

## 1 SENATE BILL NO. 339

2 INTRODUCED BY D. BERRY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW GOVERNING FUNDING FOR  
 5 PUBLIC ASSISTANCE, FOSTER CARE, AND PROTECTIVE SERVICES; PROVIDING A UNIFORM METHOD  
 6 FOR COUNTIES TO PARTICIPATE IN THE FUNDING; PROVIDING FOR THE PAYMENT OF AN ANNUAL  
 7 ADMINISTRATIVE FEE TO THE STATE FOR PARTIAL REIMBURSEMENT FOR THE COSTS OF  
 8 ADMINISTERING AND PROVIDING PUBLIC ASSISTANCE, FOSTER CARE, AND PROTECTIVE SERVICES  
 9 IN THE COUNTY; PROVIDING FOR THE CALCULATION OF THE ADMINISTRATIVE FEE; CLARIFYING THE  
 10 AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO ADMINISTER  
 11 PUBLIC ASSISTANCE; REPLACING COUNTY WELFARE OFFICES WITH LOCAL OFFICES OF PUBLIC  
 12 ASSISTANCE; PROVIDING FOR THE STAFFING AND SUPERVISION OF LOCAL OFFICES; AMENDING  
 13 SECTIONS 7-6-2512, 7-6-2523, 7-7-2201, 7-34-2204, 7-34-2303, 15-1-112, 15-10-420, 15-16-117,  
 14 41-3-1122, 52-1-103, 52-1-110, 53-2-201, 53-2-203, 53-2-207, 53-2-301, 53-2-304, 53-2-305,  
 15 53-2-322, 53-2-602, 53-2-603, 53-2-606, 53-2-609, 53-2-612, 53-2-613, 53-2-801, 53-2-802,  
 16 53-2-811, 53-3-111, 53-3-115, 53-3-116, 53-4-213, 53-4-214, 53-4-233, 53-4-244, 53-6-112,  
 17 53-6-114, 53-6-121, 53-6-132, 53-6-133, 53-6-155, 53-6-157, AND 53-21-113, MCA; REPEALING  
 18 SECTIONS 53-2-610, 53-2-813, 53-4-246, AND 53-4-247, MCA; AND PROVIDING AN EFFECTIVE  
 19 DATE."

20

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

22

23 **Section 1.** Section 7-6-2512, MCA, is amended to read:

24 **"7-6-2512. County tax levy for health care facilities.** (1) Subject to 15-10-420, the board of  
 25 county commissioners may, annually at the time of levying county taxes, fix and levy a tax, not to exceed  
 26 10 mills on each dollar of taxable valuation of property, upon all property within the county to erect,  
 27 furnish, equip, expand, improve, maintain, and operate county-owned or county-operated health care  
 28 facilities created under 7-8-2102, 7-34-2201, and 7-34-2502. "Health care facilities" as used in this  
 29 section has the meaning as defined in 7-34-2201. ~~The combined total number of mills levied under this~~  
 30 ~~section and for the county poor fund under 53-2-322 may not exceed 18 mills.~~ A higher levy may be made

1 upon compliance with 7-6-2531 through 7-6-2537, ~~or 15-10-420, or 53-2-322~~. If a hospital district is  
 2 created under Title 7, chapter 34, part 21, the mill levy authorized by this section may not be imposed on  
 3 property within that hospital district.

4 (2) If a county issues bonds under 7-34-2411 to finance or refinance the costs of a health care  
 5 facility, the board of county commissioners may covenant to levy the tax authorized by this section during  
 6 the term of the bonds, to the extent necessary, and to apply the collections of the tax to the costs of  
 7 erecting, furnishing, equipping, expanding, improving, maintaining, and operating the health care facility  
 8 or facilities of the county or the payment of principal of or interest on the bonds. The pledge of the taxes  
 9 to the payment of the bonds may not cause the bonds to be considered indebtedness of the county for  
 10 the purpose of any statutory limitation or restriction. The pledge may be made by the board only upon  
 11 authorization of a majority of the electors of the county voting on the pledge at a general or special  
 12 election as provided in 7-34-2414."

13

14 **Section 2.** Section 7-6-2523, MCA, is amended to read:

15 **"7-6-2523. Special service levies replaced by all-purpose levy.** A county using the all-purpose levy  
 16 may not impose any of the following levies:

- 17 (1) general fund levy, as provided in 7-6-2501;  
 18 (2) bridge levy, as provided in 7-14-2502;  
 19 (3) recreation levy, as provided in 7-16-101;  
 20 (4) county fair levy, as provided in 7-21-3410;  
 21 (5) weed levy, as provided in 7-22-2142;  
 22 (6) insect pest levy, as provided in 7-22-2306;  
 23 ~~(7) poor fund levy, as provided in 53-2-322;~~ or  
 24 ~~(8)(7)~~ developmental disabilities facility levy, as provided in 53-20-208."

25

26 **Section 3.** Section 7-7-2201, MCA, is amended to read:

27 **"7-7-2201. Purposes for which general obligation bonds of a county may be issued.** The board  
 28 of county commissioners of every a county of the state is hereby vested with the power and authority to  
 29 may issue, negotiate, and sell coupon bonds on the credit of the county, as more specifically provided in  
 30 this part, for any of the following purposes:

1 (1) acquiring land for sites and grounds for a public building or buildings of any kind within the  
 2 county and under its control, which the county has lawful authority to acquire or erect, control, and  
 3 maintain except that if the bonds are sold to fund a multicounty jail facility, funds ~~so raised~~ may be used  
 4 in the county in which the multicounty jail facility is located;

5 (2) acquiring land for any other public use or activity within the county, under its control and  
 6 authorized by law;

7 (3) (a) constructing, erecting, or acquiring by purchase necessary public buildings within the  
 8 county, under its control and authorized by law;

9 (b) making additions to and repairing buildings; and

10 (c) furnishing and equipping the ~~same~~ buildings except that if the bonds are sold to fund a  
 11 multicounty jail facility, funds ~~so raised~~ may be used in the county in which the multicounty jail facility is  
 12 located;

13 (4) building, purchasing, constructing, and maintaining devices intended to protect the safety of  
 14 the public from open ditches carrying irrigation or other water;

15 (5) enabling a county to liquidate its indebtedness to another county incident to the creation of  
 16 a new county or the changing of any county boundary line;

17 (6) funding, paying, and retiring outstanding county warrants lawfully issued against the county  
 18 general fund, road fund, or bridge fund, ~~or poor fund~~ when:

19 (a) there is not sufficient money in the fund against which ~~such~~ the warrants are drawn to pay  
 20 and retire ~~such~~ the warrants; and

21 (b) the levying of taxes sufficient to pay and retire ~~such~~ the warrants within a period of 3 years  
 22 would, in the judgment of the board, work a hardship and be an undue burden upon the taxpayers of the  
 23 county."

24

25 **Section 4.** Section 7-34-2204, MCA, is amended to read:

26 **"7-34-2204. Lease of county property for health care purposes.** (1) The board of county  
 27 commissioners ~~has jurisdiction and power~~ may, under the limitations and restrictions prescribed by law,  
 28 ~~to~~ lease county buildings, equipment, furniture, and fixtures for health care facility purposes, with full  
 29 power of lessor except as limited in this section, upon the terms and conditions as the board may decide  
 30 upon. The rentals received under the lease or leases must be paid into the general fund of the county ~~or~~

1 ~~if the lease is of a long-term care facility or portion of a long-term care facility, the rentals must be paid~~  
 2 ~~into the county poor fund, except as provided in subsection (2)(a).~~

3 (2) (a) A lease may not be made for a period longer than 5 years except in a case in which bonds  
 4 are to be or have been issued in accordance with 7-34-2411, in which case the lease may extend until  
 5 the maturity date of the bonds sold and in which case bond payments may be made from lease receipts.

6 (b) The board may not enter into a lease without first having advertised in a newspaper published  
 7 in the county at least once a week for 5 weeks that the health care facility or designated portion of a  
 8 health care facility, including equipment if applicable, is for lease for health care purposes."  
 9

10 **Section 5.** Section 7-34-2303, MCA, is amended to read:

11 **"7-34-2303. Lease of county property for boarding home.** (1) The board of county commissioners  
 12 may lease county buildings, equipment, furniture, and fixtures for the purpose of operation of a boarding  
 13 home for aged persons, with full power of lessor except as limited in this part, upon terms and conditions  
 14 as that the board may decide upon.

15 (2) The rentals received under the lease or leases must be paid into the ~~poor~~ general fund of the  
 16 county, or if bonds have been issued under 7-34-2411 to finance or refinance the costs of a boarding  
 17 home, the rentals must be applied, as necessary, to the payment of the principal of or interest on the  
 18 bonds.

19 (3) (a) Except as provided in subsection (3)(b), the lease may not be made for a period longer than  
 20 5 years.

21 (b) A lease may be made for a period longer than 5 years when bonds are to be or have been  
 22 issued under 7-34-2411, in which case the lease may extend until the maturity date of the bonds.

23 (4) The board may not enter into a lease unless it has advertised in a newspaper published in the  
 24 county at least once a week for 5 weeks that specified buildings and equipment are for lease for the  
 25 purpose of a boarding home for aged persons."  
 26

27 **Section 6.** Section 15-1-112, MCA, is amended to read:

28 **"15-1-112. Business equipment tax rate reduction reimbursement to local government taxing**  
 29 **jurisdictions.** (1) On or before January 1, 1996, for the reduction in payment under subsection (4) and by  
 30 June 1 of 1996, 1997, and 1998 for all other reimbursements in this section, the department of revenue

1 shall determine a reimbursement amount associated with reducing the tax rate in 15-6-138 and provide  
2 that information to each county treasurer. The reimbursement amount must be determined for each local  
3 government taxing jurisdiction that levied mills on the taxable value of property described in 15-6-138 in  
4 the corresponding tax year. However, the reimbursement does not apply to property described in 15-6-138  
5 that has a reduced tax rate under 15-24-1402.

6 (2) (a) The reimbursement amount to be used as the basis for the payment reduction under  
7 subsection (4) is the product of multiplying the tax year 1995 taxable value of property described in  
8 15-6-138 for each local government taxing jurisdiction by the tax year 1995 mill levy for the jurisdiction  
9 and then multiplying by 1/9th.

10 (b) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1996  
11 is the amount determined under subsection (2)(a) unless the tax year 1996 market value of property  
12 described in 15-6-138, for the particular local government taxing jurisdiction, is more than the tax year  
13 1995 market value for property described in 15-6-138 in the same jurisdiction.

14 (ii) If the tax year 1996 market value is greater than the tax year 1995 market value for a particular  
15 jurisdiction, then the reimbursement amount for tax year 1996 is the result of subtracting the simulated  
16 1996 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by  
17 multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax  
18 year 1995 mill levy for the jurisdiction. The simulated 1996 tax for the particular jurisdiction is the actual  
19 tax year 1996 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy  
20 for the particular jurisdiction. If the simulated 1996 tax is greater than the 1995 tax, the reimbursement  
21 amount is zero.

