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LINCOLN COUNTY

GOVERNMENT STUDY COMMISSION

FINAL REPORT

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- Exhibit A: Certificate of plan of existing form of government
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I. LETTER TO CITIZENS OF LINCOLN COUNTY

To the Citizens of Lincoln County:

In June of 1984 you, the voting public, determined that you would have a government review study commission. The following five people were elected in November 1984, Robert Gruber, Don Burrell, George Neils, Ray Hedahl and Dennis Souther, and the government review process began.

The purpose of the government review commission is to review the current form and structure of county government and evaluate whether that form or one of five other forms provided by state law will best and most economically provide necessary governmental services at the county level. This review process required analysis of the current form of government, of optional forms, of social and economic trends, and county government cost, to mention a few.

Since January 1985 we have, with occasional exceptions, held a weekly Tuesday night meeting. During these meetings we have familiarized ourselves with and debated over the possible forms of county government, the general economic trends of Lincoln County, the interaction of state, federal and local government, and numerous actions and policies of our county officials and departments. We have also conducted interviews with informed state officials, elected and appointed county government officials, and numerous citizens.

Once in 1985 and again in 1986, after the preliminary report, we held public meetings in Eureka, Troy and Libby. We also conducted a representative sample survey of approximately 400 Lincoln County citizens.

In this final report we present our recommendations for an alternative form of government that we feel will provide the people of Lincoln County with the governmental services necessary today and will also meet the needs of the future. Our main goal was to provide a form of government that will be both responsive to local citizens and provide the opportunity for county government to deal with issues locally. We feel the citizens of Lincoln County can achieve these goals by adopting the charter form of government.

The question of adopting this alternative form of government will be placed on the ballot November 4, 1986.

We solicit your support for its adoption.

Respectfully submitted,

Robert R. Gruber
Donald L. Burrell
Ray E Hedahl

Lincoln County Study Commissioners

II. SUMMARY OF RECOMMENDATIONS

A. Findings of the Study Commission

The Lincoln County Study Commission, during the course of its two year study, has identified the following problems of the present form of county government.

We find our present county government has unneeded departments and duplication of services. In addition, departments are overstaffed and future combining of work load would benefit taxpayers by reducing costs. Also our courthouse role offices and county-wide operations appear to have inefficiencies. Certain departmental budgets have grown excessively.

Under the present form the county government does not have the authority to act on local problems without gaining approval from the state legislature. The existing county commission lacks the authority to determine county-wide needs, priorities and policies.

At present, there is no one person responsible for supervising the functions and services provided by the county government. These functions and services are provided by separate offices, boards, and commissions. No one in county government has the authority to coordinate these various offices and boards or to supervise their programs.

B. Recommendations

The Lincoln County Study Commission having studied our present form of county government and the other forms of government available to counties under state law, and having studied both the present and future governmental needs of this county, recommends the following:

We recommend a charter form of government with a commission and manager. A part-time commission of 3 members shall be elected for 4 year terms of office. A county manager shall be appointed by the commission. All county elections shall be non-partisan.

The question on form of government shall be submitted to the voters of Lincoln County on November 4, 1986.

C. Reasons for Recommendations

We believe that a county manager with 3 part-time commissioners, within a charter, will be more efficient and definately more economical for the taxpayers of Lincoln County.

Partisan elections in Lincoln County, dominant in one party, does not allow for competitive elections, therefore we recommend all county elections be non-partisan.

A charter will provide the county with self-governing powers. Self-governing powers would mean greater flexibility in shaping our governmental structure, greater power to solve our own problems, and more responsibility to recognize and deal with these problems. The charter also provides for a Law Enforcement Commission and an Economic Advisory Board. We feel that these boards are important for citizen awareness and involvement in county issues.

The part-time commission will serve as a legislative body with the power to formulate county policy. The county manager, a professional administrator, will be the person responsible for supervising the functions and services provided by county government to see that the goals of the county are carried out as efficiently as possible.

III. COMPARISON OF EXISTING FORM OF GOVERNMENT AND PROPOSED FORM OF GOVERNMENT

Existing Form

Policy-making and administrative structure. The "traditional" form of county government has existed in Lincoln County since the creation of the county in 1885. It is basically the same government as described in the 1889 constitution; in structure and powers it reflects its role as an administrative arm of state government. It can best be described as a collection of 14 somewhat autonomous administrative offices consisting of a commission of three members and eleven elected officials. In addition, many boards, commissions, and special districts operate within county government.

The three member board of county commissioners is elected by the voters of the county for six year overlapping terms; the term of one commissioner expires every two years. Each commissioner must reside in the district he or she represents but commissioners are elected at-large on a county-wide basis. Elections are partisan.

The commissioners serve as the executive branch of the county government and are responsible for the administration of the business affairs of the county as outlined in state law. They approve the county budget, levy taxes, issue bonds, enter into contracts, approve claims, and may buy, sell, and lease county property. They also have the responsibility to appoint members of boards and commissions and any other department heads who are not elected.

Under the existing form of government, county commissioners have rather limited authority to supervise officials and employees of the county government. They can supervise those whom they appoint but the only control they have over departments headed by elected officials is through the county budget. They also have some authority over the salaries and number of deputies which the elected officials may have.

In addition to the three commissioners, there are eleven other elected officials under the existing form of county government:

Sheriff	Treasurer	Clerk of Court	Surveyor
County Attorney	Super. of Schools	Public Admin.	Auditor
Clerk & Recorder	Coroner	Assessor	

The salaries as well as the powers and duties of these officials are determined by state law under the existing form, and each official is nearly independent from the supervision of the commissioners or from any other central administrative authority.

Numerous boards, commissions and special districts also operate in the county to administer services. These governmental bodies range in authority from advisory agencies which are subordinate to the commissioners, to those which operate independently of commission control. Members of these various boards may be appointed by the commissioners or in some cases are elected.

Structures for the delivery of services. In some instances the county is acting as an agent of the state in providing "traditional" services such as elections, property tax collections, and so forth, but increasingly county government is involved in providing urban-type services.

Under the existing form of government some services are provided by elected county officials while others such as libraries, airports, health services, weed control, etc. are provided by the numerous boards and special districts. In some cases, these boards and districts provide services in instances in which the county, under existing state law, does not have the authority to provide services directly.

