

SENATE BILL 44

Introduced by Jergeson

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| 12/07 | Introduced |
| 12/07 | Referred to Finance & Claims |
| 12/07 | Fiscal Note Requested |
| 12/10 | Hearing |
| 12/13 | Tabled in Committee |
| 12/14 | Fiscal Note Received |
| 12/14 | Fiscal Note Printed |

1 Senate BILL NO. 44
2 INTRODUCED BY Jergesen
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REORGANIZING THE
5 EXECUTIVE BRANCH OF STATE GOVERNMENT; CREATING A NEW
6 DEPARTMENT OF RESOURCE MANAGEMENT THROUGH THE MERGER OF THE
7 DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE
8 DEPARTMENT OF STATE LANDS, THE DEPARTMENT OF FISH, WILDLIFE,
9 AND PARKS, AND THE ENVIRONMENTAL SCIENCES DIVISION OF THE
10 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES; ABOLISHING
11 THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, THE
12 DEPARTMENT OF STATE LANDS AND THE OFFICE OF COMMISSIONER OF
13 STATE LANDS, AND THE DEPARTMENT OF FISH, WILDLIFE, AND
14 PARKS; TRANSFERRING THE BOARDS, COMMISSIONS, AND FUNCTIONS
15 OF THE MERGED DEPARTMENTS TO THE DEPARTMENT OF RESOURCE
16 MANAGEMENT; REORGANIZING THE FUNCTIONS OF THE BOARD,
17 DIRECTOR, AND DEPARTMENT OF HEALTH AND ENVIRONMENTAL
18 SCIENCES BY TRANSFERRING CERTAIN NATURAL RESOURCE AND
19 ENVIRONMENTAL FUNCTIONS TO THE DEPARTMENT OF RESOURCE
20 MANAGEMENT; RENAMING THE BOARD, DIRECTOR, AND DEPARTMENT OF
21 HEALTH AND ENVIRONMENTAL SCIENCES; PROVIDING FOR THE POWERS,
22 DUTIES, AND FUNCTIONS OF THESE AGENCIES; REQUIRING THE
23 DEPARTMENT OF RESOURCE MANAGEMENT TO REDUCE BY 25 PERCENT
24 THE NUMBER OF DIVISIONS AND BUREAUS OF THE COMBINED AGENCIES
25 IN EXISTENCE AS OF JANUARY 1, 1993; REQUIRING THE DEPARTMENT

1 OF RESOURCE MANAGEMENT TO SUBMIT A BUDGET TO THE 1995
2 LEGISLATURE WITH AN ADDITIONAL 25 PERCENT REDUCTION IN THE
3 NUMBER OF DIVISIONS AND BUREAUS THROUGH MERGER,
4 CONSOLIDATION, AND PROGRAM ELIMINATION; AMENDING SECTIONS
5 2-15-104, 2-15-213, 2-15-225, 2-15-1519, 2-15-1523,
6 2-15-1845, 2-15-1875, 2-15-1883, 2-15-2101, 2-15-2104,
7 2-15-2105, 2-15-2107, 2-15-2108, 2-15-2110, 2-15-2204,
8 2-15-2210, 2-15-3306, 2-15-3307, 2-15-3308, 2-15-3404,
9 2-15-3405, 7-8-2507, 7-22-2151, 17-5-101, 23-1-301,
10 23-1-302, 23-2-806, 37-47-345, 75-5-1102, 75-5-1105,
11 75-5-1106, 75-5-1111, 75-5-1112, 75-5-1113, 75-5-1121,
12 75-10-913, 75-10-918, 75-20-104, 75-20-202, 75-20-205,
13 75-20-208, 75-20-211, 75-20-213, 75-20-215, 75-20-216,
14 75-20-218, 75-20-219, 75-20-220, 75-20-221, 75-20-225,
15 75-20-226, 75-20-301, 75-20-302, 75-20-303, 75-20-304,
16 75-20-402, 75-20-406, 75-20-501, 75-20-1202, 76-13-132,
17 76-14-103, 76-16-104, 76-16-307, 77-1-101, 77-1-802,
18 77-5-104, 80-8-201, 81-7-102, 82-4-203, 82-4-303, 85-2-102,
19 85-2-223, 85-2-311, 85-2-319, 85-2-436, 85-2-437, 85-2-512,
20 85-2-514, 85-9-104, 85-9-202, 85-9-204, 87-1-223, 87-1-224,
21 87-1-701, AND 90-15-102, MCA; REPEALING SECTIONS 2-15-3201,
22 2-15-3202, 2-15-3301, AND 2-15-3401, MCA; AND PROVIDING
23 EFFECTIVE DATES."
24
25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 NEW SECTION. **Section 1.** Department of resource
2 **management -- head.** There is a department of resource
3 management. The department head is the director of resource
4 management appointed by the governor in accordance with
5 2-15-111. The director is the secretary of the fish,
6 wildlife, and parks commission.

7 NEW SECTION. **Section 2.** Board of land commissioners.
8 (1) There is a board of land commissioners, provided for in
9 Article X, section 4, of the Montana constitution.

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

12 (3) The department, under the direction of the board of
13 land commissioners, is responsible for the administration of
14 the state lands functions vested in the department.

15 NEW SECTION. **Section 3.** Department of natural
16 **resources and conservation abolished -- functions**
17 **transferred to department of resource management.** (1) The
18 department of natural resources and conservation is
19 abolished, and its functions are transferred to the
20 department of resource management.

21 (2) Unless inconsistent with [sections 1 through 101],
22 any reference in the Montana Code Annotated, including acts
23 passed by the November 1993 special session of the 53rd
24 legislature, to the "department of natural resources and
25 conservation" or "department" (of natural resources and

1 conservation) or "director of natural resources and
2 conservation" or "director" (of natural resources and
3 conservation) is changed to the "department of resource
4 management", "department" (of resource management),
5 "director of resource management", or "director" (of
6 resource management), as appropriate. The code commissioner
7 shall conform internal references and grammar to these
8 changes.

9 (3) In addition to the general instructions contained
10 in subsection (2), the code commissioner is instructed to
11 make the changes required by subsection (2) in the following
12 sections: 3-7-103, 3-7-223, 7-1-111, 7-14-120, 15-6-205,
13 15-24-2301, 15-32-106, 17-5-703, 37-43-102, 50-60-803,
14 69-3-1204, 69-3-1205, 75-7-209, 75-10-404, 76-5-102,
15 76-5-103, 76-11-203, 76-11-204, 76-15-103, 76-15-319,
16 76-15-408, 76-15-530, 76-16-103, 80-7-720, 82-11-101,
17 85-1-101, 85-1-102, 85-2-105, 85-2-212, 85-2-304, 85-2-706,
18 85-3-101, 85-5-101, 85-5-105, 85-5-111, 85-6-109, 85-7-103,
19 85-7-1910, 85-9-103, 85-9-611, 85-15-106, 85-20-103,
20 85-20-201, 85-20-301, 90-2-140, 90-2-141, 90-2-1103,
21 90-4-102, 90-4-103, 90-4-602, 90-4-901, 90-4-902, 90-4-1002,
22 and 90-6-703.

23 NEW SECTION. **Section 4.** Department of state lands
24 **abolished -- functions transferred to department of resource**
25 **management.** (1) The department of state lands is abolished,

and its functions are transferred to the department of resource management.

(2) Unless inconsistent with [sections 1 through 101], any reference in the Montana Code Annotated, including acts passed by the November 1993 special session of the 53rd legislature, to the "department of state lands" or "department" (of state lands) or "commissioner of state lands" or "commissioner" (of state lands) is changed to the "department of resource management", "department" (of resource management), "director of resource management", or "director" (of resource management), as appropriate. The code commissioner shall conform internal references and grammar to these changes.

(3) In addition to the general instructions contained in subsection (2), the code commissioner is instructed to make the changes required by subsection (2) in the following sections: 7-1-111, 7-13-202, 20-25-212, 60-3-206, 60-11-111, 67-4-211, 75-2-103(16)(b), 75-10-103(10), 75-10-203(11), 75-10-404, 75-10-903(9)(b), 76-11-101, 76-11-102, 76-12-104, 76-12-121, 76-13-102, 76-13-302, 76-13-401, 76-13-415, 76-13-501, 76-13-601, 77-1-113, 77-1-702, 77-1-706, 77-1-707, 77-2-215, 77-2-327, 77-2-342, 77-2-401, 77-5-302, 77-5-402, 80-8-110(3), 82-4-103, 82-4-311, 82-4-421, 82-4-424, 82-4-427, 82-4-431, 82-4-433, 82-4-441, 85-7-102, 87-1-601, 87-3-106, 90-6-207, and 90-6-307.

NEW SECTION. Section 5. Department of fish, wildlife, and parks abolished -- functions transferred to department of resource management. (1) The department of fish, wildlife, and parks is abolished, and its functions are transferred to the department of resource management.

(2) Unless inconsistent with [sections 1 through 101], any reference in the Montana Code Annotated, including acts passed by the November 1993 special session of the 53rd legislature, to the "department of fish, wildlife, and parks" or "department" (of fish, wildlife, and parks) or "director of fish, wildlife, and parks" or "director" (of fish, wildlife, and parks) is changed to the "department of resource management", "department" (of resource management), "director of resource management", or "director" (of resource management), as appropriate. The code commissioner shall conform internal references and grammar to these changes.

(3) In addition to the general instructions contained in subsection (2), the code commissioner is instructed to make the changes required by subsection (2) in the following sections: 2-17-111, 2-89-202, 15-30-303, 15-35-108, 15-65-121, 16-4-210, 17-5-416, 17-5-424, 19-2-408, 19-8-101, 19-8-301, 19-8-302, 19-8-501, 19-8-504, 19-8-701, 19-8-712, 23-1-101, 23-1-108, 23-1-109, 23-1-131, 23-2-101, 23-2-102, 23-2-103, 23-2-301, 23-2-403, 23-2-502, 23-2-508, 23-2-601,

23-2-615, 23-2-633, 23-2-652, 23-2-804, 23-2-814, 23-2-823,
45-6-201, 45-8-109, 45-8-321, 46-8-201, 61-3-512, 70-16-302,
72-16-446, 75-7-103, 76-16-107, 77-1-804, 87-1-101,
87-1-206, 87-1-215, 87-1-256, 87-1-603, 87-3-506, 87-4-406,
87-5-602, and 90-14-105.

NEW SECTION. Section 6. Certain functions of director,
department, and board of health and environmental sciences
transferred to director or department of resource management
or board of natural resources and conservation. (1) The
following functions of the director, department, and board
of health and environmental sciences are transferred to the
director or department of resource management or board of
natural resources and conservation, as appropriate, as
established in [section 1] and 2-15-3302, respectively,
relating to:

(a) jurisdiction over lands within the state under
2-1-202 and 2-1-209;

(b) membership on the Flathead basin commission under
2-15-213;

(c) issuance of certificates to members of the water
and wastewater operators' advisory council under 2-15-2105;

(d) membership on the petroleum tank release
compensation board under 2-15-2108;

(e) enforcement of department rules concerning solid
waste management provided for in 7-13-215 and 75-10-112;

(f) determinations concerning the use of air and water
pollution control equipment under 15-6-135;

(g) adoption of standards for measuring the efficiency
of wood stoves under 15-32-102 and 15-32-203;

(h) certification of water and wastewater treatment
plant operators under Title 37, chapter 42;

(i) environmental protection under Title 75;

(j) regulation of subdivisions under Title 76, chapters
3 and 4;

(k) compliance with the department of state lands'
existing schedules for onsite consultation for timber sales
under 76-13-132;

(l) consultation with the board of land commissioners
for the purpose of accepting grants of federal land under
77-1-211;

(m) consultation with the board of land commissioners
for the purpose of disposing of institutional property under
77-2-302;

(n) regulation of pesticides under Title 80, chapter 8;

(o) regulation of agricultural chemicals under Title
80, chapter 15;

(p) approval of the means of disposal of wastewater,
sewage, and air pollutants before the construction or
remodeling of a dairy products manufacturing plant under
81-22-403;

1 (q) investigation of the obstruction of streams by
2 beaver dams under 87-1-224;

3 (r) approval of rules governing the use of lands and
4 waters under 87-1-303; and

5 (s) the natural resources information system under
6 Title 90, chapter 15.

7 (2) (a) Unless inconsistent with [sections 1 through
8 101], any reference in the Montana Code Annotated, including
9 acts passed by the November 1993 special session of the 53rd
10 legislature, to:

11 (i) the "department of health and environmental
12 sciences", "department of health", or "department" (of
13 health and environmental sciences) or "director of health
14 and environmental sciences" or "director" (of health and
15 environmental sciences) in those titles, chapters, parts,
16 and sections referred to in subsection (1) is changed to
17 "department of resource management" or "department" (of
18 resource management) or "director of resource management" or
19 "director" (of resource management), as appropriate; or

20 (ii) the "board of health and environmental sciences",
21 "board of health", or "board" (of health and environmental
22 sciences) in those titles, chapters, parts, and sections
23 referred to in subsection (1) is changed to "board of
24 natural resources and conservation" or "board" (of natural
25 resources and conservation), as appropriate.

1 (b) The code commissioner shall conform internal
2 references and grammar to these changes.

3 (c) In addition to the general instructions contained
4 in subsection (2)(a), the code commissioner is instructed to
5 make the changes required by subsections (2)(a) and (2)(b)
6 in the following sections: 2-1-202, 2-1-209, 7-7-4407,
7 7-13-231, 7-13-4502, 7-13-4513, 7-13-4517, 7-22-2403,
8 7-22-2409, 7-22-2418, 15-6-135, 15-32-102, 15-32-203,
9 23-2-522, 37-42-102, 75-2-103, 75-2-502, 75-3-103, 75-3-401,
10 75-3-502, 75-3-602, 75-5-103, 75-5-221, 75-6-102, 75-7-401,
11 75-7-411, 75-10-103, 75-10-203, 75-10-403, 75-10-501,
12 75-10-503, 75-10-532, 75-10-602, 75-10-623, 75-10-625,
13 75-10-626, 75-10-628, 75-10-701, 75-10-802, 75-10-903,
14 75-10-950, 75-10-1003, 75-10-1101, 75-11-203, 75-11-302,
15 76-3-504, 76-3-505, 76-4-102, 76-4-104, 77-1-211, 77-2-302,
16 80-8-110, 80-8-305, 80-15-102, 80-15-104, 80-15-105,
17 80-15-107, 80-15-108, 80-15-201, 80-15-202, 80-15-203,
18 80-15-211, 80-15-213, 80-15-216, 80-15-217, 80-15-219,
19 80-15-301, 80-15-302, 80-15-403, 80-15-411, 80-15-412, and
20 81-22-403.

21 NEW SECTION. **Section 7. Department, director, and**
22 **board of health and environmental sciences -- names changed.**

23 (1) Except as provided in [section 6], the names of the
24 department and the director of health and environmental
25 sciences are changed to the department and director of

public health, respectively. Unless inconsistent with [sections 1 through 101], any reference in the Montana Code Annotated, including acts passed by the November 1993 special session of the 53rd legislature, to the "department of health and environmental sciences", "department of health", or "department" (of health and environmental sciences) or "director of health and environmental sciences" or "director" (of health and environmental sciences) is changed to the "department of public health" or "department" (of public health) or "director of public health" or "director" (of public health), as appropriate. The code commissioner shall conform internal references and grammar to these changes.

(2) The name of the board of health and environmental sciences is changed to the board of public health. Unless inconsistent with [sections 1 through 101], any reference in the Montana Code Annotated, including acts passed by the November 1993 special session of the 53rd legislature, to the "board of health and environmental sciences", "board of health", or "board" (of health and environmental sciences) is changed to the "board of public health" or "board" (of public health), as appropriate. The code commissioner shall conform internal references and grammar to these changes.

(3) In addition to the general instructions contained in subsections (1) and (2), the code commissioner is

instructed to make the changes required by subsections (1) and (2) in the following sections: 7-33-2402, 7-34-2301, 7-34-2412, 13-2-402, 15-6-201, 15-30-128, 15-60-101, 15-60-201, 20-5-402, 20-6-621, 20-6-624, 20-7-404, 20-7-436, 20-25-604, 27-6-206, 27-32-302, 37-2-104, 37-2-301, 37-7-103, 37-9-101, 37-14-322, 37-21-101, 37-27-320, 37-27-321, 37-30-403, 37-30-412, 37-30-422, 37-31-204, 37-31-331, 37-41-104, 40-1-107, 40-1-203, 40-1-204, 40-1-206, 40-1-208, 40-1-209, 40-5-235, 40-5-704, 40-6-105, 40-6-106, 40-6-123, 40-6-126, 40-6-128, 50-1-101, 50-1-302, 50-2-101, 50-2-116, 50-4-201, 50-4-304, 50-4-402, 50-5-101, 50-5-602, 50-5-1103, 50-6-102, 50-6-103, 50-6-104, 50-6-203, 50-6-207, 50-6-302, 50-8-101, 50-9-102, 50-10-101, 50-15-101, 50-15-304, 50-15-702, 50-16-101, 50-16-102, 50-16-602, 50-16-701, 50-16-1003, 50-17-102, 50-18-102, 50-18-103, 50-18-104, 50-18-105, 50-18-109, 50-18-113, 50-19-101, 50-19-201, 50-19-303, 50-20-104, 50-21-102, 50-23-101, 50-23-103, 50-23-105, 50-23-106, 50-30-102, 50-31-103, 50-31-307, 50-34-101, 50-36-101, 50-40-103, 50-44-102, 50-49-103, 50-50-102, 50-51-102, 50-52-101, 50-53-102, 50-60-204, 50-70-103, 50-70-110, 50-71-109, 50-78-102, 52-2-111, 52-2-202, 52-2-303, 52-2-704, 52-2-731, 52-2-733, 52-2-735, 52-3-605, 52-3-811, 52-4-204, 52-4-205, 53-2-322, 53-6-106, 53-6-107, 53-6-108, 53-6-110, 53-6-401, 53-20-213, 53-20-305, 53-20-307, 53-21-145, 53-21-165,

1 53-21-201, 53-21-204, 53-21-212, 72-16-217, 72-17-102,
 2 76-2-411, 76-2-412, 81-2-106, 81-9-202, 81-9-233, 81-21-103,
 3 81-22-208, 81-22-209, 81-22-301, 81-22-404, 81-22-414,
 4 81-22-421, 81-23-103, and 87-1-303.

5 **Section 8.** Section 2-15-104, MCA, is amended to read:

6 **"2-15-104. Structure of executive branch.** (1) In
 7 accordance with the constitution, all executive and
 8 administrative offices, boards, commissions, agencies, and
 9 instrumentalities of the executive branch of state
 10 government and their respective functions are allocated by
 11 this chapter among and within the following departments or
 12 entities:

- 13 (a) department of administration;
- 14 (b) department of military affairs;
- 15 (c) department of revenue;
- 16 (d) state board of education;
- 17 (e) department of labor and industry;
- 18 (f) department of commerce;
- 19 (g) department of justice;
- 20 (h) department of public health and--environmental
- 21 sciences;
- 22 (i) department of social and rehabilitation services;
- 23 (j) department of corrections and human services;
- 24 (k) department of transportation;
- 25 (l) department of public service regulation;

- 1 (m) department of agriculture;
- 2 (n) department of livestock;
- 3 ~~(o) department of state lands;~~
- 4 ~~(p) department of natural resources and conservation;~~
- 5 ~~(q) department of fish, wildlife, and parks;~~
- 6 (o) department of resource management;
- 7 ~~(r)~~ (p) department of family services.

8 (2) For its internal structure, each department shall
 9 adhere to the following standard terms:

- 10 (a) The principal unit of a department is a division.
- 11 Each division is headed by an administrator.
- 12 (b) The principal unit of a division is a bureau. Each
- 13 bureau is headed by a chief.
- 14 (c) The principal unit of a bureau is a section. Each
- 15 section is headed by a supervisor."

16 **Section 9.** Section 2-15-213, MCA, is amended to read:

17 **"2-15-213. Flathead basin commission -- membership --**
 18 **compensation.** (1) There is a Flathead basin commission.

19 (2) The commission consists of ~~21~~ 19 members selected
 20 as follows:

- 21 (a) seven members appointed by the governor from
- 22 industrial, environmental, and other interests affected by
- 23 Title 75, chapter 7, part 3, one of whom must be on the
- 24 governor's staff and who also serves as the executive
- 25 director;

~~(b) -- one member who shall be the commissioner of state
lands or his designee;~~

~~(c)~~(b) one member appointed by the Flathead County
commissioners;

~~(d)~~(c) one member appointed by the Lake County
commissioners;

~~(e)~~(d) one member appointed by the Confederated Salish
and Kootenai Tribes;

~~(f)~~(e) one member appointed by the United States
department of agriculture, forest service regional forester
for the northern region;

~~(g)~~(f) one member appointed by the United States
department of interior national park service, regional
director for the Rocky Mountain region;

~~(h)~~(g) six ex officio members appointed respectively by
the chief executive of the provincial government of the
Province of British Columbia; the regional administrator of
the United States environmental protection agency; the
regional administrator of the United States department of
interior, bureau of reclamation; the administrator of the
Bonneville power administration; the chief of engineers of
the United States army corps of engineers; and the holder of
a license issued for the Flathead project under the Federal
Power Act;

~~(i)~~(h) two one ex officio members member who shall be

is the director of the department of health --- and
environmental sciences and the director of the department of
fish, --- wildlife, --- and --- parks resource management or their
designees the director's designee.

(3) The commissioners shall serve without pay.
Commissioners mentioned in subsection (2)(a), except the
commissioner on the governor's staff, are entitled to
reimbursement for travel, meals, and lodging while engaged
in commission business, as provided in 2-18-501 through
2-18-503.

(4) The commission is attached to the governor's office
for administrative purposes only."

Section 10. Section 2-15-225, MCA, is amended to read:

"2-15-225. Interagency coordinating council for state
prevention programs. (1) There is an interagency
coordinating council for state prevention programs
consisting of the following 10 members:

(a) the director of the department of family services
provided for in 2-15-2401;

(b) the director of the department of public health and
~~environmental sciences~~ provided for in 2-15-2101;

(c) the director of the department of corrections and
human services provided for in 2-15-2301;

(d) the attorney general provided for in 2-15-501;

(e) the director of the department of social and

1 rehabilitation services provided for in 2-15-2201;

2 (f) the superintendent of public instruction provided

3 for in 2-15-701;

4 (g) the presiding officer of the Montana children's

5 trust fund board;

6 (h) two persons appointed by the governor who have

7 experiences related to the private or nonprofit provision of

8 prevention programs and services; and

9 (i) the administrator of the board of crime control

10 provided for in 2-15-2006.

11 (2) The coordinating council shall perform the

12 following duties:

13 (a) develop through interagency planning efforts a

14 comprehensive and coordinated prevention program delivery

15 system that will strengthen the healthy development,

16 well-being, and safety of children, families, individuals,

17 and communities;

18 (b) develop appropriate interagency prevention programs

19 and services that address the problems of at-risk children

20 and families and that can be provided in a flexible manner

21 to meet the needs of those children and families;

22 (c) study various financing options for prevention

23 programs and services;

24 (d) ensure that a balanced and comprehensive range of

25 prevention services is available to children and families

1 with specific or multiagency needs; and

2 (e) assist in development of cooperative partnerships

3 among state agencies and community-based public and private

4 providers of prevention programs.

5 (3) The coordinating council shall cooperate with and

6 report to any standing or interim legislative committee that

7 is assigned to study the policies and funding for prevention

8 programs or other state programs and policies related to

9 children and families.

10 (4) The coordinating council must be compensated,

11 reimbursed, and otherwise governed by the provisions of

12 2-15-122.

