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House BILL NO. 369

INTRODUCED BY

Brainard *Roll* *James Adams*
Carol Enright Thomas *James Denny*

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING CONTIGUOUS ANNEXATION BY A CITY OR TOWN TO BE APPROVED BY VOTE BY A MAJORITY OF THE REGISTERED VOTERS RESIDING IN THE AREA TO BE ANNEXED; INCREASING FROM 1 YEAR TO 5 YEARS THE PERIOD THAT A CITY OR TOWN COUNCIL IS REQUIRED TO WAIT TO INITIATE, WITHOUT PETITION, THE QUESTION OF ANNEXING AN AREA, CALCULATED FROM THE DATE A MAJORITY OF VOTERS RESIDING IN THAT AREA VOTE AGAINST ANNEXATION; CHANGING THE MEANING OF WHOLLY SURROUNDED LAND WITH RESPECT TO ANNEXATION BY A CITY OR TOWN; ELIMINATING A MAYOR'S AUTHORITY TO CALL OUT THE MILITIA; ELIMINATING A MAYOR'S RIGHT TO CALL OUT CITIZENS IN CASE OF A RIOT; ELIMINATING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN 5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE ORDINANCES; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325, 7-2-4502, 7-2-4504, 7-3-4101, 7-4-4303, AND 50-60-101, MCA; AND REPEALING SECTIONS 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, 7-4-4304, AND 7-4-4306, MCA."

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

Section 1. Section 7-2-4303, MCA, is amended to read:

"7-2-4303. **Restrictions on annexation power.** Land used for industrial or manufacturing purposes shall may not be included in ~~such a~~ city or town under the provisions of 7-2-4311 through 7-2-4314 and ~~7-2-4321 through 7-2-4325~~ without the written consent ~~in writing~~ of the owners of ~~such~~ the land."

Section 2. Section 7-2-4311, MCA, is amended to read:

"7-2-4311. **Annexation of contiguous land by cities of the first class or towns.** Any tracts or parcels of land ~~which~~ that have been or may ~~hereafter~~ be platted into lots or blocks, streets, and alleys or platted for parks, ~~and~~ the map or plat ~~thereof~~ of which is filed in the office of the county clerk and recorder of the county in which the ~~same~~ tracts or parcels of land are situated, or any unplatted land that has been surveyed and for which a certificate of survey has been filed, as provided ~~in these codes~~ by law, ~~which if~~

1 ~~the~~ platted or unplatted land ~~shall be~~ is contiguous to any incorporated city ~~of the first class~~ or town, may
 2 be embraced within the corporate limits ~~thereof~~ of the city or town, and the boundaries of ~~such~~ the city
 3 ~~of the first class~~ or town may be extended ~~so as~~ to include the ~~same~~ platted or unplatted land in the manner
 4 provided in 7-2-4312 through 7-2-4314 and 7-2-4325."

5
 6 **Section 3.** Section 7-2-4312, MCA, is amended to read:

7 **"7-2-4312. Resolution of intent by ~~first-class city or town~~ -- notice.** When, in the judgment of any
 8 city or town council, ~~of a city of the first class~~ expressed by a resolution ~~duly and regularly~~ that is passed
 9 and adopted, it ~~will be~~ is in the best interest of ~~such~~ the city or town and the inhabitants of any
 10 contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed
 11 that the boundaries of ~~such~~ the city or town ~~shall be~~ extended ~~so as~~ to include the ~~same~~ platted tracts or
 12 parcels of land or unplatted land within the corporate limits ~~thereof~~ of the city or town, the city or town
 13 clerk ~~of such city~~ shall:

14 (1) immediately notify, in writing, ~~addressed to the address to which tax notices are sent~~, all
 15 ~~owners and purchasers under contracts for deed of property~~ registered voters in the territory to be
 16 embraced; and

17 (2) cause a notice to be published in the newspaper published nearest ~~such~~ the platted tracts or
 18 parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for
 19 2 successive weeks."

20
 21 **Section 4.** Section 7-2-4313, MCA, is amended to read:

22 **"7-2-4313. Contents of notice -- protest period.** The notice under 7-2-4312 must state that:

23 (1) the resolution has been ~~duly and regularly~~ passed; and

24 (2) for a period of 20 days after the first publication of the notice, the city or town clerk shall
 25 accept written comments approving or disapproving the proposed extensions of the boundaries of the city
 26 ~~of the first class~~ or town from ~~real property owners of~~ registered voters residing in the area proposed to
 27 be annexed."

28
 29 **Section 5.** Section 7-2-4314, MCA, is amended to read:

30 **"7-2-4314. Hearing on question of annexation -- vote on question of annexation -- resolution of**

1 **annexation.** (1) (a) The city or town clerk shall, at the next regular meeting of the city or town council of
 2 a city of the first class after the expiration of the 20-day period provided for in 7-2-4313, forward all
 3 written communication received by the clerk for the city or town council's consideration. Except as
 4 provided in subsection (2), if after considering any written communication the

5 (b) If the city or town council, after considering all written communication, adopts a resolution
 6 approving the annexation, the boundaries of the city must be extended to include the platted tracts or
 7 parcels of land or unplatted land for which a certificate of survey has been filed implementation of the
 8 resolution must be approved by the vote of a majority of the registered voters residing in the area proposed
 9 for annexation. The resolution must state the date on which the proposed annexation takes is intended to
 10 take effect.

11 (c) Within 45 days of adopting the resolution for annexation, the city or town council shall submit
 12 the question of approving the resolution to the registered voters residing in the area proposed for
 13 annexation. A notice of election must be mailed to all registered voters residing in the area proposed for
 14 annexation.

15 (2) The resolution may not be adopted by the city council if disapproved in writing by a majority
 16 of the real property owners of the area proposed to be annexed, and further Further resolutions relating to
 17 the annexation of the area or any portion of the area may not be considered or acted upon by the council
 18 on its own initiative, without petition, for a period of 1 year 5 years from the date of disapproval by the
 19 voters as provided in subsection (1)."

20
 21 **Section 6.** Section 7-2-4325, MCA, is amended to read:

22 **"7-2-4325. Consolidation of proceedings for two or more tracts.** Whenever two or more adjacent
 23 tracts taken as a whole shall adjoin the a city or town, they the tracts may be included in one resolution
 24 under 7-2-4321 through 7-2-4325 this part, although one or more of said the tracts taken alone may not
 25 be adjacent to the corporate limits as then existing."

26
 27 **Section 7.** Section 7-2-4502, MCA, is amended to read:

28 **"7-2-4502. Protest not available.** The Wholly surrounded land is annexed, if so resolved by the
 29 city or town council, whether or not a majority of the real property owners of the area to be annexed
 30 object. The question of annexing the wholly surrounded land is not subject to being voted on by the

1 registered voters of the area to be annexed."

2
3 **Section 8.** Section 7-2-4504, MCA, is amended to read:

4 **"7-2-4504. What constitutes contiguous lands.** (1) Except as provided in subsection (2), tracts
5 ~~Tracts~~ or parcels of land proposed to be annexed to a city or town under the provisions of this part ~~shall~~
6 ~~be deemed~~ are considered contiguous to ~~such the~~ city or town even though ~~such the~~ tracts or parcels of
7 land may be separated from ~~such the~~ city or town by a street or other roadway, irrigation ditch, drainage
8 ditch, stream, river, or a strip of unplatted land too narrow or too small to be platted.

9 (2) A tract or parcel of land may not be considered wholly surrounded if a street or roadway forms
10 a border of the tract or parcel unless the street or roadway is contiguous to the city or town for the entire
11 length of the street or roadway that forms the border of the tract or parcel."

12
13 **Section 9.** Section 7-3-4101, MCA, is amended to read:

14 **"7-3-4101. Strong mayor form of municipal government.** (1) The qualified electors of any city or
15 town in this state may, in the manner provided in ~~part 42 of~~ chapter 5, part 42, ~~enuse~~ adopt an ordinance
16 ~~to be adopted which has as its subject~~ the vesting of any or all of the following powers with the office of
17 mayor of ~~such the~~ city or town:

18 (a) to appoint and remove, without consent of the council, all nonelective officers of the city or
19 town;

20 (b) to exercise absolute control over all departments and divisions of the city or town created in
21 this title or that may be created by the council;

22 (c) to appoint one or more administrative assistants to assist ~~him~~ in the direction of the operations
23 of the various city departments and agencies;

24 (d) to be solely responsible for the preparation of the annual budget in compliance with the
25 procedures set forth in ~~part 42 of~~ chapter 6, part 42;

26 (e) to appoint a budget and finance director whose functions ~~shall~~ include the preparation of the
27 annual municipal budget under the direction of the mayor.

28 (2) If any ordinance duly adopted in accordance with this section is in conflict with 7-4-4114,
29 7-4-4303, ~~through 7-4-4306~~ 7-4-4305, 7-5-4102(1), 7-5-4122, 7-5-4205, and 7-5-4206, the provisions
30 of this section ~~shall~~ prevail."

