

SENATE BILL NO. 1

INTRODUCED BY LYNCH  
BY REQUEST OF THE CODE COMMISSIONER

IN THE SENATE

DECEMBER 22, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 4, 1993	FIRST READING.
JANUARY 5, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
	PRINTING REPORT.
JANUARY 6, 1993	SECOND READING, DO PASS.
JANUARY 7, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 9, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
JANUARY 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
JANUARY 20, 1993	SECOND READING, CONCURRED IN.
JANUARY 21, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 3.
	RETURNED TO SENATE.

IN THE HOUSE

JANUARY 22, 1992	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

CODE COMMISSIONER REPORT  
1992  
1993 CODE COMMISSIONER BILL SUMMARY

The Code Commissioner bill summary does not reflect changes made to make language gender neutral or to conform existing language to current style.

Section 1. 2-1-212. Revises name of Veterans Administration center to reflect federal law.

Section 2. 2-89-202. Deletes references to Montana Statehood Centennial Office to reflect the termination of the office.

Section 3. 2-89-301. Deletes (2) concerning role of Montana Statehood Centennial Office in designing centennial license plates.

Section 4. 2-89-302. Deletes references to Montana Statehood Centennial Office and deletes provision concerning funding for the office.

Section 5. 3-1-501. In (1)(1), in two places, substitutes "lower tribunal" for "inferior tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 6. 3-2-704. Deletes reference concerning authority of Supreme Court to adopt local rules because the reference is meaningless due to the last phrase.

Section 7. 3-5-602. In two places substitutes "supreme court administrator" for "department of commerce" to reflect the transfer of duties provided for in Chapter 704, Laws of 1991.

Section 8. 3-12-106. Increases District Court small claims court jurisdiction from \$2,500 to \$3,000 to conform to the change made by Chapter 307, Laws of 1991.

Section 9. 5-17-202. In (1)(b) substitutes "commission" for "committee" to conform the text to the defined term.

Section 10. 7-4-2503. In (3)(c) substitutes "the percentage change in the previous calendar year's consumer price index" for "an increment of 100% of the last previous calendar year's consumer price index" for clarity; and in (4) substitutes "most current calendar year's estimates" for "last calendar year's annual estimates" to reflect the availability of population data.

Section 11. 7-4-2504. In (1) deletes "last" before "previous calendar year's" as redundant.

Section 12. 7-6-4135. Deletes reference to the Federal Savings

and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 13. 7-12-2175. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 14. 7-12-4207. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 15. 7-14-102. In (2) substitutes reference to 15-70-101(1)(b) for reference to 15-70-101(1)(a) to reflect renumbering of that section contained in Chapter 292, Laws of 1987.

Section 16. 7-14-2524. In (2) and (3) inserts multiplier to conform to subsection (1) and 7-14-2525.

Section 17. 10-2-412. Deletes reference to the site selected by the committee because the committee was temporary.

Section 18. 10-2-416. Substitutes "state home for veterans in eastern Montana" for "project upon completion" to reflect the repeal of the defined term.

Section 19. 10-4-212. Substitutes "this part" for "10-4-201 through 10-4-205 and 10-4-211" to reflect the enactment of 10-4-206 and 10-4-207 in 1991.

Section 20. 13-37-226. In (7) removes superfluous language.

Section 21. 15-1-201. In (1)(a) removes brackets inserted by the Code Commissioner from reference to Title 15, chapter 70, to reflect the transfer of the administration of fuel taxation from the Department of Revenue to the Department of Transportation provided for in Chapter 512, Laws of 1991.

Section 22. 15-1-202. In (1) removes brackets inserted by the Code Commissioner from reference to Title 15, chapter 70, to reflect the transfer of the administration of fuel taxation from the Department of Revenue to the Department of Transportation provided for in Chapter 512, Laws of 1991.

Section 23. 15-1-205. In (7), after "report", inserts "prepared by the department of transportation" to reflect the transfer of the administration of fuel taxes to that agency by Chapter 512, L. 1991.

Section 24. 15-24-101. In (4) increases rated capacity of light trucks from three-quarter ton to 1 ton to reflect the change made by Chapter 612, Laws of 1989.

Section 25. 15-24-102. In (2) and (3) substitutes "market value" for "assessed value"; in (3) reduces the tax rate from 16% to 9% to conform to the requirements of 15-6-138, which refers to this section; and in (4) substitutes "as provided in 15-24-103" for "as hereinafter provided" for clarity.

Section 26. 15-30-101. In (18) inserts reference to tax year to reflect usage in Title 15.

Section 27. 15-32-201. In (2) and (3) deletes erroneous subsection reference to definition of low emission wood or biomass combustion device.

Section 28. 15-36-112. In (6) and (7) removes brackets inserted by the Code Commissioner from references to the "local government severance taxes" to clarify the tax being allocated.

Section 29. 17-6-102. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 30. 17-6-104. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 31. 17-7-304. In (1) deletes reference to subsection (2), which terminates June 30, 1996.

Section 32. 19-1-102. Throughout section substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 33. 19-1-304. Substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 34. 19-1-401. Substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 35. 19-1-402. Substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 36. 19-1-503. Substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 37. 19-1-823. Substitutes "secretary of health and human services" for "secretary of health, education, and welfare" to reflect changes in federal law.

Section 38. 19-12-202. Deletes (3), which was temporary in nature.

Section 39. 20-9-213. Deletes reference to FSLIC, which has been merged with the Federal Deposit Insurance Corporation.

Section 40. 20-10-146. In (2)(c) deletes reference to subsection (3) because the reference is superfluous.

Section 41. 23-2-716. Substitutes "department of commerce" for "department of revenue" to reflect the transfer of the assessment of tramways made by Chapter 34, L. 1991.

Section 42. 23-2-717. Throughout section substitutes "department of commerce" for "department of revenue" to reflect the transfer of the assessment of tramways made by Chapter 34, L. 1991; and in (2) substitutes "23-2-716(2)" for "23-2-715(2)" to correct an erroneous reference.

Section 43. 23-2-718. Substitutes "department of commerce" for "department of revenue" to reflect the transfer of the assessment of tramways made by Chapter 34, L. 1991.

Section 44. 25-34-102. Increases District Court small claims court jurisdiction from \$2,500 to \$3,000 to conform to the change made by Chapter 307, Laws of 1991.

Section 45. 25-35-502. Increases Justice's Court small claims court jurisdiction from \$2,500 to \$3,000 to conform to the change made by Chapter 307, Laws of 1991.

Section 46. 25-35-503. Increases Justice's Court small claims court jurisdiction from \$2,500 to \$3,000 to conform to the change made by Chapter 307, Laws of 1991.

Section 47. 27-1-717. In (4)(c) substitutes reference to 30-3-423 for reference to 30-3-422 to properly reflect the content of subsection (4)(c).

Section 48. 27-25-102. Substitutes "lower tribunal" for "inferior tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 49. 27-25-203. Substitutes "lower tribunal" for "inferior tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 50. 27-26-102. Substitutes "lower tribunal" for "inferior tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 51. 27-26-206. Substitutes "lower tribunal" for "inferior

tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 52. 27-27-102. Substitutes "lower tribunal" for "inferior tribunal". This change was suggested by the Commission on Courts of Limited Jurisdiction.

Section 53. 30-3-415. Substitutes "party" for "part" to correct an apparent typographical error.

Section 54. 32-2-406. Substitutes reference to the Federal Deposit Insurance Corporation for reference to the Federal Savings and Loan Insurance Corporation to reflect merger of functions.

Section 55. 33-2-827. Substitutes reference to the Federal Deposit Insurance Corporation for reference to the Federal Savings and Loan Insurance Corporation to reflect merger of functions.

Section 56. 33-11-105. Deletes reference to Title 33, chapter 8, which has terminated.

Section 57. 35-2-906. In (3)(e) substitutes reference to members for reference to shareholders to reflect that this section concerns nonprofit corporations.

Section 58. 37-17-304. Inserts "written" before "examination" to clarify that a psychologist licensed in another state is not required to take the written national examination when applying for licensure in Montana.

Section 59. 37-27-103. Deletes definition of department because the term is not used in Title 37, chapter 27.

Section 60. 37-61-202. Deletes residency requirement to reflect United States Supreme Court decisions and to conform to the Montana Supreme Court Rules for Admission to the State Bar of Montana.

Section 61. 39-51-406. In (6) deletes reference to 39-51-402 to reflect the deletion of the bond requirement from that section by Chapter 125, Laws of 1985.

Section 62. 41-5-306. In (3)(c) substitutes "short-term detention center" for "short-term detention facility" to use the term defined in 41-5-103.

Section 63. 46-11-701. Deletes (6), which was declared unconstitutional in Associated Press v. State, 250 Mont. 299, 820 P.2d 421 (1991).

Section 64. 46-18-101. Substitutes reference to the women's correctional center for reference to a women's correctional facility to conform to 53-30-101.

Section 65. 46-18-201. In (10) substitutes reference to the women's correctional center for reference to a women's correctional facility to conform to 53-30-101.

Section 66. 46-18-225. Substitutes references to the women's correctional center for reference to a women's correctional facility to conform to 53-30-101.

Section 67. 46-18-254. Inserts references to Department of Corrections and Human Services to clarify that it is the agency charged with giving notice.

Section 68. 46-23-201. In (1) substitutes reference to the women's correctional center for reference to the women's correction center to conform to 53-30-101; and in (7) deletes reference to the Montana State Prison to reflect the inclusion of the women's correctional center in the content of section.

Section 69. 53-3-308. Deletes reference to Title 53, chapter 2, part 7, repealed by Chapter 550, Laws of 1989.

Section 70. 53-19-305. Substitutes reference to 53-19-306 for reference to 53-29-306 to correct a typographical error.

Section 71. 53-20-147. Substitutes "department of health and human services" for "department of health, education, and welfare" to reflect changes in federal law.

Section 72. 53-21-147. Substitutes "department of health and human services" for "department of health, education, and welfare" to reflect changes in federal law.

Section 73. 61-1-314. Deletes (3), concerning a store license, to reflect the repeal of the store license by Chapter 658, L. 1991.

Section 74. 61-4-120. In (1)(a) deletes reference to the Montana Highway Patrol in order to conform to Chapter 724, L. 1991.

Section 75. 61-5-117. Deletes reference to hazardous materials endorsements to reflect the deletion from 61-1-135 by Chapter 563, L. 1991. Section 61-1-134 provides that a motor vehicle used to transport hazardous material is a commercial motor vehicle.

Section 76. 75-10-512. In (2)(d) inserts reference to a vehicle identification number as defined in 61-3-210 to reflect Chapter 725, L. 1991.

Section 77. 75-10-603. In (2) substitutes permissive requirements for mandatory requirements of cooperative agreements to conform to federal practice.

Section 78. 80-8-102. In (24)(c) substitutes "health and human

services" for "health, education, and welfare" to reflect changes in federal law.

Section 79. 81-22-101. In (6) substitutes "health and human services" for "health, education, and welfare" to reflect changes in federal law.

Section 80. 82-3-205. In (2) deletes reference to revocation of a retail coal dealers license to reflect the repeal of the license by Chapter 658, L. 1991.

Section 81. 85-9-604. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 82. 85-9-629. Deletes reference to the Federal Savings and Loan Insurance Corporation, which has been merged with the Federal Deposit Insurance Corporation.

Section 83. 87-1-504. Deletes (2), defining recreational purposes, to reflect the qualifying language concerning hunting and fishing added by Chapter 609, L. 1991.

Section 84. Code commissioner instruction. Section 1-11-101(2)(g)(ii) provides that recodification includes, without changing the meaning, effect, or intent of any law, correcting inaccurate or obsolete references to other code sections, such as those that have been repealed or repealed and replaced, when given authority by another statute. This section constitutes authority for the Code Commissioner to correct certain erroneous references without the necessity of legislative action.

Section 85. Repealer. Sections 2-15-3204 and 2-15-3205 concern the Governor's centennial mansion. Section 2-15-3204(2) provides that the council required to oversee restoration terminates June 30, 1993.

Section 2-89-207 governs the sale of centennial acres by the Montana Statehood centennial Office. The office has been terminated.

Sections 10-2-411, 10-2-413, 10-2-414, and 10-2-415 govern the selection of the site and the commencement of construction of the state veterans' home in eastern Montana. Those processes have been completed.

Section 30-6-112, enacted by Chapter 410, Laws of 1991, applies to filing requirements for bulk transfers. Chapter 410, Laws of 1991, repealed the bulk transfer law, rendering the filing provision meaningless.



## 1 SENATE BILL NO. 1

2 INTRODUCED BY LYNCH

3 BY REQUEST OF THE CODE COMMISSIONER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND

6 CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE

7 COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN

8 MATERIAL ENACTED BY THE 53RD LEGISLATURE; AMENDING SECTIONS

9 2-1-212, 2-89-202, 2-89-301, 2-89-302, 3-1-501, 3-2-704,

10 3-5-602, 3-12-106, 5-17-202, 7-4-2503, 7-4-2504, 7-6-4135,

11 7-12-2175, 7-12-4207, 7-14-102, 7-14-2524, 10-2-412,

12 10-2-416, 10-4-212, 13-37-226, 15-1-201, 15-1-202, 15-1-205,

13 15-24-101, 15-24-102, 15-30-101, 15-32-201, 15-36-112,

14 17-6-102, 17-6-104, 17-7-304, 19-1-102, 19-1-304, 19-1-401,

15 19-1-402, 19-1-503, 19-1-823, 19-12-202, 20-9-213,

16 20-10-146, 23-2-716, 23-2-717, 23-2-718, 25-34-102,

17 25-35-502, 25-35-503, 27-1-717, 27-25-102, 27-25-203,

18 27-26-102, 27-26-206, 27-27-102, 30-3-415, 32-2-406,

19 33-2-827, 33-11-105, 35-2-906, 37-17-304, 37-27-103,

20 37-61-202, 39-51-406, 41-5-306, 46-11-701, 46-18-101,

21 46-18-201, 46-18-225, 46-18-254, 46-23-201, 53-3-308,

22 53-19-305, 53-20-147, 53-21-147, 61-1-314, 61-4-120,

23 61-5-117, 75-10-512, 75-10-603, 80-8-102, 81-22-101,

24 82-3-205, 85-9-604, 85-9-629, AND 87-1-504, MCA; REPEALING

25 SECTIONS 2-15-3204, 2-15-3205, 2-89-207, 10-2-411, 10-2-413,

1 10-2-414, 10-2-415, AND 30-6-112, MCA; AND PROVIDING

2 EFFECTIVE DATES."

3

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

5 **Section 1.** Section 2-1-212, MCA, is amended to read:

6 "2-1-212. Acceptance of concurrent jurisdiction over

7 veterans administration center. The state of Montana hereby

8 accepts the cession of concurrent jurisdiction with the

9 United States over the real property comprising the veterans

10 administration center, Fort Harrison, Montana, as ceded by

11 Public Law 91-457, 83 Stat. 48, which was approved July 19,

12 1969, and made effective upon acceptance of the cession by

13 the state of Montana."

14 **Section 2.** Section 2-89-202, MCA, is amended to read:

15 "2-89-202. Definitions. Unless the context requires

16 otherwise, in this part, the following definitions apply:

17 (1) "Centennial acre" means one or more separate

18 parcels of land of about ± one acre located in Montana that

19 are acquired by donation from a private source or designated

20 land owned by the state. If there is more than one

21 centennial acre, each separate parcel is to be designated by

22 the--office as a particular centennial acre, such as "the

23 agricultural centennial acre" or "the mountain centennial

24 acre".

25 (2) "Department" means the department of fish,

1 wildlife, and parks.

2 ~~{3}--"Office"--means--the--Montana--statehood--centennial~~  
3 ~~office--as--provided--for--in--2-15-389--(now--terminated)--"~~

4 **Section 3.** Section 2-89-301, MCA, is amended to read:

5 "2-89-301. (Temporary) Regular issue centennial license  
6 plates -- design of regular or commemorative plates. {1} The  
7 department of justice, in issuing license plates under the  
8 provisions of 61-3-321, shall provide for the issuance of  
9 regular license plates carrying a design recognizing the  
10 centennial of Montana's 1889 admission to statehood.

11 ~~{2}--The--design--of--the--license--plates--issued--under--the~~  
12 ~~provisions--of--2-89-302--or--this--section--must--be--developed--in~~  
13 ~~consultation--with--the--Montana--statehood--centennial--office~~  
14 ~~established--in--2-15-389--(now--terminated)--~~ (Terminates July  
15 1, 1996--sec. 4, Ch. 654, L. 1989.)"

16 **Section 4.** Section 2-89-302, MCA, is amended to read:

17 "2-89-302. (Temporary) Commemorative centennial license  
18 plates. (1) Notwithstanding the 4-year period provided for  
19 in 61-3-332(2), the department of justice may issue  
20 commemorative centennial license plates for a different  
21 period ~~if--requested--by--the--Montana--statehood--centennial~~  
22 ~~office,~~ at prices to be agreed--upon determined by the  
23 department ~~and--the--office~~ as provided in 2-89-303.

24 (2) Commemorative license plates may be:

25 (a) collectors' license plates, intended to be

1 collectors' items only, distinctively marked or colored.  
2 Such The plates may be designated as not valid for the  
3 purpose of licensing motor vehicles within the state, or,

4 (b) special or limited duration license plates valid  
5 for licensing motor vehicles in the state and carrying the  
6 same general centennial design as regularly issued license  
7 plates provided for in 2-89-301, except that they may differ  
8 from ~~such~~ regular license plates by:

9 (i) color;

10 (ii) use of a distinctive series of registration numbers  
11 or special prefixes or suffixes for the registration  
12 numbers; and

13 (iii) by other details not distracting from legibility  
14 or recognition of the license plate.

15 (3) (a) ~~For--all--licenses--sold--before--December--17--1989,~~  
16 The proceeds from the sale of commemorative license plates,  
17 ~~after--payment--of--the--agreed--price--to--the--department,~~ must be  
18 ~~used--for--centennial--activities--of--the--office--as--provided--in~~  
19 ~~part--1--(now--terminated)--of--this--chapter,~~ ~~The--proceeds--for~~  
20 ~~sales--occurring--after--November--30--1989,~~ must be deposited  
21 in the general fund.

22 (b) A county shall assess an additional fee of \$3 for  
23 each set of commemorative centennial license plates issued  
24 in the county to defray the costs incurred by the county  
25 treasurer. The county treasurer shall collect the fee and

1 deposit the money in the county general fund.

2 (c) The issuance of commemorative license plates must  
3 be made at no direct cost to the state.

4 (4) Commemorative license plates that are valid for  
5 licensing a motor vehicle must carry the assigned county  
6 number, as established in 61-3-332, either within the  
7 registration numbers or by means of an affixed nonremovable  
8 sticker bearing the appropriate county designation and used  
9 in accordance with instructions by the department.  
10 (Terminates July 1, 1996--sec. 4, Ch. 654, L. 1989.)"

11 **Section 5.** Section 3-1-501, MCA, is amended to read:

12 "3-1-501. What acts or omissions are contempt. (1) The  
13 following acts or omissions in respect to a court of justice  
14 or proceedings therein in a court of justice are contempts  
15 of the authority of the court:

16 (a) disorderly, contemptuous, or insolent behavior  
17 toward the judge while holding the court tending to  
18 interrupt the due course of a trial or other judicial  
19 proceeding;

20 (b) a breach of the peace, boisterous conduct, or  
21 violent disturbance tending to interrupt the due course of a  
22 trial or other judicial proceeding;

23 (c) misbehavior in office or other willful neglect or  
24 violation of duty by an attorney, counsel, clerk, sheriff,  
25 coroner, or other person appointed or elected to perform a

1 judicial or ministerial service;

2 (d) deceit or abuse of the process or proceedings of  
3 the court by a party to an action or special proceeding;

4 (e) disobedience of any lawful judgment, order, or  
5 process of the court;

6 (f) assuming to be an officer, attorney, or counsel of  
7 a court and acting as such without authority;

8 (g) rescuing any person or property in the custody of  
9 an officer by virtue of an order or process of such the  
10 court;

11 (h) unlawfully detaining a witness or party to an  
12 action while going to, remaining at, or returning from the  
13 court where the action is on the calendar for trial;

14 (i) any other unlawful interference with the process or  
15 proceedings of a court;

16 (j) disobedience of a subpoena duly served or refusing  
17 to be sworn or answer as a witness;

18 (k) when summoned as a juror in a court, neglecting to  
19 attend or serve as such a juror or improperly conversing  
20 with a party to an action to be tried at such the court or  
21 with any other person in relation to the merits of such the  
22 action or receiving a communication from a party or other  
23 person in respect to it without immediately disclosing the  
24 same to the court;

25 (l) disobedience by an--inferior a lower tribunal,

magistrate, or officer of the lawful judgment, order, or process of a superior court or proceeding in an action or special proceeding contrary to law after such the action or special proceeding is removed from the jurisdiction of such inferior the lower tribunal, magistrate, or officer.

