MINUTES OF THE MEETING
TAXATION COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

March 19, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on March 19, 1987, at 8 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members of the Committee were present, except Rep. Keenan, who was excused. Also present was Dave Bohyer, Researcher, Legislative Council.

DISPOSITION OF HOUSE BILL NO. 377: Chairman Ramirez told the Committee the Subcommittee made no recommendation on HB 377, because of a tie vote (3-3), following 6-8 meetings. He explained the Subcommittee reached an agreement in distribution to the counties and said distribution to local governments has to be done via a different bill, which is being drafted as an appropriations bill. Chairman Ramirez advised the bill could preclude voters from a ballot issue.

Chairman Ramirez made a motion that HB 377 DO PASS, and said the tax is set at 4 percent on tangible personal property, exempts all unprepared foods, prescriptions, non-prescription drugs and health care items, and exempts utilities because they are closer to being services and are basic necessities.

Chairman Ramirez explained that the bill would tax tickets to events, except for regular season high school events; accommodations would be taxed at 2 percent; cable televisions would be taxed; motor vehicles, except for the new car tax, would be taxed; clothing and newspapers would also be taxed.

Chairman Ramirez advised the Subcommittee felt there should be a refund of $15 per family members, to provide a break for low income persons. He explained that agricultural feed, seed, and fertilizer, as well as goods or machinery used to produce manufactured produced, are major exemptions.

Chairman Ramirez provided copies of a MACO (Montana Association of Counties), which reduces the 19 classes of property to 9 classes. He advised there are no changes in the first three classes of property, which provide for agricultural exemptions of approximately $7 million. Rep. Ramirez commented that all real property would be lowered from 3.86 to 3 percent.

Rep. Williams said he had amendments for the class structure in the portion of the bill.

Chairman Ramirez explained there would be no tax relief in classes 5 and 7, and that aircraft, boats, ATV's, and small tools would be exempted in class 6. He said total property tax relief would be about $122 million, and that the Committee might want to lower the $20,000 exemption for owner occupied residences, as a 60% average property tax reduction may be too high. Chairman Ramirez advised that if mobile homes are included in the $20,000 exemption, they might as well be written off.

Rep. Ellison advised there is a discrepancy on residences which needs to be resolved. Greg Groepper replied the difference is probably farm homes.

Dave Bohyer commented that improvements to agricultural lands, and mobile homes, become class 4 property.

Rep. Hanson advised the levy for beef research on page 156 of the bill, needs to be amended. Rep. Ellison made a motion to amend the gray bill to that effect. The motion CARRIED unanimously.

Chairman Ramirez advised that farm homeowners are getting an 80% tax break with the exemption of class 14 property, and asked that DOR indicated farm standards will be the same as they are for all other residences.

The Committee interrupted its executive action on HB 377 to hear HB 841.

CONSIDERATION OF HOUSE BILL NO. 841: Rep. Hal Harper, House District #68, sponsor of HB 841, said the bill would put schools and local governments on a more solid funding base, and answers the concerns of I-105, head-on, by removing almost all property taxes from personal residences and replacing them with an additional tax on income. He provided copies of the bill and proposed amendments (Exhibit #3).

Rep. Harper said former state senator, Bob Watt, created the idea, and has worked on tax reform for the past 15 years.

PROPONENTS OF HOUSE BILL NO. 841: Former Senator Watt said the bill does not compete with larger bills in balancing the budget. He explained that bankruptcy laws were developed to salvage those who cannot pay personal property taxes, and that no state in the union has this bill. Mr. Watt advised a professor at Carroll College assisted him in drafting the

legislation, and said DOR has problems enforcing new tax legislation.

Mr. Watt commented that the fiscal note had been changed, because he didn't believe the initial estimates were correct. He stated the proposed amendments include repealers for homestead tax relief for the elderly and low income persons, and that the bill is a nonpartisan effort. He asked the Committee to give the bill favorable consideration.

Eric Feaver, Montana Education Association, said he supported the bill, but also supports HB 377.

OPPONENTS OF HOUSE BILL NO. 841: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 841: Rep. Williams asked how coordination of evaluation and appraisal of residential property and income tax would take place. He cited an example of an owner of 100 apartments, of which 50 percent were rented, and asked if any adjustment would be made during appraisal for this situation. Mr. Watt replied that all taxable property would be removed from tax rolls, whether occupied or not, and that about three-fifths of tax bills would be collected in the usual manner. Mr. Watt explained the bill would save treasurers and assessors much effort with regard to mobile homes.

Rep. Raney commented that the bill appears to be a logical piece of legislation, and asked what the opposite side of that concept would be. Rep. Harper replied he believed DOR has a good argument in the early days, concerning inadequate computers and equipment, but also believes that when businesses vote, they've not been voting on something they have to pay for.

Rep. Ellison asked how many residents of the state would pay nothing. Rep. Harper replied that, under the bill, some persons who now pay or owe no tax at all, would pay some state income tax.

Rep. Raney asked if those receiving pensions would be exempt from state income tax. Mr. Watt replied that would be correct.

CLOSING ON HOUSE BILL NO. 841: Rep. Harper advised the bill is an idea whose time has come.

DISPOSITION OF HOUSE BILL NO. 377 (CONTINUED): Rep. Williams provided copies of proposed amendments to the bill (Exhibit #5), and made a motion that those amendments be

approved. He said the amendments would separate commercial and residential real property, and set up a separate class 20 for all land used for commercial purposes and those improvements, while providing for the same tax percentage rate as class 4 property receives.

Rep. Ellison commented the Legislature is attempting to cut down on tax classes, and the amendment would add another. Rep. Williams replied he believed the proposal makes the bill more equitable and easy to administer.

Rep. Williams' motion to amend FAILED 7-9 (roll call vote attached).

Rep. Raney made a motion to amend page 159, to set the election for the November, 1988, general election.

Rep. Patterson stated he was against the amendment, as DOR would not have adequate time to gear up. Rep. Raney advised that the first year of the biennium is the one in which there will be the most problems in balancing the budget, and that his amendment wouldn't make any difference.

The motion made by Rep. Raney FAILED 6-9, with 1 abstention (roll call vote attached). Rep. Raney advised he would offer his amendment on the House floor in lieu of the time factor.

Chairman Ramirez advised that to tax services, as requested by SB 333, would bring in $13.2 million (utilities excepted). He said moving capital tax credit to $20,000 adjusted gross income would raise $3.8 million along with a 1 percent collection fee on items of less than $100, and that the state would end up with a net of $167.8 million for the general fund or for property tax relief. Chairman Ramirez explained there is a $4-7.8 million leeway for administrative costs, that the the LFA estimates $152 million will be raised via a sales tax.

Rep. Sands made a motion to adopt the Governor's proposal on services so they would be treated in the same manner as tangible products, and that only medical services be exempted.

Chairman Ramirez advised that any amendments cannot be completed in time to get the bill out of Committee, and must be done on the House floor. He said the bill needs to be debated on March 21 for floor amendments, and must be in the Senate by March 24 for second reading.

Rep. Sands stated he was disappointed, because at one point, the Subcommittee agreed to consider services and to offer the amendment to the Committee.

Both Reps. Williams and Ellison advised they supported the Subcommittee amendments.

Rep. Sands stated that, if all service sales were covered in the bill, the tax could be lowered to 3.5%, medical services excepted, and that each 1 percent would raise $45 million.

Chairman Ramirez advised he would not offer an amendment on the $20,000 residence cap, and would take up the matter on the House floor.

Rep. Patterson asked Chairman Ramirez if he and Rep. Sands would be willing to agree to split services. Chairman Ramirez advised that the Committee could ask for divided questions and take each service separately.

Rep. Ream asked if sentences on lines 5-6, page 195 of the bill, were going to be completed. Chairman Ramirez advised those areas were left blank to craft desired language, and commented he was certain the Committee would see amendments for a surtax and a ballot.

Rep. Keenan stated the bill should be kept clean, and any surtax issue should be made separate. She requested that the amendments be debated on the House floor as an issue of fairness.

Chairman Ramirez added that Dave Bohyer is uncomfortable drafting any amendments right now.

Rep. Raney recommended inserting the language, "for imposing a 4 percent sales and use tax for the purpose of property tax relief and use for general fund monies".

Rep. Ream proposed inserting the language, "used primarily for property tax relief".

Rep. Raney commented that the people of Montana should know what they are voting on, before they vote.

Chairman Ramirez advised that ballot language should be in ordinary terms, as much as possible.

Rep. Raney said it appears the breakdown would mean 37.5 percent from commercial property, 37.5 percent from residential property, ant 25 percent to the general fund.

Chairman Ramirez made a substitute motion that 75 percent go to residential and business property tax reduction and that the balance go to the general fund. The motion CARRIED with all members voting aye, except Reps. Raney and Keenan, who voted no.

Chairman Ramirez advised he would save the remaining amendments and the statement of intent, (Exhibits #6 and #7), for debate on the House floor.

Chairman Ramirez made a motion that HB 377 DO PASS AS AMENDED. The motion CARRIED 9-7 (roll call vote attached).

Chairman Ramirez made a motion that the Statement of Intent for HB 377 be approved. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 436: Chairman Ramirez advised that the amendments prepared by DOR at his request, may present a disparity between property annualization and real property appraisal cycles. He explained that the last two cycles have experienced two large increases, and that the tax percentage rate was lowered to compensate. Chairman Ramirez stated that, if the tax percentage rate continues to be lowered, it will wipe out the tax base, and that the idea of the bill is to go to annual appraisals. He said DOR would do a sales assessment ratio study, to determine whether it is on target with the 4R's Act.

Chairman Ramirez said the amendment would take market samples of sales in a given area and would up them by the amount of increases and would be done without the expense of annual appraisals. He explained that the rate stays the same and would rely on mill levies, and that the lower rate cannot be kept, because of inflation. Chairman Ramirez stated that a surge in property values in one year, would allow mill levies to be adjusted downward, for class 4 property only.

Greg Groepper, Administrator, Property Assessment Division, DOR, said the Department is attempting to bring property closer to real values, in the most cost-effective manner, and on an annual basis. He explained the legislation is patterned after that of the State of Arizona, which each year, makes generalized adjustments until it gets to the end of an appraisal cycle. Mr. Groepper stated that, at that time, annual changes are made in appraised values, which he hoped would result in fewer appeals.

Chairman Ramirez stated the amendments are mostly technical language about statistically valid samples.

Rep. Raney told the Committee that he cosponsored the bill and supported its concept.

Chairman Ramirez advised the Committee they may want to tie the bill to the sales tax, as there could be a large devaluation in 1989 when the legislation takes effect, and that the Legislature could look at the issue again at that time.

Rep. Hoffman commented that realty transfer certificates are not a valid source of information, as they contain little necessary information, and a lot of misinformation.

Greg Groepper stated that a senate bill requires the same assessment procedure, and that he disagrees with Rep. Hoffman. He advised that if realty transfer certificates were not valid, Burlington Northern would have challenged its assessment by now.

Rep. Harp advised that (a) on page 8 tightens down requirements for DOR in conducting assessments.

Rep. Williams commented he believes HB 436 is a good bill, and is a step in the right direction.

Chairman Ramirez made a motion that the proposed amendments to the bill be approved. The motion CARRIED unanimously.

Chairman Ramirez made a motion that HB 436 DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 768: Dan Bucks, Deputy Director, DOR, told the Committee three categories are listed which are not capital assets, but are treated as capital assets under Internal Revenue Service (IRS) Code (Exhibit #8). He explained that property not included in subchapter P includes investments, accounts receivable, and livestock other than breeding stock, and that he had no cost estimates yet for the amendments. Mr. Bucks advised that if everything were included on an inflation basis, he could probably arrive at a quick estimate, but that is not what the amendment requests.

Chairman Ramirez advised the Committee could say "property defined in subchapter P, except personal automobiles and household good".

Dan Bucks recommended that the Committee insert "capital assets or other property treated as capital assets under subchapter P", in amendment #4 (Exhibit #8), and then go ahead to exclude personal automobiles and household goods.

Rep. Ramirez made a motion to amend the language as suggested by Jim Lear, Staff Attorney, Legislative Council. The motion CARRIED with all members voting aye, except Rep. Williams, who voted no. Rep. Williams said he believes the federal law is unfair as it taxes inflation.

Rep. Raney made a motion to TABLE HB 768, because he doesn't believe the Committee understands the bill and because no one knows the fiscal impact.

Rep. Ellison stated that Senator Melcher said this portion of federal reform was the worst situation to ever happen to Montana. He added that he could figure out what the bill would do to him.

Rep. Raney's motion CARRIED, with all members voting aye, except Reps. Gilbert, Patterson, Hanson, Ramirez, Ellison, and Asay, who voted no.

DISPOSITION OF HOUSE BILL NO. 876: Chairman Ramirez made a motion that HB 876 DO PASS. The motion CARRIED with all members voting aye, except Rep. Sands, who voted no.

DISPOSITION OF HOUSE BILL NO. 841: Rep. Ellison made a motion that HB 841 be TABLED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 816: Rep. Asay told the Committee he and Rep. Winslow had discussed combining their bills.

Greg Groepper advised the Committee could take the local options in Rep. Winslow's bill and stay at lower valuation until twelve months after start-up, or production begins. He commented that such an amendment would make Rep. Winslow's bill workable.

Rep. Asay said he would like to, eventually, see all equipment in one class. Greg Groepper replied if that is the case, Rep. Asay would probably need to put the DOR amendment into his bill.

Chairman Ramirez asked if an amendment addressing Rep. Asay's concerns could be drafted by 5 p.m. this date. Greg Groepper advised he already has the language, and that it only needs to be inserted in Rep. Winslow's bill.

Chairman Ramirez advised that the Committee could then add "sale through bankruptcy and/or change of onwership". Greg Groepper responded that the Committee would then need to add how long that can last, because it still would not resolve the problem with Great Western Sugar.

Chairman Ramirez advised the Committee could kick HB 751 out and work on HB 816.

Rep. Asay made a motion that HB 816 DO PASS, and made a motion that the proposed amendments be approved (Exhibit #9). Greg Groepper stated he thought the bill was for agricultural processing facilities that were shut down, and asked if what he was hearing the Committee say, was that it is to give a tax incentive for such businesses. He commented that Great Western Sugar has never really been shut down, and suggested the amendment be added to Rep. Asay's bill.

The motion to amend CARRIED with all members voting aye, except Reps. Keenan and Ream, who voted no.

Rep. Asay made a motion that HB 816 DO PASS AS AMENDED. The motion CARRIED with all members voting aye, except Reps. Raney, Ream, Hoffman, and Harrington, who voted no.

DISPOSITION OF HOUSE BILL NO. 851: Rep. Harp requested that the Committee look at the bill as it was originally introduced, and that they strip the amendments that were approved during the last executive action on the bill. Rep. Harp made a motion to that effect.

Chairman Ramirez advised he would resist the motion.

Rep. Harp stated his community is willing to take an $800,000 loss, and the state should be willing to take a $200,000 loss in a cooperative effort.

Chairman Ramirez asked if this were a life and death situation right now, as he hadn't seen a compelling need for such a tax break.

The motion to strip the amendments CARRIED 9-6 on a roll call vote, with 1 abstention (attached).

Rep. Harp made a motion that HB 851 DO PASS. The motion CARRIED with all members voting aye, except Rep. Ramirez, who voted no.

DISPOSITION OF HOUSE BILL NO. 834: Chairman Ramirez made a motion that HB 834 be TABLED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 821: Rep. Keenan made a motion that HB 821 DO PASS, and made a motion that DOR's proposed amendments be approved (Exhibit #10).

Ken Morrison, Administrator, Income Tax Division, DOR, said the amendments' effective dates clarify what tax years the bill applies to.

The motion to amend CARRIED unanimously.

Rep. Keenan reminded the Committee the bill was designed for university funding. Chairman Ramirez said he concurred that the university system is being destroyed, but he believed the bill is not good taxing policy, and stated he would oppose HB 821 and Rep. Quilici's bill.

Rep. Asay said he would hate to see the bill die, and that he had a proposal coming that he believes has merit. He stated his support of HB 821.

Rep. Keenan made a motion that HB 821 DO PASS AS AMENDED. The motion CARRIED 8-5 on a roll call vote (attached). There were 3 abstentions.

DISPOSITION OF HOUSE BILL NO. 829: Rep. Patterson told the Committee he had a DOR amendment to change the effective date of the bill.

Rep. Harrington made a motion that HB 829 DO PASS.

Rep. Williams made a motion that the DOR amendment be approved.

Chairman Ramirez said he would speak against the bill, because the House just passed a 5 percent surtax, and 20% seems to be enormous.

Chairman Ramirez made a substitute motion to TABLE HB 829. The motion CARRIED with all members voting aye, except Reps. Keenan, Ream, Schye, and Williams, who voted no.

DISCUSSION OF HOUSE BILLS NO. 832, 833, 527, AND 395: Chairman Ramirez advised the Committee they would meet upon adjournment of the House this date, to discuss HB's 832, 833, 527, and 395.

DISPOSITION OF HOUSE BILL NO. 751: Rep. Raney made a motion that HB 751 DO PASS. The motion CARRIED unanimously.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 1:30 p.m.

Jack Ramirez

Representative Jack Ramirez,
Chairman

STANDING COMMITTEE REPORT

March 13 19 87

Mr. Speaker: We, the committee on TAXATION

report House Bill No. 377

☐ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman
Rep. Ramirez

1. Title, lines 6 through 8.
Following: line 5
Strike: lines 6 through 8 in their entirety
Insert: "GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES; EXEMPTING THE FIRST $20,000 OF MARKET VALUE OF SINGLE-FAMILY RESIDENCES FROM PROPERTY TAXATION; EXEMPTING LIVESTOCK, AGRICULTURAL PRODUCTS, AIRCRAFT, WATERCRAFT, ALL-TERRAIN VEHICLES, AND CERTAIN OTHER PROPERTY FROM PROPERTY TAXATION; PROVIDING A PER CAPITA FEE ON LIVESTOCK; REVISING LOCAL GOVERNMENT BONDING AND DEBT LIMITS; PROVIDING A CREDIT AGAINST INDIVIDUAL INCOME TAX LIABILITY;"

2. Title, line 9.
Following: "SECTIONS"
Strike: "15-10-105, 17-7-502,"
Insert: "7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133 THROUGH 15-6-136, 15-6-147, 15-6-201, 15-6-207, 15-8-111, 15-8-202, 15-8-205, 15-8-301, 15-8-404, 15-8-405, 15-8-706, 15-16-611, 15-24-301, 15-24-302, 15-24-1102, 15-24-1103, 19-11-503, 19-11-504, 20-9-141,"

3. Title, line 10.
Following: line 9
Strike: "AND 20-9-343,"
Insert: "20-9-352, 20-9-406, 20-9-407, 20-9-501, 20-9-502, 20-10-144, 37-7-407, 61-3-431, 61-3-501, 61-4-112, 61-10-231, 61-12-206, 67-3-201, 67-3-202, 81-6-104, 81-6-204, 81-6-209, 81-7-201, 81-7-202, 81-7-303, 81-7-305, 81-8-804, AND 85-7-2001, MCA; REPEALING SECTIONS 15-6-137 THROUGH 15-6-140, 15-6-142 THROUGH 15-6-144, 15-6-146, 15-24-304, 15-24-901 THROUGH 15-24-906, 15-24-908 THROUGH 15-24-911, 15-24-921 THROUGH 15-24-926, 15-24-931, 15-24-941 THROUGH 15-24-943, 61-3-502, 61-3-605, 81-6-101, 81-7-103, 81-7-104, AND 81-7-118,"

First reading copy (White color)

4. Title, lines 11 and 12.
Following: "MONTANA" on line 11
Strike: "AT THE NOVEMBER 1988 GENERAL ELECTION"

5. Title, line 12.
Strike: "A CONTINGENT"

6. Title, line 13.
Strike: "DATE"
Insert: "DATES AND APPLICABLE DATES"

7. Pages 1 through 82.
Strike: everything following the enacting clause
Insert: the following pages

[redacted]

Representative Jack Ramirez,
Chairman

STATEMENT OF INTENT

House Bill No. 377

A statement of intent is required for this bill because the department of revenue is granted authority to adopt rules for the administration and enforcement of the sales and use tax. The rules are intended to provide for an efficient process for the collection of the taxes, with minimum expense to both the taxpayer and the state.

The legislature contemplates that rules to be adopted by the department should, at a minimum, address the following:

(1) the registration and issuance of permits to persons engaging in the business of retail sales and services;

(2) the reporting form for the payment of the taxes, along with the requirements for the retention by the taxpayers of the necessary records;

(3) the required security and the acceptable forms of security for those taxpayers required to give security for payment of the taxes;

(4) the use of the nontaxable transaction certificate and clarification of any exemption from or deduction of the taxes;

(5) the necessary forms and the required procedures for reporting the taxes; and

(6) the definition of terms and establishment of procedures as appropriate for efficient administration of the sales and use tax.

Representative Jack Ramirez,
Chairman

"NEW SECTION. Section 1. Short title. [Sections 1 through 43] shall be known and may be cited as the "Retail Sales and Use Tax Act".

NEW SECTION. Section 2. Definitions. Except as otherwise specifically provided, when terms mentioned in [sections 1 through 43] are used in connection with taxation, they are defined in the following manner:

(1) "Agricultural production" includes but is not limited to horticulture; floriculture; and the raising of pets, fur-bearing animals, research animals, and horses.

(2) "Department" means the department of revenue.

(3) "Director" means the director of the department of revenue.

(4) (a) "Farm machinery" includes:

(i) new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains, or bees and apiary products;

(ii) machinery used for the preparation, seeding, or cultivation of soil for growing agricultural crops and for the harvesting and threshing of agricultural products;

(iii) machinery used for dairy, livestock, and poultry farms; barn cleaners; milking systems; grain dryers; automatic feeding systems; and similar installations;

(iv) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system. Irrigation equipment which is situated below ground and considered to be a part of the real property is not included.

(v) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds 5 cubic inches.

(b) Not included in the definition of farm machinery are:

(i) repair or replacement parts for farm machinery;

(ii) tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment, and farm supplies; or

(iii) motor vehicles as defined in 61-1-102, snowmobiles, snowblowers, lawnmowers, garden-type tractors or garden tillers, and the repair and replacement parts for those vehicles and machines.

(5) "Gross receipts" means the total amount received, in money or otherwise, for all sales at retail as measured by the sales price. At the option of the taxpayer, gross receipts from sales may be reported on a cash basis as the consideration is received or on an accrual basis as sales are made.

(6) "Handicapped" means a permanent total disability as defined in 39-71-116.

(7) (a) "Person" includes:

(i) an individual, partner, officer, director, firm, partnership, joint venture, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trust, business trust, receiver, trustee, syndicate;

(ii) the United States;

(iii) the state of Montana or a political subdivision of the state;

(iv) any other group or combination acting as a unit; and

(v) an agent or consignee of an individual or organization enumerated in this subsection.

(b) As used in subsection (7)(a), person includes but is not limited to directors and officers of corporations or members of partnerships who, individually or jointly with others, have the control, supervision, or responsibility of filing returns and making payment of the tax imposed by [sections 1 through 43].

(8) "Retailer" includes a person engaged in making sales at retail.

(9) (a) "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business and includes:

(i) personal property used by the owner only by leasing it or holding it for lease to others;

(ii) the sale of building materials, supplies, or equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property in whatever quantity the materials, supplies, or equipment are sold and whether or not they are sold for the purpose of resale in the form of real property or otherwise;

(iii) the sale of carpeting, linoleum, or other floor covering, including installation; and

(iv) the lease or rental of property.

(b) A retail sale or a sale at retail does not include:

(i) the sale of aircraft or repair parts therefor if the sale is to a nonprofit, incorporated flying club or association and the aircraft or parts are used solely by the corporation by leasing such aircraft to shareholders of the corporation; or

(ii) leasing an aircraft described in subsection (9)(b)(i) to shareholders described in subsection (9)(b)(i).

(10) (a) "Sale" or "purchase" includes but is not limited to each of the following transactions:

(i) (A) the transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(B) the transfer of computer software, meaning information and directions that dictate the function to be performed by data processing equipment and which are sold without adaptation to the specific requirements of the purchaser, whether contained on tape, discs, cards, or other devices;

(ii) the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish, directly or indirectly, the materials used in the production, fabrication, printing, or processing;

(iii) except as provided in subsection (10)(a)(iii)(B), the furnishing, preparing, or serving of food, meals, or drinks for a consideration. Except as provided in [section 26], taxable food or

meals:

(A) include but are not limited to the following:

(I) heated food or drinks;

(II) sandwiches prepared by the retailer;

(III) single sales of prepackaged ice cream, ice milk, frozen yogurt, frozen tofu, or novelties prepared by the retailer;

(IV) hand-prepared or dispensed ice cream, ice milk, frozen yogurt, frozen tofu, or such products as cones, sundaes, or snow cones;

(V) soft drinks and other beverages prepared or served by the retailer;

(VI) gum;

(VII) ice;

(VIII) all food sold in vending machines;

(IX) party trays prepared by retailers; and

(X) all meals, single servings of packaged snack food, and single cans or bottles of pop sold in restaurants and bars;

(B) do not include food, meals, or drinks in hospitals, sanatoriums, nursing homes or senior citizens homes; meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, or churches or pursuant to any program funded in whole or part through 42 U.S.C.A. sections 3001 through 3045, wherever delivered, prepared or served; or meals and lunches served at public and private schools, universities or colleges, or the occasional meal served by a charitable or church organization;

(iv) the granting of the privilege of admission to places of amusement or athletic events and the privilege of use of amusement devices or athletic facilities;

(v) the furnishing for a consideration of lodging and related services by a hotel, motel, roominghouse, campground, guest ranch, trailer park, or similar facility and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(vi) the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or of a local exchange telephone service or intrastate toll service, including sales by municipal corporations in a proprietary capacity;

(vii) the furnishing for a consideration of cable television services or a similar television service, including charges for basic monthly service and monthly premium service;

(viii) except as provided in [section 26], the sale of horses, including claiming sales and fees paid for breeding a stallion to a mare. This subsection applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the jockey club, the United States trotting association, or the American quarter horse association but does not apply with respect to the sale of a horse bred and born in Montana.

(ix) the sale of advertising in a newspaper or other publication as described in subsection (10)(a)(x) published at regular intervals of 1 week or less;

(x) the sale of newspapers or any other publications published at regular intervals of 1 week or less. For the purposes of this section, publication includes any supplements or inserts contained in a newspaper or other publication published at regular intervals of 1 week or less.

(b) The furnishing of water and sewer services is not a sale or purchase.

(11) (a) "Sales price" means the total consideration valued in money for a retail sale, whether paid in money or otherwise, excluding any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, the cost of materials used, the labor or service cost, the interest, the discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatever.

(b) Cash discounts allowed and taken on sales, the amount refunded either in cash or in credit for property returned by purchasers, or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer, are not included in the sales price.

(12) (a) "Storage" includes any keeping or retention in Montana of tangible personal property for any purpose except sale in the regular course of business or subsequent use solely outside Montana.

(b) The term does not include the keeping, retaining, or exercising of any right or power over tangible personal property or tickets or admissions to places of amusement or athletic events, which tickets or admissions are shipped or brought into Montana for the purpose of subsequently being transported outside Montana and thereafter used solely outside Montana, except in the course of interstate commerce, or for the purpose of being processed, fabricated or manufactured into, or attached to or incorporated into other tangible personal property to be transported outside Montana and not thereafter returned to a point within Montana, except in the course of interstate commerce.

(13) (a) "Tangible personal property" means corporeal personal property of any kind, including property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.

(b) Tangible personal property does not include large ponderous machinery and equipment used in a business or production activity and which at common law would be considered to be real property.

(14) (a) "Use" includes the exercise of any right or power over tangible personal property or tickets or admissions to places of amusement or athletic events, purchased from a retailer incident to the ownership of any interest in that property, except that it does not include the sale of that property in the regular course of business.

(b) The term does not include the keeping, retaining, or exercising of any right or power over tangible personal property or tickets or admissions to places of amusement or athletic

events, which tickets or admissions are shipped or brought into Montana for the purpose of subsequently being transported outside Montana and thereafter used solely outside Montana, except in the course of interstate commerce, or for the purpose of being processed, fabricated or manufactured into, or attached to or incorporated into other tangible personal property to be transported outside Montana and not thereafter returned to a point within Montana, except in the course of interstate commerce.

NEW SECTION. Section 3. Imposition of tax. (1) Except as otherwise provided in [sections 1 through 43] and in subsections (2) and (3), there is imposed a sales and use tax of 4% of the gross receipts from sales at retail made by any person in this state.

(2) The tax imposed on the sale at retail of manufactured housing used for residential purposes is imposed upon 60% of the sales price of the housing at the rate of 4%.

(3) The sales and use tax imposed on the receipts received by hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities is:

(a) 2% if such receipts are taxable under a lodging or accommodation type tax on either the operator or the user; or

(b) 4% if there is no accommodation type tax imposed by the state.

NEW SECTION. Section 4. Separate charge and collection -- advertising restriction -- rounding. (1) Except as provided in subsection (4), the tax:

(a) must be stated and charged separately from the sales price or charge for service when practicable;

(b) must be collected by the seller from the purchaser; and

(c) is a debt from the purchaser to the seller recoverable at law in the same manner as other debts.

(2) (a) It is unlawful for a retailer to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer, that it will not be added to the sales price, or that, if added, it or any part thereof will be refunded. However, in computing the tax to be collected as the result of a transaction, amounts of tax less than one-half of 1 cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent. If the sales price of a sale at retail is 12 cents or less, no tax may be collected.

(b) A person violating this provision is guilty of a misdemeanor.

(3) Agreements between competitive retailers or the adoption of appropriate regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, other than unlawful price fixing agreements, are expressly authorized and are not in violation of the laws of Montana prohibiting such agreements or regulations.

(4) The tax imposed under [section 3 or 14] on the sale of newspapers and other publications and their supplements or inserts and advertising contained therein, as provided in [section 2(10)(a)], must be paid by the publisher. The publisher shall include the tax in the retail price of the newspaper or other

publication subject to tax.

NEW SECTION. Section 5. Permit application -- vending machines -- form. (1) A person desiring to engage in the business of making retail sales in Montana shall file with the department an application for a permit. If the person has more than one place of business, an application for each place of business must be filed. A vending machine operator who has more than one vending machine location is considered to have only one place of business for purposes of this section. An applicant who has no regular place of business and who moves from place to place is considered to have only one place of business and shall attach the permit to his cart, stand, truck, or other merchandising device. The department may require any person or class of persons obligated to file a return under [section 28] to file application for a permit.

(2) Every application for a permit must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of his place or places of business, and such other information as the department may require. The application must be filed by the owner, if a natural person; by a member or partner, if the owner is an association or partnership; or by a person authorized to sign the application, if the owner is a corporation.

NEW SECTION. Section 6. Flea markets -- permits -- penalty. (1) The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to [section 5] or a written statement from the seller that he is not offering for sale any item that is taxable under [sections 1 through 43].

(2) "Flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event", as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business and which would not qualify as an isolated or occasional sale pursuant to [section 26].

(3) Any operator who fails or refuses to comply with the provisions of this section is subject to a penalty, payable to the department, of $100 for each day of each selling event that the operator fails to obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to [section 5].

(4) This section does not apply to an operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event that is:

(a) held in conjunction with a community-sponsored festival which has a duration of 4 or fewer consecutive days no more than once a year; or

(b) conducted by a nonprofit organization annually or less frequently.

NEW SECTION. Section 7. Permit. Upon compliance with

[sections 5 and 29], when security is required, the department shall issue to each applicant a separate, numbered permit for each place of business within Montana. A permit is valid until revoked but is not assignable. It is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at all times at the place for which it is issued.

NEW SECTION. Section 8. Revocation of permit. When a person fails to comply with a provision of [sections 1 through 43] or any rule of the department adopted under [sections 1 through 43], the department, upon hearing, after giving the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring him to show cause why his permit or permits should not be revoked, may for reasonable cause revoke or suspend one or more of the permits held by such person. The notice may be served personally or by certified mail. The department may not issue a new permit after revocation except upon application, accompanied by reasonable evidence of the intention of the applicant to comply with the provisions and rules. The department may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by [section 29] as is reasonably necessary to ensure compliance with the provisions and rules.

NEW SECTION. Section 9. Violations -- penalties. (1) A person who engages in the business of retail sales in Montana without the required permit or permits and each officer of a corporation which so engages in business is guilty of a misdemeanor.

(2) A person who engages in the business of retail sales in Montana after revocation of a permit under [section 8], when the department has not issued a new permit, is guilty of a felony.

NEW SECTION. Section 10. Presumption of tax -- burden of proof -- exemption certificate. (1) For the purpose of the proper administration of [sections 1 through 43] and to prevent evasion of the tax, it is presumed that all gross receipts are subject to the tax until the contrary is established.

(2) The burden of proving that a sale is not a sale at retail is upon the person who makes the sale, but he may take from the purchaser an exemption certificate to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by [sections 1 through 43].

(3) An exemption certificate relieves the retailer from collecting and remitting the tax, but only if taken in good faith from a purchaser who holds a permit provided in [section 7].

NEW SECTION. Section 11. Exemption certificate -- content -- form. (1) The department shall provide for a uniform exemption certificate that must be used by a purchaser who holds a permit provided in [section 7] when the purchaser is purchasing goods for resale.

(2) At a minimum, the exemption certificate must provide:

(a) the number of the permit issued to the purchaser as provided in [section 7];

(b) the general character of property sold by the purchaser

in the regular course of business;

(c) the property purchased;

(d) the name and address of the purchaser; and

(e) a line on which the purchaser must sign his name.

NEW SECTION. Section 12. Improper use of subject of purchase obtained with exemption certificate -- violation -- penalty. (1) If a purchaser who gives an exemption certificate makes use of the subject of the purchase other than for a purpose exempted by [sections 1 through 43], such use is considered a retail sale by the purchaser as of the time of first use by him, and the sales price to him is considered the gross receipts from such retail sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in his gross receipts the amount of the rental charged. Upon subsequent sale of such property, the seller shall include the entire amount of gross receipts received therefrom without deduction of amounts previously received as rentals.

(2) A person who gives an exemption certificate for property that will be used for purposes other than the exemption claimed with the intent to evade payment to the seller of the amount of the tax applicable to the transaction is subject to a penalty, payable to the department, of $100 for each transaction in which an improper use of an exemption certificate has occurred.

NEW SECTION. Section 13. Commingling exemption certificate goods. If a purchaser gives an exemption certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

NEW SECTION. Section 14. Tax -- using, storing, or consuming tangible personal property -- admissions -- utilities. (1) For the privilege of using, storing, or consuming in Montana tangible personal property, tickets or admissions to places of amusement and athletic events, electricity and gas, local exchange telephone service, or other taxable transactions, purchased for use, storage, or consumption in Montana, a sales and use tax is imposed at the rate of 4% of the sales price of sales at retail, except as provided in subsection (3), unless the tax imposed by [section 3] or this section was paid on the sales price.

(2) A motor vehicle subject to tax under [section 3] or this section is taxed at its fair market value at the time of transport into Montana.

(3) Exceptions to the rate of tax specified in subsection (1) are as follows:

(a) the rate of tax imposed upon the sales price of manufactured housing is imposed on 60% of the sales price of the housing at the rate of 4%; and

(b) the rate of tax imposed upon the receipts of hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities is as provided in [section 3].

NEW SECTION. Section 15. Collection and payment -- penalty.

(1) Liability for the payment of the sales and use tax is not extinguished until the tax has been paid to the department. However, a receipt from a retailer maintaining a place of business in Montana given to the purchaser pursuant to [section 17] relieves the purchaser of further liability for the tax to which the receipt refers.

(2) A retailer not maintaining a place of business in Montana as a prerequisite to receiving authorization from the department to collect the sales and use tax shall furnish, in accordance with [section 29], adequate security to insure collection and payment of the tax. When so authorized, the retailer shall, except as otherwise provided in [section 17], collect the tax upon all tangible property sold, to his knowledge, for use within Montana in the same manner as a retailer maintaining a place of business within this state collects such tax. The departmental authorization and permit may be cancelled at any time if the department considers the security inadequate or believes that the tax can be collected more effectively in another manner.

(3) No agent, canvasser, or employee of a retailer not authorized by permit from the department may collect the tax or sell, solicit orders for, or deliver any tangible personal property in Montana. Such an agent, canvasser, or employee violating the provisions of [sections 14 through 26] is guilty of a misdemeanor and shall be punished by a fine of not more than $100 for each offense or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

NEW SECTION. Section 16. Seizure -- court review. (1) The department is authorized to seize and confiscate in the name of the state any truck, automobile, or means of transportation not owned or operated by a common carrier, used in the illegal importation or transportation of tangible personal property by a retailer or his agent or employee who does not have a sales or use tax permit and has been engaging in the transport of personal property into the state without payment of the tax. The department may demand the forfeiture and sale of the truck, automobile, or other means of transportation, together with the property being transported illegally, unless the owner establishes to the satisfaction of the department that he had no notice, knowledge, or reason to believe that the vehicle was used or intended to be used in any such violation.

(2) Within 2 days after the seizure, the person making the seizure shall deliver an inventory of the vehicle and property seized to the person from whom the seizure was made, if known, and to any person known or believed to have any right, title, interest, or lien on the vehicle or property and shall also file a copy with the department.

(3) Within 10 days after the date of service of the inventory, the person from whom the vehicle or property was seized or any person claiming an interest in the vehicle or property may file with the department a demand for a judicial determination of the question as to whether the vehicle or property was lawfully subject to seizure and forfeiture.

(4) The department, within 30 days after the date of service

of the inventory, shall institute an action in the district court of the county where the seizure was made to determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or the attorney general.

(5) The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(6) If a judgment of forfeiture is entered, the department, unless the judgment is stayed pending an appeal, may cause the forfeited vehicle and property to be sold at public auction as provided by law. If a demand for judicial determination is made and no action is commenced as provided in this section, the vehicle and property must be released by the department and delivered to the person entitled to it. If no demand is made, the vehicle and property seized are considered forfeited to the state by operation of law and may be disposed of by the department as provided by law relating to a judgment of forfeiture.

(7) The forfeiture and sale of the automobile, truck, or other means of transportation and of the property being transported illegally in it is a penalty for the violation of [sections 1 through 43].

(8) After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the department shall pay from the funds collected all liens, according to their priority, and which are established at the hearing as being bona fide and as existing without the lienholder having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with the violation specified in the order of the court. The department shall pay the balance of the proceeds into the state treasury to be credited to the general fund.

(9) The state is not liable for any liens in excess of the proceeds from the sale after deductions provided. A sale under the provisions of this section operates to free the vehicle and property sold from any and all liens on it, and appeals from the order of the district court will lie as in other civil cases.

(10) For the purposes of this section, "common carrier" means any person engaged in transportation for hire of tangible personal property by motor vehicle, limited to:

(a) a person possessing a certificate or permit authorizing for-hire transportation of property from the interstate commerce commission or the public service commission;

(b) a person transporting commodities defined as "exempt" in for-hire transportation; or

(c) a person who, pursuant to a contract with a person described in subsection (10)(a) or (10)(b), transports tangible personal property.

NEW SECTION. Section 17. Collection of tax at time of sale. (1) A corporation authorized to do business in Montana, a retailer maintaining a place of business in this state, as defined in [section 21], or any other retailer the department may authorize pursuant to [section 15], upon making sales of any items enumerated in [sections 1 through 43] not exempted under [sections 1 through 43], shall at the time of making the sales collect the sales and use tax from the purchaser and give to the purchaser a

receipt therefor in the form of a notation on the sales slip or receipt or in such other form as prescribed by the department. Such a corporation or retailer may not collect the tax from a purchaser who furnishes to the corporation or retailer a copy of a certificate issued by the department authorizing the purchaser to pay any sales or use tax due on purchases made by the purchaser directly to the department.

(2) A corporation or retailer required to collect the sales and use tax and remit such tax to the department under this section shall file with the department an application for a permit pursuant to [section 5]. The corporation or retailer shall furnish the department with the name and address of all the corporation's or retailer's agents operating in Montana and the location of each distribution or sales house or office or other place of business in Montana.

(3) The tax collected by such corporation or retailer under this section must be remitted to the department as provided by [sections 1 through 43].

NEW SECTION. Section 18. Tax -- status as debt. The sales and use tax required to be collected by the retailer constitutes a debt owed by the retailer to Montana and is a debt from the purchaser to the retailer recoverable at law in the same manner as other debts.

NEW SECTION. Section 19. Advertising restriction -- rounding -- minimum tax -- display of statute. (1) It is unlawful for a retailer to advertise or state to the public or to any customer, directly or indirectly, that the sales and use tax or any part of it will be assumed or absorbed by the retailer or that it will not be added to the sales price or that, if added, all or any part of it will be refunded.

(2) In computing the tax to be collected as the result of any transaction, amounts of tax less than one-half of 1 cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

(3) The department may by rule require that the retailer display the statutory requirement that the sales and use tax be collected by the retailer from the purchaser.

NEW SECTION. Section 20. Violation -- penalty. Any person violating [section 17, 18, or 19] is guilty of a misdemeanor.

NEW SECTION. Section 21. Registration -- information relating to business location. (1) A retailer making retail sales for storage, use, or other consumption in Montana shall register with the department and give the name and address of all agents operating in Montana; the location of all distribution or sales houses, offices, or other places of business in Montana; and other information as the department may require.

(2) When in the opinion of the department it is necessary for the efficient administration of [sections 14 through 26] to regard a salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom he operates or from whom he obtains the tangible personal property sold by him, whether he is making sales in his own behalf or in behalf of the dealer, distributor, supervisor, employer, or other person, the department may regard

him as an agent and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of [sections 14 through 26].

(3) (a) "Retailer maintaining a place of business in this state", or a like term, means a retailer having or maintaining within this state, directly or by a subsidiary:

(i) an office, distribution house, sales house, warehouse, or other place of business; or

(ii) an agent operating within this state under the authority of the retailer or its subsidiary.

(b) Subsections (2)(a)(i) and (2)(a)(ii) apply regardless of whether such place of business or agent is located in the state permanently or temporarily or whether such retailer or subsidiary is authorized to do business within this state.

NEW SECTION. Section 22. Common carriers as retailers -- rules. (1) (a) A person engaged in interstate for-hire transportation by motor vehicle of tangible personal property or passengers may register as a retailer and pay the taxes imposed by [sections 1 through 43] in accordance with this section. Persons subject to the requirements of this section include:

(i) persons possessing a certificate or permit authorizing for-hire transportation of property or passengers from the interstate commerce commission or the public service commission;

(ii) persons transporting commodities classified as "exempt" in for-hire transportation in interstate commerce; or

(iii) persons who, pursuant to contracts with persons described in subsection (1)(a)(i) or (1)(a)(ii) transport tangible personal property in interstate commerce.

(b) Persons qualifying under subsection (1)(a)(i) or (1)(a)(ii) shall maintain on a current basis the same type of mileage records that are required by persons specified in subsection (1)(a)(i) by the interstate commerce commission.