Existing form continued

Power and authority of county government. One of the most important provisions in the proposed form of government is self-government powers. Under the existing form of government, Lincoln County operates with limited powers which are restricted by the so-called Dillon Rule. This judicial interpretation states that local governments have only those powers granted them by the state legislature. It further provides that if there is any doubt as to the existence of a local government power, the power is to be denied.

Proposed Form

Policy-making and administrative structure. This charter has 3 part-time commissioners that are elected, one from each of the present commissioner districts. The terms are 4 years and are overlapping. The election will be on a non-partisan basis.

The charter form is something like a state constitution. We are able to deal with local situations at home instead of having the state intervene. The U S Constitution and the state constitution still overrule a charter. The charter gives counties the opportunity to manage their own local affairs. The local government is free to act unless prohibited.

The commission would make policy, pass ordinances and resolutions, review, modify, and approve the budget, determine the department structure of county government, appoint and remove boards and place their functions under direction of the manager. The commission also appoints the county manager and can replace him at any time.

The manager is responsible for carrying out the policies that are set by the commission. He would prepare the budget, hire and fire employees (except as provided for by law or ordinance), and supervise all appointed departments. The manager would provide centralized administration and county-wide coordination of government operations.

Under the proposed form, administrative responsibility and authority are centralized under the office of the manager. The commissioners are the policy-makers and the legislative body of county government. They appoint the manager and the manager carries out and administers the policies and ordinances of the commission. The manager has no vote on the commission and no veto authority over commission ordinances and resolutions. The manager is responsible to the commission and may be replaced at any time by the commissioners.

Service delivery structure. The study commission is proposing a form of government in which the county commissioners could decide whether or not to provide services directly or whether to use a board or special district. Under the existing system these decisions are made at the state level. Under the proposed form of government the county could create several departments which would provide services directly under the central administration of the manager and his staff. The county commissioners could, for example, create a Rural Services Department which would enable the county to provide weed control, county fair, extension, and predator control services directly rather than having to go through a board or special district. Accountability and responsibility could then be pinpointed in the commission and their manager rather than in eleven elected officials and dozens of boards and special districts.

COMPARISON OF SPECIFIC CHARACTERISTICS

The following chart compares some specific characteristics of the existing form of county government with the proposed form of government. Under the last column entitled "comments" the study commission has included short summaries of why they are proposing some changes in each area.

CHARACTERISTIC	PRESENT FORM	PROPOSED FORM	COMMENTS
Form of Government	Commission form Merges legislative, administrative and executive functions in commission.	Charter form with commission-manager structure. Elected commission determines policy. Manager hired to administer policy.	Separation of legislative and administrative responsibilities. Manager appointed on basis of experience and training.
Powers	General government powers State law defines what government may do and specifically how it shall do it. Little power to pass ordinances.	Self-government powers County government shall exercise any power which the state does not deny. Legislative power vested in the commission.	Self-government powers bring to the county the right to act in its own best interest, and great flexibility in shaping government structure.
Governing Body Size Election Term Presiding Officer Duties	3 commissioners nominated by district, elected at large. Full-time Partisan 6 year overlapping terms Chairman-elected from own members Commission is responsible for executive and many administrative functions. Administrative powers are shared with other elected officials.	3 commissioners nominated by district, elected at large. Part-time Non-partisan 4 year overlapping terms Chairman-elected from own members Commission is the legislative policy making body. Hires a professional manager to administer all non-elected departments and coordinate elected departments.	District representation assures the commission viewpoints from all sections of the county. At-large commission will offer county-wide perspective. Shorter terms would make commission more responsive to voters. Frees commission from administration responsibilities to concentrate on policy-making role.
Other elected Officials	9 elected officials: Clerk & Recorder County Attorney Sheriff Treasurer Assessor Clerk of Court	7 elected officials: Clerk & Recorder County Attorney Sheriff Treasurer Assessor Super. of Schools Clerk of Court	Manager would coordinate various functions with the elected official creating a more uniform and efficient direction to all county functions.
Chief Administrative Officer	None Administrative responsibility shared by commissioners, elected officials, and various boards	County Manager Directs and supervises the administration of all non-elected departments. Coordinates functions with elected officials.	Clear lines of authority and responsibility. Oversees budget preparation for all county offices. Better overall direction is possible.

CHARACTERISTIC	PRESENT FORM	PROPOSED FORM	COMMENTS
Appointment Powers	<p>Commission appoints non-elected department heads, members of boards, commissions, and special districts.</p>	<p>Commission appoints and removes county manager, members of boards and commissions.</p> <p>County Manager appoints and removes all non-elected department heads and employees. Temporary advisory committees.</p>	<p>Department heads appointed on basis of qualifications. Responsible to county manager.</p>
Budget Preparation	<p>Clerk & Recorder prepares budget with officials and departments. Modified and/or approved by the commission.</p>	<p>Manager prepares budget. Commission modifies and/or approves.</p>	<p>Manager can balance priorities set by commission with available county-wide resources, also balance needs of individual departments with overall needs and resources of county.</p>
Service Delivery Structure	<p>Performed by elected offices and appointed boards, commissions, and special districts.</p>	<p>County activities could be grouped into a few departments on basis of function. Services under supervision of county manager.</p>	<p>Many functions now performed by independently elected offices or substantially independent boards would be under supervision of a professional manager and commission control.</p>

RECOMMENDATIONS AND REASONS

The first responsibility of the study commission was to study and evaluate the present form of government in this county; the second responsibility was to compare the existing form with alternative forms available to Montana Counties; and then to decide whether or not to offer an alternative that can best meet the needs of this county to the voters.

The decision of the Lincoln County study commission to recommend a charter form, which includes self-government powers, with a commission-manager structure is made in the belief that such a government can best meet county needs as identified during the course of study.

The survey that was taken last year showed a real concern for economic development in the county. There was also an awareness by the study commission that the present form of government is not flexible enough to deal with local issues or changing needs. The commissioners don't have the authority and/or political agreement that is needed to give direction to the county. The present form is "broken" in regards to seeking economic development, seeking efficiency in the courthouse, and giving purpose and direction to the county. Taking into consideration the frustrations and expectations of citizens and local officials alike, along with the changing role of county government and the growing needs of the county, the study commission identified five basic criteria or goals which the recommended form should meet. The proposed form of government would fulfill these goals in the following ways:

Government structures with adequate checks and balances.

