MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 10, 1987

The sixty-second meeting of the Senate Taxation Committee was called to order at 8:00 a.m. on April 10, 1987 by Chairman George McCallum in Room 413/415 of the state Capitol.

ROLL CALL: All committee members were present.

DISPOSITION OF HB 703: Senator Crippen furnished the committee with a copy of an amendment to this bill, which is attached as Exhibit 1. He asked Mr. Anderson to comment on the amendments.

George Anderson said the proponents have proposed amendments to the bill that will make it more palpable as far as the legislature is concerned. The amendment would impose a tax of 7% on those particular corporations that are subject to world-wide apportionment and eligible to make a water's edge election, instead of 6 3/4%. Also, on page 5, line 3, eighty-five would be amended to eighty. On foreign dividends, foreign income, the bill originally proposed that 15% would be brought back in to be taxable. This would amend that to provide 20% be brought back into the state to be taxable. The reason for this change is the Tax Reform Act of 1986 changed that from 85% to 80%. He has also proposed on page 6, that section 7 be struck. He is hopeful these amendments would make the Department of Revenue more in favor of the bill.

John LaFaver said the impact of HB 703 is about $4 million per year. We have analyzed these proposed amendments and they are worth about $247,000. From a financial standpoint, we do not find this as much of a compromise.

George Anderson said he has come up with a figure of $900,000.

John LaFaver said Mr. Anderson continues to under-estimate the impact of these amendments.

Senator Halligan asked what was the impact of the sub-committee's work. Senator Brown said we were working with a different tax rate then.

Senator Halligan asked Senator Crippen why he would not choose to use the bill that the subcommittee worked so hard on. What is wrong with using the base that you worked with as the unitary approach.

Senator Crippen said the subcommittee came up with a compromise. That is still in SB 307, a separate bill. We can use HB 703 or SB 307. He was asked to present these amendments as a compromise.

Senator Eck said we came in here committed to do something. Since there is so much argument about how much this is going to cost, then maybe we should put a 5% surcharge on it, and have it sunset in two years.

Dan Bucks said there is no impact from this until 1989.

Senator Crippen made a motion to adopt the amendments presented and attached as Exhibit 1.

Senator Neuman would speak against the motion because it costs too much.

Senator Halligan made a substitute motion to amend into HB 703 the subcommittee's work, that we know what the impact will be, from SB 307. The substitute motion failed 4-8, see attached roll call vote.

Senator Eck would move that a 5% surcharge be added in 1989 to sunset at the end of 1989. It would be a 5% surcharge for that taxable year of 1989 on corporation income tax or corporation license tax.

Senator Eck said this would give assurance of getting this thing through and yet it will not cost the general fund $3.5 million.

Senator Eck's motion carried 7-5, see attached roll call vote.

Senator Crippen's original motion was considered and the motion carried with Senator Halligan opposed.

Senator Crippen would move the bill as amended. The motion carried 8-4, see attached roll call vote.

FURTHER CONSIDERATION OF HB 743: Senator Eck made a motion to amend HB 743 from one year to 18 months. It would be well over two years for the actual redemption period.

The motion carried.

Jim Lear said there are three sections in SB 162 that would conflict with HB 743. As the coordination instructions indicate, attached as Exhibit 2, if SB 162 is passed and approved, sections 5 through 7 of HB 743 would be void.

Senator Eck said what she thought in coordination instructions was to insert into SB 162 the sections from HB 743.

Jim Lear said there was no policy decision made by the committee directing him to preserve this concept in the bill and to provide coordination in relation to this bill.

Senator Eck would so move. There is not much point in shaping this bill with the primary sections void. The motion carried.

Senator Eck will wait until we get that language to further act on the bill.

DISPOSITION OF SB 307 (affectionately termed GODZILLA): The committee was furnished with a copy of the grey bill on SB 307, as proposed at our hearing on April 9, 1987, and the grey bill is attached as part of the standing committee report on SB 307.

Senator Brown made a motion to amend SB 307 on page 330, to insert into the bill the June 9, 1987 referendum election, in conformity with sections 122-128 of HB 377.

Senator Mazurek said his obvious opposition to this bill is that you need the money from this bill to balance the budget for this biennium. He does not have a concern with sending a tax reform package but this proposal says the legislature should send the decision of whether to balance the budget out to the people. He has great difficulty with that and the ramifications are serious.

Senator Crippen said we are all part and parcel of this balancing act. We are on the horns of a dilemma. We have been told if we don't take the sales tax to a vote of the people and the surtax in HB 904 to a vote of the people, that they will be placed on the ballot nonetheless. He is in support of Senator Brown's motion.

Senator Eck can't agree to the election. It is not reasonable to put the issue to a vote on a way of balancing this budget. If it is not passed we will be left without any operating money.

Senator Halligan said the results from the public opinion polls indicate the sales tax is the issue the public is concerend with, not in balancing the budget for the next couple of years with a surtax.

Senator Hirsch said we do not see why it is so easy to vote for a surcharge and difficult to vote for a sales tax. He can't vote for a surtax any better than opponents of a sales tax can vote for a sales tax.

Senator Mazurek said his problem with this basically is that this committee has not dealt with HB 904 yet, at all. There seems to be an assumption that will be rammed through as it is. We haven't dealt with it all. We could still put that in the form that may be acceptable and be done. This package submits to the voters whether or not we balance the budget this year. That is absolutely unacceptable.

A roll call vote was taken on Senator Brown's motion and the motion failed 5-7, see attached.

The committee was furnished with a list of the fiscal impacts as the bill has been proposed to be amended in SB 307, as compared to the introduced version of SB 307, which is attached as Exhibit 3.

Senator Eck said it was her understanding that property tax relief was going to first show up in November of 1988 and in order to do that you would have to change the years on page 332 from 1988 to 1987 on line 1 and from 1989 on page 3 to 1988.

Senator Crippen asked the LFA and the Budget Office if they have a starting date for the sales tax.

Curt Nichols, Legislative Fiscal Analyst, said we are looking at June 1, 1988.

Mike Walsh, Department of Revenue, said June 1, 1988.