(2) Disobedience of the lawful orders or process of a judicial officer is also a contempt of the authority of such the officer."

**Section 6.** Section 3-2-704, MCA, is amended to read:

"3-2-704. Local rules. Any A district court ~~and the supreme--court~~ may adopt rules of court governing its practice so long as such the rules are not in conflict with the rules promulgated by the supreme court of the state of Montana in accordance with this part."

**Section 7.** Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1) Each reporter is entitled to receive a base annual salary of not less than \$23,000 or more than \$30,000 and no other compensation except as provided in 3-5-604. The salary ~~shall~~ must be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed and out of an appropriation made to the ~~department--of--commerce~~ supreme court administrator as provided in subsection (2).

(2) The ~~department--of--commerce~~ supreme court administrator shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district and the amount appropriated for that purpose. Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts in the district. The judge or judges of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in ~~his-or-their~~ the district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), ~~his~~ actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when ~~he goes~~ on official business to a county of ~~his~~ the reporter's judicial district other than the county in which ~~he~~ the reporter resides, ~~--from--the~~

time--he--leaves--his--place--of--residence-until--he--returns  
thereto. The expenses shall must be apportioned and are  
payable in the same way as the salary."

**Section 8.** Section 3-12-106, MCA, is amended to read:

"3-12-106. Jurisdiction -- removal from district court.

(1) The small claims court has original jurisdiction in all  
actions for the recovery of money or specific personal  
property when:

(a) such the action arises out of a contract, express  
or implied;

(b) the amount of the claim, exclusive of costs, does  
not exceed ~~\$2,500~~ \$3,000; and

(c) the defendant can be served within the county or  
counties for which the small claims court has been created.

(2) More than one claim may be joined if all claims  
joined would separately meet the requirements for  
jurisdiction in the small claims court and the total value  
of money claimed or property sought does not exceed ~~\$2,500~~  
\$3,000.

(3) A district court judge may require any action filed  
in district court to be removed to the small claims court if  
the amount in controversy does not exceed ~~\$2,500~~ \$3,000. The  
small claims court shall hear any the action so removed from  
the district court."

**Section 9.** Section 5-17-202, MCA, is amended to read:

"5-17-202. Capitol restoration commission --  
composition -- allocation. (1) There is a capitol  
restoration commission consisting of:

(a) the governor, lieutenant governor, secretary of  
state, attorney general, superintendent of public  
instruction, and state auditor, who are ex officio members  
of the commission. Each ex officio member may appoint up to  
two members from the public sector or private sector who  
shall serve for 4 years.

(b) the director of the Montana historical society and  
the state architect, who shall serve on the committee  
commission and assist the committee commission with  
technical support.

(2) The governor is the president presiding officer,  
and in his the governor's absence, the secretary of state  
shall preside. ~~and the~~ The director of the department of  
administration is the secretary of the commission. In the  
absence of either the president presiding officer or the  
secretary, an officer pro tempore may be elected from the ex  
officio members.

(3) (a) The meetings of the commission are held at the  
call of the president presiding officer.

(b) If an ex officio member is unable to attend a  
meeting of the commission, he the member may designate  
another individual to attend ~~and represent him~~.

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

**Section 10.** Section 7-4-2503, MCA, is amended to read:

**"7-4-2503. Salary schedule for certain county officers.**

(1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, and county sheriff; the county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812; and the county auditor in all counties where the office is authorized, for the fiscal year beginning July 1, 1991, and each year thereafter must be established by the county governing body at no less than 80% of the annual base salary of:

(i) \$25,000 for the counties of the first through fifth class added to the population increment of \$10 for each 100 persons or major fraction thereof included in the county's population as determined by the 1990 federal decennial census; or

(ii) \$18,000 for counties of the sixth and seventh class added to the population increment of \$10 per 100 persons or major fraction thereof in the county's population as determined by the 1990 federal decennial census.

(b) The annual base established by the county governing

body in subsection (1) must be uniform for all county officers referred to in subsection (1).

(2) (a) An elected county superintendent of schools shall receive, in addition to the salary based upon subsection (1), the sum of \$400 per year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon subsection (1), up to \$2,000 per year.

(b) The county sheriff shall receive, in addition to the salary based upon subsection (1), the sum of \$2,000 per year.

(c) The county sheriff shall receive a longevity payment amounting to 1% of the base salary set forth in subsection (1) for each year of service with the sheriff's department, but years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases. The additional salary amount provided for in this subsection may not be included in the base salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

1 (3) (a) In each county with a population in excess of  
 2 30,000, the county attorney ~~shall~~ must be a full-time  
 3 official under 7-4-2704, and ~~his~~ the salary for the fiscal  
 4 year beginning July 1, 1991, ~~shall-be~~ is \$50,000 per year.  
 5 In counties with a population less than 30,000, the county  
 6 attorney who is a part-time official for a county of the  
 7 first, second, or third class is entitled to receive an  
 8 annual salary equal to 60% of the annual salary of a  
 9 full-time county attorney. A county attorney who is a  
 10 part-time official for a county of the fourth, fifth, sixth,  
 11 or seventh class is entitled to receive an annual salary  
 12 equal to 50% of the annual salary of a full-time county  
 13 attorney.

14 (b) In those counties where the office of the county  
 15 attorney has been established as a full-time position  
 16 pursuant to 7-4-2706, the salary of the county attorney for  
 17 the fiscal year beginning July 1, 1991, ~~shall-be~~ is the same  
 18 as that established for full-time county attorneys in  
 19 subsection (3)(a).

20 (c) Beginning on July 1, 1991, and on July 1 of each  
 21 succeeding year, each county attorney ~~shall-be~~ is entitled  
 22 to an increase in salary calculated by adding to ~~his~~ the  
 23 annual salary on July 1, 1991, ~~an-increment-of-100%--of~~ the  
 24 percentage change in the last previous calendar year's  
 25 consumer price index for all urban consumers, U.S.

1 department of labor, bureau of labor statistics, or other  
 2 index that the bureau of business and economic research of  
 3 the university of Montana may in the future recognize as the  
 4 successor to that index. However, the county commissioners  
 5 may, for all or the remainder of each fiscal year, in  
 6 conjunction with setting salaries for other officers as  
 7 provided in 7-4-2504(1), set the salary at the prior fiscal  
 8 year level if that level is lower than the level required by  
 9 this subsection (3)(c). The cost-of-living increment for the  
 10 fiscal year beginning July 1, 1983, and for each subsequent  
 11 fiscal year ~~shall~~ must be added to all cost-of-living  
 12 increments granted for previous years unless salaries were  
 13 set for the fiscal year at the level of salaries received in  
 14 the prior fiscal year. Unless restored pursuant to  
 15 7-4-2504(2), any cost-of-living increment that would have  
 16 been received for ~~such~~ the fiscal year, computed on the  
 17 prior fiscal year, may not be added to previous increments.

18 (d) (i) After completing 4 years of service as deputy  
 19 county attorney, each deputy county attorney is entitled to  
 20 an increase in salary of \$1,000 on the anniversary date of  
 21 ~~his~~ employment as deputy county attorney. After completing 5  
 22 years of service as deputy county attorney, each deputy  
 23 county attorney is entitled to an additional increase in  
 24 salary of \$1,500 on the anniversary date of ~~his~~ employment.  
 25 After completing 6 years of service as deputy county

1 attorney and for each year of service thereafter up to  
2 completion of the 11th year of service, each deputy county  
3 attorney is entitled to an additional annual increase in  
4 salary of \$500.

5 (ii) The years of service as a deputy county attorney  
6 accumulated prior to July 1, 1985, must be included in the  
7 calculation of the longevity increase, but, unless longevity  
8 increases are restored pursuant to 7-4-2504(2), the years of  
9 service during any year in which the salary was set at the  
10 level of the salary of the prior fiscal year may not be  
11 included in any calculation of longevity increases.

12 (4) For each 10th year after the fiscal year beginning  
13 July 1, 1981, the latest federal decennial census statistics  
14 ~~shall--be~~ are the basis for computation of population  
15 increments under this section. During the intervening 9  
16 years, the computation of population increments applicable  
17 on July 1 of each year ~~shall--be~~ is based on the ~~last~~ most  
18 current calendar year's ~~annual~~ estimates of counties'  
19 populations compiled by the federal-state cooperative  
20 program for estimates of the university of Montana bureau of  
21 business and economic research and the U.S. bureau of the  
22 census or other estimate that the bureau of business and  
23 economic research may certify."

24 **Section 11.** Section 7-4-2504, MCA, is amended to read:

25 "7-4-2504. Salaries to be fixed by resolution --

1 cost-of-living increments. (1) The county governing body  
2 shall by resolution on or before July 1, 1992, and on or  
3 before July 1 of each year thereafter adjust and uniformly  
4 fix the salaries of the county treasurer, county clerk,  
5 county assessor, county school superintendent, county  
6 sheriff, and the clerk of the district court; the county  
7 auditor (if there is one); and the county surveyor (if he  
8 the surveyor receives a salary). Except as provided in  
9 subsection (3), the salaries fixed may be no less than 80%  
10 of the annual base salary provided for in 7-4-2503(1) plus a  
11 cost-of-living increment based on the ~~last~~ previous calendar  
12 year's consumer price index for all urban consumers, U.S.  
13 department of labor, bureau of labor statistics, or other  
14 index that the bureau of business and economic research of  
15 the university of Montana may in the future recognize as the  
16 successor to that index. The county governing body may,  
17 however, for all or the remainder of each fiscal year, in  
18 conjunction with setting salaries for the same action on the  
19 salaries of justices of the peace (if applicable), the  
20 county governing body, county attorney, and coroner, set the  
21 salary at the prior fiscal year level if that level is lower  
22 than the level required by this subsection. The  
23 cost-of-living increment for the fiscal year beginning July  
24 1, 1992, and for each subsequent fiscal year ~~shall~~ must be  
25 added to all cost-of-living increments granted for previous



1 years unless salaries were set for the fiscal year at the  
 2 level of salaries received in the prior fiscal year. In such  
 3 a case, the cost-of-living increment that would have been  
 4 received for such the fiscal year, computed on the prior  
 5 fiscal year, may not be added to previous increments.

6 (2) The county governing body may, in any subsequent  
 7 fiscal year, restore for 1 or more years the annual  
 8 cost-of-living increments withheld pursuant to subsection  
 9 (1). If cost-of-living increments are restored, the  
 10 longevity increases provided for sheriffs in 7-4-2503, for  
 11 deputy county attorneys in 7-4-2503(3)(d)(i), and for  
 12 undersheriffs and deputy sheriffs in 7-4-2510 must also be  
 13 restored for the years for which the cost-of-living  
 14 increment was restored.

15 (3) If the application of 7-4-2503 does not qualify a  
 16 county official for a salary increase, his the salary base  
 17 for the fiscal year beginning July 1, 1991, must be the  
 18 fiscal year 1990-91 salary plus 100% of the last previous  
 19 calendar year's consumer price index for all urban  
 20 consumers, as set forth in subsection (1).

21 (4) The county governing body shall by resolution,  
 22 prior to July 1 of each year, establish the salary of the  
 23 coroner and may, for all or the remainder of each fiscal  
 24 year, in conjunction with setting salaries for other  
 25 officers as provided in subsection (1), set the salary at

1 the prior fiscal year level. The salary must be in effect  
 2 upon the first day of each ensuing fiscal year."

3 **Section 12.** Section 7-6-4135, MCA, is amended to read:

4 "7-6-4135. Investment of money in capital improvement  
 5 program fund. The money held in the capital improvement  
 6 program fund shall must, whenever possible, be invested in  
 7 savings or time deposits in a state or national bank,  
 8 savings and loan association, or credit union insured by the  
 9 federal deposit insurance corporation, ~~federal-savings-and~~  
 10 ~~loan-insurance-corporation,~~ or by the national credit union  
 11 administration or invested in direct obligations of the  
 12 United States government and shall must be credited back to  
 13 the fund plus interest earned."

14 **Section 13.** Section 7-12-2175, MCA, is amended to read:

15 "7-12-2175. Investment of interest and sinking fund  
 16 money. (1) The governing body of a county in which a special  
 17 improvement district is located may invest interest and  
 18 sinking fund money of the district in time deposits of a  
 19 bank, savings and loan association, or credit union insured  
 20 by the federal deposit insurance corporation, ~~--federal~~  
 21 ~~savings-and-loan-insurance-corporation,~~ or by the national  
 22 credit union administration or invested in direct  
 23 obligations of the United States government payable within  
 24 180 days from the time of investment.

25 (2) All interest collected on such deposits or

1 investments ~~shall~~ must be credited to the sinking fund from  
2 which the money was withdrawn."

3 **Section 14.** Section 7-12-4207, MCA, is amended to read:

4 "7-12-4207. Investment of interest and sinking fund  
5 money. (1) The governing body of a city in which a special  
6 improvement district is located may invest interest and  
7 sinking fund money of the district in time deposits of a  
8 bank, savings and loan association, or credit union insured  
9 by the federal deposit insurance corporation~~7---federal~~  
10 ~~savings--and--loan-insurance-corporation~~~~7~~ or by the national  
11 credit union administration or invested in direct  
12 obligations of the United States government payable within  
13 180 days from the time of investment.

14 (2) All interest collected on such deposits or  
15 investments ~~shall~~ must be credited to the sinking fund from  
16 which the money was withdrawn."

17 **Section 15.** Section 7-14-102, MCA, is amended to read:

18 "7-14-102. Allocation of state funds for public  
19 transportation. (1) (a) The department of transportation  
20 shall allocate each year one-half of the funds appropriated  
21 for the purposes of this section among the cities and urban  
22 transportation districts of the state ~~which~~ that operate or  
23 contract for the operation of general public transportation  
24 systems.

25 (b) (i) A city or urban transportation district is

1 eligible for an allocation based upon the ratio of its local  
2 financial support for public transportation to the total  
3 local financial support for all general public  
4 transportation systems in the state. Local financial support  
5 ~~shall~~ must be determined by dividing the city's or  
6 district's expenditure of local ~~revenues~~ revenue for public  
7 transportation operations during the fiscal year by the mill  
8 value of the city or urban transportation district. Each  
9 applicant city and urban transportation district shall  
10 compute its expenditure of local ~~revenues~~ revenue for public  
11 transportation operations for a fiscal year immediately  
12 following the end of ~~such~~ the fiscal year and shall apply  
13 allocations received against that deficit.

14 (ii) A city or urban transportation district may not  
15 receive more than 50% of any year's expenditure of local  
16 ~~revenues~~ revenue for public transportation operations as an  
17 allocation under this section.

18 (2) One-half of the funds appropriated for the purposes  
19 of this section ~~shall~~ must be paid by the department of  
20 transportation to the counties of the state in the manner  
21 provided in 15-70-101(1)~~(a)~~(b). Money distributed to  
22 counties under this section ~~shall~~ must be used by the  
23 counties for highway or other transportation purposes.

24 (3) The department of transportation may make adopt  
25 rules for the keeping of accounts for and otherwise

1 implementing this section."

2 **Section 16.** Section 7-14-2524, MCA, is amended to read:

3 "7-14-2524. Limitation on amount of bonds issued --  
4 excess void. (1) Except as otherwise provided hereafter--and  
5 in 7-7-2203, and 7-7-2204, and this section, a county may  
6 not issue bonds which that, with all outstanding bonds and  
7 warrants except county high school bonds and emergency  
8 bonds, will exceed 11.25% of the total of the taxable value  
9 of the property therein in the county, plus the amount of  
10 interim production and new production taxes levied divided  
11 by the appropriate tax rates described in 15-23-607(2)(a) or  
12 (2)(b) and multiplied by 60%, plus the amount of value  
13 represented by new production exempted from tax as provided  
14 in 15-23-612 multiplied by 60%, plus the value of any other  
15 production occurring after December 31, 1988, multiplied by  
16 60%. The taxable property and the amount of interim  
17 production and new production taxes levied must be  
18 ascertained by the last assessment for state and county  
19 taxes prior to the issuance of the bonds.

20 (2) A county may issue bonds which that, with all  
21 outstanding bonds and warrants except county high school  
22 bonds, will exceed 11.25% but will not exceed 22.5% of the  
23 total of the taxable value of such the property, plus the  
24 amount of interim production and new production taxes levied  
25 divided by the appropriate tax rates described in

1 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
2 amount of value represented by new production exempted from  
3 tax as provided in 15-23-612 multiplied by 60%, plus the  
4 value of any other production occurring after December 31,  
5 1988, multiplied by 60% when necessary for the purpose of  
6 replacing, rebuilding, or repairing county buildings,  
7 bridges, or highways which that have been destroyed or  
8 damaged by an act of God, or by a disaster, catastrophe, or  
9 accident.

10 (3) The value of the bonds issued and all other  
11 outstanding indebtedness of the county, except county high  
12 school bonds, ~~shall~~ may not exceed 22.5% of the total of the  
13 taxable value of the property within the county, plus the  
14 amount of interim production and new production taxes levied  
15 divided by the appropriate tax rates described in  
16 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
17 amount of value represented by new production exempted from  
18 tax as provided in 15-23-612 multiplied by 60%, plus the  
19 value of any other production occurring after December 31,  
20 1988, multiplied by 60%, as ascertained by the last  
21 preceding general assessment."

22 **Section 17.** Section 10-2-412, MCA, is amended to read:

23 "10-2-412. State veterans' home in eastern Montana  
24 established. A state home for veterans is established in  
25 eastern Montana ~~at-a-site--to--be--determined--by--the--site~~

1 ~~selection-committee-as-provided-in-10-2-413.~~"

2 **Section 18.** Section 10-2-416, MCA, is amended to read:

3 "10-2-416. Pledge to continue operation and  
4 maintenance. Pursuant to 38 U.S.C. 641 and 5035(a)(6), the  
5 state shall appropriate from the general fund to the  
6 department of corrections and human services financial  
7 support necessary to provide for continued operation and  
8 maintenance of the project-upon-completion state home for  
9 veterans in eastern Montana."

10 **Section 19.** Section 10-4-212, MCA, is amended to read:

11 "10-4-212. Provider considered a taxpayer under  
12 provisions for fee. Unless the context requires otherwise,  
13 the provisions of Title 15 referring to the audit and  
14 examination of reports and returns, determination of  
15 deficiency assessments, claims for refunds, penalties,  
16 interest, jeopardy assessments, warrants, conferences,  
17 appeals to the department of revenue, appeals to the state  
18 tax appeal board, and procedures relating thereto apply to  
19 ~~10-4-201-through-10-4-205-and-10-4-211-the-same~~ this part as  
20 if the fee were a tax imposed upon or measured by net  
21 income. ~~All-such~~ The provisions apply to the subscriber  
22 liable for the fee and to the provider required to collect  
23 the fee. ~~As-to-any~~ Any amount collected and required to be  
24 remitted to the department of revenue, ~~the-fee~~ is considered  
25 a tax upon the provider required to collect it, and that

1 provider is considered a taxpayer."

2 **Section 20.** Section 13-37-226, MCA, is amended to read:

3 "13-37-226. Time for filing reports. (1) Candidates for  
4 a state office filled by a statewide vote of all the  
5 electors of Montana and political committees that are  
6 organized to support or oppose a particular statewide  
7 candidate shall file reports:

8 (a) quarterly, due on the fifth day following a  
9 calendar quarter, beginning with the calendar quarter in  
10 which funds are received or expended during the year or  
11 years prior to the election year that the candidate expects  
12 to be on the ballot;

13 (b) on the 10th day of March and September in each year  
14 that an election is to be held and on the 15th and 5th days  
15 next preceding the date on which an election is held and  
16 within 24 hours after receiving a contribution of \$500 or  
17 more if received between the 10th day before and the day of  
18 the election;

19 (c) not more than 20 days after the date of the  
20 election; and

21 (d) on the 10th day of March and September of each year  
22 following an election until the candidate or political  
23 committee files a closing report as specified in  
24 13-37-228(3).

