

HOUSE BILL NO. 5  
INTRODUCED BY EUDAILY  
BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

DECEMBER 30, 1988	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 2, 1989	FIRST READING.
JANUARY 10, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 11, 1989	PRINTING REPORT.
JANUARY 12, 1989	SECOND READING, DO PASS.
JANUARY 13, 1989	ENGROSSING REPORT.
JANUARY 14, 1989	THIRD READING, PASSED. AYES, 96; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 28, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 2, 1989	SECOND READING, CONCURRED IN.
MARCH 4, 1989	THIRD READING, CONCURRED IN. AYES, 45; NOES, 0.
	RETURNED TO HOUSE.

MARCH 4, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1                   HOUSE           BILL NO.   5  
2   INTRODUCED BY   EUDAILY  
3                   BY REQUEST OF THE CODE COMMISSIONER  
4  
5   A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6   CLARIFY THE MONTANA CODE ANNOTATED; AND DIRECTING THE CODE  
7   COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN  
8   MATERIAL ENACTED BY THE 51ST LEGISLATURE."  
9  
10   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11       **Section 1.** Section 1-11-301, MCA, is amended to read:  
12       **"1-11-301. Publication and sale of Montana Code**  
13       **Annotated -- free distribution.** (1) The legislative council  
14       with the advice of the code commissioner shall decide on the  
15       quantity, quality, style, format, and grade of all  
16       publications prior to having the code commissioner call for  
17       bids for the printing and binding and contract for their  
18       publication. The code commissioner shall follow the  
19       requirements of state law relating to contracts and bids,  
20       except as herein provided.  
21       (2) The methods of sale to the public of the Montana  
22       Code Annotated and supplements or other subsequent and  
23       ancillary publications thereto may be included as an  
24       alternative specification and bid and as a part of a  
25       contract to be let by bids by the code commissioner.

1           (3) The sales price to the public shall be fixed by  
2   the legislative council but may not exceed the cost price  
3   plus 20%. All revenues generated from the sale of the  
4   Montana Code Annotated or ancillary publications shall be  
5   deposited in the state special revenue fund, from which fund  
6   appropriations may be made for the use of the office and  
7   facilities of the legislative council under this chapter.  
8           (4) Sets of the Montana Code Annotated purchased by  
9   the state or Montana local governmental agencies that are  
10   supported by public funds shall be for the cost price of the  
11   sets.  
12           (5) (a) The Montana Code Annotated and supplements and  
13   other subsequent and ancillary publications except  
14   annotations shall be provided at no cost to the following:  
15       (i) each library designated as a depository library  
16       under 22-1-214, one copy;  
17       (ii) each library designated as a federation  
18       headquarters library under 22-1-402, one copy.  
19       (b) The state law library in Helena shall be provided  
20       with four copies of the Montana Code Annotated and  
21       supplements including annotations and other subsequent and  
22       ancillary publications.  
23       (c) The legislative council shall include in the cost  
24       price of the code the cost of providing the copies under  
25       this subsection."

**Section 2.** Section 2-4-704, MCA, is amended to read:

"2-4-704. Standards of review. (1) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency not shown in the record, proof thereof may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(2) The court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because:

(a) the administrative findings, inferences, conclusions, or decisions are:

(i) in violation of constitutional or statutory provisions;

(ii) in excess of the statutory authority of the agency;

(iii) made upon unlawful procedure;

(iv) affected by other error of law;

(v) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;

(vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of

discretion; or

(b) because findings of fact, upon issues essential to the decision, were not made although requested."

**Section 3.** Section 2-15-122, MCA, is amended to read:

"2-15-122. Creation of advisory councils. (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that such official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. They must file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) of this section.

(2) Each advisory council created under this section shall be known as the "... advisory council".

1 (3) The creating authority shall prescribe the  
2 composition and advisory functions of each advisory council  
3 created; appoint its members, who shall serve at the  
4 pleasure of the governor; and specify a date when the  
5 existence of each advisory council ends.

6 (4) Advisory councils may be created only for the  
7 purpose of acting in an advisory capacity as defined in  
8 2-15-102~~7~~(8).

9 (5) Unless he is a full-time salaried officer or  
10 employee of this state or of any political subdivision of  
11 this state, each member is entitled to be paid in an amount  
12 to be determined by the department head, not to exceed \$25  
13 for each day in which he is actually and necessarily engaged  
14 in the performance of council duties, and he is also  
15 entitled to be reimbursed for travel expenses, as provided  
16 for in 2-18-501 through 2-18-503, incurred while in the  
17 performance of council duties. Members who are full-time  
18 salaried officers or employees of this state or of any  
19 political subdivision of this state are not entitled to be  
20 compensated for their service as members but are entitled to  
21 be reimbursed for travel expenses as provided for in  
22 2-18-501 through 2-18-503.

23 (6) Unless otherwise specified by the creating  
24 authority, at its first meeting in each year each advisory  
25 council shall elect a chairman and such other officers as it

1 considers necessary.

2 (7) Unless otherwise specified by the creating  
3 authority, each advisory council shall meet at least  
4 annually and shall also meet on the call of the creating  
5 authority or the governor and may meet at other times on the  
6 call of the chairman or a majority of its members. An  
7 advisory council may not meet outside the city of Helena  
8 without the express prior authorization of the creating  
9 authority.

10 (8) A majority of the membership of an advisory  
11 council constitutes a quorum to do business.

12 (9) Except as provided in subsection (1)(c) of this  
13 section, an advisory council may not be created or appointed  
14 by a department head or any other official without the  
15 approval of the governor. In order for the creation or  
16 approval of the creation of an advisory council to be  
17 effective, the governor must file in his office and in the  
18 office of the secretary of state a record of the council  
19 created showing the council's:

20 (a) name, in accordance with subsection (2) of this  
21 section;

22 (b) composition;

23 (c) names and addresses of the appointed members;

24 (d) purpose;

25 (e) term of existence, in accordance with subsection

(10) of this section.

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the governor or by the board of public education, the board of regents of higher education, the state board of education, the attorney general, or the superintendent of public instruction for those advisory councils created in the manner set forth in subsection (1)(c) of this section. If the existence of an advisory council is extended, they shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary."

**Section 4.** Section 2-15-1858, MCA, is amended to read:

**"2-15-1858. Board of physical therapy examiners. (1)**

There is a board of physical therapy examiners.

(2) The board consists of five members appointed by the governor with the consent of the senate for a term of 3 years. The members are:

(a) three physical therapists licensed under Title 37, chapter 11, who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to

the board;

(b) one physician licensed under Title 37, chapter 3, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and

(c) one member of the general public who is not a physician or a physical therapist.

(3) Each member must have been a resident of Montana for the 3 years preceding appointment to the board.

(4) ~~{a} Within 30 days following July 17, 1979, the governor shall make initial appointments to the board of physical therapy examiners. He shall appoint one member each to hold office for terms of 1 year, 2 years, and 3 years, respectively. At the end of each member's appointed term, a member shall be appointed for a full 3-year term.~~

~~{b} The Montana medical association may submit names of nominees under subsection (2)(b) to the governor as provided in 37-1-132.~~

(5) A vacancy on the board must be filled in the same manner as the original appointment. These appointments may only be made for the unexpired portions of the term.

(6) No member may be appointed for more than two consecutive terms.

(7) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(8) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 37, chapter 11.

(9) The board shall provide for its organizational structure by rule, which shall include a chairman, vice-chairman, and secretary-treasurer.

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

**Section 5.** Section 2-18-501, MCA, is amended to read:

"2-18-501. Meals, lodging, and transportation of persons in state service. Every elected official, appointed members of boards, commissions, or councils, department directors, and all other state employees shall be reimbursed for meals and lodging while away from the person's designated headquarters and engaged in official state business in accordance with the following provisions:

(1) For travel within the state of Montana, the following provisions apply:

(a) The governor shall be authorized actual and necessary expenses not to exceed \$55 per day.

(b) All other elected state officials, appointed members of boards, commissions, or councils, department directors, and all other state employees shall be authorized the actual cost of lodging, not exceeding \$24 per day, and taxes on the allowable cost of lodging, except as provided

in subsection (3), plus \$3 for the morning meal, \$3.50 for the midday meal, and \$8 for the evening meal. All claims for lodging expense reimbursement allowed under this section must be documented by an appropriate receipt.

(2) For travel out of the state of Montana, the following provisions apply:

(a) The governor shall be authorized the actual cost of lodging in addition to a meal allowance not to exceed \$30 per day.

(b) All other elected state officials, appointed members of boards, commissions, or councils, department directors, and all other state employees shall be authorized the actual cost of lodging, not exceeding \$50 per day, except as provided in subsection (3), plus \$4 for the morning meal, \$6.50 for the midday meal, and \$12 for the evening meal. All claims for the lodging expense reimbursement allowed under this subsection must be documented by an appropriate receipt.

(3) All other elected state officials, appointed members of boards, ~~commissioners~~ commissions, or councils, department directors, and all other state employees shall be authorized the actual cost of lodging when traveling in the normal course of their duties to certain designated areas. The department of administration shall designate those areas where the actual cost of lodging shall be reimbursed.

(4) When other than commercial, nonreceiptable lodging facilities are utilized by a state employee while conducting official state business in a travel status, the amount of \$7 will be authorized for lodging expenses for each day in which travel involves an overnight stay in lieu of the amount authorized in subsection (1)(b) or (2)(b) above. However, when overnight accommodations are provided at the expense of any government entity, no reimbursement may be claimed for lodging.

(5) The actual cost of reasonable transportation expenses and other necessary business expenses incurred by a state official or employee while in an official travel status shall be subject to reimbursement.

(6) The provisions of this section shall not be construed as affecting the validity of 5-2-301.

(7) The department of administration shall prescribe rules necessary to effectively administer this section for state government.

(8) All commercial air travel shall be by the least expensive class service available."

**Section 6.** Section 7-6-4304, MCA, is amended to read:

**"7-6-4304. Issuance of duplicate warrants and checks.**

(1) A duplicate warrant or check may be issued by the appropriate municipal officer whenever an instrument drawn by him upon the municipality is lost or destroyed. The

duplicate warrant or check must be in the same form as the original except that it must have plainly printed across its face the word "duplicate". Except as provided in subsection (2), no duplicate warrant or check may be issued or delivered unless the person entitled to receive it deposits with the issuing municipal officer a bond in double the amount for which the duplicate warrant or check is issued, conditioned to hold the city municipality and its officers harmless on account of the issuance of the duplicate warrant or check.

(2) No bond of indemnity is required when:

(a) the payee is the U.S. government, a state of the United States, an agency, instrumentality, or officer of the U.S. government or of a state, county, city, city and county, town, district, or other political subdivision of a state, or an officer thereof;

(b) the owner or custodian is the state of Montana or an agency or officer thereof;

(c) the owner or custodian is a bank, savings and loan association, admitted insurer, or trust company whose financial condition is regulated by the U.S. government or by the state of Montana;

(d) the amount of the lost or destroyed warrant or check is less than \$100;

(e) it can be established that a crime has been



1 committed and as a result of such crime the warrant or check  
2 was stolen or destroyed;

3 (f) it can be established that the warrant or check  
4 was mailed to an incorrect payee; or

5 (g) the payee is a vendor or contractor doing business  
6 with the municipality.

7 (3) Whenever the owner or custodian applies under the  
8 provisions of subsection (2)(e), (2)(f), or (2)(g), a  
9 stop-payment order must be placed on the original warrant or  
10 check by the municipality.

11 (4) Whenever the owner or custodian applies under the  
12 provisions of subsection (2)(c), (2)(d), (2)(e), (2)(f), or  
13 (2)(g), the application must include an agreement to  
14 indemnify and hold harmless the municipality or its officers  
15 and employees from any loss resulting from the issuance of a  
16 duplicate warrant or check. Any loss incurred in connection  
17 with the issuance of a duplicate warrant or check must be  
18 charged against the account from which the payment was  
19 derived."

20 **Section 7.** Section 15-6-214, MCA, is amended to read:

21 "15-6-214. (Temporary) Nonproducing manufacturing and  
22 railroad operating property -- tax-exempt status. (1)  
23 Improvements permanently affixed to real property that were  
24 constructed and operated for a manufacturing industry that  
25 has ceased production or as an improvement to a railroad's

1 operating property that has ceased production operation, for  
2 a period of at least 6 consecutive months, may be fully or  
3 partially exempted from taxation for each taxable year if  
4 the board of county commissioners finds that the  
5 improvements:

6 (a) were used by the manufacturing industry or a  
7 railroad;

8 (b) are no longer being used for production by the  
9 manufacturing industry or operation by a railroad;

10 (c) could be used for production or transportation in  
11 the future; and

12 (d) will be dismantled by the owner to avoid the  
13 payment of property taxes on the improvements.

14 (2) For the purposes of this section, "manufacturing  
15 industry" means an industry that engages in the mechanical  
16 or chemical transformation of materials or substances into  
17 new products in the manner defined as manufacturing in the  
18 1972 Standard Industrial Classification Manual prepared by  
19 the United States office of management and budget.

20 (3) For the purposes of this section, "railroad  
21 operating property" has the meaning provided in 15-23-202.

22 (4) The tax benefit described in subsection (1)  
23 applies only to the number of mills levied and assessed for  
24 local high school district and elementary school district  
25 purposes and to the number of mills levied and assessed by

the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law. (Terminates December 31, 1989--sec. 3, Ch. 560, L. 1987.)"

**Section 8.** Section 15-17-317, MCA, is amended to read:

"15-17-317. Municipality as purchaser. Whenever property has been struck off to the county at a tax sale under ~~15-17-207~~ {15-17-214}, is subject to the lien of delinquent special assessments, and has not been assigned under ~~15-17-208~~ {15-17-214} or ~~15-17-303~~ {15-17-323}, at the request of the municipality the county treasurer shall assign all of the rights of the county acquired therein at the sale to the municipality upon payment of any delinquent taxes (excluding assessments) and costs, without penalty or interest. The duplicate certificate of sale must be delivered to the treasurer of the municipality and filed by him in his office. No charge may be made for the duplicate certificate when the municipality is the purchaser, and in such case the county treasurer shall make an entry "sold to the municipality" on the assessment book opposite the tax, and he must be credited with the delinquent amount thereof in the settlement. Property sold to the municipality must be held in trust by the municipality for the improvement fund

into which the delinquent special assessments are payable."

**Section 9.** Section 15-17-318, MCA, is amended to read:

"15-17-318. Assignment of municipality's interest. (1)

At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays:

(a) the purchase price paid by the municipality;

(b) the delinquent assessments;

(c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the municipality shall execute to such person a certificate of sale for the parcel, which may be in substantially the form provided in ~~15-17-303~~ {15-17-212} for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed by the assignee, the treasurer of the municipality shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to him, including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a municipality under this section discharges the trust created under 15-17-317. The

1 municipality may also discharge the trust created under  
2 15-17-317 by paying into the improvement fund the amount of  
3 the delinquent assessments and interest accrued thereon."

4 **Section 10.** Section 15-18-212, MCA, is amended to  
5 read:

6 "15-18-212. Notice -- proof of notice -- penalty for  
7 failure to notify. (1) Not more than 60 days prior to and  
8 not more than 60 days following the expiration of the  
9 redemption period provided in 15-18-111, a notice must be  
10 given as follows:

11 (a) for each property for which there has been issued  
12 to the county a tax sale certificate or for which the county  
13 is otherwise listed as the purchaser or assignee, the county  
14 clerk shall notify all persons considered interested parties  
15 in the property and the current occupant of the property, if  
16 any, that a tax deed may be issued to the county unless the  
17 property tax lien is redeemed prior to the expiration date  
18 of the redemption period; or

19 (b) for each property for which there has been issued  
20 a tax sale certificate to a purchaser other than the county  
21 or for which an assignment has been made, the purchaser or  
22 assignee, as appropriate, shall notify all persons  
23 considered interested parties in the property, if any, that  
24 a tax deed will be issued to the purchaser or assignee  
25 unless the property tax lien is redeemed prior to the

1 expiration date of the redemption period.

2 (2) (a) Except as provided in subsection (2)(b), if  
3 the county is the purchaser, no assignment has been made,  
4 and the board of county commissioners has not directed the  
5 county treasurer to issue a tax deed during the period  
6 described in subsection (1) but the board of county  
7 commissioners at a time subsequent to the period described  
8 in subsection (1) does direct the county treasurer to issue  
9 a tax deed, the county clerk must provide notification to  
10 all interested parties and the current occupant, if any, in  
11 the manner provided in subsection (1)(a). The notification  
12 required under this subsection must be made not less than 60  
13 days or more than 90 days prior to the date on which the  
14 county treasurer will issue the tax deed.

