

SENATE BILL NO. 40  
INTRODUCED BY V. COCCHIARELLA  
BY REQUEST OF THE LEGISLATIVE COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENDER NEUTRALIZING AND CONFORMING TITLES 1 THROUGH 7 OF THE MONTANA CODE ANNOTATED TO CURRENT BILL DRAFTING STANDARDS; AND AMENDING SECTIONS 1-1-107, 1-1-201, 1-1-202, 1-1-203, 1-1-204, 1-1-217, 1-1-219, 1-1-224, 1-1-226, 1-1-512, 1-1-515, 1-1-516, 1-3-203, 1-3-204, 1-3-205, 1-3-206, 1-3-208, 1-3-209, 1-3-210, 1-3-212, 1-3-217, 1-3-220, 1-3-234, 1-4-102, 1-5-302, 1-5-303, 1-5-305, 1-5-406, 1-5-407, 1-5-419, 1-5-420, 1-6-102, 1-6-104, 2-1-302, 2-2-205, 2-2-207, 2-2-304, 2-3-105, 2-3-221, 2-4-104, 2-4-202, 2-4-506, 2-4-604, 2-4-613, 2-4-621, 2-6-106, 2-6-108, 2-6-111, 2-6-303, 2-6-304, 2-7-103, 2-7-511, 2-8-105, 2-9-101, 2-9-103, 2-9-112, 2-9-305, 2-9-314, 2-9-504, 2-9-507, 2-9-511, 2-9-512, 2-9-513, 2-9-514, 2-9-515, 2-9-516, 2-9-523, 2-9-524, 2-9-527, 2-9-528, 2-15-111, 2-15-122, 2-15-124, 2-15-131, 2-15-132, 2-15-201, 2-15-221, 2-15-302, 2-15-502, 2-15-602, 2-15-1202, 2-15-1203, 2-15-1515, 2-15-1521, 2-15-1701, 2-15-1742, 2-15-1744, 2-15-1748, 2-15-1814, 2-15-3002, 2-15-3003, 2-15-3005, 2-15-3104, 2-15-3331, 2-15-3402, 2-16-102, 2-16-114, 2-16-115, 2-16-202, 2-16-212, 2-16-213, 2-16-303, 2-16-406, 2-16-504, 2-16-505, 2-16-507, 2-16-513, 2-16-521, 2-16-603, 2-16-612, 2-16-613, 2-16-616, 2-16-617, 2-16-620, 2-16-621, 2-16-622, 2-16-633, 2-16-635, 2-17-816, 2-18-106, 2-18-107, 2-18-512, 2-18-612, 2-18-616, 2-18-619, 2-18-621, 2-18-902, 2-18-1001, 2-18-1011, 3-1-402, 3-1-404, 3-1-405, 3-1-504, 3-1-514, 3-1-515, 3-1-516, 3-1-517, 3-1-522, 3-1-601, 3-1-602, 3-1-603, 3-1-604, 3-1-605, 3-1-606, 3-1-607, 3-1-701, 3-1-1003, 3-1-1009, 3-1-1010, 3-1-1103, 3-1-1104, 3-1-1106, 3-1-1108, 3-1-1109, 3-1-1110, 3-1-1111, 3-1-1122, 3-1-1502, 3-1-1503, 3-2-102, 3-2-212, 3-2-301, 3-2-401, 3-2-406, 3-2-502, 3-5-115, 3-5-201, 3-5-202, 3-5-213, 3-5-214, 3-5-215, 3-5-216, 3-5-311, 3-5-401, 3-5-405, 3-5-503, 3-5-504, 3-5-505, 3-5-508, 3-5-509, 3-5-611, 3-6-101, 3-6-203, 3-6-303, 3-7-201, 3-7-203, 3-7-224, 3-10-201, 3-10-202, 3-10-204, 3-10-209, 3-10-233, 3-10-234, 3-10-401, 3-10-405, 3-10-502, 3-10-514, 3-10-602, 3-10-706, 3-10-1005, 3-11-202, 3-11-203, 3-11-204, 3-11-205, 3-12-203, 3-15-201, 3-15-203, 3-15-401, 3-15-504, 3-15-601, 3-15-602, 3-15-604, 3-15-701, 3-15-801, 5-1-105, 5-2-102, 5-2-104, 5-2-105, 5-2-211, 5-2-213, 5-2-216, 5-2-302, 5-2-405, 5-4-204, 5-4-302, 5-4-303, 5-4-304, 5-4-305, 5-4-306, 5-5-101, 5-5-102, 5-5-103, 5-5-105, 5-5-301, 5-5-302, 5-5-413, 5-5-415, 5-5-418, 5-5-419, 5-5-420, 5-5-421, 5-5-431, 5-6-109, 5-7-101, 5-7-201, 5-7-203, 5-7-210, 5-7-301, 5-11-104, 5-11-204, 5-12-202, 5-12-203, 5-13-303, 5-13-306, 5-13-307, 5-13-309, 5-13-402, 5-15-102, 5-15-103, 5-15-105, 5-15-201, 5-16-105, 7-1-4121, 7-2-101, 7-2-2206, 7-2-2207, 7-2-2223, 7-2-2227, 7-2-2228, 7-2-2242, 7-2-2255, 7-2-2405, 7-2-2411, 7-2-2412, 7-2-2423, 7-2-2502, 7-2-2503, 7-2-2504, 7-2-2603, 7-2-2702, 7-2-2703,

7-2-2705, 7-2-2706, 7-2-2712, 7-2-2750, 7-2-2756, 7-2-2757, 7-2-4107, 7-2-4807, 7-2-4913, 7-3-102, 7-3-151, 7-3-179, 7-3-183, 7-3-193, 7-3-203, 7-3-212, 7-3-220, 7-3-221, 7-3-301, 7-3-304, 7-3-305, 7-3-312, 7-3-315, 7-3-403, 7-3-414, 7-3-432, 7-3-433, 7-3-434, 7-3-435, 7-3-436, 7-3-437, 7-3-438, 7-3-439, 7-3-440, 7-3-441, 7-3-442, 7-3-501, 7-3-503, 7-3-514, 7-3-601, 7-3-603, 7-3-605, 7-3-606, 7-3-607, 7-3-612, 7-3-613, 7-3-705, 7-3-1215, 7-3-1219, 7-3-1220, 7-3-1221, 7-3-1228, 7-3-1241, 7-3-1242, 7-3-1244, 7-3-1245, 7-3-1246, 7-3-1249, 7-3-1253, 7-3-1254, 7-3-1255, 7-3-1257, 7-3-1259, 7-3-1304, 7-3-1305, 7-3-1307, 7-3-1314, 7-3-1315, 7-3-1317, 7-3-1319, 7-3-1320, 7-3-1322, 7-3-1331, 7-3-1341, 7-3-1346, 7-3-1348, 7-3-4102, 7-3-4201, 7-3-4205, 7-3-4207, 7-3-4213, 7-3-4214, 7-3-4215, 7-3-4216, 7-3-4217, 7-3-4218, 7-3-4220, 7-3-4221, 7-3-4253, 7-3-4254, 7-3-4255, 7-3-4256, 7-3-4257, 7-3-4259, 7-3-4316, 7-3-4319, 7-3-4320, 7-3-4322, 7-3-4361, 7-3-4363, 7-3-4365, 7-3-4367, 7-3-4402, 7-3-4403, 7-3-4405, 7-3-4406, 7-3-4409, 7-3-4411, 7-3-4412, 7-3-4431, 7-3-4433, 7-3-4434, 7-3-4441, 7-3-4443, 7-3-4444, 7-3-4461, 7-3-4463, 7-3-4464, 7-3-4465, 7-4-505, 7-4-2108, 7-4-2109, 7-4-2111, 7-4-2113, 7-4-2202, 7-4-2207, 7-4-2210, 7-4-2213, 7-4-2304, 7-4-2312, 7-4-2403, 7-4-2511, 7-4-2513, 7-4-2515, 7-4-2517, 7-4-2518, 7-4-2520, 7-4-2521, 7-4-2602, 7-4-2616, 7-4-2617, 7-4-2622, 7-4-2704, 7-4-2707, 7-4-2711, 7-4-2712, 7-4-2713, 7-4-2714, 7-4-2715, 7-4-2716, 7-4-2801, 7-4-2802, 7-4-2803, 7-4-2811, 7-4-2813, 7-4-2814, 7-4-2901, 7-4-2902, 7-4-2904, 7-4-2911, 7-4-2914, 7-4-2915, 7-4-2923, 7-4-4101, 7-4-4102, 7-4-4103, 7-4-4109, 7-4-4112, 7-4-4211, 7-4-4301, 7-4-4302, 7-4-4401, 7-4-4402, 7-4-4403, 7-4-4502, 7-4-4512, 7-4-4602, 7-4-4701, 7-5-101, 7-5-103, 7-5-135, 7-5-2127, 7-5-2130, 7-5-4102, 7-5-4112, 7-5-4142, 7-5-4201, 7-5-4308, 7-5-4322, 7-6-106, 7-6-207, 7-6-212, 7-6-2101, 7-6-2103, 7-6-2115, 7-6-2116, 7-6-2117, 7-6-2118, 7-6-2204, 7-6-2403, 7-6-2405, 7-6-2406, 7-6-2410, 7-6-2411, 7-6-2412, 7-6-2424, 7-6-2603, 7-6-2604, 7-6-2605, 7-6-2606, 7-6-2801, 7-6-4301, 7-6-4304, 7-6-4502, 7-6-4601, 7-6-4603, 7-7-101, 7-7-106, 7-7-2106, 7-7-2225, 7-7-2226, 7-7-2258, 7-7-2272, 7-7-2405, 7-7-4103, 7-7-4224, 7-7-4225, 7-7-4256, 7-7-4258, 7-7-4261, 7-7-4272, 7-7-4629, 7-7-4631, 7-7-4633, 7-8-2304, 7-8-2305, 7-8-2307, 7-8-2701, 7-8-2707, 7-11-204, 7-11-207, 7-11-208, 7-11-210, 7-11-212, 7-11-227, 7-12-1103, 7-12-1121, 7-12-1122, 7-12-2101, 7-12-2117, 7-12-2122, 7-12-2135, 7-12-2137, 7-12-2139, 7-12-2140, 7-12-2154, 7-12-2158, 7-12-2163, 7-12-2164, 7-12-4101, 7-12-4121, 7-12-4143, 7-12-4145, 7-12-4148, 7-12-4152, 7-12-4167, 7-12-4168, 7-12-4170, 7-12-4182, 7-12-4185, 7-12-4255, 7-12-4304, 7-12-4307, 7-12-4309, 7-12-4325, 7-12-4353, 7-12-4604, 7-13-108, 7-13-124, 7-13-209, 7-13-218, 7-13-2209, 7-13-2241, 7-13-2246, 7-13-2247, 7-13-2278, 7-13-2308, 7-13-2342, 7-13-2345, 7-13-2505, 7-13-4107, 7-14-205, 7-14-1103, 7-14-2121, 7-14-2122, 7-14-2135, 7-14-2137, 7-14-2201, 7-14-2302, 7-14-2303, 7-14-2306, 7-14-2308, 7-14-2606, 7-14-2607, 7-14-2613, 7-14-2705, 7-14-2707, 7-14-2708, 7-14-2709, 7-14-2712, 7-14-2719, 7-14-2720, 7-14-2721, 7-14-2753, 7-14-2756, 7-14-2761, 7-14-2802, 7-14-2805, 7-14-2823, 7-14-2826, 7-14-2827, 7-14-2828, 7-14-4201, 7-14-4203, 7-14-4301, 7-14-4612, 7-14-4665, 7-14-4717,

7-14-4718, 7-14-4721, 7-15-2107, 7-15-2108, 7-15-4221, 7-15-4234, 7-15-4239, 7-15-4264, 7-15-4402, 7-15-4409, 7-15-4410, 7-15-4433, 7-15-4436, 7-15-4437, 7-15-4439, 7-15-4528, 7-15-4530, 7-16-2312, 7-16-2325, 7-16-2330, 7-16-2331, 7-21-2102, 7-21-2103, 7-21-2111, 7-21-2115, 7-21-2117, 7-21-2120, 7-21-2305, 7-21-2306, 7-21-2307, 7-21-2308, 7-21-2309, 7-21-2401, 7-21-2406, 7-21-2408, 7-21-2409, 7-21-2410, 7-21-2502, 7-21-2505, 7-21-2506, 7-21-2507, 7-21-3104, 7-21-3105, 7-21-3106, 7-21-3107, 7-21-3108, 7-21-3211, 7-21-3212, 7-21-3213, 7-21-3303, 7-21-3307, 7-21-3435, 7-21-3453, 7-22-2214, 7-22-2225, 7-22-2401, 7-22-2410, 7-22-2434, 7-23-101, 7-23-102, 7-31-112, 7-31-202, 7-31-2101, 7-31-4102, 7-31-4206, 7-32-102, 7-32-108, 7-32-110, 7-32-115, 7-32-122, 7-32-123, 7-32-124, 7-32-125, 7-32-126, 7-32-127, 7-32-128, 7-32-213, 7-32-301, 7-32-302, 7-32-2101, 7-32-2104, 7-32-2107, 7-32-2108, 7-32-2121, 7-32-2124, 7-32-2125, 7-32-2127, 7-32-2129, 7-32-2130, 7-32-2131, 7-32-2143, 7-32-2202, 7-32-2207, 7-32-2208, 7-32-2211, 7-32-2234, 7-32-2246, 7-32-2248, 7-32-2249, 7-32-2250, 7-32-4103, 7-32-4105, 7-32-4106, 7-32-4107, 7-32-4108, 7-32-4109, 7-32-4110, 7-32-4111, 7-32-4131, 7-32-4136, 7-32-4137, 7-32-4155, 7-32-4159, 7-33-2127, 7-33-2312, 7-33-2315, 7-33-4104, 7-33-4124, 7-33-4125, 7-33-4133, 7-34-2104, 7-34-2105, 7-34-2106, 7-34-2118, 7-35-2103, 7-35-2133, 7-35-2139, 7-35-2141, AND 7-35-2144, MCA."

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

**Section 1.** Section 1-1-107, MCA, is amended to read:

**"1-1-107. Unwritten law defined.** Unwritten law is the law that is not promulgated and recorded, as mentioned in 1-1-104, but ~~which~~ that is, nevertheless, observed and administered in the courts of the country. It has no certain repository but is collected from the reports of the decisions of the courts and treatises of learned men people."

**Section 2.** Section 1-1-201, MCA, is amended to read:

**"1-1-201. Terms of wide applicability.** (1) Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

- (a) "Oath" includes an affirmation or declaration.
- (b) "Person" includes a corporation or other entity as well as a natural person.
- (c) "Several" means two or more.
- (d) "State", when applied to the different parts of the United States, includes the District of Columbia and

the territories.

(e) "United States" includes the District of Columbia and the territories.

(2) Wherever the word "man" or "men" or a word ~~which that~~ includes the syllable "man" or "men" in combination with other syllables, such as "workman", appears in this code, ~~such the~~ word or syllable ~~shall be deemed to include~~ includes "woman" or "women" unless the context clearly indicates a contrary intent and unless the subject matter of the statute relates clearly and necessarily to ~~the male~~ a specific sex only.

(3) Whenever the term "heretofore" occurs in any statute, it ~~shall~~ must be construed to mean any time previous to the day ~~such the~~ statute ~~shall take~~ takes effect. Whenever the word "hereafter" occurs, it ~~shall~~ must be construed to mean the time after the statute containing the term ~~shall take~~ takes effect."

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

**"1-1-202. Terms relating to procedure and the judiciary.** Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) ~~A "deposition"~~ "Deposition" means a written declaration under oath or affirmation, made upon notice to the adverse party for the purpose of enabling ~~him~~ the adverse party to attend and cross-examine.

(2) "Judicial officers" means justices of the supreme court, judges of the district courts, justices of the peace, municipal judges, and city judges.

(3) ~~A "judicial"~~ "Judicial record" means the record of official entry of the proceedings in a court of justice or of the official act of a judicial officer in an action or special proceeding.

(4) ~~An "oral"~~ "Oral examination" means an examination in the presence of the jury or tribunal that is to decide the fact or act upon it or the spoken testimony of the witness being heard by the jury or tribunal ~~from the lips of the witness~~.

(5) "Process" means a writ or summons issued in the course of judicial proceedings.

(6) ~~For "Registered mail", for purposes of legal notification, the term "registered mail"~~ means registered or certified mail.

(7) "Testify" means every mode of oral statement under oath or affirmation.

(8) "Writ" means an order in writing issued in the name of the state or of a court or judicial officer."

**Section 4.** Section 1-1-203, MCA, is amended to read:

**"1-1-203. Terms relating to instruments and other writings.** Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) ~~The "execution"~~ "Execution" of an instrument ~~is the~~ means subscribing and delivering it, with or without affixing a seal.

(2) ~~The term "folio"~~ "Folio", when used as a measure for computing fees, means 100 words, counting every two ~~figures~~ letters or numbers necessarily used as a word. Any portion of a folio, when in the whole paper there is not a complete folio and when there is an excess over the last folio exceeding one-half, may be computed as a folio.

(3) "Printing" ~~is~~ means the act of reproducing a design on a surface by any process.

(4) "Signature" or "subscription" includes the mark of a person who cannot write if the person's name is written near the mark by another person who also signs ~~his~~ that person's own name as a witness.

(5) ~~A "subscribing witness" is one~~ "Subscribing witness" means a person who sees a writing executed or hears it acknowledged and at the request of the party ~~thereupon~~ signs ~~his~~ the person's name as a witness.

(6) "Writing" includes printing."

**Section 5.** Section 1-1-204, MCA, is amended to read:

**"1-1-204. Terms denoting state of mind.** Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Corruptly" ~~denotes~~ means a wrongful design to acquire or cause some pecuniary or other advantage to the person guilty of the act or omission referred to or to some other person.

(2) "Knowingly" ~~denotes~~ means only a knowledge that the facts exist which bring the act or omission within the provisions of this code. It does not require any knowledge of the unlawfulness of the act or omission.

(3) "Malice" and "maliciously" ~~denote~~ mean a wish to vex, annoy, or injure another person or an intent to do a wrongful act, established either by proof or presumption of law.

(4) "Neglect", "negligence", "negligent", and "negligently" ~~denote~~ mean a want of the attention to the nature or probable consequences of the act or omission that a prudent ~~man~~ person would ordinarily give in acting in ~~his~~ the person's own concerns.

(5) "Willfully", when applied to the intent with which an act is done or omitted, ~~denotes~~ means a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate the law, to injure another, or to acquire any advantage."

**Section 6.** Section 1-1-217, MCA, is amended to read:

**"1-1-217. Notice -- actual and constructive.** (1) Notice is:

(a) actual whenever it consists of express information of a fact;

(b) constructive whenever it is imputed by law.

(2) ~~Every~~ Each person who has actual notice of circumstances sufficient to put a prudent ~~man~~ person upon inquiry as to a particular fact has constructive notice of the fact itself in all cases in which, by prosecuting ~~such the~~ inquiry, ~~he~~ the person might have learned ~~such the~~ facts."

**Section 7.** Section 1-1-219, MCA, is amended to read:

**"1-1-219. Relationship by affinity.** (1) Unless the context requires otherwise, in this code "affinity" means the relation ~~which~~ that one spouse has, by virtue of the marriage, to blood relatives of the other. Therefore, a person has the same relation by affinity to ~~his~~ that person's spouse's blood relatives as ~~his~~ that person's spouse has to them by consanguinity and vice versa.

(2) Degrees of relationship by affinity are computed in the same manner as degrees of relationship by consanguinity.

(3) Notwithstanding subsection (1), the term "affinity" includes the relation of husband and wife. Husband and wife are considered to be related by affinity in the first degree."

**Section 8.** Section 1-1-224, MCA, is amended to read:

**"1-1-224. Observance of right to keep and bear arms.** The week beginning the first Monday in March is an official week of observance to commemorate Montana's valued heritage of the right of each person to keep and bear arms in the defense of ~~his~~ the person's home, person, or property or in aid of civil power. During this week, all Montanans are urged to reflect on their right to keep and bear arms and to celebrate this right in lawful ways."

**Section 9.** Section 1-1-226, MCA, is amended to read:

**"1-1-226. Official observance of Montana's hunting heritage.** The week beginning the third Monday in September is an official week of observance in Montana to commemorate this state's valued heritage of hunting game animals. During this week, all Montanans are urged to:

(1) reflect on hunting as an expression of our culture and heritage;

(2) acknowledge that it is our community of ~~sportsmen, sportswomen, and~~ hunters who have made the greatest contributions to the establishment of current game animal populations; and

(3) celebrate this culture and heritage in all lawful ways."

**Section 10.** Section 1-1-512, MCA, is amended to read:

**"1-1-512. State Vietnam veterans' memorial.** (1) The memorial located in Rose Park, Missoula, Montana, dedicated to the ~~men and women~~ individuals who served the United States in the Republic of Vietnam, is the official state Vietnam veterans' memorial.

(2) The department of commerce ~~and the department of transportation in the production of highway maps of the state of Montana~~ is ~~are~~ directed to reference the location of the official state Vietnam veterans' memorial in Rose Park, Missoula, Montana, on ~~such~~ official state maps."

**Section 11.** Section 1-1-515, MCA, is amended to read:

**"1-1-515. Montana medal of valor established.** (1) The governor is authorized to present, in the name of the people of Montana, a medal to be known as the Montana medal of valor, bearing a suitable inscription and ribbon, to any citizen of the state who displays extraordinary courage in a situation threatening the lives of one or more people.

(2) The governor ~~shall~~ may award the Montana medal of valor to anyone whose behavior, in ~~his~~ the ~~governor's~~ judgment, merits ~~such~~ the recognition. The award must be made in a public ceremony at the recipient's city or town of residence or at a city or town designated by the recipient, except under the circumstances indicated in subsection (3).

(3) If the recipient of the medal of valor dies before the medal is awarded, the governor shall present the medal to the recipient's spouse, eldest surviving child, eldest surviving sibling, or either parent or to a person designated by one of these. If the medal is presented to a person who is not a resident of Montana, the award ceremony must be held at the state capitol in Helena."

**Section 12.** Section 1-1-516, MCA, is amended to read:

**"1-1-516. State Korean war veterans' memorial -- Butte.** (1) The Korean war veterans' memorial located in Stodden Park, Butte, Montana, dedicated to the ~~men and women~~ individuals who served the United States in the Republic of Korea, is an official state Korean war veterans' memorial.

(2) The department of commerce and the department of transportation are directed to reference the location of ~~a~~ the state Korean war veterans' memorial on official state maps."

**Section 13.** Section 1-3-203, MCA, is amended to read:

**"1-3-203. Change in purpose.** ~~One must~~ A person may not change ~~his~~ the person's purpose to the

injury of another."

**Section 14.** Section 1-3-204, MCA, is amended to read:

**"1-3-204. Waiver of benefit of a law.** ~~Anyone~~ Any person may waive the advantage of a law intended solely for ~~his~~ that person's benefit. ~~But a~~ A law established for a public reason cannot be contravened by a private agreement."

**Section 15.** Section 1-3-205, MCA, is amended to read:

**"1-3-205. Limit on rights.** ~~One~~ A person ~~must~~ shall so use ~~his~~ that person's own rights as not to infringe upon the rights of another."

**Section 16.** Section 1-3-206, MCA, is amended to read:

**"1-3-206. Consent.** ~~He~~ A person who consents to an act is not wronged by it."

**Section 17.** Section 1-3-208, MCA, is amended to read:

**"1-3-208. Own wrong -- no advantage.** ~~No one can~~ A person may not take advantage of ~~his~~ the person's own wrong."

**Section 18.** Section 1-3-209, MCA, is amended to read:

**"1-3-209. Fraudulent dispossession.** ~~He~~ A person who has fraudulently dispossessed ~~himself~~ oneself of a thing may be treated as if ~~he~~ the person still had possession."

**Section 19.** Section 1-3-210, MCA, is amended to read:

**"1-3-210. Acts on one's behalf.** ~~He~~ A person who can and does not forbid that which is done on ~~his~~ that person's behalf is ~~deemed~~ considered to have ~~bidden~~ authorized it."

**Section 20.** Section 1-3-212, MCA, is amended to read:

**"1-3-212. Benefit -- burden.** ~~He~~ A person who takes the benefit ~~must~~ shall bear the burden."

**Section 21.** Section 1-3-217, MCA, is amended to read:

**"1-3-217. Beyond man's control.** ~~No man~~ A person is not responsible for that which ~~no man can~~ a



person cannot control."

**Section 22.** Section 1-3-220, MCA, is amended to read:

**"1-3-220. What ought to have been done.** That which ought to have been done is to be regarded as done, in favor of ~~him~~ a person to whom and against ~~him~~ a person from whom performance is due."

**Section 23.** Section 1-3-234, MCA, is amended to read:

**"1-3-234. Third parties -- who suffers.** ~~Where~~ When one of two innocent persons ~~must suffer~~ suffers by the act of a third, ~~he~~ the person by whose negligence it happened must be the sufferer."

**Section 24.** Section 1-4-102, MCA, is amended to read:

**"1-4-102. Consideration of circumstances surrounding execution.** For the proper construction of an instrument, the circumstances under which it was made, including the situation of the subject of the instrument and of the parties to it, may also be shown so that the judge ~~be~~ is placed in the position of those whose language ~~he~~ the judge is to interpret."

**Section 25.** Section 1-5-302, MCA, is amended to read:

**"1-5-302. When execution may be proved by handwriting.** The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

- (1) when the parties and all the subscribing witnesses are dead;
- (2) when the parties and all the subscribing witnesses are nonresidents of the state;
- (3) when the place of their residence is unknown to the party desiring the proof and cannot be ascertained by the exercise of due diligence;
- (4) when the subscribing witness ~~conceals himself~~ hides or cannot be found by the officer by the exercise of due diligence in attempting to serve the subpoena or attachment; or
- (5) in case of the continued failure or refusal of the witness to testify for the ~~space~~ period of 1 hour after ~~his~~ the witness's appearance."

**Section 26.** Section 1-5-303, MCA, is amended to read:

**"1-5-303. Facts ~~which~~ that must be shown when offering proof of handwriting.** The evidence taken

under 1-5-302 must satisfactorily prove to the officer the following facts:

- (1) the existence of one or more of the conditions mentioned in 1-5-302;
- (2) that the witness testifying knew the person whose name purports to be subscribed to the instrument as a party and is well acquainted with ~~his~~ that person's signature;
- (3) that the witness testifying personally knew the person who subscribed the instrument as a witness and is well acquainted with ~~his~~ that person's signature;
- (4) that the signature or signatures in question are genuine; and
- (5) the place of residence of the witness."

**Section 27.** Section 1-5-305, MCA, is amended to read:

**"1-5-305. Contents of certificate of proof.** An officer taking proof of the execution of ~~any an~~ instrument ~~must shall~~, in ~~his~~ the certificate endorsed ~~thereon upon~~ or attached ~~thereto to the instrument~~, set forth all the matters required by law to be done or known by ~~him~~ the officer or proved before ~~him~~ the officer on the proceeding, together with the names of all the witnesses examined before ~~him~~ the officer, their places of residence ~~respectively~~, and the substance of their testimony."

**Section 28.** Section 1-5-406, MCA, is amended to read:

**"1-5-406. Liabilities on official bond.** For the official misconduct or neglect of a notary public, ~~he~~ the notary public and the sureties on ~~his~~ the notary public's official bond are liable to the parties injured ~~thereby by~~ the misconduct or neglect for all damages sustained."

**Section 29.** Section 1-5-407, MCA, is amended to read:

**"1-5-407. Certifying the official character of a notary.** The secretary of state may certify to the official character of ~~such a~~ notary public. ~~Any A~~ notary public may file a copy of ~~his~~ the notary public's commission in the office of any county clerk of any county in the state, and ~~thereafter said~~ the county clerk may certify to the official character of ~~such~~ the notary public."

**Section 30.** Section 1-5-419, MCA, is amended to read:

**"1-5-419. Transfer of records upon termination of office.** It is the duty of ~~every~~ each notary public ~~on his~~ upon resignation or removal from office or at the expiration of ~~his~~ the notary public's term and, in case of ~~his~~ death, of ~~his~~ the notary public's legal representative to ~~forthwith~~ deposit in a timely manner all the records kept

by ~~him~~ the notary public in the office of the county clerk and recorder of the county in which ~~he~~ the notary public was a resident. On failure to do so, the offending person ~~so offending~~ is liable ~~to~~ for damages to any person injured ~~thereby~~ by the failure."

**Section 31.** Section 1-5-420, MCA, is amended to read:

**"1-5-420. Powers and duties of county clerk and recorder with whom records deposited.** It is the duty of each county clerk and recorder ~~aforsaid~~ to receive and safely keep all ~~such~~ records and papers of the notary in the case ~~above named~~ described in 1-5-419 and to give attested copies of them under ~~his~~ a seal, ~~for which he may demand such~~ The county clerk and recorder may charge the fees as by law may be allowed by law to the notaries, and ~~such~~ the copies ~~shall~~ have the same effect as if certified by the notary."

**Section 32.** Section 1-6-102, MCA, is amended to read:

**"1-6-102. Form of ordinary oath.** An oath or affirmation in an action or proceeding may be administered ~~as follows:~~ by the person who swears or affirms expressing ~~his~~ that person's assent when addressed ~~in the following form;~~ with "You do solemnly swear (or affirm, as the case may be) that the evidence you ~~shall~~ will give in this issue (or matter), pending between .... and ....., ~~shall be~~ is the truth, the whole truth, and nothing but the truth, so help you God"."

**Section 33.** Section 1-6-104, MCA, is amended to read:

**"1-6-104. Affirmation or declaration in lieu of oath.** Any person who desires it may, ~~at his option,~~ instead of taking an oath make ~~his~~ a solemn affirmation or declaration by assenting when addressed ~~in the following form;~~ with "You do solemnly affirm (or declare), etc.", as provided in 1-6-102."

**Section 34.** Section 2-1-302, MCA, is amended to read:

**"2-1-302. Resolution of Indian tribes requesting state jurisdiction -- governor's proclamation -- consent of county commissioners.** (1) Whenever the governor of this state receives from the tribal council or other governing body of the Confederated Salish and Kootenai Indian tribes or any other community, band, or group of Indians in this state, a resolution expressing its desire that its people and lands be subject to the criminal or civil jurisdiction, or both, of the state to the extent authorized by federal law and regulation, ~~he~~ the governor shall issue within 60 days a proclamation to the effect that ~~such~~ the specified jurisdiction applies to those Indians and their territory or reservation in accordance with the provisions of this part.

(2) The governor may not issue the proclamation until the resolution has been approved in the manner provided for by the charter, constitution, or other fundamental law of the tribe ~~or tribes~~, if ~~said the~~ document provides for ~~such~~ approval, and there has been first obtained the consent of the board of county commissioners of each county ~~which that~~ encompasses any portion of the reservation of ~~such the~~ tribe ~~or tribes~~."

**Section 35.** Section 2-2-205, MCA, is amended to read:

**"2-2-205. Affidavit to be required by auditing officers.** ~~Every~~ Each officer whose duty it is to audit and allow the accounts of other state, county, city, township, or town officers ~~must shall~~, before allowing ~~such the~~ accounts, require each of ~~such the~~ officers to make and file with ~~him~~ the auditing officer an affidavit that ~~he~~ the affiant has not violated any of the provisions of this part."

**Section 36.** Section 2-2-207, MCA, is amended to read:

**"2-2-207. Settlements to be withheld on affidavit.** (1) ~~Every~~ Each officer charged with the disbursement of public ~~moneys~~ money who is informed by affidavit establishing probable cause that ~~any an~~ officer whose account is about to be settled, audited, or paid ~~by him~~ has violated any of the provisions of this part ~~must shall~~ suspend ~~such the~~ settlement or payment and cause ~~such the~~ officer to be prosecuted for ~~such the~~ violation by the county attorney ~~of the county~~.

(2) ~~In case there be~~ If there is a judgment for the defendant upon ~~such~~ prosecution, the proper officer may proceed to settle, audit, or pay ~~such the~~ account as if ~~no such an~~ affidavit had ~~not~~ been filed."

**Section 37.** Section 2-2-304, MCA, is amended to read:

**"2-2-304. Penalty for violation of nepotism law.** ~~Any~~ A public officer or employee or ~~any a~~ member of any board, bureau, or commission of this state or any political subdivision ~~thereof~~ who ~~shall~~, by virtue of ~~his~~ the person's office, ~~have~~ has the right to make or appoint any person to render services to this state or any subdivision ~~thereof~~ of this state and who ~~shall make or appoint~~ makes or appoints a person to ~~such the~~ services or ~~enter~~ enters into any agreement or promise with any other person or employee or any member of any board, bureau, or commission of any other department of this state or any of its subdivisions to appoint to any position any person or persons related to ~~him~~ the person making the appointment ~~or them~~ or connected with ~~him~~ the person making the appointment ~~or them~~ by consanguinity within the fourth degree or by affinity within the second degree ~~shall thereby be~~ is guilty of a misdemeanor and upon conviction ~~thereof~~ shall be punished by a fine not less than \$50 or more than \$1,000, ~~or~~ by imprisonment in the county jail for not more than 6 months, ~~or by~~ both

such fine and imprisonment."

**Section 38.** Section 2-3-105, MCA, is amended to read:

**"2-3-105. Supplemental notice by radio or television.** (1) ~~Any~~ An official of the state or any of its political subdivisions who is required by law to publish ~~any a~~ notice required by law may supplement ~~such the~~ publication by a radio or television broadcast of a summary of ~~such the~~ notice or by both ~~of such broadcasts~~ when in ~~his the official's~~ judgment the public interest will be served.

(2) The summary of ~~such the~~ notice ~~shall only~~ must be read ~~with no~~ without a reference to any person by name who is then a candidate for political office.

(3) ~~Such~~ The announcements ~~shall~~ may be made only by duly employed personnel of the station from which ~~such the~~ broadcast emanates.

(4) Announcements by political subdivisions may be made only by stations situated within the county of origin of the legal notice unless ~~no a~~ broadcast station ~~exists~~ does not exist in ~~such that~~ county, in which case announcements may be made by a station or stations situated in any county other than the county of origin of the legal notice."

**Section 39.** Section 2-3-221, MCA, is amended to read:

**"2-3-221. Costs to plaintiff in certain actions to enforce constitutional right to know.** A plaintiff who prevails in an action brought in district court to enforce ~~his the plaintiff's~~ rights under Article II, section 9, of the Montana constitution may be awarded ~~his~~ costs and reasonable ~~attorneys'~~ attorney fees."

**Section 40.** Section 2-4-104, MCA, is amended to read:

**"2-4-104. Subpoenas and enforcement -- compelling testimony.** (1) An agency conducting any proceeding subject to this chapter ~~shall have the power to~~ may require the furnishing of ~~such~~ information, the attendance of ~~such~~ witnesses, and the production of ~~such~~ books, records, papers, documents, and other objects ~~as that~~ may be necessary and proper for the purposes of the proceeding. In furtherance of this power, an agency upon its own motion may and, upon request of any party appearing in a contested case, shall issue subpoenas for witnesses or subpoenas duces tecum. The method for service of subpoenas, witness fees, and mileage ~~shall~~ must be the same as required in civil actions in the district courts of the state. Except as otherwise provided by statute, witness fees and mileage ~~shall~~ must be paid by the party at whose request the subpoena was issued.

(2) In case of disobedience of any subpoena issued and served under this section or of the refusal of

any witness to testify as to any material matter with regard to which ~~he~~ the witness may be interrogated in a proceeding before the agency, the agency may apply to any district court in the state for an order to compel compliance with the subpoena or the giving of testimony. If the agency fails or refuses to seek enforcement of a subpoena issued at the request of a party or to compel the giving of testimony considered material by a party, the party may make ~~such an~~ an application to the district court. The court shall hear the matter as expeditiously as possible. If the disobedience or refusal is found to be unjustified, the court shall enter an order requiring compliance. Disobedience of ~~such the~~ the order shall must be punishable by contempt of court in the same manner and by the same procedures as is provided for ~~like~~ similar conduct committed in the course of civil actions in district courts. If another method of subpoena enforcement or compelling testimony is provided by statute, it may be used as an alternative to the method provided for in this section."

**Section 41.** Section 2-4-202, MCA, is amended to read:

**"2-4-202. Model rules.** (1) The attorney general shall prepare a model form for a rule describing the organization of agencies and model rules of practice for agencies to use as a guide in fulfilling the requirements of 2-4-201. The attorney general shall add to, amend, or revise the model rules from time to time as ~~he~~ the attorney general considers necessary for the proper guidance of agencies.

(2) The model rules and additions, amendments, or revisions ~~thereto shall~~ to the model rules must be appropriate for the use of as many agencies as is practicable and ~~shall~~ must be filed with the secretary of state and provided to any agency upon request. The adoption by an agency of all or part of the model rules does not relieve the agency from following the rulemaking procedures required by this chapter."

**Section 42.** Section 2-4-506, MCA, is amended to read:

**"2-4-506. Declaratory judgments on validity or application of rules.** (1) A rule may be declared invalid or inapplicable in an action for declaratory judgment if it is found that the rule or its threatened application interferes with or impairs or threatens to interfere with or impair the legal rights or privileges of the plaintiff.

(2) A rule may also be declared invalid in ~~such an~~ the action on the grounds that the rule was adopted with an arbitrary or capricious disregard for the purpose of the authorizing statute as evidenced by documented legislative intent.

(3) A declaratory judgment may be rendered whether or not the plaintiff has requested the agency to pass upon the validity or applicability of the rule in question.

(4) The action may be brought in the district court for the county in which the plaintiff resides or has ~~his~~

a principal place of business or in which the agency maintains its principal office. The agency ~~shall~~ must be made a party to the action."

**Section 43.** Section 2-4-604, MCA, is amended to read:

**"2-4-604. Informal proceedings.** (1) In proceedings under this section, the agency shall, in accordance with procedures adopted under 2-4-201:

(a) give affected persons or parties or their counsel an opportunity, at a convenient time and place, to present to the agency or hearing examiner:

(i) written or oral evidence in opposition to the agency's action or refusal to act;

(ii) a written statement challenging the grounds upon which the agency has chosen to justify its action or inaction; or

(iii) other written or oral evidence relating to the contested case;

(b) if the objections of the persons or parties are overruled, provide a written explanation within 7 days.

(2) The record must consist of:

(a) the notice and summary of grounds of the opposition;

(b) evidence offered or considered;

(c) any objections and rulings ~~thereon~~ on the objections;

(d) all matters placed on the record after ex parte communication pursuant to 2-4-613;

(e) a recording of any hearing held, together with a statement of the substance of the evidence received or considered, the written or oral statements of the parties or other persons, and the proceedings. A party may object in writing to the statement or may order at his that party's cost a transcription of the recording, or both. Objections ~~shall~~ become a part of the record.

(3) Agencies shall give effect to the rules of privilege recognized by law.

(4) In agency proceedings under this section, irrelevant, immaterial, or unduly repetitious evidence must be excluded but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs is admissible, whether or not ~~such~~ the evidence is admissible in a trial in the courts of Montana. Any part of the evidence may be received in written form, and all testimony of parties and witnesses must be made under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it is not sufficient in itself to support a finding unless it is admissible over objection in civil actions.

(5) A party may petition for review of an informal agency decision pursuant to part 7 of this chapter."

**Section 44.** Section 2-4-613, MCA, is amended to read:

**"2-4-613. Ex parte consultations.** Unless required for disposition of ex parte matters authorized by law, the person or persons who are charged with the duty of rendering a decision or to make findings of fact and conclusions of law in a contested case, after issuance of notice of hearing, ~~shall~~ may not communicate with any party or ~~his~~ a party's representative in connection with any issue of fact or law in ~~such~~ the case except upon notice and opportunity for all parties to participate."

**Section 45.** Section 2-4-621, MCA, is amended to read:

**"2-4-621. When absent members render decision -- proposal for decision and opportunity to submit findings and conclusions -- modification by agency.** (1) When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case, the decision, if adverse to a party to the proceeding other than the agency itself, may not be made until a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision.

(2) The proposal for decision must contain a statement of the reasons ~~therefor~~ for the decision and of each issue of fact or law necessary to the proposed decision; and must be prepared by the person who conducted the hearing unless ~~he~~ that person becomes unavailable to the agency.

(3) The agency may adopt the proposal for decision as the agency's final order. The agency in its final order may reject or modify the conclusions of law and interpretation of administrative rules in the proposal for decision but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record and states with particularity in the order that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law. The agency may accept or reduce the recommended penalty in a proposal for decision but may not increase it without a review of the complete record.

(4) A hearings officer who is a member of an agency adjudicative body may participate in the formulation of the agency's final order, provided ~~he~~ that the hearings officer has completed all ~~his~~ duties as the hearings officer."

**Section 46.** Section 2-6-106, MCA, is amended to read:

**"2-6-106. Possession of records.** ~~Every~~ Each public officer is entitled to the possession of all books and papers pertaining to ~~his~~ that office or in the custody of a former incumbent by virtue of ~~his~~ that office."



**Section 47.** Section 2-6-108, MCA, is amended to read:

**"2-6-108. Attachment and warrant to enforce.** The execution of the order and delivery of the books and papers may be enforced by attachment as for a witness and also, at the request of the plaintiff, by a warrant directed to the sheriff or a constable of the county, commanding ~~him~~ the sheriff or constable to search for ~~such~~ the books and papers and to take and deliver them to the plaintiff."

**Section 48.** Section 2-6-111, MCA, is amended to read:

**"2-6-111. Custody and reproduction of records by secretary of state.** (1) The secretary of state is charged with the custody of:

- (a) the enrolled copy of the constitution;
- (b) all the acts and resolutions passed by the legislature;
- (c) the journals of the legislature;
- (d) the great seal;
- (e) all books, records, parchments, maps, and papers kept or deposited in ~~his~~ the secretary of state's office pursuant to law.

(2) All records included in subsection (1) may be kept and reproduced in accordance with rules adopted by the secretary of state in consultation with the state records committee provided for in 2-15-1013.

(3) The state records committee created by 2-15-1013 may approve the disposal of original records once those records are reproduced as provided for in subsection (2), unless disposal takes the form of transfer of records; ~~in that case, reproduction will~~ Reproduction is not necessary for transferred records. The reproduction or certified copy of a record may be used in place of the original for all purposes, including as evidence in any court or proceeding, and has the same force and effect as the original record.

(4) The secretary of state shall prepare enlarged typed or photographic copies of the records whenever their production is required by law.

(5) At least two copies ~~shall~~ must be made of all records reproduced as provided for in subsection (2). The secretary of state shall place one copy in a fireproof storage place and shall retain the other copy in ~~his~~ the office with suitable equipment for displaying a record by projection to not less than its original size and for preparing, ~~for persons entitled thereto,~~ copies of the record for persons entitled to copies.

(6) All duplicates of ~~all~~ records ~~shall~~ must be identified and indexed."

**Section 49.** Section 2-6-303, MCA, is amended to read:

**"2-6-303. Ownership of records -- transfer.** (1) All official records ~~shall~~ remain the property of the state. They ~~shall~~ must be delivered by outgoing officials to their successors and ~~shall~~ must be preserved, stored, transferred, destroyed, or disposed of and otherwise managed only in accordance with the provisions of this part.

(2) A public officer may, with the concurrence of the Montana historical society, transfer to the state archives official records that ~~he~~ the officer has been specifically directed by statute to preserve or keep in ~~his~~ that office."

**Section 50.** Section 2-6-304, MCA, is amended to read:

**"2-6-304. Outgoing officials -- records management duties.** (1) Within 2 years after the completion of the final term of office of a constitutionally designated and elected official of the executive branch of government, all of the official records not necessary to the current operation of that office ~~shall be~~ are subject to storage, disposal, or transfer in accordance with the provisions of this part.

(2) All official records of a retiring constitutionally designated and elected official not necessary to the current operation of that office and considered worthy of preservation by the Montana historical society ~~shall~~ must be transferred to the custody of the state archives within that 2-year period.

(3) An outgoing official, in consultation with staff members of the Montana historical society, shall review ~~his~~ official records and isolate any items of a purely personal nature. ~~Such~~ The personal papers are not subject to this part, but they may be deposited with the official papers at the official's discretion.

(4) An outgoing official, in consultation with staff members of the Montana historical society, may restrict access to certain segments of ~~his~~ official records. ~~No restrictions~~ Restrictions may not be longer than the lifetime of the depositing official. Restricted access may be imposed only to protect the confidentiality of personal information contained in the records. Restricted access may not be imposed unless the demand of individual privacy clearly exceeds the merits of public disclosure.

(5) Any question concerning the transfer or other status of official records arising between the state archives and an elected official's office ~~shall~~ must be decided by a four-fifths vote of the members of the state records committee."

**Section 51.** Section 2-7-103, MCA, is amended to read:

**"2-7-103. Review ~~by governor~~ of executive branch by governor.** The office of the governor shall continuously study and evaluate the organizational structure, management practices, and functions of the executive branch and of each agency. The governor shall, by executive order or other means within the authority

granted to ~~him~~ the governor, take action to improve the manageability of the executive branch."

**Section 52.** Section 2-7-511, MCA, is amended to read:

**"2-7-511. Access to public accounts -- suspension of officer in case of discrepancy.** (1) The independent auditor may count the cash, verify the bank accounts, and verify all accounts of a public officer whose accounts the independent auditor is examining under law.

(2) If an officer of any county, city, town, school, or other local government entity refuses to provide the independent auditor access during an audit of the officer's accounts to ~~his~~ cash, bank accounts, or any of the papers, vouchers, or records of ~~his~~ that office or if the independent auditor finds a shortage of cash, the independent auditor shall immediately file a preliminary report showing the refusal of that officer or the existence of the shortage and the approximate amount of the shortage with the respective county, city, or town attorney and the governing body of the local government entity.

(3) Upon filing of the statement, the officer of the local government entity shall after notice and the opportunity for a hearing be suspended from the duties and emoluments of ~~his~~ office and the governing body of the local government entity shall appoint ~~some~~ a qualified person to the office pending completion of the audit.

(4) Upon the completion of the audit by the independent auditor, if a shortage of cash existed in the accounts of the officer, the independent auditor shall notify the governing body of the local government entity of the shortage.

(5) If the governing body finds that a shortage exists and that the officer suspended is, by act or omission, responsible for the shortage, the officer's right to the office is forfeited and the report of the audit ~~shall~~ must be referred to the county attorney."

**Section 53.** Section 2-8-105, MCA, is amended to read:

**"2-8-105. Determination of agencies and programs to be reviewed.** (1) Before September 1 of each even-numbered year, the governor may furnish the legislative audit committee with a list of ~~his~~ recommendations for agencies and programs to be terminated and subject to a performance audit during the next biennium pursuant to the provisions of this chapter. The list must be prioritized and must set forth the governor's reasons for recommending each agency or program for review.

(2) The legislative audit committee shall review the list submitted by the governor, suggestions from legislators and legislative committees, staff recommendations, and any other relevant information and compile recommendations of agencies and programs to be terminated and subject to a performance audit. The committee

shall submit its recommendations to the next legislature in the form of a bill terminating those designated agencies and programs at the times specified in the bill and requiring a performance audit of each agency and program under the provisions of Title 2, chapter 8, within the time specified and prior to termination."

**Section 54.** Section 2-9-101, MCA, is amended to read:

**"2-9-101. Definitions.** As used in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Claim" means any claim against a governmental entity, for money damages only, ~~which~~ that any person is legally entitled to recover as damages because of personal injury or property damage caused by a negligent or wrongful act or omission committed by any employee of the governmental entity while acting within the scope of ~~his~~ employment, under circumstances where the governmental entity, if a private person, would be liable to the claimant for ~~such~~ the damages under the laws of the state. For purposes of this section and the limit of liability contained in 2-9-108, all claims ~~which~~ that arise or derive from personal injury to or death of a single person, or damage to property of a person, regardless of the number of persons or entities claiming damages ~~thereby~~, are considered one claim.

(2) (a) "Employee" means an officer, employee, or servant of a governmental entity, including elected or appointed officials, and persons acting on behalf of the governmental entity in any official capacity temporarily or permanently in the service of the governmental entity whether with or without compensation;

(b) ~~but the~~ The term ~~employee shall~~ does not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the governmental entity to which parts 1 through 3 apply in the event of a claim.

(3) "Governmental entity" means ~~and includes~~ the state and political subdivisions ~~as herein defined~~.

(4) "Personal injury" means any injury resulting from libel, slander, malicious prosecution, or false arrest; and any bodily injury, sickness, disease, or death sustained by any person and caused by an occurrence for which the state may be held liable.

(5) "Political subdivision" means any county, city, municipal corporation, school district, special improvement or taxing district, or ~~any~~ other political subdivision or public corporation.

(6) "Property damage" means injury or destruction to tangible property, including loss of use ~~thereof~~ of the property, caused by an occurrence for which the state may be held liable.

(7) "State" means the state of Montana or any office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality ~~thereof~~ of the state."

**Section 55.** Section 2-9-103, MCA, is amended to read:

**"2-9-103. Actions under invalid law or rule -- same as if valid -- when.** (1) If an officer, agent, or employee of a governmental entity acts in good faith, without malice or corruption, and under the authority of law and that law is subsequently declared invalid as in conflict with the constitution of Montana or the constitution of the United States, ~~neither he that officer, agent, or employee, nor any other officer, agent, or employee of the represented governmental entity, he represents nor or the governmental entity he represents~~ is not civilly liable in any action in which ~~he, such other officer, the individuals or such governmental entity~~ would not have been liable ~~had~~ if the law had been valid.

(2) If an officer, agent, or employee of a governmental entity acts in good faith, without malice or corruption, and under the authority of a duly promulgated rule or ordinance and that rule or ordinance is subsequently declared invalid, ~~neither he that officer, agent, or employee, nor any other officer, agent, or employee of the represented governmental entity, he represents nor or the governmental entity he represents~~ is not civilly liable in any action in which ~~no~~ liability would not attach ~~had~~ if the rule or ordinance had been valid."

**Section 56.** Section 2-9-112, MCA, is amended to read:

**"2-9-112. Immunity from suit for judicial acts and omissions.** (1) The state and other governmental units are immune from suit for acts or omissions of the judiciary.

(2) A member, officer, or agent of the judiciary is immune from suit for damages arising from ~~his~~ the lawful discharge of an official duty associated with judicial actions of the court.

(3) The judiciary includes those courts established in accordance with Article VII of The Constitution of the State of Montana."

**Section 57.** Section 2-9-305, MCA, is amended to read:

**"2-9-305. Immunization, defense, and indemnification of employees.** (1) It is the purpose of this section to provide for the immunization, defense, and indemnification of public officers and employees civilly sued for their actions taken within the course and scope of their employment.

(2) In any noncriminal action brought against any employee of a state, county, city, town, or other governmental entity for a negligent act, error, or omission, including alleged violations of civil rights pursuant to 42 U.S.C. 1983, or other actionable conduct of the employee committed while acting within the course and scope of the employee's office or employment, the governmental entity employer, except as provided in subsection (6), shall defend the action on behalf of the employee and indemnify the employee.

(3) Upon receiving service of a summons and complaint in a noncriminal action against ~~him~~ an employee, the employee shall give written notice to ~~his~~ the employee's supervisor requesting that a defense to the action be provided by the governmental entity employer. If the employee is an elected state official or other employee ~~having no~~ who does not have a supervisor, the employee shall give notice of the action to the legal officer or agency of the governmental entity defending the entity in legal actions of that type. Except as provided in subsection (6), the employer shall offer a defense to the action on behalf of the employee. The defense may consist of a defense provided directly by the employer. The employer shall notify the employee, within 15 days after receipt of notice, whether a direct defense will be provided. If the employer refuses or is unable to provide a direct defense, the defendant employee may retain other counsel. Except as provided in subsection (6), the employer shall pay all expenses relating to the retained defense and pay any judgment for damages entered in the action that may be otherwise payable under this section.

(4) In any noncriminal action in which a governmental entity employee is a party defendant, the employee ~~shall~~ must be indemnified by the employer for any money judgments or legal expenses, including attorney fees either incurred by the employee or awarded to the claimant, or both, to which the employee may be subject as a result of the suit unless the employee's conduct falls within the exclusions provided in subsection (6).

(5) Recovery against a governmental entity under the provisions of parts 1 through 3 of this chapter constitutes a complete bar to any action or recovery of damages by the claimant, by reason of the same subject matter, against the employee whose negligence or wrongful act, error, ~~or~~ omission, or other actionable conduct gave rise to the claim. In ~~any such~~ an action against a governmental entity, the employee whose conduct gave rise to the suit is immune from liability by reasons of the same subject matter if the governmental entity acknowledges or is bound by a judicial determination that the conduct upon which the claim is brought arises out of the course and scope of the employee's employment, unless the claim constitutes an exclusion provided in ~~(b) through (d) of subsection (6)~~ subsections (6)(b) through (6)(d).

(6) In a noncriminal action in which a governmental entity employee is a party defendant, the employee may not be defended or indemnified by the employer for any money judgments or legal expenses, including attorney fees, to which the employee may be subject as a result of the suit if a judicial determination is made that:

- (a) the conduct upon which the claim is based constitutes oppression, fraud, or malice; or for any other reason does not arise out of the course and scope of the employee's employment;
- (b) the conduct of the employee constitutes a criminal offense as defined in Title 45, chapters 4 through 7;
- (c) the employee compromised or settled the claim without the consent of the government entity

employer; or

(d) the employee failed or refused to cooperate reasonably in the defense of the case.

(7) If ~~no~~ a judicial determination has not been made applying the exclusions provided in subsection (6), the governmental entity employer may determine whether those exclusions apply. However, if there is a dispute as to whether the exclusions of subsection (6) apply and the governmental entity employer concludes that it should clarify its obligation to the employee arising under this section by commencing a declaratory judgment action or other legal action, the employer is obligated to provide a defense or assume the cost of the defense of the employee until a final judgment is rendered in such that action holding that the employer ~~had no~~ did not have an obligation to defend the employee. The governmental entity employer ~~has no~~ does not have an obligation to provide a defense to the employee in a declaratory judgment action or other legal action brought against the employee by the employer under this subsection."

**Section 58.** Section 2-9-314, MCA, is amended to read:

**"2-9-314. Court approval of ~~attorney's fee~~ attorney fees.** (1) When an attorney represents or acts on behalf of a claimant or any other party on a tort claim against the state or a political subdivision ~~thereof~~ of the state, the attorney shall file with the claim a copy of the contract of employment showing specifically the terms of the fee arrangement between the attorney and the claimant.

(2) The district court may regulate the amount of the ~~attorney's fee~~ attorney fees in any tort claim against the state or a political subdivision ~~thereof~~ of the state. In regulating the amount of the ~~fee fees~~, the court shall consider the time the attorney was required to spend on the case, the complexity of the case, and any other relevant matter the court may consider appropriate.

(3) ~~Attorneys'~~ Attorney fees regulated under this section ~~shall~~ must be made a part of the court record and are open to the public.

(4) If an attorney violates a provision of this section, a rule of court adopted under this section, or an order fixing ~~attorney's~~ attorney fees under this section, ~~he~~ the attorney forfeits the right to any ~~fee which he~~ fees that the attorney may have collected or been entitled to collect."

**Section 59.** Section 2-9-504, MCA, is amended to read:

**"2-9-504. Conditions, form, and signatures.** (1) The condition of ~~every~~ an official bond must be that the principal shall well, truly, and faithfully perform all official duties ~~then~~ required of ~~him~~ the principal by law and also ~~such~~ any additional duties ~~as~~ that may be imposed on ~~him~~ the principal by any law of the state subsequently

enacted and that ~~he~~ the principal will account for, ~~and~~ pay over, ~~and~~ deliver to the person or officer entitled to receive ~~the same~~ all ~~moneys~~ money or other property that ~~may come into his hands~~ the principal receives as ~~such~~ an officer.

(2) The principal and sureties upon ~~any~~ an official bond are ~~also in all cases~~ liable for the neglect, default, or misconduct in office of any deputy, clerk, or employee appointed or employed by ~~such~~ the principal.

(3) ~~All official~~ Official bonds must be signed and executed by the principal and two or more sureties or by the principal and one or more surety companies organized ~~as such~~ under the laws of this state or licensed to do business ~~herein~~ in this state.

(4) ~~All official~~ Official bonds must be ~~in form~~ joint and several and made payable to the state of Montana in ~~such penalty~~ the amount and with ~~such~~ the conditions ~~as~~ required by this part or the law creating or regulating the duties of the office."

**Section 60.** Section 2-9-507, MCA, is amended to read:

**"2-9-507. Sureties' qualifications.** (1) The individual sureties on all official bonds ~~must~~ shall justify, before an officer authorized to administer oaths, by an affidavit to the effect that they are residents and householders or freeholders within the state and that each is worth the sum for which ~~he~~ the individual becomes surety in ~~said~~ the bond over and above ~~his~~ the individual's just debts and liabilities, exclusive of property exempt from execution.

(2) ~~No~~ A surety company or corporation organized under or that has complied with the laws of this state and ~~that~~ has been duly licensed to do business ~~as such herein shall~~ in this state may not be required to justify as a surety. ~~No such~~ A company or corporation ~~shall~~ may not be accepted as a surety in ~~any~~ a case when its liabilities exceed its assets, as ascertained in the manner provided by law.

(3) ~~No~~ A member of the board of county commissioners ~~can~~ may not be accepted as a surety upon the official bond of any county, township, or school district officer in ~~his~~ the commissioner's county, ~~nor must any and~~ a county officer ~~become~~ may not be a surety upon the official bond of any other county officer."

**Section 61.** Section 2-9-511, MCA, is amended to read:

**"2-9-511. Extent of sureties' liability -- when less than full.** (1) ~~Every~~ An official bond executed by any officer pursuant to law is in force and obligatory upon the principal and sureties ~~therein~~ for any and all breaches of the conditions ~~thereof~~ of the bond committed during the time ~~such~~ the officer continues to discharge any of the duties of or hold the office and whether ~~such~~ the breaches are committed or suffered by the principal



officer; ~~his~~ or the officer's deputy; or clerk.

(2) ~~Every such~~ A surety bond is in force and obligatory upon the principal and sureties ~~therein~~ for the faithful discharge of all duties ~~which that~~ may be required of ~~such the~~ officer by any law enacted subsequently to the execution of ~~such the~~ bond, and ~~such that~~ condition must be expressed ~~therein~~ in the bond.

(3) When the penal sum of ~~any a~~ bond required to be given amounts to more than \$1,000, the sureties may become severally liable for portions not less than \$500, making in the aggregate a liability of double the amount named as the penal sum of the bond. If ~~any such a~~ bond ~~becomes~~ is forfeited, an action may be brought ~~thereon on the bond~~ against any or all of the obligors and judgment may be entered against them, either jointly or severally, as they may be liable. The judgment ~~must~~ may not be entered against a surety severally bound for a greater sum than that for which ~~he~~ the surety is specially liable by the terms of the bond. Each surety is liable to contribute to ~~his the~~ cosureties in proportion to the amount for which ~~he the surety~~ is liable."

**Section 62.** Section 2-9-512, MCA, is amended to read:

**"2-9-512. Defects not to affect liability.** (1) ~~Whenever~~ If an official bond does not contain the substantial matter or conditions required by law or there are any defects in the approval or filing ~~thereof of the bond~~, it is not void so as to discharge ~~such the~~ officer and sureties; ~~but they~~ The sureties are equitably bound to the state or party interested, and the state or ~~such the~~ party may, by action in any court of competent jurisdiction, suggest the defect in the bond, approval, or filing and recover the proper and equitable demand or damages from ~~such the~~ officer and the persons who intended to become and were included as sureties in ~~such the~~ bond.

(2) ~~No~~ An official bond entered into by ~~any an~~ officer or ~~any a~~ bond, recognizance, or written undertaking taken by ~~any an~~ officer in the discharge of the duties of ~~his~~ office ~~shall be~~ is not void for want of form, substance, recital, or condition or the principal or surety be discharged. The principal and surety ~~shall~~ must be bound by ~~such the~~ bond, recognizance, or written undertaking to the full extent contemplated by the law requiring the ~~same~~ bond and the sureties to the amount specified in the bond, ~~or~~ recognizance, or written undertaking. In all actions on a defective bond, recognizance, or written undertaking, the plaintiff or relator may suggest the defect in ~~his the~~ complaint and recover to the same extent as if ~~such the~~ bond, recognizance, or written undertaking were perfect in all respects."

**Section 63.** Section 2-9-513, MCA, is amended to read:

**"2-9-513. Insufficiency of sureties -- action to vacate office.** (1) Whenever it is shown by the affidavit

of a credible witness or otherwise comes to the knowledge of the court, judge, board, person, or body whose duty it is to approve the official bond of any officer that ~~the one or more~~ sureties on ~~any a~~ bond given pursuant to the provisions of this part ~~or any one of them~~ have, since ~~such the~~ bond was approved, died, ~~removed from~~ ~~left~~ the state, become insolvent, or from any other cause have become incompetent or insufficient sureties on ~~such the~~ bond, the court, judge, board, officer, or other person may issue a citation to ~~such the~~ officer requiring ~~him the~~ officer on a day ~~therein~~ named in the citation, not less than 5 or more than 10 days after ~~date the citation was~~ issued, to appear and show cause why ~~such the~~ office should not be vacated, ~~which.~~ The citation must be served and ~~the return thereof of the citation must be~~ made as in other cases.

(2) If the officer fails to appear and show good cause why ~~such the~~ office should not be vacated on the day named or fails to give ample additional security, the court, judge, board, officer, or other person ~~must~~ shall make an order vacating the office. The ~~same office~~ must be filled as ~~approved~~ provided by law."

**Section 64.** Section 2-9-514, MCA, is amended to read:

**"2-9-514. Additional security.** (1) The additional bond given pursuant to 2-9-513(2) must be in ~~such the~~ penalty ~~as~~ directed by the court, judge, board, officer, or other person and in all other respects similar to the original bond and approved by and filed with the same officer as required in case of the approval and filing of the original bond.

(2) ~~Every such~~ Each additional bond ~~se~~ filed and approved is of like force and obligation upon the principal and sureties ~~therein~~, from the time of its execution; and subjects the officer and ~~his the~~ sureties to the same liabilities, suits, and actions ~~as that~~ are prescribed respecting the original bonds of officers.

(3) ~~In no case is the~~ The original bond is not discharged or affected when an additional bond has been given, but the ~~same original bond~~ remains of ~~like the same~~ force and obligation as if ~~such the~~ additional bond had not been given."

**Section 65.** Section 2-9-515, MCA, is amended to read:

**"2-9-515. Additional security -- liability of officers and sureties.** The officer and ~~his~~ the officer's sureties are liable to any party injured by the breach of any condition of an official bond, after the execution of the additional bond, upon either or both bonds. ~~Such~~ The injured party may bring ~~his an~~ action upon either bond; or ~~he~~ may bring separate actions on the bonds respectively. ~~He~~ The injured party may allege the same cause of action and may recover judgment ~~therefor~~ in each suit."

**Section 66.** Section 2-9-516, MCA, is amended to read:

**"2-9-516. Separate judgments.** If separate judgments are recovered on the surety bonds by ~~such an~~ injured party for the same cause of action, ~~he~~ the injured party is entitled to have execution issued on ~~such the~~ judgments respectively but ~~he must~~ the injured party may only collect, by execution or otherwise, only the amount actually adjudged ~~to him~~ on the same causes of action in one of the suits, together with the costs of both suits."

**Section 67.** Section 2-9-523, MCA, is amended to read:

**"2-9-523. Proceedings to obtain release.** (1) ~~Any A~~ surety desiring to be released from liability on the bond of any county or township officer shall file a statement in writing, duly subscribed by ~~himself~~ the surety or someone ~~in his~~ on the surety's behalf setting forth the name and office of the bonded person ~~for whom he is~~ surety, the amount for which ~~he~~ the surety is liable ~~as such~~, and ~~his~~ the surety's desire to be released from further liability on account ~~thereof~~ of the bond.

(2) A notice containing the object of ~~such the~~ statement ~~shall must~~ be served personally on the principal unless ~~he shall have~~ the principal has left the state or ~~his~~ the principal's whereabouts cannot after due and diligent search and inquiry be ascertained, in which case the ~~same~~ notice may be served by publication once a week for four successive publications in ~~some a~~ newspaper of general circulation published in the county where the bond is filed on record. The statement, except when the county clerk and recorder or county commissioners are principals, ~~shall must~~ be filed with the county clerk and recorder. When the county clerk and recorder or county commissioners are principals, the statement ~~shall must~~ be filed with the district court judge.

(3) ~~Any A~~ surety desiring to be released from liability on the bond of any city or town officer shall file and serve a similar statement with the city or town clerk or mayor.

(4) ~~Any A~~ surety desiring to be released from an executor's, administrator's, or guardian's bond or undertaking shall file and serve a similar statement with the proper officer, person, or authority ~~where~~ with whom the bond is filed on record.

(5) All statements provided for in this section must be served personally on the principal as provided in this section ~~provided~~ if ~~he~~ the principal can be found for service in the state; ~~if not, he~~ If the principal cannot be found in the state, the principal may be served by publication in a newspaper ~~at the county seat as hereinbefore~~ provided in subsection (2); or, if ~~no a~~ newspaper ~~be is not~~ published ~~thereat in that county~~, then in a newspaper published in an adjoining county, without any order from any court or other authority. In all cases for which publication is provided, a printed or written notice posted in at least 10 conspicuous places in the county for the time specified for publication of ~~said the~~ notice ~~shall be deemed~~ is considered legal notice ~~thereof~~."

**Section 68.** Section 2-9-524, MCA, is amended to read:

**"2-9-524. Amount of new bond -- failure to file.** (1) Whenever a statement is filed or filed and served as ~~herein~~ provided in this part, the proper authority shall prescribe the penalty or amount in which a new or additional bond or undertaking ~~shall~~ must be filed unless already provided by statute. If ~~no such an~~ order ~~be~~ is ~~not made, then such~~ the new or additional bond or undertaking ~~shall~~ must be executed for the same amount as the original.

(2) If ~~any an~~ officer or person ~~shall fail~~ fails to file a new or additional bond or undertaking within 20 days from the date of personal service or within 40 days from the date of the first publication or ~~of~~ posting of notice; as provided ~~herein in this part~~, ~~a new or additional bond or undertaking~~; the office or appointment of the person or officer ~~so failing shall become~~ becomes vacant and ~~such the~~ officer or person ~~shall forfeit his~~ forfeits the office or appointment. The ~~same shall~~ office or position must be filled as in other cases of vacancy and in the manner provided by law.

(3) The person applying to be released from liability on ~~such the~~ bond or undertaking ~~shall~~ may not be ~~held or held~~ liable thereon on the bond after the date ~~herein~~ provided for the vacating and forfeiting of ~~such the~~ office or appointment."

**Section 69.** Section 2-9-527, MCA, is amended to read:

**"2-9-527. Suit on bonds.** (1) ~~Every~~ An official bond executed by any officer pursuant to law is in force and obligatory upon the principal and sureties ~~therein~~ to and for the state and to and for the use and benefit of all persons who may be injured or aggrieved by the wrongful act or default of ~~such the~~ officer in ~~his~~ the officer's official capacity. ~~Any~~ A person ~~so~~ injured or aggrieved may bring suit on ~~such the~~ bond; in ~~his~~ the person's own name; ~~without an assignment thereof.~~

(2) ~~No such~~ A bond is not void on the first recovery of a judgment ~~thereon on the bond~~. Suit may be ~~afterwards~~ brought; from time to time; and judgment recovered ~~thereon on the bond~~ by the state or by any person to whom a right of action has accrued against ~~such the~~ officer and ~~his the~~ sureties until the whole penalty of the bond is exhausted."

**Section 70.** Section 2-9-528, MCA, is amended to read:

**"2-9-528. Lien on real estate of surety -- action to compel specific performance.** (1) When an action is commenced in any court in this state, for the benefit to the state, to enforce the penalty of or to recover money upon an official bond or obligation or any bond or obligation executed in favor of the state of Montana or of the

people of this state, the attorney or other person prosecuting the action may file with the clerk of the court in which the action is commenced an affidavit stating either positively or on information and belief that ~~such the~~ bond or obligation was executed by the defendant or one or more of the defendants (designating whom) and made payable to the people of the state or to the state and that the defendant or defendants have real estate or some interest in ~~lands land~~ (designating the county or counties in which the ~~same land~~ is situated) and that the action is prosecuted for the benefit of the state. The clerk of the court receiving ~~such the~~ affidavit ~~must shall~~ certify to the county clerk and recorder of the county in which ~~such the~~ real estate is situated the names of the parties to the action, the name of the court in which the action is pending, and the amount claimed in the complaint, along with the date of the commencement of the suit.

(2) Upon receiving ~~such the~~ certificate, the county clerk and recorder ~~must shall~~ endorse upon it the certificate the time of its ~~reception receipt~~. ~~Such The~~ certificate must be filed in the same manner as notices of the pendency of action affecting real estate. Any judgment recovered in ~~such the~~ action is a lien upon all real estate belonging to the defendant situated in any county in which ~~such the~~ certificate is ~~so~~ filed or to one or more of ~~such the~~ defendants, for the amount the owner thereof of the real estate is or may be liable upon the judgment, from the filing of this certificate.

(3) In any action to compel the specific performance of an agreement to sell real estate affected by the lien created by the filing of the certificate ~~mentioned~~ referred to in subsection (2), which agreement was made prior to the filing of ~~such the~~ certificate; but the purchase price thereof of the real estate is not due until after the filing of ~~said the~~ certificate, the judge of the district court in which ~~said the~~ action for specific performance is tried ~~must shall~~, if the purchaser is otherwise entitled to specific performance of ~~such the~~ agreement, order the ~~said~~ purchaser to pay the purchase price; or ~~so as~~ much thereof as of the purchase price that may be due; to the state treasurer, taking ~~his~~ the state treasurer's receipt ~~therefor~~ for the payment. Upon ~~such~~ payment, the purchaser is entitled to enforce the specific performance of the agreement and take ~~said the~~ real estate free from the liens created by the filing of ~~said the~~ certificate. The ~~moneys so~~ money paid to the state treasurer must be held ~~by him~~, pending the litigation mentioned in ~~said the~~ certificate and subject to the lien created by the filing of ~~said the~~ certificate. If judgment is recovered against the defendant, the state treasurer in ~~his~~ the treasurer's settlement ~~must shall~~ pay to the county treasurer ~~entitled to the same~~ the amount due the county."

**Section 71.** Section 2-15-111, MCA, is amended to read:

**"2-15-111. Appointment and qualifications of department heads.** (1) ~~The~~ At the beginning of each gubernatorial term, the governor shall appoint ~~at the beginning of each gubernatorial term~~ each department head

who ~~is~~ serves as a director as provided in this chapter.

(2) An appointment of a director by the governor is subject to the confirmation of the senate, except that the governor may appoint a director to assume office before the senate meets in its next regular session to consider the appointment. A director so appointed is vested with all the functions of the office upon assuming the office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a director, the governor shall make a new appointment.

(3) A director serves at the pleasure of the governor. The governor may remove a director at any time and appoint a new director to the office.

(4) The governor shall select a director on the basis of ~~his~~ the person's professional and administrative knowledge and experience and ~~such~~ additional qualifications ~~as~~ that are provided by law.

(5) If a vacancy occurs in the office of a director, the governor shall appoint a new director to serve at the pleasure of the governor.

(6) Heads of departments who are not directors ~~shall~~ must be elected or appointed and serve; and have their vacancies filled; as provided by law."

**Section 72.** Section 2-15-122, MCA, is amended to read:

**"2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that ~~such~~ the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. ~~They must~~ The creating authority shall file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) ~~of this section.~~

(2) Each advisory council created under this section ~~shall~~ must be known as the "... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the ~~governor~~ creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity as defined in 2-15-102.

(5) Unless ~~he~~ a member is a full-time salaried officer or employee of this state or of any political subdivision of this state, each member is entitled to be paid in an amount to be determined by the department head, not to exceed \$25 for each day in which ~~he~~ the member is actually and necessarily engaged in the performance of council duties, and ~~he~~ the member is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year ~~each~~ an advisory council shall elect a ~~chairman~~ presiding officer and ~~such~~ other officers ~~as~~ that it considers necessary.

(7) Unless otherwise specified by the creating authority, ~~each~~ an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the ~~chairman~~ presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c) ~~of this section~~, an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor ~~must~~ shall file in ~~his~~ the governor's office and in the office of the secretary of state a record of the council created showing the council's:

- (a) name, in accordance with subsection (2) ~~of this section~~;
- (b) composition;
- (c) ~~names and addresses of the~~ names and addresses of the appointed members, including names and addresses;
- (d) purpose; and
- (e) term of existence, in accordance with subsection (10) ~~of this section~~.

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the governor or by the board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, or the superintendent of public

instruction for those advisory councils created in the manner set forth in subsection (1)(c) ~~of this section~~. If the existence of an advisory council is extended, ~~they~~ the creating authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary."

**Section 73.** Section 2-15-124, MCA, is amended to read:

**"2-15-124. Quasi-judicial boards.** If an agency is designated by law as a quasi-judicial board for the purposes of this section, the following requirements apply:

(1) The number of and qualifications of its members are as prescribed by law. In addition to those qualifications, unless otherwise provided by law, at least one member ~~shall~~ must be an attorney licensed to practice law in this state.

(2) The governor shall appoint the members. A majority of the members ~~shall~~ must be appointed to serve for terms concurrent with the gubernatorial term and until their successors are appointed. The remaining members ~~shall~~ must be appointed to serve for terms ending on the first day of the third January of the succeeding gubernatorial term and until their successors are appointed. It is the intent of this subsection that the governor appoint a majority of the members of each quasi-judicial board at the beginning of ~~his~~ the governor's term and the remaining members in the middle of ~~his~~ the governor's term. As used in this subsection, "majority" means the next whole number greater than half.

(3) The appointment of each member is subject to the confirmation of the senate then meeting in regular session or next meeting in regular session following the appointment. A member so appointed has all the powers of the office upon assuming that office and is a de jure officer, notwithstanding the fact that the senate has not yet confirmed the appointment. If the senate does not confirm the appointment of a member, the governor shall appoint a new member to serve for the remainder of the term.

(4) A vacancy ~~shall~~ must be filled in the same manner as regular appointments, and the member appointed to fill a vacancy shall serve for the unexpired term to which ~~he~~ the member is appointed.

(5) The governor shall designate the ~~chairman~~ presiding officer. The ~~chairman~~ presiding officer may make and second motions and vote.

(6) Members may be removed by the governor only for cause.

(7) Unless otherwise provided by law, each member is entitled to be paid \$50 for each day in which ~~he~~ the member is actually and necessarily engaged in the performance of board duties; and ~~he~~ is also entitled to



be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of board duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members except when they perform their board duties outside their regular working hours or during time charged against their ~~annual~~ leave, but ~~such~~ those members are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. Ex officio board members may not receive compensation but ~~shall~~ must receive travel expenses.

(8) A majority of the membership constitutes a quorum to do business. A favorable vote of at least a majority of all members of a board is required to adopt any resolution, motion, or other decision, unless otherwise provided by law."

**Section 74.** Section 2-15-131, MCA, is amended to read:

**"2-15-131. Rights of state personnel.** Unless otherwise provided in this chapter, each state officer or employee affected by ~~the a~~ reorganization of the executive branch of state government under this chapter is entitled to all rights ~~which he~~ that the officer or employee possessed as a state officer or employee before the effective date of the applicable ~~part of this chapter~~ reorganization law, including rights to tenure in office and of rank or grade, rights to vacation pay, ~~and~~ sick pay, and leave, rights under any retirement or personnel plan or labor union contract, rights to compensatory time earned, and any other rights under any law or administrative policy. This section is not intended to create any new rights for any state officer or employee but to continue only those rights in effect before the effective date of the applicable part of ~~this chapter or an amendment to this chapter~~ the reorganization law."