25 (2) Political committees organized to support or oppose

1 a particular statewide ballot issue shall file reports:  
 2 (a) quarterly, due on the fifth day following a  
 3 calendar quarter, beginning with the calendar quarter in  
 4 which funds are received or expended during the year or  
 5 years prior to the election year that an issue subject to a  
 6 referendum is or is expected to be on the ballot;  
 7 (b) on the 10th day of March and on the 10th day of  
 8 each subsequent month through September;  
 9 (c) on the 15th and 5th days preceding the date on  
 10 which an election is held;  
 11 (d) within 24 hours after receiving a contribution of  
 12 \$500 or more if received between the 10th day before the  
 13 election and the day of the election;  
 14 (e) within 20 days after the election; and  
 15 (f) on the 10th day of March and September of each year  
 16 following an election until the political committee files a  
 17 closing report as specified in 13-37-228(3).  
 18 (3) Candidates for a state district office, including  
 19 but not limited to candidates for the legislature, the  
 20 public service commission, or a district court judge, and  
 21 political committees which that are specifically organized  
 22 to support or oppose a particular state district candidate  
 23 or issue shall file reports:  
 24 (a) on the 10th day next preceding the date on which an  
 25 election is held and within 24 hours after receiving a

1 contribution of \$100 or more if received between the 15th  
 2 day before and the day of the election;  
 3 (b) not more than 20 days after the date of the  
 4 election; and  
 5 (c) whenever a candidate or political committee files  
 6 his-or-its a closing report as specified in 13-37-228(3).  
 7 (4) Candidates for any other public office and  
 8 political committees which that are specifically organized  
 9 to support or oppose a particular local issue shall be  
 10 required--to file the reports specified in subsection (3)  
 11 only if the total amount of contributions received or the  
 12 total amount of funds expended for all elections in a  
 13 campaign, excluding the filing fee paid by the candidate,  
 14 exceeds \$500, except as provided in 13-37-206.  
 15 (5) For the purposes of this subsection, a committee  
 16 which that is not specifically organized to support or  
 17 oppose a particular candidate or ballot issue and which that  
 18 receives contributions and makes expenditures in conjunction  
 19 with an election is an independent committee. For the  
 20 purpose of reporting, a political party committee is an  
 21 independent committee. An independent committee shall file  
 22 reports:  
 23 (a) on the 10th day next preceding the date of an  
 24 election in which it participates by making an expenditure;  
 25 (b) not more than 20 days after the date of the

1 election in which it participates by making an expenditure;  
2 and

3 (c) a closing report at the close of each calendar  
4 year, on a date to be prescribed by the commissioner.

5 (6) The commissioner may promulgate rules regarding the  
6 extent to which organizations that are not primary political  
7 committees but are incidental political committees shall  
8 report their politically related activities in accordance  
9 with this chapter.

10 (7) All reports required by this section ~~shall~~ must be  
11 complete as of the fifth day before the date of filing as  
12 specified in 13-37-225(2) and ~~subsections-(1)-through-(6)-of~~  
13 this section."

14 **Section 21.** Section 15-1-201, MCA, is amended to read:

15 "15-1-201. Administration of revenue laws. (1) (a) The  
16 department of revenue shall have and exercise general  
17 supervision over the administration of the assessment and  
18 tax laws of the state, except Title 15, chapter 70, and  
19 over its agents and any officers of municipal corporations  
20 having any duties to perform under any of the laws of this  
21 state relating to taxation to the end that all assessments  
22 of property be made relatively just and equal at true value  
23 in substantial compliance with law, and The department may  
24 make rules to supervise the administration of all revenue  
25 laws of the state and assist in their enforcement.

1 (b) The department of revenue shall adopt rules  
2 specifying which types of property within the several  
3 classes are considered "comparable property" as described in  
4 15-1-101.

5 (c) The department shall also adopt rules specifying  
6 the methodology to be used in conducting sales assessment  
7 ratio studies and in determining the value-weighted mean  
8 sales assessment ratio for all commercial and industrial  
9 real property and improvements.

10 (2) The department shall confer with, advise, and  
11 direct officers of municipal corporations as to their  
12 duties, with respect to taxation, under the statutes of the  
13 state.

14 (3) The department shall collect annually from the  
15 proper officers of the municipal corporations information  
16 about the assessment of property, collection of taxes,  
17 receipts from licenses and other sources, the expenditure of  
18 public funds for all purposes, and such other information as  
19 may be needful and helpful in the work of the department in  
20 such a form and--upon--such--blanks--as prescribed by the  
21 department ~~shall prescribe~~. It ~~shall be~~ is the duty of all  
22 public officers so--called--upon to fill out properly and  
23 return promptly to the department all blanks--so--transmitted  
24 forms and in--every--way aid the department in its work. The  
25 department shall examine the records of all municipal

1 corporations for such purposes as-are considered needful or  
2 helpful."

3 **Section 22.** Section 15-1-202, MCA, is amended to read:

4 "15-1-202. Enforcement of revenue laws. (1) The  
5 department of revenue may direct proceedings, actions, and  
6 prosecutions to be instituted to enforce the laws relating  
7 to the penalties, liabilities, and punishment of public  
8 officials and persons or their agents for failure or neglect  
9 to comply with the provisions of the statutes<sup>f</sup>, except Title  
10 15, chapter 70,<sup>†</sup> governing the revenue of the state or  
11 municipal corporations. The department shall cause  
12 complaints to be made against assessors and other public  
13 officers to the proper district court for their removal from  
14 office for official misconduct, neglect of duty, or failure  
15 of an assessor to comply with the certification or  
16 continuing education requirements of 15-8-106.

17 (2) The department may require county attorneys to  
18 assist in the commencement and prosecution of actions and  
19 proceedings in their respective counties for penalties,  
20 forfeitures, removals, and punishment for violations of the  
21 laws of the state in respect to the assessment of property  
22 and other revenue laws or for failure of an assessor to  
23 comply with the certification or continuing education  
24 requirements of 15-8-106.

25 (3) Nothing in this section affects the authority of

1 any other person, public officer, or public body to pursue  
2 any other legal process for the removal from office of an  
3 assessor who forfeits office for failure to comply with  
4 certification and continuing education requirements."

5 **Section 23.** Section 15-1-205, MCA, is amended to read:

6 "15-1-205. Biennial report -- contents. (1) The  
7 department shall transmit to the governor 20 days before the  
8 meeting of the legislature and, as provided in 5-11-210,  
9 submit to the legislature a report of the department showing  
10 all the taxable property of the state, counties, and cities  
11 and its value, in tabulated form, with recommendations for  
12 improvements in the system of taxation, together with  
13 alternative measures as may be formulated for the  
14 consideration of the legislature.

15 (2) The report or supplements to the report may also  
16 include:

17 (a) the gross dollar amount of revenue loss  
18 attributable to:

19 (i) personal income and corporation license tax  
20 exemptions;

21 (ii) property tax exemptions for which application to  
22 the department or its agent is necessary;

23 (iii) deferral of income;

24 (iv) credits allowed against Montana personal income tax  
25 or Montana corporation license tax, reported separately;

1 (v) deductions from income; and  
 2 (vi) any other identifiable preferential treatment of  
 3 income or property;  
 4 (b) any change in tax revenue of the state or any unit  
 5 of local government attributable to a change in federal tax  
 6 law; and  
 7 (c) any change in the revenue of any unit of local  
 8 government attributable to a change in state tax law.  
 9 (3) The data described in subsection (2), if reported,  
 10 must be related to the income and age of the taxpayer  
 11 whenever such the information is available.  
 12 (4) (a) When reporting the data described in subsection  
 13 (2)(a), the department shall identify any known purpose of  
 14 the preferential treatment.  
 15 (b) Based upon the purpose of the preferential  
 16 treatment, the department shall outline the available data  
 17 necessary to determine the effectiveness of the preferential  
 18 treatment.  
 19 (5) In reporting the data described in subsection (2),  
 20 the department shall report any comparable data, if  
 21 available, from Wyoming, Idaho, North Dakota, and South  
 22 Dakota and from any other state the department may choose.  
 23 (6) The department must shall identify in a separate  
 24 section of the report any changes that have been made or  
 25 that are contemplated in property appraisal or assessment.

1 (7) The department may include a report, prepared by  
 2 the department of transportation, showing the selling price  
 3 of gasoline at the wholesale level in prime market centers  
 4 of Montana and in surrounding states during the biennium,  
 5 with indexes tabulated at sufficient intervals to show the  
 6 comparative state price structures."  
 7 **Section 24.** Section 15-24-101, MCA, is amended to read:  
 8 "15-24-101. **Assessment of proportionally registered**  
 9 **interstate motor vehicle fleets -- tax payment required for**  
 10 **registration.** (1) The department of revenue shall assess,  
 11 for the purpose of personal property taxes, the taxable  
 12 vehicles in interstate motor vehicle fleets proportionally  
 13 registered under the provisions of 61-3-711 through  
 14 61-3-733, and the assessment must be apportioned on the  
 15 ratio of total miles traveled to in-state miles traveled  
 16 formula as prescribed by 61-3-721. Interstate motor vehicle  
 17 fleets are assessable for taxation purposes upon application  
 18 for proportional registration and are assessed to the  
 19 persons who own or claim the fleet or in whose possession or  
 20 control the fleet is at the time of the application.  
 21 (2) With respect to any fleet contained in an original  
 22 application which that has a situs for purpose of property  
 23 taxation in Montana by the terms of this part or any other  
 24 provision of the laws of Montana, the taxes on taxable  
 25 vehicles are apportioned as provided in 15-24-303.



(3) With respect to any fleet contained in a renewal application, the taxable vehicles are assessed and taxed for a full year.

(4) Automobiles and trucks having a rated capacity of ~~three-quarters-of-a~~ 1 ton or less that are part of an interstate motor vehicle fleet are subject to property tax. If the fleet is proportionally registered, the tax is apportioned in the same fashion as the registration fee under 61-3-721.

(5) Vehicles contained in a fleet for which current taxes, fees, or both have been assessed and paid may not be assessed or charged fees under this section upon presentation to the department of proof of payment of taxes, or fees, or both for the current registration year. The payment of personal property taxes, fees, or both, is a condition precedent to proportional registration or reregistration of an interstate motor vehicle fleet."

**Section 25.** Section 15-24-102, MCA, is amended to read:

"15-24-102. Valuation of interstate fleets -- determination of aggregate tax due. The department of revenue shall assess the taxable vehicles of any interstate motor vehicle fleet making application for proportional registration as follows:

(1) The purchase price of the taxable vehicles depreciated by a schedule as prescribed by the department

~~shall-determine~~ determines the depreciated value.

(2) The depreciated value multiplied by the percent of miles traveled in Montana, as prescribed by 61-3-721, ~~shall be~~ is the ~~assessed~~ market value.

(3) The sum of the ~~assessed~~ market value of all taxable vehicles included in the fleet multiplied by ~~16%-shall-be~~ 9% ~~is~~ is the taxable value for the entire fleet.

(4) To determine the amount of tax due, the taxable value of the entire fleet ~~shall~~ must be multiplied by the statewide average county mill levy plus state levies as hereinafter provided in 15-24-103."

**Section 26.** Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in

1 effect on June 30 of the taxable year.

2 (2) "Consumer price index" means the consumer price  
3 index, United States city average, for all items, using the  
4 1967 base of 100 as published by the bureau of labor  
5 statistics of the U.S. department of labor.

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

7 (4) "Dividend" means any distribution made by a  
8 corporation out of its earnings or profits to its  
9 shareholders or members, whether in cash or in other  
10 property or in stock of the corporation, other than stock  
11 dividends ~~as--herein--defined. "Stock-dividends"--means-new~~  
12 ~~stock--issued,--for--surplus--or--profits--capitalized,--to~~  
13 ~~shareholders-in-proportion-to-their-previous-holdings-~~

14 (5) "Fiduciary" means a guardian, trustee, executor,  
15 administrator, receiver, conservator, or any person, whether  
16 individual or corporate, acting in any fiduciary capacity  
17 for any person, trust, or estate.

18 (6) "Foreign country" or "foreign government" means any  
19 jurisdiction other than the one embraced within the United  
20 States, its territories, and its possessions.

21 (7) "Gross income" means the taxpayer's gross income  
22 for federal income tax purposes as defined in section 61 of  
23 the Internal Revenue Code of 1954 or as that section may be  
24 labeled or amended, excluding unemployment compensation  
25 included in federal gross income under the provisions of

1 section 85 of the Internal Revenue Code of 1954 as amended.

2 (8) "Inflation factor" means a number determined for  
3 each taxable year by dividing the consumer price index for  
4 June of the taxable year by the consumer price index for  
5 June, 1980.

6 (9) "Information agents" includes all individuals,  
7 corporations, associations, and partnerships, acting in  
8 whatever capacity ~~acting~~, including lessees or mortgagors of  
9 real or personal property, fiduciaries, brokers, real estate  
10 brokers, employers, and all officers and employees of the  
11 state or of any municipal corporation or political  
12 subdivision of the state, having the control, receipt,  
13 custody, disposal, or payment of interest, rent, salaries,  
14 wages, premiums, annuities, compensations, remunerations,  
15 emoluments, or other fixed or determinable annual or  
16 periodical gains, profits, and income with respect to which  
17 any person or fiduciary is taxable under this chapter.

18 (10) "Knowingly" is as defined in 45-2-101.

19 (11) "Net income" means the adjusted gross income of a  
20 taxpayer less the deductions allowed by this chapter.

21 (12) "Paid", for the purposes of the deductions and  
22 credits under this chapter, means paid or accrued or paid or  
23 incurred, and the terms "paid or accrued" and "paid or  
24 incurred" and "~~paid-or--accrued~~" shall ~~must~~ be construed  
25 according to the method of accounting upon the basis of

1 which the taxable income is computed under this chapter.

2 (13) "Pension and annuity income" means:

3 (a) systematic payments of a definitely determinable  
4 amount from a qualified pension plan, as that term is used  
5 in section 401 of the Internal Revenue Code, or systematic  
6 payments received as the result of contributions made to a  
7 qualified pension plan that are paid to the recipient or  
8 recipient's beneficiary upon the cessation of employment;

9 (b) payments received as the result of past service and  
10 cessation of employment in the uniformed services of the  
11 United States;

12 (c) lump-sum distributions from pension or  
13 profitsharing plans to the extent that the distributions are  
14 included in federal adjusted gross income;

15 (d) distributions from individual retirement, deferred  
16 compensation, and self-employed retirement plans recognized  
17 under sections 401 through 408 of the Internal Revenue Code  
18 to the extent that the distributions are not considered to  
19 be premature distributions for federal income tax purposes;  
20 or

21 (e) amounts ~~after--cessation--of--regular---~~employment  
22 received from fully matured, privately purchased annuity  
23 contracts after cessation of regular employment.

24 (14) "Purposely" is as defined in 45-2-101.

25 (15) "Received", for the purpose of computation of

1 taxable income under this chapter, means received or  
2 accrued, and the term "received or accrued" ~~shall~~ must be  
3 construed according to the method of accounting upon the  
4 basis of which the taxable income is computed under this  
5 chapter.

6 (16) "Resident" applies only to natural persons and  
7 includes, for the purpose of determining liability to the  
8 tax imposed by this chapter with reference to the income of  
9 any taxable year, any person domiciled in the state of  
10 Montana and any other person who maintains a permanent place  
11 of abode within the state even though temporarily absent  
12 from the state and who has not established a residence  
13 elsewhere.

14 (17) "Stock dividends" means new stock issued, for  
15 surplus or profits capitalized, to shareholders in  
16 proportion to their previous holdings.

17 ~~†17†~~(18) "Taxable income" means the adjusted gross  
18 income of a taxpayer less the deductions and exemptions  
19 provided for in this chapter.

20 ~~†18†~~(19) "Taxable year" or "tax year" means the  
21 taxpayer's taxable year for federal income tax purposes.

22 ~~†19†~~(20) "Taxpayer" includes any person or fiduciary,  
23 resident or nonresident, subject to a tax imposed by this  
24 chapter and does not include corporations."

25 **Section 27.** Section 15-32-201, MCA, is amended to read:

1       "15-32-201. Amount of credit -- to whom available. (1)  
 2       A resident individual taxpayer who completes installation of  
 3       an energy system using a recognized nonfossil form of energy  
 4       generation, as defined in 15-32-102, in such the taxpayer's  
 5       principal dwelling prior to January 1, 1993, or who acquires  
 6       title to a dwelling prior to January 1, 1993, that is to be  
 7       used as the taxpayer's principal dwelling and is equipped  
 8       with an energy system for which the credit allowed by this  
 9       part has never been claimed, is entitled to claim a tax  
 10      credit in an amount equal to 10% of the first \$1,000 and 5%  
 11      of the next \$3,000 of the cost of such the system, including  
 12      installation costs, less grants received or, if the federal  
 13      government provides for a tax credit substantially similar  
 14      in kind (not in amount), then a tax credit in an amount  
 15      equal to 5% of the first \$1,000 and 2 1/2% of the next  
 16      \$3,000 of the cost of such the system, including  
 17      installation costs, less grants received, against the income  
 18      tax liability imposed against such the taxpayer pursuant to  
 19      chapter 30.

20      (2) A resident individual taxpayer who completes  
 21      installation of an energy system using a low emission wood  
 22      or biomass combustion device, as defined in  
 23      15-32-102(5)(a)(6)(a), in the taxpayer's principal dwelling  
 24      prior to January 1, 1996, is entitled to claim a tax credit  
 25      in an amount equal to 20% of the first \$1,000 and 10% of the

1      next \$3,000 of the cost of the system, including the  
 2      installation costs, against the income tax liability imposed  
 3      against the taxpayer pursuant to Title 15, chapter 30.

4      (3) A resident individual taxpayer who completes  
 5      installation of an energy system that uses a low emission  
 6      wood or biomass combustion device, as defined in  
 7      15-32-102(5)(b)(6)(b), in the taxpayer's principal dwelling  
 8      prior to January 1, 1996, is entitled to claim a tax credit  
 9      in an amount equal to 10% of the first \$1,000 and 5% of the  
 10     next \$3,000 of the cost of the system, including the  
 11     installation costs, against the income tax liability imposed  
 12     against the taxpayer pursuant to Title 15, chapter 30."

13      **Section 28.** Section 15-36-112, MCA, is amended to read:

14      "15-36-112. Disposition of oil and gas state and local  
 15      government severance taxes -- calculation of unit value for  
 16      local government severance tax. (1) Each year the department  
 17      of revenue shall determine the amount of tax collected under  
 18      this chapter from within each taxing unit.

19      (2) For purposes of the distribution of local  
 20      government severance taxes collected under this chapter, the  
 21      department shall determine the unit value of oil and gas for  
 22      each taxing unit as follows:

23      (a) The unit value for petroleum and other mineral or  
 24      crude oil for each taxing unit is the quotient obtained by  
 25      dividing the net proceeds taxes calculated on petroleum or

1 mineral or crude oil produced in that taxing unit in  
2 calendar year 1988 by the number of barrels of petroleum or  
3 other mineral or crude oil produced in that taxing unit  
4 during 1988, excluding new and interim production.

5 (b) The unit value for natural gas is the quotient  
6 obtained by dividing the net proceeds taxes calculated on  
7 natural gas produced in that taxing unit in calendar year  
8 1988 by the number of cubic feet of natural gas produced in  
9 that taxing unit during 1988, excluding new and interim  
10 production.

11 (3) The state and local government severance taxes  
12 collected under this chapter are allocated as follows:

13 (a) The local government severance tax is statutorily  
14 appropriated, as provided in 17-7-502, for allocation to the  
15 county for distribution as provided in subsection (4)7.

16 (b) The state severance tax is allocated to the state  
17 general fund.