15 (b) If the county commissioners direct the county  
16 treasurer to issue a tax deed within 6 months after giving  
17 the notice required by subsection (1)(a), no additional  
18 notice need be given.

19 (3) (a) If a purchaser other than the county or an  
20 assignee fails or neglects to give notice as required by  
21 subsection (1)(b), which failure or neglect is evidenced by  
22 failure of the purchaser or assignee to file proof of notice  
23 with the county clerk as required in subsection (7), the  
24 county treasurer shall proceed to give notice in the manner  
25 provided in subsection (1)(a).

(b) Notice given under this subsection (3) must be given not less than 60 days or more than 90 days prior to the date on which the county treasurer will issue the tax deed.

(c) A purchaser or assignee who fails to give notice as required by subsection (1)(b), thereby forcing notification to be given under this subsection (3), must be charged a penalty of \$500 plus all actual costs of notification incurred by the county proceeding under this subsection (3).

(4) The notice required under subsections (1) through (3) must be made by certified mail to each interested party and the current occupant, if any, of the property. The address to which the notice must be sent is, for each interested party, the address disclosed by the records in the office of the county clerk and, for the occupant, the street address or other known address of the subject property.

(5) In all cases in which the address of an interested party is not known, the person required to give notice shall, within the period described in subsection (1) or not less than 60 days or more than 90 days prior to the date upon which the county treasurer will otherwise issue a tax deed, whichever is appropriate, publish once a week for 2 successive weeks, in the official newspaper of the county or

such other newspaper as the board of county commissioners may by resolution designate, a notice containing the information contained in subsection (6), plus:

(a) the name of the interested party for whom the address is unknown;

(b) a statement that the address of the interested party is unknown;

(c) a statement that the published notice meets the legal requirements for notice of a pending tax deed issuance; and

(d) a statement that the interested party's rights in the property may be in jeopardy.

(6) The notices required by subsections (1) through (3) and (5) must contain the following:

(a) a statement that a property tax lien exists on the property as a result of a property tax delinquency;

(b) a description of the property on which the taxes are or were delinquent, which description must be the same as the description of the property on the tax sale certificate or in the record described in 15-17-214(2)(b);

(c) the date that the property taxes became delinquent;

(d) the date that the property tax lien attached as the result of a tax sale;

(e) the amount of taxes due, including penalties,

1 interest, and costs, as of the date of the notice of pending  
2 tax deed issuance, which amount must include a separate  
3 listing of the delinquent taxes, penalties, interest, and  
4 costs that must be paid for the property tax lien to be  
5 liquidated;

6 (f) the name and address of the purchaser;

7 (g) the name of the assignee if an assignment was made  
8 as provided in 15-17-323;

9 (h) the date that the redemption period expires or  
10 expired;

11 (i) a statement that if all taxes, penalties,  
12 interest, and costs are not paid to the county treasurer on  
13 or prior to the date on which the redemption period expires  
14 or on or prior to the date on which the county treasurer  
15 will otherwise issue a tax deed that a tax deed may be  
16 issued to the purchaser on the day following the date on  
17 which the redemption period expires or on the date on which  
18 the county treasurer will otherwise issue a tax deed; and

19 (j) the business address and telephone number of the  
20 county treasurer who is responsible for issuing the tax  
21 deed.

22 (7) In all cases, proof of notice in whatever manner  
23 given must be filed by the county clerk, county treasurer,  
24 purchaser, or assignee, as appropriate, with the county  
25 clerk ~~not less than~~ within 30 days following the mailing or

1 publication of the notice. Once filed, the proof of notice  
2 is prima facie evidence of the sufficiency of the notice.

3 (8) A county or any officer of a county may not be  
4 held liable for any error of notification."

5 **Section 11.** Section 15-23-605, MCA, is amended to  
6 read:

7 "15-23-605. Assessment of royalties. (1) The amount of  
8 royalty received, valued as provided in 15-23-603(1)(a),  
9 less 70% of the amount of excise taxes paid by or withheld  
10 from the royalty owner as reported pursuant to  
11 15-23-602~~(8)~~(1)(e)(iv), shall be considered net proceeds to  
12 the recipient and shall be assessed as follows: upon receipt  
13 of the lists or schedules setting forth the names and  
14 addresses of any and all persons owning or claiming royalty  
15 and the amount paid or yielded as royalty to such royalty  
16 owners or claimants during the year for which such return is  
17 made, the department of revenue shall proceed to assess and  
18 tax the same as net proceeds of mines.

19 (2) Net proceeds for interim production and new  
20 production, as defined in 15-23-601, includes royalties  
21 received without deduction for excise taxes."

22 **Section 12.** Section 15-24-1203, MCA, is amended to  
23 read:

24 "15-24-1203. Privilege tax on gainful use of  
25 tax-exempt property -- exceptions. After March 17, 1969,

1 there is imposed and shall be collected a tax upon the  
 2 possession or other beneficial use enjoyed by any private  
 3 individual, association, or corporation of any property,  
 4 real or personal, which for any reason is exempt from  
 5 taxation. No tax may be imposed upon the possession or other  
 6 beneficial use of buildings owned by public entities and  
 7 located upon public airports. However, privately owned  
 8 buildings located on such airport property are subject to  
 9 tax. No tax shall be imposed upon the possession or other  
 10 beneficial use of public lands occupied under the terms of  
 11 mineral, timber, or grazing leases or permits issued by the  
 12 United States or the state of Montana or upon any easement  
 13 unless the lease, permit, or easement entitles the lessee or  
 14 permittee to exclusive possession of the premises to which  
 15 the lease, permit, or easement relates. The tax shall be  
 16 imposed upon the possession or other beneficial use of an  
 17 electric transmission line and associated facilities, except  
 18 that lines and facilities of a design capacity of less than  
 19 500 kilovolts shall not be subject to the tax. The tax may  
 20 not be imposed upon the possession or other beneficial use  
 21 of railroad right-of-way or track acquired by the state  
 22 pursuant to Title 60, chapter 11, part 1, as long as the  
 23 state retains ownership and the right-of-way and or track is  
 24 used exclusively for rail transportation."

25 **Section 13.** Section 15-25-122, MCA, is amended to

1 read:

2 "15-25-122. Disposition of proceeds. (1) The  
 3 department shall transfer all taxes collected pursuant to  
 4 this chapter, less the administrative fee authorized in  
 5 15-25-111(1), to the state treasurer on a monthly basis.

6 (2) The state treasurer shall deposit one-half of the  
 7 tax to the credit of the department of institutions family  
 8 services to be used for the youth evaluation program and  
 9 chemical abuse aftercare programs.

10 (3) The treasurer shall credit the remaining one-half  
 11 of the tax proceeds as follows:

12 (a) 85% to the department of justice to be used for  
 13 grants to youth courts to fund chemical abuse assessments  
 14 and the detention of juvenile offenders in facilities  
 15 separate from adult jails; and

16 (b) 15% to the special law enforcement assistance  
 17 account created in 44-13-101 for the activities described in  
 18 44-13-103."

19 **Section 14.** Section 15-25-123, MCA, is amended to  
 20 read:

21 "15-25-123. Special revenue account. (1) There is  
 22 created a special revenue fund account to be called the  
 23 dangerous drug tax administration fund account.

24 (2) All administrative fees collected under  
 25 15-25-111(1) shall be deposited by the department into the

dangerous drug tax administration fund account.

(3) The money in the dangerous drug tax administration fund account may be expended by the department to administer the tax and pay any refund required by this chapter.

(4) The appropriation made in subsection (3) is a statutory appropriation as provided in 17-7-502."

**Section 15.** Section 15-30-117, MCA, is amended to read:

"15-30-117. Net operating loss -- computation. (1) A net operating loss must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

(a) Additions to loss include:

(i) that portion of the federal income tax and motor vehicle fee tax allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a trade or business; and

(ii) wages and salaries allowed as a business deduction under 15-30-111(5).

(b) Reductions in the loss include:

(i) interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);

(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as business income;

(iii) state income tax; and

(iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include:

(a) income defined as exempt from state taxation under 15-30-111(2); or

(b) a zero bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."

**Section 16.** Section 15-32-102, MCA, is amended to read:

"15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Building" means a single or multiple dwelling, including a mobile home, or a building used for commercial, industrial, or agricultural purposes, which is enclosed with walls and a roof.

(2) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

(3) "Energy conservation purpose" means one or more of

the following results of an investment: reducing the waste or dissipation of energy or reducing the amount of energy required to accomplish a given quantity of work.

(4) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(5) "Low emission wood or biomass combustion device" means a stove or furnace or a catalytic converter added to a stove or furnace which burns wood or other nonfossil biomass and which has an emission rate of less than 6 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves as adopted by the department of health and environmental sciences pursuant to 15-32-203.

(6) "Recognized nonfossil forms of energy generation" means:

(a) a system for the utilization of solar energy including passive solar systems, wind, solid wastes, or the decomposition of organic wastes for capturing energy or

converting energy sources into usable sources;

(b) a system for the production of electric power from solid wood wastes;

(c) a low--emission low-emission wood or biomass combustion device;--and-also-means; or

(d) a small system for the utilization of water power by means of an impoundment not over 20 acres in surface area."

**Section 17.** Section 15-35-108, MCA, is amended to read:

"15-35-108. Disposal of severance taxes. Severance taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the



1 allocations provided by subsections (1) and (2) are  
2 allocated in the following percentages of the remaining  
3 balance:

4 (a) 4 1/2% to the state special revenue fund to the  
5 credit of the alternative energy research development and  
6 demonstration account;

7 (b) ~~4%--until--June--30,--1989,--to--the--state--special~~  
8 ~~revenue--fund--to--the--credit--of--the--local--impact--account--and~~  
9 thereafter 20% to the state special revenue fund to the  
10 credit of the ~~local--impact--and~~ education trust fund account  
11 and 17.5% to the credit of the local impact account.  
12 Unencumbered funds remaining in the local impact account at  
13 the end of each biennium are allocated to the education  
14 trust fund account.

15 (c) ~~44.2%--until--June--30,--1989,--and--thereafter~~ 10% to  
16 the state special revenue fund for state equalization aid to  
17 public schools of the state;

18 (d) 1% to the state special revenue fund to the credit  
19 of the county land planning account;

20 (e) 1 1/4% to the credit of the renewable resource  
21 development bond fund;

22 (f) ~~after--June--30,--1989,~~ 5% to a nonexpendable trust  
23 fund for the purpose of parks acquisition or management,  
24 protection of works of art in the state capitol, and other  
25 cultural and aesthetic projects. Income from this trust fund

1 shall be appropriated as follows:

2 (i) 1/3 for protection of works of art in the state  
3 capitol and other cultural and aesthetic projects; and

4 (ii) 2/3 for the acquisition, development, operation,  
5 and maintenance of any sites and areas described in  
6 23-1-102;

7 (g) 1% to the state special revenue fund to the credit  
8 of the state library commission for the purposes of  
9 providing basic library services for the residents of all  
10 counties through library federations and for payment of the  
11 costs of participating in regional and national networking;

12 (h) 1/2 of 1% to the state special revenue fund for  
13 conservation districts;

14 (i) 1 1/4% to the debt service fund type to the credit  
15 of the water development debt service fund;

16 (j) 2% to the state special revenue fund for the  
17 Montana Growth Through Agriculture Act;

18 (k) all other revenues from severance taxes collected  
19 under the provisions of this chapter to the credit of the  
20 general fund of the state."

21 **Section 18.** Section 15-65-121, MCA, is amended to  
22 read:

23 "15-65-121. (Temporary) Distribution of tax proceeds  
24 -- general fund loan authority. (1) The proceeds of the tax  
25 imposed by 15-65-111 must be deposited in an account in the

1 state special revenue fund to the credit of the department  
 2 of revenue. The department is statutorily appropriated, as  
 3 provided in 17-7-502, 2% of that account each reporting  
 4 period for the costs of collecting and disbursing the  
 5 proceeds of the tax. The balance of the tax proceeds  
 6 received each reporting period and not deducted pursuant to  
 7 the statutory appropriation for collection and disbursement  
 8 is statutorily appropriated as provided in 17-7-502 and must  
 9 be transferred to an account in the state special revenue  
 10 fund to the credit of the department of commerce for tourism  
 11 promotion and promotion of the state as a location for the  
 12 production of motion pictures and television commercials, to  
 13 the Montana historical society, and to the university  
 14 system, as follows:

15 (a) 1% to the Montana historical society to be used  
 16 for the installation or maintenance of roadside historical  
 17 signs and historic sites;

18 (b) 2.5% to the university system for the  
 19 establishment and maintenance of a Montana travel research  
 20 program; and

21 (c) the balance of the proceeds as follows:

22 (i) 75% to be used directly by the department of  
 23 commerce;

24 (ii) except as provided in subsection (1)(c)(iii), 25%  
 25 to be distributed by the department to regional nonprofit

1 tourism corporations in the ratio of the proceeds collected  
 2 in each tourism region to the total proceeds collected  
 3 statewide;

4 (iii) if 25% of the proceeds collected annually within  
 5 the limits of a city or consolidated city-county exceeds  
 6 \$35,000, 50% of the amount available for distribution to the  
 7 regional nonprofit tourism corporation in the region where  
 8 the city or consolidated city-county is located is to be  
 9 distributed to the nonprofit convention and visitors bureau  
 10 in that city or consolidated city-county.

11 (2) If a city or consolidated city-county qualifies  
 12 under this section for funds but fails to either recognize a  
 13 nonprofit convention and visitors bureau or submit and gain  
 14 approval for an annual marketing plan as required in  
 15 15-65-122, then those funds must be allocated to the tourism  
 16 regional nonprofit tourism corporation in the region in  
 17 which the city or consolidated city-county is located.

18 (3) If a regional nonprofit tourism corporation fails  
 19 to submit and gain approval for an annual marketing plan as  
 20 required in 15-65-122, then those funds otherwise allocated  
 21 to the regional nonprofit tourism corporation may be used by  
 22 the department of commerce for tourism promotion and  
 23 promotion of the state as a location for the production of  
 24 motion pictures and television commercials.

25 (4) The department of commerce may use general fund

loans for efficient implementation of this section.

15-65-121. (Effective July 1, 1989) Distribution of tax proceeds -- general fund loan authority. (1) The proceeds of the tax imposed by 15-65-111 must be deposited in an account in the state special revenue fund to the credit of the department of revenue. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, and to the university system, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program; and

(c) the balance of the proceeds as follows:

(i) 75% to be used directly by the department of commerce;

(ii) except as provided in subsection (1)(c)(iii), 25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide;

(iii) if 25% of the proceeds collected annually within the limits of a city or consolidated city-county exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located is to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county.

(2) If a city or consolidated city-county qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the tourism regional nonprofit tourism corporation in the region in which the city or consolidated city-county is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by

the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(4) The department of commerce may use general fund loans for efficient implementation of this section."

**Section 19.** Section 16-1-409, MCA, is amended to read:

"16-1-409. Failure to make beer tax returns -- penalties. (1) If any brewer or wholesaler subject to the payment of the tax provided for in 16-1-406 through and 16-1-408 ~~shall fail, neglect, or refuse~~ fails, neglects, or refuses to make any return required by this code or ~~shall fail~~ fails to make payment of such the tax within the time herein provided, the department shall, forthwith after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such return and, from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the amount of ~~such~~ tax due the state from such the delinquent brewer or wholesaler.

(2) The department shall add to the amount of tax due a penalty of 5% thereof for the first failure, willful neglect, or refusal; 10% for the second; 15% for the third; and 25% for the fourth and each subsequent failure, neglect, or refusal.

(3) The penalty provided for in subsection (2) is

~~which shall be~~ in addition to the 5% penalty provided for nonpayment of such the tax within the time provided.

~~{3}{4} Said The~~ tax and the penalties added thereto ~~shall~~ bear interest at the rate of 1% per month from the date ~~such~~ returns should have been made and ~~said the~~ tax paid.

~~{4}{5}~~ The department shall then proceed to collect such the tax with penalties and interest. Upon request of the department, it ~~shall be~~ is the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action to collect such the tax.

~~{5}{6}~~ If all or part of the tax imposed upon a brewer or wholesaler by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed or recorded.

~~{6}{7}~~ No action shall be maintained to enjoin the collection of such the tax or any part thereof.