22 (c) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1997  
23 is the amount determined under subsection (2)(a) multiplied by two unless the tax year 1997 market value  
24 of property described in 15-6-138, for the particular local government taxing jurisdiction, is more than the  
25 tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

26 (ii) If the tax year 1997 market value is greater than the tax year 1995 market value for a particular  
27 jurisdiction, then the reimbursement amount for tax year 1997 is the result of subtracting the simulated  
28 1997 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by  
29 multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax  
30 year 1995 mill levy for the jurisdiction. The simulated 1997 tax for the particular jurisdiction is the actual

1 tax year 1997 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy  
2 for the particular jurisdiction. If the simulated 1997 tax is greater than the 1995 tax, the reimbursement  
3 amount is zero.

4 (d) (i) The reimbursement amount for each local government taxing jurisdiction for tax year 1998  
5 is the amount determined under subsection (2)(a) multiplied by three unless the tax year 1998 market  
6 value of property described in 15-6-138, for the particular local government taxing jurisdiction, is more  
7 than the tax year 1995 market value for property described in 15-6-138 in the same jurisdiction.

8 (ii) If the tax year 1998 market value is greater than the tax year 1995 market value for a particular  
9 jurisdiction, then the reimbursement amount for tax year 1998 is the result of subtracting the simulated  
10 1998 tax from the 1995 tax. The 1995 tax is the tax for the particular jurisdiction, determined by  
11 multiplying the actual taxable valuation of property described in 15-6-138, for tax year 1995, by the tax  
12 year 1995 mill levy for the jurisdiction. The simulated 1998 tax for the particular jurisdiction is the actual  
13 tax year 1998 taxable value of property described in 15-6-138 multiplied by the tax year 1995 mill levy  
14 for the particular jurisdiction. If the simulated 1998 tax is greater than the 1995 tax, the reimbursement  
15 amount is zero.

16 (3) (a) For purposes of this section, "local government taxing jurisdiction" means a local  
17 government rather than a state taxing jurisdiction that levied mills against property described in 15-6-138,  
18 including county governments, incorporated city and town governments, consolidated county and city  
19 governments, tax increment financing districts, local elementary and high school districts, local community  
20 college districts, miscellaneous districts, and special districts. The term includes countywide mills levied  
21 for equalization of school retirement or transportation.

22 (b) The term does not include county or state school equalization levies provided for in 20-9-331,  
23 20-9-333, and 20-9-360. ~~It also does not include any state levy for welfare programs provided for in~~  
24 ~~53-2-813.~~

25 (c) Each tax increment financing district must receive the benefit of the state mill on the  
26 incremental taxable value of the district.

27 (4) County treasurers shall reduce the county payment to the state for the levy imposed under  
28 20-9-360 in June of 1996 by an amount equal to 38% of the reimbursement amount determined under  
29 subsection (2)(a) for all of the local government taxing jurisdictions in the county.

30 (5) County treasurers shall reduce the county payment to the state for the levy imposed under

1 20-9-360 in December of 1996 by an amount equal to 31% of the reimbursement amount for tax year  
2 1996 for all of the local government taxing jurisdictions in the county, as determined by the department  
3 under subsection (2).

4 (6) County treasurers shall reduce the county payment to the state for the levy imposed under  
5 20-9-360 in June of 1997 by an amount equal to 31% of the reimbursement amount for tax year 1996  
6 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the  
7 reimbursement amount for tax year 1997 for all of the local government taxing jurisdictions in the county,  
8 as determined by the department under subsection (2).

9 (7) County treasurers shall reduce the county payment to the state for the levy imposed under  
10 20-9-360 in December of 1997 by an amount equal to 31% of the reimbursement amount for tax year  
11 1997 for all of the local government taxing jurisdictions in the county, as determined by the department  
12 under subsection (2).

13 (8) County treasurers shall reduce the county payment to the state for the levy imposed under  
14 20-9-360 in June of 1998 by an amount equal to 31% of the reimbursement amount for tax year 1997  
15 for all of the local government taxing jurisdictions in the county and by an amount equal to 38% of the  
16 reimbursement amount for tax year 1998 for all of the local government taxing jurisdictions in the county,  
17 as determined by the department under subsection (2).

18 (9) County treasurers shall reduce the county payment to the state for the levy imposed under  
19 20-9-360 in December of 1998 by an amount equal to 31% of the reimbursement amount for tax year  
20 1998 for all of the local government taxing jurisdictions in the county, as determined by the department  
21 under subsection (2).

22 (10) County treasurers shall reduce the county payment to the state for the levy imposed under  
23 20-9-360 in June of 1999 by an amount equal to 69% of the reimbursement amount for tax year 1998  
24 for all of the local government taxing jurisdictions in the county, as determined by the department under  
25 subsection (2).

26 (11) County treasurers shall reduce the county payment to the state for the levy imposed under  
27 20-9-360 in December of the years 1999 through 2007 by an amount equal to 31% of the reimbursement  
28 amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as  
29 determined by the department under subsection (2).

30 (12) County treasurers shall reduce the county payment to the state for the levy imposed under

1 20-9-360 in June of the years 2000 through 2008 by an amount equal to 69% of the reimbursement  
 2 amount determined in subsection (13) for all of the local government taxing jurisdictions in the county, as  
 3 determined by the department under subsection (2).

4 (13) (a) The reimbursement amount for tax year 1999 and each subsequent tax year for 9 years  
 5 must be progressively reduced each year by 10% of the reimbursement amount for tax year 1998,  
 6 according to the following schedule:

7 Tax Year	Percentage of 1998 8 Reimbursement Amount
9 1999	90
10 2000	80
11 2001	70
12 2002	60
13 2003	50
14 2004	40
15 2005	30
16 2006	20
17 2007	10
18 2008 and following years	0

19 (b) The reimbursement amount for each tax year must be the basis for reducing the amount  
 20 remitted to the state for the levy imposed under 20-9-360 in December of the same year and June of the  
 21 following year.

22 (14) The county treasurer shall use the funds from the reduced payment to the state for the levy  
 23 imposed under 20-9-360 to reimburse each local government taxing jurisdiction in the amount determined  
 24 by the department under subsection (2). The reimbursement must be distributed to funds within local  
 25 government taxing jurisdictions in the same manner as taxes on property described in 15-6-138 are  
 26 distributed. The reimbursement in June must be distributed based on the prior year's mill levy, and the  
 27 reimbursement in December must be based on the current year's mill levy.

28 (15) Each local government taxing jurisdiction receiving reimbursements shall consider the amount  
 29 of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by  
 30 the amount that would otherwise have to be raised by the mill levy.

1 (16) A local government taxing jurisdiction that ceases to exist after October 1, 1995, will no  
2 longer be considered for revenue loss or reimbursement purposes. A local government taxing jurisdiction  
3 that is created after January 1, 1996, will not be considered for revenue loss or reimbursement purposes.  
4 If a local government taxing jurisdiction that existed prior to January of 1996 is split between two or more  
5 taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall  
6 determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions."

7

8 **Section 7.** Section 15-10-420, MCA, is amended to read:

9 **"15-10-420. Procedure for calculating levy.** (1) A governmental entity that is authorized to impose  
10 mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the  
11 prior year, even if that levy is greater than the levy established by law. The maximum number of mills that  
12 a governmental entity may impose is established by calculating the number of mills required to generate  
13 the amount of property tax actually assessed in the governmental unit in the prior year based on the  
14 current year taxable value, less the value of newly taxable property.

15 (2) A governmental entity may apply the levy calculated pursuant to subsection (1) plus any  
16 additional levies authorized by the voters to all property in the governmental unit, including newly taxable  
17 property.

18 (3) For purposes of this section, newly taxable property includes:

19 (a) annexation of real property and improvements into a taxing unit;

20 (b) construction, expansion, or remodeling of improvements;

21 (c) transfer of property into a taxing unit;

22 (d) subdivision of real property;

23 (e) reclassification of property;

24 (f) transfer of property from tax-exempt to taxable status; and

25 (g) revaluations caused by expansion, addition, replacement, or remodeling of improvements.

26 (4) Subsection (1) does not apply to school district general fund levies and the school district levy  
27 for tuition obligations established in 20-5-324(5).

28 (5) For purposes of subsection (1), taxes imposed:

29 (a) include registration fees imposed on light vehicles under 61-3-561 and distributed under  
30 61-3-509(2); and

1 (b) do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

2 (6) In determining the maximum number of mills in subsection (1), the governmental entity shall  
3 take into account any change from the prior year in the amount of statutory reimbursements for changes  
4 in the property tax laws. The amount of motor vehicle disposition under 61-3-509(2), as that section read  
5 on December 31, 2000, is an increased statutory reimbursement. It may increase the number of mills to  
6 account for a decrease in reimbursements and shall decrease the number of mills to fully account for any  
7 increase in reimbursements.

8 (7) The department shall calculate the number of mills to be imposed for purposes of 15-10-107,  
9 20-9-331, 20-9-333, 20-9-360, 20-25-423, 20-25-439, and ~~53-2-813~~ 53-2-322. However, the number  
10 of mills calculated by the department may not exceed the mill levy limits established in those sections.

11 (8) The department may adopt rules to implement this section. The rules may include a method  
12 for calculating the percentage of change in valuation for purposes of determining the elimination of  
13 property, new improvements, or newly taxable property in a governmental unit."

14

15 **Section 8.** Section 15-16-117, MCA, is amended to read:

16 **"15-16-117. Personal property -- treasurer's duty to collect certain taxes.** (1) The county treasurer  
17 shall demand payment of ~~poor fund~~ taxes, authorized by 53-2-322, and road taxes, authorized by  
18 7-14-2206 or 7-14-2501 through 7-14-2504, from each person liable for the taxes whose name does not  
19 appear on the property tax record. On the neglect or refusal of a person to pay the taxes, the treasurer  
20 shall collect the taxes by seizure and sale of any property owned by the person.

21 (2) Subject to 15-10-420, these taxes must be added in the property tax record to other property  
22 taxes of persons paying taxes upon real and personal property and must be paid to the county treasurer  
23 at the time of payment of other taxes.

24 (3) The procedure for the sale of property by the county treasurer for the taxes is regulated by  
25 15-16-119 and 15-17-911.

26 (4) The provisions of this section do not apply to property for which delinquent property taxes  
27 have been suspended or canceled under the provisions of Title 15, chapter 24, part 17."

28

29 **Section 9.** Section 41-3-1122, MCA, is amended to read:

30 **"41-3-1122. Payment for support of youth in need of care, youth in need of intervention, or**

1 **delinquent youth --reimbursement by county.** (1) Whenever a youth who is a youth in need of care, a  
 2 youth in need of intervention, or a delinquent youth is placed by the department of public health and  
 3 human services or the department of corrections in a youth care facility, the department making the  
 4 placement shall pay, within the limits of the appropriation for that purpose, a foster care payment to the  
 5 youth care facility at a rate established by the department of public health and human services for the  
 6 youth's board, clothing, personal needs, treatment, and room.