18 (4) (a) For the purpose of distribution of the local  
19 government severance tax, the department shall adjust the  
20 unit value determined under this section according to the  
21 ratio that the local government severance taxes collected  
22 during the quarters to be distributed plus accumulated  
23 interest earned by the state and penalties and interest on  
24 delinquent local government severance taxes bears to the  
25 total liability for local government severance taxes for the

1 quarters to be distributed. The taxes must be calculated and  
2 distributed as follows:

3 (i) By November 30 of each year, the department shall  
4 calculate and distribute to each eligible county the amount  
5 of local government severance tax, determined by multiplying  
6 unit value as adjusted in this subsection (4)(a) times the  
7 units of production on which the local government severance  
8 tax was owed during the calendar quarters ending March 31  
9 and June 30 of the preceding calendar year.

10 (ii) By May 31 of each year, the department shall  
11 calculate and distribute to each eligible county the amount  
12 of local government severance tax, determined by multiplying  
13 unit value as adjusted in this subsection (4)(a) times the  
14 units of production on which the local government severance  
15 tax was owed during the 2 calendar quarters immediately  
16 following those quarters referred to in subsection  
17 (4)(a)(i).

18 (b) Any amount by which the total tax liability exceeds  
19 or is less than the total distributions determined in  
20 subsections (4)(a)(i) and (4)(a)(ii) must be calculated and  
21 distributed in the following manner:

22 (i) The excess amount or shortage must be divided by  
23 the total distribution determined for that period to obtain  
24 an excess or shortage percentage.

25 (ii) The excess percentage must be multiplied by the

1 distribution to each taxing unit, and this amount must be  
2 added to the distribution to each respective taxing unit.

3 (iii) The shortage percentage must be multiplied by the  
4 distribution to each taxing unit, and this amount must be  
5 subtracted from the distribution to each respective taxing  
6 unit.

7 (5) Except as provided in subsection (6), the county  
8 treasurer shall distribute the money received under  
9 subsection (4) to the taxing units that levied mills in  
10 fiscal year 1990 against calendar year 1988 production in  
11 the same manner that all other property tax proceeds were  
12 distributed during fiscal year 1990 in the taxing unit,  
13 except that no distribution may be made to a municipal  
14 taxing unit.

15 (6) The board of county commissioners of a county may  
16 direct the county treasurer to reallocate the distribution  
17 of local government severance tax money that would have gone  
18 to a taxing unit, as provided in subsection (5), to another  
19 taxing unit or taxing units, other than an elementary school  
20 or high school, within the county under the following  
21 conditions:

22 (a) The county treasurer shall first allocate the  
23 {local government severance} taxes to the taxing units  
24 within the county in the same proportion that all other  
25 property tax proceeds were distributed in the county in

1 fiscal year 1990.

2 (b) If the allocation in subsection (6)(a) exceeds the  
3 total budget for a taxing unit, the commissioners may direct  
4 the county treasurer to allocate the excess to any taxing  
5 unit within the county.

6 (7) The board of trustees of an elementary or high  
7 school district may reallocate the {local government  
8 severance} taxes distributed to the district by the county  
9 treasurer under the following conditions:

10 (a) The district shall first allocate the {local  
11 government severance} taxes to the budgeted funds of the  
12 district in the same proportion that all other property tax  
13 proceeds were distributed in the district in fiscal year  
14 1990.

15 (b) If the allocation under subsection (7)(a) exceeds  
16 the total budget for a fund, the trustees may allocate the  
17 excess to any budgeted fund of the school district."

18 **Section 29.** Section 17-6-102, MCA, is amended to read:

19 "17-6-102. Insurance on deposits. (1) No-such-deposits  
20 Deposits in excess of the amount insured by the federal  
21 deposit insurance corporation, ~~---federal---savings---and---loan~~  
22 ~~insurance---corporation,~~ or the national credit union  
23 administration ~~shall~~ may not be made unless the bank,  
24 building and loan association, savings and loan association,  
25 or credit union first delivers to the state treasurer or

1 deposits in trust with some solvent bank, ~~as-hereinafter~~  
 2 ~~provided~~, as security therefor, bonds or other obligations  
 3 of the kinds listed in 17-6-103, having a market value equal  
 4 to at least 50% of the amount of such the deposits in excess  
 5 of the amount ~~so~~ insured. The board of investments may  
 6 require security of a greater value. When negotiable  
 7 securities are placed in trust, the trustee's receipt may be  
 8 accepted instead of the actual securities if the receipt is  
 9 in favor of the state treasurer, his successors in office,  
 10 and the state of Montana and the form of receipt and the  
 11 trustee have been approved by the board of investments.

12 (2) Any bank, building and loan association, savings  
 13 and loan association, or credit union pledging securities as  
 14 provided in this section may at any time substitute  
 15 securities for any part of the securities pledged. The  
 16 substituted collateral ~~so-substituted-shall~~ must conform to  
 17 17-6-103 and have a market value at least sufficient for  
 18 compliance with subsection (1) ~~above~~. If the substituted  
 19 securities ~~so-substituted~~ are held in trust, the trustee  
 20 shall, on the same day the substitution is made, forward by  
 21 registered or certified mail to the state treasurer and to  
 22 the depository financial institution a receipt specifically  
 23 describing and identifying both the securities substituted  
 24 and those released and returned to the depository financial  
 25 institution."

1 **Section 30.** Section 17-6-104, MCA, is amended to read:

2 "17-6-104. Interest on deposits -- conformity with  
 3 federal law. (1) The board of investments may require the  
 4 payment of ~~quarter~~ quarterly annual interest on daily  
 5 balances of collected funds at a rate to be agreed upon  
 6 between the depository banks, building and loan  
 7 associations, savings and loan associations, credit unions,  
 8 and the board of investments, ~~which~~ The rate ~~shall~~ must be  
 9 fixed semiannually during the months of July and January of  
 10 each year.

11 (2) The interest requirements on deposits of public  
 12 funds made under the laws of the state of Montana or  
 13 otherwise by county or city treasurers or town clerks may  
 14 not at any time be in violation of any act of the congress  
 15 of the United States or of any rule or regulation of the  
 16 federal reserve system, federal home loan bank system, or  
 17 the federal deposit insurance corporation, ~~federal--savings~~  
 18 ~~and---loan---insurance---corporation~~, national credit union  
 19 administration, or any other fiscal agency of the United  
 20 States of which the banks, building and loan associations,  
 21 savings and loan associations, or credit unions of this  
 22 state may be members or debtors."

23 **Section 31.** Section 17-7-304, MCA, is amended to read:

24 "17-7-304. (Temporary) Disposal of unexpended  
 25 appropriations. (1) All money appropriated for any specific

1 purpose except those that appropriated for the university  
 2 system units listed in subsection (2) ~~shall~~ must, after the  
 3 expiration of the time for which appropriated, revert to the  
 4 several funds and accounts from which originally  
 5 appropriated. However, any unexpended balance in any  
 6 specific appropriation may be used for the years for which  
 7 the appropriation was made.

8 (2) Except as provided in 17-2-108 and subsection (3)  
 9 of this section, all money appropriated for the university  
 10 of Montana at Missoula, Montana state university at Bozeman,  
 11 Montana college of mineral science and technology at Butte,  
 12 eastern Montana college at Billings, northern Montana  
 13 college at Havre, western Montana college of the university  
 14 of Montana at Dillon, the agricultural experiment station  
 15 with central offices at Bozeman, the forest and conservation  
 16 experiment station with central offices at Missoula, the  
 17 cooperative extension service with central offices at  
 18 Bozeman, the bureau of mines and geology with central  
 19 offices in Butte, and the vocational-technical centers at  
 20 Billings, Butte, Great Falls, Helena, and Missoula must,  
 21 after the expiration of the time for which appropriated,  
 22 revert to an account held by the board of regents. The board  
 23 of regents is authorized to maintain a fund balance. There  
 24 is a statutory appropriation, as provided in 17-7-502, to  
 25 use the funds held in this account in accordance with a

1 long-term plan for major and deferred maintenance  
 2 expenditures and equipment or fixed assets purchases  
 3 prepared by the affected university system units and  
 4 approved by the board of regents. The affected university  
 5 system units may, with the approval of the board of regents,  
 6 modify the long-term plan at any time to address changing  
 7 needs and priorities. The board of regents shall communicate  
 8 the plan to each legislature, to the finance committee when  
 9 requested by the committee, and to the office of budget and  
 10 program planning.

11 (3) Subsection (2) does not apply to reversions that  
 12 are the result of a reduction in spending directed by the  
 13 governor pursuant to 17-7-140. Any amount that is a result  
 14 of a reduction in spending directed by the governor must  
 15 revert to the fund or account from which it was originally  
 16 appropriated. (Terminates June 30, 1996--sec. 23, Ch. 787,  
 17 L. 1991; sec. 5, Ch. 5, Sp. L. July 1992.)

18 17-7-304. (Effective July 1, 1996) Disposal of  
 19 unexpended appropriations. All ~~moneys~~ money appropriated for  
 20 any specific purpose except--those--appropriated--for--the  
 21 university-system-units--listed--in--subsection--(2)--~~shall~~  
 22 must, after the expiration of the time for which ~~so~~  
 23 appropriated, revert to the several funds and accounts from  
 24 which originally appropriated. However, any unexpended  
 25 balance in any specific appropriation may be used for the



years for which the appropriation was made."

**Section 32.** Section 19-1-102, MCA, is amended to read:

"19-1-102. Definitions. For the purposes of this chapter, the following definitions apply:

(1) The term "employee" includes an elective or appointive officer or employee of the state or a political subdivision thereof of the state.

(2) (a) The term "employment" means any service performed by an employee in the employ of the state or any political subdivision thereof of the state for such the employer, except:

(i) service which that in the absence of an agreement entered into under this chapter would constitute "employment" as defined in the Social Security Act; or

(ii) service which that under the Social Security Act may not be included in an agreement between the state and the secretary of health, education, and welfare and human services entered into under this chapter.

(b) Service performed by civilian employees of national guard units is specifically included within the term "employment".

(c) Service which that under the Social Security Act may be included in an agreement only upon certification by the governor in accordance with section 218(d)(3) of that act is included in the term "employment" if and when the

governor issues, with respect to such the service, a certificate to the secretary of health, education, and welfare and human services pursuant to 19-1-304.

(3) The term "Federal Insurance Contributions Act" means subchapter A of chapter 9 of the federal Internal Revenue Code of 1939 and subchapters A and B of chapter 21 of the federal Internal Revenue Code of 1954, as such the codes have been and may from time to time be amended; and the term "employee tax" means the tax imposed by section 1400 of such the Code of 1939 and section 3101 of such the Code of 1954 and as such the codes may from time to time be amended.

(4) The term "political subdivision" includes an instrumentality of the state, of one or more of its political subdivisions, or of the state and one or more of its political subdivisions, including leagues or associations thereof, but only if the instrumentality is a juristic entity which that is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to the juristic entity employees of the state or subdivision. The term includes special districts or authorities created by the legislature or local governments, such as but not limited to school districts, and housing authorities, etc.

(5) The term "secretary of health, education, and

1 welfare and human services" means the secretary of the  
 2 United States department of health, ~~education, and welfare~~  
 3 and human services; includes any individual to whom the  
 4 secretary of health, ~~education, and welfare~~ and human  
 5 services has delegated any ~~of his~~ functions under the Social  
 6 Security Act with respect to coverage under that act of  
 7 employees of states and their political subdivisions; and,  
 8 with respect to any action taken prior to April 11, 1953,  
 9 includes the federal security administrator and any  
 10 individual to whom the administrator had delegated any such  
 11 function.

12 (6) The term "Social Security Act" means the act of  
 13 congress approved August 14, 1935, chapter 531, 49 Stat.  
 14 620, officially cited as the "Social Security Act",  
 15 including regulations and requirements issued pursuant  
 16 thereto to the act, as such the act has been and may from  
 17 ~~time-to-time~~ be amended.

18 (7) The term "state agency" means the public employees'  
 19 retirement board of the public employees' retirement system  
 20 of the state of Montana.

21 (8) The term "wages" means all remuneration for  
 22 employment ~~as defined herein~~, including the cash value of  
 23 all remuneration paid in any medium other than cash, except  
 24 that the term does not include that part of remuneration  
 25 which that, even if it were for "employment" within the

1 meaning of the Federal Insurance Contributions Act, would  
 2 not constitute "wages" within the meaning of that act."

3 **Section 33.** Section 19-1-304, MCA, is amended to read:

4 "19-1-304. Certification by governor. Upon receiving  
 5 satisfactory evidence ~~satisfactory to him~~ that with respect  
 6 to ~~any such a~~ referendum the conditions specified in section  
 7 218(d)(3) of the Social Security Act have been met, the  
 8 governor shall ~~so~~ certify the results of the referendum to  
 9 the secretary of health, ~~education, and welfare~~ and human  
 10 services."

11 **Section 34.** Section 19-1-401, MCA, is amended to read:

12 "19-1-401. Authority for federal-state agreement. The  
 13 state agency, with the approval of the governor, ~~is hereby~~  
 14 ~~authorized to~~ may enter, on behalf of the state, into an  
 15 agreement with the secretary of health, ~~education, and~~  
 16 welfare and human services, consistent with the terms and  
 17 provisions of this chapter, for the purpose of extending the  
 18 benefits of the federal old age and survivors' insurance  
 19 system to employees of the state or any political  
 20 subdivision ~~thereof of the state~~ with respect to services  
 21 specified in such the agreement ~~which that~~ constitute  
 22 "employment", as defined in 19-1-102."

23 **Section 35.** Section 19-1-402, MCA, is amended to read:

24 "19-1-402. Contents of federal-state agreement. Such  
 25 The agreement authorized by 19-1-401 may contain such

1 provisions relating to coverage, benefits, contributions,  
2 effective date, modification and termination of the  
3 agreement, administration, and other appropriate provisions  
4 as the state agency and secretary of health~~y-education~~~~y--and~~  
5 ~~welfare~~ and human services shall agree upon, but, except as  
6 may be otherwise required or permitted by or under the  
7 Social Security Act as to the services to be covered, such  
8 the agreement shall must provide in effect that:

9 (1) benefits will be provided for employees whose  
10 services are covered by the agreement (and their dependents  
11 and survivors) on the same basis as though such the services  
12 constituted employment within the meaning of Title II of the  
13 Social Security Act;

14 (2) the state will pay to the secretary of the treasury  
15 of the United States, at such a time or times as may be  
16 prescribed under the Social Security Act, contributions with  
17 respect to wages~~y--as-defined-in-19-1-102~~, equal to the sum  
18 of the taxes which that would be imposed by the Federal  
19 Insurance Contributions Act if the services covered by the  
20 agreement constituted employment within the meaning of that  
21 act;

22 (3) such the agreement ~~shall~~ must be effective with  
23 respect to services in employment covered by the agreement  
24 performed after a date specified therein in the agreement,  
25 but ~~in-no-event~~ may ~~be~~ not be effective with respect to any

1 such services performed prior to the first day of the  
2 calendar year in which such the agreement is entered into or  
3 in which the modification of the agreement making it  
4 applicable to such services is entered into, except that  
5 such the effective date may be made retroactive to the  
6 extent permitted by section 218(f) of the Social Security  
7 Act~~y--as-defined-herein~~;

8 (4) all services which that constitute employment ~~as~~  
9 ~~defined--in--19-1-102~~ and are performed in the employ of the  
10 state by employees of the state ~~shall~~ must be covered by the  
11 agreement; and

12 (5) all services which that constitute employment ~~as~~  
13 ~~defined--in--19-1-102~~, are performed in the employ of a  
14 political subdivision of the state, and are covered by a  
15 plan which that is in conformity with the terms of the  
16 agreement and has been approved by the state agency under  
17 part 5 ~~shall~~ must be covered by the agreement."

18 **Section 36.** Section 19-1-503, MCA, is amended to read:

19 "19-1-503. Required provisions of plan. No A plan may  
20 not be approved unless:

21 (1) it is in conformity with the requirements of the  
22 Social Security Act and with the agreement entered into  
23 under 19-1-401 and 19-1-402;

24 (2) it provides that all services which that constitute  
25 employment ~~as-defined-in-19-1-102~~ and that are performed in

the employ of the political subdivisions by employees thereof of the political subdivisions will be covered by the plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable;

(3) it specifies the sources from which the funds necessary to make the payments required by 19-1-704 and 19-1-706 are expected to be derived and contains reasonable assurance that the sources will be adequate for-such-purpose to make the payments;

(4) it provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration of the plan;

(5) it provides that the political subdivision will make such reports, in such a form and containing such information, as the state agency may from-time-to-time require and will comply with such the provisions as that the state agency or the secretary of health--education--and welfare and human services may-from-time-to-time-find finds necessary to assure the correctness and verification of such the reports;

(6) it authorizes the state agency, in its discretion, to terminate the plan in its entirety if it finds that there has been a failure to comply substantially with any

provision contained in the plan--such. The termination is to take effect at the expiration of such any notice and on such conditions as may be provided by regulations of the state agency and may be consistent with the provisions of the Social Security Act."

**Section 37.** Section 19-1-823, MCA, is amended to read:

"19-1-823. Certification by governor. If the majority of votes cast in the referendum indicates that the majority of voters desire it, the governor shall certify to the secretary of health--education--and--welfare and human services that the conditions set forth in section 218 of the Social Security Act have been complied with in respect to the retirement system voting in the referendum."

**Section 38.** Section 19-12-202, MCA, is amended to read:

"19-12-202. Reports of board. (1) The board shall, not later than November 1 of each year, make a report to the governor covering the operations and proceedings for the prior fiscal year relative to its administration of the Volunteer Firefighters' Compensation Act and the volunteer firefighters' pension plan--with--such. The report may include suggestions or recommendations as--it--may--consider that the board considers of value for public information.

(2) Copies of all-such the reports shall must be made available by the board to the chief or other representative of any volunteer fire company or companies which-may-at-any

time that request them.

~~(3) By January 10, 1993, the board shall provide to the 53rd legislature a report on the funding available in the volunteer firefighters' fund for benefits provided under the Volunteer Firefighters' Compensation Act. The legislature shall review the sufficiency of the fund to provide the current level of benefits and may eliminate, modify, or continue the benefit levels provided in 19-12-404."~~

**Section 39.** Section 20-9-213, MCA, is amended to read:

20-9-213. Duties of trustees. The trustees of each district shall have the sole power and authority to transact all fiscal business and execute all contracts in the name of the district. No person other than the trustees acting as a governing board may expend money of the district. In conducting the fiscal business of the district, the trustees shall:

(1) cause the keeping of an accurate, detailed accounting of all receipts and expenditures of school money for each fund maintained by the district in accordance with generally accepted accounting principles and the rules prescribed by the superintendent of public instruction. The record of the accounting must be open to public inspection at any meeting of the trustees.

(2) authorize all expenditures of district money and cause warrants to be issued for the payment of lawful

obligations;

(3) issue warrants on any budgeted fund in anticipation of budgeted revenues revenue, except that the expenditures may not exceed the amount budgeted for the fund;

(4) invest any money of the district, whenever in the judgment of the trustees the investment would be advantageous to the district, by directing the county treasurer to invest any money of the district in direct obligations of the United States government; in savings or time deposits in a state or national bank, building or loan association, savings and loan association, or credit union insured by the FDIC~~y~~, or NCUA located in the state; or in a repurchase agreement, as authorized in 7-6-213. All interest collected on the deposits or investments must be credited to the fund from which the money was withdrawn, except that interest earned on account of the investment of money realized from the sale of bonds must be credited to the debt service fund or the building fund, at the discretion of the board of trustees. The placement of the investment by the county treasurer is not subject to ratable distribution laws and must be done in accordance with the directive from the board of trustees. A district may invest money under the state unified investment program established in Title 17, chapter 6.

(5) cause the district to record every each transaction

1 in the appropriate account before the accounts are closed at  
 2 the end of the fiscal year in order to properly report the  
 3 receipt, use, and disposition of all money and property for  
 4 which the district is accountable;

5 (6) report annually to the county superintendent, not  
 6 later than August 1, the financial activities of each fund  
 7 maintained by the district during the last completed school  
 8 fiscal year, on the forms prescribed and furnished by the  
 9 superintendent of public instruction. Annual fiscal reports  
 10 for joint school districts must be submitted to the county  
 11 superintendent of each county in which part of the joint  
 12 district is situated.

13 (7) whenever requested, report any other fiscal  
 14 activities to the county superintendent, superintendent of  
 15 public instruction, or board of public education;

16 (8) cause the accounting records of the district to be  
 17 audited, as required by 2-7-503; and

18 (9) perform, in the manner permitted by law, other  
 19 fiscal duties that are in the best interests of the  
 20 district."