~~{7}{8}~~ Any tax owed by a brewer or wholesaler under this code not paid within the time provided shall be delinquent, and a penalty of 5% shall be added thereto, ~~and the whole thereof shall~~ The tax and penalty bear interest at the rate of 1% per month from the date of delinquency until

1 paid. Any brewer or wholesaler who fails, neglects, or  
 2 refuses to make the return to the department provided for in  
 3 16-3-211 or 16-3-231 or refuses to allow such the  
 4 examination as provided for in 16-3-211 or 16-3-231 or fails  
 5 to make an accurate return according to the manner  
 6 prescribed ~~shall-be-deemed~~ is guilty of having--committed a  
 7 misdemeanor and upon conviction shall be fined in an amount  
 8 not exceeding \$1,000."

9 **Section 20.** Section 16-1-410, MCA, is amended to read:

10 "16-1-410. Tax revenue allocation. All revenue  
 11 received from taxes on beer under 16-1-406 through and  
 12 16-1-408 over and above \$1.50 per barrel of 31 gallons shall  
 13 be deposited with the state treasurer to the credit of the  
 14 incorporated cities and towns beer tax account in the state  
 15 special revenue fund. The money in the account is  
 16 statutorily appropriated, as provided in 17-7-502, to the  
 17 state treasurer who shall, monthly, distribute this amount  
 18 of money to the incorporated cities and towns in the direct  
 19 proportion that the population of each city and town bears  
 20 to the total population of all incorporated cities and towns  
 21 as shown in the latest official federal census. For cities  
 22 and towns incorporated after the latest official federal  
 23 census, the census shall be determined as of the date of  
 24 incorporation as evidenced by the certificate of the  
 25 incorporating officials of that city or town. If a city or

1 town disincorporates, it ~~shall-cease-to~~ may not receive any  
 2 funds under this section and the amount previously  
 3 distributed to the city or town shall be distributed to the  
 4 remaining incorporated cities and towns. All funds received  
 5 by cities and towns under this section shall be expended for  
 6 state purposes such as law enforcement, maintenance of the  
 7 transportation system, and public health."

8 **Section 21.** Section 16-4-501, MCA, is amended to read:

9 "16-4-501. License and permit fees. (1) Each beer  
 10 licensee licensed to sell either beer or table wine only, or  
 11 both beer and table wine, under the provisions of this code,  
 12 shall pay an annual license fee as follows:

13 (a) each brewer and each beer importer, wherever  
 14 located, whose product is sold or offered for sale within  
 15 the state, \$500; for each storage depot, \$400;

16 (b) each beer wholesaler, \$400; each table wine  
 17 distributor, \$400; each subwarehouse, \$400;

18 (c) each beer retailer, \$200;

19 (d) for a license to sell beer at retail for  
 20 off-premises consumption only, the same as a retail beer  
 21 license; for a license to sell table wine at retail for  
 22 off-premises consumption only, either alone or in  
 23 conjunction with beer, \$200;

24 (e) any unit of a nationally chartered veterans'  
 25 organization, \$50.

(2) The permit fee under 16-4-301(1) is computed at the rate of \$15 a day for each day beer and table wine are sold at those events lasting 2 or more days but in no case shall the fee be less than \$30.

(3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages.

(4) Passenger carrier licenses shall be issued upon payment by the applicant of an annual license fee in the sum of \$300.

(5) The annual license fee for a license to sell wine on the premises, when issued as an amendment to a beer-only license pursuant to 16-4-105, is \$200.

(6) The annual fee for resort retail all-beverages licenses within a given resort area shall be \$2,000 for each license.

(7) Each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows:

(a) except as hereinafter provided, for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees;

(b) except as hereinafter provided, for each license

in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees;

(c) except as hereinafter provided, for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees;

(d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles thereof, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees;

(e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of such city

1 or town; and where the premises of the applicant to be  
 2 licensed are situated within 5 miles of the corporate  
 3 boundaries of two or more incorporated cities or  
 4 incorporated towns of different populations, the license fee  
 5 chargeable by the larger incorporated city or incorporated  
 6 town applies and shall be paid by the applicant. When the  
 7 premises of the applicant to be licensed are situated within  
 8 an incorporated town or incorporated city and any portion of  
 9 the incorporated town or incorporated city is without a  
 10 5-mile limit, the license fee chargeable by the smaller  
 11 incorporated town or incorporated city applies and shall be  
 12 paid by the applicant.

13 (f) an applicant for the issuance of an original  
 14 license to be located in areas described in subsection (d)  
 15 of this subsection shall provide an irrevocable letter of  
 16 credit from a financial institution that guarantees that  
 17 applicant's ability to pay a \$20,000 license fee. A  
 18 successful applicant shall pay a one-time original license  
 19 fee of \$20,000 for any such license issued. The one-time  
 20 license fee of \$20,000 shall not apply to any transfer or  
 21 renewal of a license duly issued prior to July 1, 1974. All  
 22 licenses, however, are subject to the annual renewal fee.

23 (8) The fee for one all-beverage license to a public  
 24 airport shall be \$800. This license is nontransferable.

25 (9) The annual fee for a special beer and table wine

1 license for a nonprofit arts organization under 16-4-303 is  
 2 \$250.

3 (10) The license fees herein provided for are exclusive  
 4 of and in addition to other license fees chargeable in  
 5 Montana for the sale of alcoholic beverages.

6 (11) In addition to other license fees, the department  
 7 of revenue may require a licensee to pay a late fee of  
 8 33 1/3% of any license fee delinquent on July 1 of the  
 9 renewal year, 66 2/3% of any license fee delinquent on  
 10 August 1 of the renewal year, and 100% of any license fee  
 11 delinquent on September 1 of the renewal year."

12 **Section 22.** Section 16-6-314, MCA, is amended to read:

13 "16-6-314. Penalty for violating code -- revocation of  
 14 license -- penalty for violation by underage person. (1) A  
 15 person who violates a provision of this code is guilty of a  
 16 misdemeanor punishable as provided in 46-18-212, except as  
 17 is herein otherwise provided.

18 (2) If a retail licensee is convicted of an offense  
 19 under this code, his license shall be immediately revoked  
 20 or, in the discretion of the department, such other sanction  
 21 imposed as may be authorized under 16-4-406.

22 (3) A person under 21 years of age who violates  
 23 16-3-301~~(3)~~(4) or 16-6-305(3) is subject to the penalty  
 24 provided in 45-5-624(2)."

25 **Section 23.** Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. (1) Money in the coal severance tax bond fund, the coal severance tax permanent fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds except as provided in subsection (2). Income and earnings from all funds must be transferred to and retained in the coal severance tax income fund until appropriated by the legislature.

~~(2)--Beginning--on--July-1,-1987,-the-legislature-shall appropriate-2%--of--the--income--and--earnings--from--all--funds--to be--deposited--to--the--coal--severance--tax--permanent--fund--each year-~~

(3)(2) Beginning on July 1, 1989, the legislature shall appropriate 15% of the income and earnings from all funds to be deposited to the coal severance tax permanent fund each year. The funds appropriated to the coal severance tax permanent fund under this subsection may not be further appropriated except by vote of three-fourths of the members of each house of the legislature."

**Section 24.** Section 18-2-122, MCA, is amended to read:

"18-2-122. Plans to bear seal. This state and its political subdivisions such as counties, cities, towns, townships, boroughs, or other political entities or legally constituted boards, commissions, or authorities or officials or employees thereof ~~shall~~ may not accept plans and

specifications for public buildings, water systems and storage facilities, sewerage systems, wastewater disposal projects, swimming pools, recreational facilities, and similar type projects which may have a direct bearing on the public health and safety for approval unless they bear the seal of the professional engineer for engineering projects or the professional land surveyor for land surveying projects or licensed architect for architectural projects, as provided for the practice of the respective professions by Title 37."

**Section 25.** Section 19-4-706, MCA, is amended to read:

"19-4-706. Exemption from taxation and legal process. The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of the retirement system and the accumulated contributions and cash and securities in the various funds of the retirement system are:

(1) exempted from any state, county, or municipal tax of the state of Montana except for a refund withdrawal paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;

(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and

(3) unassignable except as specifically provided in



1 this chapter."

2 **Section 26.** Section 20-4-111, MCA, is amended to read:

3 **"20-4-111. Emergency authorization of employment. (1)**

4 Any district may request from the superintendent of public  
5 instruction an emergency authorization of employment for a  
6 person who is not the holder of a valid teacher or  
7 specialist certificate as an instructor of pupils when such  
8 district cannot secure the services of a person holding a  
9 valid certificate. The person shall have previously held a  
10 valid teacher or specialist certificate or shall meet the  
11 standards of preparation prescribed by the policies of the  
12 board of public education for and during such emergency.  
13 Such emergency authorization of employment shall indicate:

14 (a) the district to which such authorization is  
15 issued;

16 (b) the person whom the district is authorized to  
17 employ;

18 (c) the endorsement for elementary or secondary  
19 instruction and the specific subject fields for which  
20 authorization to employ such person is given; and

21 (d) the school fiscal year for which such emergency  
22 authorization of employment is given.

23 (2) Emergency authorization of employment of a person  
24 shall be valid for the school fiscal year identified on such  
25 authorization and may be renewed in accordance with the

1 board of public education policies. A fee ~~of \$2~~ not to  
2 exceed \$4 and, if no teacher or specialist certificate or  
3 emergency authorization of employment has ever been issued  
4 for such person, a filing fee of ~~\$2~~ \$4 shall be paid for the  
5 issuance of an emergency authorization of employment. The  
6 superintendent of public instruction shall deposit the fees  
7 with the state treasurer to the credit of the general fund.

8 (3) Emergency authorization of employment of a person  
9 may be revoked for good cause in accordance with the  
10 provisions of 20-4-110."

11 **Section 27.** Section 20-4-133, MCA, is amended to read:

12 **"20-4-133. Duties of the council. (1)** The council  
13 shall study and make recommendations to the board of public  
14 education in the following areas:

15 (a) teacher certification standards, including but not  
16 limited to precertification training and education  
17 requirements and certification renewal requirements and  
18 procedures;

19 (b) administrator certification standards, including  
20 but not limited to precertification training and education  
21 requirements and certification renewal requirements and  
22 procedures;

23 (c) specialist certification standards, including but  
24 not limited to precertification training and education  
25 requirements and certification renewal requirements and

1 procedures;

2 (d) feasibility of establishing standards of  
3 professional practices and ethical conduct;

4 (e) the status and efficacy of approved teacher  
5 education programs in Montana; and

6 (f) policies related to the denial, suspension, and  
7 revocation of teaching teacher, administrator, and  
8 specialist certification and the appeals process. For the  
9 purpose of preparing recommendations in this area, the  
10 council is authorized to review the individual cases and  
11 files that have been submitted to the board of public  
12 education.

13 (2) The council shall submit a written report annually  
14 to the board of public education with its recommendations  
15 for the above areas. The council may submit recommendations  
16 to the board of public education at other times that the  
17 council considers appropriate.

18 (3) The board of public education shall:

19 (a) at a regularly scheduled meeting, consider any  
20 recommendations and reports of the council; and

21 (b) approve, disapprove, or modify each recommendation  
22 of the council by majority vote of the board."

23 **Section 28.** Section 20-4-401, MCA, is amended to read:

24 "20-4-401. Appointment and dismissal of district  
25 superintendent or county high school principal. (1) The

1 trustees of any high school district, except a county high  
2 school, and the trustees of the elementary district where  
3 its high school building is located shall jointly employ and  
4 appoint a district superintendent. The trustees of a county  
5 high school shall employ and appoint a district  
6 superintendent, except that they may employ and appoint a  
7 holder of a class 3 teacher certificate with a district  
8 superintendent endorsement as the county high school  
9 principal in lieu of a district superintendent. The trustees  
10 of any other district may employ and appoint a district  
11 superintendent.

12 (2) Whenever a joint board of trustees has been formed  
13 by a county high school and the elementary district where  
14 the county high school is located, such joint board shall  
15 jointly employ and appoint a district superintendent. During  
16 the term of contract of the jointly appointed district  
17 superintendent, neither district shall separately employ and  
18 appoint a district superintendent or county high school  
19 principal.

20 (3) School districts other than those provided in  
21 subsection (2) that form a joint board of trustees may  
22 jointly employ and appoint a district superintendent as  
23 allowed in ~~20-3-361~~ 20-3-362.

24 (4) The written contract of employment of a district  
25 superintendent or a county high school principal shall be

1 authorized by the proper resolution of the trustees of the  
 2 district or the joint board of trustees and executed in  
 3 duplicate by the chairman of the trustees or joint board of  
 4 trustees and the clerks of the districts in the name of the  
 5 districts and by the district superintendent or the county  
 6 high school principal. Such contract shall be for a term of  
 7 not more than 3 years, and after the second successive  
 8 contract, the contract shall be deemed to be renewed for a  
 9 further term of 1 year from year to year thereafter unless  
 10 the trustees shall, by resolution passed by a majority vote  
 11 of its membership, resolve to terminate the services of the  
 12 district superintendent or the county high school principal  
 13 at the expiration of his existing contract. The trustees  
 14 shall take such termination action and notify the district  
 15 superintendent or the county high school principal in  
 16 writing of their intent to terminate his services at the  
 17 expiration of his current contract not later than February 1  
 18 of the last year of such contract.

19 (5) Whenever a joint board of trustees employs a  
 20 person as the district superintendent under subsection (2)  
 21 or (3), the districts shall prorate the compensation  
 22 provided by the contract of employment on the basis of the  
 23 number of teachers employed by each district.

24 (6) At any time the class 3 teacher certification or  
 25 the endorsement of the certificate of a district

1 superintendent or a county high school principal that  
 2 qualifies such person to hold such position becomes invalid,  
 3 the trustees of the district or the joint board of trustees  
 4 shall discharge such person as the district superintendent  
 5 or county high school principal regardless of the unexpired  
 6 term of his contract. The trustees shall not compensate him  
 7 under the terms of his contract for any services rendered  
 8 subsequent to the date of the invalidation of his teacher  
 9 certificate.

10 (7) No district superintendent or county high school  
 11 principal shall engage in any work or activity which the  
 12 trustees may deem to be in conflict with his duties and  
 13 employment as the district superintendent or county high  
 14 school principal."

15 **Section 29.** Section 20-5-307, MCA, is amended to read:

16 **"20-5-307. Budgeting, levy requirement, and paying**  
 17 **elementary tuition.** (1) The tuition amount that has been  
 18 established in 20-5-305 shall be paid during the ensuing  
 19 school fiscal year. The trustees of the elementary district  
 20 shall include such amount in the tuition fund of the  
 21 preliminary budget. If the trustees should fail to include  
 22 such amount or any portion of it in the preliminary budget,  
 23 they shall adjust the budgeted amount in adopting the final  
 24 budget to provide for the total tuition amount that is due  
 25 during the ensuing school fiscal year. Such adjustment shall

1 not be subject to the budget adjustment provisions of  
2 20-9-132.

3 (2) The county superintendent shall report the net  
4 tuition fund levy requirement for each elementary district  
5 to the county commissioners on the second Monday of August,  
6 and a levy on the district shall be made by the county  
7 commissioners in accordance with 20-9-142. Such levy  
8 requirement shall be calculated by subtracting from the  
9 total expenditure amount authorized in the final tuition  
10 fund budget the sum of the cash balance in the tuition fund  
11 at the end of the immediately preceding school fiscal year  
12 plus any other anticipated moneys that may be realized in  
13 the tuition fund.

14 (3) The trustees shall pay by warrants drawn on the  
15 tuition fund the tuition amounts owed to each district  
16 included in the county superintendent's notification  
17 provided under the provisions of 20-5-305 20-5-306. At  
18 least one-half of the payments must be made in December, and  
19 the remaining payments must be made by June 15 of the fiscal  
20 year."

21 **Section 30.** Section 20-9-352, MCA, is amended to read:

22 **"20-9-352. Permissive amount and permissive levy.** (1)  
23 Whenever the trustees of any district shall deem it  
24 necessary to adopt a general fund budget in excess of the  
25 foundation program amount but not in excess of the maximum

1 general fund budget amount for such district as established  
2 by the schedules in 20-9-316 through 20-9-321, the trustees  
3 shall adopt a resolution stating the reasons and purposes  
4 for exceeding the foundation program amount. Such excess  
5 above the foundation program amount shall be known as the  
6 "permissive amount", and it shall be financed by a levy, as  
7 prescribed in 20-9-141, on the taxable value of all taxable  
8 property within the district, except for vehicles subject to  
9 taxation under 61-3-504(2), supplemented with any biennial  
10 appropriation by the legislature for this purpose. The  
11 proceeds of such an appropriation shall be deposited to the  
12 state special revenue fund~~y~~-permissive-account.