13 (5) The coordinating council is attached for

14 administrative purposes only to the governor's office, which

15 may assist in providing staff and budgetary, administrative,

16 and clerical services to the council as the council or its

17 presiding officer requests.

18 (6) Staffing and other resources may be provided to the

19 coordinating council only from state and nonstate resources

20 donated to the council and from direct appropriations by

21 each legislature."

22 **Section 11.** Section 2-15-1519, MCA, is amended to read:

23 "2-15-1519. Fire services training advisory council.

24 (1) The board of regents shall appoint a fire services

25 training advisory council to work with the director of the

fire services training school. The membership of the council
~~shall include~~ includes the following:

- (a) a fire chief;
- (b) a volunteer firefighter;
- (c) a paid firefighter;
- (d) a fire service instructor;
- (e) a person involved in fire prevention;
- (f) a representative of the insurance industry; and
- (g) a professional educator.

(2) The board shall solicit and consider the recommendations of appropriate organizations and associations of fire service personnel in making appointments under subsection (1) ~~of this section~~.

(3) Members appointed shall serve for a 4-year term and may be removed for cause. If a vacancy occurs, a member ~~shall~~ must be appointed to fill the unexpired term. A member may be reappointed.

(4) A representative of the state fire prevention and investigation program of the department of justice, a fire control officer designated by the ~~commissioner of state lands~~ director of the department of resource management, and the director of the fire services training school are ex officio members of the council."

Section 12. Section 2-15-1523, MCA, is amended to read:

"2-15-1523. Ground water assessment steering committee.

(1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies having responsibility for ground water protection, management, or information who must be appointed by the head of the respective state agency:

~~(a) the department of natural resources and conservation;~~

~~(b) the department of health and environmental sciences;~~

~~(c)~~ (a) the department of agriculture;

~~(d)~~ (b) the department of ~~state lands~~ resource management; and

~~(e)~~ (c) the Montana state library, natural resource information system.

(2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:

(a) the environmental quality council;

(b) the board of oil and gas conservation;

(c) the Montana bureau of mines and geology;

(d) a representative from a unit of the university system, other than the Montana bureau of mines and geology,

1 appointed by the board of regents of higher education for
2 the Montana university system;

3 (e) a county government, appointed by an organization
4 of Montana counties;

5 (f) a city, town, or city-county government, appointed
6 by an organization of Montana cities and towns;

7 (g) each principal federal agency having responsibility
8 for ground water protection, management, or research,
9 appointed by the Montana head of the respective federal
10 agency; and

11 (h) one representative of each of the following,
12 appointed by the governor:

13 (i) agricultural water users;

14 (ii) industrial water users; and

15 (iii) a conservation or ecological protection
16 organization.

17 (3) The ground water assessment steering committee
18 shall elect a chairman presiding officer from its voting
19 members.

20 (4) The Montana bureau of mines and geology shall
21 provide staff support to the committee."

22 **Section 13.** Section 2-15-1845, MCA, is amended to read:

23 "2-15-1845. Board of nursing home administrators. (1)
24 There is a board of nursing home administrators.

25 (2) The board consists of five voting members appointed

1 by the governor with the consent of the senate. No more than
2 two members ~~shall~~ may be nursing home administrators. One
3 member shall represent the public at large and must be 55
4 years of age or older at the time of appointment. The other
5 two members ~~shall~~ must be representatives of professions or
6 institutions concerned with the care of chronically ill and
7 infirm aged patients and may not be from the same profession
8 or have a financial interest in a nursing home.

9 (3) The director of the department of public health and
10 ~~environmental-sciences~~ or ~~his~~ the director's designee and
11 the director of the department of social and rehabilitation
12 services or ~~his~~ the director's designee are ex officio,
13 nonvoting members of the board.

14 (4) Each appointed member shall serve for a term of 5
15 years. Any vacancy occurring in the position of an
16 appointive member ~~shall~~ must be filled by the governor for
17 the unexpired term.

18 (5) Appointive members may be removed by the governor
19 only for cause.

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

22 **Section 14.** Section 2-15-1875, MCA, is amended to read:

23 "2-15-1875. Board of plumbers. (1) There is a board of
24 plumbers.

25 (2) The board consists of nine members appointed by the

governor with the consent of the senate. The members are:

(a) two master plumbers and two journeyman plumbers who are at least 18 years old, who have been residents of this state for more than 1 year, and who have been duly licensed master or journeyman plumbers at least 5 out of the last 8 years immediately preceding their appointment;

(b) one registered professional engineer qualified in mechanical engineering;

(c) three representatives of the public who are not engaged in the business of installing or selling plumbing equipment;

(d) one appointed representative of the department of public health and environmental sciences, who ~~shall be~~ is a sanitary engineer and who is secretary of the board.

(3) The appointed members of the board shall serve for a term of 4 years.

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

Section 15. Section 2-15-1883, MCA, is amended to read:

"2-15-1883. Board of outfitters. (1) There is a board of outfitters.

(2) (a) The board consists of seven members ~~to--be~~ appointed by the governor.

(b) Five members must be licensed outfitters who are actively involved in the outfitting business. At least one

of the outfitter members must be a person primarily engaged in the fishing outfitting business. Each outfitter member shall represent one of the five districts designated in 2-15-3402(2). Two qualified persons in each district must be nominated for appointment by the licensed outfitters residing in that district by submitting by mail a notarized ballot, in a form and manner prescribed by the board. The board shall also prescribe a procedure for selecting persons to be nominated by mail-in ballot. The two outfitters receiving the most votes must be nominated for appointment. The department of commerce is responsible for all notifications, reporting, and counting of ballots. Names of nominees must be submitted to the governor, who will select one outfitter from each district to be a board member.

(c) The governor shall also appoint one member who is an employee of the department of ~~fish, wildlife, and parks~~ resource management and one member from the general public.

(3) A vacancy on the board must be filled in the same manner as the original appointment.

(4) The members shall serve staggered 3-year terms and take office on the day that they are ~~elected~~ selected.

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

(6) Each member of the board is entitled to receive

1 compensation and travel expenses as provided for in
2 37-1-133."

3 **Section 16.** Section 2-15-2101, MCA, is amended to read:

4 "2-15-2101. Department of public health and
5 ~~environmental-sciences~~ -- head. There is a department of
6 public health and--~~environmental--sciences~~. The department
7 head is the director of public health and--~~environmental~~
8 ~~sciences~~ appointed by the governor in accordance with
9 2-15-111."

10 **Section 17.** Section 2-15-2104, MCA, is amended to read:

11 "2-15-2104. Board of public health and--~~environmental~~
12 ~~sciences~~ -- membership -- quasi-judicial. (1) There is a
13 board of public health and--~~environmental-sciences~~.

14 (2) The board consists of seven members appointed by
15 the governor as follows:

16 (a) two members having who have professional
17 qualifications in a human health service licensed by a board
18 ~~within---a---department--of--professional--and--occupational~~
19 ~~licenses under Title 37~~, one of whom must be a doctor of
20 medicine licensed by the board of medical examiners;

21 (b) one member being who is a doctor of veterinary
22 medicine licensed in this state and who is engaged in food
23 animal medicine; and

24 (c) four members who do not have the qualifications
25 described in subsection (2)(a) or (2)(b) and who have

1 demonstrated an active interest in the field of public
2 health and the economic welfare of the state.

3 (3) The board is designated as a quasi-judicial board
4 for purposes of 2-15-124."

5 **Section 18.** Section 2-15-2105, MCA, is amended to read:

6 "2-15-2105. Water and wastewater operators' advisory
7 council. (1) There is a water and wastewater operators'
8 advisory council.

9 (2) The council consists of seven members. Except as
10 provided in subsection (2)(e) ~~of this section~~, the members
11 ~~shall~~ must be appointed by the governor. The members are:

12 (a) two members who are employed water supply system or
13 water treatment plant operators holding valid certificates.
14 One of these members ~~shall~~ must hold a certificate by
15 examination of the highest class issued by the department of
16 ~~health-and-environmental-sciences~~ resource management. There
17 is no restriction on the classification of the certificate
18 held by the other operator.

19 (b) two members who are employed wastewater treatment
20 plant operators holding valid certificates. One of these
21 members ~~shall~~ must hold a certificate by examination of the
22 highest class issued by the department of ~~health--and~~
23 ~~environmental--sciences~~ resource management. There is no
24 restriction on the classification of the certificate held by
25 the other operator.

(c) one member serving on the faculty of a university or college whose major field is related to water supply systems, wastewater treatment, chemical or civil engineering, chemistry, or bacteriology;

(d) one member who is a representative of a municipality required to employ a certified operator and who holds a position of ~~either~~ city manager, city engineer, director of public works, works manager, or ~~their~~ an equivalent position;

(e) the administrator of the division of environmental sciences of the department of ~~health--and--environmental sciences resource management~~ or a qualified member of ~~his~~ the administrator's staff appointed by the administrator.

(3) Members, except the ex officio voting member from the department of ~~health-and-environmental-sciences resource management~~, shall serve for a term of 6 years."

Section 19. Section 2-15-2107, MCA, is amended to read:

"2-15-2107. Water pollution control advisory council.

(1) There is a water pollution control advisory council.

(2) The council consists of ~~eleven~~ 10 members. The members are:

(a) the director of ~~fish, wildlife, and parks~~ resource management;

~~(b) the administrator of the water resources division of the department of natural resources and conservation;~~

~~(c)~~ (b) the director of agriculture;

~~(d)~~ (c) eight members appointed by the governor as follows:

(i) a representative of industry concerned with the disposal of inorganic waste;

(ii) a representative of industry concerned with the disposal of organic waste;

(iii) a livestock feeder;

(iv) a representative of municipal government;

(v) a representative of an organization concerned with fishing for sport;

(vi) a representative from labor;

(vii) a supervisor of a soil and water conservation district;

(viii) a representative of an organization concerned with water recreation.

(3) The appointed council members serve at the pleasure of the governor.

(4) Subsections (5) through (8) of 2-15-122 apply to the council and members."

Section 20. Section 2-15-2108, MCA, is amended to read:

"2-15-2108. Petroleum tank release compensation board.

(1) There is a petroleum tank release compensation board.

(2) The board consists of seven members appointed by the governor, as follows:

1 (a) the director of the department of ~~health--and~~
 2 ~~environmental---sciences~~ resource management or ~~his~~ the
 3 director's representative;

4 (b) a representative of the state fire prevention and
 5 investigation program of the department of justice;

6 (c) a representative of the petroleum services
 7 industry;

8 (d) a representative of independent petroleum marketers
 9 and chain retailers;

10 (e) a representative of the general public;

11 (f) a representative of service station dealers; and

12 (g) a representative of the insurance industry.

13 (3) The board shall elect a chairman presiding officer.

14 (4) The term of membership is 3 years.

15 (5) Members shall serve without pay, but are entitled
 16 to reimbursement for travel, meals, and lodging while
 17 engaged in board business, as provided in 2-18-501 through
 18 2-18-503."

19 **Section 21.** Section 2-15-2110, MCA, is amended to read:

20 "2-15-2110. **Small business compliance assistance**
 21 **advisory council.** (1) There is a small business compliance
 22 assistance advisory council.

23 (2) The council consists of seven members, as follows:

24 (a) two members that are not owners or representatives
 25 of owners of small business stationary sources, appointed by

1 the governor to represent the general public;

2 (b) four members that are owners or representatives of
 3 owners of small business stationary sources and who are not
 4 legislators, one to be appointed by the majority and
 5 minority leadership of the house of representatives and one
 6 to be appointed by the majority and minority leadership of
 7 the senate; and

8 (c) one member that is a representative of the
 9 department of ~~health--and--environmental--sciences~~ resource
 10 management, appointed by the director of that department.

11 (3) Appointed members shall serve for terms of 3 years.

12 (4) The provisions of 2-15-122(5) through (8) apply to
 13 the council and its members."

14 **Section 22.** Section 2-15-2204, MCA, is amended to read:

15 "2-15-2204. **Developmental disabilities planning and**
 16 **advisory council.** (1) The governor shall appoint a
 17 developmental disabilities planning and advisory council in
 18 accordance with the provisions of this section.

19 (2) The council is composed of at least 24 but no more
 20 than 26 members and consists of the following:

21 (a) the directors of the departments of social and
 22 rehabilitation services, public health ~~and--environmental~~
 23 ~~sciences~~, corrections and human services, and family
 24 services or their designees;

25 (b) the superintendent of public instruction or a

1 designee;

2 (c) two recognized professionals, one each in the
3 disciplines of medicine and law;

4 (d) one member of the state senate;

5 (e) one member of the state house of representatives;

6 (f) seven persons, each of whom has a developmental
7 disability or who is an immediate family member or guardian
8 of a person with a developmental disability;

9 (g) one member of each of the five regional councils
10 provided for in 53-20-207, who has a developmental
11 disability or is an immediate family member or guardian of a
12 person with a developmental disability;

13 (h) the director of the university-affiliated or
14 satellite program on developmental disabilities, created
15 pursuant to 42 U.S.C. 6031, or a designee of the director;

16 (i) the director of the state protection and advocacy
17 system, created pursuant to 42 U.S.C. 6012, or a designee of
18 the director; and

19 (j) a representative of a statewide developmental
20 disabilities service provider organization whose member
21 agencies provide direct services to persons with
22 developmental disabilities.

23 (3) (a) Each member or ~~his~~ a designee who serves on the
24 council pursuant to subsection (2)(a), (2)(b), (2)(h), or
25 (2)(i) shall serve for a term concurrent with ~~his~~ the

1 ~~member's~~ respective term as a director or the superintendent
2 of public instruction, as the case may be. Upon ~~his~~ removal
3 from office, ~~his~~ the director's or superintendent of public
4 instruction's or ~~his~~ the designee's term as a member of the
5 council is automatically terminated and ~~his~~ the successor in
6 office or ~~his~~ the successor's designee is automatically a
7 member of the council.

8 (b) Each member who serves on the council pursuant to
9 subsection (2)(d) or (2)(e) ~~shall~~ must be appointed or
10 reappointed annually by the governor.

11 (c) Eight of the members serving on the council
12 pursuant to subsection (2)(c), (2)(f), (2)(g), (2)(j), or
13 (3)(d) ~~shall~~ must be appointed by the governor to serve for
14 terms concurrent with the gubernatorial term and until their
15 successors are appointed. The remaining members serving on
16 the council pursuant to subsection (2)(c), (2)(f), (2)(g),
17 (2)(j), or (3)(d) ~~shall~~ must be appointed by the governor to
18 serve for terms ending on January 1 of the third year of the
19 succeeding gubernatorial term and until their successors are
20 appointed.

21 (d) Representatives named to the council pursuant to
22 this section, in addition to fulfilling the requirements
23 listed in subsections (2)(a) through (2)(j), may also be
24 selected to represent the following areas: psychology,
25 social work, special education, and minority groups,

including Native Americans with developmental disabilities. A minimum of one member of the council shall represent each of these areas. In the event that the persons listed in subsections (2)(a) through (2)(j) do not represent all of the areas of psychology, social work, special education, and minority groups, including Native Americans with developmental disabilities, up to two representatives may be added to the membership of the council to represent not more than two of these groups.

(4) The council is allocated to the department for administrative purposes only and, unless inconsistent with the provisions of ~~this--section--and~~ 53-20-206 and this section, the provisions of 2-15-121 apply."

Section 23. Section 2-15-2210, MCA, is amended to read:

"2-15-2210. State advisory council on food and nutrition. (1) There is a state advisory council on food and nutrition.

(2) The council is composed of 11 members appointed by the governor, as follows:

(a) one person from the department of social and rehabilitation services who supervises or administers services under the food stamp program;

(b) one person from the department of public health and environmental--sciences who supervises or administers supplemental food programs for women, infants, and children;

(c) one person from the office of public instruction who is responsible for administration of school food programs under the National School Lunch Act;

(d) one person from a statewide organization active in food, nutrition, and hunger issues;

(e) one person representing local food bank programs;

(f) one person from among local, private operators of food and nutrition programs for the elderly;

(g) one person representing the general public who is knowledgeable and active in food, nutrition, and hunger issues;

(h) one person who is an agent in the Montana cooperative extension service;

(i) one Native American; and

(j) one member of the house of representatives and one member of the senate, who must be paid their compensation and expenses as provided in 5-2-302 while engaged in advisory council business.

(3) The council is allocated to the department of public health and environmental-sciences for administrative purposes only as provided in 2-15-121.

(4) The provisions of 2-15-122(5) through (8) apply to the council and its members."

Section 24. Section 2-15-3306, MCA, is amended to read:

"2-15-3306. Soil survey advisory council. (1) The

director of the department of ~~natural--resources--and conservation resource management~~ shall appoint a soil survey advisory council to assist and cooperate with the department in formulation and oversight of the plan for completing the soil survey and mapping program provided for in Title 76, chapter 11, part 2. The soil survey advisory council shall consist of representatives of local, state, and federal agencies and private organizations having needs for or who could contribute expertise for the soil surveys and the mapping program.

(2) The director of the department of ~~natural-resources and-conservation resource management~~ shall serve as ~~chairman~~ presiding officer of the soil survey advisory council.

(3) The soil survey advisory council shall meet at least once a year."

Section 25. Section 2-15-3307, MCA, is amended to read:

"2-15-3307. Board of water well contractors. (1) There is a board of water well contractors.

(2) The board ~~shall-be~~ is composed of ~~five~~ four voting members, consisting of:

(a) one technical adviser hydrogeologist appointed by the Montana bureau of mines and geology;

(b) two licensed Montana water well contractors appointed by the governor with the concurrence of the senate; and

(c) one appointed by the director of ~~natural--resources and-conservation;~~ and

~~(d)--one---appointed--by--the--director--of--health--and environmental-sciences~~ resource management.

(3) The members of the board ~~shall~~ must have been bona fide residents of this state for a period of at least 3 years prior to such appointment.

(4) The members of the board shall serve for a term of 3 years. In case of a vacancy in the office of a member of the board, an appointment ~~shall~~ must be made to fill the ~~same vacancy~~ in the manner prescribed by the constitution and laws of this state.

(5) The members of the board shall, upon ~~entering-on~~ assuming the duties of their office, take and subscribe to the oath specified in the constitution of Montana, and ~~such~~ the oath ~~shall~~ must be filed in the office of the secretary of state.

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

Section 26. Section 2-15-3308, MCA, is amended to read:

"2-15-3308. Drought advisory committee. (1) There is a drought advisory committee allocated to the department of ~~natural--resources--and-conservation~~ resource management for administrative purposes only as provided in 2-15-121.

(2) The drought advisory committee is ~~chaired~~ presided

1 over by a representative of the governor and consists of
 2 representatives of the departments of ~~natural-resources--and~~
 3 ~~conservation resource management~~; agriculture; commerce;
 4 ~~fish,--wildlife,--and--parks~~; military affairs; ~~health-and~~
 5 ~~environmental-sciences,--state--lands~~; and livestock. The
 6 governor's representative must be appointed by the governor,
 7 and the representative of each department must be appointed
 8 by the head of that department. Additional, nonvoting
 9 members who represent drought-affected federal and local
 10 government agencies and public and private interests may
 11 also be appointed by the governor.

12 (3) The drought advisory committee shall:

13 (a) with the approval of the governor, develop and
 14 implement a state drought plan;

15 (b) review and report drought monitoring information to
 16 the public;

17 (c) coordinate timely drought impact assessments;

18 (d) identify areas of the state with a high probability
 19 of drought and target reporting and assistance efforts to
 20 those areas;

21 (e) upon request, assist in organizing local drought
 22 advisory committees for the areas identified under
 23 subsection (3)(d);

24 (f) request state agency staff to provide technical
 25 assistance to local drought advisory committees; and

1 (g) promote ideas and activities for groups and
 2 individuals to consider that may reduce drought
 3 vulnerability.

4 (4) The department of ~~natural---resources---and~~
 5 ~~conservation resource management~~ shall provide staff
 6 assistance to the drought advisory committee.

7 (5) The drought advisory committee shall meet, at a
 8 minimum, on or around the 15th day of the months of October
 9 and February of each year to assess moisture conditions and,
 10 as appropriate, begin preparations for drought mitigation.

11 (6) By March ~~15th~~ 15 of each year, the drought advisory
 12 committee shall submit a report to the governor describing
 13 the potential for drought in the coming year. If the
 14 potential for drought merits additional activity by the
 15 drought advisory committee, the report must also describe:

16 (a) activities to be taken by the drought advisory
 17 committee for informing the public about the potential for
 18 drought;

19 (b) a schedule for completing activities;

20 (c) geographic areas for which the creation of local
 21 drought advisory committees will be suggested to local
 22 governments and citizens; and

23 (d) requests for the use of any available state
 24 resources that may be necessary to prevent or minimize
 25 drought impacts.

(7) Nothing in this section is intended to remove or interfere with the duties and responsibilities of the governor or the division of disaster and emergency services for disaster coordination and emergency response, as provided in Title 10, chapter 3, part 1. The duties and responsibilities of the drought advisory committee supplement and are consistent with those of the division of disaster and emergency services for drought planning, preparation, coordination, and mitigation."

Section 27. Section 2-15-3404, MCA, is amended to read:

"2-15-3404. **Fish and wildlife crimestoppers board.** (1) There is a fish and wildlife crimestoppers board.

(2) (a) The board consists of five members, four of whom are appointed by the director of the department of fish, wildlife, and parks resource management, as follows:

(i) the person within the department responsible for the enforcement of fish and wildlife laws;

(ii) a member of a sportsmen's or conservation group;

(iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public, appointed at large.

(b) The fifth member is a member of the fish, wildlife, and parks commission who ~~shall~~ must be designated by the commission.

(3) The board shall elect a chairman presiding officer

from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of ~~fish, wildlife, and parks~~ resource management for administrative purposes only as provided in 2-15-121."

Section 28. Section 2-15-3405, MCA, is amended to read:

"2-15-3405. **Appointment of wetlands protection advisory council.** (1) The director of ~~fish, wildlife, and parks~~ resource management shall appoint an advisory council pursuant to 2-15-122 to review proposals developed by the department of ~~fish, wildlife, and parks~~ resource management which ~~that~~ involve the use of money received by the department under 87-2-412 for the protection, conservation, and development of wetlands in Montana.

(2) Members must be appointed to the advisory council who represent Montana sportsmen, nonconsumptive users of wildlife, and the agricultural industry."

Section 29. Section 7-8-2507, MCA, is amended to read:

"7-8-2507. **Land management alternatives.** The board may:

(1) (a) grant permits or licenses to use the lands in

1 ~~such a manner as that~~ the board may determine and in the
 2 best interests of the county and for the public benefit and
 3 welfare; and

4 (b) fix the terms, conditions, and price of ~~such~~ those
 5 permits or licenses;

6 (2) enter into cooperative use agreements with
 7 individuals, groups of individuals, corporations,
 8 associations, cooperative state grazing districts, the state
 9 of Montana, the United States of America, and any state or
 10 federal subdivision, department, bureau, commission, or
 11 agency, including but not limited to ~~the-Montana--department~~
 12 ~~of-fish,-wildlife,-and-parks,~~ the bureau of land management,
 13 conservation districts, and the Montana department of state
 14 lands resource management;

15 (3) trade or exchange ~~such~~ lands with individuals or
 16 other governmental agencies, state or federal, ~~such~~ those
 17 trades or exchanges to be made pursuant to terms,
 18 conditions, and procedures adopted by the board;

19 (4) (a) grant leases of the lands for ~~such~~ purposes and
 20 uses ~~as that~~ the board may determine are in the best
 21 interests of the county, including the exploration and
 22 development of oil, gas, and other minerals; and

23 (b) fix the terms and conditions of ~~such~~ leases and the
 24 consideration to be paid by any lessee; and

25 (5) sell ~~such~~ lands or any part ~~thereof~~ of lands

1 pursuant to the procedures provided in this part."