21 **Section 40.** Section 20-10-146, MCA, is amended to read:

22 "20-10-146. County transportation reimbursement. (1)  
 23 The apportionment of the county transportation reimbursement  
 24 by the county superintendent for school bus transportation  
 25 or individual transportation that is actually rendered by a

1 district in accordance with this title, board of public  
 2 education transportation policy, and the transportation  
 3 rules of the superintendent of public instruction must be  
 4 the same as the state transportation reimbursement payment,  
 5 except that:

6 (a) if any cash was used to reduce the budgeted county  
 7 transportation reimbursement under the provisions of  
 8 20-10-144(2)(b), the annual apportionment is limited to the  
 9 budget amount; and

10 (b) when the county transportation reimbursement for a  
 11 school bus has been prorated between two or more counties  
 12 because the school bus is conveying pupils of more than one  
 13 district located in the counties, the apportionment of the  
 14 county transportation reimbursement must be adjusted to pay  
 15 the amount computed under the proration.

16 (2) The county transportation net levy requirement for  
 17 the financing of the county transportation fund  
 18 reimbursements to districts is computed by:

19 (a) totaling the net requirement for all districts of  
 20 the county, including reimbursements to a special education  
 21 cooperative or prorated reimbursements to joint districts;

22 (b) determining the sum of the money available to  
 23 reduce the county transportation net levy requirement by  
 24 adding:

25 (i) anticipated money that may be realized in the

1 county transportation fund during the ensuing school fiscal  
2 year, including anticipated revenue from property taxes and  
3 fees imposed under 23-2-517, 23-2-803, 61-3-504(2),  
4 61-3-521, 61-3-537, and 67-3-204;

5 (ii) net proceeds taxes and local government severance  
6 taxes on other oil and gas production occurring after  
7 December 31, 1988;

8 (iii) coal gross proceeds taxes under 15-23-703;

9 (iv) any fund balance available for reappropriation from  
10 the end-of-the-year fund balance in the county  
11 transportation fund. The county transportation fund  
12 operating reserve may not be more than 35% of the final  
13 county transportation fund budget for the ensuing school  
14 fiscal year and must be used for the purpose of paying  
15 transportation fund warrants under the county transportation  
16 fund budget.

17 (v) federal forest reserve funds allocated under the  
18 provisions of 17-3-213; and

19 (vi) other revenue anticipated that may be realized in  
20 the county transportation fund during the ensuing school  
21 fiscal year; and

22 (c) ~~notwithstanding the provisions of subsection (3) of~~  
23 subtracting the money available as determined in subsection  
24 (2)(b) to reduce the levy requirement from the county  
25 transportation net levy requirement.

1 (3) The net levy requirement determined in subsection  
2 (2)(c) must be reported to the county commissioners on the  
3 second Monday of August by the county superintendent, and a  
4 levy must be set by the county commissioners in accordance  
5 with 20-9-142.

6 (4) The county superintendent shall apportion the  
7 county transportation reimbursement from the proceeds of the  
8 county transportation fund. The county superintendent shall  
9 order the county treasurer to make the apportionments in  
10 accordance with 20-9-212(2) and after the receipt of the  
11 semiannual state transportation reimbursement payments."

12 **Section 41.** Section 23-2-716, MCA, is amended to read:

13 "23-2-716. Penalty and interest for delinquency --  
14 waiver. (1) Assessments due under this chapter are  
15 delinquent if not paid on or before December 31. The  
16 department of revenue commerce shall add to the amount of  
17 each delinquent assessment a penalty of 10% of the amount of  
18 the assessment plus interest at the rate of 1% per month or  
19 fraction of a month, computed on the total amount of  
20 assessment. Interest is computed from the date the  
21 assessment was due to the date of payment.

22 (2) The 10% penalty may be waived by the department of  
23 revenue commerce if reasonable cause is established for the  
24 failure or neglect to file the return required by 23-2-715  
25 or to pay the assessment due to the department of revenue

1 commerce."

2 **Section 42.** Section 23-2-717, MCA, is amended to read:

3 "23-2-717. Credit for overpayment -- interest on  
4 overpayment. (1) If the department of revenue commerce  
5 determines that the amount of the assessment, penalty, or  
6 interest paid for any year is more than the amount due, the  
7 amount of the overpayment must be credited against any  
8 assessment, penalty, or interest then due from the taxpayer  
9 and the balance refunded to the taxpayer, to the taxpayer's  
10 successor through reorganization, merger, or consolidation,  
11 or to the taxpayer's shareholders upon dissolution.

12 (2) Except as provided in subsection (3), interest is  
13 allowed on overpayments at the same rate as is charged-on  
14 deficiency-assessments provided in ~~23-2-715(2)~~ 23-2-716(2)  
15 from the due date of the return or from the date of  
16 overpayment, whichever is later, to the date the department  
17 of revenue commerce approves refunding or crediting of the  
18 overpayment.

19 (3) (a) Interest does not accrue during any period in  
20 which the processing of a claim for refund is delayed more  
21 than 30 days by reason of failure of the taxpayer to furnish  
22 information requested by the department of revenue commerce  
23 for the purpose of verifying the amount of the overpayment.

24 (b) Interest is not allowed:

25 (i) if the overpayment is refunded within 6 months from

1 the date the return is due or from the date the return is  
2 filed, whichever is later; or

3 (ii) if the amount of interest is less than \$1.

4 (c) Only a payment made incident to a bona fide and  
5 orderly discharge of actual tax liability or one reasonably  
6 assumed to be imposed by this chapter is considered an  
7 overpayment with respect to which interest is allowable."

8 **Section 43.** Section 23-2-718, MCA, is amended to read:

9 "23-2-718. Statute of limitations. (1) Except as  
10 provided in subsection (3), a deficiency may not be assessed  
11 or collected with respect to the year for which a statement  
12 of gross receipts is filed unless the notice of the proposed  
13 additional assessment is mailed within 5 years from the date  
14 the statement of gross receipts was filed. For purposes of  
15 this section, a statement of gross receipts filed before the  
16 last day prescribed for filing is considered as filed on the  
17 last day. If the taxpayer, before the expiration of the  
18 period prescribed for assessment, consents in writing to an  
19 extended time, the assessment may be made at any time prior  
20 to the expiration of the period agreed upon.

21 (2) A refund or credit may not be allowed or paid with  
22 respect to the year for which a statement of gross receipts  
23 is filed after 5 years from the last day prescribed for  
24 filing the statement of gross receipts or after 1 year from  
25 the date of the overpayment, whichever period expires later,



1 unless before the expiration of the period the taxpayer  
 2 files a claim or the department of revenue commerce  
 3 determines the existence of the overpayment and approves the  
 4 refund or credit. If the taxpayer has agreed in writing  
 5 under the provisions of subsection (1) to extend the time  
 6 within which the department of revenue commerce may propose  
 7 an additional assessment, the period within which a claim  
 8 for refund or credit may be filed or a credit or refund  
 9 allowed if no claim is filed is automatically extended.

10 (3) If a statement of gross receipts is required to be  
 11 filed and the taxpayer fails to file the statement of gross  
 12 receipts, the tax may be assessed or an action to collect  
 13 the tax may be brought at any time. If a statement of gross  
 14 receipts is required to be filed and the taxpayer files a  
 15 fraudulent statement of gross receipts, the 5-year period  
 16 provided for in subsection (1) does not begin until  
 17 discovery of the fraud by the department of revenue  
 18 commerce."

19 **Section 44.** Section 25-34-102, MCA, is amended to read:

20 **"25-34-102. Jurisdiction -- joinder -- interpleader.**

21 (1) The small claims court has original jurisdiction in all  
 22 actions for the recovery of money or specific personal  
 23 property when such the action arises out of a contract,  
 24 express or implied, the amount of the claim, exclusive of  
 25 costs, does not exceed ~~\$2,500~~ \$3,000, and the defendant can

1 be served within the county or counties for which the small  
 2 claims court has been created.

3 (2) More than one claim may be joined if all claims  
 4 joined would separately meet the requirements for  
 5 jurisdiction in the small claims court and if the total  
 6 value of money claimed or property sought does not exceed  
 7 ~~\$2,500~~ \$3,000.

8 (3) The small claims court has jurisdiction over an  
 9 interpleader under 25-34-106 in which the amount claimed  
 10 does not exceed ~~\$2,500~~ \$3,000."

11 **Section 45.** Section 25-35-502, MCA, is amended to read:

12 **"25-35-502. Jurisdiction.** (1) The small claims court  
 13 has jurisdiction over all actions for the recovery of money  
 14 or specific personal property when the amount claimed does  
 15 not exceed ~~\$2,500~~ \$3,000, exclusive of costs, and the  
 16 defendant can be served within the county where the action  
 17 is commenced.

18 (2) The small claims court has jurisdiction over an  
 19 interpleader under 25-35-508 in which the amount claimed  
 20 does not exceed ~~\$2,500~~ \$3,000."

21 **Section 46.** Section 25-35-503, MCA, is amended to read:

22 **"25-35-503. Removal from district court.** A district  
 23 court judge may require any action filed in district court  
 24 to be removed to the small claims court if the amount in  
 25 controversy does not exceed ~~\$2,500~~ \$3,000. The small claims

1 court shall hear any action so removed from the district  
2 court."

3 **Section 47.** Section 27-1-717, MCA, is amended to read:

4 "27-1-717. Issuing a bad check or stopping payment --  
5 civil liability. (1) A person who issues a check, draft, or  
6 an order for the payment of money is liable for damages in a  
7 civil action, as provided in subsection (2), to the person  
8 to whom the check, draft, or order is issued if the check,  
9 draft, or order is:

10 (a) dishonored for lack of funds or credit or because  
11 the issuer has no account with the drawee; or

12 (b) issued in partial or complete fulfillment of a  
13 valid and legally binding obligation and the issuer stops  
14 payment with the intent to fraudulently defeat a possessory  
15 lien or otherwise defraud the payee of the check.

16 (2) The amount of damages awarded pursuant to  
17 subsection (1) shall must be an amount equal to the greater  
18 of \$100 or three times the amount for which the check,  
19 draft, or order was issued. However, damages may not exceed  
20 the value of the check, draft, or order by more than \$500.

21 (3) The remedy provided by this section is available  
22 only if:

23 (a) the person to whom the check, draft, or order was  
24 issued has made written demand, mailed to the ~~last-known~~  
25 last-known address or the address shown on the check, to the

1 drawer for payment of the amount of ~~such~~ the check, draft,  
2 or order not less than 10 days before commencing the action;  
3 and

4 (b) the issuer has failed to tender an amount of money  
5 equal to the amount demanded prior to the commencement of  
6 the action.

7 (4) The remedy provided by this section:

8 (a) may be pursued notwithstanding the provisions of  
9 27-1-312;

10 (b) may be pursued whether or not a criminal penalty is  
11 sought under 45-6-316 or any other statute providing a  
12 criminal penalty; and

13 (c) does not affect the obligation of the drawer  
14 provided for in ~~30-3-422~~ 30-3-423 to pay the amount of the  
15 draft. However, in case of any inconsistency with the  
16 provisions of Title 30, chapter 3, the provisions of this  
17 section apply."

18 **Section 48.** Section 27-25-102, MCA, is amended to read:

19 "27-25-102. When and by whom granted. A writ of review  
20 may be granted by:

21 (1) the supreme court and any justice of the supreme  
22 court, in proceedings for contempt in the district court; or

23 (2) the supreme court or the district court or any  
24 judge thereof of those courts, when an ~~inferior~~ lower  
25 tribunal, board, or officer exercising judicial functions

has exceeded the jurisdiction of ~~such~~ the tribunal, board, or officer and there is no appeal or, in the judgment of the court, any plain, speedy, and adequate remedy."

**Section 49.** Section 27-25-203, MCA, is amended to read:

"27-25-203. Stay of proceedings. If a stay of proceedings ~~be~~ is not intended, the words requiring the stay must be omitted from the writ. These words may be inserted or omitted, in the sound discretion of the court or judge; ~~but.~~ However, if ~~the words are~~ omitted, the power of the ~~inferior lower~~ tribunal, board, or officer is not suspended ~~or and~~ the proceedings ~~are not~~ stayed."

**Section 50.** Section 27-26-102, MCA, is amended to read:

"27-26-102. When and by whom issued. (1) ~~It~~ A writ of mandamus may be issued by the supreme court or the district court or any judge of the district court to any ~~inferior lower~~ tribunal, corporation, board, or person to compel the performance of an act ~~which that~~ the law specially enjoins as a duty resulting from an office, trust, or station or to compel the admission of a party to the use and enjoyment of a right or office to which ~~he~~ the party is entitled and from which ~~he~~ the party is unlawfully precluded by ~~such--inferior the lower~~ tribunal, corporation, board, or person.

(2) The writ must be issued in all cases ~~where~~ in which there is not a plain, speedy, and adequate remedy in the ordinary course of law."

**Section 51.** Section 27-26-206, MCA, is amended to read:

"27-26-206. Enforcement of writ -- penalty. When a peremptory mandate has been issued and directed to any ~~inferior lower~~ tribunal, corporation, board, or person, if it appear to the court or judge that any member of ~~such the~~ tribunal, corporation, ~~or~~ board, or person upon whom the writ has been personally served has, without just excuse, refused or neglected to obey the ~~same~~ writ, the court may, upon motion, impose a fine not exceeding \$1,000. In case of persistence in a refusal of obedience, the court may order the party to be imprisoned until the writ is obeyed and may make any orders necessary and proper for the complete enforcement of the writ."

**Section 52.** Section 27-27-102, MCA, is amended to read:

"27-27-102. Issuance of writ. ~~The--same~~ A writ of prohibition may be issued by the supreme court or the district court or any district judge to any ~~inferior lower~~ tribunal or to a corporation, board, or person in all cases ~~where in which~~ there is not a plain, speedy, and adequate remedy in the ordinary course of law. ~~It~~ The writ is issued upon ~~an~~ affidavit on the application of the person beneficially interested."

**Section 53.** Section 30-3-415, MCA, is amended to read:

"30-3-415. Instruments signed for accommodation. (1) If an instrument is issued for value given for the benefit of a

1 party to the instrument ("accommodated party") and another  
 2 part party to the instrument ("accommodation party") signs  
 3 the instrument for the purpose of incurring liability on the  
 4 instrument without being a direct beneficiary of the value  
 5 given for the instrument, the instrument is signed by the  
 6 accommodation party "for accommodation".

7 (2) An accommodation party may sign the instrument as  
 8 maker, drawer, acceptor, or indorser and, subject to  
 9 subsection (4), is obliged to pay the instrument in the  
 10 capacity in which the accommodation party signs. The  
 11 obligation of an accommodation party may be enforced  
 12 notwithstanding any statute of frauds and regardless of  
 13 whether the accommodation party receives consideration for  
 14 the accommodation.

15 (3) A person signing an instrument is presumed to be an  
 16 accommodation party and there is notice that the instrument  
 17 is signed for accommodation if the signature is an anomalous  
 18 indorsement or is accompanied by words indicating that the  
 19 signer is acting as surety or guarantor with respect to the  
 20 obligation of another party to the instrument. Except as  
 21 provided in 30-3-607, the obligation of an accommodation  
 22 party to pay the instrument is not affected by the fact that  
 23 the person enforcing the obligation had notice when the  
 24 instrument was taken by that person that the accommodation  
 25 party signed the instrument for accommodation.

1 (4) If the signature of a party to an instrument is  
 2 accompanied by words indicating unambiguously that the party  
 3 is guaranteeing collection rather than payment of the  
 4 obligation of another party to the instrument, the signer is  
 5 obliged to pay the amount due on the instrument to a person  
 6 entitled to enforce the instrument only if:

7 (a) execution of judgment against the other party has  
 8 been returned unsatisfied;

9 (b) the other party is insolvent or in an insolvency  
 10 proceeding;

11 (c) the other party cannot be served with process; or

12 (d) it is otherwise apparent that payment cannot be  
 13 obtained from the party whose obligation is guaranteed.

14 (5) An accommodation party that pays the instrument is  
 15 entitled to reimbursement from the accommodated party and is  
 16 entitled to enforce the instrument against the accommodated  
 17 party. An accommodated party that pays the instrument has no  
 18 right of recourse against, and is not entitled to  
 19 contribution from, an accommodation party."

20 **Section 54.** Section 32-2-406, MCA, is amended to read:

21 **"32-2-406. Investments.** (1) A building and loan  
 22 association may invest the money of the association in:

23 (a) the bonds and securities of the United States,  
 24 bonds and other obligations guaranteed as to interest and  
 25 principal by the United States, and the stocks, bonds,

1 debentures, and other securities and obligations of any  
 2 federal home loan bank created under the laws of the United  
 3 States, either directly or in the form of securities of or  
 4 other interests in an open-end or closed-end management type  
 5 investment company or investment trust registered under the  
 6 Investment Company Act of 1940 (15 U.S.C. 80a-1 through  
 7 80a-64), as amended, if:

8 (i) the portfolio of the investment company or  
 9 investment trust is limited to United States government  
 10 obligations and repurchase agreements fully collateralized  
 11 by United States government obligations; and

12 (ii) the investment company or investment trust takes  
 13 delivery of the collateral for any repurchase agreement,  
 14 either directly or through an authorized custodian;

15 (b) the bonds and warrants of any state and of any  
 16 county, city, or school district of the state of Montana;

17 (c) the obligations of the federal ~~savings--and--loan~~  
 18 deposit insurance corporation lawfully issued pursuant to  
 19 Title IV of the National Housing Act;

20 (d) improved real estate that has been sold under  
 21 contract, including suburban homes or farm lands but not  
 22 including mining property. However, the total amount  
 23 remaining invested in real estate, excluding real estate  
 24 otherwise acquired, may not exceed 15% of its assets. The  
 25 amount invested in real estate may not exceed 85% of the

1 price stipulated in the contract of sale or 85% of the value  
 2 of the property purchased, whichever is the lesser.

3 (e) other bonds, securities, and investments, not to  
 4 exceed 10% of the association assets.

5 (2) Not over 10% of the assets of an association may be  
 6 invested in home office buildings, furniture, and fixtures.  
 7 Other real property acquired in any manner or for any  
 8 purpose may not be held for more than 5 years, except by  
 9 permission of the department.

10 (3) Notwithstanding other provisions of the law, it is  
 11 lawful for a building and loan association or other  
 12 financial institution operating under the laws of this state  
 13 to invest the funds or money in its custody or possession,  
 14 eligible for investment, in debentures issued by the federal  
 15 housing administrator and in obligations of national  
 16 mortgage associations."

17 **Section 55.** Section 33-2-827, MCA, is amended to read:

18 "33-2-827. Savings and loan. To the extent that such an  
 19 account is insured by the federal ~~savings--and--loan~~ deposit  
 20 insurance corporation, an insurer may invest in share or  
 21 savings accounts of savings and loan and building and loan  
 22 associations."

23 **Section 56.** Section 33-11-105, MCA, is amended to read:

24 "33-11-105. Compulsory associations. (1) A risk  
 25 retention group may not join or contribute financially to

any insurance insolvency guaranty fund or similar mechanism in this state. In addition, a risk retention group or its insureds may not receive any benefit from any such guaranty fund for claims arising out of the operations of the risk retention group.

(2) A risk retention group shall participate in this state's joint underwriting associations, mandatory liability pools, and similar mechanisms ~~as--provided--by--Title--33, chapter--8--(now-terminated).~~"

**Section 57.** Section 35-2-906, MCA, is amended to read:

**"35-2-906. Corporate records.** (1) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by 35-2-433(4).

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written

form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office or a location from which the records may be recovered within 2 business days:

(a) its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) its bylaws or restated bylaws and all amendments to them currently in effect;

(c) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(d) the minutes of all meetings of members and the records of all actions approved by the members for the past 3 years;

(e) the financial statements available to ~~shareholders~~ members for the past 3 years under 35-2-911;

(f) a list of the names and business or home addresses of its current directors and officers; and

(g) its most recent annual report delivered to the secretary of state under 35-2-904."

**Section 58.** Section 37-17-304, MCA, is amended to read:

**"37-17-304. Admission of licensees from other states.** A license without written examination may be issued to a psychologist licensed or certified in another state where

the licensing or certification requirements are substantially equivalent to the requirements of this chapter or to a psychologist who is a diplomate in good standing of the American board of professional psychology."