A major problem in the existing form of county government is that there is not separation between policy-making and administrative functions. Commissioners, for example, formulate, approve, and administer the county budget. A charter form using a county manager will provide a separation of legislative and administrative functions. Elected commissioners will determine which programs and services will be provided by the county; the manager will administer those programs in the most effective manner.

Government that is responsive to citizens.

County government that can respond to citizen needs must first have adequate representation so that all interests in the county are represented; second it must have sufficient authority so that it can take action when necessary; and third, it must have an administrative structure that can effectively provide services and carry out programs.

In the opinion of the study commission, the present form of government has weaknesses in structure and authority that prevent it from accomplishing these goals. A way of having representation and keeping continuity in the county is to keep the present 3 representative districts, in which commissioners will be nominated by district so local concerns will be represented, and elected at large thus keeping the whole county in mind.

The term of office for county commissioners in the proposed form has been reduced from 6 to 4 years. Having to face elections more frequently should help make commissioners more responsive to the people of the county. A shorter term of office, plus making the office of county commissioner a part-time position could also stimulate greater interest in running for county office. Under the proposed form, county commissioners would be policy-making only with the administrative tasks falling to the manager. Under this system, commissioners should have to meet only twice a month to make policy. This would mean anyone, even those employed full-time, could serve as a commissioner. Presently because of the press of administrative duties, these positions are full-time which greatly limits the people who can run for office.

Reasons continued

County government under the present form has been severely limited in its ability to respond to local problems due to its limited powers. County government can't be held responsible if it doesn't have the authority it needs to act. The adoption of a charter with self-governing powers would give more authority to county government to deal with local problems.

In the area of administrative structure, Lincoln County Study Commission concluded that there were several significant problems. It seemed clear, for example, that there is currently no centralized or administrative authority in county government. It is unclear who, if anyone, is actually running Lincoln County. This fragmentation of authority is partly due to the many independent elected officials who are not formally coordinated in any way. There is no central focus in which county-wide priorities can be established and implemented.

The charter form with a commission and manager would provide an effective administrative structure for county government by establishing clear lines of responsibility and authority. A legislative body with ordinance-making authority capable of formulating and adopting policy, and a chief administrative officer with the authority to supervise and coordinate the many activities of county government, while still being responsible to the commission.

With responsibility clearly fixed, citizens will know who to hold accountable for action or inaction.

Local control over local problems.

Although county government will continue to perform many state-dictated functions and be subject to state law in areas where state-wide uniformity is desirable, the adoption of a charter will increase the authority and the flexibility of county government to deal with local problems. Currently under general powers, the functions and organization of county government are regulated by state laws which are designed to apply to all counties in the state regardless of their different problems.

The study commission believes that the charter form for Lincoln County would have a number of advantages over the existing system of powers. In terms of response time to new problems or opportunities, a charter enables a county to act without waiting for approval of the state legislature. Under the existing system the county must wait for a legislative grant of power.

The second advantage for self-governing power is both more subtle and in the long run perhaps more important. It is the power of self-government counties to provide services and organize their internal affairs in a manner that seems best to them. To understand what this means one must bear in mind that while the existing system can provide a wide range of services, it can provide these services only in the manner prescribed by the legislature. The following example could be expanded to include almost every service.

Both the proposed self-government and the existing general government counties can provide for refuse disposal, but while a self-government county can do so in any manner it finds appropriate, a general government county must create a district which instead of being an integral part of county government is administered by a separate board. Similarly a county with existing general powers which wishes control of mosquitoes must create a district, controlled by an independent board. It should be stressed that if a county with self-government wished to do so, it could provide services using the same methods as are presently authorized for general power governments. The critical difference is that they do not have to do it in that manner. They are free to provide the service in whatever manner they find most suitable.

Reasons continued

At the present time, county government consists of many somewhat autonomous administrative offices plus many separate boards, commissions, and special districts. Elected officials are independent of all but minimal budget control by county commissioners who have almost no authority to supervise them or to coordinate activities of various departments. As an example, even purchasing is not centralized at the present time, but is handled by each department. The duties and functions of each officer are authorized in state law and any eligible voter regardless of qualifications can run for county office. While these officials feel they are responsible to the voters, the voters in fact rarely know who county officers are or if they perform their duties adequately.

The demands of efficiently running the million dollar business that county government has become, requires first of all, a centralized administration where someone with professional administrative training and experience is in a position to oversee all county government goals, coordinate activities, hire qualified people, and evaluate county operations. Adoption of a charter form would establish such a position. In addition, the county commission would have the authority to reorganize county government into departments on the basis of function and in the most economical way. For county government this will mean clear lines of authority and responsibility, and the ability to work as a more efficient unit.

With the adoption of a charter, it would also mean that the county could provide services directly rather than through autonomous boards. It could also mean better cooperation between cities and counties in the delivery of services, since county government would have increased authority and flexibility in determining the level and administrative structure for the delivery of service.

In view of the need for flexibility, accountability, and local control, it is the recommendation of the Lincoln County Study Commission that these situations can be handled better through implementing a charter form of government with a commission and manager.

MINORITY STATEMENT

To the Citizens of Lincoln County:

The electorate will be confronted with a decision on the future of this county's government in the November election. It is with this report that I recommend no change in county government.

Since my election to this commission in November of 1984, we as a commission have had weekly meetings, seminars, interviews with county officials, public meetings in Troy, Libby and Eureka, and did a telephone survey.

As a result I believe the people of Lincoln County are satisfied with their present form and structure of government. Its conservative nature has led it to be one of the few counties in Montana to be financially sound and relatively inexpensive to the taxpayer. Inefficiencies in county government, or any government structure, can always be found. I believe this county's inefficiencies are relatively insignificant compared to the problems and expense that would be created to deal with them.

Hiring a county manager to oversee courthouse operations would do nothing for efficiency and would certainly lead to excessive growth in government. Ask yourself, how can you appoint a manager to oversee an elected official?