**Section 75.** Section 2-15-132, MCA, is amended to read:

**"2-15-132. Rights to property.** The department or unit ~~thereof~~ of a department that succeeds to all or part of the functions of an agency under a reorganization within the executive branch also succeeds to the rights to all real and personal property of that agency relating to the functions or parts of functions transferred. The property includes real property, records, office equipment, supplies, contracts, books, papers, documents, maps, appropriations, accounts within and ~~without~~ outside of the state treasury, funds, vehicles, and all other similar property. However, the department or unit may not use or divert ~~moneys~~ money in a fund or account for a purpose other than provided by law. The governor shall resolve any conflict as to the proper disposition of the property, and ~~his~~ the governor's decision is final. This section does not apply to property owned by the federal government."

**Section 76.** Section 2-15-201, MCA, is amended to read:

**"2-15-201. Powers and duties of governor.** (1) In addition to the duties prescribed by the constitution, the governor shall ~~perform the following duties:~~

~~(1)(a)~~ He shall supervise the official conduct of all executive and ministerial officers;

~~(2)(b)~~ He shall see ensure that all offices are filled and that the duties thereof of the offices are performed or, in default ~~thereof of the performance~~, apply ~~such a~~ remedy as that the law allows. If the remedy is imperfect, ~~he the governor~~ shall acquaint the legislature ~~therewith~~ with the issue at its next session.

~~(3)(2)~~ (a) He The governor shall make the appointments and ~~supply fill~~ the vacancies as required by law. When a vacancy in a position on a council, board, commission, or committee has occurred or is expected to occur and must be filled by gubernatorial appointment, the governor shall have posted in a conspicuous place in the state capitol a notice:

- (i) announcing the actual or anticipated vacancy in the position;
- (ii) describing the qualifications for the position, if any; and
- (iii) describing the procedure for applying for appointment to the position.

(b) A copy of the notice required under subsection ~~(3)(a)~~ (2)(a) must be sent to the lieutenant governor who may publish the notice in an appropriate publication.

~~(4)(3)~~ He The governor is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

~~(5)(4)~~ Whenever any suit or legal proceeding is pending against this state ~~or which that~~ that may affect the title of this state to any property or ~~which that~~ that may result in any claim against the state, ~~he the governor~~ may direct the attorney general to appear on behalf of the state and may employ ~~such~~ additional counsel ~~as he that the governor~~ may judge expedient.

~~(6)(5)~~ He The governor may require the attorney general or the county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

~~(7)(6)~~ He The governor may require the attorney general to aid the county attorney in the discharge of ~~his~~ the county attorney's duties.

~~(8)(7)~~ He The governor may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

~~(9)(8)~~ He The governor shall perform ~~such the~~ the duties respecting fugitives from justice ~~as that~~ are prescribed by Title 46, chapter 30.

~~(10)~~(9) He The governor shall issue land warrants and patents, as prescribed in 77-2-342.

~~(11)~~(10) He The governor may require any officer or board to make special reports ~~to him~~, upon demand, in writing.

~~(12)~~(11) He The governor shall discharge the duties of a member of the board of examiners, of a nonvoting ex officio member of the state board of education, and of a member of the board of land commissioners.

~~(13)~~(12) He The governor has the other powers and ~~must shall~~ perform the other duties ~~as that~~ are devolved upon ~~him~~ the governor by this ~~code~~ section or any other law of this state."

**Section 77.** Section 2-15-221, MCA, is amended to read:

**"2-15-221. Governor-elect -- staff and services provided.** (1) As used in this section, unless the context clearly indicates otherwise, "governor-elect" means the person elected at a general election to the office of governor who is not the incumbent governor.

(2) The department of administration shall provide the governor-elect and ~~his~~ the governor-elect's necessary staff with suitable office space in the capitol building, together with furnishings, supplies, equipment, and telephone service for the period between the general election and the inauguration.

(3) The governor-elect may obtain the assistance of persons of ~~his~~ the governor-elect's own choosing, between the general election and inauguration, and they ~~shall must~~ receive reasonable compensation for their services. These persons ~~shall be~~ are state employees, but they ~~shall are~~ not be subject to any civil service or personnel laws or rules of the state.

(4) In addition, the governor-elect may request that the department of administration assign one or more employees of the department of administration to assist the governor-elect and ~~his~~ the governor-elect's staff in the study and interpretation of information. Employees of the department of administration ~~shall must~~ be assigned for the time necessary between the general election and the inauguration.

(5) The funds necessary to carry out the provisions of this section ~~shall must~~ be included in the appropriation request of the department of administration to the legislature meeting in regular session immediately prior to a general election when a governor will be chosen."

**Section 78.** Section 2-15-302, MCA, is amended to read:

**"2-15-302. Powers and duties of lieutenant governor.** (1) The lieutenant governor may:

(a) prescribe rules for the administration of the office;

- (b) hire personnel for the office and establish policy to be followed by ~~such~~ the personnel; and
- (c) compile and submit a budget for the office.

(2) The lieutenant governor shall perform the duties provided by law and those delegated to ~~him~~ the lieutenant governor by the governor."

**Section 79.** Section 2-15-502, MCA, is amended to read:

**"2-15-502. Qualification of assistants.** Each assistant attorney general must be duly licensed to practice law in the state of Montana at the time of ~~his~~ appointment."

**Section 80.** Section 2-15-602, MCA, is amended to read:

**"2-15-602. Deputy state auditor.** (1) The state auditor shall appoint a deputy who in the absence of the principal or in the case of vacancy in ~~his~~ the office of state auditor shall perform all the duties of the office until ~~such~~ the disability ~~be~~ is removed or the vacancy ~~be~~ is filled.

(2) ~~Such~~ The deputy shall subscribe, take, and file the oath of office provided by law for other state officers before entering upon the performance of ~~his~~ the duties."

**Section 81.** Section 2-15-1202, MCA, is amended to read:

**"2-15-1202. Adjutant general -- qualifications -- salary.** (1) The adjutant general ~~shall~~ must:

- (a) have the rank of major general;
- (b) be selected from the active list of the national guard of this state;
- (c) be federally recognized in the rank of lieutenant colonel or higher, immediately preceding ~~his~~ appointment;
- (d) have ~~had~~ at least 10 years of service as an officer of the active national guard of this state during the 15 years immediately preceding ~~his~~ appointment.

(2) A salary may not be paid to the adjutant general by the state when ~~he~~ the adjutant general is on extended active duty in federal service or is receiving pay as a civilian employee of the federal government.

(3) If, by reason of call or draft of officers of the Montana national guard into federal service, there is no officer having the qualifications ~~as~~ set forth in this section for adjutant general, then any officer of the national guard may be appointed as acting adjutant general."

**Section 82.** Section 2-15-1203, MCA, is amended to read:

**"2-15-1203. Assistant adjutant generals.** (1) The adjutant general shall appoint, with the approval of the governor, an assistant adjutant general for the army national guard to be selected from the active list of the army national guard and an assistant adjutant general for the air national guard to be selected from the active list of the air national guard.

(2) Each assistant adjutant general ~~shall~~ must have the qualifications set forth in 2-15-1202 for appointment as adjutant general. However, ~~he shall~~ each assistant adjutant general must have the rank of brigadier general."

**Section 83.** Section 2-15-1515, MCA, is amended to read:

**"2-15-1515. Commission on federal higher education programs.** (1) There is a commission on federal higher education programs that may be called into existence by the board of regents of higher education from time to time as the need arises. Whenever the commission is called into existence, the board shall request that the governor ~~to~~ appoint members pursuant to subsection (2)(b).

(2) The commission consists of:

(a) ex officio, the appointed members of the board of regents of higher education; and

(b) a representative of each accredited private college or university in this state appointed by the governor from the board of trustees of each private college or university upon the request of the board of regents of higher education.

(3) The commission members appointed pursuant to subsection (2)(b) shall serve for the period of existence of the commission; ~~however, such.~~ However, the period of service may not exceed 4 years and is contingent upon continued status as a trustee. If a vacancy occurs in a position held by an individual appointed pursuant to subsection (2)(b), the governor shall appoint a replacement.

(4) The ~~chairman~~ presiding officer of the board of regents of higher education is ~~chairman~~ the presiding officer of the commission.

(5) The commissioner of higher education is the administrative officer of the commission.

(6) The commission is allocated to the board of regents of higher education for administrative purposes only as provided in 2-15-121.

(7) The commission members are entitled to compensation as provided in 2-15-124(7).

(8) The board of regents of higher education may terminate the commission from time to time when there is no need for its existence."

**Section 84.** Section 2-15-1521, MCA, is amended to read:

**"2-15-1521. Cultural and aesthetic projects advisory committee --terms and compensation.** (1)

There is a cultural and aesthetic projects advisory committee.

(2) The committee consists of 16 members, appointed as follows:

(a) eight members appointed by the Montana historical society board of trustees; and

(b) eight members appointed by the Montana arts council.

(3) Members ~~shall hold office for~~ serve terms of 4 years beginning January 1 following their appointment.

(4) A member may be removed by the appointing authority.

(5) All vacancies ~~shall~~ must be filled by the original appointing authority.

(6) The committee shall elect a ~~chairman and vice-chairman~~ presiding officer and a vice presiding officer.

(7) Members of the committee are entitled to compensation of \$25 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, for each day in attendance at a committee meeting."

**Section 85.** Section 2-15-1701, MCA, is amended to read:

**"2-15-1701. Department of labor and industry -- head.** (1) There is a department of labor and industry.

As prescribed in Article XII, section 2, of the Montana constitution, the department head is the commissioner of labor and industry.

(2) The commissioner ~~shall~~ must be appointed and serve as provided for ~~directors~~ in 2-15-111.

(3) The commissioner ~~shall~~ must receive an annual salary in ~~such an amount as may be specified by the legislature in the appropriation to the department of labor and industry~~ equal to other department directors.

(4) Before entering on the duties of his the office, ~~he~~ the commissioner shall must take and subscribe to the oath of office prescribed by the Montana constitution."

**Section 86.** Section 2-15-1742, MCA, is amended to read:

**"2-15-1742. Board of veterinary medicine.** (1) There is a board of veterinary medicine.

(2) The board consists of six members appointed by the governor with the consent of the senate, five of whom must be licensed veterinarians and one of whom must be a public member who is a consumer of veterinary services and who may not be a licensee of the board or of any other board under the department of labor and industry.

(3) Each veterinarian member must be a reputable licensed veterinarian who has graduated from a college that is authorized by law to confer degrees and ~~have~~ that has educational standards equal to those

approved by the American veterinary medical association. Each veterinarian member ~~shall~~ must have actually and legally practiced veterinary medicine in either private practice or public service in this state for at least 5 years immediately before ~~his~~ appointment.

(4) Each member shall serve for a term of 5 years. The governor may, after notice and hearing, remove a member for misconduct, incapacity, or neglect of duty.

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

**Section 87.** Section 2-15-1744, MCA, is amended to read:

**"2-15-1744. Board of social work examiners and professional counselors.** (1) (a) The governor shall appoint a board of social work examiners and professional counselors consisting of seven members.

(b) Three members must be licensed social workers, and three must be licensed professional counselors.

(c) One member must be appointed from and represent the general public and may not be engaged in social work.

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

(e) The board is designated as a quasi-judicial board. Members are appointed, serve, and are subject to removal in accordance with 2-15-124.

(2) Notwithstanding the qualifications for appointment contained in subsection (1), a person may be appointed to the board without being licensed as a professional counselor if ~~he~~ the person is issued a license under Title 37, chapter 23, within 30 days after ~~his~~ appointment."

**Section 88.** Section 2-15-1748, MCA, is amended to read:

**"2-15-1748. Board of physical therapy examiners.** (1) There is a board of physical therapy examiners.

(2) The board consists of five members appointed by the governor with the consent of the senate for a ~~term~~ terms of 3 years. The members are:

(a) three physical therapists licensed under Title 37, chapter 11, who have been actively engaged in the practice of physical therapy for the 3 years preceding appointment to the board;

(b) one physician licensed under Title 37, chapter 3, who has been actively engaged in the practice of medicine for the 3 years preceding appointment to the board; and

(c) one member of the general public who is not a physician or a physical therapist.

(3) Each member must have been a resident of Montana for the 3 years preceding appointment to the board.

(4) The Montana medical association may submit names of nominees under subsection (2)(b) to the governor as provided in 37-1-132.

(5) A vacancy on the board must be filled in the same manner as the original appointment. These appointments may ~~only~~ be made only for the unexpired portions of the term.

(6) ~~No~~ A member may not be appointed for more than two consecutive terms.

(7) The governor may remove any board member for negligence in performance of any duty required by law and for incompetence or unprofessional or dishonorable conduct.

(8) A board member is not liable to civil action for any act performed in good faith in the execution of the duties required by Title 37, chapter 11.

(9) The board shall provide for its organizational structure by rule, which ~~shall~~ must include a ~~chairman, vice-chairman, presiding officer, vice presiding officer,~~ and secretary-treasurer.

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

**Section 89.** Section 2-15-1814, MCA, is amended to read:

**"2-15-1814. Board of housing -- allocation -- composition -- quasi-judicial.** (1) There is a board of housing.

(2) The board consists of seven members appointed by the governor as provided in 2-15-124. The members ~~shall~~ must be informed and experienced in housing, economics, or finance.

(3) The board shall elect a ~~chairman~~ presiding officer and other necessary officers.

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

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

(6) In compliance with the state pay plan, the department shall provide all staff and services to the board ~~as~~ that are determined by the board in conjunction with the department to be necessary for the purposes of carrying out the board's programs. The department shall assess the board for reasonable costs.

(7) A member of the board ~~shall~~ may not be ~~deemed~~ considered to have a conflict of interest under the provisions of 2-2-201 merely because the member is a stockholder, officer, or employee of a lending institution ~~who~~ that may participate in the board's programs."



**Section 90.** Section 2-15-3002, MCA, is amended to read:

**"2-15-3002. Montana wheat and barley committee --composition--allocation.** (1) There is a Montana wheat and barley committee.

(2) The committee consists of seven members and three ex officio, nonvoting members.

(3) The governor shall appoint one member from each of the following districts:

(a) District I, consisting of Daniels, Sheridan, and Roosevelt Counties;

(b) District II, consisting of Valley, Phillips, Blaine, and Hill Counties;

(c) District III, consisting of Liberty, Toole, Glacier, and Pondera Counties;

(d) District IV, consisting of Chouteau and Teton Counties;

(e) District V, consisting of Lewis and Clark, Cascade, Judith Basin, Fergus, Petroleum, Meagher, Broadwater, Wheatland, Golden Valley, and Musselshell Counties;

(f) District VI, consisting of Big Horn, Yellowstone, Stillwater, Carbon, Sweet Grass, Park, Gallatin, Madison, Jefferson, Silver Bow, Beaverhead, and all counties west of the continental divide;

(g) District VII, consisting of Garfield, McCone, Rosebud, Richland, Dawson, Wibaux, Prairie, Carter, Custer, Fallon, Powder River, and Treasure Counties.

(4) The ex officio members are:

(a) the director of the department of agriculture;

(b) the dean of agriculture of Montana state university-Bozeman;

(c) a representative of the grain trade in Montana elected by a majority of the appointed members.

(5) Each of the appointed members must be a citizen of Montana, derive a substantial portion of his the member's income from growing wheat or barley in this state, and be a resident of and have farming operations in the district from which appointed. No more than four of the appointed members may be of the same political party.

(6) A list of nominees for appointment may be submitted to the governor by the Montana farmers union, Montana farm bureau, Montana grange, Montana women involved in farm economics, and the Montana grain growers association. Names of nominees must be submitted not more than 90 days but not less than 30 days before the expiration of a ~~committeeman's~~ member's term.

(7) The appointed members shall serve staggered terms of 3 years. A member may not serve more than three consecutive 3-year terms.

(8) A member may be removed by the governor, after a full public hearing before the governor, for malfeasance, misfeasance, or neglect of duty. Removal proceedings may not be started except upon duly verified

written charges. The member must be given a copy of the written charges at least 10 days in advance of the hearing. At the hearing, the member may be represented by an attorney and may present witnesses ~~in his~~ on the member's behalf.

(9) A member who ceases to reside in the state or in the district from which ~~he~~ the member was appointed or who ceases to grow wheat or barley in the state or district is disqualified from membership, and ~~his~~ the office becomes vacant. If the member refuses to recognize ~~his~~ the member's disqualification, the refusal is cause for removal.

(10) The committee is allocated to the department for administrative purposes only as ~~prescribed~~ provided in 2-15-121."

**Section 91.** Section 2-15-3003, MCA, is amended to read:

**"2-15-3003. Board of hail insurance.** (1) There is a board of hail insurance of five members consisting of the state auditor, the director of agriculture, who is secretary of the board, and three other members to be appointed by the governor and confirmed by the senate.

(2) The governor shall designate one of the appointive members to act as ~~chairman~~ presiding officer of the board.

(3) Whenever the term of any member expires, either by death, resignation, removal for cause, or expiration of ~~his~~ the member's term of office, the governor shall appoint ~~his~~ a successor and shall also appoint one of the board ~~for chairman~~ as presiding officer in case of a vacancy in that office.

(4) Each appointive member of the board ~~shall~~ must be appointed for 3 years, except when ~~such an~~ appointment is made to fill a vacancy on the board, in which ~~event such~~ case the appointee shall fill out the unexpired term of the member whose place ~~he~~ the appointee fills.

(5) All members of the board ~~shall be~~ are subject to removal for cause by the governor.

(6) The board is allocated to the department of agriculture for administrative purposes only as ~~prescribed~~ provided in 2-15-121. The department may charge the board for services provided by the department pursuant to 2-15-121. The costs charged by the department must be commensurate with the cost of the services provided."

**Section 92.** Section 2-15-3305, MCA, is amended to read:

**"2-15-3305. Rangeland resources committee.** (1) The governor may select a committee of six members in accordance with subsection (2) ~~which that~~ is composed ~~as follows~~ of:

(a) a ~~chairman~~ presiding officer who is a rancher;

- (b) a ~~vice-chairman~~ vice presiding officer who is a rancher;
- (c) a rancher from the eastern area of the state;
- (d) a rancher from the northern area of the state;
- (e) a rancher from the area of the state west of the continental divide;
- (f) a rancher from the southern area of the state.

(2) The governor shall select the members described in ~~subsections (1)(a) through (1)(f)~~ subsection (1) from a list submitted by the executive committee of the association of conservation districts and the board of directors of the Montana association of state grazing districts.

(3) The committee members shall serve without compensation.

(4) All persons appointed to the committee shall serve at the pleasure of the governor.

(5) The committee is allocated to the department for administrative purposes only as ~~prescribed~~ provided in 2-15-121."

**Section 93.** Section 2-15-3104, MCA, is amended to read:

**"2-15-3104. Livestock crimestoppers commission.** (1) There is a livestock crimestoppers commission.

(2) The commission consists of five members appointed by the ~~chairman~~ presiding officer of the board of livestock. The members are:

- (a) the administrator of the brands enforcement division, or ~~his~~ the administrator's designee;
- (b) a member of the board of livestock, or ~~his~~ the member's designee;
- (c) a law enforcement official; and
- (d) two members of the public, appointed at large.

(3) The commission shall elect a ~~chairman~~ presiding officer from its members.

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

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

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

(6) The commission is allocated to the department of livestock for administrative purposes only as provided in 2-15-121."

**Section 94.** Section 2-15-3331, MCA, is amended to read:

**"2-15-3331. Flathead basin commission --term of appointment --quorum --vacancy --chairman --vote.** (1) The commission members shall serve staggered 4-year terms.

(2) A majority of the membership, other than ex officio members, constitutes a quorum of the commission.

(3) A vacancy on the commission must be filled in the same manner as regular appointments, and the member so appointed shall serve for the unexpired term to which ~~he~~ the member is appointed.

(4) The commission shall select a ~~chairman~~ presiding officer from among its members. The ~~chairman~~ presiding officer may make motions and vote.

(5) A favorable vote of at least a majority of all members, except ex officio members, of the commission is required to adopt any resolution, motion, or other decision of the commission."

**Section 95.** Section 2-15-3402, MCA, is amended to read:

**"2-15-3402. Fish, wildlife, and parks commission --composition --qualifications --quasi-judicial.**

(1) There is a fish, wildlife, and parks commission.

(2) The commission consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of ~~the~~ fish, wildlife, and state parks and other outdoor recreational resources of this state. A person may not be appointed to the commission unless ~~he~~ the person is informed or interested and experienced in the subject of ~~wildlife~~, fish, wildlife, parks, and outdoor recreation and the requirements for the conservation

and protection of ~~wildlife~~, fish, wildlife, parks, and outdoor recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish, wildlife, and parks commission is designated as a quasi-judicial board for purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."

**Section 96.** Section 2-16-102, MCA, is amended to read:

**"2-16-102. Qualifications generally -- age and citizenship.** (1) Provisions respecting disqualifications for particular offices are contained in the constitution and in the provisions of the ~~codes~~ laws concerning the various offices.

(2) ~~No~~ A person is not eligible to hold civil office in this state who at the time of ~~his~~ election or appointment is not ~~of the age of~~ 18 years of age or older and a citizen of this state."

**Section 97.** Section 2-16-114, MCA, is amended to read:

**"2-16-114. Facsimile signatures and seals.** (1) As used in this section, the following definitions apply:

(a) "Authorized officer" means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.

(b) "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

(c) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(d) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.

(2) ~~Any~~ An authorized officer, after filing with the secretary of state or, in the case of officers of any city, town, county, school district, or other political subdivision, with the clerk of ~~such~~ the subdivision, ~~his~~ the officer's manual signature certified by ~~him~~ the officer under oath, may execute or cause to be executed with a facsimile signature in lieu of ~~his~~ the manual signature:

(a) any public security, provided that at least one signature required or permitted to be placed ~~thereon~~

~~shall on the security must~~ be manually subscribed, but ~~no such~~ manual subscription ~~shall be~~ is not required as ~~to for~~ interest coupons attached to ~~such the~~ security; and

(b) any instrument of payment.

(3) Upon compliance with this section by the authorized officer, ~~his~~ the facsimile signature has the same legal effect as ~~his a~~ manual signature.

(4) When the seal of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is required in the execution of a public security or instrument of payment, the authorized officer may cause the seal to be printed, engraved, stamped, or otherwise placed in facsimile ~~thereon~~ on the security or instrument. The facsimile seal has the same legal effect as the impression of the seal.

(5) ~~Any~~ A person who with intent to defraud uses on a public security or an instrument of payment a facsimile signature or any reproduction of it of any authorized officer or any facsimile seal or any reproduction of it of this state or any of its departments, agencies, public bodies, or other instrumentalities or of any of its political subdivisions is guilty of a felony."

**Section 98.** Section 2-16-115, MCA, is amended to read:

**"2-16-115. Signature of officer acting ex officio.** When an officer discharges ex officio the duties of ~~another~~ an office other than that to which ~~he~~ the officer is elected or appointed, ~~his~~ the officer's official signature and attestation, except as otherwise provided by law, must be in the name of the office ~~the duties~~ of which ~~he~~ the officer discharges the duties."

**Section 99.** Section 2-16-202, MCA, is amended to read:

**"2-16-202. Title contested -- salary withheld.** (1) When the title of the incumbent of any office in this state is contested by proceedings instituted in any court for that purpose, ~~no a~~ warrant ~~can thereafter~~ may not be drawn or paid for any part of ~~his~~ the incumbent's salary until ~~such the~~ proceedings have been finally determined.

(2) As soon as ~~such the~~ proceedings are instituted, the clerk of the court in which they are pending ~~must~~ shall certify the facts to the officers whose duty it would otherwise be to draw ~~such the~~ warrant or pay ~~such the~~ salary."

**Section 100.** Section 2-16-212, MCA, is amended to read:

**"2-16-212. Filing.** (1) ~~Whenever~~ Unless a different time is ~~not~~ prescribed by law, the oath of office must be taken, subscribed, and filed within 30 days after the officer has notice of ~~his~~ election or appointment or before the expiration of 15 days from the commencement of ~~his~~ the term of office when ~~no such a notice of election or appointment~~ has not been given.

(2) ~~Every~~ An oath of office, certified by the officer before whom the ~~same~~ oath was taken, must be filed within the time required by law, except when otherwise specially provided, as follows:

(a) the oath of all officers whose authority is not limited to any particular county, in the office of the secretary of state;

(b) the oath of all officers, elected or appointed for any county and of all officers whose duties are local or whose residence in any particular county is prescribed by law and of the clerks of the district courts, in the offices of the clerks of the respective counties."

**Section 101.** Section 2-16-213, MCA, is amended to read:

**"2-16-213. Term of office -- holdover -- assumption of office.** (1) ~~Every~~ An office ~~of~~ for which the duration is not fixed by law is held at the pleasure of the appointing ~~power~~ authority.

(2) ~~Every~~ An officer ~~must~~ shall continue to discharge the duties of ~~his~~ the office, although ~~his~~ the term has expired, until ~~his~~ a successor has qualified.

(3) Notwithstanding the provisions of subsection (2), an appointee who is by law subject to confirmation by the senate may, upon expiration of or vacancy in the previous term, assume the office to which appointed and is a de jure officer; ~~notwithstanding the fact that~~ even though the senate has not yet confirmed the appointment. If the senate rejects the appointment, the office becomes vacant."

**Section 102.** Section 2-16-303, MCA, is amended to read:

**"2-16-303. Powers.** In all cases not otherwise provided for, each deputy possesses the powers and may perform the duties attached by law to the office of ~~his~~ the principal."

**Section 103.** Section 2-16-406, MCA, is amended to read:

**"2-16-406. Salary for all services -- how paid.** (1) The salary of each ~~such~~ officer ~~shall be~~ is for all services that are required of him the officer or which that may hereafter devolve upon him be assigned to the office by law, including all services rendered ex officio as a member of any board, commission, or committee, but ~~shall~~ may not include actual necessary travel, lodging, and subsistence expenses incidental to ~~his~~ official duties.

(2) Unless otherwise provided by law, the salaries of officers must be paid out of the general fund in the state treasury monthly on the last day of the month."

**Section 104.** Section 2-16-504, MCA, is amended to read:

**"2-16-504. Elective officers' inability to perform -- filling vacancy -- notice.** (1) When an incumbent in the office of lieutenant governor, secretary of state, attorney general, auditor, or superintendent of public instruction is found to be permanently unable to perform the functions of ~~his~~ the position, a vacancy exists.

(2) When a written declaration, made as ~~hereinafter~~ provided in subsection (4), is transmitted to the legislature that any ~~such~~ officer enumerated in subsection (1) is unable to discharge the powers and duties of ~~this~~ the office, the legislature may convene in the manner provided for the convening of special sessions to determine whether ~~such~~ the disability exists or it may defer ~~such a~~ a determination to the next regular session of the legislature.

(3) If the legislature within 21 days after convening, whether in regular or special session, determines by two-thirds vote of its members that ~~such~~ the officer is unable to discharge the powers and duties of ~~his~~ the office, ~~this~~ the office ~~shall be~~ is declared to be vacant and ~~shall~~ must be filled as provided by the constitution of Montana or laws enacted pursuant ~~thereto~~ to the constitution.

(4) The written declaration required ~~hereunder~~ shall under this section must be made and transmitted by the lieutenant governor and attorney general unless one of them is the officer whose disability is in question. If the lieutenant governor is the subject of the declaration, the declaration ~~shall~~ must be made by the governor and attorney general; and if the attorney general is the subject of the declaration, the declaration ~~shall~~ must be made by the governor and secretary of state."

**Section 105.** Section 2-16-505, MCA, is amended to read:

**"2-16-505. Filling vacancies in certain elective offices.** A vacancy in the office of ~~either~~ the secretary of state, state auditor, attorney general, clerk of the supreme court, or superintendent of public instruction must be filled by a person appointed by the governor; ~~who~~ The appointee holds ~~his~~ the office until the first Monday in January ~~next~~ after a the next general election. At ~~such~~ that election, the office must be filled by election for the unexpired term."

**Section 106.** Section 2-16-507, MCA, is amended to read:

**"2-16-507. Powers and duties of officer filling unexpired term.** ~~Any~~ A person elected or appointed



to fill a vacancy, after filing ~~his~~ the official oath and bond, possesses all the rights and powers and is subject to all the liabilities, duties, and obligations as if ~~he~~ the person had been elected to the office for a full term."

**Section 107.** Section 2-16-513, MCA, is amended to read:

**"2-16-513. Succession in case of termination or incapacitation of primary successors.** (1) If, because of an enemy attack upon the United States, the governor, lieutenant governor, president pro tempore of the senate, and speaker of the house are killed or rendered unable to serve as governor, the senior member of the legislature shall act as governor.

(2) ~~He~~ The senior member of the legislature shall call an emergency session of the legislature at a safe location within the state. The legislature meeting in joint session shall elect a governor.

(3) For the purposes of this section, the member with seniority is the member who has served in the legislature for the longest continuous period of time up to and including ~~his~~ the member's current term. If two or more members of the legislature have equal seniority, the line of succession among them is from eldest to youngest in age."

**Section 108.** Section 2-16-521, MCA, is amended to read:

**"2-16-521. Powers of acting governor.** (1) Every provision of the laws of this state in relation to the powers and duties of the governor and in relation to acts and duties to be performed by others toward ~~him~~ the governor extends to the persons performing for the time being the duties of governor.

(2) An acting governor ~~shall have~~ has all the rights, duties, and emoluments of the office of governor while ~~he is so~~ acting as governor."

**Section 109.** Section 2-16-603, MCA, is amended to read:

**"2-16-603. Officers subject to recall -- grounds for recall.** (1) ~~Every~~ Any person holding a public office of the state or any of its political subdivisions, either by election or appointment, is subject to recall from ~~such~~ office.

(2) A public officer holding an elective office may be recalled by the qualified electors entitled to vote for ~~his~~ the elective officer's successor. A public officer holding an appointive office may be recalled by the qualified electors entitled to vote for the successor or successors of the elective officer or officers who have the authority to appoint a person to that position.

(3) Physical or mental lack of fitness, incompetence, violation of ~~his~~ the oath of office, official misconduct,

or conviction of a felony offense enumerated in Title 45 ~~is~~ are the only ~~basis~~ grounds for recall. ~~No~~ A person may not be recalled for performing a mandatory duty of the office ~~he~~ that the person holds or for not performing any act that, if performed, would subject ~~him~~ the person to prosecution for official misconduct."

**Section 110.** Section 2-16-612, MCA, is amended to read:

**"2-16-612. Persons qualified to petition -- penalty for false signatures.** (1) ~~Every~~ A person who is a qualified elector of this state may sign a petition for recall of a state officer.

(2) ~~Every~~ A person who is a qualified elector of a district of the state from which a state-district officer is elected may sign a petition for recall of a state-district officer of that district or appointed by an officer or the officers of that election district.

(3) ~~Every~~ A person who is a qualified elector of a political subdivision of this state may sign a petition for recall of an officer of that political subdivision. However, if a political subdivision is divided into election districts, a person must be a qualified elector in the election district to be eligible to sign a petition to recall an officer elected from that election district.

(4) ~~Any~~ A person signing any name other than ~~his~~ the person's own to any petition or knowingly signing ~~his name~~ more than once for the recall or who is not at the time of the signing a qualified elector or ~~any~~ a person who knowingly makes a false entry upon an affidavit required in connection with the filing of a petition for the recall of an officer is guilty of unsworn falsification or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-203 or 45-7-208, as applicable."

**Section 111.** Section 2-16-613, MCA, is amended to read:

**"2-16-613. Limitations on recall petitions.** (1) A recall petition may not name more than one officer to be recalled.

(2) ~~No~~ A recall petition against an officer may not be approved for circulation, as required in 2-16-617(3), until ~~he~~ an officer has held office for 2 months.

(3) ~~No~~ A recall petition may not be filed against an officer for whom a recall election has been held for a period of 2 years during ~~his~~ the officer's term of office unless the state or political subdivision or subdivisions financing ~~such~~ the recall election ~~is~~ are first reimbursed for all expenses of the preceding recall election."

**Section 112.** Section 2-16-616, MCA, is amended to read:

**"2-16-616. Form of recall petition.** (1) The form of the recall petition ~~shall~~ must be substantially as

follows:

#### WARNING

A person who knowingly signs a name other than ~~his~~ the person's own to this petition, ~~or~~ who signs ~~his~~ the person's name more than once upon a petition to recall the same officer at one election, or who is not, at the time ~~he signs~~ of signing this petition, a qualified elector of the state of Montana entitled to vote for the successor of the elected officer to be recalled or the successor or successors of the officer or officers who have the authority to appoint a person to the position held by the appointed officer to be recalled is punishable by a fine of no more than \$500 or imprisonment in the county jail for a term not to exceed 6 months, or both, or a fine of \$500 or imprisonment in the state prison for a term not to exceed 10 years, or both.

#### RECALL PETITION

To the Honorable ....., Secretary of State of the State of Montana (or name and office of other filing officer): We, the undersigned qualified electors of the State of Montana (or name of appropriate state-district or political subdivision) respectfully petition that an election be held as provided by law on the question of whether ....., holding the office of ....., should be recalled for the following reasons: (Setting out a general statement of the reasons for recall in not more than 200 words). ~~By his signature each~~ Each signer certifies: I have personally signed this petition; I am a qualified elector of the state of Montana and (name of appropriate political subdivision); and my residence and post-office address are correctly written after my name to the best of my knowledge and belief.

(2) Numbered lines ~~shall~~ must follow the ~~above heading~~ language in subsection (1). Each numbered line ~~shall~~ must contain spaces for the signature, post-office address, and printed last name of the signer. Each separate sheet of the petition ~~shall~~ must contain the heading and reasons for the proposed recall as prescribed ~~above~~ in subsection (1)."

**Section 113.** Section 2-16-617, MCA, is amended to read:

**"2-16-617. Form of circulation sheets.** (1) The signatures on each petition ~~shall~~ must be placed on sheets of paper known as circulation sheets. Each circulation sheet ~~shall~~ must be substantially 8 1/2 x 14 inches or a continuous sheet may be folded so as to meet this size limitation. ~~Such~~ The circulation sheets ~~shall~~ must be ruled with a horizontal line 1 1/2 inches from the top ~~thereof~~ of the sheet. The space above ~~such~~ the line ~~shall~~ must remain blank and ~~shall~~ must be for the purpose of binding.

(2) The petition, for purposes of circulation, may be divided into sections, each section to contain not more than 25 circulation sheets.

(3) Before a petition may be circulated for signatures, a sample circulation sheet must be submitted to the officer with whom the petition must be filed in the form in which it will be circulated. The filing officer shall review the petition for sufficiency as to form and approve or reject the form of the petition, stating ~~his~~ the reasons ~~therefor~~ for rejection, within 1 week of receiving the sheet.

(4) The petition form submitted must be accompanied by a written statement containing the reasons for the desired recall as stated on the petition. The truth of purported facts contained in the statement ~~shall~~ must be sworn to by at least one of the petitioners before a person authorized to administer oaths.

(5) The filing officer shall serially number all approved petitions continuously from year to year."

**Section 114.** Section 2-16-620, MCA, is amended to read:

**"2-16-620. County clerk to verify signatures.** (1) The county clerk in each county in which ~~such~~ a recall petition is signed shall verify and compare the signatures of each person who has signed the petition to ~~assure~~ ensure that ~~he~~ the person is an elector in ~~such~~ that county and, if satisfied that the signatures are genuine, shall certify that fact to the officer with whom the recall petition is to be filed, in substantially the following form:

To the Honorable ....., Secretary of State of the State of Montana (or name and title of other officer):

I, ....., ..... (title) of ..... County, certify that I have compared the signatures on ..... sheets (specifying number of sheets) of the petition for recall No. .... attached, in the manner prescribed by law, and I believe ..... (number) signatures are valid for the purpose of the petition. I further certify that the affidavit of the circulator of the (sheet) (section) of the petition is attached and that the post-office address is completed for each valid signature.

Signed: ..... (Date) ..... (Signature)

Seal ..... (Title)

(2) ~~Such~~ The certificate is prima facie evidence of the facts stated ~~therein~~ in the certificate, and the secretary of state or other officer receiving the recall petition may consider and count only ~~such~~ the signatures ~~as~~ that are certified. However, the officer with whom the recall petition is filed shall consider and count any remaining signatures of the registered voters ~~which~~ that prove to be genuine, and ~~such~~ those signatures ~~shall~~ must be considered and counted if they are attested to in the manner and form ~~as~~ provided for initiative and referendum petitions.

(3) The county clerk and recorder may not retain any portion of a petition for more than 30 days following the receipt of that portion. At the expiration of ~~such~~ that period, the county clerk and recorder shall certify the valid signatures on that portion of the petition and deliver the same to the person with whom the petition is required

to be filed."

**Section 115.** Section 2-16-621, MCA, is amended to read:

**"2-16-621. Notification to officer -- statement of justification.** Upon filing the petition or a portion of the petition containing the number of valid signatures required under 2-16-614, the official with whom it is filed shall immediately give written notice to the officer named in the petition. The notice ~~shall~~ must state that a recall petition has been filed, ~~shall~~ must set forth the reasons contained ~~therein in the petition,~~ and ~~shall~~ must notify the officer named in the recall petition that ~~he~~ the officer has the right to prepare and have printed on the ballot a statement containing not more than 200 words giving reasons why ~~he~~ the officer should not be recalled. ~~No such~~ A statement of justification ~~shall~~ may not be printed on the ballot unless it is delivered to the filing official within 10 days of the date notice is given."

**Section 116.** Section 2-16-622, MCA, is amended to read:

**"2-16-622. Resignation of officer -- proclamation of election.** (1) If the officer named in the petition for recall submits ~~his~~ a resignation in writing, it ~~shall~~ must be accepted and become effective the day it is offered. The vacancy created by ~~such~~ the resignation ~~shall~~ must be filled as provided by law, ~~provided that.~~ However, the officer named in the petition for recall may not be appointed to fill ~~such~~ the vacancy. If the officer named in the petition for recall refuses to resign or does not resign within 5 days after the petition is filed, a special election ~~shall~~ must be called unless the filing is within 90 days of a general election, in which case the question ~~shall~~ must be placed on a separate ballot at the same time as the general election.

(2) The call of a special election ~~shall~~ must be made by the governor in the case of a state or state-district officer or by the board or officer empowered by law to call special elections for a political subdivision in the case of any officer of a political subdivision of the state."

**Section 117.** Section 2-16-633, MCA, is amended to read:

**"2-16-633. Form of ballot.** (1) The ballot at ~~such~~ a recall election ~~shall~~ must set forth the statement contained in the recall petition stating the reasons for demanding the recall of ~~such~~ the officer and the officer's statement of reasons why ~~he~~ the officer should not be recalled. ~~Then the~~ The question of whether the officer should be recalled ~~shall~~ must be placed on the ballot in a form similar to the following:

- FOR recalling ..... who holds the office of .....
- AGAINST recalling ..... who holds the office of .....

(2) The form of the ballot ~~shall~~ must be approved as provided in the election laws of this state."

**Section 118.** Section 2-16-635, MCA, is amended to read:

**"2-16-635. Officer to remain in office until results declared -- filling of vacancy.** The officer named in the recall petition continues in office until ~~he~~ the officer resigns or the results of the recall election are officially declared. If a majority of those voting on the question vote to remove the officer, the office becomes vacant and the vacancy ~~shall~~ must be filled as provided by law; ~~provided that~~ However, the officer recalled may ~~in no event~~ not be appointed to fill the vacancy."

**Section 119.** Section 2-17-816, MCA, is amended to read:

**"2-17-816. Parking citations within capitol complex.** The director of the department of administration may ~~in his discretion~~ enter into an agreement with the city of Helena, Montana, to authorize capitol security guards employed by the department to issue citations for parking violations as defined by state or municipal laws ~~which~~ that occur within the boundaries of the capitol complex or on streets or alleys contiguous ~~thereto~~ to the capitol complex. All ~~such~~ citations must be considered within the jurisdiction of the city of Helena, Montana, and must be handled in the same manner as citations issued by peace officers ~~thereof~~ of the city."

**Section 120.** Section 2-18-106, MCA, is amended to read:

**"2-18-106. No limitation on legislative authority -- transfer of funds.** (1) Parts 1, ~~2,~~ and through 3 do not limit the authority of the legislature relative to appropriations for salary and wages. The budget director shall adjust ~~his~~ determinations in accordance with legislative appropriations.

(2) Unexpended agency appropriation balances in the first year of the biennium may be transferred to the second year of the biennium to offset the costs of pay increases."

**Section 121.** Section 2-18-107, MCA, is amended to read:

**"2-18-107. Job-sharing positions -- benefits.** (1) Job sharing may be used, to the extent practicable, by each agency as a means of promoting increased productivity and employment opportunities. ~~However, job~~ Job sharing may be actively pursued to fill vacated or new positions ~~and~~ but may not be actively pursued to replace current full-time employees. However, on request of a current employee, ~~his~~ that employee's position may be considered for job sharing. A position may be filled by more than one incumbent currently in a full-time position.

(2) Employees in a job-sharing status are entitled to holiday pay, annual leave, sick leave, and health benefits on the same basis as permanent part-time employees provided for in 2-18-603, 2-18-611, 2-18-618, and 2-18-703.

(3) Employees classified in a part-time status may not be reclassified to a job-sharing status while employed in the position classified as part-time."

**Section 122.** Section 2-18-512, MCA, is amended to read:

**"2-18-512. Prohibition on travel expenses for conventions -- exception.** Hereafter, ~~no~~ A state officer or employee of the state ~~shall~~ may not receive payment from any public funds for traveling expenses or other expenses ~~of any sort or kind~~ for attendance ~~upon~~ at any convention, meeting, or other gathering of public officers except for attendance ~~upon such~~ at a convention, meeting, or other gatherings ~~as said~~ that the officer or employee may by virtue of ~~his~~ the office or employment find it necessary to attend."

**Section 123.** Section 2-18-612, MCA, is amended to read:

**"2-18-612. Rate earned.** (1) Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years <del>on</del> <u>or more</u>	24

(2) (a) For the purpose of determining years of employment under this section, an employee eligible to earn vacation credits under 2-18-611 must be credited with 1 year of employment for each period of:

(i) 2,080 hours of service following ~~his~~ the date of employment; ~~an~~ An employee must be credited with 80 hours of service for each biweekly pay period in which ~~he~~ the employee is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; ~~or~~ or

(ii) 12 calendar months in which ~~he~~ the employee was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any ~~one~~ 1 month. An employee of a school district, a school at a state institution, or the university system must be credited with 1 year of service if ~~he~~ the employee is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, ~~must~~ shall use the method provided in subsection (2)(a)(i) to calculate years of service under this section."

**Section 124.** Section 2-18-616, MCA, is amended to read:

**"2-18-616. Determination of vacation dates.** The dates when employees' annual vacation leaves ~~shall~~ be are granted ~~shall~~ must be determined by agreement between each employee and ~~his~~ the employing agency with regard to the best interest of the state; ~~or any county or city thereof of the state~~ as well as the best interests of each employee."

**Section 125.** Section 2-18-619, MCA, is amended to read:

**"2-18-619. Jury duty -- service as witness.** (1) Each employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees ~~shall~~ must be applied against the amount due the employee from ~~his~~ the employer. However, if an employee elects to ~~charge his juror time off against his~~ use annual leave to serve on a jury, ~~he shall~~ the employee may not be required to remit ~~his~~ the juror fees to ~~his~~ the employer. ~~In no instance is an~~ An employee is not required to remit to ~~his~~ the employer any expense or mileage allowance paid ~~him~~ by the court.

(2) An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees ~~shall~~ must be applied against the amount due the employee from ~~his~~ the employer. However, if an employee elects to ~~charge his witness time off against his~~ use annual leave to serve as a witness, ~~he shall~~ the employee may not be required to remit ~~his~~ the witness fees to ~~his~~ the employer. ~~In no instance is an~~ An employee is not required to remit to ~~his~~ the employer any expense or mileage allowances paid ~~him~~ by the court.

(3) Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government."

**Section 126.** Section 2-18-621, MCA, is amended to read:

**"2-18-621. Unlawful termination.** It ~~shall be~~ is unlawful for an employer to terminate or separate an employee from ~~his~~ employment in an attempt to circumvent the provisions of 2-18-611, 2-18-612, and 2-18-614. ~~Should~~ If a question ~~arise~~ arises under this section, it ~~shall~~ must be submitted to arbitration as provided in Title 27, chapter 5, as if an agreement described in 27-5-114 is in effect, unless there is ~~a~~ an applicable collective



bargaining agreement to the contrary ~~applicable~~."

**Section 127.** Section 2-18-902, MCA, is amended to read:

**"2-18-902. Notice -- shared costs of third-party action -- limitation.** (1) If an insured intends to institute an action for damages against a third party, the insured shall give the insurer reasonable notice of ~~his~~ the intention to institute the action.

(2) The insured may request that the insurer pay a proportionate share of the reasonable costs of the third-party action, including attorney fees.

(3) An insurer may elect not to participate in the cost of the action. If ~~such~~ an election is made, the insurer waives 50% of any subrogation rights granted to it by 2-18-901.

(4) The insurer's right of subrogation granted in 2-18-901 may not be enforced until the injured insured has been fully compensated for ~~his~~ the insured's injuries."

**Section 128.** Section 2-18-1001, MCA, is amended to read:

**"2-18-1001. ~~Transportation department~~ Department of transportation personnel grievances -- hearing.** (1) An employee of the department of transportation who is aggrieved by a serious matter of ~~his~~ employment based upon work conditions, supervision, or the result of an administrative action and who has exhausted all other administrative remedies is entitled to a hearing before the board of personnel appeals, under the provisions of a grievance procedure to be prescribed by the board, for resolution of the grievance.

(2) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the department of transportation against an aggrieved employee because the employee has filed or attempted to file a grievance with the board ~~shall is~~ also be a basis for a grievance and ~~shall entitle~~ entitles the employee to a hearing before the board for resolution.

(3) A grievance under this part must be filed with the board of personnel appeals within 180 days after the alleged incident or action occurred. Failure to file the grievance within this period is a bar to proceeding with the grievance."

**Section 129.** Section 2-18-1011, MCA, is amended to read:

**"2-18-1011. Classification or compensation grievance -- retaliation -- hearing on complaint.** (1) An employee or ~~his~~ an employee's representative affected by the ~~operation~~ implementation of parts 1 through 3 of this chapter is entitled to file a complaint with the board of personnel appeals provided for in 2-15-1705 and

to be heard under the provisions of a grievance procedure to be prescribed by the board.

(2) Direct or indirect interference, restraint, coercion, or retaliation by an employee's supervisor or the agency for which the employee works or by any other agency of state government against an employee because the employee has filed or attempted to file a complaint with the board ~~shall~~ is also ~~be~~ a basis for a complaint and ~~shall entitle~~ entitles the employee to file a complaint with the board and to be heard under the provisions of the grievance procedure prescribed by the board.

(3) An action attempting to revise the class specifications of or series of class specifications involving an employee exercising a right conferred by 2-18-1011 through 2-18-1013 in a way ~~which~~ that would adversely affect the employee prior to final resolution or entry of a final order with respect ~~thereto~~ to the action is presumed to be ~~an~~ interference, restraint, coercion, or retaliation prohibited by subsection (2) ~~of this section~~ unless ~~such~~ the review was commenced or scheduled prior to filing of the appeal and was not prompted by the grievance appealed from. The presumption is rebuttable."

**Section 130.** Section 3-1-402, MCA, is amended to read:

**"3-1-402. Powers of judicial officers as to conduct of proceedings.** Every ~~A~~ judicial officer has the power to:

(1) preserve and enforce order in ~~his~~ the officer's immediate presence and in proceedings before ~~him~~ the officer when ~~he~~ the officer is engaged in the performance of official ~~duty~~ duties;

(2) compel obedience to ~~his~~ the officer's official orders, as provided in this code;

(3) compel the attendance of persons to testify in a proceeding before ~~him~~ the officer in the cases and manner provided in this code;

(4) administer oaths to persons in a proceeding pending before ~~him~~ the officer and in all other cases ~~where in which~~ it may be necessary in the exercise of ~~his~~ the officer's powers and duties."

**Section 131.** Section 3-1-404, MCA, is amended to read:

**"3-1-404. Taking acknowledgments and affidavits.** Each of the justices of the supreme court and judges of the district courts ~~has power~~ may in any part of the state; and ~~every~~ each justice of the peace may within ~~his~~ the justice's county, ~~to~~ take and certify:

(1) the proof and acknowledgment of a conveyance of real property or of any other written instrument;

(2) the acknowledgment of satisfaction of a judgment of any court;

(3) an affidavit or deposition to be used in this state."

**Section 132.** Section 3-1-405, MCA, is amended to read:

**"3-1-405. Certificate of authenticity of justice's court's certificate of acknowledgment.** The certificate of proof or acknowledgment, if made before a justice of the peace, when used in any county other than that in which ~~he~~ the justice resides, must be accompanied by a certificate, under the hand and seal of the clerk and recorder of the county in which the justice resides, setting forth that ~~such~~ the justice, at the time of taking ~~such~~ the proof or acknowledgment, was authorized to take the ~~same~~ proof or acknowledgment and that the clerk and recorder is acquainted with ~~his~~ the justice's handwriting and believes that the signature to the original certificate is genuine."

**Section 133.** Section 3-1-504, MCA, is amended to read:

**"3-1-504. Reentry on property after eviction.** ~~Every~~ A person who is dispossessed of or ejected from or out of any real property by the judgment or process of ~~any~~ a court of competent jurisdiction and who, not having the right so to do, reenters into or upon or takes possession of ~~any~~ such the real property or induces or procures any person not having a right so to do or aids or abets ~~him~~ that person to enter into or upon or take possession of the real property is guilty of a contempt of the court ~~by which such judgment was~~ that rendered the judgment or from which such that issued the process issued. Upon conviction for ~~such~~ contempt, the court or justice of the peace ~~must~~ shall immediately issue an alias process directed to the proper officer ~~and~~ requiring ~~him~~ that officer to restore the party entitled to the possession of ~~such~~ that property, under the original judgment or process, to ~~such~~ possession."

**Section 134.** Section 3-1-514, MCA, is amended to read:

**"3-1-514. Endorsement allowing bail on warrant.** Whenever a warrant of attachment is issued pursuant to this part, the court or judge ~~must~~ shall direct, by an endorsement on ~~such~~ the warrant, that the person charged may be left to bail for ~~his~~ the person's appearance in an amount to be specified in ~~such~~ the endorsement."

**Section 135.** Section 3-1-515, MCA, is amended to read:

**"3-1-515. Arrest and detention by sheriff.** Upon executing the warrant of attachment, the sheriff ~~must~~ shall keep the person in custody, bring ~~him~~ the person before the court or judge, and detain ~~him~~ the person until an order ~~be~~ is made in the ~~premises~~ proceeding unless the person arrested ~~entitle himself~~ is entitled to be discharged as provided in 3-1-516."

**Section 136.** Section 3-1-516, MCA, is amended to read:

**"3-1-516. Bail bond -- form and conditions of.** When a direction to ~~let release~~ the person arrested ~~to~~ on bail is contained in the warrant of attachment or endorsed ~~thereon on the warrant~~, ~~he~~ the arrested person must be discharged from the arrest upon executing and delivering to the officer, at any time before the return day of the warrant, a written undertaking, with two sufficient sureties, to the effect that the person arrested will appear on the return of the warrant and abide the order of the court or judge ~~thereupon~~ or ~~they~~ the sureties will pay, as may be directed, the sum specified in the warrant or ordered by the court or the judge."

**Section 137.** Section 3-1-517, MCA, is amended to read:

**"3-1-517. Return of warrant and undertaking.** The officer ~~must~~ shall return the warrant of arrest and undertaking, if any, received by ~~him~~ the officer from the person arrested by the return day specified ~~therein in the~~ warrant."

**Section 138.** Section 3-1-522, MCA, is amended to read:

**"3-1-522. Illness sufficient excuse -- confinement under arrest.** (1) ~~Whenever by the provisions of this part~~ an officer is required to keep a person arrested on a warrant of attachment in custody and to bring ~~him~~ the person before a court or judge, the inability, from illness or otherwise, of the person to attend is sufficient excuse for not bringing ~~him up~~ the person before the court or judge.

(2) The officer ~~must~~ may not confine a person arrested upon a warrant in a prison or otherwise restrain ~~him~~ the person of personal liberty, except ~~so far as may be~~ to the extent necessary to secure ~~his~~ the person's personal attendance."

**Section 139.** Section 3-1-601, MCA, is amended to read:

**"3-1-601. Certain officers not to practice law or administer estates.** (1) Except as provided in 3-1-604 and except for a judge pro tempore, ~~no~~ a justice or judge of a court of record or clerk of any court may not practice law in any court in this state or act as attorney, agent, or solicitor in the prosecution of any claim or application for lands, pensions, or patent rights or other proceedings before any department of the state or general government or any court of the United States during ~~his~~ the justice's or judge's continuance in office.

(2) ~~Neither the~~ The court administrator ~~nor any~~ or an assistant may not practice law in any of the courts of this state while holding ~~his~~ that position.

(3) ~~No~~ A justice or judge of a court of record, except a judge pro tempore, may not act as administrator

or executor of any estate for compensation."

**Section 140.** Section 3-1-602, MCA, is amended to read:

**"3-1-602. Restrictions on justices of the peace practicing law or taking claims for collection. (1)**

Except as provided in subsection (2), a justice of the peace may not:

- (a) practice law;
- (b) draw contracts, conveyances, or other legal instruments or documents;
- (c) take any claim or bill for collection or act as a collection agent in any sense; or
- (d) perform any legal duties other than those prescribed by law as ~~his~~ the justice's official duties in the conduct of cases and proceedings in ~~his~~ the justice's court.

(2) A justice of the peace who is an attorney and who is admitted to practice law before the supreme court of the state of Montana may engage in the general practice of law and practice law in all courts in the state of Montana, except that ~~such a~~ the justice, his the justice's law partner or associate, or a member, associate, or employee of a firm of which ~~he~~ the justice is a member may not represent a party involved in a case ~~which that~~ is filed or tried in ~~his~~ the justice's court or in any justice's court located in the same county as ~~his~~ the justice's court or ~~which that~~ is appealed from ~~such a~~ justice's court in that county.

(3) A justice of the peace who violates any of the provisions of this section is guilty of malfeasance in office and ~~shall~~ must be removed from ~~his~~ the office of justice of the peace and ~~thereafter be~~ is disqualified from holding ~~such that~~ office."

**Section 141.** Section 3-1-603, MCA, is amended to read:

**"3-1-603. ~~No judicial~~ Judicial officer of court of record not to have partner practicing law. (1)**

Except as provided in subsection (2), ~~no~~ a judicial officer of a court of record may not have a partner acting as attorney or counsel in any court of this state.

(2) A partner of either a municipal court judge or a judge pro tempore may act as attorney or counsel in any court of this state except the court of ~~his~~ the partner who is a judicial officer."

**Section 142.** Section 3-1-604, MCA, is amended to read:

**"3-1-604. Restrictions on municipal court judges. ~~No~~ A municipal court judge may not practice law before ~~his~~ the judge's own municipal court or hold office in a political party during ~~his~~ the judge's term of office."**

**Section 143.** Section 3-1-605, MCA, is amended to read:

**"3-1-605. Restrictions on judicial officers after term has expired.** A judicial officer, as defined in 1-1-202, after the expiration of his the officer's term of office, may not act as attorney or counsel in any action or special proceeding ~~which that~~ has been before him the officer in his the officer's official ~~character~~ capacity."

**Section 144.** Section 3-1-606, MCA, is amended to read:

**"3-1-606. Justice of the peace or constable not to purchase judgment.** (1) A justice of the peace may not purchase or be interested in the purchase of any judgment or part ~~thereof~~ of a judgment on his the justice's docket or on any docket in his the justice's possession. A constable may not purchase or be interested in the purchase of any judgment or part ~~thereof~~ of a judgment on the docket of a justice of the peace of the county of which ~~he~~ the person is a constable or on a docket in the possession of ~~such~~ a justice of the peace in that county.

(2) ~~Violation~~ A violation of subsection (1) is a misdemeanor."

**Section 145.** Section 3-1-607, MCA, is amended to read:

**"3-1-607. Supreme court justice or district court judge candidacy for nonjudicial office -- resignation required.** (1) If a person occupying the office of chief justice or associate justice of the supreme court or judge of a district court of the state of Montana becomes a candidate for election to any elective office under the laws of the state of Montana other than a judicial position, ~~he~~ the person shall immediately, ~~and or~~ in any event at or before the time when ~~he must~~ the person is required to file as a candidate for ~~such~~ the office in any primary, ~~or~~ special, ~~or~~ general election, resign from his the office of chief justice, associate justice, or district court judge.

(2) The resignation becomes effective immediately upon its delivery to the proper officer or superior.

(3) The resignation requirement ~~applies except~~ does not apply when the person is a bona fide candidate for reelection to the identical office ~~then~~ currently occupied by him the person or for another judicial position."

**Section 146.** Section 3-1-701, MCA, is amended to read:

**"3-1-701. Office of court administrator -- appointment and term of office.** There is established the office of court administrator. The supreme court shall appoint a court administrator. The court administrator ~~shall~~ hold his holds the position at the pleasure of the court."

**Section 147.** Section 3-1-1003, MCA, is amended to read:

**"3-1-1003. Vacancies.** (1) In the event that a vacancy on the commission occurs, the governor shall appoint a replacement for the remainder of the term. ~~Such~~ The replacement ~~shall~~ must be a member of the same group as the member ~~he replaces~~ being replaced.

(2) ~~Appointments~~ An appointment provided for in this section ~~shall~~ must be made within 30 days of the occurrence of ~~any~~ the vacancy."

**Section 148.** Section 3-1-1009, MCA, is amended to read:

**"3-1-1009. Investigation by commission -- application for consideration.** (1) The commission and each member are authorized to make investigations concerning the qualifications of eligible persons.

(2) Any lawyer in good standing who has the qualifications set forth by law for holding judicial office may be a candidate and may ~~make application~~ apply to the commission for consideration, or application may be made by any person on ~~his~~ the lawyer's behalf."

**Section 149.** Section 3-1-1010, MCA, is amended to read:

**"3-1-1010. Lists submitted to governor and chief justice -- report on proceedings.** (1) If a supreme court justice, a district court judge, the workers' compensation judge, or the chief water judge gives notice of ~~his~~ the judge's resignation to take effect on a specific date, the commission shall meet as soon as possible after the justice's or judge's proposed resignation date has been verified by the chief justice of the supreme court. If ~~no~~ notice is not given, the commission shall meet as soon as possible after a vacancy occurs. The meeting must be held in compliance with 3-1-1007. The commission shall submit to the governor or chief justice, within the time period established under 3-1-1007, a list of not less than three or more than five nominees for appointment to the vacant position.

(2) ~~Any~~ The list must be accompanied by a written report indicating the vote on each nominee, the content of the application submitted by each nominee, letters and public comments received regarding ~~the~~ each nominee, and the commission's reasons for recommending each nominee for appointment. The report must give specific reasons for recommending each nominee."

**Section 150.** Section 3-1-1103, MCA, is amended to read:

**"3-1-1103. Terminated membership -- vacancies.** (1) Commission membership terminates if a member ceases to hold the position that qualified ~~him~~ the person for appointment.

(2) ~~In the event~~ If a vacancy occurs on the commission, the appointing authority of the vacated seat shall designate a successor."

**Section 151.** Section 3-1-1104, MCA, is amended to read:

**"3-1-1104. No compensation -- travel expenses.** A commission member is not entitled to compensation for ~~his~~ the member's services but is entitled to travel expenses, as provided for in 2-18-501 through 2-18-503, ~~as amended~~, incurred in the performance of ~~his~~ the member's duties."

**Section 152.** Section 3-1-1106, MCA, is amended to read:

**"3-1-1106. Investigation of judicial officers -- complaint -- hearing -- recommendations.** (1) (a) The commission, upon the filing of a written complaint by any citizen of the state, may initiate an investigation of any judicial officer in the state to determine if there are grounds for conducting additional proceedings before the commission. If the commission's investigation indicates that additional proceedings before the commission may be justified, the commission shall require the citizen who filed the original written complaint to sign a verified written complaint before conducting ~~such~~ additional proceedings.

(b) The commission shall give the judicial officer written notice of the citizen's complaint and of the initiation of an investigation. Notice must also be given if a verified written complaint is filed and must include the charges made, the grounds for the charges, and a statement that the judicial officer may file an answer. The notice must be signed by the commission.

(2) The commission, after ~~such~~ an investigation ~~as~~ that it considers necessary and upon a finding of good cause, may:

(a) order a hearing to be held before it concerning the censure, suspension, removal, or retirement of a judicial officer;

(b) confidentially advise the judicial officer and the supreme court, in writing, that the complaint will be dismissed if the judicial officer files with the commission a letter stating that ~~he~~ the officer will take corrective action satisfactory to the commission; or

(c) request that the supreme court ~~to~~ appoint one or more special masters who are judges of courts of record to hear and take evidence and to report to the commission.

(3) If after a hearing or after considering the record and the report of the masters the commission finds the charges true, it shall recommend to the supreme court the censure, suspension, removal, or disability retirement of the judicial officer."



**Section 153.** Section 3-1-1108, MCA, is amended to read:

**"3-1-1108. Nonparticipation of interested judicial officer.** A judicial officer who is a member of the commission or of the supreme court may not participate in any proceeding involving ~~his~~ the officer's own censure, suspension, removal, or retirement or that of ~~his~~ the officer's spouse, a relative within the sixth degree of consanguinity, or the spouse of ~~such~~ a relative related within the sixth degree."

**Section 154.** Section 3-1-1109, MCA, is amended to read:

**"3-1-1109. Interim disqualification of judicial officer.** (1) A judicial officer must be disqualified from serving as a judicial officer, without loss of salary, while there is pending an indictment or an information charging ~~him~~ the officer with a crime punishable as a felony under Montana or federal law.

(2) When the commission files with the supreme court a recommendation that a judicial officer be removed or retired, the judicial officer must be disqualified from serving as a judicial officer, without loss of salary, pending the supreme court's review of the record and proceedings."

**Section 155.** Section 3-1-1110, MCA, is amended to read:

**"3-1-1110. Procedure when convicted of crime.** (1) On recommendation of the commission, the supreme court may suspend a judicial officer from office without salary when ~~he~~ the officer pleads guilty or no contest or is found guilty of a crime punishable as a felony under Montana or federal law or of any other crime involving moral turpitude.

(2) If ~~his~~ the judicial officer's conviction is reversed, suspension terminates and ~~he shall~~ the officer must be paid ~~his~~ the officer's salary for the period of suspension.

(3) If ~~he~~ the judicial officer is suspended and ~~his~~ a conviction becomes final, the supreme court shall remove ~~him~~ the officer from office."

**Section 156.** Section 3-1-1111, MCA, is amended to read:

**"3-1-1111. Orders for retirement or removal.** (1) Upon an order for retirement, the judicial officer ~~shall~~ must be retired with the same rights and privileges as if ~~he~~ the officer retired pursuant to statute.

(2) Upon an order for removal, the judicial officer ~~shall~~ must be removed from office and ~~his~~ the officer's salary ~~shall~~ must cease from the date of the order. ~~He shall be~~ The officer is ineligible for any other judicial office and pending a further order of the court is suspended from practicing law."

**Section 157.** Section 3-1-1122, MCA, is amended to read:

**"3-1-1122. Judge's waiver of confidentiality -- hearing made public.** In addition to the public disclosure required under 3-1-1107, 3-1-1121, and 3-1-1123 through 3-1-1126, the commission ~~must~~ shall allow public access to all papers filed with and testimony and hearings before the commission or masters in a given case if the judge against whom a complaint has been filed waives ~~his~~ the right of confidentiality and requests in writing that the proceedings be accessible to the public. Public disclosure of information required under 3-1-1107, 3-1-1121, and 3-1-1123 through 3-1-1126 is not contingent upon a waiver under this section."

**Section 158.** Section 3-1-1502, MCA, is amended to read:

**"3-1-1502. Training and certification of judges.** Except as provided in 3-1-1503, ~~no~~ a judge selected for a term of office may not assume the functions of ~~his~~ the office unless ~~he~~ the judge has filed with the county clerk and recorder in ~~his~~ the jurisdiction a certificate of completion of a course of education and training prescribed by the commission."

**Section 159.** Section 3-1-1503, MCA, is amended to read:

**"3-1-1503. Exception -- temporary certificate.** (1) Section 3-1-1502 does not apply to a judge who has received a temporary certificate issued by the commission as provided for in subsection (2).

(2) The commission may issue a temporary certificate enabling a judge to assume the functions of ~~his~~ the office pending completion of a course as required by 3-1-1502. The temporary certificate must be in a form and subject to the terms and conditions prescribed by the commission.

(3) The commission may issue a temporary certificate only if:

(a) the judge is appointed or elected after the course is offered; or  
(b) the commission grants an excuse because of a personal illness, a death in the family, or other good cause.

(4) The appointing authority for an appointed judge shall notify the commission of the person appointed, and the person appointed must be certified as provided in 3-1-1502 or this section prior to assuming office."

**Section 160.** Section 3-2-102, MCA, is amended to read:

**"3-2-102. Qualifications and residence.** (1) ~~No~~ A person is not eligible for the office of justice of the supreme court unless ~~he~~ the person is a citizen of the United States, has resided in the state 2 years immediately before taking office, and has been admitted to practice law in Montana for at least 5 years prior to the date of

appointment or election.

(2) Justices of the supreme court must reside within the state during their terms of office."

**Section 161.** Section 3-2-212, MCA, is amended to read:

**"3-2-212. Powers of justices individually -- certiorari and habeas corpus.** (1) Each of the justices of the supreme court ~~shall have power to~~ may issue writs of habeas corpus to any part of the state upon petition by or on behalf of any person held in actual custody and may make ~~such the~~ writs returnable before ~~himself the~~ issuing justice, the supreme court, or any justice thereof of the supreme court or before any district court of the state or any district court judge thereof. ~~Such The~~ writs may be heard and determined by the justice, court, or judge before whom they are made returnable.

(2) Each of the justices of the supreme court may also issue and hear and determine writs of certiorari in proceedings for contempt in the district court."

**Section 162.** Section 3-2-301, MCA, is amended to read:

**"3-2-301. Who shall preside.** The chief justice presides at all sessions of the supreme court, and in case of ~~his~~ the chief justice's absence, the associate justice having the shortest term to serve presides ~~in his~~ stead."

**Section 163.** Section 3-2-401, MCA, is amended to read:

**"3-2-401. Election and term of office.** There must be a clerk of the supreme court who must be elected by the electors at large of the state and hold ~~his~~ office for the term of 6 years from the first Monday of January ~~next succeeding his~~ following the clerk's election."

**Section 164.** Section 3-2-406, MCA, is amended to read:

**"3-2-406. Deputy clerk.** The clerk of the supreme court shall appoint a deputy who, in the absence of the principal or in the case of vacancy in ~~his~~ the office, shall perform all the duties of office until ~~such the~~ disability be is removed or the vacancy ~~be is~~ filled. ~~Such The~~ deputy shall subscribe, take, and file the oath of office provided by law for other state officers before entering upon the performance of ~~his~~ the duties."

**Section 165.** Section 3-2-502, MCA, is amended to read:

**"3-2-502. Duties of marshal.** (1) It ~~shall be~~ is the duty of the marshal to ~~attend upon~~ be present and to

assist the supreme court and the justices ~~thereof~~ of the supreme court at each term of court. ~~He shall be~~ The marshal is the executive officer of the court and shall act as crier ~~thereof~~ of the court.

(2) ~~He must~~ The marshal shall serve within the state all returns and processes issuing from the supreme court and ~~shall have~~ has all the powers and shall exercise all the duties ~~that pertaining to sheriffs as have~~ to the district courts so far as the same to the extent that the duties are applicable.

(3) ~~He~~ The marshal shall act as a law clerk for the supreme court justices."

**Section 166.** Section 3-5-115, MCA, is amended to read:

**"3-5-115. (Temporary) Agreement, petition, and appointment of judge pro tempore -- waiver of jury trial.** (1) Prior to trial and upon written agreement of all the parties to a civil action, the parties may petition for the appointment of a judge pro tempore. If the district court judge having jurisdiction over the case where the action was filed finds that the appointment is in the best interest of the parties and serves justice, ~~he~~ the district court judge may appoint the judge pro tempore nominated by the parties to preside over the whole action or any aspect of the action as if the regular district court judge were presiding.

(2) An appointment of a judge pro tempore constitutes a waiver of the right to trial by jury by any party having the right.

**3-5-115. (Effective on occurrence of contingency) Agreement, petition, and appointment of judge pro tempore -- waiver of jury trial.** (1) Prior to trial and upon written agreement of all the parties to a civil action, the parties may petition for the appointment of a judge pro tempore. Except as provided in 3-20-102, if the district court judge having jurisdiction over the case where the action was filed finds that the appointment is in the best interest of the parties and serves justice, the district court judge may appoint the judge pro tempore nominated by the parties to preside over the whole action or any aspect of the action as if the regular district court judge were presiding.

(2) Except as provided in 3-20-102, an appointment of a judge pro tempore constitutes a waiver of the right to trial by jury by any party having the right.

(3) The supreme court shall appoint the asbestos claims judge as provided in 3-20-102."

**Section 167.** Section 3-5-201, MCA, is amended to read:

**"3-5-201. Election and oath of office.** (1) The judges of the district court, except judges pro tempore, must be elected by the qualified voters of the district.

(2) Except as provided in subsection (1), each judge of a district court ~~must~~ shall, as soon as ~~he~~ the

judge has taken and subscribed ~~his~~ the official oath, file the ~~same~~ official oath in the office of the secretary of state."

**Section 168.** Section 3-5-202, MCA, is amended to read:

**"3-5-202. Qualifications and residence.** (1) ~~He~~ A person is not eligible for the office of judge of a district court unless ~~he~~ the person is a citizen of the United States, has resided in the state 2 years immediately before taking office, and has been admitted to practice law in Montana for at least 5 years prior to the date of appointment or election.

(2) A judge of a district court need not be a resident of the district for which ~~he~~ the judge is elected or appointed at the time of ~~his~~ election or appointment, but after ~~his~~ election or appointment, ~~he~~ the judge must reside in the district for which ~~he~~ the judge is elected or appointed during ~~his~~ the judge's term of office."

**Section 169.** Section 3-5-213, MCA, is amended to read:

**"3-5-213. Expenses when out of district.** A district court judge who sits in the place of another judge in the trial or hearing of an action or proceeding in a district other than ~~his~~ the judge's own or in the supreme court or who attends a conference of judges in Helena called by the chief justice of the supreme court ~~shall~~ must be paid ~~his~~ the judge's actual and necessary travel expenses, as ~~defined and~~ provided in 2-18-501 through 2-18-503, while engaged in that service as follows:

(1) ~~his~~ travel expenses ~~in going~~ from the county seat of the county in which ~~he makes his place of residence~~ the judge resides to the place of trial, hearing, or conference and return; and

(2) ~~his~~ board and lodging while engaged in the trial, hearing, or conference."

**Section 170.** Section 3-5-214, MCA, is amended to read:

**"3-5-214. Certification and filing of expense claim.** As soon as ~~his~~ a district court judge's services in connection with the trial, hearing, or conference referred to in 3-5-213 are concluded, the judge shall certify in detail ~~his~~ the judge's actual and necessary travel expenses as specified in 3-5-213; and shall file the claim with the state to be processed as provided by law."

**Section 171.** Section 3-5-215, MCA, is amended to read:

**"3-5-215. Expenses when not in county of residence.** A district court judge of a judicial district composed of more than one county who, for the purpose of holding court and disposing of judicial business, goes

to a county of ~~his~~ that judicial district other than the county in which ~~he~~ the judge resides and ~~therein~~ holds court or transacts judicial business ~~shall~~ must be paid ~~his~~ the actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, incurred on account ~~thereof~~ of the business from the time ~~he~~ the judge leaves ~~his~~ the judge's place of residence until ~~he~~ the judge returns ~~thereto~~ to the place of residence."

**Section 172.** Section 3-5-216, MCA, is amended to read:

**"3-5-216. Itemized statements -- verification -- filing.** (1) On the first of each month or within 3 days ~~thereafter~~ after that date, ~~such a~~ a district court judge who ~~may desire to avail himself of the provisions of~~ has a claim pursuant to 3-5-215 shall ~~make out~~ complete an itemized claim against the state of Montana showing with dates and particulars ~~his~~ the actual and necessary travel expenses for the preceding month.

(2) ~~He~~ The district court judge shall verify ~~such~~ the claim by certifying that the items of the claim are true and correct and are wholly unpaid and that the expenditures ~~therein~~ enumerated in the claim were made in the discharge of official business while away from home.

(3) ~~He~~ The district court judge shall ~~then~~ file ~~such~~ the claim with the state to be processed as provided by law."

**Section 173.** Section 3-5-311, MCA, is amended to read:

**"3-5-311. Powers of judges at chambers.** (1) The judge of the district court may at chambers:

(a) issue, hear, and determine writs of mandamus, quo warranto, certiorari, prohibition, and injunction, other original and remedial writs, and all writs of habeas corpus on petition by or on behalf of any person held in actual custody in ~~his~~ the judicial district;

(b) grant all orders and writs ~~which~~ that are usually granted in the first instance upon an ex parte application and hear and dispose of ~~such~~ those orders and writs;

(c) hear and determine any matter necessary in the exercise of ~~his~~ the judge's powers in matters of probate or in any action or proceeding provided by law and any action in which all party defendants have made default;

(d) issue any process, make any order, and make and enter any default judgment.

(2) When default judgments are entered in default cases, ~~as herein provided~~, the judge shall forward to the clerk of the court of the county in which the action is pending the judgment ~~so made~~, together with a minute entry of the proceedings, ~~had thereon, which shall be by said~~ The clerk incorporated shall incorporate the judgment and minute entry into the minutes of the court.

(3) If a jury is necessary, the judge may open court and obtain a jury as in other cases."

**Section 174.** Section 3-5-401, MCA, is amended to read:

**"3-5-401. Terms of court.** (1) The district court of each county ~~which~~ that is a separate judicial district ~~by itself has no~~ does not have terms and must always be open for the transaction of business; except on legal holidays and nonjudicial days.

(2) (a) In each district ~~where~~ that is located in two or more counties ~~are united~~, the district court judge ~~thereof must~~ shall fix the term of court in each county in ~~his~~ the district and there must be at least four terms a year in each county. Any order of the judge ~~of such district~~ fixing terms of court ~~shall~~ must be filed in the office of the clerk of the district court in each county of ~~his~~ the district, and ~~shall remain~~ the order remains in effect until further order of the judge.

(b) ~~Nothing in this section shall~~ This section may not be construed to prevent the calling of a special term of court, with or without a jury, when in the opinion of the presiding judge the ~~same~~ special term is necessary.

(c) The district court judge may adjourn a term of district court in one county to a future day certain and in the meantime hold court in another county."

**Section 175.** Section 3-5-405, MCA, is amended to read:

**"3-5-405. Change of place of holding court in emergency.** (1) The judge of the district court authorized to hold or preside at a court appointed to be held at a particular place may, by an order filed with the clerk of the district court and published as ~~he~~ the judge may prescribe, direct that the court be held or continued at any place in the county other than that appointed when war, insurrection, pestilence, or other public calamity, ~~or the danger thereof~~ of such a calamity, or the destruction or danger of the public building appointed for the holding the court may render it necessary.

