

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

April 6, 1987

The fifty-eighth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on April 6, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Severson.

CONSIDERATION OF HB 716: Representative J. Brown, House District 46, presented this bill to the committee. This bill is a continuation of the Montana Medical Genetics Program. This is contracted with Shodair Hospital in Helena through the Department of Health. We had hoped after the last session that the state would be able to pick up the financing. This program was funded through a fee on health insurance policies of 45 cents and this session we dropped that to 35 cents. This will not bring in additional money but will just pay for the program itself. This bill sunsets in two years.

PROPONENTS: Chad Smith, Trustee of Shodair Hospital in Helena, gave testimony in support of this bill. The total cost of the genetics program in Montana runs about \$505,000. Some \$50,000 comes from the publisher Allen List, \$30,000 from the Alberta Foundation for Medical Care and the balance comes from Shodair Hospital. This bill appropriates \$520,000 for the biennium and comes from a charge of 35 cents on each health insurance policy in the state. At the time that this program was first enacted in 1985, we did not have solid information on just how a fee could be based, what the fee should be, and the number of policies there are. We do have that information from the State Auditor's office, attached as Exhibit 1, to base the information on for this bill. The major health insurer, Blue Cross and Blue Shield, has indicated they do not oppose the continuation of this program through this bill, see attached Exhibit 2. He furnished the committee with a letter prepared by Dr. Strickler and a petition signed by supporters of appropriation for genetics program, attached as Exhibit 3.

Dr. John M. Opitz, Helena, gave testimony in support of this bill. He is Chairman of the Department of Medical Genetics at Shodair Children's Specialty Hospital. His written statement is attached as Exhibit 4. He read to

the committee a prepared statement by Joan FitzGerald in support of this bill, attached as Exhibit 5.

Susan Lewin, Shodair Hospital, read to the committee a letter from Marie and Brad Connelly in deep gratitude for the guidance and counseling they received from the Shodair Department of Medical Genetics.

Dr. Jeff Strickler, Chairman of the Montana Academy of Pediatrics, stood in support of this bill.

Jerry Loendorf, representing the Montana Medical Assn., gave testimony in support of this bill. This program provides a valuable service to the infants and mothers in the state of Montana. It will cost each of the policy holders a quarter and a dime to fund this program for the next two years.

Chuck Butler, representing Blue Cross and Blue Shield of Montana, gave testimony in support of this bill. We do hope that the statistics, in terms of savings that can be achieved by the program, do prove out. We would encourage the legislature, in better economic times, to provide funding through the general fund for this program.

Brookes Morin, Helena, gave testimony in support of this bill. In 1979 his son was born with severe birth defects. The Montana Medical Genetics Program provided outstanding technical and emotional support. Without the help of genetics counseling, he sincerely doubts they would have tried to have any more children. They are the proud parents of two healthy children as the result of the staff of the Genetics Program.

OPPONENTS: Tom Hopgood, representing Health Insurers Association of America, gave testimony in opposition to this bill. He does not express opposition to the program. If this program is truly as beneficial as the proponents have said this morning, then it is a program that should be funded by the general fund of this state. The benefits of this program are not limited to people insured under health insurance policies, but to everybody across the state of Montana. In 1985 this started out as a general fund appropriation but ended up as a levy on the insurance companies with a sunset provision. We are still in a budget crunch and again want to put a levy on insurance companies for two more years. He believes it is unfair to levy an additional tax on the insurance companies, that basically goes into the general fund and the insurance companies do not derive any real or direct benefit from the levy. The fairest solution to this problem is to allow the companies that pay the premium

tax to have a credit against the premium tax for the amount paid to support this program. He furnished the committee with a prepared amendment to that effect, attached as Exhibit 6.

QUESTIONS FROM THE COMMITTEE: Senator Neuman asked Dr. Opitz if they do autopsies or any type of research for SID's.

Dr. John Opitz said if at all possible we would very much like to take a look at that program. We have done some autopsies on those children.

Senator Lybeck said Mr. Butler has indicated this bill will save money down the road but Mr. Hopgood is saying this will cost money.

Tom Hopgood said the benefits are not limited to people insured under health insurance policies. This is a cost levied against the insurance companies. Something that comes out of the profits of the company and as of now, these are costs that have not been passed to the consumer. There has not been an increase in insurance to the consumer. The insurance companies believed this was a tax that would be around for two years and it was not worth the underwriting health insurance policy conflict.

Senator Mazurek said you never did support this, even the two year taxation.

Tom Hopgood said no we did not.

Senator Eck asked if the premium tax is a 2-3/4% tax on the value of the amount paid.

Tom Hopgood said the premium tax is 2-3/4% on gross premiums paid. With a \$100 premium paid to the company, the company would pay \$2.75 of that premium to the state of Montana.

Senator Eck asked if they would pay a sales tax in the proposals.

Tom Hopgood said in following those, we understand the insurance companies would be exempt from paying the sales tax because the premium tax is a tax in lieu of all other taxes enacted by the state according to the provisions of the insurance code.

Senator Neuman asked Tom Hopgood how much do they charge to collect this tax.

Tom Hopgood said he did not know.

Senator McCallum asked Mr. Hopgood if he had offered his amendment in the House.

Tom Hopgood said yes, he did.

Representative Brown closed by stating Montana is fortunate to have this program. If the funding is not continued, the program will probably have to cease.

CONSIDERATION OF HJR 41: Representative Harp, House District 7, presented this bill to the committee. The House and Senate worked on this bill before transmittal and met some 18 times during the session. This resolution is the result of the Joint Revenue Estimating Committee's hard work to establish an estimate of the state's anticipated revenue for each year of the 1988-89 biennium for the purpose of achieving a balanced budget as mandated by Article VIII, Section 9, of the Montana Constitution. He reviewed the information contained in the bill with the committee.

PROPONENTS: None.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Brown said on page 5, line 17 you show a decline in interest income. He asked Representative Harp what is the basis.

Representative Harp said the money is down in all of our accounts. It has a lot to do with our budget. Not too long ago we had an ending fund balance of \$30-40 million. We simply do not have the cash laying in different accounts.

Senator Brown said that is a factor of not having a larger balance, not in relation to the depletion of the educational coal trust or anything like that.

Representative Harp said no.

Senator Brown asked if his group based their estimates on some kind of economic growth rate in Montana.

Representative Harp said the first year 5.4% and then 4.4% and 4.3% for the following two years. The main reason we did that was we saw some real uptake in the agriculture community and some large payments coming into the state.

Senator Brown said the national economic growth rate is something less than 3%. We are supposed to be worse off than the rest of the nation. Is there some reason for that optimism. It must be in the government payments.

Representative Harp said it can be very confusing comparing economic assumptions. The assumptions we are talking about that were used were all personal income, farm payments, entitlements, everything.

Senator Brown asked if we can depend on the growth in economics in the agriculture industry.

Senator Neuman said we can assume for the next two years as the program is already in place. Some farmers may not be paying monetarily but they will not be filing for a refund. The loss of capital gains on federal reform will make a big difference. The lumber industry is picking up and a couple of gold mines are starting. Those are factors that led the committee to adopt a higher rate.

Senator McCallum asked if the windfall was included on page 8.

Representative Harp said that is 90% of the reason for growth in those figures. If it wasn't for the windfall, as the budget leaves the House, rather than being \$111 million in the hole we would be \$180 million in the hole. Remember, if we don't include the windfall, someone will have to pick up the difference. Be very careful with the windfall reform.

Senator Brown asked how the \$739 million compares with the revenue taken in by the state in the last biennium.

Representative Harp said revenue for the last biennium was \$700 million.

Representative Harp closed by stating the committee had hopes that maybe in the latter part of this week we could meet and go over all the revenue bills that are in the House and Senate and see how the revenue picture looks.

DISPOSITION OF HB 716: Senator Mazurek made a motion that HB 716 BE CONCURRED IN.

Senator Lybeck said he was at a meeting on this issue and he believes there is a need for this program and it certainly needs to be continued.

Senator Eck said this should be picked up as a regular part of the Department of Health budget. Somehow she thinks that should be a committee recommendation.

Senator Bishop said he has been here three months and this is the most cost effective program he has seen. He can't believe we would even not consider this bill.

Senator Mazurek's motion carried with Senators Crippen and Severson absent and Senator Hager not voting.

DISPOSITION OF HB 84: John Wilson, Department of Commerce, reviewed the amendments attached as Exhibit 7. He said these amendments were furnished at the hearing and basically what they do is remove the statutory appropriation for the Department of Revenue and allow that appropriation to be made not in statute but every biennium for actual cost and collection and disbursement. That would refer to amendments numbered 2-6. Amendments numbered 7-11 deal with the issue of the 4% tax, with 3% going to the Department of Commerce and 1% going back to the locality where the tax is. The House put amendments on the bill to put 2.5% of the money with the university system and 1% to the Historical Society. The amendments would change the position of where the money would be taken from for the university system and the Historical Society. Amendment 12 provides that the council shall "direct the university system regarding Montana travel research and approve all travel research programs prior to their being undertaken." Amendments 13 and 14 remove the coordination clause.

Senator McCallum asked if the amendments give the local government the 25%.

John Wilson said the local entity would get 25%. It goes to a nonprofit corporation. It does not go to the government.

Senator Lybeck asked if there was a problem with changing the date from May to July 1, as suggested by the Department.

John Wilson said he talked to the Department of Revenue on this issue and he would appreciate it if the committee would consider looking at June 15 instead of July 1. He is concerned with losing the tourist season.

Senator Neuman asked about the amendment attached with the 5 year provision, part of Exhibit 7.

John Wilson said that would place HB 84 in compliance with the 5 year statute of limitations. That would bring HB 84 in compliance with the rest of the tax laws.

Senator Eck made a motion that the committee adopt the amendments.

Senator Halligan asked John LaFaver to comment on the amendments.

John LaFaver said if the statutory appropriation is taken out, then we have to go to Finance and Claims and get money put in, and that is very hard to do. If we are going to have money to administer this, then the appropriation should be made in this act. The effective date is immaterial without the statutory appropriation.

Senator Brown said what you are saying is that perhaps we could move the effective date to mid June, but you have to have the statutory appropriation in the bill.

John LaFaver said if we do not have an appropriation, it doesn't matter what the effective date is because we will not have the money to put that in place. We can't propose a rule until this is enacted and it takes 90 days to promulgate a rule.

Senator Mazurek said all we need to do is leave the statutory appropriation in the bill. Then in two years we could take that into consideration.

Senator Eck would accept that as part of her motion, that rather than remove the statutory appropriation in the bill, that provision be sunsetted.

Senator Brown asked if her amendment included the 5 year statute of limitations.

Senator Eck said yes, and the effective date would be on passage and approval and is applicable to taxable transactions on or after July 1, 1987.

The motion carried with Senator Severson absent.

Senator Crippen asked if we come up with a sales tax, would it be 2%.

John Wilson said there would be no reduction as the bill has been amended so far.

Senator McCallum said you are probably hurting the small motels and helping the convention centers.

Senate Taxation  
April 6, 1987  
Page Eight

Senator Eck said there is an exemption for those who charge 60% of the government rate. That takes care of a lot of the inexpensive little hotels.

Senator Halligan said he had the hotel/motel tax and the whole industry came in and opposed it because it didn't help defray the cost of local government. This bill sure will not do that.

Senator Brown said this bill is the result of some negotiations between the administration and the lodging industry over the last biennium. One of the things that it does is to eliminate the need for the travel and tourist promotion budget.

Senator Brown made a motion that HB 84 BE CONCURRED IN AS AMENDED. The motion carried with Senators Neuman, McCallum and Halligan opposed.

FURTHER CONSIDERATION OF HB 666: Jim Lear said with regard to the concern expressed by the committee for a public hearing, the bill could be amended on page 1, line 21 to insert, following "and", "after a public hearing". The title would also have to reflect this change. The public hearing requirement would apply to this portion of the bill dealing with the pledging or appropriating other revenues of the municipality.

Senator Halligan made a motion that the committee adopt that amendment. The motion carried.

Senator Crippen has a question on whether we should be doing this with the bonds in effect now that have already went through the underwriting process. If we didn't have this bill in effect and the tax increment district didn't have enough money in sinking funds to pay, where would they go.

Gordon Morris said it is his belief it would be an obligation to the municipality since they had in fact created the tax increment district.

Senator Crippen would like to see another amendment on here that would make this applicable to bonds that are not already in effect.

Jim Lear clarified that he would want this to apply to prospective applications only.

Senator Eck thinks she has a problem with this. If we pass any of these tax relief measures, there might



generally be a decrease in tax receipts by 1/4 or 1/3 and then the money redistributed back from the sales tax goes into some kind of general fund. Would that general fund be covered by this so that the tax increment district would automatically get their share.

Senator Crippen said it would depend on how you create the language that provides the replacement fund.

Senator Eck said it is replacement tax and not a property tax.

Senator Crippen said the sales tax language would have to be sure they cover that.

Senator Halligan said what about an existing tax increment district that loses some businesses and with I-105, they may need to plug in some additional revenue on the old bonds.

Senator Crippen said the bonds were passed and approved on the basis of the facts then and the facts then did not allow for any outside income. Now you want to go back and change that.

Senator McCallum asked where is the source of the other revenue.

Senator Crippen said other revenue can be any other revenue that can be pledged, outside of the tax increment district as well as within.

Senator Crippen suggested holding the bill until some amendments can be prepared.

DISPOSITION OF HB 539: Senator Mazurek made a motion that HB 539 BE TABLED. The motion carried, Senator Severson was absent.

DISPOSITION OF HB 714: Senator Eck made a motion that HB 714 BE CONCURRED IN. The motion carried with Senators McCallum and Neuman opposed and Senator Severson absent.

The meeting recessed at 10:15 A.M. and reconvened at 10:40 A.M. to considered the sales tax issue.

FURTHER CONSIDERATION OF HB 377: Senator McCallum said that Dave Bohyer has information that he will present to the committee.

Dave Bohyer provided the committee with information on a sales tax generally and specific sales tax measures that the committee has considered, as follows: Exhibit 8 -

Issues Outline, A Retail Sales and Use Tax for Montana; Exhibit 9 - Overview of House Bill 377; Exhibit 10 - SB 395; Exhibit 11 - Overview of Sales Tax Measures; and Exhibit 12 - A Greybill, HB 377, that incorporated half of HB 377 and HB 395 and meshes them together as one bill. The half from SB 395 is the sales tax structure, administration, penalty provisions, permitting and the whole sales tax mechanism that is in Senator Hirsch's bill. The only change would be an increase from a 3% sales tax to a 4% sales tax to allow for some money to go to the general fund. The second half of the bill is Representative Ramirez's bill and that has changes to the property tax system. There is no change to class 1, 2 and 3 property. Class 4 is residential and commercial real property and improvements and under HB 377 \$20,000 is exempt for residences and the rate is reduced from 3.86% to 3%. On class 5 the rate hasn't changed from 3%. Class 6, used to be livestock and agricultural products and some rental property, all are exempt under HB 377. Classes 7, 8, 9, 10 and 16 are all moved to a new class 6 and all of those rates are reduced to 5%. The actual reduction ranges from 40% to as high as 97%. Class 11 is not changed in the bill, it stays the same as it is currently. Class 12 is brought into class 4, mobile homes. If residential, are subject to the \$20,000 exemption. Class 13 is timber land and no change was made to timber land. Class 14 is farmsteads and there is no exemption given to farmsteads. They will get a benefit from the rate reduction. Class 15 is railroads and there was no change made to that because the railroad tax rate is a formula driven rate and that formula states the rate is generally applicable to other commercial and industrial property. It seems to him that the rate the railroads will be taxed at should be reduced because the tax on other commercial property is reduced. Class 16 is repealed. Class 17, airlines, there are some special considerations here that need to be given carriers. They are afforded under federal law the same treatment as railroads. In the special session in March and April, the airlines agreed to be taxed at 12%. Federal law says you can't tax them higher than other commercial property. They agreed to the rate and new tax structure and now, with the possibility of other commercial and industrial property being taxed at a lower rate, they probably are entitled to that lower rate. Under federal law they are entitled to that. That needs to be looked at. Class 18 is not changed in this bill. Class 19 is not changed in the bill.

Senator Brown said you treat the exemptions just as in SB 395, with no tax on food and drugs and so on down the line.

Dave Bohyer referred to Exhibit 10, SB 395 exemptions. He explained that with an exemption nobody pays a tax. With a deduction, some people are exempt and some have to pay the sales tax.

Senator Mazurek asked John LaFaver where he deviated from the New Mexico law in the language used in SB 395.

John LaFaver said it is pretty much the same. There is some language in the fuel area that is different because we are taxing fuels differently than New Mexico. We did not follow it word for word. In terms of substance, there is only one area where we deviated and that is food and medicine exemptions, they do not exempt anything.

Senator Brown asked if it was a policy reason to exempt food and medicine rather than to allow a credit.

John LaFaver said we felt that the general public perception was that a sales tax, in order to be acceptable, would have to exempt food and drugs. From the standpoint of both the retail outlet and the Department of Revenue, it is a better way to go not to exempt anything and allow a credit on the income tax.

Senator Brown said a credit on the income tax based on level of income.

John LaFaver said there would be no exemptions but there is a larger income credit for the low income tax payer. They receive that back whether they pay income tax or tax, by filing a form with the Department of Revenue.

Senator Brown asked if a system like that is more progressive.

John LaFaver said administratively it works better and it is more progressive, absolutely.

Senator Neuman asked how do you exempt drugs.

John LaFaver said our intent is that anything that is received from a prescription is exempt and anything else is not.


Senator Crippen said it is important for the committee to know the monetary amount that would be given up for each exemption and relate it to that.

John LaFaver said the theory of how they handle it in New Mexico is, we have a retail sales tax that taxes the final product once. You tax that new home or automobile once, and you do not tax it after that. As many times as it is sold, it is not taxed again.

Senator Crippen would like the committee to focus on specific parts of the bill; a procedure whereby we can work on the bill section by section.

The hearing closed, but further consideration will be given to this issue.

ADJOURNMENT: The meeting adjourned at 12:05 P.M.

  
SENATOR GEORGE McCALLUM, Chairman

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FOOTNOTE: FURTHER TESTIMONY ON HB 716:

Tanya M. Ask, Deputy Insurance Commissioner, furnished the committee with written testimony stating some concerns they have with the bill. Testimony is attached as Exhibit 13.

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 4-6-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON			✓
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE April 6, 1987

COMMITTEE ON Senate Taxation

VISITORS' REGISTER *HB 716 HJR 41*

[illegible]

(Please leave prepared statement with Secretary)

STATE AUDITOR  
STATE OF MONTANA



Andrea "Andy" Bennett  
STATE AUDITOR

COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

January 5, 1987

Daniel L. Yazak, D.E.D.  
Administrator  
Shodair Children's Hospital  
840 Helena, MT 59604

Dear Mr. Yazak:

We are able to provide you with the following information in answer to your recent inquiry concerning Genetics Program Charge collections.

This charge is imposed on private health insurers, health service corporations, and the state group health self-insurance plan at the rate of 45 cents per Montana resident insured under any individual or group policy. Our records indicate that we collected \$344,150 under this law for fiscal year 1986. This means that the Montana residents covered under the policies of the reporting insurance organizations totalled 764,778. However, due to the fact that some Montana residents are covered under the policies of more than one insurer, this does not mean that 764,778 Montanans had health insurance.

We have not yet made any collections for fiscal year 1987 because the charge is based on Montana residents covered as of February 1.

If we can provide additional assistance, please contact me.

Sincerely,

*Russell Ehman*

Russell Ehman  
Insurance Examiner

RE/blm(758)

SENATE TAXATION

EXHIBIT NO. 1

DATE 4-6-87

BILL NO. H.B. 716

*Chad Smith*

3-19  
BOL 716  
EX

**Blue Cross**  
and  
**Blue Shield**  
of Montana



**Helena Division**  
404 Fuller Avenue • P.O. Box 4309  
Helena, Montana 59604  
(406) 444-8200

**Great Falls Division**  
3360 10th Ave. South • P.O. Box 5004  
Great Falls, Montana 59403  
(406) 761-7310

Reply to Helena Division

February 18, 1987

Representative Jan Brown  
Capitol Station  
Helena, MT 59620

Dear Jan:

As you know, we were approached by the Helena Legislative Delegation requesting our support for continuation of the special levy to fund the Genetics Program at Shodair Hospital.

We appreciated the opportunity to discuss this issue with you and we have taken the position that we will not oppose continuation of the Genetics Tax at the reduced level proposed in your legislation with the two-year Sunset Provision, so that it can be considered again at that time.

Feel free to share with the House Taxation Committee the position of Blue Cross and Blue Shield of Montana on this program.

Sincerely,

TERRY SCRENAR  
Executive Vice President

TS:dlt

cc: Helena Legislative Delegation

SENATE TAXATION

EXHIBIT NO. 2

DATE 4-6-87

BILL NO. H.B. 716

*Phil Smith*



American  
Academy of  
Pediatrics



Montana Chapter

Chairman

Jeffrey H. Strickler, M.D.  
300 N. Montana  
Helena, MT 59601  
(406) 443-5563

Interim Chairman

James Feist, M.D.  
7 East Beall  
Bozeman, MT 59715  
(406) 587-5123

Secretary-Treasurer

Ralph Campbell  
#4 Third Avenue W.  
Bozeman, MT 59860  
(406) 883-2232

To: Senate Taxation Committee

From: Jeffrey H. Strickler, M.D.  
Chairman, Montana Academy of Pediatrics

Re: HB 716, Funding the Shodair Genetics Unit

At the annual meeting of the Montana Academy of Pediatrics, the pediatricians of this state voted unanimously to support the Shodair Genetics Unit.

This is a resource for our children of international reputation, and provides a service that would require travel many hundreds of miles out of state if it did not exist.

It is further of great value to the physicians of the state. The consultations provided are in an area that we are generally unfamiliar, they are accurate and accessible; and the laboratory allows us to get quick pre-natal and post-natal diagnoses for our patients that would otherwise be extremely difficult.

The physicians who care for children strongly recommend a "do pass" for the funding of this essential medical resource.

A handwritten signature, likely of Jeffrey H. Strickler, M.D., written in dark ink.

SENATE TAXATION

EXHIBIT NO. 3

DATE 4-6-87

BILL NO. H.B. 716

American  
Academy of  
Pediatrics



EX  
H.B. 716

Montana Chapter

Chairman

Jeffrey H. Strickler, M.D.  
1300 N. Montana  
Helena, MT 59601  
(406) 443-5563

Alternate Chairman

James Feist, M.D.  
7 East Beall  
Bozeman, MT 59715  
(406) 587-5123

Secretary-Treasurer

Ralph Campbell  
#4 Third Avenue W.  
Polson, MT 59860  
(406) 883-2232

2/19/87

From J. H. Strickler MD

Chairman, MT Chapter AAP

To House Taxation Committee

Re: H.B. 716

Shodair Genetics Funding

The Montana pediatricians, at their recent annual meeting voted their unanimous support of the Shodair Genetics program.

The value of this program to the physicians and children is inestimable. Every effort should be extended to provide full funding to keep this a viable program in Montana.

Thank you

A handwritten signature, likely of Jeffrey H. Strickler, written in dark ink.

SENATE TAXATION

EXHIBIT NO. 3

DATE 4-6-87

BILL NO. H.B. 716

B716  
EX  
-19

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM

We, the undersigned, physicians of Lewis and Clark County,  
support passage of an appropriation bill by the 1987 Montana  
Legislative Assembly to finance operation of the voluntary  
statewide genetics program provided by Section 50-19-211,  
Montana Codes Annotated for the 1987-1989 biennium.

*[Signature]*  
*[Signature]*  
Mike Bowers  
*[Signature]*  
Denton  
William Lusk  
Dm Sp Briz  
R/ Payments MD  
Bjant MD  
E. R. McEwen MD  
J. G. White MD  
Pearl S. Donaldson  
Dan Danks  
John W. Mendenhall MD  
J. H. McKenna MD  
Michael H. Hecce  
Mary Anne Jorgensen

## SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM H.B. 716

We, the undersigned, physicians of Lewis and Clark County, support passage of an appropriation bill by the 1987 Montana Legislative Assembly to finance operation of the voluntary statewide genetics program provided by Section 50-19-211, Montana Codes Annotated for the 1987-1989 biennium.

John C. [unclear] MD

[unclear]

E. [unclear]

[unclear] MD

Michael Stokell MD

[unclear]

Robert C. [unclear] MD

Donald B. [unclear] MD

[unclear] MD

R. M. Brown MD

Robert E. [unclear]

We, the undersigned, physicians of Lewis and Clark County, support passage of an appropriation bill by the 1987 Montana Legislative Assembly to finance operation of the voluntary statewide genetics program provided by Section 50-19-211, Montana Codes Annotated for the 1987-1989 biennium.

James R. L. & Co. of  
James W. Whitaker, et al.

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM

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Montana Codes Annotated for the 1987-1989 biennium.

*[Signature]*  
Mike Bowers

*[Signature]*  
Dawson Lusk

Apr 27/87

R. J. [Signature]

[Signature] MD

E. R. McEnay MD

[Signature] MD

Paul S. Donaldson

[Signature]

John W. [Signature] MD

[Signature]

[Signature]

Margaret J. [Signature]

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM  
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Montana Codes Annotated for the 1987-1989 biennium.

John C. Thompson MD  
David J. Gubler MD

Ed Anderson  
Spencer Warner MD  
Michael Strickland MD

John Kelly  
Robert C. Whitworth MD

Donald B. Johnson MD  
Kenrick M D

R. M. Brown M.D.

Robert E. Gelfand

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM  
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*James R. ...*  
*James R. ...*  
*James R. ...*



SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM  
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statewide genetics program provided by Section 50-19-211,  
Montana Codes Annotated for the 1987-1989 biennium.

*Mike Bowers*

*Dr. Gordon Lusk*

*Dr. J. P. Bink*

*R. J. Gagnier MD*

*Jeffrey M. D.*

*E. R. McEwen MD*

*Paul S. Donaldson*

*Dr. J. J. B.*

*John W. Mendenhall MD*

*Dr. J. H. K.*

*Michael J. Mendenhall*

*Margaret J. Gergen*

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM  
-----

We, the undersigned, physicians of Lewis and Clark County,  
support passage of an appropriation bill by the 1987 Montana  
Legislative Assembly to finance operation of the voluntary  
statewide genetics program provided by Section 50-19-211,  
Montana Codes Annotated for the 1987-1989 biennium.

John C. T. [unclear] MD

[unclear]

Ed Anderson

[unclear] MD

Michael Strickland MD

[unclear]

Robert C. [unclear] MD

Donald B. [unclear] MD

[unclear] MD

R. M. Browning M.D.

Robert E. [unclear]

SUPPORTERS OF APPROPRIATION FOR GENETICS PROGRAM  
-----

We, the undersigned, physicians of Lewis and Clark County, support passage of an appropriation bill by the 1987 Montana Legislative Assembly to finance operation of the voluntary statewide genetics program provided by Section 50-19-211, Montana Codes Annotated for the 1987-1989 biennium.

*J. C. C. M.*  
*James C. C. M.*  
*James W. Burkholder, MD*

TESTIMONY GIVEN BY DR. JOHN M. OPITZ OF HELENA, CONCERNING HB716: "AN ACT TO FUND THE VOLUNTARY STATEWIDE GENETICS PROGRAM BY IMPOSING A FEE ON HEALTH INSURERS OF 40¢ FOR EACH MONTANA RESIDENT INSURED; APPROPRIATING MONEY FOR THE PROGRAM AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

INTRODUCTION:

My name is John M. Opitz. I am a physician, licensed to practice medicine and surgery in the State of Montana and I am Chairman of the Department of Medical Genetics at Shodair Children's Specialty Hospital. I am Board certified in the specialties of pediatrics and medical genetics. I am here to testify in favor of House Bill 716, introduced by Representative Jan Brown of Helena.

