

SENATE BILL 15

Introduced by Grosfield, et al.

7/17	Introduced
7/17	Referred to Finance & Claims
7/17	Fiscal Note Requested
	Died in Committee

FISCAL NOTE  
MAY BE NECESSARY

*SMITH* BILL NO. *15*

INTRODUCED BY

*Crosfield Rep. Bob Frank DeLuca*  
*See Noble's copy of the bill*  
*TRUST ARREST*

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN SPECIAL REVENUE ACCOUNTS; PROVIDING FOR THE REVIEW AND FUTURE ELIMINATION OF OTHER SPECIAL REVENUE ACCOUNTS; PROVIDING THAT APPROPRIATIONS FROM FORMER SPECIAL REVENUE ACCOUNTS ARE FROM THE GENERAL FUND; AMENDING SECTIONS 1-11-301, 2-4-313, 2-15-212, 2-17-105, 2-18-403, 3-7-204, 3-7-302, 5-11-209, 5-13-403, 7-21-2105, 15-1-501, 15-25-122, 15-35-108, 16-1-404, 16-1-411, 17-7-502, 18-2-103, 20-4-109, 20-7-201, 20-7-457, 20-9-331, 20-9-333, 20-9-343, 20-10-203, 22-2-301, 22-2-304, 22-2-321, 23-1-108, 31-1-221, 31-1-602, 32-1-213, 32-1-215, 32-2-102, 32-2-110, 32-3-201, 32-5-201, 32-7-110, 40-8-110, 44-3-302, 44-12-206, 44-13-103, 46-18-248, 46-18-250, 49-2-510, 50-1-202, 50-2-108, 50-15-111, 50-50-205, 50-50-305, 50-51-204, 50-51-303, 50-52-202, 50-52-302, 50-53-203, 50-53-218, 50-60-508, 50-71-325, 53-2-813, 53-9-104, 53-9-109, 53-24-108, 60-11-123, 61-4-517, 61-5-121, 75-2-211, 75-2-508, 75-2-212, 75-3-502, 75-6-104, 75-6-108, 75-6-109, 75-6-114, 75-10-447, 75-10-954, 75-11-213, 75-11-227, 75-20-112, 75-20-215, 75-20-408, 76-4-1108, 76-4-1212, 76-4-1213, 76-13-209, 80-7-704, 80-7-810, 80-7-814, 80-7-1105, 80-8-109, 80-8-116, 80-10-207, 80-10-208, 80-10-509, 80-15-302, 81-3-231,

81-7-105, 81-7-122, 81-8-216, 81-8-256, 81-8-279, 81-8-304, 81-9-113, 81-23-204, 81-23-403, 82-4-311, 85-2-122, 85-2-123, 85-2-124, 85-2-213, 85-2-241, 85-2-302, 85-2-306, 85-2-318, 85-3-213, 90-3-305, AND 90-3-525, MCA; REPEALING SECTIONS 15-25-121, 15-25-123, 20-3-108, 50-50-216, 50-51-110, 50-52-210, 60-11-122, 75-6-115, AND 76-15-530, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

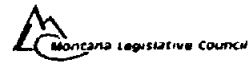
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Legislative findings. (1) The

legislature finds that provisions for dedicating state revenue have increased in number and that over two-thirds of state revenue collections are affected by dedication provisions. The legislature also finds that dedication provisions reduce legislative control over state spending, complicate the state funding structure, and increase the effort required to budget, appropriate, and monitor public funds. The dedication of funds results in the inability of the legislature to practically and systematically conduct reasoned prioritization of programs or funds.

(2) It is the intent of the legislature, by establishing a system for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

(a) are based on sound principles of revenue



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**INTRODUCED BILL**

1 dedication;

2 (b) reflect present circumstances and legislative  
3 priorities for state spending; and

4 (c) are terminated when they no longer are necessary or  
5 appropriate.

6 NEW SECTION. Section 2. Definitions. As used in  
7 [sections 1 through 7], unless the context requires  
8 otherwise, the following definitions apply:

9 (1) "Dedicated revenue provision" means an  
10 administrative or legislative action that allocates the  
11 revenue from a tax, fee, or other source to an account in  
12 the state special revenue fund.

13 (2) "State special revenue fund" means a fund in the  
14 state treasury consisting of money from state sources that  
15 is earmarked for the purposes of defraying particular costs  
16 of an agency, program, or function of state government, as  
17 provided in 17-2-102.

18 NEW SECTION. Section 3. Transfer of fund balances to  
19 general fund. On [the effective date of this act], the  
20 balance remaining in each special revenue account designated  
21 in [sections 8 through 122] must be deposited in the general  
22 fund.

23 NEW SECTION. Section 4. Effect of termination. (1) If  
24 the legislature has appropriated the revenue from an account  
25 provided for in [sections 8 through 122], the appropriation

1 is considered to have been made from the general fund.

2 (2) All assets, liabilities, and fund balances of  
3 accounts terminated by [sections 8 through 122] accrue to  
4 the general fund.

5 NEW SECTION. Section 5. Termination of other dedicated  
6 revenue provisions. (1) A dedicated revenue provision  
7 established by administrative or legislative action before  
8 July 1, 1992, and not listed in [sections 8 through 122]  
9 terminates July 1, 1993.

10 (2) A dedicated revenue provision established by  
11 administrative or legislative action after July 1, 1992,  
12 terminates on July 1 of the fourth year after its effective  
13 date.

14 (3) All assets, liabilities, and fund balances of  
15 accounts terminated by this section accrue to the general  
16 fund.

17 (4) Wherever the term "state special revenue fund"  
18 appears in code sections that establish a dedicated revenue  
19 provision terminated by this section, it is changed to  
20 "general fund".

21 NEW SECTION. Section 6. Reestablishment. A dedicated  
22 revenue provision scheduled for termination under [section  
23 5] may be reestablished by the legislature for a period of  
24 time not to exceed 4 years. At the end of the period, the  
25 legislature shall again review the provision, as provided in

1 [section 7], and may reestablish, modify, or allow the  
2 termination of the provision.

3 NEW SECTION. **Section 7. Legislative review and report.**

4 (1) The legislative finance committee shall review each  
5 dedicated revenue provision scheduled for termination under  
6 [section 6]. The review must be completed at least 6 months  
7 before the date set for termination.

8 (2) The review conducted by the committee must include  
9 an evaluation of the dedicated revenue provision based on  
10 whether it:

11 (a) provides direct benefits for those who pay the  
12 dedicated tax, fee, or assessment;

13 (b) provides special information or other advantages  
14 that could not be obtained if the revenue were allocated to  
15 the general fund;

16 (c) provides program funding at a level equivalent to  
17 the expenditures established by the legislature;

18 (d) involves collection and allocation formulas that  
19 are appropriate to the present circumstances in state  
20 government; and

21 (e) impairs the legislature's ability to scrutinize  
22 budgets, control expenditures, and establish priorities for  
23 state spending.

24 (3) The committee shall establish procedures to  
25 facilitate the review and evaluation required by this

1 section. Each interim, the committee shall attempt to  
2 evaluate one-third of all dedicated revenue.

3 (4) Upon completion of the review, the committee shall  
4 report its findings to the legislature, including its  
5 recommendation of termination or reestablishment, with or  
6 without modification, of the dedicated revenue provision.

7 (5) The legislative finance committee shall, according  
8 to the provisions of this section, review each piece of  
9 legislation that proposes to dedicate revenue. The committee  
10 shall submit its findings concerning the dedication of  
11 revenue to the committee hearing the legislation.

12 **Section 8.** Section 1-11-301, MCA, is amended to read:

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

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

1 contract to be let by bids by the code commissioner.

2 (3) The sales price to the public shall be fixed by the  
3 legislative council but may not exceed the cost price plus  
4 20%. All revenues generated from the sale of the Montana  
5 Code Annotated or ancillary publications shall be deposited  
6 in the ~~state-special-revenue~~ general fund, from which fund  
7 appropriations may be made for the use of the office and  
8 facilities of the legislative council under this chapter.

9 (4) Sets of the Montana Code Annotated purchased by the  
10 state or Montana local governmental agencies that are  
11 supported by public funds shall be for the cost price of the  
12 sets.

13 (5) (a) The Montana Code Annotated and supplements and  
14 other subsequent and ancillary publications except  
15 annotations shall be provided at no cost to the following:

16 (i) each library designated as a depository library  
17 under 22-1-214, one copy;

18 (ii) each library designated as a federation  
19 headquarters library under 22-1-402, one copy.

20 (b) The state law library in Helena shall be provided  
21 with four copies of the Montana Code Annotated and  
22 supplements including annotations and other subsequent and  
23 ancillary publications.

24 (c) The legislative council shall include in the cost  
25 price of the code the cost of providing the copies under

1 this subsection."

2 **Section 9.** Section 2-4-313, MCA, is amended to read:

3 "2-4-313. (Temporary) Distribution, costs, and  
4 maintenance. (1) The secretary of state shall distribute  
5 copies of ARM and supplements or revisions thereto to the  
6 following:

7 (a) attorney general, one copy;

8 (b) clerk of United States district court for the  
9 district of Montana, one copy;

10 (c) clerk of United States court of appeals for the  
11 ninth circuit, one copy;

12 (d) county commissioners or governing body of each  
13 county of this state, for use of county officials and the  
14 public, at least one but not more than two copies, which may  
15 be maintained in a public library in the county seat or in  
16 the county offices as the county commissioners or governing  
17 body of the county may determine;

18 (e) state law library, one copy;

19 (f) state historical society, one copy;

20 (g) each unit of the Montana university system, one  
21 copy;

22 (h) law library of the university of Montana, one copy;

23 (i) legislative council, two copies;

24 (j) library of congress, one copy;

25 (k) state library, one copy.

1 (2) The secretary of state, each county in the state,  
 2 and the librarians for the state law library and the  
 3 university of Montana law library shall maintain a complete,  
 4 current set of ARM, including supplements or revisions  
 5 thereto. Such persons shall also maintain the register  
 6 issues published during the preceding 2 years. The secretary  
 7 of state shall also maintain a permanent set of the  
 8 registers.

9 (3) The secretary of state shall make copies of and  
 10 subscriptions to ARM and supplements or revisions thereto  
 11 and the register available to any person at prices fixed in  
 12 accordance with subsection (4).

13 (4) The secretary of state, in consultation with the  
 14 administrative code committee, shall determine the cost of  
 15 supplying copies of ARM and supplements or revisions thereto  
 16 and the register to persons not listed in subsection (1).  
 17 The cost shall be the approximate cost of publication of  
 18 such copies, including indexing, printing or duplicating,  
 19 and mailing. However, a uniform price per page or group of  
 20 pages may be established without regard to differences in  
 21 cost of printing different parts of ARM and supplements or  
 22 revisions thereto and the register.

23 (5) The secretary of state shall deposit fees he  
 24 collects ~~in the amount of \$20,000 for fiscal year 1993~~ in  
 25 the general fund ~~on or before June 30, 1993, and shall~~

1 ~~deposit all other fees in an account within the state~~  
 2 ~~special revenue fund created~~ for paying the expenses of  
 3 publication of ARM and the register.

4 (6) The secretary of state may charge agencies a filing  
 5 fee for all material to be published in ARM or the register.  
 6 He shall fix, in consultation with the administrative code  
 7 committee, the fee to cover the costs of supplying copies of  
 8 ARM and supplements or revisions thereto and the register to  
 9 the persons listed in subsection (1). The cost shall be the  
 10 approximate cost of publication of such copies, including  
 11 indexing, printing or duplicating, and mailing. However, a  
 12 uniform price per page or group of pages may be established  
 13 without regard to differences in cost of printing different  
 14 parts of ARM and supplements or revisions thereto and the  
 15 register. (Terminates July 1, 1993--sec. 3, Ch. 6, Sp. L.  
 16 January 1992.)

17 2-4-313. (Effective July 1, 1993) Distribution, costs,  
 18 and maintenance. (1) The secretary of state shall distribute  
 19 copies of ARM and supplements or revisions thereto to the  
 20 following:

- 21 (a) attorney general, one copy;  
 22 (b) clerk of United States district court for the  
 23 district of Montana, one copy;  
 24 (c) clerk of United States court of appeals for the  
 25 ninth circuit, one copy;

1 (d) county commissioners or governing body of each  
2 county of this state, for use of county officials and the  
3 public, at least one but not more than two copies, which may  
4 be maintained in a public library in the county seat or in  
5 the county offices as the county commissioners or governing  
6 body of the county may determine;

7 (e) state law library, one copy;

8 (f) state historical society, one copy;

9 (g) each unit of the Montana university system, one  
10 copy;

11 (h) law library of the university of Montana, one copy;

12 (i) legislative council, two copies;

13 (j) library of congress, one copy;

14 (k) state library, one copy.

15 (2) The secretary of state, each county in the state,  
16 and the librarians for the state law library and the  
17 university of Montana law library shall maintain a complete,  
18 current set of ARM, including supplements or revisions  
19 thereto. Such persons shall also maintain the register  
20 issues published during the preceding 2 years. The secretary  
21 of state shall also maintain a permanent set of the  
22 registers.

23 (3) The secretary of state shall make copies of and  
24 subscriptions to ARM and supplements or revisions thereto  
25 and the register available to any person at prices fixed in

1 accordance with subsection (4).

2 (4) The secretary of state, in consultation with the  
3 administrative code committee, shall determine the cost of  
4 supplying copies of ARM and supplements or revisions thereto  
5 and the register to persons not listed in subsection (1).  
6 The cost shall be the approximate cost of publication of  
7 such copies, including indexing, printing or duplicating,  
8 and mailing. However, a uniform price per page or group of  
9 pages may be established without regard to differences in  
10 cost of printing different parts of ARM and supplements or  
11 revisions thereto and the register.

12 (5) The secretary of state shall deposit all fees he  
13 collects in ~~an account within the state special revenue~~ the  
14 general fund created for paying the expenses of publication  
15 of ARM and the register.

16 (6) The secretary of state may charge agencies a filing  
17 fee for all material to be published in ARM or the register.  
18 He shall fix, in consultation with the administrative code  
19 committee, the fee to cover the costs of supplying copies of  
20 ARM and supplements or revisions thereto and the register to  
21 the persons listed in subsection (1). The cost shall be the  
22 approximate cost of publication of such copies, including  
23 indexing, printing or duplicating, and mailing. However, a  
24 uniform price per page or group of pages may be established  
25 without regard to differences in cost of printing different

1 parts of ARM and supplements or revisions thereto and the  
2 register."

3 **Section 10.** Section 2-15-212, MCA, is amended to read:

4 "2-15-212. Reserved water rights compact commission.

5 (1) There is created a reserved water rights compact  
6 commission.

7 (2) Commissioners are appointed as follows:

8 (a) two members of the house of representatives  
9 appointed by the speaker, each from a different political  
10 party;

11 (b) two members of the senate appointed by the  
12 president, each from a different political party;

13 (c) four members designated by the governor; and

14 (d) one member designated by the attorney general.

15 (3) Legislative members of the commission are entitled  
16 to receive compensation and expenses as provided in 5-2-301  
17 for each day actually spent on commission business. Other  
18 members are entitled to salary and expenses as state  
19 employees.

20 (4) The commission is attached to the governor's office  
21 for administrative purposes only. The costs of the  
22 commission shall be paid from funds appropriated for that  
23 purpose from the ~~water---right---adjudication--account~~  
24 established general fund, as provided in 85-2-241.

25 (5) Members are appointed for 4-year terms and may be

1 reappointed. A legislative member position is vacant if the  
2 person no longer serves in the legislature. The position of  
3 a member appointed by the governor or attorney general is  
4 vacant if that person is elected to the legislature. A  
5 vacancy must be filled in the manner of the original  
6 appointment."

7 **Section 11.** Section 2-17-105, MCA, is amended to read:

8 "2-17-105. Insurance on state buildings -- use of  
9 proceeds -- building replacement. (1) Moneys Money received  
10 by the state as indemnification for damage to state  
11 buildings, except buildings procured by the department of  
12 transportation by purchase or condemnation for right-of-way  
13 purposes, shall be deposited in the ~~state--special--revenue~~  
14 general fund.

15 (2) ~~These---moneys---are---statutorily---appropriated---as~~  
16 ~~provided-in-17-7-502-and~~ The money may only be:

17 (a) used to repair the damaged property;

18 (b) used to replace the damaged property, subject to  
19 the limitations in subsection (3) of this section; or

20 (c) transferred by the legislature to the fund and  
21 account from which the premiums were paid on the policy  
22 covering the building. Moneys Money transferred in this  
23 manner may not be spent by the institution or agency having  
24 custody of the damaged property but shall be available for  
25 future legislative appropriation. ~~if--the--moneys--are--not~~



~~spent--or--committed--within--2--years--from--the--time--they--are  
received,--they--shall--automatically--revert--to--the--fund--and  
account--from--which--the--premiums--were--paid:~~

(3) If an insured building is totally destroyed or so badly damaged that repair is impractical, ~~the--governing board--or--officer--responsible--for--the--building--may--authorize~~ any moneys money received by the state as indemnification for property damage may to be used to replace the building only if the proposed replacement is designed to be used for the same general purposes as the damaged or destroyed building, ~~and--for--this--purpose--the--amounts--available therefor--are--statutorily--appropriated--as--provided--in~~ ~~17-7-502~~. If the governing board or officer determines that the building should not be replaced, any moneys money received by the state as indemnification for property damage over and above any outstanding debt on the building shall may be transferred as provided in subsection (2)(c) ~~of--this section."~~

**Section 12.** Section 2-18-403, MCA, is amended to read:

"2-18-403. **Service charges.** The state auditor may provide for a system of charges for services rendered by the state central payroll system to any department or agency of the state. Funds collected under this section shall be deposited to the credit of ~~a--state--special--revenue~~ the general fund account--and--expended--for--the--purpose--of--paying

~~the--expenses--incurred--by--the--state--central--payroll--system."~~

**Section 13.** Section 3-7-204, MCA, is amended to read:

"3-7-204. **Supervision and administration by supreme court.** (1) The Montana supreme court shall supervise the activities of the water judges, water masters, and associated personnel in implementing this chapter and Title 85, chapter 2, part 2.

(2) The supreme court shall pay the expenses of the water judges and the salaries and expenses of the water judges' staffs and the salaries and expenses of the water masters and the water masters' staffs, from the ~~water-right adjudication-account-established-by~~ general fund pursuant to 85-2-241. "Salaries and expenses" as used in this section include but are not limited to the salaries and expenses of personnel, the cost of office equipment and office space, and such other necessary expenses as may be incurred in the administration of this chapter and Title 85, chapter 2, part 2."

**Section 14.** Section 3-7-302, MCA, is amended to read:

"3-7-302. **Salary, expenses, and retirement of water masters.** (1) The water judges shall set a uniform salary for water masters. Water masters shall receive expenses as provided in 2-18-501 through 2-18-503.

(2) A water master shall participate in the Montana Public Employees' Retirement System established in Title 19,

1 chapter 3.

2 (3) The salary and expenses of a water master shall be  
3 paid from the ~~water-right-adjudication-account-established~~  
4 in general fund pursuant to 85-2-241."

5 **Section 15.** Section 5-11-209, MCA, is amended to read:

6 "5-11-209. Codes -- availability to legislators --  
7 reserved for use by legislative committees. (1) Immediately  
8 after the Montana Code Annotated statute text and histories  
9 are bound following each legislative session, the  
10 legislative council shall make available one set of these  
11 volumes to each member of the legislature at a charge of  
12 \$10.

13 (2) The legislative council shall reserve 50 sets of  
14 the Montana Code Annotated statute text and histories for  
15 the use of the standing and select committees of the  
16 legislature.

17 (3) Costs associated with providing code sets as  
18 required by this section shall be paid out of the ~~state~~  
19 ~~special-revenue~~ general fund account-established-under, as  
20 provided in 1-11-301."

21 **Section 16.** Section 5-13-403, MCA, is amended to read:

22 "5-13-403. ~~Audit-account-----appropriation----and~~  
23 ~~expenditures~~ Money for audits. All money for audits  
24 transferred to the legislative auditor as provided in  
25 5-13-402 must be deposited in the ~~state--special--revenue~~

1 general fund ~~in--the--state--treasury-to-the-credit-of-the~~  
2 ~~office-of-the-legislative-auditor. The-money-so-deposited-is~~  
3 ~~hereby-appropriated-and-may-be-expended-by--the--legislative~~  
4 ~~auditor--to-pay-expenses-incurred-in-auditing-state-agencies~~  
5 ~~pursuant-to-an-operational-plan-approved-by-the--legislative~~  
6 ~~audit-committee."~~

7 **Section 17.** Section 7-21-2105, MCA, is amended to read:

8 "7-21-2105. Disbursement of license fees. (1) Unless  
9 the disposition is otherwise provided for, all money  
10 collected by the county treasurer for licenses issued by the  
11 county under this chapter must be paid into the treasury of  
12 the county.

13 (2) Unless otherwise provided, the county treasurer  
14 shall retain 50% thereof for the use of the county, and pay  
15 ~~over-45%~~ 50% thereof to the state treasurer for the use of  
16 the general fund of the state, ~~and-pay-over-5%-thereof-to~~  
17 ~~the-state-treasurer-for-deposit-in-the-state-special-revenue~~  
18 ~~fund-to-be-used-by-the--board--of--livestock--for--predatory~~  
19 ~~animal-control."~~

20 **Section 18.** Section 15-1-501, MCA, is amended to read:

21 "15-1-501. (Temporary) Disposition of money from  
22 certain designated license and other taxes. (1) The state  
23 treasurer shall deposit to the credit of the state general  
24 fund all money received by him from the collection of:

25 (a) fees from driver's licenses, motorcycle

1 endorsements, and duplicate driver's licenses as provided in  
2 61-5-121;

3 (b) electrical energy producer's license taxes under  
4 chapter 51;

5 (c) severance taxes allocated to the general fund under  
6 chapter 36;

7 (d) liquor license taxes under Title 16;

8 (e) telephone company license taxes under chapter 53;  
9 and

10 (f) inheritance and estate taxes under Title 72,  
11 chapter 16.

12 (2) All money received from the collection of income  
13 taxes under chapter 30 of this title must be deposited as  
14 follows;

15 (a) ~~62.8%~~ 91.3% of the taxes to the credit of the state  
16 general fund;

17 (b) 8.7% of the taxes to the credit of the debt service  
18 account for long-range building program bonds as described  
19 in 17-5-408; and

20 (c) ~~28.5% of the taxes to the credit of the state~~  
21 ~~special revenue fund for state equalization aid to the~~  
22 ~~public schools of Montana as described in 20-9-343; and~~

23 (d) all interest and penalties to the credit of the  
24 state general fund.

25 (3) All money received from the collection of

1 corporation license and income taxes under chapter 31 of  
2 this title, except as provided in 15-31-702, must be  
3 deposited as follows:

4 (a) ~~61%~~ 89.5% of the taxes to the credit of the state  
5 general fund;

6 (b) 10.5% of the taxes to the credit of the debt  
7 service account for long-range building program bonds as  
8 described in 17-5-408; and

9 (c) ~~28.5% of the taxes to the credit of the state~~  
10 ~~special revenue fund for state equalization aid to the~~  
11 ~~public schools of Montana as described in 20-9-343; and~~

12 (d) all interest and penalties to the credit of the  
13 state general fund.

14 (4) The state treasurer shall also deposit to the  
15 credit of the state general fund all money received by him  
16 from the collection of license taxes, fees, and all net  
17 revenues and receipts from all other sources under the  
18 operation of the Montana Alcoholic Beverage Code.

19 (5) After the distribution provided for in 15-36-112,  
20 the remainder of the oil severance tax collections must be  
21 deposited in the general fund.

22 (6) All refunds of taxes must be attributed to the  
23 funds in which the taxes are deposited. All refunds of  
24 interest and penalties must be attributed to the funds in  
25 which the interest and penalties are deposited.

1 15-1-501. (Effective July 1, 1993) Disposition of money  
 2 from certain designated license and other taxes. (1) The  
 3 state treasurer shall deposit to the credit of the state  
 4 general fund all money received by him from the collection  
 5 of:

6 (a) fees from driver's licenses, motorcycle  
 7 endorsements, and duplicate driver's licenses as provided in  
 8 61-5-121;

9 (b) electrical energy producer's license taxes under  
 10 chapter 51;

11 (c) severance taxes allocated to the general fund under  
 12 chapter 36;

13 (d) liquor license taxes under Title 16;

14 (e) telephone company license taxes under chapter 53;  
 15 and

16 (f) inheritance and estate taxes under Title 72,  
 17 chapter 16.

18 (2) All money received from the collection of income  
 19 taxes under chapter 30 of this title must be deposited as  
 20 follows:

21 (a) ~~59.5%~~ 91.3% of the taxes to the credit of the state  
 22 general fund;

23 (b) 8.7% of the taxes to the credit of the debt service  
 24 account for long-range building program bonds as described  
 25 in 17-5-408; and

1 (c) ~~31.0%~~ of the taxes to the credit of the state  
 2 special-revenue-fund--for--state--equalization--aid--to--the  
 3 public-schools-of-Montana-as-described-in-20-9-343;--and

4 (d) all interest and penalties to the credit of the  
 5 state general fund.

6 (3) All money received from the collection of  
 7 corporation license and income taxes under chapter 31 of  
 8 this title, except as provided in 15-31-702, must be  
 9 deposited as follows:

10 (a) ~~6%~~ 89.5% of the taxes to the credit of the state  
 11 general fund;

12 (b) 10.5% of the taxes to the credit of the debt  
 13 service account for long-range building program bonds as  
 14 described in 17-5-408; and

15 (c) ~~28.5%~~ of the taxes to the credit of the state  
 16 special-revenue-fund--for--state--equalization--aid--to--the  
 17 public-schools-of-Montana-as-described-in-20-9-343;--and

18 (d) all interest and penalties to the credit of the  
 19 state general fund.

20 (4) The state treasurer shall also deposit to the  
 21 credit of the state general fund all money received by him  
 22 from the collection of license taxes, fees, and all net  
 23 revenues and receipts from all other sources under the  
 24 operation of the Montana Alcoholic Beverage Code.

25 (5) After the distribution provided for in 15-36-112,

1 the remainder of the oil severance tax collections must be  
2 deposited in the general fund.