(2) ~~He~~ The district court judge may, in the same manner, revoke the order and, ~~in his discretion,~~ may appoint another place in the same county for holding the court."

**Section 176.** Section 3-5-503, MCA, is amended to read:

**"3-5-503. Duties concerning indexes.** ~~Said~~ The clerk of the district court shall cause to be made in each index correct entries, under the appropriate headings, of each ~~and every~~ action begun in the court of which ~~he~~ the person is clerk, ~~entering them~~ The entries must be made alphabetically by the name of the plaintiff in the General Index--Plaintiffs and alphabetically by the name of the defendants in the General Index--Defendants."

**Section 177.** Section 3-5-504, MCA, is amended to read:

**"3-5-504. Register of actions.** The clerk ~~must of the district court shall~~ keep among the records of the court a register of actions. ~~He must~~ The clerk shall enter ~~therein in the register~~ the title of the action with brief notes under it, from time to time, of all papers filed and proceedings had ~~therein in the action~~. The register must also state the names of the attorneys and all fees charged in each action."

**Section 178.** Section 3-5-505, MCA, is amended to read:

**"3-5-505. Register of criminal actions.** The clerk of the district court shall keep a book called the "Register of Criminal Actions", which must have a proper index and in which must be entered the title and number of the action with a memorandum of every paper filed and order or proceeding had ~~therein in the action~~, along with the date ~~thereof of the filing, order, or proceeding~~, and a memorandum of the name of every witness, the number of days ~~he~~ that the witness attended, and ~~his~~ the person's witness fees."

**Section 179.** Section 3-5-508, MCA, is amended to read:

**"3-5-508. Docket.** The docket is a book ~~which~~ that the clerk of the district court keeps in ~~his~~ the clerk's office, with each page divided into eight columns and headed as follows: judgment debtors; judgment creditors; judgment, time of entry; where entered in judgment book; appeals, when taken; judgment of appellate court; and satisfaction of judgment, when entered. If a judgment ~~be is~~ for the recovery of money or damages, the amount must be stated in the docket under the ~~head~~ heading of judgment. If the judgment ~~be is~~ for any other relief, a memorandum of the general character of the relief granted must be stated. The names of the defendants must be entered in alphabetical order."

**Section 180.** Section 3-5-509, MCA, is amended to read:

**"3-5-509. Docket to be available for inspection.** The docket kept by the clerk of the district court is open at all times during office hours for the inspection of the public, without charge. The clerk ~~must shall~~ arrange the several dockets kept by ~~him~~ the clerk in ~~such a manner as to facilitate~~ that facilitates their inspection."

**Section 181.** Section 3-5-611, MCA, is amended to read:

**"3-5-611. Reporter pro tempore.** (1) The reporter of any district court ~~must attend~~ shall perform ~~to~~ the duties of ~~his~~ the office in person except when excused for good and sufficient reason by order of the court; ~~which~~ The order must be entered upon the minutes of the court. Employment in ~~his~~ the reporter's professional capacity



elsewhere is not a good and sufficient reason for ~~such~~ the excuse.

(2) When the reporter of any court has been excused in the manner provided in this section, the court may appoint a reporter pro tempore, who ~~must~~ shall take the same oath and perform the same duties and receive the same compensation during the time of ~~his~~ employment as the regular reporter."

**Section 182.** Section 3-6-101, MCA, is amended to read:

**"3-6-101. Establishment of court.** (1) A city with a population of 4,000 or more, according to the last federal census, may have a court, known as the municipal court of the city of (designating the name of the city) of the state of Montana. The court must be a court of record. The municipal court shall assume continuing jurisdiction over all pending city court cases in the city in which the municipal court is established.

(2) A city may have a municipal court only if the governing body of the city elects by a two-thirds majority vote to adopt the provisions of this chapter by ordinance and, in the ordinance, provides the manner in which and time when the municipal court is to be established and is to assume continuing jurisdiction over all pending city court cases. If a city judge is not an attorney and ~~his~~ the office is abolished because a municipal court is established, the ordinance must provide that the time when the establishment of the municipal court takes effect is the date on which the municipal court judge elected at the next election held under 3-6-201 begins ~~his~~ the municipal court judge's term of office. The ordinance must be consistent with the provisions of this chapter."

**Section 183.** Section 3-6-203, MCA, is amended to read:

**"3-6-203. Salary.** The salary of the municipal court judge must be set by ordinance or resolution and is payable monthly by the city treasurer. Actual and necessary expenses for the municipal court judge are expenses, as defined and provided in 2-18-501 through 2-18-503, incurred in the performance of ~~his~~ official duties."

**Section 184.** Section 3-6-303, MCA, is amended to read:

**"3-6-303. Officers of the court.** (1) The chief of police of the city ~~shall be~~ is the executive officer of ~~such~~ the municipal court. ~~He~~ The chief of police shall serve all process and execute all orders of the court, either in person or by subordinate police officer, who shall execute process in ~~his~~ the chief's name.

(2) The chief of police, with the approval of the judge, shall appoint one or more ~~police men~~ police officers as court officers, one of whom shall attend the sessions of the court and perform all duties in connection ~~therewith~~ which with the court that the judge may require."

**Section 185.** Section 3-7-201, MCA, is amended to read:

**"3-7-201. Designation of water judge.** (1) A water judge ~~shall~~ must be designated ~~within 30 days after~~ ~~May 11, 1979,~~ for each water division by a majority vote of a committee composed of the district court judge from each ~~single judge~~ ~~single-judge~~ judicial district and the chief district judge from each ~~multiple judge~~ multijudge judicial district, wholly or partly within the division. Except as provided in subsection (2), a water judge must be a district court judge or retired district court judge of a judicial district wholly or partly within the water division.

(2) A district court judge or retired district court judge may sit as a water judge in more than one division if requested by the chief justice of the supreme court or the water judge of the division in which ~~he~~ the judge is requested to sit.

(3) A water judge, when presiding over a water division, presides as district court judge in and for each judicial district wholly or partly within the water division."

**Section 186.** Section 3-7-203, MCA, is amended to read:

**"3-7-203. Vacancies.** If a vacancy in the office of water judge occurs, it ~~shall~~ must be filled in the manner provided in 3-7-201 for the initial designation of a water judge. A vacancy is created when a water judge dies, resigns, retires, is not elected to a subsequent term, forfeits ~~his~~ the judicial position, is removed, or is otherwise unable to complete ~~his~~ the term as a water judge."

**Section 187.** Section 3-7-224, MCA, is amended to read:

**"3-7-224. Jurisdiction of chief water judge.** (1) The chief water judge may, at the discretion of the chief justice of the Montana supreme court, also serve as water judge for one of the water divisions.

(2) The chief water judge has jurisdiction over cases certified to the district court under 85-2-309 and all matters relating to the determination of existing water rights within the boundaries of the state of Montana.

(3) With regard to the consideration of a matter within ~~his~~ the chief water judge's jurisdiction, the chief water judge has the same powers as a district court judge. ~~He~~ The chief water judge may issue ~~such~~ orders, on the motion of an interested party or on ~~his~~ the judge's own motion, ~~as that~~ may reasonably be required to allow ~~him~~ the judge to fulfill ~~his~~ the judge's responsibilities including, but not limited to, requiring the joinder of persons not parties to the administrative hearing being conducted by the department pursuant to 85-2-309 or 85-2-402 as ~~deemed~~ considered necessary to resolve any factual or legal issue certified pursuant to 85-2-309(2)."

**Section 188.** Section 3-10-201, MCA, is amended to read:

**"3-10-201. Election.** (1) Each justice of the peace must be elected by the qualified electors of the county at the general state election ~~next~~ immediately preceding the expiration of the term of office of ~~his~~ the justice of the peace's predecessor.

(2) A justice of the peace ~~shall~~ must be nominated and elected on the nonpartisan judicial ballot in the same manner as ~~are~~ judges of the district court.

(3) Each judicial office ~~shall~~ must be a separate and independent office for election purposes, ~~and~~ each office ~~shall~~ must be numbered by the county commissioners, and each candidate for justice of the peace shall specify the number of the office for which ~~he~~ the candidate seeks to be elected. A candidate may not file for more than one office.

(4) Section 13-35-231, prohibiting political party endorsement for judicial officers, ~~shall also apply~~ applies to justices of the peace."

**Section 189.** Section 3-10-202, MCA, is amended to read:

**"3-10-202. Oath -- proof of certification.** (1) Each justice of the peace, elected or appointed, after ~~he~~ ~~has received his~~ receipt of the certificate of election or appointment, shall, before entering upon the duties of ~~his~~ office, take the constitutional oath of office, which must be filed with the county clerk.

(2) Before the county clerk may file the oath, the elected or appointed justice ~~must~~ shall satisfy the clerk that ~~he~~ the justice is certified as provided in 3-1-1502 or 3-1-1503."

**Section 190.** Section 3-10-204, MCA, is amended to read:

**"3-10-204. Residence requirements.** (1) ~~Every~~ A justice of the peace must reside in the county in which ~~his~~ the justice's court is held.

(2) ~~No~~ A person is not eligible ~~to~~ for the office of justice of the peace unless ~~he shall have been~~ the person is a citizen of the United States and has been a resident of the county in which ~~he~~ the person is to serve for 1 year ~~next~~ preceding ~~his~~ election or appointment."

**Section 191.** Section 3-10-209, MCA, is amended to read:

**"3-10-209. Expenses.** All actual and necessary travel expenses, as ~~defined and~~ provided in 2-18-501 through 2-18-503, incurred by the justice of the peace in the performance of ~~his~~ official duties are a legal charge against the county."

**Section 192.** Section 3-10-233, MCA, is amended to read:

**"3-10-233. Jurisdiction of acting justice.** When called in to preside over a justice's court, the visiting justice of the peace or other qualified person while acting as justice of the peace is vested with all the power of the justice for whom ~~he~~ the person holds court."

**Section 193.** Section 3-10-234, MCA, is amended to read:

**"3-10-234. Expenses of acting justice.** Whenever a justice of the peace or another person is called in to preside over the court of a justice under 3-10-231, the visiting justice or other person ~~shall~~ must be paid ~~his~~ actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503. If the acting justice is not a justice of the peace receiving a salary, ~~he shall~~ the acting justice must also receive ~~such~~ compensation ~~as that~~ is proper for the time involved. The cost of implementing this section is a proper charge against the county where the court is held."

**Section 194.** Section 3-10-401, MCA, is amended to read:

**"3-10-401. Contempts a for which justice of the peace may punish for.** A justice of the peace may punish for contempt persons guilty of only the following acts ~~and no other~~:

- (1) disorderly, contemptuous, or insolent behavior toward the justice while holding the court tending to interrupt the due course of a trial or other judicial proceeding;
- (2) a breach of the peace, boisterous conduct, or violent disturbance in the presence of the justice or in the immediate vicinity of the court held by ~~him~~ the justice tending to interrupt the due course of a trial or other judicial proceeding;
- (3) disobedience or resistance to the execution of a lawful order or process made or issued by the justice;
- (4) disobedience to a subpoena duly served or refusal to be sworn or to answer as a witness;
- (5) rescuing any person or property in the custody of an officer by virtue of an order or process of the court."

**Section 195.** Section 3-10-405, MCA, is amended to read:

**"3-10-405. Conviction in docket.** The conviction, specifying particularly the offense and the judgment ~~thereon~~ on the conviction, must be entered by the justice of the peace in ~~his~~ the docket."

**Section 196.** Section 3-10-502, MCA, is amended to read:

**"3-10-502. How entries made -- prima facie evidence.** (1) The items listed in 3-10-501 must be entered in the docket under the title of the action to which they relate and, unless otherwise provided, at the time when they occur.

(2) ~~Such~~ The entries in a ~~justice's~~ justice of the peace's docket or a transcript ~~thereof~~ of the entries certified by the justice or ~~his~~ the justice's successor in office are prima facie evidence of the facts ~~so~~ stated."

**Section 197.** Section 3-10-514, MCA, is amended to read:

**"3-10-514. Docket of predecessor.** Any ~~A~~ justice of the peace with whom the docket of ~~his~~ the justice's predecessor or of any other justice is deposited has and may exercise over all actions and proceedings entered in ~~such~~ the docket the same jurisdiction as if the actions and proceedings were originally commenced before ~~him~~ the justice. In the case of the creation of a new county or the change of the boundary between two counties, any justice into whose hands the docket of a justice formerly acting as ~~such~~ justice within ~~the same~~ that territory ~~may~~ come is, for the purpose of this section, considered the successor of ~~such~~ the former justice."

**Section 198.** Section 3-10-602, MCA, is amended to read:

**"3-10-602. Penalty.** Any ~~A~~ justice of the peace violating 3-10-601 ~~shall be deemed~~ is guilty of a misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment not exceeding 6 months in the county jail, or both. ~~He shall~~ The violator is also ~~be deemed~~ guilty of malfeasance in office and, in the discretion of the court, may be removed from office, ~~in which latter case he shall thereafter be~~ A person removed from office is disqualified from holding ~~such~~ the office of justice of the peace."

**Section 199.** Section 3-10-706, MCA, is amended to read:

**"3-10-706. Execution of process by retiring constable.** A constable, notwithstanding the expiration of ~~his~~ the constable's term of office, may proceed and complete the execution of all final process ~~which he~~ that the constable has begun to execute, in the same manner as if ~~he~~ the constable were still in office, and ~~his~~ the sureties ~~shall be~~ are liable to the same extent."

**Section 200.** Section 3-10-1005, MCA, is amended to read:

**"3-10-1005. Docket entries.** The justice of the peace shall enter in the docket kept by ~~him~~ the justice for small claims cases the following:

- (1) the title of each action;
- (2) the amount claimed;
- (3) the date the order of court/notice to defendant was signed and the date of the trial as stated in the order;
- (4) the date the parties appeared or the date on which default was entered;
- (5) each adjournment, stating on whose application and to what time;
- (6) the judgment of the court;
- (7) a statement of any money paid to the justice, when, and by whom;
- (8) the date of the issuance of any abstract of the judgment; and
- (9) the date of the receipt of the notice of appeal, if any is given, and of the appeal bond, if any is filed."

**Section 201.** Section 3-11-202, MCA, is amended to read:

**"3-11-202. Salary -- qualifications.** (1) A city judge, at the time of election or appointment, ~~shall~~ must:

- (a) meet the qualifications of a justice of the peace under 3-10-202;
  - (b) be a resident of the county in which the city or town is located; and
  - (c) satisfy any additional qualifications prescribed by ordinance.
- (2) The annual salary and compensation of city judges must be fixed by ordinance or resolution.
- (3) Each city judge shall receive ~~his~~ actual and necessary travel expenses, as ~~defined and~~ provided in 2-18-501 through 2-18-503, incurred in the performance of ~~his~~ official duties."

**Section 202.** Section 3-11-203, MCA, is amended to read:

**"3-11-203. When substitute for judge called in.** (1) The city judge or mayor may call in a city judge, a justice of the peace, or some qualified person to act in the judge's place whenever the judge is:

- (a) a party in a case;
  - (b) interested in a case;
  - (c) the spouse of or related to either party in a case by consanguinity or affinity within the sixth degree;
- or
- (d) sick, absent, or unable to act.

(2) The city judge may call in a city judge, justice of the peace, or some qualified person to act in ~~his~~ stead the city judge's place when a disqualifying affidavit is filed against ~~him~~ the judge pursuant to the supreme court's rules on disqualification and substitution of judges.

(3) A city judge of any city or a justice of the peace of any county may sit as city judge at the city judge's request."

**Section 203.** Section 3-11-204, MCA, is amended to read:

**"3-11-204. Training sessions for judges.** (1) There ~~shall~~ must be two mandatory annual training sessions supervised by the supreme court for all elected and appointed city judges. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. Actual and necessary travel expenses, as ~~defined and~~ provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials ~~shall~~ must be paid to the elected or appointed judge for attending the sessions. Whenever the office of city judge is held by a justice of the peace, the costs imposed by this subsection are the joint responsibility of the county and the municipality, with the costs to be allocated and charged in proportion to the work done for each governmental entity. In all other cases, the costs ~~shall~~ must be paid by the city or town in which ~~he~~ the judge holds or will hold court and ~~shall~~ must be charged against that city or town.

(2) Each city judge shall attend the training sessions. Failure to attend disqualifies ~~him~~ the judge from office and creates a vacancy in the office. However, the supreme court may excuse a city judge from attendance because of illness, a death in the family, or any other good cause."

**Section 204.** Section 3-11-205, MCA, is amended to read:

**"3-11-205. Justice of the peace or judge of another city as city judge.** (1) In a town or third-class city, the council may designate a justice of the peace or the city judge of another city or town to act as city judge. The justice of the peace or city judge ~~shall~~ must reside in the county in which the town or city is situated. The city or town may by ordinance fix the funding for ~~such~~ the judge and enter into an agreement with the county, the other city or town, or the justice of the peace or the judge for payment of salaries and training expenses. The justice of the peace or other city judge shall, after agreeing to the designation and after approval by the board of county commissioners or governing body of the city or town, act in that capacity and ~~shall be~~ is the city judge in all cases arising out of violations of statutes or ordinances. If the justice of the peace or city judge of another city or town ~~must~~ is required to travel from ~~his~~ the justice's or judge's place of residence to hold court, ~~he~~ shall the justice or judge must be paid ~~his~~ the actual and necessary travel expenses, as ~~defined and~~ provided in 2-18-501 through 2-18-503, by the town or city in which the court is held.

(2) The offices of city judge and justice of the peace may be combined if a justice of the peace is authorized in a city pursuant to 3-10-101."

**Section 205.** Section 3-12-203, MCA, is amended to read:

**"3-12-203. Judge in multicounty district.** (1) ~~Where~~ When there is more than one county in the judicial district and the county commissioners of more than one county in that district create small claims courts, the district court judges may provide that the same judge of small claims court may preside over more than one of the small claims courts in the judicial district.

(2) In ~~such~~ the cases described in subsection (1), the salary of the small claims court judge ~~shall~~ must be prorated among the counties in which ~~he~~ the judge presides.

(3) The judge ~~shall be~~ is entitled to collect mileage for the distance actually traveled when required to convene small claims court in more than one county, pursuant to 2-18-503."

**Section 206.** Section 3-15-201, MCA, is amended to read:

**"3-15-201. Fees in courts of record.** (1) A grand or trial jury panel member ~~shall~~ must receive \$12 per day for attendance before any court of record and a mileage allowance, as provided in 2-18-503, for traveling each way between ~~his~~ the member's residence and the county seat. Those jurors selected from the panel for a case ~~shall~~ must receive an additional \$13 a day while serving.

(2) A juror who is excused from attendance upon ~~his~~ the juror's own motion on the first day of ~~his~~ appearance in obedience to a notice or who has been summoned as a special juror and not sworn in the trial of the case shall forfeit per diem and mileage."

**Section 207.** Section 3-15-203, MCA, is amended to read:

**"3-15-203. Fees in courts not of record and coroner inquests.** (1) A jury panel member in civil actions, criminal actions, and coroner inquests is entitled to a fee of \$12 per day for attendance before a court not of record and a mileage allowance, as provided in 2-18-503, for traveling each way between ~~his~~ the member's residence and the court. A jury panel member selected for a case is entitled to an additional \$13 per day while serving.

(2) In civil actions, the jurors' fees must be paid by the party demanding the jury and taxed as costs against the losing party.

(3) A juror who is excused from attendance upon ~~his~~ the juror's own motion on the first day of ~~his~~ appearance in obedience to a notice or who has been summoned as a special juror and not sworn in the trial of the case shall forfeit per diem and mileage."



**Section 208.** Section 3-15-401, MCA, is amended to read:

**"3-15-401. Jury lists -- by whom and when made.** The ~~chairman~~ presiding officer or, in ~~his~~ the presiding officer's absence, any member of the board of county commissioners and the county clerk and recorder of each county ~~must~~ shall meet at the county seat of each county at the office of the county clerk and recorder on the second Monday of June of each year for the purpose of making a list of persons to serve as trial jurors for the ensuing year. If they fail to meet on the day specified in this section, they ~~must~~ shall meet as soon thereafter as practicable."

**Section 209.** Section 3-15-504, MCA, is amended to read:

**"3-15-504. Drawing by two or more judges in same district.** In districts where there are two or more judges, each judge may order jurors drawn and summoned to attend the session or term over which ~~he~~ that judge presides, as provided in this part."

**Section 210.** Section 3-15-601, MCA, is amended to read:

**"3-15-601. When and how drawn and summoned.** (1) Whenever in the opinion of the district court judge a grand jury is necessary, ~~he must~~ the judge shall make an order directing a grand jury to be drawn and summoned to attend before the court. The order must specify the number of jurors to be drawn, which may not be less than 15 or more than 20.

(2) The jurors must be drawn from the jury box or the computer database provided for in 3-15-404. If jurors are selected from the computer database, it must be through a computerized random selection process that the judges of the district court of the county have approved in writing as the requirements for the drawing of grand juries. A copy of the latest jury list and a description of the approved computer process employed in the selection must be kept in the office of the clerk of court and must be available for public inspection during normal business hours.

(3) The list of names ~~shall~~ must be certified and the jurors summoned in the same manner as for trial jurors. The names or numbers of any persons drawn who are not impaneled on the grand jury must be returned to the jury box or reinstated on the computer database."

**Section 211.** Section 3-15-602, MCA, is amended to read:

**"3-15-602. Who constitutes jury.** (1) When 11 of the persons summoned as grand jurors who are competent and not excused are present, they constitute the grand jury.

(2) When more than 11 are present, the jury commissioner shall write their names on separate ballots and place the ballots in black capsules. The capsules ~~shall~~ must be deposited in a box large enough to hold all of the capsules without crowding. The box ~~shall~~ must be ~~so~~ arranged so that the jury commissioner drawing the capsules from the box is unable to see the capsule ~~he~~ that the commissioner is about to draw. The jury commissioner shall draw 11 capsules. The persons whose names are on the ballots so drawn shall constitute the grand jury.

(3) When less than 11 are present, the court shall order a sufficient number to be immediately drawn as provided in 3-15-601(2) and summoned to attend the court."

**Section 212.** Section 3-15-604, MCA, is amended to read:

**"3-15-604. Drawing and summoning in multijudge districts.** In districts where there are two or more judges, each judge may order a grand jury to be drawn and summoned to attend the session or term over which ~~he~~ that judge presides, as provided in this part, but ~~no~~ more than one grand jury ~~must ever~~ may not be in attendance upon any district court at the same time."

**Section 213.** Section 3-15-701, MCA, is amended to read:

**"3-15-701. When and by whom jurors summoned.** When jurors are required in any court of limited jurisdiction, they:

(1) must, upon the order of the judge ~~thereof~~, be summoned by ~~the~~ a sheriff, constable, marshal, or ~~policeman~~ police officer of the jurisdiction; or

(2) may be summoned by the judge of the court of limited jurisdiction or by the clerk of that court."

**Section 214.** Section 3-15-801, MCA, is amended to read:

**"3-15-801. Summoning the juries.** Juries of inquest ~~shall~~ must be summoned by the officer before whom the proceedings in which they are to sit are to be ~~had~~ held or by ~~any~~ a sheriff, constable, or ~~policeman~~ police officer from the ~~persons~~ residents of the county who are competent to serve as jurors, ~~residents of the county~~; by notifying them orally that they are ~~so~~ summoned and of the time and place at which their attendance is required."

**Section 215.** Section 5-1-105, MCA, is amended to read:

**"5-1-105. Restriction on commissioners seeking election to legislature.** A member of the

commission may not run for election to a legislative seat within 2 years after the districting and apportionment plan in which ~~he~~ the commissioner participated becomes effective."

**Section 216.** Section 5-2-102, MCA, is amended to read:

**"5-2-102. Term of office.** The term of office of a senator is 4 years or until ~~his~~ a successor is elected and qualified, and the term of office of a representative is 2 years or until ~~his~~ a successor is elected and qualified. The term of service ~~shall begin~~ begins on the first Monday of January ~~next succeeding his~~ following the election. If a senator is elected to fill a vacancy, ~~his~~ the term of service ~~shall begin~~ begins on the ~~next~~ day after ~~his~~ the election."

**Section 217.** Section 5-2-104, MCA, is amended to read:

**"5-2-104. Appointment to or candidacy for other offices.** (1) ~~No~~ A member of the legislature may not, during the term for which ~~he~~ the member was elected, be appointed to any civil office under the state. A member of the legislature may become a candidate for public office during ~~his~~ the legislator's term.

(2) A member of the legislature who is elected to ~~other~~ another public office shall resign from the legislature prior to assuming the office to which ~~he was~~ the member is newly elected."

**Section 218.** Section 5-2-105, MCA, is amended to read:

**"5-2-105. Facsimile signatures authorized.** (1) As used in this section, "facsimile signature" means a reproduction of the manual signature of a legislator by engraving, imprinting, stamping, facsimile transmission, or other means.

(2) On state documents requiring a signature, a legislator may use a facsimile signature in lieu of ~~his~~ a manual signature. Before using a facsimile signature, the legislator shall file a copy of ~~his~~ the legislator's manual or facsimile signature, certified by ~~him~~ the legislator under oath, with the presiding officer of the house of which ~~he~~ the legislator is a member."

**Section 219.** Section 5-2-211, MCA, is amended to read:

**"5-2-211. Certified rosters.** The secretary of state shall prepare certified rosters from the official election records on file in ~~his~~ the secretary of state's office for use in the organization of the senate and house of representatives."

**Section 220.** Section 5-2-213, MCA, is amended to read:

**"5-2-213. Organization of house of representatives.** At the time specified in 5-2-212, the secretary of state; or, in case of ~~his~~ the secretary of state's absence or inability, ~~then~~ the senior member-elect present, ~~must~~ shall take the chair, call the members-elect of the house of representatives to order, and then, from the certified roster prepared by the secretary of state, call over the roll of counties and districts. After the ~~same~~ names are called, the members-elect ~~must~~ shall take the constitutional oath of office and assume their seats. The house of representatives may ~~thereupon~~ at that time, if a quorum is present, proceed to elect its officers."

**Section 221.** Section 5-2-216, MCA, is amended to read:

**"5-2-216. Tie vote.** ~~In the event~~ If there is a tie vote for the purposes of organizing the senate or the house of representatives then, for the purposes of organization, the political party's candidate for president of the senate or speaker of the house then having a member of ~~his~~ that candidate's party as the governor of Montana ~~shall be deemed to be~~ is elected."

**Section 222.** Section 5-2-302, MCA, is amended to read:

**"5-2-302. Compensation and expenses when legislature not in session.** When the legislature is not in session, a member of the legislature, while engaged in legislative business with prior authorization of the appropriate funding authority, is entitled to:

- (1) a mileage allowance as provided in 2-18-503;
- (2) expenses as provided in 2-18-501 and 2-18-502; and
- (3) a salary equal to one full day's pay at the rate of a classified state employee, described in 5-2-301(1), for each 24-hour period of time (from midnight to midnight), or portion ~~thereof~~ of that time, spent away from home on authorized legislative business. However, if time spent for business other than authorized legislative business results in lengthening a legislator's stay away from home into an additional 24-hour period, ~~he~~ the legislator may not be compensated for the additional day."

**Section 223.** Section 5-2-405, MCA, is amended to read:

**"5-2-405. Term of appointee.** (1) Whenever ~~the~~ a vacancy occurs in the house of representatives, the appointee shall serve until the end of the term to which ~~his~~ the predecessor was elected.

(2) Whenever ~~the~~ a vacancy occurs in the senate, the appointee shall serve until a successor can be elected as provided in 5-2-406."

**Section 224.** Section 5-4-204, MCA, is amended to read:

**"5-4-204. Submission of fiscal note -- sponsor's fiscal note -- distribution to legislators.** (1) A completed fiscal note ~~shall~~ must be submitted by the budget director to the presiding officer who requested it. Upon receipt of the completed fiscal note, the presiding officer shall notify the sponsor of the bill for which the fiscal note was prepared that the fiscal note has been completed and is available for review. Within 24 hours following notification, the sponsor ~~must~~ shall:

- (a) notify the presiding officer that ~~he~~ the sponsor concurs with the completed fiscal note;
- (b) request additional time, not to exceed 24 hours, to consult with the budget director on the fiscal note;

or

- (c) elect to prepare a sponsor's fiscal note as provided in subsection (4).

(2) (a) If the sponsor concurs with the completed fiscal note prepared by the budget director or elects to prepare a sponsor's fiscal note, the presiding officer shall refer the completed fiscal note prepared by the budget director to the committee considering the bill. If the bill is printed, the note ~~shall~~ must be reproduced and placed on the members' desks.

(b) If the sponsor requests additional time to consult with the budget director, the presiding officer shall notify the sponsor and the budget director of the time, not to extend beyond the time limitation specified in subsection (1)(b), by which:

- (i) the budget director shall submit a revised completed fiscal note to the presiding officer;
- (ii) the sponsor shall notify the presiding officer that ~~he~~ the sponsor concurs with the original completed

fiscal note; or

- (iii) the sponsor shall elect to prepare a sponsor's fiscal note as provided in subsection (4).

(3) At the time specified as provided in subsection (2)(b), the presiding officer shall refer the original or, if revised, the revised fiscal note to the committee considering the bill. If the bill is printed, the note ~~shall~~ must be reproduced and placed on the members' desks.

(4) (a) If a sponsor elects to prepare a sponsor's fiscal note, ~~he~~ the sponsor shall prepare the fiscal note, as provided in 5-4-205, and return the completed sponsor's fiscal note to the presiding officer within 4 days of ~~his~~ the election to prepare a sponsor's fiscal note.

- (b) The presiding officer may grant additional time to the sponsor to prepare the sponsor's fiscal note.

(c) Upon receipt of the completed sponsor's fiscal note, the presiding officer shall refer it to the committee hearing the bill. If the bill is printed, the note must be identified as a sponsor's fiscal note, reproduced, and placed on the members' desks."

**Section 225.** Section 5-4-302, MCA, is amended to read:

**"5-4-302. Approval of bills.** When the governor approves a bill, ~~he must set his name thereto~~ the governor shall sign the bill with the date of his approval and deposit the ~~same bill~~ bill in the office of the secretary of state."

**Section 226.** Section 5-4-303, MCA, is amended to read:

**"5-4-303. Line item veto.** If ~~any a~~ a bill presented to the governor contains several distinct items of appropriation of money, ~~he the governor~~ the governor may disapprove one or more items while approving other portions of the bill. ~~In such case he~~ If an item is disapproved, the governor shall append to the bill, at the time of signing it, a statement of the items objected to which he objects and his objections thereto ~~the reasons for the objection~~. The governor ~~must~~ shall transmit to the house in which the bill originated, ~~(or to the secretary of state if the legislature is not in session),~~ a copy of ~~such the~~ the statement, and the items ~~so~~ objected to must be separately reconsidered in the same manner as bills ~~which that~~ that have been disapproved by the governor."

**Section 227.** Section 5-4-304, MCA, is amended to read:

**"5-4-304. Amendatory veto.** The governor may return any bill to the originating house with ~~his~~ the governor's recommendations for amendment. ~~Such~~ The originating house shall reconsider the bill under its rules relating to an amendment offered in committee of the whole. The bill is then subject to the following procedures:

(1) The originating house shall transmit to the second house, for consideration under its rules relating to amendments in committee of the whole, the bill and the originating house's approval or disapproval of the governor's recommendations.

(2) If both houses approve the governor's recommendations, the bill ~~shall~~ must be returned to the governor for ~~his~~ reconsideration.

(3) If both houses disapprove the governor's recommendations, the bill ~~shall~~ must be returned to the governor for ~~his~~ reconsideration.

(4) If one house disapproves the governor's recommendations and the other house approves, then either house may request a conference committee, which may be a free conference committee:

(a) If both houses adopt a conference committee report, the bill, in accordance with the report, ~~shall~~ must be returned to the governor for ~~his~~ reconsideration.

(b) If a conference committee fails to reach agreement or if its report is not adopted by both houses, the governor's recommendations ~~shall be~~ are considered not approved and the bill ~~shall~~ must be returned to the

governor for further consideration.

(5) The governor may not return the bill for amendment a second time."

**Section 228.** Section 5-4-305, MCA, is amended to read:

**"5-4-305. Bills returned without approval.** (1) A bill or item or items of an appropriations bill become law whenever:

(a) the bill passes both houses of the legislature;

(b) the bill is returned by the governor without his signature and with objections ~~thereto~~ to the bill or, if it is a bill containing several items of appropriation of money, with objections to one or more items; and

(c) upon reconsideration the bill or item or items pass both houses by the constitutional majority.

(2) The bill or item or items ~~shall~~ must be authenticated by a certificate endorsed on or attached to the bill or the copy of the statement of objections. The form of the certificate ~~shall~~ must be: "This bill having been returned by the governor with his objections ~~thereto~~ and, after reconsideration, having passed both houses by the constitutional majority has become a law this .... day of ...., A.D. ...." or "The following items in the within statement (naming them) having, after reconsideration, passed both houses by the constitutional majority have become a law this .... day of ...., A.D. ....". The endorsement, signed by the president of the senate and the speaker of the house, is sufficient authentication of the bill or item or items.

(3) The authenticated bill or statement ~~shall~~ must be delivered to the governor, who shall deposit it with the laws in the office of the secretary of state."

**Section 229.** Section 5-4-306, MCA, is amended to read:

**"5-4-306. Return when legislature not in session.** (1) If, on the day the governor desires to return a bill without his approval and with his objections to the bill to the house in which it originated, that house has adjourned for the day, ~~(but not for the session), he~~ the governor may deliver the bill with his ~~the~~ message to the presiding officer, secretary, clerk, or any member of ~~such~~ that house. The delivery is as effectual as though returned in open session if the governor, on the first day the house is again in session, by message, notifies it of the delivery and of the time when and the person to whom the delivery was made.

(2) If the legislature is not in session when the governor vetoes a bill, ~~he~~ the governor shall return the bill with his ~~the~~ reasons for the veto to the secretary of state. If the bill was not approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall within 5 working days of receipt of the bill and veto message mail a copy of the title of the bill and the veto message to each member of the legislature. If

the bill was approved by two-thirds of the members voting on the final vote on the bill, the secretary of state shall poll the members of the legislature. The secretary of state shall within 5 working days of receipt of the bill and veto message send by certified mail to each legislator, at an address provided by the legislator, a copy of the bill and the veto message, instructions for casting a vote, and notice of the date by which each legislator shall return ~~his~~ a vote. The date for return must be within 30 days after the date on which the bill, veto message, and voting instructions are sent. A legislator may cast and return a vote by delivering it in person, mailing it, or sending a facsimile transmission of it to the office of the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If two-thirds or more of the members of each house vote to override the veto, the bill ~~shall become~~ becomes law.

(3) The legislature may reconvene to reconsider any bill vetoed by the governor when the legislature is not in session by using the statutory procedure provided for convening in special session."

**Section 230.** Section 5-5-101, MCA, is amended to read:

**"5-5-101. Subpoenas.** (1) A subpoena requiring the attendance of any witness before either house of the legislature or a committee ~~thereof of either house~~ may be issued by the president of the senate, the speaker of the house, or the ~~chairman~~ presiding officer of any committee before whom the attendance of the witness is desired.

(2) ~~†~~ A subpoena is sufficient if:

- (a) it states whether the proceeding is before the house of representatives, the senate, or a committee;
- (b) it is addressed to the witness;
- (c) it requires the attendance of ~~such~~ the witness at a time and place certain;
- (d) it is signed by the president of the senate, speaker of the house, or ~~chairman~~ presiding officer of a committee."

**Section 231.** Section 5-5-102, MCA, is amended to read:

**"5-5-102. Service of subpoenas.** The subpoena may be served by any elector of the state, and ~~his~~ the elector's affidavit that ~~he~~ the elector delivered a copy to the witness is evidence of service."

**Section 232.** Section 5-5-103, MCA, is amended to read:

**"5-5-103. Contempt.** If ~~any~~ a witness neglects or refuses to obey ~~such~~ a subpoena or, appearing, neglects or refuses to testify, the senate or house may, by resolution entered on the journal, commit ~~him~~ the



witness for contempt."

**Section 233.** Section 5-5-105, MCA, is amended to read:

**"5-5-105. Immunity of witness.** (1) ~~No~~ A person sworn and examined before either house of the legislature or any committee ~~thereof can~~ of the legislature may not be held to answer criminally or be subject to any penalty or forfeiture for any fact or act ~~touching which he is required to testify~~ relating to the required testimony. ~~No~~ A statement made or paper produced by ~~any such~~ the witness is not competent evidence in any criminal proceeding against ~~such~~ the witness.

(2) ~~Such~~ A witness cannot refuse to testify to any fact or to produce any paper ~~touching~~ concerning which ~~he~~ the witness is examined for the reason that ~~his~~ the witness's testimony or the production of ~~such~~ the paper tends to disgrace ~~him~~ the witness or render ~~him~~ the witness infamous.

(3) ~~Nothing in this~~ This section ~~exempts~~ does not exempt any a witness from prosecution and punishment for perjury committed by ~~him on such~~ the witness during the examination."

**Section 234.** Section 5-5-301, MCA, is amended to read:

**"5-5-301. Governor to transmit list of appointments to legislature.** Within 10 days after the ~~meeting~~ convening of the legislature, the governor ~~must~~ shall transmit to it the legislature a list of all appointments made by ~~him~~; the governor under the provisions of 2-16-506; during the recess of the legislature."

**Section 235.** Section 5-5-302, MCA, is amended to read:

**"5-5-302. Nominations to senate to be in writing.** Nominations made by the governor to the senate must be in writing, designating the residence of the nominee and the office for which ~~he~~ the person is nominated."

**Section 236.** Section 5-5-413, MCA, is amended to read:

**"5-5-413. Suspension pending trial -- filling vacancy.** (1) Whenever articles of impeachment against any officer subject to impeachment are presented to the senate, ~~such~~ the officer is temporarily suspended from ~~his~~ office and cannot act in ~~his~~ an official capacity until ~~he~~ the officer is acquitted.

(2) Upon ~~such~~ suspension of any officer other than the governor, ~~his~~ the office must be at once temporarily filled by an appointment made by the governor, with the advice and consent of the senate. The term of the appointment is until the acquittal of the party impeached or, in case of ~~his~~ the party's removal, until the vacancy is filled at the next election as required by law."

**Section 237.** Section 5-5-415, MCA, is amended to read:

**"5-5-415. Service -- how made.** The service must be made upon the defendant personally, or, if ~~he~~ the defendant cannot upon diligent inquiry be found within the state, the senate, upon proof of that fact, may order publication to be made, in ~~such~~ the manner ~~as that it may deem~~ considers proper, of a notice requiring ~~him~~ the defendant to appear at a specified time and place and answer the articles of impeachment."

**Section 238.** Section 5-5-418, MCA, is amended to read:

**"5-5-418. Counsel may be appointed.** (1) If the defendant appears and is unable to procure the assistance of counsel, it is the duty of the president of the senate to appoint some suitable person to assist ~~him~~ the defendant in ~~his~~ a defense.

(2) If the defendant is served by publication and fails to appear, it is the duty of the president of the senate to appoint some person or counsel to appear in ~~his~~ behalf of the defendant and to make a defense for ~~him~~."

**Section 239.** Section 5-5-419, MCA, is amended to read:

**"5-5-419. Defendant's objection or answer.** When the defendant appears, ~~he~~ the defendant may object, in writing, ~~object~~ to the sufficiency of the articles of impeachment or ~~he~~ may answer the ~~same~~ articles by an oral plea of not guilty. The plea must be entered upon the journal and must put in issue every material allegation of the articles of impeachment."

**Section 240.** Section 5-5-420, MCA, is amended to read:

**"5-5-420. Overrule of objection -- defendant's plea.** If the objection to the sufficiency of the articles of impeachment is not sustained by a majority of the members of the senate, the defendant must be ordered ~~forthwith~~ to immediately answer the articles of impeachment. If ~~he then~~ the defendant pleads guilty, the senate ~~must~~ shall render judgment of conviction against ~~him~~ the defendant. If ~~he~~ the defendant pleads not guilty or refuses to plead, the senate ~~must~~ shall, at ~~such~~ the time ~~as that it may appoint~~ designates, proceed to try the impeachment."

**Section 241.** Section 5-5-421, MCA, is amended to read:

**"5-5-421. Two-thirds vote necessary to a conviction.** The defendant cannot be convicted on impeachment without the concurrence of two-thirds of the members elected, voting by ayes and noes. If

two-thirds of the members elected do not concur in a conviction, ~~he~~ the defendant must be acquitted."

**Section 242.** Section 5-5-431, MCA, is amended to read:

**"5-5-431. Nature of the judgment.** The judgment in the impeachment may be that the defendant be suspended or that ~~he~~ the defendant be removed from office and disqualified to hold any office of honor, trust, or profit under the state."

**Section 243.** Section 5-6-109, MCA, is amended to read:

**"5-6-109. Interns responsible to sponsor.** Each legislative intern is directly responsible to ~~his or her~~ the intern's legislator."

**Section 244.** Section 5-7-101, MCA, is amended to read:

**"5-7-101. Purposes of chapter -- applicability.** (1) The purposes of this chapter are to promote a high standard of ethics in the practice of lobbying, to prevent unfair and unethical lobbying practices, to provide for the licensing of lobbyists and the suspension or revocation of the licenses, to require elected officials to make public their business, financial, and occupational interests, and to require disclosure of the amounts of money spent for lobbying.

(2) ~~Nothing in this~~ This chapter ~~subjects~~ does not subject an individual lobbying on ~~his~~ the individual's own behalf to any reporting requirements ~~nor deprives or deprive~~ an individual of the constitutional right to communicate with public officials."

**Section 245.** Section 5-7-201, MCA, is amended to read:

**"5-7-201. Docket -- contents.** The commissioner shall make available to the public the information required by this chapter, including but not limited to the name and business address of each lobbyist, the name and business address of ~~his~~ the lobbyist's principal, and the subject or subjects to which the employment relates or a statement that the employment relates to all matters in which the principal has an interest. The docket entry for each principal must also indicate the date of receipt of the principal's lobbying reports as required by 5-7-208."

**Section 246.** Section 5-7-203, MCA, is amended to read:

**"5-7-203. Principal -- name of lobbyist on docket.** ~~Every~~ Each principal who employs ~~any~~ a lobbyist shall within 1 week after ~~such~~ the employment cause the name of ~~said~~ the lobbyist to be entered upon the docket.

It ~~shall~~ is also ~~be~~ the duty of the lobbyist to enter ~~his~~ the lobbyist's name upon the docket. Upon the termination of ~~such~~ employment, ~~such~~ that fact may be entered opposite the name of the lobbyist either by the lobbyist or by the principal."

**Section 247.** Section 5-7-210, MCA, is amended to read:

**"5-7-210. Reimbursement.** Whenever a lobbyist invites a public official to attend a function ~~which~~ that the lobbyist or ~~his~~ the lobbyist's principal has fully or partially funded or sponsored; or whenever a lobbyist offers a public official a gift, the lobbyist ~~must~~ shall, upon request, supply the recipient public official with the benefit's true or estimated cost and allow the public official to reimburse. ~~Such~~ The expenditures must be itemized in the principal's reports with a notation "reimbursed by benefactee"."

**Section 248.** Section 5-7-301, MCA, is amended to read:

**"5-7-301. Prohibition of practice without license and registration.** (1) ~~No~~ An individual may not practice as a lobbyist unless that individual has been licensed under 5-7-103 and listed on the docket as employed in respect to all the matters ~~he~~ that the individual is promoting or opposing.

(2) ~~No~~ A principal may not directly or indirectly authorize or permit any lobbyist employed by that principal to practice lobbying until the lobbyist is ~~duly~~ licensed and the names of the lobbyist and the principal are ~~duly~~ entered on the docket."

**Section 249.** Section 5-11-104, MCA, is amended to read:

**"5-11-104. Officers -- rules of procedure -- records.** The legislative council shall organize immediately following appointment by electing one of its members as its ~~chairman~~ presiding officer and by electing ~~such~~ other officers from among its membership ~~as that~~ the council may deem desirable considers appropriate. The council ~~is empowered to~~ may adopt rules of procedure, ~~and to~~ make all arrangements for its meetings, ~~and to~~ carry out the purpose for which it is created. The council ~~is directed to~~ shall keep accurate records of its activities and proceedings."

**Section 250.** Section 5-11-204, MCA, is amended to read:

**"5-11-204. Secretary of state to assign chapter numbers to new laws.** ~~It shall be the duty of the~~ The secretary of state shall, when bills passed by any legislature ~~of Montana~~ are filed in ~~his~~ the secretary's office as directed in 5-4-302 and 5-4-305, ~~to note thereon~~ on the bill the date of filing and ~~to~~ number ~~such~~ the bills, except

resolutions, in the order of their reception ~~by him~~, chapter 1 and upwards, using Arabic numerals."

**Section 251.** Section 5-12-202, MCA, is amended to read:

**"5-12-202. Appointment of members.** (1) The legislative finance committee consists of:

(a) four members of the senate finance and claims committee appointed by the ~~chairman~~ presiding officer;

(b) two members of the senate appointed at large by the committee on committees;

(c) four members of the house of representatives appropriations committee appointed by the ~~chairman~~ presiding officer; and

(d) two members of the house appointed at large by the speaker.

(2) These members ~~shall~~ must be appointed before the end of each legislative session. No more than three members of each house, two committee members and one at-large member, may be from the same political party."

**Section 252.** Section 5-12-203, MCA, is amended to read:

**"5-12-203. Term -- officers -- compensation.** (1) Appointments are for 2 years, and a member of the committee shall serve until ~~his~~ the member's term of office as a legislator ends or until ~~his~~ a successor is appointed, whichever occurs first.

(2) The committee shall elect one of its members as ~~chairman~~ presiding officer and ~~such~~ other officers ~~as that~~ as it considers necessary.

(3) Members of the committee are entitled to receive compensation and expenses as provided in 5-2-302."

**Section 253.** Section 5-13-303, MCA, is amended to read:

**"5-13-303. Term and removal.** The legislative auditor is responsible solely to the legislature. ~~He~~ The legislative auditor shall hold office for a term of 2 years beginning with July 1 of each even-numbered year. The committee may remove ~~him~~ the legislative auditor for misfeasance, malfeasance, or nonfeasance in office at any time after notice and hearing."

**Section 254.** Section 5-13-306, MCA, is amended to read:

**"5-13-306. Legislative auditor to assist legislature during sessions.** During sessions of the

legislature, the legislative auditor and his the audit staff, when requested, shall assist the legislature, its committees, and its members by gathering and analyzing information relating to the fiscal affairs of state government."

**Section 255.** Section 5-13-307, MCA, is amended to read:

**"5-13-307. Recommendations of legislative auditor -- implementation costs.** (1) The reports of the legislative auditor may include comments, recommendations, and suggestions, but ~~he shall have no~~ the legislative auditor does not have the power to enforce them ~~nor shall he~~ and may not otherwise influence or direct executive or legislative action.

(2) Whenever significant costs are associated with the implementation of audit recommendations, the legislative auditor shall, if practicable, note this fact and the estimated amount of ~~such~~ the costs in the appropriate audit report."

**Section 256.** Section 5-13-309, MCA, is amended to read:

**"5-13-309. Information from state agencies.** (1) All state agencies shall aid and assist the legislative auditor in the auditing of books, accounts, and records.

(2) The legislative auditor may examine at any time the books, accounts, and records, confidential or otherwise, of a state agency. This ~~shall~~ section may not be construed as authorizing the publication of information ~~which the prohibited by law prohibits publishing.~~

(3) The head of each state agency shall immediately notify both the attorney general and the legislative auditor in writing upon the discovery of any theft, actual or suspected, involving state ~~moneys~~ money or property under ~~his~~ that agency's control or for which ~~he~~ that agency is responsible."

**Section 257.** Section 5-13-402, MCA, is amended to read:

**"5-13-402. Audit costs.** (1) Prior to July 1 of each even-numbered year, the legislative auditor shall advise each agency and the budget director of the estimated audit costs for the following biennium. Each agency shall include the estimated audit costs in its proposed budget submitted to the budget director pursuant to 17-7-112. The budget director shall notify the legislative auditor if the executive budget recommendation to the legislature for audit costs differs from that proposed by the legislative auditor.

(2) Not later than 60 days after adjournment of each legislature, the budget director shall provide to the legislative auditor a schedule reflecting, by fund, amounts appropriated to each agency for audit costs.

(3) The legislative auditor shall bill agencies for audit services ~~as he~~ that the legislative auditor considers necessary. ~~In no event may the~~ The legislative auditor may not bill an agency for audit services in excess of amounts appropriated for audit services. Additional ~~audit related~~ audit-related services may be provided by the legislative auditor at a cost agreed to by an agency and billed to the agency."

**Section 258.** Section 5-15-102, MCA, is amended to read:

**"5-15-102. Ineligibility for appointment.** ~~Any~~ A person who is an employee, agent, officer, partner, or director of ~~any~~ a regulated company or who has served a regulated company in any capacity within the 3 years previous to ~~his~~ the person's appointment may not be a member of the committee."

**Section 259.** Section 5-15-103, MCA, is amended to read:

**"5-15-103. Term of office.** A member shall serve until ~~his~~ the member's term of office as a legislator ends and until ~~his~~ a successor is appointed."

**Section 260.** Section 5-15-105, MCA, is amended to read:

**"5-15-105. Officers.** The committee shall elect one of its members as ~~chairman~~ presiding officer and ~~such~~ other officers ~~as~~ that it determines necessary."

**Section 261.** Section 5-15-201, MCA, is amended to read:

**"5-15-201. Consumer counsel -- appointment and qualifications.** The committee shall appoint a consumer counsel and set ~~his~~ the consumer counsel's salary. The consumer counsel ~~shall~~ must have the following minimum qualifications and ~~such~~ additional qualifications ~~as~~ that the committee determines appropriate:

- (1) a bachelor's degree or equivalent from an accredited college or university with a major or minor in accounting or allied fields;
- (2) be admitted to practice law in Montana courts and in the United States district court for the state of Montana."

**Section 262.** Section 5-16-105, MCA, is amended to read:

**"5-16-105. Officers.** The council shall elect one of its members as ~~chairman~~ presiding officer and ~~such~~ other officers ~~as~~ that it ~~deems~~ determines necessary. ~~Such~~ An officer ~~shall be~~ is elected for a term of 2 years."

**Section 263.** Section 7-1-4121, MCA, is amended to read:

**"7-1-4121. General definitions.** As used in 7-1-4121 through 7-1-4127 and 7-1-4129 through 7-1-4149, unless otherwise provided, the following definitions apply:

(1) "Charter" means a written document defining the powers, structure, privileges, rights, and duties of the government and limitations on the government.

(2) "Chief executive" means the elected executive in a government adopting the commission-executive form, the manager in a government adopting the commission-manager form, the ~~chairman~~ presiding officer in a government adopting the ~~commission-chairman~~ commission-presiding officer form, the town ~~chairman~~ presiding officer in a government adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers designated in the charter in a government adopting a charter.

(3) "Elector" means a resident of the municipality qualified and registered to vote under state law.

(4) "Employee" means a person other than an officer who is employed by a municipality.

(5) "Executive branch" means that part of the municipality, including departments, offices, and boards, charged with implementing actions approved and administering policies adopted by the governing body of the local government or performing the duties required by law.

(6) "Governing body" means the commission or town meeting legislative body established in the alternative form of local government.

(7) "Guideline" means a suggested or recommended standard or procedure to serve as an index of comparison and is not enforceable as a regulation.

(8) "Law" means a statute enacted by the legislature of Montana and approved and signed by the governor or a statute adopted by the people of Montana through statutory initiative procedures.

(9) "Municipality" means an entity that incorporates as a city or town.

(10) "Office of the municipality" means the permanent location of the seat of government from which the records administrator, or the office of the clerk of the governing body where one is appointed, carries out the duties of the records administrator.

(11) "Officer" means a person holding a position with a municipality ~~which~~ that is ordinarily filled by election or, in those municipalities with a manager, the manager.

(12) "Ordinance" means an act adopted and approved by a municipality, having effect only within the jurisdiction of the local government.

(13) "Person" means any individual, firm, partnership, company, corporation, trust, trustee, assignee or



other representative, association, or other organized group.

(14) "Plan of government" means a certificate submitted by a governing body that documents the basic form of government selected, including all applicable suboptions. The plan must establish the terms of all officers and the number of commissioners, if any, to be elected.

(15) "Political subdivision" refers to a local government, authority, school district, or multicounty agency.

(16) "Population" means the number of inhabitants as determined by an official federal, state, or local census or official population estimate approved by the department of commerce.

(17) "Printed" means the act of reproducing a design on a surface by any process as defined by 1-1-203(3).

(18) "Public agency" means a political subdivision, Indian tribal council, state or federal department or office, or the Dominion of Canada or any provincial department or office or political subdivision.

(19) "Public property" means any property owned by a municipality or held in the name of a municipality by any of the departments, boards, or authorities of the local government.

(20) "Real property" means lands, structures, buildings, and interests in land, including lands under water and riparian rights, and all things and rights usually included within the term "real property", including not only fee simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.

(21) "Reproduced" means the act of reproducing a design on any surface by any process.

(22) "Resolution" means a statement of policy by the governing body or an order by the governing body that a specific action be taken.

(23) "Service" means an authorized function or activity performed by local government.

(24) "Structure" means the entire governmental organization through which a local government carries out its duties, functions, and responsibilities."

**Section 264.** Section 7-2-101, MCA, is amended to read:

**"7-2-101. Transcript of records upon alteration of boundary of local government.** When ~~any~~ a territory ~~shall be~~ is detached from any county, city, or town in this state and annexed to any other county, city, or town:

(1) it ~~shall be~~ is the duty of the proper officer of ~~such~~ the county, city, or town to which ~~said~~ the territory ~~shall be~~ is annexed to demand from the proper officer of the county, city, or town having custody of the public records of the territory a transcript of all public records pertaining to ~~such~~ the territory; and

(2) it ~~shall be~~ is the duty of ~~such the~~ the officer from whom ~~they shall be~~ the records are demanded to furnish ~~such the~~ the authenticated transcripts of all ~~such~~ the records in ~~his that~~ that office, which ~~shall~~ must be paid for, after ~~they shall be so~~ the records are furnished, by the county, city, or town to which ~~said the~~ the territory ~~shall be~~ is annexed."

**Section 265.** Section 7-2-2206, MCA, is amended to read:

**"7-2-2206. Contents of petition -- petition approval procedure -- deadline for filing signatures.** (1)

~~Such~~ A petition or petitions for creation of a new county must contain:

(a) a legal description of the territory proposed to be taken from the county in which the petition is circulated;

(b) a general map, on a separate page or pages, ~~which that~~ with shaded areas or darkened boundary lines will display to prospective petition signers the general outlines of the territory described in subsection (1)(a);

(c) a statement of the assessed valuation of ~~such the~~ the proposed county as shown by the ~~last preceding~~ most recent assessment, inclusive of all assessed valuation;

(d) a statement of the surveyed area, in square miles, ~~which that~~ will remain in the county or counties from which territory is taken to form ~~such the~~ the new county after ~~such the~~ the county is formed; a statement of the surveyed area in square miles, ~~which that~~ will be in the new county after formation; and a statement that the surveyed area of the territory proposed to be transferred is greater than 49 square miles;

(e) a warning that a person is subject to a \$500 fine or 6 months in jail, or both, if ~~he~~ the person purposefully:

(i) signs a name other than ~~his~~ the person's own to the petition;

(ii) signs more than once for the same issue; or

(iii) signs when not a legally registered voter residing in the territory to be added to the proposed new county;

(f) if the proposed new county is to be formed from one existing county, or from portions of two or more existing counties, the name of the proposed new county and a ~~prayer request~~ prayer request that ~~such the~~ the proposed new county be organized into a new county under the provisions of this part; and

(g) if the proposed new county is to be an existing county enlarged by territory taken from one or more other counties, a ~~prayer request~~ prayer request that this territory be added to the proposed new county under the provisions of this part.

(2) Each person ~~must~~ shall sign ~~his~~ the person's name and address in substantially the same manner as on ~~his~~ the person's voter registry card; or the signature will not be counted.

(3) Numbered lines must be provided for signatures. Each numbered line must contain spaces for the signature, the printed last name of the signer, and the signer's address.

(4) The signatures ~~need~~ are not required to all be appended to one paper but may be signed to several petitions, which must be similar in form. When ~~so~~ signed, the several petitions may be fastened together and ~~shall~~ must be treated and presented as one petition.

(5) Before a petition may be circulated for signatures, a sample petition must be submitted to the county election administrator in the form in which it will be circulated for approval as to form. The county election administrator shall refer a copy of the sample petition to the county attorney, who shall review the sample petition to ensure compliance with the requirements of this part. The county attorney shall cooperate with and provide necessary services to the person who submitted the petition to ensure that an adequate and valid legal description is written for the proposed new county boundaries. If the petition is rejected as to form, the county election administrator shall within 10 days after submission of the sample send written notice to the person who submitted the petition. If the petition is approved as to form, the election administrator shall within 21 days after submission of the sample send written notice to the person who submitted the petition. ~~Thereafter~~ After that notice, the petition may not be challenged except with regard to the number and validity of signatures appended to it.

(6) All petition signatures must be collected and filed within 120 days of the date of the notice that the petition has been approved as to form."

**Section 266.** Section 7-2-2207, MCA, is amended to read:

**"7-2-2207. Affidavits to be attached to petition -- verification of signatures.** (1) There ~~shall~~ must be attached and filed with each sheet or section of the petition or petitions an affidavit of the person who circulated the petition, stating that it is ~~his~~ the person's belief that:

(a) it is signed by at least 50% of the qualified electors, as ~~herein~~ provided in this part, of the proposed new county or of the proposed portion ~~thereof~~ of a proposed county taken from each existing county, where the proposed new county is to be formed from portions of two or more existing counties;

(b) the signatures ~~affixed thereto~~ are genuine; and

(c) each ~~of such persons~~ so person signing was, at the date of ~~such~~ signing, a qualified elector of the proposed new county or of the portion ~~thereof~~ of the proposed county taken from an existing county.

(2) The clerk of the county receiving the petition shall check the names of all signers to verify that they are registered electors of the proposed territory to be taken from the county. In addition, the county clerk shall

randomly select signatures on each sheet or section of the petition and compare them with the signatures of the electors as they appear on the registration records of the office. If all of the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the registration records of the office."

**Section 267.** Section 7-2-2223, MCA, is amended to read:

**"7-2-2223. Procedure to complete creation of county.** (1) The board of county commissioners shall immediately file a copy of its resolution, authorized by 7-2-2222(1) and ~~du~~ certified, together with a legal description of the new boundaries of each affected county, in the office of the secretary of state. Ninety days after the date of ~~such~~ filing:

(a) the new county is considered to be fully created;

(b) the organization ~~thereof~~ of the new county is considered completed; and

(c) any new county officers, other than the county commissioners and the county clerk, are entitled to enter upon the duties of their respective offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties, as required by the laws of the state.

(2) The election administrator of the county with which the petition was filed ~~must~~ shall immediately make out and deliver to each of the individuals declared and designated to be elected a certificate of election authenticated by ~~his~~ the administrator's signature and the seal of the county. The individuals elected members of the board and the county clerk shall, immediately upon receiving their certificates of election, assume the duties of their respective offices."

**Section 268.** Section 7-2-2227, MCA, is amended to read:

**"7-2-2227. Qualification, oath of office, and bond.** (1) Each person elected or appointed to fill an office of ~~such~~ a new county under the provisions of this part shall qualify in the manner provided by law for ~~such~~ that officer, except as otherwise provided in this part, and shall enter upon the discharge of the duties of ~~his~~ the office within ~~such~~ the time ~~as herein~~ provided in this part after the receipt of the certificate of ~~his~~ election.

(2) Each of ~~such~~ the officers may take the oath of office before any officer authorized by the laws of Montana to administer oaths.

(3) The bond of any officer from which a bond is required ~~shall~~ must be approved by ~~any~~ a judge of the district court of the district to which ~~such~~ the new county is attached for judicial purposes."

**Section 269.** Section 7-2-2228, MCA, is amended to read:

**"7-2-2228. Judicial district for new county.** ~~Said A~~ new county, when created and organized in pursuance of the provisions of ~~pursuant to~~ this part, shall ~~must~~ be attached to ~~such the~~ judicial district ~~as may be~~ designated by the governor of Montana; in a proclamation ~~to be issued by him~~ designating ~~such the~~ new county as attached to the particular judicial district for judicial purposes."

**Section 270.** Section 7-2-2242, MCA, is amended to read:

**"7-2-2242. Conduct of business by commission.** (1) The commissioners provided for in 7-2-2241 shall, within 10 days after the notice of the appointment, meet at the county seat of the new county and organize by electing from their number a ~~chairman~~ presiding officer and also by electing a secretary, who ~~must~~ may not be a member of ~~said the~~ commission. Thereafter, ~~such the~~ commission may meet at ~~such a place or places as~~ that it may select. A majority of ~~such the~~ commissioners ~~shall constitute~~ constitutes a quorum for the transaction of business.

(2) (a) ~~Said The~~ commission ~~shall have power to~~ may compel by citation or subpoena, signed by ~~their president~~ its presiding officer and secretary, the attendance of ~~such~~ persons and the production of ~~such~~ books and papers before ~~said the~~ commission ~~as that~~ may be required in the performance of the duties imposed by this part, except that the official records of any county or counties from which ~~said the~~ new county was formed ~~shall~~ in no case may not be taken away from the county seat of ~~said the original~~ county.

(b) It ~~shall be~~ is the duty of the sheriff of any county to execute in ~~his~~ that county all lawful orders and citations of the ~~said~~ commission, and for ~~any the~~ services ~~so~~ performed, the sheriff ~~shall be~~ is allowed the same fees ~~as that~~ are allowed ~~to him~~ for services in civil actions.

(c) All witnesses attending before ~~said the~~ commission ~~shall be~~ are entitled to the same compensation and mileage ~~as that~~ is allowed to witnesses in courts of record. ~~No A~~ witness ~~shall~~ may not be excused from attendance at the time and place mentioned in ~~said the~~ order or citation by reason of the failure of the officer making ~~such the~~ service to tender to ~~such the~~ witness his fees and mileage in advance."

**Section 271.** Section 7-2-2255, MCA, is amended to read:

**"7-2-2255. Transfer of court files and actions.** (1) The files of all actions in the office of the clerk of the district court of the old county, whether reduced to judgment or pending, for the recovery of the possession of, quieting the title to, or the enforcement of liens upon real estate lying wholly in the new county or any other actions affecting real estate lying wholly in the new county ~~shall~~ must be delivered by the clerk of the district court

of the old county to the clerk of the district court of the new county to be kept and preserved by him as permanent files of ~~such the~~ new county, ~~to the end so~~ that only the minutes and other entries in books kept by the clerk of the district court need to be transcribed.

(2) All actions pending in the district court of the old county or counties for the recovery of the possession of quieting title to or the enforcement of liens upon real estate lying wholly in the new county or any other actions affecting real estate lying wholly in the new county ~~shall must, forthwith~~ upon the delivery of the files in ~~said action~~ to the clerk of the district court of the new county as provided in subsection (1), be transferred to the district court in which the new county may be attached for judicial purposes and ~~thereafter shall be~~ are subject to the same laws as if ~~said the~~ action had been originally brought in the district court of the new county."

**Section 272.** Section 7-2-2405, MCA, is amended to read:

**"7-2-2405. Certification of accuracy of transcription.** (1) When the transcript of ~~such the~~ records provided for ~~herein shall be~~ in this part are completed and approved by the county commissioners of ~~such the~~ county, they ~~shall must~~ be delivered to the county clerk and recorder of the county from which ~~such the~~ records were taken. It ~~shall be~~ is the duty of ~~such the~~ county clerk and recorder to compare the records ~~so~~ transcribed with the original records as the ~~same records~~ appear on the record books of the ~~said~~ original county. The county clerk and recorder to whom the transcript ~~shall be~~ is delivered for comparison shall certify under oath that the transcribed records are full, complete, and exact copies of the original records.

(2) The county clerk and recorder ~~shall be~~ is entitled to \$6 ~~per a~~ day for ~~his the~~ time actually spent in comparing the ~~said~~ records, to be paid out of the general fund of the county requiring ~~such the~~ comparison and certificate."

**Section 273.** Section 7-2-2411, MCA, is amended to read:

**"7-2-2411. Transfer of court actions affecting real property.** (1) In all counties created out of any other county wherever there has been an action or proceeding begun affecting any real property situated within ~~such the~~ new county, whether ~~such the~~ action has been prosecuted to judgment or not, upon a written motion being filed by any person or persons interested in ~~such the~~ real property ~~so~~ affected by ~~such the~~ action or proceeding requesting the transfer of the files and papers and records of ~~such the~~ action or proceeding to the office of the clerk of the district court of the new county ~~wherein such~~ in which the real property is situated, it ~~shall be~~ is the duty of the judge of the district court in which ~~said the~~ action or proceeding was originally begun to order that a transfer of all the files and papers of ~~such the~~ action or proceeding be made to the office of the clerk of the

district court of the new county in which ~~such~~ the real property is situated. When ~~such~~ an order of transfer is made, it ~~shall be~~ is the duty of the clerk of the district court ~~wherein such in which the~~ action or proceeding was originally instituted to transmit all of the files and papers in ~~such~~ the action or proceeding, together with a certified copy of all minutes of the court relating to ~~such~~ the action or proceeding, to the clerk of ~~such~~ the new county in which the real property, the subject matter of ~~such~~ the action or proceeding, is situated.

(2) ~~Said~~ The clerk of the district court of the new county in which ~~said~~ the property is situated shall, upon the receipt of ~~such~~ the files and papers and certified copies of the minutes of the court, file ~~said~~ the papers in ~~his~~ the clerk's office as transferred files from the original county and shall enter and transcribe upon ~~his~~ the clerk's records any final judgment or decree or order contained in ~~such~~ the files or papers or records ~~so~~ transferred.

(3) Upon the receipt and filing of the files and papers in any action or proceeding transferred to a new county in accordance with the provisions of this section, the district court of ~~such~~ the new county in which ~~such~~ the files and papers ~~shall have been transferred shall have~~ has the same jurisdiction with reference to ~~said~~ the real property for the enforcement of any decree, judgment, or order that may have been entered ~~therein~~ or for ~~such~~ other proceedings ~~as that~~ may be necessary in ~~such~~ the action or proceeding as the district court had in the county ~~wherein such in which the~~ action or proceeding was originally begun."

**Section 274.** Section 7-2-2412, MCA, is amended to read:

**"7-2-2412. Fees for transfer of court records.** (1) The clerk of the district court ~~wherein such in which~~ an action or proceeding was originally begun ~~shall be~~ is entitled to receive, for transferring ~~such~~ the files, ~~and~~ papers, and certified copies of the minutes and records entered in connection with ~~such~~ the action or proceeding, ~~no other~~ only a fee ~~than~~ at the rate of 20 cents per folio for copies of minutes ~~made by him~~ and 50 cents for a certificate fee.

(2) The clerk of the district court of the new county to which ~~such~~ files and papers may be transferred in accordance with the provisions of 7-2-2411 ~~shall is~~ is not ~~be~~ entitled to any fees for the filing of ~~such~~ the transferred records, but for the filing of any papers that may be filed ~~thereafter~~ after the transfer in connection with ~~such~~ an action or proceeding or for the issuance of any writs or other papers, ~~such~~ the clerk ~~shall be~~ is entitled to charge the same fees as ~~now~~ provided by law."

**Section 275.** Section 7-2-2423, MCA, is amended to read:

**"7-2-2423. Correction of jury lists for old counties.** The clerk or clerks of the district court of the county or counties from which ~~such~~ the new county has been created shall, after the creation of ~~such~~ the new

county, remove from the list of jurors and jury boxes of ~~his or their~~ the clerk's county or counties the names of all persons upon the list ~~which that~~ may have been filed with ~~him or them~~ the clerk by the jury commission who may appear to ~~him or them~~ the clerk to be residents of the new county and ~~so~~ certified by ~~him~~ the clerk as ~~aforsaid~~ provided in 7-2-2422."

**Section 276.** Section 7-2-2502, MCA, is amended to read:

**"7-2-2502. Petition to change county name.** (1) Petitions for change of names must be heard and determined by the district court of the county whose name is sought to be changed.

(2) A petition for the change of the name, ~~designation, appellation, cognomen, or title~~ of any county in this state must be signed by a number of the legal voters who are taxpayers in ~~such~~ the county equal, at least, to 25% of the whole number of votes cast for the office of governor of Montana in ~~such~~ the county at the gubernatorial election ~~next~~ preceding the circulation of ~~such~~ the petition. The signatures, in each instance, must be the genuine personal signature of the voter attaching ~~his~~ the voter's name to the petition. The petition must specify the present name of the county, the name proposed, and the reason or reasons for ~~such~~ the change of name and must be entitled in and addressed to the appropriate district court."

**Section 277.** Section 7-2-2503, MCA, is amended to read:

**"7-2-2503. Form of petition.** (1) ~~The following shall be substantially~~ the form of petition for any change of name of a county, as provided in this part, must be substantially as follows:

In the district court of the .... judicial district of the state of Montana, in and for the county of .....

Petition for the change of the name of ..... County

To the honorable district court of the .... judicial district of the state of Montana, in and for the county of .....

We, the undersigned legal voters of the county of ....., state of Montana, respectfully petition the honorable district court ~~aforsaid~~ that the name of .... County, Montana, be changed to the name of .... County, Montana.

The reasons for the proposed change of name ~~as aforsaid~~ are as follows (here set out reasons):

We further petition this honorable court to appoint a time for the hearing of this petition and of ~~such~~ objections ~~thereto as to this petition that~~ may be filed before ~~such that~~ date.

Each voter whose signature is ~~hereby~~ affixed ~~hereby~~ certifies that ~~he~~ the voter has personally signed this petition and that the residence, post-office address, and voting precinct of ~~such~~ the signer are correctly written after ~~his~~ the signature ~~appearing hereon.~~



Name	Residence	P.O. Address	Voting Precinct
------	-----------	--------------	-----------------

.....

Numbered lines for names.

(2) ~~Every such~~ Each sheet for ~~petitioner's signature shall~~ petitioners' signatures must be attached to a full and correct copy of the petition, and ~~such the~~ petition may be filed with the clerk of the district court ~~aforsaid~~ in sections for convenience in handling."

**Section 278.** Section 7-2-2504, MCA, is amended to read:

**"7-2-2504. Verification of petition signatures -- county clerk's certification.** (1) The county clerk of the county in which ~~said the~~ petition ~~shall~~ provided for in 7-2-2503 must be signed shall compare the signatures of the voters signing the ~~same~~ petition with their signatures on the registration books and blanks on file in ~~his~~ the clerk's office for the preceding general election. The county clerk ~~shall~~ may not retain in ~~his possession any such~~ a petition or any part ~~thereof of a~~ petition for a longer period than 2 days for the first 200 signatures ~~thereon~~ and 1 additional day for each 200 additional signatures or fraction ~~thereof of that number~~ on the sheets presented to ~~him~~ the clerk. At the expiration of ~~such that~~ time, ~~he~~ the clerk shall file the ~~same~~ petition with the clerk of the ~~aforsaid~~ district court, with ~~his~~ the county clerk's certificate attached ~~thereto to the~~ petition as provided in subsection (2).

(2) After comparing the signatures, the county clerk shall attach to the sheets of ~~said the~~ petition containing ~~such the~~ signatures, ~~his~~ a certificate to the ~~aforsaid~~ district court, substantially as follows:

State of Montana, County of ....

To the honorable district court of the .... judicial district of the state of Montana, in and for the county of .....

I, ....., county clerk of the county of ....., ~~hereto~~ hereby certify that I have compared the signatures on (number of sheets) of the petition for change of name attached ~~hereto~~ with the signatures of ~~said~~ voters as they appear on the registration books and blanks in my office; ~~and~~ I believe that the signatures of (names of signers), numbering (number of genuine signatures), are genuine. I further certify that the number of genuine signatures ~~hereto~~ attached equals at least 25% of the whole number of votes cast for the office of governor of Montana in ~~said the~~ county at the gubernatorial election ~~next~~ preceding the circulation of this petition.

....., County Clerk

(Seal)

By ....

Deputy ....

(3) The forms ~~herein given in this section~~ are not mandatory, and if substantially followed in any petition, it ~~shall be~~ is sufficient, disregarding clerical and merely technical errors."

**Section 279.** Section 7-2-2603, MCA, is amended to read:

**"7-2-2603. Withdrawal of name from petition.** At any time on or before the date fixed for the hearing, any person having signed the original petition for the removal of the county seat may file a statement in writing with the county clerk that ~~he~~ the person desires to have ~~his~~ the person's name withdrawn from ~~such~~ the petition, provided that not more than one withdrawal ~~shall~~ may be permitted by the same person."

**Section 280.** Section 7-2-2702, MCA, is amended to read:

**"7-2-2702. Petition for abandonment of county.** (1) A petition may be filed with the county clerk of a county asking that the question of abandoning and abolishing the organization and corporate existence of the county and attaching its territory to and making the ~~same territory~~ a part of some adjoining county be submitted to the qualified electors of the county at an election. The petition ~~shall~~ must state the name of the adjoining county to which the territory of the county to be abandoned and abolished ~~shall~~ will be attached and made a part.

(2) The petition ~~shall~~ must be signed by not less than 35% of the qualified electors of the county whose names appear upon the registration records of ~~such~~ the county, ~~shall~~ must contain the post-office address and voting precinct of each individual signing it, and ~~shall~~ must state the name and address of three individuals to whom notice of the insufficiency of the petition ~~shall~~ must be sent ~~in the event that if~~ the petition does not have the required number of signatures of registered electors ~~signed thereto~~. ~~No~~ A person, after signing ~~any~~ such the petition, ~~shall~~ may not be allowed or permitted to withdraw ~~his~~ the person's signature or name ~~therefrom~~ from the petition."

**Section 281.** Section 7-2-2703, MCA, is amended to read:

**"7-2-2703. Processing of petition -- certification to county commissioners.** (1) It ~~shall be~~ is the duty of the election administrator, within 30 days after the filing of the petition, to examine it and to ascertain and determine from the registration records of the county whether the petition is signed by the required number of registered electors. The election administrator may be authorized by the board of county commissioners to employ additional help in ~~his~~ the administrator's office to assist ~~him~~ in the work of examining the petition, and the board shall provide for their compensation.

(2) When the examination is completed, the election administrator shall ~~forthwith~~ attach to the petition

his the administrator's certificate, properly dated and signed, showing the result of his the examination. If the certificate shows that the petition is signed by the required number of registered electors, the election administrator shall ~~immediately~~ present the petition to the board ~~if the board is then in session; otherwise,~~ at its first regular meeting after the date of the certificate."

**Section 282.** Section 7-2-2705, MCA, is amended to read:

**"7-2-2705. Petition to amend proposed consolidation.** (1) At any time prior to 5 days before the date fixed for consideration and final action on ~~such the~~ petition, 50% of the registered electors residing within a particular part or portion of ~~such the~~ county may file with the county clerk of ~~such the~~ county a petition in writing, signed by them, ~~praying asking~~ that the part or portion of ~~such the~~ county within which ~~such the~~ petitioners reside ~~shall~~ not be attached to the county designated in the petition for abandonment but ~~shall~~ be attached to some other adjoining county. ~~No A~~ person, after signing ~~any such the~~ petition, ~~shall~~ may not be allowed or permitted to withdraw ~~his the person's~~ signature or name ~~therefrom~~ from the petition.