PROVISIONS:

- 1.) 40¢ are to be paid to the Insurance Commissioner on each health insurance policy issued in Montana, in order
- 2.) to support the Montana Medical Genetics Program which was established by HB430 in the 49th Legislature, with an appropriation of \$520,000 for the biennium (\$260,000 per year).

HISTORY:

- 3.) We regret coming to you for this purpose, because it was the intention of the 49th Legislature that HB430 would be a one-time measure, with the budget item for the Montana Medical Genetics Program thereafter

becoming a regular part of the budget of the Department of Health and Environmental Sciences.

- 4.) As you know, at the Governor's urging, all "new" programs funded through a special appropriation were removed from the budget he proposed to you.
- 5.) Hence, our need to come before you with a request similar to that proposed two years ago, a request formulated at the recommendation of the Helena-area legislative delegation who also discussed their proposal with the distinguished President of Blue Cross/Blue Shield of Montana, Mr. Alan F. Cain, who voiced no objections, and with Representative Dorothy Bradley, sponsor of HB430, who is co-sponsor on HB716.

WHAT IS THE MONTANA MEDICAL GENETICS PROGRAM?

- 6.) The Montana Medical Genetics Program is a service, not a research program, funded by the Department of Health and Environmental Sciences (DHES) at \$260,000 per year, after a competitive application process awarded the grant to the Department of Medical Genetics at Shodair Children's Specialty Hospital in Helena. The Montana Medical Genetics Program provides the people of Montana with the services they need in order to diagnose, treat, and prevent birth defects and genetic and hereditary conditions. The Montana Medical Genetics Program also relies on a very extensive network of consultants throughout the United States and in several other countries in the world, in order to

provide the latest information on diagnosis, treatment and prevention to the patients and their families.

WHAT HAVE YOU GOTTEN FOR YOUR MONEY?

7.) During the year and a half since the beginning of the HB430 sponsored Montana Medical Genetics Program, we have performed

- 786 genetic consultations at Shodair and on field clinics in Kalispell, Missoula, Great Falls, Billings, Miles City, and Sidney, Montana.
- 156 fetal genetic pathology studies with 62 cases referred to the University of Wisconsin-Madison Department of Pediatric Pathology for further gross and microscopic studies.
- 1,658 tests on 800 samples in the cytogenetics laboratory.
- Have filled 3,863 requests for service for 2,284 patrons in the library and information resources center.
- In addition, we have published 4.5 volumes (i.e., 20 issues) of the American Journal of Medical Genetics, with a total of 4,412 pages and 487 articles, 34 of which were authored by Shodair staff.
- In addition, Shodair has published, or is in the process of publishing, 6 major books in the field of medical genetics,

including important summaries in human cytogenetics, X-linked mental retardation, the Rett syndrome, etc.

- We have initiated the statewide Maternal Serum Alpha-feto-protein Screening program; and
- We are working with Dr. Bill Peters of Bozeman to establish a chorionic villus sampling program at 9-10 weeks as an attractive alternative to amniocentesis at 16 weeks.

ALLIANCES:

- 8.) Out of our work has come a very strong alliance between the program and the health care providers in Helena and Montana, and state, county, municipal, university and numerous voluntary agencies to provide the best possible medical genetic care program for the people of Montana in order to prevent and to alleviate the pain and suffering associated with birth defects and genetic disorders of humans.

PROGRAM SUPPORT:

- 9.) The Montana Medical Genetics program has the strong support of the
- Department of Health and Environmental Sciences; indeed, Dr. John Drynan, secretary of the Montana DHES, went back to plead with Governor Schwinden to reinstate the funds for the Montana Medical Genetics Program in his budget.
  - The Montana Chapters of the American College of Obstetrics and Gynecology, the American Academy of Pediatrics, the

American Academy of Family Practice, the American Hospital Association, the American Nurses Association, the American Public Health Association;

- The Montana Perinatal Association,
- The March of Dimes Birth Defects Foundation,
- The Healthy Mothers, Healthy Babies: The Montana Coalition,
- The Developmental Disabilities Council of Montana.

MATCHED BY SHODAIR AND OTHER AGENCIES:

- 10.) The total Fiscal Year 1987 budget of the Department of Medical Genetics of Shodair Children's Specialty Hospital is \$505,200. Due to the 5% cut imposed by the Governor on all agency budgets, we are receiving only \$247,000 during this fiscal year (rather than the \$260,000 stipulated for in HB430). Thus, Shodair provides \$258,000 of its funds to finance the Montana Medical Genetics Program, to which must be added an approximately \$30,000 stipend granted by the Alberta Heritage Foundation for Medical Research to Dr. Susan O. Lewin, who is working with us as a Senior Postdoctoral Fellow at no cost to Shodair or the Montana Medical Genetics Program. In addition, the University of Wisconsin provides a minimum of \$70,000 worth of services per year for its evaluation of some 50-70 fetuses studied in the fetal genetic pathology program at Shodair. Thus, in direct and indirect support, the grant from the State of Montana is matched in a 1.4:1 ratio by Shodair in direct and indirect support.



EXCESS GENERATED FOR GENERAL FUNDS UNDER HB430:

- 11.) A letter of 1/5/87 by Russell Ehman, the Insurance Examiner working in the State Auditor's Office in the State of Montana, states that with a surcharge of 45¢ per health insurance policy, \$344,150 were collected under HB430 for FY-1986. This is \$84,150 more than the bill appropriated, or a total of \$168,300 for the biennium. To this must be added the "savings" from the 5% cut imposed in our budget during the second year of the biennium, or \$13,000; thus, HB430 provided an excess of \$181,300 to the State of Montana. With a total of 764,778 Montana policies, some 35¢/policy would provide slightly more than the \$520,000 required for the biennium.

WHY INVOLVEMENT OF THE HEALTH INSURANCE CARRIERS?

- 12.) The reason why this funding mechanism was proposed to begin with was that after the immediate benefit to the patients, the insurance carriers will benefit most substantially by having to make fewer and smaller payments for the health expense claims of chronically and multiply handicapped individuals, and those whose health is genetically impaired. Ultimately, the greatest beneficiary of a statewide voluntary genetics program is the State of Montana itself whose savings in the future will, without question, amount to hundreds-of-millions-of-dollars. Avoiding the admission of only 4 patients per year to Boulder alone will pay for the program. Hence, we should like to submit that an alliance between the State and health insurance carriers in this respect can only be of the greatest mutual benefit.

WHAT NUMBERS OF POTENTIAL CLIENTS ARE INVOLVED?

- 13.) Throughout the nation it is estimated that conservatively some 15-20 percent of the population needs one genetic service or another. In Montana this means anywhere between 120-160,000 citizens, including 40,000 alone who are carriers of cystic fibrosis.

WHAT MAGNITUDE OF HEALTH COSTS ARE WE TALKING ABOUT?

- 14.) The recent article in Newsweek documented that in 1985 health care in the United States cost \$425 billion, exceeding considerably the Defense budget, thus, the total Montana health bill for 1985 was 1.4 billion dollars. It is very conservatively estimated that 54% of that bill, or \$756 million dollars in Montana, is spent for genetically caused or predisposed disorders. This amounts to some \$945 to \$1,000 per person per year. In comparison to that, 45¢ per health-insured person (or per policy) is a trivial sum.

PRO-LIFE ASSURANCE:

- 15.) Since we are also involved in prenatal diagnosis, are we thereby engaged in a fetal "search and destroy mission", to use the words of the Surgeon General. The facts are, that out of the 105 dead embryos and fetuses we held (very reverently) in our hands during the past year for fetal genetic pathology studies, none was killed by man, but all represented acts of God, i.e., natural causes of

death. The provisional Montana birthrate for 1986 was 12,201, and 3,301 therapeutic abortions were performed in Montana during that year. To our knowledge, only one of these cases involved a genetic indication.

Over the years we have also seen many women who, after seeing us, had been able to cancel a termination which had been scheduled because of fear that they might have a defective baby.

It is fact that in over 95% of cases of prenatal diagnosis we are able to offer reassurance on the normality of the fetus for the trait it was being studied; many of the other 5% of women who are found to have an abnormal fetus decide not to terminate their pregnancy. Thus, our activities are in fact strongly pro-life not only in reducing the number of therapeutic abortions being performed for genetic reasons, but by actively encouraging conceptions in couples fearing to conceive for genetic reasons.

Ladies and Gentlemen of the Taxation Committee, we, therefore, hope that you will be able to give HB716 favorable consideration.

Respectfully submitted,

John M. Opitz, M.D., D.Sci.(h.c.), M.D.(h.c.)  
Chairman, Department of Medical Genetics

TESTIMONY

My name is Joan FitzGerald. I am the genetic counselor and clinical coordinator for the Shodair Department of Medical Genetics. I would like to address the specifics of our genetics services to, hopefully, demonstrate 1) the need in the State filled by our presence 2) the impact of the service on the financial, temporal and psychologic cost of genetic conditions and 3) the value of a local, by that I mean, available in the State, genetics service.

There is no question that easy access to a genetics service is foremost in reducing cost. For individuals needing a genetic service, travel out of state to large universities involves enormous expense in actual travel costs like gasoline, airline tickets, motel room, etc as well as requiring work absences, arrangements for daycare for other family members, and other loss of valuable time. Many individuals needing services will not travel great distances because of financial considerations and will not, therefore, receive the genetic information they need. Also, a number of families we serve depend on public assistance and will ask for State travel money to finance their trips out of State for required medical genetic care. Traditionally, cases seen in a large university setting are subjected to many "routine" tests and see numerous doctors due to the teaching requirement of university based programs. Many families will not seek services from these large institutions because of this "guinea pig" reputation. We currently hold 27 clinics per year in 6 locations around the State: Missoula, Kalispell, Great Falls, Billings, Miles City and Sidney. The map shows the geographic distribution of clients we have seen for an initial visit. Each blue pin represents 10 new cases and each red - 1 initial contact. This does not account for additional family members seen or follow-up visits. The geographic distribution of our clinic sites and Helena's centralized location allows driving access from anywhere in the State. We have seen families, your voting constituents, from every county represented on this committee within the last 12 months.

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If access and availability are considered, the fetal pathology service would not exist if genetic services were moved out of the state. This would mean that in 1986 numbers 107 families, 2 per week, would suffer the tragic loss of a desired child with no one available to answer their questions of why. These same 107 families in addition to the other 300 currently served per year would be forced to seek answers from experts outside of the state who are already struggling from overburdened caseloads.

Since the passage of HB 430, we have begun offering screening in early pregnancy to rule out a common birth defect, namely spina bifida and anencephaly. The condition results in multiple handicaps and an average of 10-12 surgeries by the age of 6 years. Through a blood test affected fetuses can be identified so that delivery in a center capable of immediate neurosurgery can be arranged thus helping to minimize the subsequent physical handicaps aggravated by traditional delivery. Since screening began in September of 1986, 378 pregnancies have been screened and current volume dictates an anticipated 1200 in 1987. These specimens come from all areas of the state with follow up provided by myself.

FOLLOW-UP

The availability of follow-up is vital for effective genetic services. If Montana families did not have this service available in the State, they would receive diagnosis, counseling, etc. in another State and would then be lost to follow-up. After an initial evaluation, many families have additional questions and concerns and contact us routinely for more information. Because of our permanent residence in the State, we can offer ongoing support for families in crisis after the death of a child, provide follow-up for critically ill newborns transported out of State and subsequently returned to their local community, provide consultation and counseling in cases of prenatal diagnosis where an abnormality is identified, continue to reassure expectant parents of the normality of their babies, and facilitate adjustment and acceptance of a genetic condition in an individual or family. We have extensive written information for lay and professional people and can involve our

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clients with local and national support and information organizations. Much genetic information is not heard by individuals in crisis and follow-up is vital to their understanding. Additionally, other family members, unaware of their risk, must be contacted and counseled. We also continue to follow undiagnosed cases as knowledge is gained in the field and to learn more about the effects of a particular condition.

In summary, we are able to provide exemplary genetic services for the people of Montana because the services are available and accessible to all of the Montana population, our program provides information not available through the local physician community, and, because of our residence within the State, we can routinely provide the quality follow-up required. The service prevents unnecessary travel for services, long delays in obtaining results, wasted time and finances on unproven treatments, and allows money spent for genetic health care to remain in Montana. I am hopeful the benefits of this program for the people of Montana will convince you to retain the established genetic services in this State.

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HB 716

1. Title.  
Following: Line 8  
Insert: "ALLOWING A PREMIUM TAX CREDIT;"
2. Page 1, line 23.  
Following: "50-19-211."  
Insert: "Amounts paid under this section shall  
constitute a credit against the premium tax  
imposed under 33-2-705."

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EXHIBIT NO. 6

DATE 4-6-87

BILL NO. H.B. 716

AMENDMENTS TO HB 84

1. Page 2, line 15  
Following: "motel"  
Strike: "dormitory"
2. Page 6, line 16  
Following: "department"  
Strike: "is statutorily appropriated, as provided  
in 17-7-502, 2% of"  
Insert: "may spend from"
3. Page 6, lines 18, 19  
Following: "account"  
Insert: "in accordance with an expenditure based  
on an estimate of"
4. Page 6, line 19  
Following: "estimate of"  
Strike: "each reporting period"
5. Page 6, lines 23, 24  
Following: "the"  
Insert: "expenditure"  
Strike: "statutory"  
Strike: "for collection and disbursement"
6. Page 6, line 24  
Insert: "are"  
Strike: "is"
7. Page 7, line 4  
Following: "commercial"  
Insert: "to the Montana Historical Society and to  
the University system,"
8. Page 7, line 5  
New subsections  
Insert: "(a) 1% to the Montana Historical Society to  
be used for the installation or maintenance of  
roadside historical signs and historic sites;  
and  
(b) 2.5% to the University system for the estab-  
lishment and maintenance of a Montana travel  
research program;  
(c) the balance of the fund as follows:"
9. Page 7, line 5  
Following: "department"  
Insert: "Commerce;"

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10. Page 7, line 6  
Following: "(1) (c);"  
Strike: "21.5%"  
Insert: "25%"
11. Page 7  
Strike: lines 19-24
12. Page 10, line 8  
New subsections  
Insert: "(e) direct the University system regarding  
Montana travel research;  
(f) approve all travel research programs  
prior to their being undertaken."
13. Page 13  
Strike: lines 23-25
14. Page 14  
Strike: lines 1, 2

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EXHIBIT NO. 7

DATE 4-6-87

BILL NO. H.B. 84

Amendments

House Bill 84  
Third Reading

1. Page 5  
Following: Line 4

Insert:

(4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false or fraudulent return violating the provisions of the chapter, the amount of tax due under any return shall be determined by the department within 5 years after the return was made and the department thereafter shall be barred from revising any such returns or recomputing the tax due thereon, and no proceeding in court for the collection of such tax shall be instituted unless notice of any additional tax was provided within such period.

(5) An application for revision may be filed with the department by an owner or operator within 5 years from the original due date of the return.

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EXHIBIT NO. 17

DATE 4-6-87

BILL NO. H.B. 84

ISSUES OUTLINE

A Retail Sales and Use Tax for Montana

April 6, 1987

SENATE TAXATION  
EXHIBIT NO. 8  
DATE 4-6-87  
BILL NO. H.B. 377

## INTRODUCTION

The following outline was first prepared for the House Committee on Taxation in an effort to identify issues relevant to a general retail sales and use tax for Montana. In response to a request from the Senate Committee on Taxation, the outline is reprinted, only slightly edited. The issues are not prioritized, nor are they fully illuminated through the brief outline. This outline is intended only as a document to facilitate discussion.

## THE TAX BASE

- A. In order to make a retail sales tax apply as generally as possible, should the tax base be as broad as possible?
- B. What is the rationale for limiting the base (if limited)?
- C. How are reduced sales tax revenues addressed (if the base is limited)?

### I. Credits

- A. General: Relief to low-income consumers for sales tax paid.
  - 1. Are the arguments for a general credit in lieu of exemptions or exclusions persuasive?
    - a) Broader tax base.
    - b) Ability to target relief.
    - c) Other.
  - 2. Should there be a general income tax credit for sales tax paid?
  - 3. If a general credit is advisable, how and in what amount should it be given?
    - a) Should the credit be the same for all persons?
    - b) Should it be graduated according to income to give greater relief to low-income persons?
    - c) Should there be an income level at which no sales tax credit is allowed?

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## B. Renter's Credit

1. If property tax relief is given to property owners, especially homeowners, should relief also be given to renters?
  - a) If renter relief is advisable, in what amount should it be given?
  - b) Should the credit be a flat amount, or should it be graduated according to income?
2. Should renter relief be permanent, or should it be phased-out to account for shifts in market supply and demand?

## II. Exemptions

- A. If the tax base is to be limited, what limitations should be imposed?
- B. What is the rationale for limiting the base through certain exemptions?
- C. Is there evidence that the exemption will effect the desired result?
- D. Does the desired result (if effected) from the exemption outweigh the foregone revenue?
  1. Food
    - a) How is food defined?
      - (1) Statutory definitions or broad rulemaking authority to the Department of Revenue?
      - (2) Rationale for exemption?
  2. Prescription drugs
    - a) Definitions?
  3. Goods on which excise taxes are imposed
    - a) Certain consumer goods are currently subject to specific "excise" taxes. Should these goods be exempt from a general sales tax? Why?
      - (1) Gasoline and other fuels
      - (2) Liquor
      - (3) Cigarettes and tobacco
      - (4) Services (e.g. accommodations)

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- (a) If it is advisable to have a sales tax on services, should all services be taxable?
- (b) If exemptions are made, what is the rationale?
- (c) Are the economic arguments against taxing professional services sufficient to warrant exemption?
- (d) What are the revenue implications of exemptions?
- (5) Others
  - (a) New vehicles?
  - (b) Real estate transfers?
  - (c) Rental payments?
  - (d) Education?
  - (e) Labor services of employee to employer?

## PROPERTY TAX REDUCTIONS

### I. Homeowners

- A. With the recent experience of CI 27 and I-105, is there consensus that homeowners are pleading for property tax relief?
- B. If so, what mechanisms are available to provide relief?
  - 1. Reductions in taxable rates, e.g. reduce the 3.86% taxable rate to something less: 3%, 2%, 1%, etc.
  - 2. Exemption of a certain portion of the market value of the property, e.g. \$16,500 of value; \$20,000 of value; total exemption of residential property.
- C. Once relief is effected, should there be some guarantee -- such as a Constitutional limitation -- that property taxes will not be increased?

### II. Small Business

- A. Noting that virtually every treatise on economic development stresses the importance of small business in job creation and overall economic development, should there be a concentrated effort to provide property tax relief to small business?
  - 1. If relief is advisable, how should it be given?
    - a) Relief on land and improvements?
    - b) Relief on personal property?

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- B. Assuming that whatever mechanism is chosen for property tax relief is accompanied by measures to replace property tax revenues lost, what means are available to generate replacement revenues?

### III. Personal Property

- A. If personal property tax reductions are advisable, should relief be targeted to the nonbusiness sector; small business; major corporations?
- B. What mechanism should be used?
1. Rate reductions?
  2. Exemptions?
  3. Local options?
  4. Others?

### IV. Mobile Homes

- A. If property tax relief is given to class four residential property, should relief also be given to class twelve property, i.e. mobile homes, or class fourteen, farmsteads?

### V. Livestock Inventory

- A. If property taxes on livestock are reduced or eliminated, should the reduction be general or targeted at "livestock inventory"?
- B. What should be considered "inventory"?
- C. Should there be a replacement fee or levy of some type to fund Department of Livestock functions currently funded with livestock taxes?

### VI. Boats and Aircraft

- A. Should property tax relief be provided on boats and aircraft?
- B. Should there be a fee in lieu of taxes?
1. If so, at what level?
    - a) Flat fee?
    - b) Flat percentage based on value?
- C. Should a sales tax bill be the "vehicle" to provide relief or should the existing bills proposing relief be used?

## VII. Farmsteads With One Acre at Market Value

- A. If residential property in class four is given relief, should relief also be given to class fourteen property, i.e. improvements on agricultural land? (Currently, class fourteen property is taxed at 80% of the rate applied to class four property.)

## VIII. Other

- A. Should relief be given to the oil and natural gas industry and some mining interests with reductions in the value of net proceeds of mines?
- B. If so, how?
  - 1. More deductions in calculating the "net" proceeds?
  - 2. Rate reductions?
- C. Should relief be given to the coal industry or metal mines with reductions in the value of gross proceeds of mines?
- D. If so, how?
  - 1. Change from "gross" to "net"?
  - 2. Reduce the rates?
- E. If property taxes are reduced on commercial property generally, the property taxes on federally protected transportation property may be automatically reduced as well. Should an effort be made to mitigate the tax effects on railroads and airlines?

## PROPERTY TAX REPLACEMENT MECHANISMS

### I. For Cities and Counties

- A. Use local government block grant mechanism?
- B. Develop new distribution mechanism?
  - 1. Basis?
    - a) Population?
    - b) Valuation?
    - c) Combination?
- C. Local options?
  - 1. Sales taxes?
    - a) General purpose?
    - b) Specific purpose?
  - 2. Income taxes?

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3. Payroll taxes?

4. Any authorized tax, fee, assessment, etc.?

II. For Schools

- A. Use local government block grant mechanism; general services portion?
- B. Use statewide equalization/school foundation mechanism.
- C. Target distribution, e.g. Retirement, insurance, transportation levies?
- D. Develop new distribution mechanism?

III. For Higher Education

- A. Replace 6-mill levy?
- B. Supplement 6-mill levy?
- C. Develop new mechanism?

IV. Assuming that whatever mechanism is chosen for property tax relief is accompanied by measures to replace property tax revenues lost, what means are available to generate revenues?

- A. Income tax surcharge with surcharge revenues earmarked for property tax relief?
- B. General retail sales tax?
- A. Wide array of local option taxes?

ADDITIONAL FUNDING

- I. Higher Education
- II. Schools
- III. State General Fund
- IV. Local Government

Appropriate Questions

- A. Should sales tax revenue be used solely to replace property tax-based funding?
- B. Should sales tax revenue be used to augment property tax-based funding?

- C. Should sales tax revenue be used to replace and augment property tax-based funding?
- D. To what entities should the revenues be distributed and in what amounts?

#### LOCAL OPTIONS

##### I. General Purpose

- A. Should a local option sales tax be authorized?
  - 1. If so, should it be limited in amount?
  - 2. Governing body, voted, either?
- B. Should the revenue be used to replace property taxes or used as an additional revenue source?

##### II. Special Purpose

- A. Should a special purpose sales tax be authorized?
- B. If so, in addition to a general purpose tax?
- C. Should it be limited in amount, duration, both?
- D. Imposition by governing body, voters, either?
- E. Should it be limited to certain projects?

#### CONSTITUTIONAL LIMITATIONS

- A. If a sales tax is advisable, should there be Constitutional limitations on the amount: 6%, 5%, 4%?
- B. What are the arguments for and against such limitations?
- C. If revenue from a sales tax is used as property tax replacement, should Constitutional limitations be placed on property taxes?
  - 1. At what level should they be limited?
  - 2. What are the arguments for and against such limitations?

#### TIMING

- A. When should the sales tax be imposed?
- B. When should property tax reductions take place?

- C. In the event of referendum, what timing considerations are there?
- D. If adopted by the legislature without referendum and a referendum is imposed as provided by the Constitution, what are the timing problems?
- E. If a sales tax is used as a fiscal 88-89 budget balancer and suspended by referendum, what are the fiscal implications?
- F. Election considerations?
  - 1. General election?
  - 2. School election?
  - 3. Primary or local government elections?
  - 4. Special election?
    - a) Timing?
    - b) Voter registration?

db/04047a

Overview of House Bill No. 377

SENATE TAXATION

EXHIBIT NO. 9

DATE 4-16-87

BILL NO. H.B. 377

## INTRODUCTION

1. What is the "sales and use tax"?

a. The tax is discussed in sections 3 and 14.

". . . 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."

"For the privilege of using, storing, or consuming in Montana tangible personal property, tickets or admissions, electricity and gas, local exchange telephone service, or other taxable transactions. . . a sales and use tax is imposed at the rate of 4% of the sales price of sales at retail . . ."

2. Further definition is needed for 3 terms:

- a. "sales at retail"
- b. "sale" or "purchase"
- c. "sales price"

A. "SALES AT RETAIL" are:

1. "a sale for any purpose other than resale in the ordinary course of business" (p. 5, l 22-23)
2. "leasing property" (2(9)(a)(i), p. 5, l 24-25)
3. "building materials" (2(9)(a)(ii), p. 6, l 1-2)
4. "linoleum, carpet, etc. and installation costs" p. 6, l 8-9
5. "lease or rental of property" p. 6, l 10.  
personal property covered in (9)(a)(i) (p. 5, l 24-25)

"SALES AT RETAIL" are not:

1. (a) aircraft or repair parts sold to a flying club if the aircraft and parts are used by the club's members. (p. 6, l 13-17)
- (b) leased aircraft to flying club members (p. 6, l 18-19)

B. WHAT DETERMINES A "SALE"

1. The transfer of title or possession of tangible personal property. (p. 6, l 22-24)
2. The lease or license to use of tangible personal property. (p. 6, l 24-25)
3. Computer software is taxable. (p. 7, l 4-9)
4. "Production, fabrication, printing or processing of tangible personal property for persons who furnish the materials", is taxable.
5. "...furnishing, preparing, or serving, meals, or drinks"
  - a. heated foods and drinks
  - b. prepared sandwiches
  - c. Eskimo pies, ice cream sandwiches, yogurt, etc.
  - d. Dairy Queen type products
  - e. all beverages prepared by the retailer
  - f. gum
  - g. ice
  - h. all vending machine sales
6. (a) all party trays (implies all catered foods, drinks, etc.)  
  
(b) (i) all "restaurant" meals; single servings of packaged snack food and single cans of pop sold  
(ii) all "tavern" meals; snacks, and pop

C. EXCLUSIONS FROM THE DEFINITION OF "SALE"

1. Food, meals or drinks served in: hospitals, sanitariums, nursing homes, retirement homes;
2. Meals or drinks served exclusively to persons 60 yrs or older, and spouses and handicapped and spouses by:
  - (a) the government
  - (b) nonprofits (Salvation Army, God's Love, etc.)
  - (c) churches
  - (d) any programs authorized by the Older Americans Act of 1965
3. Meals or lunches served at:
  - a. schools
  - b. university or college
  - c. churches or charities if only done "occasionally"



4. Tickets to everything, and specifically includes:
  - (a) amusement devices, (implies carnival rides, games, pin balls, Draw 80 Poker, etc.)
  - (b) athletic clubs, YMCA gyms, batting cages, golf courses, driving ranges, miniature golf, boating, tennis, other athletic recreational facilities
5. Accommodations. (2% or 4%)
6. Utilities, phone, long-distance, except water and sewer services.
7. Cable TV installation and service.
8. Race horses and stud fees; unless the horse was bred and born in Montana.
9. Newspaper advertising. (publisher pays)
10. Newspapers. (publisher pays)

D. DETERMINATION OF "SALES PRICE"

1. The "sales price" is the total consideration in money for a retail sale.
2. Deductions from the sales price:
  - a. cash discounts allowed and taken;
  - b. refunds for returned merchandise;
  - c. taxes imposed by the federal government (except manufacturer's or importer's excise).

E. STORAGE

1. Rental spaces, meat lockers, storage units, RV and boat storage, etc. are taxable (p. 11, l 3-6). Warehousing by a business of goods/inventory is not taxable.
2. The storage of goods held by a "broker"

F. MOBILE HOMES

Taxable at 4% on 60% of the sales price: ON NEW MOBILE HOMES ONLY!

G. MOTOR VEHICLES

1.  $2\frac{1}{2}\%$  sales tax on new cars ( $1\frac{1}{2}\%$  "new car" stays intact).
2. Used cars taxed @ 4% unless sold at an "occasional sale" (i.e. from me to you).