13 (2) The district levies to be set for the purpose of  
14 funding the permissive amount are determined as follows:

15 (a) For each elementary school district, the county  
16 commissioners shall annually set a levy not exceeding 6  
17 mills on all the taxable property in the district, except  
18 for vehicles subject to taxation under 61-3-504(2), for the  
19 purpose of funding the permissive amount of the district.  
20 The permissive levy in mills shall be obtained by  
21 multiplying the ratio of the permissive amount to the  
22 maximum permissive amount by 6 or by using the number of  
23 mills which would fund the permissive amount, whichever is  
24 less. If the amount of revenue raised by this levy, plus  
25 anticipated revenue from vehicle property taxes imposed

1 under 61-3-504(2) and 61-3-537, is not sufficient to fund  
2 the permissive amount in full, the amount of the deficiency  
3 shall be paid to the district from the state special revenue  
4 fund according to the provisions of subsections (3) and (4)  
5 of this section.

6 (b) For each high school district, the county  
7 commissioners shall annually set a levy not exceeding 4  
8 mills on all taxable property in the district, except for  
9 vehicles subject to taxation under 61-3-504(2), for the  
10 purpose of funding the permissive amount of the district.  
11 The permissive levy in mills shall be obtained by  
12 multiplying the ratio of the permissive levy to the maximum  
13 permissive amount by 4 or by using the number of mills which  
14 would fund the permissive amount, whichever is less. If the  
15 amount of revenue raised by this levy, plus anticipated  
16 revenue from vehicle property taxes imposed under  
17 61-3-504(2) and 61-3-537, and plus net proceeds taxes for  
18 interim production and new production, as defined in  
19 15-23-601, is not sufficient to fund the permissive amount  
20 in full, the amount of the deficiency shall be paid to the  
21 district from the state special revenue fund according to  
22 the provisions of subsections (3) and (4) of this section.

23 (3) The superintendent of public instruction shall, if  
24 the appropriation by the legislature for the permissive  
25 account for the biennium is insufficient, request the budget

1 director to submit a request for a supplemental  
2 appropriation in the second year of the biennium. The  
3 supplemental appropriation shall provide enough revenue to  
4 fund the permissive deficiency of the elementary and high  
5 school districts of the state. The proceeds of this  
6 appropriation shall be deposited to the state special  
7 revenue fund, ~~permissive-account~~, and shall be distributed  
8 to the elementary and high school districts in accordance  
9 with their entitlements as determined by the superintendent  
10 of public instruction according to the provisions of  
11 subsections (1) and (2) of this section.

12 (4) Distribution under this section from the state  
13 special revenue fund shall be made in two payments. The  
14 first payment shall be made at the same time as the first  
15 distribution of state equalization aid is made after January  
16 1 of the fiscal year. The second payment shall be made at  
17 the same time as the last payment of state equalization aid  
18 is made for the fiscal year. If the appropriation is not  
19 sufficient to finance the deficiencies of the districts as  
20 determined according to subsection (2), each district will  
21 receive the same percentage of its deficiency. Surplus  
22 revenue in the second year of the biennium may be used to  
23 reduce the appropriation required for the next succeeding  
24 biennium or may be transferred to the state equalization aid  
25 state special revenue fund if revenues in that fund are

insufficient to meet foundation program requirements."

**Section 31.** Section 20-25-229, MCA, is amended to read:

"20-25-229. Montana grain--and seed laboratory. (1) There is established as a part of the agricultural experiment station the Montana grain-and seed laboratory.

(2) The purpose of the laboratory shall be the carrying on of effective scientific and practical research and testing work to develop as complete and accurate a knowledge of grains and seeds as possible.

(3) The laboratory shall be under the general direction of the director of the agricultural experiment station."

**Section 32.** Section 23-2-502, MCA, is amended to read:

"23-2-502. Definitions. As used in this part, unless the context clearly requires a different meaning, the following definitions apply:

(1) "Certificate of number" means the certificate issued annually by the county treasurer to the owner of a motorboat or by the department of justice to dealers or manufacturers, assigning such motorboat an identifying number and containing such information as required.

(2) "Certificate of ownership" means a certificate issued by the department of justice identifying the owner of a motorboat or sailboat 12 feet in length or longer.

(3) "Dealer" means any person who engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yacht broker is a dealer.

(4) "Department" means the department of fish, wildlife, and parks of the state of Montana.

(5) "Documented vessel" means a vessel which has and is required to have a valid marine document as a vessel of the United States.

(6) "Identifying number" means the boat number set forth in the certificate of number and properly displayed on the motorboat.

(7) "License decals" means the serially numbered license stickers issued annually by the county treasurer and displayed as required by law.

(8) "Lienholder" means a person holding a security interest.

(9) "Manufacturer" means any person engaged in the business of manufacturing or importing new and unused vessels or new and unused outboard motors for the purpose of sale or trade.

(10) "Motorboat" means any vessel propelled by any

1 machinery, motor, or engine of any description, whether or  
2 not such machinery, motor, or engine is the principal source  
3 of propulsion. The term includes boats temporarily equipped  
4 with detachable motors or engines but does not include a  
5 vessel which has a valid marine document issued by the U.S.  
6 coast guard of the United States government or any federal  
7 agency successor thereto.

8 (11) "Operate" means to navigate or otherwise use a  
9 motorboat or a vessel.

10 (12) "Operator" means the person who navigates, drives,  
11 or is otherwise in immediate control of a motorboat or  
12 vessel.

13 (13) "Owner" means a person, other than a ~~lien-holder~~  
14 lienholder, having the property in or title to a motorboat  
15 or vessel. The term includes a person entitled to the use or  
16 possession of a motorboat or vessel subject to an interest  
17 in another person, reserved or created by an agreement  
18 securing payment or performance of an obligation, but the  
19 term excludes a lessee under a lease not intended as  
20 security.

21 (14) "Passenger" means every person carried on board a  
22 vessel other than:

23 (a) the owner or his representative;

24 (b) the operator;

25 (c) bona fide members of the crew engaged in the

1 business of the vessel who have contributed no consideration  
2 for their carriage and who are paid for their services; or

3 (d) any guest on board a vessel which is being used  
4 exclusively for pleasure purposes who has not contributed  
5 any consideration, directly or indirectly, for his carriage.

6 (15) "Person" means an individual, partnership, firm,  
7 corporation, association, or other entity.

8 (16) "Security interest" means an interest that is  
9 reserved or created by an agreement that secures payment or  
10 performance of an obligation and is valid against third  
11 parties generally.

12 (17) "Uniform state waterway marking system" means one  
13 of two categories:

14 (a) a system of aids to navigation to supplement the  
15 federal system of marking in state waters;

16 (b) a system of regulatory markers to warn a vessel  
17 operator of dangers or to provide general information and  
18 directions.

19 (18) "Vessel" means every description of watercraft,  
20 unless otherwise defined by the department, other than a  
21 seaplane on the water, used or capable of being used as a  
22 means of transportation on water.

23 (19) "Waters of this state" means any waters within the  
24 territorial limits of this state. (Subsections (2), (3),  
25 (8), (9), and (16) effective July 1, 1988--sec. 8, Ch. 433,

L. 1987.)"

**Section 33.** Section 23-2-507, MCA, is amended to read:

"23-2-507. **Penalty.** Violations of any section of this part, except 23-2-526(3), unless otherwise specified shall be a misdemeanor and be punishable by fine of not less than \$15 or more than \$500 or by imprisonment up to 6 months or by both such fine and imprisonment. All fine and bond forfeitures, except those paid to a justice's court, shall be transmitted to the state treasurer, who shall deposit such fines and forfeitures in the motorboat account of an earmarked a special revenue fund. The moneys shall be used only by the department for enforcement of this part, as amended."

**Section 34.** Section 23-2-513, MCA, is amended to read:

"23-2-513. **Dealer's identification number.** (1) A dealer or manufacturer may apply directly to the department of justice for one identifying number and one or more certificates of number. A dealer's or manufacturer's identifying number shall be displayed on his boat while the boat is operating for a purpose related to the buying, selling, or exchanging of the boat by the dealer or manufacturer.

(2) The application for a dealer's or manufacturer's identifying number must include his name and business address. Each dealer or manufacturer will have one

identifying number assigned to his business.

(3) An application for dealer's or manufacturer's identifying number and certificate of number must be accompanied by the following fees:

(a) for the identifying number, first certificate of number, and set of license decals, \$5;

(b) for each additional certificate of number and set of license decals applied for in any application, \$2.

(4) The department of justice shall issue certificates of number for the identifying numbers assigned to a dealer or manufacturer in the same manner as provided in 23-2-512(1) and ~~(10)~~(9), as amended, except that no boat may be described in the certificate and each certificate must state that the identifying number has been assigned to a dealer or manufacturer. A dealer's or manufacturer's certificate of number expires on December 31 of the year for which it is issued.

(5) A dealer's or manufacturer's identifying number shall be displayed in the same manner as provided in 23-2-512~~(10)~~(9), as amended, except that the number may be temporarily attached. The last three letters shall be "DLR" for dealer and "MFR" for manufacturer. These letters shall be included, respectively, in dealer or manufacturer identification numbers only.

(6) No person other than a dealer or manufacturer or



1 an employee of a dealer or manufacturer may display or use a  
2 dealer's or manufacturer's identifying number. A dealer's or  
3 manufacturer's identifying number may be displayed only on  
4 motorboats owned by the dealer or manufacturer.

5 (7) No dealer or manufacturer or employee of a dealer  
6 or manufacturer may use a dealer's or manufacturer's  
7 identifying number for any purpose other than the purpose  
8 described in subsection (1) of this section."

9 **Section 35.** Section 23-2-807, MCA, is amended to read:

10 "23-2-807. (Effective January 1, 1988) Penalty --  
11 disposition. (1) The failure to display a current decal  
12 indicating that the fee in lieu of tax has been paid on the  
13 off-highway vehicle for the current year as provided in  
14 23-2-804 is a misdemeanor punishable by a fine equal to five  
15 times the fee in lieu of tax that is due on the off-highway  
16 vehicle for the current year.

17 (2) All fines collected under this section must be  
18 transmitted to the state treasurer, who shall deposit the  
19 money in the earmarked special revenue fund to the credit of  
20 the department to be used for off-highway vehicle safety and  
21 education."

22 **Section 36.** Section 23-5-601, MCA, is amended to read:

23 "23-5-601. Short title. This part shall be known and  
24 may be cited as the "Video Draw-Poker Gaming Machine Control  
25 Law of-1985".

1 **Section 37.** Section 25-13-613, MCA, is amended to  
2 read:

3 "25-13-613. Property necessary to carry out  
4 governmental functions. (1) In addition to the property  
5 mentioned in 25-13-611 {25-13-609(1)}, there shall be exempt  
6 to all judgment debtors the following property:

7 (a) all fire engines, hooks, and ladders, with the  
8 cart, trucks, and carriages, hose, buckets, implements, and  
9 apparatus thereto appertaining, and all furniture and  
10 uniforms of any fire company or department organized under  
11 any laws of this state;

12 (b) all arms, uniforms, and accouterments required by  
13 law to be kept by any person and one gun to be selected by  
14 the debtor;

15 (c) all courthouses, jails, public offices, and  
16 buildings, lots, grounds, and personal property, the  
17 fixtures, furniture, books, papers, and appurtenances  
18 belonging and pertaining to the courthouse, jail, and public  
19 offices belonging to any county of this state; and

20 (d) all cemeteries, public squares, parks, and places,  
21 public buildings, town halls, public markets, buildings for  
22 the use of fire departments and military organizations, and  
23 the lots and grounds thereto belonging and appertaining  
24 owned or held by any town or incorporated city or dedicated  
25 by such city or town to health, ornament, or public use or

1 for the use of any fire or military company organized under  
2 the laws of the state.

3 (2) No article, however, or species of property  
4 mentioned in this section is exempt from execution issued  
5 upon a judgment recovered for its price or upon a judgment  
6 of foreclosure of a mortgage lien thereon, and no person not  
7 a bona fide resident of this state shall have the benefit of  
8 these exemptions."

9 **Section 38.** Section 27-2-205, MCA, is amended to read:

10 "27-2-205. Actions for medical malpractice. (1) Action  
11 in tort or contract for injury or death against a physician  
12 or surgeon, dentist, registered nurse, nursing home or  
13 hospital administrator, dispensing optician, optometrist,  
14 licensed physical therapist, podiatrist, psychologist,  
15 osteopath, chiropractor, clinical laboratory bioanalyst,  
16 clinical laboratory technologist, pharmacist, veterinarian,  
17 a licensed hospital or long-term care facility, or licensed  
18 medical professional corporation, based upon alleged  
19 professional negligence or for rendering professional  
20 services without consent or for an act, error, or omission,  
21 shall, except as provided in subsection (2), be commenced  
22 within 3 years after the date of injury or 3 years after the  
23 plaintiff discovers or through the use of reasonable  
24 diligence should have discovered the injury, whichever  
25 occurs last, but in no case may such action be commenced

1 after 5 years from the date of injury. However, this time  
2 limitation shall be tolled for any period during which there  
3 has been a failure to disclose any act, error, or omission  
4 upon which such action is based and which is known to him  
5 the plaintiff or through the use of reasonable diligence  
6 subsequent to said act, error, or omission would have been  
7 known to him.

8 (2) Notwithstanding the provisions of 27-2-401, in an  
9 action for death or injury of a minor who was under the age  
10 of 4 on the date of his injury, the period of limitations in  
11 subsection (1) begins to run when the minor reaches his  
12 eighth birthday or dies, whichever occurs first, and the  
13 time for commencement of the action is tolled during any  
14 period during which the minor does not reside with a parent  
15 or guardian."

16 **Section 39.** Section 33-22-111, MCA, is amended to  
17 read:

18 "33-22-111. Policies to provide for freedom of choice  
19 of practitioners -- professional practice not enlarged. (1)  
20 All policies of disability insurance, including individual,  
21 group, and blanket policies, and all policies insuring the  
22 payment of compensation under the Workers' Compensation Act  
23 shall provide the insured shall have full freedom of choice  
24 in the selection of any duly licensed physician, dentist,  
25 osteopath, chiropractor, optometrist, chiropodist

1 podiatrist, psychologist, licensed social worker, licensed  
 2 professional counselor, or nurse specialist as specifically  
 3 listed in 37-8-202 for treatment of any illness or injury  
 4 within the scope and limitations of his practice. Whenever  
 5 such policies insure against the expense of drugs, the  
 6 insured shall have full freedom of choice in the selection  
 7 of any duly licensed and registered pharmacist.

8 (2) Nothing in this section shall be construed as  
 9 enlarging the scope and limitations of practice of any of  
 10 the licensed professions enumerated in subsection (1); nor  
 11 shall this section be construed as amending, altering, or  
 12 repealing any statutes relating to the licensing or use of  
 13 hospitals."

14 **Section 40.** Section 33-23-201, MCA, is amended to  
 15 read:

16 "33-23-201. Motor vehicle liability policies to  
 17 include uninsured motorist coverage -- rejection by insured.

18 (1) No motor vehicle liability policy insuring against loss  
 19 resulting from liability imposed by law for bodily injury or  
 20 death suffered by any person arising out of the ownership,  
 21 maintenance, or use of a motor vehicle may be delivered or  
 22 issued for delivery in this state, with respect to any motor  
 23 vehicle registered and principally garaged in this state,  
 24 unless coverage is provided therein or supplemental thereto,  
 25 in limits for bodily injury or death set forth in 61-6-103,

1 under provisions filed with and approved by the  
 2 commissioner, for the protection of persons insured  
 3 thereunder who are legally entitled to recover damages from  
 4 owners or operators of uninsured motor vehicles because of  
 5 bodily injury, sickness, or disease, including death,  
 6 resulting therefrom, caused by an accident arising out of  
 7 the operation or use of such vehicle. An uninsured motor  
 8 vehicle is a land motor vehicle, neither the ownership, nor  
 9 the maintenance, nor or the use of which is not insured or  
 10 bonded for bodily injury liability at the time of the  
 11 accident.

12 (2) The named insured shall have the right to reject  
 13 such coverage. Unless the named insured requests such  
 14 coverage in writing, such coverage need not be provided in  
 15 or supplemental to a renewal policy where the named insured  
 16 had rejected the coverage in connection with the policy  
 17 previously issued to him by the same insurer."