7 (2) ~~On or before the 20th of each month, the department of public health and human services or~~  
 8 ~~the department of corrections shall present a claim to the county of residence of the youth for no more~~  
 9 ~~than one-half of the nonfederal share of the payments made during the month. The Each county shall make~~  
 10 ~~reimbursement to the department within 20 days after the claim is presented pay an administrative fee~~  
 11 ~~to the state general fund, in accordance with 53-2-322, to reimburse the department, in part, for the costs~~  
 12 ~~of administering and providing foster care payments pursuant to 41-3-1103.~~

13 (3) ~~Except as provided in subsection (4), when a county's level of expenditure for any year~~  
 14 ~~reaches the level of reimbursement for foster care in fiscal year 1987, the county has no further obligation~~  
 15 ~~for foster care expenditures.~~

16 (4) ~~If a county's level of expenditure for foster care in fiscal year 1987 was \$10,000 or less, the~~  
 17 ~~county's level of expenditure for purposes of determining the county's reimbursement specified in~~  
 18 ~~subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal~~  
 19 ~~years 1984 through 1987, whichever is less.~~

20 (5) ~~A county that was state-assumed prior to 1987 but that at a later date reassumes~~  
 21 ~~responsibility pursuant to 53-2-811 is responsible for reimbursement of foster care expenditures up to the~~  
 22 ~~county's calculated level of expenditures for fiscal year 1987 as if the county had not been state-assumed.~~

23 (6)(3) The department shall conduct or arrange for the review required under 41-3-1115, or when  
 24 applicable, 41-3-1010 of a youth placed in a youth care facility if the youth is placed by the department."

25

26 **Section 10.** Section 52-1-103, MCA, is amended to read:

27 **"52-1-103. Powers and duties of department.** The department shall:

28 (1) administer and supervise all forms of child and adult protective services;

29 (2) act as the lead agency in coordinating and planning services to children with multiagency  
 30 service needs;

- 1 (3) establish a system of councils at the state and local levels to make recommendations and to  
2 advise the department on issues, including children's issues;
- 3 (4) provide the following functions, as necessary, for youth in need of care:  
4 (a) intake, investigation, case management, and client supervision;  
5 (b) placement in youth care facilities;  
6 (c) contracting for necessary services;  
7 (d) protective services day care; and  
8 (e) adoption;
- 9 (5) register or license youth care facilities, child-placing agencies, day-care facilities, community  
10 homes for persons with developmental disabilities, community homes for severely disabled persons, and  
11 adult foster care facilities;
- 12 (6) act as lead agency in implementing and coordinating child-care programs and services under  
13 the Montana Child Care Act;
- 14 (7) administer the interstate compact for children;
- 15 (8) (a) administer child abuse prevention services funded through child abuse grants and the  
16 Montana children's trust fund provided for in Title 41, chapter 3, part 7; and  
17 (b) administer elder abuse prevention services;
- 18 (9) develop a statewide youth services and resources plan that takes into consideration local  
19 needs;
- 20 (10) administer services to the aged;
- 21 (11) provide consultant services to:  
22 (a) facilities providing care for adults who are needy, indigent, or dependent or who have  
23 disabilities; and  
24 (b) youth care facilities;
- 25 (12) use the staff and services of other state agencies and units of the Montana university system,  
26 within their respective statutory functions, to carry out its functions under this title;
- 27 (13) contract, as necessary, ~~with the county board of welfare~~ for administration of child and adult  
28 protection services for ~~that~~ each county; and
- 29 (14) adopt rules necessary to carry out the purposes of 41-3-1126 and this chapter."  
30

1           **Section 11.** Section 52-1-110, MCA, is amended to read:

2           "**52-1-110. County contribution Payment for salaries and travel of protective services employees.**

3 (1) ~~The salaries and travel expenses, as provided in 2-18-501 through 2-18-503, of protective services~~  
 4 ~~employees must be paid by the department of public health and human services~~ shall pay, within the limits  
 5 of the appropriation for that purpose, all costs incurred by the department for the purpose of carrying out  
 6 the duties listed in 52-1-103, including the costs associated with administering and supervising protective  
 7 services. Each county shall pay an administrative fee to the state general fund, in accordance with  
 8 53-2-322, for the purpose of reimbursing the department, in part, for the costs of administering, providing,  
 9 and supervising protective services to county residents requiring the services. ~~The board of county~~  
 10 ~~commissioners of a county that has not become state-assumed pursuant to 53-2-811 shall reimburse the~~  
 11 ~~department of public health and human services from county poor funds in an amount equal to that~~  
 12 ~~county's expenditures for salaries, travel expenses, and indirect costs of protective services employees~~  
 13 ~~in fiscal year 1987, adjusted for annual inflation.~~

14 ~~———(2) A county that was state-assumed prior to 1987 but at a later date reassumes responsibility~~  
 15 ~~pursuant to 53-2-811 is responsible for reimbursement of salaries, travel expenses, and indirect costs up~~  
 16 ~~to the county's calculated level of expenditures for fiscal year 1987 as if the county had not been~~  
 17 ~~state-assumed.~~

18 ~~———(3) On or before the 20th day of the month following the month for which payments were made~~  
 19 ~~for protective services employees' salaries, travel, and indirect costs, the department of public health and~~  
 20 ~~human services shall present to the board of county commissioners a claim for the required reimbursement.~~  
 21 ~~The board of county commissioners shall make the reimbursement within 20 days after the presentation~~  
 22 ~~of the claim.~~

23           ~~(4)~~(2) The department is responsible for administrative costs associated with the department's  
 24 provision of protective services, including costs for rent, telephones, postage, and equipment."  
 25

26           **Section 12.** Section 53-2-201, MCA, is amended to read:

27           "**53-2-201. Powers and duties of department.** (1) The department shall:

28           (a) administer and supervise public assistance, including the provision of food stamps, food  
 29 commodities, FAIM financial assistance, as defined in 53-2-902, energy assistance, weatherization,  
 30 vocational rehabilitation, services for persons with severe disabilities, developmental disability services,

1 medical care payments in behalf of recipients of public assistance, employment and training services for  
 2 recipients of public assistance, and other programs as necessary to strengthen and preserve families;

3 (b) give consultant service to private institutions providing care for adults who are needy, indigent,  
 4 or dependent or who have disabilities;

5 (c) cooperate with other state agencies and develop provisions for services to the blind, including  
 6 the prevention of blindness, the location of blind persons, medical services for eye conditions, and  
 7 vocational guidance and training of the blind;

8 (d) ~~provide services in respect to organization~~ organize and supervise ~~county departments~~ the local  
 9 offices of public ~~welfare and county boards of public welfare~~ assistance ~~in the administration of public~~  
 10 ~~assistance functions and for efficiency and economy~~ an efficient and economical manner;

11 (e) assist and cooperate with other state and federal departments, bureaus, agencies, and  
 12 institutions, when requested, by performing services in conformity with public assistance purposes;

13 (f) administer all state and federal funds allocated to the department for public assistance and do  
 14 all things necessary, in conformity with federal and state law, for the proper fulfillment of public assistance  
 15 purposes;

16 (g) make rules governing payment for services and supplies provided to recipients of public  
 17 assistance; and

18 (h) adopt rules regarding assignment of monetary and medical support upon application for FAIM  
 19 financial assistance, as defined in 53-2-902, and related medical assistance.

20 (2) The department may:

21 (a) purchase, exchange, condemn, or receive by gift either real or personal property that is  
 22 necessary to carry out its public assistance functions. Title to property obtained under this subsection must  
 23 be taken in the name of the state of Montana for the use and benefit of the department.

24 (b) contract with the federal government to carry out its public assistance functions. The  
 25 department may do all things necessary in order to avail itself of federal aid and assistance.

26 (c) make rules, consistent with state and federal law, establishing the amount, scope, and duration  
 27 of services to be provided to recipients of public assistance."

28

29 **Section 13.** Section 53-2-203, MCA, is amended to read:

30 **"53-2-203. Department to ~~maintain merit system and~~ supervise public assistance personnel.** The

1 department shall:

2 ~~———(1) maintain a merit system pertaining to qualifications for appointment, terms of office, annual~~  
 3 ~~merit rating, releases, promotions, and salary schedules for all public assistance personnel; personnel~~  
 4 ~~standards must conform as far as possible with general standards established or required by the federal~~  
 5 ~~government;~~

6 ~~———(2) have examinations held from time to time throughout the state to establish and furnish to~~  
 7 ~~county departments lists, in order of merit, of persons eligible for appointment;~~

8 ~~———(3) develop policies relating to educational leave of employees and to staff development needs;~~

9 ~~———(4) supervise the appointment, dismissal, and entire status of the public assistance personnel~~  
 10 ~~attached to county boards in accordance with the merit system local offices of public assistance."~~

11

12 **Section 14.** Section 53-2-207, MCA, is amended to read:

13 **"53-2-207. Power of department in administering state and federal funds.** In administering or  
 14 supervising any state or federal funds appropriated or made available to the department for public  
 15 assistance purposes, the department has the authority to:

16 (1) require the county to ~~bear the proportion of the total of local pay~~ an administrative fee to the  
 17 state general fund, in accordance with 53-2-322, for the purpose of reimbursing the department, in part,  
 18 for the costs of administering and providing public assistance as is fixed by law relating to the assistance  
 19 to county residents in need;

20 (2) make use of all legal processes to enforce the standards prescribed for public assistance  
 21 purposes by the department; and

22 (3) require that each part of the public assistance laws be in effect in all counties of the state."

23

24 **Section 15.** Section 53-2-301, MCA, is amended to read:

25 **"53-2-301. ~~County departments~~ Local offices of public assistance to be established.** There shall  
 26 must be established in each county of the state, ~~except in a county that has transferred its public~~  
 27 ~~assistance and protective services responsibilities to the state under the provisions of part 8 of this~~  
 28 ~~chapter, a county department of public welfare, which shall consist of a county board of public welfare~~  
 29 ~~and such staff personnel as may be necessary for the efficient performance~~ one or more offices of the  
 30 public assistance activities of the county. If conditions warrant and if two or more county boards enter

1 ~~into an agreement, two or more counties may combine~~ be combined into one administrative unit and the  
 2 department may use the same local office of public assistance and staff personnel throughout the  
 3 administrative unit to administer public assistance in the combined counties."