3 (6) All refunds of taxes must be attributed to the  
4 funds in which the taxes are deposited. All refunds of  
5 interest and penalties must be attributed to the funds in  
6 which the interest and penalties are deposited."

7 **Section 19.** Section 15-25-122, MCA, is amended to read:

8 "15-25-122. **Disposition of proceeds.** (1) The department  
9 shall transfer all taxes collected pursuant to this chapter,  
10 less the administrative fee authorized in 15-25-111(1), to  
11 the state treasurer on a monthly basis.

12 (2) The state treasurer shall deposit ~~one-third of the~~  
13 ~~tax to the credit of the department of family services to be~~  
14 ~~used for the youth evaluation program and chemical abuse~~  
15 ~~aftercare programs~~ in the general fund.

16 (3) ~~The treasurer shall credit the remaining two-thirds~~  
17 ~~of the tax proceeds as follows:~~

18 (a) ~~one-half to the department of justice to be used:~~

19 (i) ~~for grants to youth courts to fund chemical abuse~~  
20 ~~assessments; and~~

21 (ii) ~~for grants to counties to fund services for the~~  
22 ~~detention of juvenile offenders in facilities separate from~~  
23 ~~adult jails; as authorized in 41-5-1002; and~~

24 (b) ~~one-half to the account created by 44-12-206(3) if~~  
25 ~~a state government law enforcement agency seized the drugs.~~

1 If a local government law enforcement agency seized the  
2 drugs, then that amount must be credited to the treasurer or  
3 finance officer of the local government, be deposited in its  
4 general fund, and be used to enforce drug laws."

5 **Section 20.** Section 15-35-108, MCA, is amended to read:

6 "15-35-108. **Disposal of severance taxes.** Severance  
7 taxes collected under this chapter must be allocated  
8 according to the provisions in effect on the date the tax is  
9 due under 15-35-104. Severance taxes collected under the  
10 provisions of this chapter are allocated as follows:

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

16 (2) Starting July 1, 1992, and ending June 30, 1993,  
17 12% of coal severance tax collections are allocated to the  
18 general fund.

19 (3) Coal severance tax collections remaining after the  
20 allocations provided by subsections (1) and (2) are  
21 allocated in the following percentages of the remaining  
22 balance:

23 (a) 17 1/2% to the credit of the local impact account.  
24 Unencumbered funds remaining in the local impact account at  
25 the end of each biennium are allocated to the state special

1 revenue general fund for state equalization aid to public  
2 schools of the state.

3 (b) 30% to the state special revenue fund for state  
4 equalization aid to public schools of the state;

5 (c) 1% to the state special revenue fund to the credit  
6 of the county land planning account;

7 (d)(c) 1 1/4% to the credit of the renewable resource  
8 development bond fund;

9 (e) 0% to a nonexpendable trust fund for the purpose of  
10 parks management; income from this trust fund must be  
11 appropriated for the development, operation, and maintenance  
12 of any sites and areas described in 23-1-102.

13 (f) 1% to the state special revenue fund to the credit  
14 of the state library commission for the purposes of  
15 providing basic library services for the residents of all  
16 counties through library federations and for payment of the  
17 costs of participating in regional and national networking;

18 (g) 1/2% of 1% to the state special revenue fund for  
19 conservation districts;

20 (h)(d) 1 1/4% to the debt service fund type to the  
21 credit of the water development debt service fund;

22 (i) 2% to the state special revenue fund for the  
23 Montana Growth Through Agriculture Act;

24 (j) 1-2/3% to the Montana arts council, to be allocated  
25 as follows:

1 (i) 42 1/2% for operating costs; and  
2 (ii) 57 1/2% to a nonexpendable trust fund for the  
3 purpose of protection of works of art in the state capitol  
4 and for other cultural and aesthetic projects; income from  
5 this trust fund shall be appropriated for protection of  
6 works of art in the state capitol and for other cultural and  
7 aesthetic projects.

8 (k) beginning July 1, 1991, and ending June 30, 1993,  
9 3 1/3% to a special revenue account to be used by the  
10 department of fish, wildlife, and parks for the development,  
11 operation, and maintenance of state parks and the  
12 stabilization and preservation of historic sites within the  
13 state park system;

14 (l)(e) all other revenues from severance taxes  
15 collected under the provisions of this chapter to the credit  
16 of the general fund of the state. (Terminates June 30,  
17 1993--sec. 3, Ch. 615, L. 1991, and sec. 3, Ch. 8, Sp. L.  
18 January 1992.)

19 15-35-108. (Effective July 1, 1993) Disposal of  
20 severance taxes. Severance taxes collected under this  
21 chapter must be allocated according to the provisions in  
22 effect on the date the tax is due under 15-35-104. Severance  
23 taxes collected under the provisions of this chapter are  
24 allocated as follows:

25 (1) To the trust fund created by Article IX, section 5,

1 of the Montana constitution, 50% of total coal severance tax  
2 collections. The trust fund money must be deposited in the  
3 fund established under 17-6-203(6) and invested by the board  
4 of investments as provided by law.

5 (2) Starting July 1, 1987, and ending June 30, 2003,  
6 12% of coal severance tax collections are allocated to the  
7 highway reconstruction trust fund account in the state  
8 special revenue fund.

9 (3) Coal severance tax collections remaining after  
10 allocation to the trust fund under subsection (1) are  
11 allocated in the following percentages of the remaining  
12 balance:

13 (a) 17 1/2% to the credit of the local impact account.  
14 Unencumbered funds remaining in the local impact account at  
15 the end of each biennium are allocated to the state special  
16 revenue general fund for state equalization aid to public  
17 schools of the state.

18 (b) 38% to the state special revenue fund for state  
19 equalization aid to public schools of the state;

20 (c) 1% to the state special revenue fund to the credit  
21 of the county land planning account;

22 (d)(c) 1 1/4% to the credit of the renewable resource  
23 development bond fund;

24 (e) 3-1/3% to a nonexpendable trust fund for the  
25 purpose of parks acquisition or management; income from this

1 trust fund must be appropriated for the acquisition,  
2 development, operation, and maintenance of any sites and  
3 areas described in 23-1-102;

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

9 (g) 1/2 of 1% to the state special revenue fund for  
10 conservation districts;

11 (h)(d) 1 1/4% to the debt service fund type to the  
12 credit of the water development debt service fund;

13 (i) 2% to the state special revenue fund for the  
14 Montana Growth Through Agriculture Act;

15 (j) 1-2/3% to a nonexpendable trust fund for the  
16 purpose of protection of works of art in the state capitol  
17 and for other cultural and aesthetic projects; income from  
18 this trust fund shall be appropriated for protection of  
19 works of art in the state capitol and other cultural and  
20 aesthetic projects;

21 (k)(e) all other revenues from severance taxes  
22 collected under the provisions of this chapter to the credit  
23 of the general fund of the state. (Terminates July 1,  
24 2003--sec. 4, Ch. 191, L. 1991.)

25 15-35-108. (Effective July 1, 2003) Disposal of

1 severance taxes. Severance taxes collected under this  
2 chapter must be allocated according to the provisions in  
3 effect on the date the tax is due under 15-35-104. Severance  
4 taxes collected under the provisions of this chapter are  
5 allocated as follows:

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

11 (2) Coal severance tax collections remaining after  
12 allocation to the trust fund under subsection (1) are  
13 allocated in the following percentages of the remaining  
14 balance:

15 (a) 17 1/2% to the credit of the local impact account.  
16 Unencumbered funds remaining in the local impact account at  
17 the end of each biennium are allocated to the ~~state--special~~  
18 ~~revenue general~~ fund for ~~state-equalization-aid-to-public~~  
19 ~~schools-of-the-state.~~

20 (b) ~~30% to the state special--revenue--fund--for--state~~  
21 ~~equalization-aid-to-public-schools-of-the-state;~~

22 (c) 1% to the state special revenue fund to the credit  
23 of the county land planning account;

24 (d)(c) 1 1/4% to the credit of the renewable resource  
25 development bond fund;

1 (e)--3-1/3%--to--a--nonexpendable--trust--fund--for--the  
2 purpose-of-parks-acquisition-or-management;-income-from-this  
3 trust--fund--must--be--appropriated--for--the--acquisition,  
4 development, operation, and maintenance--of--any--sites--and  
5 areas-described-in-23-1-102-

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

11 (g)--1/2--of--1%--to--the--state--special--revenue--fund--for  
12 conservation-districts;

13 (h)(d) 1 1/4% to the debt service fund type to the  
14 credit of the water development debt service fund;

15 (i)--2%--to--the--state--special--revenue--fund--for--the  
16 Montana-Growth-Through-Agriculture-Act;

17 (j)--1-2/3%--to--a--nonexpendable--trust--fund--for--the  
18 purpose-of-protection-of-works-of-art-in-the--state--capitol  
19 and--for--other-cultural-and-aesthetic-projects;-income-from  
20 this-trust-fund-shall-be-appropriated--for--protection--of  
21 works--of--art--in--the--state--capitol--and--other-cultural--and  
22 aesthetic-projects;

23 (k)(e) all other revenues from severance taxes  
24 collected under the provisions of this chapter to the credit  
25 of the general fund of the state."



1       **Section 21.** Section 16-1-404, MCA, is amended to read:

2       "16-1-404. License tax on liquor -- amount --  
3       distribution of proceeds. (1) The department is hereby  
4       authorized and directed to charge, receive, and collect at  
5       the time of sale and delivery of any liquor under any  
6       provisions of the laws of the state of Montana a license tax  
7       of:

8       (a) 10% of the retail selling price on all liquor sold  
9       and delivered in the state by a company that manufactured,  
10      distilled, rectified, bottled, or processed, and sold more  
11      than 200,000 proof gallons of liquor nationwide in the  
12      calendar year preceding imposition of the tax pursuant to  
13      this section;

14      (b) 8.6% of the retail selling price on all liquor sold  
15      and delivered in the state by a company that manufactured,  
16      distilled, rectified, bottled, or processed, and sold not  
17      more than 200,000 proof gallons of liquor nationwide in the  
18      calendar year preceding imposition of the tax pursuant to  
19      this section.

20      (2) The license tax shall be charged and collected on  
21      all liquor brought into the state and taxed by the  
22      department. The retail selling price shall be computed by  
23      adding to the cost of said liquor the state markup as  
24      designated by the department. The license tax shall be  
25      figured in the same manner as the state excise tax and shall

1       be in addition to said state excise tax. The department  
2       shall retain in a separate account the amount of the license  
3       tax so received. Thirty percent of these revenues are  
4       statutorily appropriated, as provided in 17-7-502, to the  
5       department and shall be allocated to the counties according  
6       to the amount of liquor purchased in each county to be  
7       distributed to the incorporated cities and towns, as  
8       provided in subsection (3). Four and one-half percent of  
9       these revenues are statutorily appropriated, as provided in  
10      17-7-502, and shall be allocated to the counties according  
11      to the amount of liquor purchased in each county, and this  
12      money may be used for county purposes. ~~The--remaining~~  
13      ~~revenues--shall--be--deposited--in--the--state--special--revenue~~  
14      ~~fund--to--the--credit--of--the--department--of--corrections--and~~  
15      ~~human---services--for--the--treatment,--rehabilitation,--and~~  
16      ~~prevention--of--alcoholism.~~ Provided, however, in the case of  
17      purchases of liquor by a retail liquor licensee for use in  
18      his business, the department shall make such regulations as  
19      are necessary to apportion that proportion of license tax so  
20      generated to the county where the licensed establishment is  
21      located, for use as provided in 16-1-405. That proportion of  
22      the license tax is statutorily appropriated, as provided in  
23      17-7-502, to the department, which shall pay quarterly to  
24      each county treasurer the proportion of the license tax due  
25      each county to be allocated to the incorporated cities and

1 towns of the county.

2 (3) The license tax proceeds allocated to the county  
3 under subsection (2) for use by cities and towns shall be  
4 distributed by the county treasurer to the incorporated  
5 cities and towns within 30 days of receipt from the  
6 department. The distribution of funds to the cities and  
7 towns shall be based on the proportion that the gross sale  
8 of liquor in each city or town is to the gross sale of  
9 liquor in all of the cities and towns of the county.

10 ~~(4) The license tax proceeds that are allocated to the~~  
11 ~~department of corrections and human services for the~~  
12 ~~treatment, rehabilitation, and prevention of alcoholism~~  
13 ~~shall be credited quarterly to the department of corrections~~  
14 ~~and human services. The legislature may appropriate a~~  
15 ~~portion of the license tax proceeds to support alcohol~~  
16 ~~programs. The remainder shall be distributed as provided in~~  
17 ~~53-24-206."~~

18 **Section 22.** Section 16-1-411, MCA, is amended to read:

19 "16-1-411. **Tax on wine.** (1) A tax of 27 cents per liter  
20 is hereby levied and imposed on table wine imported by any  
21 table wine distributor or the department.

22 (2) (a) The tax on table wine imported by a table wine  
23 distributor shall be paid by the table wine distributor by  
24 the 15th day of the month following sale of the table wine  
25 from the table wine distributor's warehouse. Failure to file

1 a table wine tax return or failure to pay the tax required  
2 by this section subjects the table wine distributor to the  
3 penalties and interest provided for in 16-1-409.

4 (b) The tax on table wine imported by the department  
5 shall be collected at the time of sale.

6 (3) The tax paid by a table wine distributor in  
7 accordance with subsection (2)(a) and the tax collected by  
8 the department in accordance with subsection (2)(b) shall be  
9 distributed as follows:

10 (a) ~~16~~ 24.34 cents to the state general fund; and

11 (b) of the remaining ~~11~~ 2 2/3 cents:

12 (i) ~~8.34 cents to the state special revenue fund to the~~  
13 ~~credit of the department of corrections and human services~~  
14 ~~for the treatment, rehabilitation, and prevention of~~  
15 ~~alcoholism;~~

16 ~~{11}~~ 1 1/3 cents is statutorily appropriated, as  
17 provided in 17-7-502, to the department, for allocation to  
18 the counties, based on population, for the purpose  
19 established in 16-1-404; and

20 ~~{11}~~ (ii) 1 1/3 cents is statutorily appropriated, as  
21 provided in 17-7-502, to the department, for allocation to  
22 the cities and towns, based on population, for the purpose  
23 established in 16-1-405.

24 (4) The tax computed and paid in accordance with this  
25 section shall be the only tax imposed by the state or any of

1 its subdivisions, including cities and towns."

2 **Section 23.** Section 17-7-502, MCA, is amended to read:

3 **"17-7-502. Statutory appropriations -- definition --**  
4 **requisites for validity.** (1) A statutory appropriation is an  
5 appropriation made by permanent law that authorizes spending  
6 by a state agency without the need for a biennial  
7 legislative appropriation or budget amendment.

8 (2) Except as provided in subsection (4), to be  
9 effective, a statutory appropriation must comply with both  
10 of the following provisions:

11 (a) The law containing the statutory authority must be  
12 listed in subsection (3).

13 (b) The law or portion of the law making a statutory  
14 appropriation must specifically state that a statutory  
15 appropriation is made as provided in this section.

16 (3) The following laws are the only laws containing  
17 statutory appropriations: 2-9-202; ~~2-17-185~~; 2-18-812;  
18 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
19 15-23-706; ~~15-25-123~~; 15-31-702; 15-36-112; 15-37-117;  
20 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;  
21 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409;  
22 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007;  
23 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
24 19-11-606; 19-12-301; 19-13-604; 19-15-101; ~~20-4-189~~;  
25 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811;

1 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;  
2 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501;  
3 39-71-2504; ~~44-12-286~~; 44-13-102; 53-6-150; 53-24-206;  
4 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108;  
5 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310;  
6 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215;  
7 90-6-331; 90-7-220; and 90-9-306.

8 (4) There is a statutory appropriation to pay the  
9 principal, interest, premiums, and costs of issuing, paying,  
10 and securing all bonds, notes, or other obligations, as due,  
11 that have been authorized and issued pursuant to the laws of  
12 Montana. Agencies that have entered into agreements  
13 authorized by the laws of Montana to pay the state  
14 treasurer, for deposit in accordance with 17-2-101 through  
15 17-2-107, as determined by the state treasurer, an amount  
16 sufficient to pay the principal and interest as due on the  
17 bonds or notes have statutory appropriation authority for  
18 the payments. (In subsection (3): pursuant to sec. 7, Ch.  
19 567, L. 1991, the inclusion of 19-6-709 terminates upon  
20 death of last recipient eligible for supplemental benefit;  
21 and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of  
22 22-3-811 terminates June 30, 1993.)"

23 **Section 24.** Section 18-2-103, MCA, is amended to read:

24 **"18-2-103. Supervision of construction of buildings.**  
25 (1) For the construction of a building costing more than

1 \$25,000, the department of administration shall:

2 (a) review and accept all plans, specifications, and  
3 cost estimates prepared by architects or consulting  
4 engineers;

5 (b) approve all bond issues or other financial  
6 arrangements and supervise and approve the expenditure of  
7 all moneys;

8 (c) solicit, accept, and reject bids and award all  
9 contracts to the lowest qualified bidder considering  
10 conformity with specifications and terms and reasonableness  
11 of bid amount. However, any contract award that is protested  
12 or any contract that is awarded to a bidder other than the  
13 lowest bidder is subject to approval by the board of  
14 examiners.

15 (d) review and approve all change orders up to \$25,000.  
16 Any change order over \$25,000 must be with the consent of  
17 the board of examiners. The department may refer change  
18 orders under \$25,000 that affect the project scope or other  
19 unusual change orders to the board of examiners for  
20 consideration. The board of examiners shall act within 14  
21 working days after processing completion by the department.

22 (e) accept the building when completed according to  
23 accepted plans and specifications.

24 (2) The department may delegate on a project-by-project  
25 basis any powers and duties under subsection (1) to other

1 state agencies, including units of the Montana university  
2 system, upon terms and conditions specified by the  
3 department. However, any powers and duties subject to the  
4 approval of the board of examiners may not be delegated.

5 (3) For repair and maintenance projects, the  
6 supervision, approval, and consent of the board of examiners  
7 are not required.

8 (4) Before any contract under subsection (1) is  
9 awarded, two formal bids must have been received, if  
10 reasonably available.

11 (5) The department need not require the provisions of  
12 Montana law relating to advertising, bidding, or supervision  
13 where proposed construction costs are \$25,000 or less.  
14 However, with respect to a project having a proposed cost of  
15 \$25,000 or less but more than \$5,000, the agency awarding  
16 the contract must procure at least three informal bids from  
17 contractors licensed in Montana, if reasonably available.

18 (6) For the construction of buildings owned or to be  
19 owned by a school district, the department of administration  
20 shall, upon request, provide inspection to insure compliance  
21 with the plans and specifications for the construction of  
22 such buildings. "Construction" shall include construction,  
23 repair, alteration, equipping, and furnishing during  
24 construction, repair, or alteration. These services shall be  
25 provided at a cost to be contracted for between the

1 department of administration and the school district, with  
 2 the receipts to be deposited in the department---of  
 3 administration's--construction-regulation-account-in-a-state  
 4 special-revenue general fund.

5 (7) It is the intent of the legislature that student  
 6 housing and other facilities constructed under the authority  
 7 of the regents of the university system are subject to the  
 8 provisions of subsections (1) through (4) of this section.

9 (8) The department of military affairs may act as  
 10 contracting agency for buildings constructed under the  
 11 authority of 18-2-102(2)(d); however, the department of  
 12 administration may agree to act as contracting agency on  
 13 behalf of the department of military affairs. Montana law  
 14 applies to any controversy involving such a contract."

15 **Section 25.** Section 20-4-109, MCA, is amended to read:

16 "20-4-109. Fees for teacher and specialist  
 17 certificates. (1) A person applying for the issuance or  
 18 renewal of a teacher or specialist certificate shall pay a  
 19 fee not to exceed \$6 for each school fiscal year that the  
 20 certificate is valid. In addition to this fee, a person who  
 21 has never held any class of Montana teacher or specialist  
 22 certificate or for whom an emergency authorization of  
 23 employment has never been issued shall pay a filing fee of  
 24 \$6. The fees must be paid to the superintendent of public  
 25 instruction who shall deposit the fees with the state

1 treasurer to the credit of the state-special-revenue general  
 2 fund account,--created-in-subsection-(2),--to-be-used-in-the  
 3 following-manner:

4 (a)--\$3-for-expenses-of-the-certification-standards--and  
 5 practices-advisory-council--created-in-2-15-1522;

6 (b)--\$3--to--the-board-of-public-education-to-be-used-by  
 7 the-certification-standards-and-practices--advisory--council  
 8 for--research--in--accordance-with-the-duties-of-the-council  
 9 provided-for-in-20-4-133.

10 (2) There-is-an-account-in-the--state--special--revenue  
 11 fund. Money from fees for teacher or specialist certificates  
 12 required in subsection (1) must be-deposited-in-the-account.  
 13 The--money--in--the--account--to be used for the-purposes-of  
 14 subsection-(1)(b)-is-statutorily-appropriated,--as--provided  
 15 in-17-7-502,--to-the-board-of-public-education-for-use-by-the  
 16 certification standards and practices advisory-council."

17 **Section 26.** Section 20-7-201, MCA, is amended to read:

18 "20-7-201. State visual, aural, and other educational  
 19 media library. A library of visual, aural, and other  
 20 educational media shall be established and maintained by the  
 21 superintendent of public instruction. The media shall be  
 22 selected by the superintendent of public instruction on the  
 23 basis of their usefulness as teaching aids and resources for  
 24 schools and other educational groups within the state and  
 25 shall be made available to such schools and groups on a

1 rental fee basis. The rental fees for the use of the  
 2 materials in the library shall be set by the superintendent  
 3 of public instruction and shall be deposited in the  
 4 ~~audiovisual--and--media--library--account--in--the--state--special~~  
 5 ~~revenue~~ general fund. The superintendent of public  
 6 instruction may use ~~these funds, as well as any other~~ funds  
 7 advanced by a legislative appropriation to ~~the--audiovisual~~  
 8 ~~and--media--library--account,~~ for the operation, maintenance,  
 9 enlargement, and other related costs of the library."

10 **Section 27.** Section 20-7-457, MCA, is amended to read:

11 "20-7-457. Funding provisions for special education  
 12 purposes of cooperatives or joint boards. (1) The  
 13 superintendent of public instruction shall pay directly to a  
 14 cooperative or to a joint board formed under 20-3-361 for  
 15 special education purposes the approved allowable costs for  
 16 contracted special education services ~~from the state special~~  
 17 ~~revenue--fund--for--state--equalization--aid--as--provided--in~~  
 18 ~~20-9-343.~~ The total of the payments must be within the limit  
 19 set by the legislature for approved special education  
 20 budgets.

21 (2) A school district that elects to participate in a  
 22 cooperative for special education purposes shall agree in  
 23 the cooperative contract to participate for a period of at  
 24 least 3 years.

25 (3) A school district that elects to participate in a

1 joint board formed under 20-3-361 for special education  
 2 purposes shall confirm in writing to the joint board by  
 3 October 1 of the current school fiscal year the district's  
 4 intention to participate or to not participate in a joint  
 5 board agreement for the next school fiscal year.

6 (4) After June 30, 1990, a cooperative that has not met  
 7 the requirements of 20-7-453 and 20-7-454 may not be funded  
 8 under the provisions of this section except by approval of  
 9 the superintendent of public instruction. The superintendent  
 10 shall adopt rules for approval of full service education  
 11 cooperatives formed after June 30, 1990.

12 (5) A full service education cooperative may establish  
 13 a retirement fund, a miscellaneous programs fund, and a  
 14 transportation fund, as provided for in 20-9-201, for the  
 15 purposes of a full service education cooperative contract  
 16 and the purposes allowed by law."

17 **Section 28.** Section 20-9-331, MCA, is amended to read:

18 "20-9-331. Basic county tax and other revenues for  
 19 county equalization of the elementary district foundation  
 20 program. (1) The county commissioners of each county shall  
 21 levy an annual basic tax of 33 mills on the dollar of the  
 22 taxable value of all taxable property within the county,  
 23 except for property subject to a tax or fee under 23-2-517,  
 24 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for  
 25 the purposes of local and state foundation program support.

1 The revenue collected from this levy must be apportioned to  
 2 the support of the foundation programs of the elementary  
 3 school districts in the county and to the state ~~special~~  
 4 ~~revenue general fund--state-equalization-aid-accounty~~ in the  
 5 following manner:

6 (a) In order to determine the amount of revenue raised  
 7 by this levy which is retained by the county, the sum of the  
 8 estimated revenue identified in subsection (2) must be  
 9 subtracted from the total of the foundation programs of all  
 10 elementary districts of the county.

11 (b) If the basic levy prescribed by this section  
 12 produces more revenue than is required to finance the  
 13 difference determined in subsection (1)(a), the county  
 14 treasurer shall remit the surplus funds to the state  
 15 treasurer for deposit to in the state ~~special-revenue~~  
 16 ~~general fund--state-equalization--aid--accounty~~ immediately  
 17 upon occurrence of a surplus balance and each subsequent  
 18 month thereafter, with any final remittance due no later  
 19 than June 20 of the fiscal year for which the levy has been  
 20 set.

21 (c) If revenue from the basic levy prescribed by this  
 22 section when combined with the other revenue from subsection  
 23 (2) is insufficient to fully fund the percentage determined  
 24 in 20-9-347(1)(b) and the county is eligible for an  
 25 apportionment of state equalization aid under the provisions

1 of 20-9-347(1)(c), the county superintendent shall notify  
 2 the superintendent of public instruction of the deficiency.  
 3 The superintendent of public instruction shall increase the  
 4 state equalization aid payments to the districts in the  
 5 affected county to offset the deficiency. A payment may not  
 6 be made under this subsection (c) that allows a district to  
 7 receive foundation program funding in excess of the  
 8 foundation program amount of the district.