18 **Section 41.** Section 33-23-212, MCA, is amended to  
 19 read:

20 "33-23-212. Notice required for cancellation --  
 21 statement that insurer will specify reason upon request --  
 22 exception -- penalty. (1) Notwithstanding any other  
 23 provision of this code, no cancellation by an insurer of a  
 24 motor vehicle liability insurance policy may be effective  
 25 prior to the mailing or delivery to the named insured, at

1 the address shown in the policy, of a written notice of the  
 2 cancellation stating when the date on which, not less than  
 3 30 days after the date of such mailing or delivery, the date  
 4 the cancellation ~~shall become~~ becomes effective.

5 (2) No notice of cancellation of a policy to which  
 6 33-23-211 applies may be effective unless mailed or  
 7 delivered by the insurer to the named insured at least 30  
 8 days prior to the effective date of cancellation; provided,  
 9 however, that where cancellation is for nonpayment of  
 10 premium, at least 10 days' notice of cancellation  
 11 accompanied by the reason therefor must be given. Unless the  
 12 reason accompanies or is included in the notice of  
 13 cancellation, the notice of cancellation must state or be  
 14 accompanied by a statement that upon written request of the  
 15 named insured, mailed or delivered to the insurer not less  
 16 than 15 days prior to the effective date of cancellation,  
 17 the insurer will specify the reason for such cancellation.

18 (3) Subsection (2) does not apply to nonrenewal.

19 (4) Any insurer willfully violating any provisions of  
 20 subsection (2) of this section is guilty of a misdemeanor  
 21 and is punishable by a fine of not exceeding \$500 for each  
 22 violation thereof."

23 **Section 42.** Section 37-1-101, MCA, is amended to read:

24 "37-1-101. Duties of department. In addition to the  
 25 provisions of 2-15-121, the department of commerce shall:

1 (1) provide all the administrative and clerical  
 2 services needed by the boards within the department,  
 3 including corresponding, taking applications for licenses,  
 4 issuing licenses granted by the boards, renewing licenses,  
 5 registering, taking minutes of board meetings and hearings,  
 6 and filing;

7 (2) standardize and keep in Helena all official  
 8 records of the boards;

9 (3) make arrangements and provide facilities in Helena  
 10 for the meetings, hearings, and examinations of each board  
 11 or elsewhere in the state if requested by the board;

12 (4) administer and grade examinations required by each  
 13 board or by law for licensing, unless the board determines  
 14 that experts or professionals are necessary to administer or  
 15 grade a particular examination;

16 (5) at the request of a board, investigate complaints  
 17 received by the department of illegal or unethical conduct  
 18 of a member of the profession or occupation under the  
 19 jurisdiction of a board within the department;

20 (6) assess the costs of the department to the boards  
 21 on an equitable basis as determined by the department;

22 (7) adopt rules establishing expiration dates of  
 23 licenses for barbers, barbershops, professional engineers,  
 24 professional land surveyors, nursing home administrators,  
 25 optometrists, plumbers, social workers, speech pathologists,

audiologists, and radiologic technologists."

**Section 43.** Section 37-2-101, MCA, is amended to read:

"37-2-101. Definitions. As used in this part, the following definitions apply:

(1) "Medical practitioner" means any person licensed by the state of Montana to engage in the practice of medicine, dentistry, osteopathy, chiropody {podiatry}, or optometry and in such practice to administer or prescribe drugs.

(2) "Drug" means any article:

(a) recognized in the official United States Pharmacopoeia/National Formulary or in any supplement to such pharmacopoeia/formulary;

(b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(c) intended to affect the structure or any function of the body of man;

(d) intended for use as a component of any article described in subsection (a), (b), or (c) of this subsection (2), but such term does not include any device or any components of a device.

(3) "Device" means any instrument, apparatus, or contrivance intended:

(a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man;

(b) to affect the structure or any function of the body of man.

(4) "Pharmacy" means an establishment which engages in the sale of drugs requiring a prescription.

(5) "Community pharmacy", when used in relation to a medical practitioner, means a pharmacy situated within 10 miles of any place at which such medical practitioner maintains an office for professional practice.

(6) "Drug company" means any person engaged in the manufacturing, processing, packaging, or distribution of drugs; but such term does not include a pharmacy.

(7) "Person" means any individual and any partnership, firm, corporation, association, or other business entity.

(8) "State" means the state of Montana or any political subdivision thereof."

**Section 44.** Section 37-4-321, MCA, is amended to read:

"37-4-321. Grounds for disciplinary proceedings -- range of sanctions -- recovery of costs. (1) The board may censure, prescribe probation, suspend, or revoke any license issued under this chapter or fine the licensee not to exceed \$5,000 per incident for any of the following causes:

(a) physical or mental incompetence;

(b) malpractice;

(c) unprofessional conduct, as defined by rule of the board; or

(d) violation of any of the provisions of this chapter or rules or orders of the board.

(2) The board may, following a final determination resulting in any disciplinary action taken by the board under subsection (1), recover from the disciplined party all reasonable costs of any proceeding incurred for the purposes of that disciplinary action. Fines and costs recovered must be deposited in the board's earmarked special revenue account."

**Section 45.** Section 37-6-311, MCA, is amended to read:

"37-6-311. Refusal or revocation of license -- investigation -- reinstatement. (1) After notice and opportunity for a hearing, the board may deny, revoke, or refuse to renew a license to practice podiatry if the consensus of the board is that an applicant is not of good moral character or has engaged in unprofessional conduct. The department shall notify the applicant of the board's intent to deny, revoke, or refuse to renew a license by mailing a letter to the applicant's last-known address stating the board's intent and setting a time and place for a hearing. If the applicant fails without cause to appear at the hearing or if the board determines that the applicant is not entitled to a license, the board shall deny, revoke, or refuse to renew the applicant's license.

(2) The board may investigate whenever it is brought

to its attention that a licensed podiatrist:

(a) is mentally or physically unable to engage safely in the practice of podiatry;

(b) has procured his license by fraud, misrepresentation, or through error;

(c) has been declared incompetent by a court of competent jurisdiction and thereafter has not been lawfully declared competent;

(d) has a condition that impairs his intellect or judgment to the extent that it incapacitates him in the safe performance of his professional duties;

(e) has been found guilty of unprofessional conduct;

(f) has practiced podiatry while his license was suspended or revoked;

(g) has had his license suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(h) while under probation has violated its terms.

(3) The investigation shall be for the purpose of determining the probability that the alleged conditions exist or that the alleged offenses were committed. The investigation may include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board if it appears to be in the best interest of the public that this

1 evaluation be secured. The board may examine the hospital  
2 records and reports of a licensee as part of the  
3 examination, and copies shall be released to the board on  
4 written request. If the board has reasonable cause to  
5 believe that the alleged conditions exist or that the  
6 alleged offenses were committed, the department shall mail  
7 to the person at his last-known address a specification of  
8 the charges against him, together with a written notice of  
9 the time and place of the hearing on such charges, advising  
10 him that he may be present in person and by counsel if he so  
11 desires to offer evidence and be heard in his defense. The  
12 time fixed for the hearing may not be less than 30 days from  
13 the date of mailing the notice.

14 (4) A person, including a member of the board, may  
15 file a sworn complaint with the department against a person  
16 having a license to practice podiatry in this state charging  
17 him with the commission of any of the offenses set forth in  
18 {37-6-310} or with any of the offenses or conditions set  
19 forth in subsection (1) or (2) of this section. The  
20 complaint shall set forth a specification of the charges.  
21 When the complaint is filed, the department shall mail a  
22 copy to the person complained against, at his last-known  
23 address, together with a written citation of the time and  
24 place of the hearing on the complaint.

25 (5) At the hearing the board shall adopt a resolution

1 finding the person complained against guilty or not guilty  
2 of the matters charged. If the board finds that the  
3 offenses or conditions referred to in {37-6-310} or  
4 subsection (1) or (2) of this section do not exist with  
5 respect to the person complained against or if he is found  
6 not guilty, the board shall dismiss the charges or  
7 complaint. If the board finds that the offenses or  
8 conditions referred to in {37-6-310} or in subsection (1) or  
9 (2) of this section do exist or the person is found guilty,  
10 the board shall:

11 (a) revoke his license;

12 (b) suspend his right to practice for a period not  
13 exceeding 1 year;

14 (c) suspend its judgment of revocation on the terms  
15 and conditions to be determined by the board;

16 (d) place him on probation; or

17 (e) take any other action in relation to disciplining  
18 him as the board in its discretion considers proper.

19 (6) In a case of revocation, suspension, or probation,  
20 the department shall enter in its records the facts of the  
21 action and of subsequent measures taken by the board with  
22 respect to that action.

23 (7) On the expiration of the term of suspension, the  
24 licensee shall be reinstated by the board if he furnishes  
25 the board with evidence that he is then of good moral

1 character and conduct or restored to good health and that he  
 2 has not practiced podiatry in this state during the term of  
 3 suspension. If the evidence fails to establish to the  
 4 satisfaction of the board that the holder is then of good  
 5 moral character and conduct or restored to good health or if  
 6 the evidence shows he has practiced podiatry in this state  
 7 during the term of suspension, the board shall revoke the  
 8 license at a hearing held in accordance with the notice and  
 9 procedure provided in subsection (1). The revocation is  
 10 final.

11 (8) If a person holding a license to practice podiatry  
 12 under this chapter is by a final order or adjudication of a  
 13 court of competent jurisdiction determined to be mentally  
 14 incompetent, seriously mentally ill, or addicted to the use  
 15 of narcotics, his license may be suspended by the board. The  
 16 suspension continues until the licensee is found by the  
 17 court to be restored to reason or cured or until he is  
 18 discharged as restored to reason or cured and his  
 19 professional competence has been proven to the satisfaction  
 20 of the board."

21 **Section 46.** Section 37-14-102, MCA, is amended to  
 22 read:

23 "37-14-102. Definitions. In this chapter, unless the  
 24 context clearly requires otherwise, the following  
 25 definitions apply:

1 (1) "Board" means the board of radiologic  
 2 technologists provided for in 2-15-1848.

3 (2) "Department" means the department of commerce.

4 (3) "License" means an authorization issued by the  
 5 department to perform x-ray procedures on persons.

6 (4) "Licensed practitioner" means a person licensed or  
 7 otherwise authorized by law to practice medicine, dentistry,  
 8 denturistry, dental hygiene, podiatry, chiropody, osteopathy,  
 9 or chiropractic.

10 (5) "Limited permit technician" means a person who  
 11 does not qualify for the issuance of a license under the  
 12 provisions of this chapter but who has demonstrated, to the  
 13 satisfaction of the board, the capability of performing  
 14 specified high-quality x-ray procedures without endangering  
 15 public health and safety.

16 (6) "Performance of x-ray procedures" means the  
 17 involvement or completion of any portion of an x-ray  
 18 procedure that may have an effect on the patient's  
 19 accumulated x-ray radiation exposure, including positioning  
 20 of the patient, technique selection, selection of ancillary  
 21 equipment, initiation of exposure, and darkroom procedures.

22 (7) "Permit" means an authorization which may be  
 23 granted by the board to perform x-ray procedures on persons  
 24 when the applicant's qualifications do not meet standards  
 25 required for the issuance of a license.



(8) "Radiologic technologist" means a person other than a licensed practitioner who has qualified under the provisions of this chapter for the issuance of a license to perform diagnostic x-ray procedures on persons and who performs the following functions in connection with the diagnostic procedure:

(a) operates x-ray equipment to reveal the internal condition of patients for the diagnosis of fractures, diseases, and other injuries;

(b) prepares and positions patients for x-ray procedures;

(c) selects the proper radiographic technique for visualization of specific internal structures of the human body;

(d) selects the proper ancillary equipment to be utilized in the x-ray procedure to enhance the visualization of the desired structure;

(e) prepares film processing solutions and develops or processes the exposed x-ray film; and

(f) inspects, maintains, and performs minor repairs to x-ray equipment."

**Section 47.** Section 37-14-301, MCA, is amended to read:

"37-14-301. Limitation of license authority -- exemptions. (1) No person may perform x-ray procedures on a

person unless licensed or granted a limited permit under this chapter, with the following provisos:

(a) Licensure is not required for:

(i) a student enrolled in and attending a school or college of medicine, osteopathy, ~~chiroprody~~, podiatry, dentistry, dental hygiene, chiropractic, or radiologic technology who applies x-ray radiation to persons under the specific direction of a person licensed to prescribe such examinations or treatment;

(ii) a person administering x-ray examinations related to the practice of dentistry or denturistry, provided such person is certified by the board of dentistry as having passed an examination testing his proficiency to administer x-ray examinations; or

(iii) a person who performs only darkroom procedures and is under the supervision of a licensed radiologic technologist or radiologist or is able to show evidence of completion of formal training in darkroom procedures as established by rule.

(b) Nothing in this chapter shall be construed to limit or affect in any respect the practice of their respective professions by duly licensed practitioners.

(2) A person licensed as a radiologic technologist may perform x-ray procedures on persons for medical, diagnostic, or therapeutic purposes under the specific direction of a

1 person licensed to prescribe such procedures.

2 (3) A radiologic technologist licensed under this  
3 chapter may inject contrast media and radioactive isotopes  
4 (radio-nuclide material) intravenously upon request of a  
5 duly licensed practitioner. In the case of contrast media,  
6 the licensed practitioner requesting the procedure or the  
7 radiologist must be immediately available within the x-ray  
8 department. Such injections must be for diagnostic studies  
9 only and not for therapeutic purposes. The permitted  
10 injections include peripheral intravenous injections but  
11 specifically exclude intra-arterial or intracatheter  
12 injections. An uncertified radiologic technologist, a  
13 limited permit technician under 37-14-306, or an individual  
14 who is not licensed or authorized under another licensing  
15 act may not perform any of the activities listed in this  
16 subsection."

17 **Section 48.** Section 37-25-102, MCA, is amended to  
18 read:

19 "37-25-102. Definitions. In this chapter, unless the  
20 context requires otherwise, the following definitions apply:

21 (1) "Accredited" means accredited through the council  
22 on postsecondary accreditation and the U.S. department of  
23 education.

24 (2) "Board" means the board of medical examiners.

25 (3) "Commission" means the commission on dietetic

1 registration, which is a member of the national commission  
2 for health certifying agencies.

3 ~~(4) "Department" means the department of commerce;~~

4 ~~(5)(4)~~ "Dietetic-nutrition practice" or  
5 "dietetics-nutrition" is the integration and application of  
6 principles derived from the sciences of nutrition,  
7 biochemistry, physiology, and food management and from the  
8 behavioral and social sciences to achieve and maintain  
9 health. The primary function of dietetic-nutrition practice  
10 is to provide nutrition assessment and nutrition counseling.

11 ~~(6)(5)~~ "General nutritional information" means  
12 information on:

- 13 (a) principles of good nutrition;
- 14 (b) foods to be included in a daily diet;
- 15 (c) the essential nutrients needed by the body;
- 16 (d) recommended amounts of these nutrients;
- 17 (e) the action of these nutrients on the body;
- 18 (f) the effects of deficiencies in these nutrients; or
- 19 (g) foods and supplements that are good sources of
- 20 essential nutrients.

21 ~~(7)(6)~~ "Licensed nutritionist" means a nutritionist  
22 licensed under this chapter.

23 ~~(8)(7)~~ "Nutrition assessment" means the evaluation of  
24 nutritional needs of individuals and groups based on  
25 appropriate biochemical, anthropometric, physical, and

1 dietary data in order to determine nutrient needs and to  
2 recommend appropriate nutritional intake, including both  
3 enteral and parenteral nutrition.

4 ~~(9)~~(8) "Nutrition counseling" means providing  
5 assistance and advice to individuals or groups in the  
6 selection of food and other sources of nutrients to achieve  
7 appropriate nutritional intake, based on:

8 (a) the nutrition assessment;

9 (b) the composition of food and other sources of  
10 nutrients; and

11 (c) meal preparation consistent with cultural  
12 background and socioeconomic status.

13 ~~(10)~~(9) "Nutritionist" means:

14 (a) a person licensed under this chapter; or

15 (b) a person who has satisfactorily completed a  
16 baccalaureate and master's or a doctoral degree in the field  
17 of dietetics, food and nutrition, or public health nutrition  
18 conferred by an accredited college or university.