(2) The petition authorized by subsection (1) ~~shall~~ must definitely, particularly, and accurately describe the boundaries of ~~such the~~ part or portion of ~~said the~~ county ~~which said that the~~ petitioners desire to be attached to ~~such the~~ other adjoining county and ~~shall~~ must specify and name ~~such the~~ other adjoining county to which ~~such the~~ part or portion is to be attached if ~~said the~~ county is abandoned and abolished.

(3) Separate and independent petitions may be filed by registered electors residing within the boundaries of separate and distinct and different parts or portions of ~~such the~~ county, ~~praying asking~~ that, if ~~said the~~ county is abandoned, the territory embraced within the boundaries described ~~therein in the petition~~ may be attached to and become parts of the same or different adjoining counties other than the county named and designated in the petition for abandonment."

**Section 283.** Section 7-2-2706, MCA, is amended to read:

**"7-2-2706. Processing of petition to amend proposed consolidation -- certification to county commissioners.** Whenever any petition is filed under 7-2-2705, the election administrator shall immediately examine the ~~same~~ petition and determine from the registration records of the county whether the petition has been signed by the required number of registered electors and shall attach ~~thereto his~~ to the petition the administrator's certificate showing the total number of registered electors residing within the boundaries described in the petition and the number ~~thereof~~ of registered electors whose names appear on ~~said the~~ petition and shall deliver the petition, with the certificate attached, to the board of county commissioners when the board meets to

consider and take final action on the petition for abandonment."

**Section 284.** Section 7-2-2712, MCA, is amended to read:

**"7-2-2712. Canvass of returns -- proclamation of results.** (1) The board of county commissioners of each county, acting as a canvassing board, ~~must~~ shall, within 10 days after the ~~holding of the~~ election, canvass the returns of the election. Within 5 days ~~thereafter~~ after the canvass, the election administrator of each county ~~must~~ shall make and enter in the records of the board a statement of the vote in the county and transmit to the secretary of state, by ~~registered or~~ certified mail, an abstract ~~thereof~~ of the vote, which ~~shall~~ must be marked "election returns".

(2) Within 10 days after receiving the abstracts from all counties in which the election was held and on notice from the secretary of state, the board of state canvassers shall meet and canvass, compute, and determine the vote. The secretary of state, as secretary of the board, ~~must~~ shall make and file in ~~his~~ the secretary of state's office a statement of ~~it~~ the canvass and transmit a copy ~~thereof~~ of the canvass to the governor.

(3) Upon receipt of the copy, the governor shall issue a proclamation declaring the result of the election and shall file a copy of the proclamation in the office of the secretary of state and transmit a copy of the proclamation to the county clerk of each of the counties in which ~~such~~ the election was held. Each county clerk shall file the ~~same~~ proclamation in ~~his~~ the clerk's office and present the ~~same~~ proclamation to the board of county commissioners of ~~his~~ that county ~~if the board is then in session; otherwise,~~ at the first meeting of the board after the copy has been received by the clerk."

**Section 285.** Section 7-2-2750, MCA, is amended to read:

**"7-2-2750. Procedure to collect and transmit taxes when several counties involved.** (1) Whenever any levy is made under the provisions of 7-2-2745 through 7-2-2749, the county clerk of the county in which the board of county commissioners makes ~~such~~ the levy shall immediately certify ~~such~~ the levy to the county clerk of each other county to which any part of the territory of the abandoned county has been attached.

(2) (a) The county clerk of each ~~such~~ other county shall compute and extend the taxes against the property within the portion of the abandoned county ~~which~~ that has been attached to ~~his~~ the clerk's county, and the treasurer of ~~such~~ that county shall collect the ~~same~~ taxes at the same time and in the same manner that other taxes are collected by ~~said~~ the county treasurer.

(b) Each ~~such~~ county treasurer shall, at least twice each year, once during the second week in December and once during the second week in June, transmit the amount of all ~~such~~ taxes paid to and collected

by him and then in his hands as the county treasurer to the treasurer of the county in which the board made ~~such~~ the tax levy."

**Section 286.** Section 7-2-2756, MCA, is amended to read:

**"7-2-2756. Sale of acquired real property.** (1) ~~No real~~ Real estate may not be sold by the board of county commissioners unless the property has been appraised within 1 year immediately prior to the date of sale by three taxpayers who reside within the territory of the abandoned and abolished county and who were appointed by the judge of the district court to which the county is attached, on petition of the board of ~~such~~ that county. ~~Every~~ Each sale of real estate ~~shall~~ must be made at public sale, and notice ~~shall~~ must be published as provided in 7-1-2121. ~~No such~~ The real estate ~~shall~~ may not be sold for a price less than 90% of the appraised value thereof.

(2) The full purchase price of any real estate ~~so~~ sold ~~shall~~ may not be required to be made in one payment; ~~but the~~ The purchaser thereof may pay the ~~same~~ price in four installments, the first of which ~~shall~~ must be not less than 25% of the purchase price, to be paid at the time of purchase, with the remainder to be paid in three equal annual installments with interest ~~thereon~~ at not less than 5% ~~per annum~~ a year. Whenever the purchase price of any real estate is to be paid in installments, the board shall enter into a contract with the purchaser thereof, and ~~such~~ the contract ~~shall~~ must be recorded in the office of the county clerk. When payment in full has been made for real estate, the ~~chairman~~ presiding officer of the board shall execute and deliver the proper bill of sale or deed to the purchaser or ~~his~~ the purchaser's successor in interest.

(3) All real estate sold, with any improvements ~~thereon~~ on the real estate, ~~shall be~~ is subject to assessment and taxation annually to the purchaser or ~~his~~ the purchaser's successor in interest at a value equal to the amount paid on the purchase price thereof until the purchase price is fully paid, when ~~such~~ the real estate ~~shall~~ must be assessed at its full cash value. Any ~~and all~~ improvements placed on any ~~such~~ real estate after its purchase ~~shall be~~ are subject to assessment and taxation at the full cash value ~~thereof~~ of the improvements."

**Section 287.** Section 7-2-2757, MCA, is amended to read:

**"7-2-2757. Sale of acquired personal property.** (1) ~~No personal~~ Personal property having a value in excess of \$100 may not be sold unless it has been appraised within 1 year immediately prior to the date of sale by three taxpayers who reside within the territory of the abandoned and abolished county and who were appointed by the judge of the district court to which the county succeeding to the ownership of the property is attached, on petition of the board of county commissioners thereof. ~~No~~ A sale of any personal property ~~may~~ must

be made ~~except~~ at public sale after notice ~~or~~ and for a price not less than 90% of the appraised value.

(2) Whenever the purchase price of any real estate is to be paid in installments, the board shall enter into a contract with the purchaser ~~thereof~~, and ~~such the~~ contract ~~shall~~ must be recorded in the office of the county clerk. When payment in full has been made for any personal property, the ~~chairman~~ presiding officer of the board shall execute and deliver the proper bill of sale or deed to the purchaser or ~~his~~ the purchaser's successor in interest."

**Section 288.** Section 7-2-4107, MCA, is amended to read:

**"7-2-4107. Officers elected at first election.** (1) At ~~such the~~ election provided for in 7-2-4106, there must be elected:

(a) in a city of the first class, a mayor, a city judge, a city attorney, a city treasurer, a city marshal, and two ~~aldermen~~ city council members from each ward into which the city ~~may be~~ is divided;

(b) in a city of the second class, a mayor, a city judge, a city treasurer, a city marshal, and two ~~aldermen~~ city council members from each ward;

(c) in a town, a mayor and two ~~aldermen~~ city council members from each ward.

(2) Those elected hold office until the first Monday of January after the first annual election and until their successors are elected and qualified. The persons ~~so~~ elected ~~must~~ shall qualify in the manner prescribed by law for county officers."

**Section 289.** Section 7-2-4807, MCA, is amended to read:

**"7-2-4807. Hearing on question of exclusion -- resolution of exclusion.** (1) The clerk shall, at the next regular meeting of the city or town council after expiration of the 20 days, ~~lay before the same~~ provide the council with all written communications ~~in writing so~~ received by ~~him~~ the clerk for its consideration, ~~and if~~ If after considering the ~~same communications~~, ~~such the~~ council ~~shall~~ duly and regularly pass and adopt adopts a resolution to that effect, the boundaries of ~~such the~~ city or town ~~shall~~ must be altered ~~so as~~ to exclude the territory described in ~~said the~~ petition. ~~Said~~ The resolution ~~shall~~ must also describe the streets, avenues, alleys, and public places in ~~said the~~ excluded territory ~~which that~~ are to be vacated and abandoned.

(2) ~~Said~~ The resolution ~~shall become~~ becomes effective 30 days after its passage and approval, and ~~thereafter~~ the boundary of ~~said the~~ city or town ~~shall be~~ is as set forth in ~~said the~~ resolution.

(3) ~~Such~~ The resolution ~~shall~~ may not be finally adopted by ~~such the~~ council after written disapproval by a majority of the owners in value of the territory proposed to be excluded or after written disapproval or protest

by a majority of the owners in value of property within the corporate limits of ~~said~~ the city or town immediately adjacent and contiguous to the territory sought to be excluded."

**Section 290.** Section 7-2-4913, MCA, is amended to read:

**"7-2-4913. Release of public property to county commissioners.** Except as provided in 7-2-4914, upon the disincorporation of a city or town, ~~every~~ each public officer of the city shall immediately turn over all public property of every nature and description in ~~his~~ the officer's possession to the board of county commissioners of the county in which the city or town is situated."

**Section 291.** Section 7-3-102, MCA, is amended to read:

**"7-3-102. Adoption of alternative form.** Each local government in the state shall adopt one of the alternative forms of government provided for in parts 1 through 7, including one of each suboption authorized:

- (1) the commission-executive form (which may also be called the council-executive, the council-mayor, or the commission-mayor form);
- (2) the commission-manager form (which may also be called the council-manager form);
- (3) the commission form;
- (4) the ~~commission-chairman~~ commission-presiding officer form;
- (5) the town meeting form; or
- (6) the charter form."

**Section 292.** Section 7-3-151, MCA, is amended to read:

**"7-3-151. Treatment of suboptions for alternative forms.** (1) ~~No~~ A petition recommendation may not involve more than three separate suboptions, and ~~no~~ a suboption may not contain more than two alternatives. If a suboption is submitted to the voters, only the ballot alternatives within that suboption receiving the highest number of affirmative votes are considered approved and included in the alternative form of government. If the alternative form of government fails, a suboption is of no effect.

(2) A proposed plan ~~shall~~ must be submitted to the voters as a single question, except that the suboptions within the alternative plan of local government authorized in Title 7, chapter 3, parts 1 through 6, and the suboptions authorized in a charter may be submitted to the electors as separate questions. The question of adopting a suboption ~~shall~~ must be submitted to the electors in substantially the following form:

Vote for one:

A legal officer (who may be called the "county attorney"):

- ~~Shall~~ Must be elected for a term of 4 years.
- ~~Shall~~ Must be appointed for a term of 4 years by the ~~chairman~~ presiding officer of the local governing body."

**Section 293.** Section 7-3-179, MCA, is amended to read:

**"7-3-179. Organization of commission.** (1) Not later than 10 days after all members of the study commission have been elected or appointed, the study commission shall meet and organize at a time set by the ~~chairman~~ presiding officer of the governing body of the local government ~~which~~ that the study commission is to examine.

(2) At the first meeting of the study commission, the study commission may elect a temporary ~~chairman~~ presiding officer, who will serve until a permanent ~~chairman~~ presiding officer is selected."

**Section 294.** Section 7-3-183, MCA, is amended to read:

**"7-3-183. Commission powers.** (1) A study commission may employ and fix the compensation and duties of necessary staff. State, municipal, and county officers and employees, at the request of the study commission and with the consent of the employing agency, may be granted leave with or without pay from their agency to serve as consultants to the study commission. If leave with pay is granted, they may receive no other compensation from the study commission except mileage and per diem.

(2) A study commission may contract and cooperate with other agencies, public or private, ~~as~~ that it considers necessary for assistance in carrying out the purposes for which the commission was established. Upon request of the ~~chairman~~ presiding officer of the study commission, state agencies, counties, and other local governments and the officers and employees ~~thereof~~ of those entities shall furnish or make available to the commission ~~such~~ information ~~as~~ that may be necessary for carrying out the commission's function.

(3) A study commission may:

- (a) establish advisory boards and committees, including on them persons who are not members of the study commission;
- (b) retain consultants; and
- (c) do any other act consistent with and reasonably required to perform its function."

**Section 295.** Section 7-3-193, MCA, is amended to read:



**"7-3-193. Application of other sections.** (1) Except as provided in subsection (2), 7-3-122 and 7-3-152 through 7-3-161 apply to the adoption of an alternative plan of government upon recommendation by a study commission.

(2) (a) The ~~chairman~~ presiding officer of the study commission and not the ~~chairman~~ presiding officer of the governing body shall certify documents under 7-3-153.

(b) The study commission and not the governing body shall prepare an advisory plan for orderly transition to a new plan of local government under 7-3-157.

(c) A study commission plan may provide for existing elected officers under 7-3-158(3)."

**Section 296.** Section 7-3-203, MCA, is amended to read:

**"7-3-203. Duties of executive.** The executive shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform duties required ~~of him~~ by law, ordinance, or resolution;
- (3) administer affairs of the local government;
- (4) carry out policies established by the commission;
- (5) recommend measures to the commission;
- (6) report to the commission on the affairs and financial condition of the local government;
- (7) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
- (8) report to the commission as the commission may require;
- (9) attend commission meetings and may take part in discussions;
- (10) execute the budget adopted by the commission; and
- (11) appoint, with the consent of the commission, all members of boards; except the executive may appoint without the consent of the commission temporary advisory committees established by the executive."

**Section 297.** Section 7-3-212, MCA, is amended to read:

**"7-3-212. Administrative assistants.** The executive:

- (1) shall appoint one or more administrative assistants to assist ~~him~~ in the supervision and operation of the local government, and ~~such the~~ administrative assistants ~~shall be~~ are answerable solely to the executive; or
- (2) may appoint one or more administrative assistants to assist ~~him~~ in the supervision and operation of the local government, and ~~such the~~ administrative assistants ~~shall be~~ are answerable solely to the executive."

**Section 298.** Section 7-3-220, MCA, is amended to read:

**"7-3-220. Chairman Presiding officer of commission.** The commission ~~shall~~ must have a ~~chairman~~ presiding officer who ~~shall~~ must be:

- (1) elected by the members of the commission from their own number for a term established by ordinance; or
- (2) selected as provided by ordinance."

**Section 299.** Section 7-3-221, MCA, is amended to read:

**"7-3-221. Presiding officer of commission.** The presiding officer of the commission ~~shall be:~~

- (1) ~~the chairman of the commission, who~~ may vote as other members of the commission;
- (2) is the executive, who may vote as the commissioners;
- (3) is the executive, who shall decide all tie votes of the commission but ~~shall~~ may not have ~~no other~~ another vote (the ~~chairman~~ presiding officer of the commission shall preside if the executive is absent); or
- (4) is the executive; but ~~he~~ may not vote."

**Section 300.** Section 7-3-301, MCA, is amended to read:

**"7-3-301. Commission-manager form.** The commission-manager form<sub>1</sub> (which may be called the council-manager form)<sub>1</sub> consists of an elected commission<sub>1</sub> (which may be called the council)<sub>1</sub> and a manager appointed by the commission, who ~~shall be~~ is the chief administrative officer of the local government. The manager ~~shall be~~ is responsible to the commission for the administration of all local government affairs placed in his the manager's charge by law, ordinance, or resolution."

**Section 301.** Section 7-3-304, MCA, is amended to read:

**"7-3-304. Duties of manager.** The manager shall:

- (1) enforce laws, ordinances, and resolutions;
- (2) perform the duties required ~~of him~~ by law, ordinance, or resolution;
- (3) administer the affairs of the local government;
- (4) direct, supervise, and administer all departments, agencies, and offices of the local government unit except as otherwise provided by law or ordinance;
- (5) carry out policies established by the commission;
- (6) prepare the commission agenda;

- (7) recommend measures to the commission;
- (8) report to the commission on the affairs and financial condition of the local government;
- (9) execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;
- (10) report to the commission as the commission may require;
- (11) attend commission meetings and may take part in the discussion; but ~~he~~ may not vote;
- (12) prepare and present the budget to the commission for its approval and execute the budget adopted by the commission;
- (13) appoint, suspend, and remove all employees of the local government except as otherwise provided by law or ordinance;
- (14) appoint members of temporary advisory committees established by the manager."

**Section 302.** Section 7-3-305, MCA, is amended to read:

**"7-3-305. Employees of commission-manager government.** (1) Employees appointed by the manager and ~~his~~ the manager's subordinates ~~shall~~ must be administratively responsible to the manager.

(2) Neither the commission nor any of its members may dictate the appointment or removal of any employee whom the manager or any of ~~his~~ the manager's subordinates are empowered to appoint.

(3) Except for the purpose of inquiry or investigation under this title, the commission or its members shall deal with the local government employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members may give orders to ~~any such~~ the employee, either publicly or privately."

**Section 303.** Section 7-3-312, MCA, is amended to read:

**"7-3-312. Appointment to boards.** All members of boards, other than temporary advisory committees established by the manager, ~~shall~~ must be appointed by:

- (1) the ~~chairman~~ presiding officer with the consent of the commission; ~~or~~
- (2) the manager with the consent of the commission; or
- (3) the commission."

**Section 304.** Section 7-3-315, MCA, is amended to read:

**"7-3-315. ~~Chairman~~ Presiding officer of commission.** The ~~chairman~~ presiding officer of the

commission ~~shall~~ must be:

- (1) elected by the members of the commission from their own number for a term established by ordinance;
- (2) elected by the qualified electors for a term of office; or
- (3) selected as provided by ordinance."

**Section 305.** Section 7-3-403, MCA, is amended to read:

**"7-3-403. Role of chairman presiding officer of commission.** The ~~chairman~~ presiding officer of the commission, ~~who may be referred to as the mayor,~~ ~~shall be the presiding officer of the commission.~~ All members of boards and committees ~~shall~~ must be appointed by the ~~chairman~~ presiding officer with the consent of the commission. The ~~chairman~~ presiding officer ~~must~~ be recognized as the head of the local government unit and may vote as other members of the commission."

**Section 306.** Section 7-3-414, MCA, is amended to read:

**"7-3-414. Chairman Presiding officer of commission.** The ~~chairman~~ presiding officer of the commission ~~shall~~ must be:

- (1) elected by the members of the commission from their own number for a term established by ordinance;
- (2) selected as provided by ordinance; or
- (3) elected directly by the voters for a term established by ordinance."

**Section 307.** Section 7-3-432, MCA, is amended to read:

**"7-3-432. Legal officer.** A legal officer, ~~{~~ ~~who may be called the county attorney}~~:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 308.** Section 7-3-433, MCA, is amended to read:

**"7-3-433. Law enforcement officer.** A law enforcement officer, (who may be called the sheriff):

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 309.** Section 7-3-434, MCA, is amended to read:

**"7-3-434. Clerk and recorder.** A clerk and recorder:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 310.** Section 7-3-435, MCA, is amended to read:

**"7-3-435. Clerk of district court.** A clerk of district court:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 311.** Section 7-3-436, MCA, is amended to read:

**"7-3-436. Treasurer.** A treasurer:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;

- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 312.** Section 7-3-437, MCA, is amended to read:

**"7-3-437. Surveyor.** A surveyor:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 313.** Section 7-3-438, MCA, is amended to read:

**"7-3-438. Superintendent of schools.** A superintendent of schools:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 314.** Section 7-3-439, MCA, is amended to read:

**"7-3-439. Assessor.** An assessor:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 315.** Section 7-3-440, MCA, is amended to read:

**"7-3-440. Coroner.** A coroner:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 316.** Section 7-3-441, MCA, is amended to read:

**"7-3-441. Public administrator.** A public administrator:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 317.** Section 7-3-442, MCA, is amended to read:

**"7-3-442. Auditor.** An auditor:

- (1) ~~shall~~ may be elected;
- (2) ~~shall~~ may be appointed by the local government commission;
- (3) ~~shall~~ may be appointed by the ~~chairman~~ presiding officer of the local government commission;
- (4) ~~shall~~ may be selected as provided by ordinance;
- (5) may at the discretion of the commission be selected as provided by ordinance; or
- (6) ~~shall~~ may not be included in this form as a separate office."

**Section 318.** Section 7-3-501, MCA, is amended to read:

**"7-3-501. ~~Commission-chairman~~ Commission-presiding officer form.** The ~~commission-chairman~~ commission-presiding officer form consists of an elected commission, ~~(which may also be referred to as the council),~~ and a commission ~~chairman~~ presiding officer, ~~(who may also be referred to as mayor or as president),~~

elected by the members of the commission from their own number and serving at the pleasure of the commission."

**Section 319.** Section 7-3-503, MCA, is amended to read:

**"7-3-503. Role and duties of chairman presiding officer.** The commission ~~chairman shall~~ presiding officer:

(1) ~~be the presiding officer of the commission,~~ must be recognized as the head of the local government unit, must have the power to vote as other members of the commission, and must be the chief executive officer of the local government; ~~and~~

(2) shall enforce laws, ordinances, and resolutions;

(3) shall perform duties required ~~of him~~ by law, ordinance, or resolution;

(4) shall administer the affairs of the local government;

(5) shall direct, supervise, and administer all departments, agencies, and offices of the local government except as otherwise provided by law or ordinance;

(6) shall carry out policies established by the commission;

(7) shall prepare the commission agenda;

(8) shall recommend measures to the commission;

(9) shall report to the commission on the affairs and financial condition of the local government;

(10) shall execute bonds, notes, contracts, and written obligations of the commission, subject to the approval of the commission;

(11) shall report to the commission as the commission may require;

(12) shall attend commission meetings and may take part in discussions;

(13) shall execute the budget adopted by the commission;

(14) shall appoint, with the consent of the commission, all members of boards and committees; ~~except~~ However, the chairman presiding officer may appoint without the consent of the commission temporary advisory committees established by the chairman;

(15) shall appoint, with the consent of a majority of the commission, all department heads, and the ~~chairman presiding officer~~ may remove department heads and may appoint and remove all other employees;

(16) shall prepare the budget and present it to the commission for adoption; and

(17) shall exercise control and supervision over the administration of departments and boards."



**Section 320.** Section 7-3-514, MCA, is amended to read:

**"7-3-514. Administrative assistants.** The commission ~~chairman~~ presiding officer:

(1) shall appoint one or more administrative assistants to assist ~~him~~ in the supervision and operation of the local government, and ~~such the~~ administrative assistants ~~shall be~~ are answerable solely to the ~~chairman~~ presiding officer; or

(2) may appoint one or more administrative assistants to assist ~~him~~ in the supervision and operation of the local government, and ~~such the~~ administrative assistants ~~shall be~~ are answerable solely to the ~~chairman~~ presiding officer."

**Section 321.** Section 7-3-601, MCA, is amended to read:

**"7-3-601. Town meeting form.** (1) The town meeting form consists of an assembly of the qualified electors of a town, ~~(known as a town meeting)~~ "town meeting", an elected town ~~chairman~~ presiding officer, who ~~shall must~~ be a qualified elector, and an optional elected town meeting moderator.

(2) The town meeting form may be adopted only by incorporated cities of less than 2,000 persons and incorporated towns of less than 2,000 persons, as determined by the most recent decennial census as conducted by the United States bureau of the census unless a more recent enumeration of inhabitants ~~be is~~ made by the state, in which case ~~such that~~ enumeration ~~shall must~~ be used for the purposes of this part. ~~Any A~~ unit of local government ~~which that~~ adopts this form may retain it even though its population increases to more than 2,000.

(3) All legislative powers of the town ~~shall~~ vest in the town meeting. The town meeting may enact rules, resolutions, and ordinances."

**Section 322.** Section 7-3-603, MCA, is amended to read:

**"7-3-603. Holding of town meeting.** (1) Towns adopting this form shall convene an annual town meeting on the first Tuesday of March. Special town meetings may be called by the town ~~chairman~~ presiding officer or upon petition of 10% of the qualified electors of the town, but ~~in no case~~ not by less than 10 qualified electors.

(2) All qualified electors of the town may attend the town meeting, take part in the discussion, and vote on all matters coming before the town meeting. Others may attend but ~~shall may~~ not vote or take part in the discussion except by a majority vote of the town meeting.

(3) A quorum ~~shall consist~~ consists of at least 10% of the qualified electors of the town, but a higher quorum requirement may be established by a majority vote of the town meeting.

(4) The election of town officials ~~shall~~ must be nonpartisan and ~~shall~~ must be by a plurality of those qualified electors present and voting. All other voting in the town meeting ~~shall~~ must be by a simple majority of those qualified electors present and voting.

(5) Election of officials ~~shall~~ must be by secret ballot. Other voting ~~shall~~ must be by secret ballot upon the request of at least five members of the town meeting."

**Section 323.** Section 7-3-605, MCA, is amended to read:

**"7-3-605. Agenda and conduct of initial town meeting.** The first agenda of the first town meeting following the adoption of this form ~~shall~~ must be established by the local study commission. At that town meeting the ~~chairman~~ presiding officer of the local study commission shall preside over the election of the presiding officer of the town, after which the presiding officer of the town shall preside."

**Section 324.** Section 7-3-606, MCA, is amended to read:

**"7-3-606. Selection, role, and duties of town chairman presiding officer.** (1) The town meeting shall elect a town ~~chairman~~ presiding officer for a term of not less than 1 year or more than 2 years. An unexpired term of a town ~~chairman~~ presiding officer ~~shall~~ must be filled at the next annual or special town meeting.

(2) The town ~~chairman~~ presiding officer is the chief executive officer of the town; and ~~he~~ shall:

- (a) enforce laws, ordinances, and resolutions;
- (b) perform duties required ~~of him~~ by law, ordinance, or resolution;
- (c) administer the affairs of the town;
- (d) prepare the town meeting agenda;
- (e) attend all annual and special town meetings;
- (f) recommend measures to the town meeting;
- (g) report to the town on the affairs and financial condition of the town;
- (h) execute bonds, notes, contracts, and written obligations of the town, subject to the approval of the town;
- (i) appoint, with the consent of the town meeting, members of all boards and appoint and remove all employees of the town;
- (j) prepare the budget and present it to the town meeting for adoption;
- (k) exercise control and supervision of the administration of all departments and boards; and
- (l) carry out policies established by the town meeting.

(3) Compensation of the town ~~chairman shall~~ presiding officer must be established by ordinance but ~~shall~~ may not be reduced during the current term of the town ~~chairman~~ presiding officer."

**Section 325.** Section 7-3-607, MCA, is amended to read:

**"7-3-607. Committees.** Permanent committees to advise the town ~~chairman and/or~~ presiding officer or the town meeting may be established and dissolved by ordinance. The town ~~chairman~~ presiding officer may establish temporary committees to advise ~~him~~ the presiding officer."

**Section 326.** Section 7-3-612, MCA, is amended to read:

**"7-3-612. Town meeting moderator.** The town meeting shall:

(1) elect a town meeting moderator for a term of 1 year, who ~~shall be~~ is the presiding officer of all annual and special town meetings but who ~~shall~~ does not have ~~no~~ other governmental powers; or

(2) designate the town ~~chairman~~ presiding officer as presiding officer of all annual and special town meetings."

**Section 327.** Section 7-3-613, MCA, is amended to read:

**"7-3-613. Administrative assistant.** (1) The town ~~chairman~~ presiding officer:

(a) shall appoint an administrative assistant to assist ~~him~~ in the supervision and operation of the affairs of the town; or

(b) may appoint an administrative assistant to assist ~~him~~ in the supervision and operation of the affairs of the town.

(2) The administrative assistant ~~shall be~~ is answerable solely to the town ~~chairman~~ presiding officer, and the town ~~chairman~~ presiding officer may delegate powers to the administrative assistant ~~at his discretion~~."

**Section 328.** Section 7-3-705, MCA, is amended to read:

**"7-3-705. Officials and personnel.** (1) The charter ~~shall~~ must specify which official of the local government will be the chief administrative and executive officer, the method of ~~his~~ the officer's selection, ~~his~~ the term of office (except that it may be at the pleasure of the selecting authority if ~~such~~ the officer is not elected by popular vote), the grounds for ~~his~~ the officer's removal, and ~~his~~ the officer's powers and duties. ~~Notwithstanding the foregoing~~ However, the charter may allocate the chief executive and the chief administrative functions among two or more officials specified as ~~above~~ provided in this section, or the charter may provide that chief executive

and administrative functions of the local government will be performed by one or more members of the legislative body.

(2) A charter form of government ~~shall~~ must have ~~such~~ the officers, departments, boards, commissions, and agencies ~~as~~ that are established in the charter, by local ordinance, or required by state law."

**Section 329.** Section 7-3-1215, MCA, is amended to read:

**"7-3-1215. Qualifications for commission.** (1) Members of the commission must be qualified electors of the consolidated municipality and may not hold any other public office except that of notary public or member of the state militia.

(2) A member of the commission ceasing to possess any of the qualifications specified in this section shall immediately forfeit ~~his~~ the member's office."

**Section 330.** Section 7-3-1219, MCA, is amended to read:

**"7-3-1219. Organization and officers of commission.** (1) At the first meeting of the commission following the special election at which the members ~~thereof~~ of the commission are first elected and ~~thereafter~~ after that time at its meeting on the first Monday of January following each general election at which members of the commission are elected, the commission shall choose one of its members as president and another as ~~vice-president~~ vice president.

(2) The president shall preside at meetings of the commission and shall exercise the powers and perform the duties conferred and imposed by ~~this part or part 13~~ or this part and the ordinances of the municipality. ~~He shall be recognized as~~ The president is the official head of the municipality for all ceremonial purposes, by the courts for serving civil processes, and by the governor for purposes of military law. In time of public danger or emergency, ~~he~~ the president shall, if authorized by a vote of the commission, take command of the police, maintain order, and enforce the law. If a vacancy occurs in the office of president or in case of ~~his~~ the president's absence or disability, the ~~vice-president~~ vice president shall act as president for the unexpired term or during the continuance of the absence or disability.

(3) The director of finance ~~shall be~~ is ex officio clerk of the commission and shall, either in person or by deputy, keep the records of the commission and perform ~~such~~ other duties ~~as~~ that may be required by ~~this part or part 13~~ or this part or by the commission."

**Section 331.** Section 7-3-1220, MCA, is amended to read:

**"7-3-1220. Conduct of commission business.** (1) The commission shall determine its own rules and order of business and shall keep a journal of its proceedings. It ~~shall have power to~~ may compel the attendance of absent members, may punish its members for disorderly behavior, and, by a vote of not less than two-thirds of its members, may expel a member for disorderly conduct or the repeated violation of its rules; ~~but no~~ However, a member ~~shall~~ may not be expelled unless notified of the charge against ~~him~~ the member and given an opportunity to be heard.

(2) A majority of the members elected to the commission ~~shall~~ constitute a quorum to do business, but a less number may adjourn from time to time and compel the attendance of absent members in ~~such~~ the manner and under ~~such~~ the penalties ~~as may be~~ prescribed by ordinance. The affirmative vote of a majority of the members elected to the commission ~~shall be~~ is necessary to adopt any ordinance, resolution, order, or vote; ~~except that~~ However, a vote to adjourn or regarding the attendance of absent members may be adopted by a majority of the members present."

**Section 332.** Section 7-3-1221, MCA, is amended to read:

**"7-3-1221. Compensation of commission members.** (1) The commission may by ordinance provide compensation for its members, but the total amount and manner of compensation may not exceed the maximum sum prescribed by law for ~~aldermen~~ city council members of cities of the first class.

(2) In addition to any compensation authorized by this section, each member of the commission ~~shall~~ must receive the same sum prescribed by law for county commissioners per mile for any distance in excess of 10 miles necessarily traveled in going from and returning to ~~his~~ the member's residence because of attendance ~~upon~~ at a regular or regularly called meeting of the commission or in travel in the county undertaken in performance of official duties."

**Section 333.** Section 7-3-1228, MCA, is amended to read:

**"7-3-1228. Action on initiative petition.** (1) If an initiative petition or amended petition ~~be~~ is found sufficient by the clerk, ~~he~~ the clerk shall ~~so~~ certify it and shall submit the ordinance ~~therein~~ set forth in the petition to the commission at its next meeting, and the commission shall ~~at once~~ read and refer it to an appropriate committee, which may be a committee of the whole.

(2) Provision ~~shall~~ must be made for public hearings upon the proposed ordinance before the committee to which it is referred. ~~Thereafter~~ After the hearings, the committee shall report the ordinance to the commission, with its recommendations ~~thereon,~~ not later than 60 days after the date on which ~~such~~ the ordinance was

submitted to the commission by the clerk.

(3) Upon receiving the ordinance from the committee, the commission shall ~~proceed at once to~~ consider it and shall take final action ~~thereon on the ordinance~~ within 30 days from the date of ~~such the~~ committee report."

**Section 334.** Section 7-3-1241, MCA, is amended to read:

**"7-3-1241. Appointment and removal of manager of consolidated municipality.** (1) The commission shall appoint a manager. ~~He shall~~ The manager must be chosen by the commission solely on the basis of his executive and administrative qualifications and ~~need is~~ not, when appointed, required to be a resident of the municipality. ~~No A~~ member of the commission shall may not, during the time for which elected, be chosen manager. In case of the absence or disability of the manager, the commission may designate some responsible person to perform the duties of the office. The manager shall must receive ~~such the~~ compensation ~~as may be~~ fixed by the commission.

(2) The manager shall may not be appointed for a definite term but shall must be removable at the pleasure of the commission. ~~In case If~~ the commission determines to remove the manager, ~~he shall, if he so demands upon request,~~ the manager must be given a written statement of the reason alleged for the proposed removal and the right to be heard ~~thereon on the proposed removal~~ at a public meeting of the commission prior to the date on which ~~his the~~ final removal shall ~~take takes~~ effect; ~~but However,~~ pending and during ~~such the~~ hearing, the commission may suspend ~~him the~~ manager from office. The action of the commission in suspending or removing the manager shall ~~be is~~ final; ~~it being It is~~ the intention of this section to vest all authority and fix all responsibility for any ~~such~~ suspension or removal in the commission."

**Section 335.** Section 7-3-1242, MCA, is amended to read:

**"7-3-1242. Role of manager.** (1) The manager shall ~~be is~~ the chief executive officer of the municipality.

(2) The manager shall ~~be is~~ responsible to the commission for the proper administration of the affairs of the municipality placed in ~~his the~~ manager's charge, and ~~to that end the manager~~ shall appoint all officers and employees in the administrative service of the municipality, except as otherwise provided in ~~this part or~~ part 13 or this part. ~~and except as he~~ The manager may authorize the head of a department or office responsible to ~~him the~~ manager to appoint subordinates in ~~such that~~ department or office."

**Section 336.** Section 7-3-1244, MCA, is amended to read:

**"7-3-1244. Removal of appointees.** (1) ~~Any An~~ officer or employee of the municipality appointed by the

manager or upon ~~his~~ the manager's authorization may be laid off, suspended, or removed from office or employment either by the manager or the appointing officer ~~by whom appointed~~. Verbal or written notice of layoff, suspension, or removal given to an officer or employee or written notice left at or mailed to ~~his~~ the officer's or employee's usual place of residence ~~shall be~~ is sufficient to put ~~any such~~ the layoff, suspension, or removal into effect unless the person ~~so~~ notified ~~shall~~, within 5 days of ~~such~~ the notice, ~~demand~~ demands a written statement of reasons ~~therefor~~ for the action and the right to be heard ~~thereon~~ on the action before the manager. Upon ~~such~~ the demand, the officer making the layoff, suspension, or removal shall supply the person notified ~~thereof~~ with a written statement of the reasons ~~therefor~~ for the action, and the manager shall fix a time and place for the public hearing. Following the public hearing, the manager shall either confirm the layoff, suspension, or removal as specified in the notice, reinstate the person ~~so notified in the service~~, or make ~~such other~~ another disposition of the matter ~~as~~ that in ~~his~~ the manager's opinion the good of the service may require.

(2) The decision of the manager ~~in any such case shall be~~ is final, and there ~~shall be~~ is no appeal ~~therefrom~~ to any officer, body, or court ~~whatsoever~~. A copy of the written statement of reasons given for any layoff, suspension, or removal and a copy of any written reply ~~thereto~~ to the statement by the officer or employee involved, together with a copy of the decision of the manager, ~~shall~~ must be filed as a public record in the office of the clerk."

**Section 337.** Section 7-3-1245, MCA, is amended to read:

**"7-3-1245. Relationship of commission and manager regarding appointments and administrative service.** (1) Neither the commission nor any of its committees or members ~~shall~~ may direct or request the appointment of ~~any person to~~ or his removal from office or employment of any person by the manager or any of ~~his~~ the manager's subordinates or in any manner take part in the appointment or removal of officers and employees in the administrative service of the municipality. Except for the purpose of inquiry, the commission and its members shall deal with that portion of the administrative service for which the manager is responsible solely through the manager, and neither the commission nor any member ~~thereof shall~~ of the commission may give orders to any subordinate of the manager either publicly or privately.

(2) Any violation of the provisions of this section by a member of the commission ~~shall be~~ is a misdemeanor, conviction of which ~~shall~~ immediately ~~forfeit~~ forfeits the office of the member ~~so~~ convicted."

**Section 338.** Section 7-3-1246, MCA, is amended to read:

**"7-3-1246. General duties of manager.** ~~It shall be the duty of the~~ The manager to ~~shall~~ act as chief

conservator of the peace within the municipality, ~~to~~ supervise the administration of the affairs of the municipality, ~~to~~ see that the ordinances of the municipality and the laws of the state are enforced, ~~to~~ make ~~such~~ recommendations to the commission concerning the affairs of the municipality ~~as may seem to him desirable~~, ~~to~~ keep the commission advised of the financial conditions and future needs of the municipality, ~~to~~ prepare and submit to the commission ~~such~~ reports ~~as that~~ that may be required by that body, and ~~to~~ perform ~~such~~ other duties ~~as that~~ that may be prescribed by ~~this part or~~ part 13 or this part or be required ~~of him~~ by ordinance or resolution of the commission."

**Section 339.** Section 7-3-1249, MCA, is amended to read:

**"7-3-1249. Employees and employment list.** (1) The number of assistants and other subordinates to be employed in or by each administrative department or office ~~shall~~ must be fixed by the commission, but the commission may authorize the manager to determine the number of ~~such~~ assistants and subordinates in and for a specified department or office, subject to the appropriations made ~~thereto~~ for the department or office.

(2) The director of finance shall maintain in ~~his~~ the director's office a list of all persons in the administrative service of the municipality, showing in connection with each name the position held, the date of appointment, the character of employment, and the rate of compensation. Each appointing officer shall promptly transmit to the director of finance ~~such~~ the information regarding ~~his~~ the officer's department or office as may be necessary to keep this list accurate in all respects at all times. The treasurer ~~shall~~ may not pay nor shall the director of finance issue ~~any a~~ a warrant for the payment of any salary or compensation to ~~any a~~ a person whose name does not appear upon ~~such~~ the list, nor shall payment be made at a rate other than that specified on ~~such~~ the list. Any sum paid contrary to the ~~foregoing~~ provisions of this section may be recovered from any officer paying or authorizing the payment ~~thereof~~ or from the surety on ~~his~~ the officer's official bond. If, through the failure of ~~any an~~ an officer to give information to the director of finance as required in this section or through omission or error in ~~such~~ the information, payment is made to any person whose name should not be on ~~such~~ the list or payment is made in excess of the amount ~~which~~ that any person whose name is rightfully on the list should receive, then the amount of ~~any such~~ the payment or excess payment may be recovered from the officer by reason of whose failure, omission, or error the payment or excess payment was made or from the surety on ~~his~~ the officer's official bond."

**Section 340.** Section 7-3-1253, MCA, is amended to read:

**"7-3-1253. Disposition of money received by officers in official capacity.** ~~No~~ A person elected or



appointed to ~~any an~~ office or position under the municipal government established by ~~this part and~~ part 13 shall ~~be and this part is not~~ entitled to ~~or and may not~~ receive for ~~his the person's~~ own use any fees, emoluments, commissions, or perquisites other than the salary or compensation fixed by ~~this part and~~ part 13 ~~and this part~~ or by the commission; ~~and all such.~~ All fees, emoluments, commissions, and perquisites ensuing out of the performance of official duty shall belong to the municipality and must be paid into the treasury ~~thereof of the~~ municipality at the times and in the manner provided by the general laws of the state."

**Section 341.** Section 7-3-1254, MCA, is amended to read:

**"7-3-1254. Nonpartisan nature of government.** (1) ~~No A~~ person holding an appointive office or position in the municipal government shall may not directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or purpose ~~whatever.~~ ~~No A~~ person shall may not orally or by letter solicit or be in any manner concerned in soliciting any assessment, subscription, or contribution for any political party or purpose from any person holding an appointive office or position in the municipal government. ~~No A~~ person shall may not use or promise to use ~~his the person's~~ influence or official authority to secure any appointment or prospective appointment to any position in the service of the municipality as a reward or return for personal or partisan political service. ~~No A~~ person shall may not take part in preparing any political assessment, subscription, or contribution with the intent that it should be sent or presented to or collected from any person in the service of the municipality; ~~nor shall he~~ A person may not knowingly send or present, directly or indirectly, in person or otherwise, any political assessment, subscription, or contribution to or request its payment by any person in ~~such the~~ the service of the municipality.

(2) ~~No A~~ person in the service of the municipality shall may not discharge, suspend, lay off, reduce in grade, or in any manner change the official rank or compensation of any person in ~~such~~ service or threaten to do so for withholding or neglecting to make any contribution of money or service or any valuable thing for any political service. ~~No A~~ person holding an appointive office or place in the municipal government shall may not act as an officer in a political organization or serve as a member of a committee of any ~~such~~ political organization or circulate or seek signatures for any petition provided for by primary or election laws.

(3) ~~Any A~~ person who, ~~by himself~~ individually or in cooperation with one or more persons, willfully or corruptly violates any of the provisions of subsections (1) and (2) shall be guilty of a misdemeanor and shall upon conviction ~~thereof~~ be punished by a fine of not less than \$50 or more than \$500, ~~or~~ by imprisonment for a term not exceeding 3 months, ~~or by both such fine and imprisonment,~~ and if ~~he the person~~ is an officer or employee of the municipality, ~~he the person~~ shall immediately forfeit ~~his the~~ office or employment."

**Section 342.** Section 7-3-1255, MCA, is amended to read:

**"7-3-1255. Commissioners not to hold or seek other office.** ~~No~~ A person elected to the commission ~~shall may not~~, during the term for which elected, be appointed to any office or position in the service in the municipality. If a member of the commission ~~shall become~~ becomes a candidate for any public office other than that of commissioner, ~~he~~ the person shall immediately forfeit ~~his place on the commission~~ the office of commissioner."

**Section 343.** Section 7-3-1257, MCA, is amended to read:

**"7-3-1257. Control of conflict of interest.** ~~No~~ An officer or employee of the municipality ~~shall may not~~ have a financial interest, direct or indirect, in any contract ~~therewith~~ with the municipality or be financially interested, directly or indirectly, in the sale to the municipality of any land, materials, supplies, or services except on behalf of the municipality as an officer or employee. Any willful violation of this section ~~shall constitute~~ constitutes malfeasance in office, and any officer or employee found guilty ~~thereof~~ shall ~~thereby~~ forfeit ~~his~~ the office or position. ~~Any~~ A violation of this section with the knowledge, actual or implied, of the person or corporation contracting with the municipality ~~shall render~~ renders the contract involved voidable by the manager or the commission."

**Section 344.** Section 7-3-1259, MCA, is amended to read:

**"7-3-1259. Oath of office.** ~~Every~~ Each officer of the municipality shall, before entering upon the duties of ~~his~~ office, take and subscribe to the oath or affirmation required of officers by the constitution of the state of Montana, ~~which~~ and the oath or affirmation ~~shall~~ must be filed and kept in the office of the clerk."

**Section 345.** Section 7-3-1304, MCA, is amended to read:

**"7-3-1304. Division of audit and accounts.** There ~~shall be~~ is in the department of finance a division of audit and accounts, of which the director of finance ~~shall himself be~~ is the head. As head of ~~such~~ the office, ~~he shall be~~ the director is charged with keeping the books of financial account for all departments and offices of the municipality, and whenever practicable, ~~such~~ the books and accounts ~~shall~~ must be kept in the office of the division of audit and accounts. ~~Report shall~~ A report must be made daily to the division of audit and accounts by each department and office, showing the receipt and disposition of all money ~~and the disposition thereof.~~"

**Section 346.** Section 7-3-1305, MCA, is amended to read:

**"7-3-1305. Conduct of audits.** (1) Upon the death, resignation, removal, or expiration of the term of ~~any~~ an officer of the municipality, the director of finance shall cause an audit and investigation of the accounts of ~~such~~ the officer to be made and shall report to the manager and the commission. Either the commission or the manager may at any time provide for an examination or audit of the accounts of any officer or department of the municipal government.

(2) In case of the death, resignation, or removal of the director of finance, the manager shall cause an audit to be made of ~~his~~ the director's accounts.

(3) If, as a result of ~~any such an~~ an audit, an officer is found indebted to the municipality, the director of finance or other person making ~~such the~~ the audit shall immediately give notice ~~thereof~~ to the commission, the manager, and the director of law, and the ~~latter~~ director of law shall ~~forthwith~~ proceed to collect ~~such the~~ the indebtedness."

**Section 347.** Section 7-3-1307, MCA, is amended to read:

**"7-3-1307. Division of purchases and supplies.** There ~~shall be~~ is in the department of finance a division of purchases and supplies; ~~at the~~ The head of ~~which there shall be~~ the division is a purchasing agent. The purchasing agent shall make all purchases for the municipality in the manner and with ~~such the~~ such the exceptions ~~as that~~ as that may be provided by ordinance and shall, under ~~such~~ such regulations ~~as that~~ as that may be provided by ordinance, sell all property, real and personal, of the municipality not needed for public use or that may have become unsuitable for use. ~~He shall have~~ The purchasing agent has charge of ~~such the~~ the storerooms and warehouses of the municipality ~~as that~~ as that the commission may by ordinance provide."

**Section 348.** Section 7-3-1314, MCA, is amended to read:

**"7-3-1314. Payment and investigation of claims -- use of warrants.** (1) ~~No~~ A claim against the municipality ~~shall~~ may not be paid except by means of a warrant on the treasury issued by the director of finance. The director of finance ~~shall~~ may not issue ~~no~~ a warrant for the payment of a claim unless the claim is evidenced by a voucher approved by the head of the department or office for which the indebtedness was incurred; ~~and~~ and ~~each such~~ The officer and ~~his~~ the officer's surety ~~shall be~~ are liable to the municipality for all loss or damage sustained by reason of ~~his~~ the officer's negligent or corrupt approval of ~~any~~ a claim.

(2) (a) The director of finance shall examine all payrolls, bills, and other claims and demands against the municipality and ~~shall~~ may not issue ~~no~~ a warrant for payment unless ~~he~~ the director finds that:

(i) the claim is in proper form, correctly computed, and ~~duly~~ approved;

(ii) ~~that it~~ the claim is legally due and payable; and

(iii) ~~that~~ an appropriation has been made ~~therefor~~ for the claim which ~~that~~ has not been exhausted.

(b) ~~He~~ The director of finance may investigate any claimant and for that purpose may summon ~~before~~ him any officer, agent, or employee of the municipality or any claimant or other person and examine ~~him~~ the person upon oath or affirmation ~~relative thereto~~ concerning the claim. If ~~he~~ the director finds a claim to be fraudulent, erroneous, or otherwise invalid or that the appropriation out of which ~~such~~ the claim is payable has been exhausted, ~~he shall~~ the director may not issue a warrant ~~therefor~~ for the claim. If the director of finance issues a warrant on the treasury authorizing payment of any claim in contravention of the provisions of this subsection (2), ~~he~~ the director and ~~his~~ the director's sureties ~~shall be~~ are individually liable to the municipality for the amount of ~~such~~ the warrant if paid."

**Section 349.** Section 7-3-1315, MCA, is amended to read:

**"7-3-1315. Certification of certain obligations by finance director.** (1) ~~No~~ A contract, agreement, or other obligation, other than contracts pertaining to work or improvements to be paid for by special assessments, involving the expenditure of any funds ~~shall~~ may not be entered into nor ~~shall~~ may any order for ~~such~~ expenditures be valid unless the director of finance ~~shall~~ first certify certifies to the commission that the object or purpose for which ~~such~~ the expenditure is to be made and the amount ~~thereof~~ of the expenditure ~~is~~ are provided for by an appropriation in the annual budget or in a supplemental budget and that the ~~same~~ appropriation has not been expended. The certificate of the director of finance ~~shall~~ must be filed and made a matter of record in ~~his~~ the director's office, and the appropriation for ~~such~~ that purpose ~~shall thereafter~~ must be considered as having been set aside and expended ~~to~~ in the amount of ~~such~~ the contract, agreement, or obligation.

(2) All contracts, agreements, or other obligations entered into, all ordinances and resolutions passed, and all orders adopted contrary to the provisions of subsection (1) ~~shall be~~ are void, and ~~no~~ a person ~~whatever~~ shall may not have any claim or demand against the municipality ~~thereunder~~, nor ~~shall~~ may the commission or any officer of the municipality waive or qualify the limitations fixed by subsection (1) or ~~fasten upon~~ incur for the municipality any liability ~~whatever~~ in excess ~~thereof~~ of the limitations."

**Section 350.** Section 7-3-1317, MCA, is amended to read:

**"7-3-1317. Deposit security.** (1) Unless a bank designated as a depository ~~shall elect~~ elects to deposit securities with the treasurer as provided in subsection (2), it shall give good and sufficient bonds, with sureties

to be approved by the commission, conditioned for the safekeeping and payment of the municipal funds deposited ~~therewith~~ with the bank and the interest ~~thereon~~ on the deposit. Any ~~such~~ bonds of a depository ~~shall~~ must be in the aggregate equal to the amount designated by the commission as the maximum of municipal funds ~~which~~ that may at any time be kept by ~~such~~ the depository. All surety bonds given by a bank in accordance with the provisions of this subsection ~~shall~~ must continue in force so long as funds of the municipality deposited ~~therein~~ shall be in the bank are unpaid. ~~Nothing provided herein shall~~ This section may not impair the rights and remedies of the municipality on ~~such~~ the bonds under the laws of the state.

(2) In lieu of the surety bonds specified in subsection (1), ~~any a~~ bank designated as a depository of municipal funds may deposit with the treasurer bonds of the class and kind in which, by the provisions of 7-3-1322, the sinking fund of the municipality may be invested. ~~Bonds so deposited shall~~ Deposited bonds must be in an amount equal to the amount of municipal funds permitted at any time to be deposited with ~~such~~ the bank, ~~shall~~ must be approved by the commission, and ~~shall~~ must be accompanied by proper assignment, to the end that the bank ~~so~~ depositing and assigning ~~such~~ the bonds will safely keep and pay over to the treasurer or ~~his~~ the treasurer's order, on demand and free of exchange, all money at any time deposited ~~therein~~ in the bank with interest ~~thereon~~ on the money at the rate agreed upon and that in case of default on the part of ~~such~~ the bank, the commission ~~shall have power and authority to~~ may sell ~~such~~ the bonds or so much ~~thereof~~ of the bonds as may be necessary to realize the full amount of the funds deposited ~~therein~~. The bank ~~shall be~~ is entitled to interest on the securities ~~so~~ deposited with the treasurer, when paid, and to the return of the securities at the termination of ~~such~~ the trust so long as the bank is not in default. With the approval of the commission, a bank may at any time substitute other ~~like~~ similar securities of equal value for those ~~so~~ deposited.

(3) Bonds and other securities given by banks in accordance with this part ~~shall~~ must be entered in a record to be kept for that purpose by the director of finance and deposited with the treasurer for safekeeping. The record of ~~such~~ the bonds and securities kept by the director of finance or copies ~~thereof~~ of the record certified by that officer ~~shall be~~ are competent and prima facie evidence of the contents and tenor ~~thereof~~ of the bonds and securities."

**Section 351.** Section 7-3-1319, MCA, is amended to read:

**"7-3-1319. Deposit of funds with depository banks.** (1) All funds received by the treasurer ~~shall~~ must be deposited ~~by him~~ in the designated banks in the name of the municipality, subject to the order of the treasurer, and ~~shall~~ must be distributed among the designated banks as nearly as may be in proportion to the maximum amounts ~~which~~ that they have been authorized to receive by the commission.

(2) Banks designated as depositories shall pay interest on daily balances of municipal funds at a rate approved by the commission, which ~~shall in no case~~ may not be less than 2 1/2%. The interest due on ~~such the~~ deposits ~~shall~~ must be paid to the treasurer by check on the last day of each quarter of the fiscal year. If the treasurer ~~shall at any time receive~~ receives or ~~have~~ has in any bank funds ~~which that~~ will probably remain on deposit 3 months or longer, ~~he the treasurer~~ may, with the approval of the commission, either take ~~therefor~~ certificates of deposit from a designated depository, payable to ~~his the treasurer's~~ order on demand and bearing a higher rate of interest, or invest ~~such the~~ funds in any bonds maturing within 6 months in which the sinking fund of the municipality may be invested. The treasurer shall make a monthly statement to the director of finance of the municipal funds in each bank and the interest received ~~therein,~~ as of the last day of each month.

(3) ~~No A~~ bank receiving funds of the municipality on deposit ~~shall have authority to~~ may not pay out ~~any such the~~ money except upon checks drawn upon that bank signed by the treasurer."

**Section 352.** Section 7-3-1320, MCA, is amended to read:

**"7-3-1320. Liability for deposited funds.** (1) When the funds of the municipality are deposited and kept in designated banks according to the provisions of this part, the treasurer and the sureties on ~~his the treasurer's~~ official bond ~~shall be~~ are exempt from all liability for the loss of any funds ~~so~~ deposited if ~~such the~~ loss is caused by the failure, bankruptcy, or any other act or default of ~~such the~~ banks, but the want of care or due diligence on the part of the treasurer or commission in protecting the municipality against loss ~~shall does~~ not exempt the treasurer, the members of the commission, or sureties on their respective bonds from liability.

(2) ~~Nothing provided herein shall~~ This section may not deprive the municipality of any right or remedy against ~~any a~~ defaulting bank or against its officers or stockholders."

**Section 353.** Section 7-3-1322, MCA, is amended to read:

**"7-3-1322. Investment of sinking funds.** (1) The sinking funds of the municipality ~~shall~~ must be in charge of a sinking fund board consisting of the president, the director of finance, and the director of law. The president ~~shall be~~ is the ~~chairman~~ presiding officer and the director of finance, the secretary of the board. By and with consent of the commission, the sinking fund board shall invest the sinking fund in bonds or certificates of indebtedness of the United States, state bonds or certificates of indebtedness of Montana or any other state of the United States, bonds of the municipality, registered warrants on the treasury of ~~such the~~ municipality, bonds of any city in Montana, and in ~~such~~ county or school bonds of Montana ~~as that~~ may be approved by the commission.

(2) ~~In case~~ If the sinking fund is invested in bonds of the municipality, ~~such the bonds shall~~ may not be canceled before maturity but ~~shall~~ must be held by the sinking fund board and the interest ~~thereon~~ on the bonds paid over and applied to the increase of the sinking fund. Whenever the principal of any of the bonds of the municipality ~~shall become~~ becomes due, the sinking fund board shall, with the consent of the commission, dispose of ~~such any~~ any of the bonds belonging to the sinking fund ~~as that~~, with the money on hand belonging to the sinking fund, ~~shall be~~ are necessary to pay the bonds ~~so~~ becoming due."

**Section 354.** Section 7-3-1331, MCA, is amended to read:

**"7-3-1331. Department of public works.** (1) The department of public works is in the charge of a director; who ~~shall~~:

(a) ~~shall~~ manage and must have charge of the construction, repair, improvement, and maintenance of all:

(i) public buildings;

(ii) ~~of~~ roads, streets, alleys, sidewalks, bridges, viaducts, and other public ways;

(iii) ~~of~~ sewers, drains, ditches, culverts, streams, and watercourses; and

(iv) ~~of~~ boulevards, parks, playgrounds, cemeteries, and other public places and grounds dedicated to public use;

(b) ~~He~~ shall manage and control all:

(i) public cemeteries, crematories, market places or houses, garbage and sewage disposal plants, and farms; and

(ii) all public utilities belonging to the municipality or any subdivision ~~thereof~~ of the municipality; and

(c) ~~shall~~ must have charge of:

(i) the enforcement of the obligations to the municipality of all privately owned or operated public utilities enforceable by the municipality; and

(ii) ~~He shall have charge of~~ the cleaning, sprinkling, and lighting of the streets and the collection and disposal of garbage and waste; and

(d) ~~He shall also~~ must be responsible for the making and preservation of all surveys, maps, plans, drawings, and estimates for ~~such each~~ public work and for the preservation of contracts, papers, plans, tools, and appliances belonging to the municipality and pertaining to the functions of the department.

(2) The director of public works ~~shall~~ must have the qualifications prescribed by law for county surveyors; ~~and in~~ In addition to the duties required by ~~this part or part 12~~ or this part and required by the

ordinances of the municipality, ~~he shall have the powers and shall;~~ the director, either in person or ~~by through~~ a deputy having the qualifications prescribed by law for county surveyors, shall perform the duties required of county surveyors by the laws of the state."

**Section 355.** Section 7-3-1341, MCA, is amended to read:

**"7-3-1341. Department of law.** (1) The department of law is in the charge of a director ~~to be~~ appointed by the commission without definite term; who ~~shall~~ must be a resident and elector of the municipality and who ~~shall~~ must possess all of the qualifications required of county attorneys.

(2) ~~He shall have~~ The director has all the powers and, either personally or ~~by such~~ through designated assistants ~~as he may designate~~, shall perform all the duties that are prescribed for county attorneys, city attorneys, and public administrators, and in addition ~~thereto~~, ~~he shall be~~ the director is chief legal adviser of and attorney ~~and counsel~~ for the municipality and of all departments and offices ~~thereof of the municipality.~~ and The director shall perform ~~such~~ other duties ~~as that~~ may be required by the commission.

(3) ~~He~~ The director shall qualify by taking the oath of office prescribed by the constitution and by giving a bond in the amount required of a public administrator in a county of the same class. ~~He~~ The director ~~shall~~ must receive from the state as part of ~~his~~ the director's salary the same amount ~~which that~~ is paid by the state to county attorneys in counties of the same class, and the remainder of ~~his~~ the salary ~~shall~~ must be paid by the municipality. For all purposes in connection with criminal prosecutions, ~~he shall~~ the director must be known and designated as "county attorney of the city and county of .....".

**Section 356.** Section 7-3-1346, MCA, is amended to read:

**"7-3-1346. Department of health.** The director of the department of health ~~shall~~ must be a physician legally authorized to practice medicine and surgery in Montana. Except as otherwise provided in ~~this part or part 12 or this part~~, the director of the department of health ~~shall have~~ has the powers and shall perform the duties conferred on and required of coroners and county health officers and local health officers by the general laws of the state. ~~He shall~~ The director also ~~have such~~ has other powers and shall perform ~~such~~ other duties ~~as that~~ may be prescribed by ordinance."

**Section 357.** Section 7-3-1348, MCA, is amended to read:

**"7-3-1348. Superintendent of schools.** The commission shall, by majority vote of all its members, appoint a municipal superintendent of schools to serve without definite term but subject to removal at the pleasure



of the commission. The superintendent of schools for any district within the municipality may, with the consent of the trustees of ~~such that~~ district, be appointed to serve as municipal superintendent. The compensation of the municipal superintendent ~~shall must~~ be fixed by the commission, and ~~he shall have~~ the superintendent has the powers and shall perform the duties prescribed for county superintendents of schools by the laws of the state."

**Section 358.** Section 7-3-4102, MCA, is amended to read:

**"7-3-4102. Relationship of administrative assistants and budget and finance director to mayor.**

(1) The administrative assistants ~~shall be~~ are answerable solely to the mayor.

(2) The budget and finance director ~~shall be~~ is answerable solely to the mayor and ~~shall serve~~ serves at ~~his~~ the mayor's pleasure."

**Section 359.** Section 7-3-4201, MCA, is amended to read:

**"7-3-4201. Definitions.** In the construction of this part, the following rules ~~shall must~~ be observed unless ~~such that~~ construction would be inconsistent with the manifest intent or repugnant to the context of the statute:

(1) The words "councilman" "council member" or "alderman" ~~shall~~ "city council member" must be construed to mean "councilman" "council member" when applied to cities under this part.

(2) The word "electors" ~~shall must~~ be construed to mean persons qualified to vote for elective offices at regular municipal elections.

(3) The words "franchise" ~~or and~~ "right" ~~shall~~ include every special privilege in the streets, highways, and public places of the city, whether granted by the state or the city, ~~which that~~ does not belong to citizens generally by common right.

(4) When an office or officer is named in any law referred to in this part, it ~~shall must~~, when applied to cities under this part, be construed to mean the office or officer having the same function or duties under the provisions of this part or under ordinances passed under authority ~~thereof~~ of this part."

**Section 360.** Section 7-3-4205, MCA, is amended to read:

**"7-3-4205. City to be governed by mayor and councilmen council members.** Every Each city ~~shall~~ must be governed by a mayor and ~~councilmen~~ council members, as provided in 7-3-4215, each of whom ~~shall~~ have has the right to vote on all questions coming before the council."

**Section 361.** Section 7-3-4207, MCA, is amended to read:

**"7-3-4207. Requirements of petitions.** Petitions provided for in this part ~~shall~~ must be signed by ~~none~~ but only legal voters of the city. Each petition ~~shall~~ must contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides and ~~his~~ the petitioner's length of residence in the city. ~~It shall~~ The petition must also be accompanied by the affidavit of one or more legal voters of the city stating that the signers ~~thereof~~ of the petition were, at the time of signing, legal voters of ~~said~~ the city and the number of signers at the time that the affidavit was made."

**Section 362.** Section 7-3-4213, MCA, is amended to read:

**"7-3-4213. Election for first city officers.** (1) If a majority of the votes cast at the election is in favor of reorganization, the city council shall, at its first regular meeting held after the election, order a special election to be held for the purpose of electing a mayor and the number of ~~councilmen~~ council members to which the city is entitled. The order must specify the time of holding the election, which must be held in conjunction with a regular or primary election. The mayor shall issue a proclamation setting forth the purposes for which the special election is called and the day of holding the election. The proclamation must be published for 10 successive days in each daily newspaper published in the city if there is a daily newspaper or once a week for 2 consecutive weeks in each weekly newspaper published in the city. A copy of the proclamation must be posted at each voting place within the city and in at least 10 of the most public places in the city.

(2) The election must be conducted, the vote must be canvassed, and the result must be declared in the same manner as provided by law in respect to other city elections."

**Section 363.** Section 7-3-4214, MCA, is amended to read:

**"7-3-4214. First term of office.** (1) The mayor and ~~councilmen~~ council members elected at ~~such~~ a special election shall qualify and their terms of office ~~shall~~ must begin on the first Monday after their election. The terms of office of the mayor and ~~councilmen~~ council members or ~~aldermen~~ city council members in ~~such~~ the city in office at the beginning of the term of office of the ~~councilmen~~ council members first elected under the provisions of this part ~~shall then cease and determine end~~, and the terms of office of all their appointed officers in force in ~~such~~ the city, except as ~~hereinafter~~ provided in this part, ~~shall cease and determine end~~, as soon as the council shall by resolution declare.

(2) The terms of office of the mayor and all ~~councilmen~~ council members elected at ~~such~~ the special election ~~shall~~ expire on the first Monday in January of the first even-numbered year following their election. At the first regular city election held in the year prior to the year in which the terms of office of the mayor and ~~councilmen~~

council members elected at ~~such the~~ special election ~~shall~~ expire, a mayor and two ~~councilmen shall~~ council members must be elected in cities having a population of less than 25,000. The mayor elected at ~~such the~~ first general city election shall hold office for 4 years, one of the ~~councilmen~~ council members elected at ~~such the~~ first city election shall hold office for 2 years, and the other of ~~such councilmen~~ the council members elected at ~~such the~~ first general city election shall hold office for 4 years, beginning with the first Monday in January of the year following their election. A mayor and four ~~councilmen shall~~ council members must be elected in cities having a population of 25,000 or more, and the mayor elected at ~~such the~~ first general city election shall hold office for 4 years. Two of the ~~councilmen~~ council members elected at ~~such the~~ first general city election shall hold office for 2 years, and the other two of the ~~councilmen~~ council members elected at ~~such the~~ first general city election shall hold office for 4 years, beginning with the first Monday in January of the year following their election.

(3) The ~~councilmen~~ council members elected at the first general city election shall decide by lot, in ~~such~~ a manner ~~as that~~ they may select, which ~~thereof~~ members shall hold the office of ~~councilman~~ council member the term of which expires 2 years ~~thereafter~~ after the election and which ~~thereof~~ members shall hold the office ~~of councilman~~ the ~~for a~~ term of which ~~expires~~ 4 years ~~thereafter~~."

**Section 364.** Section 7-3-4215, MCA, is amended to read:

**"7-3-4215. ~~Councilmen~~ Council members and mayor to be elected.** (1) In every city of the third class, there ~~shall~~ must be a mayor and two ~~councilmen~~ council members. In every city of the second class, there ~~shall~~ must be a mayor and two ~~councilmen~~ council members. In every city of the first class having a population of less than 25,000, there ~~shall~~ must be a mayor and two ~~councilmen~~ council members. In every city of the first class having a population of 25,000 or more, there ~~shall~~ must be a mayor and four ~~councilmen~~ council members.

(2) The mayor and all ~~councilmen shall~~ council members must be elected at large."

**Section 365.** Section 7-3-4216, MCA, is amended to read:

**"7-3-4216. General term of office.** The terms of office of the mayor and all ~~councilmen~~ council members elected after the first term ~~shall be~~ is 2 years."

**Section 366.** Section 7-3-4217, MCA, is amended to read:

**"7-3-4217. Oath of office and official bond.** Every person who has been declared elected mayor or ~~councilman~~ council member shall, within 10 days ~~thereafter~~ after the declaration, take and file with the city clerk an oath of office in the form and manner provided by law and shall execute and give sufficient bond to the

municipal corporation in the sum of \$10,000, conditioned for the faithful performance of the duties of the office. This bond ~~shall~~ must be approved by the judge of the district court of the county in which ~~such~~ the city is situated and must be filed with the clerk and recorder of the county in which ~~such~~ the city is situated."

**Section 367.** Section 7-3-4218, MCA, is amended to read:

**"7-3-4218. Vacancies.** (1) Vacancies in the office of mayor or ~~councilmen~~ council member must be filled by appointment made by a majority vote of the remaining members of the council. If in filling ~~such~~ a vacancy a tie vote should occur, then the person to fill ~~said~~ the vacancy ~~shall~~ must be determined by lot in ~~such~~ a manner ~~as said~~ that the council may provide.

(2) A person appointed to fill ~~any~~ such a vacancy shall hold ~~his~~ his office until the next general election and until ~~his~~ a successor is elected and qualified. A person elected to fill a vacancy shall hold office until the expiration of the term for which the ~~person he succeeds~~ predecessor was elected."

**Section 368.** Section 7-3-4220, MCA, is amended to read:

**"7-3-4220. Council meetings.** (1) Regular meetings of the council ~~shall~~ must be held on the first Monday after the election of ~~councilmen~~ council members and ~~thereafter~~ after that meeting at least once each month. The council shall provide by ordinance for the time for holding regular meetings, and special meetings may be called from time to time by the mayor or two ~~councilmen~~ council members.

(2) All meetings of the council, whether regular or special, at which any person not a city officer is admitted ~~shall~~ must be open to the public."

**Section 369.** Section 7-3-4221, MCA, is amended to read:

**"7-3-4221. Conduct of business.** (1) (a) In cities having a mayor and two ~~councilmen~~ council members, the mayor and one ~~councilman~~ council member or two ~~councilmen~~ council members constitute a quorum and the affirmative vote of the mayor and one ~~councilman~~ council member or the affirmative vote of two ~~councilmen~~ council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number is provided for in this part.

(b) In cities having a mayor and four ~~councilmen~~ council members, the mayor and two ~~councilmen~~ council members or three ~~councilmen~~ council members constitute a quorum and the affirmative vote of the mayor and two ~~councilmen~~ council members or the affirmative vote of three ~~councilmen~~ council members is necessary to adopt or reject any motion, resolution, or ordinance or pass any measure unless a greater number

is provided for in this part.

(2) Upon every vote the ayes and nays ~~shall~~ must be called and recorded. Every motion, resolution, or ordinance ~~shall~~ must be reduced to writing and read before the vote is taken ~~thereon~~. Every resolution or ordinance passed by the council must be signed by the mayor or by two ~~councilmen~~ council members and must be recorded before ~~the same shall be~~ it is in force.

(3) The mayor ~~shall be~~ is the president of the council and shall preside at its meetings and shall supervise all departments of the city and report and recommend to the council for its action all matters requiring attention in any department. The council shall, at its first regular meeting, select one of its members for ~~vice-president~~ vice president of the council, and in case of a vacancy in the office of mayor or the absence or inability of the mayor, ~~he~~ the vice president shall perform the duties of the mayor."

**Section 370.** Section 7-3-4253, MCA, is amended to read:

**"7-3-4253. Department structure and operation.** (1) The executive and administrative powers, authority, and duties in ~~such~~ municipal commission government cities ~~shall~~ must be distributed into and among departments as follows:

(a) in cities having a mayor and two ~~councilmen~~ council members, into three departments:

- (i) a department of accounts, finance, and public property;
- (ii) a department of public safety and charity; and
- (iii) a department of streets, public improvements, and parks;

(b) in cities having a mayor and four ~~councilmen~~ council members, into five departments:

- (i) a department of public affairs;
- (ii) a department of accounts and finance;
- (iii) a department of public safety and charity;
- (iv) a department of street and public improvements; and
- (v) a department of parks and public property.

(2) The council shall determine the powers and duties to be performed by each department of the city, shall prescribe the powers and duties of officers and employees, may assign particular officers and employees to one or more of the departments, may require an officer or employee to perform duties in two or more departments, and may make ~~such~~ rules as may be necessary or proper for the efficient and economical conduct of the business of the city."

**Section 371.** Section 7-3-4254, MCA, is amended to read:

**"7-3-4254. Selection and supervision of officers and employees.** (1) In cities having a mayor and two ~~councilmen~~ council members, the mayor ~~shall be~~ is the superintendent of the department of accounts, finance, and public property, and in cities having a mayor and four ~~aldermen~~ city council members, the mayor ~~shall be~~ is the superintendent ~~over~~ of the department of public affairs; ~~and the~~ The mayor ~~shall have~~ has general supervision over all departments of the city and over all matters connected with ~~said the~~ the city, and the council shall, at its first regular meeting after the election of its members, designate by majority vote one ~~councilman~~ council member to be superintendent over each department of the city, but ~~such that~~ designation may be changed whenever it appears that the public service would be benefited ~~thereby~~.

(2) The council shall, at its first regular meeting after the election of its members or as soon thereafter as practicable, elect by majority vote the following officers: a city clerk, a city treasurer, a city attorney, a city auditor, a city engineer, a city physician, a chief of the fire department, a chief of the police department, a commissioner of weights and measures, a street commissioner, library trustees, cemetery trustees, and ~~such~~ other officers and assistants as ~~shall be~~ provided for by ordinance and ~~which that~~ may be necessary to the proper and efficient conduct of the affairs of the city. The council may by ordinance consolidate any of the enumerated offices, ~~the election to which is made by the council and~~ may require any officer elected by the council to perform the duties of any other officer, and shall appoint a city judge with the authority ~~now~~ conferred by existing laws. The tenure in office of a chief of the fire department and other officers of the fire department ~~shall be~~ is governed by the provisions of 7-33-4106 and 7-33-4122 through 7-33-4124. Any officer or assistant elected or appointed by the council may be removed from office at any time by a majority vote of the members of the council, except as otherwise provided in this part.

(3) The council ~~shall have power from time to time to~~ may create, fill, and discontinue offices and employment other than ~~herein~~ those prescribed in this section, according to their judgment of the needs of the city, ~~and~~ by majority vote of all the members to remove any ~~such~~ officer or employee, except as otherwise provided for in this part, ~~and~~ The council may by resolution or otherwise prescribe, limit, or change the compensation of ~~such~~ officers or employees."

**Section 372.** Section 7-3-4255, MCA, is amended to read:

**"7-3-4255. Compensation of mayor, council members, and employees.** (1) The total compensation of ~~councilmen~~ council members ~~is~~ as follows:

(a) In cities of the third class having a population of less than 3,000, the annual salary of the mayor ~~shall~~

~~may~~ not exceed \$600 and the annual salary of each ~~councilman shall~~ council member may not exceed \$500. In cities of the third class having a population of 3,000 or more, the annual salary of the mayor ~~shall may~~ not exceed \$1,000 and the annual salary of each ~~councilman shall~~ council member may not exceed \$900.

(b) In cities of the second class, the annual salary of the mayor ~~shall may~~ not exceed \$1,650 and the annual salary of each ~~councilman shall~~ council member may not exceed \$1,500.

(c) In cities of the first class having a population of less than 30,000, the annual salary of the mayor ~~shall may~~ not exceed \$4,500 and the annual salary of each ~~councilman shall~~ council member may not exceed \$3,800. In cities of the first class having a population of 30,000 and over, the annual salary of the mayor ~~shall may~~ not exceed \$4,800 and the annual salary of each ~~councilman shall~~ council member may not exceed \$4,000.

(2) Any increase in salary occasioned by the advance in class or increase in population of any city ~~shall commence~~ commences with the month ~~next after following~~ the publication of the census showing ~~such the~~ advance in class or increase in population.

(3) Every other officer or assistant ~~shall must~~ receive ~~such the~~ salary or compensation ~~as that~~ the council shall by ordinance from time to time provide, payable in equal monthly installments.

(4) The salary or compensation of all other employees of ~~such the~~ city ~~shall must~~ be fixed by the council and ~~shall be is~~ payable monthly or at ~~such~~ shorter periods ~~as that~~ the council ~~shall may~~ determine."

**Section 373.** Section 7-3-4256, MCA, is amended to read:

**"7-3-4256. Control of conflict of interest.** (1) ~~No An~~ officer or employee elected or appointed in any ~~such municipal commission government~~ city ~~shall be interested~~ may not have an interest, directly or indirectly, in any contract or job for work or materials or the profits ~~thereof of the contract or job~~ or materials, supplies, or services to be furnished to or performed for the city. ~~No such An~~ officer or employee ~~shall be interested~~ may not have an interest, directly or indirectly, in any contract or job for work or materials or the profits ~~thereof of the contract or job~~ or services to be furnished to or performed for any person, firm, or corporation operating any interurban railway, street railway, gasworks, waterworks, electric light or power plant, heating plant, telegraph line, telephone exchange, or other public utility within the territorial limits of ~~said the~~ city. ~~No such An~~ officer or employee ~~shall may not~~ accept or receive, directly or indirectly, from any person, firm, or corporation operating within the territorial limits of ~~said the~~ city any interurban railway, street railway, gasworks, waterworks, electric light or power plant, heating plant, telegraph line, ~~or~~ telephone exchange, or other business using or operating under a public franchise any ~~frank, free pass, free ticket, or free service~~ or accept or receive, directly or indirectly, from any ~~such~~ person, firm, or corporation any other service ~~upon on~~ terms more favorable than ~~is are~~ granted

to the public generally. ~~Such~~ The prohibition of free transportation ~~shall~~ does not apply to ~~policemen~~ police officers or firefighters in uniform, ~~nor shall any free service to the city officials heretofore provided by any franchise or ordinance be affected by this section.~~ Any officer or employee of ~~such~~ the city who, by solicitation or otherwise, ~~shall exert his~~ exerts influence, directly or indirectly, to influence other officers or employees of ~~such~~ the city to adopt ~~his~~ the officer's or employee's political views or to favor any particular person or candidate for office or who ~~shall~~ in any manner ~~contribute~~ contributes money, labor, or other valuable thing to any person for election purposes ~~shall be~~ is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding \$300 or by imprisonment in the county jail not exceeding 30 days.