**Section 59.** Section 37-27-103, MCA, is amended to read:

"37-27-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Apprentice" means a person who is working under the supervision of a licensed direct-entry midwife and is seeking licensure as a direct-entry midwife under this chapter.

(2) "Board" means the alternative health care board established in 2-15-1840.

(3) "Continuous care" means care provided for one person from the initial history-taking interview through monthly prenatal, intrapartum, and postpartum periods.

(4) "Department"---means---the---department---of---commerce provided-for-in-2-15-1840;

(5) "Direct-entry midwife" means a person who advises, attends, or assists a woman during pregnancy, labor, natural childbirth, or the postpartum period.

(6)(5) "Licensee" means a person authorized by this chapter to practice direct-entry midwifery.

(7)(6) "Postpartum period" means the period up to 6 weeks following birth.

(8)(7) "Practice of direct-entry midwifery" means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period."

**Section 60.** Section 37-61-202, MCA, is amended to read:

"37-61-202. Who may be admitted as attorney. Any citizen or person, ~~resident-of-this-state,~~ who has bona fide declared ~~his-or-her~~ the intention to become a citizen in the manner required by law, who is of good moral character, and who possesses the necessary qualifications of learning and ability is entitled to admission as attorney and counselor in all the courts of this state."

**Section 61.** Section 39-51-406, MCA, is amended to read:

"39-51-406. Unemployment insurance administration account. (1) There is hereby ~~created~~ an account in the federal special revenue fund to be known as the unemployment insurance administration account. All ~~moneys-which-are~~ money that is deposited, appropriated, or paid into this account ~~are--hereby is~~ appropriated and made available to the department. All ~~moneys~~ money in the account ~~shall~~ must be expended solely for the purpose of defraying the costs of administration of this chapter and costs of administration of ~~such~~ other legislation ~~as-shall-be~~ specifically delegated by the legislature to the department for administration ~~by the-legislature.~~

1 (2) All moneys money received and deposited in ~~said the~~  
 2 account ~~for-administration-expense~~ from the United States or  
 3 any agency ~~thereof of the United States~~ pursuant to section  
 4 302, Title III, of the Social Security Act ~~shall~~ must be  
 5 expended solely for the purpose and in the amounts found  
 6 necessary by the secretary of labor for the proper and  
 7 efficient administration of this chapter.

8 (3) The account ~~shall-consist~~ consists of:

9 (a) all moneys money received from the United States or  
 10 any agency ~~thereof of the United States~~ pursuant to section  
 11 302, Title III, of the Social Security Act, as amended;

12 (b) all moneys money appropriated by the state from the  
 13 general fund for the purpose of administering this chapter;  
 14 and

15 (c) all moneys money, trust funds, supplies,  
 16 facilities, or services furnished, deposited, paid, and  
 17 received from:

18 (i) the United States or any agency ~~thereof of the~~  
 19 United States;

20 (ii) this state or any agency ~~thereof of the state~~;

21 (iii) any other state or any of its agencies;

22 (iv) political subdivisions of the state; or

23 (v) any other source for administrative expense and  
 24 purpose.

25 (4) Notwithstanding any provisions of this section, all

1 money requisitioned and deposited in this account pursuant  
 2 to 39-51-403 through 39-51-405 ~~shall~~ must remain part of the  
 3 unemployment insurance fund and ~~shall~~ must be used only in  
 4 accordance with the conditions specified in 39-51-403  
 5 through 39-51-405.

6 (5) All moneys money in this account ~~shall~~ must be  
 7 deposited, administered, and disbursed in the same manner  
 8 and under the same conditions and requirements as is  
 9 provided by law for other accounts. ~~Any The~~ balance in this  
 10 account ~~shall~~ may not lapse at any time but ~~shall~~ must be  
 11 continuously available to the department for the expenditure  
 12 consistent with this chapter.

13 (6) The state treasurer shall give a separate and  
 14 additional bond conditioned upon the faithful performance of  
 15 ~~his~~ the treasurer's duties in connection with the  
 16 unemployment insurance administration account in an amount  
 17 to be fixed by the department and in a form prescribed by  
 18 law or approved by the attorney general. The premiums for  
 19 ~~such the bond and-the-premiums-for-the--bond--given--by--the~~  
 20 ~~treasurer---for---the---unemployment---insurance---fund---under~~  
 21 ~~39-51-402--shall~~ must be paid from the money in the  
 22 unemployment insurance administration account.

23 (7) Any reference to the unemployment insurance  
 24 administration fund in this code ~~shall--be--taken--to--mean~~  
 25 means the unemployment insurance administration account in



1 the federal special revenue fund."

2 **Section 62.** Section 41-5-306, MCA, is amended to read:

3 "41-5-306. Place of shelter care or detention. (1)

4 After a probable cause hearing provided for in 41-5-303, a  
5 youth alleged to be a youth in need of supervision may be  
6 placed only:

7 (a) in a licensed youth foster home as defined in  
8 41-3-1102;

9 (b) in a facility operated by a licensed child welfare  
10 agency;

11 (c) in a licensed youth group home as defined in  
12 41-3-1102; or

13 (d) under home arrest, either in his the youth's own  
14 home or in one of the facilities described in subsections  
15 (1)(a) through (1)(c), as provided in Title 46, chapter 18,  
16 part 10.

17 (2) A youth alleged to be a youth in need of care may  
18 be placed only in the facilities listed in subsection (1)  
19 and may not be placed in a jail or other facility intended  
20 or used for the confinement of adults accused or convicted  
21 of criminal offenses.

22 (3) After a probable cause hearing provided for in  
23 41-5-303, a youth alleged to be a delinquent youth may be  
24 placed only in:

25 (a) the facilities described in subsection (1);

1 (b) under home arrest as provided in subsection (1);

2 (c) a short-term detention facility center; or

3 (d) a youth detention facility."

4 **Section 63.** Section 46-11-701, MCA, is amended to read:

5 "46-11-701. Pretrial proceedings -- exclusion of public  
6 and sealing of records. (1) Except as provided in this  
7 section, pretrial proceedings and records of those  
8 proceedings are open to the public. If, at the pretrial  
9 proceedings, testimony or evidence is presented that is  
10 likely to threaten the fairness of a trial, the presiding  
11 officer shall advise those present of the danger and shall  
12 seek the voluntary cooperation of the news media in delaying  
13 dissemination of potentially prejudicial information until  
14 the impaneling of the jury or until an earlier time  
15 consistent with the administration of justice.

16 (2) The defendant may move that all or part of the  
17 proceeding be closed to the public, or with the consent of  
18 the defendant, the judge may take action on the judge's own  
19 motion.

20 (3) The judge may close a preliminary hearing, bail  
21 hearing, or any other pretrial proceeding, including a  
22 motion to suppress, and may seal the record only if:

23 (a) the dissemination of information from the pretrial  
24 proceeding and its record would create a clear and present  
25 danger to the fairness of the trial; and

(b) the prejudicial effect of the information on trial fairness cannot be avoided by any reasonable alternative means.

(4) Whenever all or part of any pretrial proceeding is held in chambers or otherwise closed to the public under this section, a complete record must be kept and made available to the public following the completion of the trial or earlier if consistent with trial fairness.

(5) When the judge determines that all or part of a document filed in support of a charge or warrant would present a clear and present danger to the defendant's right to a fair trial, the document or portion of the document must be sealed until the trial is completed unless the document or portion of the document must be used for trial fairness.

~~(6) An affidavit filed in support of a motion for leave to file a charge or warrant must be sealed unless the judge determines that disclosure of the information in the affidavit is required to protect the health, safety, or welfare of the public.~~

**Section 64.** Section 46-18-101, MCA, is amended to read:

"46-18-101. Correctional policy. (1) It is the purpose of this section to declare the correctional policy of the state of Montana. Laws for the punishment of crime and for the rehabilitation of the convicted are drawn to implement

the policy established by this section.

(2) The correctional policy of the state of Montana is to protect society by preventing crime through punishment and rehabilitation of the convicted. The legislature finds that an individual is responsible for and must be held accountable for his the individual's actions. Corrections laws and programs must be implemented to impress upon each individual his the responsibility for obeying the law. To achieve this end, it is the policy of the state to assure that prosecution of criminal offenses occurs whenever probable cause exists and that punishment of the convicted is certain, timely, and consistent. Furthermore, it is the state's policy that persons convicted of a crime ~~shall~~ be dealt with in accordance with their individual characteristics, circumstances, needs, and potentialities.

(3) (a) Sentences imposed upon those convicted of crime must be based primarily on the following:

(i) the crime committed;

(ii) the prospects of rehabilitation of the offender;

(iii) the circumstances under which the crime was committed;

(iv) the criminal history of the offender; and

(v) consideration of alternatives to imprisonment of the offender in the state prison or a the women's correctional facility center.

1 (b) Dangerous offenders who habitually violate the law  
 2 and victimize the public ~~shall~~ must be removed from society  
 3 and correctively treated in custody for long terms, as  
 4 needed. Other offenders ~~shall~~ must be dealt with by  
 5 probation, suspended sentence, community corrections,  
 6 community service, or fine whenever such disposition appears  
 7 practicable and not detrimental to the needs of public  
 8 safety and the welfare of the individual. Whenever possible,  
 9 sentences for offenders ~~shall~~ must include restitution to  
 10 the victim, payment of costs as provided in 46-18-232, and  
 11 payment of costs of court-appointed counsel as provided in  
 12 46-8-113.

13 (4) It is also the policy of the state that  
 14 alternatives to imprisonment, such as community corrections,  
 15 should be used whenever appropriate for nonviolent felony  
 16 offenders in order to provide them opportunities to gain  
 17 work experience, to learn life skills, to obtain education  
 18 and training, or to participate in other activities that  
 19 will reduce recidivism and enable offenders to become  
 20 productive members of society."

21 **Section 65.** Section 46-18-201, MCA, is amended to read:

22 "46-18-201. Sentences that may be imposed. (1) Whenever  
 23 a person has been found guilty of an offense upon a verdict  
 24 or a plea of guilty, the court may:

25 (a) defer imposition of sentence, except as provided in

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

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

1 necessary for rehabilitation or for the protection of  
2 society; or

3 (xiii) any combination of the above.

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

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

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

14 (e) commit the defendant to a correctional institution,  
15 with or without a fine as provided by law for the offense;

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

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

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

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

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

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

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

25 (7) If the victim was less than 16 years old, the

1 imposition or execution of the first 30 days of a sentence  
2 of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505,  
3 or 45-5-507 may not be deferred or suspended. Section  
4 46-18-222 does not apply to the first 30 days of the  
5 imprisonment.

6 (8) In imposing a sentence on a defendant convicted of  
7 a sexual offense as defined in 46-23-502, the court may not  
8 waive the registration requirement provided in 46-18-254,  
9 46-18-255, and Title 46, chapter 23, part 5.

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

14 (10) In sentencing a nonviolent felony offender, the  
15 court shall first consider alternatives to imprisonment of  
16 the offender in the state prison, including placement of the  
17 offender in a community corrections facility or program. In  
18 considering alternatives to imprisonment, the court shall  
19 examine the sentencing criteria contained in 46-18-225. If  
20 the offender is subsequently sentenced to the state prison  
21 or a the women's correctional facility center, the court  
22 shall state its reasons why alternatives to imprisonment  
23 were not selected, based on the criteria contained in  
24 46-18-225."

25 **Section 66.** Section 46-18-225, MCA, is amended to read:

1 **"46-18-225. Criteria for sentencing nonviolent felony**  
2 **offenders.** Prior to sentencing a nonviolent felony offender  
3 to a term of imprisonment in the state prison or a the  
4 women's correctional facility center, the court shall take  
5 into account whether:

6 (1) the interests of justice and the needs of public  
7 safety truly require the level of security provided by  
8 imprisonment of the offender in the state prison or a the  
9 women's correctional facility center;

10 (2) the needs of the offender can be better served in  
11 the community or in a facility or program other than the  
12 state prison or a the women's correctional facility center;

13 (3) there are substantial grounds tending to excuse or  
14 justify the offense, though failing to establish a defense;

15 (4) the offender acted under strong provocation;

16 (5) the offender has made restitution or will make  
17 restitution to the victim of his the offender's criminal  
18 conduct;

19 (6) the offender has no prior history of conviction for  
20 a criminal act or has led a law-abiding life for a  
21 substantial period of time before the commission of the  
22 present crime;

23 (7) the offender's criminal conduct was the result of  
24 circumstances that are unlikely to recur;

25 (8) the character and attitude of the offender indicate

1 that he the offender is likely to commit another crime;

2 (9) the offender is likely to respond quickly to  
3 correctional or rehabilitative treatment; and

4 (10) imprisonment of the offender would create an  
5 excessive hardship on the offender or his the offender's  
6 family."

7 **Section 67.** Section 46-18-254, MCA, is amended to read:

8 "46-18-254. Release of sexual offender -- duties of  
9 court and department. A sexual offender must be informed in  
10 writing at the time of sentencing of his the duty to  
11 register under 46-18-255; Title 46, chapter 23, part 5; and  
12 this section by the court in which he the offender is  
13 sentenced. The department of corrections and human services  
14 shall obtain the address where the person expects to reside  
15 upon release or discharge or suspension of his the person's  
16 sentence. The department of corrections and human services  
17 shall inform the appropriate law enforcement agency having  
18 local jurisdiction where the person expects to reside."

19 **Section 68.** Section 46-23-201, MCA, is amended to read:

20 "46-23-201. Prisoners eligible for nonmedical parole.

21 (1) Subject to the restrictions contained in subsections (2)  
22 through (5), the board may release on nonmedical parole by  
23 appropriate order any person confined in the Montana state  
24 prison or the women's correction correctional center, except  
25 persons under sentence of death and persons serving

1 sentences imposed under 46-18-202(2), when in its opinion  
2 there is reasonable probability that the prisoner can be  
3 released without detriment to the prisoner or to the  
4 community.

5 (2) A convict prisoner serving a time sentence may not  
6 be paroled under this section until he the prisoner has  
7 served at least one-half of his the prisoner's full term,  
8 less the good time allowance provided for in 53-30-105;  
9 ~~except.~~ Except as provided in subsection (3), a convict  
10 prisoner designated as a nondangerous offender under  
11 46-18-404 may be paroled after he the prisoner has served  
12 one-quarter of his the prisoner's full term, less the good  
13 time allowance provided for in 53-30-105. Any offender  
14 prisoner serving a time sentence may be paroled after he the  
15 prisoner has served, ~~upon his term of sentence,~~ 17 1/2 years  
16 of the sentence.

17 (3) A convict prisoner serving a time sentence under  
18 45-9-109 may not be paroled until he the prisoner has served  
19 at least one-half of his the full term, less the good time  
20 allowance provided for in 53-30-105.

21 (4) A convict prisoner serving a life sentence may not  
22 be paroled under this section until he the prisoner has  
23 served 30 years, less the good time allowance provided for  
24 in 53-30-105.

25 (5) A parole may be ordered under this section only for

the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that he the prisoner is able and willing to fulfill the obligations of a law-abiding citizen.

(6) Whenever the department of corrections and human services certifies to the board that the population at either the male or female correctional facility has exceeded its designed capacity for 30 consecutive days, the board shall consider the respective male or female inmates prisoners under the jurisdiction of the department eligible for parole 120 days prior to the eligibility dates provided for in subsections (2) through (4).

(7) Regardless of length of sentence, if the conditions of parole eligibility are met within the initial 12 months of incarceration at-Montana-state-prison, the provisions of subsection (6) do not apply."

**Section 69.** Section 53-3-308, MCA, is amended to read:

"53-3-308. Responsibility for general relief. (1) The county boards of public welfare and the department, in accordance with this chapter and other relevant statutes, are responsible for the provision of general relief as follows:

(a) Counties without state-assumed welfare services shall provide general relief consistent with their duties as

specified in Title 53, chapter 2, parts part 3 and-7, and this chapter.

(b) In counties with state-assumed welfare services, general relief must be provided by the department and must be consistent with its duties as specified in Title 53, chapter 2, part 8, and this chapter.

(2) In counties without state-assumed welfare services, general relief must be paid from the county poor fund as authorized in 53-2-321 through 53-2-323.

(3) In counties with state-assumed welfare services, general relief must be paid from and may not exceed money available through:

(a) a general appropriation for such purpose;

(b) county mill levies as provided for in 53-2-813; and

(c) federal or other assistance."

**Section 70.** Section 53-19-305, MCA, is amended to read:

"53-19-305. Power and duties. The committee shall oversee administration of the program provided for in ~~53-29-306~~ 53-19-306. In fulfilling this duty, the committee shall:

(1) establish policies and procedures governing administration of the program;

(2) analyze and approve a budget for administration of services under the program;

(3) monitor the expenditure of funds for the program;

(4) provide for administration of eligibility and the delivery of services for the program as provided for in 53-19-306 through 53-19-309; and

(5) perform any other duties necessary to properly oversee administration of the program."

**Section 71.** Section 53-20-147, MCA, is amended to read:

"53-20-147. Right not to be subjected to experimental research. (1) Residents of a residential facility ~~shall~~ have a right not to be subjected to experimental research without the express and informed consent of the resident, if the resident is able to give ~~such~~ consent, and of ~~his~~ the resident's parents or guardian or the responsible person appointed by the court after opportunities for consultation with independent specialists and with legal counsel.

(2) ~~Such~~ The proposed research ~~shall--first must~~ have been reviewed and approved by the mental disabilities board of visitors before ~~such~~ consent ~~shall~~ may be sought. Prior to ~~such~~ approval, the board shall determine that ~~such~~ the research complies with the principles of the statement on the use of human subjects for research of the American association on mental deficiency and with the principles for research involving human subjects required by the United States department of health,--education,--and-welfare and human services for projects supported by that agency."

**Section 72.** Section 53-21-147, MCA, is amended to read:

"53-21-147. Right not to be subjected to experimental research. (1) Patients ~~shall~~ have a right not to be subjected to experimental research without the express and informed consent of the patient, if the patient is able to give ~~such~~ consent, and of ~~his~~ the patient's guardian, if any, and the friend of respondent appointed by the court after opportunities for consultation with independent specialists and with legal counsel. If there is no friend of respondent or if the friend of respondent appointed by the court is no longer available, then a friend of respondent who is in no way connected with the facility, the department, or the research project ~~shall~~ must be appointed prior to the involvement of the patient in any experimental research. At least 10 days prior to the commencement of ~~such~~ experimental research, the facility shall send notice of intent to involve the patient in experimental research to the patient, ~~his~~ the patient's next of kin, if known, ~~his~~ the patient's legal guardian, if any, the attorney who most recently represented ~~him~~ the patient, and the friend of respondent appointed by the court.

(2) ~~Such~~ The proposed research ~~shall--first must~~ have been reviewed and approved by the mental disabilities board of visitors before ~~such~~ consent ~~shall~~ may be sought. Prior to ~~such~~ approval, the board shall determine that ~~such~~ the research complies with the principles of the statement on



the use of human subjects for research of the American association on mental deficiency and with the principles for research involving human subjects required by the United States department of health, ~~education, and welfare~~ and human services for projects supported by that agency.

(3) A patient has the right to appropriate protection before participating in an experimental treatment, including the right to a reasonable explanation of the procedure to be followed, expected benefits, relative advantages, and the potential risks and discomforts of any experimental treatment. A patient has the right to revoke at any time consent to an experimental treatment."

**Section 73.** Section 61-1-314, MCA, is amended to read:

**"61-1-314. Dealer.** (1) "Dealer" means:

(a) a person, firm, association, or corporation ~~which that,~~ for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or acting as a broker of either new or used motor vehicles, or both, and who qualifies for issuance of a dealer's license under 61-4-101 through 61-4-105; or

(b) an owner of real property who allows more than three new or used motor vehicles not titled in the property owner's or the seller's name to be offered for sale on the property during 1 calendar year unless the property is leased to a motor vehicle dealer licensed under 61-4-101 and

the vehicles offered for sale are bona fide units of the licensed dealer's inventory.

(2) The term "dealer" does not include the following:

(a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction;

(b) employees of the persons included in subsection (2)(a) when engaged in the specific performance of their duties as employees; or

(c) public officers while performing or in the operation of their duties.