H. MISCELLANEOUS

1. Must have a permit to conduct business (5, 6, 7, 8, on pp. 14-17.)
2. All gross receipts are taxable until proven otherwise (10, pp. 18-19.)
3. Exemption certificate only for permit holder buying goods for resale (11.)
4. 1% collection fee (p. 27, l. 12-13)
5. Credit Reciprocity for sales tax paid elsewhere (25, pp. 32-33.)

I. NO TAX ON SALE FOR 12¢ OR LESS

J. SPECIFIC EXEMPTIONS (26, pp. 33-44)

1. (a) Food products including drinking water in containers of  $\frac{1}{2}$  gal. or more  
(b) Taxable "food"
  - (i) candy (except if sold to benefit persons 18 years old or younger);
  - (ii) carbonated beverages with less than 15% juice;
  - (iii) water with bubbles, and water without bubbles if sold in containers under  $\frac{1}{2}$  gal.
2. (a) Prescription drugs  
(b) Nonprescription drugs  
(c) Products consumed for the preservation of health  
(d) Prescription eyeglasses  
(e) Therapeutic and prosthetic devices  
  
\* Cosmetics and toiletries are taxable!
3. Any goods or transaction prohibited from taxation by federal law are exempt.

4. (a) property transported out of Montana by the purchaser if it is to be used in a trade or business (sale for use)

(b) Tangible personal property stored, used, fabricated, manufactured, etc. into other tangible personal property that is transported out of Montana and used out of Montana if:

(i) the property is not returned to Montana other than in interstate commerce; and

(ii)(A) the property is tax exempt in the jurisdiction of destination, or

(B) the jurisdiction does not tax similar items shipped to Montana,

(C) Other exemption or new rate

(i) Tangible personal property shipped for use (see p. 12, 1 2-18) in a trade or business out of Montana is taxable at the rate of:

(A) the tax imposed in the jurisdiction of destination, or;

(B) if no tax in the jurisdiction, Montana's rate.

(ii) catalogue sales or other sales to out-of-state residents are taxable @ their state's rate, or at Montana's rate if there is no tax imposed in their state.

(iii) Tangible personal property used in maintenance contracts and shipped out of Montana is specifically exempt.

5. Packing materials, (boxes, cans, containers, cartons, etc.)
6. Motor fuels subject to the fuel taxes in Title 15, ch. 70.
7. All materials used in agricultural and industrial production:
  - (a) chemicals, fuels, petroleum, lubricants;
  - (b) packaging;
  - (c) feed, seed, fertilizers;
  - (d) utilities;
  - (e) chemicals used to clean food processing equipment
  - (f) tools used in the manufacturing process with useful life of 12 months or less.

"Agricultural and Industrial Production" means:

- (i) research, development, design or production of tangible personal property;
- (ii) manufacture or processing of tangible personal property (except restaurants and consumer);
- (iii) commercial fishing;
- (iv) printing;
- (v) mining;
- (vi) quarrying;
- (vii) refining, smelting, reducing;
- (viii) brewing, distilling;
- (ix) lumbering;
- (x) generating electricity;
- (xi) production of wood building materials.

\* Agricultural and industrial production does not mean cleaning, repairing, or processing tangible personal property except as manufacturing process.

\* Also exempt if used in agricultural or industrial production are:

- (a) machinery, equipment, implements;
- (b) tools and accessories;
- (c) appliances and furniture;
- (d) fixtures;
- (e) contrivances used in ag or industrial production;  
and
- (f) electricity for making snow.

\* Utilities used for commercial, industrial, or agricultural space heating are taxable @ 4%.

\* Agricultural and industrial production does not mean cleaning, repairing, or processing tangible personal property except as manufacturing process.

\* Also exempt if used in agricultural or industrial production are:

- (a) machinery, equipment, implements;
- (b) tools and accessories;
- (c) appliances and furniture;
- (d) fixtures;
- (e) contrivances used in ag or industrial production;  
and
- (f) electricity for making snow.

\* Utilities used for commercial, industrial, or agricultural space heating are taxable @ 4%.



8. Sales to governmental agencies except:
- (a) materials purchased by a contractor; and
  - (b) construction materials purchased by tax-exempt organizations or their contractors if the construction will not be used principally by the tax-exempt entity.
9. Occasional sales:
- (a) includes nonprofits' sales if 3 days or less; and
  - (b) the total number of days of occasional sales in a calendar year is not more than 8 days.
10. Railroad rolling stock and maintenance and repair parts.
11. Airplanes, and repair and maintenance parts.
12. Sales of tangible personal property to:
- (a) Charitable, religious or educational entities if the property is used in exclusively charitable, religious, or educational capacity;
  - (b) Senior citizens' group restricting its membership to persons 55 or older if organized to and operated exclusively for pleasure, recreation and other nonprofit purposes.
  - (c) Construction materials sold to these groups are taxable.

K. RETURNS

1. Payments are monthly: 25th of the month.
2. Consolidated returns OK for one retailer @ more than one place of business.
3. 1% collection fee allowed.
4. Dept. has broad authority to investigate.

L. SECURITY

1. \$10,000 maximum; or
2. DOR can require bonding.

M. LATE RETURNS

1. DOR can extend payment and return due date.
2. Interest @ 5/6 of 1%/month

M. JEOPARDY ASSESSMENTS

1. DOR can require immediate payment for cause.
2. DOR assessment is valid until proven otherwise; burden of responsibility is on the taxpayer.

O. AUDITS

1. Must be made within 3 years of due date, unless the amount not paid is 25% or more of the amount reported. If so, the limitation is 5 years.
2. Fraud may be audited @ any time; no limitation
3. Extensions for audit information are allowed at the discretion of the department.

P. REFUNDS

1. Allowed if filed for within 2 years of the tax payment or 3 years of the date the return was filed, whichever is longer.
2. Interest at 5/6% of 1%.
3. (a) refund must be credited against taxes due; or  
(b) be refunded in the amount exceeding the amount due.
4. DOR action appealable to district court.

Q. RULEMAKING

DOR has broad authority.

R. CORPORATION LICENSE TO DO BUSINESS REVOKABLE

License to do business may be revoked at the request of the DOR for failure to comply with sales and use tax act.

S. PENALTIES

1. 10% of tax due for failure to pay;
2. 10%, plus 5% per month (25% max) for failure to file;
3. 50% for willful failure to file or pay, fraud, or evasion.
4. a. If 1, 2, or 3 offense occurs and the tax due is \$300 or less, the person is guilty of a misdemeanor; or  
b. If more than \$300, guilty of a felony.

T. PAYMENT UNDER APPEAL

1. If tax due is \$6,000 or more, the tax must be paid at time of appeal.
2. Apply for continuance if appeal is made. (Without payment at the DOR's discretion.)
3. Failure to pay automatically dismisses the appeal, and all amounts are due immediately.

U. INFORMATION IS CONFIDENTIAL

Penalty: \$1,000, 1 year, and dismissed from job.

V. LIVESTOCK FEES

1. For admin. of livestock laws,
2. Collected by county treasurer, and remitted to state.
3. Collections credited to Dept. of Livestock.

W. CREDIT

\$15 per income tax exemption.

EXEMPTIONS

1. Receipts of government, except public utilities
2. Food, except:
  - (a) meals;
  - (b) milk shakes, malts, etc.;
  - (c) catered food;
  - (d) take out food; and
  - (e) food sold at a place that charges admission
3. Medicine, drugs, medical services
4. Employee wages, salary, commissions or other remuneration
5. Receipts of agriculture producers
6. Livestock operations
7. Used vehicles
8. Receipts of insurance companies
9. Dividends and interest
10. Fuels subject to fuel tax
11. Isolated or occasional sales
12. Mineral interests
13. Minerals
14. Use by governmental agencies or an Indian tribe on a reservation
15. Personal effects of immigrants

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## DEDUCTIONS FROM GROSS RECEIPTS

1. Sales for resale
2. Sales of service for resale
3. Sale to a manufacturer if product is an ingredient or component part
4. Sale for lease
5. Lease for lease
6. Sale to persons in construction business
7. Machinery and equipment used in a trade or business
8. Construction service sold to construction business
9. Sale or lease of real property and mobile homes, and the rental of mobile home for periods of 1 month or more. Improvements to real property, if constructed by the seller as part of his construction business, are not deductible.
10. Transactions in interstate commerce if prohibited by constitution
11. (a) Radio and TV broadcasts if they originate outside Montana
- (b) Radio and TV advertising if done for other than Montana business
- (c) Commissions for advertising are not deductible; i.e. they are taxable
12. Intrastate transportation and services if part of interstate commerce
13. Services performed for out-of-state buyers. (Legal, accounting, and architectural services are taxable.)
14. (a) Feed, fertilizers, and agricultural supplies if received by bona fide agriculturalist
- (b) Livestock and agricultural products auctioneers
15. (a) Chemicals and reagents used in mining or milling if purchased in quantities in excess of 18 tons
- (b) Explosives are taxable
16. Trade-in allowances

SENATE JOURNAL

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17. Special fuels used in agriculture or in a trade or business
18. Services performed on a product being manufactured
19. Used mobile homes
20. (a) Use of property held for lease  
(b) Rented or leased furniture or appliances, coin-operated machines, and mobile homes are not deductible, i.e., they are taxable
21. Out-of-state sales and use taxes paid

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SENATE TAXATION

EXHIBIT NO. 10

DATE 4-6-87

FILE NO. 11 B 377



# OVERVIEW OF SALES TAX MEASURES

ISSUE  
RAMIREZ  
HB 377

CRIPPEN  
SB 333

HIRSCH  
SB 395

## SALES TAX CONSIDERATIONS

Tax Base	limited (11 pages of exemp- tions or exclusions)	very broad (taxes all goods; some services)	very broad (taxes most goods; exempts food and drugs; taxes most services)
Credit	\$15 per exemption	graduated credit and renter's credit	none
Exemptions	extensive: food and drugs some meals services fuels utilities	very limited: some services	very limited: food and drugs few services

## PROPERTY TAX CONSIDERATIONS

Homeowners	\$20,000 exemption rate reduced to 3%	exempted	\$16,500 exemption
Small Business	realty rate reduced to 3% personal property rates reduced some exemptions	realty rate reduced to 1.93% personalty reduced by half some exemptions	personal property exempted
Mobile Homes	treated as residence or reduced	exempted if residence or reduced	reduced if residence
Livestock	exempt; impose fee	exempt; impose fee	exempt; impose fee
Boats and Aircraft	exempt	rate reduced by half	exempt
Farmsteads	rate reduced	residence exempt; others reduced by half	partial exemption

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EXHIBIT NO. 11

DATE 4-6-87

ISSUE

HB 377

SB 333

SB 395

PROPERTY TAX REPLACEMENT MECHANISM

Cities and Counties	dollar-for-dollar formula	statutory appropriation	population and valuation formula
Schools	dollar-for-dollar formula	statutory appropriation through school foundation	population and valuation formula
Higher Education	dollar-for-dollar formula	statutory appropriation	population and valuation formula

ADDITIONAL FUNDING

Higher Education	none direct; (possible through general fund)	yes	no
Schools	None direct; (possible through general fund)	yes	no
State General Fund	yes	yes	no
Local Government	no	no	no
Local Options	no	yes	no
Constitutional Limits	no	no	no

Timing

June 1, 1988

October 1, 1987

June 1, 1989 if approved

SENATE TAXATION

EXHIBIT NO. 11

DATE 4-6-87

7004a/C:JEANNE\WP:jj

# FIRST DRAFT

Not PROOFED OR EDITED

HOUSE BILL NO. 377

INTRODUCED BY RAMIREZ, FRITZ, CRIPPEN, HIRSCH

A BILL FOR AN ACT ENTITLED: ~~"THE-RETAIL-SALES-AND--USE--TAX~~  
~~ACT;~~ AN 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 LOCAL GOVERNMENT BONDING AND DEBT  
LIMITS; PROVIDING A CREDIT AGAINST INDIVIDUAL INCOME TAX  
LIABILITY; PROVIDING THAT A PERSON COLLECTING THE SALES AND  
USE TAX BE ALLOWED TO RETAIN 1 PERCENT OF THE COLLECTIONS TO  
COVER THE COSTS OF COLLECTING THE TAX; AMENDING SECTIONS  
~~±5-±0-±057-±7-7-5027~~ 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, ±5-8-2027 15-8-205, 15-8-301,

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1 15-8-404, 15-8-405, 15-8-706, 15-16-611, 15-24-301,  
 2 15-24-302, 15-24-1102, 15-24-1103, 19-11-503, 19-11-504,  
 3 20-9-141, 20-9-331, 20-9-333, AND---20-9-343, 20-9-352,  
 4 20-9-406, 20-9-407, 20-9-501, 20-9-502, 20-10-144, 37-7-407,  
 5 61-3-431, 61-3-501, 61-4-112,---61-10-231,---61-12-206,  
 6 67-3-201, 67-3-202, 81-6-101, 81-6-104, 81-6-204, 81-6-209,  
 7 81-7-103, 81-7-104, 81-7-201, 81-7-202, 81-7-303, 81-7-305,  
 8 81-8-804, AND 85-7-2001, MCA; REPEALING SECTIONS 15-6-137  
 9 THROUGH 15-6-140, 15-6-142, THROUGH--15-6-144 15-6-143,  
 10 15-6-146, 15-24-304, 15-24-901 THROUGH 15-24-906, 15-24-908  
 11 THROUGH 15-24-911, 15-24-921 THROUGH 15-24-926, 15-24-931,  
 12 15-24-941 THROUGH 15-24-943, 61-3-502,---61-3-605, AND  
 13 81-7-118, MCA; PROVIDING-THAT-THE-PROPOSED-ACT-BE-SUBMITTED  
 14 TO-THE-ELECTORS-OF-THE-STATE-OF-MONTANA-AT-THE-NOVEMBER-1988  
 15 GENERAL-ELECTION; AND PROVIDING A-CONTINGENT EFFECTIVE DATE  
 16 DATES AND APPLICABILITY DATES."

17

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

19 (Refer to Introduced Bill)

20 Strike everything after the enacting clause and insert:

21 (Refer to Third Reading Copy)

22 Strike sections 1 through 42 and insert new sections 1  
 23 through 66. Renumber subsequent sections.

24 NEW SECTION. Section 1. Definitions. For purposes of  
 25 [sections 1 through 67] unless the context requires

otherwise, the following definitions apply:

(1) "Buying", "selling", "buy", "sell", or "sale" means the transfer of property for consideration or the performance of service for consideration.

(2) "Construction" means:

(a) the building, altering, repairing, or demolishing in the ordinary course of business of any:

(i) road, highway, bridge, parking area, or related project;

(ii) building, stadium, or other structure;

(iii) airport, subway, or similar facility;

(iv) park, trail, athletic field, golf course, or similar facility;

(v) dam, reservoir, canal, ditch, or similar facility;

(vi) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery, or similar facility;

(vii) sewage, water, gas, or other pipeline;

(viii) transmission line;

(ix) radio, television, or other tower;

(x) water, oil, or other storage tank;

(xi) shaft, tunnel, or other mining appurtenance; or

(xii) microwave station or similar facility;

(b) the leveling or clearing of land;

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DATE \_\_\_\_\_

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1 (c) the excavating of earth;

2 (d) the drilling of wells of any type, including  
3 seismograph shot holes or core drilling; or

4 (e) any similar work.

5 (3) "Department" means the department of revenue.

6 (4) "Engaging in business" means carrying on or  
7 causing to be carried on any activity with the purpose of  
8 direct or indirect benefit.

9 (5) "Food product for human consumption":

10 (a) means and includes:

11 (i) cereals and cereal products, margarine, meat and  
12 meat products, fish and fish products, eggs and egg  
13 products, vegetables and vegetable products, fruit and fruit  
14 products, spices, salt, sugar, sugar substitutes, sugar  
15 products other than candy and confectioneries, coffee and  
16 coffee substitutes, tea, and cocoa and cocoa products other  
17 than candy or confectioneries;

18 (ii) milk and cream and their products;

19 (iii) all fruit juices containing 15% or more real  
20 fruit juice, vegetable juices, and other beverages, except  
21 bottled water, spirituous, malt, or various other liquors,  
22 or carbonated beverages, whether liquid or frozen; and

23 (b) does not mean or include medicines or  
24 preparations, in liquid, powdered, granular, bottled,  
25 capsule, lozenge, or pill form, sold as a dietary supplement

1 or adjunct not prescribed by a licensed physician.

2 (6) (a) "Gross receipts", in addition to the other  
3 meanings provided in this subsection (6), means the total  
4 amount of money or the value of other consideration received  
5 from selling property in Montana, from leasing property used  
6 in Montana, or from performing services in Montana. The term  
7 includes all receipts from the sale of tangible personal  
8 property handled on consignment but excludes cash discounts  
9 allowed and taken and any type of time-price differential.

10 (b) In an exchange in which the money or other  
11 consideration received does not represent the value of the  
12 property or service exchanged, gross receipts means the  
13 reasonable value of the property or service exchanged.

14 (c) (i) Except as provided in [section 52], when the  
15 sale of property or service is made under any type of charge  
16 or conditional or time-sales contract or the leasing of  
17 property is made under a leasing contract, the seller or  
18 lessor shall treat all receipts, excluding any type of  
19 time-price differential, under such contracts as gross  
20 receipts at the time of the sale.

21 (ii) If the seller or lessor transfers his interest in  
22 any such contract to a third person, the seller or lessor  
23 shall pay the sales tax or use tax upon the full sale or  
24 leasing contract amount, excluding any type of time-price  
25 differential.

1           (d) For the purpose of the business of buying,  
2     selling, or promoting, as an agent or broker on a commission  
3     or fee basis, the purchase, sale, or lease of any property,  
4     service, stock, bond, or security, gross receipts includes  
5     the total commissions or fees derived from the business.

6           (e) Gross receipts includes all amounts paid by  
7     members of any cooperative association or similar  
8     organization for sales or leases of personal property or  
9     performance of services by such organization.

10          (7) "Lease" or "leasing" means an arrangement in  
11     which, for a consideration, property is used for or by a  
12     person other than the owner of the property.

13          (8) "Manufacturing" means combining or processing  
14     components or materials to increase their value for sale in  
15     the ordinary course of business. The term does not include  
16     construction.

17          (9) "Medical services" means a service performed by a  
18     person licensed to practice medicine, osteopathy, dentistry,  
19     podiatry, optometry, chiropractic, or psychology as a  
20     regular part of his business activities and applied  
21     externally or internally to the human body or mind for the  
22     diagnosis, cure, mitigation, treatment, or prevention of  
23     disease.

24          (10) "Medicine" or "drug" means and includes any  
25     substance or preparation intended for use by external or



1 internal application to the human body or mind in the  
2 diagnosis, cure, mitigation, treatment, or prevention of  
3 disease, which substance or preparation is required by law  
4 or regulation to be prescribed by a person licensed to  
5 prescribe such drug or medicine.

6 (11) "Permit" means a seller's permit as described in  
7 [section 43].

8 (12) "Person" means:

9 (a) an individual, estate, trust, receiver,  
10 cooperative association, club, corporation, company, firm,  
11 partnership, joint venture, syndicate, or other entity,  
12 including any gas, water, or electric utility owned or  
13 operated by a county, municipality, or other political  
14 subdivision of the state; or

15 (b) the United States or any agency or instrumentality  
16 of the United States or the state of Montana or any  
17 political subdivision of the state.

18 (13) "Sales tax" and "use tax" mean the applicable tax  
19 imposed by [section 2].

20 (14) (a) "Service" means any activity engaged in for  
21 another person for a consideration, which activity involves  
22 the performance of a service as distinguished from the sale  
23 or lease of property. The term includes activities performed  
24 by a person for its members or shareholders and construction  
25 activities and all tangible personal property that will

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1     become an ingredient or component part of a construction  
2     project.

3             (b) In determining what a service is, the intended  
4     use, principal objective, or ultimate objective of the  
5     contracting parties is irrelevant.

6             (15) "Therapeutic and prosthetic devices" includes but  
7     is not limited to prescription eyeglasses, contact lenses,  
8     dentures, and artificial limbs, prescribed or ordered by a  
9     person licensed to practice medicine, osteopathy, dentistry,  
10    podiatry, optometry, or chiropractic.

11            (16) "Use" or "using" includes use, consumption, or  
12    storage other than storage for subsequent sale, in the  
13    ordinary course of business, or for use solely outside this  
14    state.

15            NEW SECTION. Section 2. Imposition and rate of sales  
16    tax and use tax. (1) A sales tax of 4% is imposed on all  
17    gross receipts, as defined in [section 1], for the privilege  
18    of engaging in business in this state.

19            (2) For the privilege of using property in this state,  
20    there is imposed on the person using the property a use tax  
21    equal to 4% of the value of the property that was:

22            (a) manufactured by the person using the property in  
23    this state;

24            (b) acquired outside this state as the result of a  
25    transaction that would have been subject to the sales tax

1 had it occurred within this state; or

2 (c) acquired as the result of a transaction that was  
3 not initially subject to the use tax imposed by subsection  
4 (2)(b) or the sales tax imposed by subsection (1) but which  
5 transaction, because of the buyer's subsequent use of the  
6 property, is subject to the sales tax or use tax.

7 (3) For the privilege of using services rendered in  
8 this state, there is imposed on the person using such  
9 services a use tax equal to 3% of the value of the services  
10 at the time at which they were rendered. Services taxable  
11 under this section must have been rendered as the result of  
12 a transaction that was not initially subject to the sales  
13 tax or use tax but which transaction, because of the buyer's  
14 subsequent use of the service, is subject to the sales tax  
15 or use tax.

16 (4) For purposes of this section, the value of  
17 property must be determined as of the time of acquisition,  
18 introduction into this state, or conversion to use,  
19 whichever is later.

20 NEW SECTION. Section 3. Presumption of taxability --  
21 value. (1) In order to prevent evasion of the sales tax or  
22 use tax and to aid in its administration, it is presumed  
23 that:

24 (a) all receipts of a person engaging in business are  
25 subject to the sales tax or use tax; and

1           (b) all property bought or sold by any person for  
2 delivery into this state is bought or sold for a taxable use  
3 in this state.

4           (2) In determining the amount of tax due on the use of  
5 property or services, it is presumed, in the absence of  
6 preponderant evidence of another value, that value means the  
7 total amount of property or the reasonable value of other  
8 consideration paid for the use of the property or service,  
9 exclusive of any type of tax-price differential. However, in  
10 an exchange in which the amount of money paid does not  
11 represent the value of the property or service purchased,  
12 the use tax must be imposed on the reasonable value of the  
13 property or service purchased.

14           NEW SECTION. Section 4. Separate statement of tax.

15           (1) If the sales tax or use tax is stated separately on the  
16 books of the seller or lessor and the total amount of tax  
17 stated separately on transactions reportable within the  
18 reporting period is in excess of the amount of sales tax or  
19 use tax otherwise payable on those transactions, the excess  
20 amount of tax otherwise payable and stated on the  
21 transactions within the reporting period must be included in  
22 gross receipts.

23           (2) If the sales tax or use tax is not stated  
24 separately on transactions, the gross receipts for sales tax  
25 and use tax purposes include the total amounts received,

1 with no deduction for the sales tax or use tax.

2 NEW SECTION. Section 5. Liability of user for payment  
3 of use tax. (1) A person in this state who uses property is  
4 liable to the state for payment of the use tax if the tax is  
5 payable on the value of the property but has not been paid.

6 (2) The liability imposed by this section is  
7 discharged if the buyer has paid the use tax to the seller  
8 for payment to the department.

9 NEW SECTION. Section 6. Agents for collection of  
10 sales tax and use tax. (1) (a) A person who performs or  
11 attempts to perform an activity within this state that  
12 attempts to exploit this state's markets, who sells property  
13 or services for use in this state, and who is not subject to  
14 the sales tax or use tax on receipts from these sales shall  
15 collect the sales tax or use tax from the buyer and pay the  
16 tax collected to the department.

17 (b) "Activity", for the purposes of this section,  
18 includes but is not limited to engaging in any of the  
19 following in this state:

20 (i) maintaining an office or other place of business  
21 that solicits orders through employees or independent  
22 contractors;

23 (ii) canvassing;

24 (iii) demonstrating;

25 (iv) collecting money;

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1 (v) warehousing or storing merchandise; or

2 (vi) delivering or distributing products as a  
3 consequence of an advertising or other sales program  
4 directed at potential customers.

5 (2) To ensure orderly and efficient collection of the  
6 tax imposed by [sections 1 through 67], if any application  
7 of this section is held invalid, the section's application  
8 to other situations or persons is not affected.

9 NEW SECTION. Section 7. Nontaxable transaction  
10 certificate. (1) A nontaxable transaction certificate  
11 executed by a buyer or lessee must be in the possession of  
12 the seller or lessor at the time a nontaxable transaction  
13 occurs.

14 (2) If the seller or lessor is not in possession of a  
15 nontaxable transaction certificate within 60 days from the  
16 date notice of the requirement for possession of a  
17 nontaxable transaction certificate is given to him by the  
18 department, all deductions claimed by him that require  
19 delivery of a nontaxable transaction certificate are  
20 disallowed.

21 (3) A nontaxable transaction certificate must contain  
22 the information and be in the form prescribed by the  
23 department.

24 (4) Only a buyer or lessee who has registered with the  
25 department and whose permit is not suspended or revoked may

1 be allowed to execute a nontaxable transaction certificate.

2 (5) If the seller or lessor accepts a nontaxable  
3 transaction certificate within the required time and  
4 believes in good faith that the buyer or lessee will employ  
5 the property or service transferred in a nontaxable manner,  
6 the properly executed nontaxable transaction certificate is  
7 considered conclusive evidence that the proceeds from the  
8 transaction are deductible from the seller's or lessor's  
9 gross receipts.

10 NEW SECTION. Section 8. Government agencies exempt --  
11 utilities taxable. (1) All receipts of the United States or  
12 any agency or instrumentality of the United States or of  
13 this state or any political subdivision of this state are  
14 exempted from the sales tax and use tax.

15 (2) All receipts from the sale of gas, water, or  
16 electricity by a utility owned or operated by a county,  
17 municipality, or other political subdivision are subject to  
18 the sales tax.

19 NEW SECTION. Section 9. Exemption -- food products.  
20 (1) Except as provided in subsection (2), receipts from  
21 sales of food products for human consumption are exempt from  
22 the sales tax.

23 (2) The gross receipts from food products sold in the  
24 following manner are not exempt from the sales tax:

25 (a) any food products served as meals on or off the

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1 premises of the retailer;

2 (b) milk or cream sold as beverages commonly referred  
3 to as milk shakes, malted milks, or any similar beverage;

4 (c) food products furnished, prepared, or served for  
5 consumption at tables, chairs, or counters or from trays,  
6 glasses, dishes, or other tableware, whether provided by the  
7 retailer or by a person with whom the retailer contracts to  
8 furnish, prepare, or serve food products to others;

9 (d) food products sold for immediate consumption on or  
10 near a location at which parking facilities are provided  
11 primarily for the ease of patrons in consuming the products  
12 purchased at the location, even though such products are  
13 sold on a "take out", "to go", or "U-bake" order and are  
14 actually packaged or wrapped and taken from the premises of  
15 the retailer; or

16 (e) food products sold for consumption within a place  
17 that charges an admission fee.

18 NEW SECTION. Section 10. Exemption -- medicines,  
19 drugs, and medical services. (1) The gross receipts from the  
20 sale of medicines, drugs, and therapeutic and prosthetic  
21 devices are exempt from the sales tax.

22 (2) The gross receipts from the sale of medical  
23 services are exempt from the sales tax.

24 NEW SECTION. Section 11. Exemption -- wages. The  
25 receipts of an employee from an employer for wages, salary,



1 commissions, or any other form of remuneration for personal  
2 services are exempt from the sales tax.

3 NEW SECTION. Section 12. Exemption -- agricultural  
4 products. The receipts of a grower, producer, trapper, or  
5 nonprofit marketing association from the sale of livestock,  
6 live poultry, unprocessed agricultural products, hides, or  
7 pelts are exempt from the sales tax. Persons engaged in the  
8 business of buying and selling wool or mohair or of buying  
9 and selling livestock on their own account and without the  
10 services of a broker, auctioneer, or other agent are  
11 considered producers for the purposes of this section.

