

SENATE BILL 467

Introduced by Towe

3/19	Fiscal Note Requested
3/22	Introduced
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3/22	Referred to Taxation
3/27	Hearing
4/02	Fiscal Note Printed
4/05	Tabled in Committee

1 *Senate* BILL NO. 467
 2 INTRODUCED BY *LeW*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 INCOME TAX AND PROPERTY TAX LAWS OF MONTANA; REPEALING THE
 6 EXISTING STATE INDIVIDUAL INCOME TAX AND IMPOSING A STATE
 7 INCOME TAX BASED ON A PERCENTAGE OF THE FEDERAL INCOME TAX
 8 PAYABLE ON MONTANA TAXABLE INCOME; EXEMPTING FROM PROPERTY
 9 TAXATION THE FIRST \$4,100 OR LESS OF THE MARKET VALUE OF
 10 RESIDENTIAL REAL PROPERTY AND IMPROVEMENTS; REDUCING THE TAX
 11 RATE APPLICABLE TO BUSINESS EQUIPMENT AND OTHER COMMERCIAL
 12 PERSONAL PROPERTY IN CLASS EIGHT FROM 9 PERCENT TO 4.5
 13 PERCENT; ESTABLISHING THE TAX RATE APPLICABLE TO ALL
 14 COMMERCIAL AND RESIDENTIAL REAL PROPERTY AND IMPROVEMENTS AT
 15 4.5 PERCENT; SIMPLIFYING THE TAXATION OF PROPERTY BY PLACING
 16 MOST NONUTILITY PROPERTY IN THE SAME CLASS; REIMPOSING THE
 17 TAXES ON COAL GROSS PROCEEDS AND ON OIL AND NATURAL GAS NET
 18 PROCEEDS THAT WERE IN EFFECT PRIOR TO THE PASSAGE OF CHAPTER
 19 11, SPECIAL LAWS OF JUNE 1989; SUBJECTING THAT PORTION OF
 20 PORTFOLIOS OF SECURITIES THAT EXCEEDS \$1 MILLION IN VALUE TO
 21 PROPERTY TAXATION; TAXING MINERALS IN PLACE WITH A VALUE IN
 22 EXCESS OF \$1 MILLION AS CLASS FOUR PROPERTY; DEFINING
 23 MINERALS IN PLACE; PROVIDING THAT MINERALS IN PLACE OWNED BY
 24 A GOVERNMENTAL ENTITY ARE TAXABLE IF LEASED BY A
 25 NONGOVERNMENTAL ENTITY; PROVIDING THAT BUSINESS INVENTORIES

1 WITH A MARKET VALUE OF \$1 MILLION OR MORE ARE TAXED AT 4.5
 2 PERCENT OF MARKET VALUE; REPEALING THE PROVISIONS OF
 3 INITIATIVE MEASURE NO. 105; AMENDING SECTIONS 7-14-1133,
 4 7-34-2416, 13-37-218, 13-37-303, 15-30-101, 15-30-128,
 5 15-30-162, 15-30-241, 15-30-303, 15-30-323, 15-31-131,
 6 15-31-202, 15-32-102, 15-32-104, 15-32-106, 15-32-303,
 7 15-32-402, 15-33-106, 53-6-111, 67-11-303, 19-3-105,
 8 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-21-212,
 9 7-1-2111, 7-7-2101, 7-7-2203, 7-14-2524, 7-14-2525,
 10 7-16-2327, 15-1-501, 15-6-132, 15-23-601, 15-23-602,
 11 15-23-603, 15-23-605, 15-23-607, 15-23-612, 15-23-703,
 12 15-36-101, 15-36-102, 15-36-105, 15-36-112, 15-36-121,
 13 20-9-141, 20-9-331, 20-9-333, 20-9-366, 20-9-501, 20-10-144,
 14 90-6-402, 15-1-101, 15-6-134, 15-6-135, 15-6-138, 15-6-142,
 15 15-6-145, 15-6-147, 15-6-201, 15-6-208, 15-7-103, 15-8-111,
 16 15-8-201, 15-8-301, 15-8-408, 15-23-101, 15-23-103,
 17 15-23-106, 15-24-901, 61-3-303, 61-3-502, 61-3-503,
 18 15-6-202, AND 15-24-301, MCA; REPEALING SECTIONS 15-6-136,
 19 15-10-401, 15-10-402, 15-10-411, 15-10-412, 15-30-103,
 20 15-30-105, 15-30-108, 15-30-110, 15-30-111, 15-30-112,
 21 15-30-113, 15-30-114, 15-30-115, 15-30-117, 15-30-121,
 22 15-30-122, 15-30-123, 15-30-125, 15-30-126, 15-30-131,
 23 15-30-132, 15-30-135, 15-30-136, 15-30-137, 15-30-142,
 24 15-30-143, 15-30-156, 15-30-157, 15-32-109, 15-32-201,
 25 15-32-202, 15-32-203, 19-9-1005, AND 19-13-1003, MCA; AND

1 PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

2

3 WHEREAS, the expressed goals of the people of Montana
4 are to expand and diversify the economy of the state; and

5 WHEREAS, the Montana economy must grow by developing new
6 industry and business, as well as by nurturing existing
7 industry and business; and

8 WHEREAS, a principal element of economic growth and
9 development is tax fairness; and

10 WHEREAS, the people of Montana have clearly spoken in
11 favor of tax fairness and reform; and

12 WHEREAS, a simple, understandable tax system is
13 essential to achieving tax fairness and reform;

14 WHEREAS, the principles of tax fairness and reform
15 require all Montana citizens and businesses to pay their
16 fair share; and

17 WHEREAS, the provisions of this bill resolve the causes
18 that led to the passage of Initiative Measure No. 105.

19 THEREFORE, the 1991 Legislature of the State of Montana
20 enacts the following economic development and tax reform
21 provisions.

22

23 STATEMENT OF INTENT

24 A statement of intent is required for this bill because
25 [section 92] requires the department of revenue to adopt

1 rules to implement the provisions of [sections 86 through
2 92], which relate to the taxation of securities.

3 It is the intent of the legislature that the rules to be
4 adopted by the department include but are not limited to:

5 (1) the design of forms for the reporting of
6 information related to the valuation of securities;

7 (2) processes for notifying taxing jurisdictions of
8 securities subject to taxation within each respective taxing
9 jurisdiction; and

10 (3) other rules that may be necessary to implement the
11 provisions of [sections 86 through 92].

12

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

14 **Section 1.** Section 7-14-1133, MCA, is amended to read:

15 "7-14-1133. Bonds and obligations. (1) Except for
16 providing financial support to a private development
17 organization, including a corporation organized under Title
18 32, chapter 4, whose purpose is to advance the economic
19 development of its jurisdiction and of the state and its
20 citizens, an authority may borrow money for any of its
21 corporate purposes and issue bonds therefor, including
22 refunding bonds, in such form and upon such terms as it
23 determines, payable out of any revenues of the authority,
24 including revenues derived from:

25 (a) any port or transportation and storage facility;

1 (b) taxes levied pursuant to 7-14-1131 or 67-10-402;

2 (c) grants or contributions from the federal
3 government; or

4 (d) other sources.

5 (2) The bonds may be issued by resolution of the
6 authority, without an election and without any limitation of
7 amount, except that no bonds may be issued at any time if
8 the total amount of principal and interest to become due in
9 any year on such bonds and on any then outstanding bonds for
10 which revenues from the same source are pledged exceeds the
11 amount of such revenues to be received in that year, as
12 estimated in the resolution authorizing the issuance of the
13 bonds. The authority shall take all action necessary and
14 possible to impose, maintain, and collect rates, charges,
15 rentals, and taxes, if any are pledged, sufficient to make
16 the revenues from the pledged source in such year at least
17 equal to the amount of principal and interest due in that
18 year.

19 (3) The bonds may be sold at public or private sale and
20 may bear interest as provided in 17-5-102. Except as
21 otherwise provided in this part, any bonds issued pursuant
22 to this part by an authority may be payable as to principal
23 and interest solely from revenues of the authority and shall
24 state on their face the applicable limitations or
25 restrictions regarding the source from which such principal

1 and interest are payable.

2 (4) Bonds issued by an authority, county, or
3 municipality pursuant to the provisions of this part are
4 declared to be issued for an essential public and
5 governmental purpose by a political subdivision within the
6 meaning of ~~15-30-111(2)(a)~~ section 6(2)(d).

7 (5) For the security of any such bonds, the authority,
8 county, or municipality may by resolution make and enter
9 into any covenant, agreement, or indenture and may exercise
10 any additional powers authorized to be exercised by a
11 municipality under Title 7, chapter 7, parts 44 and 45. The
12 sums required from time to time to pay principal and
13 interest and to create and maintain a reserve for the bonds
14 may be paid from any revenues referred to in this part,
15 prior to the payment of current costs of operation and
16 maintenance of the facilities.

17 (6) Nothing in this section or 7-14-1134 may be
18 construed to limit the use of port authority revenues,
19 including federal and state money as described in 7-14-1136,
20 to make grants and loans or to otherwise provide financial
21 and other support to private development organizations,
22 including corporations organized under the provisions of the
23 development corporation act in Title 32, chapter 4. Under no
24 circumstances may the credit of the state, county, or
25 municipal governments or their agencies or authorities be

1 pledged to provide financial support to such development
2 organizations."

3 **Section 2.** Section 7-34-2416, MCA, is amended to read:

4 "7-34-2416. ~~Tax-exempt status of bonds.~~ Bonds issued by
5 a county pursuant to the provisions of 7-34-2411 through
6 7-34-2418 are declared to be issued for an essential public
7 and governmental purpose by a political subdivision within
8 the meaning of ~~15-30-111(2)(a)~~ [section 6(2)(d)]."

9 **Section 3.** Section 13-37-218, MCA, is amended to read:

10 "13-37-218. ~~Limitations on receipts from political~~
11 ~~committees.~~ (1) A candidate for the state senate may receive
12 no more than \$1,000 in total combined monetary contributions
13 from all political committees contributing to his campaign,
14 and a candidate for the state house of representatives may
15 receive no more than \$600 in total combined monetary
16 contributions from all political committees contributing to
17 his campaign. The foregoing limitations shall be multiplied
18 by the inflation factor as defined in ~~15-30-101(8)~~
19 subsection (2) for the year in which general elections are
20 held after 1984; the resulting figure shall be rounded off
21 to the nearest \$50 increment. The commissioner of political
22 practices shall publish the revised limitations as a rule.
23 In-kind contributions may not be included in computing these
24 limitation totals. The limitation provided in this section
25 does not apply to contributions made by a political party

1 eligible for a primary election under 13-10-601.

2 (2) As used in this section, "inflation factor" means a
3 number determined for each year by dividing the consumer
4 price index for June of the year by the consumer price index
5 for June of 1980."

6 **Section 4.** Section 13-37-303, MCA, is amended to read:

7 "13-37-303. ~~Donation by taxpayer.~~ (1) An individual
8 whose withheld income tax or payment of estimated tax
9 exceeds by more than \$1 his income tax liability for the
10 taxable year may donate \$1 to be paid to the fund. In the
11 case of a joint return, ~~as provided in 15-30-142,~~ of a
12 husband and wife having an income tax overpayment as defined
13 in 15-30-149 of \$2 or more, each spouse may donate \$1 to be
14 paid to the fund.

15 (2) An individual with an unpaid tax liability may at
16 the time of payment donate an extra \$1 to be paid to the
17 fund.

18 (3) The department shall provide a place on the face of
19 the blank form of return, provided for in 15-30-144, where
20 an individual may make the donations provided for in
21 subsections (1) and (2). The form shall adequately explain
22 the individual's option to donate \$1 to the fund."

23 **Section 5.** Section 15-30-101, MCA, is amended to read:

24 "15-30-101. ~~Definitions.~~ For the purpose of this
25 chapter, unless otherwise required by the context, the

1 following definitions apply:

2 {1}--"Base-year-structure"--means-the-following--elements
3 of-the-income-tax-structure:

4 {a)--the--tax--brackets--established--in--15-30-1037--but
5 unadjusted-by-subsection-(2)-of-15-30-1037-in-effect-on-June
6 30-of-the-taxable-year;

7 {b)--the--exemptions---contained---in---15-30-1127---but
8 unadjusted--by--subsections--(7)--and--(8)--of--15-30-1127--in
9 effect-on-June-30-of-the-taxable-year;

10 {c)--the--maximum---standard---deduction---provided---in
11 15-30-1227--but-unadjusted-by-subsection-(2)-of-15-30-1227-in
12 effect-on-June-30-of-the-taxable-year;

13 {2}--"Consumer--price--index"--means--the--consumer-price
14 index--United-States-city-average7-for-all-items7-using--the
15 1967--base--of--100--as--published--by--the--bureau-of-labor
16 statistics-of-the-U-S--department-of-labor;

17 {3}(1) "Department" means the department of revenue.

18 {4}--"Dividend"--means--any--distribution--made---by---a
19 corporation---out---of---its--earnings--or--profits--to--its
20 shareholders--or--members7--whether--in--cash--or--in--other
21 property-or-in-stock-of-the-corporation7--other--than--stock
22 dividends--as--herein--defined7--"Stock-dividends"--means-new
23 stock--issued7--for--surplus--or--profits--capitalized7--to
24 shareholders-in-proportion-to-their-previous-holdings;

25 {5}(2) "Fiduciary" means a guardian, trustee, executor,

1 administrator, receiver, conservator, or any person, whether
2 individual or corporate, acting in any fiduciary capacity
3 for any person, trust, or estate.

4 {6}(3) "Foreign country" or "foreign government" means
5 any jurisdiction other than the one embraced within the
6 United States, its territories and possessions.

7 {7}--"Gross-income"--means-the--taxpayer's--gross--income
8 for--federal-income-tax-purposes-as-defined-in-section-61-of
9 the-Internal-Revenue-Code-of-1954-or-as-that-section-may--be
10 labeled--or--amended7--excluding--unemployment--compensation
11 included--in--federal--gross--income-under-the-provisions-of
12 section-85-of-the-Internal-Revenue-Code-of-1954-as-amended;

13 {8}--"Inflation-factor"--means-a--number--determined--for
14 each--taxable--year-by-dividing-the-consumer-price-index-for
15 June-of-the-taxable-year-by-the--consumer--price--index--for
16 June7-1980;

17 {4) "Individual" means a natural person, whether
18 married or unmarried, adult or minor, subject to payment of
19 an income tax under the Internal Revenue Code.

20 {9}(5) "Information agents" includes all individuals,
21 corporations, associations, and partnerships, in whatever
22 capacity acting, including lessees or mortgagors of real or
23 personal property, fiduciaries, brokers, real estate
24 brokers, employers, and all officers and employees of the
25 state or of any municipal corporation or political

subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~{10}-"Knowingly"-is-as-defined-in-45-2-101-~~

~~{11}-"Net-income"-means-the-adjusted-gross-income--of--a taxpayer-less-the-deductions-allowed-by-this-chapter-~~

~~{12}-"Paid",--for--the--purposes--of--the--deductions--and credits--under--this--chapter,--means--paid--or--accrued--or--paid--or incurred,--and--the--terms--"paid--or--incurred"--and--"paid--or accrued"--shall--be--construed--according--to--the--method--of accounting--upon--the--basis--of--which--the--taxable--income--is computed--under--this--chapter-~~

~~{13}-"Purpose"-is-as-defined-in-45-2-101-~~

~~{14}-"Received",--for--the--purpose--of--computation--of taxable-income-under-this-chapter,--means--received--or--accrued and--the--term--"received--or--accrued"--shall--be--construed according-to-the-method-of--accounting--upon--the--basis--of which-the-taxable-income-is-computed-under-this-chapter-~~

(6) "Internal Revenue Code" means the Internal Revenue Code of 1954, redesignated as the Internal Revenue Code of 1986 by section 2 of Public Law 99-514, as that code may be amended from time to time by the United States congress. It

is the specific intent of the legislature that all amendments by the United States congress must be incorporated into the context of any section of Title 15 referring to the Internal Revenue Code.

(7) "Person" means an individual, a trust or estate, or a partnership.

~~{15}{8}~~ "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~{16}-"Taxable-income"-means-the-adjusted-gross-income-of a-taxpayer-less-the-deductions-and-exemptions--provided--for in-this-chapter-~~

~~{17}{9}~~ "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~{18}{10}~~ "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

NEW SECTION. Section 6. State income tax as percentage of federal. (1) A state income tax is imposed and must be paid and collected for each taxable year upon:

1 (a) the federal adjusted taxable income derived from
2 sources within and outside Montana of each resident and
3 fiduciary required to make a return and pay federal income
4 taxes under the Internal Revenue Code; and

5 (b) the federal adjusted taxable income derived from
6 sources within Montana of each nonresident and fiduciary
7 required to make a return and pay federal income taxes under
8 the Internal Revenue Code.

9 (2) "Federal adjusted taxable income" means the
10 taxpayer's taxable income, as determined for federal income
11 taxes under the provisions of the Internal Revenue Code,
12 with the following additional deductions:

13 (a) income earned by an enrolled member of a federally
14 recognized Indian tribe during the time he both lives and
15 works on a reservation;

16 (b) Montana income tax refunds or credits;

17 (c) military combat pay received by a Montana resident;
18 and

19 (d) interest income from obligations of the United
20 States government to the extent the income is exempt from
21 state income tax under federal law.

22 (3) A shareholder of a corporation for which the
23 election provided for under subchapter S. of the Internal
24 Revenue Code is in effect but for which the election
25 provided under 15-31-202 is not in effect may deduct from

1 his federal taxable income any part of the corporation's
2 undistributed taxable income, net operating loss, capital or
3 other gains, profits, or losses required to be included in
4 the shareholder's federal taxable income by reason of the
5 election under subchapter S. However, distributions received
6 from the corporation to the extent the distributions would
7 be treated as taxable dividends if the subchapter S.
8 election were not in effect must be added to the
9 shareholder's federal taxable income.

10 (4) Nonresidents taking any of the deductions listed in
11 subsection (2) may claim only that percentage of itemized
12 deductions and the personal exemption deduction allowed from
13 federal adjusted gross income that the percentage of
14 adjusted gross income earned from sources within Montana
15 bears to the taxpayer's federal adjusted gross income.

16 (5) If a taxpayer's federal adjusted taxable income is
17 adjusted for state income tax purposes to include any of the
18 additional deductions or modifications of subsections (2)
19 through (4) and 15-30-107 and 15-30-127, the taxpayer's
20 federal income tax liability must be recomputed on this
21 adjusted figure to allow the state income tax rate to be
22 applied against it.

23 NEW SECTION. **Section 7. Rate of tax -- department to**
24 **adjust rate.** (1) The rate of state income tax is 32% of a
25 taxpayer's federal income tax liability, adjusted as

1 provided in [section 6(5)].

2 (2) (a) When the legislature is not in session, the
3 department shall adopt a rule modifying the rate of tax if
4 changes in the Internal Revenue Code are made that would
5 substantially reduce the revenue produced by the state
6 income tax to a level below that established by the
7 legislature for the biennium.

8 (b) The department shall certify that the adjusted rate
9 is made only in response to changes in the Internal Revenue
10 Code.

11 (c) The department may, if necessary:

12 (i) make the adjusted percentage retroactive to the
13 previous January 1; and

14 (ii) publish new withholding tables and estimated tax
15 return requirements.

16 NEW SECTION. Section 8. Nonresidents -- determination
17 of in-state income. A nonresident's income from sources
18 within Montana includes income derived from all property
19 owned in this state and from every business, trade,
20 profession, or occupation carried on in this state. It does
21 not include income from annuities, interest on bank
22 deposits, interest on notes, bonds, or other
23 interest-bearing obligations, or dividends on stock of
24 corporations, except to the extent to which this income is a
25 part of the income derived from a business, trade,

1 profession, or occupation carried on in this state. In the
2 case of a business, trade, profession, or occupation carried
3 on partly within and partly outside this state by a
4 nonresident, the income from sources within this state must
5 be determined by apportionment and allocation under rules
6 adopted by the department.

7 NEW SECTION. Section 9. Tax return -- contents. (1)
8 Each individual or fiduciary mentioned in [section 6(1)]
9 shall file a return with the department showing:

10 (a) the amount of tax due and payable as reported on
11 the taxpayer's federal income tax return or as recomputed as
12 required in [section 6(5)];

13 (b) the amount of tax due under [section 7], less
14 credits, if any, claimed against the tax; and

15 (c) any other information necessary for administration
16 of the state income tax, as may be prescribed by the
17 department.

18 (2) If a taxpayer is unable to make his own return, an
19 authorized agent, guardian, or other person charged with the
20 care of the person or property of the taxpayer shall file
21 the return.

22 NEW SECTION. Section 10. Payment of state income tax
23 -- refunds -- interest. (1) A taxpayer required to file a
24 state income tax return shall compute the amount of state
25 income tax due and shall, at the time the return is filed,

1 pay to the department any balance of tax in excess of \$1
2 remaining unpaid after crediting the amount withheld as
3 provided under 15-30-202 or any payment of estimated tax as
4 provided under 15-30-242.

5 (2) If the withheld tax or the estimated tax paid
6 exceeds the state income tax due by more than \$1, the
7 department shall refund the excess to the taxpayer within 30
8 days after receiving the return.

9 (3) Except as provided in 15-30-321, interest at a rate
10 of 9% a year must be added to any state income tax or
11 portion of tax, from the due date until paid, whether the
12 taxpayer has been granted a filing extension or not.

13 (4) If a joint return is made by husband and wife, the
14 liability with respect to the tax is joint and several.

15 **Section 11.** Section 15-30-128, MCA, is amended to read:

16 **"15-30-128. Credit for expense of caring for certain**
17 **elderly family members.** (1) There is a credit against the
18 tax imposed by this chapter for qualified elderly care
19 expenses paid by an individual for the care of a qualifying
20 family member during the taxable year.

21 (2) A qualifying family member is an individual who:

22 (a) is related to the taxpayer by blood or marriage;

23 (b) (i) is at least 70 years of age; or

24 (ii) is diagnosed by a physician as having senile
25 dementia of the Alzheimer type; and

1 (c) has a family income of \$15,000 or less for the
2 taxable year.

3 (3) For purposes of this section, "family income"
4 means, in the case of an individual who is not married, the
5 federal adjusted gross income of the individual or, in the
6 case of a married individual, the federal adjusted gross
7 income of the individual and the individual's spouse.

8 (4) Qualified elderly care expenses include:

9 (a) payments by the taxpayer for home health agency
10 services provided by an organization certified by the
11 federal health care financing administration, homemaker
12 services, adult day care, respite care, or health-care
13 equipment and supplies:

14 (i) provided to the qualifying family member;

15 (ii) provided by an organization or individual not
16 related to the taxpayer or the qualifying family member; and

17 (iii) not compensated for by insurance or otherwise;

18 (b) subject to the limitations in subsection (4)(a),
19 payments by the taxpayer for nursing home care of an
20 individual who is diagnosed by a physician as having senile
21 dementia of the Alzheimer type.

22 (5) The percentage amount of credit allowable under
23 this section is:

24 (a) for a taxpayer whose federal adjusted gross income
25 does not exceed \$25,000, 30% of qualified elderly care

1 expenses; or

2 (b) for a taxpayer whose federal adjusted gross income
3 exceeds \$25,000, the greater of:

4 (i) 20% of qualified elderly care expenses; or

5 (ii) 30% of qualified elderly care expenses, less 1% for
6 each \$2,000 or fraction thereof by which the federal
7 adjusted gross income of the taxpayer for the taxable year
8 exceeds \$25,000.

9 (6) The dollar amount of credit allowable under this
10 section is:

11 (a) reduced by \$1 for each dollar of the federal
12 adjusted gross income over \$50,000 for a taxpayer whose
13 federal adjusted gross income exceeds \$50,000;

14 (b) limited to \$5,000 per qualifying family member in a
15 taxable year and to \$10,000 total for two or more family
16 members in a taxable year;

17 (c) prorated among multiple taxpayers who each
18 contribute to qualified elderly care expenses of the same
19 qualified family member in a taxable year in the same
20 proportion that their contributions bear to the total
21 qualified elderly care expenses paid by those taxpayers for
22 that qualified family member.

23 (7) A deduction or credit is not allowed under any
24 other provision of this chapter with respect to any amount
25 for which a credit is allowed under this section. The credit

1 allowed under this section may not be claimed as a carryback
2 or carryforward and may not be refunded if the taxpayer has
3 no tax liability.

4 (8) In the case of a married individual filing a
5 separate return, the percentage amount of credit under
6 subsection (5) and the dollar amount of credit under
7 subsection (6) are limited to one-half of the figures
8 indicated in those subsections."

9 **Section 12.** Section 15-30-162, MCA, is amended to read:

10 "15-30-162. Investment credit. (1) There is allowed as
11 a credit against the tax imposed by ~~15-30-103~~ [section 6] a
12 percentage of the credit allowed with respect to certain
13 depreciable property under section 38 of the Internal
14 Revenue Code of 1954, as amended, or as section 38 may be
15 renumbered or amended. However, rehabilitation costs as set
16 forth under section 46(a)(2)(F) of the Internal Revenue Code
17 ~~of 1954, or as section 46(a)(2)(F) may be renumbered or~~
18 ~~amended,~~ are not to be included in the computation of the
19 investment credit. The credit is allowed for the purchase
20 and installation of certain qualified property defined by
21 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
22 if the property meets all of the following qualifications:

23 (a) it was placed in service in Montana; and

24 (b) it was used for the production of Montana adjusted
25 gross income.

(2) The amount of the credit allowed for the taxable year is 5% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code ~~of 1954, as amended, or as section 46(a)(2) may be renumbered or amended.~~

(3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year or \$500, whichever is less.

(4) If property for which an investment credit is claimed is used both inside and outside this state, only a portion of the credit is allowed. The credit must be apportioned according to a fraction the numerator of which is the number of days during the taxable year the property was located in Montana and the denominator of which is the number of days during the taxable year the taxpayer owned the property. The investment credit may be applied only to the tax liability of the taxpayer who purchases and places in service the property for which an investment credit is claimed. The credit may not be allocated between spouses unless the property is used by a partnership or small business corporation of which they are partners or shareholders.

(5) The investment credit allowed by this section is subject to recapture as provided for in section 47 of the Internal Revenue Code ~~of 1954, as amended, or as section 47~~

~~may be renumbered or amended."~~

Section 13. Section 15-30-241, MCA, is amended to read:

"15-30-241. Declaration of estimated tax. (1) Every Each individual ~~except farmers, ranchers, or stockmen~~ shall, at the time prescribed in subsection (3) ~~of this section,~~ make a declaration of his estimated tax for the taxable year if ~~his net income from sources other than wages, salaries, bonuses, or other emoluments can reasonably be expected to equal or exceed his net income from wages, salaries, bonuses or other emoluments, which are subject to withholding~~ he is required to file a declaration of his estimated tax under the provisions of the Internal Revenue Code.