~~(3)--A--dealer-dealing-in-used-motor-vehicles-only-shall purchase-a-Montana-store-licenser--"~~

**Section 74.** Section 61-4-120, MCA, is amended to read:

**"61-4-120. Application for auto auction license --** general regulations. (1) A person, firm, association, or corporation that takes possession of a motor vehicle owned by another person through consignment, bailment, or any other arrangement for the purpose of selling the motor vehicle to the highest bidder when all buyers are licensed motor vehicle dealers, wholesalers, or wrecking facilities shall file by mail or otherwise in the office of the department a verified application for licensure as an auto auction. The application must be made in the following manner:

(a) Each application and all of the information contained in it must be verified by the Montana--highway patrol department or an authorized representative of the department on a form to be furnished by the department for that purpose. The application must provide the following information:

(i) the name in which the business is to be conducted and the location of premises (street address, city, county, and state) where records are kept, sales are made, and motor vehicle stock is displayed as an established place of business that displays a sign indicating the firm name and that vehicles are offered for sale. The letters on the sign must be clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet.

(ii) the name and address of all owners or persons having an interest in the business. In the case of a corporation, the names and addresses of the president and secretary are sufficient.

(iii) a statement that the applicant is authorized to auction used motor vehicles, recreational vehicles, trailers, semitrailers, special mobile equipment, motorcycles, and quadricycles under one license. A licensed auto auction may not auction a new motor vehicle except when authorized by a new motor vehicle manufacturer, importer, distributor, or representative thereof, for the purpose of

conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter.

(b) Each application must be accompanied by a bond of \$25,000 and must be conditioned that the applicant shall conduct his business in accordance with the requirements of the law. All bonds must run to the state of Montana, must be approved by the department and filed in its office, and must be renewed annually. A person who suffers loss or damage due to the unlawful conduct of an auto auction licensed under this section may proceed in the same manner as provided for licensed dealers and wholesalers in 61-4-101(3)(b).

(2) An auto auction's license must be renewed and paid for annually to the department, and an application for relicensure must be filed by January 1 of each year. The fee required for each first-time applicant is \$500 and for subsequent renewal applications is \$100 each year. Upon

1 receipt of a properly completed application, fee, and bond,  
2 the department shall issue the auto auction license and  
3 assign an auto auction license number for each applicant in  
4 a manner determined by the department. Auto auctions dealing  
5 in motor vehicles may sell only to licensed dealers and  
6 wholesalers.

7 (3) Auto auctions that are licensed under this section  
8 and that hold a current license number may issue temporary  
9 permits, which may be displayed and used by a buyer to  
10 operate an unregistered vehicle purchased from the auto  
11 auction. The temporary permit is valid for a period of 72  
12 hours from the time of purchase and may be used only for the  
13 purpose of driving or transporting a vehicle from the  
14 auction premises to the purchaser's established place of  
15 business or point of destination. Temporary permits must be  
16 on a form prescribed by the department and must contain the  
17 name, address, and license number of the purchaser, date of  
18 sale, name, address, license number, and authorized  
19 signature of the auto auction, and a description of the  
20 vehicle, including its serial number. The department shall  
21 collect a fee of \$10 from the auto auction for each  
22 temporary permit, and the auto auction may charge a vehicle  
23 purchaser no more than \$10 for the issuance of each permit  
24 to offset the cost of the permits permit. It is unlawful for  
25 the auto auction to issue more than one temporary permit per

1 vehicle sale.

2 (4) A licensed auto auction may apply for and may be  
3 authorized by the department to purchase and use license  
4 plates of a type and amount approved by the department, upon  
5 payment of a fee to the department to offset the cost of  
6 production. Licensed auto auctions may use the license  
7 plates to transport inventory vehicles from a point of  
8 storage or a point of delivery in this state to the auto  
9 auction's place of business, for road testing authorized  
10 vehicles, or for moving vehicles for purposes of repairing,  
11 painting, upholstering, polishing, and related activities.  
12 One license plate is required to be conspicuously displayed  
13 on the rear of the vehicle. Auto auctions may appoint  
14 designated persons, partnerships, corporations, service  
15 stations, or repair garages to use the license plate only  
16 when conducting work for the auto auction involving  
17 repairing, painting, upholstering, polishing, or performing  
18 of similar types of work upon a vehicle. Upon application  
19 for an auto auction license, the applicant, if requesting  
20 the license plates, shall submit a sworn affidavit on a form  
21 prescribed by the department, listing each authorized person  
22 designated by the auction to use the license plates. The  
23 auto auction is responsible for reporting any changes to the  
24 affidavit within 72 hours after the amendment has occurred.  
25 An auto auction licensed under the provisions of this

1 section is liable for the proper use of the license plates,  
2 which may not be used for private purposes. The department  
3 may revoke an auto auction's 72-hour temporary permit and  
4 license plate privileges if an auction issues, authorizes  
5 the use of, or uses a temporary permit or the license plate  
6 in violation of the provisions of this section.

7 (5) (a) Each auto auction shall keep a book or record,  
8 in a form and manner subject to approval by the department,  
9 of the purchases, sales, or exchanges or the receipts for  
10 the purpose of sale of any motor vehicle, a properly  
11 completed copy of a temporary permit issued to a vehicle  
12 purchaser, the date of title transfer, and a description of  
13 the motor vehicle, together with the name and address of the  
14 seller, the purchaser, and the alleged owner or other person  
15 from whom the motor vehicle was purchased or received or to  
16 whom it was sold or delivered. The description in the case  
17 of a motor vehicle must include:

18 (i) the identification number or engine number, if any;  
19 (ii) other numbers or identification marks on the motor  
20 vehicle; and

21 (iii) a statement that a number has been obliterated,  
22 defaced, or changed, if it has.

23 (b) An auto auction licensed under this section shall  
24 validate the sale of a motor vehicle through its auction by  
25 stamping its name and license number upon the certificate of

1 ownership at a location on the front or back of the  
2 certificate, at the margin in the assignment section as  
3 executed between the transferor and transferee. An auto  
4 auction's stamp must be legible and may not interfere with  
5 the information recorded on the certificate between the  
6 transferor and transferee. If the certificate of ownership  
7 lacks adequate space for the auto auction to place its  
8 stamp, the auction may provide the transferee a copy of the  
9 auction invoice bearing the name and license number of the  
10 auction, along with an indication of the vehicle year, make,  
11 model, and identification number; name, address, and  
12 signature of the transferor; name, license number, and  
13 signature of the transferee; and the date the vehicle was  
14 sold through the auction.

15 (c) The invoice must be attached to the certificate of  
16 ownership and must be presented to the department with any  
17 application for title.

18 (d) An auto auction shall retain, for 5 years, odometer  
19 disclosure information, including the name of the owner on  
20 the date the auto auction took possession of the motor  
21 vehicle, the name of the buyer, the vehicle identification  
22 number, and the odometer reading on the date the auto  
23 auction took possession of the motor vehicle. The odometer  
24 information may be retained in any way that is  
25 systematically retrievable and is not required to be

1 maintained on any special disclosure form. The information  
2 may be part of the auction receipt or invoice or be  
3 maintained as a portion of a computer data base or manual  
4 file. An auto auction that executes a transfer of ownership  
5 as an agent on behalf of a seller or buyer is liable for  
6 providing an odometer disclosure statement for the seller or  
7 an odometer disclosure acknowledgement for the buyer under  
8 the provisions of 61-3-206."

9 **Section 75.** Section 61-5-117, MCA, is amended to read:

10 "61-5-117. **Rulemaking authority.** The department of  
11 justice may adopt rules to implement the issuance and  
12 enforcement of classified commercial vehicle operator's  
13 endorsements ~~and-hazardous-materials-endorsements.~~"

14 **Section 76.** Section 75-10-512, MCA, is amended to read:

15 "75-10-512. **Records required of facilities.** (1) **Every**  
16 Each motor vehicle wrecking facility shall maintain books or  
17 files in which are kept a record and description of every  
18 junk vehicle obtained by it, together with the name and  
19 address of the person from whom the vehicle was purchased.

20 (2) This record ~~shall~~ must also contain:

21 (a) the certificate of ownership, sheriff's certificate  
22 of sale, notarized bill of sale from the former owner or  
23 person selling the vehicle, release of ownership or interest  
24 in the motor vehicle, or sheriff's release;

25 (b) the name of the state where the vehicle was last

1 registered;

2 (c) the make of the vehicle;

3 (d) the vehicle identification number as defined in  
4 61-3-210 or the motor number, or identification number, or  
5 serial number;

6 (e) the date purchased;

7 (f) the disposition of the vehicle.

8 (3) An authorized representative of the department of  
9 justice who presents his credentials may also inspect, have  
10 access to, and copy records required under this section."

11 **Section 77.** Section 75-10-603, MCA, is amended to read:

12 "75-10-603. **Cooperative agreement -- authority of**  
13 **department.** (1) In order to assist in implementation of  
14 CERCLA, the department may:

15 (a) participate in the determination of appropriate  
16 remedial action to deal with the release or threatened  
17 release within Montana of:

18 (i) any contaminant presenting an imminent and  
19 substantial danger to public health or welfare; or

20 (ii) any hazardous substance;

21 (b) in the event of the release or threatened release  
22 of any of the substances described in subsection (1)(a),  
23 negotiate the terms of a cooperative agreement with the  
24 federal government containing mutual commitments of each  
25 party to remedial action, including the elements required by

subsection (2) of this section.

(2) A cooperative agreement ~~must~~ may contain the following assurances:

(a) the state of Montana will assure the future maintenance of the removal and remedial actions agreed upon for the expected life of ~~such~~ the actions;

(b) a hazardous waste disposal facility is available to the state of Montana ~~which~~ that meets the specifications of the president and complies with the requirements of subtitle C of the federal Solid Waste Disposal Act for necessary offsite storage, destruction, treatment, or secure disposition of the hazardous substances; and

(c) the state of Montana will pay or assure payment of a share of the costs of the remedial action, including all future maintenance."

**Section 78.** Section 80-8-102, MCA, is amended to read:

"80-8-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Active ingredient" means:

(a) in the case of a pesticide, other than a plant regulator, defoliant, or desiccant, an ingredient ~~which~~ that will prevent, destroy, repel, alter life processes, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(b) in the case of a plant regulator, an ingredient

~~which~~ that acts upon the physiology to accelerate or retard the rate of growth or rate of maturation or otherwise alter the normal processes of ornamental or crop plants or their produce;

(c) in the case of a defoliant, an ingredient ~~which~~ that will cause the leaves or foliage to drop from a plant;

(d) in the case of a desiccant, an ingredient ~~which~~ that will artificially accelerate the drying of plant tissue.

(2) "Adulterated" applies to a pesticide if its strength of purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(3) "Antidote" means the most practical immediate treatment in case of poisoning and includes first-aid treatment.

(4) "Applicator" means a person who applies pesticides by any method.

(5) "Beneficial insects" means those insects ~~which~~ that, in the course of their life cycle, carry, transmit, or spread pollen to and from vegetation, act as parasites and predators on other insects, or are otherwise beneficial.

(6) "Commercial applicator" means a person who by

1 contract or for hire applies by aerial, ground, or hand  
2 equipment pesticides to land, plants, seed, animals, waters,  
3 structures, or vehicles.

4 (7) "Commercial operator" means a person who applies  
5 pesticides under the supervision of a commercial applicator.

6 (8) "Crop" means a food intended for human or animal  
7 consumption or a fiber product.

8 (9) "Dealer" means a person who sells, wholesales,  
9 offers or exposes for sale, exchanges, barter, or gives  
10 away within this state any pesticide except those pesticides  
11 which that are to be used for home, yard, garden, home  
12 orchard, shade trees, ornamental trees, bushes, and lawn.

13 (10) "Defoliant" means a substance or mixture of  
14 substances for causing the leaves or foliage to drop from a  
15 plant, with or without causing abscission.

16 (11) "Desiccant" means a substance or mixture of  
17 substances for artificially accelerating the drying of plant  
18 tissue.

19 (12) "Device" means any instrument or contrivance  
20 intended for destroying, controlling, repelling, or  
21 mitigating pests but, The term does not include equipment  
22 used for the application of pesticides.

23 (13) "Environment" means the soil, air, water, plants,  
24 and animals.

25 (14) "Equipment" means equipment used in the actual

1 application of pesticides, including aircraft, ground  
2 sprayers and dusters, hand-held applicators, and water  
3 surface equipment.

4 (15) "Farm applicator" means a person applying  
5 pesticides to his the person's own crops or land.

6 (16) "Fungi" means all nonchlorophyll-bearing  
7 thallophytes (all nonchlorophyll-bearing plants of a lower  
8 order than mosses and liverworts), such as, for example,  
9 rusts, smuts, mildews, molds, yeasts, and bacteria, except  
10 those resident on or in living men humans or other animals.

11 (17) "Fungicide" means a substance or mixture of  
12 substances for preventing, destroying, repelling, or  
13 mitigating any fungus.

14 (18) "Herbicide" means a substance or mixture of  
15 substances for preventing, destroying, repelling, or  
16 mitigating any weed.

17 (19) "Inert ingredient" means an ingredient which that  
18 is not an active ingredient.

19 (20) "Ingredient statement" means either:

20 (a) a statement of the chemical name and common name  
21 and percentage of each active ingredient, together with the  
22 total percentage of the inert ingredients, in the pesticide;  
23 or

24 (b) a statement of the chemical name and common name of  
25 each active ingredient, together with the name of each and

1 total percentage of the inert ingredients, if any, in the  
 2 pesticide. However, subsection (20)(a) ~~of--this--section~~  
 3 applies if the preparation is highly toxic to man,  
 4 determined as provided in 80-8-105; and if the pesticide  
 5 contains arsenic in any form, the ingredient statement ~~shall~~  
 6 must also include a statement of the percentage of total and  
 7 water-soluble arsenic, each calculated as elemental arsenic.

8 (21) "Insect" means any of the numerous small  
 9 invertebrate animals generally having the body more or less  
 10 obviously segmented, for the most part belonging to the  
 11 class insecta, comprising six-legged, winged and wingless  
 12 forms, such as beetles, bugs, wasps, flies, and keds, and to  
 13 other classes of arthropods whose members are wingless and  
 14 usually have more than six legs, such as spiders, mites,  
 15 ticks, centipedes, and wood lice.

16 (22) "Insecticide" means any substance or mixture of  
 17 substances for preventing, destroying, repelling, or  
 18 mitigating any insects present in any environment.

19 (23) "Label" means the written, printed, or graphic  
 20 matter on or attached to the pesticide or device or to its  
 21 immediate container and any outside container or wrapper of  
 22 any retail package of the pesticide or device.

23 (24) "Labeling" means all labels and other written,  
 24 printed, or graphic matter:

25 (a) upon the pesticide or device or any of its

1 containers or wrappers;

2 (b) accompanying the pesticide or device at any time;

3 (c) to which reference is made on the label or in  
 4 literature accompanying the pesticide or device, except when  
 5 accurate, nonmisleading reference is made to current  
 6 official publications of the United States environmental  
 7 protection agency; departments of agriculture, interior, or  
 8 health, ~~education, and welfare~~ and human services; state  
 9 experiment stations; state agricultural colleges; or other  
 10 similar federal institutions or official agencies of this  
 11 state or other states authorized by law to conduct research  
 12 in the field of pesticides.

13 (25) "Misbranded" applies:

14 (a) to a pesticide or device if its labeling bears any  
 15 statement, design, or graphic representation relative to its  
 16 ingredients ~~which~~ that is false or misleading;

17 (b) to a pesticide if:

18 (i) it is an imitation of or is offered for sale under  
 19 the name of another pesticide;

20 (ii) its labeling bears any reference to registration  
 21 under this chapter;

22 (iii) the labeling accompanying it does not contain  
 23 instructions for use necessary and, if complied with,  
 24 adequate for the protection of the public;

25 (iv) the label does not contain a warning or caution



1 statement necessary and, if complied with, adequate to  
2 prevent injury to living ~~man~~ humans or undue hazard to the  
3 environment;

4 (v) the label of the retail package which that is  
5 presented or displayed under customary conditions of  
6 purchase does not bear an ingredient statement on that part  
7 of the immediate container and on the outside or on a  
8 wrapper through which the ingredient statement on the  
9 immediate container cannot be clearly read;

10 (vi) any word, statement, or other information required  
11 to appear on the labeling is not prominently placed on the  
12 labeling with a conspicuousness (as compared with other  
13 words, statements, designs, or graphic matter in the  
14 labeling) and in terms rendering it likely to be read and  
15 understood by the ordinary individual under customary  
16 conditions of purchase and use;

17 (vii) in the case of an insecticide, nematocide,  
18 fungicide, or herbicide, when used as directed or in  
19 accordance with commonly recognized practice, it is  
20 injurious to living ~~men~~ humans or other vertebrate animals  
21 or vegetation, except weeds, to which it is applied or to  
22 the person applying the pesticide;

23 (viii) in the case of a plant regulator, defoliant, or  
24 desiccant, when used as directed, it is injurious to ~~man~~  
25 humans or other vertebrate animals or vegetation to which it

1 is applied or to the person applying the pesticide. Physical  
2 or physiological effects on plants or parts of plants are  
3 not injurious when this is the purpose for which the plant  
4 regulator, defoliant, or desiccant is applied in accordance  
5 with the label claims and recommendations.

6 (26) "Nematocide" means any substance or mixture of  
7 substances intended for preventing, destroying, repelling,  
8 or mitigating nematodes.

9 (27) "Nematodes", "nemas", or "eelworms" means  
10 invertebrate animals of the phylum nemathelminthes and class  
11 nematoda, that is, unsegmented round worms with elongated,  
12 fusiform, or sac-like bodies covered with cuticle and  
13 inhabiting soil, water, animals, plants, or plant parts.

14 (28) "Person" means any natural person, individual,  
15 firm, partnership, association, corporation, company,  
16 joint-stock association, body politic, or organized group of  
17 persons, whether incorporated or not, and any trustee,  
18 receiver, assignee, or similar representative.

19 (29) "Pest" includes any insect, rodent, nematode,  
20 snail, slug, weed, and any form of plant or animal life or  
21 virus, except a virus on or in living ~~man~~ humans or other  
22 ~~animal~~ animals, which that is normally considered a pest or  
23 which that the department declares a pest.

24 (30) "Pesticide" means any:

25 (a) substance or mixture of substances, including any

living organism or any product derived from a living organism, intended for preventing, destroying, controlling, repelling, altering life processes, or mitigating any insects, rodents, nematodes, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man humans or other animals, that may infect or be detrimental to persons, vegetation, crops, animals, structures, or households or be present in any environment or which that the department declares a pest;

(b) substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; and

(c) other substances intended for that use named by the department by a rule adopted by it.

(31) "Plant regulator" means any substance or mixture of substances affecting the rate of growth or rate of maturation or for otherwise altering physiological condition of plants but. The term does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(32) "Public utility applicator" means a person applying pesticides to land and structures owned or leased by a public utility.

(33) "Registrant" means the person registering any pesticide or device under the provisions of this chapter.

(34) "Restricted-use pesticide" means any pesticide, including highly toxic pesticides, which that the department has found and determined, subsequent to a hearing, to be injurious, when used in accordance with registration, label, directions, and cautions, to persons, beneficial insects, animals, crops, or the environment other than the pests it is intended to prevent, destroy, control, or mitigate.

(35) "Retailer" means any person who sells, offers or exposes for sale, exchanges, barter, or gives away within this state any pesticide for home, yard, lawn, and garden use, in quantities or concentrations as determined by the department of agriculture.

(36) "Waste pesticide" means a pesticide:

(a) that may not be used legally because the environmental protection agency or the department has canceled or suspended the pesticide's registration or has taken other administrative action to prohibit use of the pesticide;

(b) that will not be used for reasons including but not limited to product damage, toxicity, or obsolescence; or

(c) that cannot be disposed of in a legal or economically feasible manner.

(37) "Weed" means any plant or part of the plant which that grows where not wanted."

**Section 79.** Section 81-22-101, MCA, is amended to read:

1 "81-22-101. Definitions. For the purpose of this  
2 chapter, the following definitions are adopted:

3 (1) "Agent" means a person who is authorized by another  
4 person to act for him that other person in dealing with a  
5 third person.