9 (2) The revenue realized from the county's portion of  
 10 the levy prescribed by this section and the revenue from the  
 11 following sources must be used for the equalization of the  
 12 elementary district foundation programs of the county as  
 13 prescribed in 20-9-334, and a separate accounting must be  
 14 kept of the revenue by the county treasurer in accordance  
 15 with 20-9-212(1):

16 (a) the portion of the federal Taylor Grazing Act funds  
 17 distributed to a county and designated for the common school  
 18 fund under the provisions of 17-3-222;

19 (b) the portion of the federal flood control act funds  
 20 distributed to a county and designated for expenditure for  
 21 the benefit of the county common schools under the  
 22 provisions of 17-3-232;

23 (c) all money paid into the county treasury as a result  
 24 of fines for violations of law, except money paid to a  
 25 justice's court, and the use of which is not otherwise

1 specified by law;

2 (d) any money remaining at the end of the immediately  
3 preceding school fiscal year in the county treasurer's  
4 accounts for the various sources of revenue established or  
5 referred to in this section;

6 (e) any federal or state money distributed to the  
7 county as payment in lieu of property taxation, including  
8 federal forest reserve funds allocated under the provisions  
9 of 17-3-213;

10 (f) gross proceeds taxes from coal under 15-23-703;

11 (g) net proceeds taxes for new production, as defined  
12 in 15-23-601, and local government severance taxes on any  
13 other production occurring after December 31, 1988; and

14 (h) anticipated revenue from property taxes and fees  
15 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
16 61-3-537, and 67-3-204."

17 **Section 29.** Section 20-9-333, MCA, is amended to read:

18 "20-9-333. Basic special levy and other revenues for  
19 county equalization of high school district foundation  
20 program. (1) The county commissioners of each county shall  
21 levy an annual basic special tax for high schools of 22  
22 mills on the dollar of the taxable value of all taxable  
23 property within the county, except for property subject to a  
24 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
25 61-3-537, and 67-3-204, for the purposes of local and state

1 foundation program support. The revenue collected from this  
2 levy must be apportioned to the support of the foundation  
3 programs of high school districts in the county and to the  
4 state ~~special--revenue~~ general fund, ~~state-equalization-aid~~  
5 ~~account~~, in the following manner:

6 (a) In order to determine the amount of revenue raised  
7 by this levy which is retained by the county, the sum of the  
8 estimated revenue identified in subsection (2) must be  
9 subtracted from the sum of the county's high school tuition  
10 obligation and the total of the foundation programs of all  
11 high school districts of the county.

12 (b) If the basic levy prescribed by this section  
13 produces more revenue than is required to finance the  
14 difference determined in subsection (1)(a), the county  
15 treasurer shall remit the surplus funds to the state  
16 treasurer for deposit to in the state ~~special-revenue~~  
17 ~~general~~ fund, ~~state-equalization--aid--account~~, immediately  
18 upon occurrence of a surplus balance and each subsequent  
19 month thereafter, with any final remittance due no later  
20 than June 20 of the fiscal year for which the levy has been  
21 set.

22 (c) If revenue from the basic levy prescribed by this  
23 section when combined with the other revenue from subsection  
24 (2) is insufficient to fully fund the percentage determined  
25 in 20-9-347(1)(b) and the county is eligible for an



1 apportionment of state equalization aid under the provisions  
 2 of 20-9-347(1)(c), the county superintendent shall notify  
 3 the superintendent of public instruction of the deficiency.  
 4 The superintendent of public instruction shall increase the  
 5 state equalization aid payments to the districts in the  
 6 affected county to offset the deficiency. A payment may not  
 7 be made under this subsection (c) that allows a district to  
 8 receive foundation program funding in excess of the  
 9 foundation program amount of the district.

10 (2) The revenue realized from the county's portion of  
 11 the levy prescribed in this section and the revenue from the  
 12 following sources must be used for the equalization of the  
 13 high school district foundation programs of the county as  
 14 prescribed in 20-9-334, and a separate accounting must be  
 15 kept of the revenue by the county treasurer in accordance  
 16 with 20-9-212(1):

17 (a) any money remaining at the end of the immediately  
 18 preceding school fiscal year in the county treasurer's  
 19 accounts for the various sources of revenue established in  
 20 this section;

21 (b) any federal or state money distributed to the  
 22 county as payment in lieu of property taxation, including  
 23 federal forest reserve funds allocated under the provisions  
 24 of 17-3-213;

25 (c) gross proceeds taxes from coal under 15-23-703;

1 (d) net proceeds taxes for new production, as defined  
 2 in 15-23-601, and local government severance taxes on any  
 3 other production occurring after December 31, 1988; and

4 (e) anticipated revenue from property taxes and fees  
 5 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,  
 6 61-3-537, and 67-3-204."

7 **Section 30.** Section 20-9-343, MCA, is amended to read:

8 **"20-9-343. (Temporary) Definition of and revenue for**  
 9 **state equalization aid.** (1) As used in this title, the term  
 10 "state equalization aid" means the money deposited in the  
 11 state special revenue fund as required in this section plus  
 12 any legislative appropriation of money from other sources  
 13 for:

14 (a) distribution to the public schools for the payment  
 15 of guaranteed tax base aid and for equalization of the  
 16 foundation program;

17 (b) the Montana educational telecommunications network  
 18 as provided in 20-32-101; and

19 (c) filing fees for school district audits as required  
 20 by 2-7-514(2).

21 (2) The superintendent of public instruction may spend  
 22 funds appropriated for state equalization aid, as required  
 23 by subsections (1)(a) and (1)(b), throughout the biennium.

24 (3) The following must be paid into the state special  
 25 revenue fund for state equalization aid to public schools of

1 the state:

2 (a) money--received-from-the-collection-of-income-taxes  
3 under-chapter-30-of-Title-15,--as-provided-by-15-1-501;

4 (b)--except-as-provided--in--15-31-702,--money--received  
5 from--the-collection-of-corporation-license-and-income-taxes  
6 under-chapter-31-of-Title-15,--as-provided-by-15-1-501;

7 (c)--money-allocated--to--state--equalization--from--the  
8 collection-of-the-severance-tax-on-coal;

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

13 (e)(b) interest and income money described in 20-9-341  
14 and 20-9-342;

15 (f)(c) money received from the state equalization aid  
16 levy under 20-9-360;

17 (g)(d) income from the lottery, as provided in  
18 23-7-402;

19 (h)(e) the surplus revenues collected by the counties  
20 for foundation program support according to 20-9-331 and  
21 20-9-333; and

22 (i)(f) investment income earned by investing money in  
23 the state equalization aid account in the state special  
24 revenue fund; and

25 (j)--15%---of---the---income---and---earnings---of---all---coal

1 severance-tax-funds-as-provided-in-17-5-704.

2 (4) The superintendent of public instruction shall  
3 request the board of investments to invest the money in the  
4 state equalization aid account to maximize investment  
5 earnings to the account.

6 (5) Any surplus revenue in the state equalization aid  
7 account in the second year of a biennium may be used to  
8 reduce any appropriation required for the next succeeding  
9 biennium. (Terminates June 30, 1993--sec. 5, Ch. 729, L.  
10 1991.)

11 20-9-343. (Effective July 1, 1993) Definition of and  
12 revenue for state equalization aid. (1) As used in this  
13 title, the term "state equalization aid" means the money  
14 deposited in the state special revenue fund as required in  
15 this section plus any legislative appropriation of money  
16 from other sources for distribution to the public schools  
17 for the purposes of payment of guaranteed tax base aid and  
18 equalization of the foundation program and for the Montana  
19 educational telecommunications network as provided in  
20 20-32-101.

21 (2) The superintendent of public instruction may spend  
22 funds appropriated for state equalization aid as required  
23 for the purposes of guaranteed tax base aid, the foundation  
24 program, and the Montana educational telecommunications  
25 network, throughout the biennium.

1 (3) The following must be paid into the state special  
2 revenue fund for state equalization aid to public schools of  
3 the state:

4 (a) ~~money--received-from-the-collection-of-income-taxes~~  
5 ~~under-chapter-30-of-Title-15,--as-provided-by-15-1-501;~~

6 ~~(b)--except-as-provided--in--15-31-702,--money--received~~  
7 ~~from--the-collection-of-corporation-license-and-income-taxes~~  
8 ~~under-chapter-31-of-Title-15,--as-provided-by-15-1-501;~~

9 ~~(c)--money-allocated--to--state--equalization--from--the~~  
10 ~~collection-of-the-severance-tax-on-coal;~~

11 (d) money received from the treasurer of the United  
12 States as the state's shares of oil, gas, and other mineral  
13 royalties under the federal Mineral Lands Leasing Act, as  
14 amended;

15 ~~(e)(b)~~ interest and income money described in 20-9-341  
16 and 20-9-342;

17 ~~(f)(c)~~ money received from the state equalization aid  
18 levy under 20-9-360;

19 ~~(g)(d)~~ income from the lottery, as provided in  
20 23-7-402;

21 ~~(h)(e)~~ the surplus revenues collected by the counties  
22 for foundation program support according to 20-9-331 and  
23 20-9-333; and

24 ~~(i)(f)~~ investment income earned by investing money in  
25 the state equalization aid account in the state special

1 revenue fund; ~~and~~

2 ~~(j)--15%--of--the--income--and--earnings--of--all--coal~~  
3 ~~severance-tax-funds-as-provided-in-17-5-704.~~

4 (4) The superintendent of public instruction shall  
5 request the board of investments to invest the money in the  
6 state equalization aid account to maximize investment  
7 earnings to the account.

8 (5) Any surplus revenue in the state equalization aid  
9 account in the second year of a biennium may be used to  
10 reduce any appropriation required for the next succeeding  
11 biennium."

12 **Section 31.** Section 20-10-203, MCA, is amended to read:

13 "20-10-203. School food commodities. The superintendent  
14 of public instruction is authorized to accept food  
15 commodities from the federal government and to distribute  
16 the food commodities to any district or nonpublic school  
17 that contracts for such distribution. The superintendent of  
18 public instruction may use for the shipping, handling, and  
19 other related costs of distributing the food commodities any  
20 funds advanced by legislative appropriation for ~~the~~  
21 ~~commodity--state--special-revenue-account.~~ Such distribution  
22 costs shall be reimbursed by the participating districts and  
23 nonpublic schools. Those reimbursements shall be returned to  
24 the general fund from which payments ~~for--the--distribution~~  
25 ~~costs-were-made."~~

1 **Section 32.** Section 22-2-301, MCA, is amended to read:

2 **"22-2-301. Cultural and aesthetic projects grants.** (1)  
3 Any person, association, or representative of a governing  
4 unit seeking a grant for a cultural or aesthetic project  
5 ~~from the income of the trust fund created in 15-35-108~~ must  
6 submit a grant proposal to the cultural and aesthetic  
7 projects advisory committee, in care of the Montana arts  
8 council, by August 1 of the year preceding the convening of  
9 a regular legislative session.

10 (2) Grant proposals must be for the purpose of  
11 protecting works of art in the state capitol or other  
12 cultural and aesthetic projects."

13 **Section 33.** Section 22-2-304, MCA, is amended to read:

14 **"22-2-304. Cultural and aesthetic project**  
15 **appropriations -- administration.** (1) The legislature must  
16 appropriate funds ~~from the income of the trust fund--created~~  
17 ~~in--15-35-108-for-cultural-and-aesthetic-projects~~ before any  
18 grant for a cultural or aesthetic project is awarded.

19 (2) Costs incurred by the Montana arts council for  
20 accounting, correspondence, project visits, and solicitation  
21 of proposals related to cultural and aesthetic project  
22 grants and the costs of the advisory committee established  
23 in 2-15-1521 shall be paid from appropriations from the  
24 income of the trust fund.

25 (3) Grant proposals are heard by a legislative

1 appropriations subcommittee.

2 (4) Grant proposals approved by the legislature are  
3 administered by the Montana arts council."

4 **Section 34.** Section 22-2-321, MCA, is amended to read:

5 **"22-2-321. Reversion of granted funds.** At the end of a  
6 grant period, any unexpended balance of the grant shall  
7 revert to the ~~cultural--and--aesthetic--projects--account~~  
8 ~~provided-for-in-15-35-108~~ general fund."

9 **Section 35.** Section 23-1-108, MCA, is amended to read:

10 **"23-1-108. Acquisition of certain state parks,**  
11 **monuments, or historical sites.** (1) Any person, association,  
12 or representative of a governing unit may submit a proposal  
13 for the acquisition of a site or area described in 23-1-102  
14 from the income of the trust fund ~~created in 15-35-108~~ to  
15 the department of fish, wildlife, and parks by July 1 of the  
16 year preceding the convening of a legislative session.

17 (2) The fish, wildlife, and parks commission shall  
18 present to the legislature by the 15th day of any  
19 legislative session a list of areas, sites, or objects that  
20 were proposed for purchase for use as state parks, state  
21 recreational areas, state monuments, or state historical  
22 sites ~~with the money contained in the parks account.~~

23 (3) The legislature must appropriate funds ~~from this~~  
24 ~~account~~ before any park, area, monument, or site may be  
25 purchased."

1       **Section 36.** Section 31-1-221, MCA, is amended to read:

2       "31-1-221. Licensing of sales finance companies  
3 required. (1) No person shall engage in the business of a  
4 sales finance company in this state without a license  
5 therefor as provided in this part, except that no bank,  
6 trust company, or savings and loan association authorized to  
7 do business in this state shall be required to obtain a  
8 license under this part but shall comply with all of the  
9 other provisions of this part.

10       (2) The application for such license shall be in  
11 writing, under oath, and in the form prescribed by the  
12 department. The application shall contain:

13       (a) the name of the applicant;

14       (b) date of incorporation, if incorporated;

15       (c) the address where the business is or is to be  
16 conducted and similar information as to any branch office of  
17 the applicant;

18       (d) the name and resident address of the owner or  
19 partners or, if a corporation or association, of the  
20 directors, trustees, and principal officers; and

21       (e) such other pertinent information as the department  
22 may require.

23       (3) The license fee for each calendar year or part  
24 thereof shall be the sum of \$100 for each place of business  
25 of the licensee in this state.

1       (4) Each license shall specify the location of the  
2 office or branch and must be conspicuously displayed there.  
3 In case such location be changed, the department shall  
4 endorse the change of location of the license without  
5 charge.

6       (5) Upon the filing of such application and the payment  
7 of said fee, the department shall issue a license to the  
8 applicant to engage in the business of a sales finance  
9 company under and in accordance with the provisions of this  
10 part for a period which shall expire December 31 next  
11 following the date of its issuance. Such license shall not  
12 be transferable or assignable. No licensee shall transact  
13 any business provided for by this part under any other name.

14       (6) Fees collected under this chapter shall be  
15 deposited in the ~~state-special-revenue~~ general fund for-the  
16 ~~use-of-the-department-in-its-supervision-function.~~

17       **Section 37.** Section 31-1-602, MCA, is amended to read:

18       "31-1-602. State-sponsored credit card -- distribution  
19 of proceeds. (1) The department of revenue is authorized to  
20 participate in a financial institution credit card program  
21 for the benefit of the state. Within 180 days of April 28,  
22 1989, the department shall contact each financial  
23 institution to determine if:

24       (a) the financial institution or its holding company or  
25 affiliate currently administers a credit card program;

1 (b) the credit card program provides a fee or  
2 commission on retail sales to the sponsoring entity for the  
3 issuance and use of the credit card; and

4 (c) the credit card program would accept the state as a  
5 sponsoring entity.

6 (2) If the department determines that the state may be  
7 a sponsoring entity for a financial institution credit card,  
8 the department shall negotiate the most favorable rate for  
9 the state's fee by a credit card issuer. The state may not  
10 offer a more favorable rate to any credit card issuer. The  
11 rate must be expressed as a percentage of the gross sales  
12 from the use of the credit card. The proceeds of the fee  
13 must be deposited one-half in the general fund and one-half  
14 in the state special revenue fund for state equalization aid  
15 to public schools."

16 **Section 38.** Section 32-1-213, MCA, is amended to read:

17 "32-1-213. Payments to be made by banks, investment  
18 companies, and trust companies. (1) On or before January 31  
19 and July 31 of each year, each bank, trust company, or  
20 investment company under the supervision of the department  
21 shall pay to the department a semiannual assessment fee. The  
22 fees shall be set to recover all of the costs of  
23 administering the program for the supervision of banks,  
24 trust companies, and investment companies. The department  
25 shall establish such assessment fee by rule on or before

1 June 1 of each year. The funds so collected shall be  
2 deposited in the state special revenue general fund for the  
3 use of the department in its examination function.

4 (2) In addition to the above assessment, trust  
5 companies shall pay to the department an examination fee of  
6 \$200 per day for each examiner involved in examining the  
7 trust assets under the control, safekeeping, or fiduciary  
8 responsibility of the trust company. Such fees shall be  
9 deposited by the department in the state special revenue  
10 general fund for the use of the department in its  
11 examination function."

12 **Section 39.** Section 32-1-215, MCA, is amended to read:

13 "32-1-215. Special examinations and fees -- report  
14 within 120 days. Special examinations may be made of a bank,  
15 trust company, investment company, building and loan  
16 association, or credit union when in the judgment of the  
17 department it is considered necessary, and the special  
18 examination shall be charged for at a rate that equals the  
19 department's actual costs for examiner wages and travel  
20 expenses. All special examination fees or charges shall be  
21 paid at the conclusion of the examination, and the moneys  
22 collected by the department shall be paid to the state  
23 treasurer for the credit of the state special revenue  
24 general fund for the use of the department in its  
25 examination function. The department shall submit in writing

1 to the examined bank a report of the examination's findings  
2 no later than 120 days after the completion of the  
3 examination."

4 **Section 40.** Section 32-2-102, MCA, is amended to read:

5 "32-2-102. Fees paid into state treasury. All fees  
6 provided for in this chapter and paid to the department or  
7 secretary of state shall be by them turned in to the state  
8 treasury for the credit of the state-special-revenue general  
9 fund for-the-use-of-the-department-in-its-examination  
10 function."

11 **Section 41.** Section 32-2-110, MCA, is amended to read:

12 "32-2-110. Payments to be made by building and loan  
13 associations. ~~For-the-credit-of-the-state-special-revenue~~  
14 ~~fund-for-the-use-of-the-department-in-its-examination~~  
15 ~~function,~~ each A building and loan association under the  
16 supervision of the department shall pay to the state  
17 treasurer, on or before July 1 each year, a fee established  
18 by the department by rule on or before June 1 of each year.  
19 The fees must be set to recover all of the costs of the  
20 program of supervision of building and loan associations.  
21 The fees must be deposited in the general fund."

22 **Section 42.** Section 32-3-201, MCA, is amended to read:

23 "32-3-201. Director of the department of commerce. (1)  
24 The director shall administer the laws of this state  
25 relating to credit unions. He may appoint or employ such

1 special assistants, deputies, examiners, or other employees  
2 as are necessary for the purpose of administering or  
3 enforcing this chapter.

4 (2) The director may prescribe rules for the  
5 administration of this chapter and may establish chartering,  
6 supervisory, and examination fees. Fees so collected must be  
7 deposited in the state-special-revenue general fund ~~for-the~~  
8 ~~use-of-the-department-in-its-supervision-function.~~

9 (3) The director shall, from time to time, issue rules  
10 prescribing the minimum amount of surety bond coverage and  
11 casualty, liability, and fire insurance required of credit  
12 unions in relation to their assets or to the money and other  
13 personal property involved or their exposure to risk."

14 **Section 43.** Section 32-5-201, MCA, is amended to read:

15 "32-5-201. License application and fees --  
16 supplementary license. (1) (a) A place of business operated  
17 under this chapter shall properly display on the premises a  
18 nontransferable and nonassignable license. The same person  
19 may obtain additional licenses upon compliance with this  
20 chapter as to each license.

21 (b) Application for a license shall be on a form  
22 prescribed and furnished by the department.

23 (c) A licensee may move his place of business from one  
24 place to another within a county without obtaining a new  
25 license, provided he obtains written permission from the

1 department.

2 (d) With each application the applicant shall submit  
3 \$50 as an investigation fee and \$125 as a license fee. The  
4 license fee shall be returned to the applicant if the  
5 application is denied. The license year is the calendar  
6 year, and the license fee for any period less than 6 months  
7 is \$62.50. A license remains in force until surrendered,  
8 suspended, or revoked.

9 (2) No licensee under the provisions of this chapter  
10 shall lend money in a total sum greater than \$1,000 to any  
11 borrower or to any borrower and spouse except under the  
12 following circumstances:

13 (a) When any person holding a license provided for in  
14 subsection (1) desires to make loans for any amount in  
15 excess of \$1,000, the holder of such license may apply to  
16 the department for a supplementary license and pay therefor  
17 an additional license fee of \$75 per calendar year or  
18 one-half of said sum for any period less than 6 months.

19 (b) The department shall grant, on application, a  
20 supplementary license to a holder of a license provided for  
21 in subsection (1).

22 (c) Section 32-5-204 shall be applicable as to time of  
23 payment of supplementary license fee and penalty for failure  
24 to pay the same.

25 (d) Provisions of 32-5-301 relating to refunds, fees,

1 and charges and the other provisions of this chapter not  
2 inconsistent with this section shall be applicable to loans  
3 made under authority of a supplementary license.

4 (3) All moneys collected under the authority of this  
5 chapter shall be paid by the department into the ~~state~~  
6 ~~special--revenue~~ general fund ~~for-the-use-of-the-department~~  
7 ~~in-its-supervision-function~~.

8 (4) The amount of \$1,000 in subsection (2) is subject  
9 to change pursuant to the provisions of 32-5-104."

10 **Section 44.** Section 32-7-110, MCA, is amended to read:

11 "32-7-110. Fees. (1) (a) An applicant for licensure  
12 shall pay a license fee set by the director, commensurate  
13 with the costs of licensing the applicant.

14 (b) A licensee may be charged an examination fee based  
15 on the actual costs of the examination.

16 (2) All fees collected by the department for the  
17 licensure and examination of escrow businesses must be paid  
18 to the state treasurer to the credit of the ~~state-special~~  
19 ~~revenue~~ general fund for use by the department in its  
20 licensure and examination functions under this part."

21 **Section 45.** Section 40-8-110, MCA, is amended to read:

22 "40-8-110. Adoption services account fees. ~~There-is-an~~  
23 ~~adoption-services-account-in-the-special-revenue--fund~~: The  
24 fees collected by the department of family services under  
25 40-8-109 must be deposited into ~~this-account-and-may-be-used~~



1 ~~by the department for adoption service in the general fund."~~

2 **Section 46.** Section 44-3-302, MCA, is amended to read:

3 **"44-3-302. Fees for laboratory services.** The laboratory  
4 may charge reasonable fees for its services, except that it  
5 may not charge state, county, city, or municipal law  
6 enforcement officers or coroners of this state for services  
7 rendered. Fees collected under this section shall be  
8 deposited ~~in an account~~ in the ~~state special revenue~~ general  
9 fund in the state treasury ~~and used to pay operation~~  
10 ~~expenses of the laboratory."~~

11 **Section 47.** Section 44-12-206, MCA, is amended to read:

12 **"44-12-206. Disposition of proceeds of sale.** (1)  
13 Whenever property is seized, forfeited, and sold under the  
14 provisions of this chapter, the net proceeds of the sale  
15 must be distributed as follows:

16 (a) to the holders of security interests who have  
17 presented proper proof of their claims, if any, up to the  
18 amount of their interests in the property;

19 (b) the remainder, if any, to the county treasurer of  
20 the county in which the property was seized, who shall  
21 establish and maintain a drug forfeiture account and deposit  
22 the remainder into the account, except as provided in  
23 subsections (1)(c) through (1)(e);

24 (c) if the property was seized within the corporate  
25 limits of a city or town by a law enforcement agency of that

1 city or town, the remainder, if any, to the city or town  
2 treasurer, who shall establish and maintain a drug  
3 forfeiture account and deposit the remainder into the  
4 account, except as provided in subsections (1)(d) and  
5 (1)(e);

6 (d) if the property was seized by an employee of the  
7 state, the remainder, if any, to the account established in  
8 subsection (3), except as provided in subsection (1)(e); and

9 (e) if the property was seized as a result of the  
10 efforts of more than one law enforcement agency, the  
11 remainder, if any, to the accounts required by this  
12 subsection (1), pro rata in the proportions represented by  
13 the agencies' expenses of investigation, as determined by  
14 the attorney general.

15 (2) All proceeds from any source that are deposited  
16 into a county, city, or town drug forfeiture account must in  
17 each fiscal year be appropriated to and remain available  
18 until expended by the confiscating agency for drug laws  
19 enforcement and education concerning drugs.

20 (3) Net proceeds received by the state under  
21 subsections (1)(d) and (1)(e) must be deposited ~~in an~~  
22 ~~account~~ in the state ~~special revenue~~ general fund ~~to the~~  
23 ~~credit of the department of justice. The department may~~  
24 ~~expend the money in the account only for purposes of~~  
25 ~~enforcement of drug laws. An amount up to \$125,000 each year~~

~~is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. Any expenditure in excess of \$125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.~~

(4) The attorney general shall provide the legislature with a detailed, written report of the amounts and property credited to the account general fund no later than 4 months after the end of each fiscal year. The attorney general may not disclose any information that would compromise any investigation or prosecution."

**Section 48.** Section 44-13-103, MCA, is amended to read:

**\*44-13-103. Limitations on use of special law enforcement assistance account.** (1) After property is credited to the account, the attorney general may:

(a) transfer the property to any local or state law enforcement agency to be used for criminal investigation purposes;

(b) sell the property by public sale;

(c) destroy any illegal or controlled substances and sell or destroy raw materials, products, and equipment used or intended for use in manufacturing, compounding, or processing a controlled substance;

(d) compromise and pay claims against the property; and

(e) make any other disposition of the property

authorized by law.

(2) Money and proceeds from property credited to the account may be used by the attorney general for:

(a) the payment of any expenses necessary to seize, detain, appraise, inventory, safeguard, maintain, advertise, or sell seized, detained, or forfeited property, including but not limited to payment for contract services and reimbursement to a federal, state, or local agency for its expenses;

(b) the payment of awards for information or assistance leading to a criminal proceeding or a civil forfeiture proceeding;

(c) the compromise and payment of claims against property;

(d) the payment of sums for criminal investigation purposes, including but not limited to:

(i) payment of informants;

(ii) use by undercover agents to purchase unlawful substances, including, without limitation, counterfeit or real controlled substances, pornographic materials, stolen property, or other contraband;

(iii) use by undercover agents as gambling front money; and

(iv) payment of overtime to state or local law enforcement officers when engaged in special criminal

1 investigations;

2 ~~(e)--the--payment--of--funds--into--the--account--created--by~~  
3 ~~53-9-109; and~~

4 ~~(f)~~(e) matching federal grants for criminal  
5 investigation purposes.