1 **Section 10.** Section 7-4-4303, MCA, is amended to read:

2 **"7-4-4303. Powers of mayor related to municipal officers, personnel, and citizens.** The mayor has
3 power to:

4 (1) nominate and, with the consent of the council, appoint all nonelective officers of the city or
5 town provided for by the council, except as provided in this title;

6 (2) suspend and, with the consent of the council, remove any nonelective officer, stating in the
7 suspension or removal the cause ~~thereof~~ for the removal;

8 (3) supervise the discharge of official duty by all subordinate officers;

9 (4) require of any of the officers of a city or town an exhibit of ~~such~~ the officer's books and papers;

10 ~~(5) call on every citizen of the city or town over the age of 18 years to aid in the enforcement of~~
11 ~~the laws and ordinances in case of riot;~~

12 ~~(6)~~(5) request that the governor call out the militia to aid the mayor in suppressing riots or other
13 disorderly conduct, preventing and extinguishing fires, securing the peace and safety of the city or town,
14 or carrying into effect any law or ordinance."

15

16 **Section 11.** Section 50-60-101, MCA, is amended to read:

17 **"50-60-101. Definitions.** As used in parts 1 through 4 and part 7 of this chapter, unless the
18 context requires otherwise, the following definitions apply:

19 (1) (a) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
20 a structure and the related facilities for the use or occupancy by persons or property.

21 (b) The ~~word "building" shall~~ term must be construed as though followed by the words "or part
22 or parts thereof" of the building."

23 (2) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general
24 or special, or compilation thereof enacted or adopted by the state or any municipality, including
25 departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the
26 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
27 installation of equipment in buildings. The term does not include zoning ordinances.

28 (3) "Construction" means the original construction and equipment of buildings and requirements
29 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

30 (4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

1 (5) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating
2 equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

3 (6) (a) "Factory-built building" means a factory-assembled structure or structures equipped with
4 the necessary service connections but not made so as to be readily movable as a unit or units and designed
5 to be used with a permanent foundation.

6 (b) ~~"Factory-built building"~~ The term does not include manufactured housing constructed after June
7 15, 1976, under the ~~HUD~~, National Mobile Home Construction and Safety Standards Act of 1974.

8 (7) "Local building department" means the agency or agencies of any municipality charged with
9 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
10 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
11 by state or local building regulations.

12 (8) "Local legislative body" means the council or commission charged with governing the
13 municipality.

14 (9) "Municipality" means any incorporated city or town ~~and its jurisdictional area as defined by~~
15 ~~subsection (10) of this section.~~

16 (10) ~~(a) "Municipal jurisdictional area" means the area within the limits of an incorporated~~
17 ~~municipality unless the area is extended at the written request of a municipality.~~

18 ~~(b) Upon request, the department may approve extension of the jurisdictional area to include:~~

19 ~~(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;~~

20 ~~(ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a~~
21 ~~municipality; and~~

22 ~~(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially~~
23 ~~within 4 1/2 miles of the corporate limits of a municipality.~~

24 ~~(c) Distances shall be measured in a straight line in a horizontal plane.~~

25 (11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee
26 in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation
27 in control of a building.

28 (12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
29 quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted
30 on or towed by another vehicle, including but not limited to a:

- 1 (a) travel trailer;
2 (b) camping trailer;
3 (c) truck camper; or
4 (d) motor home.

5 (13) "State agency" means any state officer, department, board, bureau, commission, or other
6 agency of this state.

7 (14) "State building code" means the state building code provided for in 50-60-203 or any portion
8 of the code of limited application and any of its modifications or amendments."
9

10 **NEW SECTION.** **Section 12. Repealer.** Sections 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324,
11 7-4-4304, and 7-4-4306, MCA, are repealed.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0369, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act generally revising local government law; requiring contiguous annexation by a city or town to be approved by vote by a majority of the registered voters residing in the area to be annexed; increasing from one year to five years the period that a city or town council is required to wait to initiate, without petition, the question of annexing an area, calculated from the date a majority of voters residing in that area vote against annexation; changing the meaning of wholly surrounded land with respect to annexation by a city or town; eliminating a mayor's authority to call out the militia; eliminating a mayor's right to call out citizens in case of a riot; eliminating a mayor's right to exercise extraterritorial powers within five miles of the city or town limits for the purpose of enforcing health and quarantine ordinances.

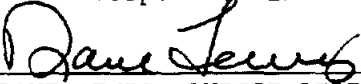
ASSUMPTIONS:

Department of Commerce/Building Codes Bureau:

1. Passage of HB 369 will result in the nine municipalities with extended municipal building codes enforcement jurisdictions (extended jurisdictions) losing authority to enforce building codes in their extended jurisdictions and the responsibility for issuing building, mechanical, plumbing and electrical permits and completing the required inspections in those lost extended jurisdictions will return to the Department of Commerce (DOC), Building Codes Bureau.
2. A survey was conducted of the nine municipalities with extended jurisdiction to determine the number of building permits issued in fiscal year 1996 for new buildings other than four-plexes or less. Elimination of the extended jurisdictions will result in an annual increase to the bureau workload of 250 building, 200 mechanical, 800 plumbing and 900 electrical permits, with associated plan review and inspection responsibilities.
3. Assumption of jurisdiction and code enforcement responsibilities in the extended jurisdictions will require 6.50 FTE. Requested would be 5.00 FTE inspectors (two electrical, two plumbing/mechanical, and one building), grade 14, 1.00 FTE plan reviewer, grade 15, and an 0.50 FTE clerical position, grade 8, to handle the anticipated increase in permitting activity.
4. The estimated personal services cost for the 6.50 FTE is \$203,862 in both fiscal year 1998 and fiscal year 1999. Additional operating expenses are estimated at \$48,954 in both fiscal year 1998 and fiscal year 1999 and five additional vehicles will be required in fiscal year 1998 for the new inspectors at an estimated cost of \$65,000.
5. Revenues from the additional permitting and inspections are expected to be sufficient to cover the costs of the additional code enforcement costs.

Department of Commerce/Community Development Bureau:

6. According to Section 4 of HB 369, municipalities would have to notify registered voters of their intent to annex contiguous land by public notice and in writing. Municipal clerks would have to accept written comments from registered voters living in the area proposed to be annexed for a period of 20 days.
7. According to Section 5 of HB 369, if, after considering any written comments, the municipality adopts a resolution approving the proposed annexation, implementation of the annexation must be approved by a majority of the registered voters residing within the area proposed to be annexed. It is assumed the municipality will conduct a special election by mailed ballot sent to all registered voters residing within the area proposed to be annexed. If the proposed annexation is disapproved, the municipality cannot propose annexation of any portion of the area for 5 years after the election.
8. According to Section 7 of HB 369, the owners of property wholly surrounded by the corporate limits of a municipality cannot protest annexation by an election.

 2-3-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

(Continued)

MATT BRAINARD, PRIMARY SPONSOR DATE

Fiscal Note for HB0369, as introduced

HB 369

9. Section 8 of HB 369 provides that a parcel would not be considered wholly surrounded if a street or roadway forms a border of the tract or parcel unless the street or roadway is contiguous to the municipality for its entire length that forms the border with the tract or parcel.
10. Section 10 of HB 369 would eliminate a mayor's authority to call out the militia.
11. Section 11 of HB 369 would eliminate a mayor's right to exercise extraterritorial powers within five miles of the city or town limits for the purpose of enforcing health and quarantine ordinances. It also appears to eliminate the existing authority for a municipality to extend building code enforcement four and one-half miles outside the limits of the municipality, if approved by the DOC.

FISCAL IMPACT:

Department of Commerce/Building Codes Bureau:

<u>Expenditures:</u>	<u>FY98</u>	<u>FY99</u>
	<u>Difference</u>	<u>Difference</u>
FTE	6.50	6.50
Personal Services	203,862	203,862
Operating Expenses	48,954	48,954
Equipment	<u>65,000</u>	<u>0</u>
Total	317,816	252,816
<u>Revenues:</u>		
Building Permit Fees (02)	281,500	281,500
<u>Net Impact:</u> (Revenue minus expense)		
Building Codes SSR (02)	(36,316)	28,684

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Building Codes Bureau: Loss of the extended jurisdiction areas will result in substantial loss of revenue from permit fees to the Cities of Billings, Bozeman, Columbia Falls, Kalispell, and Missoula and some loss of revenues from permit fees to the Cities of Deer Lodge, Fort Benton, Miles City, and Whitefish. In total, revenue from issuance of approximately 1,000 building, 800 mechanical, 800 plumbing and 900 electrical permits will be lost annually to the nine cities that have extended jurisdictions.

Community Development Bureau: This bill may require local governments to spend additional sums for which no specific means of financing are provided. Section 1-2-114, MCA, provides that bills which have such an impact may not be introduced.