(2) Persons who in the course of their business transport solely their own goods in interstate commerce may also register as retailers pursuant to rules prescribed by the department and pay the taxes imposed by [sections 1 through 43] in accordance with this section.

(3) (a) A person described in subsection (1) or (2), when properly registered as a retailer, may make purchases in this state or import property into this state without payment of the sales and use tax imposed by [sections 1 through 43] at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules adopted by the department.

(b) A person described in subsection (1) or (2) may elect to pay directly to the department any sales and use tax that may be due under [sections 1 through 43] for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment must be multiplied by a fraction the numerator of which is the mileage operated during the past calendar year within Montana and the

denominator of which is the total mileage operated during the past calendar year. The amount so determined must be multiplied by the tax rate to determine the tax due.

(4) A person who pays the tax to the seller as provided in [section 4] and who meets the requirements of this section at the time of the sale, except that he has not registered as a retailer pursuant to this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under [section 3 or 14] and the tax calculated under subsection (3)(c). He shall file for a refund within the time limitations provided in [section 35]. Notwithstanding the provisions of [section 35], interest is allowed for a refund under this subsection only from the date on which the person has both registered as a retailer and filed a claim for refund.

NEW SECTION. Section 23. Presumption of purpose of sale -- burden of proof. For the purpose of the proper administration of [sections 1 through 43] and to prevent evasion of the sales and use tax and the duty to collect it, it is presumed that all retail sales for delivery in Montana are for storage, use, or other consumption in Montana until the contrary is established. The burden of proving the contrary is upon the person who makes the sale, but he may take from the purchaser an exemption certificate in accordance with [sections 10 through 13].

NEW SECTION. Section 24. Property brought to state -- presumption -- burden of proof. A purchaser of tangible personal property or any items enumerated in [section 14] that are shipped or brought to Montana by him after [the applicability date of this act] has the burden of proving that the same were not purchased from a retailer for storage, use, or consumption in Montana.

NEW SECTION. Section 25. Taxes in other states. If an article of tangible personal property or an item enumerated in [section 14] has already been subjected to a tax by any other state in respect of its sale, storage, use, or other consumption in an amount less than the tax imposed by [sections 1 through 43], then as to the person who paid the tax in the other state, the provisions of [section 14] apply only at a rate measured by the difference between the rate fixed in [sections 1 through 43] and the rate by which the previous tax was computed. If the tax imposed in the other state was equal to or greater than the tax imposed in this state, then no tax is due from such person under [section 14].

NEW SECTION. Section 26. General exemptions. (1) The following are specifically exempted from the tax imposed by [sections 1 through 43]:

(a) the gross receipts from the sale of food products:

(i) including but not limited to cereal and cereal products, butter, cheese, milk and milk products, margarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and food products that are not taxable pursuant to [section 2(10)]; and

(ii) not including:

(A) candy and candy products, except when sold for fundraising purposes by a nonprofit organization that provides educational and social activities for young people primarily 18 years of age or under;

(B) carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(b) the gross receipts from the sale of prescribed drugs and medicine intended for use in the cure, mitigation, treatment, or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses and therapeutic and prosthetic devices but not including cosmetic or toilet articles (notwithstanding the presence of medicinal ingredients therein);

(c) the gross receipts from the sale, storage, use, or other consumption in Montana of tangible personal property, tickets or admissions, electricity, gas, or local exchange telephone service, which, under the federal constitution, the laws of the United States, or the Montana constitution, the state of Montana is prohibited from taxing;

(d) the gross receipts from the sale of either of the following categories of tangible personal property:

(i) tangible personal property that, without intermediate use, is shipped or transported outside Montana by the purchaser and thereafter used in a trade or business or is stored, processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property transported or shipped outside Montana and thereafter used in a trade or business outside Montana and is not thereafter returned to a point within Montana except in the course of interstate commerce (storage not constituting intermediate use), provided that the property is not subject to tax in the state or country to which it is transported for storage or use or, if subject to tax in the other state, that state allows a similar exemption for property purchased therein and transported to Montana for use in this state. However, sales of tangible personal property that is shipped or transported for use outside Montana are taxed at the rate of the sales and use tax imposed by the state to which the property is shipped or transported unless that state has no sales and use tax, in which case the sale is taxed at the rate generally imposed by this state. Furthermore, sales of tangible personal property to be used in other states or countries as part of a maintenance contract are specifically exempt.

(ii) tangible personal property that the seller delivers to a common carrier for delivery outside Montana, places in the United States mail or parcel post directed to a purchaser outside Montana, or delivers to a purchaser outside Montana by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Montana except in the course of interstate commerce;

(e) the gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of

which materials and goods is outside Montana and which materials and goods are not thereafter returned to a point within Montana except in the course of interstate commerce;

(f) the gross receipts from the sale, storage, use, or consumption of petroleum products upon which a tax has been imposed under the provisions of Title 15, chapter 70, whether or not any part of that tax may be subsequently refunded;

(g) the gross receipts from the sale, storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials (including returnable containers used in packaging food and beverage products), feeds, seeds, fertilizers, electricity, gas, and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used or consumed becomes an ingredient or constituent part of the property produced. Chemicals used for cleaning food processing machinery and equipment are included in this exemption. Agricultural or industrial production includes but is not limited to research, development, design, or production of any tangible personal property; manufacturing or processing (other than by restaurants and consumers) of agricultural products, whether vegetable or animal; commercial fishing; printing; mining; quarrying; refining; smelting; reducing; brewing; distilling; lumbering; generating electricity; and production of road building materials. Such production does not include painting, cleaning, repairing, or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in agricultural or industrial production are exempt. Fuel, electricity, gas, or steam used for space heating or lighting are not included within the exemption provided in this subsection (g). However, accessory tools and equipment and other short-lived items which are separate, detachable units used in producing a direct effect upon the product and which have an ordinary useful life of less than 12 months are exempt. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is included in this exemption.

(h) the gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement, of tangible personal property to (and all storage, use, or consumption of such property by) the United States and its agencies and instrumentalities or a state and its agencies, instrumentalities, and political subdivisions. Sales exempted by this subsection (h) include sales described in [section 2(10)(a)(iv) and (10)(a)(vi)] to any of the agencies, instrumentalities, or political subdivisions referred to in this subsection (h). This exemption does not apply to materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility. This exemption does not apply to construction materials purchased by tax-exempt entities or their contractors to be used in

constructing buildings or facilities that will not be used principally by the tax-exempt entities.

(i) the gross receipts from the isolated or occasional sale of tangible personal property in Montana not made in the normal course of business of selling that kind of property and the storage, use, or consumption of property acquired as a result of such a sale. For purposes of this subsection (i), sales by a nonprofit organization are considered to be isolated or occasional if they occur at sale events that have a duration of 3 or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this subsection (i) is available only if the sum of the days on which the organization (or a subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit) conducts sales of tangible personal property plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement does not exceed 8 days in a calendar year. For purposes of this subsection (i), a nonprofit organization is any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual.

(j) the gross receipts from sales of rolling stock and the storage, use, or other consumption of such property by railroads, freight line companies, sleeping car companies, and express companies. For purposes of this subsection (j), rolling stock is defined as the portable or moving apparatus and machinery of any such company that moves on the road and includes but is not limited to engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of rolling stock.

(k) the gross receipts from sales of flight equipment and the storage, use, or other consumption of such property by airline companies. For purposes of this subsection (k), flight equipment includes airplanes and parts necessary for the repair and maintenance of flight equipment and flight simulators;

(l) the gross receipts from the sale of tangible personal property to and the storage, use, or other consumption of such property by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes (if the property purchased is to be used in the performance of a charitable, religious, or educational function) or by a senior citizens group or association of groups that in general limits membership to persons 55 years of age or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders. Sales exempted by this subsection (l) include sales pursuant to [section 2(10)(a)(iv) and (10)(a)(vi)]. This exemption

does not apply to materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility. This exemption does not apply to construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities.

(m) the gross receipts from the sale of caskets and burial vaults;

(n) the gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 U.S.C.A., section 1901, as amended;

(o) the gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 U.S.C.A., sections 801 through 805, as amended. This exemption is not effective at the time of sale of the materials to contractors, subcontractors, builders or owners but is applicable only upon a claim for refund filed with the department by recipients of the benefits provided in 38 U.S.C.A., chapter 21, as amended. The department shall provide by rule for the refund of taxes paid on sales exempt in accordance with this subsection (o).

(p) the gross receipts from the sale and storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use solely outside the state of Montana. Mailing and reply envelopes and cards used exclusively in connection with the advertising and promotional materials are included in this exemption.

(q) the gross receipts from the sale of residential heating fuels, in the following manner:

(i) all fuel oil, coal, wood, steam, hot water, propane gas, and liquefied petroleum gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat;

(r) the gross receipts from the sale of sanitary napkins, tampons, or similar items used for feminine hygiene;

(s) the gross receipts from the sale of a manufactured structure, as defined in 31-1-202, to be used by the purchaser for residential purposes unless the sale is the first retail sale of the manufactured home in this state;

(t) the gross receipts from the sale of repair and replacement parts, except tires, used for maintenance or repair of farm machinery, if the part replaces a farm machinery part assigned a specific or generic part number by the manufacturer of

the farm machinery;

(u) the gross receipts from sales of tickets or admissions to regular-season school games, events, and activities. For purposes of this subsection (u), school has the meaning given it in 20-5-402;

(v) the sale of liquor and table wine in a package, as those terms are defined in 16-1-106, if the liquor or table wine is not consumed on the premises.

(2) This section may not be construed to exempt the gross receipts from sales of tangible personal property purchased by ultimate consumers from the United States or any of its agencies or instrumentalities or from the state of Montana, its agencies, instrumentalities, or political subdivisions. Such purchases are subject to tax, except as otherwise exempted.

(3) All articles of tangible personal property brought into Montana by a person who was a nonresident of this state immediately prior to bringing such property into this state for his use, storage, or consumption are exempted from the tax imposed by [section 3 or 14].

(4) Nothing herein exempts the gross receipts from sales of road building materials purchased by contractors and intended for use in state highway or interstate highway construction.

NEW SECTION. Section 27. Time for payment -- notice -- offset. (1) The tax imposed by [sections 1 through 43] is due and payable to the department monthly on or before the 25th day of the month following the month in which the taxable event occurred or such other reporting period as the department may prescribe.

(2) The sales tax return form must include a printed notice that the return and payment must be received by the department no later than the due date.

(3) The taxpayer may offset against the taxes payable with respect to any reporting period the amount of taxes imposed by [sections 1 through 43] previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer and which debt became uncollectible during the reporting period. Such an offset may be made only in proportion to the portion of the debt which became uncollectible.

NEW SECTION. Section 28. Returns. (1) On or before the 25th day of each month in which the tax imposed by [sections 1 through 43] is payable, a return for the preceding reporting period must be filed with the department, in the form prescribed by the department, verified by a written declaration that it is made under the criminal penalties for willfully making a false return. The return must also contain a confession of judgment for the amount of the tax shown due, to the extent not timely paid. A person making sales at retail at two or more places of business may file a consolidated return, subject to rules prescribed by the department.

(2) For the purposes of the sales and use tax, a return must be filed by:

(a) a retailer required to collect such tax; and

(b) a person purchasing any items the storage, use, or other consumption of which is subject to the sales and use tax and who has not paid the sales and use tax to a retailer required to

collect the tax.

(3) All returns must be signed by the person filing the return or by his agent duly authorized in writing and must be accompanied by a remittance for the amount due.

(4) A person liable for the tax imposed by [sections 1 through 43] or for the collection of the tax shall keep the records, render the statements, make the returns, and comply with the rules prescribed by the department. A return or statement must include the information required by the rules forms prescribed by the department. For the purpose of determining compliance with the provisions of this subsection, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination, whether the books, papers, records, or memoranda are the property of or in the possession of such person or another person. The department may also:

(a) require the attendance of a person having relevant knowledge or information;

(b) compel the production of books, papers, records, or memoranda by a person required to attend;

(c) take testimony on matters material to the determination; and

(d) administer oaths or affirmations.

NEW SECTION. Section 29. Security -- limitations -- notice of sale at auction -- bond. (1) The department may require a retailer subject to [sections 1 through 43] to deposit with the department security in a form and amount as it determines necessary. The deposit may not be more than twice the estimated average liability for the period for which the return is required to be filed, or $10,000, whichever is less. The amount of security may be increased or decreased by the department, subject to the limitations provided in this section.

(2) The department may sell property deposited as security at public auction, if necessary, in order to recover any tax or amount required to be collected, including interest and penalties. Notice of the sale must be served personally upon the person who deposited the security or by mail in the manner prescribed for the service of notice of deficiency. After the sale any surplus above the amount due that is not required as security under this section must be returned to the person who deposited the security.

(3) In lieu of security, the department may require a retailer to file a bond, issued by a surety company authorized to transact business in this state, as to solvency and responsibility.

NEW SECTION. Section 30. Extensions. (1) The department may extend the time for filing returns and remittance of tax, deficiencies, and penalties for not more than 60 days and may require a tentative return at the time fixed for filing the regularly required return and payment of tax on the basis of such tentative return.

(2) If an extension of time for payment has been granted under this section, interest at the rate provided in [section 38(6)] is payable from the date on which such payment should have been made until the tax is paid, unless an extension has been

granted.

NEW SECTION. Section 31. Examination of return -- adjustments -- delivery of notices and demands. (1) The department shall, as soon as practicable after a return is filed, examine the return and make any investigation or examination of the records and accounts of the person making the return that it considers necessary for determining the return's correctness. The department may use statistical or other sampling techniques consistent with generally acceptable accounting principles in examining the returns or records. The tax computed on the basis of such an examination constitutes the tax to be paid.

(2) If the tax found to be due exceeds the amount of the tax reported as due on the taxpayer's return, the excess must be paid to the department within 60 days after notice of the amount and demand for payment is mailed to the person making the return. If the amount of the tax found due by the department is less than that reported as due on the return, the excess must be refunded to the person making the return in the manner provided by [section 35] if he has already paid the full amount of the tax, or it may be credited against any unpaid tax. Except as may be otherwise provided in [sections 1 through 43], no refund may be made except as provided in [section 35] after 3 years from the date of filing the return.

(3) The notices and demands provided for by [section 32] and this section must contain a statement of the computation of the tax and must be sent by mail to the person making the return at the address given in his return, if any, or to his last-known address, or a written statement of the computation of the tax may be served personally upon the taxpayer. If the statement is served personally, demand for immediate payment of the taxes contained in the written statement must be made by the person making personal service.

NEW SECTION. Section 32. Failure to file return. If a person required by [sections 1 through 43] to file a return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, he shall, upon written notice and demand, immediately file the return or corrected return and pay any tax due. If the person fails to file the return or corrected return, the department shall make for him a return or corrected return from such information as can be obtained through testimony or otherwise. The department shall then assess a tax on the basis of its return, which tax (less any payments made on the tax for the taxable period covered by the return) must be paid immediately upon written notice and demand. A return or assessment made by the department is prima facie correct and valid, and the person for whom the return was prepared has the burden of establishing its incorrectness or invalidity in any related action or proceeding.

NEW SECTION. Section 33. Failure to pay tax -- actions -- evasion. (1) If any portion of the tax imposed by [sections 1 through 43], including penalties, is not paid within 60 days after it is due, the department shall bring against the person liable for payment of such tax an action for the recovery of the tax, interest, and penalties due. The action must be brought in the

district court of the first judicial district. Only the homestead and household goods of the judgment debtor are exempt from seizure and sale upon execution in such an action.

(2) If the department has reason to believe that the person required to file the return is about to remove himself or his property from this state with the purpose of evading the tax and penalties imposed by [sections 1 through 43] or that the collection of such tax will be jeopardized by delays incident to other methods of collection, it may declare a person's reporting period at an end and assess a tax on the basis of knowledge or information available to the department, demand immediate payment, and, if payment is not immediately made, collect the tax by any method prescribed in Title 15.

(3) None of the following constitute a defense to an assessment made under this section:

(a) The tax period has not terminated.

(b) The time otherwise allowed by law for filing a return has not expired.

(c) The notices otherwise required by law for making an assessment have not been given.

(d) The time otherwise allowed by law for taking or prosecuting an appeal or for paying the tax has not expired.

(4) In addition to all other methods authorized for its collection, the tax may be collected in an ordinary action at law or in equity by the state against the person required to file a return.

(5) No suit lies to enjoin the assessment or collection of the tax imposed by [sections 1 through 43] or the interest and penalties imposed thereby.

(6) The tax, as assessed by the department, with penalties included, is presumed to be valid and correctly determined and assessed. The burden to establish the incorrectness or invalidity of the assessment is on the person required to file the return.

NEW SECTION. Section 34. Limitations. (1) Except as otherwise provided in [sections 1 through 43], the amount of taxes assessable with respect to a taxable period must be assessed within 3 years after the date on which the return for the period was filed. Taxes are considered to have been assessed within the meaning of this section when the department has prepared a notice of tax assessment and mailed the notice to the person required to file the return. The record of the mailing is presumptive evidence of giving notice. Such records must be preserved by the department.

(2) If the person required to file the return omits from the return a dollar amount that is in excess of 25% of the dollar amount reported in the return, the tax may be assessed or a proceeding in court for the collection of the tax may be begun at any time within 5 years after the date on which the return was filed.

(3) For the purposes of [section 35] and this section, a return filed before the last day prescribed by law for filing is considered to be filed on the last day.

(4) In the case of a false or fraudulent return with intent to evade tax or of failure with the same intent to file a return,

the tax may be assessed at any time and a proceeding in court for the collection of the tax must be begun within 5 years after the assessment.

(5) If the assessment of a tax is made within the period of limitation, the tax may be collected by a proceeding in court if begun within 5 years after the date of assessment.

(6) If, before the expiration of the time prescribed in subsection (1) for the assessment of the tax, the department and the taxpayer consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time before the expiration of the extension period. The extension period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(7) The period of time during which a tax must be assessed or collection proceedings commenced under [sections 1 through 43] is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after notice to the department that the bankruptcy proceedings have been closed or dismissed or that the automatic stay has been terminated or has expired. The suspension of the statute of limitations under this subsection applies to the person against whom the petition in bankruptcy is filed and to any other person who may be wholly or partially liable for the tax under [sections 1 through 43].

NEW SECTION. Section 35. Refunds -- time limitations. (1) A person who, pursuant to the provisions of [sections 1 through 43], has paid to the department an amount of tax in excess of the amount legally due for a period may file with the department a claim for a refund of the excess, subject to the conditions specified in subsection (4). Except as provided in subsection (3), no claim may be entertained unless filed within 2 years after the tax was paid or within 3 years from the filing of the return, whichever period is longer. The department shall examine the claim, make and file written findings denying or allowing the claim in whole or in part, and mail a notice to the person at the address stated on the claim. An allowance must include interest on the excess at the rate of 5/6 of 1% a month from the date the excess was paid or collected until the date it is refunded or credited. If the claim is allowed in whole or in part, the department shall credit the amount of the allowance against any taxes under [sections 1 through 43] due from the claimant. If the allowance exceeds the amount due, the department shall issue a warrant for the refund of the excess paid out of the proceeds of the taxes imposed by [sections 1 through 43].

(2) If the claim is denied in whole or in part, the claimant may commence an action against the department to recover the amount claimed. The action may be brought in the district court in the county of the claimant's residence or principal place of business or, if an estate or trust, the principal place of its administration or in the district court for the first judicial district. The action may be commenced after the expiration of 6 months from the filing of the claim if the department has not taken final action by that time, and it must be commenced within 18 months after mailing of the notice of denial of the claim.

(3) If the department and the person required to file the

return, within the periods prescribed in subsection (1), have consented in writing to an extension of time for the assessment of the tax under the provisions of [section 34(6)], the period within which a claim for refund may be filed or a refund may be made or allowed if no claim is filed is the period to which the department and the taxpayer have consented, except that the period within which a claim for refund may be filed may not expire prior to 2 years after the tax was paid.

(4) If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to the tax imposed by [sections 1 through 43], the tax is refundable to the vendor only if and to the extent that it will be credited to amounts owed the vendor by the purchaser or returned to the purchaser by the vendor.

NEW SECTION. Section 36. Administration -- rules. The department shall:

(1) administer and enforce the assessment and collection of the taxes imposed by [sections 1 through 43];

(2) cause to be prepared and distributed such forms and information as may be necessary to administer the provisions of [sections 1 through 43]; and

(3) promulgate such rules as may be necessary to administer and enforce the provisions of [sections 1 through 43].

NEW SECTION. Section 37. Revocation of corporate license to do business in state. If a retailer required to collect the tax imposed pursuant to [section 3 or 14] fails to comply with any of the provisions of [sections 1 through 43] or any rule of the department prescribed and adopted under [sections 1 through 43], the department, if the retailer is a corporation authorized to do business in Montana, may for reasonable cause certify to the secretary of state a copy of an order finding that the retailer has failed to comply with certain specified statutory provisions or rules. The secretary of state shall, upon receipt of the certification, revoke the license authorizing the corporation to do business in Montana and shall issue a new license only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under [sections 1 through 43]. No order authorized in this section may be made until the retailer is given an opportunity to be heard and to show cause why such order should not be made, and he must be given 30 days' notice of the time and place of the hearing and the reason for the proposed order.

NEW SECTION. Section 38. Penalties. (1) If a tax or portion of a tax imposed by [sections 1 through 43] is not paid within the time specified for the payment, within an extension period, or within 30 days after final determination of an appeal to the tax court and if the taxpayer is not required to pay the amount in dispute pending appeal under [section 39], a penalty equal to 10% of the amount remaining unpaid must be added to the amount due.

(2) In case of a failure to make and file a return within the time prescribed by [sections 1 through 43], there must be added to the tax in lieu of the 10% penalty provided in subsection (1), an additional 10% if the failure is for not more than 30 days, with an additional 5% for each additional 30 days or

fraction thereof during which the failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed $10, a minimum penalty of $10 must be assessed. The amount so added to a tax must be collected at the same time, in the same manner, and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added must be collected in the same manner as the tax.

(3) If a person willfully fails to file a return, fails to make a payment required by [sections 1 through 43], willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment thereof, there must also be imposed on him as a penalty an amount equal to 50% of the tax (less any amounts paid by him on the basis of such false or fraudulent return) found due for the period to which the return relates. The penalty imposed by this subsection must be collected as part of the tax and is in addition to any other penalties, civil or criminal, provided by this section.

(4) (a) In addition to any other penalties prescribed, a person is guilty of a misdemeanor, unless the amount of the tax involved exceeds $300, who:

(i) willfully fails to make a return;

(ii) willfully makes a false return;

(iii) willfully fails to pay taxes imposed by [sections 1 through 43] collected for or on behalf of the state;

(iv) attempts in any manner to evade or defeat the taxes imposed by [sections 1 through 43]; or

(v) willfully aids, assists in, procures, counsels, or advises the preparation or presentation, under or in connection with any matter arising under this section, of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or other document.

(b) If the amount of tax described in subsection (4)(a) exceeds $300, the person is guilty of a felony.

(c) The term "person", as used in this subsection, means a person as defined in [section 2] and includes an officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act in respect to which the violation occurs.

(d) An indictment on any criminal offense specified in this subsection may be discovered and filed in the proper court within 6 years after the commission of the offense.

(5) All payments received may, in the discretion of the director, be credited first to the oldest liability not secured by a judgment or lien, but in all cases they must be credited first to penalties, next to interest, and then to the tax due.

(6) The amount of tax not timely paid, together with the penalty provided by this section, bears interest at the rate of 5/6 of 1% a month from the time the tax should have been paid until paid. Any interest and penalty must be added to the tax and collected as a part thereof.

NEW SECTION. Section 39. Payment of tax pending appeal. (1) If a taxpayer appeals any liability assessed under [sections 1

through 43] to the state tax appeal board or to a court of competent jurisdiction and the amount in dispute is more than $6,000, the entire amount of the tax, penalty, and interest assessed by the department must be paid at the time it is due unless permission to continue prosecution of the appeal without payment is obtained as provided in subsection (2).

(2) The appellant, upon 10 days' notice to the department, may apply to the board or the court, as appropriate, for permission to continue prosecution of the appeal without payment. The board or the court may permit the appellant to continue prosecution of the appeal without payment or may fix a lesser amount to be paid as a condition of continuing the prosecution of the appeal. If an appeal is made, it is necessary to show:

(a) that the proposed review is to be taken in good faith;

(b) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50% of the amount due; and

(c) that it would work a substantial hardship upon the appellant to pay the liability.

(3) Failure to make payment of the amount required when due automatically dismisses the appeal and all proceedings thereunder unless the payment is waived by an order of the board or the court permitting the appellant to continue prosecution of the appeal without payment.

NEW SECTION. Section 40. Tax as debt. (1) The tax imposed by [sections 1 through 43] and related interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of such liability occurs.

(2) In the case of an executor or administrator of the estate of a decedent or in the case of a fiduciary, the debt is that of the person in his official or fiduciary capacity only, unless he has voluntarily distributed the assets held in such capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event he is personally liable for any deficiency.

NEW SECTION. Section 41. Investigatory and subpoena powers -- examiners. (1) For the purpose of determining the correctness of a return or of determining whether a person should have made a return or paid taxes required under [sections 1 through 43] or for the purpose of collection of any such taxes, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda which may be relevant to making such determination, whether such books, papers, records, or memoranda are the property of or in the possession of such person or any other person. The department is further authorized to:

(a) require the attendance of any person having knowledge or information that may be relevant;

(b) compel the production of books, papers, records, or memoranda by persons required to attend;

(c) take testimony on matters material to the determination; and

(d) administer oaths or affirmations.

(2) For the purpose of making the examinations authorized in subsection (1), the director may appoint examiners as necessary. An examiner has all the rights and powers authorized for the department in subsection (1).

(3) The clerk of court, upon demand of the director or any examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda. The director may also issue subpoenas. Disobedience of subpoenas issued under this section is punishable by the district court of the first judicial district in the same manner as contempt of the district court.

NEW SECTION. Section 42. Information -- confidentiality -- agreements. (1) It is unlawful for any department employee or any other public official or employee to divulge or otherwise make known any information disclosed in a report or return required by [sections 1 through 43] or any information concerning the affairs of the person making the return acquired from his records, officers, or employees in an examination or audit under the authority of [sections 1 through 43], except in connection with a proceeding involving taxes due under [sections 1 through 43] from the taxpayer making such report or return or to comply with the provisions of subsection (2). Nothing may be construed to prohibit the department from publishing statistics so classified as to not disclose the identity of particular returns or reports and the contents thereof. A person violating the provisions of this section is subject to the penalty provided for violating the confidentiality of individual income tax information as provided in 15-30-303.

(2) (a) The director may enter into an agreement with the taxing officials of another state for the interpretation and administration of the laws of their several states providing for the collection of a sales and/or use tax to promote fair and equitable administration of such laws and to eliminate double taxation.

(b) The director, in order to implement the purposes of [sections 1 through 43], may furnish information on a reciprocal basis to the taxing officials of another state or to the taxing officials of a municipality of the state of Montana that has a local sales and use tax.

(3) In order to facilitate processing of returns and payments of taxes required by [sections 1 through 43], the department may contract with vendors and may disclose private and nonpublic data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

NEW SECTION. Section 43. Sales and use tax account -- administration and enforcement account. (1) There is within the state special revenue fund a sales and use tax account.

(2) All money collected under [sections 1 through 43] must be paid by the department into the sales and use tax account.

NEW SECTION. Section 44. Per capita fee for expenses of enforcing livestock and poultry laws. (1) In addition to appropriations made for such purposes, a per capita fee is authorized and directed to be paid on all livestock and poultry in

this state for the purpose of aiding in the payment of the expenses, including salaries, connected with the administration and enforcement of the livestock and poultry laws of the state, for predator control, and for the payment of bounties on wild animals.

(2) As used in this section, "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

NEW SECTION. Section 45. Board of livestock to prescribe per capita fee. (1) The board of livestock shall annually prescribe the per capita fee for livestock and poultry of all classes for the payment of the expenses, including salaries, connected with the administration and enforcement of the livestock and poultry laws of the state and the payment of bounties on wild animals.

(2) The per capita fee must be calculated each year to provide not more than 110% of the average annual revenue generated in the 3 previous years, beginning with revenue generated in taxable years 1985, 1986, and 1987 by 15-24-922, 81-7-104, and 81-7-118, as those sections read in those years. The calculation must include a factor to account for nonpayment and late payment of fees.

NEW SECTION. Section 46. Collection of fee. (1) On or before January 15 of each year, an owner of livestock or poultry or his agent shall make and deliver to the board of livestock a verified statement showing as of January 1 the number of each kind of livestock or poultry within the state belonging to him or under his charge, with their marks and brands and the county in which the majority of the livestock or poultry is located.

(2) Upon determination of the numbers of each class of livestock and poultry and assessment of the amount of the levy set by the board of livestock, the county treasurer shall send to each owner or agent who filed a report a statement indicating the total fee due for the year, the fact that payment is to be made to the county treasurer on or before June 1 following assessment of the fee, and the penalty and lien provisions that apply.

(3) The county treasurer may withhold 2% of the money received for the per capita fee for livestock and poultry as reimbursement to the county for the collection of the fee on livestock and poultry.

NEW SECTION. Section 47. Transmission of fees from county to state treasurer. Except for the money withheld by the county, the fees levied and the money collected pursuant to the provisions of [sections 44 through 48] must be transmitted to the state treasurer by the county treasurer of each county, as provided in 15-1-504 but not later than July 1 following assessment. The county treasurer shall designate the amount received from the fee paid on poultry, the amount received from the fee paid on sheep, and the amount received from the fee paid on all other livestock and shall specify the separate amounts in his report to the state treasurer. The money, when received by the state treasurer, must be deposited to the credit of the department of livestock.

NEW SECTION. Section 48. Penalty for failure to file statement on livestock or poultry -- lien upon real and personal property. (1) If a person who is the owner of livestock or poultry

within the state fails to file or have his agent file the statement required in [section 46], the county treasurer shall, after 10 days' notice to the person who failed to file the statement, assess the fee imposed by [sections 44 through 48] based on the board of livestock's estimate of the number of livestock or poultry owned by the person in the state. The county treasurer shall add a 10% penalty to the assessment.

(2) The fee imposed pursuant to [sections 44 through 48] is a lien upon the real and personal property of the livestock or poultry owner who fails to pay the fees on or before June 1 following assessment and is to be collected under the tax lien enforcement provisions of Title 15.

NEW SECTION. Section 49. Credit for sales and use tax. (1) There is a credit of $15 for each exemption claimed under 15-30-112 against tax liability under this chapter.

(2) If the amount of credit allowed in this section exceeds the amount of tax liability under this chapter by $1 or more, the department shall refund the amount in excess. If the excess is less than $1, the department may not make a refund.

Section 50. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of this state shall be classified according to that percentage of the true and full valuation of the property therein upon which the tax levy is made, as follows:

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

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

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

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

(e) fifth class--all counties having such a taxable valuation of more than $10 million and less than $15 million;

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

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

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

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

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

(c) 13.8% of the total taxable value of the county on December 31, 1986."

Section 51. Section 7-3-1321, MCA, is amended to read:

"7-3-1321. Authorization to incur indebtedness --

limitation. (1) The consolidated municipality may borrow money or issue bonds for any municipal purpose to the extent and in the manner provided by the constitution and laws of Montana for the borrowing of money or issuing of bonds by counties and cities and towns.

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~28%~~ 32.5% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

Section 52. Section 7-6-2211, MCA, is amended to read:

"7-6-2211. Authorization to conduct county business on a cash basis. (1) In case the total indebtedness of a county, lawful when incurred, exceeds the limit of ~~23%~~ 27% established in 7-7-2101 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

(2) Nothing in this section restricts the right of the board to make the necessary tax levies for interest and sinking fund purposes, and nothing in this section affects the right of any creditor of the county to pursue any remedy now given him by law to obtain payment of his claim."

Section 53. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business on a cash basis. (1) In case the total indebtedness of a city or town has reached ~~17%~~ 20% of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2).

(2) (a) Whenever a city or town is conducting its business affairs on a cash basis, the reasonable and necessary current expenses of the city or town may be paid out of the cash in the city or town treasury and derived from its current revenues, under such restrictions and regulations as the city or town council may by ordinance prescribe.

(b) In the event that payment is made in advance, the city or town may require a cash deposit as collateral security and indemnity, equal in amount to such payment, and may hold the same as a special deposit with the city treasurer or town clerk, in package form, as a pledge for the fulfillment and performance of the contract or obligation for which the advance is made.

(c) Before the payment of the current expenses mentioned above, the city or town council shall first set apart sufficient money to pay the interest upon its legal, valid, and outstanding bonded indebtedness and any sinking funds therein provided for and shall be authorized to pay all valid claims against funds raised by tax especially authorized by law for the purpose of paying such

claims."

Section 54. Section 7-6-4254, MCA, is amended to read:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 44% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

(2) The term "taxable property", as used herein, means the percentage of the value at which such property is assessed and which percentage is used for the purposes of computing taxes and does not mean the assessed value of such property as the same appears on the assessment roll."

Section 55. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, no city-county consolidated local government may issue bonds for any purpose which, with all outstanding indebtedness, may exceed ~~39%~~ 45% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 56. Section 7-7-108, MCA, is amended to read:

"7-7-108. Authorization for additional indebtedness for water or sewer systems. (1) For the purpose of constructing a sewer system or procuring a water supply or constructing or acquiring a water system for a city-county consolidated government which shall own and control such water supply and water system and devote the revenues therefrom to the payment of the debt, a city-county consolidated government may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional indebtedness which may be incurred by borrowing money or issuing bonds for the construction of a sewer system or for the procurement of a water supply or for both such purposes may not in the aggregate exceed 10% over and above the ~~39%~~ 45% referred to in 7-7-107 of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 57. 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%~~ 27% of the total of the taxable value of the property therein subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as ascertained by the last assessment for state and county taxes previous to the incurring of such 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 58. 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%~~ 13% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and 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%~~ 32% of the total of the taxable value of the property in the county subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed ~~12.5%~~ 14.5% of the taxable value of the property in the county subject to taxation.

(4) The limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 59. Section 7-7-4201, MCA, is amended to read:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any purpose in an amount which with all outstanding and unpaid indebtedness will exceed ~~28%~~ 32.5% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 60. Section 7-7-4202, MCA, is amended to read:

"7-7-4202. Special provisions relating to water and sewer systems. (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town which owns and controls the water supply and water system and devotes the revenues therefrom to the payment of the debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred

by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ 32.5%, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 61. Section 7-13-4103, MCA, is amended to read:

"7-13-4103. Limitation on indebtedness for acquisition of natural gas system. The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~17%~~ 20% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes."

Section 62. Section 7-14-236, MCA, is amended to read:

"7-14-236. Limitation on bonded indebtedness. The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed ~~28%~~ 32.5% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds."

Section 63. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, no county shall issue bonds which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11.25%~~ 13% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%. The taxable property and the amount of new production taxes levied shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11.25%~~ 13% but will not exceed ~~22.5%~~ 26.5% of the total of the taxable value of such property, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county, except county high school bonds, shall not exceed ~~22.5%~~ 26.5% of the total of the taxable value of the property within the county, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as ascertained by the last preceding general assessment."

Section 64. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds ~~22.5%~~ 26.5% of the total of the taxable value of the property therein, plus the amount of new production taxes levied

divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, and the board determines that the county is unable to pay such indebtedness in full, the board may:

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

(b) enter into such agreement;

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

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

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

Section 65. Section 7-14-4402, MCA, is amended to read:

"7-14-4402. Limit on indebtedness to provide bus service. The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~28%~~ 32.5% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes. No money may be borrowed or bonds issued for the purposes specified in 7-14-4401(1) until the proposition has been submitted to the vote of the taxpayers of the city or town and the majority vote cast in its favor."

Section 66. Section 7-16-2327, MCA, is amended to read:

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

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~13%~~ 15% of the total of the taxable value of the taxable property in the county, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

(b) No money may be borrowed on bonds issued for the purchase of lands and improving same for any such purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at such election in the county affected thereby and a majority vote is cast in favor thereof."

Section 67. Section 7-16-4104, MCA, is amended to read:

"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes. (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit thereof, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise

swimming pools, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or combination thereof; and

(c) for furnishing and equipping the same.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~16.5%~~ 19.5% of the taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No money may be borrowed on bonds issued for the purchase of lands and improving the same for any such purpose until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

Section 68. Section 7-31-106, MCA, is amended to read:

"7-31-106. Authorization for county to issue bonds -- election required. (1) If the petition is presented to the board of county commissioners, it shall be the duty of the board, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) to ascertain, within 30 days after submission of the petition, the existing indebtedness of the county in the aggregate; and

(b) to submit, within 60 days after ascertaining the same, to the electors of such county the proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 26% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 69. Section 7-31-107, MCA, is amended to read:

"7-31-107. Authorization for municipality to issue bonds -- election required. (1) If said petition is presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) shall ascertain, within 30 days after submission of the petition, the aggregate indebtedness of such city or town; and

(b) shall submit, within 60 days after ascertaining the same, to the electors of such city or town the proposition to approve or disapprove said contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~16.5%~~ 19.5% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner provided in this part."

Section 70. Section 7-34-2131, MCA, is amended to read:

"7-34-2131. Hospital district bonds authorized. (1) A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

(2) The amount of bonds issued for such purpose and outstanding at any time may not exceed ~~22.5%~~ 26% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

(3) Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of second- or third-class school districts by Title 20, chapter 9, part 4.

(4) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Section 71. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is ~~45%~~ 52% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The ~~45%~~ 52% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

(2) When the total indebtedness of a school district has reached the ~~45%~~ 52% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(3) Whenever bonds are issued for the purpose of refunding bonds, any moneys to the credit of the debt service fund for the payment of the bonds to be refunded are applied towards the payment of such bonds and the refunding bond issue is decreased accordingly."

Section 72. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the ~~45%~~ 52% limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a

maximum of ~~45%~~ 52% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

(3) A major industrial facility is a facility subject to the taxing power of the school district, whose construction or operation will increase the population of the district, imposing a significant burden upon the resources of the district and requiring construction of new school facilities. A significant burden is an increase in ANB of at least 20% in a single year."

Section 73. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

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

(E) all property described in 15-6-135~~;~~.

~~(F)--all-property-described-in-15-6-136;-and~~

~~(G)--all-property-described-in-15-6-146.~~

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer ~~may-be-determined-to-be-permanently-located-only when-it-is-attached-to--a--foundation--which--cannot--feasibly--be relocated-and-only-when-the-wheels-are-removed~~ used as a residence is an improvement, whether or not it is affixed to the land.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in ~~15-24-202~~ 15-16-102. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

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

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

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of

any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

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

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

(o) The term "taxable value" means the percentage of market or assessed value as provided for in ~~15-6-131 through 15-6-140~~ this title.

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

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 74. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202~~.~~; and

(b) timberland, which for the purpose of this section means contiguous land exceeding 15 acres in one ownership that is capable of producing timber that can be harvested in commercial quantity.

(2) Class three property is taxed at ~~the taxable percentage rate "P"~~ 30% of its productive capacity.

~~(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.~~

~~(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:~~

~~(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".~~

~~(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below.~~

~~(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.~~

~~(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:~~

~~Certified Statewide Percentage Increase~~	~~Class Three Taxable Percentage "P"~~
~~0~~	~~30.00~~
~~10~~	~~27.27~~
~~20~~	~~25.00~~
~~30~~	~~23.08~~
~~40~~	~~21.43~~
~~50~~	~~20.00~~

~~(5)--After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111.~~"

Section 75. Section 15-6-134, MCA, is amended to read:

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

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources including otherwise tax-exempt income of all types is not more than $10,000 for a single person or $12,000 for a married couple;

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

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a) and (1)(b) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value.

(b) Property described in subsection (1)(c) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value multiplied by a percentage figure based on income and determined from the following table:

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

(c) Property described in subsection (1)(d) is taxed at ~~one-half~~ two-thirds of the taxable percentage rate "P" established in subsection (2)(a).

~~(3)--Until January 1, 1986, the taxable percentage rate "P" for class four property is 8.55%.~~

~~(4)--Prior to July 1, 1986, the department of revenue shall~~

determine-the-taxable-percentage-rate-"P"-applicable-to-class-four property-for-the-revaluation-cycle-beginning-January-1,--1986,--as follows:

(a)--The--director-of-the-department-of-revenue-shall-certify to-the-governor-before-July-1,-1986,-the-percentage-by--which--the appraised--value--of--all--property--in-the-state-classified-under class-four-as-of--January--1,--1986,--has--increased--due--to--the revaluation-conducted-under-15-7-111.-This-figure-is-the-certified statewide-percentage-increase.

(b)--The---taxable---value--of--property--in--class--four--is determined-as-a-function-of--the--certified--statewide--percentage increase-in-accordance-with-the-table-shown-below.

(c)--This--table--limits--the--statewide--increase-in-taxable valuation-resulting-from-reappraisal-to--0%.--In--calculating--the percentage--increase,--the--department--may--not--consider-changes resulting-from-new-construction,-additions,--or--deletions--during calendar-year-1985.

(d)--The---taxable---percentage---must---be---calculated---by interpolation-to-coincide-with-the-nearest-whole-number--certified statewide-percentage-increase-from-the-following-table:

Certified-Statewide Percentage-Increase	Class-Four-Taxable Percentage-"P"
0	8.55
10	7.77
20	7.12
30	6.57
40	6.10
50	5.70
60	5.34
70	5.02
80	4.75
90	4.50
100	4.27
110	4.07
120	3.88
130	3.71
140	3.56
150	3.42
160	3.28
170	3.16
180	3.05
190	2.94
200	2.85
210	2.75
220	2.67
230	2.59
240	2.51
250	2.44
260	2.37
270	2.31
280	2.25
290	2.19
300	2.13

~~(5)--After--July--1,--1986,--no-adjustment-may-be-made-by-the department-to-the-taxable-percentage-rate-"P"-until-a--revaluation has-been-made-as-provided-in-15-7-111.~~

~~(6)~~(3) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.

(4) For the purposes of this section, all mobile homes are considered to be improvements."