12 NEW SECTION. Section 13. Exemption -- livestock  
13 feeding. A person's receipts derived from feeding,  
14 pasturing, penning, or handling or the training of livestock  
15 prior to sale are exempt from the sales tax.

16 NEW SECTION. Section 14. Exemption -- vehicles. The  
17 receipts from the sale of any vehicle upon which a tax  
18 pursuant to [sections 1 through 67] has been paid or which  
19 was purchased prior to [the applicability date of this act]  
20 are exempt from the sales tax. A registration certificate  
21 showing that the vehicle was registered in this state prior  
22 to [the applicability date of this act] is conclusive proof  
23 that it was purchased before it was subject to taxation  
24 under [sections 1 through 67] and is exempt under this  
25 section.

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1           NEW SECTION. Section 15. Exemption -- insurance  
2 companies. The receipts of an insurance company or any of  
3 its agents from premiums are exempt from the sales tax.

4           NEW SECTION. Section 16. Exemption -- dividends and  
5 interest. The receipts of interest on money loaned or  
6 deposited or dividends or interest from stocks, bonds, or  
7 securities or from the sale of stocks, bonds, or securities  
8 are exempt from the sales tax.

9           NEW SECTION. Section 17. Exemption -- fuel. The  
10 receipts from the sale of gasoline, ethanol blended for  
11 fuel, or special fuel on which the Montana gasoline and  
12 special fuels tax has been paid under Title 15, chapter 70,  
13 are exempt from the sales tax and use tax.

14           NEW SECTION. Section 18. Exemption -- isolated or  
15 occasional sale or lease of property or services. The  
16 receipts from the isolated or occasional sale or lease of  
17 property or performance of a service by a person who is not  
18 regularly engaged in or who does not represent himself as  
19 engaged in the business of selling or leasing the same or a  
20 similar property or service are exempt from the sales tax.

21           NEW SECTION. Section 19. Exemption -- oil, gas, and  
22 mineral interests. The receipts from the sale or lease of  
23 oil, natural gas, or mineral interests are exempt from the  
24 sales tax.

25           NEW SECTION. Section 20. Exemption -- minerals. The

1 receipts from the sale or use of a mineral as defined in  
2 15-38-103 are exempt from the sales tax and use tax.

3 NEW SECTION. Section 21. Exemption -- governmental  
4 agencies. (1) The use of property by the United States or  
5 any agency or instrumentality of the United States or by  
6 this state or any political subdivision of this state is  
7 exempt from the use tax.

8 (2) The use of property by the governing body of an  
9 Indian tribe on a federally recognized Indian reservation is  
10 exempt from the use tax.

11 NEW SECTION. Section 22. Exemption -- personal  
12 effects. The use by an individual of personal or household  
13 effects brought into the state for the establishment by him  
14 of an initial residence in this state and the use of  
15 property brought into the state by a nonresident for his own  
16 nonbusiness use while temporarily within this state are  
17 exempt from the use tax.

18 NEW SECTION. Section 23. Deduction -- sale of  
19 tangible personal property for resale. Receipts from the  
20 sale of tangible personal property may be deducted from  
21 gross receipts if:

22 (1) the sale is made to a buyer who delivers a  
23 nontaxable transaction certificate to the seller; and

24 (2) the buyer resells or plans to resell the tangible  
25 personal property either by itself or in combination with

1 other tangible personal property in the ordinary course of  
2 business and the property will subsequently be subject to  
3 the sales tax.

4 NEW SECTION. Section 24. Deduction -- sale of service  
5 for resale. Receipts from the sale of a service for resale  
6 may be deducted from gross receipts if:

7 (1) the sale is made to a person who delivers a  
8 nontaxable transaction certificate;

9 (2) the buyer separately states the value of the  
10 service purchased in his charge for the service on its  
11 subsequent sale; and

12 (3) the subsequent sale is in the ordinary course of  
13 business and subject to the use tax.

14 NEW SECTION. Section 25. Deduction -- sale to  
15 manufacturer. Receipts from the sale of tangible personal  
16 property to a buyer engaged in the business of manufacturing  
17 may be deducted from gross receipts if:

18 (1) the buyer delivers a nontaxable transaction  
19 certificate to the seller; and

20 (2) the buyer incorporates or will incorporate the  
21 tangible personal property as an ingredient or component  
22 part of the product which he is in the business of  
23 manufacturing.

24 NEW SECTION. Section 26. Deduction -- sale of  
25 tangible personal property for leasing. Receipts from the

1 sale of tangible personal property, other than furniture or  
 2 appliances, and from the rental or lease of property, other  
 3 than coin-operated machines and mobile homes, that is  
 4 deductible under [sections 1 through 67] may be deducted  
 5 from gross receipts if:

6 (1) the sale is made to a buyer who delivers a  
 7 nontaxable transaction certificate to the seller;

8 (2) the buyer is engaged in a business deriving more  
 9 than 50% of its receipts from leasing or selling tangible  
 10 personal property of the type leased; and

11 (3) the buyer does not use the property in any manner  
 12 other than holding it for lease or sale or leasing or  
 13 selling it, either by itself or in combination with other  
 14 tangible personal property, in the ordinary course of  
 15 business.

16 NEW SECTION. Section 27. Deduction -- lease for  
 17 subsequent lease. Receipts from the lease of tangible  
 18 personal property, other than furniture or appliances, and  
 19 from the rental or lease of property, other than  
 20 coin-operated machines and mobile homes, that is deductible  
 21 under [sections 1 through 67] may be deducted from gross  
 22 receipts if:

23 (1) the lease is made to a lessee who delivers a  
 24 nontaxable transaction certificate; and

25 (2) the lessee does not use the property in any manner

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1 other than for subsequent lease in the ordinary course of  
2 business.

3 NEW SECTION. Section 28. Deduction -- sale of  
4 tangible personal property to person engaged in construction  
5 business. (1) Receipts from the sale of tangible personal  
6 property may be deducted from gross receipts if the sale is  
7 made to a buyer engaged in the construction business who  
8 delivers a nontaxable transaction certificate to the seller.

9 (2) Receipts from the sale may be deducted if the  
10 buyer incorporates the tangible personal property as:

11 (a) an ingredient or component part of a construction  
12 project that is subject to the sales tax or use tax upon its  
13 completion or upon the completion of the overall  
14 construction project of which it is a part; or

15 (b) an ingredient or component part of a construction  
16 project that is subject to the sales tax or use tax upon the  
17 sale in the ordinary course of business of the real property  
18 upon which it was constructed.

19 NEW SECTION. Section 29. Deduction -- machinery and  
20 equipment used in trade or business. (1) The receipts from  
21 the sale or use of machinery or equipment used in a trade or  
22 business may be deducted from gross receipts if the buyer:

23 (a) delivers a nontaxable transaction certificate to  
24 the seller; or

25 (b) brings the machinery and equipment into this state

1 for use in a trade or business.

2 (2) Receipts from the sale or use of machinery or  
3 equipment may be deducted if the buyer uses the property as  
4 equipment or machinery in his business. For purposes of this  
5 section, "equipment and machinery" means tangible personal  
6 property that will not be consumed in or made a part of any  
7 product or service.

8 NEW SECTION. Section 30. Deduction -- sale of  
9 construction service to person engaged in construction  
10 business. (1) Receipts from the sale of a construction  
11 service may be deducted from gross receipts, if the sale is  
12 made to a buyer engaged in the construction business and he  
13 delivers a nontaxable transaction certificate to the person  
14 performing the construction service.

15 (2) Receipts from the service may be deducted if the  
16 buyer has the construction services performed upon:

17 (a) a construction project that is subject to the  
18 sales tax or use tax upon its completion or upon the  
19 completion of the overall construction project of which it  
20 is a part; or

21 (b) a construction project that is subject to the  
22 sales tax or use tax upon the sale in the ordinary course of  
23 business of the real property upon which it was constructed.

24 NEW SECTION. Section 31. Deduction -- sale or lease  
25 of real property and lease of mobile homes. (1) (a) Receipts

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1 from the sale or lease of real property except as provided  
2 in subsection (b), from the lease of a mobile home, or from  
3 the rental of a mobile home for a period of at least 1 month  
4 may be deducted from gross receipts.

5 (b) The portion of the gross receipts from the sale of  
6 real property that is attributable to improvements  
7 constructed on the real property by the seller in the  
8 ordinary course of his construction business may not be  
9 deducted from gross receipts.

10 (2) Receipts attributable to the inclusion of  
11 furniture or appliances furnished by the landlord or lessor  
12 as part of a leased or rented dwelling, house, mobile home,  
13 cabin, condominium, or apartment may be deducted from gross  
14 receipts.

15 (3) Receipts received by hotels, motels,  
16 roominghouses, campgrounds, guest ranches, trailer parks, or  
17 similar facilities are not receipts from leasing real  
18 property for purposes of this section if such receipts are  
19 taxable under a lodging or accommodation type tax on either  
20 the operator or the user.

21 NEW SECTION. Section 32. Deduction -- transaction in  
22 interstate commerce. (1) Receipts from a transaction in  
23 interstate commerce may be deducted from gross receipts to  
24 the extent that the imposition of the sales tax or use tax  
25 would be unlawful under the United States constitution.



(2) (a) Receipts from transmitting messages or conversations by radio, if originated from a point outside this state to another point within this state, and receipts from the sale of radio or television broadcast time if the advertising message is supplied by or on behalf of a national or regional seller or an advertiser not having its principal place of business in or being incorporated under the laws of this state may be deducted from gross receipts.

(b) Commissions received by an advertising agency for performing services in this state may not be deducted from gross receipts under this section.

NEW SECTION. Section 33. Deduction -- intrastate transportation and services in interstate commerce. (1) Receipts from the transport of persons or property from one point within this state to another point within this state may be deducted from gross receipts if such persons or property, including any reasonably necessary services, are being transported in interstate or foreign commerce under a single contract.

(2) Receipts from handling, storage, drayage, or packing of property or any other accessorial services on property may be deducted from gross receipts if:

(a) the property has been or will be moved in interstate or foreign commerce;

(b) the services are performed by a local agent for a

1 carrier or by a carrier; and

2 (c) the services are performed under a single contract  
3 in relation to transportation services.

4 NEW SECTION. Section 34. Deduction -- sale of certain  
5 services to out-of-state buyer. (1) Receipts from performing  
6 a service, other than a legal, accounting, or architectural  
7 service, may be deducted from gross receipts if the sale of  
8 the service is made to a buyer who delivers to the seller  
9 either a nontaxable transaction certificate or other  
10 evidence acceptable to the department that the transaction  
11 meets the conditions set out in subsection (3).

12 (2) The person who delivers the nontaxable transaction  
13 certificate or other evidence acceptable to the department  
14 must meet the conditions set out in subsection (3).

15 (3) Receipts from the performance of a service are  
16 subject to the deduction provided in this section if the  
17 buyer of the service, any of his employees, or any person in  
18 privity with him:

19 (a) does not make initial use of the product or the  
20 service in this state;

21 (b) does not take delivery of the product or the  
22 service in this state; or

23 (c) concurrent with the performance of the service,  
24 does not have a regular place of work in this state or spend  
25 more than brief and occasional periods of time in this state

1 and:

2 (i) does not have any communication in this state  
3 related in any way to the subject matter, performance, or  
4 administration of the service with the person performing the  
5 service; or

6 (ii) does not himself perform work in this state  
7 related to the subject matter of the service.

8 (4) Receipts from performing a service that initially  
9 qualified for the deduction provided in this section but  
10 which no longer meets the criteria set forth in subsection  
11 (3) is deductible for the period prior to the  
12 disqualification.

13 NEW SECTION. Section 35. Deduction -- feed,  
14 fertilizers, and agricultural supplies -- livestock  
15 auctioneers. (1) Receipts from the sale of feed for  
16 livestock, fish raised for human consumption, poultry,  
17 animals raised for their hides or pelts, semen used in  
18 animal husbandry, seeds, roots, bulbs, soil conditioners,  
19 fertilizers, insecticides, insects used to control the  
20 population of other insects, fungicides, weedicides,  
21 herbicides, or water for irrigation purposes may be deducted  
22 from gross receipts if the sale is made to a person who  
23 states in writing that he is regularly engaged in the  
24 business of farming, ranching, or the raising of animals for  
25 their hides or pelts.

1           (2) Receipts of auctioneers from selling livestock or  
2 other agricultural products at auction may be deducted from  
3 gross receipts.

4           NEW SECTION. Section 36. Deduction -- certain  
5 chemicals and reagents. (1) Receipts from the sale of  
6 chemicals or reagents to any mining concern or milling  
7 company for use in processing ores or oil in a mill,  
8 smelter, or refinery or in acidizing oil wells and receipts  
9 from the sale of chemicals or reagents in an amount in  
10 excess of 18 tons may be deducted from gross receipts.

11           (2) Receipts from the sale of explosives, blasting  
12 material, or dynamite may not be deducted from gross  
13 receipts.

14           NEW SECTION. Section 37. Deduction -- trade-in  
15 allowance. That portion of the receipts of a seller that is  
16 represented by a trade-in of tangible personal property of  
17 the same type as the property being sold may be deducted  
18 from gross receipts.

19           NEW SECTION. Section 38. Deduction -- special fuel.  
20 (1) Receipts from the sale of special fuel, as defined in  
21 15-70-301, may be deducted from gross receipts if the  
22 purchaser uses the special fuel in agriculture, or to  
23 operate machinery, equipment, or vehicles used in a trade or  
24 business.

25           (2) Receipts from the sale of special fuel used to

1 heat buildings for human comfort are not deductible.

2 NEW SECTION. Section 39. Deduction -- sale of certain  
3 services performed directly on product manufactured.  
4 Receipts from sale of the service of combining or processing  
5 components or materials may be deducted from gross receipts  
6 if the sale is made to a buyer who is engaged in the  
7 business of manufacturing and delivers a nontaxable  
8 transaction certificate to the seller. The receipts from the  
9 service may be deducted if the buyer has the service  
10 performed directly upon tangible personal property that he  
11 is in the business of manufacturing or upon ingredients or  
12 component parts of such property.

13 NEW SECTION. Section 40. Deduction -- certain mobile  
14 homes. Receipts from the resale of a mobile home may be  
15 deducted from gross receipts if the sale is of a mobile home  
16 that was subject to the sales tax or use tax upon its  
17 initial sale or use in this state or was initially sold or  
18 used in this state prior to [the applicability date of this  
19 act]. The receipts from the resale may be deducted if the  
20 seller retains and furnishes proof satisfactory to the  
21 department that the sales tax or use tax was paid upon the  
22 initial sale or use in this state of the mobile home. In the  
23 absence of such proof, it is presumed that the tax was not  
24 paid. Proof that a Montana certificate of title was issued  
25 for a mobile home prior to [the applicability date of this

1 act] is proof that the mobile home was initially sold or  
2 used in this state prior to [the applicability date of this  
3 act] and exempt under this section.

4 NEW SECTION. Section 41. Deduction -- use of tangible  
5 personal property for leasing. (1) Except as provided in  
6 subsection (2), the value of leased property may be deducted  
7 in computing the use tax due if the person holding the  
8 tangible personal property for lease:

9 (a) is engaged in a business that derives a  
10 substantial portion of its receipts from leasing or selling  
11 property of the type leased;

12 (b) does not use the property in any manner other than  
13 holding it for lease or sale or leasing or selling it either  
14 by itself or in combination with other tangible personal  
15 property in the ordinary course of business; and

16 (c) does not use the property in a manner incidental  
17 to the performance of a service.

18 (2) The deduction provided in subsection (1) does not  
19 apply to the value of furniture or appliances furnished by  
20 the landlord or lessor as part of a leased or rented  
21 dwelling, house, cabin, condominium, or apartment or to the  
22 lease of coin-operated machines or mobile homes.

23 NEW SECTION. Section 42. Credit -- out-of-state  
24 taxes. (1) If a gross receipts, sales, use, or similar tax  
25 has been levied by another state or a political subdivision

1 of another state on property bought outside this state but  
 2 which will be used or consumed in this state and the tax was  
 3 paid, the amount of tax paid may be credited against any use  
 4 tax due this state on the same property.

5 (2) If the receipts from the sale of improvements to  
 6 real property constructed by a person in the ordinary course  
 7 of his construction business are subject to the sales tax or  
 8 use tax, the amount of tax paid by the person under  
 9 subsection (1) on materials that became an ingredient or  
 10 component part of the construction project and on  
 11 construction services performed upon the construction  
 12 project may be credited against the sales tax or use tax due  
 13 on the sale.

14 NEW SECTION. Section 43. Seller's permit. Upon an  
 15 applicant's compliance with [sections 1 through 67], the  
 16 department shall issue to the applicant a separate, numbered  
 17 seller's permit for each place of business within Montana. A  
 18 permit is valid until revoked or suspended but is not  
 19 assignable. A permit is valid only for the person in whose  
 20 name it is issued and for the transaction of business at the  
 21 place designated. The permit must be conspicuously displayed  
 22 at all times at the place for which it is issued.

23 NEW SECTION. Section 44. Permit application --  
 24 generally -- vending machines -- form. (1) A person desiring  
 25 to engage in the business of making retail sales or

1 providing services in Montana shall file with the department  
2 an application for a permit. If the person has more than one  
3 place of business, an application must be filed for each  
4 place of business. A vending machine operator who has more  
5 than one vending machine location is considered to have only  
6 one place of business for purposes of this section. An  
7 applicant who has no regular place of business and who moves  
8 from place to place is considered to have only one place of  
9 business and shall attach the permit to his cart, stand,  
10 truck, or other merchandising device. Each person or class  
11 of persons obligated to file a return under [sections 1  
12 through 67] is required to file application for a permit.

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

22 NEW SECTION. Section 45. Special activities --  
23 permits -- penalty. (1) The operator of a flea market, craft  
24 show, antique show, coin show, stamp show, comic book show,  
25 convention exhibit area, or similar selling event, as a



1 prerequisite to renting or leasing space on the premises  
 2 owned or controlled by the operator to a person desiring to  
 3 engage in or conduct business as a seller, shall obtain  
 4 evidence that the seller is the holder of a valid seller's  
 5 permit issued pursuant to [section 43] or a written  
 6 statement from the seller that he is not offering for sale  
 7 any item that is taxable under [sections 1 through 67].

8 (2) "Flea market, craft show, antique show, coin show,  
 9 stamp show, comic book show, convention exhibit area, or  
 10 similar selling event", as used in this section, means an  
 11 activity that involves a series of sales, sufficient in  
 12 number, scope, and character to constitute a regular course  
 13 of business but does not qualify as an isolated or  
 14 occasional sale pursuant to [section 18].

15 (3) An operator who fails or refuses to comply with  
 16 the provisions of this section is subject to a penalty,  
 17 payable to the department, of \$100 per day per seller at  
 18 each selling event at which the operator fails to obtain  
 19 evidence that a seller is the holder of a valid seller's  
 20 permit issued pursuant to [section 43].

21 NEW SECTION. Section 46. Revocation or suspension of  
 22 permit -- hearing -- notice. (1) Subject to the provisions  
 23 of subsection (2), the department may, for reasonable cause,  
 24 revoke or suspend any permit held by a person who fails to  
 25 comply with the provisions of [sections 1 through 67].

1           (2) (a) The department shall hold a hearing on the  
2 proposed revocation or suspension after giving the person 30  
3 days' notice in writing, specifying the time and place of  
4 the hearing and the reason for the proposed revocation or  
5 suspension.

6           (b) The notice must include a requirement that the  
7 person show cause why the permit or permits should not be  
8 revoked or suspended.

9           (c) The notice must be served personally or by  
10 certified mail.

11          (3) After revocation, the department may not issue a  
12 new permit except upon application accompanied by reasonable  
13 evidence of the intention of the applicant to comply with  
14 the provisions of [sections 1 through 67]. The department  
15 may require security in addition to that authorized by  
16 [section 54] in an amount reasonably necessary to ensure  
17 compliance with [sections 1 through 67] as a condition for  
18 the issuance of a new permit to such an applicant.

19          (4) A person aggrieved by the department's final  
20 decision to revoke a permit as provided in subsection (1)  
21 may appeal the decision to the state tax appeal board within  
22 30 days following the date on which the department issued  
23 its final decision.

24          (5) A decision of the state tax appeal board may be  
25 appealed to a court of competent jurisdiction.

1        NEW SECTION. Section 47. Nontaxable transaction  
 2 certificate -- form. (1) The department shall provide for a  
 3 uniform nontaxable transaction certificate. In order to  
 4 obtain a deduction under [sections 1 through 67], a  
 5 purchaser must use the certificate when purchasing goods or  
 6 services for resale.

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

8        (a) the number of the permit issued to the purchaser  
 9 as provided in [section 43 or 44];

10       (b) the general character of property or service sold  
 11 by the purchaser in the regular course of business;

12       (c) the property or service purchased for resale;

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

14       (e) a signature line for the purchaser.

15       NEW SECTION. Section 48. Improper use of subject of  
 16 purchase obtained with nontaxable transaction certificate --  
 17 penalty. (1) If a purchaser who uses a nontaxable  
 18 transaction certificate utilizes the subject of the purchase  
 19 other than for a purpose allowed as a deduction under  
 20 [sections 1 through 67], such use is considered a taxable  
 21 sale by the purchaser as of the time of first use by him and  
 22 the sale price he receives is considered the gross receipts  
 23 from the sale. If the sole nonexempt use is rental while  
 24 holding for sale, the purchaser shall include in his gross  
 25 receipts the amount of the rental charged. Upon subsequent

1 sale of the property, the seller shall include the entire  
2 amount of gross receipts received from the resale, without  
3 deduction of amounts previously received as rentals.

4 (2) A person who uses a certificate for property that  
5 will be utilized for purposes other than the purpose claimed  
6 is subject to a penalty, payable to the department, of \$100  
7 for each transaction in which an improper use of an  
8 exemption certificate has occurred.

9 (3) Upon a showing of good cause, the department may  
10 abate or waive the penalty or a portion of the penalty.

11 NEW SECTION. Section 49. Commingling nontaxable  
12 certificate goods. If a purchaser uses a nontaxable  
13 transaction certificate with respect to the purchase of  
14 fungible goods and thereafter commingles these goods with  
15 fungible goods not so purchased but of such similarity that  
16 the identity of the goods in the commingled mass cannot be  
17 determined, sales from the mass of commingled goods are  
18 considered to be sales of the goods purchased with the  
19 certificate until the quantity of commingled goods sold  
20 equals the quantity of goods originally purchased under the  
21 certificate.

22 NEW SECTION. Section 50. Collection and payment --  
23 penalty. (1) Liability for the payment of the sales tax and  
24 use tax is not extinguished until the taxes have been paid  
25 to the department.

1           (2) A retailer who does not maintain a place of  
2 business in this state is liable for the sales tax or use  
3 tax and shall furnish, in accordance with [sections 1  
4 through 67], adequate security to ensure collection and  
5 payment of the taxes. When so authorized and except as  
6 otherwise provided in [sections 1 through 67], the retailer  
7 is liable for the taxes upon all tangible property sold that  
8 is to be used within this state in the same manner as a  
9 retailer who maintains a place of business within this  
10 state. The permit provided for in subsection (3) may be  
11 canceled at any time if the department considers the  
12 security inadequate or believes that the taxes can be  
13 collected more effectively in another manner.

14           (3) No agent, canvasser, or employee of a retailer  
15 doing business in this state who is not authorized by permit  
16 from the department may sell, solicit orders for, or deliver  
17 any tangible personal property in Montana. If such an agent,  
18 canvasser, or employee violates the provisions of [sections  
19 1 through 67], he is subject to a fine of not more than \$100  
20 for each separate transaction or event.

21           NEW SECTION. Section 51. Common carriers as  
22 retailers. A person engaged in the business of intrastate or  
23 interstate transportation by motor vehicle of tangible  
24 personal property or passengers shall register as a retailer  
25 and pay the taxes imposed by [sections 1 through 67].

1        NEW SECTION. Section 52. Application for permission  
2 to report on accrual basis. (1) A person having a permit  
3 pursuant to [section 43] may apply to the department for  
4 permission to report and pay the sales tax or use tax on an  
5 accrual basis.

6        (2) The application must be made on a form prescribed  
7 by the department that contains such information as the  
8 department may require.

9        (3) No person may report or pay the sales tax or use  
10 tax on an accrual basis unless he has first received written  
11 permission from the department.

12       NEW SECTION. Section 53. Returns -- authority of  
13 department. (1) Except as provided in subsection (2), on or  
14 before the 25th day of each month in which the tax imposed  
15 by [sections 1 through 67] is payable, a return for the  
16 preceding month must be filed with the department, on a form  
17 provided by the department. Each return must contain a  
18 confession of judgment for the amount of the tax shown due,  
19 to the extent not timely paid. A person making sales at  
20 retail at two or more places of business may file a  
21 consolidated return, subject to rules prescribed by the  
22 department.

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

25        (i) a retailer required to pay such tax; and

1 (ii) a person:

2 (A) purchasing any items the storage, use, or other  
3 consumption of which is subject to the sales tax or use tax;  
4 and

5 (B) who has not paid the tax to a retailer required to  
6 pay the tax.

7 (b) Each return must be signed by the person filing  
8 the return or by his agent duly authorized in writing.

9 (3) (a) A person liable for the taxes imposed by  
10 [sections 1 through 67] shall keep records, render  
11 statements, make returns, and comply with the provisions of  
12 [sections 1 through 67] and the rules prescribed by the  
13 department. Each return or statement must include the  
14 information required by the rules of the department.

15 (b) For the purpose of determining compliance with the  
16 provisions of this section, the department is authorized to  
17 examine or cause to be examined any books, papers, records,  
18 or memoranda relevant to making a determination of the  
19 amount of tax due, whether the books, papers, records, or  
20 memoranda are the property of or in the possession of the  
21 person filing the return or another person. The department  
22 may also:

23 (i) require the attendance of a person having  
24 knowledge or information relevant to a return;

25 (ii) compel the production of books, papers, records,

1 or memoranda by a person required to attend;

2 (iii) take testimony on matters material to the  
3 determination; and

4 (iv) administer oaths or affirmations.

5 (4) The returns due for June, July, and August of 1989  
6 are due on or before September 25, 1989.

7 NEW SECTION. Section 54. Security -- limitations --  
8 sale of security deposit at auction -- bond. (1) The  
9 department may require a retailer to deposit with the  
10 department security in a form and amount as the department  
11 determines appropriate. The deposit may not be more than  
12 twice the estimated average liability for the period for  
13 which the return is required to be filed or \$10,000,  
14 whichever is less. The amount of security may be increased  
15 or decreased by the department, subject to the limitations  
16 provided in this section.

17 (2) (a) If necessary, the department may sell property  
18 deposited as security at public auction to recover any sales  
19 tax or use tax or amount required to be collected, including  
20 interest and penalties.

21 (b) Notice of the sale must be served personally upon  
22 the person who deposited the security or by certified mail.

23 (c) After the sale, any surplus above the amount due  
24 that is not required as security under this section must be  
25 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, to guarantee solvency and responsibility.

(4) For persons doing business as a corporation in addition to doing business under the requirements of this section, the department may require the corporate officers, directors, or shareholders to provide a personal guaranty and assumption of liability for the payment of the tax due under [sections 1 through 67].

NEW SECTION. Section 55. Extensions. (1) The department may extend the time for filing a return and remittance of tax, deficiencies, and penalties for a period not to exceed 60 days from the date a return was due and may require both an estimated return at the time fixed for filing the regularly required return and the payment of tax on the basis of the estimated return.

(2) If an extension of time for payment has been granted under this section, interest at the rate provided in [section 60(2)] is payable from the date on which such payment was first due without extension until the tax is paid.

NEW SECTION. Section 56. Examination of return -- adjustments -- delivery of notices and demands. (1) The department may examine a return and make any investigation

1 or examination of the records and accounts of the person  
2 making the return that the department considers necessary to  
3 determine the accuracy of the return.