According to Section 5 of HB 369, if a municipality adopts a resolution approving a proposed annexation, implementation of the annexation must be approved by a majority of the registered voters residing within the area proposed to be annexed. In a procedure similar to current law, municipality must mail a notice of election to annex the area to all registered voters residing within the area proposed to be annexed. The municipality must also conduct a special election by mailed ballot sent to these same registered voters. In addition, a new requirement is imposed requiring the municipality to conduct a special election by mailed ballot sent to the registered voters residing within the area proposed to be annexed within 45 days of adopting the resolution for annexation (See page 3, Section 5 1(c)). To the extent that the law does not provide for the expenses involved in conducting the required special election, the bill would impose an unfunded mandate on municipal governments. It is not possible to quantify the cumulative impact of the bill on municipal governments statewide.

TECHNICAL NOTES:

Building Codes Bureau: Loss of the extended jurisdiction areas may have a public health impact because approximately 800 single family dwellings and four-plexes and less will no longer receive building and mechanical permits and inspections for compliance with minimum codes.

Because of the larger areas served, state code enforcement is less efficient and inspections are less timely than local government code enforcement; therefore, loss of extended jurisdiction areas may result in less service for building owners/contractors.

1 HOUSE BILL NO. 369

2 INTRODUCED BY BRAINARD, PROUSE, TUSS, ADAMS, EMERSON, THOMAS, SQUIRES, DENNY,
3 MCGEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING
6 CONTIGUOUS ANNEXATION BY A CITY OR TOWN TO BE APPROVED BY VOTE ~~BY A MAJORITY~~ OF THE
7 REGISTERED VOTERS RESIDING IN THE AREA TO BE ANNEXED UNLESS THERE ARE LESS THAN 300
8 RECORDED PARCELS IN THE AREA; INCREASING IN CERTAIN INSTANCES FROM 1 YEAR TO 5 YEARS
9 THE PERIOD THAT A CITY OR TOWN COUNCIL IS REQUIRED TO WAIT TO INITIATE, WITHOUT PETITION,
10 THE QUESTION OF ANNEXING AN AREA, CALCULATED FROM THE DATE A MAJORITY OF VOTERS
11 RESIDING IN THAT AREA VOTE AGAINST ANNEXATION; ~~CHANGING THE MEANING OF WHOLLY~~
12 ~~SURROUNDED LAND WITH RESPECT TO ANNEXATION BY A CITY OR TOWN~~; ELIMINATING A MAYOR'S
13 AUTHORITY TO CALL OUT THE MILITIA; ELIMINATING A MAYOR'S RIGHT TO CALL OUT CITIZENS IN
14 CASE OF A RIOT; ELIMINATING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN
15 5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE
16 ORDINANCES; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325,
17 7-2-4502, ~~7-2-4504~~, 7-3-4101, AND 7-4-4303, ~~AND 50-60-101~~, MCA; AND REPEALING SECTIONS
18 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, 7-4-4304, AND 7-4-4306, MCA."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 **Section 1.** Section 7-2-4303, MCA, is amended to read:

23 "**7-2-4303. Restrictions on annexation power.** ~~Land~~ EXCEPT AS PROVIDED IN 7-2-4314(1)(D).
24 LAND used for industrial, RAILROAD, or manufacturing purposes ~~shall may~~ not be included in ~~such a~~ city
25 or town under the provisions of 7-2-4311 through 7-2-4314 and ~~7-2-4321 through~~ 7-2-4325 without the
26 written consent ~~in writing~~ of the owners of ~~such the~~ land."

27
28 **Section 2.** Section 7-2-4311, MCA, is amended to read:

29 "**7-2-4311. Annexation of contiguous land by cities of the first class or towns.** Any tracts or
30 parcels of land ~~which that~~ have been or may ~~hereafter~~ be platted into lots or blocks, streets, and alleys or

1 platted for parks, ~~and the map or plat thereof of which is~~ filed in the office of the county clerk and recorder
 2 of the county in which the same tracts or parcels of land are situated, or any unplatted land that has been
 3 surveyed and for which a certificate of survey has been filed, as provided ~~in these codes by law, which if~~
 4 the platted or unplatted land shall be is contiguous to any incorporated city ~~of the first class or town~~, may
 5 be embraced within the corporate limits ~~thereof of the city or town~~, and the boundaries of ~~such the city~~
 6 ~~of the first class or town may be~~ extended ~~so as~~ to include the same platted or unplatted land in the manner
 7 provided in 7-2-4312 through 7-2-4314 and 7-2-4325."

8
 9 **Section 3.** Section 7-2-4312, MCA, is amended to read:

10 "**7-2-4312. Resolution of intent by ~~first class city or town~~ -- notice.** When, in the judgment of any
 11 city or town council, ~~of a city of the first class~~ expressed by a resolution ~~duly and regularly~~ that is passed
 12 and adopted, it ~~will be to~~ is in the best interest of ~~such the city or town~~ and the inhabitants of any
 13 contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed
 14 that the boundaries of ~~such the city or town shall~~ be extended ~~so as~~ to include the same platted tracts or
 15 parcels of land or unplatted land within the corporate limits ~~thereof of the city or town~~, the city or town
 16 clerk ~~of such city~~ shall:

17 (1) immediately notify, in writing, ~~addressed to the address to which tax notices are sent,~~ all
 18 ~~owners and purchasers under contracts for deed of property~~ registered voters in the territory to be
 19 embraced; and

20 (2) cause a notice to be published in the newspaper published nearest ~~such the~~ platted tracts or
 21 parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for
 22 2 successive weeks."

23
 24 **Section 4.** Section 7-2-4313, MCA, is amended to read:

25 "**7-2-4313. Contents of notice -- protest period.** The notice under 7-2-4312 must state that:

26 (1) the resolution has been ~~duly and regularly~~ passed; and

27 (2) for a period of 20 days after the first publication of the notice, the city or town clerk shall
 28 accept written comments approving or disapproving the proposed extensions of the boundaries of the city
 29 ~~of the first class or town~~ from ~~real property owners of~~ registered voters residing in the area proposed to
 30 be annexed."

1 **Section 5.** Section 7-2-4314, MCA, is amended to read:

2 "**7-2-4314. Hearing on question of annexation -- vote on question of annexation -- resolution of**
3 **annexation.** (1) ~~(a)~~ The city or town clerk shall, at the next regular meeting of the city or town council of
4 ~~a city of the first class~~ after the expiration of the 20-day period provided for in 7-2-4313, forward all
5 written communication received by the clerk for the city or town council's consideration. ~~Except as~~
6 ~~provided in subsection (2), if after considering any written communication the~~

7 **(b) # EXCEPT AS PROVIDED IN SUBSECTION (1)(D), IF the city or town council, after considering**
8 **all written communication, adopts a resolution approving the annexation, the boundaries of the city must**
9 **be extended to include the platted tracts or parcels of land or unplatted land for which a certificate of**
10 **survey has been filed implementation of the resolution must be approved by the vote of a majority of the**
11 **registered voters residing in the area proposed for annexation.** The resolution must state the date on which
12 the proposed annexation takes is intended to take effect.

13 **(c) Within 45 days of adopting the resolution for annexation, the city or town council shall submit**
14 **the question of approving the resolution to the registered voters residing in the area proposed for**
15 **annexation. A notice of election must be mailed to all registered voters residing in the area proposed for**
16 **annexation.**

17 **(D) IF THE AREA TO BE ANNEXED CONTAINS LESS THAN 300 RECORDED PARCELS, THE CITY**
18 **OR TOWN COUNCIL, AFTER CONSIDERING ALL WRITTEN COMMUNICATION, MAY ADOPT A**
19 **RESOLUTION APPROVING THE ANNEXATION AND THE BOUNDARIES OF THE CITY OR TOWN MUST BE**
20 **EXTENDED TO INCLUDE THE PLATTED TRACTS OR PARCELS OF LAND OR UNPLATTED LAND FOR**
21 **WHICH A CERTIFICATE OF SURVEY HAS BEEN FILED. AN AREA ANNEXED PURSUANT TO THIS**
22 **SUBSECTION MAY INCLUDE LAND USED FOR RAILROAD PURPOSES. A CITY OR TOWN COUNCIL MAY**
23 **NOT ANNEX BY RESOLUTION AN AREA CONTAINING LESS THAN 300 RECORDED PARCELS IF THE**
24 **RESOLUTION IS DISAPPROVED IN WRITING BY A MAJORITY OF REAL PROPERTY OWNERS OF THE**
25 **AREA PROPOSED TO BE ANNEXED. IF THE RESOLUTION IS DISAPPROVED BY A MAJORITY OF THE**
26 **LAND OWNERS, THE CITY OR TOWN COUNCIL MAY NOT ON ITS OWN INITIATIVE PROPOSE FURTHER**
27 **RESOLUTIONS RELATING TO THE ANNEXATION OF THE AREA OR ANY PORTION OF THE AREA,**
28 **WITHOUT PETITION, FOR A PERIOD OF 1 YEAR.**

29 (2) ~~The resolution may not be adopted by the city council if disapproved in writing by a majority~~
30 ~~of the real property owners of the area proposed to be annexed, and further Further EXCEPT AS PROVIDED~~

1 IN SUBSECTION (1)(D), FURTHER resolutions relating to the annexation of the area or any portion of the
 2 area may not be considered or acted upon by the council on its own initiative, without petition, for a period
 3 of ~~1 year~~ 5 years from the date of disapproval by the voters as provided in subsection (1)."