Section 76. Section 15-6-135, MCA, is amended to read:

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

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in ~~subsection---(1)(c)---of---15-6-137~~ 15-6-136(1)(d);

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

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

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted,

processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

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

(5) New industrial property does not include:

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

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

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

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

Section 77. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property -- description -- taxable percentage. (1) Class six property includes:

~~(a)--livestock,--poultry,-bees,-and-other-species-of-domestic animals--and--wildlife--raised--in--domestication--or--a---captive environment,--except--for-cats,-dogs,-and-other-household-pets-not raised-for-profit,-and-the-unprocessed-products--of--such--animals and-wildlife;~~

~~(b)--all--unprocessed-agricultural-products-on-the-farm-or-in storage-except--all--perishable--fruits--and--vegetables--in--farm storage-and-owned-by-the-producer;~~

~~(c)~~(a) all items of personal property, including goods and equipment, intended for rent or lease in the ordinary course of business, ~~provided-each-item-of-personal-property-satisfies-all-of the--following:~~ except personal property specifically included in another class;

~~(i)--the-full-and-true-value-of-the-personal-property-is-less than-$5,000;~~

~~(ii)-the-personal-property--is--owned--by--a--business--whose primary--business--income--is--from--rental--or--lease-of-personal property-to-individuals-wherein-no-one-customer--of--the--business accounts-for-more-than-10%-of-the-total-rentals-or-leases-during-a calendar-year;-and~~

~~(iii)-the--lease--of-the-personal-property-is-generally-on-an hourly,-daily,-or-weekly-basis.~~

(b) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;

(c) subject to the provisions of subsection (2), all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;

(d) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned

by noncentrally assessed public utilities; and tools used in the repair and maintenance of such property;

(e) tools, implements, and machinery that are not hand-held and that are used to repair and maintain machinery not used for manufacturing and mining purposes;

(f) all agricultural implements and equipment;

(g) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

(h) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

(i) all other machinery except that specifically included in another class;

(j) all trailers, including those prorated under 15-24-102 but not including those subject to a fee in lieu of property tax;

(k) truck toppers weighing more than 300 pounds;

(l) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(m) x-ray and medical and dental equipment;

(n) citizens' band radios and mobile telephones;

(o) radio and television broadcasting and transmitting equipment;

(p) cable television systems;

(q) coal and ore haulers;

(r) trucks having a rated capacity of more than three-quarters of a ton, including those prorated under 15-24-102 but not including those subject to a fee in lieu of property tax;

(s) theater projectors and sound equipment; and

(t) all other property not included in any other class in this part except that property subject to a fee in lieu of property tax.

(2) To qualify as class six property, the average circuit miles for each station on a telephone communication system described in subsection (1)(c) must be more than 1 mile.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

~~(2)~~(4) Class six property is taxed at ~~4%~~ 6% of its market value."

Section 78. Section 15-6-147, MCA, is amended to read:

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

(2) For the taxable years 1986 through 1990 class seventeen property is taxed at 12%, and for each taxable year thereafter, class seventeen property is taxed at the lesser of 12% or the taxable percentage rate for class fifteen property without adjustment.

(3) For the purpose of complying with the Tax Equity and Fiscal Responsibility Act of 1982, as it read on January 1, 1986, the taxable percentage rate "R" referred to in ~~this section~~ subsection (2) is the equalized average tax rate generally applicable to commercial and industrial property, except class

seventeen property, as commercial property is defined in 15-1-101(1)(d)."

Section 79. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) the property of:

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

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

(iii) municipal corporations; and

(iv) public libraries;

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

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for hospitals;

(d) property that meets the following conditions:

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

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

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

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

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

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

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from the fee in lieu of tax.

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

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(l) motorcycles and quadricycles;

(m) fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to

furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

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

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100~~.~~;

(q) the first $20,000 or less of the market value of any single-family residence, exclusive of land and appurtenant improvements;

(r) all tools, implements, and machinery that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, and other personal property not used for manufacturing and mining purposes;

(s) all aircraft that are not considered airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 and thereby included in 15-6-147;

(t) all watercraft; and

(u) all all-terrain vehicles.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(p) applicable to taxable years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.)"

Section 80. Section 15-6-207, MCA, is amended to read:

"15-6-207. Agricultural exemptions. (1) The following agricultural products are exempt from taxation:

(a) all unprocessed, perishable fruits and vegetables in

farm storage and owned by the producer;

(b) all nonperishable unprocessed agricultural products~~, except livestock, held in possession of the original producer--for less than 7 months following harvest;~~ and

(c) ~~except as provided in subsection (1)(d), livestock which have--not--attained--the age of 9 months as of the last day of any month if assessed on the average inventory basis or on March 1--if assessed as provided in 15-24-911(1)(a), and~~

~~(d)--swine--which have not attained the age of 3 months as of January 1,~~ all livestock, poultry, bees, and other species of domestic animals and wildlife raised in domestication or a captive environment, except:

(i) the unprocessed products of such animals and wildlife; and

(ii) cats, dogs, and other household pets not raised for profit.

(2) Any beet digger, beet topper, beet defoliator, beet thinner, beet cultivator, beet planter, or beet top saver designed exclusively to plant, cultivate, and harvest sugar beets is exempt from taxation if such implement has not been used to plant, cultivate, or harvest sugar beets for the 2 years immediately preceding the current assessment date and there are no available sugar beet contracts in the sugar beet grower's marketing area."

Section 81. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds~~, including but not limited to aircraft--and--boats--and all watercraft,~~ is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through ~~15-6-140 and~~ 15-6-136, 15-6-141, 15-6-145, and 15-6-147 through 15-6-149, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri; and

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual where the values reflect the same depreciation as those found in the official guide.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property in classes four through ~~eleven and~~ six, eleven, fifteen, and seventeen through nineteen is the percentage of market value established for each class of property in 15-6-134 through ~~15-6-141 and~~ 15-6-136, 15-6-141, 15-6-145, and 15-6-147 through 15-6-149.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes or at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

~~(d) Properties in 15-6-143, under class thirteen, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.~~

(7) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(8) The taxable value of all property in 15-6-131 and classes two, and three~~, and thirteen~~ is the percentage of assessed value established in 15-6-131(2), 15-6-132, and 15-6-133~~, and 15-6-143~~ for each class of property. (Subsections (3)(a) and (3)(b) applicable to tax years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985. Subsection (6)(d) [now part of (6)(c)] and references in (8) to class thirteen [now deleted] and 15-6-143 [now deleted] terminate January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

Section 82. Section 15-8-202, MCA, is amended to read:

"15-8-202. Motor vehicle assessment. (1) The department or its agent must, in each year, ascertain and assess all motor vehicles other than automobiles, trucks having a rated capacity of three-quarters of a ton or less, motorcycles, quadricycles, motor homes, travel trailers, or mobile homes in each county subject to taxation as of January 1 or as of the anniversary registration date of those vehicles subject to 61-3-313 through 61-3-316 and 61-3-501. The assessment for all motor vehicles will be made using the market value as of January 1 of the year of assessment of the vehicle as contained in the most recent volume of the Mountain States Edition of the National Automobile Dealers Association Official Used Car Guide. The motor vehicles shall be assessed in each year to the persons by whom owned or claimed or in whose possession or control they were at midnight of January 1 or the

anniversary registration date thereof, whichever is applicable.

(2) No tax may be assessed against motor vehicles subject to taxation that constitute inventory of motor vehicle dealers as of January 1. These vehicles and all other motor vehicles subject to taxation brought into the state subsequent to January 1 as motor vehicle dealers' inventories shall be assessed to their respective purchasers as of the dates the vehicles are registered by the purchasers.

(3) "Purchasers" includes dealers who apply for registration or reregistration of motor vehicles~~, except as otherwise provided by 61-3-502~~.

(4) Goods, wares, and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, shall be assessed at market value as of January 1."

Section 83. Section 15-8-205, MCA, is amended to read:

"15-8-205. Initial assessment of ~~class twelve property--- when~~ mobile homes. The county assessor shall assess all ~~class twelve property~~ mobile homes immediately upon their arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

Section 84. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement -- what to contain. (1) The department of revenue or its agent must require from each person a statement under oath setting forth specifically all the real and personal property owned by such person or in his possession or under his control at midnight on January 1. Such statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of such person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent;

(d) the county in which such property is situated or in which it is liable to taxation and (if liable to taxation in the county in which the statement is made) also the city, town, school district, road district, or other revenue districts in which it is situated;

(e) an exact description of all lands in parcels or subdivisions not exceeding 640 acres each and the sections and fractional sections of all tracts of land containing more than 640 acres which have been sectionized by the United States government; improvements and personal property~~, including all vessels, steamers, and other watercraft~~; all taxable state, county, city, or other municipal or public bonds and the taxable bonds of any person, firm, or corporation and deposits of money, gold dust, or other valuables and the names of the persons with whom such deposits are made and the places in which they may be found; all mortgages, deeds of trust, contracts, and other obligations by which a debt is secured and the property in the county affected thereby;

(f) all solvent credits, secured or unsecured, due or owing to such person or any firm of which he is a member or due or owing to any corporation of which he is president, secretary, cashier, or managing agent;

(g) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer need not include such property in the statement made by him but this statement must show the name of the person or officer who made the statement in which such property is included.

(3) The fact that such statement is not required or that a person has not made such statement, under oath or otherwise, does not relieve his property from taxation."

Section 85. Section 15-8-404, MCA, is amended to read:

"15-8-404. Property of particular types of firms. (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his business is carried on.

(2) The personal property of express, transportation, and stage companies~~,steamboats,vessels,and-other-watercraft~~ must be listed and assessed in the county, town, or district where such property is usually kept.

(3) The personal property and franchises of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

Section 86. Section 15-8-405, MCA, is amended to read:

"15-8-405. Street railroads~~,~~ <u>and</u> bridges~~,--and--ferries~~. Street railroads and bridges ~~and--ferries~~ and their franchises owned by persons or corporations must be listed and assessed in the county, town, or district where such property or any portion thereof is located, and the track of the railroad and the bridge are personal property."

Section 87. Section 15-8-706, MCA, is amended to read:

"15-8-706. Statement by agent to the department. (1) On the second Monday in July in each year, the agent of the department of revenue in each county must transmit to the department a statement showing:

(a) the several kinds of personal property;

(b) the average and total value of each kind;

(c) the number of livestock~~,--number-of-bushels-of-grain,number-of-pounds-or-tons-of-any-article-sold-by-the-pound-or--ton;~~ <u>and</u>

(d) when practicable, the separate value of each class of land, specifying the classes and the number of acres in each.

(2) An agent of the department who purposely or negligently fails to perform his duty under this section or a deputy or member of the agent's staff delegated such duty who purposely or negligently fails to perform such duty is guilty of official

misconduct under 45-7-401."

Section 88. Section 15-16-611, MCA, is amended to read:

"15-16-611. Reduction of property tax for property destroyed by natural disaster. (1) The department of revenue shall, upon showing by a taxpayer that some or all of the improvements on his real property or a trailer or mobile home ~~as described in 15-6-142~~ have been destroyed to such an extent that such improvements have been rendered unsuitable for their previous use by natural disaster, adjust the taxable value on the property, accounting for the destruction.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the destruction of the property bears to 365.

(4) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(5) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 89. Section 15-24-301, MCA, is amended to read:

"15-24-301. Personal property brought into the state -- assessment -- exceptions -- custom combine equipment. (1) Except as provided in subsections (2) through (6), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) any personal property ~~(including--livestock)~~ brought, driven, or coming into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property whose owner or user is engaged in gainful occupation or business enterprise in the state; or

(c) property which comes to rest and becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner and to the same extent, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) Nothing in this section shall be construed to levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Any motor vehicle not subject to the light vehicle license fee or a fee in lieu of tax brought, driven, or coming into this state by any nonresident person temporarily employed in Montana and used exclusively for transportation of such person is

subject to taxation and assessment for taxes as follows:

(a) The motor vehicle is taxed by the county in which it is located.

(b) One-fourth of the annual tax liability of the motor vehicle must be paid for each quarter or portion of a quarter of the year that the motor vehicle is located in Montana.

(c) The quarterly taxes are due the first day of the quarter.

(5) Agricultural harvesting machinery classified under class ~~eight~~ six, licensed in other states, and operated on the lands of persons other than the owner of the machinery under contracts for hire shall be subject to a fee in lieu of taxation of $35 per machine for the calendar year in which the fee is collected. The machines shall be subject to taxation under class ~~eight~~ six only if they are sold in Montana.

(6) The provisions of this part do not apply to automobiles and trucks having a rated capacity of three-quarters of a ton or less, motorcycles, or quadricycles. These vehicles are subject to the fee provided for in 61-3-532 or 61-3-541."

Section 90. Section 15-24-302, MCA, is amended to read:

"15-24-302. Collection procedure. All property mentioned in 15-24-301 is assessed at the same value as property of like kind and character, and the assessment, levy, and collection of the tax are governed by the provisions of 15-8-408; 15-16-111 through 15-16-115; 15-16-404; chapter 17, part 9; and 15-24-202; as amended, except~~:~~

~~(1)~~ taxation of motor vehicles under 15-24-301(4) to the extent that subsection varies from the general provisions cited above~~;-and~~

~~(2)--livestock--taxation--governed--by-81-7-104-and-Title-81, chapter-7,-part-2.~~"

Section 91. Section 15-24-1102, MCA, is amended to read:

"15-24-1102. Federal property held under contract of sale. When the property is held under a contract of sale or other agreement whereby upon payment the legal title is or may be acquired by the person, the real property shall be assessed and taxed as defined in ~~15-6-131-through-15-6-140~~ Title 15, chapter 6, part 1, and 15-8-111 without deduction on account of the whole or any part of the purchase price or other sum due on the property remaining unpaid. The lien for the tax may not attach to, impair, or be enforced against any interest of the United States in the real property."

Section 92. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein less than the fee, except under contract of sale, the property shall be assessed and taxed as for the value, as defined in ~~15-6-131-through-15-6-140~~ Title 15, chapter 6, part 1, of such leasehold, interest, or estate in the property and the lien for the tax shall attach to and be enforced against only the leasehold, interest, or estate in the property. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property shall be assessed for full assessed value as defined in 15-8-111."

Section 93. Section 19-11-503, MCA, is amended to read:

"19-11-503. Special tax levy for fund required. (1) The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to ~~3%~~ 3.5% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than ~~3%~~ 3.5% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax shall be collected as other taxes are collected and, when so collected, shall be paid into the disability and pension fund.

(3) If a special tax for the disability and pension fund is levied by a third-class city or town using the all-purpose mill levy, the special tax levy must be made in addition to the all-purpose levy."

Section 94. Section 19-11-504, MCA, is amended to read:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than ~~3%~~ 3.5% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 95. Section 20-9-141, MCA, is amended to read:

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

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

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

(ii) the district's permissive levy amount as provided in 20-9-352; and

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

(b) Determine the total of the moneys available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); ~~and~~

(viii) anticipated sales tax and use tax revenue; and

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

(c) Subtract the total of the moneys available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

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

Section 96. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic tax of 28 mills on the dollars of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of the elementary school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenues identified in subsection (2) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

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

(2) The proceeds realized from the county's portion of the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with 20-9-212(1):

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

(b) the portion of the federal flood control act funds

distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or referred to in this section;

(e) any federal or state money, including anticipated or reappropriated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536, distributed to the county as payment in lieu of the property taxation established by the county levy required by this section; ~~and~~

(f) net proceeds taxes for new production, as defined in 15-23-601; and

(g) sales tax and use tax revenue."

Section 97. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic special tax for high schools of 17 mills on the dollar of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated revenues identified in subsections (2)(a) and (2)(b) below shall be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

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

(2) The proceeds realized from the county's portion of the levy prescribed in this section and the revenues from the following sources shall be used for the equalization of the high school district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of these proceeds by the county treasurer in accordance with 20-9-212(1):

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

(b) any federal or state moneys, including anticipated or reappropriated motor vehicle fees and reimbursement under the

provisions of 61-3-532 and 61-3-536, distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section; ~~and~~

(c) net proceeds taxes for new production, as defined in 15-23-601; and

(d) sales tax and use tax revenue."

Section 98. Section 20-9-352, MCA, is amended to read:

"20-9-352. Permissive amount and permissive levy. (1) Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in 20-9-141, supplemented with any biennial appropriation by the legislature for this purpose. The proceeds of such an appropriation shall be deposited to the state special revenue fund, permissive account.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 6 mills on all the taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 6 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy~~,~~ plus anticipated or reappropriated motor vehicle fees, ~~and~~ reimbursement under the provisions of 61-3-532 and 61-3-536, ~~is~~ and sales tax and use tax revenue are not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 4 mills on all taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 4 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy~~,~~ plus anticipated motor vehicle fees, ~~and~~ reimbursement under the provisions of 61-3-532 and 61-3-536, ~~and plus~~ net proceeds taxes for new production~~,~~ as defined in 15-23-601, ~~is~~ and sales tax and use tax revenue are not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(3) The superintendent of public instruction shall, if the appropriation by the legislature for the permissive account for

the biennium is insufficient, request the budget director to submit a request for a supplemental appropriation in the second year of the biennium. The supplemental appropriation shall provide enough revenue to fund the permissive deficiency of the elementary and high school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.

(4) Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 99. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of any district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to such systems. The district's contribution for each employee who is a member of the teachers' retirement system shall be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system shall be calculated in accordance with 19-3-801. The district may levy a special tax to pay its contribution to the public employees' retirement system under the conditions prescribed in 19-3-204. The district's contributions for each employee covered by any federal social security system shall be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance shall be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of any district required to make a contribution to any such system shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution and such additional moneys, within legal limitations, as they may wish to provide for the retirement fund cash reserve. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to such systems in accordance with the financial administration provisions

of this title.

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

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

(i) any anticipated moneys that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536;

(ii) net proceeds taxes for new production, as defined in 15-23-601; ~~and~~

(iii) sales tax and use tax revenue; and

~~(iii)~~(iv) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the retirement fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the retirement fund. The retirement fund cash reserve shall not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and shall be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(b) subtracting the total of the moneys available for reduction of the levy requirement as determined in subsection (3)(a) from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements, and shall report each such levy requirement to the county commissioners on the second Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds. The county commissioners shall fix and set such county levy in accordance with 20-9-142.

(5) The net retirement fund levy requirement for a joint elementary district or a joint high school district shall be prorated to each county in which a part of such district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each such county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(6) The net retirement fund levy requirement for districts that are members of special education cooperative agreements shall be prorated to each county in which such district is located in the same proportion as the budget for the special education cooperative agreement of the district bears to the total budget of the cooperative. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and fix and levy the net retirement fund levy for each

county in the same manner as provided in 20-9-152."

Section 100. Section 20-9-502, MCA, is amended to read:

"20-9-502. Purpose and authorization of a building reserve fund by an election. (1) The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(a) the purpose or purposes for which the new or addition to the building reserve will be used;

(b) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b); and

(d) any other requirements under 20-20-201 for the calling of an election.

(2) The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than ~~45%~~ 52% of the taxable value of the taxable property of the district. Such limitation shall be determined in the manner provided in 20-9-406. A building reserve tax authorization shall not be for more than 20 years.

(3) The election shall be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election shall be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE--YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE--NO".

Shall the trustees be authorized to impose an additional levy each year for .... years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of .... dollars ($....), for the purpose(s) .... (here state the purpose or purposes for which the building reserve will be used)?

BUILDING RESERVE--YES.

BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees

to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used."

Section 101. Section 20-10-144, MCA, is amended to read:

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

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

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

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

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

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if such amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in this determination of the schedule amount.

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

(a) the resulting one-third amount shall be the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

(b) the resulting one-third amount, except as provided for joint elementary districts in subsection (2)(e), shall be the

budgeted county transportation reimbursement for elementary districts and shall be financed by the basic county tax under the provisions of 20-9-334;

(c) the resulting one-third amount multiplied by 2 shall be the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5) of this section, except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (2)(b) or (2)(c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint district, after the application of any district moneys under subsection (2)(d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

(3) The total of the moneys available for the reduction of property tax on the district for the transportation fund shall be determined by totaling:

(a) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

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

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

(e) anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536; plus

(f) net proceeds taxes for new production, as defined in 15-23-601; plus

(g) sales tax and use tax revenue; plus

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

~~(h)~~(i) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the

final transportation fund budget.

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

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

(b) subtracting the amount of moneys available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a) above.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with 20-9-142."

Section 102. Section 33-7-407, MCA, is amended to read:

"33-7-407. Taxes. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on gross receipts taxable under the sales and use tax and taxes on real ~~estate~~ property and ~~office--equipment~~ improvements."

Section 103. Section 61-3-431, MCA, is amended to read:

"61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification plate -- publicly owned special mobile equipment. (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in 61-1-104 and occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in ~~61-3-502,~~ 61-4-301 through 61-4-308~~,~~ or part 2 of chapter 10. Prior to movement on the highways, however, each piece of equipment shall display an equipment identification plate or a dealer's license plate attached to the equipment.

(2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall be made on a form furnished by the department of justice, together with the payment of a fee of $5. The equipment for which a special mobile equipment plate is sought is subject to the assessment of personal property taxes on the date application is made for the plate. The personal property taxes assessed against the special mobile equipment must be paid before the issuance of a special mobile equipment plate. The fees collected under this section belong to the county road

fund.

(3) The identification plate expires on December 31 of each year. If the expired identification plate is displayed, an owner of special mobile equipment registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification plate or receipt of the current year.

(4) Publicly owned special mobile equipment and implements of husbandry used exclusively by an owner in the conduct of his own farming operations are exempt from this section."

Section 104. Section 61-3-501, MCA, is amended to read:

"61-3-501. When vehicle taxes and fees are due. (1) ~~Property~~ All taxes, ~~new-car-taxes,-light~~ except sales and use taxes paid at the time of purchase, and all vehicle license fees, and fees in lieu of tax on a motorcycle, quadricycle, motor home, or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, ~~property~~ taxes, ~~light~~ vehicle license fees, or the fee in lieu of ~~property~~ taxes ~~abate~~ abates on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes or the fee in lieu of tax due and owing on the vehicle.

(3) In the event a vehicle's registration period is changed under 61-3-315, all taxes and other fees due thereon shall be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle shall be registered. Thereafter taxes and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees shall be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

Section 105. Section 61-4-112, MCA, is amended to read:

"61-4-112. New motor vehicles -- transfers by dealers. (1) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

(a) issue and affix a sticker as prescribed in 61-4-111(1)(a) for transfers of used motor vehicles and retain a copy of the sticker;

(b) within 4 working days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides:

(i) one copy of the sticker issued under subsection (1)(a); and

(ii) an application for certificate of title with a notice of security interest, if any, executed by the purchaser or recipient~~; and~~

~~(iii) a--statement-of-origin-as-prescribed-in-61-3-502(7)(b).~~

(2) Upon receipt from the county treasurer of the documents

required under subsection (1), the department shall issue a certificate of ownership and certificate of registration together with a statement of lien as provided in 61-3-202."

Section 106. Section 61-10-231, MCA, is amended to read:

"61-10-231. Enforcement. The highway patrol and any designated employee of the department of highways shall enforce this part ~~and--61-3-502(1)~~, and those persons shall examine and inspect the motor vehicles operating upon the highways in this state and regulated by this part ~~and-61-3-502(1)~~ to ascertain whether or not those laws are being complied with."

Section 107. Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. (1) Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions only:

(a) part 1, chapter 10, of this title;

(b) part 3, chapter 4, of this title;

(c) sections 15-24-201 through 15-24-205;

(d) sections 15-70-302 through 15-70-307;

(e) sections 15-70-311 through 15-70-314;

~~(f)--section-61-3-502(1);~~

~~(g)~~(f) sections 61-10-201 through 61-10-215;

~~(h)~~(g) sections 61-10-222 through 61-10-224;

~~(i)~~(h) sections 61-10-231 through 61-10-233.

(2) These employees may not arrest for violations other than specified in this section."

Section 108. Section 67-3-201, MCA, is amended to read:

"67-3-201. Aircraft registration and licensing. (1) Except as provided in 67-3-102 and in subsection ~~(7)~~ (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or approved by the United States government which has been registered with the department and the registration with the department is in force.

(2) Aircraft customarily kept in this state shall be registered with the department, which may charge a fee therefor of not more than $10. The registration shall be renewed annually on or before March 1 each year.

(3) Section 67-3-202 and subsections (2) through ~~(7)~~ (6) of this section shall not apply to:

(a) aircraft owned and operated by the federal government, the state, or any political subdivision thereof;

(b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

(c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate or international transportation; or

(d) dismantled or otherwise nonflyable aircraft.

(4) An aircraft shall be registered as property within a particular county of the state. This county shall be the county of the owner's principal residence, if the owner is a natural person, or the owner's principal place of doing business in the state, if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is customarily kept at a landing

facility in another county within the state, he may register the aircraft as property within such other county.

~~(5)--Except--as--provided--in-15-6-210,-all-aircraft-shall-be subject-to-all-state,-county,-and-school-district-tax--levies--and all-other-levies-designated-for-aircraft--or-airport-related-uses. Such-aircraft-shall-not-be-liable-for-other-city-tax-levies.~~

~~(6)~~(5) Aircraft not registered in the state but entering the state to engage in commercial operations shall be registered prior to commencing operation.

~~(7)~~(6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued by the United States government shall file with the department an appropriate registration recognized and approved by the United States government."

Section 109. Section 67-3-202, MCA, is amended to read:

"67-3-202. Penalty for registration violations. (1) When an aircraft required to be registered under the provisions of subsections (2) through ~~(7)~~ (6) of 67-3-201 is not registered on or before March 1 of the current calendar year, a penalty fee of $100 shall be added to the registration fee and collected. Registration of an aircraft in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that the aircraft has been based in this state during the year for which application for registration is made.

~~(2)--Except--for--aircraft--exempt--from-property-taxation-as provided-in-15-6-210,-an-application--for--registration--shall--be accompanied--by-a-copy-of-the-receipt-for-or-statement-of-personal property-tax-paid,-signed-by-the-treasurer-of-the-county-where-the aircraft-is-registered,-or-a-statement-of-lien-assignment--against real-property,-signed-by-the-county-assessor-where-the-aircraft-is registered.--A--person--who--pays--personal--property--tax--on-his aircraft-to-any-jurisdiction--other--than--the--county--where--the aircraft--is--required--to--be-registered-is-liable-for-the-tax-in that-county-without-credit-for-such-other-taxes-paid.--In--addition to--this--civil--liability,-a-person-who-attempts-to-establish-the situs-of-his-aircraft-in-any-jurisdiction-other--than--the--county where--the--aircraft--is--required-to-be-registered-with-intent-to avoid-payment-of-taxes-to-that-county-commits-the-offense-of-false swearing-as-defined-in-45-7-202.~~

~~(3)~~(2) A person who operates an aircraft required to be registered in the state without having displayed upon such aircraft a certificate of registration issued by the department for that aircraft commits a misdemeanor."

Section 110. Section 81-6-101, MCA, is amended to read:

"81-6-101. Petition for county livestock protective committee -- members -- term. (1) The board of county commissioners must, upon receipt of a petition or petitions to do so, establish a county livestock protective committee of three members. The petition or petitions must be signed by at least 51% of the owners of cattle in the county and such petitioners ~~owning~~ shall own at least 55% of the cattle ~~as-shown-by-the-most-recent completed-assessment-records-of-the--county--assessor,--set--up--a county--livestock--protective--committee--of--three-members~~ in the

county.

(2) Members appointed to serve on such committee shall be residents of the county engaged in the business of raising cattle. If there be in the county any organization of cattle growers, the county commissioners shall give preference to names submitted by any such group for appointment to such committee. The term for which said committee members shall be appointed shall be 2 years with two members of the first committee named to serve for 2 years, one member to serve for 1 year. Members of such committee shall receive no remuneration or reimbursement for expenses for serving on said committee.

(3) By "organization of cattle growers", as used in this section, is meant any group or organization holding regular meetings at least annually, having officers, and composed predominantly of cattle growers resident in the county, with its membership open to cattle growers willing to abide by its governing rules or bylaws, and its general purpose being the promotion of the interests of its members in matters pertaining to the cattle or livestock industry.

(4) If owners of sheep in the county desire to come under the provisions of this part in cooperation with owners of cattle, they shall file a like petition to that set out herein for owners of cattle, and in such case at least one member of said livestock protective committee shall be a sheep grower and where the word "cattle" appears in this part, it shall be deemed to comprehend also the word "sheep".

(5) Owners of sheep alone may form a county livestock protective committee, in which case the word "cattle" as in this part contained shall be considered as if it were the word "sheep"; and provided further that the levy as provided in 81-6-104 hereof shall, in the case of sheep, not exceed 5 cents per head."

Section 111. Section 81-6-104, MCA, is amended to read:

"81-6-104. ~~Tax--levy~~ Levy -- special fund. ~~Said~~ The county livestock protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of--a-tax-in-an-amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the county on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such-tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited by the county treasurer in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

Section 112. Section 81-6-204, MCA, is amended to read:

"81-6-204. ~~Tax-levy~~ Levy -- deposit of proceeds. ~~Said~~ The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of--a-tax-in-an-amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as ~~other~~ taxes on personal property and when collected

to be deposited in the county treasury of one of the counties in the district, to be selected by the district cattle protective committee, in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

Section 113. Section 81-6-209, MCA, is amended to read:

"81-6-209. ~~Tax-levy~~ Levy -- deposit of proceeds. ~~Said~~ The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of--a-tax-in-an-amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited in the county treasury in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

Section 114. Section 81-7-103, MCA, is amended to read:

"81-7-103. Administration of funds by the department. The department shall administer and expend for predatory animal extermination and control all money which is made available to it, including the money ~~from-the-levy~~ allocated for this purpose under 81-7-104 and all money which is made available to the department by appropriations made by the legislature for predatory animal control by the department. The department shall expend the funds for predatory animal control by all effective means responsive to the necessities of control in various areas of the state, including employment of hunters, trappers, and other personnel, procurement of traps, poisons, equipment, and supplies, and payment of bounties in the discretion of the department at those times of the year it considers advisable."

Section 115. Section 81-7-104, MCA, is amended to read:

"81-7-104. ~~Levy--for-predator~~ Predator control moneys -- use of proceeds. (1) The department of ~~revenue-shall-annually-levy--an ad--valorem-tax-on-all-livestock-in-the-state-of-Montana~~ livestock shall allocate a portion of the money from the levy under [section 44] for the purpose of protecting ~~them~~ livestock and poultry against destruction, depredation, and injury by wild animals, whether the livestock or poultry is on lands in private ownership, in the ownership of the state, or in the ownership of the United States, including open ranges and all lands in or of the public domain. This protection may be by any means of effective predatory animal destruction, extermination, and control, including systematic hunting and trapping and payment of bounties. ~~The-tax levy-may-not-exceed-in-any-one-year-15-mills-on-the-taxable--value of-all-sheep-and-10-mills-on-the-taxable-value-of-other-livestock.~~

~~(2) The--moneys--received--from--the--tax--levies--shall--be transmitted-monthly-with-other-taxes-for--state--purposes--by--the~~

~~county--treasurer--of-each-county-to-the-state-treasury.--The-state treasurer-shall-place-the-money-in-the-state-special-revenue--fund with--the--other--moneys-as-provided-in-81-7-119.--The-moneys~~ Money shall ~~thereafter~~ be paid out only on claims duly and regularly presented to the department of livestock and approved by the department in accordance with the law applicable either to claims for bounties or for other expenditures necessary and proper for predatory animal control by means and methods other than payment of bounties, as determined by the department. All the moneys shall be available for the payment of bounty claims and for expenditures for planned, seasonal, or other campaigns directed or operated by the department in cooperation with other agencies for the systematic destruction, extermination, and control of predatory wild animals, as determined by the department and its advisory committee. No claims may be approved in excess of moneys available for such purposes, and no warrants may be registered against the moneys."

Section 116. Section 81-7-201, MCA, is amended to read:

"81-7-201. County levy for bounties on predatory animals. Whenever the owners, agent, or agents of the owners representing 51% of the livestock of any county in this state present a petition to the board of county commissioners of such county asking for the levy of a tax upon the livestock of the county for the purpose of paying bounties on predatory animals killed in the county, it is the duty of the board of county commissioners to make the levy, which may not exceed ~~50-mills-on-the-dollar-of-the taxable-value-of~~ $1 per head of livestock on all livestock in the county. The ~~tax~~ levy shall be assessed and collected in the same manner as ~~all-other~~ state and county taxes."

Section 117. Section 81-7-202, MCA, is amended to read:

"81-7-202. Signers of petition -- time for presenting -- limitation on bounties -- bounty inspectors. (1) The petition provided for in 81-7-201 shall be signed by the owners, agent, or agents of not less than 51% of the livestock of such county ~~as ascertained-from-the-assessment-books-of--such--county~~ and shall recommend to the board of county commissioners the bounties to be paid on such predatory animals, which shall not exceed the following:

(a) on each wolf or mountain lion, $100;

(b) on each wolf pup or mountain lion kitten, $20;

(c) on one coyote, $5;

(d) on each coyote pup, $2.50.

(2) Such petition shall be presented not later than August 1 of each year, and the board of county commissioners on determining the sufficiency of such petition shall make an order granting such petition, which order shall fix the levy for that year and the amount of the bounties to be paid for the killing of each such predatory animal, which shall not exceed the amounts recommended in such petition, and appoint not less than 10 or more than 20 stockowners of such county to be bounty inspectors under this part, without compensation, who shall hold their offices for 1 year."

Section 118. Section 81-7-303, MCA, is amended to read:

"81-7-303. County commissioners permitted to require per

capita license fee on sheep. (1) To defray the expense of such protection the board of county commissioners of any county shall have the power to require all owners or persons in possession of any sheep coming 1 year old or over in the county on ~~the regular assessment date~~ January 1 of each year to pay a license fee in an amount to be determined by the board on a per head basis for sheep so owned or possessed by him in the county. All owners or persons in possession of any sheep coming 1 year old or over coming into the county after ~~the regular assessment date and subject to taxation under the provisions of 15-24-301~~ January 1 shall also be subject to payment of the license fee herein prescribed.

(2) Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county by the county assessor. Said license fees shall be payable to and collected by the county treasurer, and when so levied, shall be a lien upon the property, both real and personal, of the licensee. In case the person against whom said license fee is levied owns no real estate against which said license fee is or may become a lien, then said license fee shall be payable immediately upon its levy and the treasurer shall collect the same in the manner provided by law for the collection of personal property taxes which are not a lien upon real estate.

(3) When collected, said fees shall be placed by the treasurer in the predatory animal control fund and the moneys in said fund shall be expended on order of the board of county commissioners of the county for predatory animal control only."

Section 119. Section 81-7-305, MCA, is amended to read:

"81-7-305. Duty of county commissioners -- petition of sheep owners -- license fees. (1) In conducting a predatory animal control program, the board of county commissioners shall give preference to recommendations for such program and its incidents as made by organized associations of sheep growers in the county. Upon petition of the resident owners of at least 51% of the sheep in the county, as shown by the ~~assessment rolls of the last preceding assessment~~ best available records of the board of livestock, which petition shall be filed with the board of county commissioners on or before the first Monday in December in any year, such board shall establish the predatory animal control program and cause said licenses to be secured and issued and the fees collected for the following year in such amount as will defray the cost of administering the program so established. The license fee determined and set by the board shall remain in full force and effect from year to year without change, unless there is filed with the board a petition subscribed by the resident owners of at least 51% of the sheep in the county, as shown by the ~~assessment rolls of the last assessment preceding the filing of the petition~~ best available records of the board of livestock, for termination of the program and repeal of the license fee, in which event the program shall by order of the board of county commissioners be disestablished and the license fee shall not be further levied.

(2) If the resident owners of at least 51% of the sheep in the county either petition for an increase in the license fee or

petition for a decrease in the license fee then in force, the board of county commissioners shall upon receipt of any such petition fix a new license fee to continue from year to year and the program shall thereupon continue within the limits of the aggregate amount of the license fee as collected from year to year."

Section 120. Section 81-8-804, MCA, is amended to read:

"81-8-804. Assessments -- refunds. (1) There is levied, in addition to ~~the tax on livestock prescribed in Title 15, chapter 24, part 9, a per head tax~~ other fees levied, an amount of 25 cents on each head of cattle that is more than 9 months of age and is owned or possessed within a county for the support and maintenance of research into beef production as provided in this part. The ~~tax~~ levy shall be paid to the county treasurer of that county on or before March 1 of each year.

(2) The ~~tax~~ levy required in subsection (1) must be paid for each head of cattle that is more than 9 months of age and is brought into the county after March 1 ~~and is subject to taxation and assessment under 15-24-301~~.

(3) Each county is entitled to receive $250 annually as reimbursement for the administration of this section.

(4) A person who has paid the ~~tax~~ levy required by this section may obtain a refund of the ~~tax~~ levy upon submission of a written request to the department. The application must be made within 30 days after the payment of the ~~tax~~ levy and on forms furnished by the department. The department shall, upon receipt of a timely and otherwise properly submitted refund request, refund the ~~tax~~ levy."

Section 121. Section 85-7-2001, MCA, is amended to read:

"85-7-2001. Limitations on debt-incurring power. (1) The board of commissioners or other officers of the district may not incur any debt or liability, either by issuing bonds or otherwise, except as provided in this chapter. No irrigation district may become indebted, in any manner or for any purpose in any one year, in an amount exceeding ~~18.75%~~ 22% of the assessed valuation of the district, except as provided in subsection (2).

(2) (a) For the purpose of organization; for any of the immediate purposes of this chapter; to make or purchase surveys, plans, and specifications; for stream gauging and gathering data; or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district and may cause warrants of the district to issue therefor.

(b) For the purpose of organization, for any of the immediate purposes of this chapter, or to meet the expenses occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur (in addition to the ~~18.75%~~ 22% limitation of subsection (1)) an additional indebtedness not exceeding ~~12.5%~~ 14.5% of the assessed valuation of the district and may cause warrants of the district to issue therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any

irrigation district.

(d) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision which expressly supersedes the limitation.

(3) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void."

NEW SECTION. Section 122. Submission to electorate. The question of whether sections 1 through 121 of this act will become effective shall be submitted to the electors of Montana at the election called pursuant to section 123 by printing on the ballot the full title of this act and the following:

FOR imposing a 4% sales and use tax, with 75% of the proceeds to be used for business and residential property tax relief and the remainder to be deposited in the state general fund.

AGAINST imposing a 4% sales and use tax, with 75% of the proceeds to be used for business and residential property tax relief and the remainder to be deposited in the state general fund.

NEW SECTION. Section 123. Special election. Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, sections 1 through 121 shall be submitted to the people for their approval or disapproval at a statewide election to be held June 9, 1987.

NEW SECTION. Section 124. Transmittal to the attorney general -- statements by attorney general. (1) The secretary of state shall, within 1 working day of receipt, transmit a copy of this act and a copy of the form in which the issue will appear on the ballot to the attorney general. The attorney general shall examine the ballot form submitted to his office and, within 7 days of receipt of the ballot form, notify the secretary of state of his approval or rejection of the ballot form.

(2) Upon receipt of the ballot form under subsection (1), the attorney general shall order a fiscal note, the substance of which must substantially comply with the provisions of 5-4-205. The budget director is responsible for preparing the fiscal note and shall return it within 4 days. The attorney general shall prepare a fiscal statement not exceeding 50 words, to be forwarded to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

(3) Upon receipt of the ballot form, the attorney general shall prepare a statement, not exceeding 100 words, expressing an impartial explanation of the purpose of sections 1 through 121 in plain, easily understood language. The statement may not be an argument for or against or written to create a prejudice for or against the issue. The attorney general shall forward the explanatory statement prepared under this subsection to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

NEW SECTION. Section 125. Secretary of state to certify form and voter information. (1) Thirty-five days or more before the special election, the secretary of state shall certify to each county election administrator the form in which the issue is to

appear on the ballot, as provided by 13-27-501. Each of the county election administrators shall order the official ballot to be printed in the form certified by the secretary of state.

(2) At least 20 days prior to the election called under section 123, the secretary of state shall deliver or have delivered to the counties sufficient copies of sections 1 through 121, the fiscal note, and the explanatory statement prepared pursuant to [section 124], in such form as the secretary of state determines.

(3) The county election administrator shall mail one copy of the voter information required by subsection (2) to each registered voter in the county, except that, for purposes of this mailing, two or more voters with the same last name and the same mailing address may be counted as one voter. The mailing must take place no later than 1 week after the pamphlets are received from the printer.

(4) The secretary of state may contract for the printing and delivery of the voter information material under the immediate procurement provisions of 18-4-133(2).

NEW SECTION. Section 126. Absentee ballots. The county election administrator shall ensure that ballots are printed and available for absentee voting at least 10 days prior to the election.

NEW SECTION. Section 127. Determination of result of special election. (1) The votes on sections 1 through 121 must be counted and canvassed following procedures prescribed by the secretary of state.

(2) A report form for the abstract of votes shall be prepared by the secretary of state and sent to the county election administrators. The county election administrator shall provide the required information and shall send the abstract of votes to the secretary of state by certified mail in an envelope marked "special election returns". Such returns must be received by the secretary of state no later than 5 p.m. on the sixth day following the election.

(3) The board of state canvassers shall meet on the seventh day following the special election. The secretary of state, as secretary of the board of canvassers, shall prepare and file in his office a report of the canvass, which lists:

(a) the total number of electors voting in each county and in each legislative house district, together with the total number of electors voting in the state; and

(b) the votes by county and legislative house district for and against the issue, together with the total number of votes cast for and against the issue in the state.

(4) The secretary of state shall transmit a certified copy of the statement of the canvass to the governor and the code commissioner within 10 days following the special election.

NEW SECTION. Section 128. Application of election laws. (1) Except as provided in sections 123 through 128, the election called under section 123 must be conducted and canvassed and the results returned in the manner provided in Title 13 for a general election.

(2) The provisions of 13-2-301(1)(b), 13-12-201, 13-13-205,

and Title 13, chapter 27, do not apply to the election called under section 118.

(3) The secretary of state shall publish notice of the election as provided in 13-1-108.

NEW SECTION. Section 129. Repealer. Sections 15-6-137 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146, 15-24-304, 15-24-901 through 15-24-906, 15-24-908 through 15-24-911, 15-24-921 through 15-24-926, 15-24-931, 15-24-941 through 15-24-943, 61-3-502, 61-3-605, and 81-7-118, MCA, are repealed.

NEW SECTION. Section 130. Codification instructions. (1) Sections 1 through 43 are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to sections 1 through 43.

(2) Sections 44 through 48 are intended to be codified as an integral part of Title 81 and the provisions of Title 81 apply to sections 44 through 48.

(3) Section 49 is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to section 49.

NEW SECTION. Section 131. Extension of authority. Any existing authority of the department of revenue, the department of livestock, the board of livestock, the department of highways, the department of commerce, or the board of aeronautics to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 132. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 133. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 134. Effective dates. (1) This act, except sections 122 through 128, 135, and this section, is effective upon approval by the electorate.

(2) Sections 122 through 128, 135, and this section are effective on passage.

NEW SECTION. Section 135. Applicability. (1) Sections 1 through 43 apply on and after June 1, 1988.

(2) Sections 44 through 48 apply on and after January 1, 1988.

(3) Section 49 applies to taxable years beginning after December 31, 1987.

(4) Sections 50 through 121 apply to taxable years, fiscal years, and school fiscal years beginning after December 31, 1988. However, all taxes, levies, fees, assessments, and the like levied in 1988 for fiscal year 1989 must be paid and are collectible as provided by law.

(5) Sections 122 through 135 apply on passage."