4 (2) To determine the accuracy of a return, the  
5 department may examine the returns or records using  
6 statistical or other sampling techniques consistent with  
7 generally accepted accounting principles.

8 (3) If the department determines that the amount of  
9 tax due is different from the amount reported, the amount of  
10 tax computed on the basis of the examination conducted  
11 pursuant to subsections (1) and (2) constitutes the tax to  
12 be paid.

13 (4) If the tax due exceeds the amount of tax reported  
14 as due on the taxpayer's return, the excess must be paid to  
15 the department within 60 days after notice of the amount and  
16 demand for payment is mailed to the person making the  
17 return. If the amount of the tax found due by the  
18 department is less than that reported as due on the return  
19 and has been paid, the excess must be refunded to the person  
20 making the return in the manner provided in 15-1-503.

21 (5) The notices and demands provided for in this  
22 section must contain a statement of the computation of the  
23 tax and must be sent by mail to the person making the return  
24 at the address given in his return, if any, or to his  
25 last-known address, or a written statement of the

1 computation of the tax may be served personally upon the  
2 taxpayer.

3 NEW SECTION. Section 57. Penalties for violation.

4 (1) (a) Subject to the provisions of subsection (1)(b), if a  
5 person, without purposely or knowingly violating any  
6 requirement imposed by [sections 1 through 67], fails to  
7 file a return or pay the tax due on or before the date the  
8 return or tax is due (determined with regard to any  
9 extension of time granted for filing the return), there must  
10 immediately be imposed a penalty of 5% of any tax due on the  
11 return. The penalty increases by the amount of 5% of the tax  
12 due for each 30-day period or portion thereof that the  
13 return remains unfiled after notification of failure to  
14 file.

15 (b) Notwithstanding the provisions of subsection (2),  
16 the total amount of the penalty may not exceed 25% of the  
17 total tax due.

18 (c) Interest accrues on the unpaid tax at the rate of  
19 1% for each month or part thereof during which the tax  
20 remains unpaid.

21 (d) The department may not assess a penalty until such  
22 time as the penalty equals \$10 or more for any one tax  
23 period or the period covered by any return or statement.

24 (2) (a) If a person purposely or knowingly violates  
25 any requirement imposed by [sections 1 through 67], fails to

1 make a return, or fails to pay a tax, if one is due, at the  
2 time required under the provisions of [sections 1 through  
3 67], there is added to the tax an additional amount equal to  
4 25% of the tax. Such additional amount may in no case be  
5 less than \$25.

6 (b) Interest accrues on the unpaid tax at the rate of  
7 1% for each month or part thereof during which the tax  
8 remains unpaid.

9 (3) (a) Any individual, corporation, or partnership,  
10 any officer or employee of a corporation, or any member or  
11 employee of a partnership who, with intent to evade any  
12 requirement of [sections 1 through 67] or any lawful  
13 requirement of the department adopted pursuant to [sections  
14 1 through 67], purposely or knowingly fails to pay the tax  
15 or to make, render, or sign any return or to supply any  
16 information within the time required under the provisions of  
17 [sections 1 through 67] or who, with like intent, purposely  
18 or knowingly makes, renders, or signs any false or  
19 fraudulent return or statement or supplies any false or  
20 fraudulent information is subject to a civil penalty of not  
21 more than \$5,000.

22 (b) A penalty imposed by subsection (3)(a) must be  
23 recovered by the department in the name of the state by  
24 action in a court of competent jurisdiction.

25 (4) The department may abate or waive all or a portion

1 of the penalties imposed in subsection (1) if the taxpayer  
 2 establishes to the satisfaction of the department that his  
 3 failure to file or to pay on time was due to reasonable  
 4 cause and was not due to neglect on his part.

5 NEW SECTION. Section 58. Warrants for distraint. If a  
 6 tax imposed by [sections 1 through 67] or any portion of  
 7 such tax is not paid when due, the department may issue a  
 8 warrant for distraint as provided in Title 15, chapter 1,  
 9 part 7.

10 NEW SECTION. Section 59. Authority to collect  
 11 delinquent taxes. (1) The department shall collect taxes  
 12 that are delinquent as determined under [sections 1 through  
 13 67].

14 (2) To collect delinquent taxes after the time for  
 15 appeal has expired, the department may direct the offset of  
 16 tax refunds or other funds due the taxpayer from the state,  
 17 except wages subject to the provisions of 25-13-614 and  
 18 retirement benefits.

19 (3) As provided in 15-1-705, the taxpayer has the  
 20 right to a hearing on the tax liability prior to any offset  
 21 by the department.

22 (4) The department may file a claim for state funds on  
 23 behalf of the taxpayer if a claim is required before funds  
 24 are available for offset.

25 (5) The department shall provide the taxpayer with

1 written notice of the right to request a hearing under the  
2 contested case procedures of Title 2, chapter 4, on the  
3 matter of the offset action or the department's intent to  
4 file a claim on behalf of the taxpayer. A written request  
5 for a hearing must be made within 30 days of the date of the  
6 notice, and such hearing must be held within 30 days  
7 following receipt by the department of the written request.

8 NEW SECTION. Section 60. Penalty for deficiency.

9 (1) (a) If the payment of a tax deficiency is not made  
10 within 60 days after it is due and payable and if the  
11 deficiency is due to negligence on the part of the taxpayer  
12 but without fraud, there must be added to the amount of the  
13 deficiency a penalty of 5% of the tax.

14 (b) In addition, a penalty of 5% of the delinquent tax  
15 shall be assessed for each 30-day period or portion thereof  
16 that the tax remains unpaid following notification of  
17 delinquency.

18 (c) Interest accrues on the unpaid taxes at the rate  
19 of 1% for each month or part thereof during which unpaid  
20 taxes remain unpaid. The interest must be computed from the  
21 date the return and tax were originally due, as  
22 distinguished from the due date as it may have been extended  
23 to the date of payment.

24 (d) In no event may the penalties imposed under  
25 subsections (1)(a) and (1)(b) exceed 25% of the total tax

1 due.

2 (2) If the time for filing a return is extended, the  
3 taxpayer shall pay, in addition to the tax due, interest  
4 thereon at the rate of 1% for each month or part thereof  
5 from the date the return was originally required to be filed  
6 to the time of payment.

7 (3) The department may not assess a penalty until such  
8 time as the penalty equals \$10 or more for any one tax  
9 period or the period covered by any return or statement.

10 NEW SECTION. Section 61. Limitations. Except in the  
11 case of a person who, with intent to evade the tax,  
12 purposely or knowingly files a false or fraudulent return  
13 violating the provisions of [sections 1 through 67], the  
14 amount of tax due under any return must be determined by the  
15 department within 5 years after the return was made. The  
16 department is barred from revising a return or recomputing  
17 the tax due thereon, and no proceeding in court for the  
18 collection of the tax may be instituted unless notice of an  
19 additional tax was provided within the period described in  
20 this section.

21 NEW SECTION. Section 62. Refunds. A claim for a  
22 refund made for taxes collected under [sections 1 through  
23 67] must be in accordance with the procedure and time limits  
24 provided in 15-1-503.

25 NEW SECTION. Section 63. Administration -- rules. The

1 department shall:

2 (1) administer and enforce the provisions of [sections  
3 1 through 67];

4 (2) cause to be prepared and distributed such forms  
5 and information as may be necessary to administer the  
6 provisions of [sections 1 through 67]; and

7 (3) promulgate such rules as may be appropriate to  
8 administer and enforce the provisions of [sections 1 through  
9 67].

10 NEW SECTION. Section 64. Revocation of corporate  
11 license. (1) If a corporation authorized to do business in  
12 this state and required to pay the taxes imposed under  
13 [sections 1 through 67] fails to comply with any of the  
14 provisions of [sections 1 through 67] or any rule of the  
15 department, the department may, for reasonable cause,  
16 certify to the secretary of state a copy of an order finding  
17 that the corporation has failed to comply with specific  
18 statutory provisions or rules.

19 (2) The secretary of state shall, upon receipt of the  
20 certification, revoke the license authorizing the  
21 corporation to do business in this state and may issue a new  
22 license only when the corporation has obtained from the  
23 department an order finding that the corporation has  
24 complied with its obligations under [sections 1 through 67].

25 (3) No order authorized in this section may be made



1 until the corporation is given an opportunity to be heard  
 2 and to show cause at a contested case hearing before the  
 3 department why such order should not be made. The  
 4 corporation must be given 30 days' notice of the time and  
 5 place of the hearing and the reason for the proposed order.

6 NEW SECTION. Section 65. Tax as debt. (1) The taxes  
 7 imposed by [sections 1 through 67] and related interest and  
 8 penalties become a personal debt of the person required to  
 9 file a return from the time the liability arises, regardless  
 10 of when the time for payment of such liability occurs.

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

18 (3) This section also applies to those corporate  
 19 officers, directors, or shareholders required by the  
 20 department to personally guarantee the payment of the taxes  
 21 for their corporations.

22 NEW SECTION. Section 66. Information --  
 23 confidentiality -- agreements. (1) (a) Except as provided in  
 24 subsection (1)(b), it is unlawful for an employee of the  
 25 department or any other public official or public employee

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EXHIBIT NO. 12 HB 377DATE 4-6-87BILL NO. H.B. 377

1 to divulge or otherwise make known any information disclosed  
2 in a report or return required to be filed under [sections 1  
3 through 67] or any information concerning the affairs of the  
4 person making the return that is acquired from his records,  
5 officers, or employees in an examination or audit.

6 (b) Subsection (1)(a) does apply to information  
7 obtained from the taxpayer making the report or return in  
8 connection with a proceeding involving taxes due under  
9 [sections 1 through 67] or to comply with the provisions of  
10 subsection (2).

11 (c) Nothing in this section may be construed to  
12 prohibit the department from publishing statistics so  
13 classified as to not disclose the identity of any particular  
14 return or returns or reports and the content thereof. A  
15 person violating the provisions of this section is subject  
16 to the penalty provided for violating the confidentiality of  
17 individual income tax information as provided in 15-30-303.

18 (2) (a) The department may enter into an agreement  
19 with the taxing officials of another state for the  
20 interpretation and administration of the laws of their state  
21 that provide for the collection of sales taxes or use taxes  
22 in order to promote fair and equitable administration of  
23 such laws and to eliminate double taxation.

24 (b) The department, in order to implement the  
25 provisions of [sections 1 through 67], may furnish

1 information on a reciprocal basis to the taxing officials of  
 2 another state or to the taxing officials of a municipality  
 3 of this state that has a local sales tax or use tax.

4 (3) In order to facilitate processing of returns and  
 5 payments of taxes required by [sections 1 through 67], the  
 6 department may contract with vendors and may disclose data  
 7 to the vendors. The data disclosed must be administered by  
 8 the vendor in a manner consistent with this section.

9 NEW SECTION. Section 67. Sales and use tax account --  
 10 administration and enforcement account. (1) There is within  
 11 the state special revenue fund a sales and use tax account.

12 (2) All money collected under [sections 1 through 43  
 13 67] must be paid by the department into the sales and use  
 14 tax account.

15 NEW SECTION. Section 68. Per capita fee for expenses  
 16 of enforcing livestock and poultry laws. (1) In addition to  
 17 appropriations made for such purposes, a per capita fee is  
 18 authorized and directed to be paid on all livestock and  
 19 poultry in this state for the purpose of aiding in the  
 20 payment of the expenses, including salaries, connected with  
 21 the administration and enforcement of the livestock and  
 22 poultry laws of the state, for predator control, and for the  
 23 payment of bounties on wild animals.

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

SENATE TAXATION

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EXHIBIT NO. 12 HB 377

DATE 4-6-87

BILL NO. H.B. 377

1        NEW SECTION. Section 69. Board of livestock to  
2        prescribe per capita fee. (1) The board of livestock shall  
3        annually prescribe the per capita fee for livestock and  
4        poultry of all classes for the payment of the expenses,  
5        including salaries, connected with the administration and  
6        enforcement of the livestock and poultry laws of the state,  
7        THE COLLECTION OF THE PER CAPITA FEE, and the payment of  
8        bounties on wild animals.

9        (2) The per capita fee must be calculated each year to  
10       provide not more than 110% of the average annual revenue  
11       generated in the 3 previous years, beginning with revenue  
12       generated in taxable years 1985, 1986, and 1987 by  
13       15-24-922, 81-7-104, and 81-7-118, as those sections read in  
14       those years. The calculation must include a factor to  
15       account for nonpayment and late payment of fees AND FOR THE  
16       COLLECTION COSTS OF THE PER CAPITA FEE.

17       NEW SECTION. Section 70. Collection of fee. (1) On or  
18       before January 15 of each year, an owner of livestock or  
19       poultry or his agent shall make and deliver to the board of  
20       livestock a verified statement showing as of January 1 the  
21       number of each kind of livestock or poultry within the state  
22       belonging to him or under his charge, with their marks and  
23       brands and the county in which the majority of the livestock  
24       or poultry is located.

25       (2) Upon determination of the numbers of each class of

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

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

12 NEW SECTION. Section 71. Transmission of fees from  
 13 county to state treasurer. Except for the money withheld by  
 14 the county, the fees levied and the money collected pursuant  
 15 to the provisions of [sections ~~44~~ 68 through ~~48~~ 72] must be  
 16 transmitted to the state treasurer by the county treasurer  
 17 of each county, as provided in 15-1-504 but not later than  
 18 July 1 following assessment. The county treasurer shall  
 19 designate the amount received from the fee paid on poultry,  
 20 the amount received from the fee paid on sheep, and the  
 21 amount received from the fee paid on all other livestock and  
 22 shall specify the separate amounts in his report to the  
 23 state treasurer. The money, when received by the state  
 24 treasurer, must be deposited to the credit of the department  
 25 of livestock.

SENATE TAXATION

EXHIBIT NO. 12

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DATE 4-6-87

HB 377

BILL NO. H.B. 377

1           NEW SECTION. Section 72. Penalty for failure to file  
2 statement on livestock or poultry -- lien upon real and  
3 personal property. (1) If a person who is the owner of  
4 livestock or poultry within the state fails to file or have  
5 his agent file the statement required in [section 46 70],  
6 the county treasurer shall, after 10 days' notice to the  
7 person who failed to file the statement, assess the fee  
8 imposed by [sections 44 68 through 48 72] based on the board  
9 of livestock's estimate of the number of livestock or  
10 poultry owned by the person in the state. The county  
11 treasurer shall add a 10% penalty to the assessment.

12           (2) The fee imposed pursuant to [sections 44 68  
13 through 48 72] is a lien upon the real and personal property  
14 of the livestock or poultry owner who fails to pay the fees  
15 on or before June 1 following assessment and is to be  
16 collected under the tax lien enforcement provisions of Title  
17 15.

18           NEW SECTION. Section 73. Credit for sales and use  
19 tax. (1) There is a credit of \$15 for each exemption claimed  
20 under 15-30-112 against tax liability under this chapter.

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

1 Section 74. Section 7-1-2111, MCA, is amended to read:

2 "7-1-2111. Classification of counties. (1) For the  
3 purpose of regulating the compensation and salaries of all  
4 county officers, not otherwise provided for, and for fixing  
5 the penalties of officers' bonds, the several counties of  
6 this state shall be classified according to that percentage  
7 of the true and full valuation of the property therein upon  
8 which the tax levy is made, as follows:

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

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

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

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

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

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

25 (g) seventh class--all counties having such a taxable

1 valuation of less than \$5 million.

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

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

9 (b) the amount of new production taxes levied, as  
10 provided in 15-23-607, divided by the appropriate tax rates  
11 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
12 60%; and

13 (c) 13.8% 14.82% of the total taxable value of the  
14 county on December 31, 1986."

15 Section 75. Section 7-3-1321, MCA, is amended to read:

16 "7-3-1321. Authorization to incur indebtedness --  
17 limitation. (1) The consolidated municipality may borrow  
18 money or issue bonds for any municipal purpose to the extent  
19 and in the manner provided by the constitution and laws of  
20 Montana for the borrowing of money or issuing of bonds by  
21 counties and cities and towns.

22 (2) The municipality may not become indebted in any  
23 manner or for any purpose to an amount, including existing  
24 indebtedness, in the aggregate exceeding 28% 32.5% 33% of  
25 the taxable value of the taxable property therein, as



1 ascertained by the last assessment for state and county  
 2 taxes prior to incurring such indebtedness. All warrants,  
 3 bonds, or obligations in excess of such amount given by or  
 4 on behalf of the municipality shall be void."

5 Section 76. Section 7-6-2211, MCA, is amended to read:

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

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

22 Section 77. Section 7-6-4121, MCA, is amended to read:

23 "7-6-4121. Authorization to conduct municipal business  
 24 on a cash basis. (1) In case the total indebtedness of a  
 25 city or town has reached ~~17%~~ 20% of the total taxable value

1 of the property of the city or town subject to taxation, as  
2 ascertained by the last assessment for state and county  
3 taxes, the city or town may conduct its affairs and business  
4 on a cash basis as provided by subsection (2).

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

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

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

1 Section 78. Section 7-6-4254, MCA, is amended to read:

2 "7-6-4254. Limitation on amount of emergency budgets  
3 and appropriations. (1) The total of all emergency budgets  
4 and appropriations made therein in any one year and to be  
5 paid from any city fund may not exceed ~~38%~~ 44% 45% of the  
6 total amount which could be produced for such city fund by a  
7 maximum levy authorized by law to be made for such fund, as  
8 shown by the last completed assessment roll of the county.

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

14 Section 79. Section 7-7-107, MCA, is amended to read:

15 "7-7-107. Limitation on amount of bonds for  
16 city-county consolidated units. (1) Except as provided in  
17 7-7-108, no city-county consolidated local government may  
18 issue bonds for any purpose which, with all outstanding  
19 indebtedness, may exceed ~~39%~~ 45% 46% of the taxable value of  
20 the property therein subject to taxation as ascertained by  
21 the last assessment for state and county taxes.

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

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1           Section 80. Section 7-7-108, MCA, is amended to read:

2           "7-7-108. Authorization for additional indebtedness  
3 for water or sewer systems. (1) For the purpose of  
4 constructing a sewer system or procuring a water supply or  
5 constructing or acquiring a water system for a city-county  
6 consolidated government which shall own and control such  
7 water supply and water system and devote the revenues  
8 therefrom to the payment of the debt, a city-county  
9 consolidated government may incur an additional indebtedness  
10 by borrowing money or issuing bonds.

11           (2) The additional indebtedness which may be incurred  
12 by borrowing money or issuing bonds for the construction of  
13 a sewer system or for the procurement of a water supply or  
14 for both such purposes may not in the aggregate exceed 10%  
15 over and above the 39% 45% 46% referred to in 7-7-107 of the  
16 taxable value of the property therein subject to taxation as  
17 ascertained by the last assessment for state and county  
18 taxes."

19           Section 81. Section 7-7-2101, MCA, is amended to read:

20           "7-7-2101. Limitation on amount of county  
21 indebtedness. (1) No county may become indebted in any  
22 manner or for any purpose to an amount, including existing  
23 indebtedness, in the aggregate exceeding 23% 27% of the  
24 total of the taxable value of the property therein subject  
25 to taxation, plus the amount of new production taxes levied

1 divided by the appropriate tax rates described in  
 2 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as  
 3 ascertained by the last assessment for state and county  
 4 taxes previous to the incurring of such indebtedness.

5 (2) No county may incur indebtedness or liability for  
 6 any single purpose to an amount exceeding \$500,000 without  
 7 the approval of a majority of the electors thereof voting at  
 8 an election to be provided by law, except as provided in  
 9 7-21-3413 and 7-21-3414.

10 (3) Nothing in this section shall apply to the  
 11 acquisition of conservation easements as set forth in Title  
 12 76, chapter 6."

13 Section 82. Section 7-7-2203, MCA, is amended to read:

14 "7-7-2203. Limitation on amount of bonded  
 15 indebtedness. (1) Except as provided in subsections (2)  
 16 through (4), no county may issue general obligation bonds  
 17 for any purpose which, with all outstanding bonds and  
 18 warrants except county high school bonds and emergency  
 19 bonds, will exceed ~~11.25%~~ 13% of the total of the taxable  
 20 value of the property therein, plus the amount of new  
 21 production taxes levied divided by the appropriate tax rates  
 22 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
 23 60%, to be ascertained by the last assessment for state and  
 24 county taxes prior to the proposed issuance of bonds.

25 (2) In addition to the bonds allowed by subsection

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1 (1), a county may issue bonds which, with all outstanding  
2 bonds and warrants, will not exceed ~~27.75%~~ 32% 33% of the  
3 total of the taxable value of the property in the county  
4 subject to taxation, plus the amount of new production taxes  
5 levied divided by the appropriate tax rates described in  
6 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when  
7 necessary to do so, for the purpose of acquiring land for a  
8 site for county high school buildings and for erecting or  
9 acquiring buildings thereon and furnishing and equipping the  
10 same for county high school purposes.

11 (3) In addition to the bonds allowed by subsections  
12 (1) and (2), a county may issue bonds for the construction  
13 or improvement of a jail which will not exceed ~~12.5%~~ 14.5%  
14 15% of the taxable value of the property in the county  
15 subject to taxation.

16 (4) The limitation in subsection (1) shall not apply  
17 to refunding bonds issued for the purpose of paying or  
18 retiring county bonds lawfully issued prior to January 1,  
19 1932."

20 Section 83. Section 7-7-4201, MCA, is amended to read:

21 "7-7-4201. Limitation on amount of bonded  
22 indebtedness. (1) Except as otherwise provided, no city or  
23 town may issue bonds or incur other indebtedness for any  
24 purpose in an amount which with all outstanding and unpaid  
25 indebtedness will exceed ~~28%~~ 32.5% 33% of the taxable value

1 of the property therein subject to taxation, to be  
 2 ascertained by the last assessment for state and county  
 3 taxes.

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

8 Section 84. Section 7-7-4202, MCA, is amended to read:

9 "7-7-4202. Special provisions relating to water and  
 10 sewer systems. (1) Notwithstanding the provisions of  
 11 7-7-4201, for the purpose of constructing a sewer system,  
 12 procuring a water supply, or constructing or acquiring a  
 13 water system for a city or town which owns and controls the  
 14 water supply and water system and devotes the revenues  
 15 therefrom to the payment of the debt, a city or town may  
 16 incur an additional indebtedness by borrowing money or  
 17 issuing bonds.

18 (2) The additional total indebtedness that may be  
 19 incurred by borrowing money or issuing bonds for the  
 20 construction of a sewer system, for the procurement of a  
 21 water supply, or for both such purposes, including all  
 22 indebtedness theretofore contracted which is unpaid or  
 23 outstanding, may not in the aggregate exceed 55% over and  
 24 above the 28% 32.5% 33%, referred to in 7-7-4201, of the  
 25 taxable value of the property therein subject to taxation as

1     ascertained by the last assessment for state and county  
2     taxes."

3             Section 85. Section 7-13-4103, MCA, is amended to  
4     read:

5             "7-13-4103. Limitation on indebtedness for acquisition  
6     of natural gas system. The total amount of indebtedness  
7     authorized to be contracted in any form, including the  
8     then-existing indebtedness, must not at any time exceed ~~17%~~  
9     20% of the total taxable value of the property of the city  
10    or town subject to taxation as ascertained by the last  
11    assessment for state and county taxes."

12            Section 86. Section 7-14-236, MCA, is amended to read:

13            "7-14-236. Limitation on bonded indebtedness. The  
14    amount of bonds issued to provide funds for the district and  
15    outstanding at any time shall not exceed ~~28%~~ 32.5% 33% of  
16    the taxable value of taxable property therein as ascertained  
17    by the last assessment for state and county taxes previous  
18    to the issuance of such bonds."

19            Section 87. Section 7-14-2524, MCA, is amended to  
20    read:

21            "7-14-2524. Limitation on amount of bonds issued --  
22    excess void. (1) Except as otherwise provided hereafter and  
23    in 7-7-2203 and 7-7-2204, no county shall issue bonds which,  
24    with all outstanding bonds and warrants except county high  
25    school bonds and emergency bonds, will exceed ~~11.25%~~ 13% of



1 the total of the taxable value of the property therein, plus  
 2 the amount of new production taxes levied divided by the  
 3 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
 4 and multiplied by 60%. The taxable property and the amount  
 5 of new production taxes levied shall be ascertained by the  
 6 last assessment for state and county taxes prior to the  
 7 issuance of such bonds.

8 (2) A county may issue bonds which, with all  
 9 outstanding bonds and warrants except county high school  
 10 bonds, will exceed ~~11-25%~~ 13% but will not exceed ~~22-5%~~  
 11 26.5% of the total of the taxable value of such property,  
 12 plus the amount of new production taxes levied divided by  
 13 the appropriate tax rates described in 15-23-607(2)(a) or  
 14 (2)(b) and multiplied by 60%, when necessary for the purpose  
 15 of replacing, rebuilding, or repairing county buildings,  
 16 bridges, or highways which have been destroyed or damaged by  
 17 an act of God, disaster, catastrophe, or accident.

18 (3) The value of the bonds issued and all other  
 19 outstanding indebtedness of the county, except county high  
 20 school bonds, shall not exceed ~~22-5%~~ 26.5% of the total of  
 21 the taxable value of the property within the county, plus  
 22 the amount of new production taxes levied divided by the  
 23 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
 24 and multiplied by 60%, as ascertained by the last preceding  
 25 general assessment."

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1           Section 88. Section 7-14-2525, MCA, is amended to  
2 read:

3           "7-14-2525. Refunding agreements and refunding bonds  
4 authorized. (1) Whenever the total indebtedness of a county  
5 exceeds ~~22.5%~~ 26.5% of the total of the taxable value of the  
6 property therein, plus the amount of new production taxes  
7 levied divided by the appropriate tax rates described in  
8 15-23-607(2)(a) or (2)(b) and multiplied by 60%, and the  
9 board determines that the county is unable to pay such  
10 indebtedness in full, the board may:

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

15           (b) enter into such agreement;

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

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

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

22           Section 89. Section 7-14-4402, MCA, is amended to  
23 read:

24           "7-14-4402. Limit on indebtedness to provide bus  
25 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% 33% 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 90. 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

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1 to the incurring of such indebtedness.

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

8 Section 91. Section 7-16-4104, MCA, is amended to  
9 read:

10 "7-16-4104. Authorization for municipal indebtedness  
11 for various cultural, social, and recreational purposes. (1)  
12 A city or town council or commission may contract an  
13 indebtedness on behalf of the city or town, upon the credit  
14 thereof, by borrowing money or issuing bonds:

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

17 (b) for procuring by purchase, construction, or  
18 otherwise swimming pools, athletic fields, skating rinks,  
19 playgrounds, museums, a golf course, a site and building for  
20 a civic center, a youth center, or combination thereof; and

21 (c) for furnishing and equipping the same.

22 (2) The total amount of indebtedness authorized to be  
23 contracted in any form, including the then-existing  
24 indebtedness, may not at any time exceed ~~±6.5%~~ 19.5% of the  
25 taxable value of the taxable property of the city or town as

1 ascertained by the last assessment for state and county  
2 taxes previous to the incurring of such indebtedness. No  
3 money may be borrowed on bonds issued for the purchase of  
4 lands and improving the same for any such purpose until the  
5 proposition has been submitted to the vote of the qualified  
6 electors of the city or town and a majority vote is cast in  
7 favor thereof."

8 Section 92. Section 7-31-106, MCA, is amended to read:

9 "7-31-106. Authorization for county to issue bonds --  
10 election required. (1) If the petition is presented to the  
11 board of county commissioners, it shall be the duty of the  
12 board, for the purpose of raising money to meet the payments  
13 under the terms and conditions of said contract and other  
14 necessary and proper expenses in and about the same and for  
15 the approval or disapproval thereof:

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

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

23 (2) The amount of the bonds authorized by this section  
24 may not exceed ~~22.5%~~ 26% of the taxable value of the taxable  
25 property therein, inclusive of the existing indebtedness

1     thereof, to be ascertained by the last assessment for state  
2     and county taxes previous to the issuance of said bonds and  
3     incurring of said indebtedness."