6 (2) "Butter" is the clean, nonrancid product made by  
7 gathering the fat of fresh ripened milk or cream into a mass  
8 which that also contains a small portion of the other milk  
9 constituents, with or without salt, and must contain not  
10 less than 80% of milk fat. No tolerance for deficiency in  
11 milk fat is permitted. Butter may also contain added  
12 coloring matter.

13 (3) "Cheese" is the sound, solid, and ripened product  
14 made from milk or cream by coagulating the casein with  
15 rennet or lactic acid, with or without ripening ferments and  
16 seasoning, and must contain in the water-free substance not  
17 less than 50% of milk fat and not more than 39% of moisture.  
18 Cheese may also contain added coloring matter.

19 (4) "Cheese factory" means a place where cheese,  
20 including cream cheese, cottage cheese, creamed cottage  
21 cheese, cheese curd, cottage cheese dressing, and low-fat  
22 counterparts of cheese, either cultured or directly  
23 acidified, is made for commercial purposes.

24 (5) "C.I.P." means the procedure by which sanitary  
25 pipelines or pieces of dairy equipment are mechanically

1 cleaned in place by circulation when this procedure meets  
2 the 3-A accepted practices for permanently installed  
3 sanitary product-pipelines and cleaning systems.

4 (6) "Code of Federal Regulations" refers especially but  
5 is not limited to Title 21, which contains the definitions  
6 and standards of identity for products as established by the  
7 food and drug administration, United States department of  
8 health, education, and welfare and human services.

9 (7) "Cream" means the milk fat which that rises to the  
10 surface when milk is allowed to stand or which that is  
11 separated from milk by centrifugal force when sold, used, or  
12 intended for use in a manufactured product.

13 (8) "Creamery" means a place where butter is made for  
14 commercial purposes.

15 (9) "Culture" means the harmless lactic acid fermenting  
16 bacteria which that are added to milk or cream to make  
17 manufactured dairy products like cultured buttermilk,  
18 cheese, cottage cheese, yogurt, sour cream, cream cheese,  
19 butter, and ~~other~~ similar products.

20 (10) "Dairy" or "dairy farm" means a place where one or  
21 more cows or goats are kept, a part or all of the milk or  
22 cream from which is used for manufacturing purposes.

23 (11) The term "department", unless otherwise indicated,  
24 means the department of livestock provided for in Title 2,  
25 chapter 15, part 31.

1 (12) "Direct acidification", "directly acidified", and  
 2 similar terms mean the process of adding a food grade acid  
 3 to milk or cream instead of or in addition to the adding of  
 4 culture.

5 (13) "Filled dairy products" means milk, cream, skimmed  
 6 milk, or any combination of these, whether or not condensed,  
 7 evaporated, concentrated, frozen, powdered, dried, or  
 8 desiccated, or any food product made or manufactured from  
 9 them, to which has been added or which has been blended or  
 10 compounded with fat or oil other than milk fat so that the  
 11 resulting product is in imitation or semblance of a dairy  
 12 product, including milk, cream, sour cream, skimmed milk,  
 13 ice cream, low-fat ice cream, whipped cream, flavored milk  
 14 or skim milk yogurt, dried or powdered milk, cheese, cream,  
 15 cream cheese, cottage cheese, creamed cottage cheese, ice  
 16 cream mix, low-fat ice cream mix, sherbet, condensed milk,  
 17 evaporated milk, or concentrated milk.

18 (14) "French ice cream", "French custard ice cream",  
 19 "cooked ice cream", "ice custard", "parfaits", and similar  
 20 frozen products, except sherbets and water ices, are  
 21 varieties of ice cream.

22 (15) "Frozen dessert plant" means a place where products  
 23 named in subsections (27)(a)(iii) through (27)(a)(ix) of  
 24 this-section are made for commercial purposes.

25 (16) "Fruit ice cream" ~~shall~~ must conform to the

1 requirements of ice cream, except that the fruit ingredients  
 2 must be from sound, clean, and mature fruit, and it must  
 3 contain not less than 9% of milk fat.

4 (17) "Grading" means the examination of milk, cream, or  
 5 products by sight, odor, taste, or laboratory analysis, the  
 6 results of which determine a grade designating their  
 7 quality.

8 (18) "Ice" or "ice sherbet" is the pure, clean, frozen  
 9 product made from water and sugar with harmless fruit or  
 10 fruit juice flavoring, with or without harmless coloring or  
 11 added stabilizer composed of wholesome edible material, and  
 12 must contain not less than 35/100 of 1% of acid, as  
 13 determined by titrating with standard alkali and expressed  
 14 as lactic acid. It may not contain no milk solids.

15 (19) "Ice cream" is a frozen product made with pure,  
 16 sweet milk, cream, skim milk, evaporated or condensed milk,  
 17 evaporated or condensed skim milk, dry milk, dry skim milk,  
 18 pure milk fat, wholesome sweet butter, or any combination of  
 19 these products, with or without sweetening, or clean  
 20 wholesome eggs or egg products, with or without the use of  
 21 harmless flavoring and coloring. Ice cream must contain not  
 22 less than 10% of milk fat, not less than 33% total solids,  
 23 and may or may not contain pure and harmless edible  
 24 stabilizer. Ice cream may contain not to exceed 1% gelatin.  
 25 No A frozen milk or milk product may not be manufactured or

1 sold unless it contains at least 10% butterfat, excepting  
2 sherbets, ices, and other exceptions under this section. All  
3 ice cream must be manufactured from pasteurized ice cream  
4 mix.

5 (20) An "ice cream factory" is a place where ice cream  
6 mix is frozen into ice cream for commercial purposes.

7 (21) (a) "Ice cream mix" is a pasteurized, unfrozen  
8 product used in the manufacture of ice cream and must comply  
9 with the requirements for ice cream.

10 (b) "Mix" includes the liquid, unfrozen product from  
11 which those frozen products listed under subsection  
12 (27)(a)(iii) through (27)(a)(v) and (27)(a)(vii) through  
13 (27)(a)(xii) are made.

14 (22) An "ice cream mix factory" is a place where ice  
15 cream mix is made.

16 (23) "Intrastate commerce" means commerce within this  
17 state under the jurisdiction of the state and includes the  
18 operation of a business or service establishment.

19 (24) "Manufactured dairy product" means an item  
20 enumerated in subsection (27) or any other dairy product  
21 made by incorporating milk or cream or converting milk or  
22 cream into a different state of appearance or quality. For  
23 purposes of reporting production and licensing,  
24 "manufactured dairy product" includes but is not limited to:

25 (a) ice cream or its mix;

1 (b) French ice cream, custard ice cream, French custard  
2 ice cream, their low-fat counterparts, or their mixes;

3 (c) sherbets of all kinds or their mixes;

4 (d) animal or vegetable fat frozen desserts or their  
5 mixes;

6 (e) frozen confections or their mixes when made in a  
7 manufactured dairy products plant;

8 (f) water ices or their mixes;

9 (g) frozen dessert sandwiches, bars, cones, and similar  
10 novelties;

11 (h) frozen dessert made of nondairy origins and other  
12 products made in the semblance or imitation of dairy  
13 products or their mixes when made in a manufactured dairy  
14 products plant;

15 (i) ice milk or its mix;

16 (j) cheese of all kinds, including cottage cheese,  
17 cheese curd, cheese dressing, and cream cheese, either  
18 cultured or directly acidified;

19 (k) sour cream when cultured or directly acidified;

20 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and  
21 similar flavored products;

22 (m) buttermilk, cultured or from churned butter or  
23 directly acidified;

24 (n) butter;

25 (o) yogurt, low-fat yogurt, or flavored yogurt, either

1 cultured or directly acidified or frozen.

2 (25) "Manufactured dairy products plant" or "factory"  
3 means a place where milk or cream is collected and converted  
4 into a product or into a different state of appearance or  
5 quality or which that manufactures those products listed in  
6 subsection (27). If only products of semblance or imitation  
7 of dairy products are made, the plant is not considered as a  
8 manufactured dairy products plant.

9 (26) "Milk" means the lacteal secretion, practically  
10 free from colostrum, obtained by the milking of one or more  
11 healthy cows located in modified accredited areas and  
12 modified certified areas or from cows in herds fully  
13 accredited as tuberculosis--free tuberculosis-free by the  
14 United States department of agriculture or in the process of  
15 being accredited, when the milk or cream is sold for use in,  
16 intended for use in, or used in a manufactured dairy  
17 product.

18 (27) (a) "Milk" and "cream" mean milk and cream sold,  
19 used, or intended for manufacturing purposes or for  
20 conversion into products of a form other than the form in  
21 which originally produced or products commonly known as but  
22 not limited to:

23 (i) butter;

24 (ii) cheese, including cottage cheese, low-fat cottage  
25 cheese, cheese curd, and cream cheese, which are either

1 cultured or directly acidified, and cheese dressings;

2 (iii) ice cream or its mix;

3 (iv) frozen dessert or its mix;

4 (v) sherbets of all kinds or their mixes;

5 (vi) frozen ice cream bars, sandwiches, cones, and  
6 similar novelties;

7 (vii) frozen desserts or products made in the semblance  
8 or imitation of frozen dessert;

9 (viii) frozen confections or their mixes;

10 (ix) water ices or their mixes;

11 (x) ice milk or its mix;

12 (xi) French ice cream, French custard, or their mixes;

13 (xii) frozen custard or its mix and frozen yogurt;

14 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

15 (xiv) sour cream, either cultured or directly acidified;

16 (xv) cream cheese, either cultured or directly  
17 acidified;

18 (xvi) buttermilk, either cultured, from churned butter,  
19 or directly acidified;

20 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk,  
21 whipped cream, flavored toppings, and similar flavored  
22 products;

23 (xviii) dry or powdered milk; and

24 (xix) condensed milk products.

25 (b) The items specified in subsection (27)(a) of ~~this~~

1 ~~section-shall~~ must conform to the standards of identity set  
 2 forth in the Code of Federal Regulations. If standards of  
 3 identity are not set forth in the code, then the standards  
 4 adopted by the department prevail. The labeling of  
 5 manufactured dairy products ~~shall~~ must be in accordance with  
 6 the Montana Food, Drug, and Cosmetic Act.

7 (28) "Milk or cream station" means a place other than a  
 8 creamery where deliveries of milk or cream are weighed,  
 9 graded, sampled, tested, or collected for purchase.

10 (29) "Milk sherbet" is the pure, clean, frozen product  
 11 made from milk product, water, and sugar, with harmless  
 12 fruit or fruit juice flavoring and with or without harmless  
 13 coloring, which must contain not less than 35/100 of 1% of  
 14 acid, as determined by titrating with standard alkali and  
 15 expressed as lactic acid, and with or without added  
 16 stabilizer composed of wholesome edible material. It must  
 17 contain not less than 4% by weight of solids.

18 (30) "Mislabeled", "unwholesome", "food additives",  
 19 "optional ingredients", "impure", "misbranded",  
 20 "contaminated", "adulterated", "perishable", "hazardous",  
 21 "unfit", "spoiled", "damaged", and similar terms, when  
 22 applied to a manufactured dairy product or product made in  
 23 semblance or in imitation of a manufactured dairy product,  
 24 are as defined in Title 50, chapter 31.

25 (31) "Official test" means test procedures outlined in

1 the sources referred to under 81-22-301 concerning samples,  
 2 methods, and rules of evidence.

3 (32) "Pasteurization", "pasteurizing", and similar terms  
 4 mean the process of heating every particle of milk or milk  
 5 product to at least 145 degrees F and holding it  
 6 continuously at or above this temperature for at least 30  
 7 minutes or to at least 161 degrees F and holding it  
 8 continuously at or above this temperature for at least 15  
 9 seconds in equipment ~~which~~ that is properly operated and  
 10 approved by the department. Milk products that have a higher  
 11 fat content than milk or contain added sweeteners ~~shall~~ must  
 12 be heated to at least 155 degrees F and held continuously at  
 13 or above this temperature for at least 30 minutes, or to at  
 14 least 175 degrees F and held continuously at or above this  
 15 temperature for at least 25 seconds. This definition does  
 16 not bar any other pasteurization process ~~which~~ that has been  
 17 recognized by the United States public health service to be  
 18 equally effective and ~~which~~ that is approved by the  
 19 department.

20 (33) "Person" means an individual, firm, partnership,  
 21 corporation, cooperative, or other business unit or trade  
 22 device.

23 (34) "Producer" means the person who exercises control  
 24 over the production of milk or cream delivered to a milk or  
 25 cream receiving station or manufactured dairy products plant

or who receives payment for milk or cream used in manufacturing.

(35) "Raw milk" or "raw milk products" means milk or milk products which that have not been treated by a process of pasteurization.

(36) "Renovated butter" or "processed butter" is the product made by melting and reworking, without the addition or use of chemicals or substances except whole milk, cream, or salt, and must contain not less than 80% of milk fat.

(37) "Safe temperature" means 45 degrees F or less, unless the product is frozen, in which case the temperature must be at or below 0 degrees F.

(38) "Skimmed milk cheese" is the sound, solid, and ripened product made from skim milk by coagulating the casein with rennet or lactic acid, with or without ripening ferments and seasoning.

(39) "Testing", "test", "tested", and similar words mean the examination of milk, cream, or manufactured dairy products by sight, odor, taste, or biological or chemical laboratory analysis to determine their quality, wholesomeness, or composition.

(40) "Water ice" means a frozen product containing but not limited to the following ingredients: water, sugar, flavoring, coloring, stabilizers, and other ingredients allowed by the Code of Federal Regulations as optional

ingredients."

**Section 80.** Section 82-3-205, MCA, is amended to read:

"82-3-205. **Penalty.** (1) Every Each person, firm, or corporation violating any of the provisions of this part ~~shall--be--deemed~~ is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25 or more than \$500 or by imprisonment in the county jail for not more than 90 days or by both ~~such~~ fine and imprisonment.

(2) Any person, firm, or corporation convicted of a second violation of any of the provisions of this part ~~shall~~ must be punished as ~~above~~ provided in subsection (1), and ~~the--license--of--any--retail--coat--dealer--shall--thereby--be~~ automatically--revoked, and it ~~shall--be~~ is unlawful for ~~any~~ the person, firm, or corporation ~~so--convicted~~ to engage ~~thereafter~~ in ~~said--retail~~ business, either directly or indirectly, for a period of 6 months next after ~~such~~ the second conviction."

**Section 81.** Section 85-9-604, MCA, is amended to read:

"85-9-604. **Collection and investment of assessments.**

(1) The treasurer of each county in which the district is located shall collect special assessments at the same time and in the same way as county taxes.

(2) If the district is located in more than one county, all assessments collected ~~shall~~ must be deposited with the treasurer of the county in which the assessments were



1 legislature.

2 NEW SECTION. **Section 85.** Repealer. Sections 2-15-3204,  
3 2-15-3205, 2-89-207, 10-2-411, 10-2-413, 10-2-414, 10-2-415,  
4 and 30-6-112, MCA, are repealed.

5 NEW SECTION. **Section 86.** Effective date. [Section 31]  
6 is effective June 30, 1996.

-End-

1 collected.

2 (3) The directors shall direct the county treasurer to  
3 invest any surplus district funds in saving or time deposits  
4 in a state or national bank, savings and loan association,  
5 or credit union insured by the federal deposit insurance  
6 corporation~~7-federal-savings-and-loan-insurance-corporation7~~  
7 or the national credit union administration or to invest in  
8 direct obligations of the United States government payable  
9 within 180 days from the time of investment. All interest  
10 collected on the deposits or investments ~~shall~~ must be  
11 credited to the fund from which the money was withdrawn.  
12 However, 5% of the interest ~~shall~~ must be deposited in the  
13 general fund of the county."

14 **Section 82.** Section 85-9-629, MCA, is amended to read:

15 **"85-9-629. Disposition and investment of sale proceeds.**

16 (1) Proceeds from the sales of bonds ~~shall~~ must be deposited  
17 with the county in which the largest portion of the taxable  
18 valuation of real property of the district is located.

19 (2) The county treasurer shall place the proceeds of  
20 the bond sale to the credit of the district. The proceeds  
21 ~~shall~~ must be paid by the county treasurer on written order  
22 of the directors. Proceeds ~~shall~~ may only be spent for the  
23 purposes for which the bonds were issued.

24 (3) The directors shall instruct the county treasurer  
25 to deposit any part of the proceeds ~~which~~ that is not

1 immediately needed for the purpose for which the bonds were  
2 issued in a saving or time deposit in a state or national  
3 bank, savings and loan association, or credit union insured  
4 by the federal deposit insurance corporation~~7--federal~~  
5 ~~savings-and-loan--insurance--corporation7~~ or the national  
6 credit union administration or to invest in direct  
7 obligations of the United States government. The obligations  
8 ~~shall~~ must be payable within not to exceed 180 days from the  
9 time of deposit or investment."

10 **Section 83.** Section 87-1-504, MCA, is amended to read:

11 **"87-1-504. Protection of private property -- duty of**  
12 **wardens.** (1) It ~~shall--be~~ is the duty of wardens (state  
13 conservation officers) to enforce the provisions of  
14 45-6-101, 45-6-203, 75-10-212(2), 77-1-801, 77-1-806, and  
15 rules adopted under 77-1-804 on private and state lands  
16 being used for ~~the--recreational--purposes-of~~ hunting and  
17 fishing and to act as ex officio firewardens as provided by  
18 77-5-104.

19 (2) ~~--As--used--in--this-section7--"recreational-purposes"~~  
20 ~~means-recreational-purposes-as-defined-in-70-16-301.~~

21 **NEW SECTION. Section 84.** Code commissioner  
22 instruction. The code commissioner is instructed to  
23 implement 1-11-101(2)(g)(ii) by correcting any clearly  
24 inaccurate references to other sections of the Montana Code  
25 Annotated contained in material enacted by the 53rd

CODE COMMISSIONER REPORT  
1992  
1993 CODE COMMISSIONER BILL SUMMARY

The Code Commissioner bill summary does not reflect changes made to make language gender neutral or to conform existing language to current style.

Section 1. 2-1-212. Revises name of Veterans Administration center to reflect federal law.

Section 2. 2-89-202. Deletes references to Montana Statehood Centennial Office to reflect the termination of the office.

Section 3. 2-89-301. Deletes (2) concerning role of Montana Statehood Centennial Office in designing centennial license plates.

Section 4. 2-89-302. Deletes references to Montana Statehood Centennial Office and deletes provision concerning office.

Section 5. 3  
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Section 12. REFER TO INTRODUCED (WHITE) BILL  
FOR COMPLETE TEXT.

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Section 12.

## 1 SENATE BILL NO. 1

2 INTRODUCED BY LYNCH

3 BY REQUEST OF THE CODE COMMISSIONER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING AND  
6 CLARIFYING THE MONTANA CODE ANNOTATED; DIRECTING THE CODE  
7 COMMISSIONER TO CLARIFY ERRONEOUS REFERENCES CONTAINED IN  
8 MATERIAL ENACTED BY THE 53RD LEGISLATURE; AMENDING SECTIONS  
9 2-1-212, 2-89-202, 2-89-301, 2-89-302, 3-1-501, 3-2-704,  
10 3-5-602, 3-12-106, 5-17-202, 7-4-2503, 7-4-2504, 7-6-4135,  
11 7-12-2175, 7-12-4207, 7-14-102, 7-14-2524, 10-2-412,  
12 10-2-416, 10-4-212, 13-37-226, 15-1-201, 15-1-202, 15-1-205,  
13 15-24-101, 15-24-102, 15-30-101, 15-32-201, 15-36-112,  
14 17-6-102, 17-6-104, 17-7-304, 19-1-102, 19-1-304, 19-1-401,  
15 19-1-402, 19-1-503, 19-1-823, 19-12-202, 20-9-213,  
16 20-10-146, 23-2-716, 23-2-717, 23-2-718, 25-34-102,  
17 25-35-502, 25-35-503, 27-1-717, 27-25-102, 27-25-203,  
18 27-26-102, 27-  
19 33-2-827, 33-1  
20 37-61-202, 39-  
21 46-18-201, 46-1  
22 53-19-305, 53-  
23 61-5-117, 75-1  
24 82-3-205, 85-9-  
25 SECTIONS 2-15-31

SB 1

THERE HAVE BEEN NO CHANGES ON THIS BILL.  
Please refer to a complete copy for  
text.