to read:

LC 0323/01

3 "53-1-304. Supervision of industries program. The \underline{An}

4 industries program shall be supervised by the director of

the department of-institutions in which the institution is

6 located or his designated representative, provided the

7 administration of the industries program is separate from

8 the administration of any the institution where in which the

9 program may-be is located."

10 Section 43. Section 53-1-401, MCA, is amended to read:

11 "53-1-401. Definitions. As used in this part, unless

12 the context requires otherwise, the following definitions

13 apply:

- 14 (1) "Ancillary charge" means identifiable, direct,
- 15 resident service expenses as budgeted, including but not
- limited to operating room, anesthesia, x-ray, laboratory,
- 17 blood bank, oxygen therapy, physical therapy, medical
- 18 supply, drug, and specialized medical equipment expenses.
- 19 (2) "Care" means the care, treatment, support,
- 20 maintenance, and other services rendered by the department
 - to a resident.
- 22 (3) "Department" means the department of institutions
- 23 social and rehabilitation services provided for in Title 2,
- 24 chapter 15, part 23 22.
- 25 (4) "Financially responsible person" means a spouse of

a resident, the natural or adoptive parents of a resident under 18 years of age, or a guardian or conservator to the extent of the guardian's or conservator's responsibility for the financial affairs of the person who is a resident under applicable Montana law establishing the duties and limitations of guardianships or conservatorships.

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- (5) "Full-time equivalent resident load" means the total daily resident count for the fiscal year divided by the number of days in the year.
- (6) "Long-term resident" means a resident in an institution listed in 53-1-402 for a continuous period in excess of 120 days. No absence of a resident from the institution due to a temporary or trial visit may be counted as interrupting the accrual of the 120 days required to attain the status of a long-term resident.
- (7) "Per diem" means the gross daily cost of operating an institution as budgeted, including depreciation and associated department costs but excluding the cost of educational programs, federal grants, ancillary charges, and costs not directly identified with patient care.
- (8) "Resident" means any person who is receiving care from or who is a resident of an institution listed in 53-1-402.
- 24 (9) "Third-party resource" means but is not limited to
 25 applicable medicare, medicaid, and personal health care

benefits."

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- 2 Section 44. Section 53-6-301, MCA, is amended to read: 3 "53-6-301. Location and primary function of hospital.
- 4 (1) The agency providing comprehensive health care services
- 5 at Galen and Warm Springs, Montana, is the Montana state
- 6 hospital and as its primary function provides:
 - (a) care and treatment of mentally ill persons;
- 8 (b) diagnosis, care, evaluation, treatment, referral,
 9 and rehabilitation of persons afflicted with chemical
 10 dependency;
- 11 (c) care and treatment of institutional residents or
 12 clients of in the department's community and residential
 13 programs of the department of social and rehabilitation
 14 services who require acute hospital care or nursing care;
 - (d) treatment of tuberculosis and silicosis (commonly called miner's consumption);
- 17 (e) detoxification of those persons who seek relief 18 from the disabling effects of alcohol and other chemical 19 substances; and
- 20 (f) contingent upon space and funds, the treatment of 21 pulmonary diseases and other medical or organic disorders.
 - (2) The campus facility at Warm Springs, Montana, is the component designated as the mental health facility, as defined in 53-21-102, of the department of institutions social and rehabilitation services for the care and

1 treatment of mentally ill persons.

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(3) The designated campus facilities at Galen. Montana, are the components designated as the department's residential treatment facilities for those persons suffering from chemical dependency.

LC 0323/01

- 6 (4) The campus facility at Galen, Montana, licensed to 7 provide acute hospital and intermediate nursing care, is the facility component designated for the care and treatment of 8 the medical and organic disorders described in this 10 section."
- Section 45. Section 53-20-213, MCA, is amended to 11 12 read:
 - "53-20-213. Departments to cooperate. The department of-institutions, the department of social and rehabilitation services, the department of health and environmental sciences, and the office of superintendent of public instruction shall cooperate on all aspects of each agency's respective programs for the developmentally disabled."
- Section 46. Section 53-20-214, MCA, is amended to 19 20 read:
- 21 "53-20-214. Certain transfers of funds authorized. 22 Funds appropriated to the department -- of -- institutions, 23 Montana state hospital, or Montana developmental center may be transferred by budget amendment as provided in appropriation acts and with the approval of the governor to

- the department of social and rehabilitation services for
- 2 comprehensive developmental disability systems if residents
- of any of those institutions are transferred to a 3
- comprehensive developmental disability system resulting in
- less expenditures at that institution than allowed by
- legislative appropriation."
- 7 Section 47. Section 53-21-102, MCA, is amended to
- read:
- "53-21-102. Definitions. As used in this part, the 9
- following definitions apply: 10
- (1) "Board" or "mental disabilities board of visitors" 11
- 12 means the mental disabilities board of visitors created by
- 13 2-15-211.
- (2) "Court" means any district court of the state of 14
- 15 Montana.
- 16 (3) "Department" means the department of institutions
- social and rehabilitation services provided for in Title 2, 17
- chapter 15, part 23 22. 18
- (4) "Emergency situation" means a situation in which 19
- 20 any person is in imminent danger of death or serious bodily
- 21 harm from the activity of a person who appears to be
- seriously mentally ill. 22
- (5) "Mental disorder" means any organic, mental, or 23
- emotional impairment which has substantial adverse effects 24
- on an individual's cognitive or volitional functions. 25

- (6) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center approved by the department. No correctional institution or facility or jail is a mental health facility within the meaning of this part.
- (7) "Next of kin" shall include but need not be limited to the spouse, parents, adult children, and adult brothers and sisters of a person.
- (8) "Patient" means a person committed by the court for treatment for any period of time or who is voluntarily admitted for treatment for any period of time.
- (9) "Peace officer" means any sheriff, deputy sheriff, marshal, policeman, or other peace officer.
 - (10) "Professional person" means:
- 17 (a) a medical doctor; or

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- 18 (b) a person who has been certified, as provided for
 19 in 53-21-106, by the department.
- 20 (11) "Reasonable medical certainty" means reasonable
 21 certainty as judged by the standards of a professional
 22 person.
- 23 (12) "Respondent" means a person alleged in a petition 24 filed pursuant to this part to be seriously mentally ill.
- 25 {13} "Friend of respondent" means any person willing

- 1 and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal proceedings, including consultation with legal counsel and 3 others. The friend of respondent may be the next of kin, the 5 person's conservator or legal quardian, if any, representatives of a charitable or religious organization, or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. 8 9 Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a 10 11 friend of respondent, the court shall consider the preference of the respondent. The court may at any time, for 12 good cause shown, change its designation of the friend of 13 14 respondent.
- (14) "Seriously mentally ill" means suffering from a 15 16 mental disorder which has resulted in self-inflicted injury 17 or injury to others or the imminent threat thereof or which 18 has deprived the person afflicted of the ability to protect his life or health. For this purpose, injury means physical 19 20 injury. No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment 21 22 because he is an epileptic, mentally deficient, mentally 23 retarded, senile, or suffering from a mental disorder unless 24 the condition causes him to be seriously mentally ill within 25 the meaning of this part.

LC 0323/01

1 (15) "State hospital" means the Montana state
2 hospital."

3 Section 48. Section 53-21-201, MCA, is amended to 4 read:

5 "53-21-201. Definitions. As used in this part, the 6 following definitions apply:

- (1) "Public mental health facility" means any public service or group of services offering mental health care on an inpatient or outpatient basis to the mentally ill.
- 10 (2) "Community comprehensive mental health center"
 11 means a facility, not necessarily encompassed within one
 12 building, offering at least the following six basic mental
 13 health services to the public:
- 14 (a) 24-hour inpatient care;
- 15 (b) part-time hospitalization;
- 16 (c) outpatient service:

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- 17 (d) emergency service;
- (e) consultation and education in mental health:
- 19 (f) precare and aftercare.
- 20 (3) "Mental health clinic" means an outpatient 21 facility offering mental health care to the public.
- 22 (4) "Department" means the department of institutions
- 23 social and rehabilitation services provided for in Title 2,
- 24 chapter 15, part 22."
- 25 Section 49. Section 53-24-103, MCA, is amended to

read:

2 "53-24-103. Definitions. For purposes of this chapter,

LC 0323/01

- 3 the following definitions apply:
- 4 (1) "Alcoholic" means a person who has a chronic
- 5 illness or disorder of behavior characterized by repeated
- 6 drinking of alcoholic beverages to the extent that it
- 7 endangers the health, interpersonal relationships, or
- 8 economic function of the individual or public health,
- 9 welfare, or safety.
- 10 (2) "Approved private treatment facility" means a
- 11 private agency (whose function is the treatment,
- 12 rehabilitation, and prevention of chemical dependency) and
- 13 meeting the standards prescribed in 53-24-208(1) and
 - approved under 53-24-208.
 - (3) "Approved public treatment facility" means:
- 16 (a) a treatment agency operating under the direction
- 17 and control of the department as a state agency and approved
- 18 under 53-24-208; or
- 19 (b) a treatment agency operating under the direction
- 20 and control of a local government and approved under
- 21 53-24-208.

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- 22 (4) "Chemical dependency" means the use of any
- 23 chemical substance, legal or illegal, which creates
- 24 behavioral or health problems, or both, resulting in
- 25 operational impairment. This term includes alcoholism, drug

dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, welfare, or safety.

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LC 0323/01

- 4 (5) "Department" means the department of institutions
 5 health and environmental sciences provided for in 2-15-2301
 6 2-15-2101.
 - (6) "Family member" is the spouse, mother, father, child, or member of the household of a chemically dependent person whose life has been affected by the actions of the chemically dependent person and who may require treatment.
 - (7) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.
- 16 (8) "Incompetent person" means a person who has been
 17 adjudged incompetent by the district court.
- 18 (9) "Intoxicated person" means a person whose mental
 19 or physical functioning is substantially impaired as a
 20 result of the use of alcohol.
- 21 (10) "Prevention" has meaning on four levels; these
 22 are:
- 23 (a) education to provide information to the school 24 children and general public relating to chemical dependency 25 treatment and rehabilitative services and to reduce the

consequences of life experiences acquired by contact with a
chemically dependent person;

LC 0323/01

- 3 (b) early detection and recovery from the illness 4 before lasting emotional or physical damage, or both, have 5 occurred;
- 6 (c) if lasting emotional or physical damage, or both,
 7 have occurred, to arrest the illness before full disability
 8 has been reached;
- 9 (d) the provision of facility requirements to meet 10 division program standards and improve public accessibility 11 for services.
- 12 (11) "Treatment" means the broad range of emergency,
 13 outpatient, intermediate, and inpatient services and care,
 14 including diagnostic evaluation, medical, psychiatric,
 15 psychological, and social service care, vocational
 16 rehabilitation, and career counseling, which may be extended
 17 to chemically dependent persons, intoxicated persons, and
 18 family members."
- 19 Section 50. Section 53-30-212, MCA, is amended to read:
- "53-30-212. Commutation of sentence to state prison
 and transfer of prisoner to juvenile correctional facility.
 (1) Upon the application of a person under 21 years of age
 who has been sentenced to the state prison or upon the
 application of his parents or guardian, the governor may,

after consulting with the department of institutions social and rehabilitation services and with the approval of the board of pardons, commute the sentence by committing such person to the department until he is 21 years of age or until sooner placed or discharged.

- (2) If such person's behavior after being committed to the department of social and rehabilitation services indicates that he is not a proper person to reside at one of the department's juvenile facilities, the governor, after consulting with the department and with the approval of the board of pardons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the department's juvenile facilities or while a refugee from one of the department's juvenile facilities shall not be considered as a part of his original sentence.
- (3) Upon recommendation of the warden and with the approval of the department of social and rehabilitation services, a person under 21 years of age who has been sentenced to the state prison may be transferred to any juvenile facility under the jurisdiction and control of the department.
- (4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the

- warden and with the approval of the department of justice, such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan River youth forest camp. Prior to departmental approval of the transfer by the department of justice, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.
 - (5) If such person's behavior after transfer to such juvenile facility indicates he might be released on parole or his sentence be commuted and he be discharged from custody, the superintendent of such facility, with the approval of the department of justice, may make an appropriate recommendation to the state board of pardons and the governor, who may in their discretion parole such person or commute his sentence.
 - (6) If such person's behavior after transfer to a such juvenile facility indicates he is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of justice, such person shall be returned to the state prison

to serve out his unexpired term."

and 53-1-101, MCA, are repealed.