(2) In the declaration required under subsection (1) of this section, the individual shall state:

(a) the amount which he estimates as the amount of tax under ~~15-30-103~~ [section 7] for the taxable year;

(b) the amount which he estimates will be withheld from wages paid by his employer if said individual is an employee;

(c) the excess of the amount estimated under subsection (2)(a) over the amount estimated under subsection (2)(b), which excess for purposes of this section shall be considered the estimated tax for the taxable year;

(d) such other information as may be prescribed in rules promulgated by the department.

1 (3) The declaration required under subsection (1) of
 2 ~~this-section~~ shall be filed with the department on or before
 3 April 15 of the taxable year, except that if the
 4 requirements of subsection (1) ~~of--this--section~~ are first
 5 met:

6 (a) after April 1 and before October 1 of the taxable
 7 year, the declaration shall be filed on or before October 15
 8 of the taxable year;

9 (b) after October 1 of the taxable year, the
 10 declaration shall be filed on or before February 15 of the
 11 succeeding taxable year.

12 (4) An individual may make amendments of a declaration
 13 filed during the taxable year under subsection (3) ~~of-this~~
 14 ~~section~~ under rules prescribed by the department.

15 (5) If, on or before February 15 of the succeeding
 16 taxable year, the taxpayer files a return for the taxable
 17 year for which the declaration is required and pays in full
 18 the amount computed on his return as payable, then under
 19 rules prescribed by the department:

20 (a) if the declaration is not required to be filed
 21 during the taxable year but is required to be filed on or
 22 before ~~such~~ February 15, ~~such~~ the return shall for the
 23 purposes of this section be considered as such declaration;
 24 and

25 (b) if the tax shown on the return is greater than the

1 estimated tax shown in a declaration previously made or in
 2 the last amendments thereof, ~~such~~ the return shall for the
 3 purposes of this section be considered as the amendment of
 4 the declaration permitted by subsection (4) ~~of-this--section~~
 5 to be filed on or before ~~such~~ February 15.

6 (6) The department shall promulgate rules governing
 7 reasonable extensions of time for filing declarations and
 8 paying the estimated tax except in the case of taxpayers who
 9 are abroad, and no such extension shall be for more than 6
 10 months.

11 (7) If the taxpayer is unable to make his own
 12 declaration, the declaration shall be made by a duly
 13 authorized agent or by the guardian or other person charged
 14 with the care of the person or property of ~~such~~ the
 15 taxpayer.

16 (8) Any individual who fails to file a declaration of
 17 estimated tax as required by this section is not subject to
 18 the penalties set forth in 15-30-321."

19 **Section 14.** Section 15-30-303, MCA, is amended to read:

20 "15-30-303. Confidentiality of tax records. (1) Except
 21 in accordance with proper judicial order or as otherwise
 22 provided by law, it is unlawful for the department or any
 23 deputy, assistant, agent, clerk, or other officer or
 24 employee to divulge or make known in any manner the amount
 25 of income or any particulars set forth or disclosed in any

1 report or return required under this chapter or any other
 2 information secured in the administration of this chapter.
 3 It is also unlawful to divulge or make known in any manner
 4 any federal return or federal return information disclosed
 5 on any return or report required by rule of the department
 6 or under this chapter.

7 (2) The officers charged with the custody of such
 8 reports and returns shall not be required to produce any of
 9 them or evidence of anything contained in them in any action
 10 or proceeding in any court, except in any action or
 11 proceeding to which the department is a party under the
 12 provisions of this chapter or any other taxing act or on
 13 behalf of any party to any action or proceedings under the
 14 provisions of this chapter or such the other act when the
 15 reports or facts shown thereby are directly involved in such
 16 action or proceedings, in either of which events the court
 17 may require the production of and may admit in evidence so
 18 much of said the reports or of the facts shown thereby as
 19 are pertinent to the action or proceedings and no more.

20 (3) Nothing herein ~~shall~~ may be construed to prohibit:

21 (a) the delivery to a taxpayer or his duly authorized
 22 representative of a certified copy of any return or report
 23 filed in connection with his tax;

24 (b) the publication of statistics so classified as to
 25 prevent the identification of particular reports or returns

1 and the items thereof; or

2 (c) the inspection by the attorney general or other
 3 legal representative of the state of the report or return of
 4 any taxpayer who ~~shall~~ may bring action to set aside or
 5 review the tax based thereon or against whom an action or
 6 proceeding has been instituted in accordance with the
 7 provisions of 15-30-311 and 15-30-322.

8 (4) Reports and returns ~~shall~~ must be preserved for 3
 9 years and thereafter until the department orders them to be
 10 destroyed.

11 (5) Any offense against subsections (1) through (4) of
 12 ~~this--section~~ shall be punished by a fine not exceeding
 13 \$1,000 or by imprisonment in the county jail not exceeding 1
 14 year, or both, at the discretion of the court, and if the
 15 offender be is an officer or employee of the state, he shall
 16 be dismissed from office and be incapable of holding any
 17 public office in this state for a period of 1 year
 18 thereafter.

19 (6) Notwithstanding the provisions of this section, the
 20 department may permit the commissioner of internal revenue
 21 of the United States or the proper officer of any state
 22 imposing a tax upon the incomes of individuals or the
 23 authorized representative of either such officer to inspect
 24 the return of income of any individual or may furnish to
 25 such the officer or his authorized representative an

1 abstract of the return of income of any individual or supply
 2 him with information concerning any item of income contained
 3 in any return or disclosed by the report of any
 4 investigation of the income or return of income of any
 5 individual, but such permission shall must be granted or
 6 such information furnished to such officer or his
 7 representative only if the statutes of the United States or
 8 of such other state, as the case may be, grant substantially
 9 similar privileges to the proper officer of this state
 10 charged with the administration of this chapter.

11 (7) Further, notwithstanding any of the provisions of
 12 this section, the department shall furnish:

13 ~~{a}--to--the--department--of--justice--all--information
 14 necessary--to--identify--those--persons--qualifying--for--the
 15 additional--exemption--for--blindness--pursuant--to--15-30-112(4),
 16 for--the--purpose--of--enabling--the--department--of--justice--to
 17 administer--the--provisions--of--61-5-105;~~

18 {b}{a} to the department of social and rehabilitation
 19 services information acquired under 15-30-301, pertaining to
 20 an applicant for public assistance, reasonably necessary for
 21 the prevention and detection of public assistance fraud and
 22 abuse, provided notice to the applicant has been given;

23 {c}{b} to the department of fish, wildlife, and parks
 24 specific information that is available from income tax
 25 returns and required under 87-2-102 to establish the

1 residency requirements of an applicant for hunting and
 2 fishing licenses; and

3 ~~{d}{c}~~ to the board of regents information required
 4 under 20-26-1111."

5 **Section 15.** Section 15-30-323, MCA, is amended to read:

6 "15-30-323. Penalty for deficiency. (1) If the payment
 7 required by ~~15-30-142(6)~~ [section 10] is not made within 60
 8 days or if the understatement is due to negligence on the
 9 part of the taxpayer but without fraud, there shall be added
 10 to the amount of the deficiency 5% thereof; provided,
 11 however, that no deficiency penalty shall be less than \$2.
 12 Interest will be computed at the rate of 9% per annum or
 13 fraction thereof on the additional assessment. Except as
 14 otherwise expressly provided in this subsection, the
 15 interest shall in all cases be computed from the date the
 16 return and tax were originally due as distinguished from the
 17 due date as it may have been extended to the date of
 18 payment.

19 (2) If the time for filing a return is extended, the
 20 taxpayer shall pay in addition interest thereon at the rate
 21 of 9% per annum from the time when the return was originally
 22 required to be filed to the time of payment."

23 **Section 16.** Section 15-31-131, MCA, is amended to read:

24 "15-31-131. Credit for dependent care assistance. (1)
 25 There is a credit against the taxes otherwise due under this

chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.

(2) (a) The amount of the credit allowed under subsection (1) is 15% of the amount paid or incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of day-care assistance actually provided to or on behalf of the employee.

(b) For the purposes of this subsection, marital status must be determined under the rules of section 21(e)(3) and (4) of the Internal Revenue Code.

(c) In the case of an onsite facility, the amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.

(3) An amount paid or incurred during the taxable year of an employer in providing dependent care assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if the amount was paid or incurred to an individual described in section 129(c)(1) or (2) of the Internal Revenue Code.

(4) An amount paid or incurred by an employer to provide dependent care assistance to or on behalf of an employee does not qualify for the credit allowed under subsection (1) if the amount is paid or incurred pursuant to a salary reduction plan or is paid or incurred for services not performed within this state.

(5) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or allowable under this chapter for the amount that qualifies for the credit (or upon which the credit is based) must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under this section must be made at the time of filing the tax return.

(6) The amount upon which the credit allowed under subsection (1) is based may not be included in the gross income of the employee to whom the dependent care assistance is provided. However, the amount excluded from the income of an employee under this section may not exceed the limitations provided in section 129(b) of the Internal Revenue Code. For purposes of Title 15, chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages" does not include any amount excluded under this subsection. ~~Amounts-excluded-under-this-subsection-do-not-qualify-as-expenses-for-which-a-deduction-is-allowed-to-the-employee-under-15-30-121.~~

(7) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax year.

(8) If the taxpayer is an S corporation, as defined in section 1361 of the Internal Revenue Code, and the taxpayer elects to take tax credit relief, the election may be made on behalf of the corporation's shareholders. A shareholder's credit must be computed using the shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the effect of the tax credit applies to the corporation as otherwise provided by law.

(9) For purposes of the credit allowed under subsection (1):

(a) ~~The~~ the definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable; and

(b) "Employer" "employer" means an employer carrying on a business, trade, occupation, or profession in this state.

~~(c) -- "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 17, 1989.~~

Section 17. Section 15-31-202, MCA, is amended to read:

***15-31-202. Election by small business corporation.** (1) A small business corporation may elect not to be subject to the taxes imposed by this chapter.

(2) If a small business corporation makes an election under subsection (1), then:

(a) with respect to the taxable years of the corporation for which such election is in effect, such corporation is not subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of this part apply to such corporation; and

(b) with respect to the taxable years of a shareholder of such corporation in which or with which the taxable years of the corporation for which such election is in effect end, the provisions of this part apply to such shareholder, and with respect to such taxable years and all succeeding taxable years, the provisions of this part apply to such shareholder.

(3) An election under subsection (1) must be made in accordance with rules prescribed by the department of revenue.

(4) This election is not effective unless the corporate

1 net income or loss of such electing corporation is included
 2 in the stockholders' federal adjusted gross taxable income
 3 as defined in ~~15-30-111~~ [section 6].

4 (5) Every electing corporation is required to pay the
 5 minimum fee of \$10 required by 15-31-204."

6 **Section 18.** Section 15-32-102, MCA, is amended to read:

7 "15-32-102. **Definitions.** As used in this part, the
 8 following definitions apply:

9 (1) "Building" means a single or multiple dwelling,
 10 including a mobile home, or a building used for commercial,
 11 industrial, or agricultural purposes, which is enclosed with
 12 walls and a roof.

13 (2) "Capital investment" means any material or
 14 equipment purchased and installed in a building or land with
 15 or without improvements.

16 (3) "Energy conservation purpose" means one or more of
 17 the following results of an investment: reducing the waste
 18 or dissipation of energy or reducing the amount of energy
 19 required to accomplish a given quantity of work.

20 (4) "Passive solar system" means a direct thermal
 21 energy system that uses the structure of a building and its
 22 operable components to provide heating or cooling during the
 23 appropriate times of the year by using the climate resources
 24 available at the site. It includes only those portions and
 25 components of a building that are expressly designed and

1 required for the collection, storage, and distribution of
 2 solar energy and that are not standard components of a
 3 conventional building.

4 (5) "Low emission wood or biomass combustion device"
 5 means a stove or furnace or a catalytic converter added to a
 6 stove or furnace which burns wood or other nonfossil biomass
 7 and which has an emission rate of less than 6 grams per hour
 8 when tested in conformance with the standard method for
 9 measuring the emissions and efficiencies of residential wood
 10 stoves as adopted by the department of health and
 11 environmental sciences pursuant to ~~15-32-203~~ subsection (7).

12 (6) "Recognized nonfossil forms of energy generation"
 13 means:

14 (a) a system for the utilization of solar energy
 15 including passive solar systems, wind, solid wastes, or the
 16 decomposition of organic wastes for capturing energy or
 17 converting energy sources into usable sources;

18 (b) a system for the production of electric power from
 19 solid wood wastes;

20 (c) a low-emission wood or biomass combustion device;
 21 or

22 (d) a small system for the utilization of water power
 23 by means of an impoundment not over 20 acres in surface
 24 area.

25 (7) The department of health and environmental sciences

1 shall adopt rules establishing emission testing and emission
 2 certification standards for low-emission wood or biomass
 3 combustion devices and shall maintain a list of devices that
 4 are certified."

5 **Section 19.** Section 15-32-104, MCA, is amended to read:

6 "15-32-104. Limitations on deduction and credit. Tax
 7 treatment under 15-32-103 ~~and 15-32-109~~ is limited to:

8 (1) capital investments made after January 1, 1975;

9 (2) persons and firms not primarily engaged in the
 10 provision of gas or electricity derived from fossil fuel
 11 extraction or conventional hydroelectric development; and

12 (3) a ceiling of \$100,000 in tax savings per year to
 13 any one person or firm."

14 **Section 20.** Section 15-32-106, MCA, is amended to read:

15 "15-32-106. Procedure for obtaining benefit of
 16 deduction or credit. ~~The department of revenue shall provide~~
 17 ~~forms on which a taxpayer may apply for a tax credit under~~
 18 ~~15-32-109.~~ The department of revenue shall approve a
 19 deduction or credit under 15-32-103 ~~or 15-32-109~~ which
 20 demonstrably promotes energy conservation or utilizes a
 21 recognized nonfossil form of energy generation. The
 22 department of revenue may refer a deduction or credit
 23 involving energy generation to the department of natural
 24 resources and conservation for its advice, and the
 25 department of natural resources and conservation shall

1 respond within 60 days. The department of revenue may refer
 2 a deduction or credit involving energy conservation to the
 3 department of administration for its advice, and the
 4 department of administration shall respond within 60 days.
 5 The department of revenue may deny a deduction or credit
 6 which it finds to be impractical or ineffective."

7 **Section 21.** Section 15-32-303, MCA, is amended to read:

8 "15-32-303. Deduction for purchase of Montana produced
 9 organic fertilizer. In addition to all other deductions from
 10 ~~adjusted gross individual income allowed in computing~~
 11 ~~taxable income under Title 15, chapter 30, or from gross~~
 12 corporate income allowed in computing net income under Title
 13 15, chapter 31, part 1, a taxpayer corporation may deduct
 14 his its expenditures for organic fertilizer produced in
 15 Montana and used in Montana if the expenditure was not
 16 otherwise deducted in computing taxable income."

17 **Section 22.** Section 15-32-402, MCA, is amended to read:

18 "15-32-402. Commercial investment credit --
 19 wind-generated electricity. (1) ~~An individual,~~ A
 20 corporation, partnership, or small business corporation as
 21 defined in 15-31-201 that makes an investment of \$5,000 or
 22 more in certain depreciable property qualifying under
 23 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
 24 for a commercial system located in Montana which generates
 25 electricity by means of wind power is entitled to a tax

1 credit against taxes imposed by ~~15-30-103~~ or 15-31-121 in an
2 amount equal to 35% of the eligible costs, to be taken as a
3 credit only against taxes due as a consequence of taxable or
4 net income produced by one of the following:

5 (a) manufacturing plants located in Montana that
6 produce wind energy generating equipment;

7 (b) a new business facility or the expanded portion of
8 an existing business facility for which the wind energy
9 generating equipment supplies, on a direct contract sales
10 basis, the basic energy needed; or

11 (c) the wind energy generating equipment in which the
12 investment for which a credit is being claimed was made.

13 (2) For purposes of determining the amount of the tax
14 credit that may be claimed under subsection (1), eligible
15 costs include only those expenditures that qualify under
16 section 38 of the Internal Revenue Code ~~of 1954, as amended,~~
17 and that are associated with the purchase, installation, or
18 upgrading of:

19 (a) generating equipment;

20 (b) safety devices and storage components;

21 (c) transmission lines necessary to connect with
22 existing transmission facilities; and

23 (d) transmission lines necessary to connect directly to
24 the purchaser of the electricity when no other transmission
25 facilities are available.

1 (3) Eligible costs under subsection (2) must be reduced
2 by the amount of any grants provided by the state or federal
3 government for the system."

4 **Section 23.** Section 15-33-106, MCA, is amended to read:

5 "15-33-106. Capital gains -- dividends exempted. Any
6 capital gains or dividend income realized by ~~an individual~~
7 or a corporation from an investment in an SBIC organized in
8 accordance with this part is exempt from taxation under the
9 provisions of Title 15, ~~chapters 30 and~~ chapter 31."

10 **Section 24.** Section 53-6-111, MCA, is amended to read:

11 "53-6-111. Department charged with general
12 administration of medical assistance -- adoption of rules to
13 punish fraud. (1) The department of social and
14 rehabilitation services is hereby authorized and empowered
15 to administer and supervise a vendor payment program of
16 medical assistance under the powers, duties, and functions
17 provided in chapter 2 of this title, as amended, and as
18 contemplated by the provisions of Title XIX of the federal
19 Social Security Act.

20 (2) The department shall adopt rules establishing a
21 system of penalties and sanctions applicable to providers of
22 medical assistance services and supplies who engage in
23 fraudulent, abusive, or improper activities. The department
24 shall define by rule those activities which are fraudulent,
25 abusive, or improper.

1 (3) The penalties or sanctions imposed include but are
2 not limited to:

3 (a) required courses of education in the rules
4 governing the medicaid program;

5 (b) withholding of payments to offset previous improper
6 payments to a provider;

7 (c) suspension of payments to a provider pending
8 resolution of a dispute involving fraudulent, abusive, or
9 improper activities;

10 (d) suspension of participation in the program for a
11 specified period of time; and

12 (e) permanent termination of participation in the
13 medical assistance program.

14 (4) The department is entitled to recover from a
15 provider all amounts paid as a result of fraudulent,
16 abusive, or improper activities, together with interest at
17 the rate set by ~~15-30-142~~ [section 10] for tax deficiencies
18 from the date of such payment.

19 (5) In all cases in which a penalty or sanction may be
20 imposed, a provider is entitled to a hearing under the
21 provisions of Title 2, chapter 4, part 6."

22 **Section 25.** Section 67-11-303, MCA, is amended to read:

23 "67-11-303. Bonds and obligations. (1) An authority may
24 borrow money for any of its corporate purposes and issue its
25 bonds therefor, including refunding bonds, in such form and

1 upon such terms as it may determine, payable out of any
2 revenues of the authority, including revenues derived from:

3 (a) an airport or air navigation facility or
4 facilities;

5 (b) taxes levied pursuant to 67-11-301 or other law for
6 airport purposes;

7 (c) grants or contributions from the federal
8 government; or

9 (d) other sources.

10 (2) The bonds may be issued by resolution of the
11 authority, without an election and without any limitation of
12 amount, except that no such bonds may be issued at any time
13 if the total amount of principal and interest to become due
14 in any year on such bonds and on any then outstanding bonds
15 for which revenues from the same source or sources are
16 pledged exceeds the amount of such revenues to be received
17 in that year as estimated in the resolution authorizing the
18 issuance of the bonds. The authority shall take all action
19 necessary and possible to impose, maintain, and collect
20 rates, charges, rentals, and taxes, if any are pledged,
21 sufficient to make the revenues from the pledged source in
22 such year at least equal to the amount of such principal and
23 interest due in that year.

24 (3) The bonds may be sold at public or private sale and
25 may bear interest as provided in 17-5-102. Except as

1 otherwise provided herein, any bonds issued pursuant to this
 2 chapter by an authority may be payable as to principal and
 3 interest solely from revenues of the authority and shall
 4 state on their face the applicable limitations or
 5 restrictions regarding the source from which such principal
 6 and interest are payable.

7 (4) Bonds issued by an authority or municipality
 8 pursuant to the provisions of this chapter are declared to
 9 be issued for an essential public and governmental purpose
 10 by a political subdivision within the meaning of
 11 ~~§5-30-111(2)(a)~~ [section 5(2)(d)].

12 (5) For the security of any such bonds, the authority
 13 or municipality may by resolution make and enter into any
 14 covenant, agreement, or indenture and may exercise any
 15 additional powers authorized to be exercised by a
 16 municipality under Title 7, chapter 7, parts 44 and 45. The
 17 sums required from time to time to pay principal and
 18 interest and to create and maintain a reserve for the bonds
 19 may be paid from any revenues referred to in this chapter,
 20 prior to the payment of current costs of operation and
 21 maintenance of the facilities.

22 (6) Subject to the conditions stated in this subsection
 23 (6), the governing body of any municipality having a
 24 population in excess of 10,000, with respect to bonds issued
 25 pursuant to this chapter by the municipality or by an

1 authority in which the municipality is included, may by
 2 resolution covenant that in the event that at any time all
 3 revenues, including taxes, appropriated and collected for
 4 such bonds are insufficient to pay principal or interest
 5 then due, it will levy a general tax upon all of the taxable
 6 property in the municipality for the payment of such
 7 deficiency; and may further covenant that at any time a
 8 deficiency is likely to occur within 1 year for the payment
 9 of principal and interest due on such bonds, it will levy a
 10 general tax upon all the taxable property in the
 11 municipality for the payment of such deficiency, and such
 12 taxes are not subject to any limitation of rate or amount
 13 applicable to other municipal taxes but are limited to a
 14 rate estimated to be sufficient to produce the amount of the
 15 deficiency. In the event more than one municipality having a
 16 population in excess of 10,000 is included in an authority
 17 issuing bonds pursuant to this chapter, the municipalities
 18 may apportion the obligation to levy taxes for the payment
 19 of, or in anticipation of, a deficiency in the revenues
 20 appropriated for such bonds in such manner as the
 21 municipalities may determine. The resolution shall state the
 22 principal amount and purpose of the bonds and the substance
 23 of the covenant respecting deficiencies. No such resolution
 24 becomes effective until the question of its approval has
 25 been submitted to the qualified electors of the municipality

1 at a special election called for that purpose by the
 2 governing body of the municipality and a majority of the
 3 electors voting on the question have voted in favor thereof.
 4 The notice and conduct of the election is governed, to the
 5 extent applicable, as provided for municipal general
 6 obligation bonds in Title 7, chapter 7, part 42, for an
 7 election called by cities and towns, and as provided for
 8 county general obligation bonds in Title 7, chapter 7, part
 9 22, for an election called by counties. If a majority of the
 10 electors voting thereon vote against approval of the
 11 resolution, the municipality has no authority to make the
 12 covenant or to levy a tax for the payment of deficiencies
 13 pursuant to this section, but such municipality or authority
 14 may nevertheless issue bonds under this chapter payable
 15 solely from the sources referred to in subsection (1)
 16 above."

17 **Section 26.** Section 19-3-105, MCA, is amended to read:

18 "19-3-105. Exemption from taxes-and legal process. The
 19 right of a person to a retirement allowance or any other
 20 benefit under this chapter and the moneys in the fund
 21 created under this chapter is not:

22 {1} subject to execution, garnishment, attachment, or
 23 any other process;

24 {2}--subject-to-state, county, or municipal taxes except
 25 for a refund paid under 19-3-703 of a member's contributions

1 ~~picked-up-by-an-employer-after-June-30, 1985, as provided in~~
 2 ~~19-3-701, or~~

3 {3} or assignable except as in this chapter
 4 specifically provided."

5 **Section 27.** Section 19-4-706, MCA, is amended to read:

6 "19-4-706. Exemption from taxation-and legal process.
 7 The pensions, annuities, or any other benefits accrued or
 8 accruing to any person under the provisions of the
 9 retirement system and the accumulated contributions and cash
 10 and securities in the various funds of the retirement system
 11 are:

12 {1}--exempted--from--any-state, county, or municipal tax
 13 of the state of Montana except for a withdrawal paid under
 14 19-4-603--of--a--member's--contributions--picked--up--by--an
 15 employer-after-June-30, 1985, as provided in 19-4-602;

16 {2} not subject to execution, garnishment, attachment
 17 by trustee process or otherwise, in law or equity, or any
 18 other process; and

19 {3} unassignable except as specifically provided in
 20 this chapter."

21 **Section 28.** Section 19-5-704, MCA, is amended to read:

22 "19-5-704. Exemption from taxes-and legal process. Any
 23 money received or to be paid as a member's annuity, state
 24 annuity, or return of deductions or the right of any of
 25 these shall be is exempt from any state-or-municipal-tax-and

1 from levy, sale, garnishment, attachment, or any other
 2 process whatsoever and ~~shall be~~ is unassignable except as
 3 specifically provided in 19-5-705."

4 **Section 29.** Section 19-6-705, MCA, is amended to read:

5 "19-6-705. Exemption from taxes and legal process. Any
 6 money received or to be paid as a member's annuity, state
 7 annuity, or return of deductions or the right of any of
 8 these is:

9 {1} ~~exempt from any state, county, or municipal tax~~
 10 ~~except for a refund paid under 19-6-403 of a member's~~
 11 ~~contributions picked up by an employer after June 30, 1985,~~
 12 ~~as provided in 19-6-402;~~

13 {2} exempt from levy, sale, garnishment, attachment, or
 14 any other process; and

15 {3} is unassignable except as specifically provided in
 16 19-6-706."

17 **Section 30.** Section 19-7-705, MCA, is amended to read:

18 "19-7-705. Exemption from taxes and legal process. Any
 19 money received or to be paid as a member's annuity, state
 20 annuity, or return of deductions or the right of any of
 21 these is:

22 {1} ~~exempt from any state, county, or municipal tax~~
 23 ~~except for a refund paid under 19-7-304~~ {1} ~~of a member's~~
 24 ~~contributions picked up by an employer after June 30, 1985,~~
 25 ~~as provided in 19-7-403;~~

1 {2} exempt from levy, sale, garnishment, attachment, or
 2 any other process; and

3 {3} is unassignable except as specifically provided in
 4 19-7-706."

5 **Section 31.** Section 19-8-805, MCA, is amended to read:

6 "19-8-805. Exemption from taxes and legal process. Any
 7 money received or to be paid as a member's annuity, state
 8 annuity, or return of deductions or the right of any of
 9 these is:

10 {1} ~~exempt from any state, county, or municipal tax~~
 11 ~~except for a refund paid under 19-8-503 of the member's~~
 12 ~~contributions picked up by an employer after June 30, 1985,~~
 13 ~~as provided in 19-8-502;~~

14 {2} exempt from levy, sale, garnishment, attachment, or
 15 any other process; and

16 {3} is unassignable except as specifically provided in
 17 19-8-806."