Senator Crippen asked when they would anticipate property tax relief would figure in.

Mike Walsh said that whole fiscal year, 1989.

John LaFaver said the calendar year of 1988.

Senator McCallum said you will not pick up any money until June 1, 1988. The earliest you will get any property tax relief will be May 31, 1989.

John LaFaver said we will not see much of a reduction in revenues until November, 1988.

Senator Neuman asked when this would start going back to the counties to replace lost revenue.

John LaFaver is not sure of the mechanism written into this bill. We will not have enough money in November, 1988 to make the full payment that is due to fully offset the loss of revenue. That can be resolved by paying over time or issuing tax anticipation notes.

Senator Lybeck asked why the date of June 1, 1988.

John LaFaver said that is as soon as we can make the law effective to begin development of a sales tax.

Senator Eck made a motion to amend SB 307 on line 1, page 332, from 1988 to 1987, on line 2 from 1988 to 1987 and on line 3 from 1989 to 1988. The motion carried.

Senator Crippen referred to the fiscal note on this, attached as Exhibit 3, and said this report will not take into account what was done on HB 377 yesterday. We made $10 million plus changes in HB 377 yesterday and we need to incorporate those into this bill to be consistent. He would move that the committee adopt into this bill the actions taken yesterday on HB 377.

Dave Bohyer said the rate of surtax is 22%.

Jim Lear said the bill does have everything that was on the original sheet presented to the committee yesterday morning. As the committee deliberated through the day, the changes made were incorporated into this draft. The only major change, based on information from the LFA, a 22% surtax was inserted in the bill.

Senator Severson asked how the 22% came up.

Curt Nichols said he used current fiscal information from SB 307 and HB 377 and provided a $20 million balance in the general fund.

Senator Brown made a motion to reconsider the action the committee took on his motion to amend SB 307 on page 330, to insert into the bill the June 9, 1987 referendum election, in conformity with sections 122-128 of HB 377. The motion was reconsidered.

The motion carried 7-5, see attached roll call vote.

Senator Brown made a motion that SB 307 DO PASS AS AMENDED.

Jim Lear advised the committee that if they wanted to have this bill on second reading today they would have to get it down to the print shop.

Senator Eck asked if the amendments could be stripped away and printed as amendments in order to get this done today.

Jim Lear said if we took this bill, exactly the same as it appears now, and told them to print it, it would take 4-5 hours.

Senator Mazurek said we need to understand what is in this bill. Does it include things that we have and have not acted on in the HB 377 portion. Does this include a credit for low income to $30, does it exempt real estate and security commissions. Does it allow a local option tax.

Dave Bohyer said it contains all the information presented by Senator Crippen yesterday morning. Utilities are exempt.

Senator Neuman asked if the local option tax was in the bill.

Dave Bohyer said the local option tax is in the grey bill.

Senator Mazurek said his understanding, based on the conversation yesterday, was we will take the bill as it is but will bring floor amendments to incorporate the action taken yesterday.

Senator Brown said we have acted on the amendments here in the Taxation Committee, they are part of the bill, but we do not have time to get them printed into the bill. His suggestion is that they, instead of being printed into the bill, be attached to the bill on a separate sheet.

Senator Crippen said he wants HB 377 and this to be consistent.

Senator Mazurek would like to have the opportunity to at least talk about capital gains.

Jim Lear said if it would seem acceptable to take this version the way it appears now, we could give the direction to have this printed. The committee could continue to deliberate and then have those deliberations reflected on the attachments of the standing committee report.

Senator Brown said we have a critical time factor here. We have got to have the revenue bills transmitted back to the House by Tuesday. There will be time on the floor for us and others to debate this bill. He does not see it serves any purpose to continue this in the committee. He would like the committee to act on his motion.

Senator Neuman is uncomfortable with what we are doing here. We will be giving the members of the Senate a 300 page bill to review in a short period of time and he sees this as a very poor way to run government.

Senator Brown's motion carried 7-5, see attached roll call vote.

FURTHER CONSIDERATION OF HB 377: Senator Eck made a motion on page 52, line 18 to strike "credit" and insert "rebate" and on line 19 to strike "$15" and insert "$50". If you are going to get rid of the regressivity you need to do this.

Senator Crippen said if you are going to make a rebate you should tie it to income.

Senator Eck would be willing to do that.

Senator Crippen said as long as you are exempting food and drugs, why no go with the method proposed and adopted in SB 307, which was essentially the SB 333 approach. We dropped the rebate down to $30. We know what the fiscal impact of that is. In addition to that we can use a renters credit.

Senator Eck said there are some advantages to having a rebate, plus for a renters credit up to a maximum of $200 per household.

Senator Crippen made a substitute motion to amend HB 377 to provide a renters credit as set forth in the same language as Godzilla and with the same format as in SB 333 and provide a low income rebate, based on SB 333, which was a maximum of $30 per individual. If you don't pay income tax you could still file and get the rebate back. In addition, his motion would include an increase in the exclusion on residences from $16,500 to $20,000. This would be a $5 million fiscal impact but we picked up $10 million from our action yesterday. This would be a good compromise.

Senator Eck said those are good amendments and she withdrew her motion.

Senator Crippen's motion carried.

Senator Eck said there is a new car tax of 1-1/2% already. In light of that, she would move that the sales tax on new cars be reduced to 3-1/2%. That would provide them with a total tax of 5%.

The motion carried with Senator Hirsch opposed.

Senator Severson said if you go on the average farmstead today, there is no question that the $20,000 exemption would be greater than the 20% exemption they are allowed now.

Senator Crippen has no problem with that. That will add another $1.8 million to the impact.

Senator Severson made a motion to take the $20,000 exemption on the house and land and tax the rest at 100%.

Jim Lear said you are doing away with class 14 property.

Senator Severson's motion carried 9-3, see attached roll call vote.

Senator Eck made a motion to amend HB 377 on page 158, line 24 from 1988 to 1987, on line 25 from 1988 to 1987 and on page 159, line 1 from 1989 to 1988. The motion carried with Senator Hirsch absent at the time of this vote.