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Section 51. Section 87-2-802, MCA, is amended to read: 2 "87-2-802. Veterans in VA hospitals and residents of 3 state institutions. Any veteran who is a patient residing at 4 a hospital operated by the veterans administration, within 5 or outside the state, and residents of all institutions 6 under the jurisdiction of the department departments of 7 institutions justice or social and rehabilitation services, 8 except the Montana state prison at Deer Lodge, will be 9 entitled to fish without a license. Such residents shall 10 carry a permit on a form prescribed by the department and 11 12 signed by the superintendent of the institution in lieu of a 13 license." NEW SECTION. Section 52. Repealer. Sections 2-15-2301 14

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB201, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act abolishing the Department of Institutions; transferring the functions of the Department to the Departments of Social and Rehabilitation Services, Justice, and Health and Environmental Sciences.

ASSUMPTIONS:

N/A

FISCAL IMPACT:

With a consolidation of state departments it is possible to reduce some administrative staff expenditures, i.e. at the Director's level. It is not possible to quantify the savings in the short time period given for fiscal notes.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

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AVID L. HUNTE	R, ByDG	ET DIREC	TOR	7	/	
office of Budg						

BUD CAMPBELL, 1	VUMNTOC	CDOMCOL	•	
DOD CHALDEN 1	LYMITA	SLONSOF		
Fiscal Note for	HB2	201, as	introduced.	•

DATE

HB 0201/02

APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	HOUSE BILL NO. 201
2	INTRODUCED BY CAMPBELL, RANEY, PATTERSON, DRISCOLL, SWIFT,
3	GLASER, RAPP-SVRCEK, THAYER, CODY, HAYNE, PETERSON, KELLER,
4	O'CONNELL, DEVLIN, GIACOMETTO, THOMAS, DAILY, COBB, MOORE,
5	MENAHAN, HARRINGTON, REHBERG, MEYER, D. BROWN, ASAY,
6	PAVLOVICH, JENKINS, FRITZ, SWYSGOOD, SWITZER, NELSON,
7	PHILLIPS, SIMON, LYNCH, GALT,
8	BOYLAN, E. SMITH, MCLANE, BECK
9	
LO	A BILL FOR AN ACT ENTITLED: "AN ACT ABOLISHING THE
11	DEPARTMENT OF INSTITUTIONS; TRANSFERRING THE FUNCTIONS OF
12	THE DEPARTMENT TO THE DEPARTMENTS OF SOCIAL AND
13	REHABILITATION SERVICES, JUSTICE, AND HEALTH AND
14	ENVIRONMENTAL SCIENCES; AMENDING SECTIONS 2-15-104,
15	2-15-211, 2-15-2204, 2-15-2302, 2-18-103, 2-18-303,
16	7-22-2151, 10-2-404, 17-3-1001, 17-3-1002, 18-4-133,
17	20-7-404, 20-7-422, 20-9-304, 41-3-1103, 41-3-1123,
18	41-5-103, 44-5-202, 46-19-202, 46-19-303, 46-19-305,
19	46-23-103, 46-23-401, 46-23-1001, 50-1-202, 50-3-102,
20	50-5-101, 50-8-101, 50-21-103, 53-1-105, 53-1-106, 53-1-201
21	THROUGH 53-1-204, 53-1-206, 53-1-301, 53-1-303, 53-1-304,
22	53-1-401, 53-6-301, 53-20-213, 53-20-214, 53-21-102,
23	53-21-201, 53-24-103, 53-30-212, AND 87-2-802, MCA; AND
24	REPEALING SECTIONS 2-15-2301 AND 53-1-101, MCA."
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1	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
2	Section 1. Section 2-15-104, MCA, is amended to read:
3	"2-15-104. Structure of executive branch. (1) In
4	accordance with the constitution, all executive and
5	administrative offices, boards, commissions, agencies, and
6	instrumentalities of the executive branch of state
7	government and their respective functions are allocated by
8	this chapter among and within the following departments or
9	entities:
10	(a) department of administration;
11	(b) department of military affairs;
12	(c) department of revenue;
13	(d) state board of education;
14	(e) department of labor and industry;
15	<pre>(f) department of commerce;</pre>
16	<pre>(g) department of justice;</pre>
17	(h) department of health and environmental sciences;
18	(i) department of social and rehabilitation services;
19	(j)department-of-institutions;
20	<pre>tk)(j) department of highways;</pre>
21	(1)(k) department of public service regulation;
22	$\frac{m}{(1)}$ department of agriculture;
23	<pre>fn)(m) department of livestock;</pre>
24	<pre>fot(n) department of state lands;</pre>

tp)(0) department

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and

natural resources

HB 0201/02

conservation;
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- 2 fq)(p) department of fish, wildlife, and parks.
- (2) For its internal structure, each department shall
 adhere to the following standard terms:
- 5 (a) The principal unit of a department is a division.6 Each division shall be headed by an administrator.
- 7 (b) The principal unit of a division is a bureau. Each8 bureau shall be headed by a chief.
- 9 (c) The principal unit of a bureau is a section. Each 10 section shall be headed by a supervisor."
 - NEW SECTION. Section 2. Functions of department of institutions transferred to department of social and rehabilitation services. (1) The following functions of the department of institutions and of the director of the department of institutions are transferred to the department of social and rehabilitation services and the director of the department of social and rehabilitation services as defined in Title 2, chapter 15, part 22:
- 19 (a) relating to the Montana veterans' home under Title
 20 10, chapter 2, part 4;
- 21 (b) operating facilities for youth committed to the 22 department as provided in 41-3-1104;
- 23 (c) relating to the Montana Youth Court Act in Title 24 41, chapter 5;
- 25 (d) relating to custody of a defendant suffering from

- 1 a mental disease or defect under 46-14-221, 46-14-222, and
 2 46-14-312;
- 3 (e) transferring patients from the Galen campus
 4 facility of the Montana state hospital under 53-6-303;
- 5 (f) treating developmentally disabled persons under 6 Title 53, chapter 20, part 1;
- 7 (g) relating to state-owned facilities under Title 53, 8 chapter 20, part 5; AND
- 9 (h)--treating--the-mentally-ill-raged-rand-youths-under
 10 Title-53-rchapter-21:
- 11 (i)--acting-as-administrator-of-the-interstate--compact
 12 on-mental-health-under-Title-537-chapter-22;-and
- 15 (2) Unless inconsistent with this act, any reference
 16 to the "department of institutions" or "department" (of
 17 institutions) in the sections listed in subsection (1) are
 18 changed to "department of social and rehabilitation
 19 services" or "department" (of social and rehabilitation
 20 services). The code commissioner shall conform internal
 21 references and grammar to these changes.
- 22 (3) The governor may by executive order assign to the 23 department of social and rehabilitation services in a manner 24 consistent with this act functions allocated to the 25 department of institutions by the 50th legislature and not

-3- HB 201

-4- HB 201

НВ 0201/02

transferred by this act.

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NEW SECTION. Section 3. Functions of department of institutions transferred to department of justice. (1) The following functions of the department of institutions and of the director of the department of institutions are transferred to the department of justice and the attorney general as provided in Title 2, chapter 15, part 20:

- (a) paying inquest costs relating to a death at the state prison under 7-4-2913;
- 10 (b) paying costs relating to criminal prosecution of 11 an offense committed in the state prison under 7-6-2427;
- 12 (c) advertising for bids before letting a contract
 13 under 18-2-301:
 - (d) relating to ensuring the accuracy of criminal history records under 44-5-213;
- 16 (e) relating to jurisdiction following revocation of a 17 suspended or deferred sentence under 46-18-203;
 - (f) certifying prison population statistics to the board of pardons under 46-23-201;
- 20 (g) relating to probation, parole, and clemency under
 21 Title 46. chapter 23:
- 22 (h) establishing and charging rates for room and board 23 for persons committed to residential community correctional 24 programs under 53-1-501; and
- 25 (i) operating correctional institutions and facilities

for adult offenders under Title 53, chapter 30, part 1.

- 2 (2) Unless inconsistent with this act, any reference
 3 to the "department of institutions" or "department" (of
 4 institutions) in the sections listed in subsection (1) are
 5 changed to "department of justice" or "department" (of
 6 justice). The code commissioner shall conform internal
 7 references and grammar to these changes.
 - (3) The governor may by executive order assign to the department of justice in a manner consistent with this act functions allocated to the department of institutions by the 50th legislature and not transferred by this act.
- NEW SECTION. Section 4. Functions of department of 12 institutions transferred to department of health and 13 environmental sciences. (1) The following functions of the 14 department of institutions and the director of the 115 department of institutions are transferred to the department 16 17 of health and environmental sciences and the director of the department of health and environmental sciences as defined 18 19 in Title 2, chapter 15, part 21:
- 20 (a) concerning distribution of liquor license, beer,
 21 and wine tax revenues under 16-1-404, 16-1-408, and
 22 16-1-411;
- 23 (B) TREATING THE MENTALLY ILL, AGED, AND YOUTHS UNDER
 24 TITLE 53, CHAPTER 21;
- 25 (C) ACTING AS ADMINISTRATOR OF THE INTERSTATE COMPACT

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HB 0201/02

HB 0201/02

ON MENTAL HEALTH UNDER TITLE 53. CHAPTER 22:

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- 2 (b)(D) treating alcoholism and drug dependency under 3 Title 53, chapter 24; and
- (c)(E) relating to approved alcohol treatment programs 4 5 for drivers under 61-8-714 and 61-8-722.
- (2) Unless inconsistent with this act, any reference 7 to the "department of institutions" or "department" (of 8 institutions) in the sections listed in subsection (1) are 9 changed to "department of health and environmental sciences" 10 or "department" (of health and environmental sciences). The 11 code commissioner shall conform internal references and 12 grammar to these changes.
 - (3) The governor may by executive order assign to the department of health and environmental sciences in a manner consistent with this act functions allocated to the department of institutions by the 50th legislature and not transferred by this act.
- 18 Section 5. Section 2-15-211, MCA, is amended to read: 19 "2-15-211. Mental disabilities board of visitors --20 composition -- allocation. (1) The governor shall appoint a 21 mental disabilities board of visitors.
 - (2) The board shall consist of five persons representing but not limited to consumers, doctors of medicine, and the behavioral sciences, at least three of whom may not be professional persons and at least one of

- whom shall be a representative of an organization concerned 1 with the care and welfare of the mentally ill and one
- representative of an organization concerned with the care 3
- and welfare of the mentally retarded or developmentally
 - No one may be a member of the board who is a disabled.
- full-time agent or employee of the department of
- institutions social--and-rehabilitation-services HEALTH AND
- ENVIRONMENTAL SCIENCES or a mental health facility affected
- by Title 53, chapter 20, part 1, and chapter 21, part 1, 9
- except this prohibition does not affect any employee of a 10
- state college or university. 11
- 12 (3) The mental disabilities board of visitors shall be attached to the governor for administrative purposes. It 13
- 14 may employ staff for the purpose of carrying out its duties
- 15 as set out in Title 53, chapter 20, part 1, and chapter 21,
- 16 part 1."
- 17 Section 6. Section 2-15-2204, MCA, is amended to read:
- "2-15-2204. Developmental disabilities planning and 18
- 19 advisory council. (1) The governor shall appoint a
- developmental disabilities planning and advisory council in 20
- 21 accordance with the provisions of this section.
- 22 (2) The council is composed of 22 21 members and
- 23 consists of the following:
- 24 (a) the directors of the departments of social and
- 25 rehabilitation services, and health and environmental

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sciences,-and-institutions or their designees;

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- (b) the superintendent of public instruction or a 2 3 designee;
- (c) one recognized private professional in each discipline of medicine, law, psychology, social work, and 5 6 special education:
 - (d) two members of the state senate:
 - (e) two members of the state house of representatives;
 - (f) four consumers or representatives of consumers or consumer organizations in the discipline of developmental disabilities; and
 - (q) one member of each of the five regional councils provided for in 53-20-207, who shall also be consumers or representatives of consumers or consumer organizations in the discipline of developmental disabilities.
 - (3) (a) Each member or his designee who serves on the council pursuant to subsection (2)(a) or (2)(b) of this section shall serve for a term concurrent with his respective term as a director or the superintendent of public instruction, as the case may be. Upon his removal from office, his or his designee's term as a member of the council is automatically terminated and his successor in office or his successor's designee is automatically a member of the council.
- 25 (b) Each member who serves on the council pursuant to

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1 subsection (2)(d) or (2)(e) of this section shall be 2 appointed or reappointed annually by the governor.