(2) Any violation of the provisions of this section ~~shall be~~ is a misdemeanor, and every ~~such~~ contract and agreement ~~shall be~~ that violates the provisions of this section is void."

**Section 374.** Section 7-3-4257, MCA, is amended to read:

**"7-3-4257. Appointment of civil service commission.** (1) Immediately after organizing, the council shall by ordinance appoint three civil service commissioners, who shall hold office, one until the first Monday in April ~~in~~ of the second year, one until the first Monday in April of the fourth year, and one until the first Monday in April of the sixth year after ~~his~~ appointment. Each succeeding council shall, as soon as practicable after organizing, appoint one commissioner for 6 years, who shall take the place of a commissioner whose term of office expires. The ~~chairman~~ presiding officer of the commission for each biennial period ~~shall~~ must be the member whose term first expires. ~~No~~ A person while on the ~~said~~ commission ~~shall~~ may not hold or be a candidate for any office of public trust. Two of ~~said~~ the members ~~shall~~ constitute a quorum to transact business. The commissioners must be citizens of Montana and residents of the city for more than 3 years ~~next~~ preceding their appointment.

(2) Before entering upon the duties of ~~his~~ office, each of ~~said~~ the commissioners shall take and subscribe an oath, which ~~shall~~ must be filed and kept in the office of the city clerk, to support the constitution of the United States and of the state of Montana, to obey the laws, to aid ~~to secure and maintain~~ in securing and maintaining an honest and efficient force free from partisan distinction or control, and to perform the duties of ~~his~~ office to the best of ~~his~~ the commissioner's ability.

(3) The council, by majority vote, may remove any of ~~said~~ the commissioners during their term of office for cause, ~~a majority of councilmen voting in favor of such removal~~, and shall fill any vacancy that ~~shall occur~~ occurs in ~~said~~ the commission for the unexpired term. The city council shall provide suitable rooms in which the ~~said~~ civil service commission shall hold its meetings; ~~it shall~~ The commission must have a clerk, who shall keep



a record of all its meetings; ~~such~~ The city ~~to~~ shall supply the ~~said~~ commission with all necessary equipment to properly attend to ~~such~~ its business."

**Section 375.** Section 7-3-4259, MCA, is amended to read:

**"7-3-4259. Discharge of employees.** All persons subject to ~~such~~ the civil service examination ~~shall be~~ are subject to removal from office or employment by the council for misconduct or failure to perform their duties under ~~such~~ rules ~~as it~~ that the council may adopt, and the chief of police, chief of the fire department, or any superintendent or ~~foreman~~ lead supervisor in charge of municipal work may peremptorily suspend or discharge any subordinate then under ~~his~~ that person's direction for neglect of duty or disobedience of ~~his~~ orders but shall, within 24 hours ~~thereafter~~, report ~~such~~ the suspension or discharge and the reason ~~therefor~~ for the suspension or discharge to the superintendent of ~~his~~ the department; ~~who~~ The superintendent shall ~~thereupon~~ affirm or revoke ~~such~~ the discharge or suspension according to the facts. ~~Such~~ The employee (or the officer discharging or suspending ~~him~~) the employee may, within 5 days of ~~such~~ the ruling, appeal ~~therefrom~~ to the council, which shall fully hear and determine the matter."

**Section 376.** Section 7-3-4316, MCA, is amended to read:

**"7-3-4316. Term of office for commissioners.** (1) The commissioners elected at the first election shall qualify and their terms of office shall begin on the first Monday after their election; ~~and the~~ The terms of office of the mayor and ~~councilmen or aldermen~~ city council members in ~~such a~~ municipal commission-manager city or town in office at the beginning of the term of office of the commissioners first elected under the provisions of part 44 ~~and this part and part 44 shall cease and~~ terminate and the terms of office of all their appointed officers and of all of the employees of ~~such~~ the city or town ~~shall cease and~~ terminate as soon as the commissioners shall by resolution declare.

(2) All commissioners shall serve for a term of 4 years and until their successors are elected and have qualified, except that at the first election the two candidates having the highest number of votes shall hold office for a period of 4 years less the time elapsed since December 31 of the preceding odd-numbered year ~~last preceding~~. The terms of office of all other candidates ~~shall~~ expire on December 31 in any odd-numbered year following the special election provided for in this part at which the first commissioners are elected."

**Section 377.** Section 7-3-4319, MCA, is amended to read:

**"7-3-4319. Designation of mayor.** (1) The mayor ~~shall be~~ is that member of the commission who, at

the regular municipal election at which the commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them ~~shall~~ must be chosen mayor by the remaining members of the commission.

(2) ~~In event of~~ If a vacancy in the office of the mayor is caused by the expiration of ~~his~~ the term of office, the holdover commissioner having received the highest number of votes ~~shall be~~ is the mayor. ~~In the event~~ If there is a vacancy in the office of the mayor for any other cause, the remaining members of the commission shall choose ~~his~~ the mayor's successor for the unexpired term from their own number by lot.

(3) ~~In the event that~~ If the commissioner who is acting as mayor ~~shall be~~ is recalled, the remaining members of the commission shall select one of their number to serve as mayor for the unexpired term. ~~In the event of the recall of~~ If all the commissioners are recalled, the person receiving the highest number of votes at the election held to determine their successors ~~shall serve as~~ is the mayor."

**Section 378.** Section 7-3-4320, MCA, is amended to read:

**"7-3-4320. Role of mayor.** The mayor ~~shall be~~ is the presiding officer, except that in ~~his~~ the mayor's absence, a president pro tempore may be chosen. The mayor shall exercise ~~such~~ the powers conferred and perform all duties imposed upon ~~him~~ the mayor by ~~this part and part 44~~ and this part, the ordinances of the municipality, and the laws of the state, except that ~~he shall have no power to~~ the mayor may not veto any measure. ~~He shall~~ The mayor must be recognized as the official head of the municipality by the courts for the purpose of serving civil processes, by the governor for the purposes of the military law, and for all ceremonial purposes."

**Section 379.** Section 7-3-4322, MCA, is amended to read:

**"7-3-4322. Meetings of commission.** (1) At 10 a.m. on the first Monday after January 1 following a regular municipal election, the commission shall meet at the usual place for holding the meetings of the legislative body of the municipality, at which time the newly elected commissioners shall assume the duties of their office. Thereafter, the commissioners shall meet at ~~such times as~~ that may be prescribed by ordinance or resolution, except that in municipalities having less than 5,000 inhabitants, they shall meet regularly at least once and not more than four times per month and in municipalities having more than 5,000 inhabitants, they shall meet not less than once every 2 weeks.

(2) Absence from five consecutive regular meetings ~~shall operate to vacate~~ vacates the seat of a member unless ~~such~~ the absence ~~be~~ is authorized by the commission.

(3) The commissioner acting as mayor, any two members of the commission, or the city manager may call special meetings of the commission ~~upon at least 12 hours~~ with written notice of at least 12 hours to each member of the commission, served personally on each member or left at ~~his~~ the member's usual place of residence."

**Section 380.** Section 7-3-4361, MCA, is amended to read:

**"7-3-4361. Appointment of city manager.** The commission shall appoint a city manager. ~~He shall~~ The manager must be appointed without regard to his political beliefs and may or may not be a resident of the municipality when appointed. ~~He shall hold~~ The manager holds office at the will of the commission."

**Section 381.** Section 7-3-4363, MCA, is amended to read:

**"7-3-4363. Powers and duties of city manager.** (1) The powers and duties of the city manager ~~shall~~ be are:

(1)(a) to see that the laws and ordinances are enforced;

(2)(b) to appoint and, except as ~~herein~~ provided in this part, remove all directors of departments and all subordinate officers and employees in the departments in both the classified and unclassified service; ~~all appointments to be upon merit and fitness alone and in the classified service all appointments to be subject to the civil service provisions of this part and part 44;~~

(3)(c) to exercise control over all the departments and divisions created ~~herein~~ in this part or that may ~~hereafter~~ be created by the commission;

(4)(d) to attend all meetings of the commission, with the right to take part in the discussions but ~~having~~ no without the right to vote;

(5)(e) to recommend to the commission for adoption ~~such~~ measures ~~as he may deem~~ considered necessary or expedient;

(6)(f) to keep the commission fully advised as to the financial condition and needs of the city; and

(7)(g) to perform ~~such~~ other duties ~~as may be~~ prescribed by part 44 or this part or part 44 or be required of him by ordinance or resolution of the commission.

(2) All appointments referred to in subsection (1)(b) must be made on merit and fitness, and in the classified service all appointments are subject to the civil service provisions of part 44 and this part."

**Section 382.** Section 7-3-4365, MCA, is amended to read:

**"7-3-4365. Investigations by commission.** (1) The commission or any committee ~~thereof~~ duly of the commission authorized by the commission to do so may investigate the financial transactions of any office or department of the municipal government and the official acts of any municipal official and by similar investigations may secure information upon any matter.

(2) In conducting ~~such~~ investigations, the commission or ~~any~~ committee ~~thereof~~ may compel the attendance of witnesses and the production of books, papers, and other evidence and for that purpose may issue subpoenas or attachments, which ~~shall~~ must be signed by the presiding officer of the commission or the ~~chairman~~ presiding officer of ~~such the~~ committee, ~~as the case may be, and which~~ The subpoenas or attachments may be served and executed by any officer authorized by law to serve subpoenas or other process. ~~No~~ A witness may not be excused from testifying ~~touching his~~ concerning the witness's knowledge of the matter under investigation in any ~~such~~ inquiry, but ~~such the~~ testimony may not be used against ~~him~~ the witness in any criminal prosecution except for perjury committed upon ~~such the~~ inquiry."

**Section 383.** Section 7-3-4367, MCA, is amended to read:

**"7-3-4367. Control of conflict of interest.** (1) Commissioners and other officers and employees ~~shall~~ may not be interested in the profits or emoluments of any contract, job, work, or service for the municipality and ~~shall~~ may not hold any partisan political office or employment. Any commissioner who ~~shall cease~~ ceases to possess any of the qualifications ~~herein required in this part~~ shall forthwith forfeit his ~~forfeits the~~ office, and any ~~such~~ contract in which any member is or may be interested may be declared void by the commission.

(2) ~~No~~ A commissioner or other officer or employee of ~~said the~~ city or town ~~shall~~ may not accept any frank, free ticket, pass, or service, directly or indirectly, from any person, firm, or corporation ~~upon on~~ terms more favorable than are granted to the public generally. Any violation of the provisions of this section ~~shall be~~ is a misdemeanor and ~~shall is~~ also be sufficient cause for the summary removal or discharge of the offender. ~~Such~~ The provisions for free service ~~shall do~~ not apply to ~~police men~~ police officers or firefighters in uniform or wearing their official badges ~~where the same is~~ when the service is provided by ordinance or to any commissioner, ~~or to~~ the city manager, ~~or to~~ the city attorney upon official business; or to any other employee or official of ~~said the~~ city on official business who exhibits written authority signed by the city manager."

**Section 384.** Section 7-3-4402, MCA, is amended to read:

**"7-3-4402. Appointment of department directors.** The city manager shall appoint a director for each department, as specified ~~herein~~ in this part or as specified by ordinance of the commission, who shall serve until

removed by the city manager or until ~~his~~ the director's successor is appointed and has qualified."

**Section 385.** Section 7-3-4403, MCA, is amended to read:

**"7-3-4403. Role of department director.** Each director shall conduct the affairs of ~~his~~ the director's department in accordance with the rules made by the city manager and ~~shall be~~ is responsible for the conduct of the officers and employees of ~~his~~ that department, for the performance of its business, and for the custody and preservation of the books, records, papers, and property under its control. Subject to the supervision and control of the city manager in all matters, the director of each department shall manage the department."

**Section 386.** Section 7-3-4405, MCA, is amended to read:

**"7-3-4405. Establishment of civil service board.** (1) The commission may appoint three electors of the municipality as a civil service board, with one to serve for 2 years, one for 4 years, and one for 6 years, and to take office on January 1 after the municipality comes under the provisions of ~~this part and part 43 and this part~~ or as soon ~~thereafter~~ after that date as appointed and qualified. ~~Thereafter~~ After the initial appointments, members of the civil service board ~~shall~~ must be appointed to serve for 6 years and until their successors have been appointed and have qualified. The commission may remove any member of the board upon stating in writing the reasons for removal and allowing ~~him~~ the member an opportunity to be heard in ~~his~~ the member's own defense. Any vacancy ~~shall~~ must be filled by the commission for the unexpired term.

(2) Members of the board ~~shall~~ may not hold any other public office.

(3) It is ~~intended hereby~~ the intent of this section that the establishment of a civil service board ~~shall be~~ is permissive and not mandatory. If appointed, the board may be abolished at any time upon resolution ~~to that effect~~ by the commission; and ~~thereafter any~~ the civil service board appointed under the provisions of this part ~~shall cease~~ ceases to exist, ~~but so~~ However, as long as ~~any such a~~ any such a civil service board ~~shall exist~~ exists, its operations and proceedings ~~shall~~ must be controlled as provided in this part.

(4) The salaries of the board and its employees ~~shall~~ must be determined by the commission, and a sufficient sum ~~shall~~ must be appropriated each year to carry out the civil service provisions of this part."

**Section 387.** Section 7-3-4406, MCA, is amended to read:

**"7-3-4406. Organization of board.** Immediately after appointment, the board shall organize by electing one of its members ~~chairman~~ presiding officer. The board shall appoint a chief examiner, who shall also act as secretary. The board may appoint ~~such~~ other subordinates as may be provided for by appropriation."

**Section 388.** Section 7-3-4409, MCA, is amended to read:

**"7-3-4409. Role of chief examiner.** The chief examiner ~~shall be~~ is the employment officer of all municipal employees coming under the classified service. ~~He~~ The chief examiner shall provide examinations in accordance with the regulations of the board and maintain lists of eligibles ~~of for~~ for each class of the service of those meeting the requirements of ~~said the~~ the regulations. Positions in the classified service ~~shall must~~ must be filled ~~by him~~ from ~~such the~~ the eligible lists upon requisition from and after consultation with the city manager. As positions are filled, the employment officer shall certify the fact, by proper and prescribed form, to the director of finance and the director of the department in which the vacancy exists."

**Section 389.** Section 7-3-4411, MCA, is amended to read:

**"7-3-4411. Procedure for discharge, demotion, or suspension of employee.** (1) An employee ~~shall~~ may not be discharged or reduced in rank or compensation until ~~he~~ the employee has been presented with the reasons for ~~such~~ discharge or reduction, specifically stated in writing, and has been given an opportunity to be heard in ~~his~~ the employee's own defense. The reason for ~~such~~ discharge or reduction and any reply in writing ~~thereto to the reason~~ by such the employee shall must be filed with the board.

(2) Any employee of any department in the municipality in the classified service who is suspended, reduced in rank, or dismissed from a department by the director of that department or the city manager may appeal from the decision ~~of such officer~~ to the civil service board; ~~and such~~ The board shall define the manner, time, and place in which ~~such an~~ appeal ~~shall be~~ is heard. The judgment of ~~such the~~ board ~~shall be~~ is final."

**Section 390.** Section 7-3-4412, MCA, is amended to read:

**"7-3-4412. Retention of existing positions.** Any person in the employ of a municipality holding a position in the classified service at the time that the municipality comes under the provisions of ~~this part and part 43~~ and this part shall, unless ~~his~~ the person's position ~~be is~~ is abolished, retain the same position until discharged, reduced, promoted, or transferred in accordance ~~herewith~~ with part 43 and this part."

**Section 391.** Section 7-3-4431, MCA, is amended to read:

**"7-3-4431. Department of finance.** (1) The duties of the director of finance ~~shall~~ include:

- (a) the keeping and supervision of all accounts and the custody of all public money of the municipality;
- (b) the purchase, storage, and distribution of supplies needed by the various departments;
- (c) the making and collection of special assessments;

- (d) the issuance of licenses;
- (e) the collection of license fees and taxes; and
- (f) ~~such~~ other duties ~~as that~~ the commission may by ordinance require.

(2) ~~He~~ The director of finance shall install and have supervision over the accounts of all the departments and offices of the municipality. Whenever practicable the books of financial accounts ~~shall~~ must be kept in the office of the department of finance. ~~He~~ The director shall require daily departmental reports of money receipts and the disposition ~~thereof~~ of money and shall require of each department, in ~~such a form as that~~ may be prescribed, current financial and operating statements exhibiting each transaction and the cost ~~thereof~~ of the transaction. Upon the death, resignation, removal, or expiration of the term of any officer, ~~he~~ the director shall examine the accounts of ~~such that~~ officer and report ~~his~~ the findings to the city manager.

(3) ~~He shall have~~ The director of finance has charge of the preparation and certification of all special assessments for public improvements, the mailing of notices of ~~such the~~ assessments to property owners and purchasers of property under contracts for deed and all other duties connected ~~therewith~~ with the assessments, the collection of ~~such~~ assessments ~~as that~~ are payable directly to the municipality, and the preparation and certification of all unpaid assessments to the county treasurer for collection. ~~He~~ The director shall issue all licenses and collect all license fees ~~therefor~~ and shall pay deposit the ~~same~~ fees into the treasury in the manner provided by ordinance.

(4) The director of finance ~~shall be~~ is the custodian of all public money of the municipality and all other public money coming into ~~his hands~~ the director's possession. ~~He~~ The director shall keep and preserve ~~such the~~ money in the place or places determined by ordinance or by the provisions of any ~~law~~ applicable ~~thereto~~ law. Except as otherwise provided in ~~this part or part 43~~ or this part, ~~he~~ the director shall collect, receive, and disburse all public money of the municipality upon warrant and shall also receive and disburse all other public money coming into ~~his hands~~ in pursuance of such the director's possession pursuant to regulations ~~as that~~ may be prescribed by the authorities having lawful control over ~~such the~~ funds."

**Section 392.** Section 7-3-4433, MCA, is amended to read:

**"7-3-4433. Claims and issuance of warrants.** ~~He~~ A warrant for the payment of any claim ~~shall~~ may not be issued unless ~~such the~~ claim ~~shall be~~ is evidenced by a voucher approved by the head of the department for which the indebtedness was incurred and countersigned by the city manager. Before issuing ~~such a~~ voucher, the supplies and materials delivered or work done ~~shall~~ must be duly inspected and certified to by the head of the proper department or office or by a person designated by ~~him~~ the head of the department or office. The head of

each department or office shall require proper time reports ~~from~~ for all services rendered, to be certified by those having ~~recognition thereof~~ knowledge of the services, to serve as a basis for the preparation of payroll vouchers. Each director of a department and ~~his~~ the director's surety ~~shall be~~ are liable to the municipality for all loss or damage sustained by the municipality, by reason of the negligent or corrupt approval of any claim against the municipality in ~~his~~ the director's department. Prior to the drawing of a warrant for the payment of any voucher or claim, the director of finance may ~~at his discretion~~ cause an investigation or inspection to be made by a person designated by ~~him~~ the director of finance and ~~shall have power to~~ may summon persons and examine them under oath or affirmation, which oath or affirmation ~~he~~ the director of finance may administer."

**Section 393.** Section 7-3-4434, MCA, is amended to read:

**"7-3-4434. Purchase and sale of supplies and property.** (1) The director of finance or city manager shall, in manner provided by ordinance, purchase all supplies for the municipality and sell all real and personal property of the municipality not needed or unsuitable for public use or that may have been condemned as useless by the director of a department. ~~He shall have~~ The director of finance or city manager has charge of ~~such~~ the storerooms and storehouses of the municipality ~~as~~ that may be provided by ordinance, in which ~~shall~~ must be stored all supplies and materials purchased by the municipality and not delivered to the various departments.

(2) ~~He~~ The director of finance or city manager shall inspect all supplies delivered to determine quality and quantity and conformance with specifications, and ~~no~~ a voucher ~~shall~~ may not be honored unless the accompanying invoice ~~shall be~~ is endorsed as approved.

(3) ~~He~~ The director of finance or city manager may require from the director of each department, at ~~such~~ times ~~as~~ that contracts for supplies are to be let, a requisition for the quantity and kind of supplies to be paid for from the appropriations of the department.

(4) Upon certification that funds are available in the proper appropriations, ~~such~~ the goods ~~shall~~ must be purchased and ~~shall~~ must be paid for from funds in the proper department for that purpose. However, this procedure ~~shall~~ may not prejudice the director of finance or city manager from purchasing goods for cash to the credit of the stores account to be furnished to the several departments on requisition; ~~The goods so furnished~~ to must be paid for by the department to which the goods are furnished ~~therewith~~ by warrant made payable to the stores account.

(5) ~~He shall~~ The director of finance or city manager may not furnish any supplies to or purchase any supplies for any department unless ~~there be to the credit of such~~ the department has an available appropriation balance in excess of all unpaid obligations sufficient to pay for ~~such~~ the supplies.



(6) Before making any purchase or sale, the director of finance or city manager shall give opportunity for competition; ~~all~~ All proposals to ~~must~~ be upon precise specifications and under ~~such rules as~~ established by the commission ~~shall establish~~. Each order of purchase or sale, ~~to~~ must be approved and countersigned by the city manager or ~~his~~ the deputy city manager.

(7) In cases of emergency, purchases may be made without competition if a sufficient appropriation has ~~theretofore~~ been made against which purchases may lawfully be charged. In ~~such~~ those cases, a copy of the order issued ~~shall~~ must be filed with the director of finance, together with a certificate by the head of the department stating the facts of the emergency. A copy of this certificate ~~shall~~ must be attached to and filed with the voucher covering payment for the supplies. The director of finance shall ~~have such~~ employ assistants and ~~force of office~~ employees ~~as may be~~ that are necessary to properly carry out ~~his~~ the director's duties under the provisions of part 43 and this part ~~and part 43~~. If it is found desirable, ~~he~~ the director may divide ~~his~~ the office into divisions presided over by ~~the following officers:~~ an accountant, a treasurer, and a purchasing agent."

**Section 394.** Section 7-3-4441, MCA, is amended to read:

**"7-3-4441. Department of public service.** Subject to the control and supervision of the city manager in all matters, the director of public service shall:

(1) manage and have charge of:

(a) the construction, improvement, repair, and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, and other public highways;

(b) ~~of~~ sewers, drains, ditches, culverts, canals, streams, and watercourses; and

(c) ~~of~~ boulevards, squares, and other public places and grounds belonging to the municipality or dedicated to public use, except parks and playgrounds; ;

(2) ~~He shall~~ manage market houses, sewage disposal plants and farms, and all public utilities of the municipality; and

(3) ~~He shall~~ have charge of:

(a) the enforcement of all obligations of privately owned or operated public utilities enforceable by the municipality; ;

(b) ~~He shall have charge of~~ the making and preservation of all surveys, maps, plans, drawings, and estimates for public work;

(c) the cleaning, sprinkling, and lighting of streets and public places;

(d) the collection and disposal of waste; and

(e) the preservation of contracts, papers, plans, tools, and appliances belonging to the municipality and pertaining to the department."

**Section 395.** Section 7-3-4443, MCA, is amended to read:

**"7-3-4443. Utility connections.** (1) The director of public service ~~shall have authority to~~ may compel the making of sewer, water, gas, and other connections whenever, in view of the contemplated street improvements or as a sanitary regulation, sewer, water, gas, or other connections should in ~~his~~ the director's judgment be constructed.

(2) ~~He~~ The director shall cause written notice of ~~his~~ the determination ~~thereof~~ to be given to the owner of each lot or parcel of land to which ~~such~~ connections are to be made. The notice ~~shall~~ must state the number and character of connections required. ~~Such~~ The notice ~~shall~~ must be served by a person designated by the director of public service, in the manner provided for the service of summons in civil actions. Nonresidents of the municipality or persons who cannot be found may be served by one publication of ~~such~~ the notice in a daily newspaper of general circulation in the municipality if ~~such~~ there be is a newspaper and, if not, by one publication in a weekly newspaper. The notice ~~shall~~ must state the time within which ~~such~~ the connections ~~shall~~ must be constructed, and if they ~~be~~ are not constructed within the time, the work may be done by the municipality and the cost ~~thereof~~ of the connections, together with a penalty of 5%, assessed against the lots and lands for which ~~such~~ the connections are made; ~~provided that~~ However, the city commission may in its discretion order and direct that the cost of making any ~~such~~ connection by the municipality may be assessed without penalty and may be paid in annual installments over a period of not to exceed 8 years, together with interest ~~thereon~~ on the cost at a rate not to exceed 6% ~~per annum~~ a year payable annually on the deferred payments. ~~Said~~ The assessments ~~shall~~ must be certified and collected as other assessments for street improvements. The actual work of making ~~such~~ the connections ~~shall~~ must be done under ~~such~~ regulations ~~as~~ that are provided for by ordinance."

**Section 396.** Section 7-3-4444, MCA, is amended to read:

**"7-3-4444. Supervision of plats.** (1) The director of public service ~~shall be~~ is the supervisor of plats of the municipality. ~~He~~ The director shall see that the regulations governing the platting of all lands require all streets and alleys to be of proper width and to be coterminous with the adjoining streets and alleys and that all other regulations are conformed with. Whenever ~~he shall deem~~ the director considers it expedient to plat any portion of the territory within the corporate limits in which the necessary or convenient streets and alleys have not already been accepted by the municipality so as to become public streets or alleys or when any person plats any land

within the corporate limits or within 3 miles ~~thereof~~ of those limits, the ~~supervisor of plats~~ director shall, if ~~such~~ the plats are in accordance with the regulations prescribed ~~therefor~~ for plats, endorse ~~his~~ the director's written approval ~~thereon~~ on the plats.

(2) ~~No~~ A plat subdividing lands within the corporate limits or within 3 miles ~~thereof~~ of those limits may not be entitled to ~~record~~ be recorded in the recorder's office of the county without ~~such~~ the written approval ~~so~~ endorsed ~~thereon~~ on the plat."

**Section 397.** Section 7-3-4461, MCA, is amended to read:

**"7-3-4461. Department of law.** (1) The head of the department of law ~~shall~~ must be an attorney ~~at law~~ who has been admitted to practice in the state of Montana and ~~shall~~ must be known as the city attorney.

(2) ~~He shall be~~ The department head is the legal adviser of and attorney and counsel for the municipality and for all the officers and departments ~~thereof~~ of the municipality in matters relating to their official duties. ~~He~~ The department head shall prosecute and defend all suits for and in behalf of the municipality and shall prepare all contracts, bonds, and other instruments in writing in which the municipality is concerned and shall endorse on each ~~his~~ an approval of the form and correctness ~~thereof~~ of the documents. ~~He shall have such other duties and authority as are now conferred upon the city attorney by existing laws.~~

(3) ~~He~~ The department head shall ~~have such~~ employ the number of assistants ~~as~~ that the commission ~~by ordinance~~ may authorize by ordinance."

**Section 398.** Section 7-3-4463, MCA, is amended to read:

**"7-3-4463. Department of public welfare.** (1) Subject to the supervision and control of the city manager in all matters, the director of public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the municipality and the use of all recreational facilities of the municipality, including libraries, parks, and playgrounds. ~~He shall have~~ The director has charge of the inspection and supervision of public amusements and entertainments. ~~He~~ The director shall enforce all laws, ordinances, and regulations ~~relative~~ relating to:

- (a) the preservation and promotion of the public health;
- (b) the prevention and restriction of disease;
- (c) the prevention, abatement, and suppression of nuisances; and
- (d) the sanitary inspection and supervision of the production, transportation, storage, and sale of foodstuffs.

(2) ~~He~~ The director shall cause a complete and accurate system of vital statistics to be kept. In time of epidemic or threatened epidemic, ~~he~~ the director may enforce ~~such~~ quarantine regulations ~~as~~ that are appropriate to the emergency. The director of public welfare shall provide for the study of and research into causes of poverty, delinquency, crime, disease, and other social problems in the community and shall, by means of lectures and exhibits, promote the education and understanding of the community in those matters ~~which~~ that affect the public welfare.

~~(2)~~(3) The health officer of the municipality ~~shall be~~ is under the direction and control of the director of public welfare, ~~and~~ shall enforce all ordinances and laws relating to health, and shall perform all duties and have all powers provided by general law relative to the public health to be exercised in municipalities by health officers. Regulations affecting the public health ~~additional~~ in addition to those established by general law and for the violation of which penalties are imposed ~~shall~~ must be enacted by the commission and enforced as provided herein in this part."

**Section 399.** Section 7-3-4464, MCA, is amended to read:

**"7-3-4464. Department of public safety.** (1) Subject to the supervision and control of the city manager in all matters, the director of public safety ~~shall be~~ is the executive head of the division of police and fire. ~~He shall~~ The director is also ~~be~~ the chief administrative authority in all matters affecting the inspection and regulation of the erection, maintenance, repair, and occupancy of buildings as ~~may be ordained~~ prescribed by the commission or established by the general law of Montana. ~~He shall~~ The director is also ~~be~~ charged with the enforcement of all laws and ordinances relating to weights and measures.

(2) ~~Nothing herein shall~~ This section does not affect, impair, restrict, or repeal any provisions of general law authorizing the levying of taxes to provide for firefighters, police, and sanitary police pension funds and to create and perpetuate boards of trustees for the administration of ~~such~~ those funds."

**Section 400.** Section 7-3-4465, MCA, is amended to read:

**"7-3-4465. Police department.** (1) The chief of police ~~shall have~~ has exclusive control of the stationing and transfer of all patrol officers and other officers and employees constituting the police force, under ~~such~~ rules ~~as~~ that the director of public safety may prescribe. The police force ~~shall~~ must be composed of a chief of police and ~~such~~ officers, patrol officers, and other employees ~~as~~ that the city manager may determine. In case of riot, in event of emergency, or at time of elections or similar occasions, the director of public safety may appoint additional patrol officers and officers for temporary service; who need not be in the classified service.

(2) ~~No~~ A person ~~shall~~ may not act as ~~a special policeman~~, special detective; or ~~other~~ special police officer for any purpose whatsoever except upon the written authority of the director of public safety. ~~Such~~ The written authority ~~shall~~ must be exercised only under the direction and control of the chief of police and for a specified time.

(3) Section 7-4-4202(1) and (4), parts 2 and 41 of chapter 32, and chapters 9 and 19 of Title 19 ~~shall~~ are in all respects ~~be~~ applicable to and govern the police departments of all cities and towns under the commission-manager form of government provided for ~~herein~~ in this part."

**Section 401.** Section 7-4-505, MCA, is amended to read:

**"7-4-505. Eligibility for award.** (1) Except as provided in subsection (2), an employee may be eligible for an incentive award if ~~his~~ the employee's suggestion or invention results in:

- (a) eliminating or reducing an agency's expenditures; or
- (b) improving services to the public by permitting more work to be accomplished without increasing the cost of governmental operations.

(2) (a) An employee may not be eligible for an incentive award if ~~his~~ the employee's suggestion or invention directly relates to ~~his~~ the employee's assigned duties and responsibilities unless the proposal is so superior or meritorious as to warrant special recognition as determined by the governing body.

(b) Suggestions or inventions relating to the following matters may not be considered for awards:

- (i) personnel grievances;
- (ii) classification and pay of positions;
- (iii) matters recommended for study or review; and
- (iv) proposals resulting from assigned or contracted audits, studies, surveys, reviews, or research."

**Section 402.** Section 7-4-2108, MCA, is amended to read:

**"7-4-2108. Mileage allowance for county commissioners -- expenses.** (1) In addition to the salary provided by 7-4-2107(1), each member of the board of county commissioners in counties of the first, second, third, and fourth class shall receive a mileage allowance as provided in 2-18-503 for the distance necessarily traveled in going to and returning from the county seat and ~~his~~ the commissioner's place of residence; each day that ~~such~~ the trip is actually made and while engaged in the performance of ~~his~~ official duties.

(2) Each member of the board in all other counties is entitled to a mileage allowance as provided in 2-18-503 for the distance necessarily traveled in going to and returning from the county seat and ~~his~~ the

commissioner's place of residence each day that ~~such~~ the trip is actually made to perform official duties. Any county commissioner whose place of residence is 50 miles or more from the county seat, as measured by the usual route of travel, and who elects to remain more than one day in the county seat to attend sessions of the board or perform ~~his~~ official duties is entitled to receive, in addition to mileage for one round trip between ~~his~~ the commissioner's place of residence and the county seat, \$18 per day as expenses for each day's attendance on sessions of the board while engaged in the performance of ~~his~~ official duties.

(3) All claims for lodging expense reimbursement allowed under this section must be documented by an appropriate receipt.

(4) When other than commercial, nonreceiptable lodging facilities are utilized by a county commissioner, the amount of \$7 ~~will be~~ is authorized for lodging expenses for each day in which travel involves an overnight stay in lieu of the amount authorized in this section. However, when overnight accommodations are provided at the expense of any government entity, ~~no~~ reimbursement may not be claimed for lodging.

(5) This section does not apply to counties that have adopted a charter form of government."

**Section 403.** Section 7-4-2109, MCA, is amended to read:

**"7-4-2109. Chairman Presiding officer of board.** The board of county commissioners must elect one of its members ~~chairman~~ presiding officer. The ~~chairman must~~ presiding officer shall preside at all meetings of the board, and in case of ~~his~~ the presiding officer's absence or inability to act, the members present ~~must by an order~~ shall select one of their number to act temporarily as ~~chairman~~ presiding officer."

**Section 404.** Section 7-4-2111, MCA, is amended to read:

**"7-4-2111. Indemnity insurance for county officers.** The board of county commissioners may ~~in its discretion~~ pay a proper charge to any insurance company authorized to do business in this state for effecting insurance providing indemnity for or protection to any county officer against ~~his~~ liability for the loss, without fault, connivance, or neglect on ~~his~~ the officer's part, of money, securities, or other property for which ~~he~~ the officer is accountable to the county."

**Section 405.** Section 7-4-2113, MCA, is amended to read:

**"7-4-2113. Liability on official bond of commissioner.** In addition to any other penalty provided in this code, ~~any~~ a county commissioner who neglects or refuses to perform any duty imposed on ~~him~~ the commissioner without just cause ~~therefor~~, who willfully violates any law provided for ~~his~~ the commissioner's government as ~~such~~

an officer, who fraudulently or corruptly performs any duty imposed on ~~him~~ the commissioner, or who willfully, fraudulently, or corruptly attempts to perform an act unauthorized by law as commissioner forfeits to the county \$500 for every ~~such~~ act, to be recovered on ~~his~~ the commissioner's official bond, and is further liable on ~~his~~ the official bond to any person injured ~~thereby~~ by the act for all damages sustained."

**Section 406.** Section 7-4-2202, MCA, is amended to read:

**"7-4-2202. General qualifications for district or township offices.** ~~No~~ A person is not eligible to a district or township office ~~who~~ unless the person is ~~not~~:

- (1) of ~~the~~ voting age of ~~voting~~ as required by the Montana constitution;
- (2) a citizen of the state; and
- (3) an elector of the district or township in which the duties of the office are to be exercised or for which ~~he~~ the person is elected."

**Section 407.** Section 7-4-2207, MCA, is amended to read:

**"7-4-2207. Duty of officers to complete official business.** It is the duty of all officers to complete the business of their respective offices prior to the time of the expiration of their respective terms. ~~In case~~ If any officer, at the close of ~~his~~ the term, leaves to ~~his~~ the officer's successor official labor to be performed for which ~~he~~ the officer has received compensation or ~~which that~~ it was his the officer's duty to perform, ~~he~~ the officer is liable to pay to ~~his~~ the successor the full value of ~~such~~ the services, which may be recovered in any court of competent jurisdiction upon action brought against ~~him~~ the officer on ~~his~~ the officer's official bond."

**Section 408.** Section 7-4-2210, MCA, is amended to read:

**"7-4-2210. Restriction on practice of law by certain officers.** (1) Sheriffs, clerks, constables, and their deputies are prohibited from practicing law or acting as attorneys or counselors at law or having as a partner a lawyer or one who acts as ~~such~~ a lawyer.

(2) ~~No~~ A county clerk, clerk of any court, or sheriff ~~shall~~ may not act as an agent or solicitor in the prosecution of any claim or application for lands, pensions, patent rights, or other proceedings before any department of the state or general government or courts of the United States during ~~his~~ the person's continuance in office."

**Section 409.** Section 7-4-2213, MCA, is amended to read:

**"7-4-2213. Inspection of official bonds.** (1) At a regular meeting of the board of county commissioners in March and September of each year, the board of county commissioners shall carefully examine all official bonds of all county and township officials then in force and effect and investigate the qualifications and financial condition and liability of all sureties ~~thereon~~ on the bonds and their sufficiency.

(2) If it appears to the satisfaction of the board or a majority of the members ~~thereof~~ of the board that any surety upon any ~~such~~ the bond has, since the approval and acceptance of ~~such~~ the bond, died or withdrawn ~~therefrom~~, left the state, disposed of all of ~~his~~ the surety's property in this state, or become mentally ill, insolvent, financially embarrassed, or not good and responsible for the amount of ~~his~~ the liability ~~thereon~~ on the bond, the board shall immediately cause the clerk of the board to notify in writing the judge of the district court of that district of its action and conclusion and all facts in connection ~~therewith~~ with and the reasons ~~thereof~~ for the action.

(3) The judge shall take ~~recognizance thereof~~ notice of and investigate ~~such~~ the matter and take steps, by order to show cause or other order, citation, step, or action, as may be necessary to make ~~such~~ the bond good and sufficient according to the requirements of law and ample security for the amount ~~thereof~~ of the bond."

**Section 410.** Section 7-4-2304, MCA, is amended to read:

**"7-4-2304. Petition details.** (1) Said A petition ~~shall~~ for consolidation of offices must be addressed to the board or boards of county commissioners of the counties affected and ~~shall~~ must set forth and state the reasons why ~~such~~ the consolidation is believed by the petitioners to be necessary or desirable or for the best interests of the county taxpayers.

(2) Each person signing ~~such~~ the petition shall place ~~his~~ the person's printed last name, post-office address, and voting precinct after ~~his~~ the signature.

(3) For purposes of determining the number of signatures needed on a petition to meet the percentage requirements of this part, the number of electors must be the number of individuals registered to vote at the preceding general election for the county."

**Section 411.** Section 7-4-2312, MCA, is amended to read:

**"7-4-2312. Salary and bond of officer following consolidation.** (1) (a) When two or more offices are consolidated under a single officer, ~~such~~ the officer shall receive ~~as a salary an amount to be~~ as a salary an amount to be determined by the board or boards of county commissioners, ~~but which amount must~~ However, the salary may not be more than 20% higher than the highest salary provided by law to be paid to any officer whose duties ~~he~~ the officer is required to perform by reason of ~~such~~ the consolidations.



(b) The board or boards shall, in June of each fourth year, adopt a resolution fixing the salary of ~~such~~ the officer for the term beginning with the first Monday in January immediately following the adoption of ~~such the~~ the resolution.

(2) ~~Such~~ The officer shall give a bond in an amount equal to the highest bond required by law of any officer whose duties ~~he~~ the officer is required to perform by reason of ~~such the~~ consolidation of offices."

**Section 412.** Section 7-4-2403, MCA, is amended to read:

**"7-4-2403. Official mention of principal officer includes deputies.** Whenever the official name of any principal officer is used in any law conferring power or imposing duties or liabilities, it includes ~~his~~ the officer's deputies."

**Section 413.** Section 7-4-2511, MCA, is amended to read:

**"7-4-2511. Collection and disposal of fees.** (1) Each salaried county officer ~~must~~ shall charge and collect for the use of ~~his~~ the county and pay into the county treasury by the 10th day in each month all fees ~~now~~ or hereafter allowed by law, paid or chargeable in all cases, except as provided in 25-10-403. ~~Nothing in this~~ This subsection ~~applies~~ does not apply to the compensation received by the sheriff as mileage while in the performance of official duties or for the board of prisoners or other persons while in ~~his~~ the sheriff's custody.

(2) ~~No~~ A salaried county officer may not receive for ~~his~~ the officer's own use any fees, penalties, or emoluments of any kind, except the salary as provided by law, for any official service rendered ~~by him~~. Unless otherwise provided, all fees, penalties, and emoluments of every kind collected by a salaried county officer are for the sole use of the county and must be accounted for and paid to the county treasurer as provided by subsection (1) and credited to the general fund of the county."

**Section 414.** Section 7-4-2513, MCA, is amended to read:

**"7-4-2513. Filing of statements and affidavits.** The treasurer ~~must~~ shall file and preserve in ~~his~~ the treasurer's office ~~said~~ the statements and affidavits provided for in 7-4-2512 and ~~must~~ shall issue to the officer one original and one duplicate receipt ~~therefor~~ for the statements and affidavits. The officer receiving ~~said~~ the receipts must preserve one in ~~his~~ the officer's office and file the duplicate with the county clerk, ~~whereupon the~~ clerk must who shall charge the treasurer with the amount shown by the receipt."

**Section 415.** Section 7-4-2515, MCA, is amended to read:

**"7-4-2515. Fees to be paid in advance.** (1) The officers mentioned in this chapter ~~must~~ may not in ~~any~~ case perform any official services unless the fees prescribed for ~~such~~ the services are paid in advance. On ~~such~~ payment, the officers ~~must~~ shall perform the services required. For every failure or refusal to perform the official duty when the fees are tendered, the officer is liable on ~~his~~ the officer's official bond.

(2) The county clerk is not bound to record any instrument, file any paper or notice, furnish any copies, or render any service connected with ~~his~~ the office until the fee for the ~~same~~ recording or the service as prescribed by law is, if demanded, paid or tendered.

(3) When any publication is required by law to be made by an officer of any suit, process, notice, order, or other paper, the costs of the ~~same~~ publication must be first tendered by the party, if demanded, for whom ~~such~~ the order of publication was granted before the officer is compelled to make ~~such~~ the publication."

**Section 416.** Section 7-4-2517, MCA, is amended to read:

**"7-4-2517. Itemized receipt for fees.** Every officer, upon receiving any fees for official duty or service, may be required by the person paying the ~~same~~ fee to make ~~out-in-writing~~ and deliver to ~~such~~ the person a ~~particular~~ written account of ~~such~~ the fees, specifying for what they accrued, respectively, and ~~must~~ shall issue a receipt for the ~~same~~ fee. If ~~he~~ the officer refuses or neglects to ~~do so~~ issue an account and a receipt when required, ~~he~~ the officer is liable to the party paying the ~~same~~ fee in treble the amount ~~so~~ paid."

**Section 417.** Section 7-4-2518, MCA, is amended to read:

**"7-4-2518. Statement of fees to be posted.** (1) It is the duty of each officer entitled to collect fees to keep posted in ~~his~~ the office a plain and legible statement of the fees allowed by law.

(2) A failure to do so subjects the officer to a fine of \$100 and costs, to be recovered by the county attorney in the name of the state."

**Section 418.** Section 7-4-2520, MCA, is amended to read:

**"7-4-2520. Misconduct concerning official fees to result in vacancy of office.** Upon receiving a certified copy of the record of conviction of any officer for receiving illegal fees or upon proof that the officer collected fees and failed to account for the ~~same~~ fees, the board of county commissioners must declare ~~his~~ the office vacant and appoint ~~his~~ a successor."

**Section 419.** Section 7-4-2521, MCA, is amended to read:

**"7-4-2521. Designation of person to receive decedent's warrants or paychecks -- reissuance.** Any person employed by a county may file with ~~his~~ the appointing power a designation of a person who, notwithstanding any other provision of law, is entitled, on the death of the employee, to receive all warrants or paychecks that would have been payable to the decedent ~~had he survived~~. The employee may change the designation from time to time. A designated person ~~so designated~~ shall claim ~~such~~ the warrants or paychecks from the county clerk, and on sufficient proof of identity, the county clerk shall reissue the warrant or paycheck in the name of the designated person and deliver the warrant or paycheck to the designated person."

**Section 420.** Section 7-4-2602, MCA, is amended to read:

**"7-4-2602. Designation of chief deputy by county clerk.** The county clerk in counties of the first class may designate one of ~~his~~ the deputy clerks as chief deputy clerk."

**Section 421.** Section 7-4-2616, MCA, is amended to read:

**"7-4-2616. Map book.** The county clerk ~~must~~ shall keep a well-bound book ~~which must contain~~ containing maps of towns, villages, or additions to the ~~same~~ towns or villages within ~~his~~ the county, together with the description, acknowledgment, or other writing ~~thereon~~ on the maps."

**Section 422.** Section 7-4-2617, MCA, is amended to read:

**"7-4-2617. Procedure to record documents.** (1) When any instrument, paper, or notice authorized by law to be recorded is deposited for record in the office of the county clerk, as ex officio recorder, and accompanied by the required fee, ~~he~~ the clerk must endorse upon the ~~same~~ document the time it was received, noting the year, month, day, hour, and minute of its ~~reception~~ receipt, and the ~~reception~~ receipt of the instrument must be immediately entered in the county clerk and recorder's ~~reception~~ receipt book.

(2) If the printed, written, or typed words or numbers are considered by the clerk and recorder to be illegible and not legibly reproducible, the clerk and recorder must affix to the recorded document a statement that the document is illegible and not legibly reproducible.

(3) The county clerk ~~must~~ shall record ~~said~~ the instrument without delay, together with the acknowledgment, proofs, and certificates written upon or ~~annexed~~ attached to the ~~same~~ instrument and with the plats, surveys, schedule, and other attached papers ~~thereto annexed~~, in the order and as of the time when the ~~same~~ instrument was received for ~~record~~ recording, and ~~must~~ shall note at the foot of the record the exact time of its ~~reception~~ receipt.

(4) The county clerk ~~must~~ shall also endorse upon each instrument, paper, or notice the time when and the book and pages or document number in which it is recorded and ~~must thereafter~~ shall deliver it, upon request, to the party leaving the ~~same document~~ for record recording or to ~~his~~ the party's order."

**Section 423.** Section 7-4-2622, MCA, is amended to read:

**"7-4-2622. Availability of records.** All books or records, maps, charts, surveys, and other papers on file in the county clerk's office must be open during office hours for the inspection of any person who may desire to inspect them and may be inspected without charge. The county clerk ~~must~~ shall arrange the books of record and indexes in his the office in ~~such~~ suitable places ~~as to~~ that facilitate their inspection."

**Section 424.** Section 7-4-2704, MCA, is amended to read:

**"7-4-2704. Limitations on activities of county attorneys and deputy county attorneys.** (1) The county attorney, except for ~~his own~~ personally rendered services, ~~must~~ may not present any claim, account, or other demand for allowance against the county or in any way advocate the relief asked on the claim or demand made by another.

(2) In each county with a population in excess of 30,000, the county attorney is prohibited from engaging in the private practice of law or sharing directly or indirectly in the profits of any private practice of law, except ~~that he may represent himself and his;~~

(a) for self-representation and the representation of immediate family; and

(b) ~~except~~ as provided in subsection (4).

(3) Any deputy county attorney in a county with a population in excess of 30,000 who is paid 70% or more of the county attorney's salary is prohibited from engaging in the private practice of law or sharing directly or indirectly in the profits of any private practice of law except as to those matters in which ~~he~~ the deputy has a direct interest and except as provided in subsection (4).

(4) Any elected or appointed county attorney and any deputy county attorney shall, upon demonstration of need to the board of county commissioners, be granted a period of time, not to exceed 3 months from the date ~~he~~ the person takes office, to complete any pending matters remaining from any previous private practice of law. During ~~such~~ that time the county attorney and any appointed deputy are bound by the customary rules of ethics applicable to attorneys at law."

**Section 425.** Section 7-4-2707, MCA, is amended to read:

**"7-4-2707. Contract for services of county attorney from another county.** The county commissioners of any county may, upon the consent of the county attorney, by agreement with the commissioners and county attorney of any other county, contract in writing to employ any other county attorney or attorney member of ~~his~~ a county attorney's staff to perform civil or criminal legal services for the county at a reasonable rate. The provisions of this section are subject to the provisions of interlocal cooperative agreements."

**Section 426.** Section 7-4-2711, MCA, is amended to read:

**"7-4-2711. County attorney to be legal adviser of county and other subdivisions.** (1) The county attorney is the legal adviser of the board of county commissioners. ~~He must~~ The county attorney shall attend their meetings when required and ~~must shall~~ attend and oppose all claims and accounts against the county ~~which that~~ are unjust or illegal. ~~He must~~ The county attorney shall defend all suits brought against ~~his~~ the county.

(2) The county attorney ~~must shall~~:

(a) give, when required and without fee, ~~his~~ an opinion in writing to the county, district, and township officers on matters relating to the duties of their respective offices;

(b) act as counsel, without fee, for fire districts and fire service areas in unincorporated territories, towns, or villages within ~~his~~ the county;

(c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee;

(d) when requested by a weed district pursuant to 7-22-2103, act as counsel, without fee; and

(e) when requested by a county hospital board pursuant to 7-34-2115, act as counsel, without fee, unless the legal action requested involves the county commissioners."

**Section 427.** Section 7-4-2712, MCA, is amended to read:

**"7-4-2712. Prosecutorial duties.** The county attorney is the public prosecutor and ~~must shall~~:

(1) institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when ~~he~~ the county attorney has information that ~~such~~ the offenses have been committed and for that purpose, whenever not otherwise officially engaged, must ~~attend upon~~ be present and assist the magistrate in cases of arrest and ~~attend appear~~ before and give advice to the grand jury whenever cases are presented to them for their consideration;

(2) draw all indictments and informations."

**Section 428.** Section 7-4-2713, MCA, is amended to read:

**"7-4-2713. Actions to recover money.** The county attorney ~~must~~ shall prosecute all recognizances forfeited in the courts of record and all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or ~~his~~ the county."

**Section 429.** Section 7-4-2714, MCA, is amended to read:

**"7-4-2714. Recovery of illegally paid money.** Whenever the board of county commissioners, without authority of law, orders any money paid as a salary or fee or for any other purpose and ~~such~~ the money has been actually paid or whenever any other county officer has drawn a warrant in ~~his~~ the officer's own favor or in favor of any other person without being authorized by the board or by law and the ~~same~~ warrant has been paid, the county attorney ~~is empowered and it is his duty to~~ shall institute an action in the name of the county against ~~such~~ the person to recover the money and 25% damages for the use ~~thereof~~ of the money. ~~No~~ An order of the board ~~therefor~~ is ~~necessary~~ unnecessary to maintain this suit. Whenever the money has not been paid on the order or warrant, it is the duty of the county attorney, upon receiving notice ~~thereof~~, to commence an action in the name of the county for restraining the payment of the ~~same~~ money, and ~~no~~ an order of the board is ~~necessary~~ unnecessary to maintain the action."

**Section 430.** Section 7-4-2715, MCA, is amended to read:

**"7-4-2715. Records and reports.** The county attorney ~~must~~ shall:

- (1) keep a register of all official business, in which must be entered a note of every action, whether criminal or civil, prosecuted officially and of the proceedings ~~therein~~ in the action;
- (2) deliver receipts for money or property received in ~~his~~ an official capacity and file duplicates ~~thereof~~ of the receipts with the county treasurer;
- (3) on the first Monday of January, April, July, and October in each year file with the county clerk an account, verified by ~~his~~ oath, of all money received by ~~him~~ the county attorney in ~~his~~ an official capacity during the preceding 3 months and at the same time pay it over to the county treasurer."

**Section 431.** Section 7-4-2716, MCA, is amended to read:

**"7-4-2716. Duties related to state matters.** The county attorney ~~must~~ shall:

- (1) attend the district court and conduct, on behalf of the state, all prosecutions for public offenses and represent the state in all matters and proceedings to which it is a party or in which it may be beneficially interested, at all times and in all places within the limits of ~~his~~ the county;

- (2) when ordered or directed by the attorney general to do so, promptly institute and diligently prosecute in the proper court and in the name of the state of Montana any criminal or civil action or special proceeding;
- (3) defend all suits brought against the state."

**Section 432.** Section 7-4-2801, MCA, is amended to read:

**"7-4-2801. Qualifications for county surveyor and deputies.** (1) Except as provided in subsection (3), a county surveyor ~~shall~~ must be a registered professional engineer or registered professional land surveyor who ~~shall have~~ has been in active practice of ~~his~~ the profession for at least 3 years and who ~~shall have~~ has had responsible charge of work as principal or assistant for at least 1 year. Graduation from a school of engineering or land surveying ~~shall be~~ is considered as equivalent to 2 years of active practice.

(2) All deputies must also have a practical knowledge of engineering or land surveying.

(3) When the office of county surveyor is consolidated with another county office within the county, the requirements of subsection (1) are waived. Unless the officeholder has the qualifications prescribed in subsection (1), ~~he~~ the officer shall, with the approval of the governing body, contract for the services of a person with those qualifications to perform the duties of county surveyor."

**Section 433.** Section 7-4-2802, MCA, is amended to read:

**"7-4-2802. Employment of assistants to surveyor.** If a party for whom the county survey is made does not furnish the ~~chainmen and markers~~ assistants, the surveyor may employ the necessary ~~chainmen and markers~~ assistants and receive payment for the reasonable ~~hire~~ wages of all assistants necessarily employed."

**Section 434.** Section 7-4-2803, MCA, is amended to read:

**"7-4-2803. Situations involving use of other surveyors.** (1) Whenever the county surveyor is interested in any land the title to which is in dispute and a survey ~~thereof~~ is necessary, the court ~~must~~ shall direct the survey to be made by some disinterested person. The appointed person ~~so appointed~~ is, for the purpose, authorized to administer and certify oaths. ~~He~~ The appointed person shall return the survey, verified by ~~his~~ affidavit annexed ~~thereto~~ to the survey, and receive for ~~his~~ the services the same fees as the county surveyor would be entitled to for similar services.

(2) Whenever the county surveyor neglects, refuses, or is incompetent to perform the duties prescribed in this part, ~~it is the duty of~~ the board of county commissioners ~~to~~ shall employ another competent civil engineer, who ~~shall be~~ is subject to the laws governing the county surveyor."

**Section 435.** Section 7-4-2811, MCA, is amended to read:

**"7-4-2811. Function of county surveyor.** (1) The county surveyor shall work under the direction of the board of county commissioners. ~~He shall have no power or authority to~~ The county surveyor may not incur any indebtedness on the part of the county without the prior order or approval of the board. The county surveyor ~~shall~~ must be provided with suitable office space, together with necessary equipment, to perform ~~his~~ the various duties as prescribed by law.

(2) ~~He~~ The county surveyor shall make all surveys, establish all grades, and prepare plans, specifications, and estimates.

(3) ~~He~~ The county surveyor shall make progress reports and estimates of all work and ~~such~~ other facts in relation ~~thereto~~ to the work as may be required by the board."

**Section 436.** Section 7-4-2813, MCA, is amended to read:

**"7-4-2813. Maintenance of records.** (1) The county surveyor shall keep in ~~his~~ the office a record of all surveys and plats made or caused to be made by ~~him~~ the surveyor, to be recorded in proper books provided for that purpose. ~~He~~ The county surveyor shall also keep on file and for record, in suitable plat books provided ~~therefor~~ for that purpose, copies of all plats made or caused to be made by ~~him~~ the surveyor and have recorded ~~therein~~ in the books a description of every public highway within the county.

(2) All ~~such~~ books of record, together with original drawings and the original book or books of field notes, calculations, and computations, are and ~~shall~~ remain the property of the county and ~~shall~~ must be preserved as ~~such~~ county records."

**Section 437.** Section 7-4-2814, MCA, is amended to read:

**"7-4-2814. Preparation of surveys.** (1) (a) The county surveyor ~~must~~ shall:

(i) make any survey that ~~may be~~ is required by order of the court or upon application of any person;

(ii) keep a correct and fair record of all surveys made by ~~him~~ the county surveyor;

(iii) number ~~them~~ the surveys progressively in the order made; and

(iv) preserve a copy of the field notes and calculations of each survey and endorse ~~thereon~~ on the copy its proper number;.

(b) ~~a~~ A copy of ~~which~~ the field notes and calculations of each survey and a fair and accurate plat, together with the certificate of survey, must be furnished by ~~him~~ the county surveyor to any person upon payment of the fees allowed by law.



(c) In all surveys the courses must be expressed according to the true meridian and the variation of the magnetic meridian from the true meridian must be expressed on the plat; with the date of the survey.

(2) ~~He must~~ The county surveyor shall also keep a correct and plain record of all surveys made by ~~him~~ the county surveyor for the county or for individuals or corporations ~~which that~~ which that pertain to the public roads or bridges; in a book provided for that purpose by the county, which ~~shall~~ must be transmitted to ~~his~~ the successor in office."

**Section 438.** Section 7-4-2901, MCA, is amended to read:

**"7-4-2901. Appointment of deputy coroners.** (1) The coroner, with approval of the county commissioners, may appoint one or more deputy coroners to assist ~~him~~ the coroner or act in ~~his~~ the coroner's absence.

(2) At the time of appointment, a deputy coroner or acting coroner must meet the qualifications required of a coroner as provided in 7-4-2904(1) and (2)(a). Within a reasonable time after appointment, a deputy ~~must~~ shall successfully complete the basic coroner course, as provided for in 7-4-2905(2)(a). The deputy ~~must~~ shall also meet the requirements for advanced education as provided in 7-4-2905(2)(b).

(3) A deputy coroner may be the coroner or qualified deputy coroner from another county."

**Section 439.** Section 7-4-2902, MCA, is amended to read:

**"7-4-2902. Vacancy in office of county coroner or disqualification of coroner.** (1) The coroner, or the board of county commissioners if the coroner is unable or refuses to act, shall request the coroner or a qualified deputy coroner of another county to be acting county coroner if the coroner:

(a) is absent or unable to attend to ~~his~~ duties or if the office of coroner is vacant and there are no qualified deputies available;

(b) is related to the deceased;

(c) is a potential party in an action concerning the death or ~~his~~ the coroner's inquiry into the death may pose a conflict of interest;

(d) has not successfully completed the basic coroner course required in 7-4-2905 and there are no qualified deputies available; or

(e) is disqualified under the provisions of 46-4-201.

(2) The salary of and expenses incurred by an acting coroner on behalf of a requesting county are an allowable charge against the requesting county."

**Section 440.** Section 7-4-2904, MCA, is amended to read:

**"7-4-2904. Qualifications for office of county coroner.** (1) In addition to the qualifications set forth in 7-4-2201, to be eligible for the office of coroner, at the time of election or appointment to office a person must be a high school graduate or holder of an equivalency of completion of secondary education as provided by the superintendent of public instruction under 20-7-131 or of an equivalency issued by another state or jurisdiction.

(2) Each coroner, before entering the duties of ~~his~~ office, ~~must~~ shall:

(a) take and file with the county clerk the constitutional oath of office; and

(b) certify to the county clerk that:

(i) ~~he~~ the individual has satisfactorily completed the basic coroner course of study provided in 7-4-2905 or that ~~he~~ the individual has completed the equivalent educational requirements approved by the attorney general; or

(ii) ~~he~~ the individual intends to take the basic coroner course at the next offering of the course if the coroner has been appointed or was elected by other than a local government general election and, from the date of appointment or election and assumption of ~~his~~ the duties as coroner, ~~no~~ a basic coroner course was not offered. A coroner forfeits ~~his~~ office for failure to take and satisfactorily complete the next offering of the basic coroner course."

**Section 441.** Section 7-4-2911, MCA, is amended to read:

**"7-4-2911. Duties of county coroner.** The county coroner shall:

(1) hold inquests as provided in Title 46, chapter 4, parts 1 and 2;

(2) inquire into the cause, manner, and circumstances of all human deaths, as required in 46-4-122, and establish the identity of the deceased person;

(3) provide decent disposal of an unclaimed dead human body and unclaimed parts of bodies believed to be human;

(4) maintain records of inquiries as required by good practice and by law;

(5) as soon as practicable upon identifying a dead human body, provide for notifying the next of kin of the deceased of the fact of death in any death into which ~~he~~ the coroner is making an inquiry;

(6) if ~~no~~ a law enforcement agency ~~has~~ does not have jurisdiction of the case, preserve evidence involving any human death, pursuant to ~~his~~ the coroner's authority, including placing under ~~his~~ the coroner's control, to the extent necessary, any personal and real property that may be related to or involved in the death;

(7) witness and certify deaths that are the result of a judicial order;

(8) inquire into any human death when no physician or surgeon licensed in the state will sign a death certificate;

(9) notify the county attorney and the law enforcement agency having jurisdiction of all deaths requiring inquiry pursuant to 46-4-122; and

(10) in the cases specified in 25-3-205, discharge the duties of sheriff. If acting as sheriff, the coroner is allowed the same salary as sheriff or the same fees as constable for ~~the~~ similar services."

**Section 442.** Section 7-4-2914, MCA, is amended to read:

**"7-4-2914. Statement required before allowing accounts of coroner.** Before allowing the accounts of the coroner, the board of county commissioners ~~must~~ shall require ~~him~~ the coroner to file with the clerk of the board a statement, in writing and verified by ~~his~~ affidavit, showing:

(1) the amount of money or other property belonging to the estate of the deceased person ~~which~~ that has come into ~~his~~ the coroner's possession since ~~his~~ the last statement; and

(2) the disposition made of ~~such~~ the property."

**Section 443.** Section 7-4-2915, MCA, is amended to read:

**"7-4-2915. Custody and disposition of bodies held pending investigation.** (1) In the course of an inquiry authorized under the provisions of 46-4-122, the coroner may take custody of a dead human body and cause it to be removed from the site of death to a facility designated by the coroner.

(2) A dead human body in the custody of a county coroner must be held until the coroner, after consultation with appropriate law enforcement officials and the county attorney, establishes that it is not necessary to hold the body to determine the reasonable and true cause of death or that the body is no longer necessary to assist any local investigations.

(3) If the identity of a dead human body is unknown or if those entitled to custody of a body do not claim it, the coroner shall take custody of the body even if the circumstances of the death do not otherwise require an inquiry by the coroner.

(4) A dead human body in the custody of the coroner may be released by ~~him~~ the coroner to the custody of a person who is entitled to custody or to a funeral home.

(5) The coroner shall release to a funeral home a dead human body that is not designated to be released to a specific funeral home by the deceased prior to death, by the deceased's next of kin, or by a friend of the deceased who will take financial responsibility for the disposition of the body. The coroner shall rotate the release

of bodies to funeral homes in a manner that is fair and equitable. The coroner may not release a body to a funeral home if the funeral home has requested in writing by December 1 of the preceding year that it does not wish to participate in the release of bodies under this section."

**Section 444.** Section 7-4-2923, MCA, is amended to read:

**"7-4-2923. Computation of mileage for reimbursement.** When ~~any a~~ a coroner serves more than one process in the same cause, not requiring more than one journey from ~~his the~~ the office, ~~he shall the coroner may~~ receive mileage only for the more distant service, and ~~no mileage in any case must be~~ is not allowed for less than 1 mile actually traveled."

**Section 445.** Section 7-4-4101, MCA, is amended to read:

**"7-4-4101. Officers of city of first class.** (1) The officers of a city of the first class consist of:

- (a) one mayor;
- (b) two ~~aldermen~~ city council members from each ward; and
- (c) one city judge.

(2) The officers listed in subsection (1) must be elected by the qualified electors of the city, as ~~hereinafter~~ provided in this part.

(3) There may also be appointed by the mayor, with the advice and consent of the council:

- (a) one city attorney;
- (b) one city clerk;
- (c) one city treasurer or finance officer or one city clerk-treasurer;
- (d) one chief of police;
- (e) one assessor;
- (f) one street commissioner;
- (g) one city jailer;
- (h) one city surveyor; and
- (i) any other officers necessary to carry out the provisions of this title.

(4) The city council may by ordinance prescribe the duties of all city officers and fix their compensation."

**Section 446.** Section 7-4-4102, MCA, is amended to read:

**"7-4-4102. Officers of city of second or third class.** (1) The officers of a city of the second or third

class consist of:

- (a) one mayor;
- (b) two ~~aldermen~~ city council members from each ward; and
- (c) one city judge.

(2) The officers listed in subsection (1), except the city judge for a city of the third class, must be elected by the qualified electors of the city, as ~~hereinafter~~ provided in this part.

(3) The governing body of a city of the third class may by ordinance determine whether the office of city judge ~~shall~~ must be filled by appointment by the governing body or by election or may appoint a justice of the peace or the city judge of another city as judge of the city court as provided in 3-11-205.

(4) There may also be appointed by the mayor, with the advice and consent of the council:

- (a) one city attorney;
- (b) one city clerk, who is ex officio city assessor;
- (c) one city treasurer or one city clerk-treasurer;
- (d) one chief of police; and
- (e) any other officers necessary to carry out the provisions of this title.

(5) The city council may prescribe the duties of all city officers and fix their compensation."

**Section 447.** Section 7-4-4103, MCA, is amended to read:

**"7-4-4103. Officers of towns.** (1) The officers of a town consist of:

- (a) one mayor;
- (b) two ~~aldermen~~ city council members from each ward; and
- (c) one city judge.

(2) The officers listed in subsection (1), except for the city judge, must be elected by the qualified electors of the town, as ~~hereinafter~~ provided in this part.

(3) The governing body of the town may by ordinance determine that the office of city judge must be filled either by election or by appointment or may appoint a justice of the peace or the city judge of another city to be judge of the city court as provided in 3-11-205.

(4) There may be appointed by the mayor, with the advice and consent of the council:

- (a) one clerk, who may be ex officio assessor and tax collector and a member of the council;
- (b) one marshal, who may be ex officio street commissioner; and
- (c) any other officers necessary to carry out the provisions of this title.

(5) The town council may prescribe the duties of all town officers and fix their compensation, subject to the limitations contained in this title."

**Section 448.** Section 7-4-4109, MCA, is amended to read:

**"7-4-4109. Official bond.** Each officer of a city or town who is required to give bond shall file the ~~same~~ bond, duly approved, within 10 days after receiving notice of ~~his~~ election or appointment or, if ~~no~~ notice ~~be~~ is not received, then on or before the date fixed for the assumption ~~by him~~ of the duties of the office to which ~~he may have been~~ the officer is elected or appointed."

**Section 449.** Section 7-4-4112, MCA, is amended to read:

**"7-4-4112. Filling of vacancy.** (1) When ~~any~~ a vacancy occurs in any elective office, this position ~~shall be~~ is considered open and subject to nomination and election at the next general municipal election in the same manner as the election of any other person holding the same office, except the term of office ~~shall be~~ is limited to the unexpired term of the person who originally created the vacancy. Pending ~~such~~ an election and qualification, the council shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until ~~his~~ a successor is elected and qualified.

(2) If all council positions become vacant at one time, the board of county commissioners shall appoint persons within 5 days to hold office as ~~aldermen~~ a city council member. The appointed ~~aldermen~~ city council member shall then appoint persons to any other vacant elective offices.

(3) A vacancy in the office of ~~alderman~~ city council member must be filled from the ward in which the vacancy exists."

**Section 450.** Section 7-4-4211, MCA, is amended to read:

**"7-4-4211. Designation of person to receive decedent's warrants or paychecks -- reissuance.** ~~Any~~ A person employed by a municipality may file with ~~his~~ the appointing power a designation of a person who, notwithstanding any other provision of law, is entitled, on the death of the employee, to receive all warrants or paychecks that would have been payable to the decedent ~~had he survived~~. The employee may change the designation from time to time. A designated person ~~so designated~~ shall claim ~~such~~ the warrants or paychecks from the city treasurer or town clerk, whichever is applicable, and on sufficient proof of identity, the city treasurer or town clerk shall reissue the warrant or paycheck in the name of the designated person and deliver the warrant or paycheck to the designated person."

**Section 451.** Section 7-4-4301, MCA, is amended to read:

**"7-4-4301. Qualifications for mayor.** (1) ~~No~~ A person is not eligible for the office of mayor unless ~~he~~ the person:

(a) is at least 21 years old;

(b) has been a resident of the state for at least 3 years; and

(c) has been a resident for at least 2 years preceding the election to office of the city or town or an area ~~which~~ that has been annexed by the city or town.

(2) The office of mayor of a city or town is considered vacant if the individual elected as mayor ceases to be a resident of the city or town."

**Section 452.** Section 7-4-4302, MCA, is amended to read:

**"7-4-4302. Term of office.** The mayor shall hold office for a term of 4 years and until the qualification of ~~his~~ a successor."

**Section 453.** Section 7-4-4401, MCA, is amended to read:

**"7-4-4401. Qualifications for ~~alderman~~ city council member.** ~~No~~ A person is not eligible for the office of ~~alderman~~ city council member unless ~~he~~ the person is a resident for at least 60 days preceding the election to office of the ward electing ~~him~~ the person or of an area ~~which~~ that has been annexed by the city or town and placed in the ward."

**Section 454.** Section 7-4-4402, MCA, is amended to read:

**"7-4-4402. Term of office.** (1) Except as provided in subsection (2), ~~an alderman~~ a city council member shall hold office for a term of 4 years and until the qualification of ~~his~~ a successor.

(2) At the first annual election held after the organization of a city or town under this title, the electors of the city or town ~~must~~ shall elect two ~~aldermen~~ city council members from each ward, who ~~must~~ shall, at the first meeting of the council, decide by lot their terms of office, with one from each ward to hold for a term of 4 years and one; for a term of 2 years and until the qualification of their successors. In the succeeding ~~election~~ and thereafter elections, one ~~alderman~~ city council member from each ward ~~will~~ must be elected for a 4-year term."

**Section 455.** Section 7-4-4403, MCA, is amended to read:

**"7-4-4403. Officers of city or town council.** The council may elect a president; who, in the absence

of the mayor, is the presiding officer and may perform the duties of mayor. In the absence of the president, the council may appoint one of its number to act in ~~his~~ the president's place."

**Section 456.** Section 7-4-4502, MCA, is amended to read:

**"7-4-4502. Duties of city clerk related to city records and papers.** ~~It is the duty of the~~ The city clerk ~~to shall:~~

(1) file and keep all records, books, papers, or property belonging to the city or town and deliver the ~~same documents or property~~ to ~~his~~ the clerk's successor when qualified;

(2) make and certify copies of all records, books, and papers in ~~his~~ the clerk's possession on the payment of ~~the fees as that~~ are allowed county clerks, which ~~fees~~ must be paid into the city treasury;

(3) make and keep a complete index of the journal, ordinance book, finance book, and all other books and papers on file in ~~his~~ the clerk's office."

**Section 457.** Section 7-4-4512, MCA, is amended to read:

**"7-4-4512. Duties of town clerk related to town records and papers.** ~~It shall be the duty of the~~ The town clerk ~~to shall~~ file and keep all records, books, papers, or property belonging to the town and to deliver the ~~same documents or property~~ to ~~his~~ a successor when qualified."

**Section 458.** Section 7-4-4602, MCA, is amended to read:

**"7-4-4602. Appointment -- term of office.** (1) The city attorney must be appointed by the mayor, subject to approval by the city council.

(2) The city attorney shall hold ~~his~~ office for 2 years unless suspended or removed as provided by law."

**Section 459.** Section 7-4-4701, MCA, is amended to read:

**"7-4-4701. Term of office for city treasurer.** In cities of the first, second, and third classes, a city treasurer shall hold office for a term of 4 years and until the qualification of ~~his~~ a successor."

**Section 460.** Section 7-5-101, MCA, is amended to read:

**"7-5-101. Definition.** As used in this part, "chief executive" means the elected executive in a government adopting the commission-manager form, the ~~chairman~~ presiding officer in a government adopting the ~~commission-chairman~~ commission-presiding officer form, the town ~~chairman~~ presiding officer in a government



adopting the town meeting form, the commission acting as a body in a government adopting the commission form, or the officer or officers ~~so~~ designated in the charter in a government adopting a charter."

**Section 461.** Section 7-5-103, MCA, is amended to read:

**"7-5-103. Ordinance requirements.** (1) All ordinances ~~shall~~ must be submitted in writing in the form prescribed by resolution of the governing body.

(2) ~~No~~ An ordinance passed ~~shall~~ may not contain more than one comprehensive subject, which ~~shall~~ must be clearly expressed in its title, except ordinances for codification and revision of ordinances.

(3) An ordinance must be read and adopted by a majority vote of members present at two meetings of the governing body not less than 12 days apart. After the first adoption and reading, it must be posted and copies must be made available to the public.

(4) After passage and approval, all ordinances ~~shall~~ must be signed by the ~~chairman~~ presiding officer of the governing body and filed with the official or employee designated by ordinance to keep the register of ordinances."

**Section 462.** Section 7-5-135, MCA, is amended to read:

**"7-5-135. Suit to determine validity and constitutionality of petition and proposed action.** (1) The governing body may direct that a suit be brought in district court by the local government to determine whether the proposed action would be valid and constitutional, ~~but such a~~ The suit must be initiated within 14 days of the date a petition has been approved as to form under 7-5-134.

(2) An action brought under this section takes precedence over other cases and matters in the district court. The court shall as soon as possible render a decision as to whether the proposed action would be valid and constitutional.

(3) If the defendant prevails, ~~he~~ the defendant is entitled to be reimbursed by the local government for costs and reasonable attorney's fees incurred.

(4) The 90-day period during which petition signatures must be collected under 7-5-134 begins on the date of the court order resolving the suit."

**Section 463.** Section 7-5-2127, MCA, is amended to read:

**"7-5-2127. Subpoena power of county commissioners.** (1) The board may, by its ~~chairman~~ presiding officer or the ~~chairman~~ presiding officer of any committee, issue subpoenas to compel the attendance of any

person and the production of any books or papers relating to the affairs of the county, for the purpose of examination upon any matter within its jurisdiction.

(2) When served, a witness is bound to attend and to answer all questions ~~which he~~ that the witness would be bound to answer before any court. Disobedience to the subpoena or to an order to attend or to testify may be enforced by the board, and for that purpose, the board has all the powers conferred by and the witness is subject to all the provisions of Title 26, chapter 2, parts 1 and 2; 26-2-303; and Rule 45(c), M.R.Civ.P."

**Section 464.** Section 7-5-2130, MCA, is amended to read:

**"7-5-2130. Records to be signed.** The records must be signed by the ~~chairman~~ presiding officer and the clerk."

**Section 465.** Section 7-5-4102, MCA, is amended to read:

**"7-5-4102. Powers and duties of mayor related to administration and executive function.** (1) The mayor ~~has power to~~ may:

(a) communicate to the council, at the beginning of ~~every~~ each session and more often if considered necessary, a statement of the affairs of the city or town, with ~~such~~ recommendations ~~as~~ that the mayor considers proper;

(b) recommend to the council ~~such~~ measures connected with the public health, cleanliness, and ornament of the city or town and the improvement of the government and finances ~~as~~ that the mayor considers expedient;

(c) call special meetings of the council;

(d) cause to be presented, once in 3 months, a full statement of the financial condition of the city or town;

(e) bid for the city or town on any property sold at a tax or judicial sale whenever the city or town is an interested party;

(f) procure and have in ~~his~~ the mayor's custody the seal of the city or town;

(g) take and administer oaths;

(h) perform ~~such~~ other duties ~~as~~ that may be prescribed by law or by resolution or ordinance of the council.

(2) The mayor is the presiding officer of the council and ~~must~~ shall sign the journals ~~thereof~~ of the council and all warrants on the city treasury and decide all ties by ~~his~~ vote. The mayor has no other vote."

**Section 466.** Section 7-5-4112, MCA, is amended to read:

**"7-5-4112. Reports from municipal officers.** The city or town council ~~has power to~~ may require from an officer at any time a report in detail of the transactions in ~~his~~ that office or any matter connected ~~therewith~~ with that office."