2 **Section 30.** Section 7-22-2151, MCA, is amended to read:

3 "7-22-2151. **Cooperative agreements.** (1) Any state
 4 agency controlling land within a district, including the
 5 department of transportation; ~~the-department-of-state-lands;~~
 6 ~~the-department-of-fish,-wildlife,-and-parks;~~ the department
 7 of corrections and human services; the department of ~~natural~~
 8 ~~resources--and--conservation~~ resource management; and the
 9 university system, shall enter into a written agreement with
 10 the board. The agreement must specify mutual
 11 responsibilities for noxious weed management on state-owned
 12 or state-controlled land within the district.

13 (2) The board and the governing body of each
 14 incorporated municipality within the district shall enter
 15 into a written agreement and shall cooperatively plan for
 16 the management of noxious weeds within the boundaries of the
 17 municipality. The board may implement management procedures
 18 described in the plan within the boundaries of the
 19 municipality for noxious weeds only. Control of nuisance
 20 weeds within the municipality remains the responsibility of
 21 the governing body of the municipality, as specified in
 22 7-22-4101.

23 (3) A board may develop and carry out its noxious weed
 24 management program in cooperation with boards of other
 25 districts, with state and federal governments and their

1 agencies, or with any person within the district. The board
2 may enter into cooperative agreements with any of these
3 parties."

4 **Section 31.** Section 17-5-101, MCA, is amended to read:

5 "17-5-101. Definitions. The following terms, as used in
6 this part, have the following meanings:

7 (1) "Bonds" include bonds, notes, warrants, debentures,
8 certificates of indebtedness, temporary bonds, temporary
9 notes, interim receipts, interim certificates, and all
10 instruments or obligations evidencing or representing
11 indebtedness or evidencing or representing the borrowing of
12 money or evidencing or representing a charge, lien, or
13 encumbrance on specific ~~revenues~~ revenue, special
14 assessments, income, or property of a political subdivision,
15 including all instruments or obligations payable from a
16 special fund.

17 (2) "Governing body" means the board, council,
18 commission, or other body charged with the general control
19 of the issuance of bonds of a political subdivision.

20 (3) "Political subdivision" includes a county, city,
21 town, school district, irrigation district, drainage
22 district, special improvement district, or any other
23 governmental subdivision of the state but ~~shall~~ does not
24 include the state of Montana, the board of examiners, the a
25 division of water resources of the department of ~~natural~~

1 ~~resources--and--conservation~~ resource management, the state
2 highway commission, or any other board, agency, or
3 commission of the state."

4 **Section 32.** Section 23-1-301, MCA, is amended to read:

5 "23-1-301. Montana conservation corps -- purpose and
6 intent. (1) There is a Montana conservation corps within the
7 a parks division of the department of fish--wildlife--and
8 parks resource management. The corps is part of the Montana
9 community service corps provided for under Title 90, chapter
10 14, part 1, and is subject to the oversight of the office of
11 community service.

12 (2) The purpose of the corps is to accomplish
13 labor-intensive improvements to the state park system and to
14 other public lands and to perform community service
15 activities for which specific responsibilities are accepted
16 through service contracts.

17 (3) It is the intent of the legislature that the corps
18 grow in productive ways and that state agencies involved
19 with the corps provide coordination of the conservation
20 corps program and the programs established under Title 90,
21 chapter 14, part 1. The legislature also intends that the
22 Montana conservation corps program have the authority to
23 contract with the job service or the human resource
24 development council, as defined in 53-10-501."

25 **Section 33.** Section 23-1-302, MCA, is amended to read:

1 "23-1-302. Definitions. As used in this part, unless
2 the context clearly requires otherwise, the following
3 definitions apply:

4 (1) "Corps" means the Montana conservation corps.

5 (2) "Corps coordinator" means the person who acts as
6 the corps administrative officer and employs the staff
7 necessary to implement the provisions of this chapter.

8 (3) "Corpsmember" means a participant in the corps.

9 (4) "Crewleader" means a participant in the corps who
10 supervises corpsmembers.

11 (5) "Department" means the department of ~~fish~~
12 ~~wildlife-and-parks~~ resource management provided for in
13 ~~2-15-3401~~ [section 1].

14 (6) "Division" means ~~the~~ a parks division of the
15 department ~~of-fish-wildlife-and-parks~~.

16 (7) "State agencies" means the departments of ~~fish~~
17 ~~wildlife-and-parks~~; social and rehabilitation services;
18 labor and industry; ~~state--lands~~; family services; and
19 ~~natural-resources-and-conservation~~ resource management."

20 **Section 34.** Section 23-2-806, MCA, is amended to read:

21 "23-2-806. Enforcement. (1) The ~~department--of~~ fish,
22 wildlife, and parks enforcement personnel of the department
23 of resource management, park rangers, sheriffs and their
24 deputies, the Montana highway patrol, and the police of each
25 municipality shall enforce the provisions of this part.

1 (2) The department is a criminal justice agency for the
2 purpose of obtaining the technical assistance and support
3 services provided by the board of crime control under the
4 provisions of 44-4-301. Authorized officers of the
5 department are granted peace officer status with the power:

6 (a) of search, seizure, and arrest;

7 (b) to investigate activities in this state regulated
8 by this part and rules of the department and the fish,
9 wildlife, and parks commission; and

10 (c) to report violations to the county attorney of the
11 county in which they occur.

12 (3) Park rangers may not carry firearms in the
13 execution of their duties."

14 **Section 35.** Section 37-47-345, MCA, is amended to read:

15 "37-47-345. Enforcement. Investigations and arrests for
16 violations of this chapter may be made by any peace officer;
17 state fish and game warden of the department of ~~fish~~,
18 ~~wildlife-and-parks~~ resource management; or federal agency
19 enforcement personnel."

20 **Section 36.** Section 75-5-1102, MCA, is amended to read:

21 "75-5-1102. Definitions. Unless the context requires
22 otherwise, in this part, the following definitions apply:

23 (1) "Administrative costs" means costs incurred by the
24 department ~~and--the--department--of--natural--resources-and~~
25 ~~conservation~~ in the administration of the program, including

1 but not limited to costs of servicing loans and issuing
2 debt; program start-up costs; financial, management, and
3 legal consulting fees; and reimbursement costs for support
4 services from other state agencies.

5 (2) "Cost" means, with reference to a wastewater
6 treatment works project, all capital costs incurred or to be
7 incurred by a municipality or a private concern, including
8 but not limited to engineering, financing and other fees,
9 interest during construction, and a reasonable allowance for
10 contingencies to the extent permitted by the federal act and
11 regulations promulgated ~~thereunder~~ under the federal act.

12 (3) "Federal act" means the Federal Water Pollution
13 Control Act, also known as the Clean Water Act, 33 U.S.C.
14 1251 through 1387, as amended.

15 (4) "Loan" means a loan of money from the revolving
16 fund to a municipality or a private concern.

17 (5) "Municipality" means any city, town, or other local
18 government unit having authority to own and operate a sewage
19 system and wastewater treatment works.

20 (6) "Private concern" means an individual or other
21 entity eligible for a loan or loans for a pollution control
22 project for a nonpoint source under section 319 of the
23 federal act.

24 (7) "Program" means the wastewater treatment works
25 revolving loan program established by this part.

1 (8) "Project" means a wastewater treatment works or
2 part of a wastewater treatment works for which a
3 municipality or private concern makes an application for a
4 loan or other financial assistance.

5 (9) "Revolving fund" means the fund established by
6 75-5-1106."

7 **Section 37.** Section 75-5-1105, MCA, is amended to read:

8 "75-5-1105. Rulemaking. The board ~~and--the--board--of~~
9 ~~natural--resources--and--conservation~~ may adopt rules within
10 ~~their--respective--authorities~~ its authority established
11 within the provisions of this part, including rules:

12 (1) prescribing the form and content of applications
13 for loans and refinancing agreements;

14 (2) governing the application of the criteria for
15 awarding loans;

16 (3) establishing additional terms and conditions for
17 the making of loans and the security instruments and other
18 necessary agreements; and

19 (4) establishing ceilings on the amount of individual
20 loans to be made to municipalities and private concerns, if
21 considered appropriate and necessary for the successful
22 administration of the program."

23 **Section 38.** Section 75-5-1106, MCA, is amended to read:

24 "75-5-1106. Revolving fund. (1) There is established in
25 the state treasury a separate account designated as the

wastewater treatment works revolving fund. There are established in the revolving fund as subaccounts a federal allocation account, a state allocation account, an administration account, an investment income account, and a debt service account.

(2) There must be credited to:

(a) the federal allocation account, all amounts received by the state pursuant to the federal act as capitalization grants for a state revolving fund to assist construction of wastewater treatment works and grants or transfers of grants received under subchapter II of the federal act for construction of wastewater treatment works;

(b) the state allocation account, the net proceeds of bonds of the state issued pursuant to 75-5-1121 and other money appropriated by the legislature;

(c) the administration account, 4%, or the maximum amount allowed by the federal act, of the capitalization grant award for payment of administrative costs;

(d) the investment account, all money received from investment of amounts in those accounts in the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the issuance of bonds; and

(e) the debt service account, the interest portion of loan repayments.

(3) Each loan made as authorized by 75-5-1113 must be

funded and disbursed from the federal allocation account or the state allocation account, or both, by the department of ~~natural-resources-and-conservation--as--recommended--by--the~~ department. All amounts received in payment of principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant to 75-5-1121 and are outstanding, the interest payments must be transferred to the debt service account securing the bonds. Money in the debt service account that is not required for debt service may be transferred to other accounts within the revolving fund as provided in the resolution or trust indenture authorizing the bonds.

(4) The department ~~of---natural---resources---and~~ conservation may establish additional accounts and subaccounts within the revolving fund as it considers necessary to account for the program money and to ensure compliance with the federal act and this part."

Section 39. Section 75-5-1111, MCA, is amended to read:

"75-5-1111. Applications. (1) The department shall, ~~after--consultation-with-the-department-of-natural-resources~~ and-conservation, establish loan application procedures, including forms for the applications. Each application for a loan to finance construction of a project must include:

(a) a reasonably detailed description of the project;

(b) a reasonably detailed estimate of the cost of the

1 project;

2 (c) a timetable for the construction of the project and

3 for payment of the cost of the project;

4 (d) identification of the source or sources of funds to

5 be used in addition to the proceeds of the loan to pay the

6 cost of the project;

7 (e) the source or sources of revenue proposed to be

8 used to repay the loan;

9 (f) if the applicant is a municipality, a statement as

10 to whether, at the time of application, there are any

11 outstanding bonds, notes, or other obligations of the

12 municipality that were issued or incurred to finance any

13 part of the municipality's sewage system and, if so, a

14 description of the bonds, notes, or other obligations; and

15 (g) any other information that the department ~~or--the~~

16 ~~department-of-natural-resources-and-conservation~~ may require

17 to determine the feasibility of a project and the

18 applicant's ability to repay the loan, including but not

19 limited to engineering reports, economic feasibility

20 studies, and legal opinions.

21 (2) Each application for a loan to refinance a project,

22 including a purchase of outstanding obligations issued by a

23 municipality to finance a project in whole or in part, must

24 include:

25 (a) a reasonably detailed description of the project;

1 (b) a schedule of the cost of the project;

2 (c) the date on which construction of the project

3 began;

4 (d) a description of the bonds, notes, or other

5 obligations to be refinanced and of any other notes, bonds,

6 or obligations issued or incurred to finance any part of the

7 municipality's sewage system; and

8 (e) any other information that the department ~~or--the~~

9 ~~department--of--natural--resources--and--conservation~~ may

10 require.

11 (3) Each application for financial assistance in the

12 form of a guaranty or the purchase of insurance for a

13 municipal obligation must include all items required by

14 subsection (1) and any other information the department may

15 require."

16 **Section 40.** Section 75-5-1112, MCA, is amended to read:

17 "75-5-1112. Evaluation of applications. After

18 ~~consultation-with-the-department-of--natural--resources--and~~

19 ~~conservation,~~ The department shall evaluate and annually

20 rank applications for loans and other financial assistance.

21 In ranking the applications, the department ~~must~~ shall

22 consider the following factors:

23 (1) the ability of the municipality or private concern

24 to pay the costs of the project without the requested

25 financial assistance;

(2) the amount available for financial assistance in the revolving fund;

(3) the total amount requested by other applications that have been received or that are likely to be received;

(4) the need for and benefit to be derived from the project;

(5) in the case of an application to refinance an outstanding obligation, the benefit of refinancing as measured by a decrease in interest rates and whether the refinancing permits the construction of an additional project by the municipality; and

(6) any other criteria that the department determines appropriate, considering the purposes of the federal act and the program."

Section 41. Section 75-5-1113, MCA, is amended to read:

"75-5-1113. Loans. (1) Upon approval of an application by the department, the department ~~of-natural-resources-and-conservation~~ may lend amounts on deposit in the revolving fund to a municipality or private concern to pay part or all of the cost of a project or to buy or refinance an outstanding obligation of a municipality that was issued to finance a project. The loan is subject to the municipality or private concern complying with the following conditions:

(a) meeting requirements of financial capability set by the department ~~of-natural-resources-and-conservation~~ to

~~assure~~ ensure sufficient ~~revenues~~ revenue to operate and maintain the project for its useful life and to repay the loan, including the establishment and maintenance by the municipality of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the municipality's obligation;

(b) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than 20 years;

(c) agreeing to maintain proper financial records in accordance with recognized government accounting procedures and agreeing that all records are subject to audit;

(d) meeting the requirements listed in the federal act for projects constructed with funds directly made available by federal capitalization grants;

(e) providing legal assurance that all necessary property titles, easements, and rights-of-way have been obtained to construct, operate, and maintain the project;

(f) submitting an engineering report evaluating the proposed project, including information demonstrating its cost-effectiveness and environmental information necessary for the department ~~and-the-department-of-natural-resources-and-conservation~~ to fulfill their its responsibilities under the Montana Environmental Policy Act and rules adopted to

1 implement that act;

2 (g) complying with plan and specification requirements
3 for public wastewater systems established by the board; and

4 (h) providing for proper construction inspection and
5 project management.

6 (2) Each loan, unless prepaid, is payable subject to
7 the limitations of the federal act, with interest paid in
8 annual or more frequent installments, the first of which
9 must be received not more than 1 year after the completion
10 date of the project and the last of which must be received
11 not more than 20 years after the completion date.

12 (3) Subject to the limitations of the federal act, the
13 interest rate on a loan must ensure that the interest
14 payments on the loan and on other outstanding loans will be
15 sufficient, if paid timely and in full, with other available
16 funds in the revolving fund, including investment income, to
17 enable the state to pay the principal of and interest on the
18 bonds issued pursuant to 75-5-1121.

19 (a) The interest rate must be determined as of the date
20 the loan is authorized by the department of--natural
21 resources-and-conservation.

22 (b) The rate may include any additional rate that the
23 department of-natural-resources-and--conservation considers
24 reasonable or necessary to provide a reserve for the
25 repayment of the loan. The additional rate may be fixed or

1 variable or may be calculated according to a formula, and it
2 may differ from the rate established for any other loan.

3 (4) Each loan must be evidenced by a bond, note, or
4 other evidence of indebtedness of the municipality or
5 private concern, in a form prescribed or approved by the
6 department of-natural--resources--and--conservation, except
7 that the bond, note, or other evidence must include
8 provisions required by the federal act and must be
9 consistent with the provisions of this part. The bond, note,
10 or other evidence is not required to be identical for all
11 loans.

12 (5) As a condition to making a loan, the department of
13 natural--resources-and-conservation, with the concurrence of
14 the department, may impose a reasonable administrative fee
15 that may be paid from the proceeds of the loan or other
16 available funds of the municipality or private concern.
17 Administrative fees may be deposited:

18 (a) in a special administrative costs account that the
19 department of-natural-resources-and-conservation may create
20 for that purpose outside the revolving fund provided for in
21 75-5-1106; or

22 (b) in the administration account. Money deposited in
23 the special administrative costs account or the
24 administration account must be used for the payment of
25 administrative costs of the program."

Section 42. Section 75-5-1121, MCA, is amended to read:

"75-5-1121. Authorization of bonds -- appropriation of proceeds. (1) The board of examiners is authorized, upon request of the department of--natural--resources--and conservation, to issue and sell bonds of the state in an aggregate principal amount not exceeding \$10 million to provide money for the revolving loan program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) The proceeds of the bonds, other than any premium and accrued interest received or amounts to be used to pay interest on the bonds or the costs of issuing the bonds, are appropriated to the state allocation account of the wastewater treatment works revolving fund. Any premium and accrued interest and bond proceeds to be used to pay interest must be deposited in the debt service account. Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds. For purposes of sections 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account constitute a capital projects account. The

proceeds must be available to the department and--the department-of-natural-resources-and-conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of--natural-resources-and-conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the interest component of the loan repayments credited to the revolving fund and the revolving fund as security for the bonds.

(4) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having the powers of a trustee inside or outside the state.

(a) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(b) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, provide for the rights of the bondholders, and ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(ii) permit representatives of the state treasury, or the department,~~or department of natural resources and conservation,~~ upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(c) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state."

Section 43. Section 75-10-913, MCA, is amended to read:

"75-10-913. Annual long-range plan submitted -- contents -- available to public. (1) A person may not file an application for a certificate of site acceptability required by 75-10-916 unless the megalandfill has been adequately identified in a long-range plan at least 2 years prior to acceptance of an application by the department.

(2) The annual long-range plan must be submitted by July 1 of each year and must include the following:

(a) the general location, size, and type of all facilities to be owned and operated by the person for which construction is projected during the ensuing 2 years, as well as those facilities to be closed during the planning period;

(b) a description of the efforts to involve environmental protection and land use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process;

(c) projections of the demand for the service rendered by the person and an explanation of the basis for those projections and a description of the manner and extent to which the proposed facilities will meet the projected demand; and

(d) additional information that the department by rule, on its own initiative, or upon the advice of interested state agencies requests in order to carry out the purposes of 75-10-901 through 75-10-945.

(3) The plan must be furnished to the governing body of each county in which any facility included in the plan under subsection (2)(a) is proposed to be located and must be made available to the public by the department. The applicant shall give public notice throughout the state by publishing at least once a week for 2 consecutive weeks a summary of the proposed plan in newspapers of general circulation. The plan must also be filed with the environmental quality council, the department of transportation, ~~the department of state lands, the department of fish, wildlife, and parks,~~ and the department of commerce ~~and the department of~~

~~natural-resources-and-conservation~~. Interested persons may obtain a copy of the plan by written request and payment to the department of the costs of copying the plan."

Section 44. Section 75-10-918, MCA, is amended to read:

"75-10-918. Application -- filing and contents -- proof of service and notice. (1) (a) An applicant shall file with the department an application for a certificate under 75-10-916 in a form the board requires, containing the following information:

(i) a description of the proposed location and of the facility to be built;

(ii) a summary of any studies that have been made of the environmental, social, and economic impacts of the facility;

(iii) a description of at least three reasonable alternate locations for the facility, a general description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the proposed location is best suited for the facility;

(iv) baseline data for the primary and reasonable alternate locations;

(v) at the applicant's option, an environmental study plan to satisfy the requirements of 75-10-901 through 75-10-945; and

(vi) other information that the applicant considers relevant or that the board by order or rule may require or

that the department by order or rule may require.

(b) A copy or copies of the studies referred to in subsection (1)(a)(ii) must be filed with the department, if ordered, and must be available for public inspection.

(2) An application must be accompanied by proof of service of a copy of the application on the chief executive officer of each unit of local government, each county commissioner, city or county planning board, and solid waste district, and each federal agency charged with the duty of protecting the environment or of planning land use located in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located and on the following state government agencies:

(a) environmental quality council;

~~(b)--department-of-fish,-wildlife,-and-parks;~~

~~(c)--department-of-state-lands;~~

~~(d)~~ (b) department of commerce; and

~~(e)~~ (c) department of transportation; and

~~(f)--department-of-natural-resources-and-conservation.~~

(3) An application must be accompanied by proof that public notice was given to persons residing in the area in which any portion of the proposed facility is proposed or is alternatively proposed to be located by publication of a summary of the application in newspapers of general circulation that will substantially inform those persons of

1 the application."

2 **Section 45.** Section 75-20-104, MCA, is amended to read:

3 "75-20-104. Definitions. In this chapter, unless the
4 context requires otherwise, the following definitions apply:

5 (1) "Addition thereto" means the installation of new
6 machinery and equipment ~~which~~ that would significantly
7 change the conditions under which the facility is operated.

8 (2) "Application" means an application for a
9 certificate submitted in accordance with this chapter and
10 the rules adopted ~~hereunder~~ under this chapter.

11 (3) "Associated facilities" includes but is not limited
12 to transportation links of any kind, aqueducts, diversion
13 dams, pipelines, transmission substations, storage ponds,
14 reservoirs, and any other device or equipment associated
15 with the production or delivery of the energy form or
16 product produced by a facility ~~except that the~~. The term
17 does not include a facility or a natural gas or crude oil
18 gathering line 17 inches or less in inside diameter.

19 (4) "Board" means the board of natural resources and
20 conservation provided for in 2-15-3302.

21 ~~{5}--"Board-of-health" means the--board--of--health--and~~
22 ~~environmental-sciences-provided-for-in-2-15-2104.~~

23 ~~{6}{5}~~ (5) "Certificate" means the certificate of
24 environmental compatibility and public need issued by the
25 board under this chapter that is required for the

1 construction or operation of a facility.

2 ~~{7}{6}~~ (6) "Commence to construct" means:

3 (a) any clearing of land, excavation, construction, or
4 other action that would affect the environment of the site
5 or route of a facility, but The term does not mean changes
6 needed for temporary use of sites or routes for nonutility
7 purposes or uses in securing geological data, including
8 necessary borings to ascertain foundation conditions.

9 (b) the fracturing of underground formations by any
10 means if such activity is related to the possible future
11 development of a gasification facility or a facility
12 employing geothermal resources, but The term does not
13 include the gathering of geological data by boring of test
14 holes or other underground exploration, investigation, or
15 experimentation.

16 (c) the commencement of eminent domain proceedings
17 under Title 70, chapter 30, for land or rights-of-way upon
18 or over which a facility may be constructed;

19 (d) the relocation or upgrading of an existing facility
20 defined by ~~{b}--or--{c}--of~~ subsection ~~{10}~~ (8)(b) or (8)(c),
21 including upgrading to a design capacity covered by
22 subsection ~~{10}{b}~~ ~~except--that--the~~ (8)(b). The term does
23 not include normal maintenance or repair of an existing
24 facility.

25 ~~{8}{7}~~ (7) "Department" means the department of natural

~~resources-and-conservation resource management~~ provided for in ~~Title-27-chapter-157-part-33~~ [section 1].

~~{9}--"Department--of--health"--means--the--department-of-health-and-environmental-sciences-provided-for-in--Title--27, chapter-157-part-21;~~

~~{10}~~(8) "Facility" means:

(a) except for crude oil and natural gas refineries and those facilities subject to The Montana Strip and Underground Mine Reclamation Act, each plant, unit, or other facility and associated facilities designed for or capable of:

(i) generating 50 megawatts of electricity or more or any addition thereto (except pollution control facilities approved by the department ~~of--health--and-environmental-sciences~~ added to an existing plant) having an estimated cost in excess of \$10 million;

(ii) producing 25 million cubic feet or more of gas derived from coal per day or any addition thereto having an estimated cost in excess of \$10 million;

(iii) producing 25,000 barrels of liquid hydrocarbon products per day or more or any addition thereto having an estimated cost in excess of \$10 million;

(iv) enriching uranium minerals or any addition thereto having an estimated cost in excess of \$10 million; or

(v) utilizing or converting 500,000 tons of coal per

year or more or any addition thereto having an estimated cost in excess of \$10 million;

(b) each electric transmission line and associated facilities of a design capacity of more than 69 kilovolts, except that the term:

(i) does not include an electric transmission line and associated facilities of a design capacity of 230 kilovolts or less and 10 miles or less in length; and

(ii) does not include an electric transmission line with a design capacity of more than 69 kilovolts and up to and including 115 kilovolts for which the person planning to construct the line has obtained right-of-way agreements or options for a right-of-way from more than 75% of the owners who collectively own more than 75% of the property along the centerline;

(c) each pipeline, whether partially or wholly within the state, greater than 17 inches in inside diameter and 30 miles in length, and associated facilities;

(d) any use of geothermal resources, including the use of underground space in existence or to be created, for the creation, use, or conversion of energy, designed for or capable of producing geothermally derived power equivalent to 25 million Btu per hour or more or any addition thereto having an estimated cost in excess of \$750,000;

(e) any underground in situ gasification of coal.