Lincoln County, as do most Montana counties, has general powers which are passed to us from state government. The charter form would give Lincoln County no more power than we already have. Self-governing powers, as in the charter, can only bring legal actions against this county rather than to the state government. We don't need these problems. I believe people in Lincoln County want change in government to come slow and well planned, rather than the power to react to a situations to fast and possibly premature.

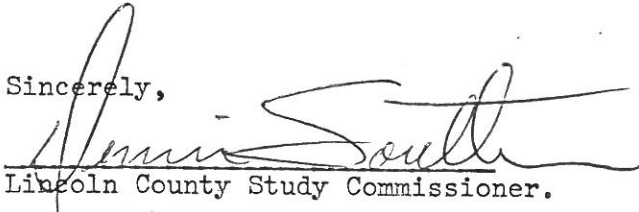
This charter, commission-manager, form cannot help but be more expensive to operate. The transition phase alone would cost the taxpayers between a quarter and a half of a million dollars.

I strongly disagree with the proposed charter, commission-manager, form of government. This form creates more positions in county government and therefore generates more expense.

It takes away strong full-time commissioners and our accessibility to county government.

I believe this county needs to retain its present form of county government. Therefore I must vote for the existing form of government, and I strongly urge that you do the same.

Sincerely,


Lincoln County Study Commissioner.

CERTIFICATE
ESTABLISHING THE EXISTING PLAN OF GOVERNMENT
FOR
LINCOLN COUNTY

If retained by the voters, the government of Lincoln County shall be organized under the following provisions of MCA 7-3-111 which authorizes the elected county official form of government:

7-3-111. Statutory basis for elected county official government.
(1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the elected county official form of government shall be governed by the following sections. The following sections establish the form of government which shall be called the COMMISSION FORM.

7-3-401. Commission form. The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

7-3-402. Nature of government. Local governments that adopt this form shall have general government powers.

7-3-412 (3). Selection of commission members. The commission shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

7-3-413 (1). Type of election. Local government elections shall be conducted on a partisan basis.

7-3-414 (1). Chairman of commission. The chairman of the commission shall be elected by the members of the commission from their own number for a term established by ordinance.

7-3-415 (2). Administrative assistants. The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

7-3-416 (2). Terms of commission members. Commission members shall be elected for overlapping terms of office.

7-3-417 (2). Size of commission and community councils. The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and community councils to advise commissioners may be authorized by ordinance.

7-3-418. Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

7-3-432 (1). Legal officer. A legal officer (who may be called the county attorney) shall be elected.

7-3-433 (1) Law enforcement officer. A law enforcement officer (who may be called the sheriff) shall be elected.

7-3-434 (1) Clerk and recorder. A clerk and recorder shall be elected.

7-3-435 (1) Clerk of district court. A clerk of district court shall be elected.

7-3-436 (1) Treasurer. A treasurer shall be elected.

7-3-437 (1) Surveyor. A surveyor shall be elected.

7-3-438 (1) Superintendent of schools. A superintendent of schools shall be elected.

7-3-439 (1) Assessor. An assessor shall be elected.

7-3-440 (1) Coroner. A coroner shall be elected.

7-3-441 (1) Public administrator. A public administrator shall be elected.

7-3-442 (1) Auditor. An auditor shall be elected if the county has elected an auditor.

7-3-442 (6) Auditor. An auditor shall not be included in this form as a separate office if the county has not elected an auditor.

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

SEAL

We, the Study Commission of Lincoln County do hereby certify that this is the existing Plan of Government as established by Section 7-3-111 MCA.

In testimony whereof, we set our hands.

Done at Lincoln, this 11th day of September, 1957.

ATTEST: [Signature]

CLERK & RECORDER OF

LINCOLN COUNTY

[Signature]

Ray E. Hedahl

[Signature]

Local Government Study Commission

CHARTER

ARTICLE I
GENERAL PROVISIONS

1.01 Powers of County

Lincoln County shall have self governing powers which are all powers not prohibited by the Constitution of the U S, Constitution of Montana, the laws of Montana or this Charter.

1.02 Charter Supremacy

As provided by Article XI, Section 5 of the Constitution of Montana, provisions herein establishing executive, legislative and administrative structure and organization are superior to statutory provisions.

1.03 Interpretation of Powers

The powers and authority of this self government unit shall be liberally construed. Every reasonable doubt as to the existence of this government's power shall be resolved in favor of the existence of that power or authority; except where conflict occurs with individual rights guaranteed in the Bill of Rights, U S Constitution and Montana Constitution.

1.04 Basic Form

Lincoln County government shall consist of:

- (a) An elected three-member county commission which shall function in a deliberative, policy-making and legislative capacity. No commission member shall exercise any administrative power or function.
- (b) A full-time county manager, selected by the commission, who shall carry out commission policy, administer county affairs, and be responsible to the commission.
- (c) The following elected county officials whose duties shall be in accordance with the ordinances and resolutions of the county commission and applicable state laws:

County Attorney	Super. of Schools
Sheriff	Assessor
Clerk & Recorder	Clerk of Dist. Court
Treasurer	Justice of the Peace

- (d) Other administrative and advisory offices, boards or commissions as provided by ordinance or resolution.
 - 1. There shall be a law enforcement commission charged with the responsibility to review policies, personnel and expenditures of county law enforcement; such commission shall act in an advisory capacity to the county commissioners and the sheriff. The commission shall consist of a minimum of 5 members, none of whom shall be employed by any law enforcement agency within the county.
 - 2. There shall be an economic advisory board; the membership of the board shall consist of the county manager, as chairman, and a minimum of 7 members chosen by the county commission. They shall reflect a broad concensus of community experience. The manager shall be responsible for the communication and cooperation of this board with other ongoing county-wide economic development groups.
- (e) Powers shall be distributed as follows: all legislative powers are vested in the county commission; administrative powers are shared by the manager and the elected officials; judicial powers are vested in the justice courts which are established and administered by state law.

1.05 Continuance

All ordinances, resolutions, by-laws, rules and regulations, or portions thereof, in force on the effective date of this charter and not inconsistent or in conflict herewith, shall be continued in full force and effect within the jurisdictional boundaries for which they were written until amended, repealed, superseded or expired by their own terms.

1.06 Oath of Office

Before entering upon the duties of office, all elected county officials shall take the oath of office as prescribed in Article III, Section 3 of the Constitution of Montana.