Senator Eck made a motion to reconsider the committee's action on the local option sales tax. This offers an opportunity for local governments to pass a part of their financing for schools and special projects onto the hands of the public.

Senator Lybeck said in our area we tried to enact a 2 cents a gallon gasoline local option tax and you talk about a fight.

Senator Eck's motion to reconsider failed 6-6, see attached roll call vote.

Senator Mazurek said this bill is important and we should pass it out of committee as we have done for SB 307.

Senator Brown is in agreement with Senator Mazurek. He made a motion that HB 377 BE CONCURRED IN AS AMENDED and be placed on second reading on Monday.

Senator Mazurek said if we passed it today it wouldn't be read across, at the very earliest, until tomorrow.

Senator Brown's motion carried with Senators Neuman and McCallum opposed.

FURTHER CONSIDERATION OF HB 904: Senator Brown would prefer to see HB 904 amended to reflect the personal income tax side that was done in SB 307.

Senator Mazurek wants to discuss the capital gains question.

Senator Neuman made a motion to strike section 45 on page 77, lines 12, 13 and 14. The motion carried.

Senator Mazurek said the issues are fairly simple, you have the brackets and the rates.

Senator Eck said there may be a problem in section 9 on the windfall.

Jim Lear said what Representative Harp contemplated with that, is that in not knowing what the windfall to the state might be and with the base broadening that is piggybacked in this bill, it would be advisable to take a portion of the money and hold it in abeyance, to use at the end of the biennium.

Senator Neuman said the budget scenario is that the budget office could end with a positive ending fund balance in 1989 but there will be a negative balance in 1988. If you take that provision out then you can use some of that windfall to offset that ending fund balance in 1988.

Jim Lear said $12.5 million each year goes into that account.

Senator Eck said if we struck 1988 we would help our shortfall.

Senator Neuman said the way that is written now that causes us problems with the ending fund balance in the year 1988.

Mike Walsh agreed that it doesn't help.

Senator Neuman said we could put language in to clear that up so that it takes care of the ending fund balance problem. Maybe we do not need that ending fund balance. Maybe it would be best to strike that section.

Jim Lear said from what he understands it is more of a paper work perception. When it comes down to it, the money can be used as if it were in the general fund. It is something the House put in because they thought it was important.

Senator Crippen said the unitary tax provisions are out, the oil severance tax is out, coal severance tax is out, capital gains are out, what about the nuisance taxes, are they in HB 904.

Senator Neuman said the only thing here is personal income tax. The AMT is not in this bill.

Senator Neuman made a motion to strike section 5 of the bill that pertains to the windfall reserve account. The motion carried.

Senator Crippen made a motion to reduce the rates to 3-5-7 and the aggragate amounts need to be changed along with that motion.

Senator Mazurek said his understanding is that the cost of that change is $33 million a year. Is there some way you could reduce the level of that loss by changes within the brackets instead of the rates.

Senator Neuman said you would still end up losing money.

John LaFaver said if you are asking if we can develop a structure where 4-6-8 would stay in place but the revenue would be reduced $33 million, the answer is yes. They would need time for calculations.

Senator Crippen said our philosophy on this is to put in place a permanent 3-5-7 rate, that, down the line, is a fairer rate. That takes up a substantial portion of the windfall but it also makes that up through a process. The surtax will fall upon the same taxpayers that would be adversely affected by HB 904 and SB 307. Our contention is the impact will drop off after two years and we will be down to a situation where we will be at 3-5-7. The economy will be coming back by that time and we will have a better rate in place. Keep in mind that we are not going to ask for the deduction for federal income tax.

Senator Neuman said we have been told not to lower the rates too low the first year. If we pass it this way, we can come back in the next session and lower the rates and find out where we are. He thinks we should have this vehicle as the budget balancer in case SB 307 does not materialize.

Senator Brown said it seems we should operate on the assumption that the people are entitled to the windfall if we can get it to them, rather than permanently capturing the windfall so they cannot get their hands on it.

Senator Eck said it seems we will pay the same amount whether we go with 3-5-7 or with 4-6-8, it will not make a lot of difference. She sees the 4-6-8 as more acceptable than 3-5-7 with a 22% surtax.

Senator Mazurek asked Senator Crippen if it was his intent to make up the difference needed, if 3-5-7 rates are amended into this bill, with a surcharge.

Senator Crippen said yes, that was the posture adopted in SB 307 as it was amended and passed to the House.

Senator Mazurek asked if the House doesn't accept SB 307, are you going to be willing to use this vehicle to balance the budget.

Senator Crippen said if it is consistent to what we are trying to do in SB 307.

Senator Hirsch asked if we were wasting our time this morning on this bill if we are simply trying to get it into the same form as was in SB 307 as it passed out of committee. He does not want to wait and leave this bill in the form that it is until we see what happens with the House.

Senator Crippen said either way we will work on these things.

Senator Hirsch said if you are working on this to get it in the same form, we are spinning our wheels at the moment.

A roll call vote was taken on Senator Crippen's motion on the 3-5-7 rates. The motion failed 6-6, see attached.

Senator Mazurek said the retirement sections start on page 27, line 4. He would like to propose an amendment that would have the effect of providing that public employees, in state, county and municipal employment, who have retired on or before January 1, 1988, would continue to be exempt but anyone retired after that date would have the $3600 exclusion. He made this proposition a motion.

Senator Neuman does not think that amendment is needed because with the average retirement benefits being $480 a month, and if you add the exemption and the standard deduction, that brings this up to $14,000 before you pay any tax at all. The impact will be minimal.

Senator Mazurek is sure there will be an impact.

Dan Bucks said the original SB 307, had all the retirement income taxed and then it moved to $3600 and that resulted in a revenue reduction of $5.2 million. To go now to a full exemption for the existing state and local retirees will be approximately $800,000 more annually.

Senator McCallum asked how does this affect SB 74 in terms of coordination.

Senator Mazurek said it makes it consistent with SB 74 except for in the future everybody would have the $3600 exemption and not just the federal and private retirees. Public retirees would be put in the same classification.

Senator Halligan would oppose the motion. You are inviting them to come in in 1989 and ask for everything exempt.