- (c) Eight of the members serving on the council pursuant to subsection (2)(c), (2)(f), or (2)(q) of this section shall be appointed by the governor to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining six members serving on the council shall be appointed by the governor to serve for terms ending on January 1 of the third year of the succeeding qubernatorial term and until their successors are appointed.
- 12 (4) The council is allocated to the department for 13 administrative purposes only and, unless inconsistent with 14 the provisions of this section and 53-20-206, the provisions 15 of 2-15-121 apply."
- 16 Section 7. Section 2-15-2302, MCA, is amended to read: 17 "2-15-2302. Board of pardons -- composition -allocation -- quasi-judicial. (1) There is a board of 18 19 pardons.
- (2) The board consists of three members and an 20 auxiliary member, at least one of whom shall have particular knowledge of Indian culture and problems. Members of the 22 23 board, including the auxiliary member, shall possess academic training which has qualified them for professional practice in a field such as criminology, education,

psychiatry, psychology, law, social work, sociology, or guidance and counseling. Related work experience in the areas listed may be substituted for these educational requirements.

- 5 (3) The auxiliary member shall attend any meeting that 6 a regular board member is unable to attend, and at that time 7 the auxiliary member has all the rights and responsibilities 8 of a regular board member.
- 9 (4) The board is allocated to the department of
 10 justice for administrative purposes only as prescribed in
 11 2-15-121. However, the board may hire its own personnel, and
 12 2-15-121(2)(d) does not apply.
- 13 (5) The board, including the auxiliary member, is
 14 designated as a quasi-judicial board for purposes of
 15 2-15-124, except board members shall be compensated as
 16 provided by legislative appropriation."
- Section 8. Section 2-18-103, MCA, is amended to read:

 "2-18-103. Officers and employees excepted. Parts 1

 and 2 do not apply to the following positions in state

 government:
- 21 (1) elected officials:
- 22 (2) county assessors and their chief deputy;
- 23 (3) officers and employees of the legislative branch;
- 24 (4) judges and employees of the judicial branch;
- 25 (5) members of boards and commissions appointed by the

- governor, appointed by the legislature, or appointed by
 other elected state officials;
- 3 (6) officers or members of the militia;
- 4 (7) agency heads appointed by the governor;
- 5 (8) academic and professional administrative personnel 6 with individual contracts under the authority of the board 7 of regents of higher education;
- 8 (9) academic and professional administrative personnel
 9 and live-in houseparents who have entered into individual
 10 contracts with the state school for the deaf and blind under
 11 the authority of the state board of public education;
- 12 (10) teachers under the authority of the department-of
 13 institutions departments of justice, HEALTH AND
 14 ENVIRONMENTAL SCIENCES, or social and rehabilitation
 15 services;
- 16 (11) investment officer and assistant investment 17 officer of the board of investments; and
- 20 Section 9. Section 2-18-303, MCA, is amended to read:
- 21 "2-18-303. Procedures for utilizing pay schedules. (1)
- The pay schedules provided in 2-18-311 and 2-18-312 shall be
- 23 implemented as follows:
- 24 (a) The pay schedule provided in 2-18-311 indicates

25 the annual compensation for the fiscal year ending June 30,

-11- HB 201

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HB 201

1986, for each grade and step for positions classified under the provisions of part 2 of this chapter.

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- (b) The pay schedule provided in 2-18-312 indicates the annual compensation for the fiscal year ending June 30, 1987, for each grade and step for positions classified under the provisions of part 2 of this chapter.
- (c) Each new employee shall advance from step 1 to step 2 of a grade after successfully completing 6 months of probationary service. The anniversary date of an employee shall be established at the end of the probationary period in accordance with rules promulgated by the department.
- (d) (i) The compensation of each employee on the first day of the first pay period in fiscal year 1986 shall be that amount which corresponds to the grade and step occupied on the last day of the preceding fiscal year of 1985.
- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1987 shall be that amount which corresponds to the grade and step occupied on the last day of the fiscal year 1985.
- (iii) In compliance with rules adopted to implement this part, each employee is eligible on his anniversary date to advance one step in the pay matrix for fiscal year 1987. However, if the employee's anniversary date falls between (inclusive) July 1 and the first day of the first pay period of fiscal year 1987, he will advance one step on the first

-13-

1 day of that pay period.

- 2 (2) The pay schedules provided in 2-18-311 and 3 2-18-312 and the provisions of subsection (1) of this 4 section do not apply to those institutional teachers, liquor 5 store occupations, or blue-collar occupations compensated 6 under the pay schedules provided in 2-18-313, 2-18-314, or 2-18-315.
- 8 (3) The pay schedules provided in 2-18-313, 2-18-314, or 2-18-315 shall be implemented as follows:
- 10 (a) (i) The pay schedules provided in 2-18-313
 11 indicate the annual compensation for the contracted school
 12 term for teachers employed by institutions under the
 13 authority of the department-of-institutions departments of
 14 justice, HEALTH AND ENVIRONMENTAL SCIENCES, or social and
 15 rehabilitation services for fiscal years 1986 and 1987.
- 16 (ii) The compensation of each teacher on the first day
 17 of the first pay period in July, 1985, shall be that amount
 18 which corresponds to his level of academic achievement and
 19 the step occupied on June 30, 1985.
- 20 (iii) The compensation of each teacher on the first day
 21 of the first pay period in July, 1986, shall be that amount
 22 which corresponds to his level of achievement and the step
 23 occupied on June 30, 1985.
- (b) (i) The pay schedules provided in 2-18-314
 indicate the maximum hourly compensation for fiscal years

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ending June 30, 1986, and June 30, 1987, for those employees in liquor store occupations who have collectively bargained separate classification and pay plans.

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HB 0201/02

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- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1986 or 1987, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.
- (c) (i) The pay schedules provided in 2-18-315 indicate the maximum hourly compensation for fiscal years ending June 30, 1986, and June 30, 1987, for employees in apprentice trades and crafts and other blue-collar occupations recognized in the state blue-collar classification plan who are members of units that have collectively bargained separate classification and pay plans.
- (ii) The compensation of each employee on the first day of the first pay period in fiscal year 1986 or 1987, as the case may be, shall be that amount which corresponds to that grade occupied on the last day of the preceding fiscal year.
- (4) (a) (i) No member of a bargaining unit may receive the amounts indicated in the respective pay schedules provided in 2-18-311 through 2-18-315 until the bargaining unit of which he is a member ratifies a completely integrated collective bargaining agreement covering the biennium ending June 30, 1987.

-15-

(ii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not completed by July 1, 1985, retroactivity to that date may be negotiated.

- (iii) In the event that negotiation and ratification of a completely integrated collective bargaining agreement as required by subsection (4)(a)(i) of this section are not completed by July 1, 1985, members of the bargaining unit involved will continue to receive the compensation they were receiving as of June 30, 1985.
- (b) Methods of administration not inconsistent with the purpose of this part and necessary to properly implement the pay schedules provided in 2-18-313 through 2-18-315 may be provided for in collective bargaining agreements.
- (5) The current wage or salary of an employee shall not be reduced by the implementation of the pay schedules provided for in 2-18-311 through 2-18-315.
- (6) The department may authorize a separate pay schedule for medical doctors if the rates provided in 2-18-311 and 2-18-312 are not sufficient to attract and retain fully licensed and qualified physicians at the state institutions.
- (7) The department may develop programs which will enable the department to mitigate problems associated with

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

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5 Section 10. Section 7-22-2151, MCA, is amended to 6 read:

"7-22-2151. Cooperative agreements. (1) Any state agency controlling land within a district, including the department of highways; the department of state lands; the department of fish, wildlife, and parks; THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; the department of institutions justice; the department of natural resources and conservation; the department of social and rehabilitation services; and the university system, shall enter into a written agreement with the board. The agreement must specify mutual responsibilities for noxious weed management on state-owned or state-controlled land within the district.

(2) The board and the governing body of each incorporated municipality within the district shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality. The board may implement management procedures described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance

weeds within the municipality remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

(3) A board may develop and carry out its noxious weed management program in cooperation with boards of other districts, with state and federal governments and their agencies, or with any person within the district. The board may enter into cooperative agreements with any of these parties."

10 Section 11. Section 10-2-404, MCA, is amended to read: 11 "10-2-404. Acceptance and deposit of federal moneys. 12 The department of institutions social and rehabilitation services may accept moneys from the federal government that 13 become available to the state as a result of operating the 14 Montana veterans' home and shall deposit such moneys in the 15 state treasury for the benefit of the home. If the resident 16 17 of the home is transferred to another institution in the 18 department of social and rehabilitation services, as-defined 19 in-53-1-1017 the department of-institutions shall continue 20 to draw from the federal government any moneys available for 21 the maintenance of such former resident. IF THE RESIDENT IS 22 TRANSFERRED TO AN INSTITUTION IN THE DEPARTMENT OF HEALTH 23 AND ENVIRONMENTAL SCIENCES, THE DEPARTMENT OF HEALTH AND 24 ENVIRONMENTAL SCIENCES SHALL DRAW FROM THE FEDERAL 25 GOVERNMENT ANY MONEYS AVAILABLE FOR THE MAINTENANCE OF SUCH

-17- HB 201

-18- HB 201

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2 Section 12. Section 17-3-1001, MCA, is amended to 3 read:

4 "17-3-1001. State institutions which may take by gift, 5 beguest, or grant. (1) The state of Montana, units of the 6 Montana university system, the Montana school for the deaf 7 and blind, all institutions in the department---of 8 institutions departments of justice, HEALTH AND 9 ENVIRONMENTAL SCIENCES, and social and rehabilitation 10 services, and any institutions now created or established or 11 which may hereafter be created or established and supported 12 in whole or in part by the state for any purpose may accept 13 gifts, donations, grants, devises, or bequests of real or 14 personal property from any source. Gifts, donations, grants, 15 bequests, or devises may be made directly to the state, in 16 the name of any of the institutions, to any officer or board 17 of the institutions, or to any person in trust for the 18 institutions.

(2) In the event it is made directly to any institution or to any officer or board of any institution, the gift, donation, grant, devise, or bequest is a gift, donation, grant, devise, or bequest to the state and shall be administered and used by the state for the particular purpose for which it was given, donated, granted, bequeathed, or devised. In the event no particular purpose

-19-

is mentioned in the gift, grant, devise, or bequest, then it shall be used for the general support, maintenance, or improvement of such institution by the state."

HB 0201/02

4 Section 13. Section 17-3-1002, MCA, is amended to read:

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

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

HB 201 -20- HB 201

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

Section 14. Section 18-4-133, MCA, is amended to read:

"18-4-133. Purchases exempt from general requirements.

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

- (2) Likewise, when immediate delivery of articles or performance of service is required by the public exigencies, the articles or service so required may be procured by open purchase or contract at the place and in the manner in which the articles are usually bought and sold or the services engaged between individuals but under the direction of the department.
- (3) The department of administration may exempt the department--of--institutions departments of justice, HEALTH AND ENVIRONMENTAL SCIENCES, and social and rehabilitation services from the provisions of this chapter for the

- purchase of suitable clothing by the department—of

 institutions departments of justice, HEALTH AND

 ENVIRONMENTAL SCIENCES, and social and rehabilitation

 services for residents of its their institutions and

 community-based programs.
- 6 (4) As used in this section, "suitable clothing" means
 7 styled, seasonable clothing, which will allow the resident
 8 to make a normal appearance in the community."
- Section 15. Section 20-7-404. MCA, is amended to read: "20-7-404. Cooperation of state agencies. The state department of health and environmental sciences. department--of--institutions, the department of social and rehabilitation services, and the state school for the deaf and blind shall cooperate with the superintendent of public instruction in assisting school districts in discovering children in need of special education. Nothing herein shall be construed to interfere with the purpose and function of these state agencies."
 - Section 16. Section 20-7-422, MCA, is amended to read:

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

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attendance provisions of the laws governing the attendance of pupils in schools outside the state of Montana.