ARTICLE II
LEGISLATIVE BRANCH

2.01 Organization

1. There shall be a commission of Lincoln County composed of three part-time members whom shall serve overlapping terms of 4 years each.
2. A candidate for the commission shall be a qualified elector and resident of Lincoln County, and must have been a resident of the district for 2 years preceding the election.
3. Nominations and elections for the commission shall be non-partisan.
4. All members shall be nominated by district and elected at large.
5. The office of commissioner shall become vacant upon his death, resignation, removal from office in any manner authorized by law, or forfeiture of his office. A commissioner shall forfeit his office if:
 - (a) he loses his qualifications for his commission seat
 - (b) he violates a provision of this charter
 - (c) he fails to attend two consecutive regular meetings without approval
 - (d) he is convicted of a felony

2.02 Vacancies

1. Vacancies which occur shall be filled (within 30 days) by appointment of a qualified successor by a majority of the remaining commission members. Such appointee shall be from the district in which the vacancy occurs and shall serve until the next general election at which a qualified person shall be elected to fill the remainder of the original term.
2. The commission shall be the judge of the election and qualifications of its members and of the grounds of forfeiture of their office. A member charged with conduct constituting grounds for forfeiture of the office shall be entitled to a public hearing on demand and notice of such hearing shall be published in a manner consistent with state law.

2.03 Compensation

1. The annual salary of county commissioners shall be 30% of the annual salary established for county commissioners by state law 7-4-2107 (1) mca.
2. In addition to salary, commission members shall receive actual and necessary expenses incurred in the performance of duties as approved by the commission; or the commission may establish per diem and mileage allowances in lieu of such expenses.

2.04 Procedure

1. Commission procedure shall be as prescribed by law.
2. The commission shall determine its own rules and order of business and shall provide for the keeping of a journal of proceedings.
3. The commission shall elect from its members a chairman and vice-chairman annually, each of whom shall serve at its pleasure. The chairman shall preside at commission meetings.
4. The commission shall meet at least twice monthly, or as needed, and all meetings shall be open to the public except in such circumstances as are prescribed by state law.
5. All documents and records of the commission shall be public records and shall be made available for examining or copying.
6. All action of the commission shall be by ordinance, or resolution.
7. The procedure for ordinances and resolutions shall be as prescribed by the state laws which are in effect on the date this charter is adopted.

2.05 Powers of the Commission

1. All legislative powers of the Lincoln County government are vested in the county commission and may be exercised only by ordinance or resolution. Duties not specifically reserved shall become the responsibility of the county commission.
2. The commission has the power to establish by ordinance such boards, commissions and authorities as are necessary to carry out the obligations imposed on counties by state law and by this charter and to carry out functions as shall be deemed necessary by the commission.
3. To discharge or delegate all duties required by state law for boards of county commissioners to county government.

2.06 Restrictions of the County Commission

1. Except for the purpose of inquiry or investigation under this charter or the code of local government, the commission and its members shall deal with the local government employees who are subject to the direction and supervision of any elected official or administrator, solely through the official and neither the commission nor its members may give orders to any such employee either publicly or privately.
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 subordinates are empowered to appoint.
3. The county commission is prohibited from establishing a sales or income tax, unless that power is specifically delegated to local government by the laws of Montana. In addition, the local government of Lincoln County shall not authorize a sales or income tax until it is approved by a vote of the people; however, this section shall not be construed to limit the authority of the local government of Lincoln County to levy any other tax or establish the rate of any other tax; upon the majority approval of the electorate voting.
4. The commission shall enact no ordinance or resolution prohibited by the Constitution of Montana, Constitution of the U S, or this Charter.

ARTICLE III
COUNTY MANAGER

3.01 Qualifications, Compensation and Appointment

1. The county manager shall be appointed by the commission for an indefinite term on the basis of merit.
2. The commission shall set the annual salary of the manager between 1.5 and 2 times the annual salary established by law for county commissioners of Lincoln County under 7-4-2107 (1) mca.
3. The county manager need not be a resident of the county or state at the time of his appointment, however when otherwise equally qualified, preference shall be given to residents.
4. The county manager shall have qualifications such as determined by the commission and directly related to the duties of the manager outlined in this charter.

3.02 Vacancy and Removal

1. The office of manager shall become vacant upon his death, resignation or removal from office.
2. A vacancy of the office of manager shall be filled within 90 days by appointment of a new manager as prescribed in Section 3.01 of this charter.
3. The commission shall appoint an acting manager during vacancies.
4. The commission may remove the manager from office in accordance with the following procedure:
 - (a) The commission shall adopt by affirmative vote of the majority of all its members a preliminary resolution which must state the reason for removal and may suspend the manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the manager.
 - (b) Within 5 days after the resolution is delivered to the manager, he may file with the commission a written request for a public hearing. This hearing shall be held at a commission meeting not earlier than 15 days nor later than 30 days after the request is filed.
 - (c) The commission may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after 5 days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.
 - (d) The manager shall continue to receive his salary until the effective date of a final resolution of removal. The action of the commission in suspending or removing the manager shall not be subject to review by any court or agency. During periods of suspension the commission shall appoint an acting manager

3.03 Powers and Duties of the County Manager

1. The manager shall be the chief administrative officer of the county; he shall be responsible to the commission for the administration of all county affairs placed in his charge by this charter, law, ordinance or resolution.
2. The manager shall:
 - (a) perform the duties required of him by this charter, law, ordinance or resolution and require the faithful execution of this charter, and ordinances, resolutions and laws by all elected and appointed officials.
 - (b) direct, supervise, and administer all appointed departments and boards and coordinate policies of the county commission with all elected and appointed department heads.
 - (c) carry out policies established by the commission.

3.03 Continued

- (d) make recommendations to the commission
 - (e) report to the commission on the affairs and financial condition of the county.
 - (f) prepare and present the annual budget to the commission for its approval and execute the budget adopted by the commission.
 - (g) to be responsible for the hiring and firing of all county employees except the deputies and other employees of elected officials. Each elected official shall hire their employees; said employee shall serve at the pleasure of the elected official.
 - 1. All county employees shall be hired as prescribed in the policy established by the county commission under the Equal Employment Opportunity Act.
 - (h) to review the organization and performance of all county departments annually and recommend changes to the commission.
 - (i) to perform any other duties which the commission may assign.
3. Realizing that economic stability is necessary for a healthy society, the county manager shall be responsible for initiating and coordinating economic development efforts by local government as approved by the commission.