6 (3) The attorney general shall, as provided in  
7 5-11-210, submit to the legislature a detailed written  
8 report of the amounts and property credited to the account  
9 and of the disposition of money and property credited to the  
10 account, but may not make any disclosure that would  
11 compromise any investigation or prosecution."

12 **Section 49.** Section 46-18-248, MCA, is amended to read:

13 ~~"46-18-248. Rights of state -- crime victims+ victims~~  
14 ~~compensation account. (1) Whenever a victim is paid from the~~  
15 ~~crime--victims+--compensation--account--established as provided~~  
16 ~~in 53-9-109 for loss arising out of a criminal act, the~~  
17 ~~account state is subrogated, to the extent of the account's~~  
18 ~~payment to the victim, to the rights of the victim to any~~  
19 ~~restitution ordered by the court.~~

20 (2) The rights of the ~~crime--victims+--compensation~~  
21 ~~account state~~ are subordinate to the claims of multiple  
22 victims who have suffered loss arising out of multiple  
23 offenses by the same offender or arising from any  
24 transaction which is part of the same continuous scheme of  
25 criminal activity of an offender."

1 **Section 50.** Section 46-18-250, MCA, is amended to read:

2 ~~"46-18-250. Victim's location unknown -- payments to~~  
3 ~~restitution fund -- use of restitution fund. (1) If the~~  
4 ~~location of a victim on whose behalf restitution is being~~  
5 ~~paid is unknown, the court may order that restitution~~  
6 ~~payments made on that victim's behalf be deposited in a fund~~  
7 ~~known as the county restitution fund. Subject to the~~  
8 ~~availability of money in the fund, if the whereabouts of a~~  
9 ~~victim whose restitution payments were deposited in the~~  
10 ~~county restitution fund become known, the county shall~~  
11 ~~refund to the victim payments that were deposited in the~~  
12 ~~fund.~~

13 (2) Money in the restitution fund may be used to  
14 provide payments on behalf of offenders who are ordered to  
15 pay restitution but, due to circumstances beyond their  
16 control, are unable to obtain employment or are unable to  
17 obtain employment sufficient to make restitution payments  
18 and sustain themselves and their dependents. The offender  
19 may perform community service, and for each hour of  
20 community service performed, the victim shall receive an  
21 amount equal to the minimum hourly wage from the county  
22 restitution fund. A judge may order an offender to perform  
23 community service work for restitution payments upon a  
24 finding that the offender would not otherwise be able to  
25 make restitution payments and that there are funds available

1 in the county restitution fund for payments to the victim.

2 (3) Moneys in the county restitution fund that are due  
3 to a victim under this part must be paid to the crime  
4 victims--compensation-account,-as-defined-in-53-9-189, state  
5 general fund if payments have been made to or on behalf of  
6 the victim from-the-account by the state. Payment from the  
7 county restitution fund to the crime--victims--compensation  
8 account state general fund may be made only from moneys paid  
9 by the offender who caused the injury or death that resulted  
10 in the payment from the account."

11 **Section 51.** Section 49-2-510, MCA, is amended to read:

12 "49-2-510. Procedures and remedies for enforcement of  
13 housing discrimination laws. (1) A complaint may be filed  
14 with the commission by or on behalf of a person claiming to  
15 be aggrieved by any discriminatory practice prohibited by  
16 49-2-305. The complaint must be in written form and must be  
17 filed with the commission within 1 year after the alleged  
18 unlawful discriminatory practice occurred or was discovered.

19 (2) (a) Except as provided in subsection (2)(b), if the  
20 commission, in a hearing under 49-2-505, finds that a  
21 person, institution, entity, or agency against whom a  
22 complaint was filed under this part has engaged in a  
23 discriminatory practice in violation of 49-2-305, the  
24 commission may, in addition to the remedies and injunctive  
25 and other equitable relief provided by 49-2-506, to

1 vindicate the public interest, assess a civil penalty:

2 (i) in an amount not exceeding \$10,000 if the  
3 respondent has not been found to have committed any prior  
4 discriminatory housing practice in violation of 49-2-305;

5 (ii) in an amount not exceeding \$25,000 if the  
6 respondent has been found to have committed one other  
7 discriminatory housing practice in violation of 49-2-305  
8 during the 5-year period ending on the date of the filing of  
9 the complaint; and

10 (iii) in an amount not exceeding \$50,000 if the  
11 respondent has been found to have committed two or more  
12 discriminatory housing practices in violation of 49-2-305  
13 during the 7-year period ending on the date of the filing of  
14 the complaint.

15 (b) If the acts constituting the discriminatory housing  
16 practice that is the object of the complaint are committed  
17 by the same natural person who has been previously found to  
18 have committed acts constituting a discriminatory housing  
19 practice, the civil penalties provided in subsections  
20 (2)(a)(ii) and (2)(a)(iii) may be imposed without regard to  
21 the period of time within which any prior discriminatory  
22 housing practice occurred.

23 (3) In the case of an order with respect to a  
24 discriminatory housing practice in violation of 49-2-305  
25 that occurred in the course of a business subject to

1 licensing or regulation by a governmental agency, the  
 2 commission shall, no later than 30 days after the date of  
 3 the issuance of the order or, if the order is judicially  
 4 reviewed, no later than 30 days after the order is in  
 5 substance affirmed:

6 (a) send copies of the findings of fact, the  
 7 conclusions of law, and the order to the licensing or  
 8 regulatory agency; and

9 (b) recommend to the licensing or regulatory agency  
 10 appropriate disciplinary action, including, where  
 11 appropriate, the suspension or revocation of the license of  
 12 the respondent.

13 (4) (a) When a complaint is filed under 49-2-305, a  
 14 complainant, respondent, or aggrieved person on whose behalf  
 15 the complaint was filed may elect to have the claims decided  
 16 in a civil action in lieu of a hearing under 49-2-505. The  
 17 election must be made no later than 20 days after receipt by  
 18 the electing person of service of notice of certification  
 19 for hearing under 49-2-505. The person making the election  
 20 shall give notice to the commission and to all other  
 21 complainants and respondents to whom the complaint relates.  
 22 Within 30 days after the election is made, the commission  
 23 shall commence a civil action in an appropriate district  
 24 court on behalf of the aggrieved person if the commission  
 25 staff has made a finding that the allegations of the

1 complaint are supported by substantial evidence. If the  
 2 commission staff has made a finding that the allegations of  
 3 the complaint are not supported by substantial evidence, the  
 4 complainant may commence a civil action in an appropriate  
 5 district court in accordance with subsection (5). An  
 6 aggrieved person with respect to the issues to be determined  
 7 in a civil action brought by the commission staff may  
 8 intervene in the action.

9 (b) The commission may not continue administrative  
 10 proceedings on a complaint after an election is made in  
 11 accordance with subsection (4)(a).

12 (5) (a) An aggrieved person may commence a civil action  
 13 in an appropriate district court within 2 years after an  
 14 alleged unlawful discriminatory practice under 49-2-305  
 15 occurred or was discovered or within 2 years of the breach  
 16 of a conciliation agreement entered into under 49-2-504 in a  
 17 case alleging a violation of 49-2-305. The computation of  
 18 the 2-year period does not include any time during which an  
 19 administrative proceeding under this title was pending with  
 20 respect to a complaint alleging a violation of 49-2-305. The  
 21 tolling of the time limit for commencing a civil action does  
 22 not apply to actions arising from breach of a conciliation  
 23 agreement.

24 (b) An aggrieved person may commence a civil action  
 25 under this subsection for a violation of 49-2-305 whether or

1 not a complaint has been filed under 49-2-501 and without  
 2 regard to the status of a complaint filed with the  
 3 commission except as provided in subsection (5)(d). If the  
 4 commission has obtained a conciliation agreement with the  
 5 consent of the aggrieved person, an action may not be filed  
 6 under this subsection by the aggrieved person regarding the  
 7 alleged violation of 49-2-305 that forms the basis for the  
 8 complaint except for the purpose of enforcing the terms of  
 9 the agreement.

10 (c) The commission may not continue administrative  
 11 proceedings on a complaint after the beginning of a trial of  
 12 a civil action commenced by the aggrieved party under this  
 13 subsection (5) seeking relief with respect to the same  
 14 alleged violation of 49-2-305.

15 (d) An aggrieved person may not commence a civil action  
 16 under this subsection (5) with respect to an alleged  
 17 violation of 49-2-305 if the commission has commenced a  
 18 hearing on the record under 49-2-505 regarding the same  
 19 complaint.

20 (e) Upon application by a person alleging a violation  
 21 of 49-2-305 in a civil action under this subsection (5) or  
 22 by a person against whom the violation is alleged, the court  
 23 may:

- 24 (i) appoint an attorney for the applicant; or
- 25 (ii) authorize the commencement or continuation of a

1 civil action without the payment of fees, costs, or security  
 2 if, in the opinion of the court, the applicant is  
 3 financially unable to bear the costs of the civil action.

4 (f) Upon timely application, the commission may  
 5 intervene in a civil action brought under this subsection  
 6 (5) if the commission certifies that the case is of general  
 7 public importance. Upon intervention, the commission may  
 8 obtain the same relief that would be available to the  
 9 commission under subsection (7).

10 (6) If the court finds that a person, institution,  
 11 entity, or agency against whom a complaint was filed under  
 12 this section has engaged in a discriminatory practice in  
 13 violation of 49-2-305, the court may, in addition to the  
 14 other remedies and injunctive and other equitable relief  
 15 provided under 49-2-506, award punitive damages. The court  
 16 may also award attorney fees to the prevailing party.

17 (7) (a) Whenever the commission has reasonable cause to  
 18 believe that a person or group of persons is engaged in a  
 19 pattern or practice in violation of 49-2-305 or that a group  
 20 of persons has been discriminated against in violation of  
 21 49-2-305 and the denial raises an issue of general public  
 22 importance, the commission may commence a civil action in an  
 23 appropriate district court. The commission may also commence  
 24 a civil action in any appropriate district court for relief  
 25 regarding breach of a conciliation agreement in a case

1 regarding an alleged violation of 49-2-305 if the commission  
2 is a party to the agreement.

3 (b) The commission may file a civil action under this  
4 subsection (7) within 18 months after the alleged breach of  
5 the conciliation agreement or unlawful discriminatory  
6 practice occurred or was discovered.

7 (c) In a civil action under this subsection (7), the  
8 court may, in addition to the remedies provided under  
9 49-2-506, assess a civil penalty against the respondent:

10 (i) in an amount not exceeding \$50,000 for a first  
11 violation; and

12 (ii) in an amount not exceeding \$100,000 for any  
13 subsequent violation.

14 (d) Upon timely application, a person may intervene in  
15 a civil action under this subsection (7) that involves an  
16 alleged violation of 49-2-305 with respect to which the  
17 intervenor is an aggrieved person.

18 (8) Civil penalties under this section must be paid to  
19 the state treasurer to be deposited in an account in the  
20 state special revenue general fund to be used by the  
21 commission for housing discrimination enforcement."

22 **Section 52.** Section 50-1-202, MCA, is amended to read:

23 "50-1-202. General powers and duties. The department  
24 shall:

25 (1) study conditions affecting the citizens of the

1 state by making use of birth, death, and sickness records;

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

5 (3) at the request of the governor, administer any  
6 federal health program for which responsibilities are  
7 delegated to states;

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

12 (5) after each inspection made under subsection (4) of  
13 this section, submit a written report on sanitary conditions  
14 to the governor and to the director of corrections and human  
15 services or commissioner of higher education and include  
16 recommendations for improvement in conditions if necessary;

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

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

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

1 (9) develop, adopt, and administer rules setting  
 2 standards for participation in and operation of programs to  
 3 protect the health of mothers and children, which rules may  
 4 include programs for nutrition, family planning services,  
 5 improved pregnancy outcome, and those authorized by Title X  
 6 of the federal Public Health Service Act and Title V of the  
 7 federal Social Security Act;

8 (10) conduct health education programs;

9 (11) provide consultation to school and local community  
 10 health nurses in the performance of their duties;

11 (12) consult with the superintendent of public  
 12 instruction on health measures for schools;

13 (13) develop, adopt, and administer rules setting  
 14 standards for a program to provide services to handicapped  
 15 children, including standards for:

16 (a) diagnosis;

17 (b) medical, surgical, and corrective treatment;

18 (c) after-care and related services; and

19 (d) eligibility;

20 (14) provide consultation to local boards of health;

21 (15) bring actions in court for the enforcement of the  
 22 health laws and defend actions brought against the board or  
 23 department;

24 (16) accept and expend federal funds available for  
 25 public health services;

1 (17) have the power to use personnel of local  
 2 departments of health to assist in the administration of  
 3 laws relating to public health;

4 (18) after consultation with the board, adopt rules  
 5 imposing fees for the tests and services performed by the  
 6 laboratory of the department. Fees, established on an annual  
 7 basis, should reflect the actual costs of the tests or  
 8 services provided. The department may not establish fees  
 9 exceeding the costs incurred in performing tests and  
 10 services. All fees shall be deposited in the ~~state--special~~  
 11 ~~revenue~~ general fund ~~for--the--use--of--the--department--in~~  
 12 ~~performing-tests-and-services.~~

13 (19) adopt and enforce rules regarding the definition of  
 14 communicable diseases and the reporting and control of  
 15 communicable diseases; and

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

18 **Section 53.** Section 50-2-108, MCA, is amended to read:

19 **"50-2-108. Financing of local boards ----inspection**  
 20 **fund. {1} Local boards are financed by general fund**  
 21 **appropriations, special levy appropriations, state and**  
 22 **federal funds available, and contributions from school**  
 23 **boards and other official and nonofficial agencies.**

24 **{2}--There-is-within-the-state-special--revenue--fund--a**  
 25 **local-board-inspection-fund-account--"**



1 **Section 54.** Section 50-15-111, MCA, is amended to read:

2 **"50-15-111. Certified copy fee.** (1) The department  
3 shall prescribe a fee of not less than \$5 for a certified  
4 copy of certificates or search of files.

5 (2) Fees received for a certified copy of a certificate  
6 or a search of files shall be deposited in the ~~state-special~~  
7 revenue general fund ~~to-be-used-by-the--department--for--the~~  
8 ~~maintenance--of-indexes-to-and-costs-for-the-preservation-of~~  
9 ~~vital-records."~~

10 **Section 55.** Section 50-50-205, MCA, is amended to read:

11 **"50-50-205. License fee -- late fee -- preemption of**  
12 **local authority -- exception.** (1) For each license issued,  
13 the department shall collect a fee of \$60. It shall deposit  
14 85% of the fees collected under this section into the ~~local~~  
15 ~~board-inspection-fund-account-created-in-50-2-108;--7.5%--of~~  
16 ~~the--fees--into--the~~ general fund, ~~and 7.5% of the fees into~~  
17 ~~the-account-provided-for-in-50-50-216.~~

18 (2) In addition to the license fee required under  
19 subsection (1), the department shall collect a late fee from  
20 any licensee who has failed to submit a license renewal fee  
21 prior to the expiration of his current license and who  
22 operates an establishment governed by this part in the next  
23 licensing year. The late fee is \$25 and must be deposited in  
24 the ~~account-provided-for-in-50-50-216~~ general fund.

25 (3) A county or other local government may not impose

1 an inspection fee or charge in addition to the fee provided  
2 for in subsection (1) unless a violation of this chapter or  
3 rule persists and is not corrected after two visits to the  
4 establishment."

5 **Section 56.** Section 50-50-305, MCA, is amended to read:

6 **"50-50-305. Department to pay local board for**  
7 **inspections and enforcement.** (1) Before June 30 of each  
8 year, the department shall pay to a local board of health,  
9 as established under 50-2-104, 50-2-106, or 50-2-107, an  
10 amount ~~from-the-local-board-inspection-fund-account-created~~  
11 ~~in-50-2-108~~ that must be used only for the purpose of  
12 inspecting establishments licensed under this chapter and  
13 enforcing the provisions of this chapter; provided, however,  
14 that:

15 (a) there is a functioning local board of health; and

16 (b) the local board of health, local health officers,  
17 sanitarians-in-training, and registered sanitarians:

18 (i) assist in inspections and enforcement of the  
19 provisions of this chapter and the rules adopted under it;  
20 and

21 (ii) meet minimum program performance standards as  
22 established under rules adopted by the department.

23 (2) The funds received by the local board of health  
24 pursuant to subsection (1) must be deposited with the  
25 appropriate local fiscal authority and must be used to

1 supplement, but not supplant, other funds received by the  
2 local board of health that in the absence of funding  
3 received under subsection (1) would be made available for  
4 the same purpose.

5 (3) Funds ~~in the local board inspection fund account~~  
6 not paid to the local board of health as provided in  
7 subsection (1) may be used by the department, within any  
8 jurisdiction that does not qualify to receive payments from  
9 ~~the local board inspection fund account~~ under subsection  
10 (1), to enforce the provisions of this chapter and the rules  
11 adopted under it."

12 **Section 57.** Section 50-51-204, MCA, is amended to read:

13 **"50-51-204. License fee -- late fee.** (1) There shall be  
14 paid to the department with each application for such  
15 license or for renewal of such license an annual license fee  
16 of \$40. The department shall deposit ~~85% of the fees~~  
17 collected under this section ~~into the local board inspection~~  
18 ~~fund account created in 50-2-100, 11:25% of the fees~~ into  
19 the general fund, ~~and 3.75% of the fees into the account~~  
20 ~~provided for in 50-51-110.~~

21 (2) In addition to the license fee required under  
22 subsection (1), the department shall collect a late fee from  
23 any licensee who has failed to submit a license renewal fee  
24 prior to the expiration of his current license and who  
25 operates an establishment governed by this part in the next

1 licensing year. The late fee is \$25 and must be deposited in  
2 the ~~account provided for in 50-51-110~~ general fund."

3 **Section 58.** Section 50-51-303, MCA, is amended to read:

4 **"50-51-303. Department to pay local board for**  
5 **inspections and enforcement.** (1) Before June 30 of each  
6 year, the department shall pay to a local board of health,  
7 as established under 50-2-104, 50-2-106, or 50-2-107, an  
8 amount ~~from the local board inspection fund account created~~  
9 ~~in 50-2-100~~ that must be used only for the purpose of  
10 inspecting establishments licensed under this chapter and  
11 enforcing the provisions of this chapter; provided, however,  
12 that:

13 (a) there is a functioning local board of health; and

14 (b) the local board of health, local health officers,  
15 sanitarians-in-training, and registered sanitarians:

16 (i) assist in inspections and enforcement of the  
17 provisions of this chapter and the rules adopted under it;  
18 and

19 (ii) meet minimum program performance standards as  
20 established under rules adopted by the department.

21 (2) The funds received by the local board of health  
22 pursuant to subsection (1) must be deposited with the  
23 appropriate local fiscal authority and must be used to  
24 supplement, but not supplant, other funds received by the  
25 local board of health that in the absence of funding

1 received under subsection (1) would be available for the  
2 same purpose.

3 (3) Funds ~~in--the--local-board-inspection-fund-account~~  
4 not paid to the local board of health as provided in  
5 subsection (1) may be used by the department, within any  
6 jurisdiction that does not qualify to receive payments from  
7 ~~the--local--board--inspection--fund--account~~ as provided in  
8 subsection (1), to enforce the provisions of this chapter  
9 and the rules adopted under it."

10 **Section 59.** Section 50-52-202, MCA, is amended to read:

11 **"50-52-202. License fee -- late fee.** (1) Each  
12 application shall be accompanied by a fee of \$40.

13 (2) The department shall deposit ~~85%--of~~ the fees  
14 collected under subsection (1) ~~into--the--local--board~~  
15 ~~inspection--fund--account-created-in-50-2-100;--11--25%--of--the~~  
16 ~~fees~~ into the general fund, ~~and-3-75%--of--the--fees--collected~~  
17 ~~under--subsection--(1)--into--the--account--provided--for--in~~  
18 ~~50-52-210.~~

19 (3) In addition to the license fee required under  
20 subsection (1), the department shall collect a late fee from  
21 any licensee who has failed to submit a license renewal fee  
22 prior to the expiration of his current license and who  
23 operates an establishment governed by this part in the next  
24 licensing year. The late fee is \$25 and must be deposited in  
25 ~~the account-provided-for-in-50-52-210~~ general fund."

1 **Section 60.** Section 50-52-302, MCA, is amended to read:

2 **"50-52-302. Department to pay local board for**  
3 **inspection and enforcement.** (1) Before June 30 of each year,  
4 the department shall pay to a local board of health, as  
5 established under 50-2-104, 50-2-106, or 50-2-107, an amount  
6 ~~from--the--local--board--inspection--fund--account-created-in~~  
7 ~~50-2-100~~ that must be used only for the purpose of  
8 inspecting establishments licensed under this chapter and  
9 enforcing the provisions of this chapter; provided, however,  
10 that:

11 (a) there is a functioning local board of health; and

12 (b) the local board of health, local health officers,  
13 sanitarians-in-training, and registered sanitarians:

14 (i) assist in inspections and enforcement of the  
15 provisions of this chapter and the rules adopted under it;  
16 and

17 (ii) meet minimum program performance standards as  
18 established under rules adopted by the department.

19 (2) The funds received by the local board of health  
20 pursuant to subsection (1) must be deposited with the  
21 appropriate local fiscal authority and must be used to  
22 supplement, but not supplant, other funds received by the  
23 local board of health that in the absence of funding  
24 received under subsection (1) would be made available for  
25 the same purpose.

(3) Funds in the local board inspection fund account not paid to the local board of health as provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to receive payments from the local board inspection fund as provided in subsection (1), to enforce the provisions of this chapter and the rules adopted under it."

**Section 61.** Section 50-53-203, MCA, is amended to read:

"50-53-203. License fee and late fee -- disposition.

(1) (a) Except as provided in subsection (1)(b), each application for an original or renewal license must be accompanied by a license fee of \$75.

(b) The fee for an original or renewal license for a public swimming pool or public bathing place operated in conjunction with a public accommodation is \$50.

(2) An operator of a public swimming pool or public bathing place who fails to renew a license by the expiration date provided in 50-53-204 and who operates the public swimming pool or public bathing place in the license year for which no renewal fee was paid shall, upon renewal, pay to the department a late renewal fee of \$25 in addition to the renewal fee required by subsection (1). Payment of the late renewal fee does not relieve the operator of responsibility for any operation without a license.

(3) The department shall deposit 85% of the fees

collected under subsection (1) in the state special revenue general fund to the credit of the local board inspection fund account created by 50-2-108. Money deposited in the local board inspection fund account is subject to appropriation by the legislature for the purposes of 50-53-218.

(4) The department shall deposit 15% of the fees collected under subsection (1) and all the fees collected under subsection (2) in an account in the state special revenue fund to be appropriated by the legislature to the department for the enforcement of 50-53-101 through 50-53-109 and this part."

**Section 62.** Section 50-53-218, MCA, is amended to read:

"50-53-218. Department to pay board for inspections or enforcement, or both. (1) By June 30 of each year, the department shall pay to a local board of health established under 50-2-104, 50-2-106, or 50-2-107 an amount from the local board inspection fund account, created by 50-2-108, for the purpose of inspecting public swimming pools and public bathing places licensed under 50-53-101 through 50-53-109 and this part or for taking appropriate enforcement action with respect to the public swimming pools and public bathing places, or for both inspection and enforcement. The payment required by this section must be made to a board only if the board and any local health

1 officer and sanitarian for the jurisdiction of the board  
2 meet the program performance standards established by  
3 department rules.

4 (2) Money received by the board pursuant to subsection  
5 (1) may be used only for the purpose of inspections and  
6 enforcement under 50-53-101 through 50-53-109 and this part  
7 and must be used to supplement and not supplant other money  
8 received by the board for the same purpose.

9 (3) The department may use money ~~in the local board~~  
10 ~~inspection fund account~~ appropriated to the department for  
11 the enforcement of 50-53-101 through 50-53-109, this part,  
12 and the rules of the department and for inspections to  
13 determine compliance with those sections and rules in any  
14 local jurisdiction not receiving payment under subsection  
15 (1)."

16 **Section 63.** Section 50-60-508, MCA, is amended to read:

17 "50-60-508. Permit fees. (1) The department of commerce  
18 shall establish permit fees in accordance with the Montana  
19 Administrative Procedure Act and the fees shall be deposited  
20 to in the state--special--revenue general fund ~~of--the~~  
21 ~~department-for-use-in-the-administration-and-enforcement--of~~  
22 ~~this-part-and-the-Montana-state-plumbing-code.~~

23 (2) For the purpose of 50-60-505 through 50-60-513, a  
24 sanitary plumbing outlet on or to which a plumbing fixture  
25 or appliance may be set or attached shall be construed to be

1 a fixture. Fees for reconnection and retest of plumbing  
2 systems in relocated buildings shall be based on the number  
3 of plumbing fixtures, gas systems, water heaters, and the  
4 like involved."

5 **Section 64.** Section 50-71-325, MCA, is amended to read:

6 "50-71-325. Department authorized to prohibit further  
7 use of equipment constituting violation. (1) The department,  
8 upon finding any violation of any duly adopted safety code,  
9 order, or rule involving failure to install or maintain any  
10 safety appliance, device, or safeguard required by such  
11 safety order, code, or rule, may prohibit the further use of  
12 the machine, equipment, or apparatus constituting such  
13 violation and, when such use is prohibited, shall post  
14 notice in an appropriate place in plain view of any person  
15 likely to use the same calling attention to the unsafe  
16 condition, defect, or lack of safeguard and the fact that  
17 the further use thereof is prohibited.

18 (2) The notice required by subsection (1) of this  
19 section shall not be removed until the required safety  
20 appliance, device, or safeguard complies with the  
21 requirement of the safety order or safety code.