4

5 **Section 16.** Section 53-2-304, MCA, is amended to read:

6 **"53-2-304. (Temporary) Staff personnel of county department public assistance programs.** (1) (a)

7 ~~Each county board shall select and appoint from a list of qualified persons furnished by the department~~  
 8 ~~staff personnel that are necessary. The staff personnel in each county local office of public assistance~~  
 9 ~~must consist of at least one qualified staff worker or investigator and clerks and stenographers that may~~  
 10 ~~be necessary. The department shall hire and supervise all public assistance staff. If conditions warrant,~~  
 11 ~~the county board, with the approval of the department, may appoint some~~ A ~~fully qualified person listed~~  
 12 ~~must be employed~~ by the department ~~as supervisor of its~~ pursuant to subsections (1)(b) and (1)(c) to  
 13 ~~supervise the~~ staff personnel. The staff personnel of each county department are directly responsible to  
 14 ~~the county board, but the department of public health and human services may supervise the county~~  
 15 ~~employees in respect to the efficient and proper performance of their duties. The county board of public~~  
 16 ~~welfare may not dismiss any member of the staff personnel without the approval of the department. The~~  
 17 ~~department may request the county board to dismiss any member of the staff personnel for inefficiency,~~  
 18 ~~incompetence, or similar cause. The final authority for dismissal is the county board. In counties where~~  
 19 ~~the department has assumed the administration of welfare duties, the final authority for dismissal is the~~  
 20 ~~director of the department.~~

21 (b) In accordance with subsection (1)(a), the department shall establish a hiring committee for the  
 22 purpose of choosing a qualified applicant to serve as primary supervisor of the public assistance staff. The  
 23 hiring committee must consist of two county commissioners from the county where the vacancy exists  
 24 and two representatives or designees of the department. If the primary supervisor is to supervise staff in  
 25 more than one county, then the county commissioners from each of the counties shall designate two  
 26 county commissioners to represent the county as members of the hiring committee.

27 (c) The department shall screen the applicants who apply for the position of primary supervisor  
 28 and shall compile a list of the most qualified applicants on the basis of merit. The department shall present  
 29 the list to the hiring committee. The committee shall rank the applicants in the order it considers most  
 30 appropriate, and the department shall offer the primary supervisor position to the applicants in the order

1 determined by the hiring committee unless the department is unable to contact a particular applicant after  
 2 having made a good faith effort. An offer of employment may not be made to a lower-ranking applicant  
 3 until all available higher-ranking applicants have been offered the primary supervisor position and have  
 4 either refused the offer or withdrawn their applications.

5 (2) ~~The department shall pay~~ Public assistance staff must be paid from state public assistance  
 6 funds ~~the both their salaries of public assistance staff personnel attached to a county board. The~~  
 7 ~~department shall also pay the~~ and their travel expenses of those personnel, as provided in 2-18-501  
 8 through 2-18-503, when those personnel are away from the county seat traveling in the performance of  
 9 their duties. However, the county board shall reimburse the department from county ~~poor~~ funds for ~~those~~  
 10 the full amount of salaries; and travel expenses; ~~and indirect costs that are not reimbursed to the~~  
 11 department by the federal government and for the full amount of the department's administrative costs  
 12 that are allocated by the department to the county for the administration of ~~county welfare~~ public  
 13 assistance programs, ~~as follows:~~

14 ~~—— (a) The county board shall reimburse the department 50% of all salaries, travel expenses, and~~  
 15 ~~allocated direct and indirect administrative costs attributable to cash assistance and emergency assistance~~  
 16 ~~programs created pursuant to Title 53, chapter 4. However, a county is not required to reimburse the~~  
 17 ~~department more for the salaries, travel expenses, indirect costs, and allocated administrative costs for~~  
 18 ~~1 state fiscal year than the dollar amount that the county paid as its share of cash assistance and~~  
 19 ~~emergency assistance programs in 1996.~~

20 ~~—— (b) The county board shall reimburse the department the full amount of salaries, travel expenses,~~  
 21 ~~and allocated direct and indirect administrative costs attributable to any public assistance program other~~  
 22 ~~than the cash assistance and emergency assistance programs created pursuant to Title 53, chapter 4, and~~  
 23 ~~not reimbursed to the department by the federal government. Under circumstances prescribed by the~~  
 24 ~~department, the reimbursement by the county may be less than the county share as prescribed in this~~  
 25 ~~subsection. All other administrative costs of the local office of public assistance must be paid from county~~  
 26 ~~funds.~~

27 ~~(3) All administrative costs of the county department of public welfare other than the costs~~  
 28 ~~described in subsections (2)(a) and (2)(b) must be paid from county poor funds.~~

29 ~~(4)~~(3) On or before the 20th day of the month following the month for which the payments to the  
 30 public assistance staff ~~personnel of the county~~ were made, the department shall present to the county

1 ~~department of public welfare~~ a claim for the required reimbursements. The county board shall make  
2 reimbursements within 20 days after the presentation of the claim, and the department of public health  
3 ~~and human services~~ shall credit all reimbursements to its account for administrative costs.

4 (5) ~~If a county has transferred its public assistance and protective services responsibilities to the~~  
5 ~~state under part 8 of this chapter, the department shall select, appoint, and supervise all necessary public~~  
6 ~~assistance and protective services personnel, including if necessary a supervisor of staff personnel. All~~  
7 ~~personnel are directly responsible to the department. (Terminates June 30, 2001--sec. 6, Ch. 341, L.~~  
8 ~~1999.)~~

9 **53-2-304. (Effective July 1, 2001) Staff personnel of county department public assistance**  
10 **program.** (1) (a) ~~Each county board shall select and appoint from a list of qualified persons furnished by~~  
11 ~~the department of public health and human services staff personnel that are necessary. The staff personnel~~  
12 ~~in each county local office of public assistance must consist of at least one qualified staff worker or~~  
13 ~~investigator and clerks and stenographers that may be necessary. The department of public health and~~  
14 ~~human services shall hire and supervise all public assistance staff. If conditions warrant, the county board,~~  
15 ~~with the approval of the department of public health and human services, may appoint some A fully~~  
16 ~~qualified person listed must be employed by the department as supervisor of its pursuant to subsections~~  
17 ~~(1)(b) and (1)(c) to supervise the staff personnel. The staff personnel of each county department are~~  
18 ~~directly responsible to the county board, but the department of public health and human services may~~  
19 ~~supervise the county employees in respect to the efficient and proper performance of their duties. The~~  
20 ~~county board of public welfare may not dismiss any member of the staff personnel without the approval~~  
21 ~~of the department of public health and human services. The department may request the county board to~~  
22 ~~dismiss any member of the staff personnel for inefficiency, incompetence, or similar cause. The final~~  
23 ~~authority for dismissal is the county board. In counties where the department has assumed the~~  
24 ~~administration of welfare duties, the final authority for dismissal is the director of the department.~~

25 (b) In accordance with subsection (1)(a), the department shall establish a hiring committee for the  
26 purpose of choosing a qualified applicant to serve as primary supervisor of the public assistance staff. The  
27 hiring committee must consist of two county commissioners from the county where the vacancy exists  
28 and two representatives or designees of the department. If the primary supervisor is to supervise staff in  
29 more than one county, then the county commissioners from each of the counties shall designate two  
30 county commissioners to represent the county as members of the hiring committee.

1           (c) The department shall screen the applicants who apply for the position of primary supervisor  
2 and shall compile a list of the most qualified applicants on the basis of merit. The department shall present  
3 the list to the hiring committee. The committee shall rank the applicants in the order it considers most  
4 appropriate, and the department shall offer the primary supervisor position to the applicants in the order  
5 determined by the hiring committee unless the department is unable to contact a particular applicant after  
6 having made a good faith effort. An offer of employment may not be made to a lower-ranking applicant  
7 until all available higher-ranking applicants have been offered the primary supervisor position and have  
8 either refused the offer or withdrawn their applications.

9           (2) ~~Public assistance staff personnel attached to the county board~~ must be paid from state public  
10 assistance funds both their salaries and their travel expenses, as provided for in 2-18-501 through  
11 2-18-503, ~~when away from the county seat traveling~~ in the performance of their duties, ~~but~~. However,  
12 the county ~~board of public welfare~~ shall reimburse the department ~~of public health and human services~~  
13 from county ~~poor~~ funds for the full amount of the salaries and travel expenses that are not reimbursed to  
14 the department by the federal government and for the full amount of the department's administrative costs  
15 that are allocated by the department to the county for the administration of ~~county welfare~~ public  
16 assistance programs and that are not reimbursed to the department by the federal government. Under  
17 circumstances prescribed by the department ~~of public health and human services~~, the reimbursement by  
18 the county ~~board of public welfare~~ may be less than the county share as prescribed in this subsection. All  
19 other administrative costs of the ~~county department~~ local office of public assistance must be paid from  
20 county ~~poor~~ funds.

21           (3) On or before the 20th day of the month following the month for which the payments to the  
22 public assistance staff ~~personnel of the county~~ were made, the department ~~of public health and human~~  
23 ~~services~~ shall present to the county ~~department of public welfare~~ a claim for the required reimbursements.  
24 The county ~~board~~ shall make reimbursements within 20 days after the presentation of the claim, and the  
25 department ~~of public health and human services~~ shall credit all reimbursements to its account for  
26 administrative costs.

27           (4) ~~If a county has transferred its public assistance and protective services responsibilities to the~~  
28 ~~state under part 8 of this chapter, the department shall select, appoint, and supervise all necessary public~~  
29 ~~assistance and protective services personnel, including if necessary a supervisor of staff personnel. All~~  
30 ~~personnel are directly responsible to the department."~~

1

2           **Section 17.** Section 53-2-305, MCA, is amended to read:

3           **"53-2-305. ~~County departments~~ Local offices of public assistance under supervision of**  
 4 **department.** (1) ~~County departments~~ Local offices of public assistance are under the supervision of the  
 5 department of ~~public health and human services~~ and are subject to audit by the department. However,  
 6 the department shall enter into agreements with the counties regarding minimum standards of operation,  
 7 including but not limited to office hours, staffing, significant program changes, administration of county  
 8 public assistance programs, and office facilities. If the board of county commissioners in a county  
 9 disagrees with a specific method used, approach taken, or decision made that has a broad impact on the  
 10 provision of public assistance in the county, the board of county commissioners may present their  
 11 objections to the department in accordance with subsection (2). PRIOR TO AND DURING THE DEVELOPMENT OF  
 12 AN AGREEMENT, THE DEPARTMENT SHALL ENSURE THE PARTICIPATION OF THE TRIBAL GOVERNMENT IN THE DEVELOPMENT  
 13 OF A PLAN FOR ANY COUNTY THAT SERVES AN INDIAN RESERVATION.

14           (2) All objections made by the board of county commissioners pursuant to subsection (1) must  
 15 be presented to the department in writing. Within 45 days of receiving a written objection, the department  
 16 shall convene a resolution committee. The committee must be composed of two county commissioners  
 17 to be appointed for 2-year terms by the Montana association of counties, two representatives or designees  
 18 of the department, and a fifth member selected by the other members. If the other members cannot agree  
 19 on the fifth member, the attorney general shall appoint the fifth member. The resolution committee shall  
 20 review the objections made by the county and shall attempt, in good faith, to develop an alternative  
 21 method, approach, or resolution that is satisfactory to both the department and the county. The resolution  
 22 committee shall present the results of its deliberations to the director of the department to carry out the  
 23 alternative method, approach, or resolution."