4             Section 93. Section 7-31-107, MCA, is amended to read:

5             "7-31-107. Authorization for municipality to issue  
6     bonds -- election required. (1) If said petition is  
7     presented to the council of any incorporated city or town,  
8     the council, for the purpose of raising money to meet the  
9     payments under the terms and conditions of said contract and  
10    other necessary and proper expenses in and about the same  
11    and for the approval or disapproval thereof:

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

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

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

24            Section 94. Section 7-34-2131, MCA, is amended to  
25    read:

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

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

12 (3) Such bonds shall be authorized, sold, and issued  
 13 and provisions made for their payment in the manner and  
 14 subject to the conditions and limitations prescribed for  
 15 bonds of second- or third-class school districts by Title  
 16 20, chapter 9, part 4.

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

20 Section 95. Section 20-9-406, MCA, is amended to read:

21 "20-9-406. Limitations on amount of bond issue. (1)  
 22 The maximum amount for which each school district may become  
 23 indebted by the issuance of bonds, including all  
 24 indebtedness represented by outstanding bonds of previous  
 25 issues and registered warrants, is ~~45%~~ 52% 53% of the

1 taxable value of the property subject to taxation as  
2 ascertained by the last completed assessment for state,  
3 county, and school taxes previous to the incurring of such  
4 indebtedness. The ~~45%~~ 52% 53% maximum, however, may not  
5 pertain to indebtedness imposed by special improvement  
6 district obligations or assessments against the school  
7 district. All bonds issued in excess of such amount shall be  
8 null and void, except as provided in this section.

9 (2) When the total indebtedness of a school district  
10 has reached the ~~45%~~ 52% 53% limitation prescribed in this  
11 section, the school district may pay all reasonable and  
12 necessary expenses of the school district on a cash basis in  
13 accordance with the financial administration provisions of  
14 this chapter.

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

20 Section 96. Section 20-9-407, MCA, is amended to read:

21 "20-9-407. Industrial facility agreement for bond  
22 issue in excess of maximum. (1) In a school district within  
23 which a new major industrial facility which seeks to qualify  
24 for taxation as class five property under 15-6-135 is being  
25 constructed or is about to be constructed, the school



1 district may require, as a precondition of the new major  
 2 industrial facility qualifying as class five property, that  
 3 the owners of the proposed industrial facility enter into an  
 4 agreement with the school district concerning the issuing of  
 5 bonds in excess of the ~~45%~~ 52% 53% limitation prescribed in  
 6 20-9-406. Under such an agreement, the school district may,  
 7 with the approval of the voters, issue bonds which exceed  
 8 the limitation prescribed in this section by a maximum of  
 9 ~~45%~~ 52% 53% of the estimated taxable value of the property  
 10 of the new major industrial facility subject to taxation  
 11 when completed. The estimated taxable value of the property  
 12 of the new major industrial facility subject to taxation  
 13 shall be computed by the department of revenue when  
 14 requested to do so by a resolution of the board of trustees  
 15 of the school district. A copy of the department's statement  
 16 of estimated taxable value shall be printed on each ballot  
 17 used to vote on a bond issue proposed under this section.

18 (2) Pursuant to the agreement between the new major  
 19 industrial facility and the school district and as a  
 20 precondition to qualifying as class five property, the new  
 21 major industrial facility and its owners shall pay, in  
 22 addition to the taxes imposed by the school district on  
 23 property owners generally, so much of the principal and  
 24 interest on the bonds provided for under this section as  
 25 represents payment on an indebtedness in excess of the

1 limitation prescribed in 20-9-406. After the completion of  
2 the new major industrial facility and when the indebtedness  
3 of the school district no longer exceeds the limitation  
4 prescribed in this section, the new major industrial  
5 facility shall be entitled, after all the current  
6 indebtedness of the school district has been paid, to a tax  
7 credit over a period of no more than 20 years. The credit  
8 shall as a total amount be equal to the amount which the  
9 facility paid the principal and interest of the school  
10 district's bonds in excess of its general liability as a  
11 taxpayer within the district.

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

19 Section 97. Section 15-1-101, MCA, is amended to read:

20 "15-1-101. Definitions. (1) Except as otherwise  
21 specifically provided, when terms mentioned in this section  
22 are used in connection with taxation, they are defined in  
23 the following manner:

24 (a) The term "agricultural" refers to the raising of  
25 livestock, poultry, bees, and other species of domestic

1 animals and wildlife in domestication or a captive  
2 environment, and the raising of field crops, fruit, and  
3 other animal and vegetable matter for food or fiber.

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

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

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

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

17 (A) agricultural lands;  
18 (B) timberlands;  
19 (C) single-family residences and ancillary  
20 improvements and improvements necessary to the function of a  
21 bona fide farm, ranch, or stock operation;

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

25 (E) all property described in 15-6-135~~7~~.

1       ~~{F}--all-property-described-in-15-6-136--and~~

2       ~~{G}--all-property-described-in-15-6-146-~~

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

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

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

21       (h) The term "leasehold improvements" means  
22 improvements to mobile homes and mobile homes located on  
23 land owned by another person. This property is assessed  
24 under the appropriate classification and the taxes are due  
25 and payable in two payments as provided in ~~15-24-202~~

1 15-16-102. Delinquent taxes on such leasehold improvements  
2 are a lien only on such leasehold improvements.

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

5 (j) The term "mobile home" means forms of housing  
6 shelter known as "trailers", "housetrailers", or "trailer  
7 coaches" exceeding 8 feet in width or 45 feet in length,  
8 designed to be moved from one place to another by an  
9 independent power connected to them, or any "trailer",  
10 "housetrailer", or "trailer coach" up to 8 feet in width or  
11 45 feet in length used as a principal residence.

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

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

19 (m) The term "property" includes moneys, credits,  
20 bonds, stocks, franchises, and all other matters and things,  
21 real, personal, and mixed, capable of private ownership.  
22 This definition must not be construed to authorize the  
23 taxation of the stocks of any company or corporation when  
24 the property of such company or corporation represented by  
25 the stocks is within the state and has been taxed.

1           (n) The term "real estate" includes:

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

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

9           (o) The term "taxable value" means the percentage of  
10 market or assessed value as provided for in ~~15-6-131~~ through  
11 ~~15-6-140~~ this title.

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

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

21           Section 98. Section 15-6-133, MCA, is amended to read:

22           "15-6-133. Class three property -- description --  
23 taxable percentage. (1) Class three property includes:

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

25           ~~(b)--timberland, which for the purpose of this--section~~

1 means--contiguous--land--exceeding-15-acres-in-one-ownership  
 2 that-is-capable-of-producing-timber-that-can-be-harvested-in  
 3 commercial-quantity.

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

6 (3)--Until--July--17--1986, the taxable percentage rate  
 7 "P"--for class three property is 30%.

8 (4)--Prior to July 17, 1986, the department--of--revenue  
 9 shall--determine--the taxable percentage rate--"P"--applicable  
 10 to class three property for the revaluation cycle--beginning  
 11 January 17, 1986, as follows:

12 (a)--The--director--of--the department of revenue shall  
 13 certify to the governor before July 17, 1986, the--percentage  
 14 by--which--the--appraised value of all property in the state  
 15 classified under class three as--of--January--17--1986--has  
 16 increased--due--to the revaluation conducted under 15-7-111.  
 17 This--figure--is--the---"certified---statewide---percentage  
 18 increase".

19 (b)--The--taxable--value--of property in class three is  
 20 determined--as--a--function--of--the---certified---statewide  
 21 percentage--increase--in--accordance--with--the--table shown  
 22 below:

23 (c)--This--table--limits--the--statewide--increase---in  
 24 taxable--valuation--resulting--from--reappraisal--to--0%. In  
 25 calculating the percentage increase, the department may--not

1 consider-agricultural-use-changes-during-calendar-year-1985-

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

6	Certified-Statewide	Class-Three-Taxable
7	Percentage-Increase	Percentage-"P"
8	-0	30.00
9	10	27.27
10	20	25.00
11	30	23.08
12	40	21.43
13	50	20.00

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

17 Section 99. Section 15-6-134, MCA, is amended to read:

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

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

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

24 (c) the first \$35,000 or less of the market value of  
25 any improvement on real property and appurtenant land not



1 exceeding 5 acres owned or under contract for deed and  
 2 actually occupied for at least 10 months a year as the  
 3 primary residential dwelling of any person whose total  
 4 income from all sources including otherwise tax-exempt  
 5 income of all types is not more than \$10,000 for a single  
 6 person or \$12,000 for a married couple;

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

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

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

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

Income	Income	Percentage
Single Person	Married Couple	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%

1	6,001 - 7,000	7,201 - 8,400	60%
2	7,001 - 8,000	8,401 - 9,600	70%
3	8,001 - 9,000	9,601 - 10,800	80%
4	9,001 - 10,000	10,801 - 12,000	90%

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

8 (3)--Until-January-17-19867-the-taxable-percentage-rate  
9 "P"--for-class-four-property-is-8.55%.

10 (4)--Prior-to-July-17-19867-the-department--of--revenue  
11 shall--determine--the-taxable-percentage-rate--"P"--applicable  
12 to-class-four-property-for-the-revaluation--cycle--beginning  
13 January-17-19867-as-follows:

14 (a)--The--director--of--the-department-of-revenue-shall  
15 certify-to-the-governor-before-July-17-19867-the--percentage  
16 by--which--the--appraised-value-of-all-property-in-the-state  
17 classified-under-class-four--as--of--January--17--19867--has  
18 increased--due--to-the-revaluation-conducted-under-15-7-111:  
19 This-figure-is-the-certified-statewide-percentage--increase:

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

24 (c)--This--table--limits--the--statewide--increase---in  
25 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	Class-Four-Taxable
Percentage-Increase	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

1	160	3-28
2	170	3-16
3	180	3-05
4	190	2-94
5	200	2-85
6	210	2-75
7	220	2-67
8	230	2-59
9	240	2-51
10	250	2-44
11	260	2-37
12	270	2-31
13	280	2-25
14	290	2-19
15	300	2-13

16           ~~(5)--After July 17, 1986, no adjustment may be made by~~  
17           ~~the department to the taxable percentage rate "P" until a~~  
18           ~~revaluation has been made as provided in 15-7-111.~~

19           (6)(3) Within the meaning of comparable property as  
20           defined in 15-1-101, property assessed as commercial  
21           property is comparable only to other property assessed as  
22           commercial property, and property assessed as other than  
23           commercial property is comparable only to other property  
24           assessed as other than commercial property.

25           (4) For the purposes of this section, all mobile homes

1 are considered to be improvements."

2 Section 100. Section 15-6-135, MCA, is amended to  
3 read:

4 "15-6-135. Class five property -- description --  
5 taxable percentage. (1) Class five property includes:

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

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

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

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

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

25 (b) The department of health and environmental

1 sciences' determination as to air and water pollution  
2 equipment may be appealed to the board of health and  
3 environmental sciences and may not be appealed to either a  
4 county tax appeal board or the state tax appeal board.  
5 However, the appraised value of the equipment as determined  
6 by the department of revenue may be appealed to the county  
7 tax appeal board and the state tax appeal board.

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

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

19 (b) New industry includes only those industries that:

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

22 (ii) do similar work, employing capital and labor, in  
23 which materials unserviceable in their natural state are  
24 extracted, processed, or made fit for use or are  
25 substantially altered or treated so as to create commercial

1 products or materials; or

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

7 (5) New industrial property does not include:

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

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

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

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

18 Section 101. Section 15-6-136, MCA, is amended to  
19 read:

20 "15-6-136. Class six property -- description --  
21 taxable percentage. (1) Class six property includes:

22 ~~{a}--livestock,--poultry,--bees,--and--other-species-of~~  
23 ~~domestic-animals-and-wildlife-raised-in-domestication--or--a~~  
24 ~~captive--environment,--except--for--cats,--dogs,--and--other~~  
25 ~~household-pets-not-raised-for-profit,--and--the--unprocessed~~

1 products-of-such-animals-and-wildlife;

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

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

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

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

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

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

24 (c) subject to the provisions of subsection (2), all  
25 property owned by cooperative rural electrical and



1 cooperative rural telephone associations that serve less  
2 than 95% of the electricity consumers or telephone users  
3 within the incorporated limits of a city or town;

4 (d) electric transformers and meters; electric light  
5 and power substation machinery; natural gas measuring and  
6 regulating station equipment, meters, and compressor station  
7 machinery owned by noncentrally assessed public utilities;  
8 and tools used in the repair and maintenance of such  
9 property;

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

13 (f) all agricultural implements and equipment;

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

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

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

20 (j) all trailers, including those prorated under  
21 15-24-102 but not including those subject to a fee in lieu  
22 of property tax;

23 (k) truck toppers weighing more than 300 pounds;

24 (l) furniture, fixtures, and equipment, except that  
25 specifically included in another class, used in commercial

1 establishments as defined in this section;

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

3 (n) citizens' band radios and mobile telephones;

4 (o) radio and television broadcasting and transmitting  
5 equipment;

6 (p) cable television systems;

7 (q) coal and ore haulers;

8 (r) trucks having a rated capacity of more than  
9 three-quarters of a ton, including those prorated under  
10 15-24-102 but not including those subject to a fee in lieu  
11 of property tax;

12 (s) theater projectors and sound equipment; and

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

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

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

23 +2)(4) Class six property is taxed at 4% ~~6%~~ 5% of its  
24 market value."

25 Section 102. Section 15-6-147, MCA, is amended to

1 read:

2 "15-6-147. Class seventeen property -- description --  
3 taxable percentage. (1) Class seventeen property includes  
4 all airline transportation property as described in the Tax  
5 Equity and Fiscal Responsibility Act of 1982 as it read on  
6 January 1, 1986.

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

12 (3) For the purpose of complying with the Tax Equity  
13 and Fiscal Responsibility Act of 1982, as it read on January  
14 1, 1986, the taxable percentage rate "R" referred to in ~~this~~  
15 section subsection (2) is the equalized average tax rate  
16 generally applicable to commercial and industrial property,  
17 except class seventeen property, as commercial property is  
18 defined in 15-1-101(1)(d)."

19 Section 103. Section 15-6-201, MCA, is amended to  
20 read:

21 "15-6-201. Exempt categories. (1) The following  
22 categories of property are exempt from taxation:

23 (a) the property of:

24 (i) the United States, the state, counties, cities,  
25 towns, school districts, except, if congress passes

1 legislation that allows the state to tax property owned by  
2 an agency created by congress to transmit or distribute  
3 electrical energy, the property constructed, owned, or  
4 operated by a public agency created by the congress to  
5 transmit or distribute electric energy produced at privately  
6 owned generating facilities (not including rural electric  
7 cooperatives);

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

10 (iii) municipal corporations; and

11 (iv) public libraries;

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

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

20 (d) property that meets the following conditions:

21 (i) is owned and held by any association or  
22 corporation organized under Title 35, chapter 2, 3, 20, or  
23 21;

24 (ii) is devoted exclusively to use in connection with a  
25 cemetery or cemeteries for which a permanent care and

1 improvement fund has been established as provided for in  
2 Title 35, chapter 20, part 3; and

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

5 (e) institutions of purely public charity;

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

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

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

15 (i) a truck canopy cover or topper weighing less than  
16 300 pounds and having no accommodations attached. Such  
17 property is also exempt from the fee in lieu of tax.

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

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

22 (l) motorcycles and quadricycles;

23 (m) fixtures, buildings, and improvements owned by a  
24 cooperative association or nonprofit corporation organized  
25 to furnish potable water to its members or customers for

1 uses other than the irrigation of agricultural land;

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

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

12 (p) all farm buildings with a market value of less  
13 than \$500 and all agricultural implements and machinery with  
14 a market value of less than \$100-;

15 (q) the first \$20,000 or less of the market value of  
16 any single-family OWNER-OCCUPIED residence ASSESSED AND  
17 TAXED AS CLASS FOUR PROPERTY UNDER 15-6-134, exclusive of  
18 land and appurtenant improvements;

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

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

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

1       (s) all aircraft that are not considered airline  
2       transportation property as described in the Tax Equity and  
3       Fiscal Responsibility Act of 1982 and thereby included in  
4       15-6-147;

5       (t) all watercraft; and

6       (u) all all-terrain vehicles.

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

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

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

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

23      (b) \$100,000 in the case of a multifamily residential  
24      dwelling or a nonresidential structure. (Subsection (1)(p)  
25      applicable to taxable years beginning after December 31,

1 1985--sec. 4, Ch. 463, L. 1985.)"

2 Section 104. Section 15-6-207, MCA, is amended to  
3 read:

4 "15-6-207. Agricultural exemptions. (1) The following  
5 agricultural products are exempt from taxation:

6 (a) all unprocessed, perishable fruits and vegetables  
7 in farm storage and owned by the producer;

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

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

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

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

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

25 (2) Any beet digger, beet topper, beet defoliator,



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

8 Section 105. Section 15-8-111, MCA, is amended to  
 9 read:

10 "15-8-111. Assessment -- market value standard --  
 11 exceptions. (1) All taxable property must be assessed at  
 12 100% of its market value except as provided in subsection  
 13 (5) of this section and in 15-7-111 through 15-7-114.

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

18 (b) Except as provided in subsection (3), the market  
 19 value of all motor trucks; agricultural tools, implements,  
 20 and machinery; and vehicles of all kinds, ~~including but not~~  
 21 ~~limited to aircraft and boats and all watercraft,~~ is the  
 22 average wholesale value shown in national appraisal guides  
 23 and manuals or the value of the vehicle before  
 24 reconditioning and profit margin. The department of revenue  
 25 shall prepare valuation schedules showing the average

1 wholesale value when no national appraisal guide exists.

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

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

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

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

19 (5) The taxable value for all property in classes four  
20 through ~~eleven--and~~ six, eleven, fifteen, and seventeen  
21 through nineteen is the percentage of market value  
22 established for each class of property in 15-6-134 through  
23 ~~15-6-141--and~~ 15-6-136, 15-6-141, 15-6-145, and 15-6-147  
24 through 15-6-149.

25 (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

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

8 Section-82.--Section-15-8-202,--MCA,--is-amended-to-read:  
 9 "15-8-202.--Motor---vehicle---assessment.----(1)----The  
 10 department--or--its--agent--must,--in--each--year,--ascertain--and  
 11 assess--all--motor--vehicles--other--than--automobiles,--trucks  
 12 having--a--rated--capacity--of--three-quarters--of--a--ton--or--less,  
 13 motorcycles,--quadricycles,--motor--homes,--travel--trailers,--or  
 14 mobile--homes--in--each--county--subject--to--taxation--as--of  
 15 January--1--or--as--of--the--anniversary--registration--date--of  
 16 those--vehicles--subject--to--61-3-313--through--61-3-316--and  
 17 61-3-501.--The--assessment--for--all--motor--vehicles--will--be--made  
 18 using--the--market--value--as--of--January--1--of--the--year--of  
 19 assessment--of--the--vehicle--as--contained--in--the--most--recent  
 20 volume--of--the--Mountain--States--Edition--of--the--National  
 21 Automobile--Dealers--Association--Official--Used--Car--Guide.--The  
 22 motor--vehicles--shall--be--assessed--in--each--year--to--the--persons  
 23 by--whom--owned--or--claimed--or--in--whose--possession--or--control  
 24 they--were--at--midnight--of--January--1--or--the--anniversary  
 25 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 106. 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 107. 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

1 person a statement under oath setting forth specifically all  
2 the real and personal property owned by such person or in  
3 his possession or under his control at midnight on January  
4 1. Such statement must be in writing, showing separately:

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

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

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

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

20 (e) an exact description of all lands in parcels or  
21 subdivisions not exceeding 640 acres each and the sections  
22 and fractional sections of all tracts of land containing  
23 more than 640 acres which have been sectionized by the  
24 United States government; improvements and personal  
25 property,--including--all--vessels,--steamers,---and---other

1 watercraft; all taxable state, county, city, or other  
2 municipal or public bonds and the taxable bonds of any  
3 person, firm, or corporation and deposits of money, gold  
4 dust, or other valuables and the names of the persons with  
5 whom such deposits are made and the places in which they may  
6 be found; all mortgages, deeds of trust, contracts, and  
7 other obligations by which a debt is secured and the  
8 property in the county affected thereby;

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

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

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

24 (3) The fact that such statement is not required or  
25 that a person has not made such statement, under oath or

1 otherwise, does not relieve his property from taxation."

2 Section 108. Section 15-8-404, MCA, is amended to  
3 read:

4 "15-8-404. Property of particular types of firms. (1)  
5 The personal property belonging to the business of a  
6 merchant or of a manufacturer must be listed in the town or  
7 district where his business is carried on.

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

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

17 Section 109. Section 15-8-405, MCA, is amended to  
18 read:

19 "15-8-405. Street railroads, and bridges, ~~and-ferries~~.  
20 Street railroads and bridges ~~and---ferries~~ and their  
21 franchises owned by persons or corporations must be listed  
22 and assessed in the county, town, or district where such  
23 property or any portion thereof is located, and the track of  
24 the railroad and the bridge are personal property."

25 Section 110. Section 15-8-706, MCA, is amended to



1 read:

2 "15-8-706. Statement by agent to the department. (1)

3 On the second Monday in July in each year, the agent of the  
4 department of revenue in each county must transmit to the  
5 department a statement showing:

6 (a) the several kinds of personal property;

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

8 (c) the number of livestock, ~~number of bushels of~~  
9 ~~grain, number of pounds or tons of any article sold by the~~  
10 ~~pound or ton; and~~

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

14 (2) An agent of the department who purposely or  
15 negligently fails to perform his duty under this section or  
16 a deputy or member of the agent's staff delegated such duty  
17 who purposely or negligently fails to perform such duty is  
18 guilty of official misconduct under 45-7-401."

19 Section 111. Section 15-16-611, MCA, is amended to  
20 read:

21 "15-16-611. Reduction of property tax for property  
22 destroyed by natural disaster. (1) The department of revenue  
23 shall, upon showing by a taxpayer that some or all of the  
24 improvements on his real property or a trailer or mobile  
25 home ~~as described in 15-6-142~~ have been destroyed to such an

1 extent that such improvements have been rendered unsuitable  
2 for their previous use by natural disaster, adjust the  
3 taxable value on the property, accounting for the  
4 destruction.

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

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

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

14 (b) multiply the amount of tax levied and assessed on  
15 the adjusted taxable value of the property for the remainder  
16 of the year by the ratio that the number of days remaining  
17 in the year after the destruction of the property bears to  
18 365.

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

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

25 Section 112. Section 15-24-301, MCA, is amended to

1 read:

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

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

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

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

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

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

1           (4) Any motor vehicle not subject to the light vehicle  
2 license fee or a fee in lieu of tax brought, driven, or  
3 coming into this state by any nonresident person temporarily  
4 employed in Montana and used exclusively for transportation  
5 of such person is subject to taxation and assessment for  
6 taxes as follows:

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

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

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

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

23          (6) The provisions of this part do not apply to  
24 automobiles and trucks having a rated capacity of  
25 three-quarters of a ton or less, motorcycles, or

1 quadricycles. These vehicles are subject to the fee provided  
2 for in 61-3-532 or 61-3-541."

3 Section 113. Section 15-24-302, MCA, is amended to  
4 read:

5 "15-24-302. Collection procedure. All property  
6 mentioned in 15-24-301 is assessed at the same value as  
7 property of like kind and character, and the assessment,  
8 levy, and collection of the tax are governed by the  
9 provisions of 15-8-408; 15-16-111 through 15-16-115;  
10 15-16-404; chapter 17, part 9; and 15-24-202; as amended,  
11 except:

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

15 (2) ~~livestock taxation governed by 81-7-104 and Title~~  
16 ~~81-7-chapter-7, part-2.~~"

17 Section 114. Section 15-24-1102, MCA, is amended to  
18 read:

19 "15-24-1102. Federal property held under contract of  
20 sale. When the property is held under a contract of sale or  
21 other agreement whereby upon payment the legal title is or  
22 may be acquired by the person, the real property shall be  
23 assessed and taxed as defined in ~~15-6-131 through 15-6-140~~  
24 Title 15, chapter 6, part 1, and 15-8-111 without deduction  
25 on account of the whole or any part of the purchase price or

1 other sum due on the property remaining unpaid. The lien for  
2 the tax may not attach to, impair, or be enforced against  
3 any interest of the United States in the real property."

4 Section 115. Section 15-24-1103, MCA, is amended to  
5 read:

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

18 Section 116. Section 19-11-503, MCA, is amended to  
19 read:

20 "19-11-503. Special tax levy for fund required. (1)  
21 The purpose of this section is to provide a means by which  
22 each disability and pension fund may be maintained at a  
23 level equal to 3% 3.5% of the taxable valuation of all  
24 taxable property within the limits of the city or town.

25 (2) Whenever the fund contains less than 3% 3.5% of

1 the taxable valuation of all taxable property within the  
2 limits of the city or town, the governing body of the city  
3 or town shall, at the time of the levy of the annual tax,  
4 levy a special tax as provided in 19-11-504. The special tax  
5 shall be collected as other taxes are collected and, when so  
6 collected, shall be paid into the disability and pension  
7 fund.

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

12 Section 117. Section 19-11-504, MCA, is amended to  
13 read:

14 "19-11-504. Amount of special tax levy. Whenever the  
15 fund contains an amount which is less than 3% 3.5% of the  
16 taxable valuation of all taxable property in the city or  
17 town, the city council shall levy an annual special tax of  
18 not less than 1 mill and not more than 4 mills on each  
19 dollar of taxable valuation of all taxable property within  
20 the city or town."

21 Section 118. Section 20-9-141, MCA, is amended to  
22 read:

23 "20-9-141. Computation of general fund net levy  
24 requirement by county superintendent. (1) The county  
25 superintendent shall compute the levy requirement for each

1 district's general fund on the basis of the following  
2 procedure:

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

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

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

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

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

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

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



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

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

5 (v) anticipated or reappropriated motor vehicle fees  
6 and reimbursement under the provisions of 61-3-532 and  
7 61-3-536;

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

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

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

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

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

22 (2) The net general fund levy requirement determined  
23 in subsection (1)(c) shall be reported to the county  
24 commissioners on the second Monday of August by the county  
25 superintendent as the general fund levy requirement for the

1 district, and a levy shall be made by the county  
2 commissioners in accordance with 20-9-142."

3 Section 119. Section 20-9-331, MCA, is amended to  
4 read:

5 "20-9-331. Basic county tax and other revenues for  
6 county equalization of the elementary district foundation  
7 program. (1) It shall be the duty of the county  
8 commissioners of each county to levy an annual basic tax of  
9 28 mills on the dollars of the taxable value of all taxable  
10 property within the county for the purposes of local and  
11 state foundation program support. The revenue to be  
12 collected from this levy shall be apportioned to the support  
13 of the foundation programs of the elementary school  
14 districts in the county and to the state special revenue  
15 fund, state equalization aid account, in the following  
16 manner:

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

23 (b) If the basic levy prescribed by this section  
24 produces more revenue than is required to finance the  
25 difference determined above, the county treasurer shall

1 remit the surplus funds to the state treasurer for deposit  
2 to the state special revenue fund, state equalization aid  
3 account, immediately upon occurrence of a surplus balance  
4 and each subsequent month thereafter, with any final  
5 remittance due no later than June 20 of the fiscal year for  
6 which the levy has been set.

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

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

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

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

24 (d) any money remaining at the end of the immediately  
25 preceding school fiscal year in the county treasurer's

1 account for the various sources of revenue established or  
2 referred to in this section;

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

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

10 (g) sales tax and use tax revenue."