22 (3) Every person who, after the notice required by  
23 subsection (1) of this section is posted as provided in that  
24 subsection, uses or operates any place of employment,  
25 machine, device, apparatus, or equipment referred to in

1 subsection (1) of this section before it is made safe and  
 2 the required safeguards or safety appliances or devices are  
 3 provided or who defaces or destroys or removes any notice  
 4 required by subsection (1) of this section without the  
 5 authority of the department or who fails or refuses to file  
 6 a report of accident as required by 39-71-307(1) is guilty  
 7 of a misdemeanor and, in addition to the punishment provided  
 8 for misdemeanors, is subject to a civil penalty in an amount  
 9 of not more than \$1,000. This civil penalty may be imposed  
 10 and collected by the department in an action brought in the  
 11 name of the state in the county in which the employer  
 12 resides or in which he employs workers. Any penalty  
 13 collected under this subsection shall be paid into the  
 14 ~~department's state special revenue account~~ general fund.

15 (4) Any person aggrieved by an order prohibiting the  
 16 use of the machine, equipment, apparatus, or place of  
 17 employment as provided for in this section may request a  
 18 hearing before the department within 20 days after entry of  
 19 such order. The department shall then affirm, modify, or  
 20 revoke the order, and all procedures of this chapter  
 21 relative to entry of orders, rehearing, and appeal shall  
 22 apply."

23 **Section 65.** Section 53-2-813, MCA, is amended to read:

24 **"53-2-813. Mill levy for counties transferring public**  
 25 **assistance and protective services.** (1) For the purpose of

1 this part, 12 mills must be levied annually in those  
 2 counties opting for state assumption.

3 (2) For a county electing state assumption before July  
 4 1, 1986, the proceeds of the mill levy established in  
 5 subsection (1) must be deposited in the ~~state special~~  
 6 ~~revenue~~ general fund in the state treasury ~~for--the--purpose~~  
 7 ~~of--paying--the--expenses--of--the--department--of--social--and~~  
 8 ~~rehabilitation--services.~~ The mill levy may not exceed 12  
 9 mills, notwithstanding actual expenditures made by the  
 10 department.

11 (3) For a county electing state assumption on or after  
 12 July 1, 1986, the proceeds of the mill levy established in  
 13 subsection (1) must be deposited in the ~~state special~~  
 14 ~~revenue~~ general fund in the state treasury ~~to--the--credit--of~~  
 15 ~~the--department--of--social--and--rehabilitation--services.~~ The  
 16 general fund authority of the department of social and  
 17 rehabilitation services shall be reduced and the general  
 18 fund authority of the department of family services shall be  
 19 increased by an amount equal to the county's expenditures  
 20 for child and adult protective services in the fiscal year  
 21 immediately preceding state assumption. The mill levy may  
 22 not exceed 12 mills, notwithstanding actual expenditures  
 23 made by the department of social and rehabilitation services  
 24 and the department of family services.

25 (4) For a county retaining or reassuming operational

1 responsibility for medical assistance or monetary payments  
 2 to needy persons as provided in 53-2-812, the levy provided  
 3 in subsection (1) must be reduced by the mill levy  
 4 equivalent expended by that county or the department for  
 5 such purposes in the fiscal year immediately preceding the  
 6 option to retain or reassume such responsibility."

7 **Section 66.** Section 53-9-104, MCA, is amended to read:

8 **"53-9-104. Powers and duties of division.** (1) The  
 9 division shall:

- 10 (a) adopt rules to implement this part;
- 11 (b) prescribe forms for applications for compensation;
- 12 (c) determine all matters relating to claims for  
 13 compensation; and
- 14 (d) require any person contracting directly or  
 15 indirectly with an individual formally charged with or  
 16 convicted of a qualifying crime for any rendition,  
 17 interview, statement, book, photograph, movie, television  
 18 production, play, or article relating to such crime to  
 19 deposit any proceeds paid or owed to the individual under  
 20 the terms of the contract into an escrow fund for the  
 21 benefit of any victims of the qualifying crime and any  
 22 dependents of a deceased victim, if the individual is  
 23 convicted of the crime, to be held for such period of time  
 24 as the division may determine is reasonably necessary to  
 25 perfect the claims of the victims or dependents. Deposited

1 proceeds may also be used to pay the costs and attorney fees  
 2 of court-appointed counsel for the charged person. Each  
 3 victim and dependent of a deceased victim is entitled to his  
 4 actual and unreimbursed damages of all kinds or \$5,000,  
 5 whichever is greater. Proceeds remaining after payments to  
 6 victims, dependents of deceased victims, and the county as  
 7 reimbursement for any public defender or any attorney  
 8 appointed for the charged person must be deposited in the  
 9 account-established-in-53-9-109 general fund.

10 (2) The division may:

11 (a) request and obtain from prosecuting attorneys and  
 12 law enforcement officers investigations and data to enable  
 13 the division to determine whether and the extent to which a  
 14 claimant qualifies for compensation. A statute providing  
 15 confidentiality for a claimant's juvenile court records does  
 16 not apply to proceedings under this part.

17 (b) request and obtain from a health care provider  
 18 medical reports that are relevant to the physical condition  
 19 of a claimant or from an insurance carrier, agent, or claims  
 20 adjuster insurance payment information that is relevant to  
 21 expenses claimed by a claimant, provided that the division  
 22 has made reasonable efforts to obtain from the claimant a  
 23 release of the records or information. No civil or criminal  
 24 liability arises from the release of information requested  
 25 under this subsection (b).

1 (c) subpoena witnesses and other prospective evidence,  
2 administer oaths or affirmations, conduct hearings, and  
3 receive relevant, nonprivileged evidence;

4 (d) take notice of judicially cognizable facts and  
5 general, technical, and scientific facts within its  
6 specialized knowledge;

7 (e) require that law enforcement agencies and officials  
8 take reasonable care that victims be informed about the  
9 existence of this part and the procedure for applying for  
10 compensation under this part; and

11 (f) establish a victims' assistance coordinating and  
12 planning program."

13 **Section 67.** Section 53-9-109, MCA, is amended to read:

14 "53-9-109. ~~Crime victims compensation account. There is~~  
15 ~~a crime victims compensation and assistance account in the~~  
16 ~~state special revenue fund.~~ There shall be paid into this  
17 ~~account~~ the general fund 18% of the fines assessed and bails  
18 forfeited, except those paid to a justice's court, on all  
19 offenses involving a violation of chapter 3, part 1 of  
20 chapter 4, or chapters 5 through 10 of Title 61 that are a  
21 result of citations or tickets issued by the highway patrol.  
22 The money ~~in the account~~ is to be used ~~solely~~ for the  
23 purposes of this part and for victims' assistance program  
24 coordination and planning provided by the division. ~~No fund~~  
25 ~~balance in the account at the end of a fiscal year may be~~

1 ~~deposited in the general fund."~~

2 **Section 68.** Section 53-24-108, MCA, is amended to read:

3 "53-24-108. Utilization of funds generated by taxation  
4 on alcoholic beverages. (1) Revenue generated by 16-1-404,  
5 16-1-406, 16-1-408, and 16-1-411 to state-approved private  
6 nonprofit or public programs whose function is the  
7 treatment, rehabilitation, and prevention of alcoholism may  
8 be distributed in either of the following manners:

9 (a) as payment of fees for alcoholism services provided  
10 by state-approved private nonprofit or public alcoholism  
11 programs and licensed hospitals for detoxification services;  
12 or

13 (b) as grants to state-approved private nonprofit or  
14 public alcoholism programs.

15 (2) State-approved private chemical programs organized  
16 for profit are not eligible for revenue generated by  
17 16-1-404, 16-1-406, 16-1-408, and 16-1-411.

18 (3) No person operating a state-approved alcoholism  
19 program may be required to provide matching funds as a  
20 condition of receiving a grant under subsection (1) of this  
21 section.

22 (4) In addition to funding received under this section,  
23 a person operating a state-approved alcoholism program may  
24 accept gifts, bequests, or the donation of services or money  
25 for the treatment, rehabilitation, or prevention of



1 alcoholism.

2 (5) No person receiving funding under this section to  
3 support operation of a state-approved alcoholism program may  
4 refuse alcoholism treatment, rehabilitation, or prevention  
5 services to a person solely because of that person's  
6 inability to pay for those services.

7 (6) A grant made under this section is subject to the  
8 following conditions:

9 (a) The grant application must contain an estimate of  
10 all program income, including income from earned fees,  
11 gifts, bequests, donations, and grants from other than state  
12 sources during the period for which grant support is sought.

13 (b) Whenever, during the period of grant support,  
14 program income exceeds the amount estimated in the grant  
15 application, the amount of the excess shall be reported to  
16 the grantor.

17 (c) The excess shall be used by the grantee under the  
18 terms of the grant in accordance with one or a combination  
19 of the following options:

20 (i) use for any purpose that furthers the objectives of  
21 the legislation under which the grant was made; or

22 (ii) to allow program growth through the expansion of  
23 services or for capital expenditures necessary to improve  
24 facilities where services are provided.

25 (7) Revenue generated by 16-1-404, 16-1-406, 16-1-408,

1 and 16-1-411 for the treatment, rehabilitation, and  
2 prevention of alcoholism which has not been encumbered for  
3 those purposes by the counties of Montana or the department  
4 shall be returned to the ~~state-special-revenue~~ general fund  
5 ~~for--the--treatment,--rehabilitation,--and--prevention--of~~  
6 ~~alcoholism~~ within 30 days after the close of each fiscal  
7 year ~~and-will-be-distributed-by-the-department-the-following~~  
8 ~~year-as-provided-in-53-24-206(3)(b)."~~

9 **Section 69.** Section 60-11-123, MCA, is amended to read:

10 "60-11-123. Disposition of revenue from state-owned  
11 railroads ---use-of-money. (1) Unless otherwise required by  
12 law, revenue from the lease or sale of assets of or revenue  
13 paid to the state of Montana by an operator of a railroad  
14 owned by the state of Montana must be deposited in the  
15 ~~special-railroad-facilities--account--created--in--60-11-122~~  
16 general fund.

17 (2) The department of transportation is authorized to  
18 ~~administer,--as-provided-in-60-11-121-through-60-11-123,--the~~  
19 ~~special--railroad-facilities-account-created-in-60-11-122-to~~  
20 ~~provide-for-improvement~~ improvements of railroad tracks and  
21 associated facilities of any state-owned railroad in  
22 Montana."

23 **Section 70.** Section 61-4-517, MCA, is amended to read:

24 "61-4-517. Implementation of arbitration. (1) A  
25 consumer may initiate a request for arbitration by filing a

1 notice with the department of commerce. The consumer shall  
 2 file, on a form prescribed by the department of commerce,  
 3 any information considered relevant to the resolution of the  
 4 dispute and shall return the form, along with a \$50 filing  
 5 fee, within 5 days after receiving it. The complaint form  
 6 must offer the consumer the choice of presenting any  
 7 subsequent testimony orally or in writing, but not both.

8 (2) The department of commerce shall determine whether  
 9 the complaint alleges the violation of any applicable  
 10 warranty under this part. If the department of commerce  
 11 determines that a complaint does not allege a warranty  
 12 violation, it must refund the filing fee.

13 (3) Upon acceptance of a complaint, the department of  
 14 commerce shall notify the manufacturer of the filing of a  
 15 request for arbitration and shall obtain from the  
 16 manufacturer, on a form prescribed by the department of  
 17 commerce, any information considered relevant to the  
 18 resolution of the dispute. The manufacturer must return the  
 19 form within 15 days of receipt, with a filing fee of \$250.

20 (4) Fees collected under this section shall be  
 21 deposited in ~~a special-revenue~~ the general fund ~~for-the-use~~  
 22 ~~of-the-department-of-commerce-in-administering-this-part.~~

23 (5) The manufacturer's fee provided in subsection (3)  
 24 is due only if the department of commerce arbitration  
 25 procedures are utilized."

1 **Section 71.** Section 61-5-121, MCA, is amended to read:

2 **"61-5-121. (Temporary) Disposition of fees.** (1) The  
 3 disposition of the fees from driver's licenses provided for  
 4 in 61-5-111(7)(a), motorcycle endorsements provided for in  
 5 61-5-111(7)(b), commercial vehicle operator's endorsements  
 6 provided for in 61-5-111(7)(c), and duplicate driver's  
 7 licenses provided for in 61-5-114 is as follows:

8 (a) The amount of 25% of each driver's license fee and  
 9 of each duplicate driver's license fee must be deposited  
 10 into an account in the state special revenue fund. The  
 11 department shall transfer the funds from this account to the  
 12 Montana highway patrol officers' retirement pension trust  
 13 fund as provided in 19-6-404. Funds transferred from the  
 14 account are statutorily appropriated, as provided in  
 15 17-7-502, to the pension trust fund.

16 (b) (i) If the fees are collected by a county treasurer  
 17 or other agent of the department, the amount of 3.75% of  
 18 each driver's license fee and of each duplicate driver's  
 19 license fee must be deposited into the county general fund.

20 (ii) ~~Except-as-provided-in-subsection--(3),--if~~ If the  
 21 fees are collected by the department, the amount provided  
 22 for in subsection (1)(b)(i) must be deposited into the state  
 23 ~~special-revenue~~ general fund ~~for-use-by--the--department--to~~  
 24 ~~defray-the-costs-of-issuing-licenses-or-duplicate-licenses.~~

25 (c) (i) If the fee is collected by a county treasurer

1 or other agent of the department, the amount of 5% of each  
2 motorcycle endorsement must be deposited into the county  
3 general fund.

4 ~~(ii) Except as provided in subsection (3), if~~ If the fee  
5 is collected by the department, the amount provided for in  
6 subsection (1)(c)(i) must be deposited into the state  
7 ~~special--revenue~~ general fund ~~for use by the department to~~  
8 ~~defray the costs of issuing motorcycle endorsements.~~

9 (d) The amount of 17.5% of each driver's license fee  
10 and of each duplicate driver's license fee must be deposited  
11 into the state traffic education account.

12 (e) The amount of 53.75% of each driver's license fee  
13 and of each duplicate driver's license fee must be deposited  
14 into the state general fund.

15 (f) If the fee is collected by the county treasurer or  
16 other agent of the department, the amount of 3.75% of each  
17 commercial vehicle operator's endorsement fee must be  
18 deposited into the county general fund, otherwise all of the  
19 fee must be deposited in the state general fund.

20 (g) The amount of 95% of each motorcycle endorsement  
21 fee must be deposited into the state traffic education  
22 account in the state special revenue fund.

23 (2) (a) If fees from driver's licenses, commercial  
24 vehicle operator's endorsements, motorcycle endorsements,  
25 and duplicate driver's licenses are collected by a county

1 treasurer or other agent of the department, he shall deposit  
2 the amounts provided for in subsections (1)(b)(i) and  
3 (1)(c)(i) into the county general fund. He shall then remit  
4 to the state treasurer all remaining fees, together with a  
5 statement indicating what portion of each fee is to be  
6 deposited into the account in the state special revenue fund  
7 as provided in subsection (1)(a), the state traffic  
8 education account, and the state general fund. The state  
9 treasurer, upon receipt of the fees and statement, shall  
10 deposit the fees as provided in subsections (1)(a) and  
11 (1)(d) through (1)(g).

12 (b) If fees from driver's licenses, commercial vehicle  
13 operator's endorsements, motorcycle endorsements, and  
14 duplicate driver's licenses are collected by the department,  
15 it shall remit all fees to the state treasurer, together  
16 with a statement indicating what portion of each fee is to  
17 be deposited into the account in the state special revenue  
18 fund as provided in subsection (1)(a), the state special  
19 revenue fund, the state traffic education account, and the  
20 state general fund. The state treasurer, upon receipt of the  
21 fees and statement, shall deposit the fees as provided in  
22 subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d)  
23 through (1)(g).

24 ~~(3) On or before June 30, 1993, the balance in the~~  
25 ~~driver's license collections account in the state special~~

1 ~~revenue--fund--collected--pursuant-to-subsections-(i)(b)(ii)~~  
 2 ~~and-(i)(c)(ii)-must-be--transferred--to--the--general--fund:~~  
 3 (Terminates July 1, 1993--sec. 7(1), Ch. 5, Sp. L. January  
 4 1992.)

5 61-5-121. (Effective July 1, 1993) Disposition of fees.

6 (1) The disposition of the fees from driver's licenses  
 7 provided for in 61-5-111(7)(a), motorcycle endorsements  
 8 provided for in 61-5-111(7)(b), commercial vehicle  
 9 operator's endorsements provided for in 61-5-111(7)(c), and  
 10 duplicate driver's licenses provided for in 61-5-114 is as  
 11 follows:

12 (a) The amount of 25% of each driver's license fee and  
 13 of each duplicate driver's license fee must be deposited  
 14 into an account in the state special revenue fund. The  
 15 department shall transfer the funds from this account to the  
 16 Montana highway patrol officers' retirement pension trust  
 17 fund as provided in 19-6-404. Funds transferred from the  
 18 account are statutorily appropriated, as provided in  
 19 17-7-502, to the pension trust fund.

20 (b) (i) If the fees are collected by a county treasurer  
 21 or other agent of the department, the amount of 3.75% of  
 22 each driver's license fee and of each duplicate driver's  
 23 license fee must be deposited into the county general fund.

24 (ii) If the fees are collected by the department, the  
 25 amount provided for in subsection (1)(b)(i) must be

1 deposited into the general fund.

2 (c) (i) If the fee is collected by a county treasurer  
 3 or other agent of the department, the amount of 5% of each  
 4 motorcycle endorsement must be deposited into the county  
 5 general fund.

6 (ii) If the fee is collected by the department, the  
 7 amount provided for in subsection (1)(c)(i) must be  
 8 deposited into the general fund.

9 (d) The amount of 17.5% of each driver's license fee  
 10 and of each duplicate driver's license fee must be deposited  
 11 into the state traffic education account.

12 (e) In addition to the amounts deposited pursuant to  
 13 subsections (1)(b)(ii) and (1)(c)(ii), the amount of 53.75%  
 14 of each driver's license fee and of each duplicate driver's  
 15 license fee must be deposited into the state general fund.

16 (f) If the fee is collected by the county treasurer or  
 17 other agent of the department, the amount of 3.75% of each  
 18 commercial vehicle operator's endorsement fee must be  
 19 deposited into the county general fund, otherwise all of the  
 20 fee must be deposited in the state general fund.

21 (g) The amount of 95% of each motorcycle endorsement  
 22 fee must be deposited into the state traffic education  
 23 account in the state special revenue fund.

24 (2) (a) If fees from driver's licenses, commercial  
 25 vehicle operator's endorsements, motorcycle endorsements,

1 and duplicate driver's licenses are collected by a county  
 2 treasurer or other agent of the department, he shall deposit  
 3 the amounts provided for in subsections (1)(b)(i) and  
 4 (1)(c)(i) into the county general fund. He shall then remit  
 5 to the state treasurer all remaining fees, together with a  
 6 statement indicating what portion of each fee is to be  
 7 deposited into the account in the state special revenue fund  
 8 as provided in subsection (1)(a), the state traffic  
 9 education account, and the state general fund. The state  
 10 treasurer, upon receipt of the fees and statement, shall  
 11 deposit the fees as provided in subsections (1)(a) and  
 12 (1)(d) through (1)(g).

13 (b) If fees from driver's licenses, commercial vehicle  
 14 operator's endorsements, motorcycle endorsements, and  
 15 duplicate driver's licenses are collected by the department,  
 16 it shall remit all fees to the state treasurer, together  
 17 with a statement indicating what portion of each fee is to  
 18 be deposited into the account in the state special revenue  
 19 fund as provided in subsection (1)(a), the state special  
 20 revenue fund, the state traffic education account, and the  
 21 state general fund. The state treasurer, upon receipt of the  
 22 fees and statement, shall deposit the fees as provided in  
 23 subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d)  
 24 through (1)(g)."

25 **Section 72.** Section 75-2-211, MCA, is amended to read:

1 **"75-2-211. (Temporary) Permits for construction,**  
 2 **installation, alteration, or use.** (1) The department shall  
 3 provide for the issuance, suspension, revocation, and  
 4 renewal of a permit issued under this part.

5 (2) Not later than 180 days before construction,  
 6 installation, or alteration begins or as a condition of use  
 7 of any machine, equipment, device, or facility which the  
 8 board finds may directly or indirectly cause or contribute  
 9 to air pollution or which is intended primarily to prevent  
 10 or control the emission of air pollutants, the owner or  
 11 operator shall file with the department the appropriate  
 12 permit application on forms available from the department.

13 (3) Concurrent with the submittal of a permit  
 14 application required by subsection (2) and annually for the  
 15 duration of the permit, the applicant shall submit to the  
 16 department a fee sufficient to cover the reasonable costs,  
 17 both direct and indirect, of developing and administering  
 18 the permitting requirements in this chapter, including the  
 19 reasonable costs of:

20 (a) reviewing and acting upon the application;

21 (b) implementing and enforcing the terms and conditions  
 22 of the permit if the permit is issued. However, this amount  
 23 does not include any court costs or other costs associated  
 24 with any enforcement action. If the permit is not issued,  
 25 the department shall return this portion of the fee to the

1 applicant.

2 (c) emissions and ambient monitoring;

3 (d) preparing generally applicable regulations or  
4 guidance;

5 (e) modeling, analysis, and demonstrations; and

6 (f) preparing inventories and tracking emissions.

7 (4) In addition to the fee required under subsection  
8 (3), the board may order the assessment of additional fees  
9 required to fund specific activities of the department that  
10 are directed at a particular geographic area if the  
11 legislature authorizes the activities and appropriates the  
12 funds for the activities, including emissions or ambient  
13 monitoring, modeling analysis or demonstrations, or  
14 emissions inventories or tracking. Additional assessments  
15 may be levied only on those sources that are within or are  
16 believed by the department to be impacting the geographic  
17 area. Before the board may require the assessments, it shall  
18 first determine, after opportunity for hearing, that the  
19 activities to be funded are necessary for the administration  
20 or implementation of this chapter, that the assessments  
21 apportion the required funding in an equitable manner, and  
22 that the department has obtained legislative authorization  
23 for the expenditure and the necessary appropriation.

24 (5) As a condition of the continuing validity of  
25 permits issued by the department under this part prior to

1 October 1, 1991, the department may require the permit holder  
2 to pay an annual fee sufficient to cover the costs  
3 identified in subsection (3).

4 (6) For any existing source of air contaminants that is  
5 subject to Title V of the federal Clean Air Act, 42 U.S.C.  
6 7401, et seq., as amended, and that is not required to hold  
7 an air quality permit from the department as of October 1,  
8 1991, the board may, as a condition of continued operation,  
9 require by rule that the owner or operator of the source pay  
10 the annual fee provided for in subsection (3). Nothing in  
11 this subsection may be construed as allowing the department  
12 to charge any source of air contaminants more than one  
13 annual fee that is designed to cover the costs identified in  
14 subsection (3).

15 (7) The fees collected by the department pursuant to  
16 this section must be deposited in the ~~state-special--revenue~~  
17 general fund to be appropriated by the legislature to the  
18 department for the development and administration of the  
19 permitting requirements in this chapter.

20 (8) (a) The department shall give written notice of the  
21 amount of the fee to be assessed and the basis for the  
22 department's fee assessment under this section to the owner  
23 or operator of the air contaminant source. The owner or  
24 operator may appeal the department's fee assessment to the  
25 board within 20 days after receipt of the written notice.

1 (b) An appeal must be based upon the allegation that  
 2 the fee assessment is erroneous or excessive. An appeal may  
 3 not be based only on the amount of the fee schedule adopted  
 4 by the board.

5 (c) If any part of the fee assessment is not appealed,  
 6 it must be paid to the department upon receipt of the notice  
 7 in subsection (8)(a).

8 (d) The contested case provisions of the Montana  
 9 Administrative Procedure Act provided for in Title 2,  
 10 chapter 4, apply to any hearing before the board under this  
 11 subsection (8).

12 (9) Nothing in this section shall restrict the board's  
 13 authority to adopt regulations providing for a single air  
 14 quality permit system.

15 (10) The department may, for good cause shown, waive or  
 16 shorten the time required for filing the appropriate  
 17 applications.

18 (11) The department shall require that applications for  
 19 permits be accompanied by any plans, specifications, and  
 20 other information it considers necessary.

21 (12) An application is not considered filed until the  
 22 applicant has submitted all fees and information and  
 23 completed all application forms required by subsections (2)  
 24 through (6) and (11). However, if the department fails to  
 25 notify the applicant in writing within 30 days after the

1 purported filing of an application that the application is  
 2 incomplete and fails to list the reasons why the application  
 3 is considered incomplete, the application is considered  
 4 filed as of the date of the purported filing.

5 (13) (a) Where an application for a permit requires the  
 6 compilation of an environmental impact statement under the  
 7 Montana Environmental Policy Act, the department shall  
 8 notify the applicant in writing of the approval or denial of  
 9 the application within:

10 (i) 180 days of the receipt of a filed application, as  
 11 defined in subsection (12), if the department prepares the  
 12 environmental impact statement; or

13 (ii) within 30 days after issuance of the final  
 14 environmental impact statement by the lead agency if a state  
 15 agency other than the department has been designated by the  
 16 governor as lead agency for preparation of the environmental  
 17 impact statement.

18 (b) However, where an application does not require the  
 19 compilation of an environmental impact statement, the  
 20 department shall notify the applicant in writing within 60  
 21 days of the receipt of a filed application, as defined in  
 22 subsection (12), of the approval or denial of the  
 23 application. Notification of approval or denial may be  
 24 served personally or by registered or certified mail on the  
 25 applicant or his agent.

1 (14) When the department approves or denies the  
 2 application for a permit under this section, a person who is  
 3 jointly or severally adversely affected by the department's  
 4 decision may request, within 15 days after the department  
 5 renders its decision, upon affidavit setting forth the  
 6 grounds therefor, a hearing before the board. A hearing  
 7 shall be held under the provisions of the Montana  
 8 Administrative Procedure Act.

9 (15) The department's decision on the application is not  
 10 final unless 15 days have elapsed and there is no request  
 11 for a hearing under this section. The filing of a request  
 12 for a hearing postpones the effective date of the  
 13 department's decision until the conclusion of the hearing  
 14 and issuance of a final decision by the board.

15 75-2-211. (Effective November 1, 1992) Permits for  
 16 construction, installation, alteration, or use. (1) The  
 17 department shall provide for the issuance, suspension,  
 18 revocation, and renewal of a permit issued under this part.