19 ~~{11}-"Registered--dietitian"--means--a--person--who--is~~  
20 ~~registered-by-the-commission."~~

21 **Section 49.** Section 37-29-306, MCA, is amended to  
22 read:

23 "37-29-306. Licensing. (1) After March 1, 1985, a  
24 denturist license is valid for a period of 1 year. A renewal  
25 license must be issued upon payment of the renewal fee and

1 the submission of proof of the completion of not less than  
2 12 hours of continuing education, which may include programs  
3 sponsored by an educational institution, state denturist  
4 licensing board, or a recognized denturist organization.  
5 Subject matter must be pertinent to denturistry as enumerated  
6 in 37-29-305(3). Requests for approval of continuing  
7 education programs must be made to the board, providing  
8 sufficient outline of the program on which the board may  
9 base its determination. Hours pertain to clock hours  
10 actually attended by the licensee. In addition, the  
11 denturist shall submit proof that he holds a current  
12 cardiopulmonary resuscitation card. A license issued  
13 effective as of a date other than March 1 will be valid  
14 until midnight February 28 next following the date it was  
15 issued. The license shall bear on its face the address where  
16 the licensee's denturist services will be performed.

17 (2) Applications must be submitted on forms approved  
18 by the board and furnished by the department. Each  
19 application must include all other documentations necessary  
20 to establish that the applicant meets the requirements for  
21 licensure and is eligible to take the licensure examination.  
22 Applications must be accompanied by the appropriate fees.

23 (3) After April 1, 1985, the board may by rule alter  
24 future renewal dates for licenses under this chapter."

25 **Section 50.** Section 37-60-101, MCA, is amended to

1 read:

2 "37-60-101. Definitions. As used in this chapter, the  
3 following definitions apply:

4 (1) "Alarm response runner" means any individual  
5 employed by a contract security company or a proprietary  
6 security organization to respond to security alarm system  
7 signals.

8 (2) "Armed carrier service" means any person who  
9 transports or offers to transport under armed private  
10 security guard from one place to another any currency,  
11 documents, papers, maps, stocks, bonds, checks, or other  
12 items of value that require expeditious delivery.

13 (3) "Armed private investigator" means a private  
14 investigator who at any time wears, carries, possesses, or  
15 has access to a firearm in the performance of his duties.

16 (4) "Armed private security guard" means an individual  
17 employed by a contract security company or a proprietary  
18 security organization whose duty or any portion of whose  
19 duty is that of a security guard, armored car service guard,  
20 carrier service guard, or alarm response runner and who at  
21 any time wears or carries a firearm in the performance of  
22 his duties.

23 (5) "Armored car service" means any person who  
24 transports or offers to transport under armed private  
25 security guard from one place to another any currency,

1 jewels, stocks, bonds, paintings, or other valuables of any  
2 kind in a specially equipped motor vehicle that offers a  
3 high degree of security.

4 (6) "Board" means the board of private security  
5 patrolmen and investigators provided for in 2-15-1891.

6 (7) "Branch office" means any office of a licensee  
7 within the state, other than its principal place of business  
8 within the state.

9 (8) "Contract security company" means any person who  
10 installs or maintains a security alarm system, undertakes to  
11 provide a private security guard, alarm response runner,  
12 armored car service, street patrol service, or armed carrier  
13 service on a contractual basis to another person who  
14 exercises no direction and control over the performance of  
15 the details of the services rendered.

16 (9) "Department" means the department of commerce  
17 provided for in 2-15-1801.

18 (10) "Insurance adjuster" means a person employed by an  
19 insurance company, other than a private investigator, who  
20 for any consideration whatsoever conducts investigations in  
21 the course of adjusting or otherwise participating in the  
22 disposal of any claims in connection with a policy of  
23 insurance but who does not perform surveillance activities  
24 or investigate crimes or wrongs committed or threatened  
25 against the United States or any state or territory thereof.

1 (11) "Licensee" means a person licensed under this  
2 chapter.

3 (12) "Person" includes any individual, firm, company,  
4 association, organization, partnership, and corporation.

5 (13) "Private investigator" means a person other than  
6 an insurance adjuster who for any consideration whatsoever  
7 makes or agrees to make any investigation with reference to:

8 (a) crimes or wrongs done or threatened against the  
9 United States or any state or territory thereof;

10 (b) the identity, habits, conduct, business,  
11 occupation, honesty, integrity, trustworthiness, efficiency,  
12 loyalty, activity, movement, whereabouts, affiliations,  
13 associations, transactions, reputation, or character of any  
14 person;

15 (c) the location, disposition, or recovery of lost or  
16 stolen property;

17 (d) the cause or responsibility for fires, libels,  
18 losses, accidents, or injury to persons or property; or

19 (e) securing evidence to be used before any court,  
20 board, officer, or investigating committee.

21 (14) "Private security guard" means an individual  
22 employed or assigned duties to protect a person or property  
23 or both a person and property from criminal acts and whose  
24 duties or any portion of whose duties include but are not  
25 limited to the prevention of unlawful entry, theft, criminal

1 mischief, arson, or trespass on private property, or the  
2 direction of the movements of the public in public areas.

3 (15) "Proprietary security organization" means any  
4 person who employs a private security guard, an alarm  
5 response runner, armored car service, street patrol service,  
6 or armed carrier service on a routine basis solely for the  
7 purposes of that person and exerts direction and control  
8 over the performance of the details of the service rendered.

9 (16) "Qualifying agent" means, in the case of a  
10 corporation, a corporate employee employed in a management  
11 capacity or, in the case of a partnership, a general or  
12 unlimited partner meeting the qualifications set forth in  
13 this chapter for the operation of a contract security  
14 company, proprietary security organization, or private  
15 investigator, whichever is applicable.

16 (17) "Resident agent manager" means the person  
17 appointed to exercise direct supervision, control, charge,  
18 management, or operation of each branch office located in  
19 this state where the business of the licensee is conducted.

20 (18) "Security alarm system" means an assembly of  
21 equipment and devices or a single device such as a solid  
22 state unit which plugs directly into a 110-volt AC line,  
23 designed to detect or signal or to both detect and signal  
24 unauthorized intrusion, movement, or criminal acts at a  
25 protected premises, to which signals police, private

1 security guards, or alarm response runners are expected to  
2 respond. Fire alarm systems and alarm systems that monitor  
3 temperature, humidity, or any other atmospheric condition  
4 not directly related to the detection of an unauthorized  
5 intrusion or criminal act at a premises are not included  
6 within the meaning of this definition.

7 (19) "Street patrol service" means any contract  
8 security company or proprietary security organization that  
9 uses foot patrols, motor vehicles, or any other means of  
10 transportation to maintain public order or detect criminal  
11 activities in public areas or thoroughfares.

12 (20) "Unarmed private investigator" means a private  
13 investigator who does not wear, carry, possess, or have  
14 access to a firearm in the performance of his duties.

15 (21) "Unarmed private security guard" means an  
16 individual employed by a contract security company or a  
17 proprietary security organization whose duty or any portion  
18 of whose duty is that of a private security guard, armored  
19 car service guard, or alarm response runner, who does not  
20 wear or carry a firearm in the performance of those duties."

21 **Section 51.** Section 37-60-308, MCA, is amended to  
22 read:

23 "37-60-308. Temporary employment without  
24 identification card -- authority of board. The board may,  
25 under such conditions as it shall prescribe by rule,

1 authorize the employment by any licensee of any person for  
2 not more than 30 days who, because of his failure to obtain  
3 an identification card in--accordance--with--37-60-301--or  
4 37-60-304, could otherwise not act as a private security  
5 guard or private investigator."

6 **Section 52.** Section 37-66-105, MCA, is amended to  
7 read:

8 "37-66-105. Exemptions. (1) None of the provisions of  
9 this chapter prevent employees of those lawfully practicing  
10 as landscape architects from acting under the instruction,  
11 control, or supervision of their employers.

12 (2) None of the provisions of this chapter apply to  
13 any business conducted in this state by any horticulturist,  
14 nurseryman, or landscape nurseryman, plantsman, gardener,  
15 landscape gardener, landscape designer, landscape artist,  
16 landscape contractor, or land use planner, as these terms  
17 are generally used. However, no such person shall use the  
18 title "landscape architect", "landscape architecture", or  
19 any description tending to convey the impression that he is  
20 a licensed landscape architect unless he is licensed as  
21 provided in this chapter.

22 (3) This chapter does not apply to architects,  
23 professional engineers, and professional land surveyors  
24 licensed to practice their respective professions.

25 (4) None of the provisions of this chapter shall apply

1 to any person performing any of the services mentioned in  
2 this chapter upon his own property.

3 (5) None of the provisions of this chapter shall  
4 require the hiring of a landscape architect."

5 **Section 53.** Section 37-66-308, MCA, is amended to  
6 read:

7 "37-66-308. Display of license -- seal of landscape  
8 architect. (1) Each holder of a license shall display it in  
9 his principal office, place of business, or place of  
10 employment.

11 (2) Each landscape architect shall have a seal  
12 approved by the board, which shall contain the name of the  
13 landscape architect and the words "Licensed Landscape  
14 Architect, State of Montana" and such other words or figures  
15 as the board considers necessary. All drawings and title  
16 pages of specifications prepared by such landscape architect  
17 or under the supervision of such landscape architect shall  
18 be stamped with his seal. Nothing contained herein shall be  
19 construed to permit the seal of a landscape architect to  
20 serve as a substitute for the seal of a licensed architect,  
21 a licensed professional engineer, or a licensed professional  
22 land surveyor."

23 **Section 54.** Section 37-72-101, MCA, is amended to  
24 read:

25 "37-72-101. Construction blasting restrictions --

1 license required -- definitions -- exemptions. (1) No person  
2 may engage in the practice of construction blasting unless  
3 licensed or under the supervision of a person licensed as a  
4 construction blaster by the workers' compensation division.

5 (2) For the purposes of this chapter:

6 (a) "construction blaster" means a person who engages  
7 in construction blasting;

8 (b) "construction blasting" means the use of  
9 explosives to:

10 (i) reduce, destroy, or weaken any residential,  
11 commercial, or other building; or

12 (ii) excavate any ditch, trench, cut, or hole or  
13 reduce, destroy, weaken, or cause a change in grade of any  
14 land formation in the construction of any building, highway,  
15 road, pipeline, sewerline, or electric or other utility  
16 line;

17 (c) "division" means the workers' compensation  
18 division of the department of labor and industry provided  
19 for in 2-15-1702;

20 (d) "explosive" has the meaning given in 50-38-101;  
21 61-1-506.

22 ~~(e) -- "magazine" has the meaning given in 50-38-101.~~

23 (3) Nothing in this chapter applies to the private or  
24 commercial use of explosives by persons engaged in farming,  
25 ranching, logging, geophysical work, drilling or development

1 of water, oil, or gas wells, or mining of any kind or to the  
 2 private use of explosives in the removal of stumps and rocks  
 3 from land owned by the person using the explosives, except  
 4 that the persons exempted from this chapter by this  
 5 subsection must comply with rules adopted under  
 6 37-72-201(1)(c) and the provisions of 37-72-102 apply to a  
 7 violation of those rules by an exempted person.

8 (4) This chapter does not apply to persons conducting  
 9 blasting operations when the persons and operations are  
 10 subject to rules adopted under and implementing  
 11 82-4-231(10)(e)."

12 **Section 55.** Section 39-51-1219, MCA, is amended to  
 13 read:

14 "39-51-1219. Procedures for the substitution, merger,  
 15 or acquisition of an employer account by a successor  
 16 employing unit. (1) Subject to the provisions of subsection  
 17 (3), whenever any individual or organization (whether or not  
 18 a covered employer) in any manner succeeds to or acquires  
 19 all or substantially all of the business of an employer who  
 20 at the time of acquisition was a covered employer and  
 21 whenever in respect to whom the department finds that the  
 22 business of the predecessor is continued solely by the  
 23 successor:

24 (a) the separate account and the actual contribution,  
 25 benefit, and taxable payroll experience of the predecessor

1 shall, upon the joint application of the predecessor and the  
 2 successor within 90 days after such acquisition and approval  
 3 by the department, be transferred to the successor employer  
 4 for the purpose of determining the successor's liability and  
 5 rate of contribution; and

6 (b) any successor who was not an employer on the date  
 7 of acquisition becomes a covered employer as of such date.

8 (2) Whenever any individual or organization (whether  
 9 or not a covered employer) in any manner succeeds to or  
 10 acquires part of the business of an employer who at the time  
 11 of acquisition was a covered employer and whenever such  
 12 portion of the business is continued by the successor:

13 (a) so much of the separate account and the actual  
 14 contribution, benefit, and taxable payroll experience of the  
 15 predecessor as is attributable to the portion of the  
 16 business transferred, as determined on a pro rata basis in  
 17 the same ratio that the wages of covered employees properly  
 18 allocable to the transferred portion of the business bears  
 19 bear to the payroll of the predecessor in the last four  
 20 completed calendar quarters immediately preceding the date  
 21 of transfer, shall, upon the joint application of the  
 22 predecessor and the successor within 90 days after such  
 23 acquisition and approval by the department, be transferred  
 24 to the successor employer for the purpose of determining the  
 25 successor's liability and rate of contribution; and



1 (b) any successor who was not an employer on the date  
2 of acquisition becomes a covered employer as of such date.

3 (3) (a) The 90-day period may be extended at the  
4 discretion of the department.

5 (b) Whenever a predecessor covered employer has a  
6 deficit experience rating account as of the last computation  
7 date, the transfer provided for in subsections (1) and (2)  
8 is mandatory except when it is shown by substantial evidence  
9 that ~~neither~~ the management, the ownership, ~~nor or~~ both the  
10 management and ownership are not substantially the same for  
11 the successor as for the predecessor, in which case the  
12 successor shall begin with the rate of a new employer.  
13 Whenever such mandatory transfer involves only a portion of  
14 the experience rating record and the predecessor or  
15 successor employers fail to supply the required payroll  
16 information within 10 days after notice, the transfer shall  
17 be based on estimates of the applicable payrolls.

18 (4) (a) If the successor was a covered employer prior  
19 to the date of the acquisition of all or a part of the  
20 predecessor's business, the successor's rate of  
21 contribution, effective the first day of the calendar year  
22 immediately following the date of acquisition, is based on  
23 the combined experience of the predecessor and successor.

24 (b) If the successor was not a covered employer prior  
25 to the date of the acquisition of all or a part of the

1 predecessor's business, the successor's rate is the rate  
2 applicable to the predecessor with respect to the period  
3 immediately preceding the date of acquisition, but if there  
4 was more than one predecessor, the successor's rate shall be  
5 a newly computed rate based on the combined experience of  
6 the predecessors, becoming effective immediately after the  
7 date of acquisition and remaining in effect for the balance  
8 of the rate year."

9 **Section 56.** Section 39-51-3206, MCA, is amended to  
10 read:

11 "39-51-3206. Collection of benefit overpayments. A  
12 person who receives benefits not authorized by this chapter  
13 shall repay to the department either directly or, as  
14 authorized by the department, by offset of future benefits  
15 to which the claimant may be entitled, or by a combination  
16 of both methods, a sum equal to the amount of the  
17 overpayment. The sum is collectible in the manner provided  
18 in this chapter for the collection of past-due contributions  
19 unless the department finds that the benefits were received  
20 through no fault of the person and the recovery of the  
21 benefits would be against equity and good conscience. An  
22 action for collection of overpaid benefits must be brought  
23 within 5 years after the date of the overpayment.  
24 Notwithstanding any other provision of this chapter, the  
25 department may recover an overpayment of benefits paid to

1 any individual under the laws of this state or another state  
2 law or under an unemployment benefit program of the United  
3 States."

4 **Section 57.** Section 39-71-2501, MCA, is amended to  
5 read:

6 "39-71-2501. (Temporary) Definitions. As used in this  
7 part, the following definitions apply:

8 ~~{1}--"Board"--means--the--board-of-examiners-created-in~~  
9 ~~2-15-1007-~~

10 ~~{2}{1}~~ "Department" means the department of labor and  
11 industry provided for in 2-15-1701.

12 ~~{3}{2}~~ "Employer" has the meaning set forth in  
13 39-71-117.

14 ~~{4}{3}~~ "Payroll" means the payroll of an employer for  
15 each of the calendar quarters ending March 31, June 30,  
16 September 30, and December 31, for all employments covered  
17 under 39-71-401.

18 ~~{5}{4}~~ "State fund" means the state compensation  
19 insurance fund referred to in 39-71-2301.

20 ~~{6}{5}~~ "Tax" means the workers' compensation payroll  
21 tax provided for in 39-71-2503.