1 ~~(9)~~ "Person" means any individual, group, firm,
2 partnership, corporation, cooperative, association,
3 government subdivision, government agency, local government,
4 or other organization or entity.

5 ~~(10)~~ "Transmission substation" means any structure,
6 device, or equipment assemblage, commonly located and
7 designed for voltage regulation, circuit protection, or
8 switching necessary for the construction or operation of a
9 proposed transmission line.

10 ~~(11)~~ "Utility" means any person engaged in any
11 aspect of the production, storage, sale, delivery, or
12 furnishing of heat, electricity, gas, hydrocarbon products,
13 or energy in any form for ultimate public use."

14 **Section 46.** Section 75-20-202, MCA, is amended to read:

15 **"75-20-202. Exemptions.** (1) A certificate is not
16 required under this chapter for a facility under diligent
17 onsite physical construction or in operation on January 1,
18 1973.

19 (2) The board may adopt reasonable rules establishing
20 exemptions from this chapter for the relocation,
21 reconstruction, or upgrading of a facility that:

22 (a) would otherwise be covered by this chapter; and

23 (b) (i) is unlikely to have a significant environmental
24 impact by reason of length, size, location, available space
25 or right-of-way, or construction methods; or

1 (ii) utilizes coal, wood, biomass, grain, wind, or sun
2 as a fuel source and the technology of which will result in
3 greater efficiency, promote energy conservation, and promote
4 greater system reliability than the existing facility.

5 (3) A person proposing to construct an exempt facility
6 shall pay to the department reasonable costs, if any,
7 incurred by the department in processing the exemption.

8 (4) This chapter does not apply to a facility defined
9 in 75-20-104~~(i)~~~~(c)~~~~(8)(c)~~ that has been designated by the
10 governor for environmental review by an executive agency of
11 the state for the purpose of complying with Title 75,
12 chapter 1, pursuant to Executive Order 4-81 and prior to
13 July 1, 1985."

14 **Section 47.** Section 75-20-205, MCA, is amended to read:

15 **"75-20-205. Centerline location.** (1) For all facilities
16 defined in 75-20-104~~(i)~~~~(b)~~~~-and-(i)~~~~(c)~~~~(8)(b)~~ and ~~(8)(c)~~ and
17 associated facilities certified under this chapter, the
18 board shall condition the certificate upon board approval of
19 a final centerline location.

20 (2) The final centerline location must be determined in
21 a noncontested case proceeding before the board after the
22 submission of a centerline location report by the
23 department. Within 60 days after the commencement of a
24 noncontested case proceeding, the board shall render and
25 record a decision approving a centerline location.

(3) The department shall consult with the certificate holder and the affected landowners prior to making its report.

(4) The department's report must be prepared considering the criteria set forth in 75-20-301 and 75-20-503 and the findings of fact and conclusions of law set out in the board decision.

(5) The department report may be completed on segments of a certified facility as is convenient to the certificate holder.

(6) The certificate holder shall initiate the final centerline location approval process by submitting a proposed centerline location plan to the department. The certificate holder shall pay to the department the actual costs incurred in processing a final centerline location, not to exceed 25% of the filing fee paid under 75-20-215."

Section 48. Section 75-20-208, MCA, is amended to read:

"75-20-208. Certain electric transmission lines -- verification of requirements. (1) Prior to constructing a transmission line under 75-20-104(i)(b)(ii), the person planning to construct the line must shall provide to the department within 36 months of the date of the public notice provided under 75-20-207, unless extended by the board for good cause:

(a) copies of the right-of-way agreements or options

for a right-of-way containing sufficient information to establish landowner consent to construct the line; and

(b) sufficient information for the department to verify to the board that the requirements of 75-20-104(i)(b)(ii) are satisfied.

(2) The provisions of 75-20-104(i)(b)(ii) do not apply to any a facility for which public notice under 75-20-207 has been given but for which the requirements of subsection (1) have not been complied with."

Section 49. Section 75-20-211, MCA, is amended to read:

"75-20-211. Application -- filing and contents -- proof of service and notice. (1) (a) An applicant shall file with the department ~~and--department--of--health--a--joint~~ an application for a certificate under this chapter and for the permits required under the laws administered by the department ~~of--health--and-the-board-of-health-in-such.~~ The application must be in the form as that the board requires under applicable rules,--containing and must contain the following information:

(i) a description of the proposed location and of the facility to be built thereon;

(ii) a summary of any studies which that have been made of the environmental impact of the facility;

(iii) a statement explaining the need for the facility;

(iv) for facilities defined in 75-20-104(i)(b)--and

1 ~~(10)(c)~~(8)(b) and (8)(c), a description of reasonable
2 alternate locations for the facility, a general description
3 of the comparative merits and detriments of each location
4 submitted, and a statement of the reasons why the proposed
5 location is best suited for the facility;

6 (v) (A) for facilities as defined in 75-20-104~~(10)(b)~~
7 ~~and--(10)(c)~~(8)(b) and (8)(c), baseline data for the primary
8 and reasonable alternate locations; or

9 (B) for facilities as defined in 75-20-104~~(10)(a)~~
10 ~~(10)(d)~~, ~~and--(10)(c)~~(8)(a), (8)(d), and (8)(e), baseline
11 data for the proposed location and, at the applicant's
12 option, any alternative locations acceptable to the
13 applicant for siting the facility;

14 (vi) at the applicant's option, an environmental study
15 plan to satisfy the requirements of this chapter; and

16 (vii) such other information as the applicant considers
17 relevant or as the board ~~and-board-of-health~~ by order or
18 rule or the department ~~and-department-of-health~~ by order or
19 rule may require.

20 (b) A copy or copies of the studies referred to in
21 subsection (1)(a)(ii) above ~~shall~~ must be filed with the
22 department, if ordered, and ~~shall~~ must be available for
23 public inspection.

24 (2) An application may consist of an application for
25 two or more facilities in combination ~~which~~ that are

1 physically and directly attached to each other and that are
2 operationally a single operating entity.

3 (3) An application ~~shall~~ must be accompanied by proof
4 of service of a copy of the application on the chief
5 executive officer of each unit of local government, county
6 commissioner, city or county planning ~~boards~~ board, and
7 federal ~~agencies~~ agency charged with the duty of protecting
8 the environment or of planning land use in the area in which
9 any portion of the proposed facility is proposed or is
10 alternatively proposed to be located and on the following
11 state government agencies:

- 12 (a) environmental quality council;
- 13 (b) department of public service regulation;
- 14 ~~(c)--department-of-fish, wildlife, and parks;~~
- 15 ~~(d)--department-of-state-lands;~~
- 16 ~~(e)(c)~~ department of commerce; and
- 17 ~~(f)(d)~~ department of transportation.

18 (4) The copy of the application ~~shall~~ must be
19 accompanied by a notice specifying the date on or about
20 which the application is to be filed.

21 (5) An application ~~shall~~ must also be accompanied by
22 proof that public notice ~~thereof~~ of the application was
23 given to persons residing in the area in which any portion
24 of the proposed facility is proposed or is alternatively
25 proposed to be located. Notice must be by publication of a

1 summary of the application in those newspapers that will
2 substantially inform those persons of the application."

3 **Section 50.** Section 75-20-213, MCA, is amended to read:

4 "75-20-213. Supplemental material -- amendments. (1) An
5 application for an amendment of an application or a
6 certificate ~~shall~~ must be in such form and contain such
7 information as the board by rule or the department by order
8 prescribes. Notice of such an application ~~shall~~ for
9 amendment must be given as set forth in ~~(3), (4), and (5) of~~
10 75-20-211 (3) through (5).

11 (2) An application may be amended by an applicant any
12 time prior to the department's recommendation. If the
13 proposed amendment is such that it prevents the department,
14 ~~the--department--of--health,~~ or the agencies listed in
15 75-20-216(5) from carrying out their duties and
16 responsibilities under this chapter, the department may
17 require such additional filing fees as that the department
18 determines necessary, or ~~the-department~~ may require a new
19 application and filing fee.

20 (3) The applicant shall submit supplemental material in
21 a timely manner as requested by the department or as offered
22 by the applicant to explain, support, or provide the detail
23 with respect to an item described in the original
24 application, without filing an application for an amendment.
25 The department's determination as to whether information is

1 supplemental or whether an application for amendment is
2 required ~~shall-be~~ is conclusive."

3 **Section 51.** Section 75-20-215, MCA, is amended to read:

4 "75-20-215. Filing fee -- accountability -- refund --
5 use. (1) (a) A filing fee ~~shall~~ must be deposited in the
6 state special revenue fund for the use of the department in
7 administering this chapter. The applicant shall pay to the
8 department a filing fee, as provided in this section, that
9 is based upon the department's estimated costs of processing
10 the application under this chapter, but ~~which-shall~~ that may
11 not exceed the following scale based upon the estimated cost
12 of the facility:

- 13 (i) 4% of any estimated cost up to \$1 million; plus
- 14 (ii) 1% of any estimated cost over \$1 million and up to
15 \$20 million; plus
- 16 (iii) 0.5% of any estimated cost over \$20 million and up
17 to \$100 million; plus
- 18 (iv) 0.25% of any amount of estimated cost over \$100
19 million and up to \$300 million; plus
- 20 (v) .125% of any amount of estimated cost over \$300
21 million and up to \$1 billion; plus
- 22 (vi) .05% of any amount of estimated cost over \$1
23 billion.
- 24 (b) The department may allow in its discretion a credit
25 against the fee payable under this section for the

1 development of information or providing of services required
 2 hereunder under this part or required for preparation of an
 3 environmental impact statement under the Montana or national
 4 environmental policy acts. The applicant may submit the
 5 information to the department together with an accounting of
 6 the expenses incurred in preparing the information. The
 7 department shall evaluate the applicability, validity, and
 8 usefulness of the data and determine the amount which that
 9 may be credited against the filing fee payable under this
 10 section. Upon 30 days' notice to the applicant, this credit
 11 may at any time be reduced if the department determines that
 12 it is necessary to carry out its responsibilities under this
 13 chapter.

14 (2) (a) The department may contract with an applicant
 15 for the development of information, provision of services,
 16 and payment of fees required under this chapter. The
 17 contract may continue an agreement entered into pursuant to
 18 75-20-106. Payments made to the department under such-a the
 19 contract shall must be credited against the fee payable
 20 hereunder under this section. Notwithstanding the provisions
 21 of this section, the revenue derived from the filing fee
 22 must be sufficient to enable the department, ~~the-department~~
 23 ~~of-health,~~ the board, ~~the-board-of-health,~~ and the agencies
 24 listed in 75-20-216(5) to carry out their responsibilities
 25 under this chapter. The department may amend a contract to

1 require additional payments for necessary expenses up to the
 2 limits set forth in subsection (1)(a) ~~above~~ upon 30 days'
 3 notice to the applicant. The department and applicant may
 4 enter into a contract which that exceeds the scale provided
 5 in subsection (1)(a).

6 (b) If a contract is not entered into, the applicant
 7 shall pay the filing fee in installments in accordance with
 8 a schedule of installments developed by the department,
 9 provided that no one installment may exceed 20% of the total
 10 filing fee provided for in subsection (1).

11 (3) The estimated cost of upgrading an existing
 12 transmission substation may not be included in the estimated
 13 cost of a proposed facility for the purpose of calculating a
 14 filing fee.

15 (4) If an application consists of a combination of two
 16 or more facilities, the filing fee ~~shall must~~ be based on
 17 the total estimated cost of the combined facilities.

18 (5) The applicant is entitled to an accounting of
 19 ~~moneys money~~ expended and to a refund with interest at the
 20 rate of 6% a year of that portion of the filing fee not
 21 expended by the department in carrying out its
 22 responsibilities under this chapter. A refund ~~shall must~~ be
 23 made after all administrative and judicial remedies have
 24 been exhausted by all parties to the certification
 25 proceedings.

(6) The ~~revenues~~ revenue derived from filing fees ~~shall~~ must be used by the department in compiling the information required for rendering a decision on a certificate and for carrying out its and the board's other responsibilities under this chapter."

Section 52. Section 75-20-216, MCA, is amended to read:

"75-20-216. Study, evaluation, and report on proposed facility -- assistance by other agencies. (1) After receipt of an application, the department ~~and-department-of-health~~ shall within 90 days notify the applicant in writing that:

(a) the application is in compliance and is accepted as complete; or

(b) the application is not in compliance and list the deficiencies therein; ~~and--upon~~. Upon correction of these deficiencies and resubmission by the applicant, the department ~~and--department--of--health~~ shall within 30 days notify the applicant in writing that the application is in compliance and is accepted as complete.

(2) Upon receipt of an application complying with 75-20-211 through 75-20-213, 75-20-215, and this section, the department shall commence an intensive study and evaluation of the proposed facility and its effects, considering all applicable criteria listed in 75-20-301 and 75-20-503 ~~and--the--department--of--health--shall--commence--a~~ study to enable it or the board ~~of--health~~ to issue a

decision, opinion, order, certification, or permit as provided in subsection (3). The department ~~and-department-of~~ health shall use, to the extent ~~they-consider~~ it considers applicable, valid and useful existing studies and reports submitted by the applicant or compiled by a state or federal agency.

(3) The department ~~of--health~~ shall, within 1 year following the date of acceptance of an application (and the board of--health--or--department--of--health shall, if applicable, within an additional 6 months), issue any decision, opinion, order, certification, or permit required under the laws administered by the department ~~of--health--or~~ the--board--of--health and required under this chapter. The department ~~of--health~~ and the board ~~of--health~~ shall determine compliance with all standards, permit requirements, and implementation plans under their jurisdiction for the proposed location or any proposed alternate location in their decision, opinion, order, certification, or permit. The decision, opinion, order, certification, or permit, with or without conditions, is conclusive on all matters that the department ~~of--health~~ and board ~~of--health~~ administer, and any of the criteria specified in ~~subsections-(2)-through-(7)--of~~ 75-20-503(2) through (7) that are a part of the determinations made under the laws administered by the department ~~of--health--and--the--board--of--health~~. Although the

1 decision, opinion, order, certification, or permit issued
 2 under this subsection is conclusive, the board retains
 3 authority to make the determination required under
 4 75-20-301(2)(c). The decision, opinion, order,
 5 certification, or permit of the department ~~of health~~ or the
 6 board ~~of--health~~ satisfies the review requirements by those
 7 agencies and ~~shall--be~~ is acceptable in lieu of an
 8 environmental impact statement under the Montana
 9 Environmental Policy Act. A copy of the decision, opinion,
 10 order, certification, or permit ~~shall~~ must be served upon
 11 the department and the board and ~~shall~~ must be utilized as
 12 part of their final site selection process. Prior to the
 13 issuance of a preliminary decision by the department ~~of~~
 14 ~~health~~ and pursuant to rules adopted by the board ~~of health~~,
 15 the department ~~of--health~~ shall provide an opportunity for
 16 public review and comment.

17 (4) Within 22 months following acceptance of an
 18 application for a facility as defined in ~~(a)-and-(d)-of~~
 19 ~~75-20-104+(10)(8)(a) and (8)(d) and for a facility as defined~~
 20 ~~in (b)-and-(c)-of 75-20-104+(10)(8)(b) and (8)(c) which that~~
 21 ~~is more than 30 miles in length, and within 1 year for a~~
 22 ~~facility as defined in (b)-and--(c)--of 75-20-104+(10)(8)(b)~~
 23 ~~and (8)(c) which that~~ is 30 miles or less in length, the
 24 department shall make a report to the board ~~which--shall~~. The
 25 report must contain the department's studies, evaluations,

1 recommendations, other pertinent documents resulting from
 2 its study and evaluation, and an environmental impact
 3 statement or analysis prepared pursuant to the Montana
 4 Environmental Policy Act, if any. If the application is for
 5 a combination of two or more facilities, the department
 6 shall make its report to the board within the greater of the
 7 lengths of time provided for in this subsection for either
 8 of the facilities.

9 (5) The departments of transportation, commerce,
 10 ~~fish-wildlife-and-parks-state-lands~~ revenue, and public
 11 service regulation shall report to the department
 12 information relating to the impact of the proposed site on
 13 each department's area of expertise. The report may include
 14 opinions as to the advisability of granting, denying, or
 15 modifying the certificate. The department shall allocate
 16 funds obtained from filing fees to the departments making
 17 reports to reimburse them for the costs of compiling
 18 information and issuing the required report."

19 **Section 53.** Section 75-20-218, MCA, is amended to read:

20 "75-20-218. Hearing date -- location -- department to
 21 act as staff -- hearings to be held jointly. (1) Upon
 22 receipt of the department's report submitted under
 23 75-20-216, the board shall set a date for a hearing to begin
 24 not more than 120 days after the receipt. Certification
 25 hearings ~~shall~~ must be conducted by the board in the county

1 seat of Lewis and Clark County or the county in which the
2 facility or the greater portion thereof of the facility is
3 to be located.

4 (2) Except as provided in 75-20-221(2), the department
5 shall act as the staff for the board throughout the
6 decisionmaking process and the board may request the
7 department to present testimony or cross-examine witnesses
8 as the board considers necessary and appropriate.

9 (3) At the request of the applicant, the department of
10 ~~health~~ and the board of--~~health~~ shall hold any required
11 permit hearings required under laws administered by those
12 agencies in conjunction with the board certification
13 hearing. In such a conjunctive hearing, the time periods
14 established for reviewing an application and for issuing a
15 decision on certification of a proposed facility under this
16 chapter supersede the time periods specified in other laws
17 administered by the department of--~~health~~ and the board of
18 ~~health~~."

19 **Section 54.** Section 75-20-219, MCA, is amended to read:

20 "75-20-219. Amendments to a certificate. (1) Within 30
21 days after notice of an amendment to a certificate is given
22 as set forth in 75-20-213(1), including notice to all active
23 parties to the original proceeding, the department shall
24 determine whether the proposed change in the facility would
25 result in a material increase in any environmental impact of

1 the facility or a substantial change in the location of all
2 or a portion of the facility as set forth in the
3 certificate. If the department determines that the proposed
4 change would result in a material increase in any
5 environmental impact of the facility or a substantial change
6 in the location of all or a portion of the facility, the
7 board shall hold a hearing in the same manner as a hearing
8 is held on an application for a certificate. After hearing,
9 the board shall grant, deny, or modify the amendment with
10 such conditions as it ~~deems~~ considers appropriate.

11 (2) In those cases where in which the department
12 determines that the proposed change in the facility would
13 not result in a material increase in any environmental
14 impact or would not be a substantial change in the location
15 of all or a portion of the facility, the board shall
16 automatically grant the amendment either as applied for or
17 upon ~~such~~ the terms or conditions ~~as~~ that the board
18 considers appropriate unless the department's determination
19 is appealed to the board within 15 days after notice of the
20 department's determination is given.

21 (3) If the department or the board, under subsection
22 (4), determines that a hearing is required because the
23 proposed change would result in a material increase in any
24 environmental impact of the facility or a substantial change
25 in the location of all or a portion of the facility, the

applicant has the burden of showing by clear and convincing evidence that the amendment should be granted.

(4) If the department determines that the proposed change in the facility would not result in a material increase in any environmental impact or would not be a substantial change in the location of all or a portion of the facility and a hearing is required because the department's determination is appealed to the board as provided in subsection (2), the appellant has the burden of showing by clear and convincing evidence that the proposed change in the facility would result in a material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility as set forth in the certificate.

(5) If an amendment is required to a certificate ~~which~~ that would affect, amend, alter, or modify a decision, opinion, order, certification, or permit issued by the department ~~of--health~~ or the board ~~of--health~~, such the amendment must be processed under the applicable statutes administered by the department ~~of-health~~ or the board of health."

Section 55. Section 75-20-220, MCA, is amended to read:

"75-20-220. Hearing examiner -- restrictions -- duties.

(1) If the board appoints a hearing examiner to conduct any certification proceedings under this chapter, the hearing

examiner may not be a member of the board, or an employee of the department, ~~or a member or employee of the department of health or board of health~~. A hearing examiner, if any, ~~shall~~ must be appointed by the board within 20 days after the department's report has been filed with the board. ~~if a hearing is held before the board of health or the department of health, the board and the board of health or the department of health shall mutually agree on the appointment of a hearing examiner to preside at both hearings.~~

(2) A prehearing conference ~~shall~~ must be held following notice within 60 days after the department's report has been filed with the board.

(3) The prehearing conference ~~shall~~ must be organized and supervised by the hearing examiner.

(4) The prehearing conference ~~shall~~ must be directed toward a determination of the issues presented by the application, the issues in the department's report, and an identification of the witnesses and documentary exhibits to be presented by the active parties who intend to participate in the hearing.

(5) The hearing examiner shall require the active parties to submit, in writing, and serve upon the other active parties, all direct testimony ~~which~~ that they propose and any studies, investigations, reports, or other exhibits that any active party wishes the board to consider. These

written exhibits and any documents that the board itself wishes to use or rely on ~~shall~~ must be submitted and served in like manner, at least 20 days prior to the date set for the hearing. For good cause shown, the hearing examiner may allow the introduction of new evidence at any time.

(6) The hearing examiner shall allow discovery, which ~~shall~~ must be completed before the commencement of the hearing, upon good cause shown and under such other conditions as that the hearing examiner ~~shall--prescribe~~ prescribes.

(7) Public witnesses and other interested public parties may appear and present oral testimony at the hearing or submit written testimony to the hearing examiner at the time of their appearance. These witnesses are subject to cross-examination.

(8) The hearing examiner shall issue a prehearing order specifying the issues of fact and of law, identifying the witnesses of the active parties, naming the public witnesses and other interested parties who have submitted written testimony in lieu of appearance, outlining the order in which the hearing ~~shall~~ must proceed, setting forth those section criteria in 75-20-301 ~~criteria~~ as to which no issue of fact or law has been raised which that are to be conclusively presumed and are not subject to further proof except for good cause shown, and listing any other special

rules to expedite the hearing which that the hearing examiner ~~shall-adopt~~ adopts with the approval of the board.

(9) At the conclusion of the hearing, the hearing examiner shall declare the hearing closed and shall, within 60 days of that date, prepare and submit to the board ~~and-in the-case-of-a-conjunctive-hearing, within--90--days--to--the board--and--the--board--of--health--or--departement-of-health~~ proposed findings of fact, conclusions of law, and a recommended decision.

(10) The hearing examiner appointed to conduct a certification proceeding under this chapter shall ~~insure~~ ensure that the time of the proceeding, from the date the department's report is filed with the board until the recommended report and order of the examiner is filed with the board, does not exceed 9 calendar months unless extended by the board for good cause.

(11) The board or hearing examiner may waive all or a portion of the procedures set forth in subsections (2) through (8) ~~of--this-section~~ to expedite the hearing for a facility when the department has recommended approval of a facility and no objections have been filed."