19 (2) For all sources of air contaminants that are  
 20 subject to the provisions of Title V of the federal Clean  
 21 Air Act, 42 U.S.C. 7401, et seq., as amended, the provisions  
 22 of this section apply in addition to the other applicable  
 23 provisions of this chapter.

24 (a) The board shall by rule require that permits issued  
 25 to sources described in subsection (2) be of limited

1 duration, but it may not limit the duration of the permits  
 2 beyond that required by the federal Clean Air Act, 42 U.S.C.  
 3 7401, et seq., as amended.

4 (b) The board shall by rule provide for the renewal of  
 5 permits issued to the sources.

6 (c) The board shall by rule establish a transition  
 7 schedule for air quality permits held by sources of air  
 8 contaminants subject to the provisions of subsection (2).  
 9 The transition schedule must specify dates for the  
 10 expiration of the permits, absent an application for renewal  
 11 by the source. The transition schedule may not specify  
 12 expiration dates that are earlier in time than those  
 13 required by Title V of the federal Clean Air Act, 42 U.S.C.  
 14 7401, et seq., as amended. The transition schedule  
 15 established by the board also applies to existing sources of  
 16 air contaminants that are subject to the provisions of Title  
 17 V of the federal Clean Air Act, 42 U.S.C. 7401, et seq., as  
 18 amended, and that do not hold an air quality permit from the  
 19 department as of November 2, 1992.

20 (3) Not later than 180 days before construction,  
 21 installation, or alteration begins or as a condition of use  
 22 of any machine, equipment, device, or facility which the  
 23 board finds may directly or indirectly cause or contribute  
 24 to air pollution or which is intended primarily to prevent  
 25 or control the emission of air pollutants, the owner or



1 operator shall file with the department the appropriate  
2 permit application on forms available from the department.

3 (4) Concurrent with the submittal of a permit  
4 application required by subsection (3) and annually for the  
5 duration of the permit, the applicant shall submit to the  
6 department a fee sufficient to cover the reasonable costs,  
7 both direct and indirect, of developing and administering  
8 the permitting requirements in this chapter, including the  
9 reasonable costs of:

10 (a) reviewing and acting upon the application;

11 (b) implementing and enforcing the terms and conditions  
12 of the permit if the permit is issued. However, this amount  
13 does not include any court costs or other costs associated  
14 with any enforcement action. If the permit is not issued,  
15 the department shall return this portion of the fee to the  
16 applicant.

17 (c) emissions and ambient monitoring;

18 (d) preparing generally applicable regulations or  
19 guidance;

20 (e) modeling, analysis, and demonstrations; and

21 (f) preparing inventories and tracking emissions.

22 (5) In addition to the fee required under subsection  
23 (4), the board may order the assessment of additional fees  
24 required to fund specific activities of the department that  
25 are directed at a particular geographic area if the

1 legislature authorizes the activities and appropriates the  
2 funds for the activities, including emissions or ambient  
3 monitoring, modeling analysis or demonstrations, or  
4 emissions inventories or tracking. Additional assessments  
5 may be levied only on those sources that are within or are  
6 believed by the department to be impacting the geographic  
7 area. Before the board may require the assessments, it shall  
8 first determine, after opportunity for hearing, that the  
9 activities to be funded are necessary for the administration  
10 or implementation of this chapter, that the assessments  
11 apportion the required funding in an equitable manner, and  
12 that the department has obtained legislative authorization  
13 for the expenditure and the necessary appropriation.

14 (6) As a condition of the continuing validity of  
15 permits issued by the department under this part prior to  
16 October 1, 1991, the department may require the permit holder  
17 to pay an annual fee sufficient to cover the costs  
18 identified in subsection (4).

19 (7) For any existing source of air contaminants that is  
20 subject to Title V of the federal Clean Air Act, 42 U.S.C.  
21 7401, et seq., as amended, and that is not required to hold  
22 an air quality permit from the department as of October 1,  
23 1991, the board may, as a condition of continued operation,  
24 require by rule that the owner or operator of the source pay  
25 the annual fee provided for in subsection (4). Nothing in

1 this subsection may be construed as allowing the department  
2 to charge any source of air contaminants more than one  
3 annual fee that is designed to cover the costs identified in  
4 subsection (4).

5 (8) The fees collected by the department pursuant to  
6 this section must be deposited in the ~~state-special--revenue~~  
7 general fund to be appropriated by the legislature to the  
8 department for the development and administration of the  
9 permitting requirements in this chapter.

10 (9) (a) The department shall give written notice of the  
11 amount of the fee to be assessed and the basis for the  
12 department's fee assessment under this section to the owner  
13 or operator of the air contaminant source. The owner or  
14 operator may appeal the department's fee assessment to the  
15 board within 20 days after receipt of the written notice.

16 (b) An appeal must be based upon the allegation that  
17 the fee assessment is erroneous or excessive. An appeal may  
18 not be based only on the amount of the fee schedule adopted  
19 by the board.

20 (c) If any part of the fee assessment is not appealed,  
21 it must be paid to the department upon receipt of the notice  
22 in subsection (9)(a).

23 (d) The contested case provisions of the Montana  
24 Administrative Procedure Act provided for in Title 2,  
25 chapter 4, apply to any hearing before the board under this

1 subsection (9).

2 (10) Nothing in this section shall restrict the board's  
3 authority to adopt regulations providing for a single air  
4 quality permit system.

5 (11) The department may, for good cause shown, waive or  
6 shorten the time required for filing the appropriate  
7 applications.

8 (12) The department shall require that applications for  
9 permits be accompanied by any plans, specifications, and  
10 other information it considers necessary.

11 (13) An application is not considered filed until the  
12 applicant has submitted all fees and information and  
13 completed all application forms required by subsections (3)  
14 through (7) and (12). However, if the department fails to  
15 notify the applicant in writing within 30 days after the  
16 purported filing of an application that the application is  
17 incomplete and fails to list the reasons why the application  
18 is considered incomplete, the application is considered  
19 filed as of the date of the purported filing.

20 (14) (a) Where an application for a permit requires the  
21 compilation of an environmental impact statement under the  
22 Montana Environmental Policy Act, the department shall  
23 notify the applicant in writing of the approval or denial of  
24 the application within:

25 (i) 180 days of the receipt of a filed application, as

1 defined in subsection (13), if the department prepares the  
2 environmental impact statement; or

3 (ii) within 30 days after issuance of the final  
4 environmental impact statement by the lead agency if a state  
5 agency other than the department has been designated by the  
6 governor as lead agency for preparation of the environmental  
7 impact statement.

8 (b) However, where an application does not require the  
9 compilation of an environmental impact statement, the  
10 department shall notify the applicant in writing within 60  
11 days of the receipt of a filed application, as defined in  
12 subsection (13), of the approval or denial of the  
13 application. Notification of approval or denial may be  
14 served personally or by registered or certified mail on the  
15 applicant or his agent.

16 (15) When the department approves or denies the  
17 application for a permit under this section, a person who is  
18 jointly or severally adversely affected by the department's  
19 decision may request, within 15 days after the department  
20 renders its decision, upon affidavit setting forth the  
21 grounds therefor, a hearing before the board. A hearing  
22 shall be held under the provisions of the Montana  
23 Administrative Procedure Act.

24 (16) The department's decision on the application is not  
25 final unless 15 days have elapsed and there is no request

1 for a hearing under this section. The filing of a request  
2 for a hearing postpones the effective date of the  
3 department's decision until the conclusion of the hearing  
4 and issuance of a final decision by the board."

5 **Section 73.** Section 75-2-508, MCA, is amended to read:

6 "75-2-508. Asbestos control account funds. (1) ~~There is~~  
7 ~~an asbestos control account in the state special revenue~~  
8 ~~fund.~~ There must be deposited in the account general fund  
9 all money received from:

10 (a) fees collected under this part; and

11 (b) civil penalties collected pursuant to 75-2-514.

12 (2) Funds ~~in the account are~~ collected pursuant to  
13 subsection (1) may be allocated to the department for the  
14 purpose of funding the costs of implementing and operating  
15 the asbestos control program established under this part."

16 **Section 74.** Section 75-2-212, MCA, is amended to read:

17 "75-2-212. Variances -- renewals -- filing fees. (1) A  
18 person who owns or is in control of a plant, building,  
19 structure, process, or equipment may apply to the board for  
20 an exemption or partial exemption from rules governing the  
21 quality, nature, duration, or extent of emissions of air  
22 pollutants. The application shall be accompanied by such  
23 information and data as the board may require. The board may  
24 grant an exemption or partial exemption if it finds that:

25 (a) the emissions occurring or proposed to occur do not

1 constitute a danger to public health or safety; and

2 (b) compliance with the rules from which exemption is  
3 sought would produce hardship without equal or greater  
4 benefits to the public.

5 (2) No exemption or partial exemption may be granted  
6 pursuant to this section except after public hearing on due  
7 notice and until the board has considered the relative  
8 interests of the applicant, other owners or property likely  
9 to be affected by the emissions, and the general public.

10 (3) The exemption or partial exemption may be renewed  
11 if no complaint is made to the board because of it or if,  
12 after the complaint has been made and duly considered at a  
13 public hearing held by the board on due notice, the board  
14 finds that renewal is justified. No renewal may be granted  
15 except on application therefor. An application shall be made  
16 at least 60 days before the expiration of the exemption or  
17 partial exemption. Immediately before application for  
18 renewal the applicant shall give public notice of his  
19 application in accordance with rules of the board. A renewal  
20 pursuant to this subsection shall be on the same grounds and  
21 subject to the same limitations and requirements as provided  
22 in subsection (1).

23 (4) An exemption, partial exemption, or renewal thereof  
24 is not a right of the applicant or holder thereof but shall  
25 be granted at the discretion of the board. However, a person

1 adversely affected by an exemption, partial exemption, or  
2 renewal granted by the board may obtain judicial review  
3 thereof as provided by 75-2-411.

4 (5) Nothing in this section and no exemption, partial  
5 exemption, or renewal granted pursuant to this section may  
6 be construed to prevent or limit the application of the  
7 emergency provisions and procedures of 75-2-402 to a person  
8 or his property.

9 (6) A person who owns or is in control of a plant,  
10 building, structure, process, or equipment (hereinafter  
11 called a facility) who applies to the board for an exemption  
12 or partial exemption or a renewal of an exemption or partial  
13 exemption from a rule governing the quality, nature,  
14 duration, or extent of emissions of air pollutants shall  
15 submit with the application for variance a sum of not less  
16 than \$500 or 2% of the cost of the equipment to bring the  
17 facility into compliance with the rule for which a variance  
18 is sought, whichever is greater, but not to exceed \$80,000.  
19 The department shall prepare a statement of actual costs,  
20 and funds in excess of this shall be returned to the  
21 applicant. The person requesting the variance shall describe  
22 the facility in sufficient detail, with accompanying  
23 estimates of cost and verifying materials, to permit the  
24 department to determine with reasonable accuracy the sum of  
25 the fee. For a renewal of an exemption or partial exemption,

1 if no public hearing, environmental impact statement, or  
 2 appreciable investigation by the department is necessary,  
 3 the minimum filing fee shall apply or the fee may be waived  
 4 by the department. The filing fee shall be deposited in the  
 5 ~~state-special-revenue general~~ fund provided-for-in-17-2-102.  
 6 It is the intent of the legislature that the revenues  
 7 derived from the filing fees ~~shall~~ may be used by the  
 8 department to:

9 (a) compile the information required for rendering a  
 10 decision on the request;

11 (b) compile the information necessary for any  
 12 environmental impact statements;

13 (c) offset the costs of a public hearing, printing, or  
 14 mailing; and

15 (d) carry out its other responsibilities under this  
 16 chapter."

17 **Section 75.** Section 75-3-502, MCA, is amended to read:

18 **"75-3-502. Administration of compact -- fees.** (1) The  
 19 department of health and environmental sciences, as the  
 20 state radiation control agency, shall administer the  
 21 provisions of the compact.

22 (2) The department may assess and collect fees for  
 23 services rendered in inspecting and regulating low-level  
 24 radioactive waste generators, transporters, and disposal  
 25 facilities. Such fees must cover the department's costs for

1 those services and must be deposited in the ~~state-special~~  
 2 revenue general fund for use by the department. State and  
 3 local government agencies, including the university system,  
 4 are exempt from the payment of fees.

5 (3) The department may adopt rules under the authority  
 6 contained in 75-3-201(3)(b) to implement the provisions of  
 7 this compact."

8 **Section 76.** Section 75-6-104, MCA, is amended to read:

9 **"75-6-104. Duties of department.** The department shall:

10 (1) upon its own initiative or complaint to the  
 11 department, to the mayor or health officer of a  
 12 municipality, or to the managing board or officer of a  
 13 public institution, make an investigation of alleged  
 14 pollution of a water supply system and, if required,  
 15 prohibit the continuance of the pollution by ordering  
 16 removal of the cause of pollution;

17 (2) have waters examined to determine their quality and  
 18 the possibility that they may endanger public health;

19 (3) consult and advise authorities of cities and towns  
 20 and persons having or about to construct systems for water  
 21 supply, drainage, wastewater, and sewage as to the most  
 22 appropriate source of water supply and the best method of  
 23 assuring its quality;

24 (4) advise persons as to the best method of treating  
 25 and disposing of their drainage, sewage, or wastewater with

1 reference to the existing and future needs of other persons  
2 and to prevent pollution;

3 (5) consult with persons engaged in or intending to  
4 engage in manufacturing or other business whose drainage or  
5 sewage may tend to pollute waters as to the best method of  
6 preventing pollution;

7 (6) collect fees, as described in 75-6-108, for  
8 services and deposit the fees collected in the ~~public~~  
9 ~~drinking-water-special-revenue~~ general fund ~~established--in~~  
10 ~~75-6-115~~;

11 (7) establish and maintain experiment stations and  
12 conduct experiments to study the best methods of treating  
13 water, drainage, wastewater, sewage, and industrial waste to  
14 prevent pollution, including investigation of methods used  
15 in other states;

16 (8) enter on premises at reasonable times to determine  
17 sources of pollution or danger to water supply systems and  
18 whether rules and standards of the board are being obeyed;

19 (9) enforce and administer the provisions of this part;

20 (10) establish a plan for the provision of safe drinking  
21 water under emergency circumstances;

22 (11) maintain an inventory of public water supply  
23 systems and establish a program for conducting sanitary  
24 surveys; and

25 (12) enter into agreements with local boards of health

1 wherever appropriate for the performance of surveys and  
2 inspections under the provisions of this part."

3 **Section 77.** Section 75-6-108, MCA, is amended to read:

4 **"75-6-108. Board to prescribe fees -- opportunity for**  
5 **appeal.** (1) The board shall by rule prescribe fees to be  
6 assessed annually by the department on owners of public  
7 water supply systems to recover department costs in  
8 providing services under this part. The annual fee for a  
9 public water supply system is no more than \$2.25 for each  
10 service connection to the public water supply system for the  
11 biennium beginning July 1, 1991, and ending June 30, 1993,  
12 and thereafter is no more than \$2 for each service  
13 connection to the public water supply system, although the  
14 minimum fee for any system is \$100, except that the fee for  
15 a transient noncommunity water system is \$50.

16 (2) Public water supply systems in a municipality may  
17 raise the rates to recover costs associated with the fees  
18 prescribed in this section without the public hearing  
19 required in 69-7-111.

20 (3) The board shall by rule prescribe fees to be  
21 assessed by the department on persons who submit plans and  
22 specifications for construction, alteration, or extension of  
23 a public water supply system or public sewage system. The  
24 fees must be commensurate with the cost to the department of  
25 reviewing the plans and specifications.

1 (4) Fees collected pursuant to this section must be  
 2 deposited in the public--drinking--water--special-revenue  
 3 general fund established-in-75-6-115{,--except--that--\$45,000  
 4 must--be--deposited--each--fiscal--year--in-the-ground-water  
 5 assessment-account,--established--by--85-2-905,--within--the  
 6 state-special-revenue-fund}.

7 (5) (a) The department shall notify the owner of a  
 8 public water supply system in writing of the amount of the  
 9 fee to be assessed and the basis for the assessment. The  
 10 owner may appeal the fee assessment in writing to the board  
 11 within 20 days after receipt of the written notice.

12 (b) An appeal must be based on the allegation that the  
 13 fee is erroneous or excessive. An appeal may not be based  
 14 only on the fee schedule adopted by the board.

15 (c) If any part of the fee assessment is not appealed,  
 16 it must be paid to the department upon receipt of the notice  
 17 provided for in subsection (5)(a). {The--bracketed--language  
 18 in--subsection--{4}-terminates-October-17-1993--sec--137-ch-  
 19 6457-hr-1991-}

20 **Section 78.** Section 75-6-109, MCA, is amended to read:

21 "75-6-109. **Administrative enforcement.** (1) If the  
 22 department believes that a violation of this part, a rule  
 23 adopted under this part, or a condition of approval issued  
 24 under this part has occurred, it may serve written notice of  
 25 the violation, by certified mail, on the alleged violator or

1 his agent. The notice must specify the provision of this  
 2 part, the rule, or the condition of approval alleged to have  
 3 been violated and the facts alleged to constitute a  
 4 violation. The notice must include an order to take  
 5 necessary corrective action within a reasonable period of  
 6 time, which must be stated in the order. Service by mail is  
 7 complete on the date of filing.

8 (2) If the alleged violator does not request a hearing  
 9 before the board within 30 days of the date of service, the  
 10 order becomes final. Failure to comply with a final order  
 11 may subject the violator to an action commenced pursuant to  
 12 75-6-104, 75-6-113, or 75-6-114.

13 (3) If the alleged violator requests a hearing before  
 14 the board within 30 days of the date of service, the board  
 15 shall schedule a hearing. After the hearing is held, the  
 16 board may:

17 (a) affirm or modify the department's order issued  
 18 under subsection (1) if the board finds that a violation has  
 19 occurred; or

20 (b) rescind the department's order if the board finds  
 21 that a violation has not occurred.

22 (4) An order issued by the department or the board may  
 23 set a date by which the violation must cease and set a time  
 24 limit for action to correct a violation.

25 (5) As an alternative to issuing an order pursuant to

1 subsection (1), the department may:

2 (a) require the alleged violator to appear before the  
3 board for a hearing, at a time and place specified in the  
4 notice, to answer the charges complained of; or

5 (b) initiate an action under 75-6-111(2), 75-6-113, or  
6 75-6-114.

7 (6) An action initiated under this part may include an  
8 administrative penalty not to exceed \$500 for each day of  
9 violation. Administrative penalties collected under this  
10 section must be deposited in the public--drinking--water  
11 special-revenue general fund established-in-75-6-115.

12 (7) The contested case provisions of the Montana  
13 Administrative Procedure Act, provided for in Title 2,  
14 chapter 4, part 6, apply to a hearing under 75-6-108 or this  
15 section."

16 **Section 79.** Section 75-6-114, MCA, is amended to read:

17 "75-6-114. Civil penalty. (1) A person who violates  
18 this part or a rule, order, or condition of approval issued  
19 under this part is subject to a civil penalty not to exceed  
20 \$10,000.

21 (2) Each day of violation constitutes a separate  
22 violation.

23 (3) Action under this section does not bar enforcement  
24 of this part or a rule, order, or condition of approval  
25 issued under this part by injunction or other appropriate

1 remedy.

2 (4) Civil penalties collected pursuant to this section  
3 must be deposited in the public--drinking-water-special  
4 revenue general fund established-in-75-6-115."

5 **Section 80.** Section 75-10-447, MCA, is amended to read:

6 "75-10-447. Underground storage tank special--revenue  
7 account funds. (1) ~~There--is--an-underground-storage-tank~~  
8 ~~account-within-the-state-special-revenue-fund-established-in~~  
9 ~~17-2-102~~. There must be paid into the account general fund:

10 (a) revenues from underground storage tank permit and  
11 notification fees; and

12 (b) corrective action costs, damages, and penalties  
13 recovered under section 9003 of the federal Resource  
14 Conservation and Recovery Act of 1976, as amended.

15 (2) Appropriations may be made from the underground  
16 storage--tank--account revenue collected pursuant to  
17 subsection (1) for the-following-purposes-only:

18 (a) state and local government costs of implementing  
19 the underground storage tank leak prevention program; or

20 (b) state and local government costs relating to the  
21 investigation of leaking underground storage tanks."

22 **Section 81.** Section 75-10-954, MCA, is amended to read:

23 "75-10-954. Megalandfill reclamation-account funds. ~~(1)~~  
24 ~~There--is--a--megalandfill--reclamation-account-in-the-state~~  
25 ~~special-revenue-fund-provided-for-in-17-2-102~~.



{2} All fees, fines, penalties, forfeited bonds, and other money that have been or will be paid to the department under the provisions of 75-10-950 through 75-10-954 must be deposited in the account general fund.

~~{3}--Money-in-the-account-is-available-to-the-department-for-the-reclamation,-restoration,-and-replacement-of-natural-resources--damaged--or--impaired---by---the---mega-landfill--Unencumbered--and--unexpended-money-remaining-in-the-account-at-the-end-of-a-fiscal--year--may--not--lapse--but--must--be-carried--forward--for--the-purposes-of-this-subsection-until-appropriated-by-subsequent-legislative-action--"~~

**Section 82.** Section 75-11-213, MCA, is amended to read:

"75-11-213. Inspection of installations and closures -- fee. (1) After being issued a permit, an owner or operator may obtain an inspection by the department in lieu of obtaining the services of a licensed installer. The owner or operator shall provide timely notice to the department of the date and location of the underground storage tank installation or closure and shall establish with the department the time when an inspection may be conducted.

(2) An owner or operator may conduct an installation or closure under this section only if an inspector is present.

(3) An inspection fee must be paid by the owner or operator to the department to cover the costs associated with an inspection. The inspection is not considered

complete until the owner or operator pays the fee.

(4) Department officials or local government officers, such as local health officers, sanitarians, local fire chiefs, or other persons designated or hired by the department, shall conduct inspections on behalf of the department.

(5) The department shall pay the person conducting an inspection on the department's behalf, as provided in subsection (4), ~~from--the-underground-storage-tank-license-and-permit-account-established-in-75-11-227~~ up to 80% of any fee collected by the department for the inspection. When an inspection is conducted by an officer of a county or city, the payment must be made by the department to the appropriate county or city treasurer. A county or city shall use payments received under this section only for costs incurred in conducting inspections under this section.

(6) A copy of an installation inspection report must be kept on file by the owner or operator for as long as the department may require by rule. A copy of a closure inspection report must be kept by the owner or operator for 3 years after the date of closure.

(7) The department may enter and inspect the premises or any appurtenant property of an owner or operator at any time to ensure compliance with laws or rules pertaining to underground storage tanks."

1 **Section 83.** Section 75-11-227, MCA, is amended to read:

2 "75-11-227. Underground storage tank permit, license,  
3 and permit-account inspection funds -- penalties. ~~{1}~~--There  
4 ~~is--an--underground--storage-tank--license--and--permit--account~~  
5 ~~within--the--state--special--revenue--fund--established---in~~  
6 ~~17-2-102.~~

7 {2} There must be paid into the account general fund;  
8 {a} revenues from permit, license, and inspection fees  
9 collected under this part; and

10 {b} revenues from penalties or damages collected under  
11 this part.

12 ~~{3}--Appropriations--may--be--made--from--the--underground~~  
13 ~~storage--tank--license--and--permit--account--only--for--the~~  
14 ~~administration--of--the--underground--storage--tank--program."~~

15 **Section 84.** Section 75-20-112, MCA, is amended to read:

16 "75-20-112. Money to state--special--revenue general  
17 fund. All fees, taxes, fines, and penalties collected under  
18 this chapter, except those collected by a justice's court,  
19 shall be deposited in the state-special-revenue general fund  
20 for use by the department in carrying out its functions and  
21 responsibilities under this chapter."

22 **Section 85.** Section 75-20-215, MCA, is amended to read:

23 "75-20-215. Filing fee -- accountability -- refund --  
24 use. (1) (a) A filing fee shall be deposited in the state  
25 special--revenue general fund for the use of the department

1 in administering this chapter. The applicant shall pay to  
2 the department a filing fee as provided in this section  
3 based upon the department's estimated costs of processing  
4 the application under this chapter, but which shall not  
5 exceed the following scale based upon the estimated cost of  
6 the facility:

- 7 (i) 4% of any estimated cost up to \$1 million; plus  
8 (ii) 1% of any estimated cost over \$1 million and up to  
9 \$20 million; plus  
10 (iii) 0.5% of any estimated cost over \$20 million and up  
11 to \$100 million; plus  
12 (iv) 0.25% of any amount of estimated cost over \$100  
13 million and up to \$300 million; plus  
14 (v) .125% of any amount of estimated cost over \$300  
15 million and up to \$1 billion; plus  
16 (vi) .05% of any amount of estimated cost over \$1  
17 billion.

18 (b) The department may allow in its discretion a credit  
19 against the fee payable under this section for the  
20 development of information or providing of services required  
21 hereunder or required for preparation of an environmental  
22 impact statement under the Montana or national environmental  
23 policy acts. The applicant may submit the information to the  
24 department together with an accounting of the expenses  
25 incurred in preparing the information. The department shall

1 evaluate the applicability, validity, and usefulness of the  
 2 data and determine the amount which may be credited against  
 3 the filing fee payable under this section. Upon 30 days'  
 4 notice to the applicant, this credit may at any time be  
 5 reduced if the department determines that it is necessary to  
 6 carry out its responsibilities under this chapter.

7 (2) (a) The department may contract with an applicant  
 8 for the development of information, provision of services  
 9 and payment of fees required under this chapter. The  
 10 contract may continue an agreement entered into pursuant to  
 11 75-20-106. Payments made to the department under such a  
 12 contract shall be credited against the fee payable  
 13 hereunder. Notwithstanding the provisions of this section,  
 14 the revenue derived from the filing fee must be sufficient  
 15 to enable the department, the department of health, the  
 16 board, the board of health, and the agencies listed in  
 17 75-20-216(5) to carry out their responsibilities under this  
 18 chapter. The department may amend a contract to require  
 19 additional payments for necessary expenses up to the limits  
 20 set forth in subsection (1)(a) above upon 30 days' notice to  
 21 the applicant. The department and applicant may enter into a  
 22 contract which exceeds the scale provided in subsection  
 23 (1)(a).