18 **Section 32.** Section 19-21-212, MCA, is amended to read:

19 "19-21-212. Exemption from taxation, legal process, and
 20 assessments. All contracts, benefits, and contributions
 21 under the optional retirement program and the earnings
 22 thereon are:

23 {1} ~~exempt from any state, county, or municipal tax~~

24 {2} (1) not subject to execution, garnishment,
 25 attachment, or other process;

1 ~~3~~(2) not covered or assessable by an insurance
2 guaranty association; and

3 ~~4~~(3) unassignable except as specifically provided in
4 the contracts."

5 **Section 33.** Section 7-1-2111, MCA, is amended to read:

6 "7-1-2111. Classification of counties. (1) For the
7 purpose of regulating the compensation and salaries of all
8 county officers, not otherwise provided for, and for fixing
9 the penalties of officers' bonds, the counties of this state
10 must be classified according to that percentage of the true
11 and full valuation of the property in the counties upon
12 which the tax levy is made, except for vehicles subject to
13 taxation under 61-3-504(2), as follows:

14 (a) first class--all counties having a taxable
15 valuation of \$50 million or over;

16 (b) second class--all counties having a taxable
17 valuation of more than \$30 million and less than \$50
18 million;

19 (c) third class--all counties having a taxable
20 valuation of more than \$20 million and less than \$30
21 million;

22 (d) fourth class--all counties having a taxable
23 valuation of more than \$15 million and less than \$20
24 million;

25 (e) fifth class--all counties having a taxable

1 valuation of more than \$10 million and less than \$15
2 million;

3 (f) sixth class--all counties having a taxable
4 valuation of more than \$5 million and less than \$10 million;

5 (g) seventh class--all counties having a taxable
6 valuation of less than \$5 million.

7 (2) As used in this section, taxable valuation means
8 the taxable value of taxable property in the county as of
9 the time of determination plus:

10 (a) that portion of the taxable value of the county on
11 December 31, 1981, attributable to automobiles and trucks
12 having a rated capacity of three-quarters of a ton or less;

13 (b) that portion of the taxable value of the county on
14 December 31, 1989, attributable to automobiles and trucks
15 having a rated capacity of more than three-quarters of a ton
16 but less than or equal to 1 ton;

17 (c) the amount of interim production and new production
18 taxes levied, as provided in 15-23-607, divided by the
19 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
20 and multiplied by 60%; and

21 (d) the amount of value represented by new production
22 exempted from tax as provided in 15-23-612 multiplied--by
23 60%--plus-the-value-of-any-other-production-occurring-after
24 December-31-1987-multiplied-by-60%."

25 **Section 34.** Section 7-7-2101, MCA, is amended to read:

***7-7-2101. Limitation on amount of county indebtedness.**

(1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% of the total of the taxable value of the property therein subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied-by-60%, plus the value-of-any-other-production-occurring-after--December--31, 1988,---multiplied--by--60%, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness.

(2) No county may incur indebtedness or liability for any single purpose to an amount exceeding \$500,000 without the approval of a majority of the electors thereof voting at an election to be provided by law, except as provided in 7-21-3413 and 7-21-3414.

(3) Nothing in this section shall apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

Section 35. Section 7-7-2203, MCA, is amended to read:

***7-7-2203. Limitation on amount of bonded indebtedness.**

(1) Except as provided in subsections (2) through (4), no

county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied--by--60%,--plus--the value--of--any-other-production-occurring-after-December-31, 1988,---multiplied-by-60%, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will not exceed 27.75% of the total of the taxable value of the property in the county subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied--by 60%, when necessary to do so, plus-the-value-of-any-other production-occurring-after-December-31,1988,---multiplied--by 60% for the purpose of acquiring land for a site for county

1 high school buildings and for erecting or acquiring
2 buildings thereon and furnishing and equipping the same for
3 county high school purposes.

4 (3) In addition to the bonds allowed by subsections (1)
5 and (2), a county may issue bonds for the construction or
6 improvement of a jail which will not exceed 12.5% of the
7 taxable value of the property in the county subject to
8 taxation.

9 (4) The limitation in subsection (1) does not apply to
10 refunding bonds issued for the purpose of paying or retiring
11 county bonds lawfully issued prior to January 1, 1932, or to
12 bonds issued for the repayment of tax protests lost by the
13 county."

14 **Section 36.** Section 7-14-2524, MCA, is amended to read:

15 "7-14-2524. Limitation on amount of bonds issued --
16 excess void. (1) Except as otherwise provided hereafter and
17 in 7-7-2203 and 7-7-2204, a county may not issue bonds
18 which, with all outstanding bonds and warrants except county
19 high school bonds and emergency bonds, will exceed 11.25% of
20 the total of the taxable value of the property therein, plus
21 the amount of interim production and new production taxes
22 levied divided by the appropriate tax rates described in
23 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
24 amount of value represented by new production exempted from
25 tax as provided in 15-23-612 multiplied--by--60%--plus--the

1 value--of--any--other--production--occurring--after--December--31--
2 1988--multiplied--by--60%. The taxable property and the amount
3 of interim production and new production taxes levied must
4 be ascertained by the last assessment for state and county
5 taxes prior to the issuance of the bonds.

6 (2) A county may issue bonds which, with all
7 outstanding bonds and warrants except county high school
8 bonds, will exceed 11.25% but will not exceed 22.5% of the
9 total of the taxable value of such property, plus the amount
10 of interim production and new production taxes levied
11 divided by the appropriate tax rates described in
12 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
13 amount of value represented by new production exempted from
14 tax as provided in 15-23-612, plus the value--of--any--other
15 production--occurring--after--December--31--1988--multiplied--by
16 60% when necessary for the purpose of replacing, rebuilding,
17 or repairing county buildings, bridges, or highways which
18 have been destroyed or damaged by an act of God, disaster,
19 catastrophe, or accident.

20 (3) The value of the bonds issued and all other
21 outstanding indebtedness of the county, except county high
22 school bonds, shall not exceed 22.5% of the total of the
23 taxable value of the property within the county, plus the
24 amount of interim production and new production taxes levied
25 divided by the appropriate tax rates described in

1 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 2 amount of value represented by new production exempted from
 3 tax as provided in 15-23-612, ~~plus the value of any other~~
 4 ~~production occurring after December 31, 1987, multiplied by~~
 5 ~~60%~~; as ascertained by the last preceding general
 6 assessment."

7 **Section 37.** Section 7-14-2525, MCA, is amended to read:

8 "7-14-2525. Refunding agreements and refunding bonds
 9 authorized. (1) Whenever the total indebtedness of a county
 10 exceeds 22.5% of the total of the taxable value of the
 11 property therein, plus the amount of interim production and
 12 new production taxes levied divided by the appropriate tax
 13 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
 14 by 60%, plus the amount of value represented by new
 15 production exempted from tax as provided in 15-23-612
 16 ~~multiplied by 60%, plus the value of any other production~~
 17 ~~occurring after December 31, 1987, multiplied by 60%~~, and
 18 the board determines that the county is unable to pay the
 19 indebtedness in full, the board may:

20 (a) negotiate with the bondholders for an agreement
 21 whereby the bondholders agree to accept less than the full
 22 amount of the bonds and the accrued unpaid interest thereon
 23 in satisfaction thereof;

24 (b) enter into such agreement;

25 (c) issue refunding bonds for the amount agreed upon.

1 (2) These bonds may be issued in more than one series,
 2 and each series may be either amortization or serial bonds.

3 (3) The plan agreed upon between the board and the
 4 bondholders shall be embodied in full in the resolution
 5 providing for the issue of the bonds."

6 **Section 38.** Section 7-16-2327, MCA, is amended to read:

7 "7-16-2327. Indebtedness for park purposes. (1) Subject
 8 to the provisions of subsection (2), a county park board, in
 9 addition to powers and duties now given under law, has the
 10 power and duty to contract an indebtedness in behalf of a
 11 county, upon the credit thereof, for the purposes of
 12 7-16-2321(1) and (2).

13 (2) (a) The total amount of indebtedness authorized to
 14 be contracted in any form, including the then-existing
 15 indebtedness, must not at any time exceed 13% of the total
 16 of the taxable value of the taxable property in the county,
 17 plus the amount of interim production and new production
 18 taxes levied divided by the appropriate tax rates described
 19 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 20 amount of value represented by new production exempted from
 21 tax as provided in 15-23-612, ~~plus the value of any other~~
 22 ~~production occurring after December 31, 1987, multiplied by~~
 23 ~~60%~~; as ascertained by the last assessment for state and
 24 county taxes previous to the incurring of the indebtedness.

25 (b) No money may be borrowed on bonds issued for the

1 purchase of lands and improving same for any such purpose
 2 until the proposition has been submitted to the vote of
 3 those qualified under the provisions of the state
 4 constitution to vote at such election in the county affected
 5 thereby and a majority vote is cast in favor thereof."

6 **Section 39.** Section 15-1-501, MCA, is amended to read:

7 "15-1-501. Disposition of money from certain designated
 8 license and other taxes. (1) The state treasurer shall
 9 deposit to the credit of the state general fund all money
 10 received by him from the collection of:

11 (a) fees from driver's licenses, motorcycle
 12 endorsements, and duplicate driver's licenses as provided in
 13 61-5-121;

14 (b) electrical energy producer's license taxes under
 15 chapter 51;

16 (c) severance taxes allocated to the general fund under
 17 chapter 36;

18 (d) liquor license taxes under Title 16;

19 (e) telephone company license taxes under chapter 53;
 20 and

21 (f) inheritance and estate taxes under Title 72,
 22 chapter 16.

23 (2) All money received from the collection of income
 24 taxes under chapter 30 of this title must be deposited as
 25 follows:

1 (a) 57% in fiscal year 1990 and 50% in fiscal year
 2 1991, to the credit of the state general fund;

3 (b) 9.8% in fiscal year 1990 and 8.7% in fiscal year
 4 1991, to the credit of the debt service account for
 5 long-range building program bonds as described in 17-5-408;
 6 and

7 (c) 33.2% in fiscal year 1990 and 41.3% in fiscal year
 8 1991, to the credit of the state special revenue fund for
 9 state equalization aid to the public schools of Montana as
 10 described in 20-9-343.

11 (3) All money received from the collection of
 12 corporation license and income taxes under chapter 31 of
 13 this title, except as provided in 15-31-702, must be
 14 deposited as follows:

15 (a) 64% in fiscal year 1990 and 61% in fiscal year
 16 1991, to the credit of the state general fund;

17 (b) 11% in fiscal year 1990 and 10.5% in fiscal year
 18 1991, to the credit of the debt service account for
 19 long-range building program bonds as described in 17-5-408;
 20 and

21 (c) 25% in fiscal year 1990 and 28.5% in fiscal year
 22 1991, to the credit of the state special revenue fund for
 23 state equalization aid to the public schools of Montana as
 24 described in 20-9-343.

25 (4) The state treasurer shall also deposit to the

1 credit of the state general fund all money received by him
2 from the collection of license taxes, fees, and all net
3 revenues and receipts from all other sources under the
4 operation of the Montana Alcoholic Beverage Code.

5 (5) After the distribution provided for in 15-36-112,
6 the remainder of the oil and gas severance tax collections
7 must be deposited in the general fund."

8 **Section 40.** Section 15-6-132, MCA, is amended to read:

9 "15-6-132. Class two property -- description -- taxable
10 percentage. (1) Class two property includes:

11 (a) the annual gross proceeds of metal mines;

12 (b) the annual gross proceeds of underground coal
13 mines; and

14 (c) the annual gross proceeds of coal mines using the
15 strip-mining method.

16 (2) Class two property is taxed as follows:

17 (a) Property described in subsection (1)(a) is taxed at
18 3% of its annual gross proceeds, as defined in 15-23-801.

19 (b) Property described in subsection (1)(b) is taxed at
20 33 1/3% of its annual gross proceeds.

21 (c) Property described in subsection (1)(c) is taxed at
22 45% of its annual gross proceeds."

23 **Section 41.** Section 15-23-601, MCA, is amended to read:

24 "15-23-601. Definitions. As used in this part, the
25 following definitions apply:

1 (1) "Excise tax" means the windfall profit tax on
2 domestic crude oil imposed by Title I of the federal Crude
3 Oil Windfall Profit Tax Act of 1980, as enacted or as
4 amended.

5 (2) "Interim production" means the production of
6 natural gas, petroleum, or other crude or mineral oil from
7 any well that:

8 (a) has not produced natural gas, petroleum, or other
9 crude or mineral oil during the 5 years immediately
10 preceding the first month of interim production; and

11 (b) began interim production after June 30, 1985, and
12 before April 1, 1987.

13 (3) The term "new production" means the production of
14 natural gas, petroleum, or other crude or mineral oil from
15 any well:

16 (a) that has not produced natural gas, petroleum, or
17 other crude or mineral oil during the 5 years immediately
18 preceding the first month of qualified new production; and

19 (b) on which the notification required in ~~15-36-121(2)~~
20 15-23-612(1) was given.

21 (4) The terms "operator" and "producer" mean any person
22 who engages in the business of drilling for, extracting, or
23 producing any natural gas, petroleum, or other crude or
24 mineral oil.

25 (5) The term "well" includes each single well or group

1 of wells, including dry wells, in one field or production
2 unit and under the control of one operator or producer."

3 **Section 42.** Section 15-23-602, MCA, is amended to read:

4 "15-23-602. Statement of sales proceeds on interim
5 ~~production-and-new production.~~ (1) As Except as provided in
6 subsection (2), each operator or producer of ~~interim~~
7 ~~production-or-new-production-of~~ natural gas, petroleum, or
8 other crude or mineral oil shall, on or before April 15 in
9 each year, make out and deliver to the department of revenue
10 a statement of the gross sales proceeds of ~~interim~~
11 ~~production--or--new-production-of~~ natural gas, petroleum, or
12 other crude or mineral oil from each well owned or worked by
13 the person during the preceding calendar year. The gross
14 sales proceeds must be determined by multiplying the units
15 of production sold from the well times the royalty unit
16 value of that production at the well. The statement must be
17 in the form prescribed by the department and must be
18 verified by the oath of the operator or producer or the
19 manager, superintendent, agent, president, or vice-president
20 of the corporation, association, or partnership. The
21 statement must show the following:

22 (a) the name and address of the operator, together with
23 a list in duplicate of the names and addresses of any
24 persons owning or claiming any royalty interest in the
25 production from the well or the proceeds derived from the

1 sale of the production, and the amount paid or yielded as
2 royalty to each of those persons during the period covered
3 by the statement;

4 (b) the description and location of the well;

5 (c) the number of cubic feet of natural gas, barrels of
6 petroleum or other crude or mineral oil sold from the well
7 during the period covered by the statement; and

8 (d) the gross sales proceeds in dollars and cents or,
9 in the case of sales between parties not acting at arm's
10 length, the greater of the gross sales proceeds from or the
11 fair market value of the products sold; and

12 (e) except for new production as defined in 15-23-601:

13 (i) the actual cost of extracting the product from the
14 well;

15 (ii) the cost of construction, repairs, and betterments;

16 (iii) the actual cost of fire insurance and workers'
17 compensation insurance; and

18 (iv) the amount paid or withheld in satisfaction of
19 liability for excise taxes imposed by the United States
20 government on the production, sale, or removal of the
21 natural gas, petroleum, or other crude or mineral oil
22 reported pursuant to subsection (1)(c), including a separate
23 statement of the amount of taxes paid or withheld from each
24 royalty owner.

25 (2) Each operator having interim production or new

1 production as defined in 15-23-601 shall, on or before the
 2 last day of the months of October, January, April, and July,
 3 make out and deliver to the department of revenue a
 4 statement of the gross sales proceeds of the interim
 5 production or new production from each well owned or worked
 6 by the person during the preceding calendar quarter. The
 7 statement must be in the form prescribed by the department
 8 and verified as provided in subsection (1). The statement
 9 must show the information required in subsections (1)(a)
 10 through (1)(d)."

11 **Section 43.** Section 15-23-603, MCA, is amended to read:

12 **"15-23-603. Net proceeds -- how computed.** (1) As Except
 13 as provided in subsection ~~(2)~~ (3), the department of revenue
 14 shall calculate and compute from the returns the gross sales
 15 proceeds of the product yielded from the well for the year
 16 covered by the statement and shall calculate the net
 17 proceeds of the well yielded to the producer, which net
 18 proceeds are determined by subtracting from the gross sales
 19 proceeds of the well:

20 (a) all royalty paid in cash by the operator or
 21 producer and the gross value of all royalty apportioned in
 22 kind by the operator or producer determined by using as the
 23 value of a barrel of oil or a cubic foot of gas the average
 24 selling price for the calendar year of a barrel of oil or a
 25 cubic foot of gas from the well out of which the royalty was

1 paid;

2 (b) all money spent for necessary labor and machinery
 3 needed and used in the operation and development;

4 (c) except as provided in subsection (5), all money
 5 spent for necessary supplies used in the operation and
 6 development;

7 (d) all money spent for improvements, repairs, and
 8 betterments necessary in and about the working of the well;

9 (e) that portion of all money, including costs of
 10 insurance, spent for the acquisition and operation of any
 11 vehicle used in the operation and development of the well,
 12 which portion bears the same ratio to all money spent for
 13 the acquisition and use of the vehicle during the year
 14 covered by the statement as the number of miles that the
 15 vehicle is used in operation and development of the well
 16 during the year covered by the statement bears to the total
 17 number of miles that the vehicle is used during the year
 18 covered by the statement;

19 (f) all money spent for fire insurance, workers'
 20 compensation insurance, liability insurance, and casualty
 21 insurance directly attributable to the operation and
 22 development of the well and for payments by operators to
 23 welfare and retirement funds when provided for in wage
 24 contracts between operators and employees;

25 (g) all money spent for any performance or indemnity

1 bonds required by the laws of this state or the rules of any
 2 state agency, with respect to the well for which the net
 3 proceeds are being calculated;

4 (h) 70% of the amount paid or withheld in satisfaction
 5 of liability for excise taxes imposed by the United States
 6 government on the production, sale, or removal of the
 7 natural gas, petroleum, or other crude or mineral oil
 8 yielded from the well, other than the amount of the taxes
 9 paid or withheld from each royalty owner; and

10 (i) net proceeds determined under subsection (3).

11 (2) Except as provided in [section 60], money invested
 12 in the well and improvements during any year except the year
 13 for which the statement is made may not be included in the
 14 expenditures listed in subsection (1), and the expenditures
 15 may not include the salaries or any portion of the salaries
 16 of any person or officer not actually engaged in the working
 17 of the well or superintending the management of the well.

18 †2†(3) For interim production or new production, net
 19 proceeds are the equivalent of the gross sales proceeds,
 20 without deduction for excise taxes, of the product yielded
 21 from the well for the quarter covered by the statement,
 22 except that in computing the total number of barrels of
 23 petroleum and other mineral or crude oil or cubic feet of
 24 natural gas produced, there must be deducted so much of the
 25 product as is used in the operation of the well from which

1 the petroleum or other mineral or crude oil or natural gas
 2 is produced for pumping the petroleum or other mineral or
 3 crude oil or natural gas from the well to a tank or
 4 pipeline.

5 †3†(4) In the statement of sales proceeds required
 6 under 15-23-602 for lease or unitized areas from which
 7 interim or new production and other production have been
 8 sold, the deductions allowed in subsections (1)(b) through
 9 (1)(h) must be prorated on the basis of the number of
 10 barrels of interim and new production of oil or cubic feet
 11 of interim or new production of gas ~~must be segregated from~~
 12 ~~and stated separately from~~ to the number of barrels of other
 13 production of oil or cubic feet of other production of gas.

14 †4†(5) In calculating the deduction for money expended
 15 for necessary chemical supplies needed and used in a
 16 tertiary recovery project approved by the department of
 17 revenue, as provided in 15-36-101, the department shall
 18 require that the necessary chemical supplies, which include
 19 but are not limited to carbon dioxide supplies, be amortized
 20 over a 10-year period beginning with the year in which the
 21 money was expended."

22 **Section 44.** Section 15-23-605, MCA, is amended to read:

23 **"15-23-605. Assessment of royalties. (1)** The amount of
 24 royalty received ~~in-cash-paid-by-the--operator--or--producer~~
 25 ~~and--the--gross--value-of-all-royalty-apportioned-in-kind-by~~

1 ~~the operator or producer determined by using as the value of~~
 2 ~~a barrel of oil or a cubic foot of gas the average selling~~
 3 ~~price for the calendar year of a barrel of oil or a cubic~~
 4 ~~foot of gas from the well out of which the royalty was paid,~~
 5 valued as provided in 15-23-603(1)(a), less 70% of the
 6 amount of excise taxes paid by or withheld from the royalty
 7 owner as reported pursuant to 15-23-602(1)(e)(iv), must be
 8 considered net proceeds to the recipient and must be
 9 assessed as follows: upon receipt of the lists or schedules
 10 setting forth the names and addresses of any persons owning
 11 or claiming royalty and the amount paid or yielded as
 12 royalty to the royalty owners or claimants during the year
 13 for which the return is made, the department of revenue
 14 shall proceed to assess and tax the same as net proceeds of
 15 mines.

16 (2) Net proceeds for new production, as defined in
 17 15-23-601, includes royalties received without the deduction
 18 for excise taxes."

19 **Section 45.** Section 15-23-607, MCA, is amended to read:

20 "15-23-607. County assessors to compute taxes. (1)
 21 Immediately after the board of county commissioners has
 22 fixed tax levies on the second Monday in August, the county
 23 assessor shall, subject to the provisions of 15-23-612,
 24 compute the taxes on net proceeds, as provided in subsection
 25 (2) of this section, and royalty assessments and shall

1 deliver the book to the county treasurer on or before
 2 September 15. The county treasurer shall proceed to give
 3 full notice of the assessments to the operator and shall
 4 collect the taxes as provided by law.

5 (2) For interim production or new production, as
 6 defined in 15-23-601, the county assessor may not levy or
 7 assess any mills against the value of the interim production
 8 or new production, but shall instead levy a tax as follows:

9 (a) for interim production or new production of
 10 petroleum or other mineral or crude oil, 7% of net proceeds,
 11 as described in 15-23-603~~(2)~~(3); or

12 (b) for interim production or new production of natural
 13 gas, 12% of net proceeds, as described in 15-23-603~~(2)~~(3).

14 (3) The amount of tax levied in subsections (2)(a) and
 15 (2)(b), divided by the appropriate tax rate and multiplied
 16 by 60%, must be treated as taxable value for county bonding
 17 purposes.

18 (4) The taxable value of net proceeds for the purpose
 19 of computing guaranteed tax base aid for schools is the
 20 amount of tax received by a district in the previous year
 21 divided by the number of mills levied by the district in the
 22 previous year, multiplied by 1,000. This amount must be
 23 added to the district, county, and statewide taxable value
 24 when computing guaranteed tax base aid under 20-9-368.

25 (5) The operator or producer is liable for the payment

1 of the taxes that, except as provided in 15-16-121, are
 2 payable by and must be collected from the operators in the
 3 same manner and under the same penalties as provided for the
 4 collection of taxes upon net proceeds of mines. However, the
 5 operator may at his option withhold from the proceeds of
 6 royalty interest, either in kind or in money, an estimated
 7 amount of the tax to be paid by him upon the royalty or
 8 royalty interest. After the withholding, any deviation
 9 between the estimated tax and the actual tax may be
 10 accounted for by adjusting subsequent withholdings from the
 11 proceeds of royalty interests."

12 **Section 46.** Section 15-23-612, MCA, is amended to read:

13 "15-23-612. Certain natural gas, petroleum, or other
 14 crude or mineral oil exempt. (1) New production, as defined
 15 in 15-23-601, from a well during the first 12 months
 16 immediately following the date of notification to the
 17 department of revenue that an oil well is flowing or being
 18 pumped or that a gas well has been connected to a gathering
 19 or distribution system is exempt from the net proceeds tax
 20 imposed by this part ~~for the first 12 months following the~~
 21 ~~last day of the calendar month immediately preceding the~~
 22 ~~month in which:~~

23 (a) ~~natural gas is placed into a natural gas~~
 24 ~~distribution system; or~~

25 (b) ~~production for sale from a crude oil or mineral oil~~

1 well is pumped or flows if the notification was made after
 2 March 31, 1987, and before July 1, 1991.

3 (2) After the expiration of the 12-month exemption
 4 period provided in subsection (1), new production of natural
 5 gas, petroleum, or other crude or mineral oil is subject to
 6 net proceeds tax imposed by this part.

7 (3) Notwithstanding the provisions of subsections (1)
 8 and (2), all reporting requirements under the net proceeds
 9 tax remain in effect."

10 **Section 47.** Section 15-23-703, MCA, is amended to read:

11 "15-23-703. Taxation of gross proceeds ~~---taxable value~~
 12 ~~for bonding and guaranteed tax base aid to schools. (1) The~~
 13 county assessor shall compute from the reported gross
 14 proceeds from coal a tax roll that he shall transmit to the
 15 county treasurer on or before September 15 each year. ~~The~~
 16 ~~county assessor may not levy or assess any mills against the~~
 17 ~~reported gross proceeds of coal but shall levy a tax of 5%~~
 18 ~~against the value of the reported gross proceeds as provided~~
 19 ~~in 15-23-701(1)(d).~~ The county treasurer shall proceed to
 20 give full notice to each coal producer of the taxes due and
 21 to collect the taxes as provided in 15-16-101.

22 (2) ~~For bonding, county classification, and all nontax~~
 23 ~~purposes, the taxable value of the gross proceeds of coal is~~
 24 ~~45% of the contract sales price as defined in 15-35-102(5).~~

25 (3) ~~The taxable value of gross proceeds for the purpose~~

1 of computing guaranteed tax base aid for schools is the
 2 amount of tax received by a district in the previous year
 3 divided by the number of mills levied by the district in the
 4 previous year, multiplied by 1,000. This amount must be
 5 added to the district, county, and statewide taxable value
 6 when computing guaranteed tax base aid under 20-9-360.

7 (4) The county treasurer shall credit all taxes
 8 collected under this part:

9 (a) to the state and to the counties that levied mills
 10 against production in the relative proportions required by
 11 the levies for state and county purposes in the same manner
 12 as property taxes were distributed in the year 1989 in the
 13 taxing jurisdiction; and

14 (b) to school districts in the county that either
 15 levied mills against production or used nontax revenue, such
 16 as Public Law 81-874 money, in lieu of levying mills against
 17 production, in the same manner that property taxes collected
 18 or property taxes that would have been collected would have
 19 been distributed in 1989 in the school district."