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ		✓	
REP. ASAY		✓	
REP. ELLISON		✓	
REP. GILBERT		✓	
REP. HANSON		✓	
REP. HARP		✓	
REP. HARRINGTON		✓	
REP. HOFFMAN		✓	
REP. KEENAN			✓
REP. KOEHNKE		✓	
REP. PATTERSON		✓	
REP. RANEY		✓	
REP. REAM		✓	
REP. SANDS		✓	
REP. SCHYE		✓	
REP. WILLIAMS		✓	

CS-30

STANDING COMMITTEE REPORT

MARCH 18 1987

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 436

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

Be amended as follows:

1. Title, lines 4 through 9
Following: "REQUIRING" ON LINE 4
Strike: remainder of line 4 through "PROPERTY" on line 9
Insert: "THE DEPARTMENT OF REVENUE TO CONDUCT A SALES ASSESSMENT RATIO STUDY FOR THE PURPOSE OF ANNUALLY DETERMINING THE CORRECT ASSESSMENT LEVEL FOR SIMILAR PROPERTY LOCATED IN SPECIFIC AREAS OF THE STATE OF MONTANA"

2. Title, line 9
Following: "SECTIONS"
Insert: "15-1-101, 15-7-102,"
Following: "15-7-103"
Insert: ","

3. Page 1, line 14
Following: line 13
Insert: "Section 1. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals

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or the valuation schedules of the department of revenue.

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

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

(A) agricultural lands;

(B) timberlands;

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

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

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

(F) all property described in 15-6-136; and

(G) all property described in 15-6-146.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep,

swine, goats, horses, mules, and asses.

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

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

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

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

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

(o) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(p) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

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

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Representative Jack Ramirez,
Chairman

Section 2. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) It shall be the duty of the department of revenue to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased by him and the appraisal of the improvements thereon only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) The notice of classification and appraisal provided by the department under subsection (1) must be on a standardized form adopted by the department containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of his property and of changes over the prior tax year.

(3) If the owner of any land and improvements is dissatisfied with the appraisal or classification of his land or improvements, he may submit his objection in writing to the department's agent. The department shall give reasonable notice to such taxpayer of the time and place of hearing and hear any testimony or other evidence which the taxpayer may desire to produce at such time and afford the opportunity to other interested persons to produce evidence at such hearing. Thereafter, the department shall determine the true and correct appraisal and classification of such land or improvements and forthwith notify the taxpayer of its determination. In the notification, the department must state its reasons for revising the classification or appraisal. When so determined, the land shall be classified and improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's

notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make such records available for inspection during regular office hours.

(6) If any property owner shall feel aggrieved at the classification and/or the appraisal so made by the department, he shall have the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings shall be final subject to the right of review in the proper court or courts. While the property owner may appeal the base year valuation and classification determination, the property owner may not appeal the yearly percentage adjustments that are specified in 15-7-111 and that may be made as a result of the sales assessment ratio study. The property owner may not appeal the stratum or area designations as specified in 15-7-111."

Renumber: subsequent sections

4. Page 2, line 23.
Following: line 22
Insert: "(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111 after January 1, 1986, all property classified in 15-6-134 must be appraised on its market value in the same year. The department shall publish a rule specifying the year used in the appraisal."
Renumber: subsequent subsection

5. Page 3, lines 6 and 7
Following: "property" on line 6
Strike: remainder of line 6 through "sample" on line 7

6. Page 3, line 10
Following: "state"
Strike: "by on-site appraisal"

7. Page 3, line 11
Following: "written"
Insert: "reappraisal"
Following: "plan"
Strike: "of rotation"

8. Page 3, lines 12 through 19
Following: "department" on line 12
Strike: remainder of line 12 through "sample" on line 19

Representative Jack Ramirez,
Chairman

9. Page 3, line 19
Following: "The"
Insert: "reappraisal"
Following: "plan"
Strike: "of rotation"

10. Page 3, line 21
Following: "revalued"
Strike: "by on-site appraisal"

11. Page 3, line 23
Following: "revalued"
Strike: "by on-site appraisal"

12. Page 3, line 25
Following: "to"
Strike: "each county assessor and"

13. Page 4, lines 2 through 15
Following: "(2)" on line 2
Strike: remainder of line 2 through line 15 in its entirety
Insert: "For the taxable year beginning January 1, 1988, and for every taxable year thereafter, the department shall conduct a stratified sales assessment ratio study of all residential real property and improvements, of all commercial and industrial real property and improvements, and of all other real property and improvements. The study must include such property as vacant land, agricultural improvements, and the 1-acre homesite beneath the agricultural residence.

(3) The study required in subsection (2) must be based on:

(a) the standards and methodology adopted by the international association of assessing officers in their publication "Standard on Assessment Ratio Studies";

(b) assessments of the property described in subsection (2) as of January 1 of the year immediately preceding the taxable year for which the study is conducted;

(c) a statistically valid sample of sales, using data from realty transfer certificates filed for the taxable year immediately following the assessment date identified in subsection (3)(b); and

(d) the assessments and sales for areas of the state that are economically, demographically, and geographically similar in order to determine the sales assessment ratio for a specific area.

(4) For purposes of conducting the study required by subsection (2), the sales assessment areas are as follows:

Representative Jack Ramirez,

(a) area 1:
(i) Daniels County;
(ii) Sheridan County;
(iii) Roosevelt County;
(iv) McCone County;
(v) Valley County;
(vi) Phillips County;
(vii) Petroleum County;
(viii) Garfield County; and
(ix) Prairie County;

(b) area 2:
(i) Richland County;
(ii) Dawson County;
(iii) Wibaux County;
(iv) Fallon County;
(v) Carter County;
(vi) Powder River County;
(vii) Rosebud County;
(viii) Big Horn County; and
(ix) Custer County;

(c) area 3:
(i) city of Billings;

(d) area 4:
(i) Yellowstone County (excluding the city of Billings);
(ii) Treasure County;
(iii) Musselshell County;
(iv) Carbon County; and
(v) Stillwater County;

(e) area 5:
(i) Golden Valley County;
(ii) Wheatland County;
(iii) Fergus County;
(iv) Judith Basin County;
(v) Meagher County; and
(vi) Sweet Grass County;

(f) area 6:
(i) Park County;
(ii) Gallatin County;
(iii) Broadwater County; and
(iv) Lewis and Clark County;

(g) area 7:
(i) city of Great Falls;

(h) area 8:
(i) Cascade County (excluding the city of Great Falls;
(ii) Chouteau County;
(iii Teton County;
(iv) Hill County;

Representative Jack Ramirez,
Chairman

(v) Liberty County;
(vi) Toole County;
(vii) Pondera County;
(viii) Glacier County; and
(ix) Blaine County;

(i) area 9:
(i) Madison County;
(ii) Beaverhead County;
(iii) Silver Bow County;
(iv) Jefferson County;
(v) Deer Lodge County;
(vi) Granite County; and
(vii) Powell County;

(j) area 10:
(i) city of Missoula;

(k) area 11:
(i) Missoula County (excluding the city of Missoula;

(l) area 12:
(i) Mineral County;
(ii) Sanders County; and
(iii) Lincoln County;

(m) area 13:
(i) Flathead County; and
(ii) Lake County.

(5) The department shall use the following procedures to resolve situations in similar areas of the state that have inadequate numbers of sales to conduct the statistically valid sample in a specific tax year:

(a) an extension of the time period from which sales are drawn and an adjustment of the sales price to acknowledge the different time period. At a minimum, the time adjustment must coincide with the consumer price index for that same time period.

(b) the use of fee appraisals in lieu of sales prices. The fee appraisal must be conducted by a certified appraiser who is not an employee of the department.

(c) the input of assessment ratio statistics developed from a model of the area. The information to be input into the study must be statistically valid and must be developed by a certified statistician who is not an employee of the department.

(6) The departent shall use the following procedure to validate sales information:

(a) Department field staff are required to manually review each sales transaction evidenced by a

realty transfer certificate. The review must be conducted to determine whether each sale was a valid, arms length transaction. Only valid, arm's-length sales may be used in the sales assessment ratio study.

(b) The valid sales information must be transmitted to the department. The department staff shall enter the sales information on the computer-assisted appraisal system in order to make the sales assessment ratio study. The sales information contained on the computer-assisted appraisal system is considered confidential, as provided in 15-7-308.

(c) The department shall exclude from the sales assessment ratio study any parcels in which the improvements have been remodeled, reconstructed, or expanded or that are wholly new construction after the assessment date identified in subsection (3)(b).

(d) The department shall exclude sales assessment ratios of less than 50% or greater than 200%.

(7) The department shall have equalized property values throughout the state when the following conditions are met:

(a) the overall assessment level for each stratum within each area identified in subsection 4 is within an interval of plus or minus 10% of the legal level of assessment, given an adequate sample size; and

(b) coefficients of dispersion with respect to the weighted mean assessment ratio for residential properties located within each area identified in subsection (4) are equal to or less than 20%;

(c) coefficients of dispersion with respect to the weighted mean assessment ratio for income-producing properties located within each area identified in subsection (4) are equal to or less than 20%;

(d) coefficients of a dispersion with respect to the weighted mean assessment ratio for other types of real property and improvements located within each area identified in subsection (4) are equal to or less than 20%.

(8)(a) When the overall assessment level of each stratum exceeds 10% of the legal level of assessment and when the coefficients of dispersion with respect to the weighted mean for each stratum exceed 20%, the department shall make percentage adjustments to the valuations of all the properties in a specific area strata. The percentage adjustments must create

compliance with subsection (7). The percentage adjustments must account for unique factors that affect values in the various areas.

(b) Under this method, all taxable property in each area is considered revalued for each tax year, based on the results of the sales assessment ratio study and any percentage adjustments required by that study."

14. Pages 4 and 5
Following: "1987" on line 24 of page 4
Strike: remainder of line 24 through "act" on page 5, line 4

Representative Jack Ramirez,
Chairman

STANDING COMMITTEE REPORT

MARCH 18 1987

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 751

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

SECOND reading copy (YELLOW color)

STANDING COMMITTEE REPORT

MARCH 18 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 816

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

BE AMENDED AS FOLLOWS:

Representative Jack Ramirez, Chairman

1. Title, line 10
   Following: "AND"
   Strike: "A RETROACTIVE"
   Insert: "AN"

2. Page 1, line 16
   Following: "that"
   Insert: ": (a)"

3. Page 1, line 17
   Strike: "and"
   Insert: "; (b) is"

4. Page 1, line 18
   Following: "products"
   Insert: "; and (c) has not been in production for 12 consecutive months"

5. Pages 1 through 3
   Following: "shall" on page 1, line 20
   Strike: the remainder of page 1 through line 2 on page 3
   Insert: "reduce the assessed value by 25% a year for each year the plant continues to be out of production until the market value is reduced to salvage value.
   (3) Following the commencement of production, property classified as class 20 must remain at the preceding year's valuation for the succeeding 12 months."

6. Page 6, line 13
   Strike: "1986"
   Insert: "1987"

FIRST WHITE

_____ reading copy (_____)
color

STANDING COMMITTEE REPORT

MARCH 19 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 821

☐ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Representative Jack Ramirez, Chairman

Be amended as follows:

1. Page 5, line 3.
   Following: "1988"
   Strike: ~~"."~~
   Insert: "and before January 1, 1989. It does not apply to taxable years beginning on or after January 1, 1989."

2. Page 5, line 7.
   Following: "January 1,"
   Strike: "1989"
   Insert: "~~1989~~".

   "1990"

FIRST WHITE

_____ reading copy (_____)
color

STANDING COMMITTEE REPORT

MARCH 18 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 376

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

FIRST reading copy (WHITE color)

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 3-1987 BILL NO. HB 377

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN			✓
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK			✓
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		7	9

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: Wms - amend - Ex

Form CS-31A
Rev. 1985

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 3-19 BILL NO. HB 377

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN			✓
RANEY, REP. BOB		✓	
REAM, REP. BOB	✓		
SANDS, REP. JACK			✓
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY	1	6	9

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: Raney, re Nov 1, 1988 elect.

Form CS-31A
Rev. 1985

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 3-19-87 BILL NO. HB 377

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK		✓	
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL		✓	
GILBERT, REP. BOB		✓	
HANSON, REP. MARION		✓	
HARP, REP. JOHN		✓	
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT		✓	
KENNAN, REP. NANCY			✓
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB			✓
REAM, REP. BOB			✓
SANDS, REP. JACK		✓	
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL			✓
TALLY		9	7

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: Ram - DPAA

Form CS-31A
Rev. 1985

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 3-19-87 BILL NO. HB 821

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN	✓		
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS	✓		
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK	✓		
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY	3	8	5

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: Kennan - DPA

Form CS-31A
Rev. 1985

ROLL CALL VOTE

HOUSE TAXATION COMMITTEE

DATE 3-19-87 BILL NO. HB 851

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION		✓	
HARP, REP. JOHN		✓	
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT		✓	
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS	✓		
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB			✓
REAM, REP. BOB		✓	
SANDS, REP. JACK		✓	
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY	1	9	6

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion: Harp - Stimpson second

Form CS-31A
Rev. 1985

EX
3-19-87
Rami.
amend.

EXHIBIT #1
DATE 3-19-87
HB 377

FIRST DRAFT

HOUSE BILL NO. 377

INTRODUCED BY RAMIREZ, FRITZ, CRIPPEN, HIRSCH

A BILL FOR AN ACT ENTITLED: "THE RETAIL SALES AND USE TAX ACT; ESTABLISHING A 4 PERCENT RETAIL SALES AND USE TAX; ~~PROVIDING A REDUCTION IN THE STATEWIDE MILL LEVIES FOR ELEMENTARY AND SECONDARY EDUCATION; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE FROM THE SALES AND USE TAX;~~ GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES; EXEMPTING THE FIRST $20,000 OF MARKET VALUE OF SINGLE-FAMILY RESIDENCES FROM PROPERTY TAXATION; EXEMPTING LIVESTOCK, AGRICULTURAL PRODUCTS, AIRCRAFT, WATERCRAFT, ALL-TERRAIN VEHICLES, AND CERTAIN OTHER PROPERTY FROM PROPERTY TAXATION; PROVIDING A PER CAPITA FEE ON LIVESTOCK; REVISING COAL GOVERNMENT BONDING AND DEBT LIMITS; PROVIDING A CREDIT AGAINST INDIVIDUAL INCOME TAX LIABILITY; AMENDING SECTIONS ~~15-10-105, 17-7-502,~~ 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133, 15-6-134, 15-6-135, 15-6-136, 15-6-147, 15-6-201, 15-6-207, 15-8-111, 15-8-202, 15-8-205, 15-8-301, 15-8-404, 15-8-405, 15-8-706, 15-16-611, 15-24-301, 15-24-1102, 15-24-1103, 19-11-503, 19-11-504, 20-9-141, 20-9-331, 20-9-333, ~~AND 20-9-343,~~ 20-9-352, 20-9-406, 20-9-501, 20-9-502, 20-10-144, 33-7-407, 61-3-431, 61-3-501, 61-4-112, 61-10-231, 61-12-206, 67-3-201, 67-3-202, 81-6-104, 81-6-204, 81-6-209, 81-7-201, 81-7-202, 81-7-303, 81-7-305, 81-8-804, AND 85-7-2001, MCA; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE ELECTORS OF THE STATE OF MONTANA ~~AT THE NOVEMBER 1988 GENERAL ELECTION~~; AND PROVIDING ~~A CONTINGENT~~ EFFECTIVE ~~DATE~~ DATES AND APPLICABILITY DATES."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

NEW SECTION. Section 1. Short title. [Sections 1 through 43] shall be known and may be cited as the "Retail Sales and Use Tax Act".

NEW SECTION. Section 2. Definitions. Except as otherwise specifically provided, when terms mentioned in [sections 1 through 43] are used in connection with taxation, they are defined in the following manner:

(1) "Agricultural production" includes but is not limited to horticulture; floriculture; and the raising of pets, fur-bearing animals, research animals, and horses.

(2) "Department" means the department of revenue.

(3) "Director" means the director of the department of revenue.

(4) (a) "Farm machinery" includes:

(i) new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the production for sale, but not the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains, or bees and apiary products;

(ii) machinery used for the preparation, seeding, or cultivation of soil for growing agricultural crops and for the harvesting and threshing of agricultural products;

(iii) machinery used for dairy, livestock, and poultry farms; barn cleaners; milking systems; grain dryers; automatic feeding systems; and similar installations;

(iv) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system. Irrigation equipment which is situated below ground and considered to be a part of the real property is not included.

(v) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds 5 cubic inches.

(b) Not included in the definition of farm machinery are:

(i) repair or replacement parts for farm machinery;

(ii) tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment, and farm supplies; or

(iii) motor vehicles as defined in 61-1-102, snowmobiles, snowblowers, lawnmowers, garden-type tractors or garden tillers, and the repair and replacement parts for those vehicles and machines.

(5) "Gross receipts" means the total amount received, in money or otherwise, for all sales at retail as measured by the sales price. At the option of the taxpayer, gross receipts from sales may be reported on a cash basis as the consideration is received or on an accrual basis as sales are made.

(6) "Handicapped" means a permanent total disability as defined in 39-71-116.

(7) (a) "Person" includes:

(i) an individual, partner, officer, director, firm, partnership, joint venture, association, cooperative, social club, fraternal organization, municipal or private corporation, whether organized for profit or not, estate, trust, business trust, receiver, trustee, syndicate;

(ii) the United States;

(iii) the state of Montana or a political subdivision of the state;

(iv) any other group or combination acting as a unit; and

(v) an agent or consignee of an individual or organization enumerated in this subsection.

(b) As used in subsection (7)(a), person includes but is not limited to directors and officers of corporations or members of partnerships who, individually or jointly with others, have the control, supervision, or responsibility of filing returns and making payment of the tax imposed by [sections 1 through 43].

(8) "Retailer" includes a person engaged in making sales at retail.

(9) (a) "Retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business and includes:

(i) personal property used by the owner only by leasing it or holding it for lease to others;

(ii) the sale of building materials, supplies, or equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property in whatever quantity the materials, supplies, or equipment are sold and whether or not they are sold for the purpose of resale in the form of real property or otherwise;

(iii) the sale of carpeting, linoleum, or other floor

covering, including installation; and

(iv) the lease or rental of property.

(b) A retail sale or a sale at retail does not include:

(i) the sale of aircraft or repair parts therefor if the sale is to a nonprofit, incorporated flying club or association and the aircraft or parts are used solely by the corporation by leasing such aircraft to shareholders of the corporation; or

(ii) leasing an aircraft described in subsection (9)(b)(i) to shareholders described in subsection (9)(b)(i).

(10) (a) "Sale" or "purchase" includes but is not limited to each of the following transactions:

(i) (A) the transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(B) the transfer of computer software, meaning information and directions that dictate the function to be performed by data processing equipment and which are sold without adaptation to the specific requirements of the purchaser, whether contained on tape, discs, cards, or other

devices;

(ii) the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish, directly or indirectly, the materials used in the production, fabrication, printing, or processing;

(iii) except as provided in subsection (10)(a)(iii)(B), the furnishing, preparing, or serving of food, meals, or drinks for a consideration. Except as provided in [section 26], taxable food or meals:

(A) include but are not limited to the following:

(I) heated food or drinks;

(II) sandwiches prepared by the retailer;

(III) single sales of prepackaged ice cream, ice milk, frozen yogurt, frozen tofu, or novelties prepared by the retailer;

(IV) hand-prepared or dispensed ice cream, ice milk, frozen yogurt, frozen tofu, or such products as cones, sundaes, or snow cones;

(V) soft drinks and other beverages prepared or served by the retailer;

(VI) gum;

(VII) ice;

(VIII) all food sold in vending machines;

(IX) party trays prepared by retailers; and

(X) all meals, single servings of packaged snack food, and single cans or bottles of pop sold in restaurants and bars;

(B) do not include food, meals, or drinks in hospitals, sanatoriums, nursing homes or senior citizens homes; meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, or churches or pursuant to any program funded in whole or part through 42 U.S.C.A. sections 3001 through 3045, wherever delivered, prepared or served; or meals and lunches served at public and private schools, universities or colleges, or the occasional meal served by a charitable or church organization;

(iv) the granting of the privilege of admission to places of amusement or athletic events and the privilege of use of amusement devices or athletic facilities;

(v) the furnishing for a consideration of lodging and related services by a hotel, motel, roominghouse, campground, guest ranch, trailer park, or similar facility and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(vi) the furnishing for a consideration of electricity,

gas, water, or steam for use or consumption within this state, or of a local exchange telephone service or intrastate toll service, including sales by municipal corporations in a proprietary capacity;

(vii) the furnishing for a consideration of cable television services or a similar television service, including charges for basic monthly service and monthly premium service;

(viii) except as provided in [section 26], the sale of horses, including claiming sales and fees paid for breeding a stallion to a mare. This subsection applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the jockey club, the United States trotting association, or the American quarter horse association but does not apply with respect to the sale of a horse bred and born in Montana.

(ix) the sale of advertising in a newspaper or other publication as described in subsection (10)(a)(x) published at regular intervals of 1 week or less;

(x) the sale of newspapers or any other publications published at regular intervals of 1 week or less. For the purposes of this section, publication includes any supplements or inserts contained in a newspaper or other publication published at regular intervals of 1 week or less.

(b) The furnishing of water and sewer services is not a sale or purchase.

(11) (a) "Sales price" means the total consideration valued in money for a retail sale, whether paid in money or otherwise, excluding any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, the cost of materials used, the labor or service cost, the interest, the discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount for which credit is given to the purchaser by the seller, or any other expense whatever.

(b) Cash discounts allowed and taken on sales, the amount refunded either in cash or in credit for property returned by purchasers, or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer, are not included in the sales price.

(12) (a) "Storage" includes any keeping or retention in Montana of tangible personal property for any purpose except sale in the regular course of business or subsequent use solely outside Montana.

(b) The term does not include the keeping, retaining, or exercising of any right or power over tangible personal

property or tickets or admissions to places of amusement or athletic events, which tickets or admissions are shipped or brought into Montana for the purpose of subsequently being transported outside Montana and thereafter used solely outside Montana, except in the course of interstate commerce, or for the purpose of being processed, fabricated or manufactured into, or attached to or incorporated into other tangible personal property to be transported outside Montana and not thereafter returned to a point within Montana, except in the course of interstate commerce.

(13) (a) "Tangible personal property" means corporeal personal property of any kind, including property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.

(b) Tangible personal property does not include large ponderous machinery and equipment used in a business or production activity and which at common law would be considered to be real property.

(14) (a) "Use" includes the exercise of any right or power over tangible personal property or tickets or admissions to places of amusement or athletic events, purchased from a retailer incident to the ownership of any interest in that property, except that it does not include the sale of that property in the regular course of business.

(b) The term does not include the keeping, retaining,

or exercising of any right or power over tangible personal property or tickets or admissions to places of amusement or athletic events, which tickets or admissions are shipped or brought into Montana for the purpose of subsequently being transported outside Montana and thereafter used solely outside Montana, except in the course of interstate commerce, or for the purpose of being processed, fabricated or manufactured into, or attached to or incorporated into other tangible personal property to be transported outside Montana and not thereafter returned to a point within Montana, except in the course of interstate commerce.

NEW SECTION. Section 3. Imposition of tax. (1) Except as otherwise provided in [sections 1 through 43] and in subsections (2) and (3), there is imposed a sales and use tax of 4% of the gross receipts from sales at retail made by any person in this state.

(2) The tax imposed on the sale at retail of manufactured housing used for residential purposes is imposed upon 60% of the sales price of the housing at the rate of 4%.

(3) The sales and use tax imposed on the receipts received by hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities is:

(a) 2% if such receipts are taxable under a lodging or accommodation type tax on either the operator or the user;

or

(b) 4% if there is no accommodation type tax imposed by the state.

NEW SECTION. Section 4. Separate charge and collection -- advertising restriction -- rounding. (1) Except as provided in subsection (4), the tax:

(a) must be stated and charged separately from the sales price or charge for service when practicable;

(b) must be collected by the seller from the purchaser; and

(c) is a debt from the purchaser to the seller recoverable at law in the same manner as other debts.

(2) (a) It is unlawful for a retailer to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer, that it will not be added to the sales price, or that, if added, it or any part thereof will be refunded. However, in computing the tax to be collected as the result of a transaction, amounts of tax less than one-half of 1 cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent. If the sales price of a sale at retail is 12 cents or less, no tax may be collected.

(b) A person violating this provision is guilty of a misdemeanor.

(3) Agreements between competitive retailers or the adoption of appropriate regulations by organizations or associations of retailers to provide uniform methods for adding such tax or the average equivalent thereof, other than unlawful price fixing agreements, are expressly authorized and are not in violation of the laws of Montana prohibiting such agreements or regulations.

(4) The tax imposed under [section 3 or 14] on the sale of newspapers and other publications and their supplements or inserts and advertising contained therein, as provided in [section 2(10)(a)], must be paid by the publisher. The publisher shall include the tax in the retail price of the newspaper or other publication subject to tax.

NEW SECTION. Section 5. Permit application -- vending machines -- form. (1) A person desiring to engage in the business of making retail sales in Montana shall file with the department an application for a permit. If the person has more than one place of business, an application for each place of business must be filed. A vending machine operator who has more than one vending machine location is considered to have only one place of business for purposes of this section. An applicant who has no regular place of business and who moves from place to place is considered to have only one place of business and shall attach the permit to his cart, stand, truck, or other merchandising device. The

department may require any person or class of persons obligated to file a return under [section 28] to file application for a permit.

(2) Every application for a permit must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of his place or places of business, and such other information as the department may require. The application must be filed by the owner, if a natural person; by a member or partner, if the owner is an association or partnership; or by a person authorized to sign the application, if the owner is a corporation.

NEW SECTION. Section 6. Flea markets -- permits -- penalty. (1) The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to [section 5] or a written statement from the seller that he is not offering for sale any item that is taxable under [sections 1 through 43].

(2) "Flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or

similar selling event", as used in this section, means an activity involving a series of sales sufficient in number, scope, and character to constitute a regular course of business and which would not qualify as an isolated or occasional sale pursuant to [section 26].

(3) Any operator who fails or refuses to comply with the provisions of this section is subject to a penalty, payable to the department, of $100 for each day of each selling event that the operator fails to obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to [section 5].

(4) This section does not apply to an operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event that is:

(a) held in conjunction with a community-sponsored festival which has a duration of 4 or fewer consecutive days no more than once a year; or

(b) conducted by a nonprofit organization annually or less frequently.

NEW SECTION. Section 7. Permit. Upon compliance with [sections 5 and 29], when security is required, the department shall issue to each applicant a separate, numbered permit for each place of business within Montana. A permit is valid until revoked but is not assignable. It is

valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at all times at the place for which it is issued.

NEW SECTION. Section 8. Revocation of permit. When a person fails to comply with a provision of [sections 1 through 43] or any rule of the department adopted under [sections 1 through 43], the department, upon hearing, after giving the person 30 days' notice in writing specifying the time and place of hearing and the reason for the proposed revocation and requiring him to show cause why his permit or permits should not be revoked, may for reasonable cause revoke or suspend one or more of the permits held by such person. The notice may be served personally or by certified mail. The department may not issue a new permit after revocation except upon application, accompanied by reasonable evidence of the intention of the applicant to comply with the provisions and rules. The department may condition the issuance of a new permit to such applicant on the supplying of such security in addition to that authorized by [section 29] as is reasonably necessary to ensure compliance with the provisions and rules.

NEW SECTION. Section 9. Violations -- penalties. (1) A person who engages in the business of retail sales in Montana without the required permit or permits and each

officer of a corporation which so engages in business is guilty of a misdemeanor.

(2) A person who engages in the business of retail sales in Montana after revocation of a permit under [section 8], when the department has not issued a new permit, is guilty of a felony.

NEW SECTION. Section 10. Presumption of tax -- burden of proof -- exemption certificate. (1) For the purpose of the proper administration of [sections 1 through 43] and to prevent evasion of the tax, it is presumed that all gross receipts are subject to the tax until the contrary is established.

(2) The burden of proving that a sale is not a sale at retail is upon the person who makes the sale, but he may take from the purchaser an exemption certificate to the effect that the property purchased is for resale or that the sale is otherwise exempt from the application of the tax imposed by [sections 1 through 43].

(3) An exemption certificate relieves the retailer from collecting and remitting the tax, but only if taken in good faith from a purchaser who holds a permit provided in [section 7].

NEW SECTION. Section 11. Exemption certificate -- content -- form. (1) The department shall provide for a uniform exemption certificate that must be used by a

purchaser who holds a permit provided in [section 7] when the purchaser is purchasing goods for resale.

(2) At a minimum, the exemption certificate must provide:

(a) the number of the permit issued to the purchaser as provided in [section 7];

(b) the general character of property sold by the purchaser in the regular course of business;

(c) the property purchased;

(d) the name and address of the purchaser; and

(e) a line on which the purchaser must sign his name.

NEW SECTION. Section 12. Improper use of subject of purchase obtained with exemption certificate -- violation -- penalty. (1) If a purchaser who gives an exemption certificate makes use of the subject of the purchase other than for a purpose exempted by [sections 1 through 43], such use is considered a retail sale by the purchaser as of the time of first use by him, and the sales price to him is considered the gross receipts from such retail sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in his gross receipts the amount of the rental charged. Upon subsequent sale of such property, the seller shall include the entire amount of gross receipts received therefrom without deduction of amounts previously received as rentals.

(2) A person who gives an exemption certificate for property that will be used for purposes other than the exemption claimed with the intent to evade payment to the seller of the amount of the tax applicable to the transaction is subject to a penalty, payable to the department, of $100 for each transaction in which an improper use of an exemption certificate has occurred.

NEW SECTION. Section 13. Commingling exemption certificate goods. If a purchaser gives an exemption certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

NEW SECTION. Section 14. Tax -- using, storing, or consuming tangible personal property -- admissions -- utilities. (1) For the privilege of using, storing, or consuming in Montana tangible personal property, tickets or admissions to places of amusement and athletic events, electricity and gas, local exchange telephone service, or other taxable transactions, purchased for use, storage, or consumption in Montana, a sales and use tax is imposed at

the rate of 4% of the sales price of sales at retail, except as provided in subsection (3), unless the tax imposed by [section 3 or this section] was paid on the sales price.

(2) A motor vehicle subject to tax under this section or [section 3] is taxed at its fair market value at the time of transport into Montana.

(3) Exceptions to the rate of tax specified in subsection (1) are as follows:

(a) the rate of tax imposed upon the sales price of manufactured housing is imposed on 60% of the sales price of the housing at the rate of 4%; and

(b) the rate of tax imposed upon the receipts of hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities is as provided in [section 3].

NEW SECTION. Section 15. Collection and payment -- penalty. (1) Liability for the payment of the sales and use tax is not extinguished until the tax has been paid to the department. However, a receipt from a retailer maintaining a place of business in Montana given to the purchaser pursuant to [section 17] relieves the purchaser of further liability for the tax to which the receipt refers.

(2) A retailer not maintaining a place of business in Montana as a prerequisite to receiving authorization from the department to collect the sales and use tax shall

furnish, in accordance with [section 29], adequate security to insure collection and payment of the tax. When so authorized, the retailer shall, except as otherwise provided in [section 17], collect the tax upon all tangible property sold, to his knowledge, for use within Montana in the same manner as a retailer maintaining a place of business within this state collects such tax. The departmental authorization and permit may be cancelled at any time if the department considers the security inadequate or believes that the tax can be collected more effectively in another manner.

(3) No agent, canvasser, or employee of a retailer not authorized by permit from the department may collect the tax or sell, solicit orders for, or deliver any tangible personal property in Montana. Such an agent, canvasser, or employee violating the provisions of [sections 14 through 26] is guilty of a misdemeanor and shall be punished by a fine of not more than $100 for each offense or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

NEW SECTION. Section 16. Seizure -- court review. (1) The department is authorized to seize and confiscate in the name of the state any truck, automobile, or means of transportation not owned or operated by a common carrier, used in the illegal importation or transportation of tangible personal property by a retailer or his agent or

employee who does not have a sales or use tax permit and has been engaging in the transport of personal property into the state without payment of the tax. The department may demand the forfeiture and sale of the truck, automobile, or other means of transportation, together with the property being transported illegally, unless the owner establishes to the satisfaction of the department that he had no notice, knowledge, or reason to believe that the vehicle was used or intended to be used in any such violation.

(2) Within 2 days after the seizure, the person making the seizure shall deliver an inventory of the vehicle and property seized to the person from whom the seizure was made, if known, and to any person known or believed to have any right, title, interest, or lien on the vehicle or property and shall also file a copy with the department.

(3) Within 10 days after the date of service of the inventory, the person from whom the vehicle or property was seized or any person claiming an interest in the vehicle or property may file with the department a demand for a judicial determination of the question as to whether the vehicle or property was lawfully subject to seizure and forfeiture.

(4) The department, within 30 days after the date of service of the inventory, shall institute an action in the district court of the county where the seizure was made to

determine the issue of forfeiture. The action must be brought in the name of the state and be prosecuted by the county attorney or the attorney general.

(5) The court shall hear the action without a jury and shall try and determine the issues of fact and law involved.

(6) If a judgment of forfeiture is entered, the department, unless the judgment is stayed pending an appeal, may cause the forfeited vehicle and property to be sold at public auction as provided by law. If a demand for judicial determination is made and no action is commenced as provided in this section, the vehicle and property must be released by the department and delivered to the person entitled to it. If no demand is made, the vehicle and property seized are considered forfeited to the state by operation of law and may be disposed of by the department as provided by law relating to a judgment of forfeiture.

(7) The forfeiture and sale of the automobile, truck, or other means of transportation and of the property being transported illegally in it is a penalty for the violation of [sections 1 through 43].

(8) After deducting the expense of keeping the vehicle and property, the fee for seizure, and the costs of the sale, the department shall pay from the funds collected all liens, according to their priority, and which are established at the hearing as being bona fide and as

existing without the lienholder having any notice or knowledge that the vehicle or property was being used or was intended to be used for or in connection with the violation specified in the order of the court. The department shall pay the balance of the proceeds into the state treasury to be credited to the general fund.

(9) The state is not liable for any liens in excess of the proceeds from the sale after deductions provided. A sale under the provisions of this section operates to free the vehicle and property sold from any and all liens on it, and appeals from the order of the district court will lie as in other civil cases.

(10) For the purposes of this section, "common carrier" means any person engaged in transportation for hire of tangible personal property by motor vehicle, limited to:

(a) a person possessing a certificate or permit authorizing for-hire transportation of property from the interstate commerce commission or the public service commission;

(b) a person transporting commodities defined as "exempt" in for-hire transportation; or

(c) a person who, pursuant to a contract with a person described in subsection (10)(a) or (10)(b), transports tangible personal property.

NEW SECTION. Section 17. Collection of tax at time of

sale. (1) A corporation authorized to do business in Montana, a retailer maintaining a place of business in this state, as defined in [section 21], or any other retailer the department may authorize pursuant to [section 15], upon making sales of any items enumerated in [sections 1 through 43] not exempted under [sections 1 through 43], shall at the time of making the sales collect the sales and use tax from the purchaser and give to the purchaser a receipt therefor in the form of a notation on the sales slip or receipt or in such other form as prescribed by the department. Such a corporation or retailer may not collect the tax from a purchaser who furnishes to the corporation or retailer a copy of a certificate issued by the department authorizing the purchaser to pay any sales or use tax due on purchases made by the purchaser directly to the department.

(2) A corporation or retailer required to collect the sales and use tax and remit such tax to the department under this section shall file with the department an application for a permit pursuant to [section 5]. The corporation or retailer shall furnish the department with the name and address of all the corporation's or retailer's agents operating in Montana and the location of each distribution or sales house or office or other place of business in Montana.

(3) The tax collected by such corporation or retailer

under this section must be remitted to the department as provided by [sections 1 through 43].

NEW SECTION. Section 18. Tax -- status as debt. The sales and use tax required to be collected by the retailer constitutes a debt owed by the retailer to Montana and is a debt from the purchaser to the retailer recoverable at law in the same manner as other debts.

NEW SECTION. Section 19. Advertising restriction -- rounding -- minimum tax -- display of statute. (1) It is unlawful for a retailer to advertise or state to the public or to any customer, directly or indirectly, that the sales and use tax or any part of it will be assumed or absorbed by the retailer or that it will not be added to the sales price or that, if added, all or any part of it will be refunded.

(2) In computing the tax to be collected as the result of any transaction, amounts of tax less than one-half of 1 cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

(3) The department may by rule require that the retailer display the statutory requirement that the sales and use tax be collected by the retailer from the purchaser.

NEW SECTION. Section 20. Violation -- penalty. Any person violating [section 17, 18, or 19] is guilty of a misdemeanor.

NEW SECTION. Section 21. Registration -- information

relating to business location. (1) A retailer making retail sales for storage, use, or other consumption in Montana shall register with the department and give the name and address of all agents operating in Montana; the location of all distribution or sales houses, offices, or other places of business in Montana; and other information as the department may require.

(2) When in the opinion of the department it is necessary for the efficient administration of [sections 14 through 26] to regard a salesman, representative, trucker, peddler, or canvasser as the agent of the dealer, distributor, supervisor, employer, or other person under whom he operates or from whom he obtains the tangible personal property sold by him, whether he is making sales in his own behalf or in behalf of the dealer, distributor, supervisor, employer, or other person, the department may regard him as an agent and may regard the dealer, distributor, supervisor, employer, or other person as a retailer for the purposes of [sections 14 through 26].

(3) (a) "Retailer maintaining a place of business in this state", or a like term, means a retailer having or maintaining within this state, directly or by a subsidiary:

(i) an office, distribution house, sales house, warehouse, or other place of business; or

(ii) an agent operating within this state under the

authority of the retailer or its subsidiary.

(b) Subsections (2)(a)(i) and (2)(a)(ii) apply regardless of whether such place of business or agent is located in the state permanently or temporarily or whether such retailer or subsidiary is authorized to do business within this state.

NEW SECTION. Section 22. Common carriers as retailers -- rules. (1) (a) A person engaged in interstate for-hire transportation by motor vehicle of tangible personal property or passengers may register as a retailer and pay the taxes imposed by [sections 1 through 43] in accordance with this section. Persons subject to the requirements of this section include:

(i) persons possessing a certificate or permit authorizing for-hire transportation of property or passengers from the interstate commerce commission or the public service commission;

(ii) persons transporting commodities classified as "exempt" in for-hire transportation in interstate commerce; or

(iii) persons who, pursuant to contracts with persons described in subsection (1)(a)(i) or (1)(a)(ii) transport tangible personal property in interstate commerce.

(b) Persons qualifying under subsection (1)(a)(i) or (1)(a)(ii) shall maintain on a current basis the same type

of mileage records that are required by persons specified in subsection (1)(a)(i) by the interstate commerce commission.

(2) Persons who in the course of their business transport solely their own goods in interstate commerce may also register as retailers pursuant to rules prescribed by the department and pay the taxes imposed by [sections 1 through 43] in accordance with this section.

(3) (a) A person described in subsection (1) or (2), when properly registered as a retailer, may make purchases in this state or import property into this state without payment of the sales and use tax imposed by [sections 1 through 43] at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules adopted by the department.

(b) A person described in subsection (1) or (2) may elect to pay directly to the department any sales and use tax that may be due under [sections 1 through 43] for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment must be multiplied by a fraction the numerator of which is the mileage operated during the past calendar year within Montana and the denominator of which is the total mileage

operated during the past calendar year. The amount so determined must be multiplied by the tax rate to determine the tax due.

(4) A person who pays the tax to the seller as provided in [section 4] and who meets the requirements of this section at the time of the sale, except that he has not registered as a retailer pursuant to this section at the time of the sale, may register as a retailer, make a return, and file for a refund of the difference between the tax calculated under [section 3 or 14] and the tax calculated under subsection (3)(c). He shall file for a refund within the time limitations provided in [section 35]. Notwithstanding the provisions of [section 35], interest is allowed for a refund under this subsection only from the date on which the person has both registered as a retailer and filed a claim for refund.

NEW SECTION. Section 23. Presumption of purpose of sale -- burden of proof. For the purpose of the proper administration of [sections 1 through 43] and to prevent evasion of the sales and use tax and the duty to collect it, it is presumed that all retail sales for delivery in Montana are for storage, use, or other consumption in Montana until the contrary is established. The burden of proving the contrary is upon the person who makes the sale, but he may take from the purchaser an exemption certificate in

accordance with [sections 10 through 13].

NEW SECTION. Section 24. Property brought to state -- presumption -- burden of proof. A purchaser of tangible personal property or any items enumerated in [section 14] that are shipped or brought to Montana by him after [the applicability date of this act] has the burden of proving that the same were not purchased from a retailer for storage, use, or consumption in Montana.

NEW SECTION. Section 25. Taxes in other states. If an article of tangible personal property or an item enumerated in [section 14] has already been subjected to a tax by any other state in respect of its sale, storage, use, or other consumption in an amount less than the tax imposed by [sections 1 through 43], then as to the person who paid the tax in the other state, the provisions of [section 14] apply only at a rate measured by the difference between the rate fixed in [sections 1 through 43] and the rate by which the previous tax was computed. If the tax imposed in the other state was equal to or greater than the tax imposed in this state, then no tax is due from such person under [section 14].

NEW SECTION. Section 26. General exemptions. (1) The following are specifically exempted from the tax imposed by [sections 1 through 43]:

(a) the gross receipts from the sale of food products:

(i) including but not limited to cereal and cereal products, butter, cheese, milk and milk products, margarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, and food products that are not taxable pursuant to [section 2(10)]; and

(ii) not including:

(A) candy and candy products, except when sold for fundraising purposes by a nonprofit organization that provides educational and social activities for young people primarily 18 years of age or under;

(B) carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;

(b) the gross receipts from the sale of prescribed drugs and medicine intended for use in the cure, mitigation, treatment, or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses and therapeutic and prosthetic devices but not including cosmetic or toilet articles (notwithstanding the presence of medicinal

ingredients therein);

(c) the gross receipts from the sale, storage, use, or other consumption in Montana of tangible personal property, tickets or admissions, electricity, gas, or local exchange telephone service, which, under the federal constitution, the laws of the United States, or the Montana constitution, the state of Montana is prohibited from taxing;

(d) the gross receipts from the sale of either of the following categories of tangible personal property:

(i) tangible personal property that, without intermediate use, is shipped or transported outside Montana by the purchaser and thereafter used in a trade or business or is stored, processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property transported or shipped outside Montana and thereafter used in a trade or business outside Montana and is not thereafter returned to a point within Montana except in the course of interstate commerce (storage not constituting intermediate use), provided that the property is not subject to tax in the state or country to which it is transported for storage or use or, if subject to tax in the other state, that state allows a similar exemption for property purchased therein and transported to Montana for use in this state. However, sales of tangible personal property that is shipped or transported for use outside

Montana are taxed at the rate of the sales and use tax imposed by the state to which the property is shipped or transported unless that state has no sales and use tax, in which case the sale is taxed at the rate generally imposed by this state. Furthermore, sales of tangible personal property to be used in other states or countries as part of a maintenance contract are specifically exempt.

