

HOUSE BILL NO. 685  
INTRODUCED BY GRADY

IN THE HOUSE

MARCH 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 22, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 23, 1993	ENGROSSING REPORT.
MARCH 24, 1993	THIRD READING, PASSED. AYES, 55; NOES, 44.
MARCH 25, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 26, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON FINANCE & CLAIMS.
	FIRST READING.
APRIL 14, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 15, 1993	SECOND READING, CONCURRED IN.
	THIRD READING, CONCURRED IN. AYES, 27; NOES, 22.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 16, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 19, 1993	SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, PREVIOUS ACTION  
RECONSIDERED AND RETURNED TO 2ND  
READING ON 87TH LEGISLATIVE DAY.

APRIL 20, 1993

SECOND READING, AMENDMENTS  
CONCURRED IN.

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1                    House BILL NO. 685  
2     INTRODUCED BY Smady  
3  
4     A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
5     CORRECTIONS AND HUMAN SERVICES LAWS TO IMPLEMENT BUDGET  
6     REDUCTIONS; ALLOWING THE DEPARTMENT OF CORRECTIONS AND HUMAN  
7     SERVICES TO USE CIGARETTE TAX REVENUE FOR SPECIFIED PURPOSES  
8     IN VETERANS' PROGRAMS; PROVIDING FOR THE GRANTING OF GOOD  
9     TIME TO INMATES IN ORDER TO REGULATE INMATE NUMBERS;  
10    REVISING THE TIME PERIOD IN WHICH THE BOARD OF PARDONS  
11    CONSIDERS ELIGIBLE INMATES FOR PAROLE; REDUCING THE LEVEL OF  
12    SUPERVISION OF PROBATIONERS AND PAROLEES WHEN THE CASELOAD  
13    REACHES CERTAIN LEVELS; ALLOWING A CHARGE FOR BOARD, ROOM,  
14    AND ANCILLARY SERVICES PROVIDED TO INCARCERATED PERSONS;  
15    DISCONTINUING THE SWAN RIVER FOREST CAMP; AUTHORIZING THE  
16    OPERATION OF THE WOMEN'S CORRECTIONAL CENTER IN A TEMPORARY  
17    LOCATION; DISCONTINUING THE GALEN CAMPUS OF THE MONTANA  
18    STATE HOSPITAL; REVISING THE LOCATION AND FUNCTIONS OF THE  
19    CHEMICAL DEPENDENCY TREATMENT CENTER; DIRECTING THE  
20    COORDINATION OF RESOURCES TO ENSURE DELIVERY OF SERVICES TO  
21    CHILDREN WITH EMOTIONAL DISTURBANCES; AUTHORIZING MENTAL  
22    HEALTH CENTERS TO REQUIRE FULL PAYMENT FOR SERVICES;  
23    PROVIDING EXPENDITURE FLEXIBILITY; AMENDING SECTIONS  
24    41-5-206, 46-23-202, 46-23-1011, 46-23-1021, 53-1-104,  
25    53-1-202, 53-1-203, 53-21-202, 53-21-206, 53-21-601,

1     53-21-603, 53-30-101, AND 53-30-105, MCA; REPEALING SECTIONS  
2     10-2-411, 10-2-412, 10-2-413, 10-2-414, 10-2-415, 10-2-416,  
3     46-23-204, 50-17-104, 52-2-118, 52-5-104, 52-5-111, AND  
4     53-21-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
5

6                    STATEMENT OF INTENT

7            A statement of intent is required for this bill because  
8     it authorizes the department of corrections and human  
9     services to adopt rules concerning the granting of good time  
10    to inmates when the population of an institution reaches  
11    capacity and providing that individuals within the  
12    corrections system pay for services. It is the intent of the  
13    legislature that rules adopted by the department to grant  
14    good time to inmates when the capacity of an institution is  
15    exceeded be primarily based upon proximity to parole  
16    eligibility or discharge but also take into consideration  
17    factors such as behavior, attitude, and criminal history.

18           It is the intent of the legislature that rules be  
19    adopted for the administration of the veterans' benefits  
20    program.

21           The rules establishing a maximum Montana state hospital  
22    population and procedures for avoiding exceeding the maximum  
23    population must take into account the facilities and  
24    personnel available at the hospital.  
25

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

2 NEW SECTION. **Section 1. Use of cigarette tax --**  
 3 **benefits program -- rulemaking.** The revenue allocated to the  
 4 department of corrections and human services from revenue  
 5 deposited under 16-11-119 must be used to support the  
 6 operation and maintenance of the Montana veterans' homes  
 7 program and the development and implementation of a benefits  
 8 program for aging veterans who need in-home health or  
 9 nursing care. The revenue may be used to pay costs of  
 10 personal services, operations, equipment, and construction  
 11 or remodeling projects. The department may adopt rules for  
 12 the administration of the veterans' benefits program.

13 **Section 2.** Section 41-5-206, MCA, is amended to read:

14 **"41-5-206. Transfer to criminal court.** (1) After a  
 15 petition has been filed alleging delinquency, the court may,  
 16 upon motion of the county attorney, before hearing the  
 17 petition on its merits, transfer the matter of prosecution  
 18 to the district court if:

19 (a) (i) the youth charged was 12 years of age or more  
 20 at the time of the conduct alleged to be unlawful and the  
 21 unlawful act would constitute sexual intercourse without  
 22 consent as defined in 45-5-503, deliberate homicide as  
 23 defined in 45-5-102, mitigated deliberate homicide as  
 24 defined in 45-5-103, or the attempt, as defined in 45-4-103,  
 25 of either deliberate or mitigated deliberate homicide if the

1 act had been committed by an adult; or

2 (ii) the youth charged was 16 years of age or more at  
 3 the time of the conduct alleged to be unlawful and the  
 4 unlawful act is one or more of the following:

5 (A) negligent homicide as defined in 45-5-104;

6 (B) arson as defined in 45-6-103;

7 (C) aggravated or felony assault as defined in  
 8 45-5-202;

9 (D) robbery as defined in 45-5-401;

10 (E) burglary or aggravated burglary as defined in  
 11 45-6-204;

12 (F) aggravated kidnapping as defined in 45-5-303;

13 (G) possession of explosives as defined in 45-8-335;

14 (H) criminal sale of dangerous drugs as included in  
 15 45-9-101;

16 (I) attempt, as defined in 45-4-103, of any of the acts  
 17 enumerated in subsections (1)(a)(ii)(A) through  
 18 (1)(a)(ii)(H);

19 (b) a hearing on whether the transfer should be made is  
 20 held in conformity with the rules on a hearing on a petition  
 21 alleging delinquency, except that the hearing will be  
 22 conducted by the youth court without a jury;

23 (c) notice in writing of the time, place, and purpose  
 24 of the hearing is given to the youth, his the youth's  
 25 counsel, and his the youth's parents, guardian, or custodian

1 at least 10 days before the hearing; and

2 (d) the court finds upon the hearing of all relevant  
3 evidence that there is probable cause to believe that:

4 (i) the youth committed the delinquent act alleged;

5 (ii) the seriousness of the offense and the protection  
6 of the community require treatment of the youth beyond that  
7 afforded by juvenile facilities; and

8 (iii) the alleged offense was committed in an  
9 aggressive, violent, or premeditated manner.

10 (2) In transferring the matter of prosecution to the  
11 district court, the court may also consider the following  
12 factors:

13 (a) the sophistication and maturity of the youth,  
14 determined by consideration of his the youth's home,  
15 environmental situation, and emotional attitude and pattern  
16 of living;

17 (b) the record and previous history of the youth,  
18 including previous contacts with the youth court, law  
19 enforcement agencies, youth courts in other jurisdictions,  
20 prior periods of probation, and prior commitments to  
21 juvenile institutions. However, lack of a prior juvenile  
22 history with youth courts will not of itself be grounds for  
23 denying the transfer.

24 (3) The court shall grant the motion to transfer if the  
25 youth was 16 years old or older at the time of the conduct

1 alleged to be unlawful and the unlawful act would constitute  
2 deliberate homicide as defined in 45-5-102, mitigated  
3 deliberate homicide as defined in 45-5-103, or the attempt,  
4 as defined in 45-4-103, of either deliberate or mitigated  
5 deliberate homicide if the act had been committed by an  
6 adult.

7 (4) Upon transfer to district court, the judge shall  
8 make written findings of the reasons why the jurisdiction of  
9 the youth court was waived and the case transferred to  
10 district court.

11 (5) The transfer terminates the jurisdiction of the  
12 youth court over the youth with respect to the acts alleged  
13 in the petition. A youth may not be prosecuted in the  
14 district court for a criminal offense originally subject to  
15 the jurisdiction of the youth court unless the case has been  
16 transferred as provided in this section.

17 (6) Upon order of the youth court transferring the case  
18 to the district court, the county attorney shall file the  
19 information against the youth without unreasonable delay.

20 (7) Any offense not enumerated in subsection (1) that  
21 arises during the commission of a crime enumerated in  
22 subsection (1) may be:

23 (a) tried in youth court;

24 (b) transferred to district court with an offense  
25 enumerated in subsection (1), upon motion of the county

attorney and order of the youth court judge.

(8) If a youth is found guilty in district court of any of the offenses transferred by the youth court and is sentenced to the state prison, his the youth's commitment must be to the department of corrections and human services. The department shall confine the youth in whatever institution it considers proper, including a state youth correctional facility ~~under--the--procedures--of-52-5-111;~~ however, no a youth under 16 years of age may not be confined in the state prison.

(9) A youth whose case is transferred to district court may not be detained or otherwise placed in a jail or other adult detention facility before final disposition of his the youth's case unless:

(a) alternative facilities do not provide adequate security; and

(b) the youth is kept in an area that provides physical, as well as sight and sound, separation from adults accused or convicted of criminal offenses."

**Section 3.** Section 46-23-202, MCA, is amended to read:

"46-23-202. Investigation of prisoner by board. (1) Within the 2 months prior to his a prisoner's official parole eligibility date or within the 2 months following the date a prisoner becomes eligible pursuant to 53-30-105(5), the board shall consider all pertinent information regarding

each prisoner, including the circumstances of his the offense, his the prisoner's previous social history and criminal record, his the prisoner's conduct, employment, and attitude in prison, and the reports of any physical and mental examinations which that have been made.

(2) Before ordering the parole of any prisoner, the board shall interview him the prisoner."

**Section 4.** Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation. (1) The department shall supervise persons during their probation period in accord with the conditions set by a court.

(2) A copy of the conditions of probation ~~shall~~ must be signed by the probationer and given to him the probationer and his the probationer's probation and parole officer, who shall report on his the probationer's progress under rules of the court.

(3) The probation and parole officer shall regularly advise and consult with the probationer to encourage him the probationer to improve his the probationer's condition and conduct and inform him the probationer of the restoration of his rights on successful completion of his the sentence.

(4) The probation and parole officer may recommend and a court ~~may~~ modify any condition of probation or suspension of sentence at any time. Notice ~~shall~~ must be given to the probation and parole officer before any condition is

1 modified, and ~~he--shall~~ the officer must be given an  
 2 opportunity to present ~~his~~ the officer's ideas or  
 3 recommendations on any modification. A copy of a  
 4 modification of conditions ~~shall~~ must be delivered to the  
 5 probation and parole officer and the probationer.

6 (5) The probation and parole officer shall keep records  
 7 as the department or the court may require.

8 (6) (a) Upon recommendation of the probation and parole  
 9 officer, a court may conditionally discharge a probationer  
 10 from supervision before expiration of ~~his~~ the probationer's  
 11 sentence if the court determines that a conditional  
 12 discharge from supervision is in the best interests of the  
 13 probationer and society.

14 (b) ~~Nothing--in--subsection~~ Subsection (6)(a) ~~prohibits~~  
 15 does not prohibit a court from revoking the order suspending  
 16 execution or deferring imposition of sentence, as provided  
 17 in 46-18-203, for a probationer who has been conditionally  
 18 discharged from supervision.

19 (c) If the department certifies to the court that the  
 20 workload of a district probation and parole office has  
 21 exceeded the optimum workload for the district over the  
 22 preceding 60 days, the court may not place an offender on  
 23 probation under supervision by that district office unless  
 24 it grants a conditional discharge to a probationer being  
 25 supervised by that district office. The department may

1 recommend probationers to the court for conditional  
 2 discharge. The court may accept or reject the  
 3 recommendations of the department. The department shall  
 4 determine the optimum workload for each district probation  
 5 and parole office."

6 **Section 5.** Section 46-23-1021, MCA, is amended to read:

7 **"46-23-1021. Supervision on parole.** (1) The department  
 8 shall retain custody of all persons placed on parole and  
 9 shall supervise the persons during their parole period in  
 10 accord with the conditions set by the board.

11 (2) The department shall assign personnel to assist  
 12 persons eligible for parole in preparing a parole plan.  
 13 Department personnel shall make a report of their efforts  
 14 and findings to the board prior to its consideration of the  
 15 case of the eligible person.

16 (3) A copy of the conditions of ~~his~~ parole ~~shall~~ must  
 17 be signed by the parolee and given to ~~him~~ the parolee and to  
 18 ~~his~~ the parolee's probation and parole officer, who shall  
 19 report on ~~his~~ the parolee's progress under the rules of the  
 20 board.

21 (4) The probation and parole officer shall regularly  
 22 advise and consult with the parolee, assist ~~him~~ the parolee  
 23 in adjusting to community life, and inform ~~him~~ the parolee  
 24 of the restoration of ~~his~~ rights on successful completion of  
 25 sentence.

(5) The probation and parole officer shall keep such records as the board or department may require. All records ~~shall~~ must be entered in the master file of the individual.

(6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of ~~his~~ the parolee's sentence if the board determines that a conditional discharge from supervision is in the best interests of the parolee and society.

~~(b) Nothing-in-subsection Subsection~~ (6)(a) ~~prohibits~~ does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision.