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

 Section 17. Section 20-9-304, MCA, is amended to read:

 "20-9-304. Eligibility for and payment of state impact aid. Any district which shall have children of employees of
- (1) An "employee" means an employee of a public institution under the administration of the department of institutions justice, HEALTH AND ENVIRONMENTAL SCIENCES, or social and rehabilitation services, as-defined-in-53-1-2027 who resides on the property of such a public institution.

a public institution may be eliqible for state impact aid

under the following provisions:

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

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

- (3) A district which is eligible for state impact aid shall apply for such aid to the superintendent of public instruction in the manner prescribed by the rules prescribed by the superintendent of public instruction.
- 9 (4) The distribution of state impact aid shall be
 10 deposited in the general fund of the district and shall not
 11 be considered as a part of the state equalization aid but
 12 shall be used to reduce the property tax in support of the
 13 general fund of the district."
- 14 Section 18. Section 41-3-1103, MCA, is amended to read:
- 16 "41-3-1103. Powers and duties of department. (1) The
 17 department shall:
- 18 (a) administer all state and federal funds allocated 19 to the department for youth foster homes, youth group homes, 20 and child-care agencies for youth in need of care, youth in 21 need of supervision, and delinquent youth:
- (b) exercise licensing authority over all youth fosterhomes, youth group homes, and child-care agencies;
- 24 (c) collect and disseminate information relating to 25 youth in need of care, youth in need of supervision, and

-23- HB 201

-24- HB 201

1 delinquent youth;

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- 2 (d) provide for training of program personnel
 3 delivering services;
 - (e) in cooperation with the-department-of-institutions and youth care facility providers, develop and implement standards for youth care facilities;
- 7 (f) apportion and allocate placement budgets to all 8 judicial districts;
- 9 (g) maintain adequate data on placements it funds in 10 order to keep the legislature properly informed of the 11 following:
 - (i) the breakdown of youth in need of care, youth in need of supervision, and delinquent youth by category in out-of-home care facilities;
- 15 (ii) the cost per facility for services rendered;
- 16 (iii) the type and level of care of services provided
 17 by each facility;
- 18 (iv) a profile of out-of-home care placements by level
 19 of care; and
 - (v) a profile of public institutional placements; and
- 21 (h) administer all funds allocated to the department 22 for residential alcohol and drug abuse treatment for 23 indigent youths in need of care, youths in need of
- 24 supervision, and delinquent youths who require such
- 25 treatment.

- 1 (2) The department may:
- 2 (a) enter into contracts with nonprofit corporations
 3 or associations or private organizations to provide
 4 facilities and services for youth in need of care, youth in
 5 need of supervision, and delinquent youth;
- 6 (b) accept gifts, grants, and donations of money and 7 property from public and private sources to initiate and 8 maintain community-based services to youth;
- 9 (c) adopt rules to carry out the administration and 10 purposes of this part.
- (3) The department shall pay for room, 11 board. clothing, personal needs, transportation, and treatment in 12 youth foster care homes and youth group homes other--than 13 aftercare--homes--for--youths-committed-to-the-department-of 14 institutions-who-need--to--be--placed--in--such--facilities-15 16 Youths--committed--to--the--department--of--institutions-and placed-in-residential-facilities-other-than-those--described 17 18 above--shall--not--be--the--financial--responsibility-of-the 19 department-of-social-and-rehabilitation-services-unless-such 20 placements-have-been-approved-in-advance-by--the--department of-social-and-rehabilitation-services." 21
- 22 Section 19. Section 41-3-1123, MCA, is amended to read:
- 24 "41-3-1123. Investigation of parents' or guardians'
 25 financial ability -- financial status report. (1) Whenever a

- 1 disposition under 41-3-404, 41-5-403, 41-5-523, or 41-5-524 involves placement in a youth care facility and the 2 department is responsible for all or part of the cost of 3 such placement, the probation officer or the court shall notify the department and order the county welfare department in the youth's county of residence to conduct an 6 investigation of the financial status of the youth's parents or quardianship assets. Following an adjudicatory hearing in 8 which a youth is determined to be a delinquent youth or a 9 youth in need of supervision, the court may order the county 10 11 welfare department to conduct a financial status 12 investigation.
 - (2) (a) Upon receipt of the order, the county welfare department shall make an investigation for the purpose of ascertaining the residence of the parents or guardian of the youth and the financial ability of the parents or the adequacy of the guardianship assets to pay the cost of supporting the youth:
 - (i) in the youth care facility; or

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- 20 (ii) as a child of limited emancipation, as may be 21 ordered under 41-3-406.
- 22 (b) A written report of the investigation shall be
 23 filed with the court having jurisdiction, and the department
 24 of-social-and-rehabilitation-services, and the department of
 25 institutions, and a copy shall be sent to the parents or

- guardian of the youth or to any other party to the proceeding.
- 3 (3) A copy of the written report shall be provided to 4 all parties to the proceeding before the time set for the 5 dispositional hearing."
- Section 20. Section 41-5-103, MCA, is amended to read:

 "41-5-103. Definitions. For the purposes of the

 Montana Youth Court Act, unless otherwise stated the

 following definitions apply:
- 10 (1) "Adult" means an individual who is 18 years of age 11 or older.
- 12 (2) "Agency" means any entity of state or local
 13 government authorized by law to be responsible for the care
 14 or rehabilitation of youth.
 - (3) "Commit" means to transfer to legal custody.

- 16 (4) "Court", when used without further qualification,17 means the youth court of the district court.
- 18 (5) "Foster home" means a private residence approved

 19 by the court for placement of a youth.
- 20 (6) "Guardianship" means the status created and 21 defined by law between a youth and an adult with the 22 reciprocal rights, duties, and responsibilities.
- (7) "Judge", when used without further qualification,means the judge of the youth court.
- 25 (8) (a) "Legal custody" means the legal status created

by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

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- 4 (ii) determine with whom the youth shall live and for 5 what period;
- 6 (iii) protect, train, and discipline the youth; and
- 7 (iv) provide the youth with food, shelter, education,8 and ordinary medical care.
 - (b) An individual granted legal custody of a youth shall personally exercise his rights and duties as guardian unless otherwise authorized by the court entering the order.
 - (9) "Parent" means the natural or adoptive parent but does not include a person whose parental rights have been judicially terminated, nor does it include the putative father of an illegitimate youth unless his paternity is established by an adjudication or by other clear and convincing proof.
- 18 (10) "Youth" means an individual who is less than 18
 19 years of age without regard to sex or emancipation.
 - (11) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of supervision, or a youth in need of care and includes the youth court, the judge, and probation officers.
- 25 (12) "Delinquent youth" means a youth:

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

- (b) who, having been placed on probation as a
 delinquent youth or a youth in need of supervision, violates
 any condition of his probation.
- 6 (13) "Youth in need of supervision" means a youth who
 7 commits an offense prohibited by law which, if committed by
 8 an adult, would not constitute a criminal offense, including
 9 but not limited to a youth who:
- 10 (a) violates any Montana municipal or state law
 11 regarding use of alcoholic beverages by minors;
- 12 (b) habitually disobeys the reasonable and lawful
 13 demands of his parents or guardian or is ungovernable and
 14 beyond their control;
- 15 (c) being subject to compulsory school attendance, is 16 habitually truant from school; or
- 17 (d) has committed any of the acts of a delinquent 18 youth but whom the youth court in its discretion chooses to 19 regard as a youth in need of supervision.
- 20 (14) "Youth in need of care" means a youth as defined in 41-3-102.
- 22 (15) "Custodian" means a person other than a parent or 23 guardian to whom legal custody of the youth has been given 24 but does not include a person who has only physical custody.
- 25 (16) "Necessary parties" include the youth, his

HB 0201/02

parents, quardian, custodian, or spouse.

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- 2 (17) "State youth correctional facility" means a
 3 residential facility for the rehabilitation of delinquent
 4 youth such as Pine Hills school in Miles City, and Mountain
 5 View school in Helena.
- 6 (18) "Shelter care" means the temporary substitute careof youth in physically unrestricting facilities.
- 8 (19) "Detention" means the temporary substitute care of9 youth in physically restricting facilities.
- 10 (20) "Restitution" means payments in cash to the victim
 11 or with services to the victim or the general community when
 12 these payments are made under the jurisdiction of a youth
 13 court proceeding.
 - (21) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and if necessary, treatment to youth who are removed from or without the care and supervision of their parents or guardian. Nothing in this definition is intended to include juvenile correctional facilities, evaluation facilities, mental health facilities and services, and aftercare programs operated by the department of institutions social and rehabilitation services."
- Section 21. Section 44-5-202, MCA, is amended to read:

 "44-5-202. Photographs and fingerprints. (1) The

-31-

- following agencies may, if authorized by subsections (2)
 through (5) (4), collect, process, and preserve photographs
 and fingerprints:
- 4 (a) any criminal justice agency performing, under law, 5 the functions of a police department or a sheriff's office, 6 or both:
- 9 (2)--The--department-of-institutions-may-photograph-and
 10 fingerprint-anyone-under-the-jurisdiction-of-the-division-of
 11 corrections-or-its-successor=
- 12 (3)(2) A criminal justice agency described in
 13 subsection (1)(a) shall photograph and fingerprint a person
 14 who has been arrested or noticed or summoned to appear to
 15 answer an information or indictment if:
 - (a) the charge is the commission of a felony;
 - (b) the identification of an accused is in issue; or
- 18 (c) it is required to do so by court order.
- 19 (4)(3) Whenever a person charged with the commission
 20 of a felony is not arrested, he shall submit himself to the
 21 sheriff, chief of police, or other concerned law enforcement
 22 officer for fingerprinting at the time of his initial
 23 appearance in court to answer the information or indictment
 24 against him.
- 25 (5)(4) A criminal justice agency described in

HB 201 +32- HB 201

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

+6+(5) Within 10 days the originating agency shall send the state repository a copy of each fingerprint taken on a completed form provided by the state repository.

t77(6) The state repository shall compare the fingerprints received with those already on file in the state repository. If it is determined that the individual is wanted or is a fugitive from justice, the state repository shall at once inform the originating agency. If it is determined that the individual has a criminal record, the state repository shall send the originating agency a copy of the individual's complete criminal history record.

t8)(7) Photographs and fingerprints taken shall be returned by the state repository to the originating agency, which shall return all copies to the individual from whom they were taken:

- (a) if a court so orders; or
- 22 (b) upon the request of the individual:
- 23 (i) if no charges were filed;

24 (ii) if a misdemeanor charge did not result in a 25 conviction; or 1 (iii) if the individual was found innocent of the offense charged."

3 Section 22. Section 46-19-202, MCA, is amended to 4 read:

"46-19-202. Proceedings following determination regarding fitness. (1) If it is found that defendant is mentally fit as provided in 46-19-201, the warden of the Montana state prison shall execute the judgment.

- (2) If it is found that he lacks fitness, the execution of judgment must be suspended and the court shall commit him to the custody of the superintendent of the Montana state hospital to be placed in an appropriate institution of the department of institutions justice or social-and-rehabilitation-services HEALTH AND ENVIRONMENTAL SCIENCES for so long as the lack of fitness endures.
- (3) When the court, on its own motion or upon application of the superintendent of the Montana state hospital, the county prosecuting officer, or the defendant or his legal representative, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the warden must be directed by the court to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to proceed with execution of the sentence, the court may suspend the

HB 201

execution of the sentence and may order the defendant to be discharged."