(ii) tangible personal property that the seller delivers to a common carrier for delivery outside Montana, places in the United States mail or parcel post directed to a purchaser outside Montana, or delivers to a purchaser outside Montana by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Montana except in the course of interstate commerce;

(e) the gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of which materials and goods is outside Montana and which materials and goods are not thereafter returned to a point within Montana except in the course of interstate commerce;

(f) the gross receipts from the sale, storage, use, or consumption of petroleum products upon which a tax has been imposed under the provisions of Title 15, chapter 70, whether or not any part of that tax may be subsequently refunded;

(g) the gross receipts from the sale, storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials (including returnable containers used in packaging food and beverage products), feeds, seeds, fertilizers, electricity, gas, and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used or consumed becomes an ingredient or constituent part of the property produced. Chemicals used for cleaning food processing machinery and equipment are included in this exemption. Agricultural or industrial production includes but is not limited to research, development, design, or production of any tangible personal property; manufacturing or processing (other than by restaurants and consumers) of agricultural products, whether vegetable or animal; commercial fishing; printing; mining; quarrying; refining; smelting; reducing; brewing; distilling; lumbering; generating electricity; and production of road building materials. Such production does not include painting, cleaning, repairing, or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in agricultural or industrial production are exempt. Fuel,

electricity, gas, or steam used for space heating or lighting are not included within the exemption provided in this subsection (g). However, accessory tools and equipment and other short-lived items which are separate, detachable units used in producing a direct effect upon the product and which have an ordinary useful life of less than 12 months are exempt. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is included in this exemption.

(h) the gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement, of tangible personal property to (and all storage, use, or consumption of such property by) the United States and its agencies and instrumentalities or a state and its agencies, instrumentalities, and political subdivisions. Sales exempted by this subsection (h) include sales described in [section 2(10)(a)(iv) and (10)(a)(vi)] to any of the agencies, instrumentalities, or political subdivisions referred to in this subsection (h). This exemption does not apply to materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or

facility. This exemption does not apply to construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities.

(i) the gross receipts from the isolated or occasional sale of tangible personal property in Montana not made in the normal course of business of selling that kind of property and the storage, use, or consumption of property acquired as a result of such a sale. For purposes of this subsection (i), sales by a nonprofit organization are considered to be isolated or occasional if they occur at sale events that have a duration of 3 or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this subsection (i) is available only if the sum of the days on which the organization (or a subsidiary nonprofit organization sponsored by it that does not have a separate sales tax

exemption permit) conducts sales of tangible personal property plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement does not exceed 8 days in a calendar year. For purposes of this subsection (i), a nonprofit organization is any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual.

(j) the gross receipts from sales of rolling stock and the storage, use, or other consumption of such property by railroads, freight line companies, sleeping car companies, and express companies. For purposes of this subsection (j), rolling stock is defined as the portable or moving apparatus and machinery of any such company that moves on the road and includes but is not limited to engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of rolling stock.

(k) the gross receipts from sales of flight equipment and the storage, use, or other consumption of such property by airline companies. For purposes of this subsection (k), flight equipment includes airplanes and parts necessary for the repair and maintenance of flight equipment and flight simulators;

(l) the gross receipts from the sale of tangible personal property to and the storage, use, or other consumption of such property by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes (if the property purchased is to be used in the performance of a charitable, religious, or educational function) or by a senior citizens group or association of groups that in general limits membership to persons 55 years of age or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders. Sales exempted by this subsection (l) include sales pursuant to [section 2(10)(a)(iv) and (10)(a)(vi)]. This exemption does not apply to materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility. This exemption does not apply to construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities.

(m) the gross receipts from the sale of caskets and

burial vaults;

(n) the gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 U.S.C.A., section 1901, as amended;

(o) the gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 U.S.C.A., sections 801 through 805, as amended. This exemption is not effective at the time of sale of the materials to contractors, subcontractors, builders or owners but is applicable only upon a claim for refund filed with the department by recipients of the benefits provided in 38 U.S.C.A., chapter 21, as amended. The department shall provide by rule for the refund of taxes paid on sales exempt in accordance with this subsection (o).

(p) the gross receipts from the sale and storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use solely outside the state of Montana. Mailing and reply envelopes and cards used exclusively in connection with the advertising and promotional materials are included in this

exemption.

(q) the gross receipts from the sale of residential heating fuels, in the following manner:

(i) all fuel oil, coal, wood, steam, hot water, propane gas, and liquefied petroleum gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat;

(r) the gross receipts from the sale of sanitary napkins, tampons, or similar items used for feminine hygiene;

(s) the gross receipts from the sale of a manufactured structure, as defined in 31-1-202, to be used by the purchaser for residential purposes unless the sale is the first retail sale of the manufactured home in this state;

(t) the gross receipts from the sale of repair and replacement parts, except tires, used for maintenance or repair of farm machinery, if the part replaces a farm machinery part assigned a specific or generic part number by the manufacturer of the farm machinery;

(u) the gross receipts from sales of tickets or

admissions to regular-season school games, events, and activities. For purposes of this subsection (u), school has the meaning given it in 20-5-402;

(v) the sale of liquor and table wine in a package, as those terms are defined in 16-1-106, the liquor or table wine is not consumed on the premises.

(2) This section may not be construed to exempt the gross receipts from sales of tangible personal property purchased by ultimate consumers from the United States or any of its agencies or instrumentalities or from the state of Montana, its agencies, instrumentalities, or political subdivisions. Such purchases are subject to tax, except as otherwise exempted.

(3) All articles of tangible personal property brought into Montana by a person who was a nonresident of this state immediately prior to bringing such property into this state for his use, storage, or consumption are exempted from the tax imposed by [section 3 or 14].

(4) Nothing herein exempts the gross receipts from sales of road building materials purchased by contractors and intended for use in state highway or interstate highway construction.

NEW SECTION. Section 27. Time for payment -- notice -- offset. (1) The tax imposed by [sections 1 through 43] is due and payable to the department monthly on or before the

25th day of the month following the month in which the taxable event occurred or such other reporting period as the department may prescribe.

(2) The sales tax return form must include a printed notice that the return and payment must be received by the department no later than the due date.

(3) The taxpayer may offset against the taxes payable with respect to any reporting period the amount of taxes imposed by [sections 1 through 43] previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer and which debt became uncollectible during the reporting period. Such an offset may be made only in proportion to the portion of the debt which became uncollectible.

NEW SECTION. Section 28. Returns. (1) On or before the 25th day of each month in which the tax imposed by [sections 1 through 43] is payable, a return for the preceding reporting period must be filed with the department, in the form prescribed by the department, verified by a written declaration that it is made under the criminal penalties for willfully making a false return. The return must also contain a confession of judgment for the amount of the tax shown due, to the extent not timely paid. A person making sales at retail at two or more places of business may file a consolidated return, subject to rules

prescribed by the department.

(2) For the purposes of the sales and use tax, a return must be filed by:

(a) a retailer required to collect such tax; and

(b) a person purchasing any items the storage, use, or other consumption of which is subject to the sales and use tax and who has not paid the sales and use tax to a retailer required to collect the tax.

(3) All returns must be signed by the person filing the return or by his agent duly authorized in writing and must be accompanied by a remittance for the amount due.

(4) A person liable for the tax imposed by [sections 1 through 43] or for the collection of the tax shall keep the records, render the statements, make the returns, and comply with the rules prescribed by the department. A return or statement must include the information required by the rules forms prescribed by the department. For the purpose of determining compliance with the provisions of this subsection, the department is authorized to examine or cause to be examined any books, papers, records, or memoranda relevant to making a determination, whether the books, papers, records, or memoranda are the property of or in the possession of such person or another person. The department may also:

(a) require the attendance of a person having relevant

knowledge or information;

(b) compel the production of books, papers, records, or memoranda by a person required to attend;

(c) take testimony on matters material to the determination; and

(d) administer oaths or affirmations.

NEW SECTION. Section 29. Security -- limitations -- notice of sale at auction -- bond. (1) The department may require a retailer subject to [sections 1 through 43] to deposit with the department security in a form and amount as it determines necessary. The deposit may not be more than twice the estimated average liability for the period for which the return is required to be filed, or $10,000, whichever is less. The amount of security may be increased or decreased by the department, subject to the limitations provided in this section.

(2) The department may sell property deposited as security at public auction, if necessary, in order to recover any tax or amount required to be collected, including interest and penalties. Notice of the sale must be served personally upon the person who deposited the security or by mail in the manner prescribed for the service of notice of deficiency. After the sale any surplus above the amount due that is not required as security under this section must be returned to the person who deposited the

security.

(3) In lieu of security, the department may require a retailer to file a bond, issued by a surety company authorized to transact business in this state, as to solvency and responsibility.

NEW SECTION. Section 30. Extensions. (1) The department may extend the time for filing returns and remittance of tax, deficiencies, and penalties for not more than 60 days and may require a tentative return at the time fixed for filing the regularly required return and payment of tax on the basis of such tentative return.

(2) If an extension of time for payment has been granted under this section, interest at the rate provided in [section 38(6)] is payable from the date on which such payment should have been made until the tax is paid, unless an extension has been granted.

NEW SECTION. Section 31. Examination of return -- adjustments -- delivery of notices and demands. (1) The department shall, as soon as practicable after a return is filed, examine the return and make any investigation or examination of the records and accounts of the person making the return that it considers necessary for determining the return's correctness. The department may use statistical or other sampling techniques consistent with generally acceptable accounting principles in examining the returns or

records. The tax computed on the basis of such an examination constitutes the tax to be paid.

(2) If the tax found to be due exceeds the amount of the tax reported as due on the taxpayer's return, the excess must be paid to the department within 60 days after notice of the amount and demand for payment is mailed to the person making the return. If the amount of the tax found due by the department is less than that reported as due on the return, the excess must be refunded to the person making the return in the manner provided by [section 35] if he has already paid the full amount of the tax, or it may be credited against any unpaid tax. Except as may be otherwise provided in [sections 1 through 43], no refund may be made except as provided in [section 35] after 3 years from the date of filing the return.

(3) The notices and demands provided for by this section and [section 32] must contain a statement of the computation of the tax and must be sent by mail to the person making the return at the address given in his return, if any, or to his last-known address, or a written statement of the computation of the tax may be served personally upon the taxpayer. If the statement is served personally, demand for immediate payment of the taxes contained in the written statement must be made by the person making personal service.

NEW SECTION. Section 32. Failure to file return. If a person required by [sections 1 through 43] to file a return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, he shall, upon written notice and demand, immediately file the return or corrected return and pay any tax due. If the person fails to file the return or corrected return, the department shall make for him a return or corrected return from such information as can be obtained through testimony or otherwise. The department shall then assess a tax on the basis of its return, which tax (less any payments made on the tax for the taxable period covered by the return) must be paid immediately upon written notice and demand. A return or assessment made by the department is prima facie correct and valid, and the person for whom the return was prepared has the burden of establishing its incorrectness or invalidity in any related action or proceeding.

NEW SECTION. Section 33. Failure to pay tax -- actions -- evasion. (1) If any portion of the tax imposed by [sections 1 through 43], including penalties, is not paid within 60 days after it is due, the department shall bring against the person liable for payment of such tax an action for the recovery of the tax, interest, and penalties due. The action must be brought in the district court of the

first judicial district. Only the homestead and household goods of the judgment debtor are exempt from seizure and sale upon execution in such an action.

(2) If the department has reason to believe that the person required to file the return is about to remove himself or his property from this state with the purpose of evading the tax and penalties imposed by [sections 1 through 43] or that the collection of such tax will be jeopardized by delays incident to other methods of collection, it may declare a person's reporting period at an end and assess a tax on the basis of knowledge or information available to the department, demand immediate payment, and, if payment is not immediately made, collect the tax by any method prescribed in Title 15.

(3) None of the following constitute a defense to an assessment made under this section:

(a) The tax period has not terminated.

(b) The time otherwise allowed by law for filing a return has not expired.

(c) The notices otherwise required by law for making an assessment have not been given.

(d) The time otherwise allowed by law for taking or prosecuting an appeal or for paying the tax has not expired.

(4) In addition to all other methods authorized for its collection, the tax may be collected in an ordinary

action at law or in equity by the state against the person required to file a return.

(5) No suit lies to enjoin the assessment or collection of the tax imposed by [sections 1 through 43] or the interest and penalties imposed thereby.

(6) The tax, as assessed by the department, with penalties included, is presumed to be valid and correctly determined and assessed. The burden to establish the incorrectness or invalidity of the assessment is on the person required to file the return.

NEW SECTION. Section 34. Limitations. (1) Except as otherwise provided in [sections 1 through 43], the amount of taxes assessable with respect to a taxable period must be assessed within 3 years after the date on which the return for the period was filed. Taxes are considered to have been assessed within the meaning of this section when the department has prepared a notice of tax assessment and mailed the notice to the person required to file the return. The record of the mailing is presumptive evidence of giving notice. Such records must be preserved by the department.

(2) If the person required to file the return omits from the return a dollar amount that is in excess of 25% of the dollar amount reported in the return, the tax may be assessed or a proceeding in court for the collection of the tax may be begun at any time within 5 years after the date

on which the return was filed.

(3) For the purposes of this section and [section 35], a return filed before the last day prescribed by law for filing is considered to be filed on the last day.

(4) In the case of a false or fraudulent return with intent to evade tax or of failure with the same intent to file a return, the tax may be assessed at any time and a proceeding in court for the collection of the tax must be begun within 5 years after the assessment.

(5) If the assessment of a tax is made within the period of limitation, the tax may be collected by a proceeding in court if begun within 5 years after the date of assessment.

(6) If, before the expiration of the time prescribed in subsection (1) for the assessment of the tax, the department and the taxpayer consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time before the expiration of the extension period. The extension period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(7) The period of time during which a tax must be assessed or collection proceedings commenced under [sections 1 through 43] is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after

notice to the department that the bankruptcy proceedings have been closed or dismissed or that the automatic stay has been terminated or has expired. The suspension of the statute of limitations under this subsection applies to the person against whom the petition in bankruptcy is filed and to any other person who may be wholly or partially liable for the tax under [sections 1 through 43].

NEW SECTION. Section 35. Refunds -- time limitations. (1) A person who, pursuant to the provisions of [sections 1 through 43], has paid to the department an amount of tax in excess of the amount legally due for a period may file with the department a claim for a refund of the excess, subject to the conditions specified in subsection (4). Except as provided in subsection (3), no claim may be entertained unless filed within 2 years after the tax was paid or within 3 years from the filing of the return, whichever period is longer. The department shall examine the claim, make and file written findings denying or allowing the claim in whole or in part, and mail a notice to the person at the address stated on the claim. An allowance must include interest on the excess at the rate of 5/6 of 1% a month from the date the excess was paid or collected until the date it is refunded or credited. If the claim is allowed in whole or in part, the department shall credit the amount of the allowance against any taxes under [sections 1 through 43]

due from the claimant. If the allowance exceeds the amount due, the department shall issue a warrant for the refund of the excess paid out of the proceeds of the taxes imposed by [sections 1 through 43].

(2) If the claim is denied in whole or in part, the claimant may commence an action against the department to recover the amount claimed. The action may be brought in the district court in the county of the claimant's residence or principal place of business or, if an estate or trust, the principal place of its administration or in the district court for the first judicial district. The action may be commenced after the expiration of 6 months from the filing of the claim if the department has not taken final action by that time, and it must be commenced within 18 months after mailing of the notice of denial of the claim.

(3) If the department and the person required to file the return, within the periods prescribed in subsection (1), have consented in writing to an extension of time for the assessment of the tax under the provisions of [section 34(6)], the period within which a claim for refund may be filed or a refund may be made or allowed if no claim is filed is the period to which the department and the taxpayer have consented, except that the period within which a claim for refund may be filed may not expire prior to 2 years after the tax was paid.

(4) If a vendor has collected from a purchaser and remitted to the state a tax on a transaction that is not subject to the tax imposed by [sections 1 through 43], the tax is refundable to the vendor only if and to the extent that it will be credited to amounts owed the vendor by the purchaser or returned to the purchaser by the vendor.

NEW SECTION. Section 36. Administration -- rules. The department shall:

(1) administer and enforce the assessment and collection of the taxes imposed by [sections 1 through 43];

(2) cause to be prepared and distributed such forms and information as may be necessary to administer the provisions of [sections 1 through 43]; and

(3) promulgate such rules as may be necessary to administer and enforce the provisions of [sections 1 through 43].

NEW SECTION. Section 37. Revocation of corporate license to do business in state. If a retailer required to collect the tax imposed pursuant to [section 3 or 14] fails to comply with any of the provisions of [sections 1 through 43] or any rule of the department prescribed and adopted under [sections 1 through 43], the department, if the retailer is a corporation authorized to do business in Montana, may for reasonable cause certify to the secretary of state a copy of an order finding that the retailer has

failed to comply with certain specified statutory provisions or rules. The secretary of state shall, upon receipt of the certification, revoke the license authorizing the corporation to do business in Montana and shall issue a new license only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under [sections 1 through 43]. No order authorized in this section may be made until the retailer is given an opportunity to be heard and to show cause why such order should not be made, and he must be given 30 days' notice of the time and place of the hearing and the reason for the proposed order.

NEW SECTION. Section 38. Penalties. (1) If a tax or portion of a tax imposed by [sections 1 through 43] is not paid within the time specified for the payment, within an extension period, or within 30 days after final determination of an appeal to the tax court and if the taxpayer is not required to pay the amount in dispute pending appeal under [section 39], a penalty equal to 10% of the amount remaining unpaid must be added to the amount due.

(2) In case of a failure to make and file a return within the time prescribed by [sections 1 through 43], there must be added to the tax in lieu of the 10% penalty provided in subsection (1), an additional 10% if the failure is for not more than 30 days, with an additional 5% for each

additional 30 days or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. If the penalty as computed does not exceed $10, a minimum penalty of $10 must be assessed. The amount so added to a tax must be collected at the same time, in the same manner, and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added must be collected in the same manner as the tax.

(3) If a person willfully fails to file a return, fails to make a payment required by [sections 1 through 43], willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment thereof, there must also be imposed on him as a penalty an amount equal to 50% of the tax (less any amounts paid by him on the basis of such false or fraudulent return) found due for the period to which the return relates. The penalty imposed by this subsection must be collected as part of the tax and is in addition to any other penalties, civil or criminal, provided by this section.

(4) (a) In addition to any other penalties prescribed, a person is guilty of a misdemeanor, unless the amount of the tax involved exceeds $300, who:

(i) willfully fails to make a return;

(ii) willfully makes a false return;

(iii) willfully fails to pay taxes imposed by [sections

1 through 43] collected for or on behalf of the state;

(iv) attempts in any manner to evade or defeat the taxes imposed by [sections 1 through 43]; or

(v) willfully aids, assists in, procures, counsels, or advises the preparation or presentation, under or in connection with any matter arising under this section, of a return, affidavit, claim, or other document that is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or other document.

(b) If the amount of tax described in subsection (4)(a) exceeds $300, the person is guilty of a felony.

(c) The term "person", as used in this subsection, means a person as defined in [section 2] and includes an officer or employee of a corporation or a member or employee of a partnership who as an officer, member, or employee is under a duty to perform the act in respect to which the violation occurs.

(d) An indictment on any criminal offense specified in this subsection may be discovered and filed in the proper court within 6 years after the commission of the offense.

(5) All payments received may, in the discretion of the director, be credited first to the oldest liability not secured by a judgment or lien, but in all cases they must be

credited first to penalties, next to interest, and then to the tax due.

(6) The amount of tax not timely paid, together with the penalty provided by this section, bears interest at the rate of 5/6 of 1% a month from the time the tax should have been paid until paid. Any interest and penalty must be added to the tax and collected as a part thereof.

NEW SECTION. Section 39. Payment of tax pending appeal. (1) If a taxpayer appeals any liability assessed under [sections 1 through 43] to the state tax appeal board or to a court of competent jurisdiction and the amount in dispute is more than $6,000, the entire amount of the tax, penalty, and interest assessed by the department must be paid at the time it is due unless permission to continue prosecution of the appeal without payment is obtained as provided in subsection (2).

(2) The appellant, upon 10 days' notice to the department, may apply to the board or the court, as appropriate, for permission to continue prosecution of the appeal without payment. The board or the court may permit the appellant to continue prosecution of the appeal without payment or may fix a lesser amount to be paid as a condition of continuing the prosecution of the appeal. If an appeal is made, it is necessary to show:

(a) that the proposed review is to be taken in good

faith;

(b) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50% of the amount due; and

(c) that it would work a substantial hardship upon the appellant to pay the liability.

(3) Failure to make payment of the amount required when due automatically dismisses the appeal and all proceedings thereunder unless the payment is waived by an order of the board or the court permitting the appellant to continue prosecution of the appeal without payment.

NEW SECTION. Section 40. Tax as debt. (1) The tax imposed by [sections 1 through 43] and related interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of such liability occurs.

(2) In the case of an executor or administrator of the estate of a decedent or in the case of a fiduciary, the debt is that of the person in his official or fiduciary capacity only, unless he has voluntarily distributed the assets held in such capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event he is personally liable for any deficiency.

NEW SECTION. Section 41. Investigatory and subpoena

1 powers -- examiners. (1) For the purpose of determining the
2 correctness of a return or of determining whether a person
3 should have made a return or paid taxes required under
4 [sections 1 through 43] or for the purpose of collection of
5 any such taxes, the department is authorized to examine or
6 cause to be examined any books, papers, records, or
7 memoranda which may be relevant to making such
8 determination, whether such books, papers, records, or
9 memoranda are the property of or in the possession of such
10 person or any other person. The department is further
11 authorized to:
12 (a) require the attendance of any person having
13 knowledge or information that may be relevant;
14 (b) compel the production of books, papers, records,
15 or memoranda by persons required to attend;
16 (c) take testimony on matters material to the
17 determination; and
18 (d) administer oaths or affirmations.
19 (2) For the purpose of making the examinations
20 authorized in subsection (1), the director may appoint
21 examiners as necessary. An examiner has all the rights and
22 powers authorized for the department in subsection (1).
23 (3) The clerk of court, upon demand of the director or
24 any examiner, shall issue a subpoena for the attendance of
25 any witness or the production of any books, papers, records,

1 or memoranda. The director may also issue subpoenas.
2 Disobedience of subpoenas issued under this section is
3 punishable by the district court of the first judicial
4 district in the same manner as contempt of the district
5 court.
6 NEW SECTION. Section 42. Information --
7 confidentiality -- agreements. (1) It is unlawful for any
8 department employee or any other public official or employee
9 to divulge or otherwise make known any information disclosed
10 in a report or return required by [sections 1 through 43] or
11 any information concerning the affairs of the person making
12 the return acquired from his records, officers, or employees
13 in an examination or audit under the authority of [sections
14 1 through 43], except in connection with a proceeding
15 involving taxes due under [sections 1 through 43] from the
16 taxpayer making such report or return or to comply with the
17 provisions of subsection (2). Nothing may be construed to
18 prohibit the department from publishing statistics so
19 classified as to not disclose the identity of particular
20 returns or reports and the contents thereof. A person
21 violating the provisions of this section is subject to the
22 penalty provided for violating the confidentiality of
23 individual income tax information as provided in 15-30-303.
24 (2) (a) The director may enter into an agreement with
25 the taxing officials of another state for the interpretation

and administration of the laws of their several states providing for the collection of a sales and/or use tax to promote fair and equitable administration of such laws and to eliminate double taxation.

(b) The director, in order to implement the purposes of [sections 1 through 43], may furnish information on a reciprocal basis to the taxing officials of another state or to the taxing officials of a municipality of the state of Montana that has a local sales and use tax.

(3) In order to facilitate processing of returns and payments of taxes required by [sections 1 through 43], the department may contract with vendors and may disclose private and nonpublic data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

NEW SECTION. Section 43. Sales and use tax account -- administration and enforcement account. (1) There is within the state special revenue fund a sales and use tax account.

(2) All money collected under [sections 1 through 43] must be paid by the department into the sales and use tax account.

NEW SECTION. Section 44. Per capita fee for expenses of enforcing livestock and poultry laws. (1) In addition to appropriations made for such purposes, a per capita fee is authorized and directed to be paid on all livestock and

poultry in this state for the purpose of aiding in the payment of the expenses, including salaries, connected with the enforcement of the livestock and poultry laws of the state and for the payment of bounties on wild animals.

(2) As used in this section, "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

NEW SECTION. Section 45. Board of livestock to prescribe per capita fee. (1) The board of livestock shall annually prescribe the per capita fee for livestock and poultry of all classes for the payment of the expenses, including salaries, connected with the livestock and poultry laws of the state and the payment of bounties on wild animals.

(2) The per capita fee must be calculated each year to provide not less than 100% or more than 110% of the revenue that was generated in taxable year 1986 by 15-24-922, as it read on January 1, 1986, and 81-7-118. The calculation must include a factor to account for nonpayment and late payment of taxes.

NEW SECTION. Section 46. Collection of fee. (1) On or before January 15 of each year, an owner of livestock or poultry or his agent shall make and deliver to the board of livestock a verified statement showing as of January 1 the number of each kind of livestock or poultry within the state belonging to him or under his charge, with their marks and

brands and the county in which the majority of the livestock or poultry is located.

(2) Upon determination of the numbers of each class of livestock and poultry and assessment of the amount of the levy set by the board of livestock, the county treasurer shall send to each owner or agent who filed a report a statement indicating the total fee due for the year, the fact that payment is to be made to the county treasurer on or before June 1 following assessment of the tax, and the penalty and lien provisions that apply.

(3) The county treasurer may withhold 2% of the money received for the per capita fee for livestock and poultry as reimbursement to the county for the collection of the tax on livestock and poultry.

NEW SECTION. Section 47. Transmission of fees from county to state treasurer. Except for the money withheld by the county, the fees levied and the money collected pursuant to the provisions of [sections 44 through 48] must be transmitted to the state treasurer by the county treasurer of each county, as provided in 15-1-504 but not later than July 1 following assessment. The county treasurer shall designate the amount received from the fee paid on poultry, the amount received from the fee paid on sheep, and the amount received from the fee paid on all other livestock and shall specify the separate amounts in his report to the

state treasurer. The money, when received by the state treasurer, must be deposited to the credit of the department of livestock.

NEW SECTION. Section 48. Penalty for failure to file statement on livestock or poultry -- lien upon real and personal property. (1) If a person who is the owner of livestock or poultry within the state fails to file or have his agent file the statement required in [section 46], the country treasurer shall, after 10 days' notice to the person who failed to file the statement, assess the fee imposed by [sections 44 through 48] based on the board of livestock's estimate of the number of livestock or poultry owned by the person in the state. The county treasurer must add a 10% penalty to the assessment.

(2) The fee imposed pursuant to [sections 44 through 48] is a lien upon the real and personal property of the livestock or poultry owner who fails to pay the fees on or before June 1 following assessment and is to be collected under the tax lien enforcement provisions of Title 15.

NEW SECTION. Section 49. Credit for sales and use tax. (1) There is a credit of $15 for each exemption claimed under 15-30-112 against tax liability under this chapter.

(2) If the amount of credit allowed in this section exceeds the amount of tax liability under this chapter by $1 or more, the department shall refund the amount in excess.

If the excess is less than $1, the department may not make a refund.

Section 50. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of this state shall be classified according to that percentage of the true and full valuation of the property therein upon which the tax levy is made, as follows:

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

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

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

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

(e) fifth class--all counties having such a taxable valuation of more than $10 million and less than $15 million;

(f) sixth class--all counties having such a taxable

valuation of more than $5 million and less than $10 million;

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

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

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

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

(c) 13.8% of the total taxable value of the county on December 31, 1986."

Section 51. Section 7-3-1321, MCA, is amended to read:

"7-3-1321. Authorization to incur indebtedness -- limitation. (1) The consolidated municipality may borrow money or issue bonds for any municipal purpose to the extent and in the manner provided by the constitution and laws of Montana for the borrowing of money or issuing of bonds by counties and cities and towns.

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing

indebtedness, in the aggregate exceeding ~~30%~~ 32.5% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

Section 52. Section 7-6-2211, MCA, is amended to read:

"7-6-2211. Authorization to conduct county business on a cash basis. (1) In case the total indebtedness of a county, lawful when incurred, exceeds the limit of ~~23%~~ 27% established in 7-7-2101 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

(2) Nothing in this section restricts the right of the board to make the necessary tax levies for interest and sinking fund purposes, and nothing in this section affects the right of any creditor of the county to pursue any remedy now given him by law to obtain payment of his claim."

Section 53. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business

on a cash basis. (1) In case the total indebtedness of a city or town has reached ~~17%~~ 20% of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2).

(2) (a) Whenever a city or town is conducting its business affairs on a cash basis, the reasonable and necessary current expenses of the city or town may be paid out of the cash in the city or town treasury and derived from its current revenues, under such restrictions and regulations as the city or town council may by ordinance prescribe.

(b) In the event that payment is made in advance, the city or town may require a cash deposit as collateral security and indemnity, equal in amount to such payment, and may hold the same as a special deposit with the city treasurer or town clerk, in package form, as a pledge for the fulfillment and performance of the contract or obligation for which the advance is made.

(c) Before the payment of the current expenses mentioned above, the city or town council shall first set apart sufficient money to pay the interest upon its legal, valid, and outstanding bonded indebtedness and any sinking funds therein provided for and shall be authorized to pay

all valid claims against funds raised by tax especially authorized by law for the purpose of paying such claims."

Section 54. Section 7-6-4254, MCA, is amended to read:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 44% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

(2) The term "taxable property", as used herein, means the percentage of the value at which such property is assessed and which percentage is used for the purposes of computing taxes and does not mean the assessed value of such property as the same appears on the assessment roll."

Section 55. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, no city-county consolidated local government may issue bonds for any purpose which, with all outstanding indebtedness, may exceed ~~39%~~ 45% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring

of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 56. Section 7-7-108, MCA, is amended to read:

"7-7-108. Authorization for additional indebtedness for water or sewer systems. (1) For the purpose of constructing a sewer system or procuring a water supply or constructing or acquiring a water system for a city-county consolidated government which shall own and control such water supply and water system and devote the revenues therefrom to the payment of the debt, a city-county consolidated government may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional indebtedness which may be incurred by borrowing money or issuing bonds for the construction of a sewer system or for the procurement of a water supply or for both such purposes may not in the aggregate exceed 10% over and above the ~~39%~~ 45% referred to in 7-7-107 of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 57. 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%~~ 27% of the

total of the taxable value of the property therein subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as ascertained by the last assessment for state and county taxes previous to the incurring of such 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 58. 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%~~ 13% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and 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%~~ 32% of the total of the taxable value of the property in the county subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed ~~12.5%~~ 14.5% of the taxable value of the property in the county subject to taxation.

(4) The limitation in subsection (1) shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 59. Section 7-7-4201, MCA, is amended to read:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any

purpose in an amount which with all outstanding and unpaid indebtedness will exceed ~~28%~~ 32.5% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 60. Section 7-7-4202, MCA, is amended to read:

"7-7-4202. Special provisions relating to water and sewer systems. (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town which owns and controls the water supply and water system and devotes the revenues therefrom to the payment of the debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ 32.5%, referred to in 7-7-4201, of the taxable

value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 61. Section 7-13-4103, MCA, is amended to read:

"7-13-4103. Limitation on indebtedness for acquisition of natural gas system. The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~17%~~ 20% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes."

Section 62. Section 7-14-236, MCA, is amended to read:

"7-14-236. Limitation on bonded indebtedness. The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed ~~28%~~ 32.5% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds."

Section 63. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, no county shall issue bonds which, with all outstanding bonds and warrants except county high

school bonds and emergency bonds, will exceed ~~11.25%~~ 13% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%. The taxable property and the amount of new production taxes levied shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11.25%~~ 13% but will not exceed ~~22.5%~~ 26.5% of the total of the taxable value of such property, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county, except county high school bonds, shall not exceed ~~22.5%~~ 26.5% of the total of the taxable value of the property within the county, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as ascertained by the last preceding

general assessment."

Section 64. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds ~~22.5%~~ 26.5% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, and the board determines that the county is unable to pay such indebtedness in full, the board may:

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

(b) enter into such agreement;

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

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

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

Section 65. Section 7-14-4402, MCA, is amended to read:

"7-14-4402. Limit on indebtedness to provide bus

service. The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~28%~~ 32.5% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes. No money may be borrowed or bonds issued for the purposes specified in 7-14-4401(1) until the proposition has been submitted to the vote of the taxpayers of the city or town and the majority vote cast in its favor."

Section 66. Section 7-16-2327, MCA, is amended to read:

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

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~13%~~ 15% of the total of the taxable value of the taxable property in the county, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, ascertained

by the last assessment for state and county taxes previous to the incurring of such indebtedness.

(b) No money may be borrowed on bonds issued for the purchase of lands and improving same for any such purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at such election in the county affected thereby and a majority vote is cast in favor thereof."

Section 67. Section 7-16-4104, MCA, is amended to read:

"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes. (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit thereof, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise swimming pools, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or combination thereof; and

(c) for furnishing and equipping the same.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~16.5%~~ 19.5% of the

taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No money may be borrowed on bonds issued for the purchase of lands and improving the same for any such purpose until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

Section 68. Section 7-31-106, MCA, is amended to read:

"7-31-106. Authorization for county to issue bonds -- election required. (1) If the petition is presented to the board of county commissioners, it shall be the duty of the board, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) to ascertain, within 30 days after submission of the petition, the existing indebtedness of the county in the aggregate; and

(b) to submit, within 60 days after ascertaining the same, to the electors of such county the proposition to approve or disapprove the contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 26% of the taxable value of the taxable

property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 69. Section 7-31-107, MCA, is amended to read:

"7-31-107. Authorization for municipality to issue bonds -- election required. (1) If said petition is presented to the council of any incorporated city or town, the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

(a) shall ascertain, within 30 days after submission of the petition, the aggregate indebtedness of such city or town; and

(b) shall submit, within 60 days after ascertaining the same, to the electors of such city or town the proposition to approve or disapprove said contract and the issuance of bonds necessary to carry out the same.

(2) The amount of the bonds authorized by this section may not exceed ~~16.5%~~ 19.5% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner provided in this part."

Section 70. Section 7-34-2131, MCA, is amended to

read:

"7-34-2131. Hospital district bonds authorized. (1) A hospital district may borrow money by the issuance of its bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

(2) The amount of bonds issued for such purpose and outstanding at any time may not exceed ~~22.5%~~ 26% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

(3) Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of second- or third-class school districts by Title 20, chapter 9, part 4.

(4) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Section 71. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous

issues and registered warrants, is ~~45%~~ 52% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The ~~45%~~ 52% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

(2) When the total indebtedness of a school district has reached the ~~45%~~ 52% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(3) Whenever bonds are issued for the purpose of refunding bonds, any moneys to the credit of the debt service fund for the payment of the bonds to be refunded are applied towards the payment of such bonds and the refunding bond issue is decreased accordingly."

Section 72. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

(D) mobile homes used exclusively as a residence except when held by a distributor or dealer of trailers or

mobile homes as his stock in trade; <u>and</u>

(E) all property described in 15-6-135~~;~~<u>.</u>

~~(F)--all-property-described-in-15-6-136;-and~~

~~(G)--all-property-described-in-15-6-146.~~

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer ~~may--be determined--to--be--permanently--located--only--when--it--is attached--to-a-foundation-which-cannot-feasibly-be-relocated and-only-when-the-wheels-are-removed~~ <u>used as a residence is an improvement, whether or not it is affixed to the land</u>.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed

under the appropriate classification and the taxes are due and payable in two payments as provided in ~~15-24-202~~ 15-16-102. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

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

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

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when

the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

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

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

(o) The term "taxable value" means the percentage of market or assessed value as provided for in ~~15-6-131 through 15-6-140~~ this part.

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

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 73. Section 15-6-133, MCA, is amended to read:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes:

(a) agricultural land as defined in 15-7-202~~;~~ and

(b) timberland, which for the purpose of this section means contiguous land exceeding 15 acres in one ownership that is capable of producing timber that can be harvested in commercial quantity.

(2) Class three property is taxed at ~~the taxable percentage rate "P"~~ 30% of its productive capacity.

~~(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.~~

~~(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:~~

~~(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".~~

~~(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below:~~

~~(c) This table limits the statewide increase in~~

~~taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.~~

~~(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:~~

Certified Statewide Percentage Increase	Class Three Taxable Percentage "P"
0	30.00
10	27.27
20	25.00
30	23.08
40	21.43
50	20.00

~~(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111."~~

Section 74. Section 15-6-134, MCA, is amended to read:

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

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources including otherwise tax-exempt income of all types is not more than $10,000 for a single person or $12,000 for a married couple;

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

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a) and (1)(b) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value.

(b) Property described in subsection (1)(c) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%
3,001 - 4,000	3,601 - 4,800	30%

4,001 - 5,000	4,801 - 6,000	40%
5,001 - 6,000	6,001 - 7,200	50%
6,001 - 7,000	7,201 - 8,400	60%
7,001 - 8,000	8,401 - 9,600	70%
8,001 - 9,000	9,601 - 10,800	80%
9,001 - 10,000	10,801 - 12,000	90%

(c) Property described in subsection (1)(d) is taxed at ~~one-half~~ two-thirds of the taxable percentage rate "P" established in subsection (2)(a).

~~(3)--Until January 1, 1986, the taxable percentage rate "P" for class four property is 0.55%.~~

~~(4)--Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class four property for the revaluation cycle beginning January 1, 1986, as follows:~~

~~(a)--The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class four as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the certified statewide percentage increase.~~

~~(b)--The taxable value of property in class four is determined as a function of the certified statewide percentage increase in accordance with the table shown below:~~

(c)--This--table--limits--the--statewide--increase---in taxable--valuation--resulting--from--reappraisal--to--0%.--In calculating-the-percentage-increase,-the-department-may--not consider-changes-resulting-from-new-construction,-additions, or-deletions-during-calendar-year-1985.

(d)--The--taxable--percentage--must--be--calculated--by interpolation-to-coincide--with--the--nearest--whole--number certified--statewide--percentage-increase-from-the-following table:

Certified-Statewide Percentage-Increase	Class-Four-Taxable Percentage-"p"
0	8.55
10	7.77
20	7.12
30	6.57
40	6.10
50	5.70
60	5.34
70	5.02
80	4.75
90	4.50
100	4.27
110	4.07
120	3.88
130	3.71
140	3.56

Certified-Statewide Percentage-Increase	Class-Four-Taxable Percentage-"p"
150	3.42
160	3.28
170	3.16
180	3.05
190	2.94
200	2.85
210	2.75
220	2.67
230	2.59
240	2.51
250	2.44
260	2.37
270	2.31
280	2.25
290	2.19
300	2.13

(5)--After-July-1,-1986,-no-adjustment-may-be--made--by the--department--to--the-taxable-percentage-rate-"p"-until-a revaluation-has-been-made-as-provided-in-15-7-111.

(6)(3) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property

assessed as other than commercial property.

(4) For the purposes of this section, all mobile homes are considered to be improvements."

Section 75. Section 15-6-135, MCA, is amended to read:

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

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in ~~subsection (1)(c) of 15-6-137~~ 15-6-136(1)(d);

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

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

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are

substantially altered or treated so as to create commercial products or materials; or

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

(5) New industrial property does not include:

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

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

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

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

Section 76. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property -- description -- taxable percentage. (1) Class six property includes:

~~(a)--livestock,--poultry,--bees,--and--other-species-of domestic-animals-and-wildlife-raised-in-domestication--or--a captive--environment,--except--for--cats,--dogs,--and--other household-pets-not-raised-for-profit,--and--the--unprocessed products-of-such-animals-and-wildlife;~~

~~(b)--all--unprocessed-agricultural-products-on-the-farm or-in-storage-except-all-perishable-fruits-and-vegetables-in farm-storage-and-owned-by-the-producer;~~

~~(c)~~(a) all items of personal property, including goods and equipment, intended for rent or lease in the ordinary course of business, ~~provided-each-item-of-personal-property satisfies-all-of-the--following:~~ except personal property specifically included in another class;

~~(i)--the--full--and-true-value-of-the-personal-property is-less-than-$5,000;~~

~~(ii)-the-personal-property-is-owned-by-a-business-whose primary-business-income-is-from-rental-or-lease-of--personal property--to--individuals--wherein--no--one--customer-of-the business-accounts-for-more-than-10%-of-the-total-rentals--or leases-during-a-calendar-year;-and~~

~~(iii)-the--lease--of-the-personal-property-is-generally on-an-hourly,-daily,-or-weekly-basis.~~

(b) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;

(c) subject to the provisions of subsection (2), all property owned by cooperative rural electrical and

cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;

(d) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of such property;

(e) tools, implements, and machinery that are not hand-held and that are used to repair and maintain machinery not used for manufacturing and mining purposes.

(f) all agricultural implements and equipment;

(g) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

(h) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

(i) all other machinery except that specifically included in another class.

(j) all trailers, including those prorated under 15-24-102 but not including those subject to a fee in lieu of property tax;

(k) truck toppers weighing more than 300 pounds;

(l) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial

establishments as defined in this section;

(m) x-ray and medical and dental equipment;

(n) citizens' band radios and mobile telephones;

(o) radio and television broadcasting and transmitting equipment;

(p) cable television systems;

(q) coal and ore haulers;

(r) trucks having a rated capacity of more than three-quarters of a ton, including those prorated under 15-24-102 but not including those subject to a fee in lieu of property tax;

(s) theater projectors and sound equipment; and

(t) all other property not included in any other class in this part except that property subject to a fee in lieu of property tax.

(2) To qualify as class six property, the average circuit miles for each station on a telephone communication system described in subsection (1)(c) must be more than 1 mile.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

~~(2)~~(4) Class six property is taxed at ~~4%~~ 6% of its market value."

Section 77. Section 15-6-147, MCA, is amended to read:

4
4-3-87

TESTIMONY IN OPPOSITION

TO SENATE BILL 383

House Taxation Committee

April 3, 1987

Presented by Hershel M. Robbins, Representing the Association of Oil, Gas and Coal Counties.

Mr. Chairman and Members of the Committee:

I am Hershel Robbins, representing the Association of Oil, Gas, and Coal Counties, and I rise in opposition to Senate Bill 383 being presented to the committee this morning.

The counties represented in our association do certainly support the concept of increased oil production in our state. The problem is not in increasing the production but one of inflicting a one year moratorium on the net proceeds tax that would just be another burden on county government that they can't afford at this time. The revenues already lost in the form of federal and state entitlements coupled with this further erosion is just too much to bear at this time of shrinking revenues. It should also be noted at this time that several bills making their way through the Legislature, namely H.B. 776, S.B. 66, S.B.184, S.B. 262, and even H.B. 377 all provide incentives for the industry.

This bill leaves several problems unresolved that are important to the

counties revenue figures such as what if an oil well has been abandoned or plugged does the reopening of this well constitute new production and therefore not subject to the net proceeds tax? And in the event of a sudden escalation in the price of oil then how would the counties make up the revenues lost on this price increase under the moratorium period as proposed in this bill. My association feels the counties just can't absorb these losses and therefore we go on record in opposition to SB 383 and ask the committee to give it their full consideration.

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

(2) For the taxable years 1986 through 1990 class seventeen property is taxed at 12%, and for each taxable year thereafter, class seventeen property is taxed at the lesser of 12% or the taxable percentage rate for class fifteen property without adjustment.