**Section 467.** Section 7-5-4142, MCA, is amended to read:

**"7-5-4142. Attendance at meetings and conventions by municipal officers and employees.** Unless otherwise provided by law, ~~no~~ a city officer or employee may not receive payment from any public funds for traveling expenses or other expenses of any sort for attendance at ~~any~~ a convention, meeting, or other gathering of public officers except for attendance upon ~~such~~ a convention, meeting, or other gathering ~~as~~ that the officer or employee may by virtue of ~~his~~ the office find it necessary to attend."

**Section 468.** Section 7-5-4201, MCA, is amended to read:

**"7-5-4201. Municipal ordinances.** (1) The style of ordinances may be as follows: "Be it ordained by the council of the city of .... (or town of ....)", and all ordinances may be published or posted as prescribed by the council.

(2) All ordinances, bylaws, and resolutions must be passed by the council and approved by the mayor or the person acting in ~~his~~ the mayor's stead and must be recorded in a book kept by the clerk, called "The Ordinance Book", and numbered by numerical decimal system in the order in which they are passed or codified.

(3) ~~No~~ An ordinance ~~shall~~ may not be passed containing more than one subject, which ~~shall~~ must be clearly expressed in its title, except ordinances for the codification and revision of ordinances."

**Section 469.** Section 7-5-4308, MCA, is amended to read:

**"7-5-4308. Procedure to modify contract.** (1) When it becomes necessary in the prosecution of any work to make alterations or modifications of the specifications or plans of a contract, ~~such~~ the alteration or modification ~~must~~ may only be made only by resolution of the council. ~~Such~~ The resolution is ~~of no~~ not in effect until the price to be paid for the ~~same~~ work is agreed to in writing and signed by the contractor and approved by the council.

(2) ~~No~~ A contractor ~~must~~ may not be allowed anything for extra work caused by an alteration or modification unless a resolution is made and an agreement is signed as provided in subsection (1). ~~He must~~ A contractor may not ~~in any case~~ be allowed more for ~~such~~ the alteration than the price fixed by ~~such~~ the

agreement."

**Section 470.** Section 7-5-4322, MCA, is amended to read:

**"7-5-4322. Election on question of granting franchise.** (1) Notice of the election ~~shall~~ must be published as provided in 13-1-108. The notice must state the time and place of holding the election, the character of any ~~such~~ franchise applied for, and the valuable consideration, if there is any, to be derived by the city.

(2) At ~~such~~ the election, the ballots must contain the words "For granting franchise" and "Against granting franchise", and in voting, the elector ~~must~~ shall make a cross (X) opposite the answer ~~he~~ that the elector intends to vote for. The election must be conducted and canvassed and the return made in the same manner as other city or town elections.

(3) If the majority of the votes cast at the election are "For granting franchise", the mayor and city council ~~must thereupon~~ shall grant the ~~same~~ franchise by the passage and approval of a proper ordinance."

**Section 471.** Section 7-6-106, MCA, is amended to read:

**"7-6-106. Political subdivisions to receive county warrants for share of in-lieu payments.** (1) After apportioning any payment to the several accounts as provided in 7-6-105, the county treasurer shall prepare in duplicate a complete itemized statement, one copy of which ~~shall~~ must be filed with the board of county commissioners and the other of which ~~shall~~ must be filed with the county clerk.

(2) The board shall, by appropriate resolution, order warrants drawn on the county treasury to the order of each political subdivision named in the itemized statement and in the amount of the political subdivision's share in the payment. The county clerk shall draw and sign the warrants, which ~~shall~~ must also be signed by the ~~chairman~~ presiding officer of the board.

(3) (a) Except as provided in subsection (3)(b), whenever ~~such~~ a warrant is presented to the county treasurer, ~~he~~ the treasurer shall debit the proper account in the fund and shall pay the amount of ~~such~~ the warrant in full, without deduction, to the political subdivision presenting the ~~same~~ warrant.

(b) The county treasurer may not honor ~~such~~ the warrant unless it is endorsed by the president; ~~chairman~~; or other presiding officer of the governing body of the political subdivision. The endorsement of any warrant by the presiding officer of the governing body of a political subdivision as provided in this section constitutes an approval of the agreement under which the payment was received. If ~~any~~ a governing body of a political subdivision refuses to receive any warrant delivered pursuant to this section, the amount of the warrant ~~shall~~ must be refunded to the United States by the county."

**Section 472.** Section 7-6-207, MCA, is amended to read:

**"7-6-207. Deposit security.** (1) The local governing body may require security only for that portion of the deposits ~~which that~~ is not guaranteed or insured according to law and, as to ~~such the~~ unguaranteed or uninsured portion, to the extent of:

(a) 50% of ~~such the~~ deposits if the institution in which the deposit is made has a net worth to total assets ratio of 6% or more; or

(b) 100% if the institution in which the deposit is made has a net worth to total assets ratio of less than 6%. The security ~~shall must~~ consist of those enumerated in 17-6-103 or cashier's checks issued to the depository institution by any federal reserve bank.

(2) When negotiable securities are furnished, ~~such the~~ securities may be placed in trust. The trustee's receipt may be accepted in lieu of the actual securities when ~~such the~~ receipt is in favor of the treasurer or town clerk and ~~his the treasurer's or clerk's~~ successors. All warrants or other negotiable securities must be properly assigned or endorsed in blank. ~~It is the duty of the~~ The appropriate governing body shall, upon the acceptance and approval of any of the ~~above-mentioned~~ bonds or securities, ~~to~~ make a complete minute entry of the acceptance and approval upon the record of ~~their its~~ proceedings, and the bonds and securities ~~shall must~~ be reapproved at least ~~quarter-annually thereafter~~ quarterly."

**Section 473.** Section 7-6-212, MCA, is amended to read:

**"7-6-212. Limitation on liability of treasurer or town clerk.** ~~Where~~ When money ~~shall have~~ has been deposited in accordance with the provisions of this part, the treasurer or town clerk ~~shall is not be~~ liable for loss on account of any ~~such~~ deposit that may occur through damage by the elements or for any other cause or reason occasioned through means other than ~~his the treasurer's or clerk's~~ own neglect, fraud, or dishonorable conduct."

**Section 474.** Section 7-6-2101, MCA, is amended to read:

**"7-6-2101. Procedure if county treasurer dies in office.** (1) In case of the death of ~~any a~~ county treasurer, ~~his the treasurer's~~ legal representatives ~~must shall~~ deliver up all official money, books, accounts, papers, and documents ~~which that~~ come into their possession.

(2) ~~No A~~ percentage ~~must may not~~ be allowed to the treasurer on any money received by ~~him the~~ treasurer from the legal representative of ~~such a~~ predecessor."

**Section 475.** Section 7-6-2103, MCA, is amended to read:

**"7-6-2103. Suspension of county treasurer in case of misconduct.** Whenever ~~any a~~ action based upon official misconduct is commenced against ~~any a~~ county treasurer, the board of county commissioners may in its discretion suspend ~~him~~ the treasurer from office until ~~such the~~ suit is determined and may appoint some person to fill the vacancy."

**Section 476.** Section 7-6-2115, MCA, is amended to read:

**"7-6-2115. Manner of settling accounts.** (1) The treasurer ~~must shall~~ settle ~~his~~ accounts relating to the collection, care, and disbursement of public revenue ~~of whatsoever nature and kind~~ with the county clerk on the first Monday of each month. For the purpose of making ~~such the~~ settlements, ~~he must~~ the treasurer shall make out a statement, under oath, of the amount of money or other property received prior to the period of ~~such the~~ settlement, the sources ~~whence the same was derived~~ of the money or property, and the amount of payments or disbursements and to whom, with the amount remaining on hand. ~~He must~~ The treasurer shall, in ~~such the~~ settlements, deposit all redeemed warrants ~~redeemed by him~~ and take the county clerk's receipt ~~therefor~~ for the warrants.

(2) ~~He must~~ The treasurer shall make a full settlement of all accounts with the county clerk, annually on the first Monday of January and in the presence of the county commissioners, who have control ~~thereof~~ of the accounts."

**Section 477.** Section 7-6-2116, MCA, is amended to read:

**"7-6-2116. Receipt for money paid to county treasurer.** (1) Except as provided in subsection (2), when ~~any~~ money is paid to the county treasurer, ~~he must~~ the treasurer shall issue a receipt, in triplicate, for ~~such the~~ money, the original of which ~~shall must~~ be delivered to the person paying the ~~same~~ money, the duplicate of which ~~shall must~~ be delivered to the county clerk, and the triplicate ~~shall must~~ be retained in ~~his~~ the office.

(2) When any money is paid to the county treasurer through the mail or by any electronic means, ~~he must~~ the treasurer shall issue receipts for the money. The original receipt ~~shall must~~ be retained in ~~his~~ the treasurer's office, and a duplicate ~~shall must~~ be delivered to the county clerk. Upon request, the county treasurer ~~must shall~~ issue a receipt to the person paying the money."

**Section 478.** Section 7-6-2117, MCA, is amended to read:

**"7-6-2117. Receipt of money from county attorney.** (1) The county attorney ~~must shall~~, on the first Monday of January, April, July, and October in each year file with the county clerk an account, verified by ~~his~~ oath,

of all money received by ~~him~~ the county attorney in ~~his~~ an official capacity during the preceding 3 months and at the same time pay it over to the county treasurer.

(2) If the county attorney refuses or neglects to account for and pay over money received ~~by him~~ as required by subsection (1), the county treasurer ~~must~~ shall bring an action against ~~him~~ the county attorney for the recovery ~~thereof~~ of the money in the name of the county and may recover in ~~such~~ the action, in addition to the amount ~~so~~ received, 50% ~~thereon~~ of the amount by way of damages."

**Section 479.** Section 7-6-2118, MCA, is amended to read:

**"7-6-2118. Receipt of money from predecessor county treasurer.** ~~No~~ A percentage ~~must~~ may not be allowed to the treasurer on any money received ~~by him~~ from ~~his~~ the treasurer's predecessor in office."

**Section 480.** Section 7-6-2204, MCA, is amended to read:

**"7-6-2204. Cash verification by county clerk.** The county clerk and recorder, at the close of business each month, shall count the cash in the office of the county treasurer and shall retain a copy of the counting in ~~his~~ the county clerk's office."

**Section 481.** Section 7-6-2403, MCA, is amended to read:

**"7-6-2403. Qualifications of county auditor.** ~~No~~ A person is not eligible to serve in the office of county auditor of any county ~~who is not~~ unless the person is of voting age and ~~who~~ has ~~not~~ been a resident of the county for which ~~he~~ the person is elected or appointed for at least 2 years preceding ~~his~~ election or appointment."

**Section 482.** Section 7-6-2405, MCA, is amended to read:

**"7-6-2405. Location of office.** The county auditor shall keep ~~his~~ the auditor's principal office at the county seat of the county for which ~~he shall have been~~ elected or appointed."

**Section 483.** Section 7-6-2406, MCA, is amended to read:

**"7-6-2406. Compensation of auditor.** The county auditor receives the annual compensation provided by law, payable monthly by warrants drawn on the treasury of the county, and ~~shall~~ may not receive ~~no~~ other compensation or emolument ~~whatsoever~~ for any service rendered or performed ~~by him~~, except actual expenses for living and traveling whenever the duties of ~~his~~ office require ~~his~~ the auditor's presence at any place in the county other than the county seat, and then only after the travel has been ordered and advised by the board of

county commissioners."

**Section 484.** Section 7-6-2410, MCA, is amended to read:

**"7-6-2410. Maintenance of records.** The county auditor shall carefully preserve all documents, books, records, and other papers required to be kept in ~~his~~ the auditor's office. Each county auditor, on ~~going out of~~ leaving office, shall deliver over to ~~his~~ the successor in office all documents, books, records, and property in ~~his~~ hands the office belonging to the county."

**Section 485.** Section 7-6-2411, MCA, is amended to read:

**"7-6-2411. List of claims allowed or rejected.** The county clerk and recorder shall return to the county auditor, within 10 days after the adjournment of each session of the board of county commissioners, a list of the claims allowed or rejected, either in whole or in part, by them. This list ~~shall~~ must be recorded by the auditor in a book kept for that purpose and carefully preserved in ~~his~~ the auditor's office."

**Section 486.** Section 7-6-2412, MCA, is amended to read:

**"7-6-2412. Other duties of auditor.** (1) Subject to the requirements of subsection (2), the county auditor shall ~~also~~ perform ~~such~~ other duties, clerical or otherwise, as ~~he may be~~ directed to ~~perform~~ by the county commissioners.

(2) A reasonable amount of time must be allowed the county auditor for the performance of the duties ~~definitely~~ set forth in this part."

**Section 487.** Section 7-6-2424, MCA, is amended to read:

**"7-6-2424. Appeal of decision concerning claim.** (1) Whenever a claim against a county is disallowed in whole or in part or whenever ~~any~~ a taxpayer or resident of the county is not satisfied with ~~any~~ an allowance made by the board, the claimant, taxpayer, or resident may appeal from the decision of the board to the district court for the county, ~~by causing a~~ A written notice of appeal to must be served on the clerk of the board within 30 days after the making of the decision or allowance, and ~~executing~~ a bond must be executed to the county, with surety to be approved by the clerk of the board, conditioned to prosecute the appeal to effect and to pay all costs that may be adjudged against the appellant.

(2) The clerk of the board, upon an appeal being taken, ~~must~~ shall immediately give notice ~~thereof~~ to the county attorney and ~~must~~ shall make out a return of the proceedings in the matter before the board, with its



decision ~~thereon~~ on the matter, and file the ~~same~~ return, together with the bond and all the papers ~~therein~~ in the matter in ~~his~~ the clerk's possession, with the clerk of the district court.

(3) The appeal must be entered, tried, and determined the same as appeals from justices' courts, and costs are awarded in ~~like~~ the same manner."

**Section 488.** Section 7-6-2603, MCA, is amended to read:

**"7-6-2603. Registration of warrants.** (1) If the fund is insufficient to pay ~~any~~ a warrant, it must be registered and ~~thereafter~~ paid in the order of its registration.

(2) The county treasurer ~~must~~ may not register any county order or warrant in the name of any person other than the payee ~~thereof~~ except at the request of ~~such~~ the payee or ~~his~~ the payee's agent, assignee, or legal representative, whose authority must be produced to the treasurer in writing."

**Section 489.** Section 7-6-2604, MCA, is amended to read:

**"7-6-2604. Interest on unpaid warrants.** (1) When any high school warrant or any school district warrant is presented to the treasurer for payment and the ~~same~~ warrant is not paid for ~~want~~ lack of funds, the treasurer ~~must~~ shall endorse ~~thereon~~ on the warrant "Not paid for ~~want~~ lack of funds", ~~annexing~~ include the date of presentation, and sign ~~his name thereto~~ the warrant. When the treasurer pays ~~any~~ a warrant on which any interest is due, ~~he must~~ the treasurer shall note on the warrant the amount of interest paid ~~thereon~~ and enter on ~~his~~ the treasurer's account the amount of ~~such~~ interest, distinct from the principal.

(2) ~~From and after~~ After the date of presentation and endorsement by the treasurer, the warrant ~~shall~~ must bear interest at a rate fixed by the board of trustees in accordance with law.

(3) All county warrants, after having been presented to the county treasurer for payment and ~~by him~~ endorsed "Not paid for ~~want~~ lack of funds in the treasury", ~~from and~~ after the date of ~~such~~ presentation and endorsement, ~~shall~~ must draw interest at the rate fixed by the board of county commissioners in accordance with law."

**Section 490.** Section 7-6-2605, MCA, is amended to read:

**"7-6-2605. Call for payment of warrants drawing interest.** (1) When there is sufficient money to pay the warrants drawing interest, the treasurer ~~must~~ shall give notice as provided in 7-1-2121 that ~~he is ready to pay~~ such the warrants are able to be paid.

(2) In advertising warrants under the provisions of this section in any newspaper, the treasurer ~~must~~ may

not publish the warrants in detail but shall give notice only that county warrants presented for payment prior to ~~such a~~ date; stated in the notice are payable. When only a part of the warrants presented for payment on the same day are payable, the treasurer ~~must~~ shall designate ~~such the~~ payable warrants in the advertisement.

(3) ~~Such~~ The warrants cease to draw interest from the first publication or posting of ~~such the~~ notice.

(4) (a) If ~~such the~~ warrants ~~be~~ are not re-presented for payment within 60 days from the time the notice ~~hereinbefore provided for~~ is given, the fund set aside for the payment of the ~~same~~ warrants must be applied by the treasurer to the payment of unpaid warrants ~~next~~ in order of registry.

(b) The board of county commissioners may, on application and presentation of warrants, properly endorsed, which have been advertised, pass an order directing the treasurer to pay ~~them~~ the warrants out of any money in the treasury that is not otherwise appropriated."

**Section 491.** Section 7-6-2606, MCA, is amended to read:

**"7-6-2606. Order of redemption of warrants.** (1) Warrants drawn on the treasury and properly attested are entitled to preference as to payment out of money in the treasury properly applicable to ~~such the~~ warrants according to the priority of time in which they were presented. The time of presenting ~~such the~~ warrants must be noted by the treasurer.

(2) Upon the receipt of money into the treasury, not otherwise appropriated, ~~he must~~ the treasurer shall set apart the ~~same the money~~ or ~~so~~ as much thereof of the money as is necessary for the payment of ~~such the~~ warrants."

**Section 492.** Section 7-6-2801, MCA, is amended to read:

**"7-6-2801. Management of school funds.** The county treasurer ~~must~~ shall:

(1) keep all school money in a separate fund and keep a separate account of its disbursement to the several school districts ~~which~~ that are entitled to receive it, according to the apportionment of the county superintendent of schools;

(2) notify the county superintendent of the amount of the county school fund in the county treasury subject to apportionment, whenever required, and inform ~~him~~ the superintendent of the amount of school money belonging to any other fund subject to apportionment, or as otherwise provided by law;

(3) pay all warrants drawn on county or district school money, in accordance with the provisions of law, whenever ~~such the~~ warrants are countersigned by the district clerk and properly endorsed by the holders;

(4) make annually, during the month of September, a financial report for the preceding year ending

August 31 to the county superintendent, in ~~such a~~ form ~~as is~~ required by ~~him~~ the superintendent."

**Section 493.** Section 7-6-4301, MCA, is amended to read:

**"7-6-4301. Presentation of claims against municipality.** (1) All accounts and demands against a city or town must be presented to the council, ~~duty in an~~ itemized format. These claims must be presented with all necessary and proper vouchers within 1 year from the date the ~~same~~ claims accrued. ~~No~~ An action may not be maintained against the city or town for or on account of any demand or claim against the city or town until ~~such~~ the demand or claim has first been presented to the council.

(2) Payment of claims against a city or town may be authorized by the council when:

(a) payee-signed claims have been issued to the city or town and the payee has attested in the claim to its accuracy and that ~~he~~ the payee has not received the claimed amount; or

(b) the payee has provided the city or town with an invoice or other document identifying the quantity and total cost ~~per~~ for each item included on the invoice.

(3) All bills, claims, accounts, or charges for materials of any kind that are purchased by and on behalf of a city or town by its department heads or officers must be reviewed by the city or town finance director or the city or town clerk before submission to the council.

(4) ~~Any~~ A claim or demand not ~~so~~ presented within the time provided in subsection (1) is forever barred, and the council has no authority to allow any account or demand not ~~so~~ presented as provided in this section."

**Section 494.** Section 7-6-4304, MCA, is amended to read:

**"7-6-4304. Issuance of duplicate warrants and checks.** (1) A duplicate warrant or check may be issued by the appropriate municipal officer whenever an instrument drawn by ~~him~~ the officer upon the municipality is lost or destroyed. The duplicate warrant or check must be in the same form as the original except that it must have plainly printed across its face the word "duplicate". Except as provided in subsection (2), ~~no~~ a duplicate warrant or check may not be issued or delivered unless the person entitled to receive it deposits with the issuing municipal officer a bond in double the amount for which the duplicate warrant or check is issued, conditioned to hold the municipality and its officers harmless on account of the issuance of the duplicate warrant or check.

(2) ~~No~~ A bond of indemnity is not required when:

(a) the payee is the U.S. government, a state of the United States, an agency, instrumentality, or officer of the U.S. government or of a state, county, city, city and county, town, district, or other political subdivision of a state, or an officer ~~thereof~~ of an enumerated entity;

- (b) the owner or custodian is the state of Montana or an agency or officer ~~thereof~~ of the state;
  - (c) the owner or custodian is a bank, savings and loan association, admitted insurer, or trust company whose financial condition is regulated by the U.S. government or by the state of Montana;
  - (d) the amount of the lost or destroyed warrant or check is less than \$100;
  - (e) it can be established that a crime has been committed, and as a result of ~~such~~ the crime, the warrant or check was stolen or destroyed;
  - (f) it can be established that the warrant or check was mailed to an incorrect payee; or
  - (g) the payee is a vendor or contractor doing business with the municipality.
- (3) Whenever the owner or custodian applies under the provisions of subsection (2)(e), (2)(f), or (2)(g), a stop-payment order must be placed on the original warrant or check by the municipality.
- (4) Whenever the owner or custodian applies under the provisions of subsection (2)(c), (2)(d), (2)(e), (2)(f), or (2)(g), the application must include an agreement to indemnify and hold harmless the municipality or its officers and employees from any loss resulting from the issuance of a duplicate warrant or check. Any loss incurred in connection with the issuance of a duplicate warrant or check must be charged against the account from which the payment was derived."

**Section 495.** Section 7-6-4502, MCA, is amended to read:

**"7-6-4502. Call for payment of warrants drawing interest.** (1) Except as provided in subsection (2), when there is money in the city or town treasury applicable to the payment of any warrants drawing interest and sufficient to pay the ~~same~~ warrants, the city treasurer or town clerk ~~must~~ shall:

(a) give notice in some newspaper published in ~~such~~ the city or town or, if ~~none~~ a newspaper is not published ~~therein~~ in the city or town, then by written notice posted in a conspicuous place on the outer door of the office of the city treasurer or town clerk, stating that ~~he~~ the treasurer or clerk is ready to pay the warrants and giving the number of the warrants to be paid; and

(b) if the warrants are subject to purchase by the county for investment as provided in 7-6-2701, notify the county treasurer that any ~~such~~ warrants in the possession of the county will be paid upon presentation to the city treasurer or town clerk.

(2) If all of ~~such~~ the warrants are held by a county, only the notice provided for in subsection (1)(b) is required.

(3) The warrants ~~so~~ called cease to draw interest from the time of the first publication or posting of ~~such~~ the notice unless all of ~~such~~ the warrants are held by a county, in which case the warrants cease to draw interest

from the time of notification of the county treasurer."

**Section 496.** Section 7-6-4601, MCA, is amended to read:

**"7-6-4601. Deposit of public money.** ~~It shall be the duty of the~~ The city treasurer or town clerk, whichever is appropriate, ~~to shall~~ deposit all public money in ~~his~~ the treasurer's or clerk's possession and under ~~his~~ the treasurer's or clerk's control, except ~~such~~ as may be required for current business, only in any solvent bank or banks located in ~~such~~ the city or town and subject to national supervision or state examination, as the council shall designate, ~~and no other.~~"

**Section 497.** Section 7-6-4603, MCA, is amended to read:

**"7-6-4603. Investment of municipal money in city or town warrants.** (1) Except as provided in 7-7-4102, whenever the city or town has, under its control and in any fund, any money for which there is no immediate demand and ~~which that~~, in the judgment of the city or town council, it would be advantageous to invest in city or town warrants, the city or town council may direct the city treasurer or town clerk to purchase legally issued city or town general obligation warrants of the same city or town ~~thereafter~~ issued against funds in which there ~~is~~ are not sufficient funds to pay ~~such~~ the city or town warrants at the time of issuance.

(2) (a) ~~In case of such purchase~~ If warrants are purchased, the city or town council shall designate the fund or funds to be invested and shall fix the amount ~~thereof~~ of investment and shall also designate the city or town warrants ~~which that~~ are to be purchased by ~~such~~ the funds. The city or town clerk shall ~~thereupon~~ cause to be attached to or stamped, written, or printed upon the warrants ordered to be purchased a notice to the effect that the city or town will exercise its preference right to purchase ~~such~~ the warrant.

(b) The city treasurer or town clerk shall ~~thereafter~~, when ~~such~~ the city or town warrant is presented ~~to him~~, purchase the ~~same~~ warrant out of the proper fund as designated by the city or town council. The warrant ~~so purchased shall~~ must be registered as other city or town warrants and bear interest as provided by law.

(3) When the designated amounts have been invested, the city treasurer shall notify the city clerk."

**Section 498.** Section 7-7-101, MCA, is amended to read:

**"7-7-101. Submission of local government general obligation bond proceedings to attorney general for review.** The governing body of any county, city, or town shall submit a certified copy of all proceedings preliminary to the issue of general obligation bonds to the attorney general, together with ~~such~~ other proceedings, certificates, and records ~~as he~~ that the attorney general may require, and request ~~his~~ the attorney

general's report as to validity."

**Section 499.** Section 7-7-106, MCA, is amended to read:

**"7-7-106. Hearing and determination on challenge.** (1) Within 5 days after the petition is filed, the district judge shall designate the time and place of hearing.

(2) The clerk shall immediately issue a citation for the defendant to appear at the time and place specified in the order and shall serve the citation immediately upon the defendant either:

(a) personally; or

(b) if the party cannot be found, by leaving a copy at the house where ~~he~~ the defendant last resided.

(3) The court shall meet at the time and place designated to determine the contested election and ~~shall have~~ has all the powers necessary to the determination ~~thereof~~ of the election.

(4) The court ~~shall be~~ is governed by the rules of law and evidence governing the determination of questions of law and fact so far as the ~~same~~ rules may be applicable.

(5) The court shall continue in special session to hear and determine all issues in the contested election. After hearing the proofs and allegations of the parties and within 10 days after submission ~~thereof~~, the court shall file its findings of fact and conclusions of law and shall immediately pronounce judgment ~~in the premises~~, either confirming or annulling and setting aside the election. The judgment ~~shall~~ must be entered immediately ~~thereafter~~ after the pronouncement."

**Section 500.** Section 7-7-2106, MCA, is amended to read:

**"7-7-2106. Procedure if original bond, warrant, or coupon is presented.** ~~It is the duty of the~~ The county treasurer, upon the production ~~to him~~ of any original bond, warrant, or coupon by the lawful owner or holder ~~thereof~~, to shall assign by endorsement and ~~to deliver to him~~ the owner or holder the surety bond mentioned in 7-7-2104. ~~Such~~ The owner or holder may maintain an action ~~in his own name~~ upon ~~such~~ the surety bond for the recovery of any money paid upon ~~such~~ the duplicate, but the delivery of ~~such~~ the surety bond does not relieve or exonerate the county from the payment of the amount specified ~~therein~~ in the bond upon a demand and refusal of the sureties named in the indemnifying surety bond to pay the ~~same~~ amount."

**Section 501.** Section 7-7-2225, MCA, is amended to read:

**"7-7-2225. Filing of petition with election administrator -- certificate.** (1) The completed petition ~~shall~~ for an election on issuing bonds must be filed with the election administrator. The election administrator shall,

within 15 days ~~thereafter~~, carefully examine the petition and the county records showing the qualifications of the petitioners and attach a certificate, under ~~his~~ official signature and the seal of ~~his~~ the administrator's office.

(2) The certificate ~~shall~~ must set forth:

(a) the total number of individuals who are registered electors;

(b) which and how many of the individuals whose names are subscribed to the petition ~~possess~~ have all of the qualifications required of signers of ~~such~~ a petition;

(c) whether ~~such~~ the qualified signers constitute more or less than 20% of the registered electors of the county."

**Section 502.** Section 7-7-2226, MCA, is amended to read:

**"7-7-2226. Delivery of certified petition to board of county commissioners.** (1) After completing the certificate required by 7-7-2225, the election administrator shall deliver the certified petition to the board of county commissioners.

(2) When the petition has been filed with the election administrator and ~~he~~ the administrator has found that it has a sufficient number of signers qualified to sign it, ~~he~~ the administrator shall place it the petition before the board at its first meeting held after ~~he has attached his certificate thereto~~ certification."

**Section 503.** Section 7-7-2258, MCA, is amended to read:

**"7-7-2258. Copy of bond to be kept by county treasurer.** The county clerk shall ~~also~~ deliver to the county treasurer an unsigned and canceled printed copy of a bond of each issue, as ~~so~~ issued and registered, to be preserved in ~~his~~ the treasurer's office."

**Section 504.** Section 7-7-2272, MCA, is amended to read:

**"7-7-2272. Cancellation of bonds and coupons.** (1) (a) All bonds and interest coupons paid by the county treasurer from time to time ~~shall~~ must be canceled by ~~him~~ the treasurer, and after ~~such~~ cancellation, ~~he~~ the treasurer shall deliver the ~~same~~ bonds and coupons to the county clerk, with a report showing the numbers of ~~such~~ bonds and the amounts paid as principal and interest ~~thereon~~. The county treasurer shall enter on the record of the registration of ~~such~~ the bonds the date of the payment of the ~~same~~ bonds and the ~~several~~ coupons attached ~~thereto~~ to the bonds.

(b) The county clerk shall exhibit ~~such~~ the bonds and coupons, with ~~such~~ the report, to the board of county commissioners at ~~the~~ its next regular meeting ~~thereof~~.

(2) (a) When any bonds have been or are purchased with any sinking and interest fund money under the provisions of 7-7-2270, ~~such the~~ bonds, with attached interest coupons, if not ~~then~~ in the possession of the county treasurer, ~~shall must~~ be immediately delivered to ~~him the~~ treasurer. ~~Such The~~ county treasurer shall at once endorse across the face of each ~~such~~ bond the word "Paid" and the date ~~thereof~~ and shall sign ~~such the~~ endorsement; ~~and such The~~ treasurer shall, without detaching the ~~same~~ coupons, cancel each interest coupon attached to ~~such the~~ bonds by endorsing across the face ~~thereof of the coupon~~ the word "Canceled" and the date ~~thereof~~ and shall sign ~~such the~~ endorsement. After making ~~such the~~ endorsements on ~~such the~~ bonds and coupons, the county treasurer shall enter on the record of registration ~~thereof~~ the date ~~such the~~ bonds and coupons were ~~so~~ endorsed by ~~him~~ as being paid and canceled, with the numbers and amounts ~~thereof of the~~ bonds and coupons and the dates when the ~~same~~ bonds and coupons would have become due and payable if they had not been ~~so~~ purchased. The county treasurer shall then deliver ~~such the~~ bonds, with the canceled coupons attached, to the county clerk, with a report showing the numbers ~~thereof of the~~ bonds and amount paid on the purchase ~~thereof of the~~ bonds.

(b) The county clerk shall exhibit ~~such the~~ bonds, with attached coupons and report, to the board at its next regular session."

**Section 505.** Section 7-7-2405, MCA, is amended to read:

**"7-7-2405. Form of ballots.** There must be written or printed on the ballots the words "For the loan" and "Against the loan", and in voting, the elector ~~must shall~~ vote for the proposition ~~he that the elector~~ prefers by making an X opposite the proposition."

**Section 506.** Section 7-7-4103, MCA, is amended to read:

**"7-7-4103. General qualifications to vote on questions of municipal indebtedness.** (1) Registered electors of the city, town, or other municipal corporation may vote upon any proposal to create or increase any indebtedness of the city, town, or other municipal corporation required by law to be submitted to a vote of the electors.

(2) ~~No An~~ elector, otherwise qualified, may ~~not~~ be denied the right to vote because the polling place for a general election for the precinct ~~wherein he~~ in which the elector resides and is entitled to vote lies within another city, town, or other municipal corporation."

**Section 507.** Section 7-7-4224, MCA, is amended to read:



**"7-7-4224. Petition to request election.** (1) A petition asking that an election be held on the question of issuing bonds ~~shall~~ must be signed by not less than 20% of the qualified electors of the city or town. The petition ~~shall~~ must give the street and house number, if any, and the voting precinct of each person signing the ~~same~~ petition.

(2) ~~Every~~ Each petition for the calling of an election to vote upon the question of issuing bonds ~~shall~~ must plainly and clearly state the purpose or purposes for which it is proposed to issue ~~such~~ bonds and ~~shall~~ must contain an estimate of the amount necessary to be issued for ~~such~~ the purpose or purposes. There may be a separate petition for each purpose, or two or more purposes may be combined in one petition if each purpose, with an estimate of the amount of bonds to be issued ~~therefor~~, is separately stated in ~~such~~ the petition.

(3) ~~Such~~ The petition may consist of one sheet or of several sheets, identical in form and fastened together after being circulated and signed so as to form a single complete petition before being delivered to the city or town clerk as ~~hereinafter~~ provided in this part.

(4) Only persons who are qualified to sign ~~such~~ petitions ~~shall be~~ are qualified to circulate the ~~same~~ petitions, and there ~~shall~~ must be attached to the completed petition the affidavit of some person who circulated or assisted in circulating ~~such~~ the petition that ~~he~~ the person believes the signatures ~~thereon~~ on the petition are genuine and that the signers knew the contents ~~thereof~~ of the petition before signing the ~~same~~ petition."

**Section 508.** Section 7-7-4225, MCA, is amended to read:

**"7-7-4225. Presentation of petition to city or town clerk -- clerk's certificate.** (1) The completed petition ~~shall~~ for an election on the bonds must be filed with the city or town clerk. The clerk shall, within 15 days ~~thereafter~~, carefully examine the ~~same~~ petition and the county records showing the qualifications of the petitioners and attach ~~thereto~~ to the petition a certificate, under ~~his~~ official signature.

(2) The certificate ~~shall~~ must set forth:

- (a) the total number of persons who are registered electors;
- (b) which and how many of the persons whose names are subscribed to ~~such~~ the petition ~~are possessed~~ of have all of the qualifications required of signers to ~~such~~ the petition;
- (c) whether ~~such~~ the qualified signers constitute more or less than 20% of the registered electors of the city or town."

**Section 509.** Section 7-7-4256, MCA, is amended to read:

**"7-7-4256. Printing of bonds.** (1) Except as provided in subsection (2), the city or town clerk, under the

direction of the council, shall cause the bonds, with coupons attached ~~thereto~~, to be printed or lithographed at the expense of the city or town at lowest commercial rates.

(2) A purchaser of ~~such the~~ bonds may furnish the ~~same bonds~~ to the city or town, in the form prescribed by the council, for execution, if ~~the same is done~~ furnished at ~~his~~ the purchaser's own expense and without cost or expense to the city or town."

**Section 510.** Section 7-7-4258, MCA, is amended to read:

**"7-7-4258. Copy of bond to be kept by city treasurer or town clerk.** The city or town clerk shall also deliver to the city treasurer ~~or town clerk~~ an unsigned and canceled printed copy of one of the bonds, as ~~so~~ issued and registered, to be preserved in ~~his~~ the treasurer's office."

**Section 511.** Section 7-7-4261, MCA, is amended to read:

**"7-7-4261. Maintenance of accounts for bond issues.** (1) The city treasurer or town clerk shall keep in ~~his~~ the treasurer's or clerk's books a special and separate sinking fund account for each issue or series of outstanding bonds, including citizen bonds as provided in 7-7-4211 through 7-7-4214, issued by ~~his~~ the city or town. Each ~~such~~ fund must at all times show the exact condition ~~thereof~~ of the fund.

(2) All taxes collected for interest and principal on city or town bonds ~~shall~~ must be placed to the credit of the sinking fund for which the taxes were levied.

(3) The sinking fund ~~shall~~ must be administered as provided in 7-7-123, 7-7-124, and 7-7-4270."

**Section 512.** Section 7-7-4272, MCA, is amended to read:

**"7-7-4272. Cancellation of bonds and coupons.** (1) All bonds and interest coupons paid by the city treasurer or town clerk from time to time ~~shall~~ must be canceled by ~~him~~ the treasurer or clerk; ~~and after such~~ After cancellation, ~~he~~ the treasurer or clerk shall deliver the ~~same bonds and coupons~~ to the city or town clerk, with a report showing the numbers of ~~such the~~ bonds and the amounts paid as principal and interest ~~thereon~~. The city treasurer or town clerk shall enter on the records of the registration of ~~such the~~ bonds the date of the payment of the ~~same bonds~~ and the ~~several~~ coupons attached ~~thereto~~ to the bonds.

(2) The city or town clerk shall exhibit ~~such the~~ bonds and coupons, with ~~such the~~ report, to the city or town council at ~~the~~ its next regular meeting ~~thereof~~."

**Section 513.** Section 7-7-4629, MCA, is amended to read:

**"7-7-4629. Management of enterprise.** (1) In order that the payment of the refunding bonds and interest ~~thereon shall be~~ on the bonds is adequately secured, any municipality issuing refunding bonds pursuant to this part and the proper officers, agents, and employees ~~thereof are hereby directed and it of the municipality shall be the mandatory duty of such officers, agents, and employees under this part and it shall further be of the essence of the contract of such municipality with the bondholders;~~ at all times:

(a) ~~to~~ operate the enterprise in an efficient and economical manner and establish, levy, maintain, and collect ~~such~~ fees, tolls, rentals, rates, and other charges in connection ~~therewith~~ with the enterprise as may be necessary or proper, ~~which fees, tolls, rates, rentals, and other charges shall be at least~~ in an amount that is sufficient, after making due and reasonable allowances for contingencies and for a margin of error in the estimates:

(i) to pay all current expenses of operation, maintenance, and repair of ~~such~~ the enterprise;

(ii) to pay the interest on and principal of the refunding bonds as the ~~same shall become~~ principal becomes due and payable;

(iii) to comply in all respects with the terms of the resolution authorizing the issuance of refunding bonds or any other contract or agreement with the holders of the refunding bonds; and

(iv) to meet any other obligations of the municipality ~~which that~~ are charges, liens, or encumbrances upon the ~~revenues~~ revenue of ~~such~~ the enterprise;

(b) ~~to~~ operate, maintain, preserve, and keep or cause to be operated, maintained, preserved, and kept the enterprise and every part ~~and parcel thereof~~ of the enterprise in good repair, working order, and condition;

(c) ~~to~~ pay and discharge or cause to be paid or discharged any ~~and all~~ lawful claims for labor, materials, and supplies ~~which that~~, if unpaid, might by law become a lien or charge upon the ~~revenues~~ revenue ~~or any part thereof~~ prior or superior to the lien of the refunding bonds or ~~which that~~ might impair the security of the refunding bonds, to the end that the priority and security of the refunding bonds ~~shall be~~ are fully preserved and protected;

(d) ~~to~~ keep proper books of record and accounts of the enterprise, ~~(separate from all other records and accounts),~~ in which complete and correct entries ~~shall~~ must be made of all transactions relating to the enterprise ~~or any part thereof and which that~~, together with all other books and papers of the municipality, ~~shall~~ must at all times be subject to the inspection of the ~~holder or~~ holders of not less than 10% of the refunding bonds then outstanding or ~~his or their~~ the holders' representatives ~~duly~~ authorized in writing.

(2) ~~None of the foregoing~~ The duties shall in subsection (1) may not be construed to require the expenditure in any manner or for any purpose by the municipality of any funds other than ~~revenues~~ revenue received or receivable from the enterprise."

**Section 514.** Section 7-7-4631, MCA, is amended to read:

**"7-7-4631. Role of receiver.** (1) The receiver appointed pursuant to 7-7-4630 shall ~~forthwith~~, directly or by ~~his~~ the receiver's agents and attorneys, enter into and upon and take possession of the enterprise and ~~each and every part thereof of the enterprise~~ and may exclude the municipality, its governing body, officers, agents, and employees, and all persons claiming under them wholly ~~therefrom from the enterprise~~ and ~~shall~~ must have, ~~and shall~~ hold, use, operate, manage, and control the ~~same enterprise~~ and ~~each and every part thereof of the enterprise~~ and, in the name of the municipality or otherwise as the receiver may ~~deem~~ consider best, shall exercise all the rights and powers of the municipality with respect to the enterprise as the municipality itself might do.

(2) ~~Such~~ The receiver shall:

(a) maintain, restore, insure, and keep insured the enterprise and from time to time make all ~~such~~ necessary or proper repairs as may seem expedient to ~~such the~~ receiver;

(b) establish, levy, maintain, and collect ~~such~~ fees, tolls, rentals, and other charges in connection with the enterprise ~~as such that the receiver may deem~~ considers necessary or proper and reasonable; and

(c) collect and must receive all ~~revenues~~ revenue and deposit the ~~same revenue~~ in a separate account and apply ~~such revenues so collected and received~~ revenue in ~~such a~~ such a manner ~~as that~~ the court shall direct.

(3) ~~Such~~ The receiver shall, in the performance of the powers conferred upon ~~him~~ the receiver, act under the direction and supervision of the court making ~~such the~~ appointment and ~~shall~~ must at all times be subject to the orders and decrees of ~~such the~~ court and may be removed ~~thereby by the court~~. ~~Nothing herein contained shall~~ This section does not limit or restrict the jurisdiction of ~~such the~~ court to enter ~~such~~ other and further orders and decrees ~~as such that the court may deem~~ considers necessary or appropriate for the exercise by the receiver of any functions specifically set forth ~~herein~~ in this section."

**Section 515.** Section 7-7-4633, MCA, is amended to read:

**"7-7-4633. Remedies of holders of refunding revenue bonds.** (1) Subject to any contractual limitations binding upon the holders of ~~any an~~ an issue of refunding bonds or trustee ~~therefor~~ for the holders, including but not limited to the restriction of the exercise of ~~any a~~ a remedy to the specified proportion of percentage of ~~such the~~ holders, ~~any a~~ a holder of refunding bonds or trustee ~~therefor~~ for the holder ~~shall have~~ has the right and power, for the equal benefit and protection of all holders of refunding bonds similarly situated:

(a) by mandamus or other suit, action, or proceeding at law or in equity, to enforce ~~his~~ the holder's rights against the municipality and its governing body and any of its officers, agents, and employees and to require and

compel ~~such the~~ municipality or ~~such the~~ governing body or any ~~such~~ officers, agents, or employees to perform and carry out ~~its and their~~ duties and obligations under this part and ~~its and their~~ covenants and agreements with bondholders;

(b) by action or suit in equity, to require the municipality and the governing body ~~thereof~~ to account as if they were the trustee of an express trust;

(c) by action or suit in equity, to enjoin any acts or things ~~which that~~ may be unlawful or in violation of the rights of the bondholders;

(d) to bring suit upon the refunding bonds.

(2) (a) ~~No A~~ remedy conferred by this part upon ~~any a~~ holder of refunding bonds or ~~any a~~ trustee ~~therefor~~ for the holder is not intended to be exclusive of any other remedy, but each ~~such~~ remedy is cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by this part or by any other law.

(b) ~~No A~~ waiver of any default or breach of duty or contract, whether by ~~any a~~ holder of refunding bonds or ~~any a~~ trustee ~~therefor~~ for a holder, shall does not extend to or ~~shall~~ affect any subsequent default or breach of duty or contract or ~~shall~~ impair any rights or remedies ~~thereon~~ on the breach or contract. ~~No A~~ delay or omission of ~~any a~~ bondholder or ~~any a~~ trustee ~~therefor~~ for a holder to exercise any right or power accruing upon any default ~~shall may not~~ impair any ~~such~~ right or power or ~~shall~~ be construed to be a waiver of any ~~such~~ default or acquiescence ~~therein~~ in the default.

(c) Every substantive right and every remedy conferred upon the holders of refunding bonds may be enforced and exercised from time to time and as often as ~~may be deemed~~ considered expedient.

(3) In case any suit, action, or proceeding to enforce any right or exercise any remedy ~~shall must~~ be brought or taken and then discontinued or abandoned or ~~shall must~~ be determined adversely to the holder of the refunding bonds or ~~any a~~ trustee ~~therefor~~ for the holder, then and in ~~every such each~~ case the municipality and ~~such the~~ holder or trustee ~~shall must~~ be restored to their former positions and rights and remedies as if ~~no such~~ the suit, action, or proceeding had not been brought or taken."

**Section 516.** Section 7-8-2304, MCA, is amended to read:

**"7-8-2304. Terms for sale of tax-deed land.** (1) A sale must be made for cash or, in the case of real property, on terms that the board of county commissioners approves.

(2) (a) If the sale is made on terms, at least 20% of the purchase price must be paid in cash at the date of sale and the remainder may be paid in installments extending over a period not to exceed 5 years. All deferred

payments bear interest at a rate established by the board of county commissioners. The rate may not exceed more than 4 percentage points a year above the prime rate of major New York banks, as published in the Wall Street Journal within 7 days prior to the date of sale.

(b) If a sale is made on terms, the ~~chairman~~ presiding officer of the board shall execute a contract containing the terms that are provided by a contract approved by the department of revenue."

**Section 517.** Section 7-8-2305, MCA, is amended to read:

**"7-8-2305. Deed of conveyance -- reservation of mineral royalty.** (1) Subject to the provisions of subsection (2), upon payment of the purchase price in full, together with all interest ~~which~~ that may become due on any installment or deferred payments, the ~~chairman~~ presiding officer of the board of county commissioners shall execute a deed attested to by the county clerk to the purchaser or ~~his~~ the purchaser's assigns or ~~such~~ other instruments ~~as shall be~~ that are sufficient to convey all of the title of the county in and to the property ~~so~~ sold.

(2) The county may in the discretion of the board reserve not to exceed 6 1/4% royalty interest in the oil, gas, other hydrocarbons, and minerals produced ~~and saved~~ from ~~said~~ the land."

**Section 518.** Section 7-8-2307, MCA, is amended to read:

**"7-8-2307. Tax liability of purchased tax-deed lands.** (1) On January 1 following the execution of ~~such~~ a contract or deed, the land ~~shall be~~ is subject to taxation in the name of the purchaser or ~~his~~ the purchaser's assignee.

(2) ~~In the event~~ If the taxes are not paid and ~~the same~~ become delinquent, ~~said~~ the contract ~~shall be~~ is subject to cancellation and all payments ~~thereof~~ made ~~shall~~ must be taken, treated, and regarded as rent for ~~said~~ the property."

**Section 519.** Section 7-8-2701, MCA, is amended to read:

**"7-8-2701. State policy for resource management.** It is ~~hereby declared to be~~ the policy of the state of Montana:

- (1) to promote the conservation of the natural resources of the state;
- (2) to provide for the conservation, protection, and development of forage plants and for the beneficial ~~utilization thereof~~ use of forage plants for grazing by livestock, under ~~such~~ regulations ~~as that~~ may be considered necessary;
- (3) to put into crop production only ~~such~~ properly fitted lands ~~as are properly fitted therefor~~;

- (4) to encourage the storage and conservation of water for livestock and irrigation;
- (5) to place the farming and livestock industries upon a permanent and solid foundation;
- (6) to extend preference in sales and leases of lands to resident farmers, ~~stockmen~~ stockgrowers, and taxpayers; and
- (7) to gradually restore to private ownership the immense areas of lands ~~which~~ that have passed into county ownership because of tax delinquencies."

**Section 520.** Section 7-8-2707, MCA, is amended to read:

**"7-8-2707. Organization of board -- conduct of business.** (1) The board shall, ~~from its membership,~~ select a ~~chairman~~ presiding officer from its members. The county clerk ~~shall be~~ is the clerk of ~~said~~ the board.

(2) The board shall hold regular meetings on the first Wednesday following the first Monday of each month and may hold meetings whenever ~~deemed~~ considered necessary upon a call of the ~~chairman~~ presiding officer or a majority of the members. Three members of the board ~~shall~~ constitute a quorum for the transaction of business. The board may adopt ~~whatever~~ rules it ~~deems~~ considers proper for the conduct of its meetings.

(3) The county clerk, as clerk of the advisory board, shall keep the minutes of all meetings ~~thereof~~ and ~~be~~ is custodian of all its records. ~~It shall be the duty of the~~ The board to ~~shall~~ keep a record of the minutes of all meetings ~~thereof~~ in a suitable book, provided by the board of county commissioners for that purpose, and to preserve all important documents, maps, plats, and papers."

**Section 521.** Section 7-11-204, MCA, is amended to read:

**"7-11-204. Authorization for establishment of interlocal cooperation commissions.** An interlocal cooperation commission may be established in either of two ways:

(1) A joint resolution providing for the establishment of an interlocal cooperation commission may be adopted by a separate vote of a majority of the governing bodies of the county, cities, and towns having any jurisdiction in the county under consideration. A certified copy of ~~such~~ the resolution or certified copies of ~~such~~ the concurring resolutions ~~shall~~ must be transmitted to the clerk and recorder of the county, and an interlocal cooperation commission ~~shall~~ must be ~~deemed~~ considered to be authorized.

(2) (a) A petition requesting the establishment of an interlocal cooperation commission ~~shall~~ must be signed by at least 10% of the qualified voters within the county registered for the preceding general election and ~~shall~~ must be filed with the clerk and recorder of the county.

(b) Upon receipt of ~~such~~ a petition, the clerk and recorder shall examine the source and certify to the

sufficiency of the signatures ~~thereon~~. Within 30 days following receipt of ~~such the~~ petition, the clerk and recorder shall transmit the ~~same petition~~ to the board of county commissioners and to the governing bodies of all cities and towns having any jurisdiction in the county, together with ~~his the clerk and recorder's~~ certificate as to the sufficiency ~~thereof of the petition~~, and an interlocal cooperation commission ~~shall must be deemed considered~~ to be authorized."

**Section 522.** Section 7-11-207, MCA, is amended to read:

**"7-11-207. Composition of commission.** ~~Any An~~ interlocal cooperation commission established pursuant to this part ~~shall consist~~ consists of members to be selected as follows:

- (1) four members selected by the county commissioners;
- (2) four members appointed by the mayor of the principal city and confirmed by the governing body of the city;
- (3) one member appointed by the mayor of each of the other cities and towns in the county and confirmed by the governing body of the city or town;
- (4) one member, who ~~shall must be chairman~~ presiding officer of the interlocal cooperation commission, selected by the other members of the commission at their initial meeting."

**Section 523.** Section 7-11-208, MCA, is amended to read:

**"7-11-208. Qualifications of members of commission.** (1) Each member shall reside, at the time of ~~his~~ appointment, within the county if selected by the board of county commissioners or within the city or town by which appointed.

- (2) ~~No A~~ member ~~shall may not~~ be an official or employee of any unit of local government."

**Section 524.** Section 7-11-210, MCA, is amended to read:

**"7-11-210. Vacancies.** In case of a vacancy for any cause, a new member ~~shall must~~ be appointed in the same manner as the member ~~he replaces~~ being replaced."

**Section 525.** Section 7-11-212, MCA, is amended to read:

**"7-11-212. Organization of commission -- meetings.** (1) Not later than 80 days after the commission is authorized, the members of the commission shall meet and organize at a time ~~which shall~~ that must be set by the board of county commissioners.



(2) At the first meeting of the commission, one of the members appointed by the board of county commissioners ~~shall~~ must be designated by that body to serve as temporary ~~chairman~~ presiding officer. As its first official act, the commission shall select a ~~chairman~~ presiding officer from outside its own membership.

(3) Further meetings of the commission ~~shall~~ must be held upon a call of the ~~chairman~~ presiding officer, the ~~vice-chairman~~ vice presiding officer in the absence or inability of the ~~chairman~~ presiding officer, or a majority of the members of the commission."

**Section 526.** Section 7-11-227, MCA, is amended to read:

**"7-11-227. Furnishing of information to commission.** Upon request of the ~~chairman~~ presiding officer of the commission, all state agencies, all counties and other units of local government, and the officers and employees ~~thereof~~ of those entities shall furnish the commission ~~such~~ with information ~~as~~ that may be necessary for carrying out its functions and ~~which~~ that may be available to or procurable by ~~such~~ the agencies or units of government."

**Section 527.** Section 7-12-1103, MCA, is amended to read:

**"7-12-1103. Definitions.** As used in this part, the following definitions apply:

(1) "Appointing authority" means the mayor in the case of a municipality, the board of county commissioners in the case of a county, or the chief executive of a consolidated city-county government.

(2) "Board" means the board of trustees created in 7-12-1121.

(3) "Business" means all types of business, including professions.

(4) "District" means a business improvement district created under this part.

(5) "Governing body" means the legislative body of a local government.

(6) "Local government" means a municipality, a county, or a consolidated city-county government.

(7) "Owner" means a person in whom appears the legal title to real property by deed ~~duly~~ recorded in the county records or a person in possession of real property under claim of ownership for ~~himself~~ the person or as the personal representative, agent, or guardian of the owner."

**Section 528.** Section 7-12-1121, MCA, is amended to read:

**"7-12-1121. Board of trustees -- appointment -- number -- term of office.** (1) When the governing body of a local government adopts an ordinance creating a business improvement district, the appointing authority, with the approval of the governing body, shall appoint not less than five or more than seven owners of

property within the district to ~~comprise~~ compose the board of trustees of the district.

(2) The number of members of the board, once established, may be changed within these limits from time to time by subsequent resolutions of the governing body of the local government. A resolution to reduce board membership may not require resignation of any member prior to completion of ~~his~~ the member's appointed term.

(3) Three of the members who are first appointed must be designated to serve for terms of 1, 2, and 3 years, respectively, from the date of their appointments, and two must be designated to serve for terms of 4 years from the date of their appointments. For a seven-member commission, there must be two additional appointments for terms of 2 years and 3 years, respectively.

(4) After initial appointment, members must be appointed for a term of office of 4 years, except that a vacancy occurring during a term must be filled for the unexpired term. A member shall hold office until ~~his~~ a successor has been appointed and qualified."

**Section 529.** Section 7-12-1122, MCA, is amended to read:

**"7-12-1122. Organization of board of trustees -- no compensation.** (1) The appointing authority shall designate which member of the board is to be the first ~~chairman~~ presiding officer. When the office of ~~chairman~~ presiding officer of the board becomes vacant ~~thereafter~~, the board shall elect a ~~chairman~~ presiding officer from among its members. The term of office as ~~chairman~~ presiding officer of the board, unless otherwise prescribed by the governing body, must be for 1 calendar year or for that portion ~~thereof~~ of a year remaining after each ~~chairman~~ presiding officer is designated or elected.

(2) Members may ~~not~~ not receive ~~no~~ compensation."

**Section 530.** Section 7-12-2101, MCA, is amended to read:

**"7-12-2101. Definitions.** (1) The word "blocks", ~~shall mean such~~ means blocks, whether regular or irregular, ~~as that~~ are bounded by main streets or partially by a boundary line of the city.

(2) The term "board of county commissioners" includes any body or board ~~which~~ that under the law is the legislative department of the government of the county.

(3) The word "city" and the word "municipality", as used in this part, ~~shall be understood and so construed as to include~~ include all corporations ~~heretofore organized and now existing and hereafter~~ organized for municipal purposes.

(4) The terms "clerk" and "county clerk", as used in this part, include any person or officer who ~~shall be~~

is clerk of the board of county commissioners.

(5) The term "county treasurer", as used in this part, means and includes any person who, under whatever name or title, is the custodian of the funds of the county.

(6) The term "engineer", as used in this part, means the person, firm, or corporation ~~who is~~ designated by the board of county commissioners as the engineer for the improvement.

(7) The term "incidental expenses", as used in this part, includes:

(a) the compensation of the engineer for work done ~~by him~~;

(b) the cost of printing and advertising, as provided in this part;

(c) interest on warrants of the county issued to pay costs of improvements, as provided in this part;

(d) costs of issuance of the bonds or warrants of the special improvement district, including costs of printing the bonds, bond registration fees, ~~attorneys'~~ attorney fees and financial consultants' fees, a premium for bond insurance, any price paid by the original purchaser of the bonds that is less than the face amount ~~thereof of the bonds~~, and interest to accrue on bonds or warrants of the special improvement district before assessments levied by the district are collected in amounts and at times sufficient to pay ~~such the~~ interest; and

(e) a reasonable administrative fee payable to the county for the creation and administration of the district by the county, its officers, and its employees.

(8) The term "main street" means ~~such an~~ actually opened street or streets as bound a block.

(9) The words "paved" or "repaved", as used in this part, ~~shall be held to~~ mean and include pavement of stone, whether paving blocks or macadam; of bituminous rock or asphalt; or of wood, brick, or other material, whether patented or not, ~~which that~~ the board of county commissioners by rule or resolution shall adopt.

(10) The term "quarter block", as used in this part ~~as in reference~~ to irregular blocks, includes all lots or portions of lots having ~~any~~ frontage on either intersecting street halfway from ~~such the~~ intersection to the next main street or, ~~when no a main street intervenes does not intervene~~, all the way to the boundary line of ~~any the~~ city.

(11) The word "street", as used in this part, includes avenues, highways, lanes, alleys, crossings or intersections, courts, and places ~~which that~~ have been dedicated and accepted according to the law or in common and undisputed use by the public for a period of not less than 5 years ~~next preceding~~.

(12) The term "street intersection", ~~wherever as~~ used in this part, means that parcel of land at the point of juncture or crossing of intersecting streets, ~~which that~~ lies between lines drawn from corner to corner of all lot lines immediately cornering at ~~such the~~ juncture.

(13) The words "work", "improved", and "improvements", as used in this part, ~~shall include~~ include all

work or the securing of property, by purchase or otherwise, mentioned in this part and also the construction, reconstruction, maintenance, and repair of ~~all or~~ any portion of ~~said the~~ work."

**Section 531.** Section 7-12-2117, MCA, is amended to read:

**"7-12-2117. Record of expenses to be kept by engineer.** ~~It shall be the duty of the~~ The engineer selected as ~~hereinbefore~~ provided ~~to in this part shall~~ keep an account in ~~his~~ the engineer's office of all costs and expenses incurred in connection with ~~every each~~ special improvement district and ~~to shall~~ certify the ~~same costs and expenses~~ to the county clerk."

**Section 532.** Section 7-12-2122, MCA, is amended to read:

**"7-12-2122. Term of office of multicounty district trustee.** (1) The trustees appointed upon the creation of ~~such a~~ district shall serve staggered terms of 1, 2, and 3 years. ~~Thereafter~~ After the initial appointments, each trustee serves a term of 3 years.

(2) A trustee holds office for the term of ~~his~~ a appointment or until ~~his a~~ successor is appointed and qualified."

**Section 533.** Section 7-12-2135, MCA, is amended to read:

**"7-12-2135. Decision on award of contract.** (1) The board of county commissioners may award the contract for ~~such the~~ work or improvement to the lowest responsible bidder at the prices named in ~~his the~~ bid and shall reject all proposals other than the lowest regular proposal or bid of ~~any a~~ responsible bidder.

(2) The board:

(a) may reject any ~~and all~~ proposals or bids ~~should if it deem~~ considers this for the public good;

(b) may also reject the bid of ~~any a~~ party who has been delinquent or unfaithful in ~~any a~~ former contract with the board."

**Section 534.** Section 7-12-2137, MCA, is amended to read:

**"7-12-2137. Procedure for dealing with bid securities.** (1) If bids are rejected, the board of county commissioners shall ~~thereupon~~ return to the proper parties the bid securities accompanying the rejected bids ~~so rejected~~.

(2) The bid security accompanying ~~said the~~ accepted proposal or bid ~~shall~~ must be held by the county clerk until the contract for doing ~~said the~~ work, ~~as hereinafter provided~~, has been entered into, either by the lowest

bidder or by the owners of over 50% of frontage, ~~whereupon said~~ at which time the bid security ~~shall~~ must be returned to ~~said the~~ bidder.

(3) If ~~said the~~ bidder fails, neglects, or refuses to enter into the contract to perform ~~said the~~ work and improvements ~~as hereinafter provided~~, then the bid security accompanying ~~his the~~ bid, ~~in the amount therein mentioned, shall~~ must be declared to be forfeited to the board and ~~shall~~ must be collected by ~~it the~~ board and paid into the general fund of the county."

**Section 535.** Section 7-12-2139, MCA, is amended to read:

**"7-12-2139. Procedure if person entering contract defaults on work.** (1) If the contractor who may have taken ~~any a~~ contract does not complete the ~~same~~ contract within the time limited in the contract or within ~~such a~~ further time ~~as that~~ may be given him, the engineer selected as ~~hereinbefore~~ provided in this part shall report ~~such the~~ delinquency to the board of county commissioners.

(2) (a) The board may relet the unfinished portion of ~~said the~~ work after pursuing the formalities prescribed in 7-12-2131 through 7-12-2137 for the letting of the ~~whole~~ contract in the first instance.

(b) The board ~~shall have the right, in its option, to~~ may complete the contract and deduct any cost in excess of the contract price ~~thereof~~ from any money, bond, or warrant due ~~such the~~ contractor. ~~In the event if~~ there is no money, bond, or warrant due ~~such the~~ contractor from which to deduct ~~such the~~ cost, then the board ~~shall have the right to~~ may sue ~~such the~~ contractor and recover ~~from him such the~~ costs."

**Section 536.** Section 7-12-2140, MCA, is amended to read:

**"7-12-2140. Procedure for objection to proceedings.** (1) At any time within 60 days from the date of the awarding of a contract, any owner or other person having ~~any a~~ interest in any lot, tract, or plot of land liable to assessment who claims that any of the previous acts or proceedings relating to ~~said the~~ improvements are irregular, defective, erroneous, or faulty or that ~~his the~~ property will be damaged by ~~the~~ making of any of the improvements in the manner contemplated may file with the county clerk a written notice specifying in what respect ~~said the~~ acts or proceedings are irregular, defective, erroneous, or faulty or in what manner and to what extent ~~his the~~ property will be damaged by ~~the~~ making of ~~said the~~ improvements.

(2) ~~Said The~~ notice ~~shall~~ must state that it is made in pursuance of this section.

(3) All objections in any act or proceeding or in relation to ~~the~~ making of ~~said the~~ improvements must be made in writing and in the manner and at the time ~~aforsaid~~ provided in subsection (1). All claims for damages ~~therefor shall~~ must be waived by ~~such the~~ property owner ~~in case no~~ if a written objection is ~~not~~ not filed by ~~him~~,

~~provided that~~ if notice of the passage of the resolution of intention has been actually published and the notice of improvements posted as provided in this part."

**Section 537.** Section 7-12-2154, MCA, is amended to read:

**"7-12-2154. Payment of damages incurred as a result of improvements.** Whenever the owner or anyone interested in ~~any~~ property situated in the special improvement district, after filing with the county clerk a written notice claiming that ~~his~~ the person's property has been damaged, is awarded or recovers any amount because of damages sustained by the property because of the construction of ~~any an~~ improvement in the special improvement district:

———(1) and before the resolution levying the assessment to defray the cost of making the improvement in the district is passed and adopted by the board of county commissioners, the amount ordered to be recovered ~~shall~~ must be added to and constitute a part of making the improvements; ~~but~~

———(2) However, if the resolution levying the assessment to defray the cost and expenses of making the improvement has been passed and adopted by the board, it shall pass and adopt a supplemental resolution levying an additional assessment against the property in the district for the purpose of paying the amount awarded, and the supplemental resolution ~~shall~~ must be made in the same manner and prepared and certified the same as the original resolution levying the assessment to defray the cost of making the improvements."

**Section 538.** Section 7-12-2158, MCA, is amended to read:

**"7-12-2158. Resolution for levy and assessment of tax.** (1) To defray the cost of making or acquiring improvements in ~~any a~~ special improvement district, the board of county commissioners shall by resolution levy and assess a tax upon all benefited property in the district created for ~~such that~~ purpose; by using for a basis for ~~such~~ assessment the method or methods provided for by this part and described in the resolution of intention.

(2) ~~Such~~ The resolution ~~shall~~ must contain a description of each lot or parcel of land, with the name of the owner, if known, and the amount of each partial payment, when made, and the day when the ~~same shall become~~ payment becomes delinquent.

(3) ~~Such~~ The resolution, signed by the ~~chairman~~ presiding officer of the board, ~~shall~~ must be kept on file in the office of the county clerk."

**Section 539.** Section 7-12-2163, MCA, is amended to read:

**"7-12-2163. Collection of district assessments by county treasurer -- delinquencies.** (1) ~~Where any~~

When a resolution of assessment, either for construction or maintenance, has been ~~duly~~ certified by the county clerk, ~~it shall be the duty of the county treasurer shall,~~ in accordance with the provisions of this title, ~~to collect such~~ the assessment in the same manner and at the same time as taxes for general and municipal purposes are collected ~~by him.~~

(2) When the payment of an installment of a special assessment becomes delinquent, all payments of subsequent installments of the special assessment may, at the option of the board of county commissioners and upon adoption of the appropriate resolutions, become delinquent. Upon delinquency in one or all installments, the whole property must be sold the same as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes delinquent."

**Section 540.** Section 7-12-2164, MCA, is amended to read:

**"7-12-2164. Payment of tax under protest -- action to recover.** (1) When ~~any a~~ tax levied and assessed under any of the provisions of this part is ~~deemed~~ considered unlawful by the party whose property is ~~thus~~ taxed or from whom ~~such the~~ tax is demanded, ~~such the~~ person may pay ~~such the~~ tax or any part ~~thereof~~ deemed of the tax considered unlawful under protest to the county treasurer.

(2) ~~Thereupon, such~~ The party so paying under protest or ~~his~~ the party's legal representative may bring an action in any court of competent jurisdiction against the officer to whom ~~such the~~ tax was paid or against the county in whose behalf the ~~same tax~~ was collected to recover ~~such the~~ tax or any portion ~~thereof so of the tax~~ paid under protest. ~~Any An~~ action instituted to recover ~~such the~~ tax paid under protest must be commenced within 60 days after the date of payment ~~thereof.~~

(3) The tax ~~so~~ paid under protest ~~shall~~ must be held by the county treasurer until the determination of ~~any an~~ action brought for the recovery ~~thereof of the tax.~~"

**Section 541.** Section 7-12-4101, MCA, is amended to read:

**"7-12-4101. Definitions.** Unless the context indicates otherwise, as used in ~~this part and~~ part 42 and this part, the following definitions apply:

(1) "Blocks" means blocks, whether regular or irregular, that are bounded by main streets or by main streets and a boundary line of the city.

(2) "City" or "municipality" means all corporations organized for municipal purposes.

(3) "City clerk" or "clerk" means ~~any a~~ person or officer who is clerk of the council.

(4) "City council" means ~~any~~ a body or board that is the legislative department of the government of the city.

(5) "City engineer" means ~~any~~ a person or officer who is responsible for the maintenance and improvement of the streets in a city.

(6) "City treasurer" means ~~any~~ a person who, under whatever name or title, is the custodian of the funds of the municipality.

(7) "Incidental expenses" means:

(a) the compensation of the city engineer for work done ~~by him~~;

(b) the cost of printing and advertising as provided in ~~this part and~~ part 42 and this part;

(c) the compensation of persons appointed by the city engineer to take charge of and superintend any of the work mentioned in this part;

(d) the expenses of making the assessment for any work authorized by this part;

(e) interest on warrants of the city issued to pay costs of improvements;

(f) costs of issuance of bonds or warrants of the special improvement district, including costs of printing the bonds, bond registration fees, ~~attorneys' attorney fees~~ and financial consultants' fees, a premium for bond insurance, and ~~any~~ the price paid by the original purchaser of the bonds that is less than the face amount ~~thereof~~ of the bonds;

(g) interest to accrue on bonds or warrants of the special improvement district before assessments levied in the district are collected in amounts and at times sufficient to pay ~~such~~ the interest; and

(h) a reasonable administrative fee payable to the city for the creation and administration of the district by the city, its officers, and its employees.

(8) "Main street" means ~~such~~ the actually opened street ~~as~~ that bounds a block.

(9) "Paved" or "repaved" means pavement of stone (whether paving blocks or macadam), of bituminous rock or asphalt, or of wood, brick, or other material (whether patented or not) ~~which~~ that the city council adopts by ordinance or resolution.

(10) "Quarter-block", when used in reference to irregular blocks, means all lots or portions of lots having ~~any~~ frontage on either of two intersecting streets halfway from the intersection to the next main street or, when ~~no~~ a main street ~~intervenes~~ does not intervene, all the way to a boundary line of the city.

(11) "Street" means avenues, highways, lanes, alleys, crossings or intersections, courts, and places ~~which~~ that have been dedicated and accepted according to the law or in common and undisputed use by the public for a period of not less than 5 years.



(12) "Street intersection" means that parcel of land at the point of juncture or crossing of intersecting streets ~~which~~ that lies between lines drawn from corner to corner of all lot lines immediately cornering at ~~such~~ the juncture.

(13) "Work", "improved", or "improvement" means all work or the securing of property mentioned in ~~this part and~~ part 42 and this part and also the construction, reconstruction, and repair of ~~all or~~ any portion of the work."

**Section 542.** Section 7-12-4121, MCA, is amended to read:

**"7-12-4121. Record of expenses to be kept by city engineer.** ~~It shall be the duty of the~~ The city engineer ~~to shall~~ keep an account of all costs and expenses incurred in ~~his~~ the engineer's office in connection with ~~every~~ each special improvement district and certify the ~~same~~ costs and expenses to the city clerk."

**Section 543.** Section 7-12-4143, MCA, is amended to read:

**"7-12-4143. Decision on award of contract.** (1) The city council may award the contract for ~~said~~ the work or improvement to the lowest responsible bidder at the prices named in ~~his~~ the bid and shall reject all proposals or bids other than the lowest regular proposal or bid of ~~any~~ a responsible bidder.

(2) The council may reject any ~~and all~~ proposals or bids ~~should if it deem~~ considers this for the public good and may also reject the bid of ~~any~~ a party who has been delinquent or unfaithful in ~~any~~ a former contract with the municipality."

**Section 544.** Section 7-12-4145, MCA, is amended to read:

**"7-12-4145. Procedure for dealing with bid securities.** (1) If bids are rejected, the city council shall ~~thereupon~~ return to the proper parties the bid securities corresponding to the rejected bids ~~so rejected~~.

(2) The bid securities accompanying ~~such~~ the accepted proposals or bids ~~shall~~ must be held by the city clerk of ~~said~~ the city until the contract for doing ~~said~~ the work, ~~as hereinafter provided,~~ has been entered into, either by ~~said~~ the lowest bidder or by the owners of over 75% of the frontage, ~~whereupon~~ ~~said~~ at which time the bid security ~~shall~~ must be returned to ~~said~~ the bidder.

(3) If ~~said~~ the bidder fails, neglects, or refuses to enter into the contract to perform ~~said~~ the work or improvements ~~as hereinafter provided,~~ then the bid securities accompanying ~~his~~ the bid ~~and the amount therein mentioned~~ ~~shall~~ must be declared to be forfeited to ~~said~~ the city and ~~shall~~ must be collected by ~~it~~ the city and paid into the general fund."

**Section 545.** Section 7-12-4148, MCA, is amended to read:

**"7-12-4148. Contract with successful bidder.** ~~Should~~ If the owners referred to in 7-12-4147 fail to elect to take ~~said~~ the work, to enter into a written contract ~~therefor~~ for the work within 3 days, or to commence the work within 15 days after the date of ~~such~~ the written contract and to prosecute the ~~same~~ contract with diligence to completion, ~~it shall be the duty of the city council to~~ shall enter into a contract with the original bidder to whom the contract was awarded at the prices specified in ~~his~~ the bid."

**Section 546.** Section 7-12-4152, MCA, is amended to read:

**"7-12-4152. Procedure if person entering contract defaults on work.** (1) If the contractor or owner who may have taken ~~any~~ a contract does not complete the ~~same~~ contract within the time limited in the contract or within ~~such~~ a further time ~~as~~ that the city council may give ~~him~~, the city engineer shall report ~~such~~ the delinquency to the council.

(2) (a) The council may relet the unfinished portion of ~~said~~ the work after pursuing the formalities prescribed in 7-12-4141 through 7-12-4145 for the letting of the ~~whole~~ contract in the first instance.

(b) The city ~~shall have the right~~ may, at its option, ~~to~~ complete the contract and deduct any cost in excess of the contract price ~~thereof~~ from any money, bonds, or warrants due ~~such~~ the contractor or owners. ~~In the event~~ If there is no money, bonds, or warrants due ~~such~~ the contractor or owners from which to deduct ~~such~~ the cost, then the city ~~shall have the right to~~ may sue ~~such~~ the contractor or owners and recover ~~from him~~ such the cost."

**Section 547.** Section 7-12-4167, MCA, is amended to read:

**"7-12-4167. Provision for grading street by owner of abutting property.** (1) ~~It shall be lawful for the~~ The owner or owners of the lots or land fronting upon ~~any~~ a street, the width and grade of which ~~shall have~~ have been established by the city council or commission, ~~to~~ may, after obtaining permission from the city council or commission, perform, at ~~his or their own~~ the owner's expense ~~(after obtaining permission from the council or commission to do so but before said council or commission has passed its resolution of intention to order grading exclusive of this)~~, any grading upon ~~said~~ the street, to its full width or to the centerline ~~thereof~~ of the street and to its established grade, ~~as then established, and thereupon to~~. The owner may procure, at his or their own the owner's expense, a certificate from the city engineer setting forth the number of cubic yards of cutting and filling made by ~~him or them~~ each owner in ~~such~~ the grading and proportions performed by each owner and certifying that the ~~same~~ work is done to establish the width and grade of ~~said~~ the street or to the centerline ~~thereof~~ of the street and ~~thereafter to~~ may file ~~said~~ the certificate with the city engineer. The engineer shall record the certificate

in a properly indexed book kept for that purpose in ~~his~~ the engineer's office.

(2) (a) ~~Thereafter, whenever~~ If the council or commission orders the grading of ~~said the~~ said street or any portion ~~thereof of the street~~ on which any grading, certified as provided in subsection (1), has been done, the bids and contracts must express the price by the cubic yard for cutting and filling in grading. The owner ~~or owners~~ and ~~his or their~~ the owner's successors in interest ~~shall be~~ are entitled to credit on the assessment upon ~~his or their~~ the owner's lots and lands fronting on ~~said the~~ said street for the grading ~~thereof of the street~~ to the amount of the cubic yards of cutting and filling set forth in ~~his or their~~ the owner's certificate, at the prices named in the contract for ~~said the~~ said cutting and filling or, if the grade ~~meanwhile~~ has been duly altered, only for so much of ~~said the~~ said certified work as would be required for grading to the altered grade. ~~Such~~ The owner ~~or owners shall~~ is not be entitled to ~~such credit as may be~~ in excess of the assessments for grading upon the lots and lands owned by ~~him or them~~ the owner and proportionately assessed for the whole of ~~said the~~ said grading.

(b) The city clerk shall include in the assessment, for the whole of ~~said the~~ said grading upon the same grade, the number of cubic yards of cutting and filling set forth in ~~any and~~ all certificates ~~so~~ recorded in ~~his~~ the clerk's office, or for the whole of ~~said the~~ said grading to the duly altered grade, and so much of ~~said the~~ said certified work ~~as that~~ would be required for grading ~~thereto~~ and shall enter corresponding credits, deducting the ~~same~~ credits as payments upon the amounts assessed against the lots and land owned, respectively, by ~~said the~~ said certified owners and their successors in interest; ~~provided, however~~ However, ~~that he shall~~ the clerk may not ~~so~~ include any grading quantities or credit any sums in excess of the proportionate assessments for the whole of the grading ~~which that~~ are made upon ~~any~~ lots and lands fronting upon ~~said the~~ said street and belonging to ~~any such~~ certified owners or their successors in interest."