24

25           **Section 18.** Section 53-2-322, MCA, is amended to read:

26           **"53-2-322. County to levy taxes, budget, and make expenditures for public assistance activities.**  
 27 (1) Subject to 15-10-420, the board of county commissioners in each county shall levy ~~13.5 mills for the~~  
 28 ~~county poor fund~~ taxes as provided by law ~~or so much of that~~ in order to raise the amount as may be of  
 29 funds necessary to pay the administrative fee determined in accordance with subsection (2) and all other  
 30 county expenditures for public assistance activities. ~~The board may levy up to an additional 12 mills if~~

1 approved by the voters in the county. Subject to 15-10-420, a county shall levy sufficient mills to  
 2 reimburse the state for any administrative or operational costs in excess of the administrative and  
 3 operational costs for the previous fiscal year. The department of public health and human services shall  
 4 notify the counties of the number of mills required to be levied. Once an additional levy has been approved,  
 5 the amount of the approved levy may continue to be levied without voter approval.

6 (2) The board shall budget and expend ~~so much of the funds in the county poor fund for order to:~~

7 (a) ~~public assistance as necessary to reimburse~~ pay the annual administrative fee to the state  
 8 general fund for the purpose of reimbursing the department, in part, for the county's proportionate share  
 9 of the administrative costs and of all administering and providing public assistance costs;

10 ~~— (b) salaries, travel expenses, and indirect costs, as provided in 52-1-110, of protective services~~  
 11 ~~employees of the department; and~~

12 ~~— (c) the county's proportionate share of any other public assistance activity that may be carried~~  
 13 ~~on jointly by the state and in the county; and~~

14 (b) pay the costs of the county's optional indigent assistance program, if any, pursuant to  
 15 53-3-116.

16 (3) (a) Subject to subsection (3)(b), the amount of the administrative fee must equal the average  
 17 cost that the county was billed for public assistance, protective services, and foster care for fiscal years  
 18 1995 through 1999. The county shall pay the annual administrative fee to the state general fund in two  
 19 equal installments. The county shall pay the first installment in full by July 1 of the fiscal year and shall  
 20 pay the second installment, constituting the balance of the amount due, by January 1 of the fiscal year.

21 (b) The administrative fee calculated pursuant to subsection (3)(a) may not exceed the amount  
 22 that a county was billed for public assistance, protective services, and foster care in fiscal year 2000,  
 23 excluding any amount previously owed to the state from the county for the enumerated expenses.

24 ~~(3)(4)~~ The amounts set up in the county's budget for the reimbursements payments to the  
 25 department must be sufficient to ~~make all of these reimbursements~~ pay the administrative fee in full. The  
 26 budget must make separate provision for each public assistance activity and for salaries, travel expenses,  
 27 and indirect costs for protective services activities of the department. Proper accounts must be established  
 28 for the funds for all the activities.

29 ~~— (4) The department shall submit to the counties, no later than May 10, the most current county~~  
 30 ~~participation percentages that are necessary to establish preliminary county budgets. As soon as the~~

1 county proposed budget provided for in 7-6-2315 has been agreed upon, a copy must be mailed to the  
 2 department, and at any time before the final adoption of the budget, the department shall make  
 3 recommendations with regard to changes in any part of the budget relating to the county poor fund as  
 4 considered necessary in order to enable the county to discharge its obligations under the public assistance  
 5 laws.

6 ~~———(5) The department shall promptly examine the county proposed budget in order to ascertain if~~  
 7 ~~the amounts provided for reimbursements to the department are likely to be sufficient and shall notify the~~  
 8 ~~county clerk of its findings. The board shall make changes in the amounts provided for reimbursements,~~  
 9 ~~if any are required, in order that the county will be able to make the reimbursements in full.~~

10 ~~———(6) The board of county commissioners may not make any transfer from the amounts budgeted~~  
 11 ~~for reimbursing the department without having first obtained a statement in writing from the department~~  
 12 ~~to the effect that the amount to be transferred will not be required during the fiscal year for the purposes~~  
 13 ~~for which the amounts were provided in the budget.~~

14 ~~———(7) The county poor fund, irrespective of the source of any part of the fund, may not be used~~  
 15 ~~directly or indirectly for the erection or improvement of any county building as long as the fund is needed~~  
 16 ~~for paying the county's proportionate share of public assistance and protective services, as described in~~  
 17 ~~52-1-110, or its proportionate share of any other public assistance activity that may be carried on jointly~~  
 18 ~~by the state and the county. Expenditures for improvement of any county buildings used directly for care~~  
 19 ~~of the poor, except a county hospital or county nursing home, may be made out of money in the county~~  
 20 ~~poor fund, whether the money was produced by the mill levy provided for in subsection (1) or from any~~  
 21 ~~additional levy authorized by law. The expenditure may be authorized only when any county building used~~  
 22 ~~for the care of the poor must be improved in order to meet legal standards required for the building by the~~  
 23 ~~department and when the expenditure has been approved by the department.~~

24 ~~(8)(5) Money in the county poor fund may be used as matching funds for the receipt of federal~~  
 25 ~~money."~~

26

27 **Section 19.** Section 53-2-602, MCA, is amended to read:

28 **"53-2-602. Grants based on need.** ~~Subject to review by the county board, the staff of the county~~  
 29 ~~The~~ department shall determine grants and changes in grants, based on the needs of each applicant, after  
 30 ~~investigation~~ an eligibility determination is made in accordance with the rules and standards of assistance

1 prescribed by the department of public health and human services."

2

3 **Section 20.** Section 53-2-603, MCA, is amended to read:

4 **"53-2-603. Award of public assistance determined after investigation eligibility determination.** ~~(1)~~

5 Upon completion of an ~~investigation application~~, the ~~county board~~ department, through the appropriate  
6 local office of public assistance, shall determine whether the applicant is eligible for public assistance under  
7 the provisions of this title, the type and amount of public assistance the applicant must receive, and the  
8 date upon which the public assistance must begin. This subsection does not apply to any form of public  
9 assistance managed by a managed care contractor, as provided in 53-6-116, when a determination of  
10 eligibility is made by the managed care contractor.

11 ~~(2) The department, if necessary to conform with the United States Social Security Act, may issue~~  
12 ~~rules to the county welfare departments requiring the use of the declaration method, in a form that the~~  
13 ~~department may prescribe, for the purpose of determining eligibility, regardless of any other investigative~~  
14 ~~provisions under this title, and for all types of assistance. These rules may include any additional~~  
15 ~~investigations the department may require."~~

16

17 **Section 21.** Section 53-2-606, MCA, is amended to read:

18 **"53-2-606. Right of appeal.** (1) If an application for assistance for food stamps, FAIM financial  
19 assistance, as defined in 53-2-902, or medicaid is not acted upon promptly or if a decision is made ~~with~~  
20 by which the applicant or recipient is ~~not satisfied~~ aggrieved, the applicant or recipient may appeal to the  
21 board of public assistance for a fair hearing by addressing a request for a hearing to the department of  
22 public health and human services. The board of public assistance shall, upon receipt of a request for a  
23 hearing, give the applicant or recipient prompt notice and opportunity for a fair hearing.

24 (2) The department may upon its own motion review any decision of a ~~county welfare board~~ local  
25 office of public assistance and may consider any application upon which a decision has not been made ~~by~~  
26 ~~the county board~~ within a reasonable time from the filing of the decision. The department may have an  
27 additional investigation determination made and shall make a decision as to the granting of assistance and  
28 the amount of assistance to be granted the applicant as in its opinion is justified and in conformity with  
29 the provisions of this title.

30 (3) If the department reviews a ~~county~~ decision on its own motion, applicants or recipients

1 affected by the decisions of the department shall upon request be given reasonable notice and an  
2 opportunity for a fair hearing by the board of public assistance.

3 ~~(4) All decisions of the department or the board of public assistance are final and are binding and  
4 must be complied with by the county department."~~

5

6 **Section 22.** Section 53-2-609, MCA, is amended to read:

7 **"53-2-609. Revocation of assistance.** If the ~~county department or~~ department of public health and  
8 ~~human services or the local office of public assistance~~ has reason to believe, by reason of a complaint or  
9 otherwise, that public assistance under this title has been improperly granted, ~~the department or local~~  
10 ~~office of public assistance~~ shall ~~have~~ make an investigation ~~made~~. If it appears as a result of an  
11 investigation that the assistance was improperly granted, ~~the department of public health and human~~  
12 ~~services shall notify the county department that~~ further payments may not be authorized for the recipient.  
13 The right of appeal is granted to recipients whose assistance has been revoked."

14

15 **Section 23.** Section 53-2-612, MCA, is amended to read:

16 **"53-2-612. Lien of department or county upon third-party recoveries.** (1) Upon notice by the  
17 department, a county, or the recipient to a third party or the third party's insurer as provided in subsection  
18 (5)(b), the department or county has a lien upon all money paid by a third party or the third party's insurer  
19 in satisfaction of a judgment or settlement arising from a recipient's claim for damages or compensation  
20 for personal injury, disease, illness, or disability to the extent that the department or county has paid  
21 medical assistance on behalf of the recipient for the same personal injury, disease, illness, or disability.

22 (2) The department or county may, in the name of the recipient on whose behalf medical  
23 assistance has been paid by the department or county, commence and prosecute to final conclusion any  
24 action that may be necessary to recover from a third party or the third party's insurer compensation or  
25 damages for medical assistance paid by the department or county on behalf of the recipient. This section  
26 does not affect the right of the recipient to initiate and prosecute to final conclusion an action for damages  
27 or compensation in the recipient's own name in accordance with the provisions of this section.

28 (3) (a) The lien:

29 (i) applies to all money paid by a third party or a third party's insurer regardless of whether the  
30 recovery is allocated by the parties or a court to any particular type or element of damages; and

1 (ii) is subordinate to the lien of an attorney under 37-61-420.

2 (b) Unless specifically provided by law, the recipient's right to recover damages or compensation  
3 from a third party or a third party's insurer may not be reduced or denied on the ground that the recipient's  
4 costs of medical treatment and medical-related services have been paid by the department or county under  
5 any public assistance program.

6 (c) From the amount collected by the department, county, or recipient from legal proceedings or  
7 as a result of settlement, reasonable attorney fees and costs must be first deducted and paid. Unless the  
8 department or county and the recipient agree to a different settlement, the amount previously paid as  
9 medical assistance by the department or county, less a pro rata share of attorney fees and costs, must  
10 be deducted next and paid to the department or county. The remainder, if any, must be paid to the  
11 recipient.