(c) If the department certifies to the board that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the board may not parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised by that district office. The department may recommend parolees to the board for conditional discharge. The board may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

**Section 6.** Section 53-1-104, MCA, is amended to read:

**"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following institutions or facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written notification to the department of justice whenever ~~such--a~~ the person is admitted or released by it:

(a) Montana state hospital;

(b) state prison;

(c) Mountain View school;

(d) Pine Hills school; or

(e) ~~Swan-River-forest-camp;-or~~

~~(f)~~ any county or city detention facility.

(2) The notification ~~shall~~ must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

**Section 7.** Section 53-1-202, MCA, is amended to read:

**"53-1-202. Department of corrections and human services.** (1) The following components are in the department of corrections and human services to carry out the purposes of the department:

(a) adult corrections services consisting of the following institutional components to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:



1 (i) Montana state prison;  
 2 (ii) ~~Swan-River-forest-camp~~;  
 3 ~~the Montana women's correctional center~~; and  
 4 ~~(iv)~~ (iii) appropriate community-based programs for the  
 5 placement, supervision, and rehabilitation of adult felons  
 6 who meet the criteria developed by the department for  
 7 placement:  
 8 (A) in prerelease centers;  
 9 (B) under intensive supervision;  
 10 (C) under parole or probation pursuant to Title 46,  
 11 chapter 23, part 2; or  
 12 (D) in other appropriate programs;  
 13 (b) mental health services consisting of the following  
 14 institutional components for care and treatment of the  
 15 mentally ill pursuant to Title 53, chapter 21:  
 16 (i) Montana state hospital;  
 17 (ii) Montana center for the aged; and  
 18 (iii) a community services component consisting of  
 19 appropriate services for the care and treatment of the  
 20 mentally ill pursuant to Title 53, chapter 21, part 2;  
 21 (c) chemical dependency services consisting of  
 22 appropriate detoxification, inpatient, intensive outpatient,  
 23 outpatient, prevention, education, and other necessary  
 24 chemical dependency services pursuant to Title 53, chapter  
 25 24;

1 (d) institutional and residential components of the  
 2 developmental disabilities system for those developmentally  
 3 disabled persons who require that care according to Title  
 4 53, chapter 20, consisting of:  
 5 (i) the Montana developmental center; and  
 6 (ii) Eastmont human services center; and  
 7 (e) veterans' nursing homes for the nursing home and  
 8 domiciliary care of honorably discharged veterans as  
 9 provided by law, consisting of:  
 10 (i) Montana veterans' home; and  
 11 (ii) eastern Montana veterans' home at Glendive.  
 12 (2) A state institution may not be moved, discontinued,  
 13 or abandoned without prior consent of the legislature."  
 14 **Section 8.** Section 53-1-203, MCA, is amended to read:  
 15 **"53-1-203. Powers and duties of department.** The  
 16 department shall:  
 17 (1) adopt rules for the admission, custody, transfer,  
 18 and release of persons in department programs except as  
 19 otherwise provided by law; however, ~~no-such~~ the rules may  
 20 not amend or alter the statutory powers and duties of the  
 21 state board of pardons;  
 22 (2) subject to the functions of the department of  
 23 administration, lease or purchase lands for use by  
 24 institutions and classify those lands to determine which ~~are~~  
 25 ~~of-such-character-as-to~~ can be most profitably used for

1 agricultural purposes, taking into consideration the needs  
2 of all institutions for the food products that can be grown  
3 or produced on the lands and the relative value of  
4 agricultural programs in the treatment or rehabilitation of  
5 the persons confined in the institutions;

6 (3) contract with private nonprofit Montana  
7 corporations to establish and maintain community based  
8 prerelease centers for purposes of preparing inmates of the  
9 Montana state prison who are approaching parole eligibility  
10 or discharge for release into the community; the centers  
11 shall provide a less restrictive environment than the prison  
12 while maintaining adequate security; the centers shall be  
13 operated in coordination with other department correctional  
14 programs, including the supervised release program provided  
15 for in Title 46, chapter 23, part 4. ~~Nothing-in-this~~ This  
16 ~~subsection shall~~ does not affect the department's authority  
17 to operate and maintain community based prerelease centers  
18 in existence on July 14, 1982.

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

23 (5) propose programs to the legislature to meet the  
24 projected long-range needs of institutions, including  
25 programs and facilities for the diagnosis, treatment, care,

1 and aftercare of persons placed in institutions; and

2 (6) encourage the establishment of programs at the  
3 local level for the prevention and rehabilitation of  
4 disabilities as they relate to mental illness and chemical  
5 dependency and encourage the establishment of programs at  
6 the local and institutional level for the rehabilitation and  
7 education of adult felony offenders."

8 NEW SECTION. **Section 9.** Rates for board, room, and  
9 ancillary services charged to inmates. (1) The department  
10 may establish and charge reasonable rates for board, room,  
11 and ancillary services as described in 53-1-401 for persons  
12 incarcerated in an institutional correctional facility.

13 (2) The department may prescribe rules that establish  
14 criteria and a procedure for determining ability to pay. The  
15 department may not make an assessment that would place an  
16 undue financial burden on the person.

17 **Section 10.** Section 53-21-202, MCA, is amended to read:

18 "53-21-202. Duties of department. The department shall:

19 (1) take cognizance of matters affecting the mental  
20 health of the citizens of the state;

21 (2) initiate mental health care and treatment,  
22 prevention, and research as can best be accomplished by  
23 community-centered services. ~~Such~~ The means ~~shall~~ must be  
24 utilized to initiate and operate these services in  
25 cooperation with local agencies as established under this

part.

(3) collect and disseminate information relating to mental health;

(4) prepare and maintain a comprehensive plan for the development of public mental health services in the state;

(5) receive from agencies of the United States and other state agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions for the development of mental health services within the state;

(6) establish standards for mental health programs that receive funds from the department; and

(7) evaluate performance of programs that receive funds from the department in compliance with federal and state standards;

(8) coordinate state and community resources to ensure comprehensive delivery of services to children with emotional disturbances and submit at least a biennial report to the governor and the legislature concerning the activities and recommendations of the department and service providers; and

(9) appoint an advisory council to make recommendations to the department regarding services for emotionally disturbed children. The members of the advisory council

shall serve without compensation and must include but not be limited to a representative of:

(a) the department;

(b) the department of family services;

(c) the office of public instruction;

(d) a youth court;

(e) parents of emotionally disturbed children; and

(f) service provider groups."

**Section 11.** Section 53-21-206, MCA, is amended to read:

"53-21-206. Availability of services. (1) The Except as provided in subsection (2), the services of the department and of the incorporated regional mental health centers are available without discrimination on the basis of race, color, creed, religion, or ability to pay and shall must comply with Title VI of the Civil Rights Act of 1964.

(2) A regional mental health center may require the payment of its full fee if there is no departmental subsidy available for services provided to a client."

**Section 12.** Section 53-21-601, MCA, is amended to read:

"53-21-601. Location and primary function of hospital.

(1) The agency providing comprehensive mental health care services at ~~Galen and~~ Warm Springs, Montana, is the Montana state hospital and as its primary function provides:

~~(a) care and treatment of mentally ill persons;~~

~~(b) diagnosis, care, evaluation, treatment, referral,~~

and--rehabilitation--of--persons--afflicted--with---chemical  
dependency;

(c)--care--and--treatment--of--institutional--residents--or  
clients--of--the--department's--community--and--residential  
programs--who--require--acute--hospital--care--or--nursing--care;

(d)--treatment--of--tuberculosis--and--silicosis--(commonly  
called--miner's--consumption);

(e)--detoxification--of--those--persons--who--seek--relief  
from--the--disabling--effects--of--alcohol--and--other--chemical  
substances;--and

(f)--contingent--upon--space--and--funds;--the--treatment--of  
pulmonary--diseases--and--other--medical--or--organic--disorders.

(2) The campus--facility--at--Warm--Springs;--Montana;  
Montana state hospital is the component designated as the a  
mental health facility, as defined in 53-21-102, of the  
department of corrections and human services for the care  
and treatment of mentally ill persons.

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

(4)--The--campus--facility--at--Galen;--Montana;--licensed--to  
provide--acute--hospital--and--intermediate--nursing--care;--is--the  
facility component designated for the care and treatment--of  
the medical and organic disorders described in this section.

The department may establish a maximum Montana state  
hospital patient population based upon available staff and  
facilities. When the patient population maximum is reached,  
the department may defer additional admissions until patient  
discharges make space available. The department may adopt  
rules to establish and manage a maximum patient population."

**Section 13.** Section 53-21-603, MCA, is amended to read:

"53-21-603. Alcoholic Chemical dependency treatment  
center. (1) There is an--alcoholic a Montana chemical  
dependency treatment center located--at--the--Montana--state  
hospital. The admittance--and--discharge--procedures--for  
alcoholics--are--the--same--as--for--all--persons Montana chemical  
dependency treatment center is the approved public treatment  
facility as defined in 53-24-103.

(2) As used in this section:

(a)--"alcoholism"--means--a--chronic--illness--or--disorder--of  
behavior--characterized--by--repeated--drinking--of--alcoholic  
beverages--to--an--extent--which--endangers--the--drinker's--health;  
interpersonal--relations;--or--economic--functioning--or--to--an  
extent--which--endangers--the--public--health;--welfare;--or  
safety;

(b)--an--"alcoholic"--is--a--person--suffering--from--the  
illness--of--alcoholism;

(3) The alcoholic Montana chemical dependency treatment  
center shall provide care detoxification, evaluation,

1 treatment, referral, and rehabilitation to persons in  
 2 Montana who are referred for the treatment of ~~the illness of~~  
 3 alcoholism or ~~the complications thereof~~ other chemical  
 4 dependency."

5 **Section 14.** Section 53-30-101, MCA, is amended to read:

6 "53-30-101. Location and function of prison and women's  
 7 correctional center. (1) The institution at Deer Lodge is  
 8 the state prison and as its primary function provides  
 9 facilities for the custody, treatment, training, and  
 10 rehabilitation of adult male criminal offenders.

11 (2) The institution located in accordance with sections  
 12 1 through 7, Chapter 651, Laws of 1991, is the women's  
 13 correctional center and as its primary function provides  
 14 facilities for the custody, treatment, training, and  
 15 rehabilitation of adult female criminal offenders. The  
 16 department of corrections and human services may continue to  
 17 operate the women's correctional center in a temporary  
 18 location during the 1994-95 biennium."

19 **Section 15.** Section 53-30-105, MCA, is amended to read:

20 "53-30-105. Good time allowance. (1) The department of  
 21 corrections and human services shall adopt rules providing  
 22 for the granting of good time allowance for inmates employed  
 23 in any prison work or activity and to implement subsection  
 24 (5). The good time allowance shall operate as a credit on  
 25 his the inmate's sentence as imposed by the court,

1 conditioned upon the inmate's good behavior and compliance  
 2 with the rules made by the department or the warden. The  
 3 rules adopted by the department under this subsection may  
 4 not grant good time allowance to exceed:

5 (a) 10 days per month for inmates assigned to maximum,  
 6 close, and medium I security classifications;

7 (b) 13 days per month for those classified as medium II  
 8 and minimum security classifications;

9 (c) 15 days per month for inmates after having been  
 10 assigned as medium II or minimum security for an  
 11 uninterrupted period of 1 year;

12 (d) 13 days per month for those inmates enrolled in  
 13 school who successfully complete the course of study or who  
 14 while so enrolled are released from prison by discharge or  
 15 parole;

16 (e) 3 days per month for those inmates participating in  
 17 self-improvement activities designated by the department.

18 (2) In the event of an attempted escape by an inmate or  
 19 a violation of the rules prescribed by the department or  
 20 warden, the inmate may be punished by the forfeiture of part  
 21 or all good time allowances. The warden of the state prison  
 22 shall advise the department of any attempted escape or  
 23 violation of rules on the part of the inmate. Any punishment  
 24 by forfeiture of good time allowance must be approved by the  
 25 department.

(3) A person may not earn good time under this section while he the person is on probation. A person may earn good time while on parole at the rate of 30 days per month. If the department determines that a person has violated his the conditions of parole, it may, in its discretion, deduct good time credit accumulated under this subsection in an amount up to and including all credit accumulated on the date of the violation.

(4) The warden of the state prison may request that all or portions of any previously forfeited good time be restored as a result of subsequent good behavior. Any restoration of good time allowance must be approved by the department.

(5) If the population at the Montana state prison or the Montana women's correctional center exceeds the design capacity of the institution, the department may grant an inmate additional good time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the inmate's sentence. The award of good time under this subsection must be provided to inmates who are nearest to parole eligibility or discharge."

**NEW SECTION. Section 16.** Funds transfer and expenditure. Subject to 17-7-138, during fiscal years 1994 and 1995, the department of corrections and human services may expend funds in any category that were appropriated for

personal services or that were indicated in legislative intent as having been appropriated for personal services.

**NEW SECTION. Section 17. Repealer.** Sections 10-2-411, 10-2-412, 10-2-413, 10-2-414, 10-2-415, 10-2-416, 46-23-204, 50-17-104, 52-2-118, 52-5-104, 52-5-111, and 53-21-602, MCA, are repealed.

**NEW SECTION. Section 18. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 10, chapter 2, part 4, and the provisions of Title 10, chapter 2, part 4, apply to [section 1].

(2) [Section 9] is intended to be codified as an integral part of Title 53, chapter 1, part 5, and the provisions of Title 53, chapter 1, part 5, apply to [section 9].

**NEW SECTION. Section 19. Effective date.** [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0685, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act generally revising corrections and human services laws to implement budget reductions; allowing the Department of Corrections and Human Services (DCHS) to use cigarette tax revenue for specified purposes in veterans' programs; providing for the granting of good time to inmates in order to regulate inmate numbers; revising the time period in which the Board of Pardons considers eligible inmates for parole; reducing the level of supervision of probationers and parolees when the caseload reaches certain levels; allowing a charge for board, room, and ancillary services provided to incarcerated persons; discontinuing the Swan River Forest Camp; authorizing the operation of the Women's Correctional Center in a temporary location; discontinuing the Galen campus of the Montana chemical dependency treatment center; directing the coordination of resources to ensure delivery of services to children with emotional disturbances; authorizing mental health centers to require full payment for services; providing expenditure flexibility; amending sections; repealing sections and providing an immediate effective date.