11 Section 120. Section 20-9-333, MCA, is amended to  
12 read:

13 "20-9-333. Basic special levy and other revenues for  
14 county equalization of high school district foundation  
15 program. (1) It shall be the duty of the county  
16 commissioners of each county to levy an annual basic special  
17 tax for high schools of 17 mills on the dollar of the  
18 taxable value of all taxable property within the county for  
19 the purposes of local and state foundation program support.  
20 The revenue to be collected from this levy shall be  
21 apportioned to the support of the foundation programs of  
22 high school districts in the county and to the state special  
23 revenue fund, state equalization aid account, in the  
24 following manner:

25 (a) In order to determine the amount of revenue raised

1 by this levy which is retained by the county, the estimated  
2 revenues identified in subsections (2)(a) and (2)(b) below  
3 shall be subtracted from the sum of the county's high school  
4 tuition obligation and the total of the foundation programs  
5 of all high school districts of the county.

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

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

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

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

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

8           (d) sales tax and use tax revenue."

9           Section 121. Section 20-9-352, MCA, is amended to  
10 read:

11           "20-9-352. Permissive amount and permissive levy. (1)  
12 Whenever the trustees of any district shall deem it  
13 necessary to adopt a general fund budget in excess of the  
14 foundation program amount but not in excess of the maximum  
15 general fund budget amount for such district as established  
16 by the schedules in 20-9-316 through 20-9-321, the trustees  
17 shall adopt a resolution stating the reasons and purposes  
18 for exceeding the foundation program amount. Such excess  
19 above the foundation program amount shall be known as the  
20 "permissive amount", and it shall be financed by a levy on  
21 the taxable value of all taxable property within the  
22 district as prescribed in 20-9-141, supplemented with any  
23 biennial appropriation by the legislature for this purpose.  
24 The proceeds of such an appropriation shall be deposited to  
25 the state special revenue fund, permissive account.

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

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

19           (b) For each high school district, the county  
20 commissioners shall annually set a levy not exceeding 4  
21 mills on all taxable property in the district for the  
22 purpose of funding the permissive amount of the district.  
23 The permissive levy in mills shall be obtained by  
24 multiplying the ratio of the permissive levy to the maximum  
25 permissive amount by 4 or by using the number of mills which

1 would fund the permissive amount, whichever is less. If the  
2 amount of revenue raised by this levy, plus anticipated  
3 motor vehicle fees, and reimbursement under the provisions  
4 of 61-3-532 and 61-3-536, ~~and plus~~ net proceeds taxes for  
5 new production, as defined in 15-23-601, ~~is~~ and sales tax  
6 and use tax revenue are not sufficient to fund the  
7 permissive amount in full, the amount of the deficiency  
8 shall be paid to the district from the state special revenue  
9 fund according to the provisions of subsections (3) and (4)  
10 of this section.

11 (3) The superintendent of public instruction shall, if  
12 the appropriation by the legislature for the permissive  
13 account for the biennium is insufficient, request the budget  
14 director to submit a request for a supplemental  
15 appropriation in the second year of the biennium. The  
16 supplemental appropriation shall provide enough revenue to  
17 fund the permissive deficiency of the elementary and high  
18 school districts of the state. The proceeds of this  
19 appropriation shall be deposited to the state special  
20 revenue fund, permissive account, and shall be distributed  
21 to the elementary and high school districts in accordance  
22 with their entitlements as determined by the superintendent  
23 of public instruction according to the provisions of  
24 subsections (1) and (2) of this section.

25 (4) Distribution under this section from the state



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

15 Section 122. Section 20-9-501, MCA, is amended to  
16 read:

17 "20-9-501. Retirement fund. (1) The trustees of any  
18 district employing personnel who are members of the  
19 teachers' retirement system or the public employees'  
20 retirement system or who are covered by unemployment  
21 insurance or who are covered by any federal social security  
22 system requiring employer contributions shall establish a  
23 retirement fund for the purposes of budgeting and paying the  
24 employer's contributions to such systems. The district's  
25 contribution for each employee who is a member of the

1 teachers' retirement system shall be calculated in  
2 accordance with Title 19, chapter 4, part 6. The district's  
3 contribution for each employee who is a member of the public  
4 employees' retirement system shall be calculated in  
5 accordance with 19-3-801. The district may levy a special  
6 tax to pay its contribution to the public employees'  
7 retirement system under the conditions prescribed in  
8 19-3-204. The district's contributions for each employee  
9 covered by any federal social security system shall be paid  
10 in accordance with federal law and regulation. The  
11 district's contribution for each employee who is covered by  
12 unemployment insurance shall be paid in accordance with  
13 Title 39, chapter 51, part 11.

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

24 (3) When the final retirement fund budget has been  
25 adopted, the county superintendent shall establish the levy

1 requirement by:

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

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

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

10 (iii) sales tax and use tax revenue; and

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

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

25 (4) The county superintendent shall total the net

1 retirement fund levy requirements separately for all  
2 elementary school districts, all high school districts, and  
3 all community college districts of the county, including any  
4 prorated joint district or special education cooperative  
5 agreement levy requirements, and shall report each such levy  
6 requirement to the county commissioners on the second Monday  
7 of August as the respective county levy requirements for  
8 elementary district, high school district, and community  
9 college district retirement funds. The county commissioners  
10 shall fix and set such county levy in accordance with  
11 20-9-142.

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

21 (6) The net retirement fund levy requirement for  
22 districts that are members of special education cooperative  
23 agreements shall be prorated to each county in which such  
24 district is located in the same proportion as the budget for  
25 the special education cooperative agreement of the district

1 bears to the total budget of the cooperative. The county  
2 superintendents of the counties affected shall jointly  
3 determine the net retirement fund levy requirement for each  
4 county in the same manner as provided in 20-9-151 and fix  
5 and levy the net retirement fund levy for each county in the  
6 same manner as provided in 20-9-152."

7 Section 123. Section 20-9-502, MCA, is amended to  
8 read:

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

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

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

25 (c) the total amount of money that will be raised

1 during the duration of time specified in subsection (1)(b);  
2 and

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

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

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

18 OFFICIAL BALLOT

19 SCHOOL DISTRICT BUILDING RESERVE ELECTION

20 INSTRUCTIONS TO VOTERS: Make an X or similar mark in  
21 the vacant square before the words "BUILDING RESERVE--YES"  
22 if you wish to vote for the establishment of a building  
23 reserve (addition to the building reserve); if you are  
24 opposed to the establishment of a building reserve (addition  
25 to the building reserve) make an X or similar mark in the

1 square before the words "BUILDING RESERVE--NO".

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

8 BUILDING RESERVE--YES.

9 BUILDING RESERVE--NO.

10 (4) The building reserve proposition shall be approved  
11 if a majority of those electors voting at the election  
12 approve the establishment of or addition to such building  
13 reserve. The annual budgeting and taxation authority of the  
14 trustees for a building reserve shall be computed by  
15 dividing the total authorized amount by the specified number  
16 of years. The authority of the trustees to budget and  
17 impose the taxation for the annual amount to be raised for  
18 the building reserve shall lapse when, at a later time, a  
19 bond issue is approved by the qualified electors of the  
20 district for the same purpose or purposes for which the  
21 building reserve fund of the district was established.  
22 Whenever a subsequent bond issue is made for the same  
23 purpose or purposes of a building reserve, the money in the  
24 building reserve shall be used for such purpose or purposes  
25 before any money realized by the bond issue is used."

1           Section 124. Section 20-10-144, MCA, is amended to  
2 read:

3           "20-10-144. Computation of revenues and net tax levy  
4 requirements for the transportation fund budget. Before the  
5 fourth Monday of July and in accordance with 20-9-123, the  
6 county superintendent shall compute the revenue available to  
7 finance the transportation fund budget of each district. The  
8 county superintendent shall compute the revenue for each  
9 district on the following basis:

10           (1) The "schedule amount" of the preliminary budget  
11 expenditures that is derived from the rate schedules in  
12 20-10-141 and 20-10-142 shall be determined by adding the  
13 following amounts:

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

22           (b) the total of all individual transportation per  
23 diem reimbursement rates for such district as determined  
24 from the contracts submitted by the district multiplied by  
25 the number of pupil-instruction days scheduled for the



1     ensuing school attendance year; plus

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

5             (d) the amount budgeted on the preliminary budget for  
6 the contingency amount permitted in 20-10-143, except if  
7 such amount exceeds 10% of the total of subsections (1)(a),  
8 (1)(b), and (1)(c) or \$100, whichever is larger, the  
9 contingency amount on the preliminary budget shall be  
10 reduced to such limitation amount and used in this  
11 determination of the schedule amount.

12             (2) The schedule amount determined in subsection (1)  
13 or the total preliminary transportation fund budget,  
14 whichever is smaller, shall be divided by 3 and the  
15 resulting one-third amount shall be used to determine the  
16 available state and county revenue to be budgeted on the  
17 following basis:

18             (a) the resulting one-third amount shall be the  
19 budgeted state transportation reimbursement, except that the  
20 state transportation reimbursement for the transportation of  
21 special education pupils under the provisions of 20-7-442  
22 shall be two-thirds of the schedule amount attributed to the  
23 transportation of special education pupils;

24             (b) the resulting one-third amount, except as provided  
25 for joint elementary districts in subsection (2)(e), shall

1 be the budgeted county transportation reimbursement for  
2 elementary districts and shall be financed by the basic  
3 county tax under the provisions of 20-9-334;

4 (c) the resulting one-third amount multiplied by 2  
5 shall be the budgeted county transportation reimbursement  
6 amount for high school districts financed under the  
7 provisions of subsection (5) of this section, except as  
8 provided for joint high school districts in subsection  
9 (2)(e), and except that the county transportation  
10 reimbursement for the transportation of special education  
11 pupils under the provisions of 20-7-442 shall be one-third  
12 of the schedule amount attributed to the transportation of  
13 special education pupils;

14 (d) when the district has a sufficient amount of cash  
15 for reappropriation and other sources of district revenue,  
16 as determined in subsection (3), to reduce the total  
17 district obligation for financing to zero, any remaining  
18 amount of such district revenue and cash reappropriated  
19 shall be used to reduce the county financing obligation in  
20 subsections (2)(b) or (2)(c) and, if such county financing  
21 obligations are reduced to zero, to reduce the state  
22 financial obligation in subsection (2)(a); and

23 (e) the county revenue requirement for a joint  
24 district, after the application of any district moneys under  
25 subsection (2)(d) above, shall be prorated to each county

1 incorporated by the joint district in the same proportion as  
 2 the ANB of the joint district is distributed by pupil  
 3 residence in each such county.

4 (3) The total of the moneys available for the  
 5 reduction of property tax on the district for the  
 6 transportation fund shall be determined by totaling:

7 (a) anticipated federal moneys received under the  
 8 provisions of Title I of Public Law 81-874 or other  
 9 anticipated federal moneys received in lieu of such federal  
 10 act; plus

11 (b) anticipated payments from other districts for  
 12 providing school bus transportation services for such  
 13 district; plus

14 (c) anticipated payments from a parent or guardian for  
 15 providing school bus transportation services for his child;  
 16 plus

17 (d) anticipated interest to be earned by the  
 18 investment of transportation fund cash in accordance with  
 19 the provisions of 20-9-213(4); plus

20 (e) anticipated motor vehicle fees and reimbursement  
 21 under the provisions of 61-3-532 and 61-3-536; plus

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

24 (g) sales tax and use tax revenue; plus

25 †g†(h) any other revenue anticipated by the trustees

1 to be earned during the ensuing school fiscal year which may  
2 be used to finance the transportation fund; plus

3 ~~(h)~~(i) any cash available for reappropriation as  
4 determined by subtracting the amount of the end-of-the-year  
5 cash balance earmarked as the transportation fund cash  
6 reserve for the ensuing school fiscal year by the trustees  
7 from the end-of-the-year cash balance in the transportation  
8 fund. Such cash reserve shall not be more than 20% of the  
9 final transportation fund budget for the ensuing school  
10 fiscal year and shall be for the purpose of paying  
11 transportation fund warrants issued by the district under  
12 the final transportation fund budget.

13 (4) The district levy requirement for each district's  
14 transportation fund shall be computed by:

15 (a) subtracting the schedule amount calculated in  
16 subsection (1) from the total preliminary transportation  
17 budget amount and, for an elementary district, adding such  
18 difference to the district obligation to finance one-third  
19 of the schedule amount as determined in subsection (2); and

20 (b) subtracting the amount of moneys available to  
21 reduce the property tax on the district, as determined in  
22 subsection (3), from the amount determined in subsection  
23 (4)(a) above.

24 (5) The county levy requirement for the financing of  
25 the county transportation reimbursement to high school

1 districts shall be computed by adding all such requirements  
 2 for all the high school districts of the county, including  
 3 the county's obligation for reimbursements in joint high  
 4 school districts.

5 (6) The transportation fund levy requirements  
 6 determined in subsection (4) for each district and in  
 7 subsection (5) for the county shall be reported to the  
 8 county commissioners on the second Monday of August by the  
 9 county superintendent as the transportation fund levy  
 10 requirements for the district and for the county, and such  
 11 levies shall be made by the county commissioners in  
 12 accordance with 20-9-142."

13 Section 125. Section 33-7-407, MCA, is amended to  
 14 read:

15 "33-7-407. Taxes. Every society organized or licensed  
 16 under this chapter is hereby declared to be a charitable and  
 17 benevolent institution, and all of its funds shall be exempt  
 18 from all and every state, county, district, municipal, and  
 19 school tax other than taxes on gross receipts taxable under  
 20 the sales and use tax and taxes on real estate property and  
 21 office-equipment improvements SUBJECT TO TAXATION UNDER  
 22 TITLE 15."

23 ~~Section-103.---Section--61-3-431,--MCA,--is--amended--to~~  
 24 ~~read:~~

25 ~~"61-3-431.---Special-mobile-equipment---exemption--from~~

1 registration---and---payment---of---fees---and---charges---  
 2 identification--plate-----publicly--owned--special---mobile  
 3 equipment:---(1)--A-person, firm, partnership, or corporation  
 4 who-owns, leases,--or--rents--special--mobile--equipment--as  
 5 defined--in--61-1-104--and-occasionally-moves-that-equipment  
 6 on, over, or across the highways of the state is not subject  
 7 to registration of that equipment or--required--to--pay--the  
 8 fees--and--charges--provided--for--in--61-3-502, 61-4-301 through  
 9 61-4-308, or part 2 of chapter 10. Prior to movement on--the  
 10 highways,--however, each piece of equipment shall display an  
 11 equipment identification plate or a dealer's--license--plate  
 12 attached to the equipment.

13 (2)--Annual--application--for--the identification plate  
 14 shall be made to the county treasurer before--any--piece--of  
 15 equipment--is--moved--on--the highways. Application shall be  
 16 made on a form--furnished--by--the--department--of--justice,  
 17 together--with--the payment of a fee of \$5. The equipment for  
 18 which a special mobile equipment plate is sought is--subject  
 19 to--the--assessment--of--personal property taxes on the date  
 20 application is made for the--plate. The--personal--property  
 21 taxes--assessed--against the special mobile equipment must be  
 22 paid before the--issuance--of--a--special--mobile--equipment  
 23 plate. The--fees--collected under this section belong to the  
 24 county road fund.

25 (3)--The identification plate expires on December 31 of

1 each-year--if-the-expired-identification-plate-is-displayed,  
 2 an-owner-of-special-mobile-equipment--registered--under--the  
 3 provisions--of--this--section--is--entitled--to--operate-the  
 4 equipment--between--January--1--and--February--15--following  
 5 expiration--without--displaying--the-identification-plate-or  
 6 receipt-of-the-current-year-

7 (4)--Publicly--owned--special--mobile---equipment---and  
 8 implements--of-husbandry-used-exclusively-by-an-owner-in-the  
 9 conduct-of-his-own-farming-operations--are-exempt--from--this  
 10 section."

11 Section 126. Section 61-3-501, MCA, is amended to  
 12 read:

13 "61-3-501. When vehicle taxes and fees are due. (1)  
 14 Property All taxes, new-car-taxes, light except sales and  
 15 use taxes paid at the time of purchase, and all vehicle  
 16 license fees, and fees in lieu of tax on a motorcycle,  
 17 quadricycle, motor home, or travel trailer must be paid on  
 18 the date of registration or reregistration of the vehicle.

19 (2) If the anniversary date for reregistration of a  
 20 vehicle passes while the vehicle is owned and held for sale  
 21 by a licensed new or used car dealer, property taxes, light  
 22 vehicle license fees, or the fee in lieu of property taxes  
 23 abate abates on such vehicle properly reported with the  
 24 department of revenue until the vehicle is sold and  
 25 thereafter the purchaser shall pay the pro rata balance of

1 the taxes or the fee in lieu of tax due and owing on the  
2 vehicle.

3 (3) In the event a vehicle's registration period is  
4 changed under 61-3-315, all taxes and other fees due thereon  
5 shall be prorated and paid from the last day of the old  
6 period until the first day of the new period in which the  
7 vehicle shall be registered. Thereafter taxes and other fees  
8 must be paid from the first day of the new period for a  
9 minimum period of 1 year. When the change is to a later  
10 registration period, taxes and fees shall be prorated and  
11 paid based on the same tax year as the original registration  
12 period. Thereafter, during the appropriate anniversary  
13 registration period, each vehicle shall again register or  
14 reregister and shall pay all taxes and fees due thereon for  
15 a 12-month period."

16 ~~Section-105.--Section--61-4-112,--MCA,--is--amended--to~~  
17 ~~read:~~

18 ~~"61-4-112,--New-motor-vehicles----transfers-by-dealers.~~  
19 ~~{1}-When-a--motor--vehicle--dealer--transfers--a--new--motor~~  
20 ~~vehicle-to-a-purchaser-or-other-recipient,--the-dealer-shall:~~

21 ~~{a)--issue---and--affix--a--sticker--as--prescribed--in~~  
22 ~~61-4-111{1}{a)-for-transfers--of--used--motor--vehicles--and~~  
23 ~~retain-a-copy-of-the-sticker;~~

24 ~~{b)--within--4--working--days--following--the--date--of~~  
25 ~~delivery-of-the-new-motor-vehicle,--forward--to--the--county~~



1 treasurer--of--the--county--where-the-purchaser-or-recipient  
2 resides:

3 (i)--one-copy-of-the-sticker--issued--under--subsection  
4 (1)(a); and

5 (ii)--an--application--for--certificate--of--title-with-a  
6 notice--of--security--interest,--if--any,--executed--by--the  
7 purchaser-or-recipient;-and

8 (iii)--a---statement---of---origin---as---prescribed---in  
9 61-3-502(7)(b);-

10 (2)--Upon-receipt-from--the--county--treasurer--of--the  
11 documents--required--under--subsection--(1),--the-department  
12 shall-issue-a-certificate-of-ownership--and--certificate--of  
13 registration--together--with-a-statement-of-lien-as-provided  
14 in-61-3-202."

15 Section-106;--Section-61-10-231;--MCA;--is--amended--to  
16 read:

17 "61-10-231;--Enforcement;---The--highway-patrol-and-any  
18 designated-employee-of--the--department--of--highways--shall  
19 enforce--this--part-and-61-3-502(1);-and-those-persons-shall  
20 examine-and-inspect-the-motor-vehicles--operating--upon--the  
21 highways--in--this--state--and--regulated--by--this-part-and  
22 61-3-502(1)-to-ascertain-whether-or-not-those-laws-are-being  
23 complied-with."

24 Section-107;--Section-61-12-206;--MCA;--is--amended--to  
25 read:

1       "61-12-206.--Offenses-for-which-arrest-authorized.--(1)  
 2       Employees--appointed--under--61-12-201--may-make-arrests-for  
 3       violations-of-the-following-statutory-provisions-only:

4       (a)--part-17-chapter-10,-of-this-title;

5       (b)--part-37-chapter-4,-of-this-title;

6       (c)--sections-15-24-201-through-15-24-205;

7       (d)--sections-15-70-302-through-15-70-307;

8       (e)--sections-15-70-311-through-15-70-314;

9       (f)--section-61-3-502(1);

10       (g)(f)--sections-61-10-201-through-61-10-215;

11       (h)(g)--sections-61-10-222-through-61-10-224;

12       (i)(h)--sections-61-10-231-through-61-10-233;

13       (2)--These-employees--may--not--arrest--for--violations  
 14       other-than-specified-in-this-section."

15       Section 127. Section 67-3-201, MCA, is amended to  
 16       read:

17       "67-3-201. Aircraft registration and licensing. (1)  
 18       Except as provided in 67-3-102 and in subsection (7) (6) of  
 19       this section, a person may not operate or cause or authorize  
 20       to be operated a civil aircraft within this state unless the  
 21       aircraft has an appropriate effective registration, license,  
 22       certificate, or permit issued or approved by the United  
 23       States government which has been registered with the  
 24       department and the registration with the department is in  
 25       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-15-6-2107--all-aircraft-shall~~

1 be--subject--to--all--state,--county,--and--school--district--tax  
 2 levies--and--all--other--levies--designated--for--aircraft---or  
 3 airport--related--uses.--Such--aircraft--shall--not--be--liable--for  
 4 other--city--tax--levies--

5       ~~(6)~~(5) Aircraft not registered in the state but  
 6 entering the state to engage in commercial operations shall  
 7 be registered prior to commencing operation.

8       ~~(7)~~(6) Owners of ultralight aircraft for which no  
 9 appropriate effective license, certificate, or permit is  
 10 issued by the United States government shall file with the  
 11 department an appropriate registration recognized and  
 12 approved by the United States government."

13       Section 128. Section 67-3-202, MCA, is amended to  
 14 read:

15       "67-3-202. Penalty for registration violations. (1)  
 16 When an aircraft required to be registered under the  
 17 provisions of subsections (2) through ~~(7)~~ (6) of 67-3-201 is  
 18 not registered on or before March 1 of the current calendar  
 19 year, a penalty fee of \$100 shall be added to the  
 20 registration fee and collected. Registration of an aircraft  
 21 in the name of the applicant for the year immediately  
 22 preceding the year for which application for registration is  
 23 made shall be prima facie evidence that the aircraft has  
 24 been based in this state during the year for which  
 25 application for registration is made.

1       (2)--Except--for--aircraft--exempt--from--property--taxation  
 2       as--provided--in--15-6-210,--an--application--for--registration  
 3       shall--be--accompanied--by--a--copy--of--the--receipt--for--or  
 4       statement--of--personal--property--tax--paid,--signed--by--the  
 5       treasurer--of--the--county--where--the--aircraft--is--registered,--or  
 6       a--statement--of--lien--assignment--against--real--property,--signed  
 7       by--the--county--assessor--where--the--aircraft--is--registered.--A  
 8       person--who--pays--personal--property--tax--on--his--aircraft--to--any  
 9       jurisdiction--other--than--the--county--where--the--aircraft--is  
 10       required--to--be--registered--is--liable--for--the--tax--in--that  
 11       county--without--credit--for--such--other--taxes--paid.--In--addition  
 12       to--this--civil--liability,--a--person--who--attempts--to--establish  
 13       the--situs--of--his--aircraft--in--any--jurisdiction--other--than--the  
 14       county--where--the--aircraft--is--required--to--be--registered--with  
 15       intent--to--avoid--payment--of--taxes--to--that--county--commits--the  
 16       offense--of--false--swearing--as--defined--in--45-7-202.

17       (3)(2) A person who operates an aircraft required to  
 18       be registered in the state without having displayed upon  
 19       such aircraft a certificate of registration issued by the  
 20       department for that aircraft commits a misdemeanor."

21       Section 129. Section 81-6-101, MCA, is amended to  
 22       read:

23       "81-6-101. Petition for county livestock protective  
 24       committee -- members -- term. (1) The board of county  
 25       commissioners must, upon receipt of a petition or petitions

1 to do so, establish a county livestock protective committee  
2 of three members. The petition or petitions must be signed  
3 by at least 51% of the owners of cattle in the county and  
4 such petitioners owning shall own at least 55% of the cattle  
5 ~~as--shown-by-the-most-recent-completed-assessment-records-of~~  
6 ~~the-county-assessor,-set-up-a--county--livestock--protective~~  
7 ~~committee-of-three-members~~ in the county.

8 (2) Members appointed to serve on such committee shall  
9 be residents of the county engaged in the business of  
10 raising cattle. If there be in the county any organization  
11 of cattle growers, the county commissioners shall give  
12 preference to names submitted by any such group for  
13 appointment to such committee. The term for which said  
14 committee members shall be appointed shall be 2 years with  
15 two members of the first committee named to serve for 2  
16 years, one member to serve for 1 year. Members of such  
17 committee shall receive no remuneration or reimbursement for  
18 expenses for serving on said committee.

19 (3) By "organization of cattle growers", as used in  
20 this section, is meant any group or organization holding  
21 regular meetings at least annually, having officers, and  
22 composed predominantly of cattle growers resident in the  
23 county, with its membership open to cattle growers willing  
24 to abide by its governing rules or bylaws, and its general  
25 purpose being the promotion of the interests of its members

1 in matters pertaining to the cattle or livestock industry.

2 (4) If owners of sheep in the county desire to come  
3 under the provisions of this part in cooperation with owners  
4 of cattle, they shall file a like petition to that set out  
5 herein for owners of cattle, and in such case at least one  
6 member of said livestock protective committee shall be a  
7 sheep grower and where the word "cattle" appears in this  
8 part, it shall be deemed to comprehend also the word  
9 "sheep".

10 (5) Owners of sheep alone may form a county livestock  
11 protective committee, in which case the word "cattle" as in  
12 this part contained shall be considered as if it were the  
13 word "sheep"; and provided further that the levy as provided  
14 in 81-6-104 hereof shall, in the case of sheep, not exceed 5  
15 cents per head."

16 Section 130. Section 81-6-104, MCA, is amended to  
17 read:

18 "81-6-104. ~~Tax--levy~~ Levy -- special fund. ~~Said The~~  
19 county livestock protective committee may recommend to the  
20 board of county commissioners ~~the a levy of-a-tax-in-an~~  
21 ~~amount~~ not to exceed 50 cents per head on all ~~assessable~~  
22 cattle in the county on January 1, and the board of county  
23 commissioners shall thereupon be empowered to impose the  
24 ~~levy such--tax,~~ to be collected as other taxes on personal  
25 property and when collected to be deposited by the county

1 treasurer in a special fund to be known as the stockmen's  
 2 special deputy fund, together with any other funds made  
 3 available from county, state, federal, or private sources  
 4 for the purposes of this part. The board of livestock shall  
 5 provide the board of county commissioners of each county  
 6 with the number of cattle in the county on January 1, for  
 7 the purpose of imposing the levy."

8 Section 131. Section 81-6-204, MCA, is amended to  
 9 read:

10 "81-6-204. ~~Tax-levy~~ Levy -- deposit of proceeds. Said  
 11 The district cattle protective committee may recommend to  
 12 the board of county commissioners ~~the a levy of-a-tax-in--an~~  
 13 ~~amount~~ not to exceed 50 cents per head on all assessable  
 14 cattle in the district on January 1, and the board of county  
 15 commissioners shall thereupon be empowered to impose the  
 16 ~~levy such--tax,~~ to be collected as other taxes on personal  
 17 property and when collected to be deposited in the county  
 18 treasury of one of the counties in the district, to be  
 19 selected by the district cattle protective committee, in a  
 20 special fund to be known as the stockmen's special deputy  
 21 fund, together with any other funds made available from  
 22 county, state, federal, or private sources for the purposes  
 23 of this part. The board of livestock shall provide the board  
 24 of county commissioners of each county with the number of  
 25 cattle in the county on January 1, for the purpose of



1 imposing the levy."

2 Section 132. Section 81-6-209, MCA, is amended to  
3 read:

4 "81-6-209. ~~Tax--levy~~ Levy -- deposit of proceeds. ~~Said~~  
5 The district cattle protective committee may recommend to  
6 the board of county commissioners the a levy of-a-tax-in-an  
7 amount not to exceed 50 cents per head on all assessable  
8 cattle in the district on January 1, and the board of county  
9 commissioners shall thereupon be empowered to impose the  
10 levy such-tax, to be collected as other taxes on personal  
11 property and when collected to be deposited in the county  
12 treasury in a special fund to be known as the stockmen's  
13 special deputy fund, together with any other funds made  
14 available from county, state, federal, or private sources  
15 for the purposes of this part. The board of livestock shall  
16 provide the board of county commissioners of each county  
17 with the number of cattle in the county on January 1, for  
18 the purpose of imposing the levy."