12 (d) In all cases of payment to the department or county out of an amount collected from a third  
13 party or insurer on a recipient's claim, the amount of the lien must be reduced by a pro rata share of  
14 attorney fees and costs as provided in subsection (3)(c), but the department or county may not be required  
15 to participate in payment of attorney fees and costs unless the recipient's claim results in recovery out of  
16 which the department or county receives full or partial payment of its lien.

17 (e) Except as provided in subsections (3)(e)(i) and (3)(e)(ii), the department may not impose a lien  
18 under this section upon a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, or  
19 upon the assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1.

20 (i) The department may impose a lien under this section upon a self-sufficiency trust or upon the  
21 assets of a self-sufficiency trust established pursuant to Title 53, chapter 18, part 1, if the department  
22 is required by federal law to recover or collect from the trust or its assets as a condition of receiving  
23 federal financial participation for the medicaid program.

24 (ii) To the extent otherwise permitted by this section, the department is not precluded from  
25 asserting a claim or imposing a lien upon real or personal property prior to transfer of the property to the  
26 trust. If the department imposes a lien upon property prior to transfer to a self-sufficiency trust, any  
27 transfer of the property to the trust is subject to the lien.

28 (4) (a) A recipient of medical assistance or the recipient's legal representative shall notify the  
29 department or county by certified letter within 30 days if the recipient or the recipient's legal  
30 representative asserts a claim against a third party or a third party's insurer for damages or compensation

1 for a personal injury, disease, illness, or disability for which the department or county paid medical  
2 assistance in whole or in part or for which the recipient has applied for medical assistance. The notice  
3 must be mailed to the director of the department or the ~~director~~ county commissioners of the county  
4 ~~department~~ that paid medical assistance. At the same time, a copy must be sent by certified mail to the  
5 third party or the third party's insurer.

6 (b) The notice must contain the following information:

7 (i) the name and address of the recipient and the recipient's legal representative, if any;

8 (ii) the name and address of the third party alleged to be liable to the recipient;

9 (iii) the name and address of any known insurer of the third party; and

10 (iv) the judicial district and docket number of any action filed.

11 (c) A recipient or the recipient's legal representative who has received actual notice that the  
12 department or county has paid medical assistance is liable to the department or county for the amount it  
13 is entitled to receive under this section if:

14 (i) the recipient or the recipient's legal representative fails to timely notify the department or  
15 county or fails to mail a copy of the notice to the third party or the third party's insurer; and

16 (ii) a third party or the third party's insurer that did not receive notice from the department or  
17 county as provided for in subsection (5)(b) pays the recipient or the recipient's legal representative without  
18 satisfying any lien of the department or county.

19 (5) (a) If a third party or the third party's insurer that has received notice of the department's or  
20 county's lien as provided for in subsection (5)(b) makes payment in whole or in part of the recipient's claim  
21 without first satisfying the lien of the department or county, the third party or the third party's insurer is  
22 liable to the department or county for the amount the department or county is entitled to receive under  
23 this section.

24 (b) For the purposes of subsection (5)(a), a third party or the third party's insurer has been given  
25 notice if:

26 (i) the department or county mails, by certified mail, to the third party or the third party's insurer:

27 (A) a statement of the medical assistance paid or that may be paid by the department or county  
28 on behalf of the recipient; and

29 (B) a claim for reimbursement;

30 (ii) the recipient or the recipient's legal representative mails, by certified mail, to the third party or

1 the third party's insurer:

2 (A) a copy of the notice required by subsection (4)(a); or

3 (B) a statement stating that the recipient has applied for or has received medical assistance from  
4 the department or county in connection with the same claim; or

5 (iii) the recipient or the recipient's legal representative has commenced an action against the third  
6 party or the third party's insurer for damages or compensation for personal injury, disease, illness, or  
7 disability for which the department or county has paid or may pay medical assistance, in whole or in part,  
8 and the department or county files in the court in which the action is pending a notice of lien stating that  
9 a lien is claimed for medical assistance on any money paid in satisfaction of any judgment in or settlement  
10 of the action and that:

11 (A) medical assistance in a stated amount has been paid by the department or county on behalf  
12 of the recipient; or

13 (B) medical assistance may be paid on behalf of the recipient.

14 (6) As used in this section, the following definitions apply:

15 (a) "County" means a county ~~department of welfare in a county that has not transferred its public~~  
16 ~~assistance responsibilities to the state under the provisions of Title 53, chapter 2, part 8~~ provided medical  
17 assistance to a recipient through an indigent assistance program operated at the option of the county.

18 (b) "Legal representative" means an attorney having or exercising authority on behalf of a recipient  
19 with respect to a claim or action to recover damages or compensation from a third party or a third party's  
20 insurer.

21 (c) "Recipient" means a person on whose behalf the department or a county has paid or may pay  
22 medical assistance for the cost of medical treatment and medical-related services for personal injury,  
23 disease, illness, or disability. If the context allows, the term includes a recipient's legal representative.

24 (d) "Third party" means an individual, institution, corporation, or public or private agency that is  
25 or may be liable to pay all or part of the cost of medical treatment and medical-related services for personal  
26 injury, disease, illness, or disability of a recipient of medical assistance from the department or a county  
27 and includes but is not limited to insurers, health service organizations, and parties liable or who may be  
28 liable in tort."

29

30 **Section 24.** Section 53-2-613, MCA, is amended to read:

1           **"53-2-613. Application for assistance -- assignment of support rights.** (1) Applications for public  
2 assistance, including but not limited to FAIM financial assistance, as defined in 53-2-902, and medical  
3 assistance, must be made to the ~~county department~~ local office of public ~~welfare~~ assistance in the county  
4 in which the person is residing. The application must be submitted, in the manner and form prescribed by  
5 the department, and must contain information required by the department.

6           (2) A person who signs an application for FAIM financial assistance, as defined in 53-2-902, or  
7 related medical assistance assigns to the state, ~~to the department,~~ and to the ~~county welfare~~ department  
8 all rights that the applicant may have to monetary and medical support from any other person in the  
9 applicant's own behalf or in behalf of any other family member for whom application is made. A person  
10 who signs an application for public assistance other than FAIM financial assistance, as defined in  
11 53-2-902, or related medical assistance may, in accordance with rules adopted by the department, be  
12 required to assign to the state, to the department, and to the ~~county welfare department~~ all rights that the  
13 applicant may have to monetary and medical support from any other person in the applicant's own behalf  
14 or on behalf of any other family member for whom application is made.

15           (3) The assignment:

16           (a) is effective for both current and accrued support, including unpaid support that accrued before  
17 the applicant received public assistance, and medical obligations;

18           (b) takes effect upon a determination that the applicant is eligible for public assistance; and

19           (c) remains in effect with respect to the amount of any unpaid support and medical obligation  
20 accrued under the assignment that was owed prior to the termination of public assistance to a recipient.

21           (4) If a person who is the legal custodian and child support obligee under a support order  
22 relinquishes physical custody of a child to a caretaker relative without obtaining a modification of legal  
23 custody and the caretaker relative is determined eligible for public assistance on behalf of the child, the  
24 child support obligation is transferred by operation of law to the caretaker relative and may be assigned  
25 as provided in subsection (2). The transfer and assignment terminate when the caretaker relative no longer  
26 has physical custody of the child, except for any unpaid support still owing under the assignment at that  
27 time.

28           (5) Whenever a child support or spousal support obligation is assigned to the department pursuant  
29 to this section, the following provisions apply:

30           (a) If the support obligation is based upon a judgment or decree or an order of a court of

1 competent jurisdiction, the department may retain assigned support amounts in an amount sufficient to  
2 reimburse the cumulative total of public assistance money expended.

3 (b) A recipient or former recipient of public assistance may not commence or maintain an action  
4 to recover or enforce a delinquent support obligation or make any agreements with any other person or  
5 agency concerning the support obligation, except as provided in 40-5-202.

6 (c) If a notice of assigned interest is filed with the district court, the clerk of the court may not  
7 pay over or release for the benefit of any recipient or former recipient of public assistance any amounts  
8 received pursuant to a judgment or decree or an order of the court until the department's child support  
9 enforcement division has filed a written notice that:

10 (i) the assignment of current support amounts has been terminated; and

11 (ii) all assigned support delinquencies, if any, are satisfied or released.

12 (d) A recipient or former recipient of public assistance may not take action to modify or make any  
13 agreement to modify, settle, or release any past, present, or future support obligation unless the  
14 department's child support enforcement division is given written notice under the provisions of 40-5-202.  
15 Any modifications or agreements entered into without the participation of the department are void with  
16 respect to the state, the department, and the county ~~welfare department~~.

17 (e) A support obligation assigned under this section may not be terminated, invalidated, waived,  
18 set aside, or considered uncollectible by the conduct, misconduct, or failure of a recipient or former  
19 recipient of public assistance to take any action or to cease any action required under a decree, judgment,  
20 support order, custody order, visitation order, restraining order, or other similar order."

21

22 **Section 25.** Section 53-2-801, MCA, is amended to read:

23 **"53-2-801. Purpose.** The purpose of this part is to provide for the department of public health and  
24 ~~human services~~ to assume all responsibilities for public assistance programs and for protective services  
25 for children and adults that, as of July 1, 1983, are provided by the counties pursuant to Titles 41 and  
26 53. ~~The assumption may become effective only at the option and with the express consent of each~~  
27 ~~individual county requesting state assumption. State assumption allows counties to pay the state the~~  
28 ~~proceeds from the 9-mill levy provided for in 53-2-813 rather than an amount based on the actual cost~~  
29 ~~of providing public assistance and protective services in the county. Counties that opt for state assumption~~  
30 may provide other optional services for indigents with money available from funds derived from ~~the~~

1 difference between the 9-mill a county mill levy and the maximum amount of 13.5 mills permitted by  
 2 ~~53-2-322~~ or other funds as authorized by law."

3

4 **Section 26.** Section 53-2-802, MCA, is amended to read:

5 **"53-2-802. Definitions.** Unless the context requires otherwise, in this part, the following  
 6 definitions apply:

7 (1) ~~"County department"~~ "Local office of public assistance" means the local office of the  
 8 department located in a county department of public welfare provided for in part 3 of this chapter.

9 (2) ~~"Mill levy equivalent"~~ means the prior year's expenditure divided by the value of 1 mill.

10 ~~(3) "Needy person" is one who is eligible for public assistance under the laws of this state.~~

11 ~~(4)~~(2) "Protective services" means services to children and adults to be provided by the  
 12 department of ~~public health and human services~~ as permitted by Titles 41 and 53.

13 ~~(5)~~(3) "Public assistance" or "assistance" means any type of monetary or other assistance  
 14 furnished under this title to a person by a the state or county department a local office of public  
 15 assistance, regardless of the original source of assistance.