Senator Mazurek said if you don't do this you have a contract problem. Those people who are currently retired, do not have an opportunity to go back to work.

Senator Halligan said if they make over $14,000 a year they should be helping out a little.

Senator Crippen supports the motion. He would like to see them all exempt.

Senator Brown said you either buy the concept or you don't. The grandfather provisions don't make any sense to him. This came in as part of the Governor's tax package, if you buy that you should approve this or not.

A roll call vote was taken on Senator Mazurek's motion. The motion carried 7-5, see attached.

The meeting recessed at 11:45 A.M.

The meeting reconvened at 1:30 P.M. All committee members were present.

DISPOSITION OF HB 782: Senator Crippen made a motion that HB 782 be amended by deleting the provisions pertaining to a local option income tax. It makes better sense to him to get it out of committee that way. A roll call vote was taken on Senator Crippen's motion and the motion failed 5-7, see attached.

Senator Mazurek would move language be inserted in this bill that states this would be a partial response to I-105.

Senator Crippen said who knows what I-105 said and how we should respond to it. I-105 was not a local issue, it was a statewide issue.

A roll call vote was taken on Senator Mazurek's motion and the motion failed 6-6, see attached.

Senator Mazurek made a motion that HB 782 BE CONCURRED IN.

Senator Crippen made a substitute motion that HB 782 BE LAYED ON THE TABLE. The motion carried 7-5, see attached roll call vote.

DISPOSITION OF HB 361: Senator Crippen made a motion that HB 361 BE CONCURRED IN. The motion carried with Senator Hager absent.

ADJOURNMENT: The meeting adjourned at 1:50 p.m.

George McCallum

SENATOR GEORGE McCALLUM, Chairman

ah

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 4-10-87

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.

Amend House Bill No. 703, 3rd Reading Copy

1. Title, lines 8 and 9.
Following: "METHOD" on line 8
Strike: ", THE NEW INVESTMENT TAXPAYER ELECTION,"

2. Title, line 10.
Following: "MCA;"
Insert: "IMPOSING A 7% TAX RATE ON CORPORATIONS SUBJECT TO WORLD-WIDE APPORTIONMENT AND ELIGIBLE TO MAKE A WATER'S-EDGE ELECTION; AMENDING SECTION 15-31-121, MCA;"

3. Page 5, line 3.
Strike: "Eighty-five"
Insert: "Eighty"

4. Page 6, lines 1 through 9.
Following: "7." on line 1
Strike: remainder of line 1 through end of line 9
Insert: "Section 15-31-121, MCA, is amended to read:

"15-31-121. Rate of tax -- minimum tax. (1) ~~The~~ Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this ~~part~~ subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

(2) For a taxpayer that is subject to world-wide apportionment and eligible to make a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period, whether or not the taxpayer makes the water's-edge election.

~~(2)~~ (3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than $50.""

5. Page 6, lines 11 and 13.
Following: "through"
Strike: "7"
Insert: "6"

jhl/hb703sam.txt(dw3)

SENATE TAXATION
EXHIBIT NO. 1
DATE 4-10-87
BILL NO. H.B. 703

Anderson

Amend House Bill No. 743, 3rd Reading Copy

1. Page 15.
Following: line 25
Insert: "NEW SECTION. Section 14. Coordination instruction. If Senate Bill No. 162, including repeal of 15-18-101, 15-18-401, and 15-18-403, is passed and approved, sections 5 through 7 of this act are void."
Renumber: subsequent sections

jhl/hb743am.txt(dw3)

SENATE TAXATION
EXHIBIT NO. 2
DATE 4-10-87
BILL NO. H.B. 74
S.V.

Proposed Amendments to SB307
(Fiscal Impact compared to Introduced Version of SB307)
(In Millions)

	FY88	FY89
Individual Income Tax	$209.643	$232.446
3-5-7 rates	- 33.168	- 33.168
Retirement Exclusion @ 3600	- 5.000	- 5.000
Delete Alternative Minimum Tax	- 2.000	- 2.000
Reinstate Capital Gains (40%)	- .300	- .600
Delete Capital Companies Credit	+ .645	+ .645
Delete Low-Income Property Tax	+ 5.500	+ 4.600
	$175.320	$196.923
Corporation Income Tax	$ 53.165	$ 59.375
Delete Alternative Minimum Tax	- .600	- 1.000
Delete Water's Edge Unitary	+ .156	+ .260
Adjust Rate to 6.75%	+ 3.537	+ 6.005
Delete Capital Companies Credit	+ .855	+ .855
No Change Section 243 Dividends	.000	.000
Net Operating Losses	- .750	- 1.125
	$ 56.363	$ 64.370
Sales Tax		
Five Percent Rate	$ 0.000	$234.000
Renter Credit	.000	- 3.100
Low-Income Credit	.000	- 8.700
Administrative Costs	- 1.629	- 3.500
Net Revenue	($ 1.629)	$218.700
Property Tax Relief	0.000	-148.400
General Fund Revenue	($ 1.629)	$ 70.300

	FY88			FY89		
	Current	Proposed	Diff.	Current	Proposed	Diff.
Individual Income Tax	$208.088	$175.320	($32.768)	$229.991	$196.923	($33.068)
Corporation Income Tax	$ 53.063	$ 56.363	$ 3.300	$ 58.995	$ 64.370	$ 5.375
Nuisance Taxes	$ .452	0	($ .452)	$ .452	0	($ .452)
Sub Total			($29.920)			($28.145)
Sales Tax	$ 0.000	($ 1.629)	($ 1.629)	$ 0.000	$ 70.300	$70.300
Net Impact			($31.549)			$42.155

SENATE TAXATION
EXHIBIT NO. 3
DATE 4-10-87
BILL NO. H.B. 307

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 703 Time 8:35 A.M.

NAME	YES	NO
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		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Substitute Motion - Senator Halligan - to amend into HB 703 the subcommittee's work from SB 307. The motion failed 4-8.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 703 Time 8:37 A.M.