ARTICLE IV
ADMINISTRATIVE BRANCH

4.01 General Provisions

All activities of the administrative department of Lincoln County under the direction and supervision of the county manager, shall be distributed among such offices, departments and agencies as are established by this charter or may be established by ordinance of the county commission in order to execute and enforce policies as determined by the commission and to carry out obligations imposed on the county by the state.

4.02 Elected Officials

The following county officers shall be nominated and elected at large for four year terms:

County Attorney	Super. of Schools
Sheriff	Assessor
Clerk & Recorder	Clerk of Dist. Court
Treasurer	Justice of the Peace

1. Duties and qualifications of the above officers shall be in accordance with the ordinances and resolutions of the county commission and applicable state laws. The commission may by ordinance combine two or more of the above offices into one position.
2. The commission shall establish by ordinance the annual salaries of the above officers. The annual salary of any elected official may not be decreased during that officials current term of office.
3. An elected office shall be deemed vacant or forfeited for the same reason as a commission seat as prescribed in Section 2.01 (5) a,b,d. The vacancy shall be filled as prescribed in Section 2.02 (1) of this charter.

4.03 Administrative Responsibility

1. The county manager shall be responsible for administering county affairs as provided in this charter.
2. There shall be an administrative code adopted by ordinance which shall delineate the basic organization and procedures of county government. It shall include:
 - (a) The organization of the government; the nature and scope of each department, office and board; and the rules and procedures for their operation.
 - (b) Evaluation, reporting and budgeting procedures for the government.
 - (c) Personnel policies and procedures including grievance and arbitration procedures.
3. The elected officials and administrators of this government shall manage their entrusted duties in a manner to provide for local government that is both responsive to all people and cost efficient.

ARTICLE V
NOMINATIONS AND ELECTIONS

5.01 Elections

1. The procedures for the nominations and election of all elected county officials shall be as prescribed by state law for non-partisan elections.
2. Candidates shall be nominated by district and elected at large.

5.02 Districts

1. For purposes of representation on the county commission, Lincoln County shall be divided into three districts. Boundaries of commission districts may be changed in accordance with this charter.
2. District boundaries may be changed by ordinance, provided that any such revised district boundaries comply with the population standards prescribed by state law and Section 5.03 of this charter.

5.03 Reapportionment

1. Commissioner districts shall be reapportioned within 6 months following each decennial federal census as prescribed by state law.
2. For the purpose of this section the 6 month period shall begin upon the availability of the federal decennial census.
3. If the commission fails to perform the modifications required by subsection (1) of this section, within the specified time, the members of the commission shall forfeit all pay and allowances until they enact modifications, at which time their pay and allowances shall resume unaffected by court challenge to those modifications.
4. In the event of a judicial challenge to the ordinance, the burden of proving compliance shall rest upon the county.

ARTICLE VI
MISCELLANEOUS PROVISIONS

6.01 Amendment of Charter

This charter may be amended only as prescribed by state law.

6.02 Effective Date

This charter shall become effective January 1, 1987.

6.03 Separability

If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of this charter, or any part of its provisions, to any person or circumstances is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected.

6.04 Initiative, Referendum and Recall

The people of Lincoln County may exercise the powers of initiative, referendum and recall as provided by Montana law or this charter.

6.05 Responsibility to Inform the Public

All county officers and employees have a responsibility to inform the public in an honest, clear and readily understandable manner about the affairs of county government.

6.06 Open Government

All meetings and records of the government shall be open to the public except in such circumstances as are prescribed by state law. All county records shall be immediately accessible to the county manager and the county commission.

6.07 Code of Ethics

All county officers and employees shall abide by the code of ethics in state law.

ARTICLE VII
TRANSITION

7.01 General Provisions

1. Transition to this charter government shall be as prescribed by state law unless specified otherwise by this charter. All county officials and employees will aid in making the transition as smooth and orderly as possible.
2. The commission may provide for such transition by ordinance, rule or resolution not inconsistent with state law.
3. The provisions of this transition article shall not be published as part of this charter after January 1, 1989.

7.02 Commission Districts

Until modified in accordance with this charter, commission districts shall consist of the following precincts as they are recorded and described in the Lincoln County Clerk & Recorder office:

District 1

Precincts 11 thru 18, 22, part of 2, 3, 10, 20, 21, 24

District 2

Precincts 7, 8, 19, part of 2, 20, 21, 24

District 3

Precincts 1, 4, 5, 6, 9, part of 2, 3, 10, 20

7.03 Salaries and Expenses

1. The initial expenses of the commission, including the expense of advertising for applicants for the position of county manager and of interviewing and investigating such applicants, shall be paid by the county on claims signed by the commission chairman.
2. Members of the commission shall receive an annual salary as set by Montana law for Lincoln County, until the commissioners who are elected in accordance with section 7.05 of this charter take office.
3. Salaries of all other elected officials and other county employees shall continue at their present level until changed in accordance with the provisions of this charter.

7.04 Initial Procedures

1. The present commissioners and the commissioner elected in November 1986, shall continue in office until new commissioners are elected and qualified.
2. The first meeting in January 1987, the commission shall elect a chairman, adopt rules of order, establish regular meeting dates, and begin proceedings to select a county manager.
3. The administration of county government shall be provided for by the county commissioners until they feel the county manager has sufficient qualifications to assume the administrative duties as provided for in this charter.
(Not to exceed 90 days from the date the county manager takes office.)
4. The county manager shall do an indepth review of all county departments and present a detailed report of analysis with recommendations for reorganization, consolidation, etc., including supporting material for the changes, to the commission by May 30, 1988. This report shall be available for public inspection and the commission shall advertise where copies may be obtained.

7.05 Organization of New Governing Body

1. The primary election for commissioner positions shall be on June 7, 1988 and the general election on November 1, 1988.
2. The first meeting of the new governing body for the charter shall be held 60 days after the election of the new county commissioners. At that time, newly elected members shall take the oath of office prior to assuming the duties of office.
3. The new commissioners shall draw lots to establish their respective terms of office, one of which shall be a two year term.