16 ~~(6)~~(4) "State assumption" means the transfer to the department of ~~public health and human~~  
 17 ~~services~~ by the board of county commissioners of all powers and duties, including staff ~~personnel~~ as  
 18 provided in 53-2-301 through 53-2-306 and for public assistance and protective services, respectively,  
 19 provided by the county ~~department~~ pursuant to Titles 41 and 53, except as otherwise specifically provided  
 20 in this part. A county may continue to provide optional indigent assistance as provided in 53-3-116 and  
 21 health care services as provided in 7-6-2512."

22

23 **Section 27.** Section 53-2-811, MCA, is amended to read:

24 **"53-2-811. Transfer of county public assistance and protective services to the state --**  
 25 **reassumption of responsibility.** (1) All responsibility of a county for public assistance and protective  
 26 services for children and adults pursuant to Titles 41 and 53 may be transferred to the department of  
 27 ~~public health and human services~~, except that the county attorney shall continue to provide legal  
 28 assistance and representation for the purposes of adult and child protective services without charge and  
 29 all debts and obligations incurred prior to the effective date of state assumption continue as the  
 30 responsibility of the county.

1 (2) The board of county commissioners, after public hearing, may by resolution or ordinance  
2 transfer to the department of ~~public health and human services~~ all powers and duties for public assistance  
3 and protective services for children and adults, including the selection, supervision, and termination of staff  
4 ~~personnel~~ associated with the performance of these activities. Upon the effective date of the transfer, the  
5 department of ~~public health and human services~~ shall assume all powers and duties related to public  
6 assistance and protective services and accorded by law to the county ~~welfare department~~. If the notice  
7 required in subsection (3) is given, the transfer is effective at the start of the next state fiscal year.

8 (3) Counties opting for state assumption shall notify the department of ~~public health and human~~  
9 ~~services~~ by October 1 if the county wishes to change its status on the following July 1. A county that has  
10 opted for state assumption prior to July 1, 1995, may reassume responsibility for public assistance and  
11 protective services on July 1, 1996, if the county notifies the department prior to September 30, 1995.

12 (4) Counties opting for state assumption shall permit the department of ~~public health and human~~  
13 ~~services~~ to use the same facilities currently occupied by the county ~~department~~ or substantially equal  
14 facilities, with fair rental value for the facilities to be paid by the department. Counties opting for state  
15 assumption shall transfer to the department all materials, equipment, and supplies that were used in the  
16 operation of the ~~county department~~ local office of public assistance and ~~which that~~ were paid for in whole  
17 or in part with federal or state funds."

18

19 **Section 28.** Section 53-3-111, MCA, is amended to read:

20 **"53-3-111. Confidentiality.** (1) Except as provided in 53-2-211, personal information provided to  
21 or obtained by the ~~county welfare department or the~~ department for the purposes of this chapter is  
22 confidential.

23 (2) Except as provided in 53-2-211 or as authorized by law, disclosure of confidential information  
24 concerning applicants for ~~general relief~~ indigent assistance is restricted to purposes directly connected with  
25 the administration of programs administered by ~~the department~~ a local office of public assistance except  
26 as otherwise provided in this section.

27 (3) Confidential information may be released upon written consent of the applicant.

28 (4) Confidential information concerning an applicant may be released without prior consent if an  
29 emergency situation necessitates the release. The applicant must be informed of the release as soon as  
30 practicable.

1 (5) Confidential information may be released without notice or consent for the purpose of fraud  
2 investigation, collection of child support, the purposes of 53-2-211, and third-party medical recovery.

3 (6) Confidential information may be released if directed by a court order."  
4

5 **Section 29.** Section 53-3-115, MCA, is amended to read:

6 **"53-3-115. Legislative findings.** (1) The legislature finds that in order to use the limited resources  
7 of the state for the purposes of providing public assistance to persons whom it has determined are in need,  
8 certain programs must be eliminated and the provision of public assistance programs must be reorganized  
9 for more efficient delivery of services.

10 (2) The legislature finds that county governments are in the best position to efficiently and  
11 effectively deliver services for those in need who are not otherwise eligible for similar services provided  
12 by the department of public health and human services.

13 (3) (a) The legislature finds that the needs of persons who are aged, infirm, or misfortunate are  
14 adequately and appropriately provided for through the following programs:

- 15 (i) medicaid;
- 16 (ii) aid for dependent children;
- 17 (iii) food stamps;
- 18 (iv) commodities; and
- 19 (v) low-income energy assistance.

20 (b) The legislature further finds that the counties may in their discretion provide other programs  
21 of public assistance that they determine are appropriate and that may be funded with money derived from  
22 ~~the a county poor fund~~ mill levy.

23 (4) The legislature finds that the effects of eliminating the state program of general relief are not  
24 known and that the administration and financing of public assistance programs by each county may not  
25 provide uniform assistance throughout the state."  
26

27 **Section 30.** Section 53-3-116, MCA, is amended to read:

28 **"53-3-116. Indigent assistance -- optional county program.** (1) A county may provide a program  
29 of indigent assistance that it determines necessary. The program may include assistance for food, clothing,  
30 shelter, transportation, and medical assistance for individuals not eligible for state or federal programs

1 providing similar assistance. A county may provide for the burial, entombment, or cremation of indigents.

2 The indigent assistance program of the county includes:

3 (a) job search, job training, work-for-assistance, and employment programs; and

4 (b) health care, preventive care, and wellness programs as determined by the county  
5 commissioners.

6 (2) A county may establish the criteria for determining eligibility for assistance, including but not  
7 limited to residency requirements, limits on income and resources, and the amount, scope, and duration  
8 of assistance.

9 (3) A county may deny assistance for a reasonable period if a person has voluntarily left  
10 employment without good cause or is discharged due to misconduct.

11 (4) The program may be funded with money derived from ~~the a county poor fund~~ mill levy  
12 ~~established in 53-2-322~~ as authorized by law.

13 (5) A person is indigent for purposes of this subsection if the value of all income and resources  
14 available to pay for that person's burial, entombment, or cremation at the time of death is less than the  
15 negotiated amount due the funeral home or mortician for an indigent burial. Available income and resources  
16 may be determined by the county.

17 (6) A county may seek reimbursement under 40-6-303, if applicable, for costs paid under this  
18 section.

19 (7) A county may not deduct amounts that may be recovered from an adult child of a deceased  
20 indigent or recovered from resources of a deceased indigent from a contract amount due a funeral home  
21 or mortician for burial services provided under 7-4-2915 or this section. A funeral home or a mortician that  
22 recovers an amount in excess of a contract amount paid under this subsection shall reimburse the county  
23 for the amount recovered up to the amount of the contract."  
24

25 **Section 31.** Section 53-4-213, MCA, is amended to read:

26 **"53-4-213. Department rules binding on county welfare departments.** All rules of the department  
27 made under this part ~~shall be~~ are binding upon the ~~county departments~~ local offices of public welfare  
28 assistance."  
29

30 **Section 32.** Section 53-4-214, MCA, is amended to read:

1           **"53-4-214. Distribution of copies of law and forms by department.** The department shall have  
 2 printed and shall distribute copies of this part to all ~~county welfare departments~~ local offices of public  
 3 assistance and shall prescribe the form of and print and supply to the ~~county welfare department~~ local  
 4 office of public assistance blanks of applications, reports, and other forms that may be necessary in  
 5 relation to the FAIM financial assistance and other programs funded under the temporary assistance for  
 6 needy families block grant."

7

8           **Section 33.** Section 53-4-233, MCA, is amended to read:

9           **"53-4-233. ~~Investigation of applications~~ Eligibility determination.** Whenever a ~~county department~~  
 10 local office of public assistance receives an application for assistance under this part, an ~~investigation~~  
 11 eligibility determination must be promptly made by the ~~county department~~ local office of public ~~welfare~~  
 12 assistance. Each applicant must be informed of the applicant's right to a fair hearing and of the confidential  
 13 nature of information secured. Upon completion of an ~~investigation~~ eligibility determination, aid must be  
 14 furnished promptly to all eligible persons. Each applicant must receive written notice of the decision  
 15 concerning the applicant's request for assistance."

16

17           **Section 34.** Section 53-4-244, MCA, is amended to read:

18           **"53-4-244. Payments to person interested in child's welfare in lieu of special guardianship.** In lieu  
 19 of guardianship proceedings, payments may be made in behalf of the child or children to another person  
 20 found by the ~~county department~~ local office of public assistance to be interested in or concerned with the  
 21 welfare of the needy child or children in accordance with the rules established by the department ~~of public~~  
 22 ~~health and human services~~."

23

24           **Section 35.** Section 53-6-112, MCA, is amended to read:

25           **"53-6-112. Department to print and distribute copies of part and certain forms.** The department  
 26 ~~of public health and human services~~ shall have printed and shall distribute copies of this part to all ~~county~~  
 27 ~~welfare departments~~ local offices of public assistance and shall prescribe the form of and print and supply  
 28 to the ~~county welfare departments~~ local offices of public assistance blanks of applications, reports, and  
 29 other forms ~~as that~~ as that may be necessary in relation to medical assistance."

30

1           **Section 36.** Section 53-6-114, MCA, is amended to read:

2           "**53-6-114. Rules of department binding on county welfare departments.** All rules of the  
3 department of ~~public health and human services~~ made under this part are binding upon the ~~county~~  
4 ~~departments~~ local offices of public ~~welfare~~ assistance."

5

6           **Section 37.** Section 53-6-121, MCA, is amended to read:

7           "**53-6-121. County department charged with local Local administration of medical assistance.** The  
8 ~~county department~~ local offices of public ~~welfare~~ assistance are charged with the local  
9 administration and supervision of medical assistance, including medicaid, subject to the powers, duties,  
10 and functions prescribed for the county department in chapter 2 of this title rules, and overall supervision  
11 of the department."

12

13           **Section 38.** Section 53-6-132, MCA, is amended to read:

14           "**53-6-132. Application for assistance -- exception.** (1) Except as provided in subsection (2),  
15 application for assistance under this part must be made to the local office of ~~the county department~~ public  
16 assistance in the county in which the person is residing. The application must be presented in the manner  
17 and on the form prescribed by the department of ~~public health and human services~~. All individuals wishing  
18 to apply must have the opportunity to do so.

19           (2) Notwithstanding the provisions of subsection (1), the department may designate an entity  
20 other than the ~~county department~~ local office of public assistance to determine eligibility for medicaid  
21 managed care services."

22

23           **Section 39.** Section 53-6-133, MCA, is amended to read:

24           "**53-6-133. ~~Investigation and Eligibility determination of eligibility~~.** (1) The ~~county department~~ local  
25 office of public assistance shall promptly ~~investigate and~~ determine the eligibility of each applicant under  
26 this part in accordance with the rules of the department of ~~public health and human services~~. Each  
27 applicant must be informed of the right to a fair hearing and of the confidential nature of the information  
28 given. The ~~county~~ department, through the local office of public assistance, shall, after the hearing,  
29 determine whether or not the applicant is eligible for assistance under this part, and aid must be furnished  
30 promptly to eligible persons. Each applicant ~~shall~~ must receive written notice of the decision concerning

1 the applicant's application, and the right of appeal is secured to the applicant under the procedures of  
2 53-2-606.