ASSUMPTIONS:

1. Current law reflects Executive Budget recommendation, including modification, for the 1995 biennium.
2. Proposed law reflects budget as approved by the House Appropriations Committee with the exception of the 5% personal services reductions on non-direct care.
3. DCHS figures do not include any building costs or bond payment savings realized through delay of construction of the Eastern Montana Veterans' Home or the Women's Correctional Center.
4. The Eastern Montana Veterans Home will not be operated during the 1995 biennium.
5. The new Women's Correctional Center will not be operated during the 1995 biennium.
6. Inmate average daily population (ADP) caps are placed at 50 in the Women's Correctional Center and 850 at Montana State Prison.
7. Swan River Forest Camp is converted to a boot camp with an ADP of 40.
8. Galen campus is closed and \$100,000 per year is included to provide maintenance.

(Continued)

*David Lewis* 3-22-93

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

*Rep. Grady* 3-22-93  
ED GRADY, PRIMARY SPONSOR      DATE

Fiscal Note for HB0685, as introduced

49685

FISCAL IMPACT:

Expenditures:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	2053.81	1,881.55	(172 26)	2,188.69	1,871.55	(317 14)
Personal Services	66,923,974	62,085,388	(4,838,586)	72,166,131	63,420,726	(8,745,405)
Operating Expenses	22,461,799	19,735,646	(2,726,153)	25,230,711	20,021,716	(5,208,995)
Equipment	1,175,801	872,580	(303,221)	1,243,389	820,548	(422,841)
Capital Outlay	90,000	90,000	0	70,000	70,000	0
Grants	9,611,679	9,611,679	0	9,611,679	9,611,679	0
Transfers	0	2,682,280	2,682,280	0	135,575	135,575
Debt Service	<u>149,692</u>	<u>151,995</u>	<u>2,303</u>	<u>142,949</u>	<u>145,252</u>	<u>2,303</u>
Total	100,412,945	95,229,568	(5,183,377)	108,464,859	94,225,496	(14,239,363)

Funding:

General Fund	86,387,023	77,531,011	(8,856,012)	92,397,472	78,672,126	(13,725,346)
State Special Revenue	5,147,042	6,498,708	1,351,666	5,899,347	6,650,561	751,214
Federal Special Revenue	4,759,513	7,367,316	2,607,803	5,496,075	4,835,222	(660,853)
Proprietary Revenue	<u>4,119,367</u>	<u>3,832,533</u>	<u>(286,834)</u>	<u>4,671,965</u>	<u>4,067,587</u>	<u>(604,378)</u>
Total	100,412,945	95,229,568	(5,183,377)	108,464,859	94,225,496	(14,239,363)

Net Savings General Fund

8,856,012

13,725,346

TECHNICAL NOTE:

The deletion of 52-5-111 would restrict the Department of Family Service's authority for controlling the placement of delinquents in the correctional facilities managed by the department.

HB 685



APPROVED BY COMMITTEE  
ON APPROPRIATIONS

HOUSE BILL NO. 685

INTRODUCED BY GRADY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
CORRECTIONS AND HUMAN SERVICES LAWS TO IMPLEMENT BUDGET  
REDUCTIONS; ALLOWING THE DEPARTMENT OF CORRECTIONS AND HUMAN  
SERVICES TO USE CIGARETTE TAX REVENUE FOR SPECIFIED PURPOSES  
IN VETERANS' PROGRAMS; PROVIDING FOR THE GRANTING OF GOOD  
TIME TO INMATES IN ORDER TO REGULATE INMATE NUMBERS;  
REVISING THE TIME PERIOD IN WHICH THE BOARD OF PARDONS  
CONSIDERS ELIGIBLE INMATES FOR PAROLE; REDUCING THE LEVEL OF  
SUPERVISION OF PROBATIONERS AND PAROLEES WHEN THE CASELOAD  
REACHES CERTAIN LEVELS; ALLOWING A CHARGE FOR BOARD, ROOM,  
AND ANCILLARY SERVICES PROVIDED TO INCARCERATED PERSONS;  
DISCONTINUING THE SWAN RIVER FOREST CAMP; AUTHORIZING THE  
OPERATION OF THE WOMEN'S CORRECTIONAL CENTER IN A TEMPORARY  
LOCATION; DISCONTINUING THE GALEN CAMPUS OF THE MONTANA  
STATE HOSPITAL; REVISING THE LOCATION AND FUNCTIONS OF THE  
CHEMICAL DEPENDENCY TREATMENT CENTER; DIRECTING THE  
COORDINATION OF RESOURCES TO ENSURE DELIVERY OF SERVICES TO  
CHILDREN WITH EMOTIONAL DISTURBANCES; ~~AUTHORIZING MENTAL  
HEALTH CENTERS TO REQUIRE FULL PAYMENT FOR SERVICES;~~  
PROVIDING EXPENDITURE FLEXIBILITY; AMENDING SECTIONS  
41-5-206, 46-23-202, 46-23-1011, 46-23-1021, 53-1-104,  
53-1-202, ~~53-1-203~~, 53-21-202, ~~53-21-206~~, 53-21-601,

53-21-603, 53-30-101, AND 53-30-105, MCA; REPEALING SECTIONS  
~~10-2-411~~, 10-2-412, 10-2-413, ~~10-2-414~~, ~~10-2-415~~, ~~10-2-416~~,  
46-23-204, 50-17-104, 52-2-118, 52-5-104, 52-5-111, AND  
53-21-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because  
it authorizes the department of corrections and human  
services to adopt rules concerning the granting of good time  
to inmates when the population of an institution reaches  
capacity and providing that individuals within the  
corrections system pay for services. It is the intent of the  
legislature that rules adopted by the department to grant  
good time to inmates when the capacity of an institution is  
exceeded be primarily based upon proximity to parole  
eligibility or discharge but also take into consideration  
factors such as behavior, attitude, and criminal history.

It is the intent of the legislature that rules be  
adopted for the administration of the veterans' benefits  
program.

The rules establishing a maximum Montana state hospital  
population and procedures for avoiding exceeding the maximum  
population must take into account the facilities and  
personnel available at the hospital.

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

**NEW SECTION. Section 1.** Use of cigarette tax -- benefits program -- rulemaking. The revenue allocated to the department of corrections and human services from revenue deposited under 16-11-119 must be used to support the operation and maintenance of the Montana veterans' homes program and the development and implementation of a benefits program for aging veterans who need in-home health or nursing care. The revenue may be used to pay costs of personal services, operations, equipment, and construction or remodeling projects. The department may adopt rules for the administration of the veterans' benefits program.

**Section 2.** Section 41-5-206, MCA, is amended to read:

**"41-5-206. Transfer to criminal court.** (1) After a petition has been filed alleging delinquency, the court may, upon motion of the county attorney, before hearing the petition on its merits, transfer the matter of prosecution to the district court if:

(a) (i) the youth charged was 12 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act would constitute sexual intercourse without consent as defined in 45-5-503, deliberate homicide as defined in 45-5-102, mitigated deliberate homicide as defined in 45-5-103, or the attempt, as defined in 45-4-103, of either deliberate or mitigated deliberate homicide if the

act had been committed by an adult; or

(ii) the youth charged was 16 years of age or more at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(A) negligent homicide as defined in 45-5-104;

(B) arson as defined in 45-6-103;

(C) aggravated or felony assault as defined in 45-5-202;

(D) robbery as defined in 45-5-401;

(E) burglary or aggravated burglary as defined in 45-6-204;

(F) aggravated kidnapping as defined in 45-5-303;

(G) possession of explosives as defined in 45-8-335;

(H) criminal sale of dangerous drugs as included in 45-9-101;

(I) attempt, as defined in 45-4-103, of any of the acts enumerated in subsections (1)(a)(ii)(A) through (1)(a)(ii)(H);

(b) a hearing on whether the transfer should be made is held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing will be conducted by the youth court without a jury;

(c) notice in writing of the time, place, and purpose of the hearing is given to the youth, his the youth's counsel, and his the youth's parents, guardian, or custodian

1 at least 10 days before the hearing; and

2 (d) the court finds upon the hearing of all relevant  
3 evidence that there is probable cause to believe that:

4 (i) the youth committed the delinquent act alleged;

5 (ii) the seriousness of the offense and the protection  
6 of the community require treatment of the youth beyond that  
7 afforded by juvenile facilities; and

8 (iii) the alleged offense was committed in an  
9 aggressive, violent, or premeditated manner.

10 (2) In transferring the matter of prosecution to the  
11 district court, the court may also consider the following  
12 factors:

13 (a) the sophistication and maturity of the youth,  
14 determined by consideration of his the youth's home,  
15 environmental situation, and emotional attitude and pattern  
16 of living;

17 (b) the record and previous history of the youth,  
18 including previous contacts with the youth court, law  
19 enforcement agencies, youth courts in other jurisdictions,  
20 prior periods of probation, and prior commitments to  
21 juvenile institutions. However, lack of a prior juvenile  
22 history with youth courts will not of itself be grounds for  
23 denying the transfer.

24 (3) The court shall grant the motion to transfer if the  
25 youth was 16 years old or older at the time of the conduct

1 alleged to be unlawful and the unlawful act would constitute  
2 deliberate homicide as defined in 45-5-102, mitigated  
3 deliberate homicide as defined in 45-5-103, or the attempt,  
4 as defined in 45-4-103, of either deliberate or mitigated  
5 deliberate homicide if the act had been committed by an  
6 adult.

7 (4) Upon transfer to district court, the judge shall  
8 make written findings of the reasons why the jurisdiction of  
9 the youth court was waived and the case transferred to  
10 district court.

11 (5) The transfer terminates the jurisdiction of the  
12 youth court over the youth with respect to the acts alleged  
13 in the petition. A youth may not be prosecuted in the  
14 district court for a criminal offense originally subject to  
15 the jurisdiction of the youth court unless the case has been  
16 transferred as provided in this section.

17 (6) Upon order of the youth court transferring the case  
18 to the district court, the county attorney shall file the  
19 information against the youth without unreasonable delay.

20 (7) Any offense not enumerated in subsection (1) that  
21 arises during the commission of a crime enumerated in  
22 subsection (1) may be:

23 (a) tried in youth court;

24 (b) transferred to district court with an offense  
25 enumerated in subsection (1), upon motion of the county

attorney and order of the youth court judge.

(8) If a youth is found guilty in district court of any of the offenses transferred by the youth court and is sentenced to the state prison, his the youth's commitment must be to the department of corrections and human services. The department shall confine the youth in whatever institution it considers proper, including a state youth correctional facility ~~under--the--procedures--of-52-5-111~~; however, no a youth under 16 years of age may not be confined in the state prison.

(9) A youth whose case is transferred to district court may not be detained or otherwise placed in a jail or other adult detention facility before final disposition of his the youth's case unless:

(a) alternative facilities do not provide adequate security; and

(b) the youth is kept in an area that provides physical, as well as sight and sound, separation from adults accused or convicted of criminal offenses."

**Section 3.** Section 46-23-202, MCA, is amended to read:

"46-23-202. Investigation of prisoner by board. (1) Within the 2 months prior to his a prisoner's official parole eligibility date or within the 2 months following the date a prisoner becomes eligible pursuant to 53-30-105(5), the board shall consider all pertinent information regarding

each prisoner, including the circumstances of his the offense, his the prisoner's previous social history and criminal record, his the prisoner's conduct, employment, and attitude in prison, and the reports of any physical and mental examinations which that have been made.

(2) Before ordering the parole of any prisoner, the board shall interview him the prisoner."

**Section 4.** Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation. (1) The department shall supervise persons during their probation period in accord with the conditions set by a court.

(2) A copy of the conditions of probation ~~shall~~ must be signed by the probationer and given to him the probationer and his the probationer's probation and parole officer, who shall report on his the probationer's progress under rules of the court.

(3) The probation and parole officer shall regularly advise and consult with the probationer to encourage him the probationer to improve his the probationer's condition and conduct and inform him the probationer of the restoration of his rights on successful completion of his the sentence.

(4) The probation and parole officer may recommend and a court may modify any condition of probation or suspension of sentence at any time. Notice ~~shall~~ must be given to the probation and parole officer before any condition is

1 modified, and ~~he--shall~~ the officer must be given an  
 2 opportunity to present ~~his~~ the officer's ideas or  
 3 recommendations on any modification. A copy of a  
 4 modification of conditions ~~shall~~ must be delivered to the  
 5 probation and parole officer and the probationer.

6 (5) The probation and parole officer shall keep records  
 7 as the department or the court may require.

8 (6) (a) Upon recommendation of the probation and parole  
 9 officer, a court may conditionally discharge a probationer  
 10 from supervision before expiration of ~~his~~ the probationer's  
 11 sentence if the court determines that a conditional  
 12 discharge from supervision is in the best interests of the  
 13 probationer and society.

14 (b) ~~Nothing--in--subsection~~ Subsection (6)(a) prohibits  
 15 does not prohibit a court from revoking the order suspending  
 16 execution or deferring imposition of sentence, as provided  
 17 in 46-18-203, for a probationer who has been conditionally  
 18 discharged from supervision.

19 (c) If the department certifies to the court that the  
 20 workload of a district probation and parole office has  
 21 exceeded the optimum workload for the district over the  
 22 preceding 60 days, the court may not place an offender on  
 23 probation under supervision by that district office unless  
 24 it grants a conditional discharge to a probationer being  
 25 supervised by that district office. The department may

1 recommend probationers to the court for conditional  
 2 discharge. The court may accept or reject the  
 3 recommendations of the department. The department shall  
 4 determine the optimum workload for each district probation  
 5 and parole office."

6 **Section 5.** Section 46-23-1021, MCA, is amended to read:

7 **"46-23-1021. Supervision on parole.** (1) The department  
 8 shall retain custody of all persons placed on parole and  
 9 shall supervise the persons during their parole period in  
 10 accord with the conditions set by the board.