20 **Section 48.** Section 15-36-101, MCA, is amended to read:

21 "15-36-101. Definitions and rate of tax ---state
 22 severance tax --- local government severance tax ---
 23 assessment of nonworking interest owner --- exemption. (1)
 24 Every person engaging in or carrying on the business of
 25 producing petroleum, other mineral or crude oil, or natural

1 gas within this state or engaging in or carrying on the
 2 business of owning, controlling, managing, leasing, or
 3 operating within this state any well or wells from which any
 4 merchantable or marketable petroleum, other mineral or crude
 5 oil, or natural gas is extracted or produced shall, except
 6 as provided in 15-36-121, each year when engaged in or
 7 carrying on the business in this state pay to the department
 8 of revenue a state severance tax for the exclusive use and
 9 benefit of the state of Montana plus a local government
 10 severance tax in lieu of a tax on net proceeds for the
 11 exclusive use and benefit of local government. Except as
 12 provided in subsection (3), the state severance tax and the
 13 local government severance tax are as follows, computed at
 14 the following rates:

15 (a) except as provided in subsections (1)(b), and
 16 (1)(c), and (1)(d), a 5% state severance tax on of the total
 17 gross taxable value of all the petroleum and other mineral
 18 or crude oil produced by the person, plus the local
 19 government severance tax of 0.4% on the gross taxable value
 20 of all the petroleum and other mineral or crude oil produced
 21 by the person other than interim production and new
 22 production, from each lease or unit; but in determining the
 23 amount of the state severance tax and local government
 24 severance tax, there must be excluded from consideration all
 25 petroleum or other crude or mineral oil produced and used by

1 the person during the year in connection with his operations
2 in prospecting for, developing, and producing the petroleum
3 or crude or mineral oil;

4 (b) ~~a~~ except as provided in section 15-36-121(1), 2.65%
5 ~~state-severance-tax-on~~ of the total gross taxable value of
6 all natural gas produced by the person, ~~plus--the--local~~
7 ~~government--severance--tax--of--15.25%--on--the--total-gross~~
8 ~~taxable-value-of-all-natural-gas--produced--by--the--person~~
9 ~~other--than--interim-production-or-new-production,~~ from each
10 lease or unit; but in determining the amount of ~~the--state~~
11 ~~severance tax and-the-local-government-severance-tax,~~ there
12 must be excluded from consideration all gas produced and
13 used by the person during the year in connection with his
14 operations in prospecting for, developing, and producing the
15 gas or petroleum or crude or mineral oil; and there must
16 also be excluded from consideration all gas, including
17 carbon dioxide gas, recycled or reinjected into the ground;

18 (c) ~~a~~ 2.5% state-severance-tax-on of the total gross
19 taxable value of the incremental petroleum and other mineral
20 or crude oil produced by the person, ~~plus--the--local~~
21 ~~government--severance--tax--of--5%--on--the--total-gross-taxable~~
22 ~~value-of-the-incremental-petroleum--and--other--mineral--or~~
23 ~~crude--oil--produced--by--the--person--other--than--interim~~
24 ~~production-and-new-production,~~ from each lease or unit in a
25 tertiary recovery project after July 1, 1985. For purposes

1 of this section, a tertiary recovery project must meet the
2 following requirements:

3 (i) the project must be approved as a tertiary recovery
4 project by the department of revenue. The approval may be
5 extended only after notice and hearing in accordance with
6 Title 2, chapter 4.

7 (ii) the property to be affected by the project must be
8 adequately delineated according to the specifications
9 required by the department; and

10 (iii) the project must involve the application of one or
11 more tertiary recovery methods that can reasonably be
12 expected to result in an increase, determined by the
13 department to be significant in light of all the facts and
14 circumstances, in the amount of crude oil which may
15 potentially be recovered. For purposes of this section,
16 tertiary recovery methods include but are not limited to:

- 17 (A) miscible fluid displacement;
- 18 (B) steam drive injection;
- 19 (C) micellar/emulsion flooding;
- 20 (D) in situ combustion;
- 21 (E) polymer augmented water flooding;
- 22 (F) cyclic steam injection;
- 23 (G) alkaline or caustic flooding;
- 24 (H) carbon dioxide water flooding;
- 25 (I) immiscible carbon dioxide displacement; or

1 (J) any other method approved by the department as a
2 tertiary recovery method.

3 ~~{d}--a--5%--local--government--severance--tax--on--the--total
4 gross--taxable--value--of--oil--petroleum--and--other--mineral--or
5 crude--oil--produced--by--the--person--other--than--interim--and--new
6 production--produced--by--a--stripper--well,--as--defined--in
7 15-36-121.~~

8 (2) For purposes of this section, the term "incremental
9 petroleum and other mineral or crude oil" means the amount
10 of oil, as determined by the department of revenue, to be in
11 excess of what would have been produced by primary and
12 secondary methods. The determination arrived at by the
13 department must be made only after notice and hearing and
14 shall specify through the life of a tertiary project,
15 calendar year by calendar year, the combined amount of
16 primary and secondary production that must be used to
17 establish the incremental production from each lease or unit
18 in a tertiary recovery project.

19 ~~{3}--(a)--A--local--government--severance--tax--is--imposed--on
20 the--gross--value--paid--in--cash--or--apportioned--in--kind--to--a
21 nonworking--interest--owner--by--the--operator--or--producer--of
22 extracted--marketable--petroleum,--other--mineral--or--crude--oil,
23 or--natural--gas--subject--to--local--government--severance--taxes
24 imposed--under--this--chapter. The--local--government--severance
25 tax--on--nonworking--interest--owners--is--computed--at--the~~

1 following-rates:

2 ~~{i}--12.5%--on--the--gross--value--paid--in--cash--or
3 apportioned--in--kind--to--a--nonworking--interest--owner--by--the
4 operator--or--producer--of--extracted--marketable--petroleum--and
5 other--mineral--or--crude--oil;~~

6 ~~{ii}--15.25%--on--the--gross--value--paid--in--cash--or
7 apportioned--in--kind--to--a--nonworking--interest--owner--by--the
8 operator--or--producer--of--extracted--or--marketable--natural--gas.~~

9 ~~{b}--The--amounts--paid--or--apportioned--in--kind--to
10 nonworking--interest--owners--are--exempt--from--the--local
11 government--severance--taxes--imposed--under--15-36-121(2)--and
12 under--subsections--(1)(a)--through--(1)(d)--of--this--section.~~

13 ~~{4}(3)~~ Nothing in this part may be construed as
14 requiring laborers or employees hired or employed by any
15 person to drill any oil or natural gas well or to work in or
16 about any oil or natural gas well or prospect or explore for
17 or do any work for the purpose of developing any petroleum,
18 other mineral or crude oil, or natural gas to pay the
19 severance tax, nor may work done or the drilling of a well
20 or wells for the purpose of prospecting or exploring for
21 petroleum, other mineral or crude oil, or natural gas or for
22 the purpose of developing them be considered to be the
23 engaging in or carrying on of the business. If, in the doing
24 of any work, in the drilling of any oil or natural gas well,
25 or in prospecting, exploring, or development work, any

1 merchantable or marketable petroleum, other mineral or crude
 2 oil, or natural gas in excess of the quantity required by
 3 the person for carrying on the operation is produced
 4 sufficient in quantity to justify the marketing of the
 5 petroleum, other mineral or crude oil, or natural gas, the
 6 work, drilling, prospecting, exploring, or development work
 7 is considered to be the engaging in and carrying on of the
 8 business of producing petroleum, other mineral or crude oil,
 9 or natural gas within this state within the meaning of this
 10 section.

11 ~~{5}~~(4) Every person required to pay the state-or--local
 12 government severance tax under this section shall pay the
 13 tax in full for his own account and for the account of each
 14 of the other owner or owners of the gross proceeds in value
 15 or in kind of all the marketable petroleum or other mineral
 16 or crude oil or natural gas extracted and produced,
 17 including owner or owners of working interest, royalty
 18 interest, overriding royalty interest, carried working
 19 interest, net proceeds interest, production payments, and
 20 all other interest or interests owned or carved out of the
 21 total gross proceeds in value or in kind of the extracted
 22 marketable petroleum or other mineral or crude oil or
 23 natural gas, except that any of the interests that are owned
 24 by the federal, state, county, or municipal governments are
 25 exempt from taxation under this chapter. Unless otherwise

1 provided in a contract or lease, the pro rata share of any
 2 royalty owner or owners will be deducted from any
 3 settlements under the lease or leases or division of
 4 proceeds orders or other contracts.

5 ~~{6}~~(5) For purposes of this section, the--following
 6 definitions-apply:

7 ~~{a}~~ "Gross gross taxable value" means the gross value
 8 of the product as determined in 15-36-103 less--the--gross
 9 value--paid--in--cash-or-apportioned-in-kind-to-a-nonworking
 10 interest-owner-by-the--operator--or--producer--of--extracted
 11 marketable-petroleum,--other-mineral-or-crude-oil,--or-natural
 12 gas-

13 ~~{b}~~--"Nonworking--interest--owner"--means--any--interest
 14 owner--who--does--not-share-in-the-development-and-operation
 15 costs-of-the-lease-or-unit."

16 **Section 49.** Section 15-36-102, MCA, is amended to read:
 17 "15-36-102. Quarterly payment of tax ---delayed-payment
 18 of-local-government-severance-tax. ~~{1}~~---Except-as-provided-in
 19 subsection-~~{2}~~, The severance tax must be paid in quarterly
 20 installments for the quarterly periods ending, respectively,
 21 March 31, June 30, September 30, and December 31 of each
 22 year, and the amount of the tax for each quarterly period
 23 must be paid to the department of revenue within 60 days
 24 after the end of each quarterly period.

25 ~~{2}~~--local-government-severance--tax--must--be--paid--in

1 ~~quarterly--instalments--1-year-after-the-end-of-each-quarter~~
 2 ~~for--which--a--statement--is--completed---as---required---by~~
 3 ~~15-36-105."~~

4 **Section 50.** Section 15-36-105, MCA, is amended to read:

5 "15-36-105. Statement to accompany payment -- records
 6 -- collection of tax -- refunds. (1) Each person shall,
 7 within 60 days after the end of each following quarter,
 8 complete on forms prescribed by the department of revenue a
 9 statement showing the total number of barrels of
 10 merchantable or marketable petroleum and other mineral or
 11 crude oil or cubic feet of natural gas produced or extracted
 12 by the person in the state during each month of the quarter
 13 and during the whole quarter, the average value of the
 14 production during each month, and the total value of the
 15 production for the whole quarter, together with the total
 16 amount due to the state as severance taxes ~~and-local~~
 17 ~~government-severance-taxes~~ for the quarter, and shall within
 18 such 60 days deliver the statement and, except as provided
 19 in ~~15-36-102(2)~~ and 15-36-121, pay to the department the
 20 amount of the taxes shown by the statement to be due to the
 21 state for the quarter for which the statement is made. The
 22 statement must be signed by the individual or the president,
 23 vice-president, treasurer, assistant treasurer, or managing
 24 agent in this state of the association, corporation,
 25 joint-stock company, or syndicate making the statement. Any

1 person engaged in carrying on business at more than one
 2 place in this state or owning, leasing, controlling, or
 3 operating more than one oil or gas well in this state may
 4 include all operations in one statement. The department
 5 shall receive and file all statements and collect and
 6 receive from the person making and filing a statement the
 7 amount of tax payable by the person, if any, as appears in
 8 the statement.

9 (2) It is the duty of the department to examine each of
 10 the statements and compute the taxes thereon, and the amount
 11 computed by the department is the tax imposed, assessed
 12 against, and payable by the taxpayer making the statement
 13 for the quarter for which the statement is filed. If the tax
 14 found to be due is greater than the amount paid, the excess
 15 must be paid by the taxpayer to the department within 10
 16 days after written notice of the amount of the deficiency is
 17 mailed by the department to the taxpayer. If the tax imposed
 18 is less than the amount paid, the difference must be applied
 19 as a credit against tax liability for subsequent quarters or
 20 refunded if there is no subsequent tax liability.

21 (3) If the tax is not paid on or before the due date,
 22 there must be assessed a penalty of 10% of the amount of the
 23 tax, unless it is shown that the failure was due to
 24 reasonable cause and not due to neglect. If any tax under
 25 this chapter is not paid when due, interest must be added to

1 the tax at the rate of 1% a month or fraction thereof,
2 computed on the total amount of severance tax and penalty
3 from the due date until paid."

4 **Section 51.** Section 15-36-112, MCA, is amended to read:

5 "15-36-112. Disposition of oil and gas state-and-local
6 government-severance taxes ---calculation-of-unit-value--for
7 local-government-severance-tax. (1) Each year the department
8 of revenue shall determine the amount of tax collected under
9 this chapter from within each taxing-unit county.

10 (2) For---purposes---of---the---distribution--of--local
11 government-severance-taxes-collected-under-this-chapter, the
12 department-shall-determine-the-unit-value-of-oil-and-gas-for
13 each-taxing-unit-as-follows:

14 (a)--The-unit-value-for-petroleum-and-other--mineral--or
15 crude--oil--for-each-taxing-unit-is-the-quotient-obtained-by
16 dividing-the-net-proceeds-taxes-calculated-on--petroleum--or
17 mineral--or--crude--oil--produced--in--that--taxing--unit--in
18 calendar-year-1988-by-the-number-of-barrels-of-petroleum--or
19 other--mineral--or--crude--oil--produced-in-that-taxing-unit
20 during-1988, excluding-new-and-interim-production:

21 (b)--The-unit-value-for--natural--gas--is--the--quotient
22 obtained--by--dividing--the-net-proceeds-taxes-calculated-on
23 natural-gas-produced-in-that-taxing-unit--in--calendar--year
24 1988--by-the-number-of-cubic-feet-of-natural-gas-produced-in
25 that-taxing-unit-during--1988,--excluding--new--and--interim

1 production:

2 (3) The state--and--local--government severance taxes
3 collected under this chapter are allocated as follows:

4 (a) The-local-government-severance-tax the amount, if
5 any, by which the tax collected from within a county for any
6 fiscal year exceeds, by reason of increased production, the
7 total amount collected from within that county for the
8 previous fiscal year is statutorily appropriated, as
9 provided in 17-7-502, for allocation to the general fund of
10 the county for distribution as provided in subsection (4)
11 (3); and

12 (b) The-state-severance-tax any amount not allocated to
13 the county under subsection (2)(a) is allocated to the state
14 general fund.

15 (4)(3) (a) For-the-purpose-of-distribution-of-the-local
16 government-severance-tax, the-department--shall--adjust--the
17 unit--value--determined--under-this-section-according-to-the
18 ratio-that-the-local-government--severance--taxes--collected
19 during--the--quarters--to--be--distributed--plus-accumulated
20 interest-earned-by-the-state-and-penalties-and--interest--on
21 delinquent--local--government--severance--taxes-bears-to-the
22 total-liability-for-local-government-severance-taxes-for-the
23 quarters-to-be-distributed; The-taxes-must-be-calculated-and
24 distributed-as-follows:

25 (i)--By-November-30-of-each-year, the--department--shall

1 calculate--and-distribute-to-each-eligible-county-the-amount
 2 of-local-government-severance-tax,-determined-by-multiplying
 3 unit-value-as-adjusted-in-this-subsection-(4)(a)-times--the
 4 units--of-production-on-which-the-local-government-severance
 5 tax-was-owed-during-the-calendar-quarters--ending--March--31
 6 and-June-30-of-the-preceding-calendar-year:

7 (ii)-By--May--31--of--each--year,--the--department-shall
 8 calculate-and-distribute-to-each-eligible-county-the--amount
 9 of-local-government-severance-tax,-determined-by-multiplying
 10 unit--value--as-adjusted-in-this-subsection-(4)(a)-times-the
 11 units-of-production-on-which-the-local-government--severance
 12 tax--was--owed--during--the--2-calendar-quarters-immediately
 13 following--those--quarters---referred---to---in---subsection
 14 (4)(a)(i):

15 (b)--Any-amount-by-which-the-total-tax-liability-exceeds
 16 or--is--less--than--the--total--distributions--determined-in
 17 subsections-(4)(a)(i)-and-(4)(a)(ii)-must-be-calculated--and
 18 distributed-in-the-following-manner:

19 (i)--The--excess--amount--or-shortage-must-be-divided-by
 20 the-total-distribution-determined-for-that-period-to--obtain
 21 an-excess-or-shortage-percentage:

22 (ii)-The--excess--percentage--must--be-multiplied-by-the
 23 distribution-to-each-taxing-unit,-and-this--amount--must--be
 24 added-to-the-distribution-to-each-respective-taxing-unit:

25 (iii)-The--shortage-percentage-must-be-multiplied-by-the

1 distribution-to-each-taxing-unit,-and-this--amount--must--be
 2 subtracted--from--the-distribution-to-each-respective-taxing
 3 unit:

4 (5) The county treasurer shall distribute the money
 5 received under subsection (4) (2)(a) to the taxing-units
 6 that levied mills in fiscal year 1990 against calendar--year
 7 1988--production--in-the-same-manner-that-all-other-property
 8 tax-proceeds-were-distributed-during-fiscal-year-1990-in-the
 9 taxing-unit,-except-that-no-distribution-may-be--made--to--a
 10 municipal--taxing--unit county and to all the incorporated
 11 cities and towns within the county as provided in this
 12 subsection. The county receives the available money
 13 multiplied by the ratio of the rural population to the
 14 county population. Each incorporated municipality receives
 15 the available money multiplied by the ratio of the
 16 population of the incorporated municipality to the county
 17 population. The rural population is that population of the
 18 county living outside the boundaries of an incorporated
 19 municipality. Population must be based on the most recent
 20 figures as determined by the department of commerce.

21 (b) The money distributed under subsection (3)(a) may
 22 be used for any purpose as determined by the governing body
 23 of the county, city, or town."

24 **Section 52.** Section 15-36-121, MCA, is amended to read:

25 "15-36-121. Exemption from state severance tax --

1 imposition-of-local-government-severance-tax. (1)-it-is--the
 2 public--policy--of-this-state-to-promote-a-sufficient-supply
 3 of-natural-gas-to-provide-for-the-residents-of--this--state,
 4 to--lessen-Montana's-dependence-on-imported-natural-gas, and
 5 to--encourage--the--exploration--for--and--development--and
 6 production--of-natural-gas, petroleum, and other mineral and
 7 crude-oil-within-the-state.

8 (2)(1) All the natural gas produced from any well that
 9 has produced 60,000 cubic feet or less of natural gas a day
 10 for the calendar year prior to the current year shall be
 11 taxed as provided in this section. Production must be
 12 determined by dividing the amount of production from a lease
 13 or unitized area for the year prior to the current calendar
 14 year by the number of producing wells in the lease or
 15 unitized area and by dividing the resulting quotient by 365.
 16 The first 30,000 cubic feet of average daily production per
 17 well is exempt from all of the state severance tax imposed
 18 by 15-36-101. The first 30,000 cubic feet of average daily
 19 production per well is subject to a local government
 20 severance tax of 10%. Everything over 30,000 cubic feet of
 21 gas produced is taxed at 1.59% plus a local government
 22 severance tax of 10%.

23 (3) For the purposes of this section, "stripper well"
 24 means a well that produces less than 10 barrels per day,
 25 determined by dividing the amount of production from a lease

1 or unitized area for the year prior to the current calendar
 2 year by the number of producing wells in the lease or
 3 unitized area, and by dividing the resulting quotient by
 4 365.

5 (4)(2) Notwithstanding the provisions of subsection (2)
 6 (1), all reporting requirements under the state severance
 7 tax remain in effect."

8 **Section 53.** Section 20-9-141, MCA, is amended to read:

9 "20-9-141. Computation of general fund net levy
 10 requirement by county superintendent. (1) The county
 11 superintendent shall compute the levy requirement for each
 12 district's general fund on the basis of the following
 13 procedure:

14 (a) Determine the funding required for the district's
 15 final general fund budget less the amount established by the
 16 schedules in 20-9-316 through 20-9-321 by totaling:

17 (i) the district's nonisolated school foundation
 18 program requirement to be met by a district levy as provided
 19 in 20-9-303; and

20 (ii) any additional general fund budget amount adopted
 21 by the trustees of the district under the provisions of
 22 20-9-353, including any additional levies authorized by the
 23 electors of the district.

24 (b) Determine the money available for the reduction of
 25 the property tax on the district for the general fund by

1 totaling:

- 2 (i) anticipated federal money received under the
- 3 provisions of Title I of Public Law 81-874 or other
- 4 anticipated federal money received in lieu of that federal
- 5 act;
- 6 (ii) anticipated tuition payments for out-of-district
- 7 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
- 8 and 20-5-313;
- 9 (iii) general fund cash reappropriated, as established
- 10 under the provisions of 20-9-104;
- 11 (iv) anticipated or reappropriated state impact aid
- 12 received under the provisions of 20-9-304;
- 13 (v) anticipated or reappropriated revenue from property
- 14 taxes and fees imposed under 23-2-517, 23-2-803,
- 15 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;
- 16 (vi) anticipated net proceeds taxes for interim
- 17 ~~production and new production, as defined in 15-23-601;~~
- 18 (vii) ~~anticipated revenue from local government~~
- 19 ~~severance taxes as provided in 15-36-112;~~
- 20 ~~(viii) anticipated revenue from coal gross proceeds~~
- 21 ~~under 15-23-703;~~
- 22 (ix) anticipated interest to be earned or reappropriated
- 23 interest earned by the investment of general fund cash in
- 24 accordance with the provisions of 20-9-213(4);
- 25 (x)(viii) anticipated revenue from corporation license

1 taxes collected from financial institutions under the
 2 provisions of 15-31-702; and

3 (xi)(ix) any other revenue anticipated by the trustees
 4 to be received during the ensuing school fiscal year which
 5 may be used to finance the general fund.

6 (c) Subtract the money available to reduce the property
 7 tax required to finance the general fund that has been
 8 determined in subsection (1)(b) from the total requirement
 9 determined in subsection (1)(a).

10 (2) The net general fund levy requirement determined in
 11 subsection (1)(c) must be reported to the county
 12 commissioners on the second Monday of August by the county
 13 superintendent as the general fund levy requirement for the
 14 district, and a levy must be made by the county
 15 commissioners in accordance with 20-9-142."

16 **Section 54.** Section 20-9-331, MCA, is amended to read:
 17 "20-9-331. Basic county tax and other revenues for
 18 county equalization of the elementary district foundation
 19 program. (1) The county commissioners of each county shall
 20 levy an annual basic tax of 33 mills on the dollar of the
 21 taxable value of all taxable property within the county,
 22 except for property subject to a tax or fee under 23-2-517,
 23 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for
 24 the purposes of local and state foundation program support.
 25 The revenue collected from this levy must be apportioned to

1 the support of the foundation programs of the elementary
2 school districts in the county and to the state special
3 revenue fund, state equalization aid account, in the
4 following manner:

5 (a) In order to determine the amount of revenue raised
6 by this levy which is retained by the county, the sum of the
7 estimated revenue identified in subsection (2) must be
8 subtracted from the total of the foundation programs of all
9 elementary districts of the county.

10 (b) If the basic levy prescribed by this section
11 produces more revenue than is required to finance the
12 difference determined in subsection (1)(a), the county
13 treasurer shall remit the surplus funds to the state
14 treasurer for deposit to the state special revenue fund,
15 state equalization aid account, immediately upon occurrence
16 of a surplus balance and each subsequent month thereafter,
17 with any final remittance due no later than June 20 of the
18 fiscal year for which the levy has been set.

19 (c) If revenue from the basic levy prescribed by this
20 section when combined with the other revenue from subsection
21 (2) is insufficient to fully fund the percentage determined
22 in 20-9-347(1)(b) and the county is eligible for an
23 apportionment of state equalization aid under the provisions
24 of 20-9-347(1)(c), the county superintendent shall notify
25 the superintendent of public instruction of the deficiency.

1 The superintendent of public instruction shall increase the
2 state equalization aid payments to the districts in the
3 affected county to offset the deficiency. A payment may not
4 be made under this subsection (c) that allows a district to
5 receive foundation program funding in excess of the
6 foundation program amount of the district.

7 (2) The revenue realized from the county's portion of
8 the levy prescribed by this section and the revenue from the
9 following sources must be used for the equalization of the
10 elementary district foundation programs of the county as
11 prescribed in 20-9-334, and a separate accounting must be
12 kept of the revenue by the county treasurer in accordance
13 with 20-9-212(1):

14 (a) the portion of the federal Taylor Grazing Act funds
15 distributed to a county and designated for the common school
16 fund under the provisions of 17-3-222;

17 (b) the portion of the federal flood control act funds
18 distributed to a county and designated for expenditure for
19 the benefit of the county common schools under the
20 provisions of 17-3-232;

21 (c) all money paid into the county treasury as a result
22 of fines for violations of law, except money paid to a
23 justice's court, and the use of which is not otherwise
24 specified by law;

25 (d) any money remaining at the end of the immediately

1 preceding school fiscal year in the county treasurer's
2 accounts for the various sources of revenue established or
3 referred to in this section;

4 (e) any federal or state money distributed to the
5 county as payment in lieu of property taxation, including
6 federal forest reserve funds allocated under the provisions
7 of 17-3-213;

8 ~~(f) gross-proceeds-taxes-from-coal-under-15-23-703;~~

9 ~~(g) net proceeds taxes for interim-production--and new~~
10 ~~production, as defined in 15-23-601,--and-local-government~~
11 ~~severance-taxes-on--any--other--production--occurring--after~~
12 ~~December-31,--1988; and~~

13 ~~(h)(g) anticipated revenue from property taxes and fees~~
14 ~~imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,~~
15 ~~61-3-537, and 67-3-204."~~

16 **Section 55.** Section 20-9-333, MCA, is amended to read:

17 "20-9-333. Basic special levy and other revenues for
18 county equalization of high school district foundation
19 program. (1) The county commissioners of each county shall
20 levy an annual basic special tax for high schools of 22
21 mills on the dollar of the taxable value of all taxable
22 property within the county, except for property subject to a
23 tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
24 61-3-537, and 67-3-204, for the purposes of local and state
25 foundation program support. The revenue collected from this

1 levy must be apportioned to the support of the foundation
2 programs of high school districts in the county and to the
3 state special revenue fund, state equalization aid account,
4 in the following manner:

5 (a) In order to determine the amount of revenue raised
6 by this levy which is retained by the county, the sum of the
7 estimated revenue identified in subsection (2) must be
8 subtracted from the sum of the county's high school tuition
9 obligation and the total of the foundation programs of all
10 high school districts of the county.

11 (b) If the basic levy prescribed by this section
12 produces more revenue than is required to finance the
13 difference determined in subsection (1)(a), the county
14 treasurer shall remit the surplus funds to the state
15 treasurer for deposit to the state special revenue fund,
16 state equalization aid account, immediately upon occurrence
17 of a surplus balance and each subsequent month thereafter,
18 with any final remittance due no later than June 20 of the
19 fiscal year for which the levy has been set.

20 (c) If revenue from the basic levy prescribed by this
21 section when combined with the other revenue from subsection
22 (2) is insufficient to fully fund the percentage determined
23 in 20-9-347(1)(b) and the county is eligible for an
24 apportionment of state equalization aid under the provisions
25 of 20-9-347(1)(c), the county superintendent shall notify

1 the superintendent of public instruction of the deficiency.
 2 The superintendent of public instruction shall increase the
 3 state equalization aid payments to the districts in the
 4 affected county to offset the deficiency. A payment may not
 5 be made under this subsection (c) that allows a district to
 6 receive foundation program funding in excess of the
 7 foundation program amount of the district.