3 (2) The ~~county departments~~ local office of public ~~welfare~~ assistance and the department of ~~public~~  
4 ~~health and human services~~ may accept the federal social security administration's determination of  
5 eligibility for supplemental security income, Title XVI of the Social Security Act, as qualifying the eligible  
6 individuals to receive medical assistance under this part."

7

8 **Section 40.** Section 53-6-155, MCA, is amended to read:

9 **"53-6-155. Definitions.** As used in this part, unless expressly provided otherwise, the following  
10 definitions apply:

11 (1) "Abuse" means conduct by an applicant, recipient, provider, or other person involving  
12 disregard of and an unreasonable failure to conform with the statutes, regulations, and rules governing the  
13 medical assistance program when the disregard or failure results or may result in an incorrect determination  
14 that a person is eligible for medical assistance or payment by a medicaid agency of medical assistance  
15 payments to which the provider is not entitled.

16 (2) "Applicant" means a person:

17 (a) who has submitted an application for determination of medicaid eligibility to a medicaid agency  
18 on the person's own behalf or on behalf of another person; or

19 (b) on whose behalf an application has been submitted.

20 (3) "Benefit" means the provision of anything of pecuniary value to or on behalf of a recipient  
21 under the medicaid program.

22 (4) "Claim" means a communication, whether in oral, written, electronic, magnetic, or other form,  
23 that is used to claim specific services or items as payable or reimbursable under the medicaid program or  
24 that states income, expense, or other information that is or may be used to determine entitlement to or  
25 the rate of payment under the medicaid program. The term includes any documents submitted as part of  
26 or in support of the claim.

27 (5) "Department" means the department of public health and human services provided for in  
28 2-15-2201.

29 (6) "Document" means any application, claim, form, report, record, writing, or correspondence,  
30 whether in written, electronic, magnetic, or other form.

1 (7) "Fraud" means any conduct or activity prohibited by statute, regulation, or rule involving  
2 purposeful or knowing conduct or omission to perform a duty that results in or may result in medicaid  
3 payments or benefits to which the applicant, recipient, or provider is not entitled. Fraud includes but is not  
4 limited to any conduct or omission under the medicaid program that would constitute a criminal offense  
5 under Title 45, chapter 6 or 7.

6 (8) "Medicaid" means the Montana medical assistance program established under Title 53, chapter  
7 6.

8 (9) "Medicaid agency" means any agency or entity of state, county, or local government that  
9 administers any part of the medicaid program, whether under direct statutory authority or under contract  
10 with an authorized agency of the state or federal government. The term includes but is not limited to the  
11 department, the department of corrections, ~~county~~ local offices of ~~human services and public welfare~~  
12 assistance, and other local and state agencies and their agents, contractors, and employees, when acting  
13 with respect to medicaid eligibility, claims processing or payment, utilization review, case management,  
14 provider certification, investigation, or other administration of the medicaid program.

15 (10) "Misappropriation of patient property" means exploitation, deliberate misplacement, or  
16 wrongful use or taking of a patient's property, whether temporary or permanent, without authorization by  
17 the patient or the patient's designated representative. Misappropriation of patient property includes but  
18 is not limited to any conduct with respect to a patient's property that would constitute a criminal offense  
19 under Title 45, chapter 6, part 3.

20 (11) "Patient abuse" means the willful infliction of physical or mental injury of a patient or  
21 unreasonable confinement, intimidation, or punishment that results in pain, physical or mental harm, or  
22 mental anguish of a patient. Patient abuse includes but is not limited to any conduct with respect to a  
23 patient that would constitute a criminal offense under Title 45, chapter 5.

24 (12) "Patient neglect" means a failure, through inattentiveness, carelessness, or other omission,  
25 to provide to a patient goods and services necessary to avoid physical harm, mental anguish, or mental  
26 illness when an omission is not caused by factors beyond the person's control or by good faith errors in  
27 judgment. Patient neglect includes but is not limited to any conduct with respect to a patient that would  
28 constitute a criminal offense under 45-5-208.

29 (13) "Provider" means an individual, company, partnership, corporation, institution, facility, or other  
30 entity or business association that has enrolled or applied to enroll as a provider of services or items under

1 the medical assistance program established under this part.

2 (14) "Recipient" means a person:

3 (a) who has been determined by a medicaid agency to be eligible for medicaid benefits, whether  
4 or not the person actually has received any benefits; or

5 (b) who actually receives medicaid benefits, whether or not determined eligible.

6 (15) (a) "Records" means medical, professional, business, or financial information and documents,  
7 whether in written, electronic, magnetic, microfilm, or other form:

8 (i) pertaining to the provision of treatment, care, services, or items to a recipient;

9 (ii) pertaining to the income and expenses of the provider; or

10 (iii) otherwise relating to or pertaining to a determination of eligibility for or entitlement to payment  
11 or reimbursement under the medicaid program.

12 (b) The term includes all records and documents, regardless of whether the records are required  
13 by medicaid laws, regulations, rules, or policies to be made and maintained by the provider."

14

15 **Section 41.** Section 53-6-157, MCA, is amended to read:

16 **"53-6-157. Powers and duties of medicaid fraud control unit.** (1) The medicaid fraud control unit  
17 shall:

18 (a) investigate and prosecute under applicable criminal statutes fraud and abuse by applicants,  
19 recipients, providers, or other persons under the medical assistance program established under this  
20 chapter, including but not limited to cases referred by the department;

21 (b) review any complaint of patient abuse, patient neglect, and misappropriation of patient  
22 property by providers or their employees or agents and, when appropriate, shall investigate and initiate  
23 criminal proceedings or refer the complaint to another state agency for action;

24 (c) refer to the department for collection and, when appropriate, consideration and imposition of  
25 appropriate recipient restrictions or provider sanctions cases involving recipient or provider overpayments,  
26 fraud, abuse, inappropriate use of services, or other improper activities discovered by the unit in carrying  
27 out its activities;

28 (d) communicate and cooperate with and, subject to applicable confidentiality laws, provide  
29 information to other state and federal agencies involved in the investigation and prosecution of health care  
30 fraud, abuse, and other improper activities related to the medicaid program;

1 (e) transmit to other state and federal agencies, in accordance with law reports of convictions,  
2 copies of judgments and sentences imposed and other information and documents for purposes of program  
3 exclusions or other sanctions or penalties under medicaid, medicare, or other state or federal benefit or  
4 assistance programs; and

5 (f) recommend to state agencies appropriate or necessary adoption or revision of statutes,  
6 regulations, rules, policies, and procedures to prevent fraud, abuse, and other improper activities under  
7 the medicaid program and to aid in the investigation and prosecution of fraud, abuse, and other improper  
8 activities under the medicaid program.

9 (2) The medicaid fraud control unit may:

10 (a) initiate criminal prosecutions related to the medicaid program in any court of competent  
11 jurisdiction in the state of Montana;

12 (b) upon written request, obtain information and records from applicants, recipients, and providers;

13 (c) exercise the authority granted to prosecutors with respect to criminal investigative subpoenas  
14 under Title 46, chapter 4, part 3;

15 (d) subject to applicable federal confidentiality laws and regulations and for purposes related to  
16 any investigation or prosecution related to the medicaid program, obtain from the department, ~~county~~  
17 ~~welfare and human services~~ local offices of public assistance, and other local, county, or state government  
18 departments or agencies records and other information, including but not limited to applicant and recipient  
19 applications, provider enrollment forms, claims and reports, individual or entity tax returns, or other  
20 information provided to or in the possession of the department of revenue or the state auditor;

21 (e) refer appropriate cases to other state or federal agencies for investigation, prosecution, or  
22 imposition of penalties, restrictions, or sanctions;

23 (f) enter into agreements with the department and other state and federal agencies in furtherance  
24 of the unit's mission; and

25 (g) do all things necessary to comply with 42 U.S.C. 1396a(a)(61) and 42 U.S.C. 1396b(q) and  
26 any implementing federal regulations and policies that require the state to operate a medicaid fraud control  
27 unit."

28

29 **Section 42.** Section 53-21-113, MCA, is amended to read:

30 **"53-21-113. Costs of committing a patient already voluntarily admitted -- transportation costs for**

1 **voluntary admission.** (1) The cost of involuntarily committing a patient who is voluntarily admitted to a  
 2 mental health facility at the time the involuntary proceedings are commenced ~~shall~~ must be ~~borne~~ paid by  
 3 the county of the patient's residence at the time of admission.

4 (2) The costs of transportation to a mental health facility under 53-21-111 and 53-21-112 ~~shall~~  
 5 must be provided by the ~~welfare department of~~ local office of public assistance located in the county of  
 6 the patient's residence. However, if protective proceedings under Title 72, chapter 5, have been or are  
 7 initiated with respect to the person, the ~~welfare department~~ local office of public assistance may seek  
 8 reimbursement. If no one else is available to transport ~~him~~ the person, the sheriff shall transport the  
 9 person."

10

11 NEW SECTION. Section 43. Repealer. Sections 53-2-610, 53-2-813, 53-4-246, and 53-4-247,  
 12 MCA, are repealed.

13

14 NEW SECTION. SECTION 44. NOTIFICATION TO TRIBAL GOVERNMENTS. THE SECRETARY OF STATE SHALL  
 15 SEND A COPY OF [THIS ACT] TO EACH TRIBAL GOVERNMENT LOCATED ON THE SEVEN MONTANA RESERVATIONS AND TO  
 16 THE LITTLE SHELL BAND OF CHIPPEWA.

17

18 NEW SECTION. Section 45. Name change -- directions to code commissioner. Wherever a  
 19 reference to a county welfare office appears in legislation enacted by the 2001 legislature, the code  
 20 commissioner is directed to change it to a reference to a local office of public assistance.

21

22 NEW SECTION. SECTION 46. COORDINATION INSTRUCTION. (1) IF HOUSE BILL NO. 124 IS PASSED AND  
 23 APPROVED AND IF IT INCLUDES SECTIONS AMENDING OR REPEALING 41-3-1122, 52-1-110, 53-2-207, 53-2-304, AND  
 24 53-2-322, THEN [SECTIONS 9, 11, 14, 16, AND 18 OF THIS ACT], AMENDING 41-3-1122, 52-1-110, 53-2-207,  
 25 53-2-304, AND 53-2-322, ARE VOID.

26 (2) IF SENATE BILL NO. 77 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION AMENDING OR REPEALING  
 27 53-2-613, THEN [SECTION 24 OF THIS ACT], AMENDING 53-2-613, IS VOID.

28

29 NEW SECTION. Section 47. Effective date. [This act] is effective July 1, 2001.

30

- END -