**Section 548.** Section 7-12-4168, MCA, is amended to read:

**"7-12-4168. Provision for work other than grading done by owner of property.** Whenever ~~any an~~ an owner or owners of ~~any~~ lots and lands fronting on ~~any a~~ a street ~~shall have heretofore done or shall hereafter do~~ any work, (excepting grading), on ~~such the~~ the street in front of ~~any a~~ a block at ~~his or their own~~ the owner's expense and the city council or commission ~~shall~~ subsequently ~~order~~ orders any work to be done of the same class in front of the same block, ~~said the~~ said work ~~so~~ done at the expense of ~~such the~~ the owner or owners ~~shall~~ must be excepted from the order ordering work to be done, ~~provided that if~~ if the work ~~so~~ done at the expense of ~~such the~~ the owner or owners ~~shall be~~ is upon the official grade and in condition satisfactory to the city engineer at the time ~~said that~~ the order is passed."

**Section 549.** Section 7-12-4170, MCA, is amended to read:

**"7-12-4170. Payment of damages incurred as a result of improvements.** Whenever the owner or anyone interested in ~~any~~ property situated within ~~any~~ the special improvement district, after filing with the clerk a written notice claiming that ~~his~~ the person's property has been damaged, is awarded or recovers any amount because of damages sustained by the property because of the construction of ~~any~~ an improvement in the special improvement district:

———(1) and if the resolution levying the assessment to defray the cost of making the improvement in the district is not passed and adopted by the city council, the amount to be recovered ~~shall~~ must be added to and constitute a part of the cost of making the improvement; ~~but~~

———(2) However, if the resolution levying the assessment to defray the costs and expenses of making the improvement has been passed and adopted by the council, it shall pass and adopt a supplemental resolution levying additional assessments against all the property in the district for the purpose of paying the amount awarded, and the supplemental resolution ~~shall~~ must be made in the same manner and prepared and certified the same as the original resolution levying the assessment to defray the cost of making the improvement."

**Section 550.** Section 7-12-4182, MCA, is amended to read:

**"7-12-4182. Collection of district assessments by city treasurer in cities collecting their own taxes -- delinquencies.** (1) In ~~every~~ each city or town ~~which shall provide~~ that provides by ordinance for the collection of its taxes for general, municipal, and administrative purposes by its city treasurer or town clerk, the city treasurer or town clerk shall collect all special assessments and taxes levied and assessed in accordance with any of the provisions of ~~this part and part 42~~ and this part in the same manner and at the same time as taxes for general, municipal, and administrative purposes are collected ~~by him~~. All of the provisions of 7-6-4423 apply to the collection of the special taxes and assessments in the same manner as the provisions apply to the collection of other city or town taxes.

(2) (a) When the payment of an installment of a special assessment becomes delinquent, all payments of subsequent installments may, at the option of the city or town council and upon adoption of the appropriate resolutions, become delinquent. The city or town may, pursuant to 7-12-4184, order that all assessments that are delinquent for specific parcels of land as a result of acceleration be withdrawn.

(b) Upon delinquency in one or all installments, the whole property ~~shall~~ must be sold the same as other property is sold for taxes. The enforcement of the lien of any installment of a special assessment by any method authorized by law does not prevent the enforcement of the lien of any subsequent installment when it becomes

delinquent."

**Section 551.** Section 7-12-4185, MCA, is amended to read:

**"7-12-4185. Payment of tax under protest -- action to recover.** (1) When ~~any a~~ tax levied and assessed under any of the provisions of ~~this part and~~ part 42 ~~and this part is deemed~~ considered unlawful by the party whose property is ~~thus~~ taxed or from whom ~~such the~~ tax is demanded, ~~such the~~ person may pay ~~such the~~ tax or any part ~~thereof deemed~~ of the tax considered unlawful under protest to the city or county treasurer, ~~as the case may be.~~

(2) ~~Thereupon, such~~ The party ~~so~~ paying under protest or ~~his~~ the party's legal representative may bring an action in any court of competent jurisdiction against the officer to whom ~~such the~~ tax was paid or against the city in whose behalf the ~~same~~ tax was collected to recover ~~such the~~ tax or any portion ~~thereof so~~ of the tax paid under protest. ~~Any~~ An action instituted to recover ~~any the~~ tax paid under protest must be commenced within 60 days after the date of payment ~~thereof.~~

(3) The tax ~~so~~ paid under protest ~~shall~~ must be held by the city or county treasurer, ~~as the case may be;~~ until the determination of ~~any an~~ action brought for the recovery ~~thereof of the tax.~~

**Section 552.** Section 7-12-4255, MCA, is amended to read:

**"7-12-4255. Contents of notice of hearing -- protest.** (1) The notice ~~shall~~ must state the substance of the petition and the time and place for hearing and that any interested person or any person whose rights may be affected by the issuance or sale of the bonds or the levy of the special assessment, may, on or before the day fixed for the hearing on the petition, answer the petition and may appear at the hearing and contest the granting of the ~~prayer request~~ of the petition and the entry of any order of confirmation pursuant ~~thereto~~ to the petition.

(2) ~~Any~~ A person eligible to appear may enter ~~his~~ an appearance in the proceedings and answer the petition and contest the granting of the ~~prayer request~~ of the petition, and all provisions of the code of civil procedure ~~shall be~~ are applicable to the proceedings."

**Section 553.** Section 7-12-4304, MCA, is amended to read:

**"7-12-4304. Protest against creation of lighting district.** At any time within 15 days after the date of the first publication of the notice of passage of the resolution of intention, ~~any an~~ owner of property liable to be assessed for ~~said the~~ work may make written protest against the proposed work or against the extent or creation of the district to be assessed, or both. ~~Such~~ The notice must be in writing and be delivered to the clerk of the city

council, who shall endorse ~~thereon~~ on the notice the date of its receipt ~~by him.~~"

**Section 554.** Section 7-12-4307, MCA, is amended to read:

**"7-12-4307. Objections to irregular proceedings or manner of making improvements.** (1) At any time within 60 days from the date of the award of ~~any a~~ a contract by a city or town council under the provisions of this part or at any time within 60 days from the date the council requires or instructs the street commissioner or any other official of the city or town to cause the posts, wires, pipes, conduits, lamps, or other suitable and necessary appliances for the purpose of lighting ~~said the~~ the streets of ~~said the~~ the city or town to be procured and erected, ~~any an~~ an owner or other person having ~~any an~~ an interest in ~~any a~~ a lot or land liable to assessment who claims that any of the previous acts or proceedings relating to ~~said the~~ the improvements are irregular, defective, erroneous, or faulty or that ~~his the person's~~ the person's property will be damaged by the making of any improvements in the manner contemplated may file with the city clerk a written notice specifying in what respect ~~said the~~ the acts or proceedings are irregular, defective, erroneous, or faulty or in what manner and to what extent ~~his the person's~~ the person's property will be damaged by the making of ~~said the~~ the improvements. The city clerk shall deliver the notice to the council.

(2) All objections to ~~any an~~ an act or proceeding or in relation to the making of ~~said the~~ the improvements not made in writing and in the manner and at the time ~~aforsaid~~ provided in subsection (1) and all claims for damage ~~therefor shall be~~ are waived by ~~such the~~ the property owners, ~~provided if~~ if the notice of the passage of the resolution of intention has been actually published and the notices of improvements have been posted as provided in this part."

**Section 555.** Section 7-12-4309, MCA, is amended to read:

**"7-12-4309. Record of expenses to be kept by city engineer.** ~~It shall be the duty of the~~ The city engineer ~~to shall~~ shall keep an account of all costs and expenses incurred in ~~his the engineer's~~ the engineer's office in connection with ~~every each~~ each special improvement district and certify the ~~same~~ costs and expenses to the city clerk."

**Section 556.** Section 7-12-4325, MCA, is amended to read:

**"7-12-4325. Incidental expenses considered as costs of improvements.** The cost and expense connected with and incidental to the formation of ~~any such the~~ the district, including the cost of preparation of plans, specifications, maps, and plats; engineering, superintendence, and inspection, ~~(including the compensation of the city engineer for work done by him);~~ the cost of printing and advertising as provided in this part; and the preparation of assessment rolls ~~shall~~ must be considered a part of the cost and expenses of making the

improvements within ~~such~~ the special improvement district."

**Section 557.** Section 7-12-4353, MCA, is amended to read:

**"7-12-4353. Objections to irregular proceedings or manner of making a modification.** (1) At any time within 60 days from the date of the award of a contract by a city or town council to implement the provisions of 7-12-4352 or at any time within 60 days from the date the council instructs an official of the city or town to cause the necessary equipment or appliances to be procured and installed, an owner of property liable to assessment who claims that any of the previous acts or proceedings relating to the modification are irregular, defective, erroneous, or faulty or that ~~his~~ the person's property will be damaged by making the modification in the manner contemplated may file with the city or town clerk a notice specifying in what respect these acts or proceedings are irregular, defective, erroneous, or faulty or in what manner and to what extent ~~his~~ the person's property will be damaged by the modification.

(2) Objections to ~~any~~ an act or proceeding or in relation to the making of the modification not made in writing or not made in the manner provided for in subsection (1) and all claims for damage ~~therefor~~ are waived by the property owners, ~~providing~~ if the notice of the passage of the resolution has been published and the notices of the modification have been posted as provided in 7-12-4303."

**Section 558.** Section 7-12-4604, MCA, is amended to read:

**"7-12-4604. Protest against creation of fire hydrant maintenance district.** At any time within 15 days after the date of the first publication or posting of the notice of passage of the resolution of intention, ~~any~~ an owner of property who would be liable for district assessments may make a written protest against the proposed improvement or the creation of the district, or both. The protest must be delivered, in writing, to the clerk of the city council, who shall endorse ~~thereon~~ on the protest the date of ~~its~~ receipt ~~by him.~~"

**Section 559.** Section 7-13-108, MCA, is amended to read:

**"7-13-108. Right to protest.** (1) At any time within 30 days after the date of the first publication of the passage of the resolution of intention, ~~any~~ an owner of property liable to be assessed for ~~said~~ the work may make a written protest against the proposed work.

(2) ~~Such~~ The protest must be in writing and be delivered to the county clerk, who shall endorse ~~thereon~~ on the protest the date of ~~the~~ receipt ~~by him.~~"

**Section 560.** Section 7-13-124, MCA, is amended to read:

**"7-13-124. Resolution to assess and levy tax for making improvements.** (1) To defray the cost of making improvements in ~~any a~~ special improvement district, the board of county commissioners shall by resolution levy and assess a tax upon all property in the district created for ~~such that~~ purpose by using ~~for as~~ a basis for ~~such the~~ assessment the method provided for by this part.

(2) ~~Such The~~ resolution ~~shall must~~ contain a description of each lot or parcel of land, with the name of the owner, if known, and the amount of each partial payment when made and the day when the ~~same shall~~ ~~become~~ payment ~~becomes~~ delinquent.

(3) ~~Such The~~ resolution, signed by the ~~chairman~~ presiding officer of the board, ~~shall must~~ be kept on file in the office of the county clerk."

**Section 561.** Section 7-13-209, MCA, is amended to read:

**"7-13-209. Right to protest.** (1) At any time within 21 days after the date of the first publication of the notice provided for in 7-13-208, ~~any an~~ owner of property liable to be assessed for ~~said the~~ service may make written protest against the proposed service or against the fees proposed to be charged for the service.

(2) ~~Such The~~ protest must be in writing and be delivered to the county clerk, who shall endorse ~~thereon~~ on the protest the date of ~~the~~ receipt ~~by him.~~"

**Section 562.** Section 7-13-218, MCA, is amended to read:

**"7-13-218. Role of county attorney.** The county attorney ~~shall be~~ is the legal ~~advisor~~ adviser of the solid waste management districts and boards within the county of ~~his jurisdiction~~ and shall prosecute and defend all suits to which the districts may be a party. A district or board may employ special legal counsel to defend any ~~such suits in the event if~~ a conflict of interest would prohibit ~~such the~~ defense by the county attorney."

**Section 563.** Section 7-13-2209, MCA, is amended to read:

**"7-13-2209. Application to include benefited lands.** ~~Any A~~ person whose lands are benefited by ~~such~~ the district may, in the discretion of ~~said the~~ board of county commissioners, have ~~such the~~ lands included within ~~said the~~ proposed district upon ~~his~~ application to the board of county commissioners of the county in which ~~his~~ the lands be are located."

**Section 564.** Section 7-13-2241, MCA, is amended to read:



**"7-13-2241. Filing of petition of nomination.** (1) A petition of nomination, signed by at least five electors of the district for any one candidate, may be filed with the election administrator not earlier than 135 days or later than 75 days before the election. The election administrator shall endorse ~~thereon~~ on the petition the date upon which the petition was presented ~~to him~~.

(2) If the district lies in more than one county, the petition for nomination ~~shall~~ must be presented to the election administrator whose county contains the largest percentage of the territory of the district and the election administrator shall fulfill all duties assigned to election administrators in elections under ~~this part and part 23 and~~ this part.

(3) If the petition conforms to this section, the election administrator shall place the name of the petitioner on the ballot as a candidate for director of the district."

**Section 565.** Section 7-13-2246, MCA, is amended to read:

**"7-13-2246. Withdrawal of candidacy.** (1) ~~Any~~ An individual who has been nominated as a candidate may, not later than 75 days before the day of election, cause ~~his~~ the individual's name to be withdrawn from nomination by filing with the election administrator a request ~~therefor~~ for withdrawal in writing, and ~~no~~ a withdrawn name ~~withdrawn~~ may not be printed upon the ballot.

(2) If, upon ~~such~~ withdrawal, the number of candidates remaining does not exceed the number to be elected, then other nominations may be made by filing petitions ~~therefor~~ for nomination not later than 75 days prior to the election."

**Section 566.** Section 7-13-2247, MCA, is amended to read:

**"7-13-2247. Preservation of petitions.** The county clerk shall ~~preserve~~ retain in ~~his~~ the clerk's office for a period of 2 years all petitions of nomination filed under 7-13-2241."

**Section 567.** Section 7-13-2278, MCA, is amended to read:

**"7-13-2278. Duties of administrative personnel.** (1) The general manager ~~shall have~~ has full charge and control of the maintenance, operation, and construction of all works and systems of the district, with full power and authority to employ and discharge all employees and assistants at pleasure and prescribe their duties, and shall, subject to the approval of the board of directors, fix their compensation. The general manager shall perform ~~such~~ other duties ~~as that~~ as that may be imposed ~~upon him~~ by the board. The general manager shall report to the board in accordance with ~~such~~ rules ~~as that~~ as that it may adopt.

(2) The secretary shall countersign all contracts on behalf of the district and perform ~~such~~ other duties ~~as that~~ may be imposed by the board.

(3) The auditor ~~shall be~~ is charged with the duty of installing and maintaining a system of auditing and accounting that ~~shall~~ must completely and at all times show the financial condition of the district. ~~He~~ The auditor shall draw warrants to pay demands made against the district when ~~such the~~ demands have been first approved by at least three members of the board and by the general manager."

**Section 568.** Section 7-13-2308, MCA, is amended to read:

**"7-13-2308. Payment of tax under protest -- action to recover.** (1) ~~Where such~~ When the tax is ~~deemed~~ considered unlawful for any reason by the person whose property is taxed, whether or not ~~he~~ the person has protested the ~~same~~ tax at the hearing provided for in 7-13-2306(4), ~~he~~ the person may pay the tax or the installments ~~thereof of the tax~~ under protest in the manner provided by 15-1-402 and, ~~thereupon and~~ within the time prescribed and in the manner provided by 15-1-402, may commence an action to recover ~~such the~~ tax or installments and in ~~such that~~ action may contest and litigate the payment of ~~such the~~ tax on the same grounds and for the same reasons ~~that he has~~ stated in his the written protest and for no other reasons and on no other grounds.

(2) All of the provisions of 15-1-402 for the retention or refunding of taxes paid under protest ~~shall~~ apply to taxes paid under protest under this section."

**Section 569.** Section 7-13-2342, MCA, is amended to read:

**"7-13-2342. Consolidation of county water and/or sewer districts.** (1) Two or more districts organized under the provisions of ~~this part and~~ part 22 and this part may consolidate at any time; upon petitions submitted to the board of directors of each ~~such~~ district. ~~Such~~ The petitions ~~shall~~ must be in the form required for petitions for the organization of districts. Each ~~such~~ petition ~~shall~~ must be signed by not less than 10% of the registered voters of the territory included within ~~said the~~ district.

(2) ~~Said~~ The petitions may be granted by ordinance of the board of directors of each ~~of said districts~~ district. ~~Such~~ The ordinances ~~shall~~ must be submitted for adoption or rejection to the vote of the electors in ~~such districts~~ the district at general or special elections held, as provided in ~~this part and~~ part 22 and this part, within 70 days after the adoption of ~~such the~~ ordinances.

(3) If ~~such the~~ ordinances are approved, the president and secretary of the boards of directors of each ~~of said districts~~ district shall certify that fact to the secretary of state and to the county clerk of the county or

counties in which ~~such the~~ districts are located. Upon the receipt of ~~said the~~ certificate, the secretary of state shall within 10 days issue ~~his a~~ certificate, reciting the passage of ~~said the~~ ordinances and the consolidation of ~~said the~~ districts. A copy of ~~such the~~ certificate shall must be transmitted to and filed with the county clerk of each county in which ~~such the~~ consolidated district is situated.

(4) ~~From and after~~ After the date of ~~such the~~ certificate, the districts ~~shall be deemed~~ are considered to be consolidated and ~~shall~~ consist of one district with all the rights, privileges, and powers set forth in ~~this part and~~ part 22 and this part and necessarily incident ~~thereto~~ to those rights, privileges, and powers.

(5) The number and manner of selection and election of directors of the consolidated district ~~shall must~~ be the same as the number and manner of selection and election of directors of newly organized districts."

**Section 570.** Section 7-13-2345, MCA, is amended to read:

**"7-13-2345. Hearing and notice on petition to exclude land.** (1) Upon the filing of ~~such a~~ petition with the secretary of the district, ~~he the~~ secretary shall call a meeting of the board of directors of the district at a time not less than 25 days or more than 50 days after the filing of the petition and cause a notice of the filing of ~~such the~~ petition to be published as provided in 7-1-2121. ~~Such The~~ notice ~~shall also~~ must state the date of the filing of ~~such the~~ petition and that the ~~same petition~~ will ~~come on for hearing~~ be heard before the board of directors of the district.

(2) ~~Any A~~ landowner or taxpayer within the district ~~shall have~~ has the right to appear at ~~said the~~ hearing, either in behalf of or in opposition to the granting of ~~said the~~ petition. ~~Said The~~ petition ~~shall come on for hearing~~ must be heard before the board of directors of the district at the time and place specified in the notice of hearing.

(3) (a) Except as provided in subsection (3)(b), the place of the hearing ~~shall must~~ be the regular meeting place of the board of directors of the district.

(b) The board may adjourn the hearing to a more convenient meeting place within the district."

**Section 571.** Section 7-13-2505, MCA, is amended to read:

**"7-13-2505. Processing of petition.** (1) Upon the filing of ~~such the~~ petition or petitions, the county clerk and recorder shall examine the petition and certify whether the required number of signers are found ~~thereon on~~ the petition. After the examination of the petition, the county clerk and recorder of any county containing the least number of signers, if more than one county is involved, shall transmit the petition to the county clerk and recorder of the county containing the most signers.

(2) Within 30 days following the receipt of ~~such the~~ petitions, the county clerk and recorder in the county

containing the most names on the petitions shall transmit the petitions to the board of county commissioners of the county in which the ~~greater~~ greatest number of petitioners reside, together with ~~his~~ the clerk and recorder's certificate and the certificates of any other county clerk and recorder as to the sufficiency ~~thereof~~ of the petitions."

**Section 572.** Section 7-13-4107, MCA, is amended to read:

**"7-13-4107. Protection of private waste disposal service in municipality.** A municipality, as of January 1, 1979, that receives garbage and solid waste disposal services from a private motor carrier authorized by the public service commission to provide ~~such that~~ service may not, by ordinance or otherwise, elect to provide exclusive garbage and solid waste service unless the municipality pays the private motor carrier fair market value for ~~his~~ the carrier's equipment or unless the municipality delays commencing the public service for a period of 5 years from the date of the decision by the municipality to provide the garbage and solid waste services. The private motor carrier ~~shall~~ must be given notice of the decision by the municipality to provide exclusive garbage and solid waste services no later than 10 days after the decision has been made by the municipality."

**Section 573.** Section 7-14-205, MCA, is amended to read:

**"7-14-205. Petition to be filed with election administrator -- certificate.** (1) The complete petition ~~shall~~ must be filed with the election administrator.

(2) The election administrator shall, within 30 days ~~thereafter~~, carefully examine the petition and attach to it a certificate under ~~his~~ the administrator's official signature and ~~the~~ seal of ~~his~~ office. The certificate ~~shall~~ must set forth:

(a) the total number of individuals who are registered electors within the proposed transportation district; and

(b) which and how many of the individuals whose names are on the ~~petitions~~ petition are qualified to sign the petition."

**Section 574.** Section 7-14-1103, MCA, is amended to read:

**"7-14-1103. Commissioners.** (1) The powers of each authority are vested in the commissioners ~~thereof~~ of the authority. A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the commissioners present.

(2) There must be elected a ~~chairman~~ presiding officer and ~~vice-chairman~~ vice presiding officer from

among the commissioners. An authority may employ an executive director, secretary, technical experts, and ~~such~~ other officers, agents, and employees, permanent and temporary, ~~as that~~ it may require and shall determine their qualifications, duties, and compensation. An authority may delegate to one or more of its agents or employees ~~such the~~ powers or duties ~~as that~~ it considers proper.

(3) A commissioner of an authority is entitled to receive expenses, as provided in 2-18-501 through 2-18-503, incurred in the discharge of ~~his~~ duties. Each commissioner shall hold office until ~~his~~ a successor has been appointed or elected and has qualified. The certificates of the appointment, reappointment, or election of commissioners must be filed with the authority."

**Section 575.** Section 7-14-2121, MCA, is amended to read:

**"7-14-2121. County road districts.** (1) The board of county commissioners may in its discretion divide the county into suitable road districts and place each district in the charge of a competent road supervisor. The board shall order and direct each supervisor in the work to be done in ~~his~~ the district.

(2) If the board does not divide the county into districts, the county ~~itself shall constitute~~ constitutes one road district."

**Section 576.** Section 7-14-2122, MCA, is amended to read:

**"7-14-2122. County road supervisor.** (1) Each board of county commissioners may in its discretion employ a competent road supervisor, who shall serve ~~during~~ at the pleasure of the board. In ~~any~~ a county in which the county surveyor is not paid an annual salary, ~~he~~ the surveyor may by agreement be employed by the board to perform the services of road supervisor. ~~He shall~~ The surveyor may not be paid for any duty otherwise required by law to be performed ~~by him~~ as county surveyor.

(2) Under the direction and control of the board, ~~he~~ the road supervisor shall:

- (a) prescribe the times and places for all work to be done on the county roads;
- (b) report any delinquency or inefficiency of ~~any~~ a person employed on ~~any~~ a road;
- (c) perform other duties ~~which~~ that are prescribed by the board."

**Section 577.** Section 7-14-2135, MCA, is amended to read:

**"7-14-2135. Notice to remove encroachment.** (1) Notice to remove the encroachment immediately, specifying the breadth of the highway and the place and extent of the encroachment, must be given to the occupant or owner of the land or the person owning or causing the encroachment.

(2) Notice must be given in the following manner:

(a) by leaving it at ~~his~~ the occupant's or owner's place of residence if ~~such~~ the person resides in the county; or

(b) by posting it on the encroachment if ~~such~~ the person does not reside in the county."

**Section 578.** Section 7-14-2137, MCA, is amended to read:

**"7-14-2137. Legal actions to remove encroachments or recover costs.** (1) (a) If the encroachment is denied, the road supervisor shall commence an action in the proper court to abate the ~~same~~ encroachment as a nuisance.

(b) If ~~he~~ the road supervisor recovers judgment, ~~he~~ the supervisor may have ~~his~~ the supervisor's costs and \$10 for ~~every~~ each day ~~such~~ the nuisance remains after notice.

(2) (a) If the encroachment is not denied and is not removed for 5 days after notice is complete, the road supervisor or county surveyor may remove it at the expense of the owner or occupant of the land or of the person owning or controlling the encroachment.

(b) ~~He~~ The supervisor may recover the expense of removal, \$10 for each day the encroachment remains after notice, and costs in an action brought for that purpose."

**Section 579.** Section 7-14-2201, MCA, is amended to read:

**"7-14-2201. Maintenance and control of bridges.** (1) Each board of county commissioners shall maintain all public bridges other than those maintained by the department of transportation.

(2) The board shall manage and control all bridges referred to in this part. It shall direct the method and time of making repairs, planking, replanking, paving, and repaving.

(3) (a) Whenever ~~any~~ a bridge needs repair or becomes dangerous for the passage of vehicles or persons, the board, or the county surveyor if ~~he~~ the surveyor is in charge, shall repair the bridge upon being notified ~~thereof~~ of the need for repair.

(b) ~~Nothing in this~~ This subsection shall (3) may not be construed as holding the board or any member responsible or liable for anything other than willful, intentional neglect or failure to act.

(4) In this part, "public bridges" means public bridges located in towns or cities and bridges located on county roads maintained by the county."

**Section 580.** Section 7-14-2302, MCA, is amended to read:

**"7-14-2302. Duties of county road superintendent.** (1) Under the direction and supervision of the board of county commissioners, the superintendent shall furnish plans and specifications for highway or bridge work. ~~He shall be chairman~~ The superintendent is the presiding officer of all boards of road viewers.

(2) Under ~~such~~ direction and supervision, ~~he~~ the superintendent shall ~~also~~:

- (a) take charge of all roads, bridges, and causeways under the jurisdiction of the county;
- (b) open all new roads when they are ~~duly~~ established and ordered to be opened by the board;
- (c) perform, at the time and in the manner directed by the board, whatever ~~shall be~~ is lawfully directed by the board concerning the public highways under the jurisdiction of the county."

**Section 581.** Section 7-14-2303, MCA, is amended to read:

**"7-14-2303. Equipment used by road superintendent.** (1) Upon the requisition of the superintendent, the board of county commissioners shall furnish any necessary equipment, tools, and implements and pay for them out of the county road fund.

(2) The superintendent shall preserve the equipment, tools, and implements and ~~shall~~ may not allow them to be used except on public highways. At the expiration of ~~his~~ the superintendent's term of office or upon ~~his removal therefrom~~ from office, ~~he must~~ the supervisor shall turn over all equipment, tools, and implements to ~~his~~ a successor or to the board."

**Section 582.** Section 7-14-2306, MCA, is amended to read:

**"7-14-2306. Records and receipts to be maintained.** The superintendent shall keep correct accounts of all labor performed, equipment and implements used, and materials furnished. ~~He~~ The superintendent shall give ~~to~~ each person performing work or furnishing equipment, implements, or materials a certificate stating the work performed and the price to be paid ~~therefor~~ for the work."

**Section 583.** Section 7-14-2308, MCA, is amended to read:

**"7-14-2308. Superintendent's report.** At least once each year and more often if required by the board of county commissioners, the superintendent shall file a report with the board detailing the activities and expenditures of ~~his~~ the superintendent's office and containing any other information the board requires. At the first monthly or quarterly meeting held after filing of a superintendent's report, the board of county commissioners shall examine ~~it~~ the report."

**Section 584.** Section 7-14-2606, MCA, is amended to read:

**"7-14-2606. Survey of road.** (1) The board may order the county surveyor, or some other competent surveyor if the county surveyor is incompetent, to survey and plat the road. ~~He~~ The surveyor shall file ~~his~~ the surveyor's field notes with the county clerk and recorder.

(2) The surveyor ~~shall~~ must receive \$7 ~~per~~ a day and actual traveling expenses."

**Section 585.** Section 7-14-2607, MCA, is amended to read:

**"7-14-2607. Damages resulting from establishment or alteration of road.** (1) Whenever the board makes an order establishing or changing any road, it ~~must find~~ shall determine the amount of damages sustained by each owner or claimant of lands or improvements ~~thereon~~ affected by the road. Damages must be determined by estimating the benefits and damages accruing. The sum estimated as benefits must be deducted from the sum estimated as damages, and the remainder, if any, ~~shall~~ must be the amount of damages awarded.

(2) Damages ~~shall~~ must be paid to the owner or claimant, if known, upon ~~his~~ the owner or claimant showing or establishing ~~his~~ the right or title to the lands or improvements and furnishing proper deeds and releases."

**Section 586.** Section 7-14-2613, MCA, is amended to read:

**"7-14-2613. Notice to district supervisor of opening or alteration of county road.** When a county road is to be opened, established, constructed, changed, abandoned, or discontinued, the county clerk shall notify the supervisor of the proper district and furnish ~~him~~ the supervisor with a certified copy of the order of the board."

**Section 587.** Section 7-14-2705, MCA, is amended to read:

**"7-14-2705. Meeting between county road superintendent, residents, and owners of land.** (1) After receipt of the petition and passage of the resolution, the board shall make an order fixing a time and place in the vicinity of the road for a meeting between the county road superintendent or ~~his~~ the superintendent's deputy, all owners upon whose lands special assessments will be levied, and all residents within the proposed district.

(2) All owners of land fronting on the road or land within 2 miles on either side of it upon which special assessments will be levied and all residents within the proposed district may meet with the superintendent or ~~his~~ the superintendent's duly appointed deputy."

**Section 588.** Section 7-14-2707, MCA, is amended to read:



**"7-14-2707. Meeting procedure -- election of committee of supervisors.** (1) The superintendent or ~~his~~ the superintendent's deputy, or in their absence one of the landowners or residents present, shall preside. Those present shall elect three individuals as a committee of supervisors; ~~at least one of them shall~~ whom must be a petitioner.

(2) A majority of the owners and residents present and voting ~~shall be~~ is sufficient for election. The presiding officer shall certify to the board the names of the owners elected to the committee.

(3) Those elected shall qualify immediately by taking an oath that they are owners of land benefited by the improvements and to be included within the local improvement district or residents within the proposed district. They shall take an oath that they will fully, impartially, and faithfully perform their duties as supervisors. The superintendent or ~~his~~ the superintendent's deputy may administer the oath, or it may be administered by anyone ~~so~~ authorized by law to do so."

**Section 589.** Section 7-14-2708, MCA, is amended to read:

**"7-14-2708. Investigation of proposed road -- obtaining releases for damages.** The committee and the surveyor or ~~his~~ the surveyor's deputy shall:

- (1) immediately view, examine, and survey the road petitioned for;
- (2) examine and determine the lands ~~which that~~ which that will be specially benefited by the road and ~~which that~~ which that should be included within the district that is to be assessed;
- (3) ascertain whether any damage or injury to property will be sustained by or in consequence of the making of the road; and
  - (a) obtain, if possible without cost, the release in writing of each person of ~~his~~ the person's claim for ~~such~~ damage or injury; or
  - (b) arrange, when necessary, for a release to be given for ~~such an~~ an amount ~~as may be~~ that is fair and reasonable."

**Section 590.** Section 7-14-2709, MCA, is amended to read:

**"7-14-2709. Preparation and presentation of plans, estimates, and report.** (1) The road superintendent shall without delay prepare plans and specifications and cost estimates. ~~He~~ The superintendent shall prepare a plat and description of the local assessment district and a description of the parcels of land included in the district. The valuation of the lands ~~shall~~ must be the value that ~~which~~ appears on the last annual assessment roll of the county for the levying of general taxes.

(2) At the next annual meeting of the board after the road superintendent has completed surveying the road and making estimates, ~~he~~ the superintendent shall make a detailed report. The report ~~shall~~ must state that the maps, descriptions, plans, specifications, and details and estimates of damages, costs, and expenses have been completed."

**Section 591.** Section 7-14-2712, MCA, is amended to read:

**"7-14-2712. Inspector of works -- compensation.** (1) The committee and road superintendent together shall appoint ~~some~~ a suitable and competent person other than ~~they~~ the committee or the superintendent to act as an inspector of the work. ~~He shall~~ The inspector must be ~~upon~~ present at the location of the work at all times during its progress and shall inspect the performance ~~thereof~~ of the work. ~~He~~ The inspector shall report to and be under the supervision of the superintendent.

(2) ~~He shall~~ The inspector must be paid for ~~his services as inspector~~ at the rate of \$5 ~~per a~~ day for the time ~~he is~~ actually engaged ~~thereon~~ as inspector."

**Section 592.** Section 7-14-2719, MCA, is amended to read:

**"7-14-2719. Procedure for payment of claims.** (1) The committee shall approve and certify all claims and accounts for services and ~~every kind of~~ any expense payable from funds of the district.

(2) The county auditor; or the county clerk and recorder in ~~any a~~ county ~~which has no~~ that does not have an auditor; shall then audit all ~~such~~ claims and accounts. ~~Thereafter he~~ The person conducting the audit shall issue a payment order to the treasurer ~~an order~~ in favor of the person to whom the claim or account is payable to pay it.

(3) Upon presentation of the order by the person to whom it was issued or ~~his~~ the person's assignee, the treasurer shall pay it the order from the funds of the district."

**Section 593.** Section 7-14-2720, MCA, is amended to read:

**"7-14-2720. Payments while work in progress.** (1) The surveyor, with the approval of the committee, shall make estimates of the ~~proportion~~ amount of the work completed. After auditing, the estimates may be paid by the treasurer, to an amount not exceeding 80%, during the progress of the work.

(2) If the assessment is payable by installments, the treasurer shall pay the order ~~only~~ from ~~such~~ the assessments ~~as shall~~ that have been collected prior to the ~~issue~~ issuance of the bonds and from the proceeds of the sales of the bonds after ~~issue~~ issuance.

(3) If the board has ordered that the contractor ~~shall~~ must receive bonds in payment, the order for payment ~~shall~~ must call for bonds instead of money. The treasurer shall deliver the bonds, dating them with the day ~~he delivers them~~ of delivery to the contractor, and interest ~~shall run therefrom~~ must accrue from that date."

**Section 594.** Section 7-14-2721, MCA, is amended to read:

**"7-14-2721. Disposition of excess funds after full payment for road.** (1) After the payment of the whole cost of construction or improvement, any money remaining in the county treasury ~~which that~~ belongs to the district ~~shall~~ must be refunded on demand. A rebate ~~therefrom shall~~ must be made on demand to any person who ~~shall~~ has not ~~have~~ paid his an assessment in full.

(2) Demand ~~shall~~ must be made within 2 years from the date upon which the assessment became due.

(3) Any ~~such~~ money remaining in the county treasury after the expiration of 2 years for which ~~no~~ demand has not been made; ~~shall go into~~ must be deposited in the general fund."

**Section 595.** Section 7-14-2753, MCA, is amended to read:

**"7-14-2753. Details relating to bonds.** (1) Each bond ~~shall~~ must provide that the holder ~~shall~~ may not demand payment until it comes due. ~~It shall~~ The bond must bear interest payable annually and ~~shall~~ must have interest coupons for each interest payment attached.

(2) Each bond and coupon ~~shall~~ must bear the date of issuance and be made payable to the bearer. Each bond ~~shall~~ must be signed by the ~~chairman~~ presiding officer of the board and attested by the county clerk and recorder. The seal of the board ~~shall~~ must be affixed to each bond.

(3) Bonds ~~shall~~ must be issued in denominations of not less than \$100 or more than \$1,000.

(4) Each bond ~~shall~~ must contain a reference to the district for which it is issued and to the order and record authorizing the issue. ~~It shall~~ The bond must state that it is payable only out of the local improvement funds created by special assessment and not otherwise.

(5) On its face, each bond ~~shall~~ must bear the designation of the district: "local improvement district No. .... in .... County, Montana".

(6) The board may also direct in the order providing for issuance of the bonds that they be sold by the treasurer at a value not less than par ~~value~~ and accrued interest."

**Section 596.** Section 7-14-2756, MCA, is amended to read:

**"7-14-2756. Payment of assessment -- release from bond obligations.** (1) At any time within 30 days

after notice, the owner may pay the assessment and release and discharge ~~his the owner's lands therefrom and~~ from the operation and effect of the bonds.

(2) ~~No bonds shall~~ Bonds may not be issued until 20 days after the expiration of 30 days after notice. ~~No bonds shall~~ Bonds may not be issued for any assessment paid in full within the 30 days."

**Section 597.** Section 7-14-2761, MCA, is amended to read:

**"7-14-2761. Rights of bondholders.** (1) If the treasurer fails, neglects, or refuses to pay bonds or to collect promptly any assessments when due, the owner of any bonds may proceed ~~in his own name~~ individually to collect the assessments and to foreclose the lien in any court of competent jurisdiction. In addition to the amount of the assessments and interest ~~thereon, any such~~ the owner shall recover 5% of the costs of ~~his~~ the suit.

(2) Any number of holders of bonds for ~~any a~~ single district may join as plaintiffs, and any number of owners of land on which the bonds are a lien may be joined as defendants.

(3) Neither the holder nor ~~any an~~ owner of any bond ~~shall may~~ have ~~any a~~ claim against the county through which the bond is issued except for the assessments. ~~His~~ The remedy in case of nonpayment ~~shall be~~ is confined to the enforcement of the assessments.

(4) A copy of this section ~~shall~~ must be plainly written, printed, or engraved on each bond."

**Section 598.** Section 7-14-2802, MCA, is amended to read:

**"7-14-2802. Construction and operation of ferries uniting two counties.** (1) When a public ferry, if constructed, would unite two counties, the boards of county commissioners may act jointly to construct, maintain, and operate it. Each county shall acquire and maintain its own landings and approaches.

(2) When ~~ferryman~~ individuals are employed on joint ferries, they shall report quarterly to each board, giving ~~such the~~ information ~~as that~~ each board may require."

**Section 599.** Section 7-14-2805, MCA, is amended to read:

**"7-14-2805. Establishment and operation of public ferry or wharf by county upon its own motion.**

(1) Any county of the state may own and establish and the board of county commissioners of any county of the state may operate and manage free or toll ferries and wharves for the use of the public and may employ one or more ~~ferryman~~ individuals to operate ~~such the~~ free or toll ferries and wharves.

(2) While ~~such~~ ferries or wharves are ~~so~~ owned by ~~any a~~ county and operated and managed by ~~such the~~ board, ~~such the~~ operation ~~shall be and~~ is hereby expressly declared to be a governmental function.

(3) The board may also lease any ferries or wharves owned by ~~such~~ the county to a company, firm, or individual to be operated for the use of the public. ~~Said~~ A company, firm, or individual shall give a bond, in an amount ~~deemed~~ considered sufficient by the board, conditioned for the careful and ~~business-like~~ businesslike operation of ~~such~~ the ferry or wharf in accordance with law and the regulations of ~~said~~ the board. ~~While such~~ When a ferry or wharf is ~~so~~ operated by a lessee of ~~said~~ the county, ~~such~~ the operation is ~~expressly declared to~~ be the private function of ~~such~~ the lessee."

**Section 600.** Section 7-14-2823, MCA, is amended to read:

**"7-14-2823. Hearing and decision on application.** (1) At the hearing, proof of giving the notice required by 7-14-2821 and 7-14-2822 must be made, and any person may appear and contest the application. If the board of commissioners finds that the ferry is either a public necessity or convenience and that the applicant is a suitable person and, by reason of the ownership of the landing or failure of the owner ~~thereof~~ of the landing to apply, is entitled ~~thereto~~ to operate the ferry, authority to erect and take tolls on the ferry may be granted to ~~him~~ the applicant for the term of 10 years. The board may at any time ~~they see fit~~ authorize and maintain fords across any water within any distance of ~~any~~ a ferry.

(2) The board granting authority to keep a public ferry ~~must~~ shall at the same time:

(a) fix the amount of a bond to be given by the person or corporation owning or taking tolls on the ferry for the benefit of the county and all persons crossing or desiring to cross on the ~~same~~ ferry and provide for the annual renewal ~~thereof~~ of the bond;

(b) fix the amount of license tax to be paid by the person or corporation for taking tolls ~~thereon~~ on the ferry, not less than \$3 or ~~over~~ more than \$100 ~~per~~ a month, payable annually;

(c) fix the rate of tolls ~~which~~ that may be collected for crossing on the ferry;

(d) make all necessary orders relative to the construction, erection, and business of ferries ~~which they~~ have ~~that it has~~ by law the power to make.

(3) When a county commissioner is interested in an application to erect, construct, or take tolls on a ferry, ~~he must~~ the commissioner may not act in ~~any such~~ those matters."

**Section 601.** Section 7-14-2826, MCA, is amended to read:

**"7-14-2826. Regulation of ferry operation -- penalties.** (1) The board of county commissioners may make ~~all needful~~ rules for the government of ferries ~~and ferrykeepers~~ prescribing:

(a) how many boats must be kept, their character, and how they are propelled;

(b) the number of ~~hands, boatmen, or ferrymen~~ individuals to be employed and rules for their ~~government~~ supervision;

(c) when and under what circumstances ~~to~~ ferries may make trips in the nighttime;

(d) who may be ferried free of toll;

(e) in what cases of danger or peril ~~not to cross~~ a crossing is to be;

(f) penalties for violation of ~~regulations~~ rules;

~~(g) in case of steamboats, the rate of speed;~~

~~(h)~~(g) the method of and preference in loading and crossing; and

~~(i)~~(h) how and by whom action ~~must~~ may be brought to recover penalties.

(2) Subject to the ~~foregoing regulations~~ rules, ~~ferrykeepers must~~ ferry operators shall make trips to accommodate all passengers who desire to cross, and any failure to do so subjects the franchise to forfeiture by a proper proceeding for that purpose.

(3) The owner of ~~every~~ a ferry ~~must~~ shall have the rates of toll, as fixed by the board, printed or written and posted in some conspicuous place on or near the ferry.

(4) All ~~ferrykeepers must~~ ferry operators shall keep the banks of the streams or waters at the landings of their ferries graded and in good order for the passage of vehicles. For every day compliance ~~herewith~~ with this subsection is neglected, \$25 is forfeited, to be collected, except as provided in 3-10-601, for the use of the road fund of the county."

**Section 602.** Section 7-14-2827, MCA, is amended to read:

**"7-14-2827. Surety bond required.** The bond required of the owner or keeper of the ferry must be in the sum fixed by the board of county commissioners, with one or more sureties, and conditioned that the ferry will be kept in good repair and condition and that the owner or keeper will faithfully comply with the laws of the state and all legal orders of the board regulating the ~~same~~ ferry and pay all damages recovered against ~~him~~ the owner or keeper by any person injured or damaged by reason of delay at or defect in ~~such~~ the ferry or in any manner resulting from a noncompliance with the laws or lawful orders regulating the ~~same~~ ferry. The bond must be approved by the board."

**Section 603.** Section 7-14-2828, MCA, is amended to read:

**"7-14-2828. Report required.** ~~Every~~ An owner or keeper of a ferry ~~must~~ shall report annually to the board of county commissioners from which ~~his~~ a license is obtained, under oath, the following facts:

- (1) the actual cost of the construction or erection and equipment of the ferry;
- (2) the repairs made during the preceding year and the actual cost ~~thereof~~ of the repairs;
- (3) the expense of labor and ~~hire~~ of hiring agents and other costs necessarily incurred ~~in and about~~ with regard to the conduct of ~~his~~ the business;
- (4) the amount of tolls collected; and
- (5) the estimated actual cash value of the ferry, exclusive of the franchise."

**Section 604.** Section 7-14-4201, MCA, is amended to read:

**"7-14-4201. Establishment and alteration of street grade.** (1) The city or town council ~~has power to~~ may establish the grade of any street, alley, or avenue.

(2) When the grade has been established, it ~~must~~ may not be changed except by a vote of the majority of the council and not ~~then~~ until the damage to property owners caused by the change of grade has been assessed and determined by three disinterested appraisers; ~~who~~ The appraisers must be appointed by the mayor and confirmed by the council; ~~who must~~ The appraisers shall make an ~~appraisement~~ appraisal, taking into consideration the benefits, if any, to the property, and ~~who must~~ shall file their report with the city or town clerk within 10 days after receiving notice of their appointment. The amount of damages ~~so~~ assessed must be tendered to the owner or ~~his~~ the owner's agent before any change of grade is made."

**Section 605.** Section 7-14-4203, MCA, is amended to read:

**"7-14-4203. Determination of damages.** (1) ~~In case~~ If the council of ~~such~~ the city or town and the owner of ~~such~~ a building are unable to agree upon the amount of ~~such~~ damages from the change of a street grade, the council ~~must~~ shall appoint three disinterested freeholders of ~~such~~ the city or town to appraise ~~such~~ the damages.

(2) The appraisers ~~so appointed~~, after being duly sworn, ~~must~~ shall appraise the damage and make ~~two~~ a written ~~reports~~ report thereof, signed by at least a majority of them, ~~one of which~~. One copy must be delivered to the clerk of ~~such~~ the city or town to be immediately filed in ~~his~~ the clerk's office and ~~the other~~ another copy must be delivered to the owner of the building. ~~Such~~ The report must be made and delivered within 10 days after the appointment of the appraisers."

**Section 606.** Section 7-14-4301, MCA, is amended to read:

**"7-14-4301. Regulation of railways.** (1) The city or town council ~~has power to~~ may grant the right-of-way through the streets, avenues, and other property of a city or town for the purpose of street or other

railroads, to regulate the running and management of the ~~same railroads~~ and to compel the owner of ~~such a~~ street or other railroad to keep the street in repair when occupied by ~~such the~~ street or other railroad, to regulate the speed of railroad engines, and to require railroad companies to station ~~flagmen~~ flag persons at street crossings.

(2) The city or town council ~~has power to~~ may regulate and control the laying of railroad tracks and ~~to~~ may prohibit the use of engines and locomotives ~~propelled by steam or otherwise~~ or ~~to~~ regulate the speed ~~thereof~~ when used of engines and locomotives."

**Section 607.** Section 7-14-4612, MCA, is amended to read:

**"7-14-4612. Organization and operation of commission.** (1) The powers of each commission ~~shall~~ be ~~are~~ vested in the current members ~~thereof then in office~~ of the commission.

(2) The appointing officer shall designate which of the members of the commission ~~shall be~~ is the first ~~chairman~~ presiding officer, but when the office of ~~chairman~~ presiding officer of the commission becomes vacant ~~thereafter~~, the commission shall elect a ~~chairman~~ presiding officer from among its members. The term of office as ~~chairman~~ presiding officer of the commission, unless otherwise prescribed by the legislative body of the city, ~~shall must~~ be for the calendar year or for that portion ~~thereof~~ of a year remaining after each ~~such chairman~~ presiding officer is designated or elected.

(3) Members ~~shall must~~ receive their actual and necessary expenses, including traveling expenses, and may receive ~~such~~ other compensation ~~as that~~ the legislative body may prescribe."

**Section 608.** Section 7-14-4665, MCA, is amended to read:

**"7-14-4665. Role of appointed receiver.** If a receiver is appointed pursuant to 7-14-4664(2)(b), ~~he the~~ receiver may enter and take possession of ~~such the~~ parking facility or any part ~~thereof of the facility~~, and operate and maintain the ~~same facility~~, and collect and receive all fees, rents, ~~revenues~~ revenue, or other charges ~~thereafter~~ arising ~~therefrom~~ from the facility. The receiver shall keep ~~such the~~ money in a separate account or accounts and apply the ~~same money~~ in accordance with the obligations of ~~said the~~ commission as the court ~~shall~~ direct directs."

**Section 609.** Section 7-14-4717, MCA, is amended to read:

**"7-14-4717. List of unpaid assessments.** After expiration of the prescribed time from the date of the warrant and after the treasurer has recorded the return, ~~he the~~ treasurer shall make and certify to the clerk and



recorder a complete list of all unpaid assessments ~~which that~~ amount to \$25 or ~~over more~~ upon any assessment."

**Section 610.** Section 7-14-4718, MCA, is amended to read:

**"7-14-4718. Removal of property from list.** (1) If any person before certification of the list to the clerk and recorder presents to the treasurer ~~his an~~ affidavit that ~~he the person~~ is the owner of a lot ~~in on~~ the list, accompanied by the certificate of a searcher of records that the person is the owner of record, and notifies the treasurer in writing that ~~he desires no~~ the person does not desire a bond to be issued for the assessment upon the lot, then the assessment ~~shall may~~ not be included in the list and ~~shall remain~~ remains collectible as provided by ~~this part and~~ parts 41 and 42 of chapter 12 and this part.

(2) ~~Omission~~ Failure to file the notice ~~shall bar~~ bars any defense against the bonds except the defense that the governing body did not have authority to issue the bonds."

**Section 611.** Section 7-14-4721, MCA, is amended to read:

**"7-14-4721. Assessments converted to bond liability.** (1) The treasurer, at the time ~~he the treasurer~~ certifies the list of unpaid assessments to the clerk and recorder, shall write the word "certified" on the record of the assessment opposite each assessment included in the list, and ~~thereupon~~ all assessments of \$25 or ~~over more~~ shall cease to be payable in cash and ~~shall thereafter be~~ are payable only in equal annual installments on December 1 in each year ~~preceding January 1 on in~~ which the bonds become due. The governing body may provide a plan ~~whereby for collection of~~ the annual installment ~~may be collected~~ in partial payments prior to the time the installment is due, and the lien of each assessment on the property assessed ~~shall continue and remain~~ remains in full force and effect for 2 years after the last installment on the assessment becomes due or until the assessment is fully paid.

(2) The number of installments in which the assessment is payable ~~shall must~~ correspond to the number of years in which there are bonds to be paid, but the total number of installments ~~shall may~~ not exceed 25."

**Section 612.** Section 7-15-2107, MCA, is amended to read:

**"7-15-2107. Application for incorporation.** (1) The commissioners of the authority shall present to the secretary of state an application signed by them ~~which shall that must~~ set forth (without any detail other than the mere recital):

(a) that a notice has been given and public hearing has been held ~~as aforesaid~~ and that the board of county commissioners made the ~~aforesaid~~ determination provided for in 7-15-2105 after ~~such the~~ hearing and

appointed them as commissioners;

(b) the name and official residence of each ~~of the commissioners~~ commissioner, together with a certified copy of the appointment evidencing ~~their~~ the commissioner's right to office, the date and place of induction into and taking the oath of office, and that ~~they~~ the commissioners desire the housing authority to become a public body and a body corporate and politic under this part;

(c) the term of office of each of the commissioners;

(d) the name ~~which that~~ is proposed for the corporation; and

(e) the location of the principal office of the proposed corporation.

(2) The application ~~shall~~ must be subscribed and sworn to by each ~~of said commissioners~~ commissioner before an officer authorized by the laws of the state to take and certify oaths, who shall certify upon the application that ~~he~~ the officer personally knows the ~~commissioners~~ commissioner and knows ~~them~~ the commissioner to be ~~the officers~~ an officer as asserted in the application and that ~~each~~ the commissioner subscribed and swore ~~thereto~~ to the application in the officer's presence."

**Section 613.** Section 7-15-2108, MCA, is amended to read:

**"7-15-2108. Processing of application by secretary of state.** (1) The secretary of state shall examine the application, and if ~~he finds that~~ the name proposed for the corporation is not identical with that of a person or of any other corporation of this state or so nearly similar as to lead to confusion and uncertainty, ~~he~~ the secretary of state shall receive and file it and shall record it in an appropriate book of record in ~~his~~ the secretary of state's office.

(2) When the application has been made, filed, and recorded, the secretary of state shall make and issue to the commissioners a certificate of incorporation pursuant to this part, under the seal of the state, and shall record the ~~same~~ certificate with the application."

**Section 614.** Section 7-15-4221, MCA, is amended to read:

**"7-15-4221. Modification of urban renewal project plan.** (1) An urban renewal project plan may be modified at any time by the local governing body. If modified after the lease or sale by the municipality of real property in the urban renewal project area, ~~such~~ the modification ~~shall be~~ is subject to ~~such~~ any rights at law or in equity ~~as that~~ a lessee or purchaser or ~~his~~ the lessee's or purchaser's successor or successors in interest may be entitled to assert.

(2) An urban renewal plan may be modified by ordinance.

(3) All urban renewal plans approved or modified by resolution prior to May 8, 1979, are hereby validated.

(4) A plan may be modified by:

(a) the procedure set forth in 7-15-4212 through 7-15-4219 with respect to adoption of an urban renewal plan;

(b) the procedure set forth in the plan."

**Section 615.** Section 7-15-4234, MCA, is amended to read:

**"7-15-4234. Urban renewal agency to be administered by appointed board of commissioners.** (1)

If the urban renewal agency is authorized to transact business and exercise powers ~~hereunder~~ under this part, the mayor, by and with the advice and consent of the local governing body, shall appoint a board of commissioners of the urban renewal agency, ~~which shall consist~~ consisting of five commissioners.

(2) The initial membership shall consist of one commissioner appointed for 1 year, one for 2 years, one for 3 years, and two for 4 years. Each subsequent appointment ~~thereafter shall~~ must be for 4 years. A certificate of the appointment or reappointment of ~~any a~~ a commissioner ~~shall~~ must be filed with the clerk of the municipality, and ~~such the~~ the certificate ~~shall be~~ is conclusive evidence of the ~~due and~~ proper appointment of ~~such the~~ the commissioner.

(3) Each commissioner shall hold office until ~~his a~~ a successor has been appointed and has qualified.

(4) A commissioner ~~shall~~ may not receive ~~no~~ compensation for ~~his~~ services but ~~shall be~~ is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of ~~his~~ duties.

(5) Any persons may be appointed as commissioners if they reside within the municipality.

(6) A commissioner may be removed for inefficiency, neglect of duty, or misconduct in office."

**Section 616.** Section 7-15-4239, MCA, is amended to read:

**"7-15-4239. Control of conflict of interest.** (1) (a) ~~No A~~ A public official, ~~no~~ employee of a municipality or urban renewal agency, ~~and no or~~ or department or officers ~~which that~~ that have been vested by a municipality with urban renewal project powers and responsibilities under 7-15-4231 ~~shall~~ may not voluntarily acquire any interest, direct or indirect, in any urban renewal project, in any property included or planned to be included in any urban renewal project of ~~such the~~ the municipality, or in any contract or proposed contract in connection with ~~such an~~ an urban renewal project.

(b) ~~Where such~~ When an acquisition is not voluntary, the interest acquired ~~shall~~ must be immediately

disclosed in writing to the local governing body, and ~~such the~~ disclosure ~~shall~~ must be entered upon the minutes of the governing body.

(2) If ~~any such an~~ official or department or division head owns or controls or owned or controlled within 2 years prior to the date of hearing on the urban renewal project any interest, direct or indirect, in any property ~~which he~~ that the person knows is included in an urban renewal project, ~~he~~ the person shall immediately disclose this fact in writing to the local governing body, and ~~such the~~ disclosure ~~shall~~ must be entered upon the minutes of the governing body. ~~Any such An~~ official or a department or division head ~~shall~~ may not participate in any action on that particular project by the municipality or urban renewal agency, department, or officers ~~which that~~ have been vested with urban renewal project powers by the municipality pursuant to the provisions of 7-15-4231."

**Section 617.** Section 7-15-4264, MCA, is amended to read:

**"7-15-4264. Obligations of transferees of municipal property in urban renewal area.** (1) The purchasers or lessees and their successors and assigns ~~shall be~~ are obligated to devote real property transferred pursuant to 7-15-4262 only to the uses specified in the urban renewal plan and may be obligated to comply with ~~such~~ other requirements ~~as~~ that the municipality may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on ~~such~~ real property required by the urban renewal plan.

(2) ~~The municipality in~~ In any instrument of conveyance to a private purchaser or lessee, the municipality may provide that ~~such the~~ purchaser or lessee ~~shall be without power to~~ may not sell, lease, or otherwise transfer the real property without the prior written consent of the municipality until ~~he~~ the purchaser or lessee has completed the construction of any and all improvements ~~which he has~~ that the purchaser or lessee is obligated ~~himself~~ to construct ~~thereon~~.

(3) The inclusion in ~~any such a~~ contract or conveyance to a purchaser or lessee of any ~~such~~ covenants, restrictions, or conditions, ~~(including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof) of a plan,~~ shall may not prevent the recording of ~~such the~~ contract or conveyance in the land records of the clerk and recorder ~~or of~~ of the county in which ~~such the~~ city or town is located, in ~~such a~~ manner ~~as to afford~~ that provides actual or constructive notice ~~thereof~~ of the covenants, restrictions, or conditions."

**Section 618.** Section 7-15-4402, MCA, is amended to read:

**"7-15-4402. Definitions.** As used in ~~this part~~ or part 45 or this part, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Authority" or "housing authority" means a public body and a body corporate and politic organized in accordance with the provisions of this part for the purposes, with the powers, and subject to the restrictions ~~hereinafter set forth in part 45 or this part.~~

(2) "Bonds" means any bonds, interim certificates, notes, debentures, or other obligations of the authority issued pursuant to ~~this part or~~ part 45 or this part.

(3) "City" means ~~any a city which that~~ is or is about to be included in the territorial boundaries of an authority.

(4) "City clerk" and "mayor" mean the clerk and mayor, respectively, of the city or the officers ~~thereof~~ charged with the duties customarily imposed on the clerk and mayor.

(5) "Commissioner" means one of the members of an authority appointed in accordance with the provisions of this part.

(6) "Community facilities" means real and personal property and buildings and equipment for recreational or social assemblies and for educational, health, or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the housing authority ~~and/or or~~ the occupants of the dwelling accommodations.

(7) "Contract" means any agreement of an authority with or for the benefit of an obligee, whether contained in a resolution, trust indenture, mortgage, lease, bond, or other instrument.

(8) "Council" means the legislative body, council, board of commissioners, board of trustees, or other body charged with governing a city.

(9) "Elderly families" means families of which the head of ~~which (the family or his that person's spouse)~~ is at least 60 years of age ~~or over~~ and who otherwise qualify as persons of low income ~~within the meaning of the definition set forth in subsection (16).~~

(10) "Federal government" means the United States or any agency or instrumentality, corporate or otherwise, of the United States.

(11) "Government" means the state and federal governments and any subdivision, agency, or instrumentality, corporate or otherwise, of either.

(12) (a) "Housing project" means all real and personal property, buildings and improvements, stores, offices, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan or undertaking:

(i) to demolish, clear, remove, alter, or repair unsanitary or unsafe housing; ~~and/or or~~

(ii) to provide safe and sanitary dwelling accommodations for persons of low income.

(b) The term "housing project" may also be applied to:

- (i) the planning of the buildings and improvements;
- (ii) the acquisition of property;
- (iii) the demolition of existing structures;
- (iv) the construction, reconstruction, alteration, and repair of the improvements; and
- (v) all other work in connection ~~therewith~~ with subsections (12)(b)(i) through (12)(b)(iv).

(13) "Mortgage" means deeds of trust, mortgages, building and loan contracts, or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale ~~thereof of the bonds.~~

(14) "Municipality" means ~~any a~~ a city, town, or incorporated village ~~which that~~ that is located within the territorial boundaries of an authority.

(15) "Obligee of the authority" or "obligee" means ~~any a~~ a bondholder, a trustee for any bondholder, ~~any a~~ a lessor demising property to the authority used in connection with a housing project or any assignee or assignees of ~~such the~~ the lessor's interest or any part ~~thereof of the interest,~~ and the United States when it is a party to any contract with the authority.

(16) "Persons of low income" means persons or families who lack the amount of income ~~which that~~ that is necessary, ~~(as determined by the authority undertaking the housing project),~~ to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without overcrowding.

(17) "Real property" means lands, lands under water, structures, and any and all easements, franchises, and incorporeal hereditaments and every estate and right ~~therein in an estate,~~ in an estate, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(18) "State" means the state of Montana.

(19) "Trust indenture" means instruments pledging the ~~revenues~~ revenue of real or personal properties but not conveying ~~such the~~ the properties or conferring a right to foreclose and cause a sale ~~thereof of the properties."~~

**Section 619.** Section 7-15-4409, MCA, is amended to read:

**"7-15-4409. Application for incorporation.** (1) The commissioners shall present to the secretary of state an application signed by them ~~which shall that must~~ that must set forth, ~~(without any detail other than the mere recital):~~

(a) that a notice has been given and a public hearing has been held as ~~aforsaid~~ provided in 7-15-4405, that the council made the ~~aforsaid~~ determination provided for in 7-15-4406 after ~~such the~~ the hearing, and that the mayor has appointed them as commissioners;

(b) the name and official residence of each of the commissioners, together with a certified copy of the

appointment evidencing ~~their~~ each commissioner's right to office, the date and place of induction into and taking oath of office, and that ~~they~~ the commissioner's desire the housing authority to become a public body and a body corporate and politic under this part;

- (c) the term of office of each of the commissioners;
- (d) the name ~~which~~ that is proposed for the corporation; and
- (e) the location of the principal office of the proposed corporation.

(2) The application ~~shall~~ must be subscribed and sworn to by each of ~~said~~ the commissioners before an officer authorized by the laws of the state to take and certify oaths, who shall certify upon the application that ~~he~~ the officer personally knows the commissioners and knows them to be the officers as asserted in the application and that each subscribed and swore ~~thereto~~ to the application in the officer's presence."

**Section 620.** Section 7-15-4410, MCA, is amended to read:

**"7-15-4410. Processing of application by secretary of state.** (1) The secretary of state shall examine the application, and if ~~he finds that~~ the name proposed for the corporation is not identical with that of a person or of any other corporation of this state or so nearly similar as to lead to confusion and uncertainty, ~~he~~ the secretary of state shall receive and file it and shall record it in an appropriate book of record in ~~his~~ the secretary of state's office.

(2) When the application has been made, filed, and recorded, the secretary of state shall make and issue to the commissioners a certificate of incorporation pursuant to this part, under the seal of the state, and shall record the ~~same~~ certificate with the application."

**Section 621.** Section 7-15-4433, MCA, is amended to read:

**"7-15-4433. Compensation of commissioners.** A commissioner ~~shall~~ may not receive ~~no~~ compensation for ~~his~~ services, but ~~he shall be~~ is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of ~~his~~ authority duties."

**Section 622.** Section 7-15-4436, MCA, is amended to read:

**"7-15-4436. Removal of commissioners.** The mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner ~~shall have~~ has been given a copy of the charges, ~~against him~~ (which may be made by the mayor), ~~at least 10 days prior to the hearing thereon~~ on the charges and has had an opportunity to be heard in person or by counsel."

**Section 623.** Section 7-15-4437, MCA, is amended to read:

**"7-15-4437. Right of obligee of authority to request removal of commissioner.** (1) ~~Any~~ An obligee of the authority may file with the mayor written charges that the authority is willfully violating any law of the state or any term, provision, or covenant in any contract to which the authority is a party. The mayor shall give each of the commissioners a copy of ~~such the~~ the charges at least 10 days prior to the hearing ~~thereon on the charges~~ and shall provide an opportunity to be heard in person or by counsel, ~~and The mayor~~ shall within 15 days after receipt of ~~such the~~ the charges remove ~~any a~~ a commissioner of the authority who ~~shall have been~~ is found to have acquiesced in any ~~such~~ willful violation.

(2) A commissioner ~~shall be deemed~~ is considered to have acquiesced in a willful violation by the authority of a law of this state or of any term, provision, or covenant contained in a contract to which the authority is a party if, before a hearing is held on the charges ~~against him, he shall~~ the commissioner does not ~~have filed~~ file a written statement with the authority of ~~his~~ objections to or lack of participation in ~~such the~~ the violation."

**Section 624.** Section 7-15-4439, MCA, is amended to read:

**"7-15-4439. Conduct of business.** (1) A simple majority of commissioners constitutes a quorum.

(2) When the office of the first ~~chairman~~ presiding officer of the authority becomes vacant, the authority shall select a ~~chairman~~ presiding officer from among its members. An authority shall select from among its members a ~~vice-chairman~~ vice presiding officer.

(3) An authority may:

(a) employ a secretary, ~~(who shall be~~ is executive director), technical experts, and ~~such~~ other officers, agents, and employees, permanent and temporary, ~~as that~~ as that it may require and shall determine their qualifications, duties, and compensation;

(b) call upon the corporation counsel or chief law officer of the city for legal services ~~as that~~ as that it may require or employ its own counsel and legal staff;

(c) delegate to one or more of its agents or employees powers or duties ~~as that~~ as that it may consider proper."

**Section 625.** Section 7-15-4528, MCA, is amended to read:

**"7-15-4528. Use of bond trustee.** In connection with the issuance of bonds ~~and/or~~ or the incurring of any obligation under a lease and in order to secure the payment of the bonds ~~and/or~~ or obligations, the authority may:

(1) vest in a trustee the right to enforce any covenant made to secure the payment of the bonds ~~and/or~~



or obligations;

(2) provide for the powers and duties of the trustee and limit ~~his~~ the trustee's liabilities; and

(3) provide the terms and conditions upon which the trustee or a designated proportion of the holders of bonds may enforce any covenant."

**Section 626.** Section 7-15-4530, MCA, is amended to read:

**"7-15-4530. Special remedies of an obligee resulting from mortgage or trust indenture.** (1) ~~Any~~ An authority ~~shall have power~~ may by its trust indenture, mortgage, lease, or other contract ~~to confer upon any~~ an obligee holding or representing a specified amount in bonds, leases, or other obligations the right, upon the happening of an event of default as defined in ~~such~~ the instrument:

(a) by suit, action, or proceeding in any court of competent jurisdiction, to obtain the appointment of a receiver of ~~any a~~ a housing project of the authority or any part ~~or parts thereof~~ of a project;

(b) by suit, action, or proceeding in any court of competent jurisdiction, to require the authority and the commissioners ~~thereof~~ to account as if it and they were the trustees of an express trust.

(2) If a receiver is appointed pursuant to subsection (1)(a), ~~he~~ the receiver may enter and take possession of ~~such the~~ the housing project or any part of ~~parts thereof~~ the project, and may operate and maintain the ~~same project~~, and may collect and receive all fees, rents, ~~revenues~~ revenue, or other charges ~~thereafter~~ arising ~~therefrom~~ from the project in the same manner as the authority itself might do, ~~and shall~~ The receiver shall keep ~~such the~~ the money in a separate account or accounts and apply the ~~same money~~ the money in accordance with the obligations of the authority as the court ~~shall direct~~ directs."

**Section 627.** Section 7-16-2312, MCA, is amended to read:

**"7-16-2312. County park superintendent.** The board of park commissioners ~~shall have the power to~~ may employ a park superintendent, who may also be the secretary of the park board and who shall attend each regular meeting of the ~~said~~ board and report, either in writing or orally as the board may require, as to the activities, functions, and progress of whatever nature pertaining to the park lands and facilities over which ~~he~~ the superintendent has supervision. The duties of the park superintendent ~~shall~~ must be of a managerial capacity."

**Section 628.** Section 7-16-2325, MCA, is amended to read:

**"7-16-2325. Power of park board to employ persons and to make contracts.** (1) A county park board, ~~in addition to powers and duties now given under law, shall have the following powers and duties~~ may:

(a) ~~to~~ employ and discharge ~~workmen~~ workers, laborers, engineers, foresters, and others and ~~to~~ fix their compensation;

(b) ~~to~~ make all contracts necessary or convenient for carrying out any ~~and all~~ of the powers conferred and duties enjoined upon ~~said~~ the board by this part.

(2) All contracts made by ~~said~~ the board ~~shall~~ must be in the name of the county and ~~shall~~ must be signed by the president or, in ~~his~~ the president's absence, by the ~~vice-president~~ vice president of ~~said~~ the board; ~~or upon.~~ Upon approval by a majority of the members of the board of park commissioners at a regular meeting of the board at which a quorum is in attendance and voting and with ~~due~~ notice and report being made to the board of county commissioners, ~~such~~ the contracts may be signed by the ~~chairman~~ presiding officer of the board of county commissioners and attested by the county clerk and recorder.

(3) ~~No~~ An order or resolution authorizing the making of ~~any~~ a contract ~~shall~~ may not be passed or adopted except by a yea and nay vote, which ~~vote shall~~ must be recorded in full in the minutes of the secretary."

**Section 629.** Section 7-16-2330, MCA, is amended to read:

**"7-16-2330. Allowance of claims.** (1) Subject to the provisions of subsection (2), the board of park commissioners shall, at its first regular meeting in each month, audit and allow all just claims against the county, liability for which ~~shall have been~~ has been incurred by ~~said~~ the board.

(2) ~~No~~ A claim ~~shall~~ may not be audited or paid until an itemized account of ~~such~~ the claim, in writing and signed by the claimant or ~~his or its~~ the claimant's authorized agent, ~~shall have~~ has been filed in the office of the secretary of ~~said~~ the board.

(3) ~~No~~ An order or resolution providing for the payment or expenditure of money or creating an obligation in excess of the sum of \$25 ~~shall~~ may not be passed or adopted except by a yea and nay vote, which ~~vote shall~~ must be recorded in full in the minutes of the secretary."

**Section 630.** Section 7-16-2331, MCA, is amended to read:

**"7-16-2331. Disbursement of money.** All money paid out by the park commissioners under the provisions of this part ~~shall~~ must be by warrant drawn upon the county treasury, which may be signed by the secretary and countersigned by the president or, in ~~his~~ the president's absence, by the ~~vice-president~~ vice president of the board of park commissioners. Upon approval by a majority of the members of the board of park commissioners at a regular meeting of the board at which a quorum is in attendance and voting and with ~~due~~ notice and report ~~being~~ made to the board of county commissioners, authorized payments ~~so authorized~~ may be

made by warrant drawn upon the county treasury, signed by the ~~chairman~~ presiding officer of the board of county commissioners and countersigned by the county clerk and recorder."

**Section 631.** Section 7-21-2102, MCA, is amended to read:

**"7-21-2102. Procedure to supply license blanks.** (1) The county clerk and recorder shall prepare and have printed ~~such~~ blank licenses as may be required, and after affixing ~~his~~ the clerk's official seal ~~thereto to the licenses,~~ he the clerk shall deliver the ~~same~~ licenses to the county treasurer. At the time of ~~such~~ delivery, ~~he the clerk~~ shall charge the county treasurer ~~therewith~~ with the licenses by appropriate entry in ~~his~~ the clerk's records showing the amount, numbers, and classes of licenses ~~so~~ furnished.

(2) As licenses are issued and accounted for by the county treasurer, the county clerk and recorder shall credit ~~such~~ the account with all licenses ~~so~~ issued and accounted for, so that the account will at all times show the number of licenses furnished to the treasurer, their numbers, the number issued or canceled, and the number remaining in the hands of the county treasurer.

(3) On the first Monday in each month, the county treasurer ~~must~~ shall return to the county clerk and recorder all licenses unsold and show that ~~he the treasurer~~ has paid into the county treasury all money collected for licenses sold during the preceding month."

**Section 632.** Section 7-21-2103, MCA, is amended to read:

**"7-21-2103. Determination of persons required to obtain licenses -- classes of licenses.** (1) The county treasurer ~~must~~ shall make diligent inquiry as to all persons in ~~his~~ the county ~~liable~~ required to pay a license fee as provided in this part.

(2) Whenever the licenses are divided into classes, the county treasurer ~~must~~ shall require each person to state, under oath or affirmation, the probable amount of business ~~which he~~ that the person, the firm of which ~~he the person~~ is a member or for which ~~he the person~~ is an agent or attorney, or the association or corporation of which ~~he the person~~ is the president, secretary, or managing agent will do in the succeeding 3 months. ~~Thereupon such~~ The person, agent, president, secretary, or other officer ~~must~~ shall procure a license from the county treasurer for the term desired and the proper class. In all cases ~~where~~ in which an underestimate has been made by the party applying, the party making the underestimate or the company ~~he that the party~~ represented is required to pay double the sum otherwise required for a license for the next quarter."

**Section 633.** Section 7-21-2111, MCA, is amended to read:

**"7-21-2111. General license requirements.** (1) A license must be procured immediately before the commencement of any business or occupation liable to a license tax from the county treasurer of the county where the applicant desires to transact the ~~same~~ business or occupation.

(2) The license authorizes the party ~~obtaining the same~~ to transact the business described in ~~such~~ the license in ~~his~~ the town, city, or particular locality in the county.

(3) Separate licenses must be obtained for each branch establishment or separate house of business located in the same county."

**Section 634.** Section 7-21-2115, MCA, is amended to read:

**"7-21-2115. Liability of county treasurer for licensing violations.** Upon ~~the~~ notification of the treasurer as provided in 7-21-2114, the treasurer ~~shall be~~ is personally liable for ~~such~~ the license or increase unless ~~he~~ the treasurer promptly proceeds under 7-21-2104 or 7-21-2116 to collect the ~~same~~ license fee."

**Section 635.** Section 7-21-2117, MCA, is amended to read:

**"7-21-2117. Defenses in actions related to licensing violations.** Upon the trial of any action authorized by this part, the defendant is ~~deemed~~ considered not to have procured the proper license unless ~~he~~ the defendant either produces it or proves that ~~he did procure it,~~ the license was procured. ~~but he~~ However, the defendant may plead in bar of the action a recovery against ~~him~~ and ~~the~~ payment by ~~him~~ the defendant in a civil action of the proper license tax, together with damages and costs."

**Section 636.** Section 7-21-2120, MCA, is amended to read:

**"7-21-2120. Regulation of pawnbrokers -- definition.** (1) The board of county commissioners may, by the adoption of an ordinance that substantially complies with the provisions of 7-5-103 through 7-5-107, regulate the activities of pawnbrokers located outside the boundaries of an incorporated city or town. The regulations may include but are not limited to:

- (a) standards for recordkeeping for all pawns, purchases, and sales;
- (b) a provision for a waiting period to allow investigators time to examine merchandise;
- (c) required forms of identification needed by persons pledging or selling articles; and
- (d) penalty provisions for pawnbrokers who fail to comply with the regulations.

(2) For the purpose of this section, "pawnbroker" means a person engaged in conducting or carrying on the business of loaning money ~~for himself~~ on the person's own behalf or for another, upon personal property,

personal security, pawns, or pledges, or engaged in the business of purchasing articles of personal property and reselling or agreeing to resell the articles to the vendors or their assigns at prices agreed on at or before the time of purchase."

**Section 637.** Section 7-21-2305, MCA, is amended to read:

**"7-21-2305. Application for itinerant vendor license.** (1) Every An itinerant vendor desiring to do business in any county of this state ~~must shall~~, before commencing ~~such~~ business, file with the county treasurer of ~~such the~~ county, on a form to be provided by ~~such the~~ treasurer, an application in writing, subscribed and sworn to by ~~such the~~ applicant before an officer in this state authorized to take oaths.

(2) The application ~~shall~~ must set forth:

- (a) the name of the applicant;
- (b) ~~his~~ the applicant's place of permanent residence;
- (c) ~~his~~ the applicant's local headquarters, if any;
- (d) the time of ~~his~~ the applicant's arrival in the county;
- (e) the county from which the last license, if any, was received;
- (f) whether the applicant is acting as principal, agent, or employee;
- (g) if acting as agent or employee, the name and place of business of ~~his~~ the principal or employer;
- (h) a brief descriptive list of articles to be offered for sale or services to be performed; and
- (i) whether payments or deposits of money are collected when orders are taken or in advance of final delivery.

(3) If the applicant is acting as an agent, the principal's acknowledgment of ~~such the~~ agency must accompany the application as part of the application.

(4) At the time of filing the application, ~~such the~~ itinerant vendor ~~must shall~~ accompany the application with the sum specified in 7-21-2303 as a license fee."

**Section 638.** Section 7-21-2306, MCA, is amended to read:

**"7-21-2306. Bond required if deposit taken on orders for future delivery.** (1) Every An application made by an itinerant vendor taking orders for future delivery and collecting advance payments, deposits, or guarantees ~~thereon~~ on the orders under the terms of 7-21-2301 through 7-21-2305 ~~shall~~ must be accompanied by a bond in the sum of \$250 payable to ~~said~~ the county treasurer.

(2) (a) The bond ~~shall~~ must be executed by a surety company licensed to do business in this state or

by two responsible freeholders residing in the county and whose names appear upon the assessment roll of ~~said~~ the county.

(b) In lieu of a bond meeting the requirements of subsection (2)(a), the application may be accompanied by a cash bond of equal amount.