NAME	YES	NO
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		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Eck's motion that a 5% surcharge be added in 1989 to sunset at the end of 1989. The motion carried 7-5.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 703 Time 8:49 A.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Crippen's motion that HB 703 BE CONCURRED IN AS AMENDED. The motion carried 8-4.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. SB 307 Time 9:03 A.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Brown's motion to amend SB 307 on page 330, to insert into the bill the June 9, 1987 referendum election, in conformity with sections 122-128 of HB 377. The motion failed 5-7.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. SB 307 Time 9:58 A.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Brown's second motion on the referendum vote.

The motion carried 7-5.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. SB 307 Time 10:10 A.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Brown's motion that SB 307 DO PASS AS AMENDED.

The motion carried 7-5.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 377 Time 10:45 A.M.

NAME	YES	NO
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		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Severson's motion to take the $20,000 exemption on the house and land and tax the rest at 100%. The motion carried 9-3.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 377 Time 10:55 A.M

NAME	YES	NO
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		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Eck's motion to reconsider the committee's action on the local option sales tax. The motion failed 6-6.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 904 Time 11:31 A.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Crippen's motion to reduce the rates to 3-5-7.
The motion failed 6-6.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 904 Time 11:45 A.M

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Mazurek's motion to continue the exempt status for public retirees who retired before January 1, 1988, and after that date anyone who has retired would have the $3600 exclusion. The motion carried 7-5.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No HB 782 Time 1:35 P.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Crippen's motion to delete the provisions pertaining to local option income tax. The motion failed 5-7.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 782 Time 1:40 P.M.

NAME	YES	NO
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		✓

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Mazurek's motion to insert I-105 language.
The motion failed 6-6.

1987

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date April 10, 1987 Bill No. HB 782 Time 1:41 P.M.

NAME	YES	NO
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	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Crippen's motion that HB 782 BE LAYED UPON THE TABLE. The motion carried 7-5.

STANDING COMMITTEE REPORT

SCRHB703.SCR

April 10, 1983

MR. PRESIDENT

We, your committee on Taxation

having had under consideration House Bill No. 703

third reading copy (blue)
color

PROVIDE FOR WATER'S-EDGE UNITARY COMBINATION METHOD OR NEW INVESTMENT CHOICE

GILBERT (THAYER)

Respectfully report as follows: That House Bill No. 703

BE AMENDED AS FOLLOWS:

1. Title, lines 8 and 9.
Following: "METHOD" on line 8
Strike: ", THE NEW INVESTMENT TAXPAYER ELECTION,"

2. Title, line 10.
Following: "MCA;"
Insert: "TO IMPOSE A 7% TAX RATE ON CORPORATIONS SUBJECT TO WORLD-WIDE APPORTIONMENT AND ELIGIBLE TO MAKE A WATER'S-EDGE ELECTION; TO IMPOSE A 5% SURCHARGE ON THE CORPORATE LICENSE OR INCOME TAX FOR TAX YEAR 1983; AMENDING SECTION 15-31-121, MCA;"

3. Page 5, line 3.
Strike: "Eighty-five"
Insert: "Eighty"

4. Page 6, lines 1 through 9.
Following: "7." on line 1
Strike: remainder of line 1 through end of line 9
Insert: "Section 15-31-121, MCA, is amended to read:

"15-31-121. Rate of tax -- minimum tax--surtax. (1) The Except as provided in subsection (2), the percentage of net income to be paid under 15-31-101 shall be 6 3/4% of all net income for the taxable period. The rate set forth in this part subsection (1) shall be effective for all taxable years ending on or after February 28, 1971. This rate is retroactive to and effective for all taxable years ending on or after February 28, 1971.

DO PASS

DO NOT PASS

Chairman.

CONTINUED

April 10, 1987

(2) For a taxpayer that is subject to world-wide apportionment and eligible to make a water's-edge election, the percentage of net income to be paid under 15-31-101 shall be 7% of all taxable net income for the taxable period, whether or not the taxpayer makes the water's-edge election.

~~(2)~~ (3) Every corporation subject to taxation under this part shall, in any event, pay a minimum tax of not less than $50.

(4) After the amount of tax liability has been computed under subsections (1) through (3), each corporation subject to taxation under this part shall add as a surtax for tax year 1988, 5% of the tax liability, and the amount so derived at is the amount due the state.""

5. Page 6, lines 11 and 13.
Following: "through"
Strike: "7"
Insert: "6"

6. Insert: "NEW SECTION." preceding "Section" in the following locations:
Page 1, line 14.
Page 3, line 1.
Page 3, lines 9 and 16.
Page 4, line 11.
Page 5, line 16.
Page 6, lines 10,15,19, and 25.

AND AS AMENDED,
BE CONCURRED IN

CORRECTED COPY

Senator McCallum

STANDING COMMITTEE REPORT

April 10 19 87

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration SB 307 No.

first reading copy (white)
color

MONTANA ECONOMIC AND TAX REFORM ACT OF 1987

Respectfully report as follows: That SENATE BILL NO. No. 307

Be amended as indicated by the attached "gray bill" designated as "SB 0307/godzill" in the upper right hand corner, and the "gray bill" be further amended as follows:

DO PASS, AS AMENDED

~~DO NOT PASS~~

Chairman.

1. Page 172 through 332.
Following: line 13 on page 172
Wherever the phrase "[SECTIONS 113 THROUGH 187]" is found, amend to read "[sections 113 through 180]"

1. Pages 220 through 223.
Following: line 1 on page 220
Strike: Sections 181 through 187 in their entirety
Renumber: subsequent sections