11 (2) The department shall assign personnel to assist  
 12 persons eligible for parole in preparing a parole plan.  
 13 Department personnel shall make a report of their efforts  
 14 and findings to the board prior to its consideration of the  
 15 case of the eligible person.

16 (3) A copy of the conditions of ~~his~~ parole ~~shall~~ must  
 17 be signed by the parolee and given to ~~him~~ the parolee and to  
 18 ~~his~~ the parolee's probation and parole officer, who shall  
 19 report on ~~his~~ the parolee's progress under the rules of the  
 20 board.

21 (4) The probation and parole officer shall regularly  
 22 advise and consult with the parolee, assist ~~him~~ the parolee  
 23 in adjusting to community life, and inform ~~him~~ the parolee  
 24 of the restoration of ~~his~~ rights on successful completion of  
 25 sentence.

(5) The probation and parole officer shall keep such records as the board or department may require. All records ~~shall~~ must be entered in the master file of the individual.

(6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of ~~his~~ the parolee's sentence if the board determines that a conditional discharge from supervision is in the best interests of the parolee and society.

~~(b) Nothing-in-subsection Subsection~~ (6)(a) ~~prohibits~~ does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision.

(c) If the department certifies to the board that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the board may not parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised by that district office. The department may recommend parolees to the board for conditional discharge. The board may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

**Section 6.** Section 53-1-104, MCA, is amended to read:

**"53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following institutions or facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written notification to the department of justice whenever ~~such--a~~ the person is admitted or released by it:

(a) Montana state hospital;

(b) state prison;

(c) Mountain View school;

(d) Pine Hills school; or

(e) ~~Swan-River-forest-camp;-or~~

~~(f)~~ any county or city detention facility.

(2) The notification ~~shall~~ must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

**Section 7.** Section 53-1-202, MCA, is amended to read:

**"53-1-202. Department of corrections and human services.** (1) The following components are in the department of corrections and human services to carry out the purposes of the department:

(a) adult corrections services consisting of the following institutional components to incarcerate and rehabilitate felons pursuant to Title 46, chapter 18:

1 (i) Montana state prison;  
 2 (ii) ~~Swan-River-forest-camp~~;  
 3 ~~the Montana women's correctional center~~; and  
 4 ~~(iv)~~ (iii) appropriate community-based programs for the  
 5 placement, supervision, and rehabilitation of adult felons  
 6 who meet the criteria developed by the department for  
 7 placement:  
 8 (A) in prerelease centers;  
 9 (B) under intensive supervision;  
 10 (C) under parole or probation pursuant to Title 46,  
 11 chapter 23, part 2; or  
 12 (D) in other appropriate programs;  
 13 (b) mental health services consisting of the following  
 14 institutional components for care and treatment of the  
 15 mentally ill pursuant to Title 53, chapter 21:  
 16 (i) Montana state hospital;  
 17 (ii) Montana center for the aged; and  
 18 (iii) a community services component consisting of  
 19 appropriate services for the care and treatment of the  
 20 mentally ill pursuant to Title 53, chapter 21, part 2;  
 21 (c) chemical dependency services consisting of  
 22 appropriate detoxification, inpatient, intensive outpatient,  
 23 outpatient, prevention, education, and other necessary  
 24 chemical dependency services pursuant to Title 53, chapter  
 25 24;

1 (d) institutional and residential components of the  
 2 developmental disabilities system for those developmentally  
 3 disabled persons who require that care according to Title  
 4 53, chapter 20, consisting of:  
 5 (i) the Montana developmental center; and  
 6 (ii) Eastmont human services center; and  
 7 (e) veterans' nursing homes for the nursing home and  
 8 domiciliary care of honorably discharged veterans as  
 9 provided by law, consisting of:  
 10 (i) Montana veterans' home; and  
 11 (ii) eastern Montana veterans' home at Glendive.  
 12 (2) A state institution may not be moved, discontinued,  
 13 or abandoned without prior consent of the legislature."  
 14 **Section 8.** ~~Section 53-1-203, MCA, is amended to read:--~~  
 15 ~~"53-1-203. Powers and duties of department.--The~~  
 16 ~~department shall:~~  
 17 ~~(1) adopt rules for the admission, custody, transfer,~~  
 18 ~~and release of persons in department programs except as~~  
 19 ~~otherwise provided by law; however, no such the rules may~~  
 20 ~~not amend or alter the statutory powers and duties of the~~  
 21 ~~state board of pardons;~~  
 22 ~~(2) subject to the functions of the department of~~  
 23 ~~administration, lease or purchase lands for use by~~  
 24 ~~institutions and classify those lands to determine which are~~  
 25 ~~of such character as to can be most profitably used for~~

1 agricultural--purposes,--taking-into-consideration-the-needs  
2 of-all-institutions-for-the-food-products-that-can-be--grown  
3 or---produced--on--the--lands--and--the--relative--value--of  
4 agricultural-programs-in-the-treatment-or-rehabilitation--of  
5 the-persons-confined-in-the-institutions;

6 {3}--contract---with---private---nonprofit---Montana  
7 corporations--to--establish--and--maintain--community--based  
8 prerelease--centers-for-purposes-of-preparing-inmates-of-the  
9 Montana-state-prison-who-are-approaching-parole--eligibility  
10 or--discharge--for--release--into-the-community; the-centers  
11 shall-provide-a-less-restrictive-environment-than-the-prison  
12 while-maintaining-adequate-security; the--centers--shall--be  
13 operated--in-coordination-with-other-department-correctional  
14 programs,--including-the-supervised-release-program--provided  
15 for--in--Title--46,--chapter-23,--part-4. Nothing-in-this This  
16 subsection-shall does-not affect-the-department's--authority  
17 to--operate--and-maintain-community-based-prerelease-centers  
18 in-existence-on-July-14,--1982;

19 {4}--utilize-the--staff--and--services--of--other--state  
20 agencies--and-units-of-the-Montana-university-system,--within  
21 their-respective--statutory--functions,--to--carry-out--its  
22 functions-under-this-title;

23 {5}--propose--programs--to--the--legislature-to-meet-the  
24 projected--long-range--needs--of--institutions,--including  
25 programs--and-facilities-for-the-diagnosis,--treatment,--care,

1 and-aftercare-of-persons-placed-in-institutions,--and

2 {6}--encourage-the--establishment--of--programs--at--the  
3 local---level--for--the--prevention--and--rehabilitation--of  
4 disabilities-as-they-relate-to-mental-illness--and--chemical  
5 dependency--and--encourage--the-establishment-of-programs-at  
6 the-local-and-institutional-level-for-the-rehabilitation-and  
7 education-of-adult-felony-offenders;"

8 NEW SECTION. **Section 8.** Rates for board, room, and  
9 ancillary services charged to inmates. (1) The department  
10 may establish and charge reasonable rates for board, room,  
11 and ancillary services as described in 53-1-401 for persons  
12 incarcerated in an institutional correctional facility.

13 (2) The department may prescribe rules that establish  
14 criteria and a procedure for determining ability to pay. The  
15 department may not make an assessment that would place an  
16 undue financial burden on the person.

17 **Section 9.** Section 53-21-202, MCA, is amended to read:

18 "53-21-202. Duties of department. The department shall:

19 (1) take cognizance of matters affecting the mental  
20 health of the citizens of the state;

21 (2) initiate mental health care and treatment,  
22 prevention, and research as can best be accomplished by  
23 community-centered services. Such The means shall must be  
24 utilized to initiate and operate these services in  
25 cooperation with local agencies as established under this



1 part.

2 (3) collect and disseminate information relating to  
3 mental health;

4 (4) prepare and maintain a comprehensive plan for the  
5 development of public mental health services in the state;

6 (5) receive from agencies of the United States and  
7 other state agencies, persons or groups of persons,  
8 associations, firms, or corporations grants of money,  
9 receipts from fees, gifts, supplies, materials, and  
10 contributions for the development of mental health services  
11 within the state;

12 (6) establish standards for mental health programs that  
13 receive funds from the department; and

14 (7) evaluate performance of programs that receive funds  
15 from the department in compliance with federal and state  
16 standards;

17 (8) coordinate state and community resources to ensure  
18 comprehensive delivery of services to children with  
19 emotional disturbances and submit at least a biennial report  
20 to the governor and the legislature concerning the  
21 activities and recommendations of the department and service  
22 providers; and

23 (9) appoint an advisory council to make recommendations  
24 to the department regarding services for emotionally  
25 disturbed children. The members of the advisory council

1 shall serve without compensation and must include but not be  
2 limited to a representative of:

3 (a) the department;

4 (b) the department of family services;

5 (c) the office of public instruction;

6 (d) a youth court;

7 (e) parents of emotionally disturbed children; and

8 (f) service provider groups."

9 **Section 11.** ~~Section 53-21-206, MCA, is amended to read:--~~

10 ~~"53-21-206. Availability of services. (1) The Except as~~  
11 ~~provided in subsection (2), the services of the department~~  
12 ~~and of the incorporated regional mental health centers are~~  
13 ~~available without discrimination on the basis of race,~~  
14 ~~color, creed, religion, or ability to pay and shall must~~  
15 ~~comply with Title VI of the Civil Rights Act of 1964.~~

16 ~~(2) A regional mental health center may require the~~  
17 ~~payment of its full fee if there is no departmental subsidy~~  
18 ~~available for services provided to a client."~~

19 **Section 10.** Section 53-21-601, MCA, is amended to read:

20 "53-21-601. Location and primary function of hospital.

21 (1) The agency FACILITY providing comprehensive mental  
22 health care services at Galen and Warm Springs, Montana, is  
23 the Montana state hospital and as its primary function  
24 provides:

25 ~~(a)~~ care and treatment of mentally ill persons;

(b)--diagnosis,--care,--evaluation,--treatment,--referral,  
and--rehabilitation--of--persons--afflicted--with---chemical  
dependency;

(c)--care--and--treatment--of--institutional--residents--or  
clients--of--the--department's--community--and---residential  
programs--who--require--acute--hospital--care--or--nursing--care;

(d)--treatment--of--tuberculosis--and--silicosis--(commonly  
called--miner's--consumption);

(e)--detoxification--of--those--persons--who--seek--relief  
from--the--disabling--effects--of--alcohol--and--other--chemical  
substances;--and

(f)--contingent--upon--space--and--funds,--the--treatment--of  
pulmonary--diseases--and--other--medical--or--organic--disorders.

(2) The campus--facility--at--Warm--Springs,--Montana,  
Montana state hospital is the component designated as the a  
mental health facility, as defined in 53-21-102, of the  
department of corrections and human services for the care  
and treatment of mentally ill persons.

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

(4)--The--campus--facility--at--Gallen,--Montana,--licensed--to  
provide--acute--hospital--and--intermediate--nursing--care,--is--the  
facility component designated for the care and treatment--of

the medical and organic disorders described in this section.  
The department may establish a maximum Montana state  
hospital patient population based upon available staff and  
facilities. When the patient population maximum is reached,  
the department may defer additional admissions until patient  
discharges make space available. The department may adopt  
rules to establish and manage a maximum patient population."

**Section 11.** Section 53-21-603, MCA, is amended to read:

"53-21-603. Alcoholic Chemical dependency treatment  
center. (1) There is an--alcoholic a Montana chemical  
dependency treatment center located--at--the--Montana--state  
hospital. The admittance--and--discharge--procedures--for  
alcoholics--are--the--same--as--for--ill--persons Montana chemical  
dependency treatment center is the approved public treatment  
facility as defined in 53-24-103.

(2) As used in this section:

(a)--"alcoholism"--means--a--chronic--illness--or--disorder--of  
behavior--characterized--by--repeated--drinking--of--alcoholic  
beverages--to--an--extent--which--endangers--the--drinker's--health,  
interpersonal--relations,--or--economic--functioning--or--to--an  
extent--which--endangers--the--public--health,--welfare,--or  
safety;

(b)--an--"alcoholic"--is--a--person--suffering--from--the  
illness--of--alcoholism;

(3) The alcoholic Montana chemical dependency treatment

center shall provide ~~care~~ detoxification, evaluation, treatment, referral, and rehabilitation to persons in Montana who are referred for the treatment of ~~the-illness-of~~ alcoholism or ~~the--complications--thereof~~ other chemical dependency."

**Section 12.** Section 53-30-101, MCA, is amended to read:

"53-30-101. Location and function of prison and women's correctional center. (1) The institution at Deer Lodge is the state prison and as its primary function provides facilities for the custody, treatment, training, and rehabilitation of adult male criminal offenders.

(2) The institution located in accordance with sections 1 through 7, Chapter 651, Laws of 1991, is the women's correctional center and as its primary function provides facilities for the custody, treatment, training, and rehabilitation of adult female criminal offenders. The department of corrections and human services may continue to operate the women's correctional center in a temporary location during the 1994-95 biennium."

**Section 13.** Section 53-30-105, MCA, is amended to read:

"53-30-105. Good time allowance. (1) The department of corrections and human services shall adopt rules providing for the granting of good time allowance for inmates employed in any prison work or activity and to implement subsection (5). The good time allowance shall operate as a credit on

~~his~~ the inmate's sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules made by the department or the warden. The rules adopted by the department under this subsection may not grant good time allowance to exceed:

(a) 10 days per month for inmates assigned to maximum, close, and medium I security classifications;

(b) 13 days per month for those classified as medium II and minimum security classifications;

(c) 15 days per month for inmates after having been assigned as medium II or minimum security for an uninterrupted period of 1 year;

(d) 13 days per month for those inmates enrolled in school who successfully complete the course of study or who while so enrolled are released from prison by discharge or parole;

(e) 3 days per month for those inmates participating in self-improvement activities designated by the department.

(2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of any attempted escape or violation of rules on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the

department.

(3) A person may not earn good time under this section while he the person is on probation. A person may earn good time while on parole at the rate of 30 days per month. If the department determines that a person has violated his the conditions of parole, it may, in its discretion, deduct good time credit accumulated under this subsection in an amount up to and including all credit accumulated on the date of the violation.

(4) The warden of the state prison may request that all or portions of any previously forfeited good time be restored as a result of subsequent good behavior. Any restoration of good time allowance must be approved by the department.