Section 56. Section 75-20-221, MCA, is amended to read:

"75-20-221. Parties to certification proceeding -- waiver -- statement of intent to participate. (1) The parties to a certification proceeding or to a proceeding

involving the issuance of a decision, opinion, order, certification, or permit by the board of health under this chapter may include as active parties:

(a) the applicant;

(b) each political entity, unit of local government, and government agency ~~including the department of health~~, entitled to receive service of a copy of the application under 75-20-211(3);

(c) any person entitled to receive service of a copy of the application under 75-20-211(5);

(d) any nonprofit organization formed in whole or in part to promote conservation or natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent commercial and industrial groups; or to promote the orderly development of the areas in which the facility is to be located;

(e) any other interested person who establishes an interest in the proceeding.

(2) The department ~~shall~~ must be an active party in any certification proceeding in which the department recommends denial of all or a portion of a facility.

(3) The parties to a certification proceeding may also include, as public parties, any Montana citizen and any party referred to in ~~(b), (c), (d), or (e)~~ of subsection

~~(1)(b), (1)(c), (1)(d), or (1)(e).~~

(4) Any party waives the right to be a party if the party does not participate in the hearing before the board ~~or the board of health.~~

(5) Each unit of local government entitled to receive service of a copy of the application under 75-20-211(3) shall file with the board a statement showing whether the unit of local government intends to participate in the certification proceeding. If the unit of local government does not intend to participate, it shall list in this statement its reasons for failing to do so. This statement of intent ~~shall~~ must be published before the proceeding begins in a newspaper of general circulation within the jurisdiction of the applicable unit of local government."

Section 57. Section 75-20-225, MCA, is amended to read:

"75-20-225. Certificate renewal -- application -- contents -- filing fee. (1) Any certificate holder for a facility, as defined in 75-20-104~~(10)(a)(i)~~~~(8)(a)(i)~~, may apply for renewal of a certificate prior to the certificate lapsing.

(2) An applicant for a renewal of a certificate shall file with the department ~~and department of health a joint an~~ application in such the form as that the board requires by rule.

(3) An application for renewal of a certificate must

1 include updated information on the matters listed in
 2 75-20-211(1)(a) that have changed since the original
 3 application and such other information as the board requires
 4 by rule for certification. The matters listed in
 5 75-20-211(1)(a)(iv) and (1)(a)(v) for the alternate
 6 locations ~~must~~ may be updated only if the board determines
 7 that within the certified location significant changes have
 8 occurred to warrant a review of alternate locations.

9 (4) An application filed under subsection (1) must
 10 comply with the provisions of 75-20-211(3) through (5).

11 (5) Except as provided in this subsection, the
 12 applicant shall pay a filing fee to the department in
 13 accordance with 75-20-215(2). The fee is in addition to any
 14 previous filing fee paid for processing the original
 15 application for a certificate pursuant to 75-20-215. The fee
 16 may not exceed the following scale:

17 (a) 0.125% of any estimated cost up to \$300 million;
 18 plus

19 (b) 0.063% of any estimated cost over \$300 million."

20 **Section 58.** Section 75-20-226, MCA, is amended to read:

21 "75-20-226. **Renewal study.** (1) Upon receipt of a
 22 completed application for renewal of a certificate, the
 23 department shall evaluate the updated information and any
 24 significant changes in need, alternatives, technology,
 25 baseline environment, and the environmental impacts of a

1 facility that have taken place since the original study
 2 performed in granting the certificate, considering the
 3 applicable criteria listed in 75-20-301 and 75-20-503 and
 4 the original board findings and certificate conditions.

5 (2) The department ~~of health~~ and the board ~~of health~~,
 6 within 10 months of acceptance of a complete renewal
 7 application, shall complete the statutory duties established
 8 in 75-20-216(3). ~~A copy of any~~ Any decision, opinion, order,
 9 certification, or permit ~~must be served on the department~~
 10 ~~and the board and~~ issued pursuant to 75-20-216(3) must be
 11 used as part of ~~their~~ the decisionmaking process.

12 (3) Within 12 months following acceptance of a complete
 13 application for renewal of a certificate, the department
 14 shall make a report to the board. This report must contain
 15 the department's studies, evaluations, recommendations, and
 16 other pertinent documents resulting from its study and
 17 evaluation and an updated environmental impact statement or
 18 analysis pursuant to the Montana Environmental Policy Act.
 19 The department's report must be directed to the question of
 20 whether the original board findings and conditions have been
 21 or need to be altered as a result of any significant changes
 22 in need, alternatives, technology, baseline environment, or
 23 environmental impact since issuance of the certificate,
 24 considering the applicable criteria listed in 75-20-301 and
 25 75-20-503.

(4) The departments of transportation, commerce, fish, wildlife, and parks, state lands, revenue, and public service regulation shall report to the department information relating to the impact of the proposed site on each department's area of responsibility. The report may include opinions as to the advisability of renewing the certificate. The department shall allocate funds obtained from filing fees to the departments making reports to reimburse them for the cost of compiling information and issuing the required reports."

Section 59. Section 75-20-301, MCA, is amended to read:

"75-20-301. Decision of board -- findings necessary for certification. (1) Within 60 days after submission of the recommended decision by the hearing examiner, the board shall make complete findings, issue an opinion, and render a decision upon the record, either granting or denying the application as filed or granting it upon such the terms, conditions, or modifications of the construction, operation, or maintenance of the facility as that the board considers appropriate.

(2) The board may not grant a certificate either as proposed by the applicant or as modified by the board unless it ~~shall find and determine~~ finds and determines:

- (a) the basis of the need for the facility;
- (b) the nature of the probable environmental impact;

(c) that the facility minimizes adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives;

(d) each of the criteria listed in 75-20-503;

(e) in the case of an electric, gas, or liquid transmission line or aqueduct:

(i) what part, if any, of the line or aqueduct ~~shall~~ is to be located underground;

(ii) that the facility is consistent with regional plans for expansion of the appropriate grid of the utility systems serving the state and interconnected utility systems; and

(iii) that the facility will serve the interests of utility system economy and reliability;

(f) that the location of the facility as proposed conforms to applicable state and local laws and regulations ~~issued thereunder~~, except that the board may refuse to apply any local law or regulation if it finds that, as applied to the proposed facility, the law or regulation is unreasonably restrictive in view of the existing technology, of factors of cost or economics, or of the needs of consumers, whether located inside or outside of the directly affected government subdivisions;

(g) that the facility will serve the public interest, convenience, and necessity;

(h) that the department ~~of health~~ or the board ~~of~~

1 health---have has issued a decision, opinion, order,
2 certification, or permit as required by 75-20-216(3); and

3 (i) that the use of public lands for location of the
4 facility was evaluated and public lands were selected
5 whenever their use is as economically practicable as the use
6 of private lands and compatible with the environmental
7 criteria listed in 75-20-503.

8 (3) In determining that the facility will serve the
9 public interest, convenience, and necessity under subsection
10 (2)(g) ~~of this section~~, the board shall consider:

11 (a) the items listed in subsections (2)(a) and (2)(b)
12 ~~of this section~~;

13 (b) the benefits to the applicant and the state
14 resulting from the proposed facility;

15 (c) the effects of the economic activity resulting from
16 the proposed facility;

17 (d) the effects of the proposed facility on the public
18 health, welfare, and safety;

19 (e) any other factors that it considers relevant.

20 (4) Considerations of need, public need, or public
21 convenience and necessity and demonstration thereof by the
22 applicant ~~shall~~ apply only to utility facilities."

23 **Section 60.** Section 75-20-302, MCA, is amended to read:

24 "75-20-302. Conditions imposed. (1) If the board
25 determines that the location of all or a part of the

1 proposed facility should be modified, it may condition its
2 certificate upon ~~such~~ the modification, provided that the
3 persons residing in the area affected by the modification
4 have been given reasonable notice of the modification.

5 (2) In making its findings under 75-20-301(2)(a) for a
6 facility defined in 75-20-104~~(1)(a)(i)~~(8)(a)(i), the board
7 may condition a certificate upon actual load growth reaching
8 a specified level or on availability of other planned energy
9 resources."

10 **Section 61.** Section 75-20-303, MCA, is amended to read:

11 "75-20-303. Opinion issued with decision -- contents.
12 (1) In rendering a decision on an application for a
13 certificate, the board shall issue an opinion stating its
14 reasons for the action taken.

15 (2) If the board has found that any regional or local
16 law or regulation ~~which that~~ would be otherwise applicable
17 is unreasonably restrictive pursuant to 75-20-301(2)(f), it
18 shall state in its opinion the reasons therefor.

19 (3) Any certificate issued by the board ~~shall~~ must
20 include the following:

21 (a) an environmental evaluation statement related to
22 the facility being certified. The statement ~~shall~~ must
23 include but not be limited to analysis of the following
24 information:

25 (i) the environmental impact of the proposed facility;

(ii) any adverse environmental effects ~~which~~ that cannot be avoided by issuance of the certificate;

(iii) problems and objections raised by other federal and state agencies and interested groups; and

(iv) alternatives to the proposed facility;

(b) a plan for monitoring environmental effects of the proposed facility;

(c) a plan for monitoring the certified facility site between the time of certification and completion of construction;

(d) a time limit as provided in subsection (4); and

(e) a statement signed by the applicant showing agreement to comply with the requirements of this chapter and the conditions of the certificate.

(4) (a) The board shall issue as part of the certificate the following time limits:

(i) For a facility as defined in ~~(b) or (c)~~ 75-20-104(10)(b) or (8)(c) that is more than 30 miles in length, construction must be completed within 10 years.

(ii) For a facility as defined in ~~(b)~~ 75-20-104(10)(b) that is 30 miles or less in length, construction must be completed within 5 years.

(iii) For a facility as defined in ~~(a)~~ 75-20-104(10)(a), construction must begin within 6 years and continue with due diligence in accordance with

preliminary construction plans established in the certificate.

(b) Unless extended or renewed in accordance with ~~subsection (4)(c) or~~ 75-20-225 through 75-20-227 or subsection (4)(c) of this section, a certificate lapses and is void if the facility is not constructed or if construction of the facility is not commenced within the time limits provided in this section.

(c) The time limit may be extended for a reasonable period upon a showing by the applicant to the board that a good faith effort is being undertaken to complete construction under subsections (4)(a)(i) and (4)(a)(ii) or to begin construction under subsection (4)(a)(iii). Under this subsection (c), a good faith effort includes the process of acquiring any necessary state or federal permit or certificate for the facility and the process of judicial review of any such permit or certificate.

(5) The provisions of subsection (4) apply to any facility for which a certificate has not been issued or for which construction is yet to be commenced."

Section 62. Section 75-20-304, MCA, is amended to read:

"75-20-304. Waiver of provisions of certification proceedings. (1) The board may waive compliance with any of the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part if the applicant makes a clear and convincing

showing to the board at a public hearing that an immediate, urgent need for a facility exists and that the applicant did not have knowledge that the need for the facility existed sufficiently in advance to fully comply with the provisions of 75-20-216 through 75-20-222, 75-20-501, and this part.

(2) The board may waive compliance with any of the provisions of this chapter upon receipt of notice by a person subject to this chapter that a facility or associated facility has been damaged or destroyed as a result of fire, flood, or other natural disaster or as the result of insurrection, war, or other civil disorder and there exists an immediate need for construction of a new facility or associated facility or the relocation of a previously existing facility or associated facility in order to promote the public welfare.

(3) The board shall waive compliance with the requirements of ~~subsections (2)(c), (3)(b), and (3)(c)~~ of 75-20-301(2)(c), (3)(b), and (3)(c) and the requirements of ~~subsections (i)(a)(iv) and (i)(a)(v)~~ of 75-20-211(1)(a)(iv) and (1)(a)(v), 75-20-216(3), and 75-20-303(3)(a)(iv) relating to consideration of alternative sites if the applicant makes a clear and convincing showing to the board at a public hearing that:

(a) a proposed facility will be constructed in a county where a single employer within the county has permanently

curtailed or ceased operations causing a loss of 250 or more permanent jobs within 2 years at the employer's operations within the preceding 10-year period;

(b) the county and municipal governing bodies in whose jurisdiction the facility is proposed to be located support by resolution such a waiver;

(c) the proposed facility will be constructed within a 15-mile radius of the operations that have ceased or been curtailed; and

(d) the proposed facility will have a beneficial effect on the economy of the county in which the facility is proposed to be located.

(4) The waiver provided for in subsection (3) applies only to permanent job losses by a single employer. The waiver provided for in subsection (3) does not apply to jobs of a temporary or seasonal nature, including but not limited to construction jobs or job losses during labor disputes.

(5) The waiver provided for in subsection (3) does not apply to consideration of alternatives or minimum adverse environmental impact for a facility defined in ~~subsections (b), (c), (d), or (e)~~ of 75-20-104(8)(b), (8)(c), (8)(d), or (8)(e), for an associated facility defined in 75-20-104(3), or for any portion of or process in a facility defined in ~~subsection (a)~~ of 75-20-104(8)(a) to the extent that the process or portion of the facility is not

1 subject to a permit issued by the department ~~of--health~~ or
2 ~~the board of-health~~.

3 (6) The applicant shall pay all expenses required to
4 process and conduct a hearing on a waiver request under
5 subsection (3). However, any payments made under this
6 subsection ~~shall~~ must be credited toward the fee paid under
7 75-20-215 to the extent the data or evidence presented at
8 the hearing or the decision of the board under subsection
9 (3) can be used in making a certification decision under
10 this chapter.

11 (7) The board may grant only one waiver under
12 subsections (3) and (4) for each permanent loss of jobs as
13 defined in subsection (3)(a)."

14 **Section 63.** Section 75-20-402, MCA, is amended to read:

15 **"75-20-402. Monitoring.** The board, and the department,
16 ~~the-department-of-health, and--the--board--of--health~~ shall
17 monitor the operations of all certificated facilities ~~for~~
18 ~~assuring to ensure~~ continuing compliance with this chapter
19 and certificates issued hereunder under this chapter and for
20 discovering and preventing noncompliance with this chapter
21 and the certificates. The applicant shall pay all expenses
22 related to the monitoring plan established in ~~subsection~~
23 ~~(3)(b)-or-(3)(c)-of~~ 75-20-303(3)(b) or (3)(c) to the extent
24 that federal funds available for the facility, as determined
25 by the department ~~of-health~~, have not been provided for such

1 purposes."

2 **Section 64.** Section 75-20-406, MCA, is amended to read:

3 **"75-20-406. Judicial review of board, ~~board-of-health,~~**
4 ~~and-department-of-health~~ decisions. (1) Any active party as
5 defined in 75-20-221 aggrieved by the final decision of the
6 board on an application for a certificate may obtain
7 judicial review of that decision by the filing of a petition
8 in a state district court of competent jurisdiction.

9 (2) The judicial review procedure ~~shall~~ must be the
10 same as that for contested cases under the Montana
11 Administrative Procedure Act.

12 (3) When the board ~~of-health-or--department--of--health~~
13 conducts hearings pursuant to 75-20-216(3) and 75-20-218 and
14 the applicant is granted a permit or certification, with or
15 without conditions, pursuant to the laws administered by the
16 department ~~of-health~~ and the board ~~of--health~~ and this
17 chapter, the decision may ~~only~~ be appealed only in
18 conjunction with the final decision of the board as provided
19 in subsections (1) and (2). If a permit or certification is
20 denied by the department ~~of-health~~ or the board ~~of-health~~
21 under 75-20-216(3), the applicant may:

22 (a) appeal the denial under the appellate review
23 procedures provided in the laws administered by the
24 department ~~of-health~~ and the board ~~of-health~~; or

25 (b) reserve the right to appeal the denial by the

department ~~of-health~~ or the board ~~of-health~~ until after the board has issued a final decision.

(4) Nothing in this section may be construed to prohibit the board from holding a hearing as ~~herein~~ provided in this chapter on all matters that are not the subject of a pending appeal by the applicant under subsection (3)(a)."

Section 65. Section 75-20-501, MCA, is amended to read:

"75-20-501. Annual long-range plan submitted -- contents -- available to public -- least-cost plan. (1) Except as provided in subsection (5), each utility and each person contemplating the construction of a facility within this state in the ensuing 10 years shall furnish annually to the department for its review a long-range plan for the construction and operation of facilities.

(2) The plan must be submitted by July 1 of each year and must include the following:

(a) the general location, size, and type of all facilities to be owned and operated by the utility or person whose construction is projected to commence during the ensuing 10 years, as well as those facilities to be removed from service during the planning period;

(b) in the case of planned development of utility facilities, a description of efforts by the utility or person to coordinate with other utilities and regional planning;

(c) a description of the efforts to involve environmental protection and land use planning agencies in the planning process, as well as other efforts to identify and minimize environmental problems at the earliest possible stage in the planning process;

(d) projections of the demand for the service rendered by the utility or person and explanation of the basis for those projections and a description of the manner and extent to which the proposed facilities will meet the projected demand; and

(e) additional information that the board by rule or the department on its own initiative or upon the advice of interested state agencies might request in order to carry out the purposes of this chapter.

(3) The plan ~~shall~~ must be furnished to the governing body of each county in which any facility included in the plan under (2)(a) ~~of this section~~ is proposed to be located and must be made available to the public by the department. The utility or person shall give public notice throughout the state of its plan by filing the plan with the environmental quality council, ~~the department of health and environmental sciences,~~ the department of transportation, the department of public service regulation, ~~the department of state lands,~~ ~~the department of fish, wildlife, and parks,~~ and the department of commerce. Citizen environmental

protection and resource planning groups and other interested persons may obtain a plan by written request and payment for the plan to the department.

(4) A rural electric cooperative may furnish the department with a copy of the long-range plan and 2-year work plan or other integrated resource plan required to be completed under federal rural electrification administration or other federal agency requirements in lieu of the long-range plan required in subsection (1).

(5) The provisions of subsections (1) through (4) do not apply to a public utility that submits an integrated least-cost resource plan to the public service commission pursuant to Title 69, chapter 3, part 12.

(6) A public utility that submits an integrated least-cost resource plan pursuant to Title 69, chapter 3, part 12, shall contract with the department to fund the actual and necessary costs of the department that are associated with preparing the department's comments on the public utility's plan and with obtaining other agencies' comments, as provided in 69-3-1205. If a contract is not entered into prior to the submission of the plan, the department, upon completion of its review and comment, shall bill the utility for the department's costs."

Section 66. Section 75-20-1202, MCA, is amended to read:

"75-20-1202. Definitions. As used in this part and 75-20-201 through 75-20-203, the following definitions apply:

(1) "Facility", as defined in 75-20-104~~(1)(b)~~, is further defined to include any nuclear facility as defined in subsection (2)(a).

(2) (a) "Nuclear facility" means each plant, unit, or other facility designed for or capable of:

(i) generating 50 megawatts of electricity or more by means of nuclear fission;

(ii) converting, enriching, fabricating, or reprocessing uranium minerals or nuclear fuels; or

(iii) storing or disposing of radioactive wastes or materials from a nuclear facility.

(b) Nuclear facility does not include any small-scale facility used solely for educational, research, or medical purposes not connected with the commercial generation of energy."

Section 67. Section 76-13-132, MCA, is amended to read:

"76-13-132. Onsite consultation. (1) The department shall make its decision on whether or not to require an onsite consultation based on whether:

(a) the proposed timber sale is in a high-priority location for watershed resources;

(b) a consultation could contribute to improved

watershed management; and

(c) the department has sufficient resources to conduct the consultation.

(2) The department shall schedule an onsite consultation at a time mutually agreeable to the operator, the owner (if he the owner can be contacted and wishes to participate), and the department. Unless otherwise agreeable to the operator and a participating owner, a consultation must be held no later than:

(a) 10 calendar days after the mailing of the notice by the department, if the site is accessible; or

(b) if the site is temporarily inaccessible due to road conditions, weather conditions, or other factors, 10 calendar days after the operator indicates the site is accessible.

(3) The onsite consultation must include representatives of the department, the operator, and, if the owner desires representation, the owner. Representatives of ~~the department of health and environmental sciences, the department of fish, wildlife, and parks, and~~ the local conservation district may also participate but must meet the consultation schedule established under 76-13-131(3)(c) or subsection (2) of this section.

(4) If the department and the operator are not able to schedule an onsite consultation within the time limits

provided in subsection (2)(a) or (2)(b) or at another mutually agreeable time, the requirement for a consultation is terminated. The operator may then proceed with forest practices immediately upon the expiration of the time limits provided in subsection (2)(a) or (2)(b)."

Section 68. Section 76-14-103, MCA, is amended to read:

"76-14-103. Definitions. As used in this part, the following definitions apply:

(1) "Committee" means the Montana rangeland resources committee selected as provided in 2-15-3305(2).

(2) "Department" means the department of ~~natural resources and conservation~~ resource management.

(3) "Grazeable woodlands" means forest land on which the understory includes, as an integral part of the forest plant community, plants that can be grazed without significantly impairing other forest values.

(4) "Montana rangeland resource program" means the rangeland resource program administered by the a conservation districts division of the department of ~~natural resources and conservation~~ resource management in concert with the Montana conservation districts law and the Grass Conservation Act to maintain and enhance the rangeland resources of the state.

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

1 (6) "Range condition" means the current condition of
2 the vegetation on a range site in relation to the natural
3 potential plant community for that site.

4 (7) "Rangeland" means land on which the native
5 vegetation (climax or natural potential) is predominantly
6 grasses, grasslike plants, forbs, or shrubs suitable for
7 grazing or browsing use.

8 (8) "Range management" means a distinct discipline
9 founded on ecological principles and dealing with the
10 husbandry of rangelands and range resources.

11 (9) "State coordinator" means the state coordinator for
12 the Montana Rangeland Resources Act provided for in
13 2-15-3304.

14 (10) "Tame pasture" means land that has been modified by
15 mechanical cultivation and whose current vegetation consists
16 of native or introduced species, or both.

17 (11) "Users of rangeland" means all persons, including
18 but not limited to ranchers, farmers, sportsmen,
19 recreationists, and others appreciative of the functional,
20 productive, aesthetic, and recreational uses of rangelands."

21 **Section 69.** Section 76-16-104, MCA, is amended to read:

22 "76-16-104. Role of the department. (1) The department
23 of ~~natural--resources--and-conservation~~ resource management
24 shall assist in carrying out the purposes of this chapter,
25 act in an advisory capacity with the ~~department-of-state~~

1 ~~lands-and~~ boards of county commissioners, and supervise and
2 coordinate the formation and operation of districts ~~which~~
3 that may be incorporated under this chapter.

4 (2) The department may act in an advisory capacity to
5 the ~~department---of---state---lands---and~~ boards of county
6 commissioners for the purpose of working out uniform plans
7 for the use of lands lying within or without the boundaries
8 of state districts in conformity with recognized
9 conservation and stabilization policies."

10 **Section 70.** Section 76-16-307, MCA, is amended to read:

11 "76-16-307. Requirement to lease available state lands.
12 State land situated within the boundaries of a grazing
13 district created under this chapter, not otherwise disposed
14 of by the department ~~of-state-lands~~, must be leased by the
15 grazing district at a reasonable rental when offered for
16 lease to the officers of the grazing district by ~~that the~~ the
17 department. However, the officers of the grazing district
18 may appear or submit evidence in writing before the
19 department ~~of---state---lands~~ and show reason and cause for a
20 change in the rental. If there is cause, the department ~~of~~
21 ~~state---lands~~ may reappraise the land in question. The
22 department ~~of---natural---resources---and---conservation~~ shall
23 require that all state districts comply with this section."

24 **Section 71.** Section 77-1-101, MCA, is amended to read:

25 "77-1-101. Definitions. Unless the context requires

1 otherwise and except for the definition of state land in
2 77-1-701, in this title, the following definitions apply:

3 (1) "Board" means the board of land commissioners
4 provided for in Article X, section 4, of the Montana
5 constitution of this state.