8 (2) The revenue realized from the county's portion of
 9 the levy prescribed in this section and the revenue from the
 10 following sources must be used for the equalization of the
 11 high school district foundation programs of the county as
 12 prescribed in 20-9-334, and a separate accounting must be
 13 kept of the revenue by the county treasurer in accordance
 14 with 20-9-212(1):

15 (a) any money remaining at the end of the immediately
 16 preceding school fiscal year in the county treasurer's
 17 accounts for the various sources of revenue established in
 18 this section;

19 (b) any federal or state money distributed to the
 20 county as payment in lieu of property taxation, including
 21 federal forest reserve funds allocated under the provisions
 22 of 17-3-213;

23 ~~(c) gross-proceeds-taxes-from-coal-under-15-23-703;~~

24 ~~(d) net proceeds taxes for interim-production--and new~~
 25 ~~production, as defined in 15-23-601,--and--local-government~~

1 ~~severance-taxes-on--any--other--production--occurring--after~~
 2 ~~December-31,--1988; and~~

3 ~~(e)(d) anticipated revenue from property taxes and fees~~
 4 ~~imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,~~
 5 ~~61-3-537, and 67-3-204."~~

6 **Section 56.** Section 20-9-366, MCA, is amended to read:

7 "20-9-366. Definitions. As used in 20-9-366 through
 8 20-9-369, the following definitions apply:

9 (1) "County mill value per elementary ANB" or "county
 10 mill value per high school ANB" means the sum of the current
 11 taxable valuation of all property in the county plus the
 12 taxable value of oil and gas net proceeds determined under
 13 15-23-607(4) for production occurring after March 31, 1990,
 14 ~~plus--the--taxable--value--of--coal--gross--proceeds--determined~~
 15 ~~under-15-23-703(3)~~ plus all the taxable value of nonlevy
 16 revenue for the support of schools, other than Public Law
 17 81-874 funds, divided by 1,000, with the quotient divided by
 18 the total county elementary ANB count or the total county
 19 high school ANB count used to calculate the elementary
 20 school districts' and high school districts' current year
 21 foundation program amounts. The taxable value of nonlevy
 22 revenue for the purpose of computing guaranteed tax base aid
 23 for schools is the amount of nonlevy revenue received by a
 24 district in the previous year, including for fiscal year
 25 1991 the revenue received in fiscal year 1990 from the net

1 proceeds taxation of oil and natural gas and including for
 2 fiscal year 1992 ~~and--thereafter~~ the local government
 3 severance tax, divided by the number of mills levied by the
 4 district in the previous year, multiplied by 1,000.

5 (2) "District mill value per ANB" means the current
 6 taxable valuation of all property in the district plus the
 7 taxable value of oil and gas net proceeds determined under
 8 15-23-607(4) for production occurring after March 31, 1990,
 9 ~~plus the taxable value of coal gross proceeds determined~~
 10 ~~under--15-23-703(3)~~ plus all the taxable value of nonlevy
 11 revenue for the support of schools, other than Public Law
 12 81-874 funds, divided by 1,000, with the quotient divided by
 13 the ANB count of the district used to calculate the
 14 district's current year foundation program schedule amount.
 15 The taxable value of nonlevy revenue for the purpose of
 16 computing guaranteed tax base aid for schools is the amount
 17 of nonlevy revenue received by a district in the previous
 18 year, including for fiscal year 1991 the revenue received in
 19 fiscal year 1990 from the net proceeds taxation of oil and
 20 natural gas and including for fiscal year 1992 ~~and~~
 21 ~~thereafter~~ the local government severance tax, divided by
 22 the number of mills levied by the district in the previous
 23 year, multiplied by 1,000.

24 (3) "Guaranteed overschedule general fund budget" means
 25 that portion of a district's general fund budget in excess

1 of the foundation program amount for the district, as
 2 provided in 20-9-316 through 20-9-321, but not exceeding
 3 ~~195%~~ 35% of the district's foundation program amount, and
 4 which excess is authorized under the provisions of 20-9-145
 5 and 20-9-353.

6 (4) "Statewide mill value per elementary ANB" or
 7 "statewide mill value per high school ANB" means the sum of
 8 the current taxable valuation of all property in the state
 9 plus the taxable value of oil and gas net proceeds
 10 determined under 15-23-607(4) for production occurring after
 11 March 31, 1990, ~~plus the taxable value of coal gross~~
 12 ~~proceeds determined under 15-23-703(3)~~ plus all the taxable
 13 value of nonlevy revenue for the support of schools, other
 14 than Public Law 81-874 funds, divided by 1,000, with the
 15 quotient divided by the total state elementary ANB count or
 16 the total state high school ANB count used to calculate the
 17 elementary school districts' and high school districts'
 18 current year foundation program amounts. The taxable value
 19 of nonlevy revenue for the purpose of computing guaranteed
 20 tax base aid for schools is the amount of nonlevy revenue
 21 received by a district in the previous year, including for
 22 fiscal year 1991 the revenue received in fiscal year 1990
 23 from the net proceeds taxation of oil and natural gas and
 24 including for fiscal year 1992 ~~and--thereafter~~ the local
 25 government severance tax, divided by the number of mills

1 levied by the district in the previous year, multiplied by
2 1,000."

3 **Section 57.** Section 20-9-501, MCA, is amended to read:

4 "20-9-501. Retirement fund. (1) The trustees of any
5 district employing personnel who are members of the
6 teachers' retirement system or the public employees'
7 retirement system or who are covered by unemployment
8 insurance or who are covered by any federal social security
9 system requiring employer contributions shall establish a
10 retirement fund for the purposes of budgeting and paying the
11 employer's contributions to such systems. The district's
12 contribution for each employee who is a member of the
13 teachers' retirement system must be calculated in accordance
14 with Title 19, chapter 4, part 6. The district's
15 contribution for each employee who is a member of the public
16 employees' retirement system must be calculated in
17 accordance with 19-3-801. The district's contributions for
18 each employee covered by any federal social security system
19 must be paid in accordance with federal law and regulation.
20 The district's contribution for each employee who is covered
21 by unemployment insurance must be paid in accordance with
22 Title 39, chapter 51, part 11.

23 (2) The trustees of any district required to make a
24 contribution to any system referred to in subsection (1)
25 shall include in the retirement fund of the preliminary

1 budget the estimated amount of the employer's contribution.
2 After the final retirement fund budget has been adopted, the
3 trustees shall pay the employer contributions to such
4 systems in accordance with the financial administration
5 provisions of this title.

6 (3) When the final retirement fund budget has been
7 adopted, the county superintendent shall establish the levy
8 requirement by:

9 (a) determining the sum of the money available to
10 reduce the retirement fund levy requirement by adding:

11 (i) any anticipated money that may be realized in the
12 retirement fund during the ensuing school fiscal year,
13 including anticipated revenue from property taxes and fees
14 imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521,
15 61-3-537, and 67-3-204;

16 (ii) anticipated guaranteed tax base aid in support of
17 retirement;

18 (iii) net proceeds taxes ~~and local government severance~~
19 ~~taxes on any other oil and gas production occurring after~~
20 ~~December 31, 1988; and~~

21 ~~(iv) coal gross proceeds taxes under 15-23-703; and~~
22 ~~(v) any cash available for reappropriation as~~
23 determined by subtracting the amount of the end-of-the-year
24 cash balance earmarked as the retirement fund cash reserve
25 for the ensuing school fiscal year by the trustees from the

1 end-of-the-year cash balance in the retirement fund. The
 2 retirement fund cash reserve may not be more than 35% of the
 3 final retirement fund budget for the ensuing school fiscal
 4 year and must be used for the purpose of paying retirement
 5 fund warrants issued by the district under the final
 6 retirement fund budget.

7 (b) subtracting the money available for reduction of
 8 the levy requirement, as determined in subsection (3)(a),
 9 from the budgeted amount for expenditures in the final
 10 retirement fund budget.

11 (4) The county superintendent shall:

12 (a) total the net retirement fund levy requirements
 13 separately for all elementary school districts, all high
 14 school districts, and all community college districts of the
 15 county, including any prorated joint district or special
 16 education cooperative agreement levy requirements; and

17 (b) report each levy requirement to the county
 18 commissioners on the second Monday of August as the
 19 respective county levy requirements for elementary district,
 20 high school district, and community college district
 21 retirement funds.

22 (5) The county commissioners shall fix and set the
 23 county levy in accordance with 20-9-142.

24 (6) The net retirement fund levy requirement for a
 25 joint elementary district or a joint high school district

1 must be prorated to each county in which a part of the
 2 district is located in the same proportion as the district
 3 ANB of the joint district is distributed by pupil residence
 4 in each county. The county superintendents of the counties
 5 affected shall jointly determine the net retirement fund
 6 levy requirement for each county as provided in 20-9-151.

7 (7) The net retirement fund levy requirement for
 8 districts that are members of special education cooperative
 9 agreements must be prorated to each county in which the
 10 district is located in the same proportion as the budget for
 11 the special education cooperative agreement of the district
 12 bears to the total budget of the cooperative. The county
 13 superintendents of the counties affected shall jointly
 14 determine the net retirement fund levy requirement for each
 15 county in the same manner as provided in 20-9-151 and fix
 16 and levy the net retirement fund levy for each county in the
 17 same manner as provided in 20-9-152."

18 **Section 58.** Section 20-10-144, MCA, is amended to read:

19 "20-10-144. Computation of revenues and net tax levy
 20 requirements for the transportation fund budget. Before the
 21 fourth Monday of July and in accordance with 20-9-123, the
 22 county superintendent shall compute the revenue available to
 23 finance the transportation fund budget of each district. The
 24 county superintendent shall compute the revenue for each
 25 district on the following basis:

1 (1) The "schedule amount" of the preliminary budget
 2 expenditures that is derived from the rate schedules in
 3 20-10-141 and 20-10-142 must be determined by adding the
 4 following amounts:

5 (a) the sum of the maximum reimbursable expenditures
 6 for all approved school bus routes maintained by the
 7 district (to determine the maximum reimbursable expenditure,
 8 multiply the applicable rate per bus mile by the total
 9 number of miles to be traveled during the ensuing school
 10 fiscal year on each bus route approved by the county
 11 transportation committee and maintained by such district);
 12 plus

13 (b) the total of all individual transportation per diem
 14 reimbursement rates for the district as determined from the
 15 contracts submitted by the district multiplied by the number
 16 of pupil-instruction days scheduled for the ensuing school
 17 attendance year; plus

18 (c) any estimated costs for supervised home study or
 19 supervised correspondence study for the ensuing school
 20 fiscal year; plus

21 (d) the amount budgeted on the preliminary budget for
 22 the contingency amount permitted in 20-10-143, except if the
 23 amount exceeds 10% of the total of subsections (1)(a),
 24 (1)(b), and (1)(c) or \$100, whichever is larger, the
 25 contingency amount on the preliminary budget must be reduced

1 to the limitation amount and used in this determination of
 2 the schedule amount.

3 (2) The schedule amount determined in subsection (1) or
 4 the total preliminary transportation fund budget, whichever
 5 is smaller, is divided by 3 and the resulting one-third
 6 amount is used to determine the available state and county
 7 revenue to be budgeted on the following basis:

8 (a) the resulting one-third amount is the budgeted
 9 state transportation reimbursement, except that the state
 10 transportation reimbursement for the transportation of
 11 special education pupils under the provisions of 20-7-442
 12 must be two-thirds of the schedule amount attributed to the
 13 transportation of special education pupils;

14 (b) the resulting one-third amount, except as provided
 15 for joint elementary districts in subsection (2)(e), is the
 16 budgeted county transportation reimbursement for elementary
 17 districts and must be financed by the basic county tax under
 18 the provisions of 20-9-334;

19 (c) the resulting one-third amount multiplied by 2 is
 20 the budgeted county transportation reimbursement amount for
 21 high school districts financed under the provisions of
 22 subsection (5), except as provided for joint high school
 23 districts in subsection (2)(e), and except that the county
 24 transportation reimbursement for the transportation of
 25 special education pupils under the provisions of 20-7-442

1 must be one-third of the schedule amount attributed to the
2 transportation of special education pupils;

3 (d) when the district has a sufficient amount of cash
4 for reappropriation and other sources of district revenue,
5 as determined in subsection (3), to reduce the total
6 district obligation for financing to zero, any remaining
7 amount of district revenue and cash reappropriated must be
8 used to reduce the county financing obligation in subsection
9 (2)(b) or (2)(c) and, if the county financing obligations
10 are reduced to zero, to reduce the state financial
11 obligation in subsection (2)(a); and

12 (e) the county revenue requirement for a joint
13 district, after the application of any district money under
14 subsection (2)(d), must be prorated to each county
15 incorporated by the joint district in the same proportion as
16 the ANB of the joint district is distributed by pupil
17 residence in each county.

18 (3) The total of the money available for the reduction
19 of property tax on the district for the transportation fund
20 must be determined by totaling:

21 (a) anticipated federal money received under the
22 provisions of Title I of Public Law 81-874 or other
23 anticipated federal money received in lieu of that federal
24 act; plus

25 (b) anticipated payments from other districts for

1 providing school bus transportation services for the
2 district; plus

3 (c) anticipated payments from a parent or guardian for
4 providing school bus transportation services for his child;
5 plus

6 (d) anticipated or reappropriated interest to be earned
7 by the investment of transportation fund cash in accordance
8 with the provisions of 20-9-213(4); plus

9 (e) anticipated or reappropriated revenue from property
10 taxes and fees imposed under 23-2-517, 23-2-803,
11 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; plus

12 (f) ~~gross--proceeds--taxes--from--coal--under--15-23-703;~~
13 plus

14 ~~(g) net proceeds taxes for interim-production--and new~~
15 ~~production, as defined in 15-23-601;--and--local-government~~
16 ~~severance-taxes-on--any--other--production--occurring--after~~
17 ~~December-31,-1988; plus~~

18 ~~(h)(g)~~ any other revenue anticipated by the trustees to
19 be earned during the ensuing school fiscal year which may be
20 used to finance the transportation fund; plus

21 ~~(i)(h)~~ any cash available for reappropriation as
22 determined by subtracting the amount of the end-of-the-year
23 cash balance earmarked as the transportation fund cash
24 reserve for the ensuing school fiscal year by the trustees
25 from the end-of-the-year cash balance in the transportation

1 fund. The cash reserve may not be more than 20% of the final
2 transportation fund budget for the ensuing school fiscal
3 year and is for the purpose of paying transportation fund
4 warrants issued by the district under the final
5 transportation fund budget.

6 (4) The district levy requirement for each district's
7 transportation fund must be computed by:

8 (a) subtracting the schedule amount calculated in
9 subsection (1) from the total preliminary transportation
10 budget amount and, for an elementary district, adding the
11 difference to the district obligation to finance one-third
12 of the schedule amount as determined in subsection (2); and

13 (b) subtracting the amount of money available to reduce
14 the property tax on the district, as determined in
15 subsection (3), from the amount determined in subsection
16 (4)(a).

17 (5) The county levy requirement for the financing of
18 the county transportation reimbursement to high school
19 districts is computed by adding all requirements for all the
20 high school districts of the county, including the county's
21 obligation for reimbursements in joint high school
22 districts.

23 (6) The transportation fund levy requirements
24 determined in subsection (4) for each district and in
25 subsection (5) for the county must be reported to the county

1 commissioners on the second Monday of August by the county
2 superintendent as the transportation fund levy requirements
3 for the district and for the county, and the levies must be
4 made by the county commissioners in accordance with
5 20-9-142."

6 **Section 59.** Section 90-6-402, MCA, is amended to read:

7 **"90-6-402. Definitions.** As used in this part, the
8 following definitions apply:

9 (1) "Affected local government unit" means a local
10 government unit that will experience a need to increase
11 services or facilities as a result of the commencement of
12 large-scale mineral development or within which a
13 large-scale mineral development is located in accordance
14 with an impact plan adopted pursuant to 90-6-307.

15 (2) "Board" means the hard-rock mining impact board
16 established in 2-15-1822.

17 (3) "Mineral development employee" means a person who
18 resides within the jurisdiction of an affected local
19 government unit as a result of employment with a large-scale
20 mineral development or its contractors or subcontractors.

21 (4) "Mineral development student" means a student whose
22 parent or guardian resides within the jurisdiction of an
23 affected local government unit as a result of employment
24 with a large-scale mineral development or its contractors or
25 subcontractors.

1 (5) "Jurisdictional revenue disparity" means property
2 tax revenues resulting from a large-scale hard-rock mineral
3 development that are inequitably distributed among affected
4 local government units as finally determined by the board in
5 an approved impact plan.

6 (6) "Large-scale mineral development", for the purposes
7 of this part, is defined in 90-6-302.

8 (7) "Local government unit", for the purposes of this
9 part, means a county, municipality, or school district.

10 (8) "Taxable valuation" of a mineral development means
11 the total of the gross proceeds taxable percentage specified
12 in 15-6-132(2)(a) when added to the taxable percentages of
13 real property, improvements, machinery, equipment, and other
14 property classified under Title 15, chapter 6, part 1."

15 NEW SECTION. Section 60. Deduction of drilling costs
16 and capital expenditures. (1) Unless an operator or producer
17 proceeds under subsection (2), the department of revenue, in
18 computing the deductions allowable for cost of drilling
19 wells completed during the period and for other capital
20 expenditures, shall allow a deduction of 10% of the cost
21 each year for a period of 10 years, beginning with:

22 (a) the year natural gas from a natural gas well is
23 first placed into a natural gas distribution system; or

24 (b) the year the pumping unit is installed on a crude
25 oil well or the well flows.

1 (2) The operator or producer may elect to amortize the
2 cost over a period of 2 years if the well is less than 3,000
3 feet deep.

4 (3) The deduction of the costs in subsection (1) is not
5 allowed on wells that are producing interim production or
6 new production, as defined in 15-23-601, and may not be
7 prorated on wells that are not producing new production when
8 a lease or unitized area has new production and other
9 production.

10 NEW SECTION. Section 61. Adjustment of certain
11 deductions -- when. (1) The department of revenue may adjust
12 the 70% percentage provided in 15-23-603 and 15-23-605 to
13 reflect the actual excise taxes imposed by the United States
14 government on production, sale, or removal of natural gas,
15 petroleum, or other crude or mineral oil whenever:

16 (a) requested to do so by the taxpayer; or

17 (b) the department determines that the percentage does
18 not accurately reflect the actual excise taxes paid by the
19 operator.

20 (2) When a taxpayer requests under subsection (1) that
21 the department adjust the percentage deduction allowed, the
22 taxpayer shall provide the data reasonably necessary for the
23 department to make a determination under subsection (1).

24 (3) An adjustment made under subsection (1) must be
25 reflected in the net proceeds and royalty values certified

1 to the county in the taxable year following the year of the
2 final determination under subsection (1).

3 **Section 62.** Section 15-1-101, MCA, is amended to read:

4 "15-1-101. Definitions. (1) Except as otherwise
5 specifically provided, when terms mentioned in this section
6 are used in connection with taxation, they are defined in
7 the following manner:

8 (a) (i) The term "air and water pollution equipment"
9 means facilities, machinery, or equipment used to reduce or
10 control water or atmospheric pollution or contamination by
11 removing, reducing, altering, disposing, or storing
12 pollutants, contaminants, wastes, or heat. The department of
13 health and environmental sciences shall determine if a
14 proper use is being made.

15 (ii) The department of health and environmental
16 sciences' determination as to air and water pollution
17 equipment may be appealed to the board of health and
18 environmental sciences and may not be appealed to either a
19 county tax appeal board or the state tax appeal board.
20 However, the appraised value of the equipment as determined
21 by the department of revenue may be appealed to the county
22 tax appeal board and the state tax appeal board.

23 (b) The term "agricultural" refers to the raising of
24 livestock, poultry, bees, and other species of domestic
25 animals and wildlife in domestication or a captive

1 environment, and the raising of field crops, fruit, and
2 other animal and vegetable matter for food or fiber.

3 (c) The term "assessed value" means the value of
4 property as defined in 15-8-111.

5 (d) The term "average wholesale value" means the
6 value to a dealer prior to reconditioning and profit margin
7 shown in national appraisal guides and manuals or the
8 valuation schedules of the department of revenue.

9 (e) The term "canola seed oil processing facility"
10 means a facility that:

11 (i) extracts oil from canola seeds, refines the crude
12 oil to produce edible oil, formulates and packages the
13 edible oil into food products, or engages in any one or more
14 of those processes; and

15 (ii) employs at least 15 employees in a full-time
16 capacity.

17 (f) The term "coal and ore haulers" means nonhighway
18 vehicles that exceed 18,000 pounds per axle and that are
19 primarily designed and used to transport coal, ore, or other
20 earthen material in a mining or quarrying environment.

21 (g) (i) The term "commercial", when used to describe
22 property, means any property used or owned by a business, a
23 trade, or a nonprofit corporation as defined in 35-2-102 or
24 used for the production of income, except that property
25 described in subsection (ii).

1 (ii) The following types of property are not commercial:

2 (A) agricultural lands;

3 (B) timberlands;

4 (C) single-family residences and ancillary improvements
5 and improvements necessary to the function of a bona fide
6 farm, ranch, or stock operation;

7 (D) mobile homes used exclusively as a residence except
8 when held by a distributor or dealer of trailers or mobile
9 homes as his stock in trade;

10 (E) all property described in 15-6-135; and

11 ~~{F}--all property described in 15-6-136.~~

12 (h) The term "commercial establishment" includes any
13 hotel; motel; office; petroleum marketing station; or
14 service, wholesale, retail, or food-handling business.

15 {e}{i} The term "comparable property" means property
16 that has similar use, function, and utility; that is
17 influenced by the same set of economic trends and physical,
18 governmental, and social factors; and that has the potential
19 of a similar highest and best use.

20 {f}{j} The term "credit" means solvent debts, secured
21 or unsecured, owing to a person.

22 {g}{k} The term "improvements" includes all buildings,
23 structures, fences, and improvements situated upon, erected
24 upon, or affixed to land. When the department of revenue or
25 its agent determines that the permanency of location of a

1 mobile home or housetrailer has been established, the mobile
2 home or housetrailer is presumed to be an improvement to
3 real property. A mobile home or housetrailer may be
4 determined to be permanently located only when it is
5 attached to a foundation which cannot feasibly be relocated
6 and only when the wheels are removed.

7 {h}{l} The term "leasehold improvements" means
8 improvements to mobile homes and mobile homes located on
9 land owned by another person. This property is assessed
10 under the appropriate classification and the taxes are due
11 and payable in two payments as provided in 15-24-202.
12 Delinquent taxes on such leasehold improvements are a lien
13 only on such leasehold improvements.

14 {i}{m} The term "livestock" means cattle, sheep, swine,
15 goats, horses, mules, and asses.

16 {n} The term "malting barley facility" means a facility
17 the principal purpose of which is to malt malting barley.
18 The term does not apply to a facility the principal purpose
19 of which is to store, mix, blend, transport, transfer, or
20 otherwise do anything with malting barley except malt
21 malting barley. However, any machinery or equipment the
22 principal purpose of which is to store, mix, blend,
23 transport, transfer, or otherwise handle malting barley or
24 other machinery or equipment that is used in or is otherwise
25 an integral part of a facility that malts malting barley is

1 machinery or equipment of a malting barley facility for the
2 purposes of this section.

3 ~~(j)~~(o) The term "mobile home" means forms of housing
4 known as "trailers", "housetrailers", or "trailer coaches"
5 exceeding 8 feet in width or 45 feet in length, designed to
6 be moved from one place to another by an independent power
7 connected to them, or any "trailer", "housetrailer", or
8 "trailer coach" up to 8 feet in width or 45 feet in length
9 used as a principal residence.

10 (p) (i) The term "new industrial property" means any
11 new industrial plant, including land, buildings, machinery,
12 and fixtures, used by a new industry during the first 3
13 years of its operation. The property may not have been
14 assessed within the state of Montana prior to July 1, 1961.

15 (ii) New industrial property does not include:

16 (A) property used by retail or wholesale merchants,
17 commercial services of any type, agriculture, trades, or
18 professions;

19 (B) a plant that will create adverse impact on existing
20 state, county, or municipal services; or

21 (C) property used or employed in any industrial plant
22 that has been in operation in this state for 3 years or
23 longer.

24 (q) (i) The term "new industry" means any person,
25 corporation, firm, partnership, association, or other group

1 that establishes a new plant in Montana for the operation of
2 a new industrial endeavor, as distinguished from a mere
3 expansion, reorganization, or merger of an existing
4 industry.

5 (ii) New industry includes only those industries that:

6 (A) manufacture, mill, mine, produce, process, or
7 fabricate materials;

8 (B) do similar work, employing capital and labor, in
9 which materials unserviceable in their natural state are
10 extracted, processed, or made fit for use or are
11 substantially altered or treated so as to create commercial
12 products or materials; or

13 (C) engage in the mechanical or chemical transformation
14 of materials or substances into new products in the manner
15 defined as manufacturing in the 1972 Standard Industrial
16 Classification Manual prepared by the United States office
17 of management and budget.

18 ~~(k)~~(r) The term "personal property" includes everything
19 that is the subject of ownership but that is not included
20 within the meaning of the terms "real estate" and
21 "improvements".

22 (s) The term "portfolio" means all of the securities
23 owned by a person.

24 ~~(t)~~(t) The term "poultry" includes all chickens,
25 turkeys, geese, ducks, and other birds raised in

1 domestication to produce food or feathers.

2 ~~{m}(u)~~ (i) The term "property" includes moneys,
3 credits, bonds, stocks, franchises, minerals in place, and
4 all other matters and things, real, personal, and mixed,
5 capable of private ownership. ~~This definition--must--not--be~~
6 ~~construed--to--authorize--the--taxation--of--the--stocks--of--any~~
7 ~~company--or--corporation--when--the--property--of--such--company--or~~
8 ~~corporation--represented--by--the--stocks--is--within--the--state~~
9 ~~and--has--been--taxed.~~

10 (ii) For the purposes of this subsection ~~(l)(u)~~, the
11 term "minerals in place" means valuable mineral deposits,
12 placer, rock, liquid, or gas in place, containing or bearing
13 gold, copper, lead, coal, oil, gas, or other valuable
14 minerals in commercially producible quantities.

15 ~~{n}(v)~~ The term "real estate" includes:

16 (i) the possession of, claim to, ownership of, or right
17 to the possession of land;

18 (ii) all mines, minerals, and quarries in and under the
19 land subject to the provisions of 15-21-501 and Title 15,
20 chapter 23, part 8; all timber belonging to individuals or
21 corporations growing or being on the lands of the United
22 States; and all rights and privileges appertaining thereto.

23 ~~{o}(w)~~ The term "Research research and development
24 firm" means an entity incorporated under the laws of this
25 state or a foreign corporation authorized to do business in

1 this state whose principal purpose is to engage in
2 theoretical analysis, exploration, and experimentation and
3 the extension of investigative findings and theories of a
4 scientific and technical nature into practical application
5 for experimental and demonstration purposes, including the
6 experimental production and testing of models, devices,
7 equipment, materials, and processes.