(5) If the population at the Montana state prison or the Montana women's correctional center exceeds the design capacity of the institution, the department may grant an inmate additional good time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the inmate's sentence. The award of good time under this subsection must GENERALLY be provided to inmates who are nearest to parole eligibility or discharge."

**NEW SECTION. Section 14.** Funds transfer and expenditure. Subject to 17-7-138, during fiscal years 1994 and 1995, the department of corrections and human services

may expend funds in any category that were appropriated for personal services or that were indicated in legislative intent as having been appropriated for personal services.

**NEW SECTION. Section 15. Repealer.** Sections ~~10-2-411, 10-2-412, 10-2-413, 10-2-414, 10-2-415, 10-2-416, 46-23-204, 50-17-104, 52-2-118, 52-5-104, 52-5-111, and 53-21-602, MCA,~~ are repealed.

**NEW SECTION. Section 16. Codification instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 10, chapter 2, part 4, and the provisions of Title 10, chapter 2, part 4, apply to [section 1].

(2) [Section 9 8] is intended to be codified as an integral part of Title 53, chapter 1, part 5, and the provisions of Title 53, chapter 1, part 5, apply to [section 9 8].

**NEW SECTION. SECTION 17. COORDINATION INSTRUCTION.** (1) IF [THIS ACT] IS PASSED AND APPROVED, THEN SENATE BILL NO. 39 AND SENATE BILL NO. 40 ARE VOID.

(2) IF HOUSE BILL NO. 46 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION PROVIDING THAT THE CIGARETTE TAX COLLECTED UNDER 16-11-111 MAY BE USED FOR THE OPERATION AND MAINTENANCE OF STATE VETERANS' HOMES AND FOR IN-HOME HEALTH CARE, THEN [SECTION 1 OF THIS ACT] IS VOID.

(3) IF HOUSE BILL NO. 2 IS PASSED AND APPROVED AND IF IT INCLUDES A PROVISION THAT THE DEPARTMENT OF CORRECTIONS

1 AND HUMAN SERVICES MAY SPEND FUNDS APPROPRIATED FOR PERSONAL  
2 SERVICES IN OTHER CATEGORIES, THEN [SECTION 14 OF THIS ACT]  
3 IS VOID.

4 NEW SECTION. **Section 18.** Effective date. [This act] is  
5 effective on passage and approval.

-End-

1 HOUSE BILL NO. 685  
 2 INTRODUCED BY GRADY  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
 5 CORRECTIONS AND HUMAN SERVICES LAWS TO IMPLEMENT BUDGET  
 6 REDUCTIONS; ALLOWING THE DEPARTMENT OF CORRECTIONS AND HUMAN  
 7 SERVICES TO USE CIGARETTE TAX REVENUE FOR SPECIFIED PURPOSES  
 8 IN VETERANS' PROGRAMS; PROVIDING FOR THE GRANTING OF GOOD  
 9 TIME TO INMATES IN ORDER TO REGULATE INMATE NUMBERS;  
 10 REVISING THE TIME PERIOD IN WHICH THE BOARD OF PARDONS  
 11 CONSIDERS ELIGIBLE INMATES FOR PAROLE; REDUCING THE LEVEL OF  
 12 SUPERVISION OF PROBATIONERS AND PAROLEES WHEN THE CASELOAD  
 13 REACHES CERTAIN LEVELS; ALLOWING A CHARGE FOR BOARD, ROOM,  
 14 AND ANCILLARY SERVICES PROVIDED TO INCARCERATED PERSONS;  
 15 DISCONTINUING THE SWAN RIVER FOREST CAMP; AUTHORIZING THE  
 16 OPERATION OF THE WOMEN'S CORRECTIONAL CENTER IN A TEMPORARY  
 17 LOCATION; DISCONTINUING THE GALEN CAMPUS OF THE MONTANA  
 18 STATE HOSPITAL; REVISING THE LOCATION AND FUNCTIONS OF THE  
 19 CHEMICAL DEPENDENCY TREATMENT CENTER; DIRECTING THE  
 20 COORDINATION OF RESOURCES TO ENSURE DELIVERY OF SERVICES TO  
 21 CHILDREN WITH EMOTIONAL DISTURBANCES; ~~AUTHORIZING-MENTAL~~  
 22 ~~HEALTH-CENTERS--TO--REQUIRE--FULL--PAYMENT--FOR---SERVICES;~~  
 23 PROVIDING EXPENDITURE FLEXIBILITY; AMENDING SECTIONS  
 24 41-5-206, 46-23-202, 46-23-1011, 46-23-1021, 53-1-104,  
 25 53-1-202, 53-1-203, 53-21-202, 53-21-206, 53-21-601,

1 53-21-603, 53-30-101, AND 53-30-105, MCA; REPEALING SECTIONS  
 2 ~~10-2-411, 10-2-412, 10-2-413, 10-2-414, 10-2-415, 10-2-416,~~  
 3 46-23-204, 50-17-104, 52-2-118, 52-5-104, 52-5-111, AND  
 4 53-21-602, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

#### 6 STATEMENT OF INTENT

7 A statement of intent is required for this bill because  
 8 it authorizes the department of corrections and human  
 9 services to adopt rules concerning the granting of good time  
 10 to inmates when the population of an institution reaches  
 11 capacity and providing that individuals within the  
 12 corrections system pay for services. It is the intent of the  
 13 legislature that rules adopted by the department to grant  
 14 good time to inmates when the capacity of an institution is  
 15 exceeded be primarily based upon proximity to parole  
 16 eligibility or discharge but also take into consideration  
 17 factors such as behavior, attitude, and criminal history.

18  
 19 THERE ARE NO CHANGES IN THIS BILL  
 20 AND WILL NOT BE REPRINTED. PLEASE  
 21 REFER TO YELLOW COPY FOR COMPLETE TEXT.  
 22  
 23  
 24  
 25

SENATE STANDING COMMITTEE REPORT

Page 1 of 9  
April 14, 1993

Page 2 of 9  
April 14, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 685 (third reading copy -- blue), respectfully report that House Bill No. 685 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson  
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, page 1, lines 7 and 8.  
Strike: "SPECIFIED" on line 7 through "PROGRAMS" on line 8  
Insert: "VETERANS' NURSING HOMES"
2. Title, page 1, line 8.  
Following: "PROGRAMS;"  
Insert: "PROVIDING THAT A DEFENDANT WHO IS SENTENCED TO A COUNTY JAIL OR PRISON MAY BE COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN AN APPROPRIATE INSTITUTION OR PROGRAM;"
3. Title, page 1, line 23.  
Following: ";"  
Insert: "ELIMINATING MOST CONDITIONS ATTACHED TO THE SALE OF THE MONTANA YOUTH TREATMENT CENTER;"  
Following: "SECTIONS"  
Insert: "10-2-416,"
4. Title, page 1, line 24.  
Strike: "41-5-206,"  
Insert: "46-18-201,"  
Following: "46-23-1021,"  
Insert: "52-5-111,"
5. Title, page 1, line 25.  
Following: "53-1-202,"  
Insert: "53-1-402,"
6. Title, page 2, line 1.  
Following: "MCA"  
Insert: ", AND SECTION 5, CHAPTER 14, SPECIAL LAWS OF JUNE 1986"
7. Title, page 2, line 3.  
Strike: "46-23-204,"  
Strike: "52-5-111,"
8. Page 2, lines 18 through 20.  
Strike: lines 18 through 20 in their entirety

9. Page 2, line 21.  
Following: "rules"  
Strike: "establishing a maximum"  
Insert: "adopted to manage the"

10. Page 2, lines 22 and 23.  
Following: "population"  
Strike: "and procedures for avoiding exceeding the maximum population"

11. Page 2, line 23.  
Following: "facilities"  
Strike: "and"  
Insert: ", the"

12. Page 2, line 24.  
Following: "hospital"  
Insert: ", emergency access to services, public and individual safety, active treatment of patients, discharge planning of patients, and access to community-based services. The department is directed to involve consumers, family members of consumers, mental health advocates, mental health providers, law enforcement officials, and other governmental officials in the development of the administrative rules authorized by this bill"

13. Page 3, lines 2 and 3.  
Strike: " -- " on line 2 through "rulemaking" on line 3

14. Page 3, line 6.  
Following: "homes"  
Insert: "."

15. Page 3, lines 7 through 12.  
Strike: lines 7 through 12 in their entirety

16. Page 3, line 13 through page 7, line 19.  
Strike: section 2 in its entirety  
Insert: "Section 2. Section 10-2-416, MCA, is amended to read:  
"10-2-416. Pledge to continue operation and maintenance. Pursuant to 38 U.S.C. 641 and 5035(a)(6), the state shall appropriate funds either from the general fund or from funds generated under 16-11-111 to the department of corrections and human services financial support necessary to provide for continued operation and maintenance of the project upon completion. The department of corrections and human services may contract with a private vendor to provide for the operation of the eastern Montana veterans' home and may charge the contract

AN Amd. Coord. Christians  
IN Sec. of Senate Senator Carrying Bill

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HB 685

vendor a rental fee for the maintenance and upkeep of the facility.

Section 3. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 180 days;
- (iii) conditions for probation;
- (iv) restitution;
- (v) payment of the costs of confinement;
- (vi) payment of a fine as provided in 46-18-231;
- (vii) payment of costs as provided in 46-18-232 and 46-18-

233; (viii) payment of costs of court-appointed counsel as provided in 46-8-113;

(ix) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;

- (x) community service;
- (xi) home arrest as provided in Title 46, chapter 18, part

10;

(xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or

(xiii) any combination of the above.

(b) suspend execution of sentence up to the maximum sentence allowed for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).

- (c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;

(e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit the defendant to the department of corrections and human services for placement in an appropriate correctional institution, with or without a

~~fine as provided by law for the offense or program;~~

(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;

(g) impose any combination of subsections (1)(b) through (1)(f).

(2) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 5 years for a felony, regardless of whether any other conditions are imposed.

(3) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or part as a credit and state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.

(4) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(5) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(6) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(7) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(8) In imposing a sentence on a defendant convicted of a sexual offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(9) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program.

(10) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a



community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison or a women's correctional facility, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225."

Renumber: subsequent sections

17. Page 11.

Following: line 24

Insert: "Section 7. Section 52-5-111 is amended to read:

"52-5-111. Commutation of sentence to state prison and transfer of prisoner to youth correctional facility or ~~Swan River forest camp~~. (1) Upon the application of a person under 19 years of age who has been sentenced to the state prison or upon the application of ~~his~~ the youth's parents or guardian, the governor may, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, commute the sentence by committing such the person who may benefit from programs offered at a youth correctional facility to the department of family services until he the youth is 19 years of age or until sooner placed or discharged.

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

(3) Upon recommendation of the warden and with the approval of the department of corrections and human services and the department of family services, a person under 19 years of age who has been sentenced to the state prison and who may benefit from programs offered at a youth correctional facility may be transferred to any youth correctional facility under the jurisdiction and control of the department of family services.

~~(4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of corrections and human services,~~

~~such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan River forest camp. Prior to departmental approval of the transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.~~

~~(5)(4) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth might be released on parole or his that the youth's sentence might be commuted and he the youth be discharged from custody, the superintendent of such the facility, with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his the youth's sentence.~~

~~(6)(5) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, such person shall the youth must be returned to the state prison to serve out his the unexpired term."~~

Renumber: subsequent sections

18. Page 14.

Following: line 13.

Insert: "Section 10. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. (1) The department shall assess and collect per diem and ancillary charges for care of residents in the following institutions:

- (a) Montana state hospital;
- (b) Montana developmental center;
- (c) Montana veterans' home;
- (d) eastern Montana veterans' home;

(e) Montana center for the aged;  
(f) Eastmont human services center.  
(2) This section does not apply to the eastern Montana veterans' home if the department contracts with a private vendor to operate the facility as provided for in 10-2-416.  
Renumber: subsequent sections

19. Page 20, lines 2 through 7.  
Strike: "The" on line 2 through "population." on line 7  
Insert: "The department shall adopt rules to manage the state hospital patient population in a manner that will ensure emergency access to services, protect public and individual safety, provide active treatment, implement effective discharge planning, and assure access to appropriate community-based services."  
(4) The department shall prepare a report to the 54th legislature that:  
(a) describes current and projected future use of the Montana state hospital; and  
(b) describes progress toward, and additional steps required for achievement of, accreditation by the joint commission on accreditation of healthcare organizations."

20. Page 23, line 20.  
Following: "sentence."  
Insert: "Good time credits for the discharge of a sentence may not exceed 180 days."

21. Page 24, line 4.  
Following: line 3  
Insert: "Section 18. Section 5, Chapter 14, Special Laws of June 1986, is amended to read:  
"Section 5. Conditions Condition of sale. The sale of the Montana youth treatment center is subject to the following conditions:

(1) The buyer shall agree that as long as it holds title to the Montana youth treatment center it will accept those youth who are committed to the facility by the district courts pursuant to the Montana Youth Court Act, Title 41, chapter 5, and Title 53, chapter 21. The buyer shall agree to make available a minimum of 40 beds for treatment of such youth. The buyer or any subsequent transferee shall keep reasonable documentation of compliance with this condition. Failure to comply with the provisions of this section may result in the loss of hospital licensure.  
(2) The buyer shall agree to maintain a license as a psychiatric hospital pursuant to Title 50, chapter 5, part 2, and to operate the facility as defined in 53-21-102(6) as a mental health treatment facility. The buyer shall also agree to comply

with state requirements relating to review and recommendations by the mental disabilities board of visitors.

(3) The buyer shall enter a written contract with the board of land commissioners providing that the buyer will bind by written agreement any purchaser or successor to its interest by transfer of the property to the conditions contained in [this act]. The board of land commissioners may make an exception to these conditions in any subsequent sale or transfer.

(4) If the condition that if the buyer of the facility proposes to sell the facility at any time, the state of Montana has the first option to repurchase the facility and land at its appraised value at the time of such the sale. The board of land commissioners shall attempt to conform the sale contract to this section and to remove any encumbrance on the title of the facility that does not reflect this section. The buyer and the state shall each commission an appraisal by a qualified appraiser at the time of sale. The appraised value is the average of the two appraisals.