- 3 Section 23. Section 46-19-303, MCA, is amended to 4 read:
- 5 "46-19-303. Power of governor to enter into contracts.
- 6 The governor is hereby empowered to designate the department
- 7 departments of institutions justice and social--and
- 8 rehabilitation-services HEALTH AND ENVIRONMENTAL SCIENCES to
- 9 enter into such contracts recommended by the department
- 10 departments on behalf of this state as may be appropriate to
- 11 implement the participation of this state in the Western
- 12 Interstate Corrections Compact pursuant to 46-19-301."
- 13 Section 24. Section 46-19-305, MCA, is amended to
- 14 read:

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- 15 "46-19-305. Hearings requested by other states. The
- 16 board of pardons and the department departments of
- 17 institutions justice and social-and-rehabilitation-services
- 18 HEALTH AND ENVIRONMENTAL SCIENCES shall hold such hearings
- 19 as may be requested by any other party state pursuant to
- 20 Article IV(6) of the Western Interstate Corrections
- 21 Compact."
- 22 Section 25. Section 46-23-103, MCA, is amended to
- 23 read:
- 24 "46-23-103. Definitions. Unless the context requires
- otherwise, in this chapter the following definitions apply:

- 1 (1) "Board" means the board of pardons provided for in 2-15-2302.
- (2) "Department" means the department of institutions
 justice provided for in Title 2, chapter 15, part 23 20.
- 5 (3) "Executive clemency" refers to the powers of the 6 governor as provided by section 12 of Article VI of the 7 constitution of Montana.
- 8 (4) "Parole" means the release to the community of a
 9 prisoner by the decision of the board prior to the
 10 expiration of his term, subject to conditions imposed by the
 11 board and subject to supervision of the department of
 12 institutions justice."
- Section 26. Section 46-23-401, MCA, is amended to read:
- "46-23-401. Definitions. Unless the context requires
 otherwise, in this part the following definitions apply:
- 17 (1) "Applicant" means any prisoner who is eligible
 18 under 46-23-411 and who signs an application to participate
 19 in the supervised release program.
- 20 (2) "Board" means the board of pardons provided for in 21 2-15-2302.
- 22 (3) "Department" means the department of institutions
 23 justice provided for in 2-15-2301 2-15-2001.
- 24 (4) "Prisoner" means a person sentenced by a state 25 district court to a term of confinement in the state prison.

-35- HB 201

-36- HB 201

(5) "State prison" means the Montana state prison at Deer Lodge or any adult correctional facility designated by the department.

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- (6) "Sponsor" means any federal, state, county, local, or private agency, Indian tribe and reservation, or any person, group, association, or organization approved by the department to undertake the supervision of prisoners participating in the supervised release program.
- 9 (7) "Supervising agent" means a probation and parole
 10 officer of the department."
- 11 Section 27. Section 46-23-1001, MCA, is amended to read:
- "46-23-1001. Definitions. As used in this part, unless
 the context requires otherwise, the following definitions
 apply:
- 16 (1) "Board" means the board of pardons provided for in 2-15-2302.
- 18 (2) "Department" means the department of institutions
 19 justice provided for in Title 2, chapter 15, part 23 20.
 - (3) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of his term, subject to conditions imposed by the board and subject to supervision of the department.
- 24 (4) "Probation" means the release by the court without
 25 imprisonment, except as otherwise provided by law, of a

- defendant found guilty of a crime upon verdict or plea,
- 2 subject to conditions imposed by the court and subject to
- 3 the supervision of the department upon direction of the
- 4 court."
- 5 Section 28. Section 50-1-202, MCA, is amended to read:
- 6 "50-1-202. General powers and duties. The department
- 7 shall:
- 8 (1) study conditions affecting the citizens of the 9 state by making use of birth, death, and sickness records:
- 10 (2) make investigations, disseminate information, and
 11 make recommendations for control of diseases and improvement
- of public health to persons, groups, or the public;
- 13 (3) at the request of the governor, administer any 14 federal health program for which responsibilities are 15 delegated to states;
- 16 (4) inspect and work in conjunction with custodial
 17 institutions and Montana university system units
 18 periodically as necessary and at other times on request of
 19 the governor;
- 20 (5) after each inspection made under subsection (4) of
 21 this section, submit a written report on sanitary conditions
 22 to the governor and to the appropriate department director
 23 of--institutions or to the commissioner of higher education
 24 and include recommendations for improvement in conditions if
 25 necessary;

L	(6)	advise st	ate	agencies	on location	n, drainage,	water
2	supply,	disposal	of	excreta,	heating,	plumbing,	sewer
3	systems,	and ventil	atio	on of publ	lic building	gs;	

- 4 (7) organize laboratory services and provide equipment 5 and personnel for those services;
- 6 (8) develop and administer activities for the
 7 protection and improvement of dental health and supervise
 8 dentists employed by the state, local boards of health, or
 9 schools;
- 10 (9) develop, adopt, and administer rules setting
 11 standards for participation in and operation of programs to
 12 protect the health of mothers and children, which rules may
 13 include programs for nutrition, family planning services,
 14 improved pregnancy outcome, and those authorized by Title X
 15 of the federal Public Health Service Act and Title V of the
 16 federal Social Security Act;
- 17 (10) conduct health education programs;
- 18 (11) provide consultation to school and local community
 19 health nurses in the performance of their duties;
- 20 (12) consult with the superintendent of public 21 instruction on health measures for schools:
- 22 (13) develop, adopt, and administer rules setting 23 standards for a program to provide services to handicapped 24 children, including standards for:
- 25 (a) diagnosis;

- (b) medical, surgical, and corrective treatment;
- 2 (c) after-care and related services; and
- 3 (d) eligibility;
- 4 (14) provide consultation to local boards of health;
- 5 (15) bring actions in court for the enforcement of the 6 health laws and defend actions brought against the board or 7 department:
- 8 (16) accept and expend federal funds available for 9 public health services;
- 10 (17) have the power to use personnel of local
 11 departments of health to assist in the administration of
 12 laws relating to public health;
- 13 (18) adopt rules imposing fees for the tests and 14 services performed by the laboratory of the department, 15 except fees relating to water analysis, which are imposed by 16 the board pursuant to 75-6-103(2)(b). Fees, established on 17 an annual basis, should reflect the actual costs of the 18 tests or services provided. The department may not establish 19 fees exceeding the costs incurred in performing tests and 20 services. All fees shall be deposited in the state special 21 revenue fund for the use of the department in performing 22 tests and services.
- 23 (19) adopt and enforce rules regarding the definition 24 of communicable diseases and the reporting and control of 25 communicable diseases; and

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(20) adopt and enforce rules regarding the transportation of dead human bodies."

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Section 29. Section 50-3-102, MCA, is amended to read:

- "50-3-102. Powers and duties of state fire marshal.
- 5 (1) For the purpose of reducing the state's fire loss, the 6 state fire marshal shall:
 - (a) make at least one inspection a year of each state institution in the departments of justice, HEALTH AND ENVIRONMENTAL SCIENCES, or social and rehabilitation services and submit a copy of the report to the appropriate department of-institutions with recommendations in regard to fire prevention, fire protection, and public safety;
 - (b) make at least one inspection a year of each unit of the Montana university system and submit a copy of the report to the commissioner of higher education with recommendations in regard to fire prevention, fire protection, and public safety;
 - (c) inspect public, business, or industrial buildings and require conformance to law and rules promulgated under the provisions of this chapter;
- 21 (d) assist local fire and law enforcement authorities 22 in arson investigations and supervise such investigations 23 when, in his judgment, supervision is necessary;
- 24 (e) review all training programs on investigation of 25 accidental and incendiary fires;

- 1 (f) provide fire prevention and fire protection 2 information to public officials and the general public;
 - (g) encourage and assist local fire authorities in fire prevention programs and adopt standards and implement a program to encourage fire departments to meet such standards;
 - (h) be the state entity primarily responsible for promoting fire safety at the state level and to represent the state in structural fire matters;
- 10 (i) encourage coordination of all services and 11 agencies in structural fire matters to reduce duplication 12 and fill voids in services;
- 13 (j) establish rules concerning responsibilities and 14 procedures to be followed when there is a threat of 15 explosive material in a building housing state offices;
- (k) keep in his office a record of all fires occurring 16 in the state, the origin of the fires, and all facts, 17 18 statistics, and circumstances relating thereto which have been determined by investigations under the provisions of 19 20 chapter 63 of this title; and, except for statements of witnesses given during an investigation and information that 21 22 may be held in confidence under 50-63-403, the record shall 23 be open at all times to public inspection; and
 - (1) make an annual report to the attorney general containing a detailed statement of his official action and

HB 0201/02

the transactions of his department, and the attorney general shall, in turn, submit the report to the governor with such recommendations and comments thereon as he considers necessary.

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- (2) The state fire marshal may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state.
- (3) The state fire marshal shall adopt rules based on nationally recognized standards necessary for safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale, and use of explosive materials.
- (4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the state fire marshal may maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules."
- Section 30. Section 50-5-101, MCA, is amended to read:

 "50-5-101. (Temporary) Definitions. As used in parts 1

 through 4 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:
 - (1) "Accreditation" means a designation of approval.
- 24 (2) "Adult day-care center" means a facility, 25 freestanding or connected to another health care facility,

which provides adults, on an intermittent basis, with the care necessary to meet the needs of daily living.

- (3) "Affected persons" means the applicant, members of the public who are to be served by the proposal, health care facilities located in the geographic area affected by the application, agencies which establish rates for health care facilities, third-party payers who reimburse health care facilities in the area affected by the proposal, and agencies which plan or assist in planning for such facilities, including any agency qualifying as a health systems agency pursuant to Title XV of the Public Health Service Act.
- (4) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.
- (5) "Batch" means those letters of intent and applications of a specified category and within a specified region of the state, as established by department rule, that are accumulated during a single batching period.
- 22 (6) "Batching period" means a period, not exceeding 1
 23 month, established by department rule during which letters
 24 of intent for specified categories of new institutional
 25 health services and for specified regions of the state may

HB 201

НВ 0201/02 НВ 0201/02

requirements.

be accumulated pending further processing of all letters of intent within the batch.

3 (7) "Board" means the board of health and environmental sciences, provided for in 2-15-2104.

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- (8) "Capital expenditure" means an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance.
- (9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.
- (10) "Challenge period" means a period, not exceeding 1 month, established by department rule during which any person may apply for comparative review with an applicant whose letter of intent has been received during the preceding batching period.
- (11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.
- 24 (12) "College of American pathologists" means the 25 organization nationally recognized by that name with

headquarters in Traverse City, Michigan, that surveys
Clinical laboratories upon their requests and accredits
Clinical laboratories that it finds meet its standards and

- or more certificate of need applications within a given batch which are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.
- 11 (14) "Construction" means the physical erection of a 12 health care facility and any stage thereof, including ground 13 breaking, or remodeling, replacement, or renovation of an 14 existing health care facility.
- 15 (15) "Department" means the department of health and 16 environmental sciences provided for in Title 2, chapter 15, 17 part 21.
- 18 (16) "Federal acts" means federal statutes for the
 19 construction of health care facilities.
- 20 (17) "Governmental unit" means the state, a state
 21 agency, a county, municipality, or political subdivision of
 22 the state, or an agency of a political subdivision.
- 23 (18) "Health care facility" or "facility" means any 24 institution, building, or agency or portion thereof, private 25 or public, excluding federal facilities, whether organized

HB 201

1 for profit or not, used, operated, or designed to provide 2 services. medical treatment, or nursing, 3 rehabilitative, or preventive care to any person or persons. 4 The term does not include offices of private physicians or 5 dentists. The term includes but is not limited to ambulatory 6 surgical facilities, health maintenance organizations, home 7 health agencies, hospices, hospitals, infirmaries, kidney 8 treatment centers, long-term care facilities, mental health centers, outpatient facilities, public health centers,

11 (19) "Health maintenance organization" means a public 12 or private organization organized as defined in 42 U.S.C. 13 300e, as amended.

rehabilitation facilities, and adult day-care centers.

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- (20) "Health systems agency" means an entity which is organized and operated in the manner described in 42 U.S.C. 3001-2 and which is capable, as determined by the secretary of the United States department of health and human services, of performing each of the functions described in 42 U.S.C. 3001-2.
 - (21) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support

l services.

2 (22) "Hospice" means a coordinated program of home and
3 inpatient health care that provides or coordinates
4 palliative and supportive care to meet the needs of a
5 terminally ill patient and his family arising out of
6 physical, psychological, spiritual, social, and economic
7 stresses experienced during the final stages of illness and
8 dying and that includes formal bereavement programs as an
9 essential component.