19 Section 133. Section 81-7-103, MCA, is amended to  
20 read:

21 "81-7-103. Administration of funds by the department.  
22 The department shall administer and expend for predatory  
23 animal extermination and control all money which is made  
24 available to it, including the money ~~from-the-levy~~ allocated  
25 for this purpose under 81-7-104 and all money which is made

1 available to the department by appropriations made by the  
2 legislature for predatory animal control by the department.  
3 The department shall expend the funds for predatory animal  
4 control by all effective means responsive to the necessities  
5 of control in various areas of the state, including  
6 employment of hunters, trappers, and other personnel,  
7 procurement of traps, poisons, equipment, and supplies, and  
8 payment of bounties in the discretion of the department at  
9 those times of the year it considers advisable."

10 Section 134. Section 81-7-104, MCA, is amended to  
11 read:

12 "81-7-104. ~~Levy--for--predator~~ Predator control moneys  
13 -- use of proceeds. (1) The department of revenue--shall  
14 annually--levy--an--ad--valorem--tax-on-all-livestock-in-the  
15 state-of-Montana livestock shall allocate a portion of the  
16 money from the levy under [section 44 72] for the purpose of  
17 protecting them livestock and poultry against destruction,  
18 depredation, and injury by wild animals, whether the  
19 livestock or poultry is on lands in private ownership, in  
20 the ownership of the state, or in the ownership of the  
21 United States, including open ranges and all lands in or of  
22 the public domain. This protection may be by any means of  
23 effective predatory animal destruction, extermination, and  
24 control, including systematic hunting and trapping and  
25 payment of bounties. ~~The-tax-levy-may-not-exceed-in-any-one~~

1 year-15-mills-on-the-taxable-value-of-all-sheep-and-10-mills  
 2 on-the-taxable-value-of-other-livestock-

3 (2) The-moneys-received-from-the-tax-levies--shall--be  
 4 transmitted--monthly--with-other-taxes-for-state-purposes-by  
 5 the-county-treasurer-of-each-county-to-the--state--treasury.  
 6 The--state--treasurer--shall--place--the--money-in-the-state  
 7 special-revenue-fund-with-the-other-moneys--as--provided--in  
 8 81-7-119.-The-moneys Money shall thereafter be paid out only  
 9 on claims duly and regularly presented to the department of  
 10 livestock and approved by the department in accordance with  
 11 the law applicable either to claims for bounties or for  
 12 other expenditures necessary and proper for predatory animal  
 13 control by means and methods other than payment of bounties,  
 14 as determined by the department. All the moneys shall be  
 15 available for the payment of bounty claims and for  
 16 expenditures for planned, seasonal, or other campaigns  
 17 directed or operated by the department in cooperation with  
 18 other agencies for the systematic destruction,  
 19 extermination, and control of predatory wild animals, as  
 20 determined by the department and its advisory committee. No  
 21 claims may be approved in excess of moneys available for  
 22 such purposes, and no warrants may be registered against the  
 23 moneys."

24 Section 135. Section 81-7-201, MCA, is amended to  
 25 read:

1           "81-7-201. County levy for bounties on predatory  
2 animals. Whenever the owners, agent, or agents of the owners  
3 representing 51% of the livestock of any county in this  
4 state present a petition to the board of county  
5 commissioners of such county asking for the levy of a tax  
6 upon the livestock of the county for the purpose of paying  
7 bounties on predatory animals killed in the county, it is  
8 the duty of the board of county commissioners to make the  
9 levy, which may not exceed ~~50-mills-on--the--dollar--of--the~~  
10 ~~taxable--value--of~~ \$1 per head of livestock on all livestock  
11 in the county. The ~~tax~~ levy shall be assessed and collected  
12 in the same manner as ~~all-other~~ state and county taxes."

13           Section 136. Section 81-7-202, MCA, is amended to  
14 read:

15           "81-7-202. Signers of petition -- time for presenting  
16 -- limitation on bounties -- bounty inspectors. (1) The  
17 petition provided for in 81-7-201 shall be signed by the  
18 owners, agent, or agents of not less than 51% of the  
19 livestock of such county ~~as-ascertained-from-the--assessment~~  
20 ~~books--of--such--county~~ and shall recommend to the board of  
21 county commissioners the bounties to be paid on such  
22 predatory animals, which shall not exceed the following:

- 23           (a) on each wolf or mountain lion, \$100;  
24           (b) on each wolf pup or mountain lion kitten, \$20;  
25           (c) on one coyote, \$5;

1 (d) on each coyote pup, \$2.50.

2 (2) Such petition shall be presented not later than  
3 August 1 of each year, and the board of county commissioners  
4 on determining the sufficiency of such petition shall make  
5 an order granting such petition, which order shall fix the  
6 levy for that year and the amount of the bounties to be paid  
7 for the killing of each such predatory animal, which shall  
8 not exceed the amounts recommended in such petition, and  
9 appoint not less than 10 or more than 20 stockowners of such  
10 county to be bounty inspectors under this part, without  
11 compensation, who shall hold their offices for 1 year."

12 Section 137. Section 81-7-303, MCA, is amended to  
13 read:

14 "81-7-303. County commissioners permitted to require  
15 per capita license fee on sheep. (1) To defray the expense  
16 of such protection the board of county commissioners of any  
17 county shall have the power to require all owners or persons  
18 in possession of any sheep coming 1 year old or over in the  
19 county on the-regular-assessment-date January 1 of each year  
20 to pay a license fee in an amount to be determined by the  
21 board on a per head basis for sheep so owned or possessed by  
22 him in the county. All owners or persons in possession of  
23 any sheep coming 1 year old or over coming into the county  
24 after the--regular--assessment-date-and-subject-to-taxation  
25 under-the-provisions-of-15-24-301 January 1 shall also be

1 subject to payment of the license fee herein prescribed.

2 (2) Upon the order of the board of county  
3 commissioners such license fees may be imposed by the entry  
4 thereof in the name of the licensee upon the property tax  
5 rolls of the county by the county assessor. Said license  
6 fees shall be payable to and collected by the county  
7 treasurer, and when so levied, shall be a lien upon the  
8 property, both real and personal, of the licensee. In case  
9 the person against whom said license fee is levied owns no  
10 real estate against which said license fee is or may become  
11 a lien, then said license fee shall be payable immediately  
12 upon its levy and the treasurer shall collect the same in  
13 the manner provided by law for the collection of personal  
14 property taxes which are not a lien upon real estate.

15 (3) When collected, said fees shall be placed by the  
16 treasurer in the predatory animal control fund and the  
17 moneys in said fund shall be expended on order of the board  
18 of county commissioners of the county for predatory animal  
19 control only."

20 Section 138. Section 81-7-305, MCA, is amended to  
21 read:

22 "81-7-305. Duty of county commissioners -- petition of  
23 sheep owners -- license fees. (1) In conducting a predatory  
24 animal control program, the board of county commissioners  
25 shall give preference to recommendations for such program

1 and its incidents as made by organized associations of sheep  
 2 growers in the county. Upon petition of the resident owners  
 3 of at least 51% of the sheep in the county, as shown by the  
 4 ~~assessment--rolls--of--the--last--preceding--assessment~~ best  
 5 available records of the board of livestock, which petition  
 6 shall be filed with the board of county commissioners on or  
 7 before the first Monday in December in any year, such board  
 8 shall establish the predatory animal control program and  
 9 cause said licenses to be secured and issued and the fees  
 10 collected for the following year in such amount as will  
 11 defray the cost of administering the program so established.  
 12 The license fee determined and set by the board shall remain  
 13 in full force and effect from year to year without change,  
 14 unless there is filed with the board a petition subscribed  
 15 by the resident owners of at least 51% of the sheep in the  
 16 county, as shown by the ~~assessment--rolls--of--the--last~~  
 17 ~~assessment--preceding--the--filing--of--the--petition~~ best  
 18 available records of the board of livestock, for termination  
 19 of the program and repeal of the license fee, in which event  
 20 the program shall by order of the board of county  
 21 commissioners be disestablished and the license fee shall  
 22 not be further levied.

23 (2) If the resident owners of at least 51% of the  
 24 sheep in the county either petition for an increase in the  
 25 license fee or petition for a decrease in the license fee

1 then in force, the board of county commissioners shall upon  
 2 receipt of any such petition fix a new license fee to  
 3 continue from year to year and the program shall thereupon  
 4 continue within the limits of the aggregate amount of the  
 5 license fee as collected from year to year."

6 Section 139. Section 81-8-804, MCA, is amended to  
 7 read:

8 "81-8-804. Assessments -- refunds. (1) There is  
 9 levied, in addition to ~~the tax on--livestock--prescribed--in~~  
 10 ~~Title--15,--chapter--24,--part--9,--a-per-head-tax~~ other fees  
 11 levied, an amount of 25 cents on each head of cattle that is  
 12 more than 9 months of age and is owned or possessed within a  
 13 county for the support and maintenance of research into beef  
 14 production as provided in this part. The tax levy shall be  
 15 paid to the county treasurer of that county on or before  
 16 March 1 of each year.

17 (2) The tax levy required in subsection (1) must be  
 18 paid for each head of cattle that is more than 9 months of  
 19 age and is brought into the county after March 1 ~~and--is~~  
 20 ~~subject-to-taxation-and-assessment-under-15-24-301.~~

21 (3) Each county is entitled to receive \$250 annually  
 22 as reimbursement for the administration of this section.

23 (4) A person who has paid the tax levy required by  
 24 this section may obtain a refund of the tax levy upon  
 25 submission of a written request to the department. The



1 application must be made within 30 days after the payment of  
2 the ~~tax~~ levy and on forms furnished by the department. The  
3 department shall, upon receipt of a timely and otherwise  
4 properly submitted refund request, refund the ~~tax~~ levy."

5 Section 140. Section 85-7-2001, MCA, is amended to  
6 read:

7 "85-7-2001. Limitations on debt-incurring power. (1)  
8 The board of commissioners or other officers of the district  
9 may not incur any debt or liability, either by issuing bonds  
10 or otherwise, except as provided in this chapter. No  
11 irrigation district may become indebted, in any manner or  
12 for any purpose in any one year, in an amount exceeding  
13 ~~18.75%~~ 22% of the assessed valuation of the district, except  
14 as provided in subsection (2).

15 (2) (a) For the purpose of organization; for any of  
16 the immediate purposes of this chapter; to make or purchase  
17 surveys, plans, and specifications; for stream gauging and  
18 gathering data; or to make any repairs occasioned by any  
19 calamity or other unforeseen contingency, the board of  
20 commissioners may, in any one year, incur the indebtedness  
21 of as many dollars as there are acres in the district and  
22 may cause warrants of the district to issue therefor.

23 (b) For the purpose of organization, for any of the  
24 immediate purposes of this chapter, or to meet the expenses  
25 occasioned by any calamity or other unforeseen contingency,

1 the board of commissioners may, in any one year, incur (in  
 2 addition to the ~~18.75%~~ 22% limitation of subsection (1)) an  
 3 additional indebtedness not exceeding ~~12.5%~~ 14.5% 15% of the  
 4 assessed valuation of the district and may cause warrants of  
 5 the district to issue therefor.

6 (c) The limitation of subsection (1) does not apply to  
 7 warrants issued for unpaid interest on the valid bonds of  
 8 any irrigation district.

9 (d) The limitation of subsection (1) does not apply to  
 10 any bonds issued under this chapter pursuant to a provision  
 11 which expressly supersedes the limitation."

12 (3) Any debt or liability incurred in excess of the  
 13 limitations provided by the irrigation district laws is  
 14 void."

15 NEW-SECTION:--Section-122:--Submission--to--electorate:  
 16 The--question--of--whether--sections-1-through-121 AND-129 116  
 17 of--this--act--will--become--effective--shall--be--submitted--to--the  
 18 electors--of--Montana--at--the--election--called--pursuant--to  
 19 section-123 118 by--printing--on--the--ballot--the--full--title--of  
 20 this--act--and--the--following:

21 FOR--imposing--a--4%--sales--and--use--tax,--with  
 22 APPROXIMATELY 75%--of--the--proceeds--to--be--used--for  
 23 business--and--residential--property--tax--relief--and--the  
 24 remainder--to--be--deposited--in--the--state--general--fund.  
 25 AGAINST--imposing--a--4%--sales--and--use--tax,--with

1           APPROXIMATELY 75%--of--the--proceeds--to--be--used--for  
 2           business--and--residential--property--tax--relief--and--the  
 3           remainder--to--be--deposited--in--the--state--general--fund--

4           NEW-SECTION.--Section-123.--Special-election.--Pursuant  
 5           to-Article-III,--sections-5-and-6,--of-The-Constitution-of-the  
 6           State-of-Montana,--sections-1-through-121 AND-129 116 shall  
 7           be-submitted-to-the-people-for-their-approval-or-disapproval  
 8           at-a-statewide-election-to-be-held-June-9,-1987--

9           NEW-SECTION.--Section-124.--Transmittal-to-the-attorney  
 10          general-----statements--by--attorney--general.---(1)--The  
 11          secretary-of-state-shall,--within-1-working-day--of--receipt,  
 12          transmit--a-copy-of-this-act-and-a-copy-of-the-form-in-which  
 13          the-issue-will-appear-on-the-ballot-to-the-attorney-general--  
 14          The-attorney-general-shall-examine-the-ballot-form-submitted  
 15          to-his-office-and,--within-7-days-of-receipt--of--the--ballot  
 16          form,--notify--the--secretary--of--state--of-his-approval-or  
 17          rejection-of-the-ballot-form--

18          (2)--Upon-receipt-of-the-ballot-form--under--subsection  
 19          (1),--the--attorney--general--shall-order-a-fiscal-note,--the  
 20          substance--of--which--must--substantially--comply--with--the  
 21          provisions--of--5-4-205.--The-budget-director-is-responsible  
 22          for-preparing-the-fiscal-note-and-shall-return-it--within--4  
 23          days.--The-attorney-general-shall-prepare-a-fiscal-statement  
 24          not-exceeding-50-words,--to-be-forwarded-to-the-secretary--of  
 25          state--at-the-same-time-he-informs-the-secretary-of-state-of

1 his approval or rejection of the ballot form.

2 {3}--Upon receipt of the ballot form, the attorney  
3 general shall prepare a statement, not exceeding 100 words,  
4 expressing an impartial explanation of the purpose of  
5 sections 1 through 121 AND 129 116 in plain, easily  
6 understood language. The statement may not be an argument  
7 for or against or written to create a prejudice for or  
8 against the issue. The attorney general shall forward the  
9 explanatory statement prepared under this subsection to the  
10 secretary of state at the same time he informs the secretary  
11 of state of his approval or rejection of the ballot form.

12 NEW SECTION.--Section 125. Secretary of state to  
13 certify form and voter information. (1) Thirty-five days or  
14 more before the special election, the secretary of state  
15 shall certify to each county election administrator the form  
16 in which the issue is to appear on the ballot, as provided  
17 by 13-27-501. Each of the county election administrators  
18 shall order the official ballot to be printed in the form  
19 certified by the secretary of state.

20 {2}--At least 20 days prior to the election called  
21 under section 123 118, the secretary of state shall deliver  
22 or have delivered to the counties sufficient copies of  
23 sections 1 through 121 AND 129, the fiscal note, and the  
24 explanatory statement prepared pursuant to {section 124}, in  
25 such form as the secretary of state determines.

1       (3)--The--county--election-administrator-shall-mail-one  
 2       copy-of-the-voter-information-required-by-subsection-(2)--to  
 3       each--registered--voter--in--the--county,--except--that,--for  
 4       purposes-of-this-mailing,--two-or-more-voters-with--the--same  
 5       last-name-and-the-same-mailing-address-may-be-counted-as-one  
 6       voter.--The--mailing--must--take--place-no-later-than-1-week  
 7       after-the-pamphlets-are-received-from-the-printer.

8       (4)--The--secretary--of--state--may--contract--for--the  
 9       printing--and--delivery--of--the--voter-information-material  
 10      under-the-immediate-procurement-provisions--of--18-4-133(2)-

11      NEW-SECTION.--Section-126.--Absentee---ballots.-----The  
 12      county--election-administrator-shall-ensure-that-ballots-are  
 13      printed-and-available-for-absentee-voting-at-least--10--days  
 14      prior-to-the-election.

15      NEW-SECTION.--Section-127.--Determination--of-result-of  
 16      special-election.--(1)-The-votes-on-sections-1--through--121  
 17      AND---129   116 must--be--counted--and--canvassed--following  
 18      procedures-prescribed-by-the-secretary-of-state.

19      (2)--A-report-form-for-the-abstract-of-votes--shall--be  
 20      prepared--by--the--secretary-of-state-and-sent-to-the-county  
 21      election-administrators.--The-county--election--administrator  
 22      shall--provide--the--required-information-and-shall-send-the  
 23      abstract-of-votes-to-the-secretary--of--state--by--certified  
 24      mail--in-an-envelope-marked-"special-election-returns".--Such  
 25      returns-must-be-received-by-the-secretary-of-state-no--later

1 than 5 p.m. on the sixth day following the election;

2 (3)---The---board---of---state---canvassers---shall---meet---on---the  
3 seventh---day---following---the---special---election---The---secretary---of  
4 state---as---secretary---of---the---board---of---canvassers---shall  
5 prepare---and---file---in---his---office---a---report---of---the---canvass,  
6 which---lists---

7 (a)---the---total---number---of---electors---voting---in---each---county  
8 and---in---each---legislative---house---district---together---with---the  
9 total---number---of---electors---voting---in---the---state---and

10 (b)---the---votes---by---county---and---legislative---house---district  
11 for---and---against---the---issue---together---with---the---total---number---of  
12 votes---cast---for---and---against---the---issue---in---the---state---

13 (4)---The---secretary---of---state---shall---transmit---a---certified  
14 copy---of---the---statement---of---the---canvass---to---the---governor---and---the  
15 code---commissioner---within---10---days---following---the---special  
16 election---

17 NEW SECTION---Section---128---Application---of---election  
18 laws---(1)---Except---as---provided---in---sections---123---through---128  
19 118---THROUGH---123,---the---election---called---under---section---123 118  
20 must---be---conducted---and---canvassed---and---the---results---returned---in  
21 the---manner---provided---in---Title---13---for---a---general---election---

22 (2)---The---provisions---of---13-2-301(1)(b),---13-12-201,  
23 13-13-205,---and---Title---13,---chapter---27,---do---not---apply---to---the  
24 election---called---under---section---118 113---

25 (3)---The---secretary---of---state---shall---publish---notice---of---the

1 ~~election-as-provided-in-13-1-108-~~

2 NEW SECTION. Section 141. Repealer. Sections 15-6-137  
3 through 15-6-140, 15-6-142, ~~through--15-6-144~~ 15-6-143,  
4 15-6-146, 15-24-304, 15-24-901 through 15-24-906, 15-24-908  
5 through 15-24-911, 15-24-921 through 15-24-926, 15-24-931,  
6 15-24-941 through 15-24-943, ~~61-3-502,---61-3-605,~~ and  
7 81-7-118, MCA, are repealed.

8 NEW SECTION. Section 142. Codification instructions.  
9 (1) Sections 1 through ~~43~~ 67 are intended to be codified as  
10 an integral part of Title 15, and the provisions of Title 15  
11 apply to sections 1 through ~~43~~ 67.

12 (2) Sections ~~44~~ 68 through ~~48~~ 72 are intended to be  
13 codified as an integral part of Title 81 and the provisions  
14 of Title 81 apply to sections ~~44~~ 68 through ~~48~~ 72.

15 (3) Section ~~49~~ 73 is intended to be codified as an  
16 integral part of Title 15, chapter 30, and the provisions of  
17 Title 15, chapter 30, apply to section ~~49~~ 73.

18 NEW SECTION. Section 143. Extension of authority. Any  
19 existing authority of the department of revenue, the  
20 department of livestock, the board of livestock, the  
21 department of highways, the department of commerce, or the  
22 board of aeronautics to make rules on the subject of the  
23 provisions of this act is extended to the provisions of this  
24 act.

25 NEW SECTION. Section 144. Severability. If a part of

1 this act is invalid, all valid parts that are severable from  
 2 the invalid part remain in effect. If a part of this act is  
 3 invalid in one or more of its applications, the part remains  
 4 in effect in all valid applications that are severable from  
 5 the invalid applications.

6 NEW SECTION. Section 145. Saving clause. This act  
 7 does not affect rights and duties that matured, penalties  
 8 that were incurred, or proceedings that were begun before  
 9 the effective date of this act.

10 NEW SECTION. Section 146. Effective dates DATE. {1}  
 11 This act, ~~except sections 122 through 128, 135 117--THROUGH~~  
 12 ~~123, 130 SECTION 128, and this section,~~ is effective upon ON  
 13 PASSAGE AND approval ~~by the electorate.~~

14 {2}--Sections--122--through--128, 135, 117-THROUGH-123,  
 15 130 SECTION-128 and this section are effective--on--passage.

16 NEW SECTION. Section 147. Applicability. (1) Sections  
 17 1 through 43 67 apply on and after June 1, 1988.

18 (2) Sections 44 68 through 48 72 apply on and after  
 19 January 1, 1988.

20 (3) Section 49 73 applies to taxable years beginning  
 21 after December 31, 1987.

22 (4) Sections 50 74 through ~~121~~ 116 117 141 ~~AND-129~~  
 23 apply to taxable years, fiscal years, and school fiscal  
 24 years beginning after December 31, 1988. However, all taxes,  
 25 levies, fees, assessments, and the like levied in 1988 for



1 fiscal year 1989 must be paid and are collectible as  
2 provided by law.

3 (5) Sections ~~122--through-135~~ 122-THROUGH-128 128-AND  
4 130-THROUGH 117-THROUGH-130 118 142 THROUGH 123 147 apply on  
5 passage AND APPROVAL.

-End-

STATE AUDITOR  
STATE OF MONTANA



Andrea "Andy" Bennett  
STATE AUDITOR

COMMISSIONER OF INSURANCE  
COMMISSIONER OF SECURITIES

April 6, 1987

Senator George McCallum, Chairman  
Senate Taxation Committee  
Capitol Station  
Helena, MT 59620

Re: House Bill 716

Dear Sen. McCallum:

We respectfully request that the following written testimony be added to the record of the Taxation Committee hearing on House Bill 716, the Genetics Program Funding Bill:

This bill imposes a fee on the disability insurance industry for a specific program. Assessment of a fee is frequently a mechanism used to raise revenue for a specific project, such as regulation. This is not an insurance or health service corporation taxing mechanism, and was never intended to be.

The Montana Insurance Department had problems with this bill as it was initially introduced. Those specific problems were addressed by amendments made in the House Taxation Committee.

For the sake of fairness since the fee was to have been removed this coming biennium, we support the reduction in the fee from 40¢ per resident insured to 35¢. The latter fee is more in line with the actual expenditure for the program. It is not fair to impose the additional fee, and then have it higher than the amount needed to fund the program. That then becomes a discriminatory tax.

SENATE TAXATION

EXHIBIT NO. 13

DATE 4-6-87

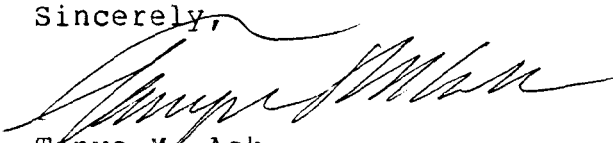
BILL NO. H.B. 716

Senator George McCallum, Chairman  
April 6, 1987  
Page 2

We also support the amendment exempting certain blanket group disability policies. In some instances the amount of the assessment was actually greater than the charge per individual resident insured. By exempting those policies which generate a premium of less than \$10.00 per person per year, that problem is resolved.

Thank you for the opportunity to present our testimony.

Sincerely,



Tanya M. Ask  
Deputy Insurance Commissioner

CC: Tom Hopgood

SENATE TAXATION

EXHIBIT NO. 13

DATE 4-6-87

BILL NO. H.B. 71

# STANDING COMMITTEE REPORT

10 34

April 4, 1942

MR. PRESIDENT

Association

We, your committee on.....

Income Bill

84

having had under consideration..... No.....

Printed

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reading copy (.....)

color

WINSLOW (BROWN)

48 TAX ON HOTEL, COPEL, OR CAMPGROUND ACCOMMODATIONS

Respectfully report as follows: That..... Income Bill..... No. 84.....

BE AMENDED AS FOLLOWS:

1. Page 2, line 13.  
Stricken: "COGNITORY,"

2. Page 5.  
Following: line 4

Insert: "(4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly filed a false or fraudulent return violating the provisions of (this act), the amount of tax due under any return must be determined by the department within 5 years after the return is made and the department thereafter is barred from revising any such return or reconstituting the tax due thereon, and no proceeding in court for the collection of the tax may be instituted unless notice of any additional tax is provided within such period.

(5) An application for revision may be filed with the department by an owner or operator of a business within 5 years from the original due date of the return."

3. Page 7, line 4.  
Following: "Commercial,"  
Insert: "to the Montana Historical Society, and to the University System."

DO PASS

DO NOT PASS

CONTINUED

Chairman.

April 5,

19

## 4. Page 7.

Following: line 4

Insert: "(a) 1% to the Montana Historical Society to be used for the installation or maintenance of roadside historical signs and historic sites;  
(b) 0.5% to the university system for the establishment and maintenance of a Montana travel research program; and  
(c) the balance of the proceeds as follows:"

## 5. Page 7, line 5.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

Following: "department"

Insert: "of commerce"

## 6. Page 7, line 6.

Following: "(iii)"

Insert: "(iii)"

Strike: "21.58"

Insert: "25"

## 7. Page 7, lines 14 through 14.

Strike: "g" on line 12 and subsections (d) and (e) through  
"PROGRAM" on line 14

## 8. Page 10, line 3.

Following: ";

Strike: "and"

## 9. Page 10, line 7.

Following: "bureau"

Insert: "(v) direct the university system regarding  
Montana travel research; and

(ii) approve all travel research programs prior to  
their being undertaken"

## 10. Page 13, line 12 through line 1, page 14.

Strike: section 14 in its entirety

Renumber: subsequent sections

## 11. Page 14, line 15.

Following: "applicability"

Insert: "termination of statutory appropriation"

CONTINUED

April 6,

1967

In page 16, line 17.

Strikes: "May"

Inserts: "July"

Following: "

insert: "The necessary appropriation to the department of revenue in section 7 for the costs of collecting and disbursing the proceeds of the tax terminated on June 30, 1969. Effective July 1, 1969, the second and third sentences of section 7 are amended to read: 'The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation are statutorily appropriated as provided in 17-1-602 and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana Historical Society, and to the university system, as follows: "

AND AS AMENDED

BE CONCURRED IN

Senator McCallum

# STANDING COMMITTEE REPORT

April 6

1937

MR. PRESIDENT

## SENATE TAXATION

We, your committee on

## HOUSE BILL

714

having had under consideration

No.

third

reading copy (

blue

color

CONNELLY (DCK)

REQUIRING INFLATION ADJUSTMENTS TO INCOME LEVELS FOR CERTAIN  
CLASS 4 PROPERTY

Respectfully report as follows: That

## HOUSE BILL

No. 714

BE CONCURRED IN

~~DO NOT~~  
DO PASS

~~DO NOT~~  
DO NOT PASS

SENATOR GEORGE MCCALLUM,

Chairman.

# STANDING COMMITTEE REPORT

April 6

37

19.....

MR. PRESIDENT

SENATE TAXATION

We, your committee on.....

HOUSE BILL

having had under consideration..... No. 716

third

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reading copy ( )

color

BROWN (MAZUREK)

IMPOSING A FEE ON HEALTH INSURERS TO FUND VOLUNTARY  
GENETICS PROGRAM

HOUSE BILL

716

Respectfully report as follows: That..... No.

BE CONCURRED IN

~~XXXXX~~  
DO PASS

~~XXXXXX~~  
DO NOT PASS

SENATOR GEORGE MCCALLUM,

Chairman.