6 (2) "Commercial or concentrated recreational use" means
7 any recreational use that is organized, developed, or
8 coordinated, whether for profit or otherwise. Commercial or
9 concentrated recreational use includes all outfitting
10 activity and all activities not included within the
11 definition of general recreational use.

12 ~~{3}--"Commissioner"--means--the--commissioner--of--state~~
13 ~~lands-provided-for-in-2-15-3202-~~

14 ~~{4}{3}~~ "Department" means the department of ~~state-lands~~
15 resource management provided for in ~~Title--27--chapter--15-~~
16 ~~part-32 [section 1]~~.

17 ~~{5}{4}~~ "General recreational use" includes
18 noncommercial and nonconcentrated hunting, fishing, and
19 other activities determined by the board to be compatible
20 with the use of state lands. General recreational use does
21 not include the use of streams and rivers by the public
22 under the stream access laws provided in Title 23, chapter
23 2, part 3.

24 ~~{6}{5}~~ "Legally accessible state lands" means state
25 lands that can be accessed by dedicated public road,

1 right-of-way, or easement; by public waters; by adjacent
2 federal, state, county, or municipal land if the land is
3 open to public use; or by adjacent contiguous private land
4 if permission to cross the land has been secured from the
5 landowner. The granting of permission by a private landowner
6 to cross private property in a particular instance does not
7 subject the state land that is accessed to general
8 recreational use by members of the public other than those
9 granted permission.

10 ~~{7}{6}~~ "State land" or "lands" means lands granted to
11 the state by the United States for any purpose, either
12 directly or through exchange for other lands; lands deeded
13 or devised to the state from any person; and lands that are
14 the property of the state through the operation of law. The
15 term does not include lands the state conveys through the
16 issuance of patent; lands used for building sites, campus
17 grounds, or experimental purposes by any state institution
18 that are the property of that institution; or lands acquired
19 through foreclosure of any investments purchased under the
20 provisions of 17-6-211."

21 **Section 72.** Section 77-1-802, MCA, is amended to read:

22 "77-1-802. Recreational use license -- fee. (1) The fee
23 for a recreational use license must[, taking into account
24 recommendations of the state land board advisory council,]
25 attain full market value.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts.

(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808.

(3) The department may contract ~~with the department of fish, wildlife, and parks~~ for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department ~~of fish, wildlife, and parks~~ and in accordance with the provisions of Title 87, chapter 2, part 9. (Bracketed language in subsection (1) terminates March 1, 1996--sec. 17, Ch. 586, L. 1993.)"

Section 73. Section 77-5-104, MCA, is amended to read:

"77-5-104. Firewardens. (1) The department shall appoint firewardens in the number and localities as it considers necessary.

(2) The supervisors and rangers of the federal forest lands within this state, whenever they formally accept the duties and responsibilities of firewardens, may be appointed

firewardens.

(3) The following are firewardens but may not receive any additional compensation by reason of the duties imposed:

(a) sheriffs;

(b) undersheriffs;

(c) deputy sheriffs;

(d) state fish, wildlife, and parks game wardens and state park rangers;

~~(e) the state fish, wildlife, and parks director;~~

~~(f)~~(e) the commissioner director and employees of the department designated by the commissioner director;

~~(g)~~(f) officers of organized forest protection districts;

~~(h)~~(g) members of the Montana highway patrol;

~~(i)~~(h) officers of the national park service residing in Montana;

~~(j)~~(i) officers of the bureau of Indian affairs;

~~(k)~~(j) county rural fire chiefs; and

~~(l)~~(k) employees of the state fire prevention and investigation program provided for in 2-15-2005.

(4) The firewardens shall promptly report all fires to the department, take immediate and active steps toward their extinguishment, report any violation of forest laws, and assist in apprehending and convicting offenders."

Section 74. Section 80-8-201, MCA, is amended to read:

1 *80-8-201. Registration. (1) Every pesticide
2 distributed, sold, or offered for sale within the state or
3 delivered for transportation or transported in intrastate
4 commerce or between points within the state must be
5 registered with the department. The registration must be
6 renewed annually by the manufacturer, formulator, or
7 distributor. of the pesticide. The department shall register
8 all federally approved pesticides, and those registered are
9 subject to registration fees and all other provisions of
10 this chapter. All registrations of pesticides expire on
11 December 31 following the date of issuance unless otherwise
12 terminated.

13 (2) The applicant for registration shall file with the
14 department a statement including:

15 (a) the name and address of the applicant and the name
16 and address of the person whose name will appear on the
17 label, if other than the registrant;

18 (b) a complete copy of the label of the pesticide, the
19 United States environmental protection agency registration
20 number if the pesticide is registered, and a statement of
21 all claims to be made for it, including directions for use;

22 (c) the trade and chemical name of the pesticide;

23 (d) if requested by the department, a full description
24 of tests made and the results upon which the claims are
25 based. In the case of renewal of registration, a statement

1 is required only for information that is different from that
2 furnished when the pesticide was registered or last
3 reregistered.

4 (3) A pesticide imported into the state that is subject
5 to and has been registered under the provisions of a federal
6 act providing for the registration of pesticides must be
7 registered in the state. However, the state may restrict the
8 sale or use and application of the pesticide by type of
9 dealer, applicator, time, and place and may establish
10 special registrations of pesticides as outlined in
11 subsection (8) of this section and 80-8-105(3). The annual
12 registration fee must also be paid, and registration
13 information required by the department must be provided.

14 (4) The applicant shall pay an annual fee of \$70 for
15 each pesticide registered. A registration fee is not
16 required to register a federally approved experimental use
17 permit.

18 (5) The department may require the submission of the
19 complete formula and certified analytical standards of any
20 pesticide. If it appears to the department that the
21 composition of the pesticide warrants the proposed claims
22 for it and if the pesticide and its labeling and other
23 material required to be submitted comply with the
24 requirements of 80-8-202, the department shall register the
25 pesticide.

1 (6) If it does not appear to the department that the
 2 pesticide warrants the proposed claims for it or if the
 3 pesticide and its labeling and other material required to be
 4 submitted do not comply with this chapter, the department
 5 shall notify the applicant of the manner in which the
 6 pesticide, labeling, or other material required to be
 7 submitted fails to comply with the chapter to provide the
 8 applicant an opportunity to make the necessary corrections.
 9 If the applicant does not make the corrections upon receipt
 10 of the notice, the department may refuse to register the
 11 pesticide. The department may suspend or cancel the
 12 registration of a pesticide whenever it does not appear that
 13 the pesticide or its labeling comply with this chapter or
 14 whenever scientific evidence proves that the pesticide
 15 endangers humans or the general environment afforded
 16 protection under 80-8-105(3)(a). When an application for
 17 registration is refused or the department proposes to
 18 suspend or cancel a registration, the registrant may pursue
 19 administrative remedies under the Montana Administrative
 20 Procedure Act and rules of the department.

21 (7) Registration is not required in the case of a
 22 pesticide shipped from one plant in the state to another
 23 plant in the state by the same person.

24 (8) (a) The departments of ~~health--and--environmental~~
 25 ~~sciences~~, resource management and ~~agriculture--and--fish~~

1 ~~wildlife--and--parks~~ shall review all applications for
 2 registration of an experimental-use permit or a registration
 3 for special local needs. The applicant shall pay a one-time
 4 fee of \$70 for a special local need or experimental-use
 5 permit registration. The departments shall utilize the same
 6 requirements and standards for reviewing registrations
 7 established by the Federal Insecticide, Fungicide, and
 8 Rodenticide Act, as amended, and regulations adopted under
 9 the act. The department of agriculture shall provide the
 10 ~~departments--of--health-and--environmental--sciences--and--fish~~
 11 ~~wildlife--and--parks~~ department of resource management with a
 12 complete copy of the application, related correspondence,
 13 and a statement of the department of agriculture's proposed
 14 action on the application. The ~~departments--of--health--and~~
 15 ~~environmental--sciences--and--fish--wildlife--and--parks~~
 16 department of resource management shall approve or
 17 disapprove the application within 10 days after the receipt
 18 of the application. If the departments of ~~health--and~~
 19 ~~environmental--sciences~~, resource management and ~~agriculture~~
 20 ~~and--fish--wildlife--and--parks~~ are in agreement with the
 21 proposed registration, the department of agriculture shall
 22 issue the registration.

23 (b) The department of agriculture shall establish a
 24 time and place for an interagency conference for the
 25 purposes of resolving the registration of any pesticide or

1 device. If ~~two~~ both of the departments approve the proposed
2 registration, the department of agriculture shall issue the
3 registration.

4 (c) The registrant applying for registration must be
5 notified as to proposed changes in registration. If the
6 departments cannot resolve the proposed registration
7 following the interagency conference, the registrant may
8 request a joint administrative hearing before the
9 departments of resource management and agriculture, ~~health~~
10 ~~and environmental sciences~~, ~~and fish~~, ~~wildlife~~, ~~and parks~~.

11 (d) Following the interagency conference and, if
12 requested, the administrative hearing, if the proposed
13 registration of a pesticide or device has not been resolved,
14 the department of agriculture shall appoint an advisory
15 council as outlined in 80-8-108 to resolve by majority vote
16 the registration of any pesticide. The advisory council's
17 recommendations on the registration must be accepted by the
18 departments and implemented by the department of
19 agriculture.

20 (9) (a) Pesticides registered under any federal law
21 when canceled for sale and use in total or in part by a
22 federal agency responsible for registration are considered
23 canceled in total or in part for sale and use in Montana.
24 The cancellation is effective on the final date of sale or
25 use allowed under the federal law and rules or orders of the

1 federal agency. Except as provided in subsection (9)(b), if
2 the federal cancellation allows existing stock to be used
3 past the final date of cancellation, the sale or use in this
4 state may not exceed 2 years. The department shall provide
5 technical assistance to any person in possession of the
6 products to ensure their proper disposal, relabeling, or
7 removal.

8 (b) Pesticide products canceled under the Federal
9 Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C.
10 136a-1(i)(5), may be sold and used according to
11 environmental protection agency labeling requirements or
12 other requirements for a period not to exceed 6 years from
13 the date that distribution from the registrant,
14 manufacturer, formulator, or distributor is terminated."

15 **Section 75.** Section 81-7-102, MCA, is amended to read:

16 "81-7-102. Department to supervise destruction of
17 predatory animals -- cooperation with other agencies --
18 administration of moneys money. (1) The department of
19 livestock shall conduct the destruction, extermination, and
20 control of wild animals predatory in nature and capable of
21 killing, destroying, maiming, or injuring domestic livestock
22 or domestic poultry, and shall conduct the protection and
23 safeguarding of livestock and poultry in this state against
24 depredations from these animals. The department shall
25 formulate the practical programs for accomplishing these

objectives in this state and for carrying out the programs in an efficient and practical manner responsive to the need for control in each area of this state.

(2) The department shall adopt rules applicable to predatory animal control which that are necessary and proper for the systematic destruction of the wild animals by hunting, trapping, and poisoning operations and payments of bounties. The department shall make field, area, range, or other orders and instructions, including orders and instructions to hunter and trapper personnel and others, which that are appropriate in the various areas at different seasons of the year, taking into consideration the habits, presence, migrations, or movements of the animals and their attacks on livestock and poultry, either singly or in packs or bands.

(3) The department shall cooperate with authorized representatives of the federal government, including the biological survey and the fish and wildlife service; the department of ~~fish,--wildlife,--and--parks~~ resource management; boards of county commissioners; voluntary associations of stockgrowers, sheepgrowers, ranchers, farmers, and sportsmen; and corporations and individuals in the systematic destruction of wild animals by hunting, trapping, and poisoning operations.

(4) This section and 81-7-103 do not interfere with or

impair the power and duties of the department of ~~fish, wildlife,--and--parks~~ resource management in the control of predatory animals by the department of ~~fish,--wildlife,--and--parks~~ resource management as authorized by law, or the obligation of the department of ~~fish,--wildlife,--and--parks~~ resource management to expend its funds in cooperation with the department for predatory animal control as required by law. Funds of the department of ~~fish,--wildlife,--and--parks~~ resource management for the cooperative predatory animal control ~~shall~~ must be administered and expended by the department of ~~fish,--wildlife,--and--parks~~ resource management."

Section 76. Section 82-4-203, MCA, is amended to read:

"82-4-203. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Abandoned" means an operation where no mineral is being produced and where the department determines that the operation will not continue or resume.

(2) "Alluvial valley floor" means the unconsolidated stream-laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities; but the term does not include upland areas which that are generally overlain by a thin veneer of colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated runoff or

1 slope wash, together with talus, other mass movement
2 accumulation, and windblown deposits.

3 (3) "Aquifer" means any geologic formation or natural
4 zone beneath the earth's surface that contains or stores
5 water and transmits it from one point to another in
6 quantities which that permit or have the potential to permit
7 economic development as a water source.

8 (4) "Area of land affected" means the area of land from
9 which overburden is to be or has been removed and upon which
10 the overburden is to be or has been deposited and includes
11 all land overlying any tunnels, shafts, or other excavations
12 used to extract the mineral, lands affected by the
13 construction of new railroad loops and roads or the
14 improvement or use of existing railroad loops and roads to
15 gain access and to haul the mineral, processing facilities
16 at or near the mine site or other mine associated
17 facilities, waste deposition areas, treatment ponds, and any
18 other surface or subsurface disturbance associated with
19 strip mining or underground mining, and all activities
20 necessary and incident to the reclamation of such
21 operations.

22 (5) "Bench" means the ledge, shelf, table, or terrace
23 formed in the contour method of strip mining.

24 (6) "Board" means the board of land commissioners
25 provided for in Article X, section 4, of the constitution of

1 this state.

2 (7) "Coal conservation plan" means the planned course
3 of conduct of a strip- or underground-mining operation to
4 include plans for the removal and utilization of minable and
5 marketable coal located within the area planned to be mined.

6 (8) "Coal preparation" means the chemical or physical
7 processing of coal and its cleaning, concentrating, or other
8 processing or preparation. The term does not mean the
9 conversion of coal to another energy form or to a gaseous or
10 liquid hydrocarbon, except for incidental amounts that do
11 not leave the plant, nor does the term mean processing for
12 other than commercial purposes.

13 (9) "Coal preparation plant" means a commercial
14 facility where coal is subject to coal preparation. The term
15 includes commercial facilities associated with coal
16 preparation activities but is not limited to loading
17 buildings, water treatment facilities, water storage
18 facilities, settling basins and impoundments, and coal
19 processing and other waste disposal areas.

20 ~~{10} "Commissioner" means the commissioner of state~~
21 ~~lands provided for in 2-15-3202.~~

22 ~~{11}~~ {10} "Contour strip mining" means that strip-mining
23 method commonly carried out in areas of rough and hilly
24 topography in which the coal or mineral seam outcrops along
25 the side of the slope and entrance is made to the seam by

1 excavating a bench or table cut at and along the site of the
2 seam outcropping with the excavated overburden commonly
3 being cast down the slope below the mineral seam and the
4 operating bench.

5 {12}(11) "Degree" means from the horizontal and in each
6 case is subject to a tolerance of 5% error.

7 {13}(12) "Department" means the department of state
8 ~~lands resource management~~ provided for in ~~Title--27--chapter~~
9 ~~157-part-32~~ [section 1].

10 {14}(13) "Failure to conserve coal" means the nonremoval
11 or nonutilization of minable and marketable coal by an
12 operation, provided that the nonremoval or nonutilization of
13 minable and marketable coal in accordance with reclamation
14 standards established by the department may not be
15 considered failure to conserve coal.

16 {15}(14) "Fill bench" means that portion of a bench or
17 table ~~which~~ that is formed by depositing overburden beyond
18 or downslope from the cut section as formed in the contour
19 method of strip mining.

20 {16}(15) "Imminent danger to the health and safety of
21 the public" means the existence of any condition or practice
22 or any violation of a permit or other requirement of this
23 part in a strip- or underground-coal-mining and reclamation
24 operation that could reasonably be expected to cause
25 substantial physical harm to persons outside the permit area

1 before the condition, practice, or violation can be abated.
2 A reasonable expectation of death or serious injury before
3 abatement exists if a rational person, subjected to the same
4 conditions or practices giving rise to the peril, would not
5 willingly be exposed to the danger during the time necessary
6 for abatement.

7 {17}(16) "Marketable coal" means a minable coal that is
8 economically feasible to mine and is fit for sale in the
9 usual course of trade.

10 {18}(17) "Method of operation" means the method or
11 manner by which the cut, open pit, shaft, or excavation is
12 made, the overburden is placed or handled, water is
13 controlled, and other acts are performed by the operator in
14 the process of uncovering and removing the minerals that
15 affect the reclamation of the area of land affected.

16 {19}(18) "Minaable coal" means that coal ~~which~~ that can
17 be removed through strip- or underground-mining methods
18 adaptable to the location that coal is being mined or is
19 planned to be mined.

20 {20}(19) "Mineral" means coal and uranium.

21 {21}(20) "Operation" means all of the premises,
22 facilities, railroad loops, roads, and equipment used in the
23 process of producing and removing mineral from and
24 reclaiming a designated strip-mine or underground-mine area,
25 including coal preparation plants, and all activities,

1 including excavation incident to operations, or prospecting
2 for the purpose of determining the location, quality, or
3 quantity of a natural mineral deposit.

4 ~~(22)~~(21) "Operator" means a person engaged in strip
5 mining or underground mining who removes or intends to
6 remove more than 10,000 cubic yards of mineral or overburden
7 or, a person engaged in coal mining who removes or intends
8 to remove more than 250 tons of coal from the earth by
9 mining within 12 consecutive calendar months in any one
10 location, or a person engaged in operating a coal
11 preparation plant.

12 ~~(23)~~(22) "Overburden" means all of the earth and other
13 materials that lie above a natural mineral deposit and also
14 means the earth and other material after removal from their
15 natural state in the process of mining.

16 ~~(24)~~(23) "Person" means a person, partnership,
17 corporation, association, or other legal entity or any
18 political subdivision or agency of the state or federal
19 government.

20 ~~(25)~~(24) "Prime farmland" means that land previously
21 prescribed by the United States secretary of agriculture on
22 the basis of such factors as moisture availability,
23 temperature regime, chemical balance, permeability,
24 surface-layer composition, susceptibility to flooding, and
25 erosion characteristics and ~~which~~ that historically has been

1 used for intensive agricultural purposes and as defined in
2 the Federal Register.

3 ~~(26)~~(25) "Prospecting" means the removal of overburden,
4 core drilling, construction of roads, or any other
5 disturbance of the surface for the purpose of determining
6 the location, quantity, or quality of a natural mineral
7 deposit; the gathering of surface or subsurface geologic,
8 physical, or chemical data by mapping, trenching,
9 geophysical, or other techniques necessary to determine the
10 quality and quantity of overburden in an area; or the
11 gathering of environmental data to establish the conditions
12 of an area before beginning strip- or
13 underground-coal-mining and reclamation operations under
14 this part.

15 ~~(27)~~(26) "Reclamation" means backfilling, subsidence
16 stabilization, water control, grading, highwall reduction,
17 topsoiling, planting, revegetation, and other work to
18 restore an area of land affected by strip mining or
19 underground mining under a plan approved by the department.

20 ~~(28)~~(27) "Remining" means conducting surface coal mining
21 and reclamation operations that affect previously mined
22 areas (for example, the recovery of additional mineral from
23 existing gob or tailings piles).

24 ~~(29)~~(28) "Strip mining" means any part of the process
25 followed in the production of mineral by the opencut method,

1 including mining by the auger method or any similar method
 2 that penetrates a mineral deposit and removes mineral
 3 directly through a series of openings made by a machine that
 4 enters the deposit from a surface excavation or any other
 5 mining method or process in which the strata or overburden
 6 is removed or displaced in order to recover the mineral. For
 7 the purposes of this part only, strip mining also includes
 8 remining and coal preparation. The terms "remining" and
 9 "coal preparation" are not included in the definition of
 10 "strip mining" for purposes of Title 15, chapter 35, part 1.

11 ~~{30}~~(29) "Subsidence" means a vertically downward
 12 movement of overburden materials resulting from the actual
 13 mining of an underlying mineral deposit or associated
 14 underground excavations.

15 ~~{31}~~(30) "Surface owner" means a person who holds legal
 16 or equitable title to the land surface and whose principal
 17 place of residence is on the land or who personally conducts
 18 farming or ranching operations upon a farm or ranch unit to
 19 be directly affected by strip-mining operations or who
 20 receives directly a significant portion of income, if any,
 21 from farming or ranching operations or the state of Montana
 22 where the state owns the surface.

23 ~~{32}~~(31) "Topsoil" means the unconsolidated mineral
 24 matter naturally present on the surface of the earth that
 25 has been subjected to and influenced by genetic and

1 environmental factors of parent material, climate,
 2 macroorganisms and microorganisms, and topography, all
 3 acting over a period of time, and that is necessary for the
 4 growth and regeneration of vegetation on the surface of the
 5 earth.

6 ~~{33}~~(32) "Underground mining" means any part of the
 7 process followed in the production of a mineral such that
 8 vertical or horizontal shafts, slopes, drifts, or incline
 9 planes connected with excavations penetrating the mineral
 10 stratum or strata are utilized and includes mining by in
 11 situ methods.

12 ~~{34}~~(33) "Unwarranted failure to comply" means the
 13 failure of a permittee to prevent the occurrence of any
 14 violation of a permit or any requirement of this part due to
 15 indifference, lack of diligence, or lack of reasonable care,
 16 or the failure to abate any violation of a permit or this
 17 part due to indifference, lack of diligence, or lack of
 18 reasonable care.

19 ~~{35}~~(34) "Waiver" means any document that demonstrates
 20 the clear intention to release rights in the surface estate
 21 for the purpose of permitting the extraction of subsurface
 22 minerals by strip-mining methods.

23 ~~{36}~~(35) "Written consent" means a written statement
 24 executed by the owner of the surface estate, upon a form
 25 approved by the department, demonstrating that the owner

consents to entry of an operator for the purpose of conducting strip-mining operations and that the consent is given only to strip-mining and reclamation operations that fully comply with the terms and requirements of this part."

Section 77. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Amendment" means a change to an approved operating or reclamation plan. A major amendment is an amendment that may significantly affect the human environment. A minor amendment is an amendment that will not significantly affect the human environment.

(3) "Board" means the board of land commissioners or a state employee or state agency as may succeed to its powers and duties under this part.

~~†4) "Commissioner" means the commissioner of state lands provided for in 2-15-3202.~~

†5) (4) "Cyanide ore-processing reagent" means cyanide or a cyanide compound used as a reagent in leaching operations.

†6) (5) "Department" means the department of state lands

resource management.

†7) (6) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation ~~and which~~ that have not been previously reclaimed under the reclamation plan.

†8) (7) "Exploration" means all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in 82-4-310.

†9) (8) "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

†10) (9) "Mining" commences when the operator first mines

1 ores or minerals in commercial quantities for sale,
2 beneficiation, refining, or other processing or disposition
3 or first takes bulk samples for metallurgical testing in
4 excess of aggregate of 10,000 short tons.

5 ~~(11)~~(10) "Ore processing" means milling, heap leaching,
6 flotation, vat leaching, or other standard hard-rock mineral
7 concentration processes.

8 ~~(12)~~(11) "Person" means any person, corporation, firm,
9 association, partnership, or other legal entity engaged in
10 exploration for or mining of minerals on or below the
11 surface of the earth, reprocessing of tailings or waste
12 materials, or operation of a hard-rock mill.

13 ~~(13)~~(12) "Placer deposit" means naturally occurring,
14 scattered or unconsolidated valuable minerals in gravel or
15 alluvium lying above bedrock.