- 10 (23) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical 11 diagnosis, treatment, rehabilitation, and care of injured, 12 disabled, or sick persons. Services provided may or may not 13 14 include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital 15 16 has an organized medical staff which is on call and 17 available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed 18 19 registered nurses. This term includes hospitals specializing 20 in providing health services for psychiatric, mentally 21 retarded, and tubercular patients.
- 22 (24) "Infirmary" means a facility located in a 23 university, college, government institution, or industry for 24 the treatment of the sick or injured, with the following 25 subdefinitions:

HB 0201/02

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1 (a) an "infirmary--A" provides outpatient and 2 inpatient care;

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- (b) an "infirmary--B" provides outpatient care only.
- (25) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health care facilities upon their requests and grants accreditation status to any health care facility that it finds meets its standards and requirements.
- (26) "Kidney treatment center" means a facility which specializes in treatment of kidney diseases, including freestanding hemodialysis units.
- (27) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care to a total of two or more persons or personal care to more than four persons who are not related to the owner or administrator by blood or marriage. The term does not include adult foster care licensed under 53-5-303, community homes for the developmentally disabled licensed under 53-20-305, community homes for physically disabled persons licensed under 53-19-111, boarding or foster homes for children licensed under 41-3-1142, hotels, motels. boardinghouses, roominghouses, similar accommodations providing for transients, students, or

- persons not requiring institutional health care, or juvenile and adult correctional facilities operating under the authority of the department of institutions justice, HEALTH AND ENVIRONMENTAL SCIENCES, or social and rehabilitation services.
- (b) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.
- (c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.
- 14 (d) "Intermediate developmental disability care" means
 15 the provision of nursing care services, health-related
 16 services, and social services for the developmentally
 17 disabled, as defined in 53-20-102(4), or persons with
 18 related problems.
- 19 (e) "Personal care" means the provision of services
 20 and care which do not require nursing skills to residents
 21 needing some assistance in performing the activities of
 22 daily living.
 - (28) "Major medical equipment" means a single unit of medical equipment or a single system of components with related functions which is used to provide medical or other

-49- HB 201 -50- HB 201

1 health services.

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2 (29) "Mental health center" means a facility providing
3 services for the prevention or diagnosis of mental illness,
4 the care and treatment of mentally ill patients or the
5 rehabilitation of such persons, or any combination of these
6 services.

- 7 (30) "Nonprofit health care facility" means a health
 8 care facility owned or operated by one or more nonprofit
 9 corporations or associations.
- 10 (31) "Observation bed" means a bed occupied for not
 11 more than 6 hours by a patient recovering from surgery or
 12 other treatment.
- 13 (32) "Offer" means the holding out by a health care
 14 facility that it can provide specific health services.
 - (33) "Outpatient facility" means a facility, located in or apart from a hospital, providing, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients in need of medical, surgical, or mental care. An outpatient facility may have observation beds.
- 21 (34) "Patient" means an individual obtaining services, 22 including skilled nursing care, from a health care facility.
- (35) "Person" means any individual, firm, partnership,
 association, organization, agency, institution, corporation,
 trust, estate, or governmental unit, whether organized for

profit or not.

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2 (36) "Public health center" means a publicly owned
3 facility providing health services, including laboratories,
4 clinics, and administrative offices.

- (37) "Rehabilitation facility" means a facility which 5 is operated for the primary purpose of assisting in the 6 7 rehabilitation of disabled persons by providing medical evaluations В comprehensive and services, 9 psychological and social services, or vocational evaluation 10 and training or any combination of these services and in 11 which the major portion of the services is furnished within 12 the facility.
- 13 (38) "Resident" means a person who is in a long-term
 14 care facility for intermediate or personal care.
- 15 (39) "State health plan" means the plan prepared by the department pursuant to 42 U.S.C. 300m-2(a)(2).
- 17 50-5-101. (Effective July 1, 1987) Definitions. As
 18 used in parts 1 through 4 of this chapter, unless the
 19 context clearly indicates otherwise, the following
 20 definitions apply:
- 21 (1) "Accreditation" means a designation of approval.

(2) "Adult day-care center" means a facility,

- freestanding or connected to another health care facility,
 which provides adults, on an intermittent basis, with the
- 25 care necessary to meet the needs of daily living.

(3) "Ambulatory surgical facility" means a facility, not part of a hospital, which provides surgical treatment to patients not requiring hospitalization. This type of facility may include observation beds for patient recovery from surgery or other treatment.

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- 6 (4) "Board" means the board of health and 7 environmental sciences, provided for in 2-15-2104.
 - (5) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or assessment of a medical condition.
 - (6) "College of American pathologists" means the organization nationally recognized by that name with headquarters in Traverse City, Michigan, that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.
- 21 (7) "Department" means the department of health and 22 environmental sciences provided for in Title 2, chapter 15, 23 part 21.
- 24 (8) "Federal acts" means federal statutes for the 25 construction of health care facilities.

- 1 (9) "Governmental unit" means the state, a state
 2 agency, a county, municipality, or political subdivision of
 3 the state, or an agency of a political subdivision.
- (10) "Health care facility" or "facility" means any 4 institution, building, or agency or portion thereof, private 5 or public, excluding federal facilities, whether organized for profit or not, used, operated, or designed to provide 7 medical treatment, or nursing, services. health rehabilitative, or preventive care to any person or persons. The term does not include offices of private physicians or 10 dentists. The term includes but is not limited to ambulatory 11 surgical facilities, health maintenance organizations, home 12 health agencies, hospices, hospitals, infirmaries, kidney 13 treatment centers, long-term care facilities, mental health 14 centers, outpatient facilities, public health centers, 15 rehabilitation facilities, and adult day-care centers. 16
- 17 (11) "Health maintenance organization" means a public
 18 or private organization organized as defined in 42 U.S.C.
 19 300e, as amended.
- 20 (12) "Health systems agency" means an entity which is 21 organized and operated in the manner described in 42 U.S.C. 22 3001-2 and which is capable, as determined by the secretary 23 of the United States department of health and human 24 services, of performing each of the functions described in 25 42 U.S.C. 3001-2.

-53- HB 201 -54- HB 201

(13) "Home health agency" means a public agency or private organization or subdivision thereof which is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

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- (14) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and his family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component.
- (15) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick persons. Services provided may or may not include obstetrical care, emergency care, or any other service as allowed by state licensing authority. A hospital has an organized medical staff which is on call and available within 20 minutes, 24 hours per day, 7 days per week, and provides 24-hour nursing care by licensed registered nurses. This term includes hospitals specializing

- in providing health services for psychiatric, mentally 1 retarded, and tubercular patients.
- (16) "Infirmary" means a facility located university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:
- 7 (a) an "infirmary--A" provides outpatient and inpatient care;
- 9 (b) an "infirmary--B" provides outpatient care only.
- (17) "Joint commission on accreditation of hospitals" means the organization nationally recognized by that name with headquarters in Chicago, Illinois, that surveys health 12 care facilities upon their requests and grants accreditation 13 status to any health care facility that it finds meets its 14 standards and requirements.
- (18) "Kidney treatment center" means a facility which 16 specializes in treatment of kidney diseases, including 17 18 freestanding hemodialysis units.
- (19) (a) "Long-term care facility" means a facility or part thereof which provides skilled nursing care, intermediate nursing care, or intermediate developmental 22 disability care to a total of two or more persons or personal care to more than four persons who are not related 23 to the owner or administrator by blood or marriage. The 24 term does not include adult foster care licensed under

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- 53-5-303, community homes for the developmentally disabled 1 licensed under 53-20-305, community homes for physically 2 disabled persons licensed under 53-19-111, boarding or 3 foster homes for children licensed under 41-3-1142, hotels, boardinghouses, roominghouses, 5 motels, similar accommodations providing for transients, students, or persons not requiring institutional health care, or juvenile 7 adult correctional facilities operating under the authority of the department of institutions justice, HEALTH 9 AND ENVIRONMENTAL SCIENCES, or social and rehabilitation 10 11 services.
- 12 (b) "Skilled nursing care" means the provision of
 13 nursing care services, health-related services, and social
 14 services under the supervision of a licensed registered
 15 nurse on a 24-hour basis.

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- (c) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.
- (d) "Intermediate developmental disability care" means the provision of nursing care services, health-related services, and social services for the developmentally disabled, as defined in 53-20-102(4), or persons with related problems.
- 25 (e) "Personal care" means the provision of services

and care which do not require nursing skills to residents
needing some assistance in performing the activities of
daily living.

- 4 (20) "Mental health center" means a facility providing 5 services for the prevention or diagnosis of mental illness, 6 the care and treatment of mentally ill patients or the 7 rehabilitation of such persons, or any combination of these 8 services.
- 9 (21) "Nonprofit health care facility" means a health 10 care facility owned or operated by one or more nonprofit 11 corporations or associations.
- 12 (22) "Observation bed" means a bed occupied for not
 13 more than 6 hours by a patient recovering from surgery or
 14 other treatment.
- 15 (23) "Offer" means the holding out by a health care 16 facility that it can provide specific health services.
- 17 (24) "Outpatient facility" means a facility, located in 18 or apart from a hospital, providing, under the direction of 19 a licensed physician, either diagnosis or treatment, or 20 both, to ambulatory patients in need of medical, surgical, 21 or mental care. An outpatient facility may have observation 22 beds.
- (25) "Patient" means an individual obtaining services,including skilled nursing care, from a health care facility.
- 25 (26) "Person" means any individual, firm, partnership,

НВ 0201/02

1	association, organization, agency, institution, corporation	on ,
2	trust, estate, or governmental unit, whether organized f	£01
3	profit or not.	

- 4 (27) "Public health center" means a publicly owned 5 facility providing health services, including laboratories, 6 clinics, and administrative offices.
 - (28) "Rehabilitation facility" means a facility which is operated for the primary purpose of assisting in the rehabilitation of disabled persons by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.
- 15 (29) "Resident" means a person who is in a long-term 16 care facility for intermediate or personal care.
- 17 (30) "State health plan" means the plan prepared by the 18 department pursuant to 42 U.S.C. 300m-2(a)(2)."
- Section 31. Section 50-8-101, MCA, is amended to read:

 "50-8-101. Definitions. As used in this part, the
 following definitions apply:
- 22 (1) "Department" means the department of institutions;
 23 the department of health and environmental sciences; and the
 24 department of social and rehabilitation services.
 - (2) "Facility" means:

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	facilities-including:
	(i)mentalhealth-transitional-living-facilities;-and
	(ii)-inpatientfreestandingorintermediate
,	transitional-living-facilities-for-alcohol/drug-treatment-or
	emergency-detoxification:

fa)--for-the--department--of--institutions,--nonmedical

- 9 (i) adult services homes for the developmentally 10 disabled, adult independent and semi-independent living 11 facilities, and adult foster care facilities; AND
- (ii) children's services achievement homes, maternity
 homes, attention homes, aftercare group homes, district
 youth guidance homes, foster family care facilities,
 child-care agencies, and community homes for the
 developmentally disabled; and
- 17 <u>fiii)-nonmedical--facilities,--including--mental-health</u>
 18 transitional-living-facilities;
- 19 (c)(b) for the department of health and environmental
 20 sciences:
- 21 (i) public accommodations, including roominghouses and 22 retirement homes, hotels, and motels;
- 23 (ii) health care facilities or services, including 24 hospitals, skilled and intermediate nursing home services,

25 and intermediate care nursing home services for the mentally

-59- HB 201

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HB 201

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(iii) freestanding medical facilities or care,
 including infirmaries, kidney treatment centers, and home

- 4 health agencies; and
- 6 (v) nonmedical facilities, including MENTAL HEALTH
 7 TRANSITIONAL LIVING FACILITIES AND inpatient freestanding or
 8 intermediate transitional living facilities for alcohol/drug
 9 treatment or emergency detoxification.

(iv) personal care facilities; and

- 10 (3) "Inspecting authority" means the department or
 11 agency authorized by statute to perform a given inspection
 12 necessary for certification for licensure.
 - (4) "Licensing agency" means the agency that is authorized by statute to issue the license."
- 15 Section 32. Section 50-21-103, MCA, is amended to read:
 - "50-21-103. Limitations on right to perform autopsy or dissection. The right to perform an autopsy, dissect a human body, or make any post-mortem examination involving dissection of any part of a body is limited to cases where:
 - specifically authorized by law;
- 22 (2) a coroner is authorized to hold an inquest and 23 then only to the extent that the coroner may authorize 24 dissection or autopsy;
- 25 (3) authorized by a written statement of the deceased,

- whether the statement is of a testamentary character or
 otherwise;
 - (4) authorized by the husband, wife, or next of kin responsible by law for burial to determine the cause of death and then only to the extent so authorized;
- (5) the decedent died in a hospital operated by the 6 7 United States veterans administration, the Montana school for the deaf and blind, or an institution in the department 9 of institutions justice, HEALTH AND ENVIRONMENTAL SCIENCES, 10 or social and rehabilitation services leaving no surviving 11 husband, wife, or next of kin responsible by law for burial and the manager or superintendent of the hospital or 12 13 institution where death occurred obtains authority on order 14 of the district court to determine the cause of death and 15 then only to the extent authorized by court order;
 - (6) the decedent died in the state, was a resident, but left no surviving husband, wife, or next of kin charged by law with the duty of burial and the attending physician obtains authority on order of the district court for the purpose of ascertaining the cause of death and then only to the extent authorized by court order after it has been shown that the physician made diligent search for the next of kin responsible by law for burial."
- Section 33. Section 53-1-105, MCA, is amended to read:

25 "53-1-105. Disposition of contraband in correctional

-61- HB 201

-62- HB 201

1 institution. (1) Cash possessed in excess of the amount 2 allowed by the policy of an adult or youth correctional 3 institution or obtained in violation of such a policy may be 4 confiscated and deposited in an inmate or resident welfare 5 fund to be used for the intended purpose of that fund.