24 (b) If a contract is not entered into, the applicant  
 25 shall pay the filing fee in installments in accordance with

1 a schedule of installments developed by the department,  
 2 provided that no one installment may exceed 20% of the total  
 3 filing fee provided for in subsection (1).

4 (3) The estimated cost of upgrading an existing  
 5 transmission substation may not be included in the estimated  
 6 cost of a proposed facility for the purpose of calculating a  
 7 filing fee.

8 (4) If an application consists of a combination of two  
 9 or more facilities, the filing fee shall be based on the  
 10 total estimated cost of the combined facilities.

11 (5) The applicant is entitled to an accounting of  
 12 moneys expended and to a refund with interest at the rate of  
 13 6% a year of that portion of the filing fee not expended by  
 14 the department in carrying out its responsibilities under  
 15 this chapter. A refund shall be made after all  
 16 administrative and judicial remedies have been exhausted by  
 17 all parties to the certification proceedings.

18 (6) The revenues derived from filing fees shall be used  
 19 by the department in compiling the information required for  
 20 rendering a decision on a certificate and for carrying out  
 21 its and the board's other responsibilities under this  
 22 chapter."

23 **Section 86.** Section 75-20-408, MCA, is amended to read:  
 24 "75-20-408. Penalties for violation of chapter -- civil  
 25 action by attorney general. (1) (a) Whoever commences to

1 construct or operate a facility without first obtaining a  
 2 certificate required under 75-20-201 or a waiver thereof  
 3 under 75-20-304(2) or having first obtained a certificate,  
 4 constructs, operates, or maintains a facility other than in  
 5 compliance with the certificate or violates any other  
 6 provision of this chapter or any rule or order adopted  
 7 thereunder or knowingly submits false information in any  
 8 report, 10-year plan, or application required by this  
 9 chapter or rule or order adopted thereunder or causes any of  
 10 the aforementioned acts to occur is liable for a civil  
 11 penalty of not more than \$10,000 for each violation.

12 (b) Each day of a continuing violation constitutes a  
 13 separate offense.

14 (c) The penalty is recoverable in a civil suit brought  
 15 by the attorney general on behalf of the state in the  
 16 district court of the first judicial district of Montana.

17 (2) Whoever knowingly and willfully violates subsection  
 18 (1) shall be fined not more than \$10,000 for each violation  
 19 or imprisoned for not more than 1 year, or both. Each day of  
 20 a continuing violation constitutes a separate offense.

21 (3) In addition to any penalty provided in subsection  
 22 (1) or (2), whenever the department determines that a person  
 23 is violating or is about to violate any of the provisions of  
 24 this section, it may refer the matter to the attorney  
 25 general who may bring a civil action on behalf of the state

1 in the district court of the first judicial district of  
 2 Montana for injunctive or other appropriate relief against  
 3 the violation and to enforce this chapter or a certificate  
 4 issued hereunder. Upon a proper showing, a permanent or  
 5 preliminary injunction or temporary restraining order shall  
 6 be granted without bond.

7 (4) The department shall also enforce this chapter and  
 8 bring legal actions to accomplish the enforcement through  
 9 its own legal counsel.

10 (5) All fines and penalties collected shall be  
 11 deposited in the state-special-revenue general fund for--the  
 12 use-of-the-department-in-administering-this-chapter."

13 **Section 87.** Section 76-4-1108, MCA, is amended to read:

14 "76-4-1108. Disposition of fees and charges. (1) Fees  
 15 and charges provided for by this part shall be paid to the  
 16 department and deposited by it with the state treasurer.

17 (2) The state treasurer shall place 5% of these fees  
 18 and charges in the general fund and 95% of--these--fees--and  
 19 charges-in-the-state-special-revenue-fund.

20 (3)--Fees--deposited--in--the-state-special-revenue-fund  
 21 may-be-used-to-pay-claims--for--expense--incurred--in--the  
 22 administration--of--this--part--when--the--claims--have--been  
 23 approved-as-provided-by-law."

24 **Section 88.** Section 76-4-1212, MCA, is amended to read:

25 "76-4-1212. Disposition of fee. The application fee

1 shall be paid into the ~~state-special-revenue~~ general fund to  
 2 ~~the credit of the board and is hereby appropriated for the~~  
 3 ~~purposes of carrying out the provisions of this part,~~  
 4 ~~subject to 37-1-101(6)."~~

5 **Section 89.** Section 76-4-1213, MCA, is amended to read:

6 "76-4-1213. Financial management. (1) All expenditures  
 7 of the funds by the board under the provisions of this part  
 8 shall be certified and approved by the board and paid by the  
 9 appropriate state officials. Payment shall be made upon  
 10 warrants appropriately drawn out of the proper funds.

11 (2) The department shall provide a system of accounting  
 12 which shall show the amount of money received therefor and  
 13 also an itemized statement of expenses in connection  
 14 therewith.

15 (3) The board may make orders concerning the  
 16 disbursement of the money ~~in the state-special-revenue fund,~~  
 17 including the payment of compensation and expenses of board  
 18 members.

19 (4) The board may accept grants-in-aid from any  
 20 source."

21 **Section 90.** Section 76-13-209, MCA, is amended to read:

22 "76-13-209. Disposition of assessments. All sums  
 23 collected pursuant to 76-13-207 shall be promptly deposited  
 24 in the ~~state-special-revenue~~ general fund."

25 **Section 91.** Section 80-7-704, MCA, is amended to read:

1 "80-7-704. Disposition of fines and inspection fees.

2 All fines levied as provided in 80-7-703, except fines paid  
 3 to a justice's court, and all fees collected from  
 4 inspections shall be deposited with the state treasurer to  
 5 the credit of the ~~state-special-revenue~~ general fund ~~for the~~  
 6 ~~use of the department for the purpose of administering and~~  
 7 ~~enforcing 80-7-701 through 80-7-784."~~

8 **Section 92.** Section 80-7-810, MCA, is amended to read:

9 "80-7-810. Disposition of proceeds. Three percent of  
 10 the proceeds from the fee imposed in 61-3-510 may be  
 11 retained by the county treasurer for costs of collection.  
 12 The remainder must be deposited in the ~~special-revenue~~  
 13 general fund and must be expended as provided in 80-7-814.  
 14 Twenty-five percent of the money deposited in the ~~special~~  
 15 revenue general fund under this section must be used for  
 16 research and development of nonchemical methods of weed  
 17 management."

18 **Section 93.** Section 80-7-814, MCA, is amended to read:

19 "80-7-814. Administration and expenditure of funds. (1)  
 20 Money deposited in the noxious weed management trust fund  
 21 may not be committed or expended until the principal reaches  
 22 \$2,500,000, except as provided by 80-7-815 in case of a  
 23 noxious weed emergency. Once this amount is accumulated, any  
 24 interest or revenue generated by the trust fund and by other  
 25 funding measures provided by this part must be deposited in

1 the ~~special--revenue~~ general fund and may be expended for  
 2 noxious weed management projects in accordance with this  
 3 section, so long as the principal of the trust fund remains  
 4 at least \$2,500,000.

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

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

16 (a) employment of a new and innovative noxious weed  
 17 management project or the development, implementation, or  
 18 demonstration of any noxious weed management project that  
 19 may be proposed, implemented, or established by local,  
 20 state, or national organizations, whether public or private.  
 21 Such expenditures must be on a cost-share basis with such  
 22 organizations.

23 (b) cost-share noxious weed management programs with  
 24 local weed control districts;

25 (c) special grants to local weed control districts to

1 eradicate or contain significant noxious weeds newly  
 2 introduced into the county. These grants may be issued  
 3 without matching funds from the district.

4 (d) costs of collecting the surcharge imposed by  
 5 80-7-812, not to exceed 3% of the total surcharge proceeds;

6 (e) administrative expenses incurred by the noxious  
 7 weed management advisory council;

8 (f) any project recommended by the noxious weed  
 9 management advisory council, if the department determines  
 10 the project will significantly contribute to the management  
 11 of noxious weeds within the state; and

12 (g) grants to the agricultural experiment station and  
 13 the cooperative extension service for crop weed management  
 14 research, evaluation, and education.

15 (4) The agricultural experiment station and cooperative  
 16 extension service shall submit annual reports on current  
 17 projects and future plans to the noxious weed management  
 18 advisory council.

19 (5) In making expenditures under subsections (2) and  
 20 (3), the department must give preference to weed control  
 21 districts and community groups.

22 (6) If the noxious weed management trust fund is  
 23 terminated by law, the money in the fund must be divided  
 24 between all counties according to rules adopted by the  
 25 department for that purpose."

**Section 94.** Section 80-7-1105, MCA, is amended to read:

"80-7-1105. Rodenticide fund funds. ~~There---is---a rodenticide-fund.~~ The fund-consists-of money collected under 80-7-1106 and 80-7-1107,--which must be deposited in the state-special-revenue general fund and-must-be-spent-for-the purposes-set-forth-in-this-part."

**Section 95.** Section 80-8-109, MCA, is amended to read:

"80-8-109. Educational programs. (1) The department shall develop and conduct appropriate educational programs. The educational programs shall inform those individuals dealing in and applying pesticides as to correct methods of formulating, applying, storing, disposing of, handling, and transporting pesticides.

(2) In developing and administering such programs, the department may consult other state and federal agencies and private industry, as well as such other persons it considers necessary, and may charge a fee for the programs commensurate with their administration costs. The fee may not include the salary or travel expenses of any employee of a state agency or of the Montana cooperative extension service.

(3) All fees collected pursuant to this section must be deposited in the state treasury to the credit of the state special-revenue general fund and must be spent for the purposes set forth in this section."

**Section 96.** Section 80-8-116, MCA, is amended to read:

"80-8-116. Pesticide---management--account-----deposit Deposit of fees and penalties ---investment. ~~{1}-There-is---a pesticide---management--account--within--the--state--special revenue-fund-established-in-17-2-102.~~

~~{2}--(a) All licensing, permit, registration, and devices and blending plant fees collected under parts 1 and 2 of this chapter must--be--deposited--in--the--pesticide management--account--for--the--purpose-of-administering-this chapter,--including-but-not-limited-to:~~

~~{i}-the-cost-of-equipment-and-facilities;~~

~~{ii}-the-cost-of-inspecting,--investigating,--analyzing, and-examining;~~

~~{A}-pesticide-products;~~

~~{B}-applicators,--operators,--and---other---users---of pesticides;~~

~~{C}-dealers-and-retailers-selling-pesticides;~~

~~{D}-pesticide---equipment,--storage,--disposal,--and operational-facilities;-and~~

~~{iii}-related-pest-and-pesticide--activities--authorized by--Title--80,--chapter--7,--part--5,--and--80-7-711-through 80-7-714-and-80-7-720;~~

~~{b}--Any and all civil penalties collected under 80-8-306 must be deposited in the general fund.~~

~~{3}--The--department-may-direct-the-board-of-investments~~

~~to invest the funds collected under this section, pursuant to the provisions of 17-6-201. The income from the investments must be credited to the pesticide management account within the state special revenue fund."~~

**Section 97.** Section 80-10-207, MCA, is amended to read:

**"80-10-207. Fees.** (1) (a) A manufacturer registering under 80-10-201(1) shall pay to the department fees on all commercial fertilizer distributed in this state, except specialty fertilizers and unmanipulated animal and vegetable manures, provided that sales to manufacturers or exchanges between them are exempt. The fees are:

(i) inspection of fertilizers other than anhydrous ammonia, 20 cents per ton. The department may by rule after hearing adjust the inspection fee not to exceed a maximum of 25 cents per ton to maintain adequate funding for the administration of this part. Any change in fee becomes effective on the first day of a reporting period. All manufacturers shall be given notice of any change in fees before the effective date.

(ii) inspection of anhydrous ammonia, 20 cents per ton. The department may by rule after hearing adjust the anhydrous ammonia inspection fee not to exceed a maximum of 65 cents per ton to maintain adequate funding for the administration and enforcement of part 5 of this chapter. Any change in fee becomes effective on the first day of a

reporting period. All registrants and manufacturers of anhydrous ammonia shall be given notice of any change in fees before the effective date of the fee adjustment.

(iii) assessment, the fee prescribed in 80-10-103. The assessment fee shall be used to fund educational and experimental programs as provided in 80-10-103 through 80-10-106.

(b) If fertilizer or soil amendment material is added to fertilizer for which a fee has been paid under subsection (1)(a), a fee must be paid under that subsection, but only on the added fertilizer or soil amendment.

(2) There shall be paid to the department on all soil amendments distributed in this state an inspection fee of 10 cents per ton subject to the following provisions:

(a) sales to manufacturers or exchanges between them are exempt; and

(b) when less than 50 tons of registered soil amendment is sold per 6-month period, there shall be paid to the department a fee of \$5 per soil amendment per 6-month period in lieu of the 10 cents per ton fee. Inspection fees shall be used by the department for administration of this part.

(3) (a) (i) Every licensee who distributes a soil amendment or commercial fertilizer, except specialty fertilizer and unmanipulated manures, to an unlicensed or unregistered person in this state shall file with the



1 department on forms furnished or approved by the department  
 2 a semiannual statement for the periods ending June 30 and  
 3 December 31 setting forth the number of net tons of each  
 4 commercial fertilizer and/or soil amendment distributed in  
 5 this state during the 6-month period. The report is due on  
 6 or before the 30th day of the month following the close of  
 7 each period.

8 (ii) Every manufacturer who registers a soil amendment  
 9 or commercial fertilizer in this state or a person who  
 10 registers on the manufacturer's behalf, except specialty  
 11 fertilizer and unmanipulated manures, shall file with the  
 12 department on forms furnished or approved by the department  
 13 a monthly statement setting forth the number of net tons of  
 14 each registered commercial fertilizer and soil amendment  
 15 distributed in this state during the month and to whom it  
 16 was distributed. The report is due on or before the 30th day  
 17 of the following month. The manufacturer or person  
 18 registering on behalf of the manufacturer shall pay the fees  
 19 set forth in subsection (1) at that time.

20 (b) If the tonnage report required by subsection  
 21 (3)(a)(ii) is not filed and the payment of fees is not made  
 22 within 30 days after the end of the period, a collection fee  
 23 amounting to 10% of the amount due but not less than \$10  
 24 shall be assessed against the manufacturer and the amount of  
 25 fees due shall constitute a debt and become the basis of a

1 judgment against the manufacturer.

2 (4) ~~Except as provided in subsection (5), all~~ All fees  
 3 collected for licenses, registration, and inspection and  
 4 moneys collected as penalties shall be deposited in the  
 5 state treasury to the credit of the ~~state special revenue~~  
 6 general fund for the purpose of administering this chapter,  
 7 including the cost of equipment and facilities and the cost  
 8 of inspecting, analyzing, and examining commercial  
 9 fertilizer and soil amendments manufactured or distributed  
 10 in this state. ~~Reserve funds may be invested by the~~  
 11 ~~department with interest credited to the state special~~  
 12 ~~revenue fund.~~

13 ~~(5) All fees collected under subsection (1)(a)(ii)~~  
 14 ~~shall be deposited in the state treasury to the credit of~~  
 15 ~~the state special revenue fund, anhydrous ammonia account,~~  
 16 ~~for the administration and enforcement of part 5 of this~~  
 17 ~~chapter and the rules adopted thereunder."~~

18 **Section 98.** Section 80-10-208, MCA, is amended to read:

19 **"80-10-208. Penalties.** (1) A penalty of two times the  
 20 commercial value of the deficiency, as determined by the  
 21 dealer's or manufacturer's price on the date of sampling of  
 22 the deficiency or deficiencies, shall be assessed:

23 (a) if the analysis shows that a commercial fertilizer  
 24 is deficient in one or more of its guaranteed primary plant  
 25 foods (NPK) beyond the investigational allowance as

1 established by regulation; or

2 (b) if the overall index value of the fertilizer is  
3 below the level established by regulation.

4 (2) When a commercial fertilizer is subject to a  
5 penalty under both (1)(a) and (1)(b), the larger penalty  
6 applies.

7 (3) Deficiencies beyond the investigational allowances  
8 as established by regulation in any other constituent  
9 covered under subsections (1)(b), (1)(c), and (1)(d) of  
10 80-10-102 which the registrant is required to or may  
11 guarantee shall be evaluated, and penalties shall be  
12 assessed at two times the commercial value of the deficiency  
13 as determined by the dealer's retail price on the date of  
14 sampling.

15 (4) Nothing contained in this section shall prevent any  
16 person from appealing the department's decision to a court  
17 of competent jurisdiction.

18 (5) All penalties assessed under this section shall be  
19 paid to the consumer of the lot, not to exceed 100 tons, of  
20 commercial fertilizer represented by the sample analyzed  
21 within 3 months after the date of notice from the department  
22 to the registrant or licensee. If at the end of the 3-month  
23 period the consumer cannot be found, receipts shall be taken  
24 and promptly forwarded to the department for deposit in the  
25 ~~state---special---~~ general fund as provided in

1 80-10-207."

2 **Section 99.** Section 80-10-509, MCA, is amended to read:

3 "80-10-509. **Funding.** Administration and enforcement of  
4 the provisions of this part and the rules adopted under  
5 80-10-503 must be funded through expenditures of ~~the~~  
6 ~~anhydrous--ammonia-account-established~~ money collected under  
7 80-10-207~~45~~."

8 **Section 100.** Section 80-15-302, MCA, is amended to  
9 read:

10 "80-15-302. **Special funding.** (1) A fee of \$80 is  
11 assessed for the registration of pesticides in addition to  
12 the fee imposed by 80-8-201(4).

13 (2) The money collected from the registration fee  
14 established by subsection (1) must be deposited in the ~~state~~  
15 ~~special-revenue~~ general fund as follows:

16 ~~(a)--Each--of--the--following--state--agencies--must--be~~  
17 ~~credited--\$15,800--for--purposes--of--administering--or--assisting~~  
18 ~~the--department--in--administering--this--chapter:~~

19 ~~(i)--department--of--health--and--environmental--sciences;~~  
20 ~~and~~

21 ~~(ii)--Montana--state--university--extension--service;~~

22 ~~(b)--The--department--must--be--credited--with--the--remainder~~  
23 ~~of--the--registration--fee--money--to--use--in--administering--this~~  
24 ~~chapter.~~

25 (3) A fee of \$10 is assessed for the registration of

1 fertilizers in addition to the fee imposed by 80-10-201(1).  
 2 The additional fee must be used for the ground water  
 3 protection responsibilities of the department relating to  
 4 fertilizers. Revenues collected from this fee must be  
 5 credited to the ~~commercial-fertilizer-agricultural-chemical~~  
 6 ~~ground-water-account-within-the-state-special-revenue~~  
 7 general fund for the administration of this chapter.

8 ~~{4}-The-department-may-direct-the-board-of-investments~~  
 9 ~~to-invest-the-portion-of-the-money-collected-under-this~~  
 10 ~~section-that-is-credited-to-the-department-pursuant-to-the~~  
 11 ~~provisions-of-17-6-201-The-income-from-the-investments-must~~  
 12 ~~be-deposited-in-the-state-special-revenue-fund-and-credited~~  
 13 ~~to-the-department."~~

14 **Section 101.** Section 81-3-231, MCA, is amended to read:

15 "81-3-231. Penalties. (1) A person is guilty of a  
 16 misdemeanor and is punishable as provided in subsection (5)  
 17 of this section if he removes livestock or causes livestock  
 18 to be removed from a county in this state:

19 (a) without having the livestock inspected before  
 20 removal if an inspection is required by law;

21 (b) without obtaining a market consignment permit or  
 22 transportation permit if the permits are required by law;

23 (c) and does obtain a market consignment permit for  
 24 livestock but does not deliver the livestock transported  
 25 thereunder to the livestock market designated in the market

1 consignment permit;

2 (d) and does obtain a transportation permit for the  
 3 livestock but does not deliver the livestock transported  
 4 thereunder to the destination as shown on the transportation  
 5 permit and fails to have the livestock so transported  
 6 inspected at the point of destination.

7 (2) A person who sells livestock or offers livestock  
 8 for sale at a livestock market without having the livestock  
 9 inspected or removes livestock or causes livestock to be  
 10 removed from a livestock market without obtaining a release  
 11 is guilty of a misdemeanor and is punishable as provided in  
 12 subsection (5) of this section.

13 (3) A person who has in his charge livestock being  
 14 removed from a county in the state for which an inspection  
 15 certificate, a market consignment permit, a transportation  
 16 permit, or a market release certificate has been issued and  
 17 fails to have in his possession accompanying the livestock  
 18 the inspection certificate, market consignment permit,  
 19 transportation permit, or market release certificate as  
 20 issued for the livestock, or who, having the certificate of  
 21 inspection, market consignment permit, transportation  
 22 permit, or market release certificate, fails to exhibit it  
 23 to a sheriff, deputy sheriff, constable, highway patrol  
 24 officer, state stock inspector, or deputy state stock  
 25 inspector at his request is guilty of a misdemeanor and is

1 punishable as provided in subsection (5) of this section.

2 (4) Except as specifically otherwise provided, a person  
3 violating any of the provisions of this part is guilty of a  
4 misdemeanor and is punishable as provided in subsection (5)  
5 of this section.

6 (5) Upon conviction under this section, a person, firm,  
7 association, or corporation shall be fined not less than \$50  
8 or more than \$500 or imprisoned in the county jail for a  
9 period of not more than 6 months or both fined and  
10 imprisoned. Of all fines assessed and collected under this  
11 section, except those assessed and collected in a justice's  
12 court, 50% shall be paid into the state treasury and  
13 credited to the state ~~special-revenue~~ general fund for--the  
14 use-of-the-department and 50% shall be paid into the general  
15 fund of the county in which the conviction occurred."

16 **Section 102.** Section 81-7-105, MCA, is amended to read:

17 "81-7-105. Disposition of proceeds from sale of skins,  
18 hides, and specimens -- presenting to museums. Furs, skins,  
19 and specimens taken by hunters or trappers shall be sold by  
20 the department. The proceeds from the sales shall be  
21 credited to the state--~~special--revenue~~ general fund. The  
22 proceeds ~~shall~~ may be used to carry out the provisions of  
23 81-7-101 through 81-7-105. Specimens may be presented free  
24 of charge to a state museum or institution."

25 **Section 103.** Section 81-7-122, MCA, is amended to read:

1 "81-7-122. **Penalty for fraudulent claims.** Any person or  
2 persons who shall patch up any skin or scalp or who shall  
3 present any punched or patched skin or scalp or who shall  
4 bring in any skin or skins from other states or territory  
5 with the intent to obtain the bounty on the same  
6 fraudulently or any officer who shall sign any certificate  
7 herein provided for without first counting the skins and  
8 examining the same to determine the kind of skins and to see  
9 that the skin from the scalp or head is properly severed and  
10 preserved as hereinbefore provided or shall evade or violate  
11 any provision of any law of the state of Montana relative to  
12 bounties or bounty claims shall be deemed guilty of a  
13 misdemeanor and, on conviction thereof, shall be punished by  
14 a fine not exceeding \$1,000 or by imprisonment in the county  
15 jail not exceeding 1 year or by both such fine and  
16 imprisonment and two-thirds of the fine, if the same be  
17 collected or can be collected, shall be given to the  
18 informer and the balance be deposited in the ~~state--special~~  
19 revenue general fund and used for the administration of  
20 81-7-111 through 81-7-122."

21 **Section 104.** Section 81-8-216, MCA, is amended to read:

22 "81-8-216. **Penalties.** (1) A person who knowingly  
23 violates any provision of 81-8-214, 81-8-215, 81-8-251  
24 through 81-8-256, and 81-8-258 through 81-8-263 or rules  
25 adopted by the department under 81-8-231 is guilty of a

1 misdemeanor and upon conviction shall be fined not less than  
 2 \$100 or more than \$600, imprisoned in the county jail not  
 3 less than 30 days or more than 6 months, or both. A person  
 4 convicted of a subsequent violation of 81-8-214, 81-8-215,  
 5 81-8-251 through 81-8-256, and 81-8-258 through 81-8-263 or  
 6 rules adopted to implement those sections shall be fined not  
 7 less than \$200 or more than \$1,000, imprisoned in the county  
 8 jail for not less than 3 months or more than 6 months, or  
 9 both, and the department may cancel his certificate.

10 (2) Of all fines assessed and collected under this  
 11 section, except those assessed and collected in a justice's  
 12 court, 50% shall be paid into the state treasury and  
 13 credited to the special-revenue state general fund ~~for-the~~  
 14 ~~use-of-the-department~~ and 50% shall be paid into the general  
 15 revenue fund of the county in which the conviction occurred.

16 (3) A person who knowingly fails to establish and  
 17 properly use a custodial account resulting in a failure to  
 18 account for or to remit money belonging to others under this  
 19 chapter is, upon conviction, guilty of a felony."

20 **Section 105.** Section 81-8-256, MCA, is amended to read:

21 "81-8-256. Fee to operate livestock market. A person  
 22 operating a livestock market shall pay annually on May 1 to  
 23 the department a fee established by the department. All fees  
 24 shall be paid into the state treasury and credited to the  
 25 ~~state--special--revenue~~ general fund ~~for--the--use-of-the~~

1 department."

2 **Section 106.** Section 81-8-279, MCA, is amended to read:

3 "81-8-279. Penalties. (1) A person who violates any  
 4 provision of 81-8-271 through 81-8-273, 81-8-276, or  
 5 81-8-278 or rules adopted by the department to implement  
 6 those sections is guilty of a misdemeanor and upon  
 7 conviction shall be fined not less than \$250 or more than  
 8 \$1,000 or imprisoned for not more than 6 months, or both.

9 (2) Of all fines assessed and collected under this  
 10 section, except those assessed and collected in a justice's  
 11 court, 50% shall be paid into the state treasury and  
 12 credited to the special-revenue state general fund ~~for--the~~  
 13 ~~use-of-the-department~~ and 50% shall be paid into the general  
 14 revenue fund of the county in which the conviction  
 15 occurred."