22 ~~{7}{6}~~ "Tax account" means the workers' compensation  
23 tax account created by 39-71-2504. (Terminates June 30,  
24 1991--sec. 10, Ch. 664, L. 1987.)"

25 **Section 58.** Section 41-5-808, MCA, is amended to read:

1 "41-5-808. Regional detention facility. (1) A regional  
2 detention facility may be established and maintained through  
3 cooperation or by cooperative agreement of more than one  
4 county or city.

5 (2) Each regional detention facility must be licensed  
6 by the department of institutions family services.

7 (3) The county determined by the court as the  
8 residence of the youth is responsible for the cost of the  
9 detention of the youth, including medical expenses incurred  
10 during detention.

11 (4) Counties receiving detention services must be  
12 billed monthly for services provided during the preceding  
13 month and may be refused services if bills are not paid  
14 within 60 days of receipt of a statement."

15 **Section 59.** Section 46-18-235, MCA, is amended to  
16 read:

17 "46-18-235. Disposition of money collected as fines  
18 and costs. The money collected by a court, except money  
19 collected by a justice's court, as a result of the  
20 imposition of fines or assessment of costs under the  
21 provisions of 46-18-231 and 46-18-232 shall be paid to the  
22 county general fund of the county in which the court is  
23 held, except that:

24 (1) if the costs assessed include any district court  
25 expense listed in 3-5-901, the money collected from

1 assessment of these costs must be paid to the department of  
2 commerce for deposit into the state general fund to the  
3 extent the expenses were paid by the state;

4 (2) if the fine was imposed for a violation of Title  
5 45, chapter 9, the court may order the money paid into the  
6 drug forfeiture fund account maintained under 44-12-206 for  
7 the law enforcement agency which made the arrest from which  
8 the conviction and fine arose; and

9 (3) if the fine was imposed for a violation of  
10 45-5-206, 50% of the amount collected, except for fines  
11 collected by a justice court and distributed pursuant to  
12 3-10-601, must be deposited in the state special revenue  
13 fund for use of the department of family services in the  
14 battered spouses and domestic violence grant program created  
15 by 40-2-401."

16 **Section 60.** Section 50-60-102, MCA, is amended to  
17 read:

18 **"50-60-102. Applicability.** (1) The state building  
19 codes do not apply to:

20 (a) residential buildings containing less than five  
21 dwelling units or their attached-to structures, any farm or  
22 ranch building, and any private garage or private storage  
23 structure used only for the owner's own use, located within  
24 the municipality's or county's jurisdictional area, unless  
25 the local legislative body or board of county commissioners

1 by ordinance or resolution makes the state building code  
2 applicable to these structures; or

3 (b) mines and buildings on mine property regulated  
4 under Title 82, chapter 4, and subject to inspection under  
5 the Federal Mine Safety and Health Act.

6 (2) The state may not enforce the state building code  
7 under 50-60-205 for the mentioned buildings referred to  
8 in subsection (1). Local governments that have made the  
9 state building codes applicable to the aforementioned  
10 buildings may enforce within their jurisdictional areas the  
11 state building code as adopted by the respective local  
12 government. ~~The--state--may--not--enforce--the--state--building~~  
13 ~~code--under--50-60-205--for--those--buildings--~~

14 (3) Where good and sufficient cause exists, a written  
15 request for limitation of the state building code may be  
16 filed with the department for filing as a permanent record.

17 (4) The department may limit the application of any  
18 rule or portion of the state building code to include or  
19 exclude:

20 (a) specified classes or types of buildings according  
21 to use or other distinctions as may make differentiation or  
22 separate classification or regulation necessary, proper, or  
23 desirable;

24 (b) specified areas of the state based upon size,  
25 population density, special conditions prevailing therein,

1 or other factors which make differentiation or separate  
2 classification or regulation necessary, proper, or  
3 desirable."

4 **Section 61.** Section 52-1-103, MCA, is amended to read:

5 "52-1-103. Powers and duties of department. The  
6 department shall:

7 (1) administer and supervise all forms of child and  
8 adult protective services;

9 (2) provide funding for and place youth alleged or  
10 adjudicated to be delinquent or in need of supervision who  
11 are referred or committed to the department;

12 (3) provide the following functions, as necessary, for  
13 youth in need of care:

14 (a) intake, investigation, case management, and client  
15 supervision;

16 (b) placement in youth care facilities;

17 (c) contracting for necessary services;

18 (d) protective services day care; and

19 (e) adoption;

20 (4) administer youth correctional facilities;

21 (5) provide supervision, care, and control of youth  
22 released from a state youth correctional facility;

23 (6) license youth care facilities, child placing  
24 agencies, day-care facilities, community homes for  
25 developmentally disabled persons, community homes for

1 physically severely disabled persons, and adult foster care  
2 facilities;

3 (7) administer interstate compacts for children and  
4 delinquent youth;

5 (8) (a) administer child abuse prevention services  
6 funded through child abuse grants and the Montana children's  
7 trust fund provided for in Title 41, chapter 3, part 7; and

8 (b) administer elder abuse prevention services;

9 (9) (a) make a written evaluation of each plan  
10 developed by the local youth services advisory councils, as  
11 provided in 52-1-203, indicating those portions of each plan  
12 that will be implemented by the department, those portions  
13 that will not be implemented, and the reasons for not  
14 implementing those portions;

15 (b) develop a statewide youth services and resources  
16 plan that takes into consideration local needs as reflected  
17 in plans developed by the local youth services advisory  
18 councils;

19 (10) administer services to the aged;

20 (11) provide consultant services to:

21 (a) facilities providing care for needy, indigent,  
22 handicapped, or dependent adults; and

23 (b) youth care facilities;

24 (12) utilize at maximum efficiency the resources of  
25 state government in a coordinated effort to:

1 (a) provide for children in need of temporary  
2 protection or correctional services; and

3 (b) coordinate and apply the principles of modern  
4 institutional administration to the institutions in the  
5 department;

6 (13) subject to the functions of the department of  
7 administration, lease or purchase lands for use by  
8 institutions in the department and classify those lands to  
9 determine which are of such character as to be most  
10 profitably used for agricultural purposes, taking into  
11 consideration:

12 (a) the needs of all institutions in the department  
13 for the food products that can be grown or produced on the  
14 lands; and

15 (b) the relative value of agricultural programs in the  
16 treatment or rehabilitation of the persons confined in the  
17 institutions in the department;

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

22 (15) propose programs with specific goals and  
23 objectives to the legislature to meet the projected  
24 long-range needs of institutions in the department,  
25 including programs and facilities for the diagnosis,

1 treatment, care, and aftercare of persons placed in  
2 institutions in the department;

3 (16) contract, as necessary, with the county board of  
4 welfare for administration of child and adult protection  
5 services for that county; and

6 (17) adopt rules necessary to carry out the purposes of  
7 41-3-1126, 41-5-527 through 41-5-529, and this chapter."

8 **Section 62.** Section 53-2-303, MCA, is amended to read:

9 "53-2-303. County attorney and clerk -- *ex officio*  
10 duties. The county attorney shall be, *ex officio*, the legal  
11 adviser to the county welfare board and shall render such  
12 legal services as the county or department of family  
13 services may require. The county clerk and recorder shall  
14 be, *ex officio*, the secretary and clerk of the county  
15 welfare board."

16 **Section 63.** Section 53-5-513, MCA, is amended to read:

17 "53-5-513. Confidentiality. (1) The case records of  
18 the department departments of social and rehabilitation  
19 services and its family services, their local affiliate, the  
20 county welfare department, the county attorney, and the  
21 court, concerning actions taken under this part, and all  
22 reports made pursuant to 53-5-511 shall be kept confidential  
23 except as provided by this section.

24 (2) The records and reports required to be kept  
25 confidential by subsection (1) may be disclosed, upon

1 request, to the following persons or entities in this or any  
2 other state:

3 (a) a physician who has in his care an older person  
4 who he reasonably believes was abused, neglected, or  
5 exploited;

6 (b) a legal guardian or conservator of the older  
7 person if the identity of the person who made the report is  
8 protected and the legal guardian or conservator is not the  
9 person suspected of the abuse, neglect, or exploitation;

10 (c) the person named in the report as allegedly being  
11 abused, neglected, or exploited if that person is not  
12 legally incompetent;

13 (d) any person engaged in bona fide research if the  
14 person alleged in the report to have committed the abuse,  
15 exploitation, or neglect is later convicted of an offense  
16 constituting abuse, exploitation, or neglect and if the  
17 identity of the older person who is the subject of the  
18 report is not disclosed to the researcher; and

19 (e) an adult protective service team. Members of the  
20 team are required to keep information about the subject  
21 individuals confidential.

22 (3) The records and reports required to be kept  
23 confidential by subsection (1) shall be disclosed, upon  
24 request, to the following persons or entities in this or any  
25 other state:

1 (a) a county attorney or other law enforcement  
2 official who requires the information in connection with an  
3 investigation of a violation of this part;

4 (b) a court which has determined, in camera, that  
5 public disclosure of the report, data, information, or  
6 record is necessary for the determination of an issue before  
7 it;

8 (c) a grand jury upon its determination that the  
9 report, data, information, or record is necessary in the  
10 conduct of its official business.

11 (4) If the person who is reported to have abused,  
12 neglected, or exploited an older person is the holder of a  
13 license, permit, or certificate issued by the department of  
14 commerce or any other entity of state government under the  
15 provisions of Title 37, the report may be submitted to the  
16 entity that issued the license, permit, or certificate."

17 **Section 64.** Section 53-5-702, MCA, is amended to read:

18 "53-5-702. **Definitions.** In this part, the following  
19 definitions apply:

20 (1) "Department" means the department of ~~social--and~~  
21 rehabilitation family services.

22 (2) "Older Montanan" means a resident of this state  
23 who is at least 60 years of age."

24 **Section 65.** Section 53-5-803, MCA, is amended to read:

25 "53-5-803. Office of legal and long-term care

1 ombudsman services. Contingent on receipt of federal funds  
2 for the purpose, there is an office of legal and long-term  
3 care ombudsman services in the department of ~~social and~~  
4 ~~rehabilitation family~~ services. As required by the Older  
5 Americans Act of 1965, as amended (42 U.S.C. 3001, et seq.),  
6 and the regulations adopted pursuant thereto, the office:

7 (1) serves as an advocate for Montana citizens  
8 residing in long-term care facilities, regardless of their  
9 age or source of payment for care, to ensure that their  
10 rights are protected, that they receive quality care, and  
11 that they reside in a safe environment; and

12 (2) coordinates legal services for the elderly."

13 **Section 66.** Section 60-11-1103, MCA, is amended to  
14 read:

15 "60-11-1103. Railroad rehabilitation revenue bonds.

16 (1) The department is authorized to issue and sell railroad  
17 rehabilitation revenue bonds under the provisions of this  
18 part. The department of administration shall assist the  
19 department of highways in the issuance and sale of the  
20 bonds.

21 (2) The bonds do not constitute a debt, liability,  
22 obligation, or pledge of the faith and credit of the state  
23 but are payable solely from the revenues or assets of the  
24 department acquired or held in connection with  
25 rehabilitation projects."

1 **Section 67.** Section 60-11-1203, MCA, is amended to  
2 read:

3 "60-11-1203. Railroad rolling stock revenue bonds. (1)  
4 The department is authorized to issue and sell railroad  
5 rolling stock revenue bonds under the provisions of this  
6 part. The department of administration shall assist the  
7 department of highways in the issuance and sale of the  
8 bonds.

9 (2) The bonds do not constitute a debt, liability,  
10 obligation, or pledge of the faith and credit of the state  
11 but are payable solely from the revenues or assets of the  
12 department acquired or held in connection with rolling stock  
13 projects."

14 **Section 68.** Section 61-5-214, MCA, is amended to read:

15 "61-5-214. Mandatory suspension for failure to appear  
16 or pay fine. The department shall suspend the license or  
17 driving privilege of an operator or chauffeur immediately  
18 upon receipt of a certified copy of a docket page or other  
19 sufficient evidence from the court that the operator or  
20 chauffeur:

21 (1) is guilty of a violation of 61-5-302 through  
22 61-5-306, 61-5-309, ~~chapter 127, part 67~~ or chapters 3, 7, 8,  
23 9, or 10 of this title or is guilty of a criminal offense  
24 and was driving or was in actual physical control of a motor  
25 vehicle when the offense occurred; and

(2) (a) failed to post the set bond amount or appear as ordered by the court or appear upon issued summons; or

(b) failed to forfeit the posted bond amount or, when assessed a fine, costs, or restitution of \$100 or more, failed to pay such fine, costs, or restitution; and

(3) received notice, evidenced by a signed receipt for a certified letter or by a statement signed before the court of the provisions of this section, including the reinstatement fee."

**Section 69.** Section 61-5-216, MCA, is amended to read:

"61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator or-chauffeur has appeared, posted the bond, or paid the fine, costs, or restitution amounts and the reinstatement fee, the department shall immediately reinstate the license, unless the operator or--chauffeur otherwise is not entitled to reinstatement."

**Section 70.** Section 61-7-109, MCA, is amended to read:

"61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of any motor vehicle which is in any manner involved in an accident within this state in which any person is killed or injured or in which damage to the property of any one person in excess of \$400 is sustained shall, within 10 days after such accident, report the matter in writing to the department

unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require any driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which any person is killed or injured or in which damage to the property of any person exceeds \$400, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section shall contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in this-part chapter 6 of this title."

**Section 71.** Section 61-9-512, MCA, is amended to read:

"61-9-512. Violation of rules -- penalty. (1) Any violation of any rules adopted by the department is a



1 misdemeanor.

2 (2) A person convicted of a violation of any standard  
3 adopted pursuant to 44-1-1005 shall be fined not less than  
4 \$25 or more than \$500 for the first offense and not less  
5 than \$25 or more than \$1,000 for each subsequent offense.

6 (3) The penalties provided in subsection (2) apply to  
7 any motor carrier that is a corporation subject to the  
8 standards adopted pursuant to 44-1-1005. The penalties may  
9 be imposed against:

10 (a) a director or officer of the corporation;

11 (b) any receiver, trustee, lessee, agent, or person  
12 acting for or employed by the corporation; or

13 (c) any broker of property or officer, agent, or  
14 employee thereof."

15 **Section 72.** Section 69-14-708, MCA, is amended to  
16 read:

17 "69-14-708. Records of accidents involving animals.

18 (1) It shall be the duty of any corporation, association,  
19 company, or person owning, controlling, or operating any  
20 railroad or branch thereof in this state to designate some  
21 station on the line of the same, in each county through  
22 which it passes, at which it shall keep a suitable book and  
23 within 30 days after the killing or injuring of any animal,  
24 to cause to be entered therein the date when and the place  
25 where the same was killed or injured, as near as may be,

1 together with a description thereof, including the age,  
2 color, and sex of the same and marks and brands upon the  
3 same as near as the same can be done. When such railroad or  
4 branch thereof shall run to or through any town or station  
5 at which is located the county seat of any county, then such  
6 book shall be kept at such town or station at which said  
7 county seat is located, and the affidavit--hereinafter  
8 written demand provided for in 69-14-709 may be served on  
9 the agent of such station.

10 (2) This book shall be kept for the inspection of any  
11 person claiming to be interested in the inspection thereof.

12 (3) Notice of the station designated pursuant to  
13 subsection (1) shall be filed with the county clerk of the  
14 county in which said station is situated.

15 (4) Any corporation, association, or person so owning,  
16 controlling, or operating such railroad or branch thereof  
17 failing to designate said station, file said notice, keep  
18 said book, and make the entries as provided in this section  
19 shall be liable to the owner of the animal so killed or  
20 injured, whether negligently done or not, and the court or  
21 jury before whom any action is tried for the recovery of  
22 damages on account thereof may in its discretion render  
23 verdict and judgment for the amount of the value of any such  
24 animal so killed or the amount of damages sustained by  
25 reason of any injury thereto."

**Section 73.** Section 70-22-103, MCA, is amended to read:

"70-22-103. Definitions. Except where the context indicates a different meaning, terms used in this part shall be defined as follows:

(1) A "property corner" is a geographic point on the surface of the earth and is on, a part of, and controls a property line.

(2) A "property controlling corner" for a property is a public land survey corner or any property corner which does not lie on a property line of the property in question but which controls the location of one or more of the property corners of the property in question.

(3) A "public land survey corner" is any corner actually established and monumented in an original survey or resurvey used as a basis of legal description for issuing a patent for the land to a private person from the United States government.