4
 5 **Section 6.** Section 7-2-4325, MCA, is amended to read:

6 "**7-2-4325. Consolidation of proceedings for two or more tracts.** Whenever two or more adjacent
 7 tracts taken as a whole ~~shall adjoin the a~~ city or town, ~~they~~ the tracts may be included in one resolution
 8 under ~~7-2-4321 through 7-2-4325~~ this part, although one or more of ~~said~~ the tracts taken alone may not
 9 be adjacent to the corporate limits as then existing."

10
 11 **Section 7.** Section 7-2-4502, MCA, is amended to read:

12 "**7-2-4502. Protest not available.** ~~The~~ Wholly surrounded land is annexed, if so resolved by the
 13 city or town council, whether or not a majority of the real property owners of the area to be annexed
 14 object. The question of annexing the wholly surrounded land is not subject to being voted on by the
 15 registered voters of the area to be annexed."

16
 17 ~~**Section 8.** Section 7-2-4504, MCA, is amended to read:~~

18 "~~**7-2-4504. What constitutes contiguous lands.** (1) Except as provided in subsection (2), tracts~~
 19 ~~Tracts or parcels of land proposed to be annexed to a city or town under the provisions of this part shall~~
 20 ~~be deemed~~ are considered contiguous to such the city or town even though such the tracts or parcels of
 21 land may be separated from such the city or town by a street or other roadway, irrigation ditch, drainage
 22 ditch, stream, river, or a strip of unplatted land too narrow or too small to be platted.

23 ~~(2) A tract or parcel of land may not be considered wholly surrounded if a street or roadway forms~~
 24 ~~a border of the tract or parcel unless the street or roadway is contiguous to the city or town for the entire~~
 25 ~~length of the street or roadway that forms the border of the tract or parcel."~~

26
 27 **Section 8.** Section 7-3-4101, MCA, is amended to read:

28 "**7-3-4101. Strong mayor form of municipal government.** (1) The qualified electors of any city or
 29 town in this state may, in the manner provided in ~~part 42 of~~ chapter 5, part 42, ~~cause~~ adopt an ordinance
 30 ~~to be adopted which has as its subject the vesting of any or all of the following powers with the office of~~

1 mayor of ~~such~~ the city or town:

2 (a) to appoint and remove, without consent of the council, all nonelective officers of the city or
3 town;

4 (b) to exercise absolute control over all departments and divisions of the city or town created in
5 this title or that may be created by the council;

6 (c) to appoint one or more administrative assistants to assist ~~him~~ in the direction of the operations
7 of the various city departments and agencies;

8 (d) to be solely responsible for the preparation of the annual budget in compliance with the
9 procedures set forth in ~~part 42 of chapter 6, part 42;~~

10 (e) to appoint a budget and finance director whose functions ~~shall~~ include the preparation of the
11 annual municipal budget under the direction of the mayor.

12 (2) If any ordinance duly adopted in accordance with this section is in conflict with 7-4-4114,
13 7-4-4303, ~~through 7-4-4306~~ 7-4-4305, 7-5-4102(1), 7-5-4122, 7-5-4205, and 7-5-4206, the provisions
14 of this section ~~shall~~ prevail."

15

16 **Section 9.** Section 7-4-4303, MCA, is amended to read:

17 "**7-4-4303. Powers of mayor related to municipal officers, personnel, and citizens.** The mayor has
18 power to:

19 (1) nominate and, with the consent of the council, appoint all nonelective officers of the city or
20 town provided for by the council, except as provided in this title;

21 (2) suspend and, with the consent of the council, remove any nonelective officer, stating in the
22 suspension or removal the cause ~~thereof~~ for the removal;

23 (3) supervise the discharge of official duty by all subordinate officers;

24 (4) require of any of the officers of a city or town an exhibit of ~~such~~ the officer's books and papers;

25 ~~(5) call on every citizen of the city or town over the age of 18 years to aid in the enforcement of~~
26 ~~the laws and ordinances in case of riot;~~

27 ~~(6)~~ (5) request that the governor call out the militia to aid the mayor in suppressing riots or other
28 disorderly conduct, preventing and extinguishing fires, securing the peace and safety of the city or town,
29 or carrying into effect any law or ordinance."

30

1 ~~Section 11.~~ Section 50-60-101, MCA, is amended to read:

2 ~~"50-60-101. Definitions.~~ As used in parts 1 through 4 and part 7 of this chapter, unless the
3 context requires otherwise, the following definitions apply:

4 (1) ~~(a)~~ "Building" means a combination of any materials, whether mobile, portable, or fixed, to form
5 a structure and the related facilities for the use or occupancy by persons or property.

6 ~~(b)~~ The word "building" shall ~~term must~~ be construed as though followed by the words "or part
7 or parts thereof" ~~of the building~~.

8 (2) ~~"Building regulations"~~ means any law, rule, resolution, regulation, ordinance, or code, general
9 or special, or compilation thereof enacted or adopted by the state or any municipality, including
10 departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the
11 design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and
12 installation of equipment in buildings. The term does not include zoning ordinances.

13 (3) ~~"Construction"~~ means the original construction and equipment of buildings and requirements
14 or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

15 (4) ~~"Department"~~ means the department of commerce provided for in Title 2, chapter 15, part 18.

16 (5) ~~"Equipment"~~ means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating
17 equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

18 (6) ~~(a)~~ "Factory built building" means a factory assembled structure or structures equipped with
19 the necessary service connections but not made so as to be readily movable as a unit or units and designed
20 to be used with a permanent foundation.

21 ~~(b)~~ "Factory built building" ~~The term~~ does not include manufactured housing constructed after June
22 15, 1976, under the HUD, National Mobile Home Construction and Safety Standards Act of 1974.

23 (7) ~~"Local building department"~~ means the agency or agencies of any municipality charged with
24 the administration, supervision, or enforcement of building regulations, approval of plans, inspection of
25 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required
26 by state or local building regulations.

27 (8) ~~"Local legislative body"~~ means the council or commission charged with governing the
28 municipality.

29 (9) ~~"Municipality"~~ means any incorporated city or town and its jurisdictional area as defined by
30 subsection (10) of this section.

~~(10) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated municipality unless the area is extended at the written request of a municipality.~~

~~(b) Upon request, the department may approve extension of the jurisdictional area to include:~~

~~(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;~~

~~(ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a municipality; and~~

~~(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially within 4 1/2 miles of the corporate limits of a municipality.~~

~~(c) Distances shall be measured in a straight line in a horizontal plane.~~

~~(11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a building.~~

~~(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted on or towed by another vehicle, including but not limited to a:~~

~~(a) travel trailer;~~

~~(b) camping trailer;~~

~~(c) truck camper; or~~

~~(d) motor home.~~

~~(13) "State agency" means any state officer, department, board, bureau, commission, or other agency of this state.~~

~~(14) "State building code" means the state building code provided for in 50-60-203 or any portion of the code of limited application and any of its modifications or amendments."~~

NEW SECTION. Section 10. Repealer. Sections 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, 7-4-4304, and 7-4-4306, MCA, are repealed.