8 ~~(x)~~ (i) The term "securities" means an instrument of
9 debt or equity that is bought, sold, or traded on any
10 exchange organized or operating for the purposes of buying,
11 selling, or trading any instrument of debt or equity.

12 (ii) Securities include but are not limited to:

13 (A) stocks;

14 (B) bonds;

15 (C) notes;

16 (D) futures;

17 (E) options;

18 (F) debentures;

19 (G) shares;

20 (H) any other instrument of debt or equity that is
21 bought, sold, or traded on an exchange.

22 (iii) The term securities includes:

23 (A) certificates of deposit;

24 (B) municipal bonds; and

25 (C) all other bonds or notes issued by or on behalf of

1 a state government or a subdivision of a state government,
 2 whether or not the bonds or notes are bought, sold, or
 3 traded on an exchange or are bought, sold, or traded at a
 4 private offering.

5 (iv) The term securities does not include:

6 (A) cash;

7 (B) currency; or

8 (C) mortgages, contracts for deed, or similar
 9 conveyances.

10 (v) For the purposes of this section, an exchange
 11 organized or operating for the purposes of buying, selling,
 12 or trading any instrument of debt or equity includes but is
 13 not limited to:

14 (A) the New York stock exchange;

15 (B) the American stock exchange;

16 (C) the national association of securities dealers;

17 (D) the New York options exchange;

18 (E) the American options exchange;

19 (F) the Chicago board of trade;

20 (G) the Chicago mercantile exchange; and

21 (H) any exchange or board of trade that is similar to
 22 those listed in subsections (1)(x)(v)(A) through
 23 (1)(x)(v)(G) and that performs the same or a similar service
 24 or function, whether or not located in the United States.

1 ~~(p)~~(y) The term "taxable value" means the percentage of
 2 market or assessed value as provided for in Title 15,
 3 chapter 6, part 1.

4 ~~(q)~~(z) The term "weighted mean assessment ratio" means
 5 the total of the assessed values divided by the total of the
 6 selling prices of all area sales in the stratum.

7 (2) The phrase "municipal corporation" or
 8 "municipality" or "taxing unit" ~~shall---be---deemed~~ is
 9 considered to include a county, city, incorporated town,
 10 township, school district, irrigation district, drainage
 11 district, or any person, persons, or organized body
 12 authorized by law to establish tax levies for the purpose of
 13 raising public revenue.

14 (3) The term "state board" or "board" when used without
 15 other qualification ~~shall-mean~~ means the state tax appeal
 16 board."

17 **Section 63.** Section 15-6-134, MCA, is amended to read:

18 "15-6-134. Class four property -- description --
 19 taxable percentage. (1) Class four property includes:

20 (a) all land that is not devoted to a commercial use
 21 except--that or specifically included in another class, less
 22 the exemption provided in 15-6-201(4);

23 (b) all improvements that are not devoted to a
 24 commercial use except--those or specifically included in
 25 another class, less the exemption provided in 15-6-201(4);

1 (c) after allowing for the exemption allowed in
 2 15-6-201(4), the first \$80,000 or less of the market value
 3 of any improvement included in subsection (1)(b) on real
 4 property and appurtenant land not exceeding 5 acres owned or
 5 under contract for deed and actually occupied for at least
 6 10 months a year as the primary residential dwelling of any
 7 person whose total income from all sources including
 8 otherwise tax-exempt income of all types is not more than
 9 \$10,000 for a single person or \$12,000 for a married couple,
 10 as adjusted according to subsection (2)(b)(ii);

11 (d) all golf courses, including land and improvements
 12 actually and necessarily used for that purpose, that consist
 13 of at least 9 holes and not less than 3,000 lineal yards.

14 (e) minerals in place having an estimated value
 15 determined by the department of \$1 million or more.

16 (2) Class four property is taxed as follows:

17 (a) ~~Except--as--provided--in--15-24-1402-or-15-24-1501~~
 18 Property described in subsections (1)(a) and (1)(b)
 19 is taxed at ~~3.86%~~ 4.5% of its market value.

20 (b) (i) Property described in subsection (1)(c) is
 21 taxed at ~~3.86%~~ 4.5% of its market value multiplied by a
 22 percentage figure based on income and determined from the
 23 following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier

1	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
2	1,001 - 2,000	1,201 - 2,400	10%
3	2,001 - 3,000	2,401 - 3,600	20%
4	3,001 - 4,000	3,601 - 4,800	30%
5	4,001 - 5,000	4,801 - 6,000	40%
6	5,001 - 6,000	6,001 - 7,200	50%
7	6,001 - 7,000	7,201 - 8,400	60%
8	7,001 - 8,000	8,401 - 9,600	70%
9	8,001 - 9,000	9,601 - 10,800	80%
10	9,001 - 10,000	10,801 - 12,000	90%

11 (ii) The income levels contained in the table in
 12 subsection (2)(b)(i) must be adjusted for inflation annually
 13 by the department of revenue. The adjustment to the income
 14 levels is determined by:

15 (A) multiplying the appropriate dollar amount from the
 16 table in subsection (2)(b)(i) by the ratio of the PCE for
 17 the second quarter of the year prior to the year of
 18 application to the PCE for the second quarter of 1986; and

19 (B) rounding the product thus obtained to the nearest
 20 whole dollar amount.

21 (iii) "PCE" means the implicit price deflator for
 22 personal consumption expenditures as published quarterly in
 23 the Survey of Current Business by the bureau of economic
 24 analysis of the U.S. department of commerce.

25 (c) Property described in subsection (1)(d) is taxed at

1 one-half the taxable percentage rate established in
2 subsection (2)(a).

3 (3) After July 1, 1986, no adjustment may be made by
4 the department to the taxable percentage rate for class four
5 property until a revaluation has been made as provided in
6 15-7-111.

7 (4) Within the meaning of comparable property as
8 defined in 15-1-101, property assessed as commercial
9 property is comparable only to other property assessed as
10 commercial property, and property assessed as other than
11 commercial property is comparable only to other property
12 assessed as other than commercial property."

13 **Section 64.** Section 15-6-135, MCA, is amended to read:

14 "15-6-135. Class five property -- description --
15 taxable percentage. (1) Class five property includes:

16 (a) all property used and owned by cooperative rural
17 electrical and cooperative rural telephone associations
18 organized under the laws of Montana, except property owned
19 by cooperative organizations described in subsection (1)(b)
20 of 15-6-137;

21 (b) air and water pollution control equipment as
22 defined in this section 15-1-101;

23 (c) new industrial property as defined in this section
24 15-1-101;

25 (d) any personal or real property used primarily in the

1 production of gasohol during construction and for the first
2 3 years of its operation;

3 (e) all land and improvements and all personal property
4 owned by a research and development firm, provided that the
5 property is actively devoted to research and development;

6 (f) machinery and equipment used in electrolytic
7 reduction facilities.

8 ~~{2}--(a)--"Air--and--water--pollution--equipment"--means~~
9 ~~facilities;--machinery;--or--equipment--used--to--reduce--or~~
10 ~~control--water--or--atmospheric--pollution--or--contamination--by~~
11 ~~removing;--reducing;--altering;--disposing;--or--storing~~
12 ~~pollutants;--contaminants;--wastes;--or--heat;--The--department--of~~
13 ~~health--and--environmental--sciences--shall--determine--if--such~~
14 ~~utilization--is--being--made;~~

15 ~~{b}--The--department--of--health--and--environmental~~
16 ~~sciences--determination--as--to--air--and--water--pollution~~
17 ~~equipment--may--be--appealed--to--the--board--of--health--and~~
18 ~~environmental--sciences--and--may--not--be--appealed--to--either--a~~
19 ~~county--tax--appeal--board--or--the--state--tax--appeal--board;~~
20 ~~However;--the--appraised--value--of--the--equipment--as--determined~~
21 ~~by--the--department--of--revenue--may--be--appealed--to--the--county~~
22 ~~tax--appeal--board--and--the--state--tax--appeal--board;~~

23 ~~{3}--"New--industrial--property"--means--any--new--industrial~~
24 ~~plant;--including--land;--buildings;--machinery;--and--fixtures;~~
25 ~~used--by--new--industries--during--the--first--3--years--of--their~~

1 operation;--The--property--may--not--have--been--assessed--within
2 the--state--of--Montana--prior--to--July--17--1961;

3 (4)--(a)--"New--industry"--means--any--person,--corporation,
4 firm,--partnership,--association,--or--other--group--that
5 establishes--a--new--plant--in--Montana--for--the--operation--of--a
6 new--industrial--endeavor,--as--distinguished--from--a--mere
7 expansion,--reorganization,--or--merger--of--an--existing
8 industry;

9 (b)--New--industry--includes--only--those--industries--that:
10 (i)--manufacture,--mill,--mine,--produce,--process,--or
11 fabricate--materials;

12 (ii)--do--similar--work,--employing--capital--and--labor,--in
13 which--materials--unserviceable--in--their--natural--state--are
14 extracted,--processed,--or--made--fit--for--use--or--are
15 substantially--altered--or--treated--so--as--to--create--commercial
16 products--or--materials,--or

17 (iii)--engage--in--the--mechanical--or--chemical
18 transformation--of--materials--or--substances--into--new--products
19 in--the--manner--defined--as--manufacturing--in--the--1972--Standard
20 Industrial--Classification--Manual--prepared--by--the--United
21 States--office--of--management--and--budget;

22 (5)--New--industrial--property--does--not--include:

23 (a)--property--used--by--retail--or--wholesale--merchants,
24 commercial--services--of--any--type,--agriculture,--trades,--or
25 professions;

1 (b)--a--plant--that--will--create--adverse--impact--on--existing
2 state,--county,--or--municipal--services,--or

3 (c)--property--used--or--employed--in--any--industrial--plant
4 that--has--been--in--operation--in--this--state--for--3--years--or
5 longer;

6 (6)(2) Class five property is taxed at 3% of its market
7 value."

8 **Section 65.** Section 15-6-138, MCA, is amended to read:

9 "15-6-138. Class eight property -- description --
10 taxable percentage. (1) Class eight property includes:

11 (a) all agricultural implements and equipment;

12 (b) all mining machinery, fixtures, equipment, tools
13 that are not exempt under 15-6-201(1)(r), and supplies
14 except those included in class five;

15 (c) all manufacturing machinery, fixtures, equipment,
16 tools that are not exempt under 15-6-201(1)(r), and supplies
17 except those included in class five;

18 (d) all trailers, including those prorated under
19 15-24-102, except those subject to taxation under
20 61-3-504(2);

21 (e) all goods and equipment intended for rent or lease,
22 except goods and equipment specifically included and taxed
23 in another class;

24 (f) buses and trucks having a rated capacity of more
25 than 1 ton, including those prorated under 15-24-102;

1 (g) truck toppers weighing more than 300 pounds;

2 (h) furniture, fixtures, and equipment, except that

3 specifically included in another class, used in commercial

4 establishments ~~as defined in this section~~;

5 (i) x-ray and medical and dental equipment;

6 (j) citizens' band radios and mobile telephones;

7 (k) radio and television broadcasting and transmitting

8 equipment;

9 (l) cable television systems;

10 (m) coal and ore haulers;

11 (n) theater projectors and sound equipment; and

12 (o) livestock and other species of domestic animals and

13 wildlife raised in domestication or a captive environment,

14 except for cats, dogs, and other household pets not raised

15 for profit;

16 (p) items of personal property intended for rent or

17 lease in the ordinary course of business, provided each item

18 of personal property satisfies all of the following:

19 (i) the full and true value of the personal property is

20 less than \$5,000;

21 (ii) the personal property is owned by a business whose

22 primary business income is from rental or lease of personal

23 property to individuals if one customer of the business does

24 not account for more than 10% of the total rentals or leases

25 during a calendar year; and

1 (iii) the lease of the personal property is generally on

2 an hourly, daily, or weekly basis;

3 (g) machinery and equipment used in a malting barley

4 facility;

5 (r) machinery and equipment used in canola seed oil

6 processing facilities if:

7 (i) the operators of a facility employ a minimum of 15

8 full-time employees; and

9 (ii) a canola seed oil processing facility locates in

10 the state of Montana after July 25, 1989;

11 (s) licenses for the sale of alcoholic beverages at

12 retail, including:

13 (i) beer and table wine licenses obtained under the

14 provisions of Title 16, chapter 4, part 1; and

15 (ii) all-beverages licenses obtained under the

16 provisions of Title 16, chapter 4, part 2; and

17 (t) all other property not included in any other

18 class in this part, except that property subject to a fee in

19 lieu of a property tax or exempt from taxation.

20 ~~(2) As used in this section, "coal and ore haulers"~~

21 ~~means nonhighway vehicles that exceed 18,000 pounds per axle~~

22 ~~and that are primarily designed and used to transport coal,~~

23 ~~ore, or other earthen material in a mining or quarrying~~

24 ~~environment;~~

25 ~~(3) "Commercial establishment" includes any hotel;~~

1 motel,--office,--petroleum--marketing--station,--or--service,
2 wholesaler,--retailer,--or--food--handling--business.

3 (4)(2) Class eight property is taxed at 9% 4.5% of its
4 market value."

5 **Section 66.** Section 15-6-142, MCA, is amended to read:

6 "15-6-142. Class twelve property -- description --
7 taxable percentage. (1) Class twelve property includes:

8 (a) a trailer or mobile home used as a residence, less
9 the exemption provided in 15-6-201(4), except when:

10 (i) held by a distributor or dealer of trailers or
11 mobile homes as his stock in trade; or

12 (ii) specifically included in another class;

13 (b) after allowing for the exemption provided in
14 15-6-201(4), the first \$80,000 or less of the market value
15 of a trailer or mobile home used as a residence and actually
16 occupied for at least 10 months a year as the primary
17 residential dwelling of any person whose total income from
18 all sources including otherwise tax-exempt income of all
19 types is not more than \$10,000 for a single person or
20 \$12,000 for a married couple, as adjusted according to
21 15-6-134(2)(b)(ii).

22 (2) Class twelve property is taxed as follows:

23 (a) Property described in subsection (1)(a) that is not
24 of the type described in subsection (1)(b) is taxed at 3.86%
25 4.5% of its market value.

1 (b) Property described in subsection (1)(b) is taxed at
2 ~~3.86%~~ 4.5% of its market value multiplied by a percentage
3 figure based on income and determined from the table
4 established in subsection (2)(b)(i) of 15-6-134."

5 **Section 67.** Section 15-6-145, MCA, is amended to read:

6 "15-6-145. Class fifteen property -- description --
7 taxable percentage. (1) Class fifteen property includes all
8 railroad transportation property as described in the
9 Railroad Revitalization and Regulatory Reform Act of 1976 as
10 it read on January 1, 1986.

11 (2) For the taxable year beginning January 1, 1986, and
12 for each taxable year thereafter, class fifteen property is
13 taxed at the percentage rate "R", to be determined by the
14 department as provided in subsection (3), or 12%, whichever
15 is less.

16 (3) $R = A/B$ where:

17 (a) A is the total statewide taxable value of all
18 commercial property, except class fifteen property, as
19 commercial property is described in 15-1-101(i)(d),
20 including class 1 and class 2 property; and

21 (b) B is the total statewide market value of all
22 commercial property, except class fifteen property, as
23 commercial property is described in 15-1-101(i)(d),
24 including class 1 and class 2 property.

25 (4) (a) For the taxable year beginning January 1, 1986,

1 and for every taxable year thereafter, the department shall
2 conduct a sales assessment ratio study of all commercial and
3 industrial real property and improvements. The study must be
4 based on:

5 (i) assessments of such property as of January 1 of the
6 year for which the study is being conducted; and

7 (ii) a statistically valid sample of sales using data
8 from realty transfer certificates filed during the same
9 taxable year or from the immediately preceding taxable year,
10 but only if a sufficient number of certificates is
11 unavailable from the current taxable year to provide a
12 statistically valid sample.

13 (b) The department shall determine the value-weighted
14 mean sales assessment ratio "M" for all such property and
15 reduce the taxable value of property described in subsection
16 (4) only, by multiplying the total statewide taxable value
17 of property described in subsection (4) by "M" prior to
18 calculating "A" in subsection (3).

19 (c) The adjustment referred to in subsection (4)(b)
20 will be made beginning January 1, 1986, and in each
21 subsequent tax year to equalize the railroad taxable values.

22 (5) For the purpose of complying with the Railroad
23 Revitalization and Regulatory Reform Act of 1976, as it read
24 on January 1, 1986, the rate "R" referred to in this section
25 is the equalized average tax rate generally applicable to

1 commercial and industrial property, except class fifteen
2 property, as commercial property is defined in
3 15-1-101(d)."

4 **Section 68.** Section 15-6-147, MCA, is amended to read:

5 "15-6-147. Class seventeen property -- description --
6 taxable percentage. (1) Class seventeen property includes
7 all airline transportation property as described in the Tax
8 Equity and Fiscal Responsibility Act of 1982 as it read on
9 January 1, 1986.

10 (2) For the taxable years 1986 through 1990 class
11 seventeen property is taxed at 12%, and for each taxable
12 year thereafter, class seventeen property is taxed at the
13 lesser of 12% or the percentage rate "R", to be determined
14 by the department as provided in subsection (3).

15 (3) (a) $R = A/B$ where:

16 (i) A is the total statewide taxable value of all
17 commercial property, except class seventeen property, as
18 commercial property is described in 15-1-101(d),
19 including class one and class two property; and

20 (ii) B is the total statewide market value of all
21 commercial property, except class seventeen property, as
22 commercial property is described in 15-1-101(d),
23 including class one and class two property.

24 (b) In accordance with the commercial property taxable
25 value adjustment procedure set forth in 15-6-145(4) for

1 railroad property, the department shall determine the
2 value-weighted mean sales assessment ratio "M" and make a
3 similar adjustment prior to calculating "A" for airline
4 property, in order to equalize airline taxable values.

5 (4) For the purpose of complying with the Tax Equity
6 and Fiscal Responsibility Act of 1982, as it read on January
7 1, 1986, the rate "R" referred to in this section is the
8 equalized average tax rate generally applicable to
9 commercial and industrial property, except class seventeen
10 property, as commercial property is defined in
11 15-1-101(d)." ~~(d)~~.

12 **Section 69.** Section 15-6-201, MCA, is amended to read:

13 **"15-6-201. Exempt categories.** (1) The Except as
14 provided in 15-6-208(5), the following categories of
15 property are exempt from taxation:

16 (a) the property of:

17 (i) the United States, the state, counties, cities,
18 towns, school districts, except, if congress passes
19 legislation that allows the state to tax property owned by
20 an agency created by congress to transmit or distribute
21 electrical energy, the property constructed, owned, or
22 operated by a public agency created by the congress to
23 transmit or distribute electric energy produced at privately
24 owned generating facilities (not including rural electric
25 cooperatives);

1 (ii) irrigation districts organized under the laws of
2 Montana and not operating for profit;

3 (iii) municipal corporations; and

4 (iv) public libraries;

5 (b) buildings, with land they occupy and furnishings
6 therein, owned by a church and used for actual religious
7 worship or for residences of the clergy, together with
8 adjacent land reasonably necessary for convenient use of the
9 buildings;

10 (c) property used exclusively for agricultural and
11 horticultural societies, for educational purposes, and for
12 nonprofit health care facilities, as defined in 50-5-101,
13 licensed by the department of health and environmental
14 sciences and organized under Title 35, chapter 2 or 3. A
15 health care facility that is not licensed by the department
16 of health and environmental sciences and organized under
17 Title 35, chapter 2 or 3, is not exempt.

18 (d) property that meets the following conditions:

19 (i) is owned and held by any association or corporation
20 organized under Title 35, chapter 2, 3, 20, or 21;

21 (ii) is devoted exclusively to use in connection with a
22 cemetery or cemeteries for which a permanent care and
23 improvement fund has been established as provided for in
24 Title 35, chapter 20, part 3; and

25 (iii) is not maintained and operated for private or

1 corporate profit;

2 (e) institutions of purely public charity;

3 (f) evidence of debt secured by mortgages of record
4 upon real or personal property in the state of Montana;

5 (g) public art galleries and public observatories not
6 used or held for private or corporate profit;

7 (h) all household goods and furniture, including but
8 not limited to clocks, musical instruments, sewing machines,
9 and wearing apparel of members of the family, used by the
10 owner for personal and domestic purposes or for furnishing
11 or equipping the family residence;

12 (i) a truck canopy cover or topper weighing less than
13 300 pounds and having no accommodations attached. This
14 property is also exempt from taxation under 61-3-504(2) and
15 61-3-537.

16 (j) a bicycle, as defined in 61-1-123, used by the
17 owner for personal transportation purposes;

18 (k) motor homes, travel trailers, and campers;

19 (l) all watercraft;

20 (m) land, fixtures, buildings, and improvements owned
21 by a cooperative association or nonprofit corporation
22 organized to furnish potable water to its members or
23 customers for uses other than the irrigation of agricultural
24 land;

25 (n) the right of entry that is a property right

1 reserved in land or received by mesne conveyance (exclusive
2 of leasehold interests), devise, or succession to enter land
3 whose surface title is held by another to explore, prospect,
4 or dig for oil, gas, coal, or minerals;

5 (o) property owned and used by a corporation or
6 association organized and operated exclusively for the care
7 of the developmentally disabled, mentally ill, or
8 vocationally handicapped as defined in 18-5-101, which is
9 not operated for gain or profit;

10 (p) all farm buildings with a market value of less than
11 \$500 and all agricultural implements and machinery with a
12 market value of less than \$100;

13 (q) property owned by a nonprofit corporation organized
14 to provide facilities primarily for training and practice
15 for or competition in international sports and athletic
16 events and not held or used for private or corporate gain or
17 profit. For purposes of this subsection (q), "nonprofit
18 corporation" means an organization exempt from taxation
19 under section 501(c) of the Internal Revenue Code and
20 incorporated and admitted under the Montana Nonprofit
21 Corporation Act.

22 (r) provided the tools are owned by the taxpayer, the
23 first \$15,000 or less of market value of tools that are
24 customarily hand-held and that are used to:

25 (i) construct, repair, and maintain improvements to

1 real property; or
 2 (ii) repair and maintain machinery, equipment,
 3 appliances, or other personal property;
 4 (s) harness, saddlery, and other tack equipment; and
 5 (t) a title plant owned by a title insurer or a title
 6 insurance producer, as those terms are defined in 33-25-105.
 7 (2) (a) The term "institutions of purely public
 8 charity" includes organizations owning and operating
 9 facilities for the care of the retired or aged or
 10 chronically ill, which are not operated for gain or profit.
 11 (b) The terms "public art galleries" and "public
 12 observatories" include only those art galleries and
 13 observatories, whether of public or private ownership, that
 14 are open to the public without charge at all reasonable
 15 hours and are used for the purpose of education only.
 16 (3) The following portions of the appraised value of a
 17 capital investment made after January 1, 1979, in a
 18 recognized nonfossil form of energy generation, as defined
 19 in 15-32-102, are exempt from taxation for a period of 10
 20 years following installation of the property:
 21 (a) \$20,000 in the case of a single-family residential
 22 dwelling;
 23 (b) \$100,000 in the case of a multifamily residential
 24 dwelling or a nonresidential structure.
 25 (4) The first \$4,100 or less of market value of real

1 property and improvements that are used exclusively for
 2 residential purposes is exempt from taxation."

3 **Section 70.** Section 15-6-208, MCA, is amended to read:

4 "15-6-208. Mineral exemptions. (1) One-half of the
 5 contract sales price of coal sold by a coal producer who
 6 extracts less than 50,000 tons of coal in a calendar year is
 7 exempt from taxation.

8 (2) Metal mines producing less than 20,000 tons of ore
 9 in a taxable year shall be exempt from property taxation on
 10 one-half of the merchantable value.

11 (3) New production, as defined in 15-23-601, is exempt
 12 from taxation for the first 12 months of production as
 13 provided in 15-23-612.

14 (4) Minerals in place having an estimated value
 15 determined by the department of less than \$1 million are
 16 exempt from taxation.

17 (5) Minerals in place are not exempt from taxation
 18 under 15-6-201(1) if owned by an entity included in
 19 15-6-201(1)(a) but under lease to an entity or person not
 20 included in 15-6-201(1)(a)."

21 **Section 71.** Section 15-7-103, MCA, is amended to read:

22 "15-7-103. Classification and appraisal -- general and
 23 uniform methods. (1) It is the duty of the department of
 24 revenue to implement the provisions of 15-7-101 through
 25 15-7-103 by providing:

1 (a) for a general and uniform method of classifying
2 lands in the state for the purpose of securing an equitable
3 and uniform basis of assessment of said lands for taxation
4 purposes;

5 (b) for a general and uniform method of appraising city
6 and town lots;

7 (c) for a general and uniform method of appraising
8 rural and urban improvements;

9 (d) for a general and uniform method of appraising
10 timberlands.

11 (2) All lands shall be classified according to their
12 use or uses and graded within each class according to soil
13 and productive capacity. In such classification work, use
14 shall be made of soil surveys and maps and all other
15 pertinent available information.

16 (3) All lands must be classified by parcels or
17 subdivisions not exceeding 1 section each, by the sections,
18 fractional sections, or lots of all tracts of land that have
19 been sectionized by the United States government, or by
20 metes and bounds, whichever yields a true description of the
21 land.

22 (4) All agricultural lands must be classified and
23 appraised as agricultural lands without regard to the best
24 and highest value use of adjacent or neighboring lands.

25 (5) In any periodic revaluation of taxable property

1 completed under the provisions of 15-7-111 after January 1,
2 1986, all property classified in 15-6-134 or [section 83]
3 must be appraised on its market value in the same year. The
4 department may use the same year for property classified in
5 15-6-134 or [section 83]. The department shall publish a
6 rule specifying the year used in the appraisal of property
7 classified in 15-6-134 and the year used in the appraisal of
8 property classified in [section 83].

9 (6) All sewage disposal systems and domestic use water
10 supply systems of all dwellings may not be appraised,
11 assessed, and taxed separately from the land, house, or
12 other improvements in which they are located. In no event
13 may the sewage disposal or domestic water supply systems be
14 included twice by including them in the valuation and
15 assessing them separately."

16 **Section 72.** Section 15-8-111, MCA, is amended to read:

17 "15-8-111. Assessment -- market value standard --
18 exceptions. (1) All taxable property must be assessed at
19 100% of its market value except as otherwise provided.

20 (2) (a) Market value is the value at which property
21 would change hands between a willing buyer and a willing
22 seller, neither being under any compulsion to buy or to sell
23 and both having reasonable knowledge of relevant facts.

24 (b) If the department uses construction cost as one
25 approximation of market value, the department shall fully

1 consider reduction in value caused by depreciation, whether
 2 through physical depreciation, functional obsolescence, or
 3 economic obsolescence.

4 (c) Except as provided in subsection (3), the market
 5 value of all motor trucks; agricultural tools, implements,
 6 and machinery; and vehicles of all kinds, including but not
 7 limited to boats and all watercraft, is the average
 8 wholesale value shown in national appraisal guides and
 9 manuals or the value of the vehicle before reconditioning
 10 and profit margin. The department of revenue shall prepare
 11 valuation schedules showing the average wholesale value when
 12 no national appraisal guide exists.