(3) For the purpose of complying with the Tax Equity and Fiscal Responsibility Act of 1982, as it read on January 1, 1986, the taxable percentage rate "R" referred to in ~~this section~~ subsection (2) is the equalized average tax rate generally applicable to commercial and industrial property, except class seventeen property, as commercial property is defined in 15-1-101(1)(d)."

Section 78. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute

electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

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

(iii) municipal corporations; and

(iv) public libraries;

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

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for hospitals;

(d) property that meets the following conditions:

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

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

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

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

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

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

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from the fee in lieu of tax.

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

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(l) motorcycles and quadricycles;

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

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

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

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

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100~~.~~; and

(q) the first $20,000 or less of the market value of any single-family residence, exclusive of land and appurtenant improvements;

(r) all tools, implements, and machinery that are customarily hand-held and that are used to:

(i) construct, repair, and maintain improvements to real property; or

(ii) repair and maintain machinery, equipment, appliances, and other personal property not used for manufacturing and mining purposes;

(s) all aircraft that are not considered airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 and thereby included in

15-6-147;

(t) all watercraft; and

(u) all all-terrain vehicles.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(p) applicable to taxable years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.)"

Section 79. Section 15-6-207, MCA, is amended to read:

"15-6-207. Agricultural exemptions. (1) The following

agricultural products are exempt from taxation:

(a) all unprocessed, perishable fruits and vegetables in farm storage and owned by the producer;

(b) all nonperishable unprocessed agricultural products~~,--except--livestock,--held--in--possession--of--the original-producer-for-less-than-7-months-following--harvest;~~ and

(c) ~~except-as-provided-in-subsection-(1)(d),-livestock which--have--not-attained-the-age-of-9-months-as-of-the-last day-of-any-month-if-assessed-on-the-average-inventory--basis or--on--March--1-if-assessed-as-provided-in-15-24-911(1)(a),~~ and

~~(d)--swine-which-have-not-attained-the-age-of-3--months as--of--January--1,~~ all livestock, poultry, bees, and other species of domestic animals and wildlife raised in domestication or a captive environment, except:

(i) the unprocessed products of such animals and wildlife; and

(ii) cats, dogs, and other household pets not raised for profit.

(2) Any beet digger, beet topper, beet defoliator, beet thinner, beet cultivator, beet planter, or beet top saver designed exclusively to plant, cultivate, and harvest sugar beets is exempt from taxation if such implement has not been used to plant, cultivate, or harvest sugar beets

for the 2 years immediately preceding the current assessment date and there are no available sugar beet contracts in the sugar beet grower's marketing area."

Section 80. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds~~,--including-but--not limited--to--aircraft--and--boats-and-all-watercraft,~~ is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in 15-6-134 through ~~15-6-140---and~~

15-6-136, 15-6-141, 15-6-145, and 15-6-147 through 15-6-149, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment dealers association, St. Louis, Missouri; and

(b) for agricultural implements and machinery not listed in the official guide, the department shall prepare a supplemental manual where the values reflect the same depreciation as those found in the official guide.

(4) For purposes of taxation, assessed value is the same as appraised value.

(5) The taxable value for all property in classes four through ~~eleven--and~~ six, eleven, fifteen, and seventeen through nineteen is the percentage of market value established for each class of property in 15-6-134 through ~~15-6-141--and~~ 15-6-136, 15-6-141, 15-6-145, and 15-6-147 through 15-6-149.

(6) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132, under class two, are

assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes or at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

~~(d)--Properties--in-15-6-143,-under-class-thirteen,-are assessed-at-100%-of-the--combined--appraised--value--of--the standing--timber--and--grazing-productivity-of-the-land-when valued-as-timberland.~~

(7) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(8) The taxable value of all property in 15-6-131 and classes two, and three~~,-and-thirteen~~ is the percentage of assessed value established in 15-6-131(2), 15-6-132, and 15-6-133~~,--and--15-6-143~~ for each class of property. (Subsections (3)(a) and (3)(b) applicable to tax years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985. Subsection (6)(d) [now part of (6)(c)] and references in (8)

to class thirteen [now deleted] and 15-6-143 [now deleted] terminate January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

Section 81. Section 15-8-202, MCA, is amended to read:

"15-8-202. Motor vehicle assessment. (1) The department or its agent must, in each year, ascertain and assess all motor vehicles other than automobiles, trucks having a rated capacity of three-quarters of a ton or less, motorcycles, quadricycles, motor homes, travel trailers, or mobile homes in each county subject to taxation as of January 1 or as of the anniversary registration date of those vehicles subject to 61-3-313 through 61-3-316 and 61-3-501. The assessment for all motor vehicles will be made using the market value as of January 1 of the year of assessment of the vehicle as contained in the most recent volume of the Mountain States Edition of the National Automobile Dealers Association Official Used Car Guide. The motor vehicles shall be assessed in each year to the persons by whom owned or claimed or in whose possession or control they were at midnight of January 1 or the anniversary registration date thereof, whichever is applicable.

(2) No tax may be assessed against motor vehicles subject to taxation that constitute inventory of motor vehicle dealers as of January 1. These vehicles and all other motor vehicles subject to taxation brought into the state subsequent to January 1 as motor vehicle dealers'

inventories shall be assessed to their respective purchasers as of the dates the vehicles are registered by the purchasers.

(3) "Purchasers" includes dealers who apply for registration or reregistration of motor vehicles~~,except--as otherwise provided by 61-3-502~~.

(4) Goods, wares, and merchandise of motor vehicle dealers, other than new motor vehicles and new mobile homes, shall be assessed at market value as of January 1."

Section 82. Section 15-8-205, MCA, is amended to read:

"15-8-205. Initial assessment of ~~class twelve property---when~~ mobile homes. The county assessor shall assess all ~~class--twelve--property~~ mobile homes immediately upon their arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

Section 83. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement -- what to contain. (1) The department of revenue or its agent must require from each person a statement under oath setting forth specifically all the real and personal property owned by such person or in his possession or under his control at midnight on January 1. Such statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of such person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which such person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which such person is president, secretary, cashier, or managing agent;

(d) the county in which such property is situated or in which it is liable to taxation and (if liable to taxation in the county in which the statement is made) also the city, town, school district, road district, or other revenue districts in which it is situated;

(e) an exact description of all lands in parcels or subdivisions not exceeding 640 acres each and the sections and fractional sections of all tracts of land containing more than 640 acres which have been sectionized by the United States government; improvements and personal property~~,---including---all--vessels,--steamers,--and--other watercraft~~; all taxable state, county, city, or other municipal or public bonds and the taxable bonds of any person, firm, or corporation and deposits of money, gold dust, or other valuables and the names of the persons with whom such deposits are made and the places in which they may be found; all mortgages, deeds of trust, contracts, and other obligations by which a debt is secured and the

property in the county affected thereby;

(f) all solvent credits, secured or unsecured, due or owing to such person or any firm of which he is a member or due or owing to any corporation of which he is president, secretary, cashier, or managing agent;

(g) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer need not include such property in the statement made by him but this statement must show the name of the person or officer who made the statement in which such property is included.

(3) The fact that such statement is not required or that a person has not made such statement, under oath or otherwise, does not relieve his property from taxation."

Section 84. Section 15-8-404, MCA, is amended to read:

"15-8-404. Property of particular types of firms. (1) The personal property belonging to the business of a merchant or of a manufacturer must be listed in the town or district where his business is carried on.

(2) The personal property of express, transportation,

and stage companies~~,---steamboats,--vessels,--and--other watercraft~~ must be listed and assessed in the county, town, or district where such property is usually kept.

(3) The personal property and franchises of gas and water companies must be listed and assessed in the county, town, or district where the principal works are located. Gas and water mains and pipes laid in roads, streets, or alleys are personal property."

Section 85. Section 15-8-405, MCA, is amended to read:

"15-8-405. Street railroads~~,~~ and bridges~~,-and-ferries~~. Street railroads and bridges ~~and--ferries~~ and their franchises owned by persons or corporations must be listed and assessed in the county, town, or district where such property or any portion thereof is located, and the track of the railroad and the bridge are personal property."

Section 86. Section 15-8-706, MCA, is amended to read:

"15-8-706. Statement by agent to the department. (1) On the second Monday in July in each year, the agent of the department of revenue in each county must transmit to the department a statement showing:

(a) the several kinds of personal property;

(b) the average and total value of each kind;

(c) the number of livestock~~,--number--of-bushels-of grain,-number-of-pounds-or-tons-of-any-article-sold--by--the pound-or-ton;~~ and

(d) when practicable, the separate value of each class of land, specifying the classes and the number of acres in each.

(2) An agent of the department who purposely or negligently fails to perform his duty under this section or a deputy or member of the agent's staff delegated such duty who purposely or negligently fails to perform such duty is guilty of official misconduct under 45-7-401."

Section 87. Section 15-16-611, MCA, is amended to read:

"15-16-611. Reduction of property tax for property destroyed by natural disaster. (1) The department of revenue shall, upon showing by a taxpayer that some or all of the improvements on his real property or a trailer or mobile home ~~as described in 15-6-142~~ have been destroyed to such an extent that such improvements have been rendered unsuitable for their previous use by natural disaster, adjust the taxable value on the property, accounting for the destruction.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on

the original taxable value of the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the destruction of the property bears to 365.

(4) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(5) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 88. Section 15-24-301, MCA, is amended to read:

"15-24-301. Personal property brought into the state -- assessment -- exceptions -- custom combine equipment. (1) Except as provided in subsections (2) through (6), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) any personal property (including livestock) brought, driven, or coming into this state at any time during the year that is used in the state for hire,

compensation, or profit;

(b) property whose owner or user is engaged in gainful occupation or business enterprise in the state; or

(c) property which comes to rest and becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner and to the same extent, except as otherwise provided, as though the property had been in the county on the regular assessment date, provided that the property has not been regularly assessed for the year in some other county of the state.

(3) Nothing in this section shall be construed to levy a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

(4) Any motor vehicle not subject to the light vehicle license fee or a fee in lieu of tax brought, driven, or coming into this state by any nonresident person temporarily employed in Montana and used exclusively for transportation of such person is subject to taxation and assessment for taxes as follows:

(a) The motor vehicle is taxed by the county in which it is located.

(b) One-fourth of the annual tax liability of the motor vehicle must be paid for each quarter or portion of a

quarter of the year that the motor vehicle is located in Montana.

(c) The quarterly taxes are due the first day of the quarter.

(5) Agricultural harvesting machinery classified under class ~~eight~~ <u>six</u>, licensed in other states, and operated on the lands of persons other than the owner of the machinery under contracts for hire shall be subject to a fee in lieu of taxation of $35 per machine for the calendar year in which the fee is collected. The machines shall be subject to taxation under class ~~eight~~ <u>six</u> only if they are sold in Montana.

(6) The provisions of this part do not apply to automobiles and trucks having a rated capacity of three-quarters of a ton or less, motorcycles, or quadricycles. These vehicles are subject to the fee provided for in 61-3-532 or 61-3-541."

Section 89. Section 15-24-1102, MCA, is amended to read:

"15-24-1102. Federal property held under contract of sale. When the property is held under a contract of sale or other agreement whereby upon payment the legal title is or may be acquired by the person, the real property shall be assessed and taxed as defined in ~~15-6-131--through--15-6-140~~ <u>Title 15, chapter 6, part 1,</u> and 15-8-111 without deduction

on account of the whole or any part of the purchase price or other sum due on the property remaining unpaid. The lien for the tax may not attach to, impair, or be enforced against any interest of the United States in the real property."

Section 90. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein less than the fee, except under contract of sale, the property shall be assessed and taxed as for the value, as defined in ~~15-6-131 through 15-6-140~~ Title 15, chapter 6, part 1, of such leasehold, interest, or estate in the property and the lien for the tax shall attach to and be enforced against only the leasehold, interest, or estate in the property. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property shall be assessed for full assessed value as defined in 15-8-111."

Section 91. Section 19-11-503, MCA, is amended to read:

"19-11-503. Special tax levy for fund required. (1) The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to ~~3%~~ 3.5% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than ~~3%~~ 3.5% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax shall be collected as other taxes are collected and, when so collected, shall be paid into the disability and pension fund.

(3) If a special tax for the disability and pension fund is levied by a third-class city or town using the all-purpose mill levy, the special tax levy must be made in addition to the all-purpose levy."

Section 92. Section 19-11-504, MCA, is amended to read:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than ~~3%~~ 3.5% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 93. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each

district's general fund on the basis of the following procedure:

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

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

(ii) the district's permissive levy amount as provided in 20-9-352; and

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

(b) Determine the total of the moneys available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated or reappropriated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536;

(vi) anticipated net proceeds taxes for new production, as defined in 15-23-601;

(vii) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); ~~and~~

(viii) anticipated sales tax and use tax revenue; and

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

(c) Subtract the total of the moneys available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(c) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the

district, and a levy shall be made by the county commissioners in accordance with 20-9-142."

Section 94. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) It shall be the duty of the county commissioners of each county to levy an annual basic tax of 28 mills on the dollars of the taxable value of all taxable property within the county for the purposes of local and state foundation program support. The revenue to be collected from this levy shall be apportioned to the support of the foundation programs of the elementary school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenues identified in subsection (2) below shall be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined above, the county treasurer shall remit the surplus funds to the state treasurer for deposit

to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The proceeds realized from the county's portion of the levy prescribed by this section and the revenues from the following sources shall be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting shall be kept of such proceeds and revenues by the county treasurer in accordance with 20-9-212(1):

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

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

(c) all money paid into the county treasury as a result of fines for violations of law and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account for the various sources of revenue established or

1 referred to in this section;
2 (e) any federal or state money, including anticipated
3 or reappropriated motor vehicle fees and reimbursement under
4 the provisions of 61-3-532 and 61-3-536, distributed to the
5 county as payment in lieu of the property taxation
6 established by the county levy required by this section; ~~and~~
7 (f) net proceeds taxes for new production, as defined
8 in 15-23-601; and
9 (g) sales tax and use tax revenue."
10 Section 95. Section 20-9-333, MCA, is amended to read:
11 "20-9-333. Basic special levy and other revenues for
12 county equalization of high school district foundation
13 program. (1) It shall be the duty of the county
14 commissioners of each county to levy an annual basic special
15 tax for high schools of 17 mills on the dollar of the
16 taxable value of all taxable property within the county for
17 the purposes of local and state foundation program support.
18 The revenue to be collected from this levy shall be
19 apportioned to the support of the foundation programs of
20 high school districts in the county and to the state special
21 revenue fund, state equalization aid account, in the
22 following manner:
23 (a) In order to determine the amount of revenue raised
24 by this levy which is retained by the county, the estimated
25 revenues identified in subsections (2)(a) and (2)(b) below

1 shall be subtracted from the sum of the county's high school
2 tuition obligation and the total of the foundation programs
3 of all high school districts of the county.
4 (b) If the basic levy prescribed by this section
5 produces more revenue than is required to finance the
6 difference determined above, the county treasurer shall
7 remit the surplus to the state treasurer for deposit to the
8 state special revenue fund, state equalization aid account,
9 immediately upon occurrence of a surplus balance and each
10 subsequent month thereafter, with any final remittance due
11 no later than June 20 of the fiscal year for which the levy
12 has been set.
13 (2) The proceeds realized from the county's portion of
14 the levy prescribed in this section and the revenues from
15 the following sources shall be used for the equalization of
16 the high school district foundation programs of the county
17 as prescribed in 20-9-334, and a separate accounting shall
18 be kept of these proceeds by the county treasurer in
19 accordance with 20-9-212(1):
20 (a) any money remaining at the end of the immediately
21 preceding school fiscal year in the county treasurer's
22 accounts for the various sources of revenue established in
23 this section;
24 (b) any federal or state moneys, including anticipated
25 or reappropriated motor vehicle fees and reimbursement under

the provisions of 61-3-532 and 61-3-536, distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section; ~~and~~

(c) net proceeds taxes for new production, as defined in 15-23-601; and

(d) sales tax and use tax revenue."

Section 96. Section 20-9-352, MCA, is amended to read:

"20-9-352. Permissive amount and permissive levy. (1) Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy on the taxable value of all taxable property within the district as prescribed in 20-9-141, supplemented with any biennial appropriation by the legislature for this purpose. The proceeds of such an appropriation shall be deposited to the state special revenue fund, permissive account.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county

commissioners shall annually set a levy not exceeding 6 mills on all the taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 6 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy~~,~~ plus anticipated or reappropriated motor vehicle fees, ~~and~~ reimbursement under the provisions of 61-3-532 and 61-3-536, ~~is~~ and sales tax and use tax revenue are not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 4 mills on all taxable property in the district for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 4 or by using the number of mills which would fund the permissive amount, whichever is less. If the amount of revenue raised by this levy~~,~~ plus anticipated motor vehicle fees, ~~and~~ reimbursement under the provisions

of 61-3-532 and 61-3-536, ~~and plus~~ net proceeds taxes for new production~~,~~ as defined in 15-23-601, ~~is~~ and sales tax and use tax revenue are not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(3) The superintendent of public instruction shall, if the appropriation by the legislature for the permissive account for the biennium is insufficient, request the budget director to submit a request for a supplemental appropriation in the second year of the biennium. The supplemental appropriation shall provide enough revenue to fund the permissive deficiency of the elementary and high school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.

(4) Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January

1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 97. Section 20-9-501, MCA, is amended to read:

"20-9-501. Retirement fund. (1) The trustees of any district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to such systems. The district's contribution for each employee who is a member of the teachers' retirement system shall be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system shall be calculated in

accordance with 19-3-801. The district may levy a special tax to pay its contribution to the public employees' retirement system under the conditions prescribed in 19-3-204. The district's contributions for each employee covered by any federal social security system shall be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance shall be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of any district required to make a contribution to any such system shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution and such additional moneys, within legal limitations, as they may wish to provide for the retirement fund cash reserve. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to such systems in accordance with the financial administration provisions of this title.

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

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

(i) any anticipated moneys that may be realized in the

retirement fund during the ensuing school fiscal year, including anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536;

(ii) net proceeds taxes for new production, as defined in 15-23-601; ~~and~~

(iii) sales tax and use tax revenue; and

~~(iii)~~(iv) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the retirement fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the retirement fund. The retirement fund cash reserve shall not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and shall be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget.

(b) subtracting the total of the moneys available for reduction of the levy requirement as determined in subsection (3)(a) from the budgeted amount for expenditures in the final retirement fund budget.

(4) The county superintendent shall total the net retirement fund levy requirements separately for all elementary school districts, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative

agreement levy requirements, and shall report each such levy requirement to the county commissioners on the second Monday of August as the respective county levy requirements for elementary district, high school district, and community college district retirement funds. The county commissioners shall fix and set such county levy in accordance with 20-9-142.

(5) The net retirement fund levy requirement for a joint elementary district or a joint high school district shall be prorated to each county in which a part of such district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each such county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.

(6) The net retirement fund levy requirement for districts that are members of special education cooperative agreements shall be prorated to each county in which such district is located in the same proportion as the budget for the special education cooperative agreement of the district bears to the total budget of the cooperative. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and fix

and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152."

Section 98. Section 20-9-502, MCA, is amended to read:

"20-9-502. Purpose and authorization of a building reserve fund by an election. (1) The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

(a) the purpose or purposes for which the new or addition to the building reserve will be used;

(b) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b); and

(d) any other requirements under 20-20-201 for the calling of an election.

(2) The total amount of building reserve when added to

the outstanding indebtedness of the district shall not be more than ~~45%~~ 52% of the taxable value of the taxable property of the district. Such limitation shall be determined in the manner provided in 20-9-406. A building reserve tax authorization shall not be for more than 20 years.

(3) The election shall be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election shall be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE--YES" if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE--NO".

Shall the trustees be authorized to impose an additional levy each year for .... years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of .... dollars

($....), for the purpose(s) .... (here state the purpose or purposes for which the building reserve will be used)?

BUILDING RESERVE--YES.

BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used."

Section 99. Section 20-10-144, MCA, is amended to read:

"20-10-144. Computation of revenues and net tax levy requirements for the transportation fund budget. Before the fourth Monday of July and in accordance with 20-9-123, the

county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

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

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

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

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

(d) the amount budgeted on the preliminary budget for

the contingency amount permitted in 20-10-143, except if such amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in this determination of the schedule amount.

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

(a) the resulting one-third amount shall be the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

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

(c) the resulting one-third amount multiplied by 2 shall be the budgeted county transportation reimbursement

amount for high school districts financed under the provisions of subsection (5) of this section, except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (2)(b) or (2)(c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint district, after the application of any district moneys under subsection (2)(d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

(3) The total of the moneys available for the reduction of property tax on the district for the

transportation fund shall be determined by totaling:

(a) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other anticipated federal moneys received in lieu of such federal act; plus

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

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

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

(e) anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536; plus

(f) net proceeds taxes for new production, as defined in 15-23-601; plus

(g) sales tax and use tax revenue; plus

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

~~(h)~~(i) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash

reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

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

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

(b) subtracting the amount of moneys available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection (4)(a) above.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements

determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with 20-9-142."

Section 100. Section 33-7-407, MCA, is amended to read:

"33-7-407. Taxes. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on gross receipts taxable under the sales and use tax and taxes on real estate property and office equipment improvements."

Section 101. Section 61-3-431, MCA, is amended to read:

"61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification plate -- publicly owned special mobile equipment. (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in 61-1-104 and occasionally moves that equipment on, over, or across the highways of the state is not subject

to registration of that equipment or required to pay the fees and charges provided for in ~~61-3-502,~~ 61-4-301 through 61-4-308, or part 2 of chapter 10. Prior to movement on the highways, however, each piece of equipment shall display an equipment identification plate or a dealer's license plate attached to the equipment.

(2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall be made on a form furnished by the department of justice, together with the payment of a fee of $5. The equipment for which a special mobile equipment plate is sought is subject to the assessment of personal property taxes on the date application is made for the plate. The personal property taxes assessed against the special mobile equipment must be paid before the issuance of a special mobile equipment plate. The fees collected under this section belong to the county road fund.

(3) The identification plate expires on December 31 of each year. If the expired identification plate is displayed, an owner of special mobile equipment registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification plate or receipt of the current year.

(4) Publicly owned special mobile equipment and implements of husbandry used exclusively by an owner in the conduct of his own farming operations are exempt from this section."

Section 102. Section 61-3-501, MCA, is amended to read:

"61-3-501. When vehicle taxes and fees are due. (1) Property All taxes, ~~new-car-taxes,~~ ~~light~~ except sales and use taxes paid at the time of purchase, and all vehicle license fees, and fees in lieu of tax on a motorcycle, quadricycle, motor home, or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, property taxes, ~~light~~ vehicle license fees, or the fee in lieu of property taxes ~~abate~~ abates on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes or the fee in lieu of tax due and owing on the vehicle.

(3) In the event a vehicle's registration period is changed under 61-3-315, all taxes and other fees due thereon shall be prorated and paid from the last day of the old period until the first day of the new period in which the

vehicle shall be registered. Thereafter taxes and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees shall be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

Section 103. Section 61-4-112, MCA, is amended to read:

"61-4-112. New motor vehicles -- transfers by dealers. (1) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

(a) issue and affix a sticker as prescribed in 61-4-111(1)(a) for transfers of used motor vehicles and retain a copy of the sticker;

(b) within 4 working days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides:

(i) one copy of the sticker issued under subsection (1)(a); and

(ii) an application for certificate of title with a notice of security interest, if any, executed by the

purchaser or recipient~~;-and~~

~~(iii)-a--statement---of---origin---as---prescribed---in 61-3-502(7)(b)~~.

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of ownership and certificate of registration together with a statement of lien as provided in 61-3-202."

Section 104. Section 61-10-231, MCA, is amended to read:

"61-10-231. Enforcement. The highway patrol and any designated employee of the department of highways shall enforce this part ~~and-61-3-502(1)~~, and those persons shall examine and inspect the motor vehicles operating upon the highways in this state and regulated by this part ~~and 61-3-502(1)~~ to ascertain whether or not those laws are being complied with."

Section 105. Section 61-12-206, MCA, is amended to read:

"61-12-206. Offenses for which arrest authorized. (1) Employees appointed under 61-12-201 may make arrests for violations of the following statutory provisions only:

(a) part 1, chapter 10, of this title;

(b) part 3, chapter 4, of this title;

(c) sections 15-24-201 through 15-24-205;

(d) sections 15-70-302 through 15-70-307;

(e) sections 15-70-311 through 15-70-314;

~~(f)--section-61-3-502(1),~~

~~(g)~~(f) sections 61-10-201 through 61-10-215;

~~(h)~~(g) sections 61-10-222 through 61-10-224;

~~(i)~~(h) sections 61-10-231 through 61-10-233.

(2) These employees may not arrest for violations other than specified in this section."

Section 106. Section 67-3-201, MCA, is amended to read:

"67-3-201. Aircraft registration and licensing. (1) Except as provided in 67-3-102 and in subsection ~~(7)~~ (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or approved by the United States government which has been registered with the department and the registration with the department is in force.

(2) Aircraft customarily kept in this state shall be registered with the department, which may charge a fee therefor of not more than $10. The registration shall be renewed annually on or before March 1 each year.

(3) Section 67-3-202 and subsections (2) through ~~(7)~~ (6) of this section shall not apply to:

(a) aircraft owned and operated by the federal government, the state, or any political subdivision thereof;

(b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

(c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate or international transportation; or

(d) dismantled or otherwise nonflyable aircraft.

(4) An aircraft shall be registered as property within a particular county of the state. This county shall be the county of the owner's principal residence, if the owner is a natural person, or the owner's principal place of doing business in the state, if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is customarily kept at a landing facility in another county within the state, he may register the aircraft as property within such other county.

~~(5)--Except-as-provided-in-15-6-210,-all-aircraft-shall be--subject--to--all--state,-county,-and-school-district-tax levies-and-all-other--levies--designated--for--aircraft---or airport-related--uses.--Such-aircraft-shall-not-be-liable-for other-city-tax-levies.~~

~~(6)~~(5) Aircraft not registered in the state but entering the state to engage in commercial operations shall

be registered prior to commencing operation.

~~(7)~~(6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued by the United States government shall file with the department an appropriate registration recognized and approved by the United States government."

Section 107. Section 67-3-202, MCA, is amended to read:

"67-3-202. Penalty for registration violations. (1) When an aircraft required to be registered under the provisions of subsections (2) through ~~(7)~~ (6) of 67-3-201 is not registered on or before March 1 of the current calendar year, a penalty fee of $100 shall be added to the registration fee and collected. Registration of an aircraft in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that the aircraft has been based in this state during the year for which application for registration is made.

~~(2)--Except--for-aircraft-exempt-from-property-taxation as-provided-in-15-6-210,--an--application--for--registration shall--be--accompanied--by--a--copy--of--the--receipt-for-or statement-of-personal--property--tax--paid,--signed--by--the treasurer-of-the-county-where-the-aircraft-is-registered,-or a-statement-of-lien-assignment-against-real-property,-signed by--the--county-assessor-where-the-aircraft-is-registered.-A person-who-pays-personal-property-tax-on-his-aircraft-to-any jurisdiction-other-than-the-county--where--the--aircraft--is required--to--be--registered--is--liable-for-the-tax-in-that county-without-credit-for-such-other-taxes-paid.-In-addition to-this-civil-liability,-a-person-who-attempts-to--establish the-situs-of-his-aircraft-in-any-jurisdiction-other-than-the county--where-the-aircraft-is-required-to-be-registered-with intent-to-avoid-payment-of-taxes-to-that-county-commits--the offense-of-false-swearing-as-defined-in-45-7-202.~~

~~(3)~~(2) A person who operates an aircraft required to be registered in the state without having displayed upon such aircraft a certificate of registration issued by the department for that aircraft commits a misdemeanor."

Section 108. Section 81-6-104, MCA, is amended to read:

"81-6-104. ~~Tax--levy~~ Levy -- special fund. ~~Said~~ The county livestock protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of-a-tax-in-an~~ amount not to exceed 50 cents per head on all ~~assessable~~ cattle in the county on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as other taxes on personal property and when collected to be deposited by the county treasurer in a special fund to be known as the stockmen's

special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 109. Section 81-6-204, MCA, is amended to read:

"81-6-204. ~~Tax--levy~~ Levy -- deposit of proceeds. ~~Said~~ The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of a tax in an amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited in the county treasury of one of the counties in the district, to be selected by the district cattle protective committee, in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 110. Section 81-6-209, MCA, is amended to read:

"81-6-209. ~~Tax-levy~~ Levy -- deposit of proceeds. ~~Said~~ The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of a tax in--an amount~~ not to exceed 50 cents per head on all ~~assessable~~

cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited in the county treasury in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part."

Section 111. Section 81-7-201, MCA, is amended to read:

"81-7-201. County levy for bounties on predatory animals. Whenever the owners, agent, or agents of the owners representing 51% of the livestock of any county in this state present a petition to the board of county commissioners of such county asking for the levy of a tax upon the livestock of the county for the purpose of paying bounties on predatory animals killed in the county, it is the duty of the board of county commissioners to make the levy, which may not exceed ~~50 mills on--the--dollar--of--the taxable--value--of~~ $1 per head of livestock on all livestock in the county. The ~~tax~~ levy shall be assessed and collected in the same manner as ~~all other~~ state and county taxes."

Section 112. Section 81-7-202, MCA, is amended to read:

"81-7-202. Signers of petition -- time for presenting

-- limitation on bounties -- bounty inspectors. (1) The petition provided for in 81-7-201 shall be signed by the owners, agent, or agents of not less than 51% of the livestock of such county ~~as ascertained from the assessment books of such county~~ and shall recommend to the board of county commissioners the bounties to be paid on such predatory animals, which shall not exceed the following:

(a) on each wolf or mountain lion, $100;

(b) on each wolf pup or mountain lion kitten, $20;

(c) on one coyote, $5;

(d) on each coyote pup, $2.50.

(2) Such petition shall be presented not later than August 1 of each year, and the board of county commissioners on determining the sufficiency of such petition shall make an order granting such petition, which order shall fix the levy for that year and the amount of the bounties to be paid for the killing of each such predatory animal, which shall not exceed the amounts recommended in such petition, and appoint not less than 10 or more than 20 stockowners of such county to be bounty inspectors under this part, without compensation, who shall hold their offices for 1 year."

Section 113. Section 81-7-303, MCA, is amended to read:

"81-7-303. County commissioners permitted to require per capita license fee on sheep. (1) To defray the expense

of such protection the board of county commissioners of any county shall have the power to require all owners or persons in possession of any sheep coming 1 year old or over in the county on the regular assessment date of each year to pay a license fee in an amount to be determined by the board on a per head basis for sheep so owned or possessed by him in the county. All owners or persons in possession of any sheep coming 1 year old or over coming into the county after ~~the regular assessment date and subject to taxation under the provisions of 15-24-301~~ January 1 shall also be subject to payment of the license fee herein prescribed.

(2) Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county by the county assessor. Said license fees shall be payable to and collected by the county treasurer, and when so levied, shall be a lien upon the property, both real and personal, of the licensee. In case the person against whom said license fee is levied owns no real estate against which said license fee is or may become a lien, then said license fee shall be payable immediately upon its levy and the treasurer shall collect the same in the manner provided by law for the collection of personal property taxes which are not a lien upon real estate.

(3) When collected, said fees shall be placed by the

treasurer in the predatory animal control fund and the moneys in said fund shall be expended on order of the board of county commissioners of the county for predatory animal control only."

Section 114. Section 81-7-305, MCA, is amended to read:

"81-7-305. Duty of county commissioners -- petition of sheep owners -- license fees. (1) In conducting a predatory animal control program, the board of county commissioners shall give preference to recommendations for such program and its incidents as made by organized associations of sheep growers in the county. Upon petition of the resident owners of at least 51% of the sheep in the county, as shown by the ~~assessment rolls of the last preceding assessment~~ best available records, which petition shall be filed with the board of county commissioners on or before the first Monday in December in any year, such board shall establish the predatory animal control program and cause said licenses to be secured and issued and the fees collected for the following year in such amount as will defray the cost of administering the program so established. The license fee determined and set by the board shall remain in full force and effect from year to year without change, unless there is filed with the board a petition subscribed by the resident owners of at least 51% of the sheep in the county, as shown

by the ~~assessment rolls of the last assessment preceding the filing of the petition~~ best available records, for termination of the program and repeal of the license fee, in which event the program shall by order of the board of county commissioners be disestablished and the license fee shall not be further levied.

(2) If the resident owners of at least 51% of the sheep in the county either petition for an increase in the license fee or petition for a decrease in the license fee then in force, the board of county commissioners shall upon receipt of any such petition fix a new license fee to continue from year to year and the program shall thereupon continue within the limits of the aggregate amount of the license fee as collected from year to year."

Section 115. Section 81-8-804, MCA, is amended to read:

"81-8-804. Assessments -- refunds. (1) There is levied, in addition to ~~the tax on livestock prescribed in Title 15, chapter 24, part 9~~ other fees levied, a per head ~~tax~~ levy of 25 cents on each head of cattle that is more than 9 months of age and is owned or possessed within a county for the support and maintenance of research into beef production as provided in this part. The ~~tax~~ levy shall be paid to the county treasurer of that county on or before March 1 of each year.

(2) The ~~tax~~ levy required in subsection (1) must be paid for each head of cattle that is more than 9 months of age and is brought into the county after March 1 ~~and is subject to taxation and assessment under 15-24-301~~.

(3) Each county is entitled to receive $250 annually as reimbursement for the administration of this section.

(4) A person who has paid the ~~tax~~ levy required by this section may obtain a refund of the ~~tax~~ levy upon submission of a written request to the department. The application must be made within 30 days after the payment of the ~~tax~~ levy and on forms furnished by the department. The department shall, upon receipt of a timely and otherwise properly submitted refund request, refund the ~~tax~~ levy."

Section 116. Section 85-7-2001, MCA, is amended to read:

"85-7-2001. Limitations on debt-incurring power. (1) The board of commissioners or other officers of the district may not incur any debt or liability, either by issuing bonds or otherwise, except as provided in this chapter. No irrigation district may become indebted, in any manner or for any purpose in any one year, in an amount exceeding ~~18.75%~~ 22% of the assessed valuation of the district, except as provided in subsection (2).

(2) (a) For the purpose of organization; for any of the immediate purposes of this chapter; to make or purchase

surveys, plans, and specifications; for stream gauging and gathering data; or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district and may cause warrants of the district to issue therefor.

(b) For the purpose of organization, for any of the immediate purposes of this chapter, or to meet the expenses occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur (in addition to the ~~18.75%~~ 22% limitation of subsection (1)) an additional indebtedness not exceeding ~~12.5%~~ 14.5% of the assessed valuation of the district and may cause warrants of the district to issue therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision which expressly supersedes the limitation.

(3) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void."

NEW SECTION. Section 117. Submission to electorate. The question of whether sections 1 through 116 of this act

will become effective shall be submitted to the electors of Montana at the election called pursuant to section 118 by printing on the ballot the full title of this act and the following:

FOR imposing a 4% sales and use tax to

AGAINST imposing a 4% sales and use tax to

NEW SECTION. Section 118. Special election. Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, [sections 1 through 116], shall be submitted to the people for their approval or disapproval at a statewide election to be held June 9, 1987.

NEW SECTION. Section 119. Transmittal to the attorney general -- statements by attorney general. (1) The secretary of state shall, within 1 working day of receipt, transmit a copy of [this act] and a copy of the form in which the issue will appear on the ballot to the attorney general. The attorney general shall examine the ballot form submitted to his office and, within 7 days of receipt of the ballot form, notify the secretary of state of his approval or rejection of the ballot form.

(2) Upon receipt of the ballot form under subsection (1), the attorney general shall order a fiscal note, the substance of which must substantially comply with the provisions of 5-4-205. The budget director is responsible for preparing the fiscal note and shall return it within 4

days. The attorney general shall prepare a fiscal statement not exceeding 50 words, to be forwarded to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

(3) Upon receipt of the ballot form, the attorney general shall prepare a statement, not exceeding 100 words, expressing an impartial explanation of the purpose of sections 1 through 116 in plain, easily understood language. The statement may not be an argument for or against or written to create a prejudice for or against the issue. The attorney general shall forward the explanatory statement prepared under this subsection to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

NEW SECTION. Section 120. Secretary of state to certify form and ballot voter information. (1) Thirty-five days or more before the special election, the secretary of state shall certify to each county election administrator the form in which the issue is to appear on the ballot, as provided by 13-27-501. Each of the county election administrators shall order the official ballot to be printed in the form certified by the secretary of state.

(2) At least 20 days prior to the election called under section 119, the secretary of state shall deliver or have delivered to the counties sufficient copies of sections

1 through 116, the fiscal note, and the explanatory
statement prepared pursuant to [section 119], in such form
as the secretary of state determines.

(3) The county election administrator shall mail one
copy of the voter information required by subsection (2) to
each registered voter in the county, except that, for
purposes of this mailing, two or more voters with the same
last name and the same mailing address may be counted as one
voter. The mailing must take place no later than 1 week
after the pamphlets are received from the printer.

(4) The secretary of state may contract for the
printing and delivery of the voter information material
under the immediate procurement provisions of 18-4-133(2).

NEW SECTION. Section 121. Absentee ballots. The
county election administrator shall ensure that ballots are
printed and available for absentee voting at least 10 days
prior to the election.

NEW SECTION. Section 122. Determination of result of
special election. (1) The votes on sections 1 through 116
must be counted and canvassed following procedures
prescribed by the secretary of state.

(2) A report form for the abstract of votes shall be
prepared by the secretary of state and sent to the county
election administrators. The county election administrator
shall provide the required information and shall send the

abstract of votes to the secretary of state by certified
mail in an envelope marked "special election returns". Such
returns must be received by the secretary of state no later
than 5 p.m. on the sixth day following the election.

(3) The board of state canvassers shall meet on the
seventh day following the special election. The secretary of
state, as secretary of the board of canvassers, shall
prepare and file in his office a report of the canvass,
which lists:

(a) the total number of electors voting in each county
and in each legislative house district, together with the
total number of electors voting in the state; and

(b) the votes by county and legislative house district
for and against the issue, together with the total number of
votes cast for and against the issue in the state.

(4) The secretary of state shall transmit a certified
copy of the statement of the canvass to the governor and the
code commissioner within 10 days following the special
election.

NEW SECTION. Section 123. Application of election
laws. (1) Except as provided in sections 118 through 123,
the election called under section 118 must be conducted and
canvassed and the results returned in the manner provided in
Title 13 for a general election.

(2) The provisions of 13-2-301(1)(b), 13-12-201,

13-13-205, and Title 13, chapter 27, do not apply to the election called under section 118.

(3) The secretary of state shall publish notice of the election as provided in 13-1-108.

NEW SECTION. Section 124. Repealer. Sections 15-6-137 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146, 15-24-304, 15-24-901 through 15-24-906, 15-24-908 through 15-24-911, 15-24-921 through 15-24-926, 15-24-931, 15-24-941 through 15-24-943, 61-3-502, 61-3-605, and 81-7-118, MCA, are repealed.

NEW SECTION. Section 125. Codification instruction. (1) Sections 1 through 43 are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to sections 1 through 43.

(2) Sections 44 through 48 are intended to be codified as an integral part of Title 81, chapter 3, and the provisions of Title 81, chapter 3, apply to sections 44 through 48.

(3) Section 49 is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to section 49.

NEW SECTION. Section 126. Extension of authority. Any existing authority of the department of revenue, department of livestock, the board of livestock, the department of highways, the department of commerce, or the board of

aeronautics to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 127. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 128. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 129. Effective dates. (1) This act, except sections 117 through 123, 130, and this section, is effective upon approval by the electorate.

(2) Sections 117 through 123, 130, and this section are effective on passage.

NEW SECTION. Section 130. Applicability. (1) Sections 1 through 43 apply on and after June 1, 1988.

(2) Sections 44 through 48 apply on and after January 1, 1988.

(3) Section 49 applies to taxable years beginning after December 31, 1987.

(4) Sections 50 through 116 apply to taxable years, fiscal years, and school fiscal years beginning after

1 December 31, 1988. However, all taxes, levies, fees,
2 assessments, and the like levied in 1988 for fiscal year
3 1989 must be paid and are collectible as provided by law.
4 (5) Sections 117 through 130 apply on passage.