2. Page 223, line 15.
Strike: "188"
Insert: "181"

3. Page 223, line 16.
Strike: "196"
Insert: "189"

4. Page 223, line 18.
Strike: "189"
Insert: "182"

5. Page 225, line 18.
Strike: "188"
Insert: "181"
Strike: "196"
Insert: "189"

6. Page 226, line 21.
Strike: "188"
Insert: "181"
Strike: "196"
Inset: "189"

7. Page 226, line 25.
Strike: "188"
Insert: "181"

8. Page 227, line 1.
Strike: "196"
Insert: "189"

9. Page 227, line 9.
Strike: "188"
Insert: "181"

10. Page 227, line 10.
Strike: "196"
Insert: "189"

11. Page 228, line 13.
Strike: "188"
Insert: "181"

12. Page 228, line 14.
Strike: "196"
Insert: "189"

13. Page 229, line 3.
Strike: "188"
Insert: "181"

14. Page 229, line 4.
Strike: "196"
Insert: "189"

15. Page 231, line 11.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"

16. Page 232, line 1.
Strike: "199"
Insert: "192"

17. Page 232, line 4.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"

18. Page 232, line 8.
Strike: "197"
Insert: "190"

19. Page 232, line 9.
Strike: "201"
Insert: "194"

20. Page 233, line 7.
Strike: "188"
Insert: "181"

21. Page 258, line 3.
Strike: "25%"
Insert: "29%"

22. Page 271, line 19.
Following: "12%"
Insert: "of its market value"

23. Page 271, line 21.
Following: "of"
Insert: ": (a)"
Following: "12%"
Insert: "of its market value;"
Following: "or"

Insert: "(b)"

24. Page 272.
Following: line 4.
Insert: "Section 226. Section 15-6-148, MCA, is amended to read:

"15-6-148. **Class eighteen property -- description -- taxable percentage.** (1) Class eighteen property includes all nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. Class eighteen does not include any property that is used for residential, recreational as described in 70-16-301, or commercial as defined in 15-1-101, purposes, or if the surface is being used for other than mining purposes or has a separate and independent value for such other purposes.

(2) Improvements to class eighteen property that would not disqualify the parcel from designation as class eighteen property are taxed as otherwise provided in this title, including that portion of the land upon which such improvement are located and which is reasonably required for the use of such improvements.

(3) Class eighteen property must be valued as if such land were devoted to agricultural grazing use and is taxed at ~~30%~~ 29% of its value.""

Renumber: subsequent sections

25. Page 275, line 2.
Following: "residence"
Insert: "assessed and taxed as class four property under 15-6-134"

26. Page 322, line 6.
Strike: "197"
Insert: "190"

27. Page 330, line 11.
Strike: "187"
Insert: "180"

28. Page 330, line 13.
Strike: "187"
Insert: "180"

29. Page 330, line 14.
Strike: "188"
Insert: "181"
Strike: "196"
Insert: "189"

30. Page 330, line 17.
Strike: "188"
Insert: "181"

Strike: "196"
Insert: "189"

31. Page 330, line 18.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"

32. Page 330, line 20.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"

33. Page 330, line 21.
Strike: "202"
Insert: "195"

34. Page 330, line 23.
Strike: "202"
Insert: "195"

35. Page 331, line 19.
Strike: "187"
Insert: "180"

36. Page 331, line 20.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"

37. Page 331, line 22.
Strike: "188"
Insert: "181"
Strike: "196"
Insert: "189"
Strike: "202"
Insert: "195"

38. Page 331, line 24.
Strike: "197"
Insert: "190"
Strike: "201"
Insert: "194"
Strike: "203"
Insert: "196"
Strike: "271"
Insert: "265"

39. Page 332, line 1.
Strike: "1988"
Insert: "1987"

40. Page 332, line 2.
Strike: "~~1988~~"
Insert: "1987"

41. Page 332, line 3.
Strike: "~~1989~~"
Insert: "1988"

42. Page 332, line 5.
Strike: "~~272~~"
Insert: "266"
Strike: "~~277~~"
Insert: "271"

44. Page 332.
Following: line 6
Insert: "NEW SECTION. **Section 272. Submission to electorate.** The question of whether sections 1 through 265 of this act shall be submitted to the electors of Montana at the election called pursuant to section 273 by printing on the ballot the full title of this act and the following:

FOR adoption of the Montana Economic and Tax Reform Act of 1987.

AGAINST adoption of the Montana Economic and Tax Reform Act of 1987.

NEW SECTION. **Section 273. Special election.** Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, sections 1 through 265 shall be submitted to the people for their approval or disapproval at a statewide election to be held June 9, 1987.

NEW SECTION. **Section 274. Transmittal to the attorney general -- statements by attorney general.** (1) The secretary of state shall, within 1 working day of receipt, transmit a copy of this act and a copy of the form in which the issue will appear on the ballot to the attorney general. The attorney general shall examine the ballot form submitted to his office and, within 7 days of receipt of the ballot form, notify the secretary of state of his approval or rejection of the ballot form.

(2) Upon receipt of the ballot form under subsection (1), the attorney general shall order a fiscal note, the substance of which must substantially comply with the provisions of 5-4-205. The budget director is responsible for preparing the fiscal note and shall return it within 4 days. The attorney general shall prepare a fiscal statement not exceeding 50 words, to be forwarded to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

(3) Upon receipt of the ballot form, the attorney general shall prepare a statement, not exceeding 100 words, expressing an impartial explanation of the purpose of sections 1 through 265 in plain, easily understood language. The statement may not be an argument for or against or

written to create a prejudice for or against the issue. The attorney general shall forward the explanatory statement prepared under this subsection to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

NEW SECTION. **Section 275. Secretary of state to certify form and voter information.** (1) Thirty-five days or more before the special election, the secretary of state shall certify to each county election administrator the form in which the issue is to appear on the ballot, as provided by 13-27-501. Each of the county election administrators shall order the official ballot to be printed in the form certified by the secretary of state.

(2) At least 20 days prior to the election called under section 273, the secretary of state shall deliver or have delivered to the counties sufficient copies of sections 1 through 265 or a voter information pamphlet describing the provisions of sections 1 through 265, the fiscal note, and an explanatory statement prepared pursuant to [section 274], in such form as the secretary of state determines.

(3) The county election administrator shall mail one copy of the voter information required by subsection (2) to each registered voter in the county, except that, for purposes of this mailing, two or more voters with the same last name and the same mailing address may be counted as one voter. The mailing must take place no later than 1 week after the pamphlets are received from the printer.

(4) The secretary of state may contract for the printing and delivery of the voter information material under the immediate procurement provisions of 18-4-133(2).

NEW SECTION. **Section 276. Absentee ballots.** The county election administrator shall ensure that ballots are printed and available for absentee voting at least 10 days prior to the election.