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(2) The department departments of institutions justice and social and rehabilitation services shall adopt policies for the disposition of other contraband confiscated from inmates or residents in adult or youth correctional institutions. Receipts from the sale of contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund."

Section 34. Section 53-1-106, MCA, is amended to read: "53-1-106. Exchange of offenders under treaty. If a treaty in effect between the United States and a foreign country provides for the transfer, by exchange or otherwise, of convicted offenders to the country of which they are citizens or nationals, the governor may, on behalf of the state and subject to the terms of the treaty, authorize the director of the department of institutions justice or social and rehabilitation services to consent to the transfer or exchange of offenders in Montana institutions and take any other action necessary to initiate the participation of this state in the treaty."

Section 35. Section 53-1-201, MCA, is amended to read:

"53-1-201. Purpose of department of social 1 2 rehabilitation services. The department of social and rehabilitation services shall utilize at maximum efficiency 3 the resources of state government in a coordinated effort 4 5 to:

- 6 (1) restore the physically or-mentally disabled;
- 7 f2}--rehabilitate-the-violators-of-law;
- (3) (2) sustain the vigor and dignity of the aged;
- 9 +4+(3) provide for children in need of temporary protection or correctional counseling; 10
- (5)(4) train children of limited mental capacity to 11 12 their best potential;
- 1.3 +6+(5) rededicate the resources of the state to the 14 productive independence of its now dependent citizens; and
- +7+(6) coordinate and apply the principles of modern institutional administration to the institutions of-the 16
- 17 state in the department."

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- 18 Section 36. Section 53-1-202, MCA, is amended to read:
- 19 "53-1-202. (Temporary) Institutions in department
- 20 departments. (1) The following institutions are in the
- 21 department of social and rehabilitation services:
- 22 fa)--Montana-state-hospital;
- 23 (b)(A) Montana veterans' home;
- 24 (c)--State-prison;
- 25 td)(c)(B) Mountain View school;

-63-HB 201 -64-HB 201

1	<pre>te)(d)(C) Pine Hills school;</pre>	1	<pre>(b)(A) Montana veterans' home;</pre>
2	<pre>ff)(e)(D) Montana developmental center;</pre>	2	(e)State-prison;
3	<pre>(g)(ff)(E) Montana center for the aged;</pre>	3	<pre>td) tej(B) Mountain View school;</pre>
4	{h}Swan-River-youth-forest-camp;	4	<pre>te)td)(C)</pre> Pine Hills school;
5	<pre>fif(f) Eastmont human services center;</pre>	5	<pre>(f)(D) Montana developmental center;</pre>
6	<pre>(j)(h)(G) Montana youth treatment center; and</pre>	6	<pre>tg)(E) Montana center for the aged;</pre>
7	(k)(i)(H) Any any other institution which provides	7	(h)Swan-River-youth-forest-camp;
8	care and services for juvenile delinquents, including but	8	<pre>(±)(f) Eastmont human services center; and</pre>
9	not limited to youth forest camps, except the Swan River	9	(j)(h)(G) Any any other institution which provides
10	youth forest camp, and juvenile reception and evaluation	10	care and services for juvenile delinquents, including but
11	centers.	11	not limited to youth forest camps, except the Swan River
12	(2) The following institutions are in the department	12	youth forest camp, and juvenile reception and evaluation
13	of justice:	13	centers.
14	(a) State prison; and	14	(2) The following institutions are in the department
15	(b) Swan River youth forest camp.	15	of justice:
16	(3) THE MONTANA STATE HOSPITAL IS IN THE DEPARTMENT OF	16	(a) State prison; and
17	HEALTH AND ENVIRONMENTAL SCIENCES.	17	(b) Swan River youth forest camp.
18	(2)(4) A state institution may not be moved,	18	(3) THE MONTANA STATE HOSPITAL IS IN THE DEPARTMENT OF
19	discontinued, or abandoned without prior consent of the	19	HEALTH AND ENVIRONMENTAL SCIENCES.
20	legislature.	20	$+2+\frac{(3)(4)}{(2)}$ A state institution may not be moved,
21	53-1-202. (Effective as provided in Compiler's	21	discontinued, or abandoned without prior consent of the
22	Comments) Institutions in department departments. (1) The	22	legislature."
23	following institutions are in the department of social and	23	Section 37. Section 53-1-203, MCA, is amended to read:
24	rehabilitation services:	24	"53-1-203. Powers and duties of department
25	(a)Montana-state-hospital;	25	departments. (1) The department departments of justice,

HB 201

-65-

-66-HB 201

HEALTH AND ENVIRONMENTAL SCIENCES, and social and rehabilitation services shall:

ti)(a) adopt rules for the admission, custody, transfer, and release of residents of institutions in their departments except as otherwise provided by law; however, no such rules may amend or alter the statutory powers and duties of the state board of pardons;

t27(b) subject to the functions of the department of administration, lease or purchase lands for use by institutions in that department and classify those lands to determine which are of such character as to be most profitably used for agricultural purposes, taking into consideration the needs of all institutions for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in the institutions;

(3)--contract---with----private----nonprofit----Montana corporations--to--establish--and--maintain--community--based prerelease-centers-for-purposes-of-preparing-inmates-of--the Montana--state-prison-who-are-approaching-parote-eligibility or-discharge-for-release-into--the--community;--the--centers shall-provide-a-less-restrictive-environment-than-the-prison white--maintaining--adequate--security;-the-centers-shall-be operated-in-coordination-with-other-department--correctional programs;--including-the-supervised-release-program-provided

for-in-Title-467--chapter--237--part--4:--Nothing--in--this
subsection---shall--affect--the--department's--authority--to
operate-and-maintain-community-based-precedess--centers--in
existence-on-duly-147-1982:

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

(5)(d) propose programs to the legislature to meet the
projected long-range needs of institutions in their
department, including programs and facilities for the
diagnosis, treatment, care, and aftercare of persons placed
in institutions; and

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

(2) In addition to the duties listed in subsection (1), the department of justice shall contract with private nonprofit Montana corporations to establish and maintain community based prerelease centers for purposes of preparing inmates of the Montana state prison who are approaching parole eligibility or discharge for release into the community. The centers must provide a less restrictive environment than the prison while maintaining adequate security and must operate in coordination with other

-67- HB 201

-68- HB 201

department of justice correctional programs, including the supervised release program provided for in Title 46, chapter 23, part 4. Nothing in this subsection affects the authority of the department of justice to operate and maintain community based prerelease centers in existence on July 14, 1982."

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Section 38. Section 53-1-204, MCA, is amended to read:

"53-1-204. Responsibility of warden and superintendents of institutions. The warden or and the superintendents of institutions in the department departments of justice, HEALTH AND ENVIRONMENTAL SCIENCES, and social and rehabilitation services are responsible for the immediate management and control of their respective institutions, subject to the general policies and programs established by the department departments."

Section 39. Section 53-1-206, MCA, is amended to read:

"53-1-206. Participation by institutions in research
programs. The department of justice may direct a penal and
corrective institution of the state to participate in and
cooperate with programs of research and development being
conducted and carried on by any units of the Montana
university system, by any of the other educational
institutions of the state of Montana, or by any foundation
or agency thereof in the fields of science, health,
education, and natural resources. These programs may include

the voluntary participation of the inmates of the institution in testing and experimental work conducted as a part thereof. Any funds received from the authorized programs may be shared with the participating inmates or otherwise held and used for the welfare and rehabilitation thereof and may not become a part of the regular budgeted operation of the institution."

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

"53-1-301. Permitted institutional industries, powers

of department departments, and incentive pay to inmates. (1)

Except as provided in subsection (3), the department of

justice, HEALTH AND ENVIRONMENTAL SCIENCES, or social and

rehabilitation services may:

- 14 (a) establish industries in institutions in that department which will result in the 15 production or 16 manufacture of such products and the rendering of such 17 services as may be needed by any department or agency of the 18 state or any political subdivision thereof, by any agency of 19 the federal government, by any other states or their political subdivisions, or by nonprofit organizations and 20 that will assist in the rehabilitation of residents in 21 22 institutions;
- 23 (b) contract with private industry for the sale of 24 goods or components manufactured or produced in shops under 25 its jurisdiction;

-69- HB 201 -70- HB 201

НВ 0201/02

open market;

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- (c) print catalogs describing goods manufactured or produced by institutions in that department and distribute the catalogs;
- 4 (d) fix the sale price for goods produced or
 5 manufactured at institutions in that department. Prices
 6 shall not exceed prices existing in the open market for
 7 goods of comparable quality.

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- 8 (e) require institutions in that department to
 9 purchase needed goods from other institutions:
- 10 (f) provide for the repair and maintenance of property
 11 and equipment of institutions in that department by
 12 residents of institutions;
 - (g) provide for construction projects up to the aggregate sum of \$25,000 per project, by residents of institutions; -provided; -however; -said in that department if the construction work is not covered by a collective bargaining agreement;
- (h) provide for the repair and maintenance at an institution in that department of furniture and equipment of any state agency;
- 21 (i) provide for the manufacture at an institution in 22 that department of motor vehicle license plates and other 23 related articles;
- 24 (j) with---the---approval---of--the--department, sell
 25 manufactured or agricultural products and livestock on the

- 2 (k) provide for the manufacture at an institution in
 3 that department of highway, road, and street marking signs
 4 for the use of the state or any of its political
 5 subdivisions, except when the manufacture of the signs is in
- 7 (1) pay an inmate or resident of an institution in
 8 that department from receipts from the sale of products
 9 produced or manufactured or services rendered in a program
 10 in which he is working.

violation of a collective bargaining contract;

- 11 (2) (a) Payment for the performance of work may be 12 based on the following criteria:
 - (i) knowledge and skill;
- 14 (ii) attitude toward authority;
- 15 (iii) physical effort;
- 16 (iv) responsibility for equipment and materials;
- 17 (v) regard for safety of others.
- 18 (b) The maximum rate of pay shall be determined by the
 19 appropriation established for each program.
- made in the prison may be purchased by state agencies in accordance with the procurement provisions under Title 18, chapter 4. All other prison-made furniture may be sold only through licensed wholesale or retail furniture outlets or
- 25 through export firms for sale to international markets.

(3) Except as provided in subsection (4), furniture

(4) Any state institution, facility, or program operated by the department of justice may purchase prison-made furniture without complying with the procurement provisions under Title 18, chapter 4."

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5 Section 41. Section 53-1-303, MCA, is amended to read:
6 "53-1-303. Prohibited acts. Unless permitted by the
7 department of justice, HEALTH AND ENVIRONMENTAL SCIENCES, or
8 social and rehabilitation services, arranging for the labor
9 of a resident of an institution is prohibited."

Section 42. Section 53-1-304, MCA, is amended to read:

"53-1-304. Supervision of industries program. The An industries program shall be supervised by the director of the department of-institutions in which the institution is located or his designated representative, provided the administration of the industries program is separate from the administration of any the institution where in which the program may-be is located."

Section 43. Section 53-1-401, MCA, is amended to read:

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

(1) "Ancillary charge" means identifiable, direct, resident service expenses as budgeted, including but not limited to operating room, anesthesia, x-ray, laboratory, blood bank, oxygen therapy, physical therapy, medical

supply, drug, and specialized medical equipment expenses.