-End-

Ex 3-19-87 Subc Reg. HB 377 Ram

Exh 3 19-87 377

MALD ANALYSIS — DEMO STUDY GROUP

STATEWIDE TAXABLE VALUE—1986 BY PROPERTY CLASS

		RATE	TAXABLE VALUE	MARKET	NEW TAXABLE VALUE	NEW RATE	TAX RELIEF @ 256 MILLS	EFFECTIVE TAX RATE
CLASS 1	NET PROCEEDS	1.0000	560,268,212	560,268,212	560,268,212	1.0000	0	25.60%
CLASS 2	GROSS PROCEEDS							
	COAL STRIP MINES	0.4500	142,267,043	316,148,984	142,267,043	0.4500	0	11.52%
	UNDERGROUND COAL	0.3330	0	0	0	0.3330	0	ERR
	METAL MINES	0.0300	2,528,670	84,288,937	2,528,670	0.0300	0	0.77%
CLASS 3	AGRICULTURAL LAND							
	IRRIGATED	0.3000	13,856,291	46,187,635	13,856,291	0.3000	0	7.68%
	NON-IRRIGATED	0.3000	80,393,918	267,979,728	80,393,918	0.3000	0	7.68%
	GRAZING	0.3000	38,478,575	128,261,918	38,478,575	0.3000	0	7.68%
	WILD HAY	0.3000	5,531,197	18,437,322	5,531,197	0.3000	0	7.68%
EXEMPT								
	UNPROCESSED AG PRODUCTS	0.04	6,147,876	153,696,900	0	0.00000	1,573,856	0.00%
	HORSES	0.04	699,942	17,498,543	0	0.00000	179,185	0.00%
	CATTLE	0.04	21,184,602	529,615,047	0	0.00000	5,423,258	0.00%
	SHEEP	0.04	624,932	15,623,289	0	0.00000	159,982	0.00%
	SWINE	0.04	289,437	7,235,919	0	0.00000	74,096	0.00%
	OTHER LIVESTOCK	0.04	193,936	4,848,410	0	0.00000	49,648	0.00%
CLASS 4								
	RES CITY/TOWN (N)	0.0386	96,459,428	2,498,948,899	74,968,467	0.0300	5,501,686	0.77%
	FARMSTEAD (N)	0.03088	3,692,700	119,582,249	3,587,467	0.0300	26,937	0.77%
	LOW INCOME (N)	0.01390	18,891	1,359,082	40,772	0.0300	(5,602)	0.77%
	RES SUBURBAN TRACTS (N)	0.0386	71,029,054	1,840,130,921	55,203,928	0.0300	4,051,232	0.77%
	LOW INCOME (N)	0.0174	1,035,382	59,642,005	1,789,260	0.0300	(192,831)	0.77%
	RES SUBURBAN (I)	0.0386	124,169,958	3,215,838,301	96,509,149	0.0300	7,082,131	0.77%
	RES CITY/TOWN (I)	0.0386	278,450,863	7,213,753,074	216,412,592	0.0300	15,881,799	0.77%
	LOW INCOME (I)	0.0278	4,387,366	157,840,318	4,735,216	0.0300	(68,836)	0.77%
	MOBILE HOMES (P)	0.0386	14,628,958	378,988,539	11,369,657	0.0300	834,381	0.77%
	RET/DISABLED (P)	0.0386	464,315	12,028,897	360,867	0.0300	26,483	0.77%
CLASS 4A								
	TIMBERLAND (A)	0.0384	6,599,953	171,873,768	5,156,213	0.0300	369,597	0.77%
	INDUSTRIAL SITES	0.0386	3,226,828	83,536,573	2,507,897	0.0300	184,046	0.77%
	GOLF COURSES	0.0119	111,102	9,312,863	186,257	0.0200	(19,240)	0.51%
	LOC ASSESSED COOP (N) *	0.0300	7,146	238,194	7,146	0.0300	0	0.77%
	IMPROVED IMPROVEMENTS	0.03747	273,332	7,294,690	218,841	0.0300	13,350	0.77%
	AG & TIMBERLAND (I)	0.03088	51,362,278	1,663,286,189	49,898,586	0.0300	374,705	0.77%
	SAME (LOW INC)	0.02779	130,374	4,691,403	140,742	0.0300	(2,654)	0.77%
	DISP OWNED AG	0.0386	690,352	17,884,775	536,543	0.0300	39,375	0.77%
	RIGHT OF WAY	0.0386	931,342	24,128,024	723,841	0.0300	53,120	0.77%
	HYDRAULIC POWER WORKS	0.0386	19,244	498,541	14,956	0.0300	1,038	0.77%
	INDUSTRIAL SITES (I)	0.0386	23,276,237	603,011,330	18,090,340	0.0300	1,327,530	0.77%
	QUALIFIED GOLF COURSES	0.0133	364,039	18,862,113	377,242	0.0200	(3,380)	0.51%
CLASS 5								
	LOC ASSESSED CO-OPS(I)*	0.0300	74,224	2,474,132	74,224	0.03000	0	0.77%
	LOC ASSESSED COOP VEH *	0.0300	49,170	1,638,932	49,170	0.03000	0	0.77%
	P/P LOC COOP *	0.0300	480,538	16,017,936	480,538	0.03000	0	0.77%
	GASOHOL RELATE *	0.0300	5,634	187,778	5,634	0.03000	0	0.77%
	NEW INDUSTRIAL	0.0300	1,414,705	47,156,847	1,414,705	0.03000	0	0.77%
	IMP NEW INDUST	0.0300	7,923,192	264,106,395	7,923,192	0.03000	0	0.77%
	NEW INDUST SITES	0.0300	9,493	316,428	9,493	0.03000	0	0.77%
	POLLUTION EQUIP	0.0300	11,744,388	391,479,614	11,744,388	0.03000	0	0.77%
	RURAL CO-OPS	0.0300	8,825,539	294,184,640	8,825,539	0.03000	0	0.77%
CLASS 6								
	AG IMPLEMENTS	0.11	64,275,819	584,325,625	35,059,538	0.06000	7,473,368	1.54%
	FURNITURE/FIXTURES	0.1300	42,800,146	329,231,889	19,753,913	0.06000	5,893,835 *	1.54%
	NON FARM/MINING/MAN	0.1100	18,451,826	167,743,873	10,064,632	0.06000	2,147,122	1.54%
	SKI LIFTS	0.1100	237,083	2,155,303	129,318	0.06000	27,588	1.54%
	REPAIR TOOLS	0.0800	4,915,980	61,449,754	3,686,985	0.06000	314,623	1.54%
	MAN MACHINERY	0.1100	76,807,085	698,246,230	41,894,774	0.06000	8,937,552	1.54%
	MINING MACHINERY	0.1100	9,771,934	88,835,768	5,330,146	0.06000	1,137,038	1.54%
	OILFIELD EQUIP	0.1100	23,584,638	214,405,801	12,864,348	0.06000	2,744,394	1.54%
	SUPPLIES/MATERIALS	0.1100	5,646,377	51,330,700	3,079,842	0.06000	657,033 *	1.54%
	RURAL TELEPHONE	0.0800	82,679	1,033,486	62,009	0.06000	5,291	1.54%
	CABLE TV	0.1600	1,722,544	10,765,838	645,954	0.06000	275,607	1.54%
	THEATRE EQUIP	0.1600	103,146	644,663	38,680	0.06000	16,503	1.54%
	RADIO/TV BROADCAST	0.1600	995,484	6,221,772	373,306	0.06000	159,277	1.54%
	CBS/MOBILE PHONES	0.1300	152,185	1,170,651	70,239	0.06000	20,378	1.54%
	RENTAL EQUIP	0.1100	539,371	4,903,377	294,203	0.06000	62,763	1.54%
	ALL OTHER	0.1600	249,433	1,558,956	93,537	0.06000	39,909	1.54%
	TRUCKS 1-1&1/2 TON	0.1300	4,069,833	31,306,411	1,878,385	0.06000	561,011	1.54%
	TRUCKS OVER 1&1/2	0.1600	13,764,613	86,028,830	5,161,730	0.06000	2,202,338	1.54%
	BUSES	0.1300	264,651	2,035,777	122,147	0.06000	36,481	1.54%
	COMM TRAILERS	0.1600	2,233,018	13,956,361	837,382	0.06000	357,283	1.54%
	UTILITY/OTHER TRAILERS	0.1100	2,723,685	24,760,773	1,485,646	0.06000	316,338	1.54%
	COAL/ORE HAULERS	0.1600	3,391,631	21,197,691	1,271,861	0.06000	542,661	1.54%
	IND TELEPHONE	0.1100	3,869,781	35,179,824	2,110,789	0.06000	450,302	1.54%
CLASS 7								
	CAP/ELECTRIC	0.1200	106,631,132	888,592,767	106,631,132	0.12000	0	3.07%
	CAP/NATURAL GAS	0.1200	537,212	4,476,769	537,212	0.12000	0	3.07%
	CAP/GAS & ELECT	0.1200	128,956,748	1,074,633,569	128,956,748	0.12000	0	3.07%
	PIPELINES	0.1200	46,777,120	389,809,333	46,777,120	0.12000	0	3.07%
	TELECOMMUN	0.1200	57,853,694	482,114,113	57,853,694	0.12000	0	3.07%
CLASS 8								
	RAILROADS	0.1200	83,842,831	698,690,259	79,650,690	0.1140	1,073,188	2.92%
	AIRLINES	0.1200	4,036,161	33,634,675	3,834,353	0.1140	51,663	2.92%
EXEMPT								
	LAND (N)	0.00	0	148,397,267	0.00	0.00		
	IMPROVEMENTS	0.00	0	172,970,954	0.00	0.00		
	TACK EQUIPMENT	0.1100	239,000	2,172,731	0	0.00000	61,184 *	0.00%
	RENTAL EQUIP	0.0400	176,784	4,419,600	0	0.00000	45,257 *	0.00%
	MOTORCYCLES	0.1100	364,472	3,313,385	0	0.00000	93,305 *	
	AIRCRAFT	0.1100	4,596,761	41,788,739	0	0.00000	1,176,771 *	
	WATERCRAFT	0.1100	3,827,920	34,799,276	0	0.00000	979,948 *	
	ATV	0.1100	663,713	6,033,750	0	0.00000	169,910 *	
			2,293,609,700	27,603,259,775	1,987,233,082		78,432,414	
RAIL ROAD / AIRLINE		N/A		11,339,331,957 411,734,332,088	0.114			

CLASS 4 RESIDENTIAL EXEMPTION AT 20,000

ALL RESIDENCES AND TRAILERS	56,286,441	134,718,855
OWNER OCCUPIED ONLY	45,817,163	124,249,577
CLASS 4 RESIDENTIAL EXEMPTION AT 16,500	32,000,000	110,432,414
FEE IN LIEU CATEGORIES	2,419,934	

#3
3-19-87
841

CONCERNING THE PROPERTY REPLACEMENT TAX BILL: HB 841

1. It is traditional in our history that ownership of property reflected ability to pay taxes. This is no longer true, especially as relates to housing. The signers of I 105 and CI 27 were, not all but mostly, people who feel that the tax on housing is too high.

2. We all live in housing and pay taxes thereon which we can't pass on as can owners of some other kinds of property: illustrations are utilities, factories, commercial buildings, etc. For people suddenly hit with loss of income through sickness or loss of a job this can be devastating.

3. State administration is necessary for confidentiality and other reasons, but it does this for the counties which shall each pay its proportionate share of the cost. This cost will be less than many assume 1. withholding is already in place, 2. the state income tax is already in place, ans 3. county officials have always set mill levies and this will be only a minor adjustment for them.

4. After the first year there should be less work for the assessors and tax appeal boards. And while the DOR will have this new law to administer, it will no longer have to administer 15-30-171 thru 179: the elderly homeowners and renters tax relief.

5. For owners of habitable peoperty the property tax bills will be very small and more people will, no doubt, pay all of it in November.

6. The replacement tax will be on ability to pay, and it will be a proportional tax. This will be better than at present because the tax on habitable property is, in general, regressive. Progressivity in taxation is the province of the State Income Tax.

7. There will be a favorable effect on the general fund of approximately $6,000,000. for the next biennium because under the present law that amount will be paid to elderly homeowners and renters. This bill will take care of these people, and other unfortunate people, in a far more equitable manner, and it will not tap state funds.

8. While we cannot estimate the amount of the savings to SRS, the excusing of most taxes from Rest Homes should result in negotiated savings.

9. Locally, assessors and treasurers will have fewer headaches in dealing with mobile homes.

10. Without high taxes to budget for more people can buy homes, and homeowners and landlords will make more improvements since these will not add to the tax burden.

11. Thus this bill will solve or ameliorate several problems, and will not interfere with other bills which address the big problem of balancing the budget.

Amend House Bill No. 841, Introduced Copy

1. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "15-6-142"
Insert: "AND 15-30-171 THROUGH 15-30-179"

2. Page 14, line 16.
Strike: "May"
Insert: "June"

3. Page 14, line 18.
Following: "collected"
Strike: "in the same year"

4. Page 24, line 22.
Following: "Repealer."
Strike: "Section"
Insert: "Sections"
Following: "15-6-142"
Insert: "and 15-30-171 through 15-30-179"

5. Page 24, line 23.
Strike: "is"
Insert: "are"

Schedule of Implementation

Jan. 1, 1988	Withholding of 1.8% begins - Section 7 (1)
Each May & Nov. after implementation	State makes distribution to counties Section 17 (2)
April 15, 1988	The regular income tax returns for 1987 have been received and are in no way affected by this Bill. However, the Dept. may use them in helping to make the estimates required by Sec 13 (a).
In the first 6 months of 1988	A separate listing of habitable property is set up in each county - Section 3 (3)
2nd Monday in July 1988 & following	Estimates of of AGI have been received, taxable valuations are finalized, mill levies are set. Sec.15
August 15, 1988 and following years	Taxpayers not subject to withholding pay the Dept. 2% of 1st six months income. Sec. 8
Nov. 30, 1988 and as always	Regular property tax statements have been received and payments are due, as usual, on all taxable valuations except habitable.
April 15, 1989 and each year following	Regular income tax returns have been received in Helena and from the AGI on these returns the replacement tax statements are prepared and mailed. See section 9.

Further clarification of the property replacement tax

Every person in the State who pays the property replacement tax may be identified by:

Name _____ Soc. Sec. No. ___ __ _____

and by the following code number which will identify the governmental units to which he owes property replaxement tax:

County	School Dist.	City or Town
[ ][5]	[0][1]	[0][1]

For the county use the numbers which we now use on license plates.

For the School District use the number of the district as used in that county.

For the incorporated Cities or Towns in each county assign a number according to the last census. The city or town of largest population in the county to be number [0|1] and the others to be numbered in order. Of course, all rural residents and those in unincorporated towns will be numbered [0|0] .

The above identification may be on all withholding reports, and on all reports by those not subject to withholding, and on all income tax returns. Since the administrator of the property replacement tax will be highly trained in the use of computers, scanners, etc. he may or may not use the above plan. It is one way of identification.

CONCERNING IMPLEMENTATION OF H B 841

1 The 1987 property taxes are not affected by H B 841.

2. The 1st half of 1987 taxes are paid by November 30, 1987.

3. The 2nd half of 1987 taxes are paid by May 30, 1988

4. On Nov. 30, 1988 the first half of the 75 to 80% of 1988 taxes are paid as usual. The first half of the remaining 20 to 25% of the budget (formerly paid by housing but now paid by the replacement tax) are, on that same date of Nov. 30, 1988, sent to the county treasurers by the DOR.

5. On May 30, 1989 the second half of the 75 to 80% of the 1988 taxes are paid as usual. And on that same date, May 30, 1989, the DOR sends the second half of the 20 to 25% of the 1988 budgets (formerly paid by housing but now paid by the replacement tax) to the counties.

6. Thus the cash flow is in no way interrupted by the implementation of HB 841 except that the DOR should probably be given another month, to June 30th, to collect and remit the second half of the 1988 replacement tax.

SUGGESTED AMENDMENTS:

1. In the title of the bill insert Repeal Sections 15-30-171 thru 179 of the MCA

2. In Section 20 (2) line _____ change the month May to June. And in the same subsection lines _____ delete the words in the same year.

Ex
HB 377
Wms. amend
3-19-87

DRAFT

#5
3-19-87
377

PROPOSED AMENDMENTS
HOUSE BILL NO. 377
Introduced (white) Copy

1. Section . Section 15-6-134, MCA, is amended to read:

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

(a) all land ~~except that~~ not used for commercial purposes or specifically included in another class;

(b) all improvements ~~except those~~ not used for commercial purposes or specifically included in another class;

(c) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources including otherwise tax-exempt income of all types is not more than $10,000 for a single person or $12,000 for a married couple~~;~~.

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

(2) Class four property is taxed as follows:

(a) ~~Except as provided in 15-24-1402 or 15-24-1501, property~~ Property described in subsections (1)(a) and (1)(b) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value.

(b) Property described in subsection (1)(c) is taxed at ~~the taxable percentage rate "P"~~ 3% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%
3,001 - 4,000	3,601 - 4,800	30%
4,001 - 5,00	4,801 - 6,000	40%
5,001 - 6,000	6,001 - 7,200	50%
6,001 - 7,000	7,201 - 8,400	60%
7,001 - 8,000	8,401 - 9,600	70%
8,001 - 9,000	9,601 - 10,800	80%
9,001 - 10,000	10,801 - 12,000	90%

~~(c)--Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate "P" established in subsection (2)(a).~~

~~(3)--Until January 1, 1986, the taxable percentage rate~~

"P"-for-class-four-property-is-8.55%.

(4)--Prior-to-July-1,-1986,-the-department-of-revenue shall-determine-the-taxable-percentage-rate-"P"-applicable to-class-four-property-for-the-revaluation-cycle-beginning January-1,-1986,-as-follows:

(a)--The-director-of-the-department-of-revenue-shall certify-to-the-governor-before-July-1,-1986,-the-percentage by-which-the-appraised-value-of-all-property-in-the-state classified-under-class-four-as-of-January-1,-1986,-has increased-due-to-the-revaluation-conducted-under-15-7-111. This-figure-is-the-certified-statewide-percentage-increase.

(b)--The-taxable-value-of-property-in-class-four-is determined-as-a-function-of-the-certified-statewide percentage-increase-in-accordance-with-the-table-shown below:

(c)--This-table-limits-the-statewide-increase-in taxable-valuation-resulting-from-reappraisal-to-0%.-In calculating-the-percentage-increase,-the-department-may-not consider-changes-resulting-from-new-construction,-additions, or-deletions-during-calendar-year-1985.

(d)--The-taxable-percentage-must-be-calculated-by interpolation-to-coincide-with-the-nearest-whole-number certified-statewide-percentage-increase-from-the-following table:

Certified-Statewide Percentage-Increase -	Class-Four-Taxable- --Percentage-"P"-
--0	8.55-
-10	7.77-
-20	7.12-
-30	6.57-
-40	6.10-
-50	5.70-
-60	5.34-
-70	5.02-
-80	4.75-
-90	4.50-
100	4.27-
110	4.07-
120	3.88-
130	3.71-
140	3.56-
150	3.42-
160	3.28-
170	3.16-
180	3.05-
190	2.94-
200	2.85-
210	2.75-
220	2.67-
230	2.59-

~~240~~	~~2.51-~~
~~250~~	~~2.44-~~
~~260~~	~~2.37-~~
~~270~~	~~2.31-~~
~~280~~	~~2.25-~~
~~290~~	~~2.19-~~
~~300~~	~~2.13-~~

~~(5)--After-July-1,-1986,-no-adjustment-may-be-made-by the-department-to-the-taxable-percentage-rate-"P"-until-a revaluation-has-been-made-as-provided-in-15-7-111.-~~

~~(6)--Within-the-meaning-of-comparable-property-as defined-in-15-1-101,-property-assessed-as-commercial property-is-comparable-only-to-other-property-assessed-as commercial-property,-and-property-assessed-as-other-than commercial-property-is-comparable-only-to-other-property assessed-as-other-than-commercial-property.-"~~

NEW SECTION. **Section . Class twenty property -- description -- taxable percentage.** (1) Class twenty property includes:

(a) all land used for commercial purposes, except that specifically included in another class; and

(b) all improvements used for commercial purposes, except those specifically included in another class.

(2) Class twenty property is taxed at the taxable percentage rate applicable to class four property as provided in 15-6-134(2)(a).

(3) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property.

Ex
3-19-87
R Manuel

#6
3-19-87
377

Amendments to HB 377 (GRAY)

1. Title, page 2, line 7
   Following: ";"
   Insert: "PROVIDING FOR AN INDIVIDUAL INCOME TAX SURCHARGE IF THE SALES TAX REFERENDUM IS DEFEATED;"

2. Page 163, line 11
   Following: line 10
   Insert: "NEW SECTION. Section 125. Individual income tax surcharge. After the amount of tax liability has been computed under this chapter, each person filing a Montana individual income tax return shall add as a surtax 50% of the tax liability, and the amount so derived is the amount due the state."

3. Page 163, line 22.
   Following: line 21
   Insert: "(4) Section 125 is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30 apply to section 1.

4. Page 164, line 14.
   Following: "123,"
   Strike: "130"
   Insert: "125, 131"

5. Page 164, line 18
   Following: line 17
   Insert: "(3) Section 125 is effective only if sections 1 through 116 are not approved by the electorate. If sections 1 through 116 are approved by the electorate, section 125 is void."

6. Page 165, line 4.
   Following: "through"
   Strike: "130"
   Insert: "124 and 126 through 131"

7. Page 165, line 5
   Following: line 4
   Insert: "(6) If it becomes effective, section 125 applies to tax years beginning after December 31, 1987."

E:\hb377.txt/hm

#7
3-19-87
377

50th Legislature LC 156

STATEMENT OF INTENT

HB Bill No. 377

A statement of intent is required for LC 156 because section 37 of the bill requires the department of revenue to develop forms for returns, permits, and other necessary material. Section 37 also requires the department of revenue to adopt such rules as may be necessary to enforce the provisions of the Retail Sales and Use Tax Act of 1987.

The legislature contemplates that those rules should, at a minimum, address the following:

(1) the adoption of a permitting process;

(2) a process for revoking permits;

(3) the design, printing, and distribution of exemption certificates;

(4) circumstances under which a statement that the tax may not be absorbed by the retailer must be displayed by the retailer;

(5) procedures for filing returns and making payment of sales and use taxes collected;

(6) circumstances requiring the posting of security; and

(7) such other rules as may be necessary to effect the administration and enforcement of the Retail Sales and Use Tax Act.

6351d/c:Jeanne\WP:jj

EX
3-19-87 DOR
Amend
HB 436

Amend HB 436, Introduced (white) copy

1. Title, lines 4 through 9
   Following: "REQUIRING" ON LINE 4
   Strike: remainder of line 4 through "PROPERTY" on line 9
   Insert: "THE DEPARTMENT OF REVENUE TO CONDUCT A SALES ASSESSMENT RATIO STUDY FOR THE PURPOSE OF ANNUALLY DETERMINING THE CORRECT ASSESSMENT LEVEL FOR SIMILAR PROPERTY LOCATED IN SPECIFIC AREAS OF THE STATE OF MONTANA"

2. Title, line 9
   Following: "SECTIONS"
   Insert: "15-1-101, 15-7-102,"
   Following: "15-7-103"
   Insert: ","

3. Page 1, line 14
   Following: line 13
   Insert: "Section 1. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

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

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

(F) all property described in 15-6-136; and

(G) all property described in 15-6-146.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

(i) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

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

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

(l) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(m) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or

corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(n) The term "real estate" includes:

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

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

(o) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(p) The term "weighted mean assessment ratio" means the total of the assessed values divided by the total of the selling prices of all area sales in the stratum.

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

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 2. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) It shall be the duty of the department of revenue to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased by him and the appraisal of the improvements thereon only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;

(b) change in classification;

(c) change in valuation; or

(d) addition or subtraction of personal property affixed to the land.

(2) The notice of classification and appraisal provided by the department under subsection (1) must be on a standardized form adopted by the department containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of his property and of changes over the prior tax year.

(3) If the owner of any land and improvements is dissatisfied with the appraisal or classification of

his land or improvements, he may submit his objection in writing to the department's agent. The department shall give reasonable notice to such taxpayer of the time and place of hearing and hear any testimony or other evidence which the taxpayer may desire to produce at such time and afford the opportunity to other interested persons to produce evidence at such hearing. Thereafter, the department shall determine the true and correct appraisal and classification of such land or improvements and forthwith notify the taxpayer of its determination. In the notification, the department must state its reasons for revising the classification or appraisal. When so determined, the land shall be classified and improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make such records available for inspection during regular office hours.

(6) If any property owner shall feel aggrieved at the classification and/or the appraisal so made by the department, he shall have the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings shall be final subject to the right of review in the proper court or courts. <u>While the property owner may appeal the base year valuation and classification determination, the property owner may not appeal the yearly percentage adjustments that are specified in 15-7-111 and that may be made as a result of the sales assessment ratio study. The property owner may not appeal the stratum or area designations as specified in 15-7-111.</u>""

Renumber: subsequent sections

4. Page 2, line 23.
Following: line 22
Insert: "(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111 after January 1, 1986, all property classified in 15-6-134 must be appraised on its market value in the same year. The department shall publish a rule specifying the year used in the appraisal."
Renumber: subsequent subsection

5. Page 3, lines 6 and 7
Following: "property" on line 6
Strike: remainder of line 6 through "sample" on line 7

6. Page 3, line 10
Following: "state"
Strike: "by on-site appraisal"

7. Page 3, line 11
Following: "written"
Insert: "reappraisal"
Following: "plan"
Strike: "of rotation"

8. Page 3, lines 12 through 19
Following: "department" on line 12
Strike: remainder of line 12 through "sample" on line 19

9. Page 3, line 19
Following: "The"
Insert: "reappraisal"
Following: "plan"
Strike: "of rotation"

10. Page 3, line 21
Following: "revalued"
Strike: "by on-site appraisal"

11. Page 3, line 23
Following: "revalued"
Strike: "by on-site appraisal"

12. Page 3, line 25
Following: "to"
Strike: "each county assessor and"

13. Page 4, lines 2 through 15
Following: "(2)" on line 2
Strike: remainder of line 2 through line 15 in its entirety
Insert: "For the taxable year beginning January 1, 1988, and for every taxable year thereafter, the department shall conduct a stratified sales assessment ratio study of all residential real property and improvements, of all commercial and industrial real property and improvements, and of all other real property and improvements. The study must include such property as vacant land, agricultural improvements, and the 1-acre homesite beneath the agricultural residence.

(3) The study required in subsection (2) must be based on:

(a) the standards and methodology adopted by the international association of assessing officers in

their publication "Standard on Assessment Ratio Studies";

(b) assessments of the property described in subsection (2) as of January 1 of the year immediately preceding the taxable year for which the study is conducted;

(c) a statistically valid sample of sales, using data from realty transfer certificates filed for the taxable year immediately following the assessment date identified in subsection (3)(b); and

(d) the assessments and sales for areas of the state that are economically, demographically, and geographically similar in order to determine the sales assessment ratio for a specific area.

(4) For purposes of conducting the study required by subsection (2), the sales assessment areas are as follows:

(a) area 1:
- (i) Daniels County;
- (ii) Sheridan County;
- (iii) Roosevelt County;
- (iv) McCone County;
- (v) Valley County;
- (vi) Phillips County;
- (vii) Petroleum County;
- (viii) Garfield County; and
- (ix) Prairie County;

(b) area 2:
- (i) Richland County;
- (ii) Dawson County;
- (iii) Wibaux County;
- (iv) Fallon County;
- (v) Carter County;
- (vi) Powder River County;
- (vii) Rosebud County;
- (viii) Big Horn County; and
- (ix) Custer County;

(c) area 3:
- (i) city of Billings;

(d) area 4:
- (i) Yellowstone County (excluding the city of Billings);
- (ii) Treasure County;
- (iii) Musselshell County;
- (iv) Carbon County; and
- (v) Stillwater County;

(e) area 5:
- (i) Golden Valley County;
- (ii) Wheatland County;
- (iii) Fergus County;
- (iv) Judith Basin County;
- (v) Meagher County; and
- (vi) Sweet Grass County;

(f) area 6:

(i) Park County;
(ii) Gallatin County;
(iii) Broadwater County; and
(iv) Lewis and Clark County;

(g) area 7:
(i) city of Great Falls;

(h) area 8:
(i) Cascade County (excluding the city of Great Falls;
(ii) Chouteau County;
(iii Teton County;
(iv) Hill County;
(v) Liberty County;
(vi) Toole County;
(vii) Pondera County;
(viii) Glacier County; and
(ix) Blaine County;

(i) area 9:
(i) Madison County;
(ii) Beaverhead County;
(iii) Silver Bow County;
(iv) Jefferson County;
(v) Deer Lodge County;
(vi) Granite County; and
(vii) Powell County;

(j) area 10:
(i) city of Missoula;

(k) area 11:
(i) Missoula County (excluding the city of Missoula;

(l) area 12:
(i) Mineral County;
(ii) Sanders County; and
(iii) Lincoln County;

(m) area 13:
(i) Flathead County; and
(ii) Lake County.

(5) The department shall use the following procedures to resolve situations in similar areas of the state that have inadequate numbers of sales to conduct the statistically valid sample in a specific tax year:

(a) an extension of the time period from which sales are drawn and an adjustment of the sales price to acknowledge the different time period. At a minimum, the time adjustment must coincide with the consumer price index for that same time period.

(b) the use of fee appraisals in lieu of sales prices. The fee appraisal must be conducted by a certified appraiser who is not an employee of the department.

(c) the input of assessment ratio statistics developed from a model of the area. The information to be input into the study must be statistically valid

and must be developed by a certified statistician who is not an employee of the department.

(6) The departent shall use the following procedure to validate sales information:

(a) Department field staff are required to manually review each sales transaction evidenced by a realty transfer certificate. The review must be conducted to determine whether each sale was a valid, arms length transaction. Only valid, arm's-length sales may be used in the sales assessment ratio study.

(b) The valid sales information must be transmitted to the department. The department staff shall enter the sales information on the computer-assisted appraisal system in order to make the sales assessment ratio study. The sales information contained on the computer-assisted appraisal system is considered confidential, as provided in 15-7-308.

(c) The department shall exclude from the sales assessment ratio study any parcels in which the improvements have been remodeled, reconstructed, or expanded or that are wholly new construction after the assessment date identified in subsection (3)(b).

(d) The department shall exclude sales assessment ratios of less than 50% or greater than 200%.

(7) The department shall have equalized property values throughout the state when the following conditions are met:

(a) the overall assessment level for each stratum within each area identified in subsection 4 is within an interval of plus or minus 10% of the legal level of assessment, given an adequate sample size; and

(b) coefficients of dispersion with respect to the weighted mean assessment ratio for residential properties located within each area identified in subsection (4) are equal to or less than 20%;

(c) coefficients of dispersion with respect to the weighted mean assessment ratio for income-producing properties located within each area identified in subsection (4) are equal to or less than 20%;

(d) coefficients of a dispersion with respect to the weighted mean assessment ratio for other types of real property and improvements located within each area identified in subsection (4) are equal to or less than 20%.

(8)(a) When the overall assessment level of each stratum exceeds 10% of the legal level of assessment and when the coefficients of dispersion with respect to the weighted mean for each stratum exceed 20%, the department shall make percentage adjustments to the valuations of all the properties in a specific area strata. The percentage adjustments must create

compliance with subsection (7). The percentage adjustments must account for unique factors that affect values in the various areas.

(b) Under this method, all taxable property in each area is considered revalued for each tax year, based on the results of the sales assessment ratio study and any percentage adjustments required by that study."

14. Pages 4 and 5
Following: "1987" on line 24 of page 4
Strike: remainder of line 24 through "act" on page 5, line 4

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Ex 3-19-87 Leg Coll draft

50th Legislature LC 1517

STATEMENT OF INTENT

House Bill No. 377

A statement of intent is required for this bill because the department of revenue is granted authority to adopt rules for the administration and enforcement of the sales and use tax. The rules are intended to provide for an efficient process for the collection of e taxes, with minimum expense to both the taxpayer and the state.

The legislature contemplates that rules to be adopted by the department should, at a minimum, address the following:

(1) the registration and issuance of permits to persons engaging in the business of retail sales and services;

(2) the reporting form for the payment of the taxes, along with the requirements for the retention by the taxpayers of the necessary records;

(3) the required security and the acceptable forms of security for those taxpayers required to give security for payment of the taxes;

(4) the use of the nontaxable transaction certificate and clarification of any exemption from or deduction of the taxes;

(5) the necessary forms and the required procedures for reporting the taxes;

(6) the definition of terms and establishment of procedures as appropriate for efficient administration of the sales and use tax.

7068b/C:JEANNE\WP:jj

Ex Amend 3-19-87

3-19-87
768

Comments ~~Amendments~~ to HB ~~786~~ 768

Capital Gain Treatment

1) Property definitely included under Subchapter P, Chapter 1, Internal Revenue Code

Home
Personal auto
Household goods
Certain stocks and bonds
Real property not used in a trade business

2) Property that may be included under Subchapter, P, Chapter 1, Internal Revenue Code

Depreciable business property
Farm machinery
Equipment used in a business
    Typewriters and computers, etc.
Construction equipment
    Cranes, front end loaders, etc.
Breeding stock
Depreciable reality
    Barns, granaries, garages etc.

Stock and futures options

Franchises, trademarks, tradenames
Farmland
Real property sub-divided for sale
Small business stock
Patents

3) Property definitely not included under Subchapter P, Chapter 1, Internal Revenue Code

Inventory
Accounts Receivable
Livestock (other than breeding stock)

#9
3-19-87
816

PROPOSED AMENDMENTS

House Bill No. 816
First Reading (White) Copy

1. Title, line 10.
Following: "AND"
Strike: "A RETROACTIVE"
Insert: "AN"

2. Page 1, line 16.
Following: "that"
Insert: ": (a)"

3. Page 1, line 17.
Strike: "and"
Insert: "; (b) is"

4. Page 1, line 18.
Following: "products"
Insert: "; and (c) has not been in production for 12 consecutive months"

5. Pages 1 through 3.
Following: "shall" on page 1, line 20
Strike: the remainder of page 1 through line 2 on page 3
Insert: "reduce the assessed value by 25% a year for each year the plant continues to be out of production until the market value is reduced to salvage value.

(3) Following the commencement of production, property classified as class 20 must remain at the preceding year's valuation for the succeeding 12 months."
Renumber: subsequent subsection

6. Page 6, line 13.
Strike: "1986"
Insert: "1987"

db\dw3\amends\hb816-1

#10
3-19-87
821

AMENDMENT TO HOUSE BILL NO. 821

INTRODUCED COPY

1. Page 5, line 3.
Following: "1986"
Strike: "."
Insert: "and before January 1, 1989. It does not apply to taxable years beginning on or after January 1, 1989."

2. Page 5, line 7.
Following: "January 1,"
Strike: "1989"
Insert: "1990".

ilb/90
amendhb821

45
841

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 841 DATE March 19, 1987

SPONSOR Harper

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dennis Burr	MDOTA		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

HB876

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 876 DATE March [redacted] 19, 1987

SPONSOR Ramirez

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

MINUTES OF THE MEETING
TAXATION COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

March 19, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on March 19, 1987, at 8:50 p.m. in Room 312B of the State Capitol.

ROLL CALL: All members of the Committee were present, except Rep. Harrington, who was excused. Also present was Dave Bohyer, Researcher, Legislative Council.

DISPOSITION OF HOUSE BILL NO. 395: Chairman Ramirez made a motion that HB 395 DO PASS, and that proposed amendments (5), (6), and (7) be approved (Exhibit #1).

The motion to amend CARRIED 9-6 (roll call vote attached).

Chairman Ramirez made a motion that HB 395 DO PASS AS AMENDED. The motion CARRIED 9-6 (roll call vote attached).

DISPOSITION OF HOUSE BILL NO. 833 : Chairman Ramirez made a motion that HB 833 DO PASS, and that the proposed amendments be approved (Exhibit #2). The motion CARRIED 9-6 (roll call voted attached).

DISPOSITION OF HOUSE BILL NO. 842: Rep. Harp made a motion that HB 842 DO PASS, and a motion that the proposed amendments be approved (Exhibit #3). The motion to amend CARRIED 9-6 (roll call vote attached).

DISPOSITION OF HOUSE BILL NO. 527: Chairman Ramirez made a motion that HB 527 be TABLED. The motion CARRIED 9-7 (roll call vote attached).

Chairman Ramirez requested that it be shown in the minutes that six members of the Committee chose not to be present and left their votes, although the Committee had to meet this evening to get the bill out of committee and printed before 5 p.m. on March 20, for reading on the House floor, and that those members were advised of this meeting.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 9 p.m.

Jack Ramirez

Representative Jack Ramirez,
Chairman

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-19-87
8:50 pm

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

CS-30

STANDING COMMITTEE REPORT

March 19 19 97

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 395

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

be amended as follows:

1. Title, line 7
   Following: "TO"
   Strike: remainder of line 7 in its entirety
   Insert: "A PERCENTAGE"

2. Page 1, line 17
   Following: "exceed"
   Strike: remainder of line 17 in its entirety
   Insert: "the percentage"

3. Page 1, line 19
   Following: "property"
   Insert: "that existed in the base year 1998"
   Following: "."
   Insert: "The state shall adjust market value for each class of property, by county, by the average increases in market value determined by sales data from sales of comparable property."

4. Page 2, line 3
   Following: line 2
   Insert: "(5) The limitation on taxes in subsection (2) does not apply to:
   (a) construction, expansion, or remodeling of improvements;
   (b) subdivision of real property;
   (c) reclassification of property; or
   (d) transfer of property from tax-exempt to taxable status.
   (6) The limitation on taxes in subsection (2) does not apply if the taxing unit's taxable valuation decreases by 5% or more from the previous tax year. If a taxing unit's taxable valuation decreases by 5%

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or more from the previous tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the previous tax year in that taxing unit.

(7) The limitation on taxes in subsection (2) does not apply if:

(a) the legislature declares a fiscal emergency by a two-thirds vote of each house;

(b) the declaration is specific as to the nature and dollar amount of the emergency and the method by which the emergency should be funded;

(c) the emergency is declared before any of the expenses that constitute the emergency request are incurred; and

(d) the tax limit is exceeded only during the fiscal year for which the emergency is declared."

Representative Jack Ramirez,
Chairman

STANDING COMMITTEE REPORT

MARCH 19 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report [redacted] HOUSE BILL NO. 833

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

Be amended as follows:

Representative Jack Ramirez, Chairman

1. Title, lines 6 through 8.
Following: "LIMITATIONS" on line 6
Strike: remainder of line 6 through "BIENNIUM," on line 8

2. Page 1, line 22.
Following: "July 1,"
Strike: "1989"
Insert: "1990"

3. Pages 1 and 2.
Following: "provided" on page 1 line 24
Strike: remainder of line 24 through "biennium" on line 3 of page 2
Insert: "in this section"

4. Page 2, lines 16 through 20.
Following: "(4)" on line 16
Strike: remainder of line 16 through line 20 in its entirety
Insert: "The legislature shall enact laws that limit the maximum tax that may be imposed on each piece of property and the total taxes imposed in each taxing unit. The purpose of the tax limit is to maintain to the extent practicable a constant ratio of tax to market value as existed in the base year 1988.

(5) The state shall adjust the base year market value for each class of property, by county, by the average increases in market value determined by sales data from sales of comparable property. Except as provided in subsections (6) through (8), the taxes in any taxing unit may not exceed the ratio determined in the base year.

(6) The limitation on taxes levied, imposed pursuant to subsection (4), provides that increases may be made in the taxable valuation of a taxing unit as a result of:

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

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

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

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

(g) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements.

(7) The limitation on taxes levied may not exceed the dollar amount levied in each taxing unit unless the taxing unit's taxable valuation decreases by 5% or more from the previous tax year. If a taxing unit's taxable valuation decreases by 5% or more from the previous tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the base tax year in that taxing unit.

(8) The revenue limit established in subsection (2) may be exceeded if: (a) the legislature declares a fiscal emergency by a two-thirds vote of each house;

(b) the declaration is specific as to the nature and dollar amount of the emergency and the method by which the emergency should be funded;

(c) the emergency is declared before any of the expenses that constitute the emergency request are incurred; and

(d) the revenue limit is exceeded only during the fiscal year for which the emergency is declared."

Renumber: subsequent subsections

5. Page 2, line 21.
Following: "(5)"
Strike: "Laws"
Insert: "If laws"
Following: "July 1,"
Strike: "1989, may"
Insert: "1990,"

6. Pages 2 and 3.
Following: "July 1," on page 2, line 25
Strike: remainder of line 25 through "accordingly" on line 1 of page 3
Insert: "1990, the revenue limit established under subsection (2) must have been adjusted because of the factors enumerated in subsection (2)"

7078g/C:JEANNE\WP:jj

Representative Jack Ramirez,
Chairman

STANDING COMMITTEE REPORT

MARCH 19 19 37

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 342

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

be amended as follows:

1. Title, lines 5 through 7.
Following: "SYSTEM"
Strike: remainder of line 5 through "SUPPORT" on line 7
Insert: "INCREASING THE CONTRIBUTION TO STATE EQUALIZATION, AND ADJUSTING THE FOUNDATION PROGRAM SCHEDULES"

2. Title, line 9.
Following: "SECTIONS"
Insert: "1-1-207, 7-14-1133, 7-34-2416, 15-1-101,"

3. Title, line 12.
Following: "15-31-202,"
Insert: "15-31-204, 15-31-209, 15-32-402,"

4. Title, line 13.
Following: "19-4-706,"
Insert: "19-5-704,"
Following: "19-6-705,"
Insert: "19-7-705, 19-8-805, 19-9-1005, 19-13-1003,"
Strike: "20-9-303, 20-9-318,"
Insert: "20-9-316 THROUGH"

5. Title, line 14
Strike: "20-9-348, 20-9-352,"

6. Title, line 17.
Following: "15-30-161,"
Insert: "15-31-201, AND 15-31-208,"
Strike: "AND 20-9-351,"

7. Page 1.
Following: line 20
Insert: "Section 1 . Section 1-1-207, MCA, is amended to read:"

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"1-1-207. Miscellaneous terms. Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Bribe" means anything of value or advantage, present or prospective, or any promise or undertaking to give anything of value or advantage, which is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in his action, vote, or opinion in any public or official capacity.

(2) "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

~~(2)~~(3) "Peace officer" means any person described in 46-1-201(8).

~~(3)~~(4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place."

Section 2. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

(a) any port or transportation and storage facility;

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

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

(d) other sources.

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

(3) The bonds may be sold at public or private sale and may bear interest at a rate not exceeding the limitation of 17-5-102. Except as otherwise provided in this part, any

bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a)~~ for purposes of tax exemption determinations under the Internal Revenue Code.

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

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

"7-34-2416. Tax-exempt status of bonds. Bonds issued by county pursuant to the provisions of 7-34-2411 through 7-34-2418 are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a)~~ for purposes of tax exemption determinations under the Internal Revenue Code."

Section 4. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

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

(d) (i) The term "commercial", when used to describe

Representative Jack Ramirez,
Chairman

property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income, except that property described in subsection (ii).

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

(A) agricultural lands;

(B) timberlands;

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

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

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

(F) all property described in 15-6-136; and

(G) all property described in 15-6-146.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

~~(h)~~ (i) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(i)~~ (j) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

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

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

~~(l)~~(m) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(m)~~(n) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(n)~~(o) The term "real estate" includes:

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

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

~~(o)~~(p) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

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

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

NEW SECTION. Section 5. Income tax windfall reserve account. (1) There is an income tax windfall reserve account in the state special revenue fund.

(2) For fiscal years 1988 and 1989, the first $12.5 million received in each fiscal year from the collection of individual income taxes under Title 15, chapter 30, must be

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deposited in the income tax windfall reserve account in the state special revenue fund for the purpose of providing a reserve to offset the impact of potential overestimates of the income tax windfall revenues to the state.

(3) The balance in the income tax windfall reserve account at the end of the 1999 fiscal year must be transferred to the general fund and included in the ending general fund balance."

Renumber: subsequent sections

8. Page 3, line 1.
Following: "title"
Insert: "that is not deposited in the income tax windfall reserve account pursuant to [section 5]"

9. Page 3, line 3.
Following: "(a)"
Strike: "58.2%"
Insert: "61.7%"

10. Page 3, line 4.
Following: "(b)"
Strike: "10.0%"
Insert: "9.1%"

11. Page 3, line 7.
Following: "(c)"
Strike: "31.8%"
Insert: "29.2%"

12. Page 9, line 9.
Following: "income,"
Strike: "4%"
Insert: "3%"

13. Page 9, line 11.
Following: "income,"
Strike: "$180"
Insert: "$135"

14. Page 9, line 12.
Following: "plus"
Strike: "6%"
Insert: "5%"

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15. Page 9, line 13.
Following: "income,"
Strike: "$630"
Insert: "$510"
Following: "plus"
Strike: "8%"
Insert: "7%"

16. Page 9, line 21.
Following: "income,"
Strike: "4%"
Insert: "3%"

17. Page 9, line 23.
Following: "income,"
Strike: "$90"
Insert: "$67.50"

18. Page 9, line 24.
Following: "plus"
Strike: "6%"
Insert: "5%"

19. Page 9, line 25.
Following: "income,"
Strike: "$315"
Insert: "$255"
Following: "plus"
Strike: "8%"
Insert: "7%"

20. Page 11, line 3.
Following: "section"
Strike: "5"
Insert: "10"

21. Page 11, line 14.
Following: "by"
Strike: "sections"
Insert: "section"
Following: "55"
Strike: "through 59"

22. Page 11, line 15.
Following: "to"
Strike: "file"
Insert: "pay"

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23. **Page 11, line 16.**
Following: line 15
Strike: "return"

24. Page 12, line 9.
Following: "income"
Insert: ", less the applicable exemption amount provided for in section 55 of the Internal Revenue Code,"

25. Page 12, line 20.
Following: "income"
Insert: ", less the applicable exemption amount provided for in section 55 of the Internal Revenue Code,"

26. Page 12, line 24.
Following: "section"
Strike: "8"
Insert: "13"

27. Page 13, line 16.
Following: "residents,"
Strike: "the rates provided for in 15-30-103 must"
Insert: "a tax rate of 5% shall"

28. Page 13, line 22.
Following: "section"
Strike: "8"
Insert: "13"

29. Page 18.
Following: line 23
Insert: "(c) all benefits, not in excess of $3,600, received as an annuity, pension, or endowment under any public, private, or corporate retirement plan or system other than a railroad retirement plan;"
Renumber: subsequent subsection

30. **Page 22, line 8.**
Following: "reservation"
Insert: "; (viii) interest and taxes on Montana property used for the production of Montana income"

31. Page 36, line 17.
Following: "automatic"
Strike: "2-month"
Insert: "4-month"

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32. Page 36, lines 21 through 24.
Following: "department" on line 21
Strike: remainder of line 21 through "period" on line 24

33. Page 37, line 19.
Following: "exceed"
Strike: "4"
Insert: "2"

34. Page 43, line 21.
Following: "corporation"
Strike: "may elect"
Insert: "that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code is"
Following: "not"
Strike: "to be"

35. Page 43, line 23, through line 15, page 44.
Following: line 22
Strike: subsections (2) and (3) in their entirety
Insert: "(2) A small business corporation that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code shall file by the 15th day of the third month of its first taxable year a copy of the internal revenue service notification or other proof that a valid federal election has been made. If such proof is not filed by the time the department receives the corporation's first tax return, the department shall notify the corporation that such proof is required within 60 days of the date of the notice. If proof is not received within 60 days, or by a reasonable extension date based upon a request by the taxpayer prior to the expiration of the 60 days, the corporation is subject to the taxes imposed by this chapter.