(4) A "corner", unless otherwise qualified, means a property corner or a property controlling corner or a public land survey corner or any combination of these.

(5) An "accessory to a corner" is any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees,

pits, mounds, charcoal-filled bottles, steel or wooden stakes, or other objects.

(6) A "monument" is an accessory that is presumed to occupy the exact position of a corner.

(7) A "reference monument" is a special monument that does not occupy the same geographical position as the corner itself but whose spatial relationship to the corner is recorded and which serves to witness the corner.

(8) A "registered surveyor" is a surveyor who is registered to practice land surveying under Title 37, chapter 67, and has a paid-up license for that calendar year or who is authorized under Title 37, chapter 67, to practice land surveying.

(9) The "board" is the board of professional engineers and professional land surveyors, provided for in 2-15-1873."

**Section 74.** Section 71-3-206, MCA, is amended to read:

"71-3-206. Fees. (1) The fee for filing and indexing each notice of lien or certificate or notice affecting the tax lien must be established and deposited in accordance with the provisions of 30-9-403~~+~~<sup>12</sup>(13).

(2) The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents filed by them."

**Section 75.** Section 75-10-627, MCA, is amended to read:

1 "75-10-627. Benefit of state. The agreement made  
2 pursuant to ~~section-2~~ 75-10-626 is solely for the benefit of  
3 the state of Montana and is not enforceable by bondholders  
4 or other third-party beneficiaries."

5 **Section 76.** Section 80-7-814, MCA, is amended to read:

6 "80-7-814. Administration and expenditure of funds.

7 (1) Money deposited in the noxious weed management trust  
8 fund may not be committed or expended until the principal  
9 reaches \$2,500,000, except as provided by 80-7-815 in case  
10 of a noxious weed emergency. Once this amount is  
11 accumulated, any interest or revenue generated by the trust  
12 fund and by other funding measures provided by this part  
13 must be deposited in the special revenue fund and may be  
14 expended for noxious weed management projects in accordance  
15 with this section, so long as the principal of the trust  
16 fund remains at least \$2,500,000.

17 (2) The department may expend funds under this section  
18 through grants or contracts to communities, weed control  
19 districts, or other entities it considers appropriate for  
20 noxious weed management projects. A project is eligible to  
21 receive funds only if the county in which the project occurs  
22 has funded its own weed management program with a levy in an  
23 amount not less than 1.6 mills or an equivalent amount from  
24 another source or by an amount of not less than \$100,000 for  
25 first class counties, as defined in 7-1-2111.

1 (3) The department may expend funds without the  
2 restrictions specified in subsection (2) for the following:

3 (a) employment of a new and innovative noxious weed  
4 management project or the development, implementation, or  
5 demonstration of any noxious weed management project that  
6 may be proposed, implemented, or established by local,  
7 state, or national organizations, whether public or private.  
8 Such expenditures must be on a cost-share basis with such  
9 organizations.

10 (b) cost-share noxious weed management programs with  
11 local weed control districts;

12 (c) special grants to local weed control districts to  
13 eradicate or contain significant noxious weeds newly  
14 introduced into the county. These grants may be issued  
15 without matching funds from the district.

16 (d) costs of collecting the surcharge imposed by  
17 80-7-812, not to exceed 3% of the total surcharge proceeds;

18 (e) administrative expenses incurred by the noxious  
19 weed management advisory council; and

20 (f) any project recommended by the noxious weed  
21 management advisory committee council, if the department  
22 determines the project will significantly contribute to the  
23 management of noxious weeds within the state.

24 (4) In making such expenditures, the department must  
25 give preference to weed control districts and community

1 groups.

2 (5) If the noxious weed management trust fund is  
3 terminated by law, the money in the fund must be divided  
4 between all counties according to rules adopted by the  
5 department for that purpose."

6 **Section 77.** Section 81-9-228, MCA, is amended to read:

7 "81-9-228. Inspection stamps. (1) The board shall  
8 provide meat inspection stamps to all official  
9 establishments, which must contain the words "Montana  
10 Inspected and Passed". The inspection stamps must be  
11 designed by the board so as to be not in conflict with  
12 inspection stamps of the U.S. department of agriculture.

13 (2) Approved official establishments may use symbols  
14 of the inspection stamps on the processed meats and meat  
15 food products they offered offer for sale if they are in  
16 compliance with the provisions of 81-9-216 through 81-9-220  
17 and 81-9-226 through 81-9-236.

18 (3) The meat inspection stamps must at all times be  
19 under the jurisdiction of the chief."

20 **Section 78.** Section 82-11-123, MCA, is amended to  
21 read:

22 "82-11-123. Requirements for oil and gas operations.  
23 Subject to the administrative control of the department  
24 under 2-15-121, the board shall require:

25 (1) identification of ownership of oil or gas wells,

1 producing properties, and tanks;

2 (2) the making and filing of acceptable well logs,  
3 including bottom-hole temperatures, to facilitate the  
4 discovery of potential geothermal energy sources, reports on  
5 well locations, and the filing of directional surveys, if  
6 made; however, logs of exploratory or wildcat wells need not  
7 be filed for a period of 6 months following completion of  
8 those wells;

9 (3) the drilling, casing, producing, and plugging of  
10 wells and class II injection wells in such manner as to  
11 prevent the escape of oil or gas out of one stratum into  
12 another, the intrusion of water into oil or gas stratum  
13 strata, blowouts, cavings cave-ins, seepages, and fires and  
14 the pollution of fresh water supplies by oil, gas, salt, or  
15 brackish water;

16 (4) the restoration of surface lands to their previous  
17 grade and productive capability after a well is plugged or a  
18 seismographic shot hole has been utilized and necessary  
19 measures to prevent adverse hydrological effects from such  
20 well or hole, unless the surface owner agrees in writing,  
21 with the approval of the board or its representatives, to a  
22 different plan of restoration;

23 (5) the furnishing of a reasonable bond with good and  
24 sufficient surety, conditioned for performance of the duty  
25 to properly plug each dry or abandoned well;

1 (6) proper gauging or other measuring of oil and gas  
2 produced and saved to determine the quantity and quality  
3 thereof;

4 (7) that every person who produces, transports, or  
5 stores oil or gas or injects or disposes of water in this  
6 state shall make available within this state for a period of  
7 5 years complete and accurate records of the quantities  
8 thereof, which records shall be available for examination by  
9 the board or its employees at all reasonable times, and that  
10 that person file with the board such reports as it may  
11 prescribe with respect to quantities, transportations, and  
12 storages of the oil or gas or water; and

13 (8) the installation, use, and maintenance of  
14 monitoring equipment or methods in the operation of class II  
15 injection wells."

16 **Section 79.** Section 85-7-1612, MCA, is amended to  
17 read:

18 "85-7-1612. Board of control -- powers and duties. (1)  
19 The board of control established by this part is the  
20 operating agent of the contracting districts for the  
21 operation and maintenance of irrigation and/or drainage  
22 works and the delivery of water therefrom.

23 (2) The board shall make and execute all necessary  
24 contracts; employ and appoint such agents, officers, and  
25 employees as may be required; and prescribe their duties.

1 (3) The board may institute and maintain any and all  
2 actions and proceedings and suits at law or in equity,  
3 necessary or proper in order to fully carry out the  
4 provisions of this chapter or to enforce, maintain, protect,  
5 or preserve any and all rights, privileges, and immunities  
6 created by this part or acquired in pursuance thereof. In  
7 all courts, suits, or proceedings, the board may sue,  
8 appear, and defend in person or by its attorneys and in the  
9 name of such board of control.

10 (4) The board may adopt rules and bylaws governing the  
11 calling and holding of meetings of the board; the manner of  
12 transacting business thereat; and the publishing or posting  
13 of the orders, resolutions, and proceedings of the board.  
14 The board shall pass or adopt bylaws and rules for the  
15 apportionment and distribution of water to the lands of the  
16 contracting districts and for the protection and  
17 preservation of the works and other property of the  
18 districts. All orders and resolutions shall be passed or  
19 adopted by a majority of the members of the board of control  
20 by a "yea" and "nay" vote, to be entered upon the records of  
21 the board.

22 (5) The board of control may perform all other acts  
23 necessary or appropriate to fully carry out the purposes of  
24 this part.

25 (6) The board of control may plan, acquire, construct,

1 operate, maintain, lease, and or finance an undertaking  
2 through the issuance of revenue bonds, as provided in part  
3 14 of this chapter."

4 **Section 80.** Section 87-2-106, MCA, is amended to read:

5 **"87-2-106. Application for license.** (1) A license may  
6 be procured from the director, any warden, or any authorized  
7 agent of the director. The applicant shall state his name,  
8 age, occupation, place of residence, post-office address,  
9 the length of time in the state of Montana, whether a  
10 citizen of the United States or an alien, and such other  
11 facts, data, or descriptions as may be required by the  
12 department. Except as provided in subsections (2) through  
13 (4), the statements made by the applicant shall be  
14 subscribed to before the officer or agent issuing the  
15 license.

16 (2) Except as provided in subsection (3), department  
17 employees or officers may issue licenses by mail.  
18 Statements on an application for a license to be issued by  
19 mail need not be subscribed to before the employee or  
20 officer.

21 (3) To apply for a license under the provisions of  
22 87-2-102(4), the applicant must apply to the director and  
23 must submit at the time of application a notarized affidavit  
24 that attests to fulfillment of the requirements of  
25 87-2-102(4). The director shall process the application in

1 an expedient manner.

2 (4) A resident may apply for and purchase a wildlife  
3 conservation license, hunting license, and or fishing  
4 license for his spouse, parent, child, brother, or sister  
5 who is otherwise qualified to obtain such ~~licenses~~ license.

6 (5) A license is void unless subscribed to by the  
7 licensee and by an employee or officer of the department or  
8 by a license agent or an authorized representative of the  
9 license agent.

10 (6) It is unlawful to subscribe to any statement, on  
11 any application or license, that is materially false. Any  
12 material false statement contained in an application renders  
13 the license issued pursuant to it void. Any person violating  
14 any provision of this statute is guilty of a misdemeanor."

15 **Section 81.** Section 90-3-101, MCA, is amended to read:

16 **"90-3-101. Purpose.** {1} It is the purpose of this  
17 chapter to strengthen and diversify Montana's economy by  
18 establishing a public-private sector partnership to  
19 encourage scientific and technological development within  
20 the state in order to keep pace with a transforming economic  
21 structure and to create new jobs and expand small business  
22 opportunities.

23 {2}--Because---the---alternative---energy---and---energy  
24 conservation-research-development-and-demonstration-program,  
25 administered-by-the--department--of--natural--resources--and

conservation, which presently receives 4 1/2% of the coal severance taxes allocated pursuant to 15-35-108, would overlap and supplement the program created by this chapter and because the alternative energy and energy conservation research development and demonstration account has a carryover from the 1985 biennium and the department of natural resources and conservation is not presently planning to utilize the entire allocated amount it will receive during the 1987 biennium, this chapter contemplates a temporary, one-time appropriation of a portion of the allocation to the alternative energy and energy conservation research development and demonstration account for funding the science and technology research program of the Montana science and technology development board created in this chapter. The use of funds appropriated from the alternative energy and energy conservation research development and demonstration account established by 90-4-103 for the purposes of this chapter for the 1987 biennium is specifically authorized."

**Section 82.** Section 90-8-102, MCA, is amended to read:

"90-8-102. Declaration of policy. (1) The legislature finds and declares that:

(a) economic insecurity due to unemployment is a serious menace to the health, safety, and general welfare of not only the affected people but of the people of the entire

state;

(b) involuntary unemployment, with its resulting burden of indigency, falls with crushing force upon unemployed workers and ultimately on the state itself in the form of public assistance and unemployment compensation payments; and

(c) unemployment causes a migration of Montana workers and families seeking jobs and establishing homes elsewhere, which deprives the state of its most valuable resource, its people, and reduces the tax base of local governments, impairing their ability to provide basic services.

(2) (a) The legislature further finds that the best method of combating unemployment and protecting Montana against the loss of its people is by promoting, stimulating, developing, rehabilitating, and revitalizing the business prosperity and economic welfare of the state and its citizens.

(b) To accomplish this goal, the legislature seeks to encourage the formation of venture and equity capital in Montana for use in diversifying, strengthening, and stabilizing the Montana economy by increasing Montana employment and business opportunities while protecting the people's constitutional right to a clean and healthful environment.

(3) The legislature further finds that:

1 (a) private investment of venture and equity capital  
2 in the Montana economy will be encouraged and promoted by  
3 making tax credits available to taxpayers investing in  
4 Montana capital companies;

5 (b) demands on state revenues restrict the financial  
6 ability of the state to make unlimited tax credits available  
7 for investment purposes and require that the state place  
8 reasonable limits on the total amount of tax credits to be  
9 made available for investment incentive;

10 (c) establishment of a rational tax credit program  
11 which gives priority to investments in capital companies in  
12 the order in which they are qualified will encourage prompt  
13 private investment in Montana businesses.

14 (4) The legislature further finds that use of money  
15 from the Montana in-state investment fund established by  
16 ~~17-6-305~~ 17-6-306 to purchase debentures issued by a capital  
17 company will promote the business prosperity and economic  
18 welfare of the state and its citizens."

19 **Section 83.** Code commissioner instruction. The code  
20 commissioner is instructed to implement 1-11-101(2)(g)(ii)  
21 by correcting any clearly inaccurate references to other  
22 sections of the Montana Code Annotated contained in material  
23 enacted by the 51st legislature.

24 **Section 84.** Extension of authority. Any existing  
25 authority to make rules on the subject of the provisions of

1 [this act] is extended to the provisions of [this act].

-End-



APPROVED BY COMMITTEE  
ON STATE ADMINISTRATION

1                   HOUSE           BILL NO.   5

2   INTRODUCED BY   EUDAILY

3                   BY REQUEST OF THE CODE COMMISSIONER

4  
5   A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6   CLARIFY THE MONTANA CODE ANNOTATED; AND DIRECTING THE CODE  
7   COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN  
8   MATERIAL ENACTED BY THE 51ST LEGISLATURE."

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

11       **Section 1.** Section 1-11-301, MCA, is amended to read:

12       "1-11-301. Publication and sale of Montana Code  
13   Annotated -- free distribution. (1) The legislative council  
14   with the advice of the code commissioner shall decide on the  
15   quantity, quality, style, format, and grade of all  
16   publications prior to having the code commissioner call for  
17   bids for the printing and binding and contract for their  
18   publication. The code commissioner shall follow the  
19   requirements of state law relating to contracts and bids,  
20   except as herein provided.

21       (2) The methods of sale to the public of the Montana  
22   Code Annotated and supplements or other subsequent and  
23   ancillary publications thereto may be included as an  
24   alternative specification and bid and as a part of a  
25   contract to be let by bids by the code commissioner.

There are no changes on HB5 and  
due to length will not be reprinted.  
Please refer to introduced bill for  
complete text.

1                   HOUSE           BILL NO.   5

2   INTRODUCED BY   EUDAILY

3                   BY REQUEST OF THE CODE COMMISSIONER

4  
5   A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
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24   alternative specification and bid and as a part of a  
25   contract to be let by bids by the code commissioner.

There are no changes in HB5, and  
due to length will not be rerun.  
please refer to white or yellow  
copy for complete text.



## 1 HOUSE BILL NO. 5

2 INTRODUCED BY EUDAILY

3 BY REQUEST OF THE CODE COMMISSIONER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE MONTANA CODE ANNOTATED; AND DIRECTING THE CODE  
7 COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN  
8 MATERIAL ENACTED BY THE 51ST LEGISLATURE."

9

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

11 Section 1. Section 1-11-301, MCA, is amended to read:

12 "1-11-301. Publication and sale of Montana Code  
13 Annotated -- free distribution. (1) The legislative council  
14 with the advice of the code commissioner shall decide on the  
15 quantity, quality, style, format, and grade of all  
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17 bids for the printing and binding and contract for their  
18 publication. The code commissioner shall follow the  
19 requirements of state law relating to contracts and bids,  
20 except as herein provided.

21 (2) The methods of sale to the public of the Montana  
22 Code Annotated and supplements or other subsequent and  
23 ancillary publications thereto may be included as an  
24 alternative specification and bid and as a part of a  
25 contract to be let by bids by the code commissioner.

There have been no changes in HB 5, and  
due to length will not be reprinted. Please  
refer to introduced (white), second reading  
(yellow) or third reading (blue), for  
complete text.