-END-

1 HOUSE BILL NO. 369

2 INTRODUCED BY BRAINARD, PROUSE, TUSS, ADAMS, EMERSON, THOMAS, SQUIRES, DENNY.

3 MCGEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING
6 CONTIGUOUS ANNEXATION BY A CITY OR TOWN TO BE APPROVED BY VOTE ~~BY A MAJORITY~~ OF THE
7 REGISTERED VOTERS RESIDING IN THE AREA TO BE ANNEXED UNLESS THERE ARE LESS THAN 300
8 RECORDED PARCELS IN THE AREA; INCREASING IN CERTAIN INSTANCES FROM 1 YEAR TO 5 YEARS
9 THE PERIOD THAT A CITY OR TOWN COUNCIL IS REQUIRED TO WAIT TO INITIATE, WITHOUT PETITION,
10 THE QUESTION OF ANNEXING AN AREA, CALCULATED FROM THE DATE ~~A MAJORITY OF~~ VOTERS
11 RESIDING IN THAT AREA VOTE AGAINST ANNEXATION; ~~CHANGING THE MEANING OF WHOLLY~~
12 ~~SURROUNDED LAND WITH RESPECT TO ANNEXATION BY A CITY OR TOWN~~; ELIMINATING A MAYOR'S
13 AUTHORITY TO CALL OUT THE MILITIA; ELIMINATING A MAYOR'S RIGHT TO CALL OUT CITIZENS IN
14 CASE OF A RIOT; ELIMINATING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN
15 5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE
16 ORDINANCES; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325,
17 7-2-4502, ~~7-2-4504~~, 7-3-4101, AND 7-4-4303, ~~AND 50-60-101~~, MCA; AND REPEALING SECTIONS
18 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, 7-4-4304, AND 7-4-4306, MCA."
19

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

HOUSE BILL NO. 369

INTRODUCED BY BRAINARD, PROUSE, TUSS, ADAMS, EMERSON, THOMAS, SQUIRES, DENNY, MCGEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING CONTIGUOUS ANNEXATION BY A CITY OR TOWN TO BE APPROVED BY VOTE BY A MAJORITY OF THE REGISTERED VOTERS RESIDING IN THE AREA TO BE ANNEXED UNLESS THERE ARE LESS THAN 300 RECORDED PARCELS IN THE AREA; INCREASING IN CERTAIN INSTANCES FROM 1 YEAR TO 5 YEARS THE PERIOD THAT A CITY OR TOWN COUNCIL IS REQUIRED TO WAIT TO INITIATE, WITHOUT PETITION, THE QUESTION OF ANNEXING AN AREA, CALCULATED FROM THE DATE A MAJORITY OF VOTERS RESIDING IN THAT AREA VOTE AGAINST ANNEXATION; CHANGING THE MEANING OF WHOLLY SURROUNDED LAND WITH RESPECT TO ANNEXATION BY A CITY OR TOWN; ELIMINATING A MAYOR'S AUTHORITY TO CALL OUT THE MILITIA; ELIMINATING A MAYOR'S RIGHT TO CALL OUT CITIZENS IN CASE OF A RIOT; ELIMINATING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN 5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE ORDINANCES; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325, 7-2-4502, 7-2-4504, 7-3-4101, AND 7-4-4303, AND 50-60-101, MCA; AND REPEALING SECTIONS 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, AND 7-4-4304, AND 7-4-4306, MCA."

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

Section 1. Section 7-2-4303, MCA, is amended to read:

"7-2-4303. Restrictions on annexation power. Land EXCEPT AS PROVIDED IN 7-2-4314(1)(D), LAND used for industrial, RAILROAD, or manufacturing purposes shall may not be included in such a city or town under the provisions of 7-2-4311 through 7-2-4314 and 7-2-4321 through 7-2-4325 without the written consent in writing of the owners of such the land."

Section 2. Section 7-2-4311, MCA, is amended to read:

"7-2-4311. Annexation of contiguous land by cities of the first class or towns. Any tracts or parcels of land which that have been or may hereafter be platted into lots or blocks, streets, and alleys or

1 platted for parks, ~~and the map or plat thereof of which is~~ filed in the office of the county clerk and recorder
 2 of the county in which the ~~same tracts or parcels of land~~ are situated, or any unplatted land that has been
 3 surveyed and for which a certificate of survey has been filed, as provided ~~in these codes by law, which if~~
 4 the platted or unplatted land shall be is contiguous to any incorporated city ~~of the first class or town~~, may
 5 be embraced within the corporate limits ~~thereof of the city or town~~, and the boundaries of ~~such the~~ city
 6 ~~of the first class or town may be~~ extended ~~so as~~ to include the ~~same~~ platted or unplatted land in the manner
 7 provided in 7-2-4312 through 7-2-4314 and 7-2-4325."

8
 9 **Section 3.** Section 7-2-4312, MCA, is amended to read:

10 **"7-2-4312. Resolution of intent by first-class city or town -- notice.** When, in the judgment of any
 11 city or town council, ~~of a city of the first class~~ expressed by a resolution ~~duly and regularly~~ that is passed
 12 and adopted, it ~~will be to~~ is in the best interest of ~~such the~~ city or town and the inhabitants of any
 13 contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed
 14 that the boundaries of ~~such the~~ city or town shall be extended ~~so as~~ to include the ~~same~~ platted tracts or
 15 parcels of land or unplatted land within the corporate limits ~~thereof of the city or town~~, the city or town
 16 clerk ~~of such city~~ shall:

17 (1) immediately notify, in writing, ~~addressed to the address to which tax notices are sent,~~ all
 18 ~~owners and purchasers under contracts for deed of property~~ registered voters in the territory to be
 19 embraced; and

20 (2) cause a notice to be published in the newspaper published nearest ~~such the~~ platted tracts or
 21 parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for
 22 2 successive weeks."

23
 24 **Section 4.** Section 7-2-4313, MCA, is amended to read:

25 **"7-2-4313. Contents of notice -- protest period.** The notice under 7-2-4312 must state that:

26 (1) the resolution has been ~~duly and regularly~~ passed; and

27 (2) for a period of 20 days after the first publication of the notice, the city or town clerk shall
 28 accept written comments approving or disapproving the proposed extensions of the boundaries of the city
 29 ~~of the first class or town~~ from ~~real property owners of~~ registered voters residing in the area proposed to
 30 be annexed."

1 Section 5. Section 7-2-4314, MCA, is amended to read:

2 "7-2-4314. Hearing on question of annexation -- vote on question of annexation -- resolution of
3 annexation. (1) (a) ~~The city or town clerk shall, at the next regular meeting of the city or town council of~~
4 ~~a city of the first class after the expiration of the 20-day period provided for in 7-2-4313, forward all~~
5 written communication received by the clerk for the city or town council's consideration. ~~Except as~~
6 ~~provided in subsection (2), if after considering any written communication the~~

7 (b) ~~IF EXCEPT AS PROVIDED IN SUBSECTION (1)(D), IF~~ the city or town council, after considering
8 all written communication, adopts a resolution approving the annexation, the ~~boundaries of the city must~~
9 ~~be extended to include the platted tracts or parcels of land or unplatted land for which a certificate of~~
10 ~~survey has been filed~~ implementation of the resolution must be approved by the vote of a majority of the
11 registered voters residing in the area proposed for annexation. The resolution must state the date on which
12 the proposed annexation takes is intended to take effect.

13 (c) Within 45 days of adopting the resolution for annexation, the city or town council shall submit
14 the question of approving the resolution to the registered voters residing in the area proposed for
15 annexation. A notice of election must be mailed to all registered voters residing in the area proposed for
16 annexation.

17 (D) IF THE AREA TO BE ANNEXED CONTAINS LESS THAN 300 RECORDED PARCELS, THE CITY
18 OR TOWN COUNCIL, AFTER CONSIDERING ALL WRITTEN COMMUNICATION, MAY ADOPT A
19 RESOLUTION APPROVING THE ANNEXATION AND THE BOUNDARIES OF THE CITY OR TOWN MUST BE
20 EXTENDED TO INCLUDE THE PLATTED TRACTS OR PARCELS OF LAND OR UNPLATTED LAND FOR
21 WHICH A CERTIFICATE OF SURVEY HAS BEEN FILED. AN AREA ANNEXED PURSUANT TO THIS
22 SUBSECTION MAY INCLUDE LAND USED FOR RAILROAD PURPOSES. A CITY OR TOWN COUNCIL MAY
23 NOT ANNEX BY RESOLUTION AN AREA CONTAINING LESS THAN 300 RECORDED PARCELS IF THE
24 RESOLUTION IS DISAPPROVED IN WRITING BY A MAJORITY OF REAL PROPERTY OWNERS OF THE
25 AREA PROPOSED TO BE ANNEXED. IF THE RESOLUTION IS DISAPPROVED BY A MAJORITY OF THE
26 LAND OWNERS, THE CITY OR TOWN COUNCIL MAY NOT ON ITS OWN INITIATIVE PROPOSE FURTHER
27 RESOLUTIONS RELATING TO THE ANNEXATION OF THE AREA OR ANY PORTION OF THE AREA,
28 WITHOUT PETITION, FOR A PERIOD OF 1 YEAR.

29 (2) ~~The resolution may not be adopted by the city council if disapproved in writing by a majority~~
30 ~~of the real property owners of the area proposed to be annexed, and further~~ Further EXCEPT AS PROVIDED

1 IN SUBSECTION (1)(D), FURTHER resolutions relating to the annexation of the area or any portion of the
 2 area may not be considered or acted upon by the council on its own initiative, without petition, for a period
 3 of ~~1 year~~ 5 years from the date of disapproval by the voters as provided in subsection (1)."

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 7 tracts taken as a whole ~~shall~~ adjoin the a city or town, ~~they~~ the tracts may be included in one resolution
 8 under ~~7-2-4321 through 7-2-4325~~ this part, although one or more of ~~said~~ the tracts taken alone may not
 9 be adjacent to the corporate limits as then existing."

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 14 object. The question of annexing the wholly surrounded land is not subject to being voted on by the
 15 registered voters of the area to be annexed."