NEW SECTION. **Section 277. Determination of result of special election.** (1) The votes on sections 1 through 265 must be counted and canvassed following procedures prescribed by the secretary of state.

(2) A report form for the abstract of votes shall be prepared by the secretary of state and sent to the county election administrators. The county election administrator shall provide the required information and shall send the abstract of votes to the secretary of state by certified mail in an envelope marked "special election returns". Such returns must be received by the secretary of state no later than 5 p.m. on the sixth day following the election.

(3) The board of state canvassers shall meet on the seventh day following the special election. The secretary of state, as secretary of the board of canvassers, shall prepare and file in his office a report of the canvass, which lists:

(a) the total number of electors voting in each county and in each legislative house district, together with the total number of electors voting in the state; and

(b) the votes by county and legislative house district for and against the issue, together with the total number of votes cast for and against the issue in the state.

(4) The secretary of state shall transmit a certified copy of the statement of the canvass to the governor nd the code commissioner within 10 days following the special election.

NEW SECTION. **Application of election laws.** (1) Except as provided in sections 1 through 7, the election called under section 2 must be conducted and canvassed and the results returned in the manner provided in Title 13 for a general election.

(2) The provisions of 13-2-301(1)(b), 13-12-201, 13-13-205, and Title 13, chapter 27, do not apply to the election called under section 273.

(3) The secretary of state shall publish notice of the election as provided in 13-1-108.

NEW SECTION. **Section 279. Coordination instruction.** If this act is passed by the legislature and submitted to the electorate at a referendum, section 270 shall be interpreted to mean that sections 1 through 265 must be submitted to the electorate, that sections 266 through 271 are effective on approval by the electorate, and sections 272 through 279 are effective on approval by the legislature.

Amendments, SB 307
7100b/C:JEANNE\WP:jj

SENATE BILL NO. 307

INTRODUCED BY NEUMAN, HARP, REAM, ECK, BENGTSON,
VAN VALKENBURG, SPAETH, PISTORIA, M. WILLIAMS,
BARDANOUVE, WEEDING, PECK, KEENAN, KADAS, QUILICI, LORY,
HIRSCH, MANNING, BLAYLOCK, MANUEL
BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO STIMULATE AND ENCOURAGE THE GROWTH OF THE MONTANA ECONOMY BY MEANS OF THE MONTANA ECONOMIC AND TAX REFORM ACT OF 1987; AMENDING SECTIONS 1-1-207, 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, 7-14-1133, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 7-34-2416, 15-1-101, 15-1-206, 15-1-501, 15-2-301, ~~15-6-134, 15-6-142,~~ 15-6-133 THROUGH 15-6-136, 15-6-143, 15-6-147, 15-6-151, 15-6-201, 15-6-207, 15-8-111, 15-8-205, 15-8-301, 15-8-404, 15-8-405, 15-8-706, 15-16-611, 15-24-301, 15-24-302, 15-24-1102, 15-24-1103, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-131, 15-30-132, 15-30-135, 15-30-136, 15-30-141, 15-30-142, 15-30-144, 15-30-146, 15-30-162, ~~15-30-171, 15-30-172, 15-30-174, 15-30-176, 15-30-178,~~ 15-30-207, 15-30-303, 15-30-321, 15-30-323, 15-31-113, 15-31-114, 15-31-121, 15-31-202, 15-31-204, 15-31-209, 15-31-305, 15-31-502, 15-31-552~~,~~ THROUGH 15-31-554, 15-32-102, 15-32-203, 15-32-402, 15-35-103, 15-35-202, 15-35-203, 15-36-101, 15-36-105, 15-37-104, 15-50-206, 15-51-103, 15-55-108, 15-70-203, 15-70-210, 15-70-332, 16-1-409, 16-11-143, 17-5-408, 19-3-105, 19-4-706, 19-5-704, 19-6-705, 19-7-705, 19-8-805, 19-9-1005, 19-11-503, 19-11-504, 19-13-1003, 20-9-141, 20-9-318, 20-9-319, 20-9-331, 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-501, 20-9-502, 20-10-144, 35-18-503, 37-7-407, 53-2-101, 61-1-129, 61-3-523, 61-3-525, 61-3-606, 67-3-201, 67-3-202, 67-11-303, 69-1-225, 69-1-226, 81-6-101, 81-6-104, 81-6-204, 81-6-209, 81-7-103, 81-7-104, 81-7-201, 81-7-202, 81-7-303, 81-7-305, 81-8-804, 85-7-2001, AND 90-8-202, MCA; REPEALING SECTIONS 15-30-112 THROUGH 15-30-117, 15-30-121 THROUGH 15-30-123, 15-30-125, 15-30-126, 15-30-156, 15-30-157, 15-30-161, 15-31-116, 15-31-124 THROUGH 15-31-127, 15-31-201, 15-31-208, ~~15-31-209,~~ 15-31-551, ~~15-31-553~~ 15-31-553, 15-31-601, 15-31-602, 15-31-604 THROUGH 15-31-607, 15-32-101, 15-32-103 THROUGH 15-32-106, 15-32-108, 15-32-109, 15-32-201, 15-32-202, 15-32-301 THROUGH 15-32-303, 15-32-401 THROUGH 15-32-407, 15-35-105, 15-36-107, 15-37-201 THROUGH 15-37-207, 15-37-210 THROUGH 15-37-212, 15-37-221, 15-38-107, 15-51-111, 15-53-111, 15-53-112, 15-54-101 THROUGH 15-54-105, 15-54-111 THROUGH 15-54-113, 15-56-101 THROUGH 15-56-108, 15-56-111 THROUGH 15-56-113, 15-57-101

THROUGH 15-57-110, 15-58-101, 15-58-102, 15-58-104 THROUGH 15-58-111, 15-58-121 THROUGH 15-58-126, 15-59-101, 15-59-102, 15-59-104 THROUGH 15-59-110, 15-59-112 THROUGH 15-59-114, 15-59-121, 15-59-201, 15-59-203~~,~~ THROUGH 15-59-210, 15-59-212 THROUGH 15-59-214, 15-59-221, 15-70-330, 16-11-101, ~~19-9-1005,~~ 23-2-714, 23-2-715, ~~35-18-503,~~ 61-3-524, AND 82-11-133, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE AND OTHER APPLICABILITY DATES AND AN IMMEDIATE EFFECTIVE DATE AND OTHER EFFECTIVE DATES."