(5) The buyer shall demonstrate that it is able to meet, at the time it proposes to purchase, the standards of the joint commission on accreditation of hospitals for adolescent psychiatric facilities and the certification standards of the health care financing administration of the United States department of health and human services for inpatient psychiatric services for individuals under age 21. The buyer shall demonstrate successful participation in the early survey option program of the joint commission on accreditation of hospitals.

(6) The buyer shall provide services to medicaid eligible and indigent patients and shall receive no per diem reimbursement from the department of institutions for services provided to youth ordered to the facility by the courts. Such services become the financial responsibility of the buyer, who may bill medicaid or private insurers when appropriate.

(7) The buyer shall accept emergency psychiatric admissions pursuant to 53-21-129 regardless of ability to pay and subject only to its licensure limitations.

(8) The buyer shall accept applications of all Montana youth treatment center employees who desire to continue employment with the purchaser. Among the substantially qualified applicants, present employees of the Montana youth treatment center must be given preference in hiring by the purchaser.

(9) Montana youth treatment center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any training necessary to qualify for similar vacant positions within the department of institutions."

Renumber: subsequent sections

22. Page 24, line 5.

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Strike: "46-23-204,"

23. Page 24, line 6.

Strike: "52-5-111,"

24. Page 24, lines 12 and 15.

Strike: "8"

Insert: "11"

25. Page 24, lines 22 and 23.

Strike: "AND" on line 22 through "CARE" on line 23

26. Page 25, line 2.

Strike: "14"

Insert: "17"

-END-

## 1 HOUSE BILL NO. 685

2 INTRODUCED BY GRADY

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING  
5 CORRECTIONS AND HUMAN SERVICES LAWS TO IMPLEMENT BUDGET  
6 REDUCTIONS; ALLOWING THE DEPARTMENT OF CORRECTIONS AND HUMAN  
7 SERVICES TO USE CIGARETTE TAX REVENUE FOR SPECIFIED PURPOSES  
8 IN-VETERANS' PROGRAMS VETERANS' NURSING HOMES; PROVIDING  
9 THAT A DEFENDANT WHO IS SENTENCED TO A COUNTY JAIL OR PRISON  
10 MAY BE COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN AN  
11 APPROPRIATE INSTITUTION OR PROGRAM; PROVIDING FOR THE  
12 GRANTING OF GOOD TIME TO INMATES IN ORDER TO REGULATE INMATE  
13 NUMBERS; REVISING THE TIME PERIOD IN WHICH THE BOARD OF  
14 PARDONS CONSIDERS ELIGIBLE INMATES FOR PAROLE; REDUCING THE  
15 LEVEL OF SUPERVISION OF PROBATIONERS AND PAROLEES WHEN THE  
16 CASELOAD REACHES CERTAIN LEVELS; ALLOWING A CHARGE FOR  
17 BOARD, ROOM, AND ANCILLARY SERVICES PROVIDED TO INCARCERATED  
18 PERSONS; DISCONTINUING THE SWAN RIVER FOREST CAMP;  
19 AUTHORIZING THE OPERATION OF THE WOMEN'S CORRECTIONAL CENTER  
20 IN A TEMPORARY LOCATION; DISCONTINUING THE GALEN CAMPUS OF  
21 THE MONTANA STATE HOSPITAL; REVISING THE LOCATION AND  
22 FUNCTIONS OF THE CHEMICAL DEPENDENCY TREATMENT CENTER;  
23 DIRECTING THE COORDINATION OF RESOURCES TO ENSURE DELIVERY  
24 OF SERVICES TO CHILDREN WITH EMOTIONAL DISTURBANCES;  
25 AUTHORIZING--MENTAL--HEALTH--CENTERS--TO--REQUIRE--PUBB--PAYMENT

1 FOR-SERVICES; PROVIDING EXPENDITURE FLEXIBILITY; ELIMINATING  
2 MOST CONDITIONS ATTACHED TO THE SALE OF THE MONTANA YOUTH  
3 TREATMENT CENTER; AMENDING SECTIONS 10-2-416, 42-5-206,  
4 46-18-201, 46-23-202, 46-23-1011, 46-23-1021, 52-5-111,  
5 53-1-104, 53-1-202, 53-1-402, 53-1-203, 53-21-202,  
6 53-21-206, 53-21-601, 53-21-603, 53-30-101, AND 53-30-105,  
7 MCA, AND SECTION 5, CHAPTER 14, SPECIAL LAWS OF JUNE 1986;  
8 REPEALING SECTIONS 10-2-411, 10-2-412, 10-2-413, 10-2-414,  
9 10-2-415, 10-2-416, 46-23-204, 50-17-104, 52-2-118,  
10 52-5-104, 52-5-111, AND 53-21-602, MCA; AND PROVIDING AN  
11 IMMEDIATE EFFECTIVE DATE."

## 13 STATEMENT OF INTENT

14 A statement of intent is required for this bill because  
15 it authorizes the department of corrections and human  
16 services to adopt rules concerning the granting of good time  
17 to inmates when the population of an institution reaches  
18 capacity and providing that individuals within the  
19 corrections system pay for services. It is the intent of the  
20 legislature that rules adopted by the department to grant  
21 good time to inmates when the capacity of an institution is  
22 exceeded be primarily based upon proximity to parole  
23 eligibility or discharge but also take into consideration  
24 factors such as behavior, attitude, and criminal history.

25 it--is--the--intent--of--the--legislature--that--rules--be

1 adopted-for-the-administration-of-the-veterans'-benefits  
2 program;

3 The rules establishing-a-maximum ADOPTED TO MANAGE THE  
4 Montana state hospital population and--procedures---for  
5 avoiding--exceeding--the--maximum--population must take into  
6 account the facilities and, THE personnel available at the  
7 hospital, EMERGENCY ACCESS TO SERVICES, PUBLIC AND  
8 INDIVIDUAL SAFETY, ACTIVE TREATMENT OF PATIENTS, DISCHARGE  
9 PLANNING OF PATIENTS, AND ACCESS TO COMMUNITY-BASED  
10 SERVICES. THE DEPARTMENT IS DIRECTED TO INVOLVE CONSUMERS,  
11 FAMILY MEMBERS OF CONSUMERS, MENTAL HEALTH ADVOCATES, MENTAL  
12 HEALTH PROVIDERS, LAW ENFORCEMENT OFFICIALS, AND OTHER  
13 GOVERNMENTAL OFFICIALS IN THE DEVELOPMENT OF THE  
14 ADMINISTRATIVE RULES AUTHORIZED BY THIS BILL.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. Section 1. Use of cigarette tax --  
18 benefits-program---rulemaking. The revenue allocated to the  
19 department of corrections and human services from revenue  
20 deposited under 16-11-119 must be used to support the  
21 operation and maintenance of the Montana veterans' homes,  
22 program-and-the-development-and-implementation-of-a-benefits  
23 program--for--aging--veterans--who--need--in-home--health--or  
24 nursing-care--The-revenue--may--be--used--to--pay--costs--of  
25 personal--services,--operations,--equipment,--and--construction

1 or-remodeling-projects--The-department-may-adopt--rules--for  
2 the-administration-of-the-veterans'-benefits-program;

3 **Section 2.** ~~Section 41-5-206, MCA, is amended to read:--~~

4 "41-5-206. ~~Transfer--to--criminal--court; (i)--After-a~~  
5 ~~petition-has-been-filed-alleging-delinquency, the court may,~~  
6 ~~upon-motion-of--the--county--attorney,--before--hearing--the~~  
7 ~~petition--on--its-merits, transfer the matter of prosecution~~  
8 ~~to-the-district-court-if:~~

9 (a) ~~(i) the youth charged was 12 years of age or more~~  
10 ~~at the time of the conduct alleged to be unlawful and the~~  
11 ~~unlawful act would constitute sexual intercourse without~~  
12 ~~consent as defined in 45-5-503, deliberate homicide as~~  
13 ~~defined in 45-5-102, mitigated deliberate homicide as~~  
14 ~~defined in 45-5-103, or the attempt, as defined in 45-4-103,~~  
15 ~~of either deliberate or mitigated deliberate homicide if the~~  
16 ~~act had been committed by an adult; or~~

17 (ii) ~~the youth charged was 16 years of age or more at~~  
18 ~~the time of the conduct alleged to be unlawful and the~~  
19 ~~unlawful act is one or more of the following:~~

20 (A) ~~negligent homicide as defined in 45-5-104;~~

21 (B) ~~arson as defined in 45-6-103;~~

22 (C) ~~aggravated or felony assault as defined in~~  
23 ~~45-5-202;~~

24 (D) ~~robbery as defined in 45-5-401;~~

25 (E) ~~burglary or aggravated burglary as defined in~~

1 45-6-204;  
 2 {F}--aggravated-kidnapping-as-defined-in-45-5-303;  
 3 {G}--possession-of-explosives-as-defined-in-45-8-335;  
 4 {H}--criminal-sale-of-dangerous--drugs--as--included--in  
 5 45-9-101;  
 6 {I}--attempt,--as-defined-in-45-4-103,--of-any-of-the-acts  
 7 enumerated-----in-----subsections-----{I}{A}{II}{A}-----through  
 8 {I}{A}{II}{H};  
 9 {b}--a-hearing-on-whether-the-transfer-should-be-made-is  
 10 held-in-conformity-with-the-rules-on-a-hearing-on-a-petition  
 11 alleging--delinquency,--except--that--the--hearing--will--be  
 12 conducted-by-the-youth-court-without-a-jury;  
 13 {c}--notice-in-writing-of-the-time,--place,--and--purpose  
 14 of--the--hearing--is--given--to--the--youth, his the youth's  
 15 counsel, and his the youth's parents, guardian, or custodian  
 16 at-least-10-days-before-the-hearing; and  
 17 {d}--the-court-finds-upon-the-hearing--of--all--relevant  
 18 evidence-that-there-is-probable-cause-to-believe-that:  
 19 {i}--the-youth-committed-the-delinquent-act-alleged;  
 20 {ii}--the--seriousness--of-the-offense-and-the-protection  
 21 of-the-community-require-treatment-of-the-youth-beyond--that  
 22 afforded-by-juvenile-facilities; and  
 23 {iii}--the---alleged---offense---was---committed---in--an  
 24 aggressive, violent, or premeditated manner;  
 25 {2}--in-transferring-the-matter-of--prosecution--to--the

1 district--court,--the--court-may-also-consider-the-following  
 2 factors:  
 3 {a}--the--sophistication--and--maturity--of--the--youth,  
 4 determined--by--consideration--of his the youth's home,  
 5 environmental--situation, and emotional attitude and pattern  
 6 of-living;  
 7 {b}--the-record--and--previous--history--of--the--youth,  
 8 including--previous--contacts--with--the--youth--court,--law  
 9 enforcement--agencies,--youth-courts-in-other-jurisdictions,  
 10 prior--periods--of--probation,--and--prior--commitments---to  
 11 juvenile--institutions,--However,--lack--of-a-prior-juvenile  
 12 history-with-youth-courts-will-not-of-itself-be-grounds--for  
 13 denying-the-transfer;  
 14 {3}--The-court-shall-grant-the-motion-to-transfer-if-the  
 15 youth--was--16-years-old-or-older-at-the-time-of-the-conduct  
 16 alleged-to-be-unlawful-and-the-unlawful-act-would-constitute  
 17 deliberate--homicide--as--defined--in--45-5-102,--mitigated  
 18 deliberate--homicide-as-defined-in-45-5-103, or the attempt,  
 19 as-defined-in-45-4-103, of either--deliberate--or--mitigated  
 20 deliberate--homicide--if--the--act--had-been-committed-by-an  
 21 adult;  
 22 {4}--Upon-transfer-to-district-court,--the--judge--shall  
 23 make-written-findings-of-the-reasons-why-the-jurisdiction-of  
 24 the--youth--court--was--waived--and--the-case-transferred-to  
 25 district-court.

{5}--The transfer terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the petition. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been transferred as provided in this section.

{6}--Upon order of the youth court transferring the case to the district court, the county attorney shall file the information against the youth without unreasonable delay.

{7}--Any offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

{a}--tried in youth court;

{b}--transferred to district court with an offense enumerated in subsection (1), upon motion of the county attorney and order of the youth court judge;

{8}--If a youth is found guilty in district court of any of the offenses transferred by the youth court and is sentenced to the state prison, his youth's commitment must be to the department of corrections and human services. The department shall confine the youth in whatever institution it considers proper, including a state youth correctional facility under the procedures of 52-5-111, however, no a youth under 16 years of age may not be confined in the state prison.

{9}--A youth whose case is transferred to district court may not be detained or otherwise placed in a jail or other adult detention facility before final disposition of his the youth's case unless:

{a}--alternative facilities do not provide adequate security; and

{b}--the youth is kept in an area that provides physical as well as sight and sound separation from adults accused or convicted of criminal offenses."

## SECTION 2. SECTION 10-2-416, MCA, IS AMENDED TO READ:

"10-2-416. Pledge to continue operation and maintenance. Pursuant to 38 U.S.C. 641 and 5035(a)(6), the state shall appropriate funds either from the general fund or from funds generated under 16-11-111 to the department of corrections and human services financial support necessary to provide for continued operation and maintenance of the project upon completion. The department of corrections and human services may contract with a private vendor to provide for the operation of the eastern Montana veterans' home and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility."