SEAL

We, the Study Commission of Lincoln County, do hereby certify that this Charter is the Proposed Plan of Government approved by the Study Commissioners of Lincoln County.

In testimony whereof, we set our hands.

Done at Libby, MT this 11th
day of September, 1986

ATTEST:

Janet F. Segel
CLERK & RECORDER OF

LINCOLN COUNTY

Robert R. Gruber
Ray E. Hedahl
Donald L. Burrell

Local Government Study Commissioners

CERTIFICATE
FOR THE APPORTIONMENT
OF COMMISSIONER DISTRICTS

Districts described by precinct number as they are recorded and described in the Lincoln County Clerk & Recorder office.

District 1

Precincts 11 through 18, 22, part of 2, 3, 10, 20, 21, 24

District 2

Precincts 7, 8, 19, part of 2, 20, 21, and 24

District 3

Precincts 1, 4, 5, 6, 9 part of 2, 3, 10, and 20

We, the Study Commission of Lincoln County do hereby certify that this is the official apportionment plan for commissioner districts approved by the Study Commission of Lincoln County.

In testimony whereof, we set our hands.

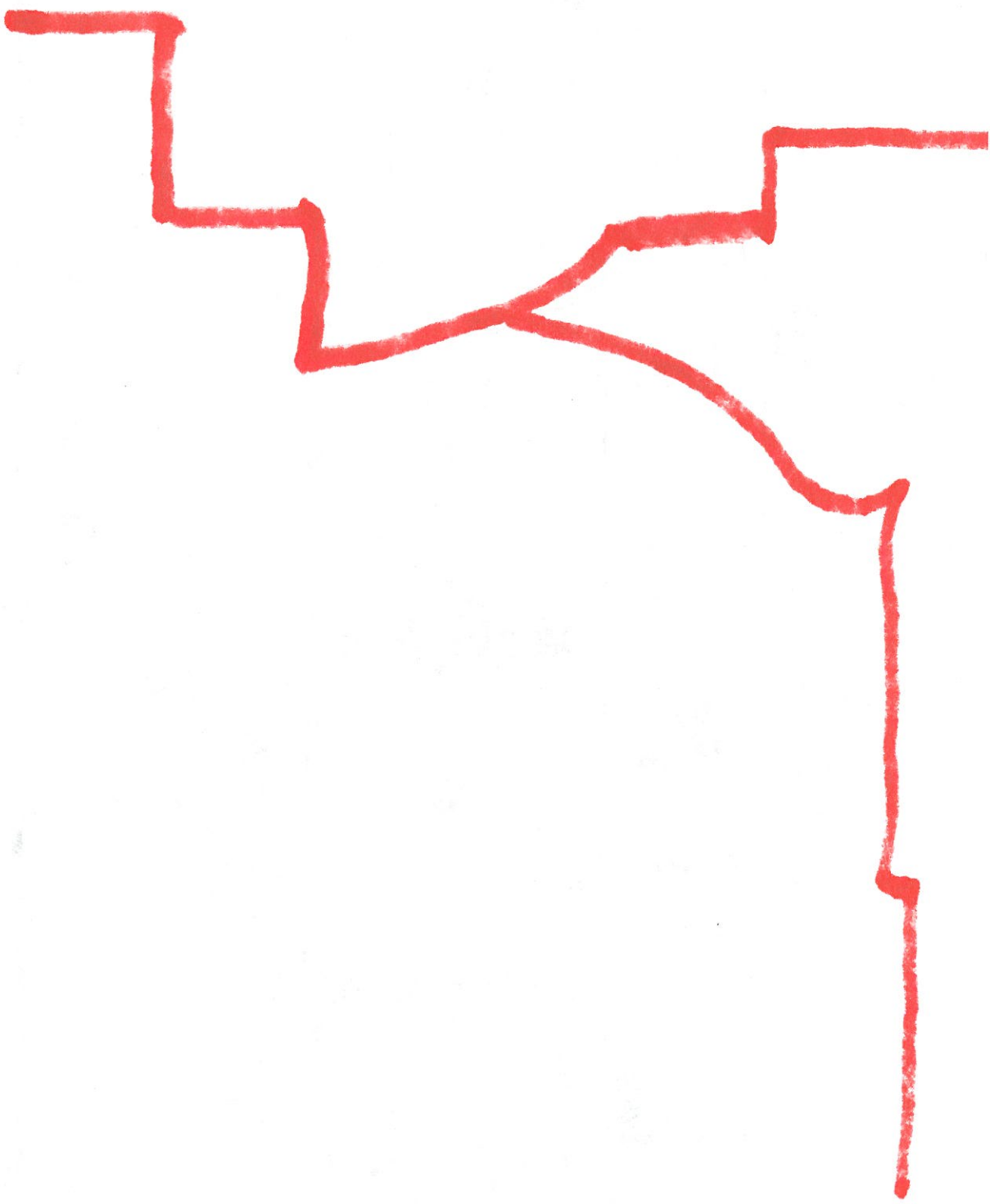
Done at Staley, Montana this 11th day of September, 1946.