- 2 (2) "Care" means the care, treatment, support,
 3 maintenance, and other services rendered by the department
 4 to a resident.
 - (3) "Department" means the department of institutions

 HEALTH AND ENVIRONMENTAL SCIENCES OR social and

 rehabilitation services provided for in Title 2, chapter 15,

 part PARTS 21 AND 23 22.
- 9 (4) "Financially responsible person" means a spouse of
 10 a resident, the natural or adoptive parents of a resident
 11 under 18 years of age, or a guardian or conservator to the
 12 extent of the guardian's or conservator's responsibility for
 13 the financial affairs of the person who is a resident under
 14 applicable Montana law establishing the duties and
 15 limitations of guardianships or conservatorships.
- 16 (5) "Full-time equivalent resident load" means the
 17 total daily resident count for the fiscal year divided by
 18 the number of days in the year.
- 19 (6) "Long-term resident" means a resident in an institution listed in 53-1-402 for a continuous period in 21 excess of 120 days. No absence of a resident from the 22 institution due to a temporary or trial visit may be counted 23 as interrupting the accrual of the 120 days required to 24 attain the status of a long-term resident.
 - (7) "Per diem" means the gross daily cost of operating

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an institution as budgeted, including depreciation and associated department costs but excluding the cost of educational programs, federal grants, ancillary charges, and costs not directly identified with patient care.

- 5 (8) "Resident" means any person who is receiving care 6 from or who is a resident of an institution listed in 7 53-1-402.
- 6 (9) "Third-party resource" means but is not limited to
 9 applicable medicare, medicaid, and personal health care
 10 benefits."
- 11 Section 44. Section 53-6-301, MCA, is amended to read:
- 12 "53-6-301. Location and primary function of hospital.
- 13 (1) The agency providing comprehensive health care services
 - at Galen and Warm Springs, Montana, is the Montana state
- 15 hospital and as its primary function provides:
- 16 (a) care and treatment of mentally ill persons;
- 17 (b) diagnosis, care, evaluation, treatment, referral,
- 18 and rehabilitation of persons afflicted with chemical
- 19 dependency;

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- (c) care and treatment of institutional residents or
- 22 programs of the department of social--and--rehabilitation

clients of in the department's community and residential

- 23 services HEALTH AND ENVIRONMENTAL SCIENCES who require acute
- 24 hospital care or nursing care;
- 25 (d) treatment of tuberculosis and silicosis (commonly

- called miner's consumption);
- 2 (e) detoxification of those persons who seek relief 3 from the disabling effects of alcohol and other chemical 4 substances; and
- (f) contingent upon space and funds, the treatment of
 pulmonary diseases and other medical or organic disorders.
- 7 (2) The campus facility at Warm Springs, Montana, is 8 the component designated as the mental health facility, as 9 defined in 53-21-102, of the department of institutions 10 social--and-rehabilitation-services HEALTH AND ENVIRONMENTAL
- Social and remodification services individual and invitouristation
- ${\tt SCIENCES}$ for the care and treatment of mentally ill persons.
- 12 (3) The designated campus facilities at Galen,
 13 Montana, are the components designated as the department's
 14 residential treatment facilities for those persons suffering
- 15 from chemical dependency.
- 16 (4) The campus facility at Galen, Montana, licensed to
 17 provide acute hospital and intermediate nursing care, is the
 18 facility component designated for the care and treatment of
 19 the medical and organic disorders described in this
- 21 Section 45. Section 53-20-213, MCA, is amended to
- 23 "53-20-213. Departments to cooperate. The department
 24 of-institutions, the department of social and rehabilitation
 25 services, the department of health and environmental

section."

read:

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НВ 0201/02

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sciences, and the office of superintendent of public instruction shall cooperate on all aspects of each agency's respective programs for the developmentally disabled."

4 Section 46. Section 53-20-214, MCA, is amended to 5 read:

"53-20-214. Certain transfers of funds authorized. б 7 Funds appropriated to the department -- of -- institutions, 8 Montana state hospital, or Montana developmental center may transferred by budget amendment as provided in 9 10 appropriation acts and with the approval of the governor to the department of social and rehabilitation services for 11 comprehensive developmental disability systems if residents 12 of any of those institutions are transferred to a 13

16 legislative appropriation."
17 Section 47. Section 53-21-102, MCA, is amended to
18 read:

comprehensive developmental disability system resulting in

less expenditures at that institution than allowed by

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19 "53-21-102. Definitions. As used in this part, the 20 following definitions apply:

21 (1) "Board" or "mental disabilities board of visitors"
22 means the mental disabilities board of visitors created by
23 2-15-211.

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

(3) "Department" means the department of institutions
social--and-rehabilitation-services HEALTH AND ENVIRONMENTAL
SCIENCES provided for in Title 2, chapter 15, part 23 22 21.

- (4) "Emergency situation" means a situation in which any person is in imminent danger of death or serious bodily harm from the activity of a person who appears to be seriously mentally ill.
- (5) "Mental disorder" means any organic, mental, or emotional impairment which has substantial adverse effects on an individual's cognitive or volitional functions.
- (6) "Mental health facility" or "facility" means a public hospital or a licensed private hospital which is equipped and staffed to provide treatment for persons with mental disorders or a community mental health center or any mental health clinic or treatment center approved by the department. No correctional institution or facility or jail is a mental health facility within the meaning of this part.
- 18 (7) "Next of kin" shall include but need not be
 19 limited to the spouse, parents, adult children, and adult
 20 brothers and sisters of a person.
- 21 (B) "Patient" means a person committed by the court
 22 for treatment for any period of time or who is voluntarily
 23 admitted for treatment for any period of time.
- (9) "Peace officer" means any sheriff, deputy sheriff,marshal, policeman, or other peace officer.

-77- HB 201

-78- HB 201

1 (10) "Professional person" means:

(a) a medical doctor; or

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respondent.

- 3 (b) a person who has been certified, as provided for
 4 in 53-21-106, by the department.
- 5 (11) "Reasonable medical certainty" means reasonable 6 certainty as judged by the standards of a professional 7 person.
- 8 (12) "Respondent" means a person alleged in a petition9 filed pursuant to this part to be seriously mentally ill.
- 10 (13) "Friend of respondent" means any person willing 11 and able to assist a seriously mentally ill person or person alleged to be seriously mentally ill in dealing with legal 12 13 proceedings, including consultation with legal counsel and 14 others. The friend of respondent may be the next of kin, the person's conservator or legal guardian, if 15 16 representatives of a charitable or religious organization, 17 or any other person appointed by the court to perform the functions of a friend of respondent set out in this part. 18 19 Only one person may at any one time be the friend of respondent within the meaning of this part. In appointing a 20 friend of respondent, the court shall consider the 21 preference of the respondent. The court may at any time, for 22 23 good cause shown, change its designation of the friend of
- 25 (14) "Seriously mentally ill" means suffering from a

- 1 mental disorder which has resulted in self-inflicted injury
- 2 or injury to others or the imminent threat thereof or which
- 3 has deprived the person afflicted of the ability to protect
- 4 his life or health. For this purpose, injury means physical
- 5 injury. No person may be involuntarily committed to a mental
- 6 health facility or detained for evaluation and treatment
- 7 because he is an epileptic, mentally deficient, mentally
- 8 retarded, senile, or suffering from a mental disorder unless
- 9 the condition causes him to be seriously mentally ill within
- 10 the meaning of this part.
- 11 (15) "State hospital" means the Montana state
- 12 hospital."
- 13 Section 48. Section 53-21-201, MCA, is amended to
- 14 read:
- 15 "53-21-201. Definitions. As used in this part, the
- 16 following definitions apply:
- 17 (1) "Public mental health facility" means any public
- 18 service or group of services offering mental health care on
- 19 an inpatient or outpatient basis to the mentally ill.
- 20 (2) "Community comprehensive mental health center"
- 21 means a facility, not necessarily encompassed within one
- 22 building, offering at least the following six basic mental
- 23 health services to the public:
- 24 (a) 24-hour inpatient care;
- 25 (b) part-time hospitalization;

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- (d) emergency service;
- (e) consultation and education in mental health:
- (f) precare and aftercare.
 - (3) "Mental health clinic" means an outpatient facility offering mental health care to the public.
 - (4) "Department" means the department of institutions social--and-rehabilitation-services HEALTH AND ENVIRONMENTAL SCIENCES provided for in Title 2, chapter 15, part 22 21." Section 49. Section 53-24-103, MCA, is amended to read:
- "53-24-103. Definitions. For purposes of this chapter, 12 the following definitions apply:
 - (1) "Alcoholic" means a person who has a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to the extent that it endangers the health, interpersonal relationships, or economic function of the individual or public health. welfare, or safety.
 - (2) "Approved private treatment facility" means a private agency (whose function is the treatment, rehabilitation, and prevention of chemical dependency) and meeting the standards prescribed in 53-24-208(1) and approved under 53-24-208.
- 25 (3) "Approved public treatment facility" means:

- 1 (a) a treatment agency operating under the direction 2 and control of the department as a state agency and approved under 53-24-208: or 3
- (b) a treatment agency operating under the direction 4 and control of a local government and approved under 5 53-24-208. 6
 - (4) "Chemical dependency" means the use substance, legal or illegal, which creates chemical behavioral or health problems, or both, resulting in operational impairment. This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, welfare, or safety.
 - (5) "Department" means the department of institutions health and environmental sciences provided for in 2-15-2301 2-15-2101.
 - (6) "Family member" is the spouse, mother, father, child, or member of the household of a chemically dependent person whose life has been affected by the actions of the chemically dependent person and who may require treatment.
 - (7) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, is unconscious or has his judgment otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

-81-HB 201

HB 201 -82нв 0201/02

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

3 (9) "Intoxicated person" means a person whose mental 4 or physical functioning is substantially impaired as a 5 result of the use of alcohol.

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- 6 (10) "Prevention" has meaning on four levels; these
 7 are:
 - (a) education to provide information to the school children and general public relating to chemical dependency treatment and rehabilitative services and to reduce the consequences of life experiences acquired by contact with a chemically dependent person;
 - (b) early detection and recovery from the illness before lasting emotional or physical damage, or both, have occurred:
 - (c) if lasting emotional or physical damage, or both, have occurred, to arrest the illness before full disability has been reached:
- 19 (d) the provision of facility requirements to meet 20 division program standards and improve public accessibility 21 for services.
- 22 (11) "Treatment" means the broad range of emergency, 23 outpatient, intermediate, and inpatient services and care, 24 including diagnostic evaluation, medical, psychiatric, 25 psychological, and social service care, vocational

rehabilitation, and career counseling, which may be extended
to chemically dependent persons, intoxicated persons, and
family members."

4 Section 50. Section 53-30-212, MCA, is amended to 5 read:

"53-30-212. Commutation of sentence to state prison and transfer of prisoner to juvenile correctional facility.

(1) Upon the application of a person under 21 years of age who has been sentenced to the state prison or upon the application of his parents or guardian, the governor may, after consulting with the department of institutions social and rehabilitation services and with the approval of the board of pardons, commute the sentence by committing such person to the department until he is 21 years of age or until sooner placed or discharged.

(2) If such person's behavior after being committed to the department of social and rehabilitation services indicates that he is not a proper person to reside at one of the department's juvenile facilities, the governor, after consulting with the department and with the approval of the board of pardons, may revoke the commutation and return him to the state prison to serve out his unexpired term, and the time spent by him at one of the department's juvenile facilities or while a refugee from one of the department's juvenile facilities shall not be considered as a part of his

-83- HB 201

-84- HB 201

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original sentence.

- (3) Upon recommendation of the warden and with the approval of the department of social and rehabilitation services, a person under 21 years of age who has been sentenced to the state prison may be transferred to any juvenile facility under the jurisdiction and control of the department.
- (4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of justice, such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan River youth forest camp. Prior to departmental approval of the transfer by the department of justice, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.
- (5) If such person's behavior after transfer to such juvenile facility indicates he might be released on parole or his sentence be commuted and he be discharged from

custody, the superintendent of such facility, with the approval of the department of justice, may make an appropriate recommendation to the state board of pardons and the governor, who may in their discretion parole such person or commute his sentence.

juvenile facility indicates he is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of justice, such person shall be returned to the state prison to serve out his unexpired term."

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

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

NEW SECTION. Section 52. Repealer. Sections 2-15-2301 and 53-1-101, MCA, are repealed.

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-85- HB 201

HB 201