13 (3) The department of revenue or its agents may not
 14 adopt a lower or different standard of value from market
 15 value in making the official assessment and appraisal of the
 16 value of property, except:

17 (a) the wholesale value for agricultural implements and
 18 machinery is the loan value as shown in the Official Guide,
 19 Tractor and Farm Equipment, published by the national farm
 20 and power equipment dealers association, St. Louis,
 21 Missouri;

22 (b) for agricultural implements and machinery not
 23 listed in the official guide, the department shall prepare a
 24 supplemental manual where the values reflect the same
 25 depreciation as those found in the official guide; and

1 (c) as otherwise authorized in Title 15 and Title 61.

2 (4) For purposes of taxation, assessed value is the
 3 same as appraised value.

4 (5) The taxable value for all property is the
 5 percentage of market or assessed value established for each
 6 class of property.

7 (6) The assessed value of properties in 15-6-131
 8 through 15-6-133 is as follows:

9 (a) Properties in 15-6-131, under class one, are
 10 assessed at 100% of the annual net proceeds after deducting
 11 the expenses specified and allowed by 15-23-503 or, if
 12 applicable, as provided in 15-23-515.

13 (b) Properties in 15-6-132, under class two, are
 14 assessed at 100% of the annual gross proceeds.

15 (c) Properties in 15-6-133, under class three, are
 16 assessed at 100% of the productive capacity of the lands
 17 when valued for agricultural purposes. All lands that meet
 18 the qualifications of 15-7-202 are valued as agricultural
 19 lands for tax purposes.

20 (d) Properties in 15-6-143, under class thirteen, are
 21 assessed at 100% of the combined appraised value of the
 22 standing timber and grazing productivity of the land when
 23 valued as timberland.

24 (e) Property in [section 84], under class twenty-two,
 25 is assessed at 100% of the value of securities as determined

1 under [sections 77 and 88].

2 (7) Land and the improvements thereon are separately
3 assessed when any of the following conditions occur:

4 (a) ownership of the improvements is different from
5 ownership of the land;

6 (b) the taxpayer makes a written request; or

7 (c) the land is outside an incorporated city or town.
8 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
9 681, L. 1985.)"

10 **Section 73.** Section 15-8-201, MCA, is amended to read:

11 "15-8-201. General assessment day. (1) The department
12 of revenue or its agent must, between January 1 and the
13 second Monday of July in each year, ascertain the names of
14 all taxable inhabitants and assess all property subject to
15 taxation in each county. The department or its agent must
16 assess property to the person by whom it was owned or
17 claimed or in whose possession or control it was at midnight
18 of January 1 next preceding. It must also ascertain and
19 assess all mobile homes arriving in the county after
20 midnight of January 1 next preceding. No mistake in the name
21 of the owner or supposed owner of real property, however,
22 renders the assessment invalid.

23 (2) The procedure provided by this section may not
24 apply to:

25 (a) motor vehicles that are required by 15-8-202 to be

1 assessed on January 1 or upon their anniversary registration
2 date;

3 (b) motor homes, travel trailers, and campers;

4 (c) watercraft;

5 (d) livestock;

6 (e) property defined in 61-1-104 as "special mobile
7 equipment" that is subject to assessment for personal
8 property taxes on the date that application is made for a
9 special mobile equipment plate; and

10 (f) mobile homes held by a distributor or dealer of
11 mobile homes as a part of his stock in trade; or

12 (g) securities.

13 ~~{3}--Credits---must---be---assessed---as---provided---in~~
14 ~~15-1-101(i)(f)-"~~

15 **Section 74.** Section 15-8-301, MCA, is amended to read:

16 "15-8-301. Statement -- what to contain. (1) The
17 department of revenue or its agent must shall require from
18 each person a statement under oath setting forth
19 specifically all the real and personal property owned by
20 such person or in his possession or under his control at
21 midnight on January 1. Such The statement must be in
22 writing, showing separately:

23 (a) all property belonging to, claimed by, or in the
24 possession or under the control or management of such
25 person;

1 (b) all property belonging to, claimed by, or in the
2 possession or under the control or management of any firm of
3 which such person is a member;

4 (c) all property belonging to, claimed by, or in the
5 possession or under the control or management of any
6 corporation of which such person is president, secretary,
7 cashier, or managing agent;

8 (d) the county in which such property is situated or in
9 which it is liable to taxation and (if liable to taxation in
10 the county in which the statement is made) also the city,
11 town, school district, road district, or other revenue
12 districts in which it is situated;

13 (e) an exact description of all lands in parcels or
14 subdivisions not exceeding 640 acres each and the sections
15 and fractional sections of all tracts of land containing
16 more than 640 acres which have been sectionized by the
17 United States government; improvements and personal
18 property; all taxable state, county, city, or other
19 municipal or public bonds and the taxable bonds of any
20 person, firm, or corporation and deposits of money, gold
21 dust, or other valuables and the names of the persons with
22 whom such deposits are made and the places in which they may
23 be found; all mortgages, deeds of trust, contracts, and
24 other obligations by which a debt is secured and the
25 property in the county affected thereby;

1 (f) all solvent credits, secured or unsecured, due or
2 owing to such person or any firm of which he is a member or
3 due or owing to any corporation of which he is president,
4 secretary, cashier, or managing agent;

5 (g) all depots, shops, stations, buildings, and other
6 structures erected on the space covered by the right-of-way
7 and all other property owned by any person owning or
8 operating any railroad within the county.

9 (2) Whenever one member of a firm or one of the proper
10 officers of a corporation has made a statement showing the
11 property of the firm or corporation, another member of the
12 firm or another officer need not include such property in
13 the statement made by him but this statement must show the
14 name of the person or officer who made the statement in
15 which such property is included.

16 (3) The fact that such statement is not required or
17 that a person has not made such statement, under oath or
18 otherwise, does not relieve his property from taxation.

19 (4) With respect to a person owning securities, the
20 statement required in this section must include a list of
21 the securities owned by the person and the days during the
22 taxable year that the person owned each of the securities,
23 as required in [section 87]."

24 **Section 75.** Section 15-8-408, MCA, is amended to read:

25 "15-8-408. Personal property. Personal property, other

1 than livestock and securities, subject to taxation or a fee
 2 in lieu of tax in the state shall be taxable in the taxing
 3 jurisdiction where it is located on January 1, whether or
 4 not the same is owned, claimed, or possessed by the person,
 5 as defined in 15-1-102, owning, claiming, or possessing it
 6 on January 1."

7 **Section 76.** Section 15-23-101, MCA, is amended to read:

8 "15-23-101. Properties centrally assessed. The
 9 department of revenue shall centrally assess each year:

10 (1) the franchise, roadway, roadbeds, rails, rolling
 11 stock, and all other operating property of railroads
 12 operating in more than one county in the state or more than
 13 one state;

14 (2) property owned by a corporation or other person
 15 operating a single and continuous property operated in more
 16 than one county or more than one state, including telegraph,
 17 telephone, microwave, electric power or transmission lines;
 18 natural gas or oil pipelines; canals, ditches, flumes, or
 19 like properties and including, if congress passes
 20 legislation that allows the state to tax property owned by
 21 an agency created by congress to transmit or distribute
 22 electrical energy, property constructed, owned, or operated
 23 by a public agency created by the congress to transmit or
 24 distribute electric energy produced at privately owned
 25 generating facilities (not including rural electric

1 cooperatives);

2 (3) all property of scheduled airlines;

3 (4) the net proceeds of mines and of oil and gas wells;

4 (5) the gross proceeds of coal mines; and

5 (6) property described in subsections (1) and (2) which
 6 is subject to the provisions of Title 15, chapter 24, part
 7 12; and

8 (7) securities."

9 **Section 77.** Section 15-23-103, MCA, is amended to read:

10 "15-23-103. Due date of reports and returns --
 11 extensions. (1) Except as provided in subsection (2) and
 12 15-23-602, each report or return described in 15-23-301,
 13 15-23-402, 15-23-502, or 15-23-701, or [section 87] shall be
 14 delivered to the department on or before March 31 each year.

15 (2) Each report or return for a natural gas or oil
 16 pipeline described in 15-23-301 must be delivered to the
 17 department on or before April 15 each year.

18 (3) Each report described in 15-23-201 or 15-23-515
 19 must be delivered to the department before April 15 each
 20 year.

21 (4) The department may for good cause extend the time
 22 for filing a return or report for not more than 30 days."

23 **Section 78.** Section 15-23-106, MCA, is amended to read:

24 "15-23-106. Transmission to the counties. (1) On or
 25 before July 1, the department shall transmit to its agent in

1 each county a statement listing:

2 (a) the assessed value of railroad property, as
3 determined under 15-23-202, apportioned to the county,
4 including the length or other description of such property;

5 (b) the assessed value of utility property, as
6 determined under 15-23-303, apportioned to the county,
7 including the length or other description of such property;

8 (c) the assessed value of property of airline
9 companies, as determined under 15-23-403, apportioned to the
10 county; 90% of the value of the property of airline
11 companies apportioned to any county by reason of a state
12 airport being located in the county shall be stated
13 separately from the remaining assessed value of the property
14 of airline companies apportioned to the county;

15 (d) the assessed value of the net proceeds and
16 royalties from mines and oil and gas wells in the county, as
17 determined under 15-23-503, 15-23-505, 15-23-515, 15-23-603,
18 and 15-23-605; and

19 (e) the assessed value of the gross proceeds from coal
20 mines, as described in 15-23-701; and

21 (f) the assessed value of securities subject to
22 taxation.

23 (2) The agent of the department shall enter the
24 assessed values so transmitted in the assessment book in a
25 manner prescribed by the department."

1 **Section 79.** Section 15-24-901, MCA, is amended to read:

2 "15-24-901. Definition. As used in this part,
3 "livestock" includes those animals specified in the
4 definition of livestock in 15-1-101(+) (+)."

5 **Section 80.** Section 61-3-303, MCA, is amended to read:

6 "61-3-303. Application for registration. (1) Every
7 owner of a motor vehicle operated or driven upon the public
8 highways of this state shall for each motor vehicle owned,
9 except as herein otherwise expressly provided, file or cause
10 to be filed in the office of the county treasurer where the
11 owner makes his permanent residence at the time of making
12 the application or, if the vehicle is owned by a corporation
13 or used primarily for commercial purposes, in the taxing
14 jurisdiction of the county where the vehicle is permanently
15 assigned, an application for registration or reregistration
16 upon a blank form to be prepared and furnished by the
17 department. The application ~~shall~~ must contain:

18 (a) name and address of owner, giving county, school
19 district, and town or city within whose corporate limits the
20 motor vehicle is taxable, if taxable, or within whose
21 corporate limits the owner's residence is located if the
22 motor vehicle is not taxable;

23 (b) name and address of the holder of any security
24 interest in the motor vehicle;

25 (c) description of motor vehicle, including make, year

1 model, engine or serial number, manufacturer's model or
2 letter, gross weight, type of body, and if truck, the rated
3 capacity;

4 (d) in case of reregistration, the license number for
5 the preceding year; and

6 (e) such other information as the department may
7 require.

8 (2) A person who files an application for registration
9 or reregistration of a motor vehicle, except of a mobile
10 home as defined in 15-1-101~~(1)~~, shall upon the filing of the
11 application pay to the county treasurer:

12 (a) the registration fee, as provided in 61-3-311 and
13 61-3-321; and

14 (b) unless it has been previously paid:

15 (i) the personal property taxes assessed against the
16 vehicle for the current year of registration and the
17 immediately previous year; or

18 (ii) the new motor vehicle sales tax against the vehicle
19 for the current year of registration.

20 (3) The application may not be accepted by the county
21 treasurer unless the payments required by subsection (2)
22 accompany the application. The department or its agent may
23 not assess and the county treasurer may not collect taxes or
24 fees for a period other than:

25 (a) the current year; and

1 (b) the immediately previous year, if the vehicle was
2 not registered or operated on the highways of the state,
3 regardless of the period of time since the vehicle was
4 previously registered or operated.

5 (4) The department or its agent may make full and
6 complete investigation of the tax status of the vehicle. Any
7 applicant for registration or reregistration must submit
8 proof from the tax or other appropriate records of the
9 proper county at the request of the department or its
10 agent."

11 **Section 81.** Section 61-3-502, MCA, is amended to read:

12 "61-3-502. Sales tax on new motor vehicles --
13 exemptions. (1) In consideration of the right to use the
14 highways of the state, there is imposed a tax upon all sales
15 of new motor vehicles, excluding trailers, semitrailers, and
16 housetrailer, for which a license is sought and an original
17 application for title is made. The tax must be paid by the
18 purchaser when he applies for his original Montana license
19 through the county treasurer.

20 (2) Except as provided in subsections (4) and (5), the
21 sales tax is:

22 (a) 1 1/2% of the f.o.b. factory list price or f.o.b.
23 port-of-entry list price, during the first quarter of the
24 year or for a registration period other than a calendar year
25 or calendar quarter;

1 (b) 1 1/8% of the list price during the second quarter
2 of the year;

3 (c) 3/4 of 1% during the third quarter of the year;

4 (d) 3/8 of 1% during the fourth quarter of the year.

5 (3) If the manufacturer or importer fails to furnish
6 the f.o.b. factory list price or f.o.b. port-of-entry list
7 price, the department may use published price lists.

8 (4) The new car sales tax on vehicles subject to the
9 provisions of 61-3-313 through 61-3-316 is 1 1/2% of the
10 f.o.b. factory list price or f.o.b. port-of-entry list price
11 regardless of the month in which the new vehicle is
12 purchased.

13 (5) The sales tax on new motor vehicles registered as
14 part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b.
15 factory list price or f.o.b. port-of-entry list price.

16 (6) The proceeds from this tax must be remitted to the
17 state treasurer every 30 days for credit to the state
18 highway account of the state special revenue fund.

19 (7) The new vehicle is not subject to any other
20 assessment, fee in lieu of tax, or tax during the calendar
21 year in which the original application for title is made.

22 (8) (a) The applicant for original registration of any
23 new and unused motor vehicle, or a new motor vehicle
24 furnished without charge by a dealer to a school district
25 for use as a traffic education motor vehicle by a school

1 district operating a state-approved traffic education
2 program within the state, whether or not previously licensed
3 or titled to the school district (except a mobile home as
4 defined in 15-1-101~~f1~~), acquired by original contract after
5 January 1 of any year, is required, whenever the vehicle has
6 not been otherwise assessed, to pay the motor vehicle sales
7 tax provided by this section irrespective of whether the
8 vehicle was in the state of Montana on January 1 of the
9 year.

10 (b) No motor vehicle may be registered or licensed
11 under the provisions of this subsection unless the
12 application for registration is accompanied by a statement
13 of origin to be furnished by the dealer selling the vehicle,
14 showing that the vehicle has not previously been registered
15 or owned, except as otherwise provided herein, by any
16 person, firm, corporation, or association that is not a new
17 motor vehicle dealer holding a franchise or distribution
18 agreement from a new car manufacturer, distributor, or
19 importer.

20 (9) (a) Motor vehicles operating exclusively for
21 transportation of persons for hire within the limits of
22 incorporated cities or towns and within 15 miles from such
23 limits are exempt from subsection (1).

24 (b) Motor vehicles brought or driven into Montana by a
25 nonresident, migratory, bona fide agricultural worker

1 temporarily employed in agricultural work in this state
 2 where those motor vehicles are used exclusively for
 3 transportation of agricultural workers are also exempt from
 4 subsection (1).

5 (c) Vehicles lawfully displaying a licensed dealer's
 6 plate as provided in 61-4-103 are exempt from subsection (1)
 7 when moving to or from a dealer's place of business when
 8 unloaded or loaded with dealer's property only, and in the
 9 case of vehicles having a gross loaded weight of less than
 10 24,000 pounds, while being demonstrated in the course of the
 11 dealer's business."

12 **Section 82.** Section 61-3-503, MCA, is amended to read:

13 **"61-3-503. (Temporary) Assessment.** (1) Except as
 14 provided in 61-3-520 and subsection (2) of this section, the
 15 following apply to the taxation of motor vehicles:

16 (a) Except as provided in subsections (1)(c) through
 17 (1)(e), a person who files an application for registration
 18 or reregistration of a motor vehicle shall before filing the
 19 application with the county treasurer submit the application
 20 to the county assessor. The county assessor shall enter on
 21 the application in a space to be provided for that purpose
 22 the market value and taxable value of the vehicle as of
 23 January 1 of the year for which the application for
 24 registration is made.

25 (b) Except as provided in subsection (1)(c), motor

1 vehicles are assessed for taxes on January 1 in each year
 2 irrespective of the time fixed by law for the assessment of
 3 other classes of personal property and irrespective of
 4 whether the levy and tax may be a lien upon real property
 5 within the state. A motor vehicle is not subject to
 6 assessment, levy, and taxation more than once in each year.

7 (c) Vehicles subject to the provisions of 61-3-313
 8 through 61-3-316 shall be assessed as of the first day of
 9 the registration period, using the average trade-in or
 10 wholesale value as of January 1 of the year of assessment of
 11 the vehicle as contained in the most recent volume of the
 12 Mountain States Edition of the National Automobile Dealers
 13 Association (N.A.D.A.) Official Used Car Guide, the National
 14 Edition of N.A.D.A. Appraisal Guides Official Older Used Car
 15 Guide, or, for a vehicle that was never listed in any
 16 edition of the preceding guides, the retail value of the
 17 vehicle as determined by the county assessor, and thereafter
 18 depreciated 10% per year until a value of \$500 is reached,
 19 not including additions or deductions for options and
 20 mileage but including additions or deductions, whether or
 21 not one of the preceding guides is used, for diesel engines;
 22 and a lien for taxes and fees due on the vehicle shall occur
 23 on the anniversary date of the registration and shall
 24 continue until the fees and taxes have been paid. If the
 25 value shown in any of the appraisal guides listed in this

1 section is less than \$500, the department shall value the
2 vehicle at \$500.

3 (d) Motorcycles and quadricycles shall be assessed,
4 using the greater of the following:

5 (i) \$250; or

6 (ii) the average trade-in or wholesale value as of
7 January 1 of the year of assessment of the vehicle as
8 contained in the most recent volume of the applicable
9 National Edition of the N.A.D.A. Motorcycle/Moped/ATV
10 Appraisal Guide or N.A.D.A. Recreational Vehicle Appraisal
11 Guide, not including additions or deductions for options and
12 mileage.

13 (e) If a vehicle assessed under subsection (1)(c) or
14 (1)(d) is not originally listed in the applicable N.A.D.A.
15 guide, the department of revenue or its agent shall
16 depreciate the original f.o.b. factory list price, f.o.b.
17 port-of-entry list price, or the manufacturer's suggested
18 list price, using the following methods:

19 (i) if the new car sales tax has been previously paid
20 and the vehicle is less than 1 year in age, the depreciation
21 percentage shall be 20%; or

22 (ii) if the vehicle is 1 year or older in age and it is
23 not listed in any of the appraisal guides listed in this
24 section, the department of revenue shall determine the
25 depreciation percentage to approximate the average wholesale

1 or trade-in values in the current N.A.D.A. guides referred
2 to in this subsection. For purposes of this subsection (1),
3 the age of the vehicle is determined by subtracting the
4 manufacturer's model year of the vehicle from the calendar
5 year of assessment.

6 (f) When a minimum value of \$500 is reached, the value
7 shall remain at that minimum so long as the vehicle is
8 registered.

9 (g) If a previously registered vehicle is no longer
10 listed in the applicable N.A.D.A. guide, the department or
11 its agent shall depreciate the value of the vehicle at the
12 rate of 10% a year until a minimum amount of \$500 is
13 attained, and the value shall remain at that amount so long
14 as the vehicle is registered.

15 (2) The provisions of subsections (1)(a) through (1)(g)
16 do not apply to motor homes, travel trailers, campers, or
17 mobile homes as defined in 15-1-101~~(1)~~. (Terminates December
18 31, 1993--sec. 11, Ch. 525, L. 1989.)

19 **61-3-503. (Effective January 1, 1994) Assessment.** (1)
20 Except as provided in subsection (2), the following apply to
21 the taxation of motor vehicles:

22 (a) Except as provided in subsections (1)(c) through
23 (1)(e), a person who files an application for registration
24 or reregistration of a motor vehicle shall before filing
25 such application with the county treasurer submit the

1 application to the county assessor. The county assessor
2 shall enter on the application in a space to be provided for
3 that purpose the market value and taxable value of the
4 vehicle as of January 1 of the year for which the
5 application for registration is made.

6 (b) Except as provided in subsection (1)(c), motor
7 vehicles are assessed for taxes on January 1 in each year
8 irrespective of the time fixed by law for the assessment of
9 other classes of personal property and irrespective of
10 whether the levy and tax may be a lien upon real property
11 within the state. In no event may any motor vehicle be
12 subject to assessment, levy, and taxation more than once in
13 each year.

14 (c) Vehicles subject to the provisions of 61-3-313
15 through 61-3-316 shall be assessed as of the first day of
16 the registration period, using the average trade-in or
17 wholesale value as of January 1 of the year of assessment of
18 the vehicle as contained in the most recent volume of the
19 Mountain States Edition of the National Automobile Dealers
20 Association (N.A.D.A.) Official Used Car Guide, the National
21 Edition of N.A.D.A. Appraisal Guides Official Older Used Car
22 Guide, or, for a vehicle that was never listed in any
23 edition of the preceding guides, the retail value of the
24 vehicle as determined by the county assessor, and thereafter
25 depreciated 10% per year until a value of \$500 is reached,

1 not including additions or deductions for options and
2 mileage but including additions or deductions, whether or
3 not one of the preceding guides is used, for diesel engines;
4 and a lien for taxes and fees due on the vehicle shall occur
5 on the anniversary date of the registration and shall
6 continue until the fees and taxes have been paid. If the
7 value shown in any of the appraisal guides listed in this
8 section is less than \$500, the department shall value the
9 vehicle at \$500.

10 (d) Motorcycles and quadricycles shall be assessed,
11 using the greater of the following:

- 12 (i) \$250; or
13 (ii) the average trade-in or wholesale value as of
14 January 1 of the year of assessment of the vehicle as
15 contained in the most recent volume of the applicable
16 National Edition of the N.A.D.A. Motorcycle/Moped/ATV
17 Appraisal Guide or N.A.D.A. Recreational Vehicle Appraisal
18 Guide, not including additions or deductions for options and
19 mileage.

20 (e) If a vehicle assessed under subsection (1)(c) or
21 (1)(d) is not originally listed in the applicable N.A.D.A.
22 guide, the department of revenue or its agent shall
23 depreciate the original f.o.b. factory list price, f.o.b.
24 port-of-entry list price, or the manufacturer's suggested
25 list price, using the following methods:

1 (i) if the new car sales tax has been previously paid
2 and the vehicle is less than 1 year in age, the depreciation
3 percentage shall be 20%; or

4 (ii) if the vehicle is 1 year or older in age and it is
5 not listed in any of the appraisal guides listed in this
6 section, the department of revenue shall determine the
7 depreciation percentage to approximate the average wholesale
8 or trade-in values in the current N.A.D.A. guides referred
9 to in this subsection. For purposes of this subsection (1),
10 the age of the vehicle is determined by subtracting the
11 manufacturer's model year of the vehicle from the calendar
12 year of assessment.

13 (f) When a minimum value of \$500 is reached, the value
14 shall remain at that minimum so long as the vehicle is
15 registered.

16 (g) If a previously registered vehicle is no longer
17 listed in the applicable N.A.D.A. guide, the department or
18 its agent shall depreciate the value of the vehicle at the
19 rate of 10% a year until a minimum amount of \$500 is
20 attained, and the value shall remain at that amount so long
21 as the vehicle is registered.

22 (2) The provisions of subsections (1)(a) through (1)(g)
23 do not apply to motor homes, travel trailers, campers, or
24 mobile homes as defined in 15-1-101(11)."

25 NEW SECTION. Section 83. Class twenty-one property --

1 description -- taxable percentage. (1) Class twenty-one
2 property includes:

3 (a) all land used for commercial purposes except that
4 specifically included in another class; and

5 (b) all improvements used for commercial purposes
6 except those specifically included in another class.

7 (2) Except as provided in 15-24-1402 or 15-24-1501,
8 property included in class twenty-one is taxed at 4.5% of
9 its market value.

10 NEW SECTION. Section 84. Class twenty-two property --
11 description -- taxable percentage. (1) Class twenty-two
12 property includes all securities.

13 (2) Property included in class twenty-two is taxed at
14 4.5% of its market value.

15 NEW SECTION. Section 85. Exemption of certain
16 securities or portfolios. The following securities or
17 portfolios are exempt from taxation but are not exempt from
18 determining the value of a portfolio:

19 (1) the first \$1 million or less of value of a
20 portfolio;

21 (2) the total value of a portfolio:

22 (a) owned or held by a governmental entity; or

23 (b) that meets the requirements of a qualified pension,
24 profit-sharing, or stock bonus plan under 26 U.S.C. 401;

25 (3) the value of a security issued by any entity of the

1 federal government; and

2 (4) the value of a security issued by the federal
3 national mortgage association or the government national
4 mortgage association, established in Title 12 U.S.C. 1716,
5 to the extent that the securities are prohibited from being
6 taxed.

7 NEW SECTION. Section 86. Legislative findings --
8 policy. (1) The legislature finds that a majority of Montana
9 citizens make significant investments in real property and
10 improvements that constitute their home or farmstead and
11 that are subject to taxation as property, and finds that
12 most businesses in Montana invest in real property,
13 improvements, and personal property that is also subject to
14 taxation. The legislature also finds that some Montana
15 citizens and businesses have financial resources significant
16 and substantial enough to invest in very valuable portfolios
17 of stocks, bonds, and other securities that are not subject
18 to property taxation in Montana.

19 (2) Therefore, it is the policy of the legislature that
20 portfolios of securities that exceed \$1 million in value and
21 are owned by a person living in or an entity conducting
22 business in Montana should be subject to taxation as
23 property.

24 (3) It is further the policy of the legislature to tax
25 only that portion of the portfolio value that exceeds \$1

1 million.

2 NEW SECTION. Section 87. Taxation of securities --
3 statement of value. (1) Except as provided in [section 85],
4 all securities must be taxed as other property subject to
5 taxation is taxed.

6 (2) Every person owning a portfolio of securities that
7 at any time during the preceding taxable year exceeded
8 \$750,000 in value shall, on or before March 31 during the
9 current taxable year, make out a statement of the value of
10 the securities. The statement must be in the form prescribed
11 by the department of revenue and must be verified by the
12 oath of the person completing the statement or by the
13 manager, superintendent, agent, president, or vice
14 president, if a corporation, association, or partnership.
15 The completed and verified statement must be delivered to
16 the department on or before March 31. The statement must
17 include the following:

18 (a) the name and address of the owner of the
19 securities;

20 (b) the name and type of each security owned by the
21 person during the preceding taxable year and the dates on
22 which he owned each security; and

23 (c) the total average daily value of the securities
24 listed in subsection (2)(b).