16 ~~(14)~~(13) "Placer or dredge mining" means the mining of
17 minerals from a placer deposit by a person or persons.

18 ~~(15)~~(14) "Reclamation plan" means the operator's written
19 proposal, as required and approved by the board, for
20 reclamation of the land that will be disturbed. The proposal
21 must include, to the extent practical at the time of
22 application for an operating permit:

23 (a) a statement of the proposed subsequent use of the
24 land after reclamation;

25 (b) plans for surface gradient restoration to a surface

1 suitable for the proposed subsequent use of the land after
2 reclamation is completed and the proposed method of
3 accomplishment;

4 (c) the manner and type of revegetation or other
5 surface treatment of disturbed areas;

6 (d) procedures proposed to avoid foreseeable situations
7 of public nuisance, endangerment of public safety, damage to
8 human life or property, or unnecessary damage to flora and
9 fauna in or adjacent to the area;

10 (e) the method of disposal of mining debris;

11 (f) the method of diverting surface waters around the
12 disturbed areas ~~where~~ when necessary to prevent pollution of
13 those waters or unnecessary erosion;

14 (g) the method of reclamation of stream channels and
15 stream banks to control erosion, siltation, and pollution;

16 (h) maps and other supporting documents as may be
17 reasonably required by the department; and

18 (i) a time schedule for reclamation that meets the
19 requirements of 82-4-336.

20 ~~(16)~~(15) (a) "Small miner" means a person, firm, or
21 corporation that engages in the business of mining or
22 reprocessing of tailings or waste materials that does not
23 remove from the earth during any calendar year material in
24 excess of 36,500 tons in the aggregate, that does not hold
25 an operating permit under 82-4-335 except for a permit

issued under 82-4-335(2), and that conducts:

(i) an operation resulting in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations ~~which~~ that disturb and leave unreclaimed less than 5 acres per operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation;

(B) at least 1 mile apart at their closest point; and

(C) not operated simultaneously except during seasonal transitional periods not to exceed 30 days.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation, exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining ceases.

~~(17)~~ (16) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which

earth or minerals exposed at the surface are removed in the course of mining. Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium or excavation or grading conducted for onsite farming, onsite road construction, or other onsite building construction.

~~(18)~~ (17) "Underground mining" means all methods of mining other than surface mining.

~~(19)~~ (18) "Unit of surface-mined area" means that area of land and surface water included within an operating permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit, and it comprises and includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations ~~which~~ that by virtue of mining use are susceptible to erosion in excess of the surrounding undisturbed portions of land.

~~(20)~~ (19) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at the time of reclamation."

Section 78. Section 85-2-102, MCA, is amended to read:

"85-2-102. (Temporary) Definitions. Unless the context requires otherwise, in this chapter the following

definitions apply:

(1) "Appropriate" means to:

(a) divert, impound, or withdraw (including by stock for stock water) a quantity of water;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316; or

(c) ~~in-the-case-of-the-department--of--fish,--wildlife, and-parks,~~ to lease water in accordance with 85-2-436.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural (including stock water), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141; and

(c) a use of water ~~by-the-department-of-fish,--wildlife, and-parks~~ pursuant to a lease authorized under 85-2-436.

(3) "Board" means the board of natural resources and conservation provided for in 2-15-3302.

(4) "Certificate" means a certificate of water right issued by the department.

(5) "Change in appropriation right" means a change in

the place of diversion, the place of use, the purpose of use, or the place of storage.

(6) "Commission" means the fish, wildlife, and parks commission provided for in 2-15-3402.

(7) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information.

(8) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(9) "Department" means the department of ~~natural resources-and-conservation~~ resource management provided for in ~~Title-27-chapter-15,--part-33~~ [section 1].

(10) "Existing right" means a right to the use of water ~~which~~ that would be protected under the law as it existed prior to July 1, 1973.

(11) "Ground water" means any water that is beneath the ground surface.

(12) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(13) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306

through 85-2-314.

(14) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency thereof, or any other entity.

(15) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or any other public body of the state empowered to appropriate water but not a private corporation, association, or group.

(16) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(17) "Substantial credible information" means probable believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(18) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(19) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(20) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

(21) "Water division" means a drainage basin as defined in 3-7-102.

(22) "Water judge" means a judge as provided for in Title 3, chapter 7.

(23) "Water master" means a master as provided for in Title 3, chapter 7.

(24) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn. (Terminates June 30, 1999--sec. 4, Ch. 740, L. 1991.)

85-2-102. (Effective July 1, 1999) Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means to divert, impound, or withdraw (including by stock for stock water) a quantity of water or, in the case of a public agency, to reserve water in accordance with 85-2-316.

(2) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to

1 agricultural (including stock water), domestic, fish and
2 wildlife, industrial, irrigation, mining, municipal, power,
3 and recreational uses; and

4 (b) a use of water appropriated by the department for
5 the state water leasing program under 85-2-141 and of water
6 leased under a valid lease issued by the department under
7 85-2-141.

8 (3) "Board" means the board of natural resources and
9 conservation provided for in 2-15-3302.

10 (4) "Certificate" means a certificate of water right
11 issued by the department.

12 (5) "Change in appropriation right" means a change in
13 the place of diversion, the place of use, the purpose of
14 use, or the place of storage.

15 (6) "Correct and complete" means that the information
16 required to be submitted conforms to the standard of
17 substantial credible information and that all of the
18 necessary parts of the form requiring the information have
19 been filled in with the required information.

20 (7) "Declaration" means the declaration of an existing
21 right filed with the department under section 8, Chapter
22 452, Laws of 1973.

23 (8) "Department" means the department of ~~natural~~
24 ~~resources-and-conservation~~ resource management provided for
25 in ~~Title-27-chapter-157-part-33~~ [section 1].

1 (9) "Existing right" means a right to the use of water
2 ~~which that~~ would be protected under the law as it existed
3 prior to July 1, 1973.

4 (10) "Ground water" means any water that is beneath the
5 ground surface.

6 (11) "Late claim" means a claim to an existing right
7 forfeited pursuant to the conclusive presumption of
8 abandonment under 85-2-226.

9 (12) "Permit" means the permit to appropriate issued by
10 the department under 85-2-301 through 85-2-303 and 85-2-306
11 through 85-2-314.

12 (13) "Person" means an individual, association,
13 partnership, corporation, state agency, political
14 subdivision, the United States or any agency thereof, or any
15 other entity.

16 (14) "Political subdivision" means any county,
17 incorporated city or town, public corporation, or district
18 created pursuant to state law or any other public body of
19 the state empowered to appropriate water but not a private
20 corporation, association, or group.

21 (15) "Salvage" means to make water available for
22 beneficial use from an existing valid appropriation through
23 application of water-saving methods.

24 (16) "Substantial credible information" means probable
25 believable facts sufficient to support a reasonable legal

theory upon which the department should proceed with the action requested by the person providing the information.

(17) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(18) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(19) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other manmade waterways.

(20) "Water division" means a drainage basin as defined in 3-7-102.

(21) "Water judge" means a judge as provided for in Title 3, chapter 7.

(22) "Water master" means a master as provided for in Title 3, chapter 7.

(23) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 79. Section 85-2-223, MCA, is amended to read:

"85-2-223. Public recreational uses. The department of ~~fish, wildlife, and parks~~ shall exclusively represent the public for purposes of establishing any prior and existing public recreational use in existing right determinations under this part, provided that ~~the foregoing shall~~ this section does not exclude a federal governmental entity from representing the public for the purpose of establishing any prior and existing public recreational use in existing right determinations under this part. ~~The--foregoing--shall~~ This section may not be construed in any manner as a legislative determination of whether or not a recreational use sought to be established prior to July 1, 1973, is or was a beneficial use."

Section 80. Section 85-2-311, MCA, is amended to read:

"85-2-311. Criteria for issuance of permit. (1) Except as provided in subsections (3) and (4), the department shall issue a permit if the applicant proves by a preponderance of evidence that the following criteria are met:

(a) there are unappropriated waters in the source of supply at the proposed point of diversion:

(i) at times when the water can be put to the use proposed by the applicant;

(ii) in the amount the applicant seeks to appropriate; and

(iii) during the period in which the applicant seeks to

1 appropriater, and the amount requested is reasonably
2 available;

3 (b) the water rights of a prior appropriator will not
4 be adversely affected;

5 (c) the proposed means of diversion, construction, and
6 operation of the appropriation works are adequate;

7 (d) the proposed use of water is a beneficial use;

8 (e) the proposed use will not interfere unreasonably
9 with other planned uses or developments for which a permit
10 has been issued or for which water has been reserved;

11 (f) the applicant has a possessory interest, or the
12 written consent of the person with the possessory interest,
13 in the property where the water is to be put to beneficial
14 use;

15 (g) the water quality of a prior appropriator will not
16 be adversely affected;

17 (h) the proposed use will be substantially in
18 accordance with the classification of water set for the
19 source of supply pursuant to 75-5-301(1); and

20 (i) the ability of a discharge permit holder to satisfy
21 effluent limitations of a permit issued in accordance with
22 Title 75, chapter 5, part 4, will not be adversely affected.

23 (2) The applicant is required to prove that the
24 criteria in subsections (1)(g) through (1)(i) have been met
25 only if a valid objection is filed. A valid objection must

1 contain substantial credible information establishing to the
2 satisfaction of the department that the criteria in
3 subsection (1)(g), (1)(h), or (1)(i), as applicable, may not
4 be met. For the criteria set forth in subsection (1)(h),
5 only the department ~~of health and environmental sciences~~ or
6 a local water quality district established under Title 7,
7 chapter 13, part 45, may file a valid objection.

8 (3) The department may not issue a permit for an
9 appropriation of 4,000 or more acre-feet of water a year and
10 5.5 or more cubic feet per second of water unless the
11 applicant proves by clear and convincing evidence that:

12 (a) the criteria in subsection (1) are met;

13 (b) the rights of a prior appropriator will not be
14 adversely affected;

15 (c) the proposed appropriation is a reasonable use. A
16 finding must be based on a consideration of the following:

17 (i) the existing demands on the state water supply, as
18 well as projected demands such as reservations of water for
19 future beneficial purposes, including municipal water
20 supplies, irrigation systems, and minimum streamflows for
21 the protection of existing water rights and aquatic life;

22 (ii) the benefits to the applicant and the state;

23 (iii) the effects on the quantity and quality of water
24 for existing beneficial uses in the source of supply;

25 (iv) the availability and feasibility of using

1 low-quality water for the purpose for which application has
2 been made;

3 (v) the effects on private property rights by any
4 creation of or contribution to saline seep; and

5 (vi) the probable significant adverse environmental
6 impacts of the proposed use of water as determined by the
7 department pursuant to Title 75, chapter 1, or Title 75,
8 chapter 20.

9 (4) (a) The state of Montana has long recognized the
10 importance of conserving its public waters and the necessity
11 to maintain adequate water supplies for the state's water
12 requirements, including requirements for reserved water
13 rights held by the United States for federal reserved lands
14 and in trust for the various Indian tribes within the
15 state's boundaries. Although the state of Montana also
16 recognizes that, under appropriate conditions, the
17 out-of-state transportation and use of its public waters are
18 not in conflict with the public welfare of its citizens or
19 the conservation of its waters, the criteria in this
20 subsection (4) must be met before out-of-state use may
21 occur.

22 (b) The department may not issue a permit for the
23 appropriation of water for withdrawal and transportation for
24 use outside the state unless the applicant proves by clear
25 and convincing evidence that:

1 (i) depending on the volume of water diverted or
2 consumed, the applicable criteria and procedures of
3 subsection (1) or (3) are met;

4 (ii) the proposed out-of-state use of water is not
5 contrary to water conservation in Montana; and

6 (iii) the proposed out-of-state use of water is not
7 otherwise detrimental to the public welfare of the citizens
8 of Montana.

9 (c) In determining whether the applicant has proved by
10 clear and convincing evidence that the requirements of
11 subsections (4)(b)(ii) and (4)(b)(iii) are met, the
12 department shall consider the following factors:

13 (i) whether there are present or projected water
14 shortages within the state of Montana;

15 (ii) whether the water that is the subject of the
16 application could feasibly be transported to alleviate water
17 shortages within the state of Montana;

18 (iii) the supply and sources of water available to the
19 applicant in the state where the applicant intends to use
20 the water; and

21 (iv) the demands placed on the applicant's supply in the
22 state where the applicant intends to use the water.

23 (d) When applying for a permit or a lease to withdraw
24 and transport water for use outside the state, the applicant
25 shall submit to and comply with the laws of the state of

Montana governing the appropriation, lease, and use of water.

(5) To meet the preponderance of evidence standard in this section, the applicant, in addition to other evidence demonstrating that the criteria of subsection (1) have been met, shall submit hydrologic or other evidence, including but not limited to water supply data, field reports, and other information developed by the applicant, the department, the U.S. geological survey, or the U.S. soil conservation service and other specific field studies.

(6) An appropriation, diversion, impoundment, use, restraint, or attempted appropriation, diversion, impoundment, use, or restraint contrary to the provisions of this section is invalid. An officer, agent, agency, or employee of the state may not knowingly permit, aid, or assist in any manner an unauthorized appropriation, diversion, impoundment, use, or other restraint. A person or corporation may not, directly or indirectly, personally or through an agent, officer, or employee, attempt to appropriate, divert, impound, use, or otherwise restrain or control waters within the boundaries of this state except in accordance with this section.

(7) The department may adopt rules to implement the provisions of this section."

Section 81. Section 85-2-319, MCA, is amended to read:

"85-2-319. Permit action in highly appropriated basins or subbasins. (1) The legislature may by law preclude permit applications, or the department may by rule reject permit applications or modify or condition permits issued in a highly appropriated basin or subbasin.

(2) A rule may be adopted under this section only upon a petition signed by at least 25% or 10, whichever is less, of the users of water in the source of supply within a basin or subbasin or upon petition of the department ~~of health and environmental~~---sciences alleging facts under subsection (2)(d). The petition must be in a form as prescribed by the department and must allege facts showing that throughout or at certain times of the year or for certain beneficial uses:

(a) there are no unappropriated waters in the source of supply;

(b) the rights of prior appropriators will be adversely affected;

(c) further uses will interfere unreasonably with other planned uses or developments for which a permit has been issued or for which water has been reserved; or

(d) in the case of a petition filed by the department ~~of health and environmental sciences~~ on the basis of water quality issues;

(i) the water quality of an appropriator will be adversely affected by the issuance of permits;

(ii) further use will not be substantially in accordance with the classification of water set for the source of supply pursuant to 75-5-301(1); or

(iii) the ability of a discharge permitholder to satisfy effluent limitations of a permit issued in accordance with Title 75, chapter 5, part 4, will be adversely affected by the issuance of permits.

(3) Within 60 days after submission of a petition, the department shall:

(a) deny the petition in writing, stating its reasons for denial;

(b) inform the petitioners that the department must study the allegations further before denying or proceeding further with the petition; or

(c) initiate rulemaking proceedings in accordance with 2-4-302 through 2-4-305.

(4) Title 2, chapter 4, parts 1 through 4, govern rulemaking proceedings conducted under this section, except that in addition to the notice requirements of those parts, the department notice of the rulemaking hearing must be published at least once in each week for 3 successive weeks, not less than 30 days before the date of the hearing, in a newspaper of general circulation in the county or counties in which the source is located. The department shall serve by mail a copy of the notice, not less than 30 days before

the hearing, upon each person or public agency known from the examination of the records of the department to be a claimant, appropriator, or permitholder of water in the source.

(5) The department may adopt rules to implement the provisions of this section."

Section 82. Section 85-2-436, MCA, is amended to read:

"85-2-436. (Temporary) Water leasing study. (1) The ~~department-of-fishy-wildlife-and-parks-and-the~~ department, in consultation with the water policy committee, shall conduct and coordinate a study that, at a minimum:

(a) provides the following data for each designated stream reach and each pilot lease entered into under subsection (2):

(i) the length of the stream reach and how it is determined;

(ii) technical methods and data used to determine critical streamflow or volume needed to preserve fisheries;

(iii) legal standards and technical data used to determine and substantiate the amount of water available for instream flows through leasing of existing rights;

(iv) contractual parameters, conditions, and other steps taken to ensure that each lease in no way harms other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods and technical means used to monitor use of water under each lease;

(b) based on the data provided under subsection (1)(a), develops a complete model of a water lease and lease authorization that includes a step-by-step explanation of the process from initiation to completion.

(2) For purposes of undertaking the study described in subsection (1) and as authorized by law, ~~the department of fish, wildlife, and parks~~ and the department may engage in the activities described in this subsection. For purposes of this study, this section is the exclusive means by which the department ~~of--fish, wildlife, and parks~~ may seek to change an appropriation right to an instream flow purpose.

(a) The department ~~of fish, wildlife, and parks~~, with the consent of the commission, may lease existing rights for the purpose of maintaining or enhancing streamflows for the benefit of fisheries in stream reaches determined eligible by the board pursuant to 85-2-437.

(b) Upon receipt of a correct and complete application for a lease ~~from--the--department--of--fish--wildlife--and parks~~, the department shall publish notice of the application as provided in 85-2-307. Parties who believe they may be adversely affected by the proposed lease may file an objection as provided in 85-2-308. A lease may not be approved until all objections are resolved. After

resolving all objections filed under 85-2-308, the department shall authorize a lease of an existing right for the purpose of maintaining or enhancing streamflows for the benefit of fisheries if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a lease authorization must include specific information on the length and location of the stream reach in which the streamflow must be maintained or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be measured.

(d) The maximum quantity of water that may be leased is the amount historically diverted by the lessor. However, only the amount historically consumed, or a smaller amount, if specified by the department in the lease authorization, may be used to maintain or enhance streamflows below the lessor's point of diversion.

(e) The lease may not be issued for a term of more than 10 years, but it may be renewed once for up to 10 years, except that a lease of water made available from the development of a water conservation or storage project is restricted to a term of not more than 20 years. Upon receiving notice of a lease renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 30 days for submission of new evidence of

1 adverse effects to other water rights. A lease authorization
 2 is not required for a renewal unless an appropriator other
 3 than an appropriator described in subsection (2)(i) submits
 4 evidence of adverse effects to the appropriator's rights
 5 that has not been considered previously. If new evidence is
 6 submitted, a lease authorization must be obtained according
 7 to the requirements of 85-2-402.

8 (f) During the term of the lease, the department may
 9 modify or revoke the lease authorization if an appropriator
 10 other than an appropriator described in subsection (2)(i)
 11 proves by a preponderance of evidence that the
 12 appropriator's water right is adversely affected.

13 (g) The priority of appropriation for a lease under
 14 this section is the same as the priority of appropriation of
 15 the right that is leased.

16 (h) Neither a change in appropriation right nor any
 17 other authorization is required for the reversion of the
 18 appropriation right to the lessor's previous use.

19 (i) A person issued a water use permit with a priority
 20 of appropriation after the date of filing of an application
 21 for a lease authorization under this section may not object
 22 to the exercise of the lease according to its terms or the
 23 reversion of the appropriation right to the lessor according
 24 to the lessor's previous use.

25 (j) The department of-fish7-wildlife7-and--parks shall

1 pay all costs associated with installing devices or
 2 providing personnel to measure streamflows according to the
 3 measuring plan submitted under this section.

4 (3) (a) The department of--fish7--wildlife7-and-parks
 5 shall complete and submit to the board, commission, and
 6 water policy committee an annual study progress report by
 7 December 1 of each year. This report must include the
 8 applicable information listed in subsection (1) for each
 9 lease, a summary of stream reach designation activity under
 10 85-2-437, and a summary of leasing activity on all
 11 designated streams. If the department of-fish7-wildlife7-and
 12 parks has not leased additional water rights under this
 13 section by December 1 of any year, the department of-fish7
 14 wildlife7-and-parks shall provide compelling justification
 15 for that fact in the study progress report.

16 (b) A final study report must be adopted by the board
 17 and commission and submitted to the water policy committee,
 18 which shall complete the final report by December 1, 1998.

19 (4) This section does not create the right for a person
 20 to bring suit to compel the renewal of a lease that has
 21 expired. (Terminates June 30, 1999--sec. 4, Ch. 740, L.
 22 1991.)"

23 **Section 83.** Section 85-2-437, MCA, is amended to read:

24 "85-2-437. (Temporary) Board designation of eligible
 25 stream reaches. (1) The department of--fish7--wildlife7--and

1 parks, with the consent of the commission, may apply to the
2 board for designation of stream reaches for which water
3 leasing to maintain or enhance streamflows pursuant to
4 85-2-436 may occur.

5 (2) The board may declare a stream reach eligible for
6 leasing pursuant to 85-2-436 only if it finds that water
7 leasing is necessary to maintain or enhance streamflows for
8 fisheries.

9 (3) The board may designate no more than 20 stream
10 reaches in the state where water leasing pursuant to
11 85-2-436 may occur. If the department of fish, wildlife, and
12 parks determines that a water lease cannot be reasonably
13 obtained on a designated stream reach, the board may remove
14 the designation from that stream reach and designate another
15 stream reach pursuant to this section. (Terminates June 30,
16 1999--sec. 4, Ch. 740, L. 1991.)"

17 **Section 84.** Section 85-2-512, MCA, is amended to read:

18 "85-2-512. Investigations. (1) The department shall
19 compile information for the purpose of enabling it to comply
20 with this part. In compiling this information, the
21 department shall make use of investigations, technical
22 personnel, surveys, and information available from the
23 Montana bureau of mines and geology, the United States
24 geological survey, the board of oil and gas conservation,
25 ~~the department of health and environmental sciences~~, and any

1 other private, state, or governmental agency.

2 (2) In addition to the foregoing, the department may
3 request specific investigations by the preceding public
4 agencies ~~where~~ when desired information is not otherwise
5 available."

6 **Section 85.** Section 85-2-514, MCA, is amended to read:

7 "85-2-514. Inspection of wells. The department or the
8 state bureau of mines and geology ~~or the department of~~
9 ~~health and environmental sciences~~ may enter on the property
10 of any appropriator where a well is situated, at any
11 reasonable hour of the day, for the purpose of investigating
12 any matters in connection with this part."

13 **Section 86.** Section 85-9-104, MCA, is amended to read:

14 "85-9-104. Limitations. (1) Nothing in this chapter
15 ~~shall~~ may be construed to grant to the district the power to
16 generate, distribute, or sell electric energy.

17 (2) The provisions of this chapter do not abrogate or
18 limit in any manner the rights, powers, duties, and
19 functions of the department or conservation districts,
20 ~~department of health and environmental sciences, or the~~
21 ~~department of fish, wildlife, and parks~~ but are
22 supplementary thereto and in aid thereof."

23 **Section 87.** Section 85-9-202, MCA, is amended to read:

24 "85-9-202. Action by department of natural resources
25 upon receipt of request. (1) Sooner than 11 days after the

1 request is received, the department shall acknowledge the
2 request.

3 (2) The department shall itself, through cooperating
4 agencies, or together with cooperating agencies:

5 (a) consult with the board of supervisors and all
6 persons who may participate in the proposed project;

7 (b) conduct a preliminary survey of the proposed
8 district;

9 (c) estimate costs of works, maintenance, and
10 operation;

11 (d) determine sources of financing;

12 (e) reach a tentative decision on the feasibility,
13 desirability, and compatibility with the state water plan of
14 the proposed district;

15 (f) adjust the boundaries of the proposed district to
16 improve the feasibility, desirability, or consistency with
17 the state water plan;

18 (g) sooner than 1 year after receipt of the request,
19 send a report of the preliminary survey to the applicants,
20 the board of supervisors, ~~department-of-fish7-wildlife7--and~~
21 ~~parks7--department-of-health-and-environmental-sciences7~~ and
22 other affected state and federal resource agencies for their
23 comments."