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 17 ~~**Section 8.** Section 7-2-4504, MCA, is amended to read:~~

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1 mayor of ~~such~~ the city or town:

2 (a) to appoint and remove, without consent of the council, all nonelective officers of the city or
3 town;

4 (b) to exercise absolute control over all departments and divisions of the city or town created in
5 this title or that may be created by the council;

6 (c) to appoint one or more administrative assistants to assist ~~him~~ in the direction of the operations
7 of the various city departments and agencies;

8 (d) to be solely responsible for the preparation of the annual budget in compliance with the
9 procedures set forth in ~~part 42 of chapter 6, part 42;~~

10 (e) to appoint a budget and finance director whose functions ~~shall~~ include the preparation of the
11 annual municipal budget under the direction of the mayor.

12 (2) If any ordinance duly adopted in accordance with this section is in conflict with 7-4-4114,
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14 of this section ~~shall~~ prevail."
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20 town provided for by the council, except as provided in this title;

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2 INTRODUCED BY BRAINARD, PROUSE, TUSS, ADAMS, EMERSON, THOMAS, SQUIRES, DENNY,
3 MCGEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING
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15 ~~5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE~~
16 ~~ORDINANCES~~; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325,
17 7-2-4502, ~~7-2-4504~~, 7-3-4101, AND 7-4-4303, ~~AND 50-60-101~~, MCA; AND REPEALING SECTIONS
18 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, AND 7-4-4304, ~~AND 7-4-4306~~, MCA."

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21
22 Section 1. Section 7-2-4303, MCA, is amended to read:

23 "7-2-4303. Restrictions on annexation power. Land EXCEPT AS PROVIDED IN 7-2-4314(1)(D),
24 LAND used for industrial, RAILROAD, or manufacturing purposes ~~shall~~ may not be included in such a city
25 or town under the provisions of 7-2-4311 through 7-2-4314 and ~~7-2-4321 through~~ 7-2-4325 without the
26 written consent ~~in writing~~ of the owners of such the land."

27
28 Section 2. Section 7-2-4311, MCA, is amended to read:

29 "7-2-4311. Annexation of contiguous land by cities ~~of the first class or towns~~. Any tracts or
30 parcels of land ~~which~~ that have been or may ~~hereafter~~ be platted into lots or blocks, streets, and alleys or

1 platted for parks, ~~and the map or plat thereof of which is~~ filed in the office of the county clerk and recorder
 2 of the county in which the ~~same tracts or parcels of land~~ are situated, or any unplatted land that has been
 3 surveyed and for which a certificate of survey has been filed, as provided ~~in these codes by law, which if~~
 4 the platted or unplatted land ~~shall be~~ is contiguous to any incorporated city ~~of the first class~~ or town, may
 5 be embraced within the corporate limits ~~thereof of the city or town~~, and the boundaries of ~~such the~~ the city
 6 ~~of the first class or town may be~~ extended ~~so as~~ to include the ~~same~~ platted or unplatted land in the manner
 7 provided in 7-2-4312 through 7-2-4314 and 7-2-4325."

8

9 **Section 3.** Section 7-2-4312, MCA, is amended to read:

10 **"7-2-4312. Resolution of intent by ~~first-class~~ city or town -- notice.** When, in the judgment of any
 11 city or town council, ~~of a city of the first class~~ expressed by a resolution ~~duly and regularly that is~~ passed
 12 and adopted, it ~~will be to~~ is in the best interest of ~~such the~~ the city or town and the inhabitants of any
 13 contiguous platted tracts or parcels of land or unplatted land for which a certificate of survey has been filed
 14 that the boundaries of ~~such the~~ the city or town ~~shall be~~ extended ~~so as~~ to include the ~~same~~ platted tracts or
 15 parcels of land or unplatted land within the corporate limits ~~thereof of the city or town~~, the city or town
 16 clerk ~~of such city~~ shall:

17 (1) immediately notify, in writing, ~~addressed to the address to which tax notices are sent, all~~
 18 ~~owners and purchasers under contracts for deed of property~~ registered voters in the territory to be
 19 embraced; and

20 (2) cause a notice to be published in the newspaper published nearest ~~such the~~ the platted tracts or
 21 parcels of land or unplatted land for which a certificate of survey has been filed, at least once a week for
 22 2 successive weeks."

23

24 **Section 4.** Section 7-2-4313, MCA, is amended to read:

25 **"7-2-4313. Contents of notice -- protest period.** The notice under 7-2-4312 must state that:

26 (1) the resolution has been ~~duly and regularly~~ passed; and

27 (2) for a period of 20 days after the first publication of the notice, the city or town clerk shall
 28 accept written comments approving or disapproving the proposed extensions of the boundaries of the city
 29 ~~of the first class or town~~ from ~~real property owners of~~ registered voters residing in the area proposed to
 30 be annexed."

1 **Section 5.** Section 7-2-4314, MCA, is amended to read:

2 **"7-2-4314. Hearing on question of annexation -- vote on question of annexation -- resolution of**
3 **annexation.** (1) (a) ~~The city or town clerk shall, at the next regular meeting of the city or town council of~~
4 ~~a city of the first class after the expiration of the 20-day period provided for in 7-2-4313, forward all~~
5 ~~written communication received by the clerk for the city or town council's consideration. Except as~~
6 ~~provided in subsection (2), if after considering any written communication the~~

7 **(b) # EXCEPT AS PROVIDED IN SUBSECTION (1)(D), IF the city or town council, after considering**
8 **all written communication,** adopts a resolution approving the annexation, ~~the boundaries of the city must~~
9 ~~be extended to include the platted tracts or parcels of land or unplatted land for which a certificate of~~
10 ~~survey has been filed~~ **implementation of the resolution must be approved by the vote of a majority of the**
11 **registered voters residing in the area proposed for annexation.** The resolution must state the date on which
12 ~~the proposed annexation takes is intended to take effect.~~

13 **(c) Within 45 days of adopting the resolution for annexation, the city or town council shall submit**
14 **the question of approving the resolution to the registered voters residing in the area proposed for**
15 **annexation. A notice of election must be mailed to all registered voters residing in the area proposed for**
16 **annexation.**

17 **(D) IF THE AREA TO BE ANNEXED CONTAINS LESS THAN 300 RECORDED PARCELS, THE CITY**
18 **OR TOWN COUNCIL, AFTER CONSIDERING ALL WRITTEN COMMUNICATION, MAY ADOPT A**
19 **RESOLUTION APPROVING THE ANNEXATION AND THE BOUNDARIES OF THE CITY OR TOWN MUST BE**
20 **EXTENDED TO INCLUDE THE PLATTED TRACTS OR PARCELS OF LAND OR UNPLATTED LAND FOR**
21 **WHICH A CERTIFICATE OF SURVEY HAS BEEN FILED. AN AREA ANNEXED PURSUANT TO THIS**
22 **SUBSECTION MAY INCLUDE LAND USED FOR RAILROAD PURPOSES. A CITY OR TOWN COUNCIL MAY**
23 **NOT ANNEX BY RESOLUTION AN AREA CONTAINING LESS THAN 300 RECORDED PARCELS IF THE**
24 **RESOLUTION IS DISAPPROVED IN WRITING BY A MAJORITY OF REAL PROPERTY OWNERS OF THE**
25 **AREA PROPOSED TO BE ANNEXED. IF THE RESOLUTION IS DISAPPROVED BY A MAJORITY OF THE**
26 **LAND OWNERS, THE CITY OR TOWN COUNCIL MAY NOT ON ITS OWN INITIATIVE PROPOSE FURTHER**
27 **RESOLUTIONS RELATING TO THE ANNEXATION OF THE AREA OR ANY PORTION OF THE AREA,**
28 **WITHOUT PETITION, FOR A PERIOD OF 1 YEAR.**

29 **(2) The resolution may not be adopted by the city council if disapproved in writing by a majority**
30 **of the real property owners of the area proposed to be annexed, and further** **Further EXCEPT AS PROVIDED**

1 IN SUBSECTION (1)(D), FURTHER resolutions relating to the annexation of the area or any portion of the
 2 area may not be considered or acted upon by the council on its own initiative, without petition, for a period
 3 of ~~1 year~~ 5 years from the date of disapproval by the voters as provided in subsection (1)."

4

5 **Section 6.** Section 7-2-4325, MCA, is amended to read:

6 "7-2-4325. **Consolidation of proceedings for two or more tracts.** Whenever two or more adjacent
 7 tracts taken as a whole ~~shall~~ adjoin the a city or town, ~~they~~ the tracts may be included in one resolution
 8 under ~~7-2-4321 through 7-2-4325~~ this part, although one or more of ~~said~~ the tracts taken alone may not
 9 be adjacent to the corporate limits as then existing."

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11 **Section 7.** Section 7-2-4502, MCA, is amended to read:

12 "7-2-4502. **Protest not available.** ~~The~~ Wholly surrounded land is annexed, if so resolved by the
 13 city or town council, whether or not a majority of the real property owners of the area to be annexed
 14 object. The question of annexing the wholly surrounded land is not subject to being voted on by the
 15 registered voters of the area to be annexed."