25 NEW SECTION. Section 88. value of securities -- how

1 computed. (1) The department of revenue shall calculate from
2 the statements the average daily value of the securities or
3 portfolio owned by the person making the statement.

4 (2) To the extent that a portfolio contains one or more
5 securities that are exempt from taxation under [section
6 85(3) or (4)], the value of the exempt securities must be
7 included in the value of a portfolio even though the
8 security is exempt from taxation.

9 (3) If the value of a portfolio, including the value of
10 securities exempted under [section 85(3) or (4)], exceeds \$1
11 million, the amount of value in excess of \$1 million must be
12 first attributed to securities that are subject to taxation.

13 (4) In determining the value of securities subject to
14 taxation, only that portion of a portfolio that exceeds \$1
15 million in value is subject to taxation. Additionally, the
16 portion subject to taxation is subject to taxation according
17 to the ratio that the number of days that the value of the
18 portfolio exceeding \$1 million bears to the total number of
19 days in the taxable year.

20 (5) In computing the value of a portfolio, the
21 department may not allow any reduction for brokerage or
22 similar fees paid.

23 NEW SECTION. Section 89. Collection of the tax. The
24 tax on securities may be collected and the payment enforced
25 by the institution of a civil action for its collection in

1 any court of competent jurisdiction. Resort to this method
2 of enforcing collection does not bar the right to resort to
3 any other authorized method.

4 NEW SECTION. Section 90. False or fraudulent reports
5 -- penalty -- false swearing. If a statement required by
6 [sections 86 through 92] contains any false or fraudulent
7 statement as to the value of a security or the period that a
8 security was owned, the department of revenue shall compute
9 the value of the security using whatever information is
10 available. In addition to the penalties applicable to filing
11 a false statement under the provisions of this title, the
12 person making the false or fraudulent statement is guilty of
13 false swearing under 45-7-202.

14 NEW SECTION. Section 91. Examination of records by
15 department. The department of revenue may at any time
16 examine any records specified in [sections 86 through 92] as
17 they may pertain to the value or period of ownership in
18 order to verify the statements made by the person. If from
19 the examination or from other information the department
20 finds any statement or any material part of a statement
21 false or fraudulent, the department shall assess the value
22 in the same manner as provided for in [sections 87 and 88].

23 NEW SECTION. Section 92. Rulemaking. The department of
24 revenue shall make rules to implement the provisions of
25 [sections 86 through 92].

1 NEW SECTION. Section 93. Legislative findings --
 2 policy. (1) The legislature finds that the federal
 3 government has inhibited the state's ability to tax as
 4 property certain railroad transportation property and
 5 airline transportation property. The legislature further
 6 finds that within the restrictions imposed by the Railroad
 7 Revitalization and Regulatory Reform Act of 1976 and the Tax
 8 Equity and Fiscal Responsibility Act of 1982, the state has
 9 some limited authority to set the tax rates applicable to
 10 railroad transportation property and airline transportation
 11 property.

12 (2) It is the policy of the legislature that in
 13 determining the taxable rate applicable to railroad
 14 transportation property described in 15-6-145, the
 15 department of revenue should seek to obtain the highest
 16 taxable rate allowable under the Railroad Revitalization and
 17 Regulatory Reform Act of 1976 and 15-6-145. Similarly, it is
 18 the policy of the legislature that in determining the
 19 taxable rate applicable to airline transportation property
 20 described in 15-6-147, the department should seek to obtain
 21 the highest taxable rate allowable under the Tax Equity and
 22 Fiscal Responsibility Act of 1982 and 15-6-147.

23 (3) To implement the policy described in subsection
 24 (2), it is the intent of the legislature that property
 25 classified in Montana as the net proceeds of mines included

1 in 15-6-131 and the gross proceeds of mines included in
 2 15-6-132 is to be included in the formulas used to determine
 3 the taxable rates applicable to property in 15-6-145 and
 4 15-6-147.

5 (4) It is also the policy of the legislature that the
 6 department should determine 100% of the fair market value of
 7 railroad transportation property and airline transportation
 8 property by the most appropriate appraisal methods available
 9 and then use 100% of the fair market value in determining
 10 the taxable value.

11 (5) In order to implement the policies described in
 12 this section, the legislature intends for the department to:

13 (a) ascertain 100% of the market value of railroad
 14 transportation property described in 15-6-145 and airline
 15 transportation property described in 15-6-147 by the most
 16 appropriate appraisal methods available;

17 (b) determine the maximum rate of taxation allowable
 18 under the Railroad Revitalization and Regulatory Reform Act
 19 of 1976, which is described in formula in 15-6-145(3)
 20 through (5), and the maximum rate of taxation allowable
 21 under the Tax Equity and Fiscal Responsibility Act of 1982,
 22 which is described in formula in 15-6-147(3) and (4); and

23 (c) defend, if necessary, the valuation ascertained or
 24 the rate of taxation determined, or both, should either or
 25 both be protested or litigated.

1 NEW SECTION. Section 94. Class twenty-three property
2 -- description -- method of valuation -- taxable percentage.

3 (1) Class twenty-three property includes business
4 inventories with a market value of \$1 million or more.

5 (2) As used in subsection (1), the term "business
6 inventories" includes goods primarily intended for sale and
7 not for lease in the ordinary course of business and raw
8 materials and work in progress with respect to the goods.
9 The term does not include goods leased or rented or mobile
10 homes held by a dealer or distributor as part of his stock
11 in trade. The market value of business inventories for
12 property tax purposes is the cost to the person subject to
13 the tax.

14 (3) Class twenty-three property is taxable at 4.5% of
15 its market value.

16 **Section 95.** Section 15-6-202, MCA, is amended to read:

17 "15-6-202. Freeport merchandise and small business
18 inventories exemption. (1) Freeport merchandise and business
19 inventories with a market value of less than \$1 million are
20 exempt from taxation.

21 (2) Freeport merchandise means those stocks of
22 merchandise manufactured or produced outside this state
23 which are in transit through this state and consigned to a
24 warehouse or other storage facility, public or private,
25 within this state for storage in transit prior to shipment

1 to a final destination outside the state and which have
2 acquired a taxable situs within the state.

3 (3) Stocks of merchandise do not lose their status as
4 freeport merchandise because while in the storage facility
5 they are assembled, bound, joined, processed, disassembled,
6 divided, cut, broken in bulk, relabeled, or repackaged.

7 (4) Any person or other group seeking to qualify its
8 property for inclusion in the freeport merchandise class
9 shall make application to the department of revenue in such
10 manner or form as may be required by the department.

11 (5) "Business As used in this section, the term
12 "business inventories" includes goods primarily intended for
13 sale--and--not--for--lease--in--the--ordinary--course--of--business
14 and--raw--materials--and--work--in--progress--with--respect--to--such
15 goods.--Business--inventories--do--not--include--goods--leased--or
16 rented--or--mobile--homes--held--by--a--dealer--or--distributor--as
17 part--of--his--stock--in--trade means business inventories as
18 defined in [section 94]."

19 **Section 96.** Section 15-24-301, MCA, is amended to read:

20 "15-24-301. Personal property brought into the state --
21 assessment -- exceptions -- custom combine equipment. (1)
22 Except as provided in subsections (2) through (5), property
23 in the following cases is subject to taxation and assessment
24 for all taxes levied that year in the county in which it is
25 located:

1 (a) any personal property (including livestock)
2 brought, driven, or coming into this state at any time
3 during the year that is used in the state for hire,
4 compensation, or profit;

5 (b) property whose owner or user is engaged in gainful
6 occupation or business enterprise in the state; or

7 (c) property which comes to rest and becomes a part of
8 the general property of the state.

9 (2) The taxes on this property are levied in the same
10 manner and to the same extent, except as otherwise provided,
11 as though the property had been in the county on the regular
12 assessment date, provided that the property has not been
13 regularly assessed for the year in some other county of the
14 state.

15 (3) Nothing in this section shall be construed to levy
16 a tax against a merchant or dealer within this state on
17 goods, wares, or merchandise brought into the county to
18 replenish the stock of the merchant or dealer in addition to
19 the tax levied against the inventory of the merchant or
20 dealer on the regular assessment date.

21 (4) Any motor vehicle not subject to a fee in lieu of
22 tax brought, driven, or coming into this state by any
23 nonresident person temporarily employed in Montana and used
24 exclusively for transportation of such person is subject to
25 taxation and assessment for taxes as follows:

1 (a) The motor vehicle is taxed by the county in which
2 it is located.

3 (b) One-fourth of the annual tax liability of the motor
4 vehicle must be paid for each quarter or portion of a
5 quarter of the year that the motor vehicle is located in
6 Montana.

7 (c) The quarterly taxes are due the first day of the
8 quarter.

9 (5) Agricultural harvesting machinery classified under
10 class eight, licensed in other states, and operated on the
11 lands of persons other than the owner of the machinery under
12 contracts for hire shall be subject to a fee in lieu of
13 taxation of \$35 per machine for the calendar year in which
14 the fee is collected. The machines shall be subject to
15 taxation under class eight only if they are sold in
16 Montana."

17 **NEW SECTION. Section 97. Repealer.** (1) Sections
18 15-30-103, 15-30-105, 15-30-108, 15-30-110, 15-30-111,
19 15-30-112, 15-30-113, 15-30-114, 15-30-115, 15-30-117,
20 15-30-121, 15-30-122, 15-30-123, 15-30-125, 15-30-126,
21 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-137,
22 15-30-142, 15-30-143, 15-30-156, 15-30-157, 15-32-109,
23 15-32-201, 15-32-202, 15-32-203, 19-9-1005, and 19-13-1003,
24 MCA, are repealed January 1, 1991.

25 (2) Sections 15-6-136, 15-10-401, 15-10-402, 15-10-411,

1 and 15-10-412, MCA, are repealed January 1, 1992.

2 **NEW SECTION. Section 98. Codification instruction.** (1)

3 (a) [Sections 6 through 10] are intended to be codified as
4 an integral part of Title 15, chapter 30, part 1, and the
5 provisions of Title 15, chapter 30, part 1, apply to
6 [sections 6 through 10].

7 (b) The code commissioner is instructed to make changes
8 throughout the Montana Code Annotated to reflect the change
9 in the definition of "Internal Revenue Code" in 15-30-101.

10 (2) [Sections 60 and 61] are intended to be codified as
11 an integral part of Title 15, chapter 23, part 6, and the
12 provisions of Title 15, chapter 23, part 6, apply to
13 [sections 60 and 61].

14 (3) [Sections 83, 84, and 94] are intended to be
15 codified as an integral part of Title 15, chapter 6, part 1,
16 and the provisions of Title 15, chapter 6, part 1, apply to
17 [sections 83, 84, and 94].

18 (4) [Section 85] is intended to be codified as an
19 integral part of Title 15, chapter 6, part 2, and the
20 provisions of Title 15 apply to [section 85].

21 (5) [Sections 86 through 92] are intended to be
22 codified as an integral part of Title 15, chapter 23, and
23 the provisions of Title 15 apply to [sections 86 through
24 92].

25 (6) [Section 93] is intended to be codified as an

1 integral part of Title 15, chapter 7, part 1, and the
2 provisions of Title 15, chapter 7, part 1, apply to [section
3 93].

4 **NEW SECTION. Section 99. Severability.** If a part of
5 [this act] is invalid, all valid parts that are severable
6 from the invalid part remain in effect. If a part of [this
7 act] is invalid in one or more of its applications, the part
8 remains in effect in all valid applications that are
9 severable from the invalid applications.

10 **NEW SECTION. Section 100. Saving clause.** [This act]
11 does not affect rights and duties that matured, penalties
12 that were incurred, or proceedings that were begun before
13 [the effective dates of this act].

14 **NEW SECTION. Section 101. Effective dates.** (1)
15 [Sections 1 through 32, 40 through 52, 60, 61, 97 through
16 100, 102, 103, and this section] are effective on passage
17 and approval.

18 (2) [Sections 33 through 39 and 53 through 59] are
19 effective July 1, 1992.

20 **NEW SECTION. Section 102. Retroactive applicability.**
21 (1) [Sections 1 through 32 and 97(1)] apply retroactively,
22 within the meaning of 1-2-109, to taxable years beginning
23 after December 31, 1990.

24 (2) [Sections 33 through 61] apply retroactively,
25 within the meaning of 1-2-109, to coal, oil, and natural gas

LC 1708/01

1 produced after December 31, 1990.

2 NEW SECTION. **Section 103.** Applicability. [Sections 62
3 through 96] apply to taxable years beginning after December
4 31, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0467, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the income tax and property tax laws of Montana; repealing the existing state individual income tax and imposing a state income tax based on a percentage of the federal income tax payable on Montana taxable income; exempting from property taxation the first \$4,100 or less of the market value of residential real property and improvements; reducing the tax rate applicable to business equipment and other commercial personal property in Class Eight from 9 percent to 4.5 percent; establishing the tax rate applicable to all commercial and residential real property and improvements at 4.5 percent; simplifying the taxation of property by placing most nonutility property in the same class; reimposing the taxes on coal gross proceeds and on oil and natural gas net proceeds that were in effect prior to the passage of Chapter 11, special laws of June 1989; subjecting that portion of portfolios of securities that exceeds \$1 million in value to property taxation; taxing minerals in place with a value in excess of \$1 million as Class 4 property; defining minerals in place; providing that minerals in place owned by a governmental entity are taxable if leased by a nongovernmental entity; providing that business inventories with a market value of \$1 million or more are taxed at 4.5 percent of market value; repealing the provisions of Initiative Measure No. 105; and providing effective dates and applicability dates.


*****SECTION A - INDIVIDUAL INCOME TAX*****

ASSUMPTIONS:

1. Individual income tax collections under current law are \$311,176,000 in FY92 and \$327,201,000 in FY93 (OBPP).
2. Under current law, all individual income tax collections are deposited in the state general fund.
3. Under the proposal, state income taxes will be 32% of the taxpayer's adjusted federal tax liability. This increases individual income tax collections \$29,986,000 in FY92 and \$32,692,000 in FY93 (DOR simulations).
4. Implementing the proposal will require one-time additional administrative expense of \$125,000 in FY92: 2.00 FTE, at \$78,000 and operating expense of \$47,000. Annual (on-going) administrative expense reductions total \$106,903: 1.00 FTE at \$21,160 and operating expense of \$85,743.

FISCAL IMPACT:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Expenditures:						
F.T.E.	0	1.00	1.00	0	(1.00)	(1.00)
Personal Services	0	56,840	56,840	0	(21,160)	(21,160)
Operating Expense	0	(38,743)	(38,743)	0	(85,743)	(85,743)
Total	0	18,097	18,097	0	(106,903)	(106,903)


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

DATE

THOMAS E. "TOM" TOWE, PRIMARY SPONSOR

DATE

Fiscal Note for SB0467, as introduced

4/2/91
SB 467-1

Revenues:

	FY '92			FY '93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Individual Income Tax (01)	311,176,000	341,162,000	29,986,000	327,201,000	359,893,000	32,692,000

*****SECTION B - NET AND GROSS PROCEEDS*****

ASSUMPTIONS:

1. The total distribution of LGST receipts for oil and natural gas will be \$33,551,185 in FY91 (DOR).
2. The total taxable value of "old production" (pre-1985) oil and gas would be \$196,321,442 under the proposal (DOR).
3. The average mill levy applicable to oil/gas net proceeds under the proposal is 221.79 mills. Of these mills, 53.62 mills are for counties, 95 mills are for the foundation program, 64.55 mills are for schools, 6 mills are for universities, and 2.62 mills are for miscellaneous districts.
4. Total coal gross proceeds (current law) based on the 1990 production year are \$262,489,706; total coal gross proceeds tax under current law is \$13,124,485 (DOR).
5. The taxable value of coal under the proposal is \$118,120,368.
6. The average mill levy applicable to coal under the proposal is 174.23 mills. Of these mills, 37.88 mills are for counties, 95 mills are for the foundation program, 30.04 mills are for local schools, 6 mills are for universities, and 5.31 mills are for miscellaneous districts.
7. The annual impacts shown below for oil, gas and coal net and gross proceeds do not impact FY92, only FY93.
8. The distribution across taxing jurisdictions of net proceeds from new production is the same as that for old production.

FISCAL IMPACT:

Expenditures:

The proposal will have no impact on Department of Revenue expenditures.

Revenues: OIL, GAS, AND COAL NET AND GROSS PROCEEDS

The following annual impacts on state-level revenues are based on the most recent production year data, and mill levy information available. For oil and gas the production year is 1989, for coal the production year is 1990; all mills used for net and gross proceeds under the proposal are 1990 mills.

SB 467-1

A. OIL/NATURAL GAS.

The impact of the proposed change in the taxation of oil and natural gas on state government revenues is illustrated by the table below. The proposed change would increase state revenues to the foundation program and the university system by \$10,732,377.

	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DIFFERENCE</u>
Foundation Program	\$8,025,961	\$18,650,537	\$10,624,576
University System	<u>1,070,128</u>	<u>1,177,929</u>	<u>107,801</u>
TOTAL	\$9,096,089	\$19,828,466	\$10,732,377

B. COAL.

The impact of the proposed change in the taxation of coal on state government revenues is illustrated by the table below. The proposed change would increase state revenues by \$5,665,093.

	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DIFFERENCE</u>
Foundation Program	\$5,527,998	\$11,221,435	\$5,693,437
University System	<u>737,066</u>	<u>708,722</u>	<u>(28,344)</u>
TOTAL	\$6,265,064	\$11,930,157	\$5,665,093

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

A. OIL/NATURAL GAS.

The impact of the proposed change in the taxation of oil and natural gas on local government revenues is illustrated by the table below. The proposed change would decrease local government revenues by \$740,807.

	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DIFFERENCE</u>
County	\$10,859,595	\$10,526,522	(\$333,073)
Local Schools	13,153,036	12,672,760	(480,276)
Miscellaneous	<u>442,465</u>	<u>515,007</u>	<u>72,542</u>
TOTAL	\$24,455,096	\$23,714,289	(\$740,807)

B. COAL.

The impact of the proposed change in the taxation of coal on local government revenues is illustrated by the table below. The proposed change would increase local government revenues by \$1,790,211.

	<u>CURRENT</u>	<u>PROPOSED</u>	<u>DIFFERENCE</u>
County	\$2,964,508	\$4,474,704	\$1,510,196
Local Schools	3,431,430	3,548,195	116,765
Miscellaneous	<u>463,482</u>	<u>626,732</u>	<u>163,250</u>
TOTAL	\$6,859,420	\$8,649,631	\$1,790,211

SB 467-1

Revenues: NET PROCEEDS ON NEW PRODUCTION OIL AND GAS.

The bill provides that new production of oil or gas is eligible for a 12-month exemption from net proceeds taxes only if notification was made before July 1, 1991. New production begun after that date would no longer be eligible for the exemption. This results in a revenue increase in FY92 and FY93, as shown in the following table:

	<u>FY92</u>	<u>FY93</u>
Counties	\$ 181,500	\$ 242,000
Foundation Program	321,000	428,000
Schools	218,250	291,000
Universities	20,250	27,000
Miscellaneous Districts	<u>9,000</u>	<u>12,000</u>
TOTAL	\$ 750,000	\$1,000,000

This impact is based on 1989 data showing that the revenue loss from exempt new production net proceeds was \$1,000,000; and on the assumption that, given an effective date of July 1, 1991, three-quarters of the impact will be felt in FY92 and all of the impact will be felt in FY93.

*****SECTION C - PROPERTY TAX IMPACTS*****

ASSUMPTIONS:

1. The taxable value (before the \$4,100 market value exemption in section 69) for Class 4 residential property impacted by the proposal is \$414,780,592 with 53.01% within a city/town. The proposal will increase this taxable value approximately 16% (4.5/3.86).
2. Average levies applied to Class 4 residential property are 6 mills for the universities, 95 for the school foundation program, 85.88 for counties, 123.26 for local schools and 98.36 for city/towns.
3. The taxable value for Class 4 commercial property impacted by the proposal is \$184,636,626 with 71.32% within a city/town. The proposal will increase this taxable value approximately 16% (4.5/3.86).
4. Average levies applied to Class 4 commercial property are 6 mills for the universities, 95 for the school foundation program, 86.10 for counties, 124.12 for local schools and 98.36 for city/towns.
5. The taxable value for Class 6 property impacted by the proposal is \$25,205,356 with 0.91% within a city/town. The proposal will increase this taxable value approximately 12.5% (4.5/4.0).
6. Average levies applied to Class 6 property are 6 mills for the universities, 95 for the school foundation program, 76.85 for counties, 96.94 for local schools and 98.36 for city/towns.
7. The taxable value for Class 8 personal property impacted by the proposal is \$218,862,953 with 18.64% within a city/town. The proposal will decrease this taxable value approximately 50% (4.5/9.0).

SB 467-1

8. Average levies applied to Class 8 personal property are 6 mills for the universities, 95 for the school foundation program, 76.09 for counties, 107.87 for local schools and 98.36 for city/towns.
9. Due to the applicability date, unsecured personal property (30 percent of all personal property) will impact FY92.
10. The taxable value for Class 12 mobile home property impacted by the proposal is \$16,285,556 with 25.34% within a city/town. The proposal will increase this taxable value approximately 16% (4.5/3.86).
11. Average levies applied to Class 12 mobile home property are 6 mills for the universities, 95 for the school foundation program, 82.36 for counties, 117.22 for local schools and 98.36 for city/towns.
12. The taxable value for Class 14 farmstead property impacted by the proposal is \$57,194,859 with 0.17% within a city/town. The proposal will increase this taxable value approximately 16% (3.6/3.088).
13. Average levies applied to Class 14 farmstead property are 6 mills for the universities, 95 for the school foundation program, 78.13 for counties, 105.10 for local schools and 98.36 for city/towns.
14. It is assumed that section 69, exempting the first \$4,100 of market value of real property and improvements used exclusively for residential purposes, is intended to provide property tax relief for homeowners and applies to owner-occupied residential property only. (See technical note)
15. The \$4,100 market value exemption would reduce the taxable value of the state by \$41,139,500 with 44.51% within a city/town.
16. Average levies applied to property receiving the exemption are 6 mills for the universities, 95 for the school foundation program, 84.25 for counties, 118.91 for local schools and 98.36 for city/towns.

FISCAL IMPACT:

Expenditures:

This proposal will require significant changes to the state and county computer systems (see Section E).

Revenues:

The proposal results in a total net reduction in property tax revenue of \$6,343,039 in FY93. Due to the applicability date and the reduction of taxable value of personal property, the proposal results in a property tax reduction of \$9,911,257 in FY92. The results are summarized in the following tables:

	<u>FY92</u>	<u>FY93</u>
Universities	\$ (196,071)	\$ (212,646)
Foundation Program	<u>(3,104,460)</u>	<u>(3,366,900)</u>
TOTAL	\$(3,300,531)	\$(3,579,546)

EFFECT ON COUNTY OR OTHER LOCAL GOVERNMENT REVENUES OR EXPENDITURES:

	<u>FY92</u>	<u>FY93</u>
Counties	\$ (2,486,419)	\$ (2,014,353)
Local Schools	(3,525,123)	(2,756,142)
City/Towns	<u>(599,184)</u>	<u>2,007,002</u>
TOTAL	\$ (6,610,726)	\$ (2,763,493)

SB 467-1

TECHNICAL NOTES:

The language in section 6D exempting "the first \$4,100 or less of market value of real property and improvements that are used exclusively for residential purposes is exempt from taxation" is not definitive. It could be interpreted or argued that the exemption applies to rental units or multi-family housing units as well.

*******SECTION D - RAILROADS/AIRLINES*******

ASSUMPTIONS:

1. The proposal will increase the tax rate for Class 15 (railroad) and Class 17 (airline) property from 7.49% to 9.32%.
2. The taxable value for Class 15 railroad property impacted by the proposal is \$55,452,979 with 6.41% within a city/town.
3. Average levies applied to Class 15 railroad property are 6 mills for the universities, 95 for the school foundation program, 74.19 for counties, 106.67 for local schools and 98.36 for city/towns.
3. The taxable value for Class 17 airline property impacted by the proposal is \$4,611,311 with 10.85% within a city/town.
4. Average levies applied to Class 17 airline property are 6 mills for the universities, 95 for the school foundation program, 89.21 for counties, 132.84 for local schools and 98.36 for city/towns.

FISCAL IMPACT:

Expenditures:

The proposal will have no impact on Department of Revenue expenditures.

Revenues:

The proposal results in a total net increase in property tax revenue of \$4,280,157 in FY93. The results are summarized in the following tables:

	<u>FY93</u>
Universities	\$ 88,052
Foundation Program	<u>1,394,149</u>
TOTAL	\$ 1,482,201

EFFECT ON COUNTY OR OTHER LOCAL GOVERNMENT REVENUES OR EXPENDITURES:

	<u>FY93</u>
Counties	\$ 1,105,651
Local Schools	1,594,954
City/Towns	<u>97,382</u>
TOTAL	\$ 2,797,987

SB 467-1

*****SECTION E - OTHER CHANGES*****

In addition to the above impacts, this bill would also provide for the following:

- A) Create property Class 23, to include business inventories in excess of \$1 million and provide a taxable value rate of 4.5 percent.
- B) Create property Class 22, to include "securities" value in excess of \$1 million and provide a taxable value rate of 4.5 percent.
- C) Include "minerals in place" in excess of \$1 million in Class 4 and provide a taxable value rate of 4.5 percent.
- D) Include all beer/wine licenses and all-beverages licenses in Class 8 and provide a taxable value rate of 4.5 percent.

Revenues:

The department does not have adequate information with which to provide an estimate of the revenue impacts of the above four proposals.

Expenditures:

The taxing of "securities" provisions of this bill would require very significant data processing expenditures, which due to the inability to determine the taxpayer base cannot be estimated accurately. A quote service subscription would be needed to receive daily quote information for every security that could be reported by a taxpayer. A computer system would be needed to retain the daily quote information and provide the ability to match securities reported by the taxpayer and calculate the average daily value. Data entry staff would be required to capture all securities information reported by the taxpayer and staff would be required to work cases where the taxpayer information does not match any quote information. It is expected that this identification of mismatches could require a major effort, since the taxpayer's ability to correctly provide the nine digit Committee on Uniform Securities Identification Procedures (CUSIP) number or the stock abbreviation may be limited. In addition, additional centrally assessed property staff is needed to assess the securities and audit security records.

Additional staff would be required to assess business inventories and minerals in place. While the exact increase in administrative expense is not known, it would be substantial; especially with respect to assessing the value of minerals in place. Other states that have utilized this tax were required to staff numerous mining engineers and geologists to locate and value minerals in place. For example, it is estimated that Montana has up to 20,000 properties that would have to be assessed for mineral values alone (not including coal, oil, and gas). The state currently has sufficient data on about 20 of these to provide a reasonable estimate of the economically extractable value.