24 **Section 88.** Section 85-9-204, MCA, is amended to read:

25 "85-9-204. Feasibility study and report -- adjustment

1 of proposed boundaries. After the hearing, the applicants or
2 any one of them may request the department to prepare a
3 detailed feasibility study of the proposed district. If the
4 department concludes that the proposed district is feasible,
5 desirable, and consistent with the state water plan, it
6 shall prepare a feasibility report and sooner than 1 year
7 after receipt of the request send copies to the applicants,
8 if any, ~~the--department--of--fish7--wildlife7--and--parks7~~
9 ~~department-of-health-and-environmental-sciences7~~ and other
10 affected state and federal water resource agencies. For good
11 cause shown, based upon the actual technical problems in
12 completing the report, the department may use necessary
13 additional time to complete and distribute the report. The
14 detailed feasibility report shall describe the proposed
15 works and contain an estimate of the cost of the works, the
16 means of financing, and the estimated costs of operation and
17 maintenance. The department may adjust the boundaries of the
18 proposed district to improve the feasibility, desirability,
19 and consistency with the state water plan and to exclude
20 land which that would receive no direct or indirect benefits
21 from the proposed district."

22 **Section 89.** Section 87-1-223, MCA, is amended to read:

23 "87-1-223. Control of state waters for propagation of
24 fish. The department ~~of--fish7--wildlife7--and--parks~~ may
25 control the waters of any lake, pond, or stream which that

1 lies wholly within the limits of land owned by the state so
 2 far as the use of that lake, pond, or stream for the
 3 breeding and propagation of game fish is concerned. Before
 4 the right to control any lake, pond, or stream inures to the
 5 department of fish, wildlife, and parks, the department of
 6 fish, wildlife, and parks shall notify the department of
 7 state lands that make a written record of the lake, pond, or
 8 stream that is wanted for that purpose, giving a description
 9 of the land by legal subdivision when surveyed or a
 10 sufficient general description when not so surveyed. The
 11 department of state lands shall make that entry upon its
 12 books and maps as may serve as notice to a lessor or
 13 purchaser of the right claimed by the state in the lake,
 14 pond, or stream. The department of state lands shall notify
 15 a lessor, purchaser, or applicant to lease or purchase of
 16 the fact that a right to the use of the lake, pond, or
 17 stream is so claimed. This right may not continue for more
 18 than 1 year after the land is sold by the state. If the
 19 right to the control of a lake, pond, or stream lessens the
 20 value of that land or prevents the ready sale of it, the
 21 right granted to the department of fish, wildlife, and parks
 22 may be terminated upon giving 60 days' notice of the
 23 termination to the department of fish, wildlife, and parks."

24 **Section 90.** Section 87-1-224, MCA, is amended to read:

25 "87-1-224. Destruction of beaver and beaver dams for

1 protection of public health. (1) When a complaint is made to
 2 the department of health and environmental sciences that
 3 beaver are obstructing the free flow of a stream flowing
 4 through a settled area and into which sewage of a town or
 5 city is dumped and the obstruction endangers public health,
 6 the department of health and environmental sciences shall
 7 immediately investigate the complaint. If it finds that the
 8 work of the beavers endangers public health, it shall report
 9 the facts to the department of fish, wildlife, and parks.

10 (2) The If it finds that the work of the beavers
 11 endangers public health, the department of fish, wildlife,
 12 and parks shall immediately issue a permit, free of charge,
 13 to the landowner upon whose land the beaver dams are located
 14 for the removal of the beaver, the number of which shall
 15 must be designated by the warden making the inspection. The
 16 landowner shall remove all beaver and beaver dams as
 17 provided by the permit within 10 days after its issuance. If
 18 the landowner refuses to remove the beaver or the dams in
 19 the 10-day period or if he does not desire to do so and so
 20 advises the department, then the department may remove the
 21 beaver by trapping or transplanting and remove their dam by
 22 blasting or other means.

23 (3) The department of fish, wildlife, and parks shall
 24 furnish all labor needed to blast out or otherwise remove
 25 the beaver dams. Necessary explosives shall must be

furnished by the county in which the beaver dams are located."

Section 91. Section 87-1-701, MCA, is amended to read:

"87-1-701. Assent to Dingell-Johnson bill. The congress of the United States having passed an act which was approved on August 9, 1950, and which is known as Public Law 681-81st Congress, Chapter 658-Second Session, wherein it is, among other things, provided that "no money apportioned under this act to any state, except as hereinafter provided, shall be expended therein until its legislature, or other state agency authorized by the state constitution to make laws governing the conservation of fish, shall have assented to the provisions of this act and shall have passed laws for the conservation of fish, which shall include prohibition against the diversion of license fees paid by fishermen for any other purpose than the administration of said fish, wildlife, and parks department [now department of resource management], except that, until the final adjournment of the first regular session of the legislature held after passage of this act, the assent of the governor of the state shall be sufficient", and since the moneys money referred to in the act of congress are is collected in part from the fishermen of this state and will not be returned to the state of Montana except the state of Montana does assent to this act; now, therefore, the state of Montana does assent

to the provisions of said the act of congress which that is commonly known as the Dingell-Johnson bill, but such this assent is with the express reservations enumerated in 87-1-701 through 87-1-703. The state of Montana does not, by the passage of 87-1-701 through 87-1-703 or by the consent herein given, surrender to the congress of the United States or any department of the government of the United States any of those rights which that are retained by the people of the state of Montana or the state of Montana and-which that are guaranteed to them by the 9th and 10th amendments to the constitution of the United States, nor shall may 87-1-701 through 87-1-703 in--any--manner-or-at-all be construed or held to be the state of Montana's consent to amending the constitution of the United States in any manner or at all relative to its rights. The title to all lands acquired under the provisions of 87-1-701 through 87-1-703 for fish restoration and management projects and projects constructed thereon shall must be and remain in the state."

Section 92. Section 90-15-102, MCA, is amended to read:

"90-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Committee" means the natural resource data system advisory committee created by 2-15-1514.

(2) "Library" means the state library provided for in 22-1-201.

(3) "Natural heritage program" means a program of information acquisition, storage, and retrieval for data relating to the flora, fauna, and biological community types of Montana.

(4) "Principal data source agencies" means any of the following state agencies: the department of ~~natural resources--and--conservation;--the--department--of--fish, wildlife,--and--parks;--the--department--of--state--lands;--the department-of-health--and--environmental--sciences~~ resource management; the department of agriculture; the department of transportation; the state historical society; and the Montana university system."

NEW SECTION. Section 93. Repealer. Sections 2-15-3201, 2-15-3202, 2-15-3301, and 2-15-3401, MCA, are repealed.

NEW SECTION. Section 94. Transfer of rulemaking authority. Any existing authority of the department of natural resources and conservation, the department of state lands, the department of fish, wildlife, and parks, or the department of health and environmental sciences to make rules on the various functions transferred by the provisions of [sections 1 through 101] is extended to the department of resource management.

NEW SECTION. Section 95. Application of transfer provisions. The provisions of 2-15-131 through 2-15-137 govern:

(1) the creation of the department of resource management;

(2) the merger of the department of natural resources and conservation, the department of state lands, the department of fish, wildlife, and parks, and the environmental sciences division of the department of health and environmental sciences; and

(3) the transfer to the department of resource management of the various functions contained in this act from the department of natural resources and conservation, the department of state lands, the department of fish, wildlife, and parks, and the department of health and environmental sciences.

NEW SECTION. Section 96. Implementation. (1) The governor shall implement the provisions of [sections 1 through 101] by executive order.

(2) The governor may by executive order assign to the department of resource management in a manner consistent with [sections 1 through 101] any functions allocated to the department of natural resources and conservation, the board of natural resources and conservation, the department of state lands, the commissioner of state lands, the board of land commissioners, the department of fish, wildlife, and parks, the fish, wildlife, and parks commission, the board of health and environmental sciences, the director of health

and environmental sciences, or the department of health and environmental sciences by the November 1993 special session of the 53rd legislature and not transferred by [sections 1 through 101].

NEW SECTION. Section 97. Instructions to department -- consolidation of divisions -- budget. (1) After implementation of [sections 1 through 101], the department of resource management shall reduce the number of divisions and bureaus in the department by 25% from the total number in existence among the merged agencies as of January 1, 1993.

(2) The department of resource management shall submit a budget to the 1995 legislature for the biennium beginning July 1, 1995, and ending June 30, 1997, proposing an additional 25% reduction in the number of divisions and bureaus, above that required in subsection (1), to be realized through merger, consolidation, and program elimination.

NEW SECTION. Section 98. Codification and recodification instructions. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 2, chapter 15, in the new part referred to in subsection (2), and the provisions of Title 2, chapter 15, and the part referred to in subsection (2) apply to [sections 1 and 2].

(2) The following sections are intended to be

renumbered and codified as a new part in Title 2, chapter 15: 2-15-2103, 2-15-2105, 2-15-2106, 2-15-2107, 2-15-2108, 2-15-2110, 2-15-3302, 2-15-3303, 2-15-3304, 2-15-3305, 2-15-3306, 2-15-3307, 2-15-3308, 2-15-3402, 2-15-3404, and 2-15-3405.

NEW SECTION. Section 99. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 100. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 101. Effective dates. (1) [Section 96 and this section] are effective on passage and approval.

(2) [Sections 1 through 95 and 97 through 100] are effective upon signing of the executive order under [section 96(1)] or on July 1, 1994, whichever occurs first.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

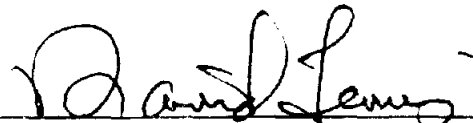
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0044, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION: An act reorganizing the executive branch of state government; creating a new Department of Resource Management through the merger of the departments of Natural Resources and Conservation; State Lands; Fish, Wildlife and Parks; and the Environmental Sciences Division of the Department of Health and Environmental Sciences. Reorganization of the functions and renaming of the board, director, and Department of Health and Environmental Sciences. Requiring the Department of Resource Management to reduce by 25 percent the number of divisions and bureaus of the combined agencies in existence as of January 1, 1993. Requiring the Department of Resource Management to submit a budget to the 1995 Legislature with an additional 25 percent reduction in the number of divisions and bureaus through merger, consolidation, and program elimination. Amending and repealing MCA sections, and providing effective dates.

ASSUMPTIONS:

1. Effective July 1, 1994, the Department of Resource Management will be created with the merger of the departments of Fish, Wildlife and Parks (FWP); Natural Resources and Conservation (DNRC); and State Lands (DSL); and the Environmental Sciences Division of the Department of Health and Environmental Science.
2. The Department of Health and Environmental Sciences (DHES) will reorganize the department's functions, and will rename the board, director, and the department.
3. There will be a reduction in the number of FTE and associated operating costs in the Centralized Services Division of the Department of Health and Environmental Sciences, as a result of the Environmental Sciences Division being merged into the Resource Management Department. However, the number of FTE and cost savings cannot be determined at this time.
4. Some support staff other than those FTE already in the Environmental Sciences Division will be transferred to the Resource Management Department from the Department of Health and Environmental Sciences, but the FTE have not yet been identified.
5. Minimal physical moves or relocations will occur during FY95, and will be covered with current level budgets.
6. Oil and Gas Regulation and Reserved Water Rights Compact Commission are "attached to" agencies, and will not be included in the calculations of the 25% reduction in the number of divisions and bureaus.
7. There were 18 divisions and 43 bureaus as of January 1, 1993. To meet the criteria of the legislation, 15 bureaus or divisions eliminated through merger, consolidation, or program elimination in FY95.
8. Through reorganizations in FY94 two bureaus have been eliminated, and will be considered as part of the 15 bureaus or divisions to be reduced.
9. \$217,743 of operating expenditures supported with proprietary funds, will be reduced from the budget of the Environmental Sciences Division that is being transferred to the Resource Management Department. The proprietary funds are funds received for overhead charges to other programs and activities. It is assumed that the overhead charges will be inappropriate with the merger and establishment of the new department.

(continued on next page)

 12-13
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 12/14/93
GREG JERGESON, PRIMARY SPONSOR DATE
Fiscal Note for SB0044, as introduced

SB 44

(continued)

10. Two department directors, one deputy director, two administrative secretaries, and two personnel/EEO officer positions will be eliminated with the merger of the four agencies with one director's office. This is a reduction of 7.00 FTE and \$339,000 in personal service costs.
11. Merge the centralized service functions of FWP, DNRC, and DSL. This will be a reduction of two centralized service divisions, two fiscal bureaus, and one data/information processing bureau. Two administrator and three bureau chief positions and \$245,492 of personal service authority will be eliminated.
12. Two additional divisions and six additional bureaus will be eliminated through restructuring of the new department.
13. There will be operational cost savings associated with the reduction of staff and the restructuring of the four agencies, but the amount cannot be determined at this time.
14. Additional positions will be eliminated through merger, consolidation, or program elimination, but they cannot be determined at this time.
15. The FY95 budget authority for the Department of Resource Management reflects adjustments contained in HB02, reference copy, including reductions of 11.00 FTE, personal services and operating expenses of \$289,069; \$508,012 general fund decrease and \$218,943 other funds increase.
16. The funding sources of personal service reductions will be allocated to all funding sources after HB02 adjustments, because it cannot be determined which positions or funding sources will be directly impacted.
17. The Department of Resource Management will submit a budget to the 1995 Legislature with an additional 25 percent reduction in the number of divisions and bureaus through merger, consolidation, and program elimination.
18. The Board of Land Commissioners; the Fish, Wildlife and Parks Commission; the Board of Natural Resources; and other legal issues have not been addressed in this fiscal impact statement.
19. Likewise, not addressed are matters such as the cost of compatible software, federal reimbursement adjustments, and indirect cost recovery.

FISCAL IMPACT:

| | <u>FY '94</u> | | | <u>FY '95</u> | | |
|--|--------------------|---------------------|-------------------|--------------------|---------------------|-------------------|
| | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> | <u>Current Law</u> | <u>Proposed Law</u> | <u>Difference</u> |
| <u>Department of Health and Environmental Sciences</u> | | | | | | |
| <u>Expenditures:</u> | | | | | | |
| FTE | 451.04 | 451.04 | 0 | 456.09 | 213.47 | (242.62) |
| Operations | 37,395,385 | 37,395,385 | 0 | 37,126,378 | 15,102,549 | (22,023,829) |
| Grants | 14,758,445 | 14,758,445 | 0 | 16,672,071 | 14,832,828 | (1,839,243) |
| Benefits and Claims | 8,232,545 | 8,232,545 | 0 | 8,973,474 | 8,973,474 | 0 |
| Capital Outlay | 1,600 | 1,600 | 0 | 0 | 0 | 0 |
| Local Assistance | 0 | 0 | 0 | 0 | 0 | 0 |
| Transfers | (16,062) | (16,062) | 0 | (15,998) | (15,998) | 0 |
| Debt Service | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 60,371,913 | 60,371,913 | 0 | 62,755,925 | 38,892,853 | (23,863,072) |

(continued on next page)

Fiscal Note Request, SB0044 as introduced
Form BD-15 page 3
(continued)

Funding:

| | | | | | | |
|-----------------|------------------|------------------|----------|------------------|------------------|------------------|
| General Fund | 3,015,703 | 3,015,703 | 0 | 3,022,265 | 2,509,088 | (513,177) |
| State Special | 14,356,612 | 14,356,612 | 0 | 14,137,916 | 2,561,727 | (11,576,189) |
| Federal Special | 40,581,693 | 40,581,693 | 0 | 43,257,361 | 31,701,398 | (11,555,963) |
| Proprietary | <u>2,417,905</u> | <u>2,417,905</u> | <u>0</u> | <u>2,338,383</u> | <u>2,120,640</u> | <u>(217,743)</u> |
| Total | 60,371,913 | 60,371,913 | 0 | 62,755,925 | 38,892,853 | (23,863,072) |

Department of Fish, Wildlife and Parks

Expenditures:

| | | | | | | |
|---------------------|------------|------------|----------|------------|----------|--------------|
| FTE | 554.95 | 554.95 | 0 | 553.37 | 0.00 | (553.37) |
| Operations | 33,741,162 | 33,741,162 | 0 | 31,735,946 | 0 | (31,735,946) |
| Grants | 1,974,172 | 1,974,172 | 0 | 758,894 | 0 | (758,894) |
| Benefits and Claims | 10,000 | 10,000 | 0 | 10,000 | 0 | (10,000) |
| Capital Outlay | 0 | 0 | 0 | 0 | 0 | 0 |
| Local Assistance | 0 | 0 | 0 | 0 | 0 | 0 |
| Transfers | 3,914,586 | 3,914,586 | 0 | 4,366,768 | 0 | (4,366,768) |
| Debt Service | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Total | 39,639,920 | 39,639,920 | 0 | 36,871,608 | 0 | (36,871,608) |

Funding:

| | | | | | | |
|-----------------|------------------|------------------|----------|------------------|----------|--------------------|
| General Fund | 311,105 | 311,105 | 0 | 315,937 | 0 | (315,937) |
| State Special | 26,025,532 | 26,025,532 | 0 | 24,427,892 | 0 | (24,427,892) |
| Federal Special | 10,993,588 | 10,993,588 | 0 | 9,708,059 | 0 | (9,708,059) |
| Proprietary | <u>2,309,695</u> | <u>2,309,695</u> | <u>0</u> | <u>2,419,720</u> | <u>0</u> | <u>(2,419,720)</u> |
| Total | 39,639,920 | 39,639,920 | 0 | 36,871,608 | 0 | (36,871,608) |

Department of State Lands

Expenditures:

| | | | | | | |
|---------------------|------------|------------|----------|------------|----------|--------------|
| FTE | 358.27 | 358.27 | 0 | 360.36 | 0.00 | (360.36) |
| Operations | 24,285,007 | 24,285,007 | 0 | 20,874,459 | 0 | (20,874,459) |
| Grants | 265,000 | 265,000 | 0 | 265,000 | 0 | (265,000) |
| Benefits and Claims | 0 | 0 | 0 | 0 | 0 | 0 |
| Capital Outlay | 5,000 | 5,000 | 0 | 5,000 | 0 | (5,000) |
| Local Assistance | 0 | 0 | 0 | 0 | 0 | 0 |
| Transfers | 241,042 | 241,042 | 0 | 166,088 | 0 | (166,088) |
| Debt Service | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Total | 24,796,049 | 24,796,049 | 0 | 21,310,547 | 0 | (21,310,547) |

(continued on next page)

Fiscal Note Request, SB0044 as introduced
Form BD-15 page 4
(continued)

Funding:

| | | | | | | |
|-----------------|----------------|----------------|----------|----------------|----------|------------------|
| General Fund | 8,412,430 | 8,412,430 | 0 | 8,454,055 | 0 | (8,454,055) |
| State Special | 9,030,958 | 9,030,958 | 0 | 5,420,215 | 0 | (5,420,215) |
| Federal Special | 6,895,285 | 6,895,285 | 0 | 6,930,999 | 0 | (6,930,999) |
| Proprietary | <u>457,376</u> | <u>457,376</u> | <u>0</u> | <u>505,278</u> | <u>0</u> | <u>(505,278)</u> |
| Total | 24,796,049 | 24,796,049 | 0 | 21,310,547 | 0 | (21,310,547) |

Department of Natural Resources and Conservation

Expenditures:

| | | | | | | |
|---------------------|----------------|----------------|----------|---------------|----------|-----------------|
| FTE | 244.42 | 244.42 | 0 | 244.42 | 0.00 | (244.42) |
| Operations | 13,463,153 | 13,463,153 | 0 | 12,715,055 | 0 | (12,715,055) |
| Grants | 883,173 | 883,173 | 0 | 283,228 | 0 | (283,228) |
| Benefits and Claims | 0 | 0 | 0 | 0 | 0 | 0 |
| Capital Outlay | 13,281,000 | 13,281,000 | 0 | 0 | 0 | 0 |
| Local Assistance | 205,000 | 205,000 | 0 | 205,000 | 0 | (205,000) |
| Transfers | (16,734) | (16,734) | 0 | (16,695) | 0 | (16,695) |
| Debt Service | <u>401,114</u> | <u>401,114</u> | <u>0</u> | <u>31,114</u> | <u>0</u> | <u>(31,114)</u> |
| Total | 28,216,706 | 28,216,706 | 0 | 13,217,702 | 0 | (13,217,702) |

Funding:

| | | | | | | |
|------------------|----------------|----------------|----------|------------|----------|--------------|
| General Fund | 3,350,171 | 3,350,171 | 0 | 3,383,074 | 0 | (3,383,074) |
| State Special | 11,338,336 | 11,338,336 | 0 | 8,608,211 | 0 | (8,608,211) |
| Federal Special | 13,130,630 | 13,130,630 | 0 | 1,226,417 | 0 | (1,226,417) |
| Expendable Trust | <u>397,569</u> | <u>397,569</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Total | 28,216,706 | 28,216,706 | 0 | 13,217,702 | 0 | (13,217,702) |

Department of Resource Management

Expenditures:

| | | | | | | |
|---------------------|----------|----------|----------|----------|---------------|---------------|
| FTE | 0.00 | 0.00 | 0.00 | 0.00 | 1377.77 | 1377.77 |
| Operations | 0 | 0 | 0 | 0 | 86,257,984 | 86,257,984 |
| Grants | 0 | 0 | 0 | 0 | 3,146,365 | 3,146,365 |
| Benefits and Claims | 0 | 0 | 0 | 0 | 10,000 | 10,000 |
| Capital Outlay | 0 | 0 | 0 | 0 | 5,000 | 5,000 |
| Local Assistance | 0 | 0 | 0 | 0 | 205,000 | 205,000 |
| Transfers | 0 | 0 | 0 | 0 | 4,516,161 | 4,516,161 |
| Debt Service | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>31,114</u> | <u>31,114</u> |
| Total | 0 | 0 | 0 | 0 | 94,171,624 | 94,171,624 |

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Fiscal Note Request, SB0044 as introduced
Form BD-15 page 5
(continued)

Funding:

| | | | | | | |
|-----------------|----------|----------|----------|----------|------------------|------------------|
| General Fund | 0 | 0 | 0 | 0 | 12,082,220 | 12,082,220 |
| State Special | 0 | 0 | 0 | 0 | 49,939,212 | 49,939,212 |
| Federal Special | 0 | 0 | 0 | | 29,240,289 | 29,240,289 |
| Proprietary | <u>0</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>2,909,903</u> | <u>2,909,903</u> |
| Total | 0 | 0 | 0 | 0 | 94,171,624 | 94,171,624 |

Net Impact: *

| | | | | | | |
|------------------------|------|------|------|------------|------------|-------------|
| FTE | 0.00 | 0.00 | 0.00 | 1400.77 | 1377.77 | (23.00) |
| Total Operating Budget | 0 | 0 | 0 | 95,262,929 | 94,171,624 | (1,091,305) |
| General Fund | 0 | 0 | 0 | 12,666,243 | 12,082,220 | (584,023) |
| State Special | 0 | 0 | 0 | 50,032,507 | 49,939,212 | (93,295) |
| Federal Special | 0 | 0 | 0 | 29,421,438 | 29,240,289 | (181,149) |
| Proprietary | 0 | 0 | 0 | 3,142,741 | 2,909,903 | (232,838) |

* HB02 reductions include 11.00 FTE, personal services and operating expenses of \$289,069, \$508,012 in general fund, and an increase of \$218,943 in other funding.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: In addition to the savings, the 1997 biennium budgets will include recommendations on the most effective structure, relocation costs, rewriting administrative rules, conforming data processing/word processing/GIS systems, restructuring SBAS, correcting signs on buildings and area offices, etc.

TECHNICAL NOTES: The functions and responsibilities of the Board of Land Commissioners; the Fish, Wildlife and Parks Commission, and the Board of Natural Resources have to be addressed.