16

17 ~~**Section 8.** Section 7-2-4504, MCA, is amended to read:~~

18 ~~"7-2-4504. **What constitutes contiguous lands.** (1) Except as provided in subsection (2), tracts~~
 19 ~~Tracts or parcels of land proposed to be annexed to a city or town under the provisions of this part shall~~
 20 ~~be deemed are considered contiguous to such the city or town even though such the tracts or parcels of~~
 21 ~~land may be separated from such the city or town by a street or other roadway, irrigation ditch, drainage~~
 22 ~~ditch, stream, river, or a strip of unplatted land too narrow or too small to be platted.~~

23 ~~(2) A tract or parcel of land may not be considered wholly surrounded if a street or roadway forms~~
 24 ~~a border of the tract or parcel unless the street or roadway is contiguous to the city or town for the entire~~
 25 ~~length of the street or roadway that forms the border of the tract or parcel."~~

26

27 **Section 8.** Section 7-3-4101, MCA, is amended to read:

28 "7-3-4101. **Strong mayor form of municipal government.** (1) The qualified electors of any city or
 29 town in this state may, in the manner provided in ~~part 42 of~~ chapter 5, part 42, ~~cause~~ adopt an ordinance
 30 ~~to be adopted which has as its subject the vesting of any or all of the following powers with the office of~~

1 mayor of ~~each~~ the city or town:

2 (a) to appoint and remove, without consent of the council, all nonelective officers of the city or
3 town;

4 (b) to exercise absolute control over all departments and divisions of the city or town created in
5 this title or that may be created by the council;

6 (c) to appoint one or more administrative assistants to assist ~~him~~ in the direction of the operations
7 of the various city departments and agencies;

8 (d) to be solely responsible for the preparation of the annual budget in compliance with the
9 procedures set forth in ~~part 42 of~~ chapter 6, part 42;

10 (e) to appoint a budget and finance director whose functions ~~shall~~ include the preparation of the
11 annual municipal budget under the direction of the mayor.

12 (2) If any ordinance duly adopted in accordance with this section is in conflict with 7-4-4114,
13 7-4-4303, ~~through 7-4-4306~~ 7-4-4305, 7-5-4102(1), 7-5-4122, 7-5-4205, and 7-5-4206, the provisions
14 of this section ~~shall~~ prevail."

15

16 **Section 9.** Section 7-4-4303, MCA, is amended to read:

17 **"7-4-4303. Powers of mayor related to municipal officers, personnel, and citizens.** The mayor has
18 power to:

19 (1) nominate and, with the consent of the council, appoint all nonelective officers of the city or
20 town provided for by the council, except as provided in this title;

21 (2) suspend and, with the consent of the council, remove any nonelective officer, stating in the
22 suspension or removal the cause ~~thereof~~ for the removal;

23 (3) supervise the discharge of official duty by all subordinate officers;

24 (4) require of any of the officers of a city or town an exhibit of ~~each~~ the officer's books and papers;

25 ~~(5) call on every citizen of the city or town over the age of 18 years to aid in the enforcement of~~
26 ~~the laws and ordinances in case of riot;~~

27 ~~(6)(5)~~ request that the governor call out the militia to aid the mayor in suppressing riots or other
28 disorderly conduct, preventing and extinguishing fires, securing the peace and safety of the city or town,
29 or carrying into effect any law or ordinance."

30

1 ~~Section 11. Section 50-60-101, MCA, is amended to read:~~

2 ~~"50-60-101. Definitions. As used in parts 1 through 4 and part 7 of this chapter, unless the~~
3 ~~context requires otherwise, the following definitions apply:~~

4 ~~(1) (a) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form~~
5 ~~a structure and the related facilities for the use or occupancy by persons or property.~~

6 ~~(b) The word "building" shall term must be construed as though followed by the words "or part~~
7 ~~or parts thereof" of the building.~~

8 ~~(2) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general~~
9 ~~or special, or compilation thereof enacted or adopted by the state or any municipality, including~~
10 ~~departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the~~
11 ~~design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and~~
12 ~~installation of equipment in buildings. The term does not include zoning ordinances.~~

13 ~~(3) "Construction" means the original construction and equipment of buildings and requirements~~
14 ~~or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.~~

15 ~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.~~

16 ~~(5) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating~~
17 ~~equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.~~

18 ~~(6) (a) "Factory-built building" means a factory assembled structure or structures equipped with~~
19 ~~the necessary service connections but not made so as to be readily movable as a unit or units and designed~~
20 ~~to be used with a permanent foundation.~~

21 ~~(b) "Factory-built building" The term does not include manufactured housing constructed after June~~
22 ~~15, 1976, under the HUD, National Mobile Home Construction and Safety Standards Act of 1974.~~

23 ~~(7) "Local building department" means the agency or agencies of any municipality charged with~~
24 ~~the administration, supervision, or enforcement of building regulations, approval of plans, inspection of~~
25 ~~buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required~~
26 ~~by state or local building regulations.~~

27 ~~(8) "Local legislative body" means the council or commission charged with governing the~~
28 ~~municipality.~~

29 ~~(9) "Municipality" means any incorporated city or town and its jurisdictional area as defined by~~
30 ~~subsection (10) of this section.~~

1 ~~(10) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated~~
 2 ~~municipality unless the area is extended at the written request of a municipality.~~

3 ~~(b) Upon request, the department may approve extension of the jurisdictional area to include:~~

4 ~~(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;~~

5 ~~(ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a~~
 6 ~~municipality; and~~

7 ~~(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially~~
 8 ~~within 4 1/2 miles of the corporate limits of a municipality.~~

9 ~~(c) Distances shall be measured in a straight line in a horizontal plane.~~

10 ~~(11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee~~
 11 ~~in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation~~
 12 ~~in control of a building.~~

13 ~~(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living~~
 14 ~~quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted~~
 15 ~~on or towed by another vehicle, including but not limited to a:~~

16 ~~(a) travel trailer;~~

17 ~~(b) camping trailer;~~

18 ~~(c) truck camper; or~~

19 ~~(d) motor home.~~

20 ~~(13) "State agency" means any state officer, department, board, bureau, commission, or other~~
 21 ~~agency of this state.~~

22 ~~(14) "State building code" means the state building code provided for in 50-60-203 or any portion~~
 23 ~~of the code of limited application and any of its modifications or amendments."~~

24

25 **NEW SECTION.** Section 10. **Repealer.** Sections 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, **AND**
 26 7-4-4304, and ~~7-4-4306~~, MCA, are repealed.

27

-END-



FREE CONFERENCE COMMITTEE

on House Bill 369
Report No. 1, April 16, 1997

Page 1 of 2

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 369** (reference copy -- salmon) and recommend that **House Bill 369** be amended as follows:

1. Title, line 16.

Following: "7"

Insert: "MODIFYING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN 5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE ORDINANCES;"

2. Title, line 17.

Strike: "AND"

Following: "~~50-60-101,~~"

Insert: "AND 7-4-4306,"

3. Page 7.

Following: line 23

Insert: "

Section 10. Section 7-4-4306, MCA, is amended to read:

"7-4-4306. **Extraterritorial powers.** The mayor has power to exercise ~~such the~~ power as may be vested in the mayor by ordinance of the city or town, in and over all places within 5 miles of the boundaries of the city or town for the purpose of enforcing the health and quarantine ordinances and regulations ~~thereof of the city or town.~~ The board of county commissioners of the county affected by the ordinance and the local health board, if a local health board exists in the area affected by the ordinance, shall approve the ordinance by a majority vote."

Renumber: subsequent section

ADOPT

REJECT

FCCR#1

AC HB 369-1

811625CC.Hgd

HB 369

And this FREE Conference Committee report be adopted.