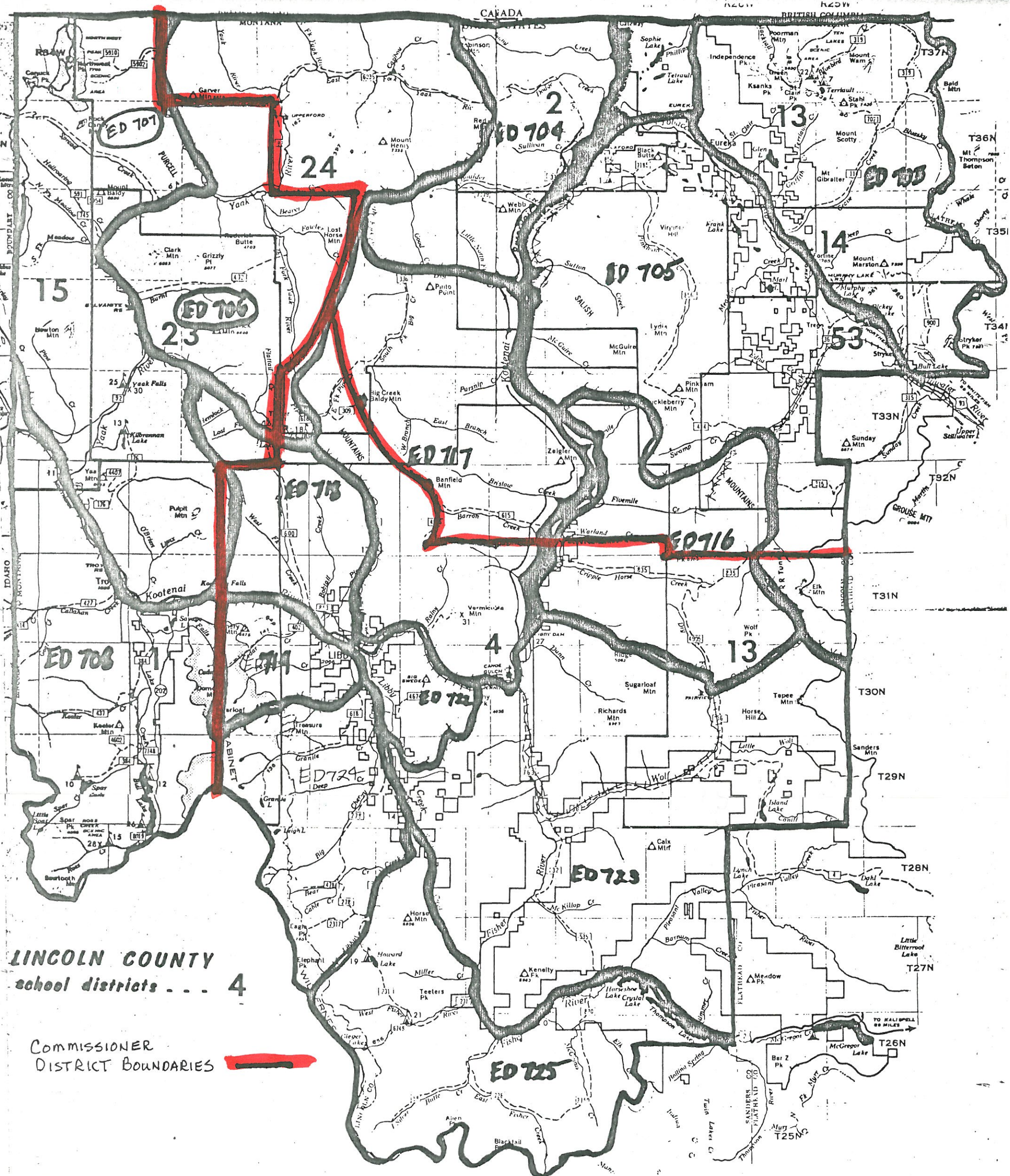
ATTEST:

Donald L. Burrell
CLERK & RECORDER OF
LINCOLN COUNTY


Robert H. Gindler
Ray E. Hedahl
Donald L. Burrell

LOCAL GOVERNMENT STUDY COMMISSIONERS





LINCOLN COUNTY
 school districts . . . 4

COMMISSIONER
 DISTRICT BOUNDARIES 

CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION AT WHICH THE
ALTERNATIVE FORM OF GOVERNMENT SHALL BE PRESENTED TO THE ELECTORS
OF LINCOLN COUNTY

The alternative form of government proposed by the Local Government Study Commission shall be submitted to the voters of Lincoln County at a special election to be held with the general election on November 4, 1986.

We, the Study Commissioners of Lincoln County do hereby certify that this is the date of the special election approved by the Study Commissioners of Lincoln County.

In testimony whereof, we set our hands.

SEAL

Done at Leitch, Missouri this 11th
day of September, 1986.

ATTEST:

Janette F. Busch
CLERK & RECORDER OF
LINCOLN COUNTY

Robert R. Guler
Ray E. Hedahl
Donald L. Burrell

LOCAL GOVERNMENT STUDY COMMISSIONERS

CERTIFICATE

ESTABLISHING THE OFFICIAL BALLOT
FOR THE NOBEMBER 4, 1986 SPECIAL ELECTION

Instructions to voters: Place an "X" in the boxes which express your preferences.

OFFICIAL BALLOT

BALLOT ON ALTERNATIVE FORM OF LOCAL GOVERNMENT

Vote for One .

For adoption of the Charter form of government
proposed in the report of the Lincoln County
local government study commission.

For the existing form of government.

SEAL

We, the Study Commissioners of Lincoln
County do hereby certify that this is the
official ballot approved by the Study
Commissioners of Lincoln County.

In testimony whereof, we set our hands.

Done at Lincoln, Montana this 11th
day of September, 1986.

ATTEST:

Janet A. Lewis
CLERK & RECORDER OF

LINCOLN COUNTY

Robert R. Gruber
Ray E. Hedahl
Donald L. Bunnell

LOCAL GOVERNMENT STUDY COMMISSIONERS

CERTIFICATE

ESTABLISHING THE DATES OF
THE FIRST PRIMARY AND GENERAL ELECTIONS
FOR OFFICERS OF THE NEW GOVERNMENT
IF THE ALTERNATIVE PROPOSAL IS APPROVED
AND ESTABLISHING THE EFFECTIVE DATE
OF THE PROPOSAL IF APPROVED

The date of the primary election for officers of the new government of Lincoln County shall be at a special election, to be held with the regular primary election, on June 7, 1988.

The date of the general election for officers of the new government of Lincoln County shall be at a special election, to be held with the general election, on November 1, 1988.

The effective date of the alternative plan of local government of Lincoln County takes effect on January 1, 1987 with the present commissioners remaining in office.

SEAL

We, the Study Commissioners of Lincoln County do hereby certify that these are the dates of the special primary and general elections and the effective date of the alternative plan of local government of Lincoln County approved by the Study Commissioners of Lincoln County.

In testimony whereof, we set our hands.

Done at Libby, Montana this 11th
day of September, 1986.

ATTEST:

Janette F. Smith
CLERK & RECORDER OF
LINCOLN COUNTY

Robert R. Guber
Ray E. Hedahl
Donald J. Burrell

LOCAL GOVERNMENT STUDY COMMISSIONERS