(3) A small business corporation that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code may elect to be subject to the taxes imposed by this chapter by filing an election on a form provided by the department. The form must have printed on it a notification that making the election will subject income to tax under both this chapter and chapter 30. For tax years beginning on or after January 1, 1987, but before March 1, 1988, the election must be filed by May 15, 1988. Thereafter, the election must be filed by the 15th day of the third month of the taxable year for which the election is to become effective. The election may be revoked by written notification to the department. Such revocation must be filed by the 15th day of the third month of the taxable year for which the revocation is to be effective."

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36. Page 44, line 16.
Following: "This"
Strike: "election"
Insert: "section"

37. Page 44, line 17.
Following: "of"
Strike: "such electing"
Insert: "the nonelecting small business"

38. Page 44, line 20.
Following: "Every"
Strike: "electing"
Insert: "nonelecting small business"
Following: "pay"
Strike: "the"
Insert: "a"

39. Page 44.
Following: line 21
Insert: "Section 24. Section 15-31-204, MCA, is amended to read:

"15-31-204. Minimum fee of qualifying corporations unaffected. Notwithstanding the provisions of 15-31-121 corporations ~~electing and~~ qualifying under 15-31-202 shall pay a minimum fee of $10."

Section 25. Section 15-31-209, MCA, is amended to read:

"15-31-209. Termination and revocation. If the election under the provisions of Subchapter S is either terminated or revoked for federal purposes, the corporation must notify the department within 30 days of such termination or revocation. ~~The department may terminate an election at any time if it discovers the corporation does not qualify as a small business corporation as provided for under the provisions of Subchapter S of the Internal Revenue Code of 1954.~~ A corporation that does not have a valid federal election for the entire taxable year is subject to tax under this chapter."

Section 26. Section 15-32-402, MCA, is amended to read:

"15-32-402. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in ~~15-31-201~~ Subchapter S of Chapter 1 of the Internal Revenue

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Code that makes an investment of $5,000 or more in certain depreciable property qualifying under section 38 of the Internal Revenue Code ~~of 1954, as amended,~~ for a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

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

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

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

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

(a) generating equipment;

(b) safety devices and storage components;

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

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

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

Renumber: subsequent sections

40. Page 47, line 22.
Following: "and"
Insert: "taxes and"

41. Page 47, line 25.
Following: ";"
Insert: ":"

42. Page 48, line 1.
Following: "~~(1)~~"
Insert: "(1)"

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43. Page 48, line 2.
Following: "~~r~~"
Strike: "~~.~~"
Insert: ";"

44. Page 48, line 6.
Following: "or"
Insert: "(2) subject to state, county, or municipal taxes to the extent provided in 15-30-111, except for a refund paid under 19-3-703 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-3-701; or"

45. Page 48, line 7.
Following: "~~(3)~~"
Insert: "(3)"
Strike: "nor is it"

46. Page 48, line 10.
Following: "and"
Insert: "taxes and"

47. Page 48, line 13.
Following: "~~r~~"
Insert: ":"

48. Page 48.
Following: line 19
Insert: "(1) exempted from any state, county, or municipal tax of the state of Montana to the extent provided in 15-30-111, except for a refund paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;"

49. Page 48, line 20.
Following: "~~(2)~~"
Insert: "(2)"

50. Page 48, line 22.
Following: "~~r~~"
Insert: ";"

51. Page 48, line 23.
Following: "~~(3)~~"
Insert: "(3)"
Strike: "are"

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52. **Page 48.**
Following: line 24
Insert: "**Section 30.** Section 19-5-704, MCA, is amended to read:

"19-5-704. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these shall be exempt from any state or municipal tax to the extent provided in 15-30-111 and from levy, sale, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in 19-5-705.""

Renumber: subsequent section

53. Page 49, line 1.
Following: "and"
Insert: "taxes and"

54. Page 49, line 4.
Following: "+"
Insert: ";"

55. Page 49.
Following: line 8
Insert: "(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;"

56. Page 49, line 9.
Following: "~~(2)~~"
Insert: "(2)"

57. Page 49, line 10.
Following: "+"
Insert: ";"

58. **Page 49, line 11.**
Following: "~~(3)~~"
Insert: "(3)"
Strike: "is"

59. Page 49.
Following: line 12
Insert: "Section 32. Section 19-7-705, MCA, is amended to read:

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

(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

Section 33. Section 19-8-805, MCA, is amended to read:

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

(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

Section 34. Section 19-9-1005, MCA, is amended to read:

"19-9-1005. Exemption from taxes. Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 35. Section 19-13-1003, MCA, is amended to read:

"19-13-1003. Exemption from taxes. Any money received as a retirement allowance in accordance with the provisions of this chapter is exempt from any state or municipal tax to the extent provided in 15-30-111.""

Renumber: subsequent sections

60. Page 54, line 9 through page 56, line 3
Strike: section 25 in its entirety

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61. Page 56
Following: line 3
Insert: "Section 38. Section 20-9-316, MCA, is amended to read:

"20-9-316. Elementary school maximum budget schedule for ~~1985-86~~ 1987-88. (1) For each elementary school having an ANB of nine or fewer pupils, the maximum shall be ~~$19,959~~ $19,957 if said school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum shall be ~~$19,959~~ $19,957 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum shall be ~~$32,714~~ $32,711 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum shall be ~~$27,466~~ $27,463 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum shall be ~~$43,851~~ $43,847 plus ~~$522.40~~ $522.30 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 50.

(6) For schools having an ANB in excess of 40, the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

(a) For a school having an ANB of more than 40 and employing a minimum of three teachers, the maximum of $1,938 shall be decreased at the rate of $1.88 for each additional pupil until the total number (ANB) shall have reached a total of 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of $1,825 shall be decreased at the rate of $1.72 for each additional pupil until the ANB shall have reached 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum shall not exceed $1,481 for each pupil.

(7) The maximum per pupil for all pupils

(ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule."

Section 39. Section 20-9-317, MCA, is amended to read:

"20-9-317. High school maximum budget schedule for ~~1985-86~~ 1987-88. (1) For each high school having an ANB of 24 or fewer pupils, the maximum shall be ~~$113,788~~ $113,696.

(2) For a secondary school having an ANB of more than 24 pupils, the maximum ~~$4,738~~ $4,737 shall be decreased at the rate of $25.84 for each additional pupil until the ANB shall have reached a total of 40 such pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of $4,324 shall be decreased at the rate of $25.84 for each additional pupil until the ANB shall have reached 100 pupils.

(4) For a school having an ANB of more than 100 pupils, a maximum of $2,774 shall be decreased at the rate of $4.32 for each additional pupil until the ANB shall have reached 200 pupils.

(5) For a school having an ANB of more than 200 pupils, the maximum of ~~$2,342~~ $2,341 shall be decreased by ~~$2.38~~ $2.37 for each additional pupil until the ANB shall have reached 300 pupils.

(6) For a school having an ANB of more than 300 pupils, the maximum of $2,104 shall be decreased at the rate of 44 cents until the ANB shall have reached 600 pupils.

(7) For a school having an ANB over 600 pupils, the maximum shall not exceed $1,973 per pupil.

(8) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil (ANB). All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town, shall be treated as one school for the purpose of this schedule.""

Renumber: subsequent sections

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62. **Page 56, line 6**
Following: "years"
Insert: "for 1988-89 and succeeding years"
Strike: "1986-87"
Insert: "1988-89"

63. Page 56, line 10
Strike: "$20,158"
Insert: "$19,558"

64. Page 56, line 13
Strike: "$20,158"
Insert: "$19,558"
Strike: "$842.50"
Insert: "$817.30"

65. Page 56, line 18
Strike: "$33,042"
Insert: "$32,057"

66. Page 56, line 19
Strike: "$842.50"
Insert: "$817.30"

67. Page 56, line 22.
Strike: "$27,741"
Insert: "$26,914"
Strike: "$842.50"
Insert: "$817.30"

68. Page 57, line 1.
Strike: "$44,290"
Insert: "$42,970"

69. Page 57, line 2.
Strike: "$527.60"
Insert: "$511.90"

70. Page 57, line 8.
Strike: "$1,957"
Insert: "$1,899"

71. **Page 57, line 9.**
Strike: "$1.90"
Insert: "$1.84"

72. Page 57, line 13.
Strike: "$1,843"
Insert: "$1,788"

73. Page 57, line 14.
Strike: "$1.74"
Insert: "$1.69"

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74. Page 57, line 17.
Strike: "$1,496"
Insert: "$1,451"

75. Page 57, line 24 through page 58, line 4.
Strike: subsection (8) in its entirety

76. Page 58, line 7.
Following: "years"
Insert: "for 1988-89 and succeeding years"
Strike: "1986-87"
Insert: "1988-89"

77. Page 58, line 11.
Strike: "$114,845"
Insert: "$111,422"

78. Page 58, line 13.
Strike: "$4,785"
Insert: "$4,643"

79. Page 58, line 14.
Strike: "$26.10"
Insert: "$25.32"

80. Page 58, line 17.
Strike: "$4,368"
Insert: "$4,237"

81. Page 58, line 18.
Strike: "$26.10"
Insert: "$25.32"

82. Page 58, line 21.
Strike: "$2,802"
Insert: "$2,718"

83. Page 58, line 22.
Strike: "$4.37"
Insert: "$4.24"

84. Page 58, line 25.
Strike: "$2,365"
Insert: "$2,295"
Strike: "$2.40"
Insert: "$2.33"

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85. Page 59, line 4.
Strike: "$2,125"
Insert: "$2,062"

86. Page 59, line 5.
Strike: "44"
Insert: "43"

87. Page 59, line 7.
Strike: "$1,993"
Insert: "$1,933"

88. Page 59, line 16 through line 21.
Strike: subsection (9) in its entirety

89. Page 60, line 14.
Following: "35%"
Strike: "31.8%"
Insert: "29.2%"

90. Page 61, line 15 through page 65, line 18
Strike: sections 29 and 30 in their entirety
Renumber: subsequent sections

91. Page 65, line 22.
Following: "surtax"
Strike: "10%"
Insert: "20%"

92. Page 66, line 1
Following: "15-30-161,"
Insert: "15-31-201,"
Following: "and"
Strike: "20-9-351"
Insert: "15-31-208"

93. Page 66, line 4.
Following: "Sections"
Strike: "5, 8, and 31"
Insert: "10, 13, and 43"

94. Page 66, line 7.
Following: "sections"
Strike: "5, 8, and 31"
Insert: "10, 13, and 43"

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95. Page 66, line 16.
Following: "through"
Strike: "24"
Insert: "22, 27 through 37, and 44"

96. Page 66.
Following: line 19
Insert: "(3) Sections 23 through 26 apply retroactively, within the meaning of 1-2-109, to all small business corporations that have made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code on or before December 31, 1986, and for tax years ending after December 31, 1986.

NEW SECTION. Section 48. Coordination instruction. If House Bill No. 377 is passed and approved, this act is void."

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Chairman

Roll call votes for HB's 395, 833, 842, and 527.

March 19, 1987

Chairman Ramirez

After waiting 30 minutes, ~~inconsiderate~~ out
We're GONE!

We'll be back at
8:30 AM

If you wish to take action tonight —
We vote No on
all motions on all Bills

Bob Raney
Keenan
Kochube

Seliger
Williams
Rea

#1
3-19-87
SB 395

SB 395 REPLACEMENT REVENUE -- $153,487,000 in Sales Tax Revenue
($155,070,000 sales tax revenue - $1,583,000 additional DOR costs)

	Property Tax Loss From SB 395	FY 90	FY 91	FY 92	FY 93
BEAVERHEAD	$1,562,477	$1,602,159	$1,626,101	$1,650,044	$1,673,987
BIG HORN	2,207,443	1,960,192	1,718,212	1,476,231	1,234,250
BLAINE	964,086	932,727	896,336	859,945	823,553
BROADWATER	875,340	784,797	691,579	598,361	505,142
CARBON	1,519,407	1,449,566	1,355,456	1,261,345	1,167,234
CARTER	498,877	439,715	378,133	316,552	254,970
CASCADE	10,795,416	12,897,053	14,833,246	16,769,438	18,705,630
CHOUTEAU	2,338,007	1,957,773	1,573,191	1,188,603	804,016
CUSTER	2,524,063	2,668,473	2,780,994	2,893,510	3,006,026
DANIELS	1,119,063	952,029	781,794	611,559	441,324
DAWSON	3,016,300	2,809,913	2,585,525	2,361,138	2,136,751
DEER LODGE	1,552,898	1,970,934	2,355,918	2,740,901	3,125,885
FALLON	817,252	704,329	591,618	478,907	366,196
FERGUS	2,916,711	2,846,212	2,744,850	2,643,488	2,542,126
FLATHEAD	10,469,515	10,447,168	10,308,627	10,170,087	10,031,546
GALLATIN	7,558,159	8,244,185	8,856,324	9,468,464	10,080,604
GARFIELD	387,344	342,779	297,155	251,532	205,908
GLACIER	1,722,848	1,657,989	1,589,062	1,520,134	1,451,207
GOLDEN VALLEY	276,601	242,245	207,096	171,946	136,796
GRANITE	831,311	751,971	666,057	580,143	494,229
HILL	3,361,163	3,254,524	3,126,133	2,997,742	2,869,351
JEFFERSON	2,237,508	2,043,199	1,841,422	1,639,645	1,437,868
JUDITH BASIN	694,590	617,774	538,059	458,343	378,628
LAKE	1,995,626	2,483,332	2,931,068	3,378,805	3,826,541
LEWIS & CLARK	8,971,568	9,088,581	9,104,867	9,121,153	9,137,439
LIBERTY	667,065	572,882	477,811	382,739	287,668
LINCOLN	3,510,849	3,520,881	3,514,926	3,508,972	3,503,017
MADISON	1,404,333	1,141,570	870,632	599,693	328,755
McCONE	1,042,457	1,076,536	1,108,960	1,141,383	1,173,807
MEAGHER	437,413	407,266	372,674	338,082	303,491
MINERAL	778,776	779,297	773,290	767,282	761,275
MISSOULA	15,660,236	15,864,442	15,959,738	16,055,033	16,150,329
MUSSELSHELL	548,334	557,965	562,596	567,227	571,858
PARK	2,285,031	2,396,950	2,476,640	2,556,331	2,636,022
PETROLEUM	92,485	88,417	83,584	78,750	73,917
PHILLIPS	1,435,078	1,259,760	1,081,892	904,025	726,157
PONDERA	1,687,042	1,527,168	1,362,244	1,197,320	1,032,396
POWDER RIVER	468,004	415,184	361,822	308,461	255,100
POWELL	1,246,245	1,241,814	1,226,479	1,211,144	1,195,809
PRAIRIE	410,863	377,335	341,900	306,465	271,030
RAVALLI	2,663,052	3,466,976	4,226,434	4,985,893	5,745,352
RICHLAND	2,334,046	2,162,860	1,987,880	1,812,899	1,637,918
ROOSEVELT	1,639,136	1,563,891	1,485,332	1,406,773	1,328,214
ROSEBUD	2,695,757	2,351,872	2,014,185	1,676,497	1,338,809
SANDERS	2,742,897	2,396,569	2,049,814	1,703,059	1,356,304
SHERIDAN	1,223,949	1,072,610	918,714	764,818	610,922
SILVER BOW	7,064,112	7,658,797	8,167,899	8,677,000	9,186,101
STILLWATER	1,221,291	1,149,346	1,063,428	977,510	891,592
SWEET GRASS	696,242	664,148	623,769	583,390	543,011
TETON	1,572,828	1,427,675	1,273,991	1,120,308	966,625
TOOLE	1,322,410	1,157,175	988,110	819,046	649,981
TREASURE	299,768	256,655	213,275	169,895	126,515
VALLEY	2,130,357	1,926,768	1,713,451	1,500,133	1,286,816
WHEATLAND	421,548	400,732	376,129	351,525	326,922
WIBAUX	373,937	318,791	263,577	208,363	153,148
YELLOWSTONE	20,910,886	21,135,039	21,167,003	21,198,967	21,230,931
TOTAL	152,200,000	153,487,000	153,487,002	153,486,999	153,486,999

H&PP

SB 395 REPLACEMENT REVENUE -- $151,639,000 in Sales Tax Revenue
($155,070,000 sales tax revenue - $3,431,000 additional DOR costs)

	Property Tax Loss From SB 395	FY 90	FY 91	FY 92	FY 93
BEAVERHEAD	$1,562,477	$1,582,868	$1,606,523	$1,630,177	$1,653,832
BIG HORN	2,207,443	1,936,591	1,697,524	1,458,457	1,219,390
BLAINE	964,086	921,497	885,544	849,591	813,638
BROADWATER	875,340	775,348	683,252	591,156	499,060
CARBON	1,519,407	1,432,113	1,339,136	1,246,158	1,153,180
CARTER	498,877	434,421	373,581	312,740	251,900
CASCADE	10,795,416	12,741,771	14,654,652	16,567,532	18,480,413
CHOUTEAU	2,338,007	1,934,206	1,554,249	1,174,292	794,336
CUSTER	2,524,063	2,636,349	2,747,511	2,858,672	2,969,833
DANIELS	1,119,063	940,566	772,381	604,196	436,011
DAWSON	3,016,300	2,776,081	2,554,395	2,332,710	2,111,024
DEER LODGE	1,552,898	1,947,204	2,327,552	2,707,901	3,088,249
FALLON	817,252	695,849	584,495	473,141	361,787
FERGUS	2,916,711	2,811,943	2,711,802	2,611,660	2,511,519
FLATHEAD	10,469,515	10,321,383	10,184,510	10,047,638	9,910,765
GALLATIN	7,558,159	8,144,924	8,749,693	9,354,463	9,959,232
GARFIELD	387,344	338,652	293,578	248,503	203,429
GLACIER	1,722,848	1,638,027	1,569,929	1,501,832	1,433,734
GOLDEN VALLEY	276,601	239,328	204,602	169,876	135,149
GRANITE	831,311	742,918	658,038	573,158	488,279
HILL	3,361,163	3,215,339	3,088,494	2,961,649	2,834,804
JEFFERSON	2,237,508	2,018,598	1,819,251	1,619,903	1,420,556
JUDITH BASIN	694,590	610,336	531,580	452,825	374,069
LAKE	1,995,626	2,453,432	2,895,778	3,338,124	3,780,469
LEWIS & CLARK	8,971,568	8,979,153	8,995,244	9,011,334	9,027,424
LIBERTY	667,065	565,984	472,058	378,131	284,204
LINCOLN	3,510,849	3,478,489	3,472,606	3,466,723	3,460,840
MADISON	1,404,333	1,127,825	860,149	592,473	324,796
McCONE	1,042,457	1,063,574	1,095,608	1,127,641	1,159,674
MEAGHER	437,413	402,362	368,187	334,012	299,837
MINERAL	778,776	769,914	763,979	758,044	752,109
MISSOULA	15,660,236	15,673,432	15,767,581	15,861,729	15,955,878
MUSSELSHELL	548,334	551,247	555,822	560,398	564,973
PARK	2,285,031	2,368,090	2,446,821	2,525,552	2,604,284
PETROLEUM	92,485	87,353	82,577	77,802	73,027
PHILLIPS	1,435,078	1,244,593	1,068,866	893,140	717,414
PONDERA	1,687,042	1,508,781	1,345,843	1,182,905	1,019,966
POWDER RIVER	468,004	410,185	357,466	304,747	252,028
POWELL	1,246,245	1,226,862	1,211,712	1,196,562	1,181,411
PRAIRIE	410,863	372,792	337,783	302,775	267,766
RAVALLI	2,663,052	3,425,233	4,175,548	4,925,862	5,676,177
RICHLAND	2,334,046	2,136,819	1,963,945	1,791,071	1,618,197
ROOSEVELT	1,639,136	1,545,062	1,467,448	1,389,835	1,312,222
ROSEBUD	2,695,757	2,323,556	1,989,934	1,656,312	1,322,690
SANDERS	2,742,897	2,367,714	2,025,134	1,682,554	1,339,974
SHERIDAN	1,223,949	1,059,695	907,652	755,609	603,566
SILVER BOW	7,064,112	7,566,585	8,069,556	8,572,528	9,075,499
STILLWATER	1,221,291	1,135,508	1,050,624	965,741	880,858
SWEET GRASS	696,242	656,152	616,259	576,366	536,473
TETON	1,572,828	1,410,485	1,258,653	1,106,820	954,987
TOOLE	1,322,410	1,143,242	976,213	809,184	642,156
TREASURE	299,768	253,565	210,707	167,849	124,991
VALLEY	2,130,357	1,903,570	1,692,821	1,482,072	1,271,322
WHEATLAND	421,548	395,907	371,600	347,293	322,986
WIBAUX	373,937	314,953	260,403	205,854	151,304
YELLOWSTONE	20,910,886	20,880,571	20,912,150	20,943,729	20,975,308
TOTAL	152,200,000	151,638,997	151,638,999	151,639,001	151,638,999

HEPP

Ex 3-1 pm2

#2 3-19-87 833

PROPOSED AMENDMENTS TO HOUSE BILL 833

1. Title, lines 6 through 8.
Following: "LIMITATIONS" on line 6
Strike: remainder of line 6 through "BIENNIUM," on line 8

2. Page 1, line 22.
Following: "July 1,"
Strike: "1989"
Insert: "1990"

3. Pages 1 and 2.
Following: "provided" on page 1 line 24
Strike: remainder of line 24 through "biennium" on line 3 of page 2
Insert: "in this section"

4. Page 2, lines 16 through 20.
Following: "(4)" on line 16
Strike: remainder of line 16 through line 20 in its entirety
Insert: "The Legislature shall enact laws that limit the maximum tax that may be imposed on each piece of property and the total taxes imposed in each taxing unit. The purpose of the tax limit is to maintain to the extent practicable a constant ratio of tax to market value as existed in the base year 1988.

(5) The state shall adjust the base year market value for each class of property by county by the average increases in market value determined by sales data from sales of comparable property. Except as provided in subsections (6) through (8) the taxes in any taxing unit may not exceed the ratio determined in the base year.

(6) The limitation on taxes levied, imposed pursuant to subsection (4) may provide that increases may be made in the taxable valuation of a taxing unit as a result of:

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

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

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

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

(g) revaluations caused by;

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of improvements.

(7) The limitation on taxes levied may not exceed the dollar amount levied in each levy category unless the taxing units taxable valuation decreases by 5% or more from the previous tax year. If a taxing unit's taxable valuation

decreases by 5% or more from the previous tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the base tax year in that taxing unit.

(8) The revenue limit established in subsection (2) may be exceeded if; (a) the legislature declares a fiscal emergency by a two-thirds vote of each house;

(b) the declaration is specific as to the nature and dollar amount of the emergency and the method by which the emergency should be funded;

(c) the emergency is declared before any of the expenses that constitute the emergency request are incurred; and

(d) the revenue limit is exceeded only during the fiscal year for which the emergency is declared."

Renumber: subsequent subsections

5. Page 2, line 21.
Following: "(5)"
Strike: "Laws"
Insert: "If laws"
Following: "July 1,"
Strike: "1989, may"
Insert: "1990,"

6. Pages 2 and 3.
Following: "July 1," on page 2, line 25
Strike: remainder of line 25 through "accordingly" on line 1 of page 3
Insert: "1990, the revenue limit established under subsection (2) must have been adjusted because of the factors enumerated in subsection (2)"

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#3
3-19-87
842

Amend House Bill No. 842, Introduced Copy 3-19-87

1. **Title**, lines 5 through 7.
Following: "SYSTEM"
Strike: remainder of line 5 through "SUPPORT" on line 7
Insert: "INCREASING THE CONTRIBUTION TO STATE EQUALIZATION, AND ADJUSTING THE FOUNDATION PROGRAM SCHEDULES"

2. Title, line 9.
Following: "SECTIONS"
Insert: "1-1-207, 7-14-1133, 7-34-2416, 15-1-101,"

3. Title, line 12.
Following: "15-31-202,"
Insert: "15-31-204, 15-31-209, 15-32-402,"

4. Title, line 13.
Following: "19-4-706,"
Insert: "19-5-704,"
Following: "19-6-705,"
Insert: "19-7-705, 19-8-805, 19-9-1005, 19-13-1003,"
Strike: "20-9-303, 20-9-318,"
Insert: "20-9-316 THROUGH"

5. Title, line 14
Strike: "20-9-348, 20-9-352,"

6. Title, line 17.
Following: "15-30-161,"
Insert: "15-31-201, AND 15-31-208,"
Strike: "AND 20-9-351,"

7. Page 1.
Following: line 20
Insert: "Section 1 . Section 1-1-207, MCA, is amended to read:

"1-1-207. Miscellaneous terms. Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Bribe" means anything of value or advantage, present or prospective, or any promise or undertaking to give anything of value or advantage, which is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in his action, vote, or opinion in any public or official capacity.

(2) "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

~~(2)~~(3) "Peace officer" means any person described in 46-1-201(8).

~~(3)~~(4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place."

Section 2. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

(a) any port or transportation and storage facility;

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

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

(d) other sources.

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

(3) The bonds may be sold at public or private sale and may bear interest at a rate not exceeding the limitation of 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a)~~ for purposes of tax exemption determinations under the Internal Revenue Code.

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

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

"7-34-2416. Tax-exempt status of bonds. Bonds issued by a county pursuant to the provisions of 7-34-2411 through 7-34-2418 are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a)~~ for purposes of tax exemption determinations under the Internal Revenue Code."

Section 4. Section 15-1-101, MCA, is amended to read:

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

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

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

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

(F) all property described in 15-6-136; and

(G) all property described in 15-6-146.

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential of a similar highest and best use.

(f) The term "credit" means solvent debts, secured or unsecured, owing to a person.

(g) The term "improvements" includes all buildings, structures, fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile

home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

(h) The term "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

~~(h)~~(i) The term "leasehold improvements" means improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(i)~~(j) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

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

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

~~(l)~~(m) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(m)~~(n) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(n)~~(o) The term "real estate" includes:

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

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

~~(o)~~(p) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or

organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

NEW SECTION. Section 5. Income tax windfall reserve account. (1) There is an income tax windfall reserve account in the state special revenue fund.

(2) For fiscal years 1988 and 1989, the first $12.5 million received in each fiscal year from the collection of individual income taxes under Title 15, chapter 30, must be deposited in the income tax windfall reserve account in the state special revenue fund for the purpose of providing a reserve to offset the impact of potential overestimates of the income tax windfall revenues to the state.

(3) The balance in the income tax windfall reserve account at the end of the 1989 fiscal year must be transferred to the general fund and included in the ending general fund balance."

Renumber: subsequent sections

8. Page 3, line 1.
Following: "title"
Insert: "that is not deposited in the income tax windfall reserve account pursuant to [section 5]"

9. Page 3, line 3.
Following: "(a)"
Strike: "58.2%"
Insert: "61.7% "

10. Page 3, line 4.
Following: "(b)"
Strike: "10.0%"
Insert: "9.1%"

11. Page 3, line 7.
Following: "(c)"
Strike: "31.8%"
Insert: "29.2%"

12. Page 9, line 9.
Following: "income,"
Strike: "4%"
Insert: "3.5%"

13. Page 9, line 11.
Following: "income,"
Strike: "$180"
Insert: "$157.50"

14. Page 9, line 12.
Following: "plus"

Strike: "6%"
Insert: "5.5%"

15. Page 9, line 13.
Following: "income,"
Strike: "$630"
Insert: "$570"
Following: "plus"
Strike: "8%"
Insert: "7.5%"

16. Page 9, line 21.
Following: "income,"
Strike: "4%"
Insert: "3.5%"

17. Page 9, line 23.
Following: "income,"
Strike: "$90"
Insert: "$78.75"

18. Page 9, line 24.
Following: "plus"
Strike: "6%"
Insert: "5.5%"

19. Page 9, line 25.
Following: "income,"
Strike: "$315"
Insert: "$285"
Following: "plus"
Strike: "8%"
Insert: "7.5%"

20. Page 11, line 3.
Following: "section"
Strike: "5"
Insert: "10"

21. Page 11, line 14.
Following: "by"
Strike: "sections"
Insert: "section"
Following: "55"
Strike: "through 59"

22. Page 11, line 15.
Following: "to"
Strike: "file"
Insert: "pay"

23. Page 11, line 16.
Following: line 15
Strike: "return"

24. Page 12, line 9.
Following: "income"
Insert: ", less the applicable exemption amount provided for in section 55 of the Internal Revenue Code,"

25. Page 12, line 20.
Following: "income"
Insert: ", less the applicable exemption amount provided for in section 55 of the Internal Revenue Code,"

26. Page 12, line 24.
Following: "section"
Strike: "8"
Insert: "13"

27. Page 13, line 16.
Following: "residents,"
Strike: "the rates provided for in 15-30-103 must"
Insert: "a tax rate of 5% shall"

28. Page 13, line 22.
Following: "section"
Strike: "8"
Insert: "13"

29. Page 18.
Following: line 23
Insert: "(c) all benefits, not in excess of $3,600, received as an annuity, pension, or endowment under any public, private, or corporate retirement plan or system other than a railroad retirement plan;"
Renumber: subsequent subsection

30. Page 22, line 8.
Following: "reservation"
Insert: "; (viii) interest and taxes on Montana property used for the production of Montana income"

31. Page 36, line 17.
Following: "automatic"
Strike: "2-month"
Insert: "4-month"

32. Page 36, lines 21 through 24.
Following: "department" on line 21
Strike: remainder of line 21 through "period" on line 24

33. Page 37, line 19.
Following: "exceed"
Strike: "4"
Insert: "2"

34. Page 43, line 21.
Following: "corporation"

Strike: "may elect"
Insert: "that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code is"
Following: "not"
Strike: "to be"

35. Page 43, line 23, through line 15, page 44.
Following: line 22
Strike: subsections (2) and (3) in their entirety
Insert: "(2) A small business corporation that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code shall file by the 15th day of the third month of its first taxable year a copy of the internal revenue service notification or other proof that a valid federal election has been made. If such proof is not filed by the time the department receives the corporation's first tax return, the department shall notify the corporation that such proof is required within 60 days of the date of the notice. If proof is not received within 60 days, or by a reasonable extension date based upon a request by the taxpayer prior to the expiration of the 60 days, the corporation is subject to the taxes imposed by this chapter.

(3) A small business corporation that has made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code may elect to be subject to the taxes imposed by this chapter by filing an election on a form provided by the department. The form must have printed on it a notification that making the election will subject income to tax under both this chapter and chapter 30. For tax years beginning on or after January 1, 1987, but before March 1, 1988, the election must be filed by May 15, 1988. Thereafter, the election must be filed by the 15th day of the third month of the taxable year for which the election is to become effective. The election may be revoked by written notification to the department. Such revocation must be filed by the 15th day of the third month of the taxable year for which the revocation is to be effective."

36. Page 44, line 16.
Following: "This"
Strike: "election"
Insert: "section"

37. Page 44, line 17.
Following: "of"
Strike: "such electing"
Insert: "the nonelecting small business"

38. Page 44, line 20.
Following: "Every"
Strike: "electing"
Insert: "nonelecting small business"
Following: "pay"
Strike: "the"

Insert: "a"

39. Page 44.
Following: line 21
Insert: "Section 24. Section 15-31-204, MCA, is amended to read:

"15-31-204. Minimum fee of qualifying corporations unaffected. Notwithstanding the provisions of 15-31-121 corporations ~~electing and~~ qualifying under 15-31-202 shall pay a minimum fee of $10."

Section 25. Section 15-31-209, MCA, is amended to read:

"15-31-209. Termination and revocation. If the election under the provisions of Subchapter S is either terminated or revoked for federal purposes, the corporation must notify the department within 30 days of such termination or revocation. ~~The department may terminate an election at any time if it discovers the corporation does not qualify as a small business corporation as provided for under the provisions of Subchapter S of the Internal Revenue Code of 1954.~~ A corporation that does not have a valid federal election for the entire taxable year is subject to tax under this chapter."

Section 26. Section 15-32-402, MCA, is amended to read:

"15-32-402. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in ~~15-31-201~~ Subchapter S of Chapter 1 of the Internal Revenue Code that makes an investment of $5,000 or more in certain depreciable property qualifying under section 38 of the Internal Revenue Code ~~of 1954, as amended,~~ for a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

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

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

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

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

(a) generating equipment;
(b) safety devices and storage components;
(c) transmission lines necessary to connect with existing transmission facilities; and
(d) transmission lines necessary to connect directly to the purchaser of the electricity when no other transmission facilities are available.
(3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by the state or federal government for the system.""

Renumber: subsequent sections

40. Page 47, line 22.
Following: "and"
Insert: "taxes and"

41. Page 47, line 25.
Following: "~~;~~"
Insert: ":"

42. Page 48, line 1.
Following: "~~(1)~~"
Insert: "(1)"

43. Page 48, line 2.
Following: "~~;~~"
Strike: "~~,~~"
Insert: ";"

44. Page 48, line 6.
Following: "or"
Insert: "(2) subject to state, county, or municipal taxes to the extent provided in 15-30-111, except for a refund paid under 19-3-703 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-3-701; or"

45. Page 48, line 7.
Following: "~~(3)~~"
Insert: "(3)"
Strike: "nor is it"

46. Page 48, line 10.
Following: "and"
Insert: "taxes and"

47. Page 48, line 15.
Following: "~~;~~"
Insert: ":"

48. Page 48.
Following: line 19
Insert: "(1) exempted from any state, county, or municipal

tax of the state of Montana to the extent provided in 15-30-111, except for a refund paid under 19-4-603 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-4-602;"

49. Page 48, line 20.
Following: "~~(2)~~"
Insert: "(2)"

50. Page 48, line 22.
Following: "~~,~~"
Insert: ";"

51. Page 48, line 23.
Following: "~~(3)~~"
Insert: "(3)"
Strike: "<u>are</u>"

52. Page 48.
Following: line 24
Insert: "Section 30. Section 19-5-704, MCA, is amended to read:

"19-5-704. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these shall be exempt from any state or municipal tax <u>to the extent provided in 15-30-111</u> and from levy, sale, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in 19-5-705.""

Renumber: subsequent section

53. Page 49, line 1.
Following: "and"
Insert: "taxes and"

54. Page 49, line 4.
Following: "~~,~~"
Insert: ":"

55. Page 49.
Following: line 8
Insert: "(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-6-403 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-6-402;"

56. Page 49, line 9.
Following: "~~(2)~~"
Insert: "(2)"

57. Page 49, line 10.

Following: "~~,~~"
Insert: ";"

58. Page 49, line 11.
Following: "~~(3)~~"
Insert: "(3)"
Strike: "is"

59. Page 49.
Following: line 12
Insert: "Section 32. Section 19-7-705, MCA, is amended to read:

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

(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

Section 33. Section 19-8-805, MCA, is amended to read:

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

(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

Section 34. Section 19-9-1005, MCA, is amended to read:

"19-9-1005. Exemption from taxes. Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

Section 35. Section 19-13-1003, MCA, is amended to read:

"19-13-1003. Exemption from taxes. Any money received as a retirement allowance in accordance with the provisions of this chapter is exempt from any state or municipal tax to the extent provided in 15-30-111.""

Renumber: subsequent sections

60. Page 54, line 9 through page 56, line 3
Strike: section 25 in its entirety

61. Page 56
Following: line 3
Insert: "Section 38. Section 20-9-316, MCA, is amended to read:

"20-9-316. Elementary school maximum budget schedule for ~~1985-86~~ 1987-88. (1) For each elementary school having an ANB of nine or fewer pupils, the maximum shall be ~~$19,959~~ $19,957 if said school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum shall be ~~$19,959~~ $19,957 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum shall be ~~$32,714~~ $32,711 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum shall be ~~$27,466~~ $27,463 plus ~~$834.10~~ $834 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum shall be ~~$43,851~~ $43,847 plus ~~$522.40~~ $522.30 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 50.

(6) For schools having an ANB in excess of 40, the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

(a) For a school having an ANB of more than 40 and employing a minimum of three teachers, the maximum of $1,938 shall be decreased at the rate of $1.88 for each additional pupil until the total number (ANB) shall have reached a total of 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of $1,825 shall be decreased at the rate of $1.72 for each additional pupil until the ANB shall have reached 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum shall not exceed $1,481 for each pupil.

(7) The maximum per pupil for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein

on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule."

Section 39. Section 20-9-317, MCA, is amended to read:

"20-9-317. High school maximum budget schedule for ~~1985-86~~ 1987-88. (1) For each high school having an ANB of 24 or fewer pupils, the maximum shall be ~~$113,708~~ $113,696.

(2) For a secondary school having an ANB of more than 24 pupils, the maximum ~~$4,738~~ $4,737 shall be decreased at the rate of $25.84 for each additional pupil until the ANB shall have reached a total of 40 such pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of $4,324 shall be decreased at the rate of $25.84 for each additional pupil until the ANB shall have reached 100 pupils.

(4) For a school having an ANB of more than 100 pupils, a maximum of $2,774 shall be decreased at the rate of $4.32 for each additional pupil until the ANB shall have reached 200 pupils.

(5) For a school having an ANB of more than 200 pupils, the maximum of ~~$2,342~~ $2,341 shall be decreased by ~~$2.38~~ $2.37 for each additional pupil until the ANB shall have reached 300 pupils.

(6) For a school having an ANB of more than 300 pupils, the maximum of $2,104 shall be decreased at the rate of 44 cents until the ANB shall have reached 600 pupils.

(7) For a school having an ANB over 600 pupils, the maximum shall not exceed $1,973 per pupil.

(8) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil (ANB). All high schools and junior high schools which have been approved and accredited as junior high schools, operated within the incorporated limits of a city or town, shall be treated as one school for the purpose of this schedule.""

Renumber: subsequent sections

62. Page 56, line 6
Following: "years"
Insert: "for 1988-89 and succeeding years"
Strike: "1986-87"
Insert: "1988-89"

63. Page 56, line 10
Strike: "$20,158"
Insert: "$19,558"

64. Page 56, line 13
Strike: "$20,158"
Insert: "$19,558"
Strike: "$842.50"
Insert: "$817.30"

65. Page 56, line 18
Strike: "$33,042"
Insert: "$32,057"

66. Page 56, line 19
Strike: "$842.50"
Insert: "$817.30"

67. Page 56, line 22.
Strike: "$27,741"
Insert: "$26,914"
Strike: "$842.50"
Insert: "$817.30"

68. Page 57, line 1.
Strike: "$44,290"
Insert: "$42,970"

69. Page 57, line 2.
Strike: "$527.60"
Insert: "$511.90"

70. Page 57, line 8.
Strike: "$1,957"
Insert: "$1,899"

71. Page 57, line 9.
Strike: "$1.90"
Insert: "$1.84"

72. Page 57, line 13.
Strike: "$1,843"
Insert: "$1,788"

73. Page 57, line 14.
Strike: "$1.74"
Insert: "$1.69"

74. Page 57, line 17.
Strike: "$1,496"
Insert: "$1,451"

75. Page 57, line 24 through page 58, line 4.
Strike: subsection (8) in its entirety

76. Page 58, line 7.
Following: "years"
Insert: "for 1988-89 and succeeding years"
Strike: "1986-87"
Insert: "1988-89"

77. Page 58, line 11.
Strike: "$114,845"
Insert: "$111,422"

78. Page 58, line 13.
Strike: "$4,785"
Insert: "$4,643"

79. Page 58, line 14.
Strike: "$26.10"
Insert: "$25.32"

80. Page 58, line 17.
Strike: "$4,368"
Insert: "$4,237"

81. Page 58, line 18.
Strike: "$26.10"
Insert: "$25.32"

82. Page 58, line 21.
Strike: "$2,802"
Insert: "$2,718"

83. Page 58, line 22.
Strike: "$4.37"
Insert: "$4.24"

84. Page 58, line 25.
Strike: "$2,365"
Insert: "$2,295"
Strike: "$2.40"
Insert: "$2.33"

85. Page 59, line 4.
Strike: "$2,125"
Insert: "$2,062"

86. Page 59, line 5.
Strike: "44"
Insert: "43"

87. Page 59, line 7.
Strike: "$1,993"
Insert: "$1,933"

88. Page 59, line 16 through line 21.
Strike: subsection (9) in its entirety

89. Page 60, line 14.
Following: "25%"
Strike: "31.8%"
Insert: "29.2%"

90. Page 61, line 15 through page 65, line 18
Strike: sections 29 and 30 in their entirety
Renumber: subsequent sections

91. Page 65, line 22.
Following: "surtax"
Strike: "10%"
Insert: "20%"

92. Page 66, line 1
Following: "15-30-161,"
Insert: "15-31-201,"
Following: "and"
Strike: "20-9-351"
Insert: "15-31-208"

93. Page 66, line 4.
Following: "Sections"
Strike: "5, 8, and 31"
Insert: "10, 13, and 43"

94. Page 66, line 7.
Following: "sections"
Strike: "5, 8, and 31"
Insert: "10, 13, and 43"

95. Page 66, line 16.
Following: "through"
Strike: "24"
Insert: "22, 27 through 37, and 44"

96. Page 66.
Following: line 18
Insert: "(3) Sections 23 through 26 apply retroactively, within the meaning of 1-2-109, to all small business corporations that have made a valid election under Subchapter S of Chapter 1 of the Internal Revenue Code on or before December 31, 1986, and for tax years ending after December 31, 1986.

NEW SECTION. Section 48. Coordination instruction. If House Bill No. 377 is passed and approved, this act is void."

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