For the House:

Brainard
Representative Brainard, Chair

Matt Denny
Representative Denny

Jonde McCulloch
Representative McCulloch

For the Senate:

Phil Sprague
Senator Sprague, Chair

Fred Thomas
Senator Thomas

Donna Eck
Senator Eck

1 HOUSE BILL NO. 369

2 INTRODUCED BY BRAINARD, PROUSE, TUSS, ADAMS, EMERSON, THOMAS, SQUIRES, DENNY,
3 MCGEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAW; REQUIRING
6 CONTIGUOUS ANNEXATION BY A CITY OR TOWN TO BE APPROVED BY VOTE ~~BY A MAJORITY~~ OF THE
7 REGISTERED VOTERS RESIDING IN THE AREA TO BE ANNEXED UNLESS THERE ARE LESS THAN 300
8 RECORDED PARCELS IN THE AREA; INCREASING IN CERTAIN INSTANCES FROM 1 YEAR TO 5 YEARS
9 THE PERIOD THAT A CITY OR TOWN COUNCIL IS REQUIRED TO WAIT TO INITIATE, WITHOUT PETITION,
10 THE QUESTION OF ANNEXING AN AREA, CALCULATED FROM THE DATE ~~A MAJORITY OF~~ VOTERS
11 RESIDING IN THAT AREA VOTE AGAINST ANNEXATION; ~~CHANGING THE MEANING OF WHOLLY~~
12 ~~SURROUNDED LAND WITH RESPECT TO ANNEXATION BY A CITY OR TOWN~~; ELIMINATING A MAYOR'S
13 AUTHORITY TO CALL OUT THE MILITIA; ELIMINATING A MAYOR'S RIGHT TO CALL OUT CITIZENS IN
14 CASE OF A RIOT; ~~ELIMINATING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN~~
15 ~~5 MILES OF THE CITY OR TOWN LIMITS FOR THE PURPOSE OF ENFORCING HEALTH AND QUARANTINE~~
16 ~~ORDINANCES~~; MODIFYING A MAYOR'S RIGHT TO EXERCISE EXTRATERRITORIAL POWERS WITHIN 5
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18 ORDINANCES; AMENDING SECTIONS 7-2-4303, 7-2-4311, 7-2-4312, 7-2-4313, 7-2-4314, 7-2-4325,
19 7-2-4502, ~~7-2-4504~~, 7-3-4101, AND 7-4-4303, ~~AND 50-60-101~~, AND 7-4-4306, MCA; AND REPEALING
20 SECTIONS 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, AND 7-4-4304, ~~AND 7-4-4306~~, MCA."
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22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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27 or town under the provisions of 7-2-4311 through 7-2-4314 and ~~7-2-4321 through~~ 7-2-4325 without the
28 written consent ~~in writing~~ of the owners of ~~each~~ the land."
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 6 the platted or unplatted land ~~shall be~~ is contiguous to any incorporated city ~~of the first class or town~~, may
 7 be embraced within the corporate limits ~~thereof of the city or town~~, and the boundaries of ~~such the~~ city
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 16 that the boundaries of ~~such the~~ city or town ~~shall be~~ extended ~~so as~~ to include the ~~same~~ platted tracts or
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 30 accept written comments approving or disapproving the proposed extensions of the boundaries of the city

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30 **Section 8.** Section 7-3-4101, MCA, is amended to read:

1 **"7-3-4101. Strong mayor form of municipal government.** (1) The qualified electors of any city or
 2 town in this state may, in the manner provided in ~~part 42 of~~ chapter 5, part 42, ~~cause~~ adopt an ordinance
 3 ~~to be adopted which has as its subject the~~ vesting of any or all of the following powers with the office of
 4 mayor of ~~such~~ the city or town:

5 (a) to appoint and remove, without consent of the council, all nonelective officers of the city or
 6 town;

7 (b) to exercise absolute control over all departments and divisions of the city or town created in
 8 this title or that may be created by the council;

9 (c) to appoint one or more administrative assistants to assist ~~him~~ in the direction of the operations
 10 of the various city departments and agencies;

11 (d) to be solely responsible for the preparation of the annual budget in compliance with the
 12 procedures set forth in ~~part 42 of~~ chapter 6, part 42;

13 (e) to appoint a budget and finance director whose functions ~~shall~~ include the preparation of the
 14 annual municipal budget under the direction of the mayor.

15 (2) If any ordinance duly adopted in accordance with this section is in conflict with 7-4-4114,
 16 7-4-4303, ~~through 7-4-4306~~ 7-4-4305, 7-5-4102(1), 7-5-4122, 7-5-4205, and 7-5-4206, the provisions
 17 of this section ~~shall~~ prevail."

18

19 **Section 9.** Section 7-4-4303, MCA, is amended to read:

20 **"7-4-4303. Powers of mayor related to municipal officers, personnel, and citizens.** The mayor has
 21 power to:

22 (1) nominate and, with the consent of the council, appoint all nonelective officers of the city or
 23 town provided for by the council, except as provided in this title;

24 (2) suspend and, with the consent of the council, remove any nonelective officer, stating in the
 25 suspension or removal the cause ~~thereof~~ for the removal;

26 (3) supervise the discharge of official duty by all subordinate officers;

27 (4) require of any of the officers of a city or town an exhibit of ~~such~~ the officer's books and papers;

28 ~~(5) call on every citizen of the city or town over the age of 18 years to aid in the enforcement of~~
 29 ~~the laws and ordinances in case of riot;~~

30 ~~(6)~~(5) request that the governor call out the militia to aid the mayor in suppressing riots or other

1 disorderly conduct, preventing and extinguishing fires, securing the peace and safety of the city or town,
2 or carrying into effect any law or ordinance."

3

4 ~~Section 11. Section 50-60-101, MCA, is amended to read:~~

5 ~~"50-60-101. Definitions. As used in parts 1 through 4 and part 7 of this chapter, unless the~~
6 ~~context requires otherwise, the following definitions apply:~~

7 ~~(1) (a) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form~~
8 ~~a structure and the related facilities for the use or occupancy by persons or property.~~

9 ~~(b) The word "building" shall term must be construed as though followed by the words "or part~~
10 ~~or parts thereof" of the building.~~

11 ~~(2) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general~~
12 ~~or special, or compilation thereof enacted or adopted by the state or any municipality, including~~
13 ~~departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the~~
14 ~~design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and~~
15 ~~installation of equipment in buildings. The term does not include zoning ordinances.~~

16 ~~(3) "Construction" means the original construction and equipment of buildings and requirements~~
17 ~~or standards relating to or affecting materials used, including provisions for safety and sanitary conditions.~~

18 ~~(4) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.~~

19 ~~(5) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating~~
20 ~~equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.~~

21 ~~(6) (a) "Factory built building" means a factory assembled structure or structures equipped with~~
22 ~~the necessary service connections but not made so as to be readily movable as a unit or units and designed~~
23 ~~to be used with a permanent foundation.~~

24 ~~(b) "Factory built building" The term does not include manufactured housing constructed after June~~
25 ~~15, 1976, under the HUD, National Mobile Home Construction and Safety Standards Act of 1974.~~

26 ~~(7) "Local building department" means the agency or agencies of any municipality charged with~~
27 ~~the administration, supervision, or enforcement of building regulations, approval of plans, inspection of~~
28 ~~buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required~~
29 ~~by state or local building regulations.~~

30 ~~(8) "Local legislative body" means the council or commission charged with governing the~~

1 municipality.

2 ~~(9) "Municipality" means any incorporated city or town and its jurisdictional area as defined by~~
 3 ~~subsection (10) of this section.~~

4 ~~(10) (a) "Municipal jurisdictional area" means the area within the limits of an incorporated~~
 5 ~~municipality unless the area is extended at the written request of a municipality.~~

6 ~~(b) Upon request, the department may approve extension of the jurisdictional area to include:~~

7 ~~(i) all or part of the area within 4 1/2 miles of the corporate limits of a municipality;~~

8 ~~(ii) all of any platted subdivision which is partially within 4 1/2 miles of the corporate limits of a~~
 9 ~~municipality; and~~

10 ~~(iii) all of any zoning district adopted pursuant to Title 76, chapter 2, part 1 or 2, which is partially~~
 11 ~~within 4 1/2 miles of the corporate limits of a municipality.~~

12 ~~(c) Distances shall be measured in a straight line in a horizontal plane.~~

13 ~~(11) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee~~
 14 ~~in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation~~
 15 ~~in control of a building.~~

16 ~~(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living~~
 17 ~~quarters for recreational, camping, or travel use, which either has its own mode of power or is mounted~~
 18 ~~on or towed by another vehicle, including but not limited to a:~~

19 ~~(a) travel trailer;~~

20 ~~(b) camping trailer;~~

21 ~~(c) truck camper; or~~

22 ~~(d) motor home.~~

23 ~~(13) "State agency" means any state officer, department, board, bureau, commission, or other~~
 24 ~~agency of this state.~~

25 ~~(14) "State building code" means the state building code provided for in 50-60-203 or any portion~~
 26 ~~of the code of limited application and any of its modifications or amendments."~~

27

28 **SECTION 10. SECTION 7-4-4306, MCA, IS AMENDED TO READ:**

29 **"7-4-4306. Extraterritorial powers.** The mayor has power to exercise ~~such~~ the power as may be
 30 vested in the mayor by ordinance of the city or town, in and over all places within 5 miles of the boundaries

1 of the city or town for the purpose of enforcing the health and quarantine ordinances and regulations
2 ~~thereof of the city or town.~~ The board of county commissioners of the county affected by the ordinance
3 and the local health board, if a local health board exists in the area affected by the ordinance, shall approve
4 the ordinance by a majority vote."

5

6 NEW SECTION. Section 11. Repealer. Sections 7-2-4321, 7-2-4322, 7-2-4323, 7-2-4324, AND
7 7-4-4304, ~~and 7-4-4306~~, MCA, are repealed.

8

-END-