16 **Section 107.** Section 81-8-304, MCA, is amended to read:

17 "81-8-304. Fees. The department shall charge a fee for  
 18 filing and listing the notices of security agreements for  
 19 each recorded brand listed in each security agreement and  
 20 for filing and listing each notice of satisfaction, renewal,  
 21 or assignment of the security agreement for each recorded  
 22 brand listed. The fees shall be set by rules adopted  
 23 pursuant to the Montana Administrative Procedure Act, upon  
 24 the basis of actual cost to the department for each brand  
 25 listed. All fees shall be paid into the ~~state-special~~

1 revenue general fund for the use of the department."

2 **Section 108.** Section 81-9-113, MCA, is amended to read:

3 "81-9-113. Fees for inspection. The state or deputy  
4 state stock inspector making the inspection required by  
5 81-9-112 shall collect a fee established by the department  
6 for each head inspected, plus all necessary expenses. State  
7 stock inspectors shall promptly remit all fees and expenses  
8 collected under this section to the department for deposit  
9 in the ~~state-special--revenue~~ general fund. Deputy state  
10 stock inspectors shall keep their fees and expenses."

11 **Section 109.** Section 81-23-204, MCA, is amended to  
12 read:

13 "81-23-204. Declining, suspending, and revoking  
14 licenses -- penalties in lieu of suspension or revocation.

15 (1) The department may refuse to grant a license or may  
16 suspend or revoke a license already granted for due cause  
17 upon due notice and after hearing. The violation of any  
18 provisions of this chapter or of any lawful order or rule of  
19 the board or department, the failure or refusal to make  
20 required statements or reports, or failure to pay license or  
21 assessment fees are causes for which the department may  
22 suspend or revoke a license.

23 (2) In place of suspension or revocation of a license,  
24 the department may assess a civil penalty not to exceed \$500  
25 per day for each daily failure to comply with or each daily

1 violation of the provisions of this chapter or of any lawful  
2 order or rule of the department or board. If the person  
3 against whom a civil penalty is assessed fails to pay the  
4 civil penalty immediately, the department shall collect the  
5 civil penalty by a civil proceeding in the district court of  
6 the first judicial district. This penalty shall be construed  
7 as civil and not criminal in nature. Any moneys received by  
8 the department as a result of collection of civil penalties  
9 shall be paid into the ~~state-special-revenue~~ general fund as  
10 provided by 81-23-403."

11 **Section 110.** Section 81-23-403, MCA, is amended to  
12 read:

13 "81-23-403. Disposition of fines. (1) All fines  
14 assessed by a court other than a justice's court for  
15 violation of this chapter shall be paid by the court to the  
16 department.

17 (2) All fines received by the department shall be  
18 deposited with the state treasurer and shall be placed by  
19 him in the ~~state--special--revenue~~ general fund. ~~Fines~~  
20 ~~assessed-for-violations-of-this-chapter--are--earmarked--for~~  
21 ~~the-purposes-of-this-chapter."~~

22 **Section 111.** Section 82-4-311, MCA, is amended to read:

23 "82-4-311. Hard-rock mining account funds. All fees,  
24 fines, penalties, and other uncleared moneys which have been  
25 or will be paid to the department of state lands under the

1 provisions of this part shall be placed in the ~~state special~~  
 2 ~~revenue general~~ fund in the state treasury and credited to a  
 3 ~~special account to be designated as the hard rock mining and~~  
 4 ~~reclamation account~~. This account Funds shall be available  
 5 to the department by appropriation and shall be expended for  
 6 the research, reclamation, and revegetation of land and the  
 7 rehabilitation of water affected by any mining operations.  
 8 ~~Any unencumbered and any unexpended balance of this account~~  
 9 ~~remaining at the end of a fiscal year shall not lapse but~~  
 10 ~~shall be carried forward for the purposes of this section~~  
 11 ~~until expended or until appropriated by subsequent~~  
 12 ~~legislative action."~~

13 **Section 112.** Section 85-2-122, MCA, is amended to read:

14 "85-2-122. Penalties. (1) A person who violates or  
 15 refuses or neglects to comply with the provisions of this  
 16 chapter, any order of the department, or any rule of the  
 17 board is guilty of a misdemeanor.

18 (2) A person who violates or refuses or neglects to  
 19 comply with the provisions of 85-2-114, any order of the  
 20 department, or any rule of the board is subject to a civil  
 21 penalty not to exceed \$1,000 per violation. Each day of  
 22 violation constitutes a separate violation.

23 (3) Fines collected by the department or a district  
 24 court under subsection (2) must be deposited in the account  
 25 ~~established in 85-2-318~~ general fund for use by the

1 department in the enforcement of 85-2-114."

2 **Section 113.** Section 85-2-123, MCA, is amended to read:

3 "85-2-123. Deposit of fees and penalties. Except as  
 4 provided in 85-2-124 and 85-2-241, all fees and penalties  
 5 collected under this chapter shall be deposited in the water  
 6 ~~right appropriation account established in 85-2-318~~ state  
 7 general fund. Except for fines collected by a district court  
 8 under 85-2-122, all penalties or fines imposed by any court  
 9 other than a justice's court for a violation of this chapter  
 10 shall be deposited in the general fund of the county where  
 11 the court presides and shall be disposed of in the same  
 12 manner as any other penalty or fine."

13 **Section 114.** Section 85-2-124, MCA, is amended to read:

14 "85-2-124. Fees for environmental impact statements.  
 15 (1) Whenever the department determines that the filing of an  
 16 application (or a combination of applications) for a permit  
 17 or approval under this chapter requires the preparation of  
 18 an environmental impact statement as prescribed by the  
 19 Montana Environmental Policy Act and the application (or  
 20 combination of applications) involves the use of 4,000 or  
 21 more acre-feet per year and 5.5 or more cubic feet per  
 22 second of water, the applicant shall pay to the department  
 23 the fee prescribed in this section. The department shall  
 24 notify the applicant in writing within 90 days of receipt of  
 25 a correct and complete application (or a combination of

1 applications) if it determines that an environmental impact  
2 statement and fee is required.

3 (2) Upon notification by the department under  
4 subsection (1), the applicant shall pay a fee based upon the  
5 estimated cost of constructing, repairing, or changing the  
6 appropriation and diversion facilities as herein provided.  
7 The maximum fee that shall be paid to the department may not  
8 exceed the fees set forth in the following declining scale:  
9 2% of the estimated cost up to \$1 million; plus 1% of the  
10 estimated cost over \$1 million and up to \$20 million; plus  
11 1/2 of 1% of the estimated cost over \$20 million and up to  
12 \$100 million; plus 1/4 of 1% of the estimated cost over \$100  
13 million and up to \$300 million; plus 1/8 of 1% of the  
14 estimated cost over \$300 million. The fee shall be deposited  
15 in the ~~state-special-revenue~~ general fund to be used by the  
16 department only to comply with the Montana Environmental  
17 Policy Act in connection with the application(s). Any  
18 amounts paid by the applicant but not actually expended by  
19 the department shall be refunded to the applicant.

20 (3) The department and the applicant may determine by  
21 agreement the estimated cost of any facility for purposes of  
22 computing the amount of the fee to be paid to the department  
23 by the applicant. The department may contract with an  
24 applicant for:

25 (a) the development of information by the applicant or

1 a third party on behalf of the department and the applicant  
2 concerning the environmental impact of any proposed activity  
3 under an application;

4 (b) the division of responsibility between the  
5 department and an applicant for supervision over, control  
6 of, and payment for the development of information by the  
7 applicant or a third party on behalf of the department and  
8 the applicant under any such contract or contracts;

9 (c) the use or nonuse of a fee or any part thereof paid  
10 to the department by an applicant.

11 (4) Any payments made to the department or any third  
12 party by an applicant under any such contract or contracts  
13 shall be credited against any fee the applicant must pay  
14 hereunder. The department and the applicant may agree on  
15 additional credits against the fee for environmental work  
16 performed by the applicant at the applicant's own expense.

17 (5) No fee as prescribed by this section may be  
18 assessed against an applicant for a permit or approval if  
19 the applicant has also filed an application for a  
20 certificate of environmental compatibility or public need  
21 pursuant to the Montana Major Facility Siting Act and the  
22 appropriation or use of water involved in the application(s)  
23 for permit or approval has been or will be studied by the  
24 department pursuant to that act.

25 (6) This section shall apply to all applications,



1 pending or hereinafter filed, for which the department has  
2 not, as of April 9, 1975, commenced writing an environmental  
3 impact statement. This section shall not apply to any  
4 application, the fee for which would not exceed \$2,500.

5 (7) Failure to submit the fee as required by this  
6 section shall void the application(s).

7 (8) The department may in its discretion rely upon the  
8 environmental studies, investigations, reports, and  
9 assessments made by any other state agency or any person,  
10 including any applicant, in the preparation of its  
11 environmental impact statement."

12 **Section 115.** Section 85-2-213, MCA, is amended to read:

13 **\*85-2-213. Notice of order.** To assure that all persons  
14 who may claim an existing water right are notified of the  
15 requirement to file a claim of that right, the Montana  
16 supreme court shall give notice of the order as follows:

17 (1) It shall cause the order, printed in not less than  
18 10-point type, to be placed in a prominent and conspicuous  
19 place in all daily newspapers of the state and in at least  
20 one newspaper published in each county of the state within  
21 30 days after the Montana supreme court order as provided in  
22 85-2-212 and in April of 1980, 1981, 1982, and 1983.

23 (2) It shall cause the order, in writing, to be placed  
24 in a prominent and conspicuous location in each county  
25 courthouse in the state within 30 days after the Montana

1 supreme court order as provided in 85-2-212.

2 (3) It shall provide a sufficient number of copies of  
3 the order to the county treasurers before October 15, 1979,  
4 1980, 1981, and 1982, and the county treasurers shall  
5 enclose a copy of the order with each statement of property  
6 taxes mailed in 1979, 1980, 1981, and 1982. In the  
7 implementation of this subsection, the department shall  
8 provide reimbursement to each county treasurer for the  
9 reasonable additional costs incurred by the treasurer  
10 arising from the inclusion of the order required by this  
11 section. The department shall be reimbursed for such costs  
12 from the ~~water--right--adjudication--account--created--by~~  
13 ~~85-2-241~~ state general fund.

14 (4) It shall provide copies of the order, in writing,  
15 to the press services with offices located in Helena within  
16 30 days after the Montana supreme court order as provided in  
17 85-2-212, and in April of 1980, 1981, 1982, and 1983.

18 (5) It shall, under authority granted to the states by  
19 43 U.S.C. 666, provide for service of the petition and order  
20 upon the United States attorney general or his designated  
21 representative.

22 (6) It may also in its discretion give notice of the  
23 order in any other manner that will carry out the purposes  
24 of this section.

25 (7) It may also in its discretion order that the

1 department or the water judge assist the Montana supreme  
2 court in the carrying out of this section."

3 **Section 116.** Section 85-2-241, MCA, is amended to read:

4 "85-2-241. Water right adjudication account fees. There  
5 ~~is--established--a--water--right-adjudication-account-in-the~~  
6 ~~state-special-revenue-fund-of-the-state-treasury~~. All fees  
7 collected under this section and 85-2-232 shall be deposited  
8 in the account general fund to pay the expenses incurred by  
9 the state for administering this part, part 7, and Title 3,  
10 chapter 7."

11 **Section 117.** Section 85-2-302, MCA, is amended to read:

12 "85-2-302. (Temporary) Application for permit -- fee.  
13 (1) Except as otherwise provided in (1) through (3) of  
14 85-2-306, a person may not appropriate water or commence  
15 construction of diversion, impoundment, withdrawal, or  
16 distribution works therefor except by applying for and  
17 receiving a permit from the department. The application  
18 shall be made on a form prescribed by the department. The  
19 department shall make the forms available through its  
20 offices and the offices of the county clerk and recorders.  
21 The department shall return a defective application for  
22 correction or completion, together with the reasons for  
23 returning it. An application does not lose priority of  
24 filing because of defects if the application is corrected,  
25 completed, and refiled with the department within 30 days

1 after its return to the applicant or within a further time  
2 as the department may allow. If an application is not  
3 corrected and completed within 30 days or within a further  
4 time as the department allows, up to 3 months, the priority  
5 date of the application shall be the date of refiling the  
6 application with the corrections with the department. An  
7 application not corrected within 3 months shall be  
8 terminated.

9 (2) In addition to the application filing fee  
10 prescribed by the board by rule pursuant to 85-2-113, a  
11 person applying for a permit under subsection (1) shall pay  
12 a fee of \$1 per acre-foot of ground water appropriated. The  
13 fees collected by the department under this subsection must  
14 be deposited in the ~~ground--water--assessment--~~account  
15 ~~established~~ general fund ~~in--85-2-9057--within--the-state~~  
16 ~~special-revenue-fund~~. (Terminates July 1, 1993--sec. 22, Ch.  
17 769, L. 1991.)

18 85-2-302. (Effective July 1, 1993) Application for  
19 permit. Except as otherwise provided in (1) through (3) of  
20 85-2-306, a person may not appropriate water or commence  
21 construction of diversion, impoundment, withdrawal, or  
22 distribution works therefor except by applying for and  
23 receiving a permit from the department. The application  
24 shall be made on a form prescribed by the department. The  
25 department shall make the forms available through its

1 offices and the offices of the county clerk and recorders.  
 2 The department shall return a defective application for  
 3 correction or completion, together with the reasons for  
 4 returning it. An application does not lose priority of  
 5 filing because of defects if the application is corrected,  
 6 completed, and refiled with the department within 30 days  
 7 after its return to the applicant or within a further time  
 8 as the department may allow. If an application is not  
 9 corrected and completed within 30 days or within a further  
 10 time as the department allows, up to 3 months, the priority  
 11 date of the application shall be the date of refileing the  
 12 application with the corrections with the department. An  
 13 application not corrected within 3 months shall be  
 14 terminated."

15 **Section 118.** Section 85-2-306, MCA, is amended to read:  
 16 **"85-2-306. (Temporary) Exceptions to permit**  
 17 **requirements -- fee.** (1) Ground water may be appropriated  
 18 only by a person who has a possessory interest in the  
 19 property where the water is to be put to beneficial use and  
 20 exclusive property rights in the ground water development  
 21 works or, if another person has rights in the ground water  
 22 development works, the written consent of the person with  
 23 those property rights. Outside the boundaries of a  
 24 controlled ground water area, a permit is not required  
 25 before appropriating ground water by means of a well or

1 developed spring with a maximum appropriation of 35 gallons  
 2 per minute or less, not to exceed 10 acre-feet per year,  
 3 except that a combined appropriation from the same source  
 4 from two or more wells or developed springs exceeding this  
 5 limitation requires a permit. Within 60 days of completion  
 6 of the well or developed spring and appropriation of the  
 7 ground water for beneficial use, the appropriator shall file  
 8 a notice of completion with the department on a form  
 9 provided by the department at its offices and at the offices  
 10 of the county clerk and recorders and pay a filing fee. Upon  
 11 receipt of the notice, the department shall review the  
 12 notice and may, before issuing a certificate of water right,  
 13 return a defective notice for correction or completion,  
 14 together with the reasons for returning it. A notice does  
 15 not lose priority of filing because of defects if the notice  
 16 is corrected, completed, and refiled with the department  
 17 within 30 days or within a further time as the department  
 18 may allow, not to exceed 6 months. If a notice is not  
 19 corrected and completed within the time allowed, the  
 20 priority date of appropriation shall be the date of refileing  
 21 a correct and complete notice with the department. A  
 22 certificate of water right may not be issued until a correct  
 23 and complete notice has been filed with the department. The  
 24 original of the certificate shall be sent to the  
 25 appropriator. The department shall keep a copy of the

1 certificate in its office in Helena. The date of filing of  
2 the notice of completion is the date of priority of the  
3 right.

4 (2) An appropriator of ground water by means of a well  
5 or developed spring first put to beneficial use between  
6 January 1, 1962, and July 1, 1973, who did not file a notice  
7 of completion, as required by laws in force prior to April  
8 14, 1981, with the county clerk and recorder shall file a  
9 notice of completion, as provided in subsection (1) of this  
10 section, with the department to perfect the water right. The  
11 filing of a claim of existing water right pursuant to  
12 85-2-221 is sufficient notice of completion under this  
13 subsection. The priority date of the appropriation shall be  
14 the date of the filing of a notice as provided in subsection  
15 (1) of this section or the date of the filing of the claim  
16 of existing water right. An appropriation under this  
17 subsection is an existing right, and a permit is not  
18 required; however, the department shall acknowledge the  
19 receipt of a correct and complete filing of a notice of  
20 completion, except that for an appropriation of 35 gallons  
21 per minute or less, not to exceed 10 acre-feet per year, the  
22 department shall issue a certificate of water right. If a  
23 certificate is issued under this section, a certificate need  
24 not be issued under the adjudication proceedings provided  
25 for in 85-2-236.

1 (3) A permit is not required before constructing an  
2 impoundment or pit and appropriating water for use by  
3 livestock if the maximum capacity of the impoundment or pit  
4 is less than 15 acre-feet and the appropriation is less than  
5 30 acre-feet per year and is from a source other than a  
6 perennial flowing stream and the impoundment or pit is to be  
7 constructed on and will be accessible to a parcel of land  
8 that is owned or under the control of the applicant and that  
9 is 40 acres or larger. As used in this subsection, a  
10 perennial flowing stream means a stream which historically  
11 has flowed continuously at all seasons of the year, during  
12 dry as well as wet years. However, within 60 days after  
13 constructing the impoundment or pit, the appropriator shall  
14 apply for a permit as prescribed by this part. Upon receipt  
15 of a correct and complete application for a stockwater  
16 provisional permit, the department shall then automatically  
17 issue a provisional permit. If the department determines  
18 after a hearing that the rights of other appropriators have  
19 been or will be adversely affected, it may revoke the permit  
20 or require the permittee to modify the impoundment or pit  
21 and may then make the permit subject to such terms,  
22 conditions, restrictions, or limitations it considers  
23 necessary to protect the rights of other appropriators.

24 (4) A person may also appropriate water without  
25 applying for or prior to receiving a permit under rules

1 adopted by the board under 85-2-113.

2 (5) In addition to the filing fee prescribed by the  
3 board by rule pursuant to 85-2-113, a person filing a notice  
4 under subsection (1) shall pay a \$10 fee, and the department  
5 shall deposit \$10 of each filing fee collected pursuant to  
6 subsection (1) in the ~~ground--water--assessment--account,~~  
7 ~~established--in~~ general fund 85-2-985, ~~--within--the--state~~  
8 ~~special-revenue-fund~~. (Terminates July 1, 1993--sec. 22, Ch.  
9 769, L. 1991.)

10 85-2-306. (Effective July 1, 1993) Exceptions to permit  
11 requirements. (1) Ground water may be appropriated only by a  
12 person who has a possessory interest in the property where  
13 the water is to be put to beneficial use and exclusive  
14 property rights in the ground water development works or, if  
15 another person has rights in the ground water development  
16 works, the written consent of the person with those property  
17 rights. Outside the boundaries of a controlled ground water  
18 area, a permit is not required before appropriating ground  
19 water by means of a well or developed spring with a maximum  
20 appropriation of 35 gallons per minute or less, not to  
21 exceed 10 acre-feet per year, except that a combined  
22 appropriation from the same source from two or more wells or  
23 developed springs exceeding this limitation requires a  
24 permit. Within 60 days of completion of the well or  
25 developed spring and appropriation of the ground water for

1 beneficial use, the appropriator shall file a notice of  
2 completion with the department on a form provided by the  
3 department at its offices and at the offices of the county  
4 clerk and recorders. Upon receipt of the notice, the  
5 department shall review the notice and may, before issuing a  
6 certificate of water right, return a defective notice for  
7 correction or completion, together with the reasons for  
8 returning it. A notice does not lose priority of filing  
9 because of defects if the notice is corrected, completed,  
10 and refiled with the department within 30 days or within a  
11 further time as the department may allow, not to exceed 6  
12 months. If a notice is not corrected and completed within  
13 the time allowed, the priority date of appropriation shall  
14 be the date of refileing a correct and complete notice with  
15 the department. A certificate of water right may not be  
16 issued until a correct and complete notice has been filed  
17 with the department. The original of the certificate shall  
18 be sent to the appropriator. The department shall keep a  
19 copy of the certificate in its office in Helena. The date of  
20 filing of the notice of completion is the date of priority  
21 of the right.

22 (2) An appropriator of ground water by means of a well  
23 or developed spring first put to beneficial use between  
24 January 1, 1962, and July 1, 1973, who did not file a notice  
25 of completion, as required by laws in force prior to April

1 14, 1981, with the county clerk and recorder shall file a  
 2 notice of completion, as provided in subsection (1) of this  
 3 section, with the department to perfect the water right. The  
 4 filing of a claim of existing water right pursuant to  
 5 85-2-221 is sufficient notice of completion under this  
 6 subsection. The priority date of the appropriation shall be  
 7 the date of the filing of a notice as provided in subsection  
 8 (1) of this section or the date of the filing of the claim  
 9 of existing water right. An appropriation under this  
 10 subsection is an existing right, and a permit is not  
 11 required; however, the department shall acknowledge the  
 12 receipt of a correct and complete filing of a notice of  
 13 completion, except that for an appropriation of 35 gallons  
 14 per minute or less, not to exceed 10 acre-feet per year, the  
 15 department shall issue a certificate of water right. If a  
 16 certificate is issued under this section, a certificate need  
 17 not be issued under the adjudication proceedings provided  
 18 for in 85-2-236.

19 (3) A permit is not required before constructing an  
 20 impoundment or pit and appropriating water for use by  
 21 livestock if the maximum capacity of the impoundment or pit  
 22 is less than 15 acre-feet and the appropriation is less than  
 23 30 acre-feet per year and is from a source other than a  
 24 perennial flowing stream and the impoundment or pit is to be  
 25 constructed on and will be accessible to a parcel of land

1 that is owned or under the control of the applicant and that  
 2 is 40 acres or larger. As used in this subsection, a  
 3 perennial flowing stream means a stream which historically  
 4 has flowed continuously at all seasons of the year, during  
 5 dry as well as wet years. However, within 60 days after  
 6 constructing the impoundment or pit, the appropriator shall  
 7 apply for a permit as prescribed by this part. Upon receipt  
 8 of a correct and complete application for a stockwater  
 9 provisional permit, the department shall then automatically  
 10 issue a provisional permit. If the department determines  
 11 after a hearing that the rights of other appropriators have  
 12 been or will be adversely affected, it may revoke the permit  
 13 or require the permittee to modify the impoundment or pit  
 14 and may then make the permit subject to such terms,  
 15 conditions, restrictions, or limitations it considers  
 16 necessary to protect the rights of other appropriators.

17 (4) A person may also appropriate water without  
 18 applying for or prior to receiving a permit under rules  
 19 adopted by the board under 85-2-113."

20 **Section 119.** Section 85-2-318, MCA, is amended to read:

21 "85-2-318. Water right appropriation account funds.  
 22 ~~There is established a water right appropriation account in~~  
 23 ~~the state special revenue fund of the state treasury.~~ All  
 24 fees collected as provided in 85-2-113 shall be deposited in  
 25 the account general fund to help pay the expenses incurred

1 by the department for administering and enforcing this part,  
2 part 1, part 4, and part 5 of chapter 2, Title 85, and Title  
3 37, chapter 43."

4 **Section 120.** Section 85-3-213, MCA, is amended to read:

5 "85-3-213. State ~~special~~---revenue--fund funds. All  
6 license and permit fees and fines collected under this  
7 chapter, other than those collected in a justice's court,  
8 shall be deposited in the ~~state-special-revenue~~ general fund  
9 for use by the department in the administration of this  
10 chapter or as appropriated by the legislature."

11 **Section 121.** Section 90-3-305, MCA, is amended to read:

12 "90-3-305. (Temporary) Science and technology  
13 development account. ~~{1} There is a science and technology~~  
14 ~~development account within the state special revenue fund~~  
15 ~~established in 17-2-102.~~

16 {2} There must be paid into the ~~science and technology~~  
17 ~~development account~~ general fund:

18 {a}{1} the payback of principal and earnings on a  
19 research and development project loan, made from a source  
20 other than the Montana permanent coal tax trust fund,  
21 executed under this chapter; and

22 {b}{2} all payback of principal and earnings to the  
23 board from any agreements executed by the board between July  
24 1, 1985, and March 31, 1989.

25 {3} ~~Any time the balance of the science and technology~~

1 development account exceeds \$50,000, the board shall  
2 transfer the amount of the balance in excess of \$50,000 to  
3 the general fund. (Terminates June 30, 1993--sec. 3, Ch. 9,  
4 Sp. L. January 1992.)

5 90-3-305. (Effective July 1, 1993) Science and  
6 technology development account. ~~{1} There is a science and~~  
7 ~~technology development account within the state special~~  
8 ~~revenue fund established in 17-2-102.~~

9 {2} There must be paid into the ~~science and technology~~  
10 ~~development account~~ general fund:

11 {a}{1} the payback of principal and earnings on a  
12 research and development project loan, made from a source  
13 other than the Montana permanent coal tax trust fund,  
14 executed under this chapter; and

15 {b}{2} all payback of principal and earnings to the  
16 board from any agreements executed by the board between July  
17 1, 1985, and March 31, 1989."

18 **Section 122.** Section 90-3-525, MCA, is amended to read:

19 "90-3-525. Deposit of payback. (1) The payback of  
20 principal and earnings on a research and development project  
21 loan from a source other than the Montana permanent coal tax  
22 trust fund must be deposited to in the ~~state special revenue~~  
23 ~~general~~ fund ~~to the credit of the science and technology~~  
24 ~~development account created in 90-3-305.~~

25 (2) All paybacks of principal and earnings to the board

1 from any agreements executed by the board between July 1,  
2 1985, and March 31, 1989, must be deposited to in the state  
3 ~~special-revenue general~~ fund to-the-credit--of--the--science  
4 ~~and--technology--development-account-created-in-90-3-305-for~~  
5 ~~use-by-the-board.-The-paybacks-include--all--those--received~~  
6 ~~after-January-17-1989."~~

7 NEW SECTION. Section 123. Repealer. Sections  
8 15-25-121, 15-25-123, 20-3-108, 50-50-216, 50-51-110,  
9 50-52-210, 60-11-122, 75-6-115, and 76-15-530, MCA, are  
10 repealed.

11 NEW SECTION. Section 124. Effective date. [This act]  
12 is effective on passage and approval.

-End-