## SECTION 3. SECTION 46-18-201, MCA, IS AMENDED TO READ:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

1 (a) defer imposition of sentence, except as provided in  
 2 61-8-714 and 61-8-722 for sentences for driving under the  
 3 influence of alcohol or drugs, for a period, except as  
 4 otherwise provided, not exceeding 1 year for any misdemeanor  
 5 or for a period not exceeding 3 years for any felony. The  
 6 sentencing judge may impose upon the defendant any  
 7 reasonable restrictions or conditions during the period of  
 8 the deferred imposition. Reasonable restrictions or  
 9 conditions may include:

- 10 (i) jail base release;
- 11 (ii) jail time not exceeding 180 days;
- 12 (iii) conditions for probation;
- 13 (iv) restitution;
- 14 (v) payment of the costs of confinement;
- 15 (vi) payment of a fine as provided in 46-18-231;
- 16 (vii) payment of costs as provided in 46-18-232 and  
 17 46-18-233;
- 18 (viii) payment of costs of court-appointed counsel as  
 19 provided in 46-8-113;
- 20 (ix) with the approval of the facility or program, order  
 21 the offender to be placed in a community corrections  
 22 facility or program as provided in 53-30-321;
- 23 (x) community service;
- 24 (xi) home arrest as provided in Title 46, chapter 18,  
 25 part 10;

1 (xii) any other reasonable conditions considered  
 2 necessary for rehabilitation or for the protection of  
 3 society; or

4 (xiii) any combination of the above.

5 (b) suspend execution of sentence up to the maximum  
 6 sentence allowed for each particular offense. The sentencing  
 7 judge may impose on the defendant any reasonable  
 8 restrictions or conditions during the period of suspended  
 9 sentence. Reasonable restrictions or conditions may include  
 10 any of those listed in subsection (1)(a).

11 (c) impose a fine as provided by law for the offense;

12 (d) require payment of costs as provided in 46-18-232  
 13 or payment of costs of court-appointed counsel as provided  
 14 in 46-8-113;

15 (e) impose a county jail or state prison sentence, as  
 16 provided in Title 45, for the offense or commit the  
 17 defendant to a the department of corrections and human  
 18 services for placement in an appropriate correctional  
 19 institution,---with---or---without---a---fine---as---provided---by---law---for  
 20 the-offense or program;

21 (f) with the approval of the facility or program, order  
 22 the offender to be placed in a community corrections  
 23 facility or program as provided in 53-30-321;

24 (g) impose any combination of subsections (1)(b)  
 25 through (1)(f).



1 (2) If a financial obligation is imposed as a condition  
2 under subsection (1)(a), sentence may be deferred for a  
3 period not exceeding 2 years for a misdemeanor or for a  
4 period not exceeding 6 years for a felony, regardless of  
5 whether any other conditions are imposed.

6 (3) If any restrictions or conditions imposed under  
7 subsection (1)(a) or (1)(b) are violated, the court shall  
8 consider any elapsed time and either expressly allow part or  
9 all of it as a credit against the sentence or reject all or  
10 part as a credit and state its reasons in the order. Credit,  
11 however, must be allowed for jail or home arrest time  
12 already served.

13 (4) Except as provided in 45-9-202 and 46-18-222, the  
14 imposition or execution of the first 2 years of a sentence  
15 of imprisonment imposed under the following sections may not  
16 be deferred or suspended: 45-5-103, 45-5-202(3) relating to  
17 aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2),  
18 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and  
19 (5)(d), 45-9-102(4), and 45-9-103(2).

20 (5) Except as provided in 46-18-222, the imposition or  
21 execution of the first 10 years of a sentence of  
22 imprisonment imposed under 45-5-102 may not be deferred or  
23 suspended.

24 (6) Except as provided in 46-18-222, imposition of  
25 sentence in a felony case may not be deferred in the case of

1 a defendant who has been convicted of a felony on a prior  
2 occasion, whether or not the sentence was imposed,  
3 imposition of the sentence was deferred, or execution of the  
4 sentence was suspended.

5 (7) If the victim was less than 16 years old, the  
6 imposition or execution of the first 30 days of a sentence  
7 of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505,  
8 or 45-5-507 may not be deferred or suspended. Section  
9 46-18-222 does not apply to the first 30 days of the  
10 imprisonment.

11 (8) In imposing a sentence on a defendant convicted of  
12 a sexual offense as defined in 46-23-502, the court may not  
13 waive the registration requirement provided in 46-18-254,  
14 46-18-255, and Title 46, chapter 23, part 5.

15 (9) A person convicted of a sexual offense, as defined  
16 in 46-23-502, and sentenced to imprisonment in the state  
17 prison shall enroll in the educational phase of the prison's  
18 sexual offender program.

19 (10) In sentencing a nonviolent felony offender, the  
20 court shall first consider alternatives to imprisonment of  
21 the offender in the state prison, including placement of the  
22 offender in a community corrections facility or program. In  
23 considering alternatives to imprisonment, the court shall  
24 examine the sentencing criteria contained in 46-18-225. If  
25 the offender is subsequently sentenced to the state prison

or a women's correctional facility, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225."

**Section 4.** Section 46-23-202, MCA, is amended to read:

"46-23-202. Investigation of prisoner by board. (1) Within the 2 months prior to his a prisoner's official parole eligibility date or within the 2 months following the date a prisoner becomes eligible pursuant to 53-30-105(5), the board shall consider all pertinent information regarding each prisoner, including the circumstances of his the offense, his the prisoner's previous social history and criminal record, his the prisoner's conduct, employment, and attitude in prison, and the reports of any physical and mental examinations which that have been made.

(2) Before ordering the parole of any prisoner, the board shall interview him the prisoner."

**Section 5.** Section 46-23-1011, MCA, is amended to read:

"46-23-1011. Supervision on probation. (1) The department shall supervise persons during their probation period in accord with the conditions set by a court.

(2) A copy of the conditions of probation shall must be signed by the probationer and given to him the probationer and his the probationer's probation and parole officer, who shall report on his the probationer's progress under rules of the court.

(3) The probation and parole officer shall regularly advise and consult with the probationer to encourage him the probationer to improve his the probationer's condition and conduct and inform him the probationer of the restoration of his rights on successful completion of his the sentence.

(4) The probation and parole officer may recommend and a court may modify any condition of probation or suspension of sentence at any time. Notice shall must be given to the probation and parole officer before any condition is modified, and he--shall the officer must be given an opportunity to present his the officer's ideas or recommendations on any modification. A copy of a modification of conditions shall must be delivered to the probation and parole officer and the probationer.

(5) The probation and parole officer shall keep records as the department or the court may require.

(6) (a) Upon recommendation of the probation and parole officer, a court may conditionally discharge a probationer from supervision before expiration of his the probationer's sentence if the court determines that a conditional discharge from supervision is in the best interests of the probationer and society.

(b) Nothing-in-subsection Subsection (6)(a) prohibits does not prohibit a court from revoking the order suspending execution or deferring imposition of sentence, as provided

in 46-18-203, for a probationer who has been conditionally discharged from supervision.

(c) If the department certifies to the court that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the court may not place an offender on probation under supervision by that district office unless it grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the court for conditional discharge. The court may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

**Section 6.** Section 46-23-1021, MCA, is amended to read:

**"46-23-1021. Supervision on parole.** (1) The department shall retain custody of all persons placed on parole and shall supervise the persons during their parole period in accord with the conditions set by the board.

(2) The department shall assign personnel to assist persons eligible for parole in preparing a parole plan. Department personnel shall make a report of their efforts and findings to the board prior to its consideration of the case of the eligible person.

(3) A copy of the conditions of his parole shall must

be signed by the parolee and given to him the parolee and to his the parolee's probation and parole officer, who shall report on his the parolee's progress under the rules of the board.

(4) The probation and parole officer shall regularly advise and consult with the parolee, assist him the parolee in adjusting to community life, and inform him the parolee of the restoration of his rights on successful completion of sentence.

(5) The probation and parole officer shall keep such records as the board or department may require. All records shall must be entered in the master file of the individual.

(6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of his the parolee's sentence if the board determines that a conditional discharge from supervision is in the best interests of the parolee and society.

(b) ~~Nothing--in--subsection~~ Subsection (6)(a) prohibits does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision.

(c) If the department certifies to the board that the workload of a district probation and parole office has exceeded the optimum workload for the district over the

preceding 60 days, the board may not parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised by that district office. The department may recommend parolees to the board for conditional discharge. The board may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office."

**SECTION 7. SECTION 52-5-111, MCA, IS AMENDED TO READ:**

"52-5-111. Commutation of sentence to state prison and transfer of prisoner to youth correctional facility or Swan River-forest-camp. (1) Upon the application of a person under 19 years of age who has been sentenced to the state prison or upon the application of his the youth's parents or guardian, the governor may, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, commute the sentence by committing such the person who may benefit from programs offered at a youth correctional facility to the department of family services until he the youth is 19 years of age or until sooner placed or discharged.

(2) If such the person's behavior after being committed to the department of family services indicates that he the youth is not a proper person to reside at one of the youth

correctional facilities, the governor, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, may revoke the commutation and return him the youth to the state prison to serve out his the youth's unexpired term, and the time spent by him the youth at one of the youth correctional facilities or while a refugee from one of the youth correctional facilities shall-not-be is not considered as a part of his the youth's original sentence.

(3) Upon recommendation of the warden and with the approval of the department of corrections and human services and the department of family services, a person under 19 years of age who has been sentenced to the state prison and who may benefit from programs offered at a youth correctional facility may be transferred to any youth correctional facility under the jurisdiction and control of the department of family services.

(4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of corrections and human services, such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan River-forest-camp. Prior to departmental approval of the transfer, the person must

~~undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.~~

{5}(4) If such the person's behavior after transfer to a youth correctional facility ~~or the Swan River forest camp~~ indicates he that the youth might be released on parole or his that the youth's sentence might be commuted and he the youth be discharged from custody, the superintendent of such the facility, with the approval of the department of corrections and human services and the department of family services ~~in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp~~, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his the youth's sentence.

{6}(5) If such the person's behavior after transfer to a youth correctional facility ~~or the Swan River forest camp~~ indicates he that the youth is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of

corrections and human services and the department of family services ~~in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp~~, such person shall the youth must be returned to the state prison to serve out his the unexpired term."

**Section 8.** Section 53-1-104, MCA, is amended to read:

"53-1-104. Release of arsonist -- notification of department of justice. (1) Each of the following institutions or facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or defect shall give written notification to the department of justice whenever such a the person is admitted or released by it:

- (a) Montana state hospital;
  - (b) state prison;
  - (c) Mountain View school;
  - (d) Pine Hills school; or
  - (e) ~~Swan River forest camp~~; or
  - {f} any county or city detention facility.
- (2) The notification shall must disclose:
- (a) the name of the person;
  - (b) where the person is or will be located; and
  - (c) the type of fire the person was involved in."

**Section 9.** Section 53-1-202, MCA, is amended to read:

1 "53-1-202. Department of corrections and human  
2 services. (1) The following components are in the department  
3 of corrections and human services to carry out the purposes  
4 of the department:

5 (a) adult corrections services consisting of the  
6 following institutional components to incarcerate and  
7 rehabilitate felons pursuant to Title 46, chapter 18:

8 (i) Montana state prison;  
9 (ii) ~~Swan-River-forest-camp~~;  
10 ~~(iii)~~ the Montana women's correctional center; and  
11 ~~(iv)~~ (iii) appropriate community-based programs for the  
12 placement, supervision, and rehabilitation of adult felons  
13 who meet the criteria developed by the department for  
14 placement:

15 (A) in prerelease centers;  
16 (B) under intensive supervision;  
17 (C) under parole or probation pursuant to Title 46,  
18 chapter 23, part 2; or  
19 (D) in other appropriate programs;

20 (b) mental health services consisting of the following  
21 institutional components for care and treatment of the  
22 mentally ill pursuant to Title 53, chapter 21:

23 (i) Montana state hospital;  
24 (ii) Montana center for the aged; and  
25 (iii) a community services component consisting of

1 appropriate services for the care and treatment of the  
2 mentally ill pursuant to Title 53, chapter 21, part 2;

3 (c) chemical dependency services consisting of  
4 appropriate detoxification, inpatient, intensive outpatient,  
5 outpatient, prevention, education, and other necessary  
6 chemical dependency services pursuant to Title 53, chapter  
7 24;

8 (d) institutional and residential components of the  
9 developmental disabilities system for those developmentally  
10 disabled persons who require that care according to Title  
11 53, chapter 20, consisting of:

12 (i) the Montana developmental center; and  
13 (ii) Eastmont human services center; and  
14 (e) veterans' nursing homes for the nursing home and  
15 domiciliary care of honorably discharged veterans as  
16 provided by law, consisting of:

17 (i) Montana veterans' home; and  
18 (ii) eastern Montana veterans' home at Glendive.  
19 (2) A state institution may not be moved, discontinued,  
20 or abandoned without prior consent of the legislature."

21 **SECTION 10. SECTION 53-1-402, MCA, IS AMENDED TO READ:**

22 "53-1-402. Residents subject to per diem and ancillary  
23 charges. (1) The department shall assess and collect per  
24 diem and ancillary charges for the care of residents in the  
25 following institutions:

- (1)(a) Montana state hospital;
- (2)(b) Montana developmental center;
- (3)(c) Montana veterans' home;
- (4)(d) eastern Montana veterans' home;
- (5)(e) Montana center for the aged;
- (6)(f) Eastmont human services center.

(2) This section does not apply to the eastern Montana veterans' home if the department contracts with a private vendor to operate the facility as provided for in 10-2-416."

**Section 8.** Section 53-1-203, MCA, is amended to read:

53-1-203. Powers and duties of department. The department shall:

(1) adopt rules for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law; however, no such the rules may not amend or alter the statutory powers and duties of the state board of pardons;

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

the persons confined in the institutions;

(3) contract with private nonprofit Montana corporations to establish and maintain community-based prerelease centers for purposes of preparing inmates of the Montana state prison who are approaching parole eligibility or discharge for release into the community; the centers shall provide a less restrictive environment than the prison while maintaining adequate security; the centers shall be operated in coordination with other department correctional programs, including the supervised release program provided for in Title 46, chapter 23, part 4. Nothing in this subsection shall does not affect the department's authority to operate and maintain community-based prerelease centers in existence on July 14, 1982;

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

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

(6) encourage the establishment of programs at the local level for the prevention and rehabilitation of disabilities as they relate to mental illness and chemical

~~dependency--and--encourage--the-establishment-of-programs-at  
the-local-and-institutional-level-for-the-rehabilitation-and  
education-of-adult-felony-offenders."~~

**NEW SECTION. Section 11.** Rates for board, room, and ancillary services charged to inmates. (1) The department may establish and charge reasonable rates for board, room, and ancillary services as described in 53-1-401 for persons incarcerated in an institutional correctional facility.