(3) The bond ~~shall~~ must be approved by ~~said~~ the county treasurer and conditioned upon making of final delivery of the goods ordered or the services to be rendered in accordance with the terms of ~~such~~ the order or, failing ~~therein~~ delivery, that the money advanced by ~~his~~ the customers will be refunded.

(4) ~~Such~~ The bond ~~shall~~ must remain in full force and effect for a period of 6 months after the expiration of ~~any such~~ a license and ~~shall~~ must be held to ~~assure~~ ensure only business transacted under the authority of the license issued pursuant to the application ~~which such~~ that the bond accompanied."

**Section 639.** Section 7-21-2307, MCA, is amended to read:

**"7-21-2307. Right of aggrieved purchaser.** ~~Any~~ A person aggrieved by the action or misrepresentation of ~~any such~~ an itinerant vendor ~~shall have~~ has a right of action on the bond for the recovery of ~~his~~ the person's money advanced or damages and costs."

**Section 640.** Section 7-21-2308, MCA, is amended to read:

**"7-21-2308. Processing of application -- issuance of license.** (1) Upon filing of the application prescribed in 7-21-2305 or the filing of ~~such~~ the application and the bond prescribed in 7-21-2306, in proper form, and upon the payment to the county treasurer of the sum required by 7-21-2303, the county treasurer shall issue and deliver to the applicant a license to carry on the business described in ~~such~~ the application in the county in which ~~such~~ the license is ~~so~~ issued for a period of 90 days from the date of ~~such~~ the license.

(2) The county treasurer shall endorse upon each application the date of issuance of the license and shall immediately file ~~such~~ the application with the county clerk and recorder of ~~his~~ that county. The county clerk and recorder shall file the ~~same~~ application in ~~his~~ the clerk's office and keep an appropriate index ~~thereof~~ of which shall show of the applications that shows the date filed, the name of the applicant, and an appropriate reference to the file number by which ~~said~~ the application may be found."

**Section 641.** Section 7-21-2309, MCA, is amended to read:

**"7-21-2309. License to be displayed upon demand.** (1) ~~Every such~~ An itinerant vendor doing business under the provisions of this part ~~must~~ shall upon the demand of any person exhibit ~~his~~ the vendor's license and

permit the ~~same~~ license to ~~then and there~~ be read at the time by the person making ~~such~~ the demand.

(2) ~~Any such~~ An itinerant vendor who ~~shall~~ willfully ~~refuse~~ refuses or ~~fail~~ fails to exhibit ~~his~~ the license as ~~above~~ provided in subsection (1) is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$250 for each offense."

**Section 642.** Section 7-21-2401, MCA, is amended to read:

**"7-21-2401. Definitions.** As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Temporary premises" means ~~any~~ a hotel, roominghouse, storeroom, building or part of ~~any~~ a building, tent, vacant lot, freight station, railroad car, automobile, truck, trailer or trailer house, or public or quasi-public place; that is temporarily occupied ~~for such business as described in subsection (2) by a transient retail merchant.~~

(2) "Transient retail merchant" means ~~every~~ a person, firm, or corporation that, acting ~~for himself or itself~~ on its own behalf or representing any other person, firm, or corporation, ~~who or which~~ brings into temporary premises a stock of goods, wares, articles of merchandise, notions, or other articles of trade and ~~who or which~~ that solicits, sells, offers to sell, or exhibits for sale ~~such~~ the stock of goods, wares, articles of merchandise, notions, or other articles of trade at retail."

**Section 643.** Section 7-21-2406, MCA, is amended to read:

**"7-21-2406. Application for transient retail merchant license.** (1) ~~Every~~ A transient retail merchant desiring to do business in any county of this state ~~must~~ shall, before commencing ~~such~~ business, file with the county treasurer of ~~such~~ the county, on a form to be provided by ~~such~~ the treasurer, an application in writing, subscribed and sworn to by ~~such~~ the applicant before an officer in this state authorized to take oaths.

(2) The application ~~shall~~ must set forth:

- (a) the name of the applicant;
- (b) ~~his~~ the applicant's place of permanent residence;
- (c) ~~his~~ the applicant's local headquarters, if any;
- (d) the time of ~~his~~ the applicant's arrival in the county;
- (e) the county from which the last license, if any, was received;
- (f) whether the applicant is acting as principal, agent, or employee;
- (g) if acting as agent or employee, the name and place of business of ~~his~~ the applicant's principal or

employer;

(h) a brief descriptive list of articles to be offered for sale or services to be performed;

(i) whether payments or deposits of money are collected when orders are taken or in advance of final delivery; and

(j) the number of weeks for which the license is requested.

(3) If the applicant is acting as an agent, the principal's acknowledgment of ~~such~~ the agency must accompany the application as part of the application.

(4) At the time of filing the application, ~~such~~ the transient retail merchant ~~must~~ shall accompany the application with the sum specified in 7-21-2404 as a license fee, except as provided in 7-21-2407."

**Section 644.** Section 7-21-2408, MCA, is amended to read:

**"7-21-2408. Right of aggrieved purchaser.** ~~Any~~ A person aggrieved by any action or misrepresentation of ~~any such~~ a transient retail merchant ~~shall have~~ has a right of action on the bond provided for in 7-21-2407 for the recovery of ~~his~~ money advanced or damages and costs."

**Section 645.** Section 7-21-2409, MCA, is amended to read:

**"7-21-2409. Processing of application -- issuance of license.** (1) (a) Upon filing of the application prescribed in 7-21-2406 and the payment of the fee prescribed in 7-21-2404, the county treasurer shall issue and deliver to the applicant, in the county, a license to carry on the business described in ~~such~~ the application in the county in which ~~such~~ the license is ~~so~~ issued for the period for which ~~such~~ the license is requested.

(b) Upon filing of the application prescribed in 7-21-2406 and the bond prescribed in 7-21-2407, the county treasurer shall issue and deliver to the applicant a license to carry on the business described in ~~such~~ the application in the county in which ~~such~~ the license is ~~so~~ issued for a period of 1 year from the date of ~~such~~ the license.

(2) The county treasurer shall endorse upon each application the date of issuance of the license and the duration ~~thereof of the license~~ and shall immediately file ~~such~~ the application with the county clerk and recorder of ~~his~~ the county. The county clerk and recorder shall file the ~~same~~ application in ~~his~~ the clerk's office and keep an appropriate index ~~thereof which shall show~~ of the applications that shows the date filed, the name of the applicant, and an appropriate reference to the file number by which ~~said~~ the application may be found."

**Section 646.** Section 7-21-2410, MCA, is amended to read:



**"7-21-2410. License to be displayed in place of business.** (1) ~~Every~~ A transient retail merchant doing business under the provisions of this part shall at all times keep ~~said~~ the license conspicuously posted in ~~said~~ the place of business.

(2) ~~Any such~~ A transient retail merchant who ~~shall fail~~ fails to post and keep posted ~~his~~ the license as provided ~~above~~ in subsection (1) is guilty of a misdemeanor and shall be fined not less than \$10 or more than \$25 for each offense."

**Section 647.** Section 7-21-2502, MCA, is amended to read:

**"7-21-2502. Scope of part.** (1) ~~Nothing contained in this~~ This part is not intended to operate so as to impair, abridge, or interfere with the right of any incorporated municipality within this state to enact local laws or ordinances dealing with the subject of this part.

(2) ~~Nothing in this part shall~~ This part may not be construed so as in any manner to impair, abridge, or interfere with the right of a grower or producer of farm products to dispose of ~~such~~ products grown or produced by ~~him~~ the person."

**Section 648.** Section 7-21-2505, MCA, is amended to read:

**"7-21-2505. Application for huckster license.** (1) ~~Every~~ A huckster desiring to do business in any county of this state ~~must~~ shall, before commencing ~~such~~ business, file with the county treasurer of ~~such~~ the county, on a form to be provided by ~~such~~ the treasurer, an application in writing.

(2) The application ~~shall~~ must set forth:

(a) the name of the applicant;

(b) ~~his~~ the applicant's place of permanent residence;

(c) whether the applicant is acting as principal, agent, or employee; and

(d) if acting as agent or employee, the name and place of business of ~~his~~ the principal or employer.

(3) At the time of filing the application, ~~such~~ the huckster ~~must~~ shall accompany the application with the sum specified in 7-21-2503 as a license fee."

**Section 649.** Section 7-21-2506, MCA, is amended to read:

**"7-21-2506. Processing of application -- issuance of license.** (1) Upon filing of the application specified in 7-21-2505 and upon the payment to the county treasurer of the sum specified in 7-21-2503, the county treasurer shall issue and deliver to the applicant a license to carry on the business of a huckster for a

period of 6 months from the date of ~~such~~ the license.

(2) The county treasurer shall endorse upon each application the date of issuance of the license and shall immediately file ~~such~~ the application with the county clerk and recorder of ~~his~~ the county. The county clerk and recorder shall file the ~~same~~ application in ~~his~~ the clerk's office and keep an appropriate index ~~thereof which shall show~~ of the applications that shows the date filed, the name of the applicant, and an appropriate reference to the file number by which ~~said~~ the application may be found."

**Section 650.** Section 7-21-2507, MCA, is amended to read:

**"7-21-2507. License to be displayed upon demand.** (1) ~~Every~~ A ~~such~~ huckster doing business under the provisions of this part ~~must~~ shall, upon demand of any interested person, exhibit ~~his~~ the huckster's license and permit the ~~same~~ the license to ~~then and there~~ be read at that time by the person making ~~such~~ the demand.

(2) ~~Any such~~ A huckster who ~~shall refuse~~ refuses or ~~fail~~ fails to exhibit ~~his~~ the license as provided ~~above~~ in subsection (1) is guilty of a misdemeanor and shall be fined not less than \$10 or more than \$25."

**Section 651.** Section 7-21-3104, MCA, is amended to read:

**"7-21-3104. Appointment of public weigher.** (1) The board of county commissioners shall appoint, at each place where public scales are established by them, a public weigher who ~~shall have~~ has the custody and care of ~~such~~ the property.

(2) ~~Such~~ A public weigher ~~shall~~ must be governed by ~~such~~ rules ~~as~~ that may be from time to time prescribed or adopted by the board, and ~~he~~ the weigher may be removed at any time by ~~such~~ the board."

**Section 652.** Section 7-21-3105, MCA, is amended to read:

**"7-21-3105. Bond of public weigher.** A public weigher appointed pursuant to 7-21-3104 shall give a bond to the county in the sum of \$500, conditioned for the safekeeping of the public scales and for the faithful and impartial discharge of the duties incident to ~~his~~ the weigher's trust in office."

**Section 653.** Section 7-21-3106, MCA, is amended to read:

**"7-21-3106. Record of weighing.** (1) ~~It shall be the duty of each~~ Each public weigher to ~~shall~~ keep a stub record of all weighing done by ~~him~~ that weigher. The record and the receipt issued by ~~such~~ the public weigher ~~shall~~ must show for whom property was weighed and the character and kind ~~thereof~~ of property and ~~shall constitute~~ is prima facie evidence of the facts ~~therein~~ contained in the record and receipt.

(2) All ~~such~~ stub records or other records ~~which~~ that the county commissioners may require ~~him~~ the public weigher to keep ~~shall~~ must at all times be open to public inspection during business hours, between 7 a.m. and 6 p.m. of any day, except Sundays and legal holidays.

(3) ~~Such~~ A public weigher shall file a sworn statement with the ~~county~~ clerk and recorder of the county, as prescribed by the county commissioners ~~thereof~~. The statement ~~shall~~ must show the date and character or kind of property weighed, for whom it was weighed, and a complete statement of all fees collected."

**Section 654.** Section 7-21-3107, MCA, is amended to read:

**"7-21-3107. Fee for weighing.** ~~Such~~ A public weigher ~~shall~~ may not receive ~~not to exceed more than~~ 10 cents for each receipt issued ~~by him~~."

**Section 655.** Section 7-21-3108, MCA, is amended to read:

**"7-21-3108. Misconduct by public weigher.** ~~Any~~ A public weigher under the provisions of this part who ~~shall make~~ makes any false or fraudulent receipt of any weighing ~~done by him~~ or ~~shall be guilty of any collusion who conspires~~ with any other person ~~or persons~~ for the purpose of deceiving any person ~~or persons in~~ with regard to the correctness of weights or who ~~shall fail~~ fails to comply with the requirements of 7-21-3104(2) or 7-21-3107 is, upon conviction, guilty of a misdemeanor."

**Section 656.** Section 7-21-3211, MCA, is amended to read:

**"7-21-3211. Employment of stock inspector.** (1) Whenever the board of county commissioners is satisfied, from its own knowledge or from facts and circumstances submitted to it by the county attorney or sheriff, that livestock is being stolen, slaughtered, or otherwise disposed of contrary to law in ~~such~~ the county and in ~~such~~ a manner that the public officers of the county are not in a position to apprehend the criminals or obtain the necessary evidence upon which to base a prosecution, the board of each county, except in counties of the first class, has the power to employ a stock inspector.

(2) Whenever ~~such~~ a stock inspector is ~~so~~ employed, the employment ~~shall be~~ is only for the case or cases then under investigation. During the existence of ~~such~~ the appointment, ~~he shall be~~ the inspector is vested with the same police power and authority as the sheriff, within the limitation of the purposes for which ~~he~~ the inspector is appointed."

**Section 657.** Section 7-21-3212, MCA, is amended to read:

**"7-21-3212. Compensation of stock inspector.** (1) Whenever ~~such~~ a stock inspector is ~~so~~ employed, ~~his~~ the inspector's compensation ~~shall~~ must be at ~~the~~ a rate of not to exceed the sum of \$7.50 ~~per~~ a day and necessary expenses for the time actually engaged in ~~such~~ the work, and ~~he~~ the inspector ~~shall~~ must be paid by a warrant on the general fund of the county.

(2) Whenever a stock inspector is ~~so~~ employed in the investigation of a crime and a reward has been offered under 7-32-2301 for the apprehension and conviction of the party or parties guilty of ~~such~~ the crime, ~~such~~ the inspector ~~shall~~ is not be entitled to any part of ~~said~~ the reward."

**Section 658.** Section 7-21-3213, MCA, is amended to read:

**"7-21-3213. Confidentiality of appointment of stock inspector.** The proceedings and meetings of the board of county commissioners relating to the employment of a stock inspector ~~shall~~ may not be made public until after the investigation of the crime or crimes by ~~said~~ the inspector is completed, and any officer who divulges the name of the stock inspector employed or the purpose of ~~his~~ employment during ~~such~~ the period ~~shall be~~ is guilty of a misdemeanor."

**Section 659.** Section 7-21-3303, MCA, is amended to read:

**"7-21-3303. Opening of public market.** ~~The boards~~ A board of county commissioners ~~of the counties of the state~~ availing themselves of the provisions of this part ~~must~~ shall, as soon as the necessary lands and premises ~~necessary therefor~~ have been acquired, cause to be opened and maintained at the county ~~seats of their respective counties~~ seat and in the quarters ~~so~~ acquired an open public market for the benefit of the farmers, gardeners, and actual producers of farm products; The market is for the sale by the producers ~~thereof~~ directly to the consumers of butter, eggs, cheese, meats, vegetables, and all other farm products raised or produced for domestic consumption; ~~wherein the producers thereof within each county may display and offer for sale his or her products direct to the consumers thereof within said counties.~~

**Section 660.** Section 7-21-3307, MCA, is amended to read:

**"7-21-3307. Gross proceeds charge.** (1) Every A producer of products ~~availing himself or herself of the use of~~ using the marketplace established under the provisions of this part shall pay or cause to be paid, at the close of each day's business, to the market master ~~thereof~~ a charge of 5% of ~~his or her~~ the person's gross sales.

(2) The funds ~~thus~~ collected by the market master ~~shall~~ must be turned in to the county treasury to the

credit of the county market fund and ~~shall~~ must be used by the county treasurer toward the payment of the expenses of operating and maintaining ~~such~~ the public market."

**Section 661.** Section 7-21-3435, MCA, is amended to read:

**"7-21-3435. Management of fair district money -- district fair fund.** (1) The funds available to a district fair ~~shall~~ must, on the first Monday in August or as soon ~~thereafter~~ after that date as may be possible, be deposited with the county treasurer of the county in which the district fair is to be held. ~~and~~ The funds must be credited to a fund ~~to be~~ known as the district fair fund and ~~shall~~ must be held and paid out in the same manner as the county fair fund, except that it ~~shall~~ the fund must be paid out on district fair board warrants signed by the ~~chairman~~ presiding officer or the ~~vice-chairman~~ vice presiding officer and the secretary of the district fair board.

(2) The treasurer of the county in which the district fair ~~will be~~ is held shall carry the money received from the various counties in the district in the regular county fair fund in the same manner as regular county fair money, payable, ~~however,~~ only on district fair warrants."

**Section 662.** Section 7-21-3453, MCA, is amended to read:

**"7-21-3453. Term of office.** The term of office of each commissioner must coincide with ~~his~~ the commissioner's term of office on the county fair commission or the county building commission."

**Section 663.** Section 7-22-2214, MCA, is amended to read:

**"7-22-2214. Hearing -- decision.** (1) On the date set for the hearing, the governing body shall hear comments on the proposed district. If objections have been filed by owners of at least 51% of the land within the district, the governing body shall deny the petition request and may not create the district. Prior to creating a district, the governing body shall make a finding that creation of the district is in the best interests of the district lands and residents. The decision on whether to grant or deny the petition request ~~shall~~ must be made within 10 days of the hearing.

(2) The decision ~~is to~~ must be made by an order recorded in the minutes of the governing body. If the district is to be created, the order ~~shall~~ must state the name of the district, describe the district boundaries, and provide any other information needed to describe the land included within the district.

(3) A landowner within the proposed district after the initial boundaries have been established may, by petitioning the board of county commissioners, have all or a portion of the lands owned by ~~himself~~ the person removed from consideration for inclusion within the district. ~~This~~ However, this landowner ~~must, however,~~ shall

agree in writing to control rodents on ~~his~~ that land within a 250-yard buffer zone of the district boundary."

**Section 664.** Section 7-22-2225, MCA, is amended to read:

**"7-22-2225. Reimbursement of fund.** (1) Whenever the board has undertaken rodent control pursuant to 7-22-2224, the landowner shall reimburse the fund for the expenses related to rodent control on ~~his~~ the person's land. The board may, by written contract with the landowner, agree to extend the reimbursement over a period not to exceed 5 years.

(2) The agreement may provide for the reimbursement payments to be collected with property taxes, and in this case, the board shall inform the county clerk and recorder of the lands to be charged and the amount to be placed on the tax notice. Upon receipt of the payment, the county clerk and recorder shall deposit it in the fund."

**Section 665.** Section 7-22-2401, MCA, is amended to read:

**"7-22-2401. Definitions.** In this part the following definitions apply:

- (1) "Board" means the mosquito control board for ~~any a~~ a district created under this part.
- (2) "Commissioners" means the board of county commissioners of ~~any a~~ a county.
- (3) "District" means ~~any a~~ a mosquito control district created under the provisions of this part.
- (4) "Mosquito" means any insect belonging to the family Culicidae of the order Diptera.
- (5) "Mosquito pest" means any group of mosquitoes ~~which annoy man~~ that annoys humans or ~~his~~ domestic animals or ~~transmit~~ transmits any disease of ~~man~~ humans or of ~~his~~ domestic animals."

**Section 666.** Section 7-22-2410, MCA, is amended to read:

**"7-22-2410. Protest to creation of district.** (1) At the hearing provided for in 7-22-2403 or at any time following the first publication of notice of ~~such~~ the hearing until the time of ~~said~~ the hearing, any qualified elector or an owner of property within the proposed district may file ~~his~~ written objections to the creation of the district. ~~Such~~ The objections ~~shall~~ must be delivered to the county clerk, who shall endorse ~~thereon~~ on the objections the date of ~~its~~ receipt ~~by him~~.

(2) If 51% or more of the qualified electors or of the owners of property within the boundaries of the proposed district file their written objections to the creation of ~~such~~ the district, the commissioners ~~shall~~ may not proceed with the creation of ~~such~~ the district.

(3) If as the result of objections filed the commissioners in their discretion determine ~~the~~ that there is a

question ~~in doubt~~ as to whether or not the creation of a district is ~~to~~ in the best interest of an area and the residents ~~therein~~ in the area, the commissioners may cause the issue to be determined by referendum at the next regular election."

**Section 667.** Section 7-22-2434, MCA, is amended to read:

**"7-22-2434. Disposition of fines, bonds, and penalties.** All fines, forfeited bonds, and penalties collected under the provisions of this part, except those collected by a justice's court, ~~shall~~ must be paid to the county treasurer of each county and ~~placed by him~~ deposited to the credit of the mosquito control fund."

**Section 668.** Section 7-23-101, MCA, is amended to read:

**"7-23-101. Dog collar and license tag required.** ~~It shall be~~ is unlawful, ~~where this part,~~ when part 21, ~~and 7-23-4103, and this part~~ apply, for any person to own, harbor, or keep any dog over the age of 5 months or to permit ~~such~~ a dog owned, harbored, or controlled by ~~him~~ the person to run at large unless the dog has attached to its neck a substantial collar on which is fastened a license tag issued by the authority of a county or a municipal corporation for the purpose of identifying the dog and designating the owner; ~~provided, however, that it shall be~~ It is lawful to remove ~~such~~ the collar and license tag when ~~such~~ the dog is under the immediate control of its owner or ~~his~~ the owner's agent."

**Section 669.** Section 7-23-102, MCA, is amended to read:

**"7-23-102. Seizure and impounding of dogs running at large without tag.** ~~Any~~ A dog found running at large without a valid current dog license tag issued by the authority of a county or municipal corporation pursuant to the provisions of ~~this part,~~ part 21, ~~and 7-23-4103, and this part~~ may be seized and impounded by any sheriff, deputy sheriff, ~~police man~~ police officer, game warden, county poundmaster, or other law enforcement officer."

**Section 670.** Section 7-31-112, MCA, is amended to read:

**"7-31-112. Details relating to bonds.** (1) The bonds ~~to be~~ issued upon the conditions and under the provisions ~~aforsaid~~ shall of this part must:

- (a) bear the date of their issuance;
- (b) be designated as sanitary coupon bonds of the county, city, or town issuing the ~~same~~ bonds;
- (c) be of a denomination not less than \$500 or more than \$1,000 each;

(d) be payable at ~~such a place in New York City or elsewhere,~~ at the discretion of the board or council issuing the ~~same~~ bonds;

(e) bear interest as provided in 17-5-102, payable 30 years after the date ~~thereof of issuance,~~ with the privilege of paying the ~~same~~ interest at any time after 5 years from ~~such that date,~~ which ~~The~~ interest shall be is payable semiannually at the place ~~whereat~~ where the principal is payable, and ~~for which~~ interest coupons shall must be attached to ~~said~~ the bonds.

(2) If ~~said~~ the bonds and coupons are issued by ~~any a~~ county, they ~~shall~~ must be signed by the ~~chairman~~ presiding officer of the board of county commissioners of ~~such that~~ county and attested to by the county clerk thereof and recorder and his the clerk's seal must be attached thereto to the bonds and coupons. If the bonds and coupons are issued by any incorporated city or town, ~~the same shall~~ they must be signed by the mayor and attested to by the city or town clerk and the clerk's seal thereof must be attached to the bonds and coupons."

**Section 671.** Section 7-31-202, MCA, is amended to read:

**"7-31-202. Qualifications for public safety communications officers.** To be appointed a public safety communications officer, a person:

- (1) must be a citizen of the United States;
- (2) must be at least 18 years of age;
- (3) must be fingerprinted and a search must be made of local, state, and national fingerprint files to disclose any criminal record;
- (4) may not have been convicted of a crime for which ~~he~~ the person could have been imprisoned in a federal or state penitentiary;
- (5) must be of good moral character, as determined by a thorough background investigation;
- (6) must be a high school graduate or have passed the general ~~education~~ educational development test and have been issued an equivalency certificate by the superintendent of public instruction or by an appropriate issuing agency of another state or of the federal government; and
- (7) ~~shall~~ must meet any additional qualifications established by the board."

**Section 672.** Section 7-31-2101, MCA, is amended to read:

**"7-31-2101. Authorization to transfer funds for emergency relief.** Whenever the governor ~~shall~~ issue issues a proclamation declaring that an emergency exists in any county requiring the relief of suffering of the inhabitants ~~thereof~~ caused by famine, destitution, conflagration, or other public calamity, the board of county



commissioners of ~~such the~~ county ~~is authorized to~~ may transfer to the proper fund to be used for purposes of ~~such~~ relief any money in any other fund or funds of the county, but ~~no~~ money belonging to any bond sinking or interest fund or any school fund ~~must~~ may not be so transferred. The governor shall in ~~his~~ the proclamation state the facts upon which ~~such the~~ emergency is declared and shall specifically limit the time during which ~~such the~~ transfers may be made."

**Section 673.** Section 7-31-4102, MCA, is amended to read:

**"7-31-4102. Sales of poisons and opium.** (1) The city or town council has power to regulate the ~~sales~~ sale of poisons and to punish any person for selling or using opium or any opium preparation ~~thereof~~, for having ~~the same~~ opium or any opium preparation or any implement to be used in smoking ~~it~~ opium in ~~his~~ the person's possession, or for keeping, maintaining, visiting, or contributing to the support of a room or place where ~~the same~~ opium or any opium preparation is smoked or used.

(2) Druggists may sell opium or any opium preparation ~~thereof~~, subject to the general laws of the state in relation ~~thereto~~ to their sale."

**Section 674.** Section 7-31-4206, MCA, is amended to read:

**"7-31-4206. Procedure to maintain open ditch.** (1) If a person claims that the water has not been abandoned and claims the right to use water in a ditch that the city or town has declared a public nuisance, ~~he~~ the person shall notify the city or town before the expiration of the 60-day period that ~~he~~ the person wishes to continue the use of ~~such the~~ water within the city or town and that ~~he~~ the person, individually or with others, will provide ~~such~~ protective devices as ordered by the city or town.

(2) If ~~such~~ notice is given, the person or persons claiming ~~such the~~ water right or rights ~~shall have~~ has a period not to exceed 6 months to remove the public nuisance in the manner ordered by the city or town.

(3) If the city or town approves the work, it shall permit the water to flow into the city or town. If the protective device is not provided or if it does not meet specifications required by the city or town, the city or town may designate ~~such the~~ ditch abandoned and order it closed or filled when the 6-month period ends."

**Section 675.** Section 7-32-102, MCA, is amended to read:

**"7-32-102. Director of department of public safety.** The director of the department of public safety ~~shall be~~ is the sheriff, who may be elected or may be appointed by the public safety commission if the form of county government provides for an appointed sheriff. ~~A~~ An appointed director ~~so appointed~~ shall receive a

majority of the votes of the public safety commission members voting on the question of his appointment."

**Section 676.** Section 7-32-108, MCA, is amended to read:

**"7-32-108. Hearing procedure for employee discharged by an appointed director.** (1) A director appointed by the public safety commission shall at the time of the discharge or termination of the employment of any subordinate employee provide ~~such~~ the employee with a written statement, subscribed and sworn to by the director, setting forth the cause or causes for the discharge or termination of employment.

(2) Within 30 days from the date of discharge or termination of his employment, ~~such~~ the employee may make application to the public safety commission for a hearing before the commission on the charges resulting in the employee's discharge or termination of employment. ~~Such~~ The employee may be present at the hearing in person and may be represented by legal counsel. The commission shall keep a record of the proceedings ~~in such cases~~, and the records ~~shall be~~ are a matter of public record. For the purpose of keeping a record of the proceedings ~~in such a case~~, the department of public safety shall provide the commission with a person qualified to keep a record of the proceedings. ~~Such~~ The person may be an employee of the department.

(3) The commission shall, after the conclusion of the hearing, decide whether the charges resulting in the employee's discharge or termination of employment have been proven.

(4) The commission ~~shall have~~ has the power, in all cases ~~wherein in which~~ a majority of the commission members find the charges not proven, to reinstate any employee to the same position ~~he~~ previously held and at the same salary ~~he~~ received prior to discharge or termination of employment.

(5) In all cases ~~wherein in which~~ a majority of the commission members find the charges proven, the employee may appeal the decision of the commission to the district court of the county ~~wherein in which~~ the employee was employed. ~~Such~~ The appeal must be initiated within 60 days of the ruling of the commission."

**Section 677.** Section 7-32-110, MCA, is amended to read:

**"7-32-110. Reinstatement of discharged employee who prevails in district court.** ~~In the event that~~ If an employee prevails in an appeal to the district court, ~~he shall be~~ the employee is entitled to be reinstated to the same position ~~he~~ previously held and at the same salary ~~he~~ received prior to his discharge or termination by the director."

**Section 678.** Section 7-32-115, MCA, is amended to read:

**"7-32-115. Work period in lieu of workweek -- overtime compensation.** (1) (a) A department of public

safety may establish a work period other than the workweek provided in 7-32-2111 or 39-3-405 for determining when an employee may be paid overtime.

(b) The aggregate of all work periods in a year, when expressed in hours, may not exceed 2,080 hours.

(2) The board of county commissioners may by resolution establish that any employee who works in excess of ~~his~~ the employee's regularly scheduled work period will be compensated for the hours worked in excess of the work period at a rate to be determined by the board of county commissioners."

**Section 679.** Section 7-32-122, MCA, is amended to read:

**"7-32-122. Appointment to three-member public safety commission.** (1) Upon the creation of a three-member commission:

(a) one member ~~shall~~ must be appointed by the legislative body of the city or town;

(b) one ~~shall~~ member must be appointed by the board of county commissioners; and

(c) one ~~shall~~ member must be appointed by the members of the board of county commissioners and the members of the legislative body of the city or town, meeting in joint session.

(2) In order to be appointed, a candidate for appointment by the joint meeting must receive a majority of the votes of the members of the board of county commissioners and a majority of the votes of the members of the legislative body of the city or town voting on the question of ~~his~~ his appointment.

(3) Initially, one commission member shall serve a 4-year term and two commission members shall each serve a 2-year term. Each commission member shall draw a lot to determine the length of ~~his~~ the member's term."

**Section 680.** Section 7-32-123, MCA, is amended to read:

**"7-32-123. Appointment to five-member public safety commission.** (1) Upon the creation of a five-member commission:

(a) two members ~~shall~~ must be appointed by the legislative body of the city or town;

(b) two ~~shall~~ members must be appointed by the board of county commissioners; and

(c) one ~~shall~~ member must be appointed by the members of the board of county commissioners and the members of the legislative body of the city or town, meeting in joint session.

(2) In order to be appointed, a candidate for the appointment to a five-member commission by the joint meeting must receive a majority of the votes of the members of the board of county commissioners and a majority of the votes of members of the legislative body of the city or town voting on the question of ~~his~~ his appointment.

(3) Initially, two commission members shall each serve a 4-year term and three commission members

shall each serve a 2-year term. Each commission member ~~must~~ shall draw a lot to determine the length of ~~his~~ the member's term."

**Section 681.** Section 7-32-124, MCA, is amended to read:

**"7-32-124. Appointment to seven-member public safety commission.** (1) Upon the creation of a seven-member commission:

- (a) three members ~~shall~~ must be appointed by the legislative body of the city or town;
- (b) three ~~shall~~ members must be appointed by the board of county commissioners; and
- (c) one ~~shall~~ member must be appointed by the members of the board of county commissioners and the members of the city or town, meeting in joint session.

(2) In order to be appointed, a candidate for the appointment to a seven-member commission by the joint meeting must receive a majority of the votes of the members of the board of county commissioners and a majority of the votes of the members of the legislative body of the city or town voting on the question of ~~his~~ his appointment.

(3) Initially, three commission members shall each serve a 4-year term and four commission members shall each serve a 2-year term. Each commission member shall draw a lot to determine the length of ~~his~~ the member's term."

**Section 682.** Section 7-32-125, MCA, is amended to read:

**"7-32-125. Residency requirements for public safety commissioners.** Each commission member shall reside at the time of ~~his~~ his appointment within the county if selected by the board of county commissioners or within the city or town by which appointed."

**Section 683.** Section 7-32-126, MCA, is amended to read:

**"7-32-126. Vacancies and succession.** (1) In case of a vacancy for any cause, a new member ~~shall~~ must be appointed in the same manner as the person ~~he replaces~~ replaced. ~~A person so appointed~~ The appointee shall serve out the unexpired portion of the term of the person ~~he replaces~~ replaced.

(2) The successor for a commission member whose term has expired ~~shall~~ must be appointed in the same manner used to appoint the commission member ~~he~~ that the person succeeds.

(3) A member of a public safety commission is eligible for reappointment to the commission at the end of ~~his~~ a term."

**Section 684.** Section 7-32-127, MCA, is amended to read:

**"7-32-127. Organization of public safety commission.** (1) Not later than 60 days after the commission is authorized, the members of the commission shall meet and organize at a time ~~which shall~~ that must be set by the board of county commissioners and the legislative body of the city or town.

(2) At the first meeting of the commission, the member jointly appointed by the board of county commissioners and the legislative body of the city or town ~~shall~~ must be designated by the commission to serve as temporary ~~chairman~~ presiding officer. As its first official act, the commission members shall select a ~~chairman~~ presiding officer and ~~vice-chairman~~ vice presiding officer from ~~their own number~~ the members of the commission.

(3) The ~~chairman~~ presiding officer of the commission shall preside over all meetings and hearings of the commission. In the absence or inability of the ~~chairman~~ presiding officer, the ~~vice-chairman~~ vice presiding officer shall preside over all meetings and hearings of the commission."

**Section 685.** Section 7-32-128, MCA, is amended to read:

**"7-32-128. Meetings.** Meetings of the commission ~~shall~~ must be held upon call of the ~~chairman~~ presiding officer, the ~~vice-chairman~~ vice presiding officer in the absence or inability of the ~~chairman~~ presiding officer, or a majority of the commission members. Hearings in all cases involving employee discharge or termination ~~shall~~ must be held upon request of ~~any~~ the employee ~~so~~ discharged or terminated."

**Section 686.** Section 7-32-213, MCA, is amended to read:

**"7-32-213. Qualifications for appointment as reserve officer.** To be appointed a reserve officer, a person ~~must~~:

(1) must have resided in the state continuously for at least 1 year prior to the appointment and in the county where ~~such~~ the appointment is made for a period of at least 6 months prior to the date of the appointment;

(2) must be a citizen of the United States;

(3) must be at least 18 years of age;

(4) must be fingerprinted, and a search must be made of local, state, and national fingerprint files to disclose any criminal record;

(5) may not have been convicted of a crime for which ~~he~~ the person could have been imprisoned in a federal penitentiary or state prison;

(6) must be of good moral character as determined by a thorough background investigation;

(7) must be a graduate of an accredited high school or the equivalent;

(8) must be examined by a licensed physician within 30 days immediately preceding the date of appointment and pronounced in good physical condition; and

(9) must possess a valid Montana driver's license."

**Section 687.** Section 7-32-301, MCA, is amended to read:

**"7-32-301. Residency requirements.** ~~No~~ A sheriff of a county, mayor of a city, or other person authorized by law to appoint special deputies, marshals, or ~~policemen~~ police officers in this state to preserve the public peace and prevent or quell public disturbance ~~shall hereafter~~ may not appoint as ~~such a~~ special deputy, marshal, or ~~policeman~~ police officer any person who ~~shall~~ has not ~~have~~ resided continuously in this state for a period of at least 1 year and in the county where ~~such~~ the appointment is made for a period of at least 6 months prior to the date of ~~said~~ appointment."

**Section 688.** Section 7-32-302, MCA, is amended to read:

**"7-32-302. Waiver of residency requirements.** The person or body authorized by law to appoint special deputies, marshals, or ~~policemen~~ police officers may in its discretion waive residency requirements."

**Section 689.** Section 7-32-2101, MCA, is amended to read:

**"7-32-2101. Vacancy in office of sheriff.** When the sheriff is committed under an execution or commitment for not paying over money received ~~by him~~ by virtue of ~~his~~ the sheriff's office and remains committed for 60 days, ~~his~~ the office is vacant."

**Section 690.** Section 7-32-2104, MCA, is amended to read:

**"7-32-2104. Qualifications of deputy sheriff.** (1) ~~No~~ A sheriff ~~shall~~ may not employ ~~an individual~~ as a deputy any individual who does not possess all the following qualifications sheriff unless the individual:

(a) is a graduate of an accredited high school or the equivalent ~~thereof~~;

(b) is of good moral character;

(c) has never been convicted of a felony;

(d) has not within 5 years immediately preceding ~~his~~ the date of employment been affiliated in any manner with a subversive organization; and

(e) has been examined by a physician licensed to practice in the state of Montana within 30 days immediately preceding ~~his~~ the date of employment and has been pronounced in good physical condition.

(2) This section ~~shall~~ is not be applicable to any deputy sheriff whose term of employment commenced prior to March 2, 1967."

**Section 691.** Section 7-32-2107, MCA, is amended to read:

**"7-32-2107. Tenure for deputy sheriffs -- grounds for termination of employment.** Any A deputy sheriff ~~now employed or who may hereafter be employed~~ shall continue in service until relieved of his employment in the manner ~~hereinafter~~ provided in this part and only for one or more of the following specified causes:

- (1) conviction of a felony subsequent to the commencement of ~~such~~ employment;
- (2) willful disobedience of an order or orders given by the sheriff;
- (3) drinking intoxicating liquor while in uniform or while on official duty or being intoxicated in a public place while in uniform or while on official duty;
- (4) sleeping while on duty;
- (5) incapacity materially affecting ability to perform official duties; or
- (6) gross inefficiency in the performance of official duties."

**Section 692.** Section 7-32-2108, MCA, is amended to read:

**"7-32-2108. Written notice of termination of employment required.** When a sheriff terminates the employment of a deputy, ~~he~~ the sheriff shall at the time of termination cause to be served upon ~~said~~ the deputy a statement in writing, subscribed and sworn to by the sheriff, setting forth the cause or causes for the discharge or termination of the deputy's employment."

**Section 693.** Section 7-32-2121, MCA, is amended to read:

**"7-32-2121. Duties of sheriff.** The sheriff ~~must~~ shall:

- (1) preserve the peace;
- (2) arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;
- (3) prevent and suppress all affrays, breaches of the peace, riots, and insurrections ~~which~~ that may come to ~~his~~ the sheriff's knowledge;
- (4) perform the duties of a humane officer within the county with reference to the protection of ~~dumb~~ animals;
- (5) attend all courts, except municipal, justices', and city courts, at their respective terms or sessions held

within the county and obey their lawful orders and directions;

(6) command the aid of as many inhabitants of the county as are necessary in the execution of the sheriff's duties;

(7) take charge of and keep the detention center and the inmates ~~therein~~ in the detention center, unless the detention center is operated by a private party under an agreement entered into under 7-32-2201 or by a detention center administrator or by another local government;

(8) endorse upon all notices and process the year, month, day, hour, and minute of ~~reception~~ receipt and issue ~~therefor~~ to the person delivering them, on payment of fees, a certificate showing the names of the parties, the title of the paper, and the time of ~~reception~~ receipt;

(9) serve all process or notices in the manner prescribed by law;

(10) certify in writing upon the process or notices the manner and time of service or, if ~~he~~ the sheriff fails to make service, the reasons ~~of~~ for this failure, and return the papers without delay;

(11) take charge of and supervise search and rescue units and their officers whenever search and rescue units are called into service; and

(12) perform ~~such~~ other duties ~~as~~ that are required by law."

**Section 694.** Section 7-32-2124, MCA, is amended to read:

**"7-32-2124. Service of papers on sheriff.** Service of a paper, other than a process, upon the sheriff may be made by delivering it to ~~him~~ the sheriff, ~~or to one of his deputies or to a deputy,~~ or a person in charge of the office during office hours; or, if ~~no such person~~ if none of the enumerated individuals is there, by leaving it in a conspicuous place in the office."

**Section 695.** Section 7-32-2125, MCA, is amended to read:

**"7-32-2125. Operation of sheriff's vehicle.** The board of county commissioners may purchase or lease motor vehicles from county funds for the use of the sheriff or any person employed by ~~him~~ the sheriff and may also pay for the operation and maintenance of those vehicles from county funds."

**Section 696.** Section 7-32-2127, MCA, is amended to read:

**"7-32-2127. Prosecution of action involving county law enforcement personnel brought against executor or administrator.** Any action for default or misconduct of ~~any~~ a sheriff, ~~his~~ an undersheriff, ~~his~~ detention center staff, or ~~any of his deputies~~ a deputy may be prosecuted against the executors or administrators of ~~such~~



the sheriff."

**Section 697.** Section 7-32-2129, MCA, is amended to read:

**"7-32-2129. Misconduct of undersheriff.** Any default, misfeasance, or malfeasance of ~~such an~~ undersheriff ~~acting as sheriff pursuant to 7-32-2122, as well as before,~~ is a breach of the condition of the bond given by the sheriff who appointed ~~him~~ the undersheriff and ~~is~~ also a breach of the condition of the bond given by ~~him~~ the undersheriff to the sheriff."

**Section 698.** Section 7-32-2130, MCA, is amended to read:

**"7-32-2130. Liability for refusing to pay over money.** If on demand the sheriff neglects or refuses to pay ~~over~~ any money to the person entitled ~~thereto~~ any money which to money that may come into ~~his hands~~ the sheriff's possession by virtue of ~~his office,~~ (after deducting his legal fees), the person may recover the amount thereof, with 25% damages and interest at the rate of 10% per a month from the time of demand, ~~may be recovered by such person.~~"

**Section 699.** Section 7-32-2131, MCA, is amended to read:

**"7-32-2131. Liability in civil actions.** (1) If the sheriff does not return a notice or process in ~~his~~ the sheriff's possession with the necessary endorsement ~~thereon~~ without delay, ~~he~~ the sheriff is liable to the party aggrieved for \$200 and for all damages sustained by ~~him~~ the party.

(2) If the sheriff to whom a writ of execution or attachment is delivered neglects or refuses, after being required by the creditor or ~~his~~ the creditor's attorney, to levy upon or sell any property of the party charged in the writ ~~which~~ that is liable to be levied upon or sold, ~~he~~ the sheriff is liable to the creditor for the value of ~~such~~ the property.

(3) ~~No~~ A direction or authority by a party or ~~his~~ a party's attorney to a sheriff in respect to the execution of process or return ~~thereof~~ of process or any act or omission relating ~~thereto~~ to the process is not available to discharge or excuse the sheriff from a liability for neglect or misconduct unless it is contained in a writing signed by the attorney of the party or by the party.

(4) "Process", as As used in this part, ~~includes all writs, warrants, summons, and orders of courts of justice or judicial officers,~~ the following definitions apply:

(a) "Notice" includes all papers and orders, ~~(except process),~~ required to be served in any proceeding before ~~any~~ a court, board, or officer or required by law to be served independently of ~~such~~ the proceeding.

(b) "Process" includes all writs, warrants, summons, and orders of courts of justice or judicial officers."

**Section 700.** Section 7-32-2143, MCA, is amended to read:

**"7-32-2143. Mileage and expenses of sheriff in general.** (1) Except as provided in 7-32-2144 and 7-32-2145, in addition to the fees specified in 7-32-2141 and 7-32-2142, the sheriff ~~shall~~ may receive for each mile actually traveled in serving any writ, process, order, or other paper, including a warrant of arrest, or in conveying a person under arrest before a magistrate or to a detention center only ~~his~~ the sheriff's actual expenses when ~~such~~ the travel is made by railroad or airline; ~~and when.~~ When travel is by means other than by railroad or airline, ~~he~~ the sheriff ~~shall~~ must receive a mileage allowance as provided in 2-18-503 for each mile actually traveled ~~by him~~ both going and returning and the actual expenses incurred by ~~him~~ the sheriff in conveying a person under arrest before a magistrate or to a detention center. ~~He~~ The sheriff ~~shall~~ must receive the same mileage and ~~his~~ actual expenses for the person conveyed or transported under order of court within the county; ~~the same to be~~ The mileage and expenses are in full payment for transporting and feeding ~~such~~ the persons during ~~such~~ transportation. Whenever more than one person is transported by the sheriff or when one or more papers are served on the same trip made for the transportation of one or more inmates, only one charge for mileage may be ~~charged~~ made.

(2) ~~No mileage~~ Mileage may not be paid by the county to sheriffs whose vehicles are provided and maintained by the county. All mileage paid to sheriffs whose vehicles are provided and maintained by the county ~~shall~~ must be paid over to the county treasurer and deposited in the county general fund.

(3) (a) ~~No mileage~~ Mileage may not be allowed on an attachment, order of arrest, order for delivery of personal property, or any other order, notice, or paper when the ~~same~~ document accompanies the summons and the service ~~thereof~~ of the document may be made at the time of the service of the summons, except for the distance actually traveled beyond that required to serve the summons. When two or more papers are served on the same person at the same time or when any paper or papers are served on more than one person on the same trip, only one charge for mileage may be allowed ~~or charged, and in.~~ In the service of subpoenas, only one mileage charge may be ~~charged~~ made when the persons named ~~therein~~ in the subpoena live in the same place or in the same direction; ~~but~~ mileage may be charged for the longest distance actually traveled. Any writ, order, or other paper for service must be received at any place in the county where a sheriff or a deputy is found, and mileage ~~must~~ may be computed only from ~~such~~ that place to the place of service. When two or more officers travel in the same automobile in the discharge of any duty, only one charge for mileage may be allowed.

(b) When ~~any~~ a sheriff or constable serves more than one process in the same cause, not requiring more

than one journey from ~~his~~ the office, ~~he shall~~ the sheriff or constable may receive mileage only for the more distant service, and ~~no~~ mileage ~~in any case~~ may not be allowed for less than 1 mile actually traveled.

(4) In lieu of charging mileage for the service of items of a civil nature as provided in subsections (1) and (3), a sheriff may charge \$1 for the service of each item of a civil nature that requires a return or proof of service."

**Section 701.** Section 7-32-2202, MCA, is amended to read:

**"7-32-2202. Use of detention center in contiguous county.** (1) When there is no detention center in the county or when the detention center becomes unfit or unsafe for the confinement of inmates, the district court judge may, by written appointment filed with the district court clerk, designate the detention center of a contiguous county for the confinement of the inmates of ~~his~~ the judge's county and may at any time modify or annul the appointment.

(2) A copy of the appointment, certified by the clerk, must be served on the detention center administrator of each county involved, who must receive into ~~his~~ the administrator's detention center all inmates authorized to be confined ~~therein~~ in the detention center pursuant to this section and who is responsible for the safekeeping of the persons ~~so~~ committed in the same manner and to the same extent as if ~~he~~ the administrator were the detention center administrator of the county for whose use ~~his~~ the administrator's detention center is designated. With respect to the persons ~~so~~ committed, ~~he~~ the administrator is ~~deemed~~ considered the detention center administrator of the county from which they were removed.

(3) When a detention center is erected in the county for the use of which the designation was made or its detention center is rendered fit and safe for the confinement of inmates, the district court judge of that county ~~must shall~~, by a written revocation filed with the clerk, declare that the necessity for the designation has ceased and that it is revoked.

(4) The clerk ~~must shall~~ immediately serve a copy of the revocation upon the detention center administrator of each county involved. The detention center administrator in the designated county ~~must~~ thereupon shall remove the inmates to the detention center from which ~~the removal was had~~ they were removed."

**Section 702.** Section 7-32-2207, MCA, is amended to read:

**"7-32-2207. Confinement of persons on civil process.** (1) Whenever a person is committed upon process in a civil action or proceeding, except when the state is a party ~~thereto~~ to the action, the detention center administrator is not bound to receive ~~such~~ the person unless security is given on the part of the party at whose instance the process is issued, ~~by~~ The security must be a deposit of money, to meet the expenses for him of the

~~person's~~ necessary food, clothing, and bedding. ~~or~~ The detention center administrator is not required to detain such the person any longer than the period for which these expenses are provided for.

(2) This section does not apply to cases ~~where in which~~ a party is committed as a punishment for disobedience to the mandates, process, writs, or orders of court."

**Section 703.** Section 7-32-2208, MCA, is amended to read:

**"7-32-2208. Actual confinement of inmates required.** An inmate committed to a detention center for trial or examination or, except as provided in 7-32-2225 through 7-32-2227, a prisoner convicted must be actually confined in the detention center until ~~he~~ the inmate or prisoner is legally discharged."

**Section 704.** Section 7-32-2211, MCA, is amended to read:

**"7-32-2211. Service of papers upon detention center administrator for prisoner inmate.** A detention center administrator ~~upon whom who is served with~~ a paper in a judicial proceeding; ~~that is~~ directed to an inmate in ~~his~~ the administrator's custody; ~~is served must forthwith~~ shall immediately deliver it to the inmate."

**Section 705.** Section 7-32-2234, MCA, is amended to read:

**"7-32-2234. Powers of detention center administrators.** A detention center administrator is responsible for the immediate management and control of the detention center subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of ~~such~~ an administrator and detention center personnel employed under ~~his~~ the administrator's authority include control over inmates:

- (1) within the confines and grounds of the detention center; and
- (2) outside the detention center confines and grounds while transporting any inmate or in the hot pursuit or apprehension of any escapee."

**Section 706.** Section 7-32-2246, MCA, is amended to read:

**"7-32-2246. Temporary release from detention center.** A detention center inmate may be granted, by court order and with the consent of the sheriff, the privilege of leaving the detention center during necessary and reasonable hours for any of the following purposes:

- (1) seeking employment;
- (2) working at ~~his~~ employment;

- (3) conducting ~~his~~ the inmate's own business or self-employment;
- (4) attending to the needs of ~~his~~ the inmate's family;
- (5) attending an educational institution; or
- (6) obtaining medical treatment."

**Section 707.** Section 7-32-2248, MCA, is amended to read:

**"7-32-2248. Inmate endangerment -- penalty.** (1) A detention center administrator or staff member commits the offense of inmate endangerment if ~~he~~ the administrator or staff member knowingly:

- (a) places or keeps a juvenile with adult inmates;
- (b) uses corporal punishment against an inmate; or
- (c) uses physical force against an inmate, except as necessary for:
  - (i) self-defense;
  - (ii) control of inmates;
  - (iii) protection of another person from imminent physical attack; or
  - (iv) prevention of riot or escape.

(2) A person who commits the offense of inmate endangerment shall be fined an amount not to exceed \$500."

**Section 708.** Section 7-32-2249, MCA, is amended to read:

**"7-32-2249. False claims by detention center administrator.** ~~Every~~ A detention center administrator who falsely represents to the governing body of a local government the actual expenses of boarding detention center inmates, furnishing food and supplies, or providing services, ~~or~~ who presents to the governing body false items in a claim or false vouchers, ~~or~~; if ~~he~~ the administrator is not a private detention center administrator, who makes any profit from the keeping of inmates in ~~his~~ the administrator's custody and ~~every~~ a person who gives a false item or false voucher to be used by the detention center administrator in any claim against the local government is guilty of a misdemeanor."

**Section 709.** Section 7-32-2250, MCA, is amended to read:

**"7-32-2250. Liability for escape in civil actions.** (1) A detention center administrator who fails to prevent the escape or rescue of a person who was arrested in a civil action and who is in his ~~the administrator's~~ custody ~~arrested in a civil action~~ without the consent or connivance of the party in whose behalf the arrest or

imprisonment was made is liable as follows:

(a) When the arrest is upon an order to hold for bail or upon a surrender in exoneration of bail before judgment, the detention center administrator is liable to the plaintiff for the bail.

(b) When the arrest is on an execution or commitment to enforce the payment of money, the detention center administrator is liable for the amount expressed in the execution or commitment.

(c) When the arrest is on an execution or commitment other than to enforce the payment of money, the detention center administrator is liable for the actual damages sustained.

(2) Upon being sued for damages for an escape or rescue of a person in ~~his~~ the detention center administrator's custody, the ~~detention center~~ administrator may introduce evidence in mitigation or exculpation.

(3) An action may not be maintained against a detention center administrator for a rescue or for an escape of a person arrested upon an execution or commitment if, after ~~his~~ the rescue or escape and before the commencement of the action, the inmate returns to the detention center or is retaken by the ~~detention center~~ administrator."

**Section 710.** Section 7-32-4103, MCA, is amended to read:

**"7-32-4103. Supervision of police department.** ~~In~~ The mayor in all cities and towns, ~~the mayor,~~ or the manager in those cities operating under the commission-manager plan, ~~shall have~~ has charge of and supervision over the police department ~~thereof.~~ He The mayor or manager shall appoint all the members and officers ~~thereof~~ of the department. Subject to the provisions of this part, ~~he shall have the power to~~ the mayor or manager may suspend or remove any member or officer of the force. ~~He~~ The mayor or manager shall make rules, not inconsistent with the provisions of this part, the other laws of the state, or the ordinances of the city or town council, for the government, direction, management, and discipline of the police force."

**Section 711.** Section 7-32-4105, MCA, is amended to read:

**"7-32-4105. Duties of chief of police.** (1) ~~It is the duty of the~~ The chief of police:

(a) ~~to shall~~ execute and return all process issued by the city judge or directed to ~~him~~ the chief of police by any legal authority and ~~to attend upon~~ must be present and shall assist the city court regularly;

(b) ~~to shall~~ arrest all persons guilty of a breach of the peace or for the violation of any city or town ordinance and bring them before the city judge for trial;

(c) ~~to must~~ have charge and control of all ~~police men~~ police officers, subject to ~~such rules as~~ that may be prescribed by ordinance, and ~~to report to the council all delinquencies or neglect of duty or official misconduct~~

of ~~policemen~~ police officers for action of the council;

(d) ~~to shall~~ perform ~~such~~ other duties ~~as that~~ the council may prescribe.

(2) The chief of police has the same powers as a constable in the discharge of his duties, but ~~he must~~ the chief of police may not serve a process in ~~any a~~ civil action or proceeding except when a city or town is a party."

**Section 712.** Section 7-32-4106, MCA, is amended to read:

**"7-32-4106. List of active and eligible ~~policemen~~ police officers.** (1) The city council ~~shall have~~ absolute and has exclusive power to determine and limit the number of police officers and members to comprise the police force of any city, to reduce the number of the police force at any time, and to divide the police membership into two lists:

(a) one list is an active list; containing the names of individuals who are to be actually employed and receive pay while ~~so~~ employed; and

(b) one list is an eligible list; containing the names of individuals who ~~shall~~ may not receive pay while not actually employed as an officer or member.

(2) Officers or members of the active list temporarily relieved from duty ~~shall~~ must become members of the eligible list without pay and ~~shall~~ must be first entitled to reinstatement on the active list in case of vacancy, according to their seniority in the service, and all others on the eligible list ~~shall~~ must be entitled to fill a vacancy in the order of their appointment.

(3) ~~Such~~ The action of the council ~~shall~~ under this section is not ~~be~~ subject to review by any court.

(4) ~~In no event shall there be any officers~~ Officers or members may not be placed on the eligible list, except in case of temporary reduction of the police force, when the number already on the eligible list ~~shall equal~~ in number is equal to 20% of the active list."

**Section 713.** Section 7-32-4107, MCA, is amended to read:

**"7-32-4107. Utilization of retired officers.** ~~Policemen or~~ Police officers on the retired list of ~~any a~~ city or town ~~of this state~~ shall retire from the active list of police officers of ~~such the~~ city or town but ~~shall~~ must be subject to call for police service or active duty whenever an emergency ~~shall require~~ requires or the active list ~~be~~ is temporarily insufficient for proper policing of ~~such the~~ city or town, all under the rules ~~as that~~ the board of police commissioners or city council ~~shall~~ prescribe."

**Section 714.** Section 7-32-4108, MCA, is amended to read:

**"7-32-4108. Appointment to police force.** All appointments to the police force must be ~~appointed~~ made by the mayor; or, ~~the manager~~ in those cities operating under the commission-manager plan, by the manager and must be confirmed by the city council or commission. ~~No such~~ An appointment ~~must~~ may not be made until:

(1) an application for ~~such a~~ position on the police force has been filed with the mayor; or, ~~the manager~~ in those cities operating under the commission-manager plan, with the manager and referred ~~by him~~ to the police commission, ~~where such~~ when a commission exists; and

(2) ~~such the~~ applicant has successfully passed the examination required to be held by ~~such the~~ police commission and a certificate from ~~such the~~ police commission that the applicant has qualified for ~~such the~~ appointment has been filed with the mayor; or, ~~the manager~~ in those cities operating under the commission-manager plan with the manager."

**Section 715.** Section 7-32-4109, MCA, is amended to read:

**"7-32-4109. Temporary employment for persons doing police work.** The mayor of ~~any a~~ city ~~shall have the power and authority~~ may, at any time when ~~he deems it considered~~ expedient, to employ not to exceed two persons at one time for a period not to exceed 30 days to do police duty who are not members of the police department."

**Section 716.** Section 7-32-4110, MCA, is amended to read:

**"7-32-4110. Procedure for reinstatement on police force.** (1) An applicant for a position on the police force who has already served 20 years or more in the aggregate on the police force of the city or town to which ~~he the person~~ is applying for reinstatement may make application within 1 year from the date on which ~~his the person's~~ name was removed from the active list of police officers to the police commission of that city or town ~~wherein he~~ in which the person last served, and ~~his the~~ application must be considered by ~~said the~~ police commission within 30 days after receipt of ~~said the~~ application.

(2) ~~Said The~~ commission ~~shall may~~ not require the applicant to have a physical examination or other examination required of applicants for a position on the police force; ~~and in the event that~~ If the police commission recommends the reinstatement of ~~said the~~ applicant as a member of the police force, the probationary term required of applicants for positions ~~shall must~~ be dispensed with ~~as to such~~ for the applicant for reinstatement. ~~It shall be the duty of the~~ The mayor ~~to shall~~ submit to the city council of ~~said the~~ city at its next regular meeting the recommendation of the police commission; ~~and in the event that~~ If a majority of the city



council vote in favor of adopting the recommendation of the commission, ~~said the~~ applicant ~~shall~~ must be immediately reinstated as a police officer in ~~said the~~ city or town."

**Section 717.** Section 7-32-4111, MCA, is amended to read:

**"7-32-4111. Examination of applicants for position on police force.** (1) All applicants for positions on the police force whose applications ~~shall have been~~ are referred to the police commission ~~shall~~ must be required to successfully undergo an examination before the police commission and to receive a certificate from ~~said the~~ commission that the applicant is qualified for ~~such~~ appointment for the probationary period ~~upon~~ to the police force.

(2) ~~Any~~ An applicant who ~~shall make~~ makes any false statement to the police commission as to ~~his~~ the applicant's age or other required qualifications at ~~his~~ an examination before the police commission ~~shall be~~ is subject to suspension or dismissal from the police force after trial."

**Section 718.** Section 7-32-4131, MCA, is amended to read:

**"7-32-4131. Compensation and allowance for sick or injured ~~policemen~~ police officers.** Whenever ~~any a~~ member of a police department in ~~any a~~ city or town ~~shall is~~, on account of sickness or disability suffered or sustained while a member of ~~such the~~ police department and not caused or brought on by dissipation or abuse, ~~be~~ confined to any hospital or ~~his the~~ officer's home and ~~shall require~~ requires medical attention and care, the police officer of ~~such police department~~ may be allowed, by the city council, ~~his the~~ the police officer's salary ~~as such~~ police officer during ~~his the~~ absence and an amount equal to ~~his the~~ the police officer's expenses while confined for ~~such the~~ injury or sickness."

**Section 719.** Section 7-32-4136, MCA, is amended to read:

**"7-32-4136. Assignment to light duty or another agency.** (1) Whenever, in the opinion of the municipality; ~~and~~ supported by a physician's opinion, the officer is able to perform specified types of light police duty, payment of ~~his~~ the officer's partial salary amount under 7-32-4132 ~~shall~~ must be discontinued if ~~he~~ the officer refuses to perform ~~such the~~ light police duty when it is available and offered ~~to him~~. ~~Such~~ The light duty ~~shall~~ must be consistent with the officer's status as a law enforcement officer.

(2) With ~~his~~ the officer's consent, the officer may be transferred to another department or agency within the municipality."

**Section 720.** Section 7-32-4137, MCA, is amended to read:

**"7-32-4137. Effect on probationary status.** If the injured officer is on probationary status at the time ~~he becomes injured~~ of injury, the balance of ~~his~~ the probationary time ~~shall~~ must be suspended until ~~he~~ the officer returns to regular duty or is discharged for cause."

**Section 721.** Section 7-32-4155, MCA, is amended to read:

**"7-32-4155. Role of police commission in hearing and deciding appeals brought by policemen police officers.** (1) The police commission ~~has jurisdiction and it is its duty to~~ shall hear and decide appeals brought by any member or officer of the police department who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) ~~It is the duty of the~~ The police commission shall, at the time set for hearing an appeal of a police officer, ~~to~~ hear and determine the appeal according to the rules of evidence applicable to courts of record in the state."

**Section 722.** Section 7-32-4159, MCA, is amended to read:

**"7-32-4159. Subpoena authority of police commission.** The ~~chairman~~ presiding officer or acting ~~chairman~~ presiding officer of the police commission ~~shall have power to~~ may issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing, and any person ~~duty~~ served with a subpoena is bound to attend in obedience ~~thereto~~ to the subpoena. The police commission ~~shall have~~ has the same authority to enforce obedience to the subpoena and to punish the disobedience ~~thereof~~ to the subpoena as is possessed by a judge of the district court in ~~like~~ similar cases; ~~provided, however~~ However, that punishment for disobedience is subject to review by the district court of the proper county."

**Section 723.** Section 7-33-2127, MCA, is amended to read:

**"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality.** In lieu of the detracting procedure set forth in 7-33-2122 and 7-33-2123, whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted as follows:

(1) The owner shall mail notice to the ~~chairman~~ presiding officer of the trustees of the fire district or, if ~~none~~ there are no trustees, to the board of county commissioners of ~~his~~ the owner's intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ the petition to the municipal governing

body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is detracted from the fire district."

**Section 724.** Section 7-33-2312, MCA, is amended to read:

**"7-33-2312. Organization of fire company.** (1) ~~Every~~ A fire company organized pursuant to 7-33-2311 ~~must shall~~ choose or elect a ~~foreman, who is the~~ presiding officer, a secretary, and a treasurer and may establish and adopt bylaws and regulations and impose penalties, not exceeding \$5 or expulsion, ~~for each offense.~~

(2) ~~Every~~ A regularly organized fire department may adopt a department seal, stating the name of the particular fire department to which it belongs. The seal is under the control of and for the use of the secretary and ~~shall must~~ be affixed ~~by him~~ to exempt certificates, certificates of active membership, and ~~such~~ other documents ~~as that~~ the bylaws may provide. The secretary of ~~every~~ a department having a seal ~~must shall~~ take the constitutional oath of office and give ~~such a bond as that~~ the bylaws provide for the faithful performance of ~~his~~ the secretary's duties."

**Section 725.** Section 7-33-2315, MCA, is amended to read:

**"7-33-2315. Certificate of membership in fire company.** (1) ~~Every~~ A firefighter who has served 5 years in an organized company in this state is an exempt firefighter and must receive from the chief engineer of the department ~~or company~~ to which ~~he the firefighter~~ belonged a certificate to that effect.

(2) (a) ~~Every~~ An active firefighter must have a certificate of that fact, signed by the chief of the fire department or the ~~foreman~~ presiding officer of the company to which ~~he the firefighter~~ belongs. ~~Such~~ The certificates must be countersigned by the secretary and over the seal of the company, if one is provided.

(b) ~~In~~ If authorized by the bylaws of the company, in lieu of issuing certificates to exempt firefighters by the chief of the fire department, on the certificate of the foreman and secretary of any fire company or the chief of the department, provision being made therefor in the bylaws of the company, "exempt certificates" ~~exempt certificates~~ may be issued by the clerk ~~and recorder~~ of the county, over ~~his~~ the clerk's official seal and signature, which entitles the holder to ~~like~~ an exemption from military duty.

(3) Each certificate entitles the holder to an exemption from military duty. ~~Every such~~ Each certificate is prima facie evidence of the facts ~~therein~~ stated in the certificate.

(4) The secretary of the fire department or fire company ~~must shall~~ keep a record of ~~all certificates~~ each certificate of exemption or active membership, the date ~~thereof~~ of the certificate and to whom issued, and, when ~~no a~~ seal is not provided, similar entries of certificates issued to obtain ~~county clerk's~~ certificates from the county

clerk and recorder."

**Section 726.** Section 7-33-4104, MCA, is amended to read:

**"7-33-4104. Duties of chief and assistant chief of fire department.** (1) The chief of the fire department ~~shall have~~ has sole command and control over all persons connected with the fire department of the city or town and ~~shall possess~~ has full power and authority over its organization, government, and discipline, ~~and to that end~~. ~~The chief may from time to time establish such disciplinary rules as he may deem that the chief considers~~ The chief may establish such disciplinary rules as he may deem that the chief considers advisable, subject to the approval of the city or town council. ~~He shall have~~ The chief has charge of and ~~be is~~ is responsible for the engines and other apparatus and the property of the town or city furnished to the fire department and shall see that they are at all times ready for use in the extinguishing of fires.

(2) The assistant chief of the fire department shall aid the chief in the work of the department and in ~~his~~ the chief's absence shall perform ~~his~~ the chief's duties."

**Section 727.** Section 7-33-4124, MCA, is amended to read:

**"7-33-4124. Suspension procedure.** (1) In all cases of suspension, the person suspended must be furnished with a copy of the charge against ~~him~~ the person, in writing, setting forth reasons for the suspension. ~~Such~~ The charges must be presented to the next meeting of the council or commission, and a hearing ~~had~~ must be held at which thereon, ~~when~~ the suspended member of the fire department may appear in person or by counsel and make ~~his~~ a defense to ~~said~~ the charges.

(2) ~~Should~~ If the charges are not ~~be~~ presented ~~to~~ at the next meeting of the council or commission after the suspension or ~~should~~ if the charges ~~be found~~ are not proven by the council or commission, the suspended person ~~shall~~ must be reinstated and ~~be is~~ is entitled to ~~his~~ the person's usual compensation for the time ~~so~~ suspended.

(3) If ~~such~~ the charges are ~~found~~ proven by the council or commission, the council or commission, by a vote of a majority of the whole council or commission, may impose ~~such~~ a penalty as it ~~shall determine~~ determines that the offense warrants, either in the continuation of the suspension for a limited time or in the removal of the suspended person from the fire department."

**Section 728.** Section 7-33-4125, MCA, is amended to read:

**"7-33-4125. Reduction and subsequent increase in number of firefighters based on seniority.** (1) ~~Should~~ If the council at any time ~~reduce~~ reduces the number of firefighters in the fire department, those most

recently appointed ~~shall~~ must be selected for retirement from the fire department. The city or town clerk shall keep a list of ~~such~~ the retired firefighters.

(2) ~~Should~~ If the number of firefighters ~~be~~ is again increased by the council, the ~~men~~ individuals on ~~said~~ the list ~~shall~~ must be called into service, with the longest ~~service~~ service serving firefighters being first selected for service in the fire department."

**Section 729.** Section 7-33-4133, MCA, is amended to read:

**"7-33-4133. Payment of partial salary to firefighter injured in performance of duty.** (1) A member of a fire department of a ~~first-~~ first-class or second-class municipality who is injured in the performance of duty must be paid by the municipality the difference between ~~his~~ the member's net salary, following adjustments for income taxes and pension contributions, and the amount received from workers' compensation until the disability has ceased, as determined by workers' compensation, or for a period not to exceed 1 year, whichever occurs first.

(2) To qualify for the partial salary payment provided for in subsection (1), the firefighter must require medical or other remedial treatment and must be incapable of performing ~~his~~ the firefighter's duties as a result of the injury."

**Section 730.** Section 7-34-2104, MCA, is amended to read:

**"7-34-2104. Details relating to petition.** (1) The petition may consist of one sheet or several sheets, identical in form and fastened together after being circulated and signed so as to form a single, complete petition before being delivered to the county clerk and recorder. The petition ~~shall~~ must give the post-office address and voting precinct of each petitioner.

(2) Only persons who are qualified to sign ~~such~~ the petitions ~~shall be~~ are qualified to circulate the ~~same~~ petitions, and there ~~shall~~ must be attached to the complete petition the affidavit of ~~some~~ a person who circulated or assisted in circulating the petition that ~~he~~ the person believes the signatures ~~thereon~~ on the petition are genuine and the signers knew the contents ~~thereof~~ of the petition before signing ~~the same~~ it."

**Section 731.** Section 7-34-2105, MCA, is amended to read:

**"7-34-2105. Petition to be filed with county clerk and recorder -- clerk's certificate.** The complete petition, addressed to the board of county commissioners of the county in which the proposed district is situated, ~~shall~~ must be filed with the county clerk and recorder, who shall, within 15 days ~~thereafter~~, carefully examine the

~~same petition~~ and the county records showing the qualifications of the petitioners and attach it to a certificate under ~~his the clerk and recorder's~~ official signature and the seal of ~~his office,~~ which ~~The~~ certificate ~~shall~~ must set forth:

- (1) the total number of persons who are registered electors within the proposed hospital district and whose names appear upon the last-completed assessment roll for state and county taxes;
- (2) which and how many of the persons whose names are subscribed to ~~such the~~ petition are possessed of all of the qualifications required of signers to ~~such the~~ petition; and
- (3) whether ~~such the~~ qualified signers constitute more or less than 30% of the registered electors of the proposed hospital district who are taxpayers upon property ~~thereon~~ in the proposed district and whose names appear on the last-completed assessment roll for state and county taxes."

**Section 732.** Section 7-34-2106, MCA, is amended to read:

**"7-34-2106. Presentation of petition to board of county commissioners -- hearing required.** (1) The county clerk and recorder shall present the petition and ~~his the clerk's~~ certificate to the board of county commissioners at its first meeting held after ~~he the clerk~~ has attached ~~his the~~ certificate.

(2) The board shall ~~thereupon~~ carefully examine the petition, and if it is found that the petition is in proper form and bears the requisite number of signatures of qualified petitioners, the board shall by resolution call a hearing on the creation of ~~such the~~ hospital district."

**Section 733.** Section 7-34-2118, MCA, is amended to read:

**"7-34-2118. Term of office.** (1) The trustees elected for the first board shall serve for terms:

- (a) commencing upon their being elected and qualified; and
- (b) terminating 1, 2, and 3 years, respectively, from the first district meeting following their election and until their respective successors ~~shall be~~ are elected and qualified.

(2) Annually ~~thereafter~~ after the initial election there may be elected a trustee to serve for a term of 3 years and until ~~his a~~ successor ~~shall be~~ is qualified. ~~Such The~~ term of 3 years ~~shall commence~~ commences at the first district meeting following the ~~said~~ trustee's election."

**Section 734.** Section 7-35-2103, MCA, is amended to read:

**"7-35-2103. Hearing on creation of district.** At the time fixed for ~~said the~~ hearing, the board shall determine whether or not it complies with the requirements ~~hereinbefore~~ set forth in this part and whether or not

the notice required ~~herein in this part~~ has been published as required and must hear all competent and relevant testimony offered in support of or in opposition ~~thereto to the petition~~. ~~Said The~~ hearing may be adjourned from time to time for the determination of ~~said~~ facts, for a period not to exceed 2 weeks ~~in all~~."

**Section 735.** Section 7-35-2133, MCA, is amended to read:

**"7-35-2133. Appointment of trustees of fund.** (1) The district judge shall, upon receipt of the application, appoint a trustee or a board of trustees to administer the fund from a list submitted to ~~him~~ the judge by the trustees of the public cemetery district.

(2) The number of trustees for the fund may not exceed five, with the exact number to be set at the discretion of the trustees of the public cemetery district. Each trustee for the fund must be a resident of the state during the time ~~he~~ the trustee exercises the powers of ~~such~~ the trust.

(3) ~~Whenever~~ If a person, ~~so~~ who is chosen and appointed; fails to qualify within 30 days after his appointment, a vacancy exists, and the judge of the district court shall appoint from a list submitted to ~~him~~ the judge by the trustees of the public cemetery district ~~some~~ a person possessing the ~~above~~ qualifications to fill the vacancy in the board of trustees of the fund. ~~Trustees of the fund appointed by the public cemetery district or district court prior to July 1, 1955, continue to hold office as trustees until terminated as provided in 7-35-2134 through 7-35-2150."~~

**Section 736.** Section 7-35-2139, MCA, is amended to read:

**"7-35-2139. Bond requirements for trustees of fund.** (1) Before exercising or having any of the powers, duties, rights, titles, authorities, or franchises appertaining to ~~such~~ the trust or ~~to such~~ trusteeship, each person chosen to be a trustee of ~~such~~ the fund shall give to the public cemetery district for which the trust is maintained a bond in a sum equaling at least 1 1/3 times the value of the property on hand at the time of giving ~~such~~ the bond, with good and sufficient sureties ~~thereto~~ who shall justify in the aggregate in at least double the amount of ~~such~~ the bond; ~~the same to~~ The bond must be conditioned for the due and faithful performance of ~~his~~ the trust until July 1 of the next even-numbered year after the year in which ~~such~~ the bond ~~shall be~~ is given and until ~~such~~ the trustee ~~shall give~~ gives a new bond as ~~hereinafter~~ provided in this section.

(2) On July 1 in each even-numbered year, each trustee shall give a new bond conditioned ~~in the same way, the~~ in an amount ~~thereof to be determined by the same rule~~, and with sureties as ~~above~~ provided in subsection (1).

(3) ~~Such~~ The bonds ~~shall all~~ must be approved by a judge of the district court for the judicial district in

which the cemetery for ~~such the~~ trust exists or some part thereof ~~shall be~~ of the trust is situated and ~~shall~~ must be filed with the clerk of the district court of the county in which ~~such the~~ cemetery is located."

**Section 737.** Section 7-35-2141, MCA, is amended to read:

**"7-35-2141. Reduction of bond by deposit of money and securities.** (1) For the purpose of fixing the amount of the bond, the value of the property on hand may be reduced in an amount equal to the value of the money, bonds, and securities ~~which that~~ the trustee or trustees of the permanent care and improvement fund ~~may elect to and do~~ deposit with the county treasurer as ~~hereinafter~~ provided in subsection (2).

(2) The trustee or trustees of ~~such the~~ fund may deposit for safekeeping ~~such the~~ money, bonds, and securities as ~~he or~~ they see fit with the county treasurer of the county in which ~~said the~~ cemetery or some part thereof of the cemetery is situated. ~~It is the duty of the~~ The county treasurer ~~to shall~~ receive and safely keep all ~~such~~ money, bonds, and securities ~~or any part thereof~~ and pay them out or deliver them ~~up~~ upon the order of ~~such the~~ trustee or a majority of the trustees, when countersigned by a judge of ~~said the~~ judicial district and not otherwise, and ~~to shall~~ keep an account with ~~such the~~ trustee or trustees of all ~~such those~~ transactions. For the safekeeping and payment and delivery of all ~~such~~ money, bonds, and securities as ~~herein~~ provided in this section, the treasurer and ~~his~~ the treasurer's sureties are liable upon ~~his~~ the treasurer's official bond."

**Section 738.** Section 7-35-2144, MCA, is amended to read:

**"7-35-2144. Vesting of funds in trustees.** Upon the election, appointment, and qualification, as provided in this part, of the trustees of ~~such the~~ fund, all of the title to the funds included in ~~said the~~ trust and all of the rights, powers, authorities, franchises, and trusts ~~of whatsoever thereunto appertaining shall at once pertaining to the trust~~ vest in ~~him or them~~ the trustees. In case of the failure of any of those ~~so~~ chosen and appointed to qualify within 30 days after their appointment, then the ~~same shall~~ rights, powers, authorities, franchises, and trusts vest in ~~the one or more~~ those who ~~shall~~ qualify."

- END -