(2) The department may prescribe rules that establish criteria and a procedure for determining ability to pay. The department may not make an assessment that would place an undue financial burden on the person.

**Section 12.** Section 53-21-202, MCA, is amended to read:

"53-21-202. Duties of department. The department shall:

(1) take cognizance of matters affecting the mental health of the citizens of the state;

(2) initiate mental health care and treatment, prevention, and research as can best be accomplished by community-centered services. Such ~~The means shall~~ must be utilized to initiate and operate these services in cooperation with local agencies as established under this part.

(3) collect and disseminate information relating to mental health;

(4) prepare and maintain a comprehensive plan for the

development of public mental health services in the state;

(5) receive from agencies of the United States and other state agencies, persons or groups of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and contributions for the development of mental health services within the state;

(6) establish standards for mental health programs that receive funds from the department; and

(7) evaluate performance of programs that receive funds from the department in compliance with federal and state standards;

(8) coordinate state and community resources to ensure comprehensive delivery of services to children with emotional disturbances and submit at least a biennial report to the governor and the legislature concerning the activities and recommendations of the department and service providers; and

(9) appoint an advisory council to make recommendations to the department regarding services for emotionally disturbed children. The members of the advisory council shall serve without compensation and must include but not be limited to a representative of:

(a) the department;

(b) the department of family services;



(c) the office of public instruction;

(d) a youth court;

(e) parents of emotionally disturbed children; and

(f) service provider groups."

**Section 11.** ~~Section 53-21-206, MCA, is amended to read:--~~

~~"53-21-206. Availability of services. (1) The Except as provided in subsection (2) the services of the department and of the incorporated regional mental health centers are available without discrimination on the basis of race, color, creed, religion, or ability to pay and shall must comply with Title VI of the Civil Rights Act of 1964.~~

~~(2) A regional mental health center may require the payment of its full fee if there is no departmental subsidy available for services provided to a client."~~

**Section 13.** Section 53-21-601, MCA, is amended to read:

"53-21-601. Location and primary function of hospital.

(1) The agency FACILITY providing comprehensive mental health care services at Galen and Warm Springs, Montana, is the Montana state hospital and as its primary function provides:

(a) care and treatment of mentally ill persons;

(b) ~~diagnosis, care, evaluation, treatment, referral, and rehabilitation of persons afflicted with chemical dependency;~~

(c) ~~care and treatment of institutional residents or~~

~~clients of the department's community and residential programs who require acute hospital care or nursing care;~~

~~(d) treatment of tuberculosis and silicosis (commonly called miner's consumption);~~

~~(e) detoxification of those persons who seek relief from the disabling effects of alcohol and other chemical substances; and~~

~~(f) contingent upon space and funds, the treatment of pulmonary diseases and other medical or organic disorders.~~

(2) The campus facility at Warm Springs, Montana, Montana state hospital is the component designated as the a mental health facility, as defined in 53-21-102, of the department of corrections and human services for the care and treatment of mentally ill persons.

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

~~(4) The campus facility at Galen, Montana, licensed to provide acute hospital and intermediate nursing care, is the facility component designated for the care and treatment of the medical and organic disorders described in this section. The department may establish a maximum Montana state hospital patient population based upon available staff and facilities. When the patient population maximum is reached,~~

~~the department may defer additional admissions until patient discharges make space available. The department may adopt rules to establish and manage a maximum patient population.~~  
 THE DEPARTMENT SHALL ADOPT RULES TO MANAGE THE STATE HOSPITAL PATIENT POPULATION IN A MANNER THAT WILL ENSURE EMERGENCY ACCESS TO SERVICES, PROTECT PUBLIC AND INDIVIDUAL SAFETY, PROVIDE ACTIVE TREATMENT, IMPLEMENT EFFECTIVE DISCHARGE PLANNING, AND ASSURE ACCESS TO APPROPRIATE COMMUNITY-BASED SERVICES.

(4) THE DEPARTMENT SHALL PREPARE A REPORT TO THE 54TH LEGISLATURE THAT:

(A) DESCRIBES CURRENT AND PROJECTED FUTURE USE OF THE MONTANA STATE HOSPITAL; AND

(B) DESCRIBES PROGRESS TOWARD, AND ADDITIONAL STEPS REQUIRED FOR ACHIEVEMENT OF, ACCREDITATION BY THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS."

**Section 14.** Section 53-21-603, MCA, is amended to read:

"53-21-603. Alcoholic Chemical dependency treatment center. (1) There is ~~an alcoholic a Montana chemical dependency treatment center located at the Montana state hospital.~~ The ~~admittance and discharge procedures for alcoholics are the same as for ill persons~~ Montana chemical dependency treatment center is the approved public treatment facility as defined in 53-24-103.

(2) ~~As used in this section:~~

(a) ~~"alcoholism" means a chronic illness or disorder of behavior characterized by repeated drinking of alcoholic beverages to an extent which endangers the drinker's health, interpersonal relations, or economic functioning or to an extent which endangers the public health, welfare, or safety;~~

(b) ~~an "alcoholic" is a person suffering from the illness of alcoholism;~~

(3) The alcoholic Montana chemical dependency treatment center shall provide care detoxification, evaluation, treatment, referral, and rehabilitation to persons in Montana who are referred for the treatment of the ~~illness of alcoholism or the complications thereof~~ other chemical dependency."

**Section 15.** Section 53-30-101, MCA, is amended to read:

"53-30-101. Location and function of prison and women's correctional center. (1) The institution at Deer Lodge is the state prison and as its primary function provides facilities for the custody, treatment, training, and rehabilitation of adult male criminal offenders.

(2) The institution located in accordance with sections 1 through 7, Chapter 651, Laws of 1991, is the women's correctional center and as its primary function provides facilities for the custody, treatment, training, and rehabilitation of adult female criminal offenders. The

department of corrections and human services may continue to operate the women's correctional center in a temporary location during the 1994-95 biennium."

**Section 16.** Section 53-30-105, MCA, is amended to read:

**"53-30-105. Good time allowance.** (1) The department of corrections and human services shall adopt rules providing for the granting of good time allowance for inmates employed in any prison work or activity and to implement subsection (5). The good time allowance shall operate as a credit on his the inmate's sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules made by the department or the warden. The rules adopted by the department under this subsection may not grant good time allowance to exceed:

(a) 10 days per month for inmates assigned to maximum, close, and medium I security classifications;

(b) 13 days per month for those classified as medium II and minimum security classifications;

(c) 15 days per month for inmates after having been assigned as medium II or minimum security for an uninterrupted period of 1 year;

(d) 13 days per month for those inmates enrolled in school who successfully complete the course of study or who while so enrolled are released from prison by discharge or parole;

(e) 3 days per month for those inmates participating in self-improvement activities designated by the department.

(2) In the event of an attempted escape by an inmate or a violation of the rules prescribed by the department or warden, the inmate may be punished by the forfeiture of part or all good time allowances. The warden of the state prison shall advise the department of any attempted escape or violation of rules on the part of the inmate. Any punishment by forfeiture of good time allowance must be approved by the department.

(3) A person may not earn good time under this section while he the person is on probation. A person may earn good time while on parole at the rate of 30 days per month. If the department determines that a person has violated his the conditions of parole, it may, in its discretion, deduct good time credit accumulated under this subsection in an amount up to and including all credit accumulated on the date of the violation.

(4) The warden of the state prison may request that all or portions of any previously forfeited good time be restored as a result of subsequent good behavior. Any restoration of good time allowance must be approved by the department.

(5) If the population at the Montana state prison or the Montana women's correctional center exceeds the design

capacity of the institution, the department may grant an inmate additional good time credits in an amount necessary to permit the inmate to become eligible for parole or to discharge the inmate's sentence. GOOD TIME CREDITS FOR THE DISCHARGE OF A SENTENCE MAY NOT EXCEED 180 DAYS. The award of good time under this subsection must GENERALLY be provided to inmates who are nearest to parole eligibility or discharge."

NEW SECTION. Section 17. Funds transfer and expenditure. Subject to 17-7-138, during fiscal years 1994 and 1995, the department of corrections and human services may expend funds in any category that were appropriated for personal services or that were indicated in legislative intent as having been appropriated for personal services.

SECTION 18. SECTION 5, CHAPTER 14, SPECIAL LAWS OF JUNE 1986, IS AMENDED TO READ:

"Section 5. Conditions Condition of sale. The sale of the Montana youth treatment center is subject to the following conditions:

{1}--The buyer shall agree that as long as it holds title to the Montana youth treatment center it will accept those youth who are committed to the facility by the district courts pursuant to the Montana Youth Court Act, Title 41, chapter 5, and Title 53, chapter 21. The buyer shall agree to make available a minimum of 40 beds for

treatment of such youth. The buyer or any subsequent transferee shall keep reasonable documentation of compliance with this condition. Failure to comply with the provisions of this section may result in the loss of hospital licensure.

{2}--The buyer shall agree to maintain a license as a psychiatric hospital pursuant to Title 50, chapter 5, part 2, and to operate the facility as defined in 53-21-102(6) as a mental health treatment facility. The buyer shall also agree to comply with state requirements relating to review and recommendations by the mental disabilities board of visitors.

{3}--The buyer shall enter a written contract with the board of land commissioners providing that the buyer will bind by written agreement any purchaser or successor to its interest by transfer of the property to the conditions contained in this act. The board of land commissioners may make an exception to these conditions in any subsequent sale or transfer.

{4}--If the condition that if the buyer of the facility proposes to sell the facility at any time, the state of Montana has the first option to repurchase the facility and land at its appraised value at the time of such the sale. The board of land commissioners shall attempt to conform the sale contract to this section and to remove any encumbrance

1 on the title of the facility that does not reflect this  
2 section. The--buyer--and-the-state-shall-each-commission-an  
3 appraisal-by-a-qualified-appraiser-at-the-time-of-sale--The  
4 appraised-value-is-the-average-of-the-two-appraisals-

5 {5}--The--buyer--shall--demonstrate--that--it-is-able-to  
6 meet,--at-the-time-it-proposes-to-purchase,--the-standards--of  
7 the--joint--commission--on--accreditation--of--hospitals--for  
8 adolescent--psychiatric--facilities--and--the--certification  
9 standards-of-the-health-care-financing-administration-of-the  
10 United-States-department-of-health-and--human--services--for  
11 inpatient-psychiatric-services-for-individuals-under-age-21-  
12 The--buyer-shall-demonstrate-successful-participation-in-the  
13 early-survey-option-program--of--the--joint--commission--on  
14 accreditation-of-hospitals-

15 {6}--The-----buyer-----shall-----provide-----services-----to  
16 medicaid-eligible-and-indigent-patients-and-shall-receive-no  
17 per-diem-reimbursement-from-the-department--of--institutions  
18 for--services--provided--to-youth-ordered-to-the-facility-by  
19 the--courts--Such--services--become--the--financial  
20 responsibility--of--the-buyer,--who--may--bill--medicaid-or  
21 private-insurers-when-appropriate-

22 {7}--The-buyer-shall-accept--emergency--psychiatric  
23 admissions--pursuant--to--53-21-129-regardless-of-ability-to  
24 pay-and-subject-only-to-its-licensure-limitations-

25 {8}--The-buyer-shall-accept-applications-of-all--Montana

1 youth--treatment--center--employees--who--desire-to-continue  
2 employment--with--the--purchaser--Among--the--substantially  
3 qualified-applicants,--present-employees-of-the-Montana-youth  
4 treatment-center-must-be-given-preference-in-hiring--by--the  
5 purchaser-

6 {9}--Montana--youth--treatment-center-employees-who-wish  
7 to-remain--state--employees--shall--be--provided--relocation  
8 assistance--of--up--to--\$17,000-and-any-training-necessary-to  
9 qualify-for-similar-vacant-positions-within--the--department  
10 of-institutions-

11 NEW SECTION. Section 19. Repealer. Sections 10-7-411,  
12 10-2-412, 10-2-413, 10-2-414, 10-2-415, 10-2-416, 46-23-204,  
13 50-17-104, 52-2-118, 52-5-104, 52-5-111, and 53-21-602, MCA,  
14 are repealed.

15 NEW SECTION. Section 20. Codification instruction. (1)  
16 [Section 1] is intended to be codified as an integral part  
17 of Title 10, chapter 2, part 4, and the provisions of Title  
18 10, chapter 2, part 4, apply to [section 1].

19 (2) [Section 9 8 11] is intended to be codified as an  
20 integral part of Title 53, chapter 1, part 5, and the  
21 provisions of Title 53, chapter 1, part 5, apply to [section  
22 9 8 11].

23 NEW SECTION. SECTION 21. COORDINATION INSTRUCTION. (1)  
24 IF [THIS ACT] IS PASSED AND APPROVED, THEN SENATE BILL NO.  
25 39 AND SENATE BILL NO. 40 ARE VOID.

1       (2) IF HOUSE BILL NO. 46 IS PASSED AND APPROVED AND IF  
2       IT INCLUDES A SECTION PROVIDING THAT THE CIGARETTE TAX  
3       COLLECTED UNDER 16-11-111 MAY BE USED FOR THE OPERATION AND  
4       MAINTENANCE OF STATE VETERANS' HOMES AND-~~FOR-IN-HOME--HEALTH~~  
5       CARE, THEN [SECTION 1 OF THIS ACT] IS VOID.

6       (3) IF HOUSE BILL NO. 2 IS PASSED AND APPROVED AND IF  
7       IT INCLUDES A PROVISION THAT THE DEPARTMENT OF CORRECTIONS  
8       AND HUMAN SERVICES MAY SPEND FUNDS APPROPRIATED FOR PERSONAL  
9       SERVICES IN OTHER CATEGORIES, THEN [SECTION ~~14~~ 17 OF THIS  
10       ACT] IS VOID.

11       NEW SECTION. Section 22. Effective date. [This act] is  
12       effective on passage and approval.

-End-