WHEREAS, the economy of Montana has suffered from external forces that have caused lower prices for its raw materials and farm products; and

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

WHEREAS, a key to economic growth is tax fairness; and

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

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

WHEREAS, the principles of tax fairness and reform require all Montana citizens and businesses to pay their fair share.

THEREFORE, the Legislature of the State of Montana enacts the following economic and tax reform measure.

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

~~Section-1.--Section-15-6-134,-MCA,-is-amended-to--read:~~

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

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

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

~~(c)--the-first-$35,000-$80,000-or-less--of--the--market value--of--any--improvement-on-real-property-and-appurtenant land-not-exceeding-5-acres-owned-or-under-contract-for--deed and--actually--occupied-for-at-least-10-months-a-year-as-the primary-residential--dwelling--of--any--person--whose--total household---income--from--all--sources--including--otherwise tax-exempt-income-of-all-types,-as-defined-in--15-30-171(5), is--not-more-than-$10,000-for-a-single-person-or-$12,000-for a-married-couple;~~

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

~~(2)--Class-four-property-is-taxed-as-follows:~~

~~(a)--Except--as--provided--in-15-24-1402-or-15-24-1501, property-described-in-subsections-(1)(a)-and-(1)(b)-is-taxed~~

~~at-the-taxable-percentage--rate--"P"--3.86%--of--its--market value.~~

~~(b)--Property--described--in-subsection-(1)(c)-is-taxed at-the-taxable-percentage-rate-"P"-3.86%-of-its-market-value multiplied-by--a--percentage--figure--based--on--income--and determined-from-the-following-table:~~

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

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

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

~~(4)--Prior--to--July-1,-1986,-the-department-of-revenue shall-determine-the-taxable-percentage-rate--"P"--applicable~~

~~to--class--four-property-for-the-revaluation-cycle-beginning January-1,-1986,-as-follows:~~

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

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

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

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

~~Certified-Statewide Percentage-Increase~~	~~Class-Four-Taxable Percentage-"P"~~
~~0~~	~~8.55~~
~~10~~	~~7.77~~

~~20~~	~~7.12~~
~~30~~	~~6.57~~
~~40~~	~~6.10~~
~~50~~	~~5.70~~
~~60~~	~~5.34~~
~~70~~	~~5.02~~
~~80~~	~~4.75~~
~~90~~	~~4.50~~
~~100~~	~~4.27~~
~~110~~	~~4.07~~
~~120~~	~~3.88~~
~~130~~	~~3.71~~
~~140~~	~~3.56~~
~~150~~	~~3.42~~
~~160~~	~~3.28~~
~~170~~	~~3.16~~
~~180~~	~~3.05~~
~~190~~	~~2.94~~
~~200~~	~~2.85~~
~~210~~	~~2.75~~
~~220~~	~~2.67~~
~~230~~	~~2.59~~
~~240~~	~~2.51~~
~~250~~	~~2.44~~
~~260~~	~~2.37~~

~~270~~	~~2.31~~
~~280~~	~~2.25~~
~~290~~	~~2.19~~
~~300~~	~~2.13~~

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

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

~~Section 2. Section 15-6-142, MCA, is amended to read:~~

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

~~(a) a trailer or mobile home used as a residence except when:~~

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

~~(ii) specifically included in another class;~~

~~(b) the first $35,000~~ ~~$80,000~~ ~~or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total~~

~~income--from--all--sources--including--otherwise--tax-exempt income--of--all--types-is-not-more-than-$10,000-for-a-single person-or-$12,000-for-a-married-couple.~~

~~(2)--Class-twelve-property-is-taxed-as-follows:~~

~~(a)--Property-described-in-subsection--(1)(a)--that--is not--of--the-type-described-in-subsection-(1)(b)-is-taxed-at the-taxable-percentage--rate--"P",--described--in--15-6-134, 3.86%-of-its-market-value.~~

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

~~Section-3.--Section-15-6-151,-MCA,-is-amended-to--read:~~

~~"15-6-151.--Application----for---certain---class---four classifications.--(1)-A-person-applying--for--classification of-property-described-in-subsection-(1)(c)-of-15-6-134-shall make--an--affidavit--to-the-department-of-revenue,-on-a-form provided-by-the-department-without-cost,-stating:~~

~~(a)--his-income;~~

~~(b)--the--fact--that--he--maintains---the---land---and improvements--as--his--primary--residential--dwelling,-where applicable,-and~~

~~(c)--such-other--information--as--is--relevant--to--the applicant's-eligibility.~~

~~(2) This application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.~~

~~(3)~~~~(2)~~ ~~The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue on or before April 15 of the year for which relief is sought. This signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing.~~

~~(3) An application for a tax credit pursuant to 15-30-171 filed after January 1, 1988, may also be an application for relief pursuant to this section if the taxpayer states on the form that he wishes it to be an application for relief and agrees that the department and the county may use information from the income tax return as appropriate to provide relief under this section. The~~

~~application-must-be-received-by-April-15--of--the--year--for which--relief--is-sought,-and-the-relief-applies-to-the-year in--which--the--credit--application--is--received---by---the department."~~

~~Section-4.--Section-15-30-171,-MCA,-is-amended-to-read:~~

~~"15-30-171.--Residential---property---tax---credit--for elderly------definitions.--As--used--in--15-30-171---through 15-30-179,-the-following-definitions-apply:~~

~~(1)--"Income"--means--federal--adjusted--gross--income, without-regard-to-loss,-as-that-quantity-is-defined--in--the Internal--Revenue--Code--of--the--United--States,--plus--all nontaxable-income,-including-but-not-limited-to:~~

~~(a)--the--gross--amount--of--any--pension--or---annuity (including--Railroad--Retirement--Act-benefits-and-veterans' disability-benefits);~~

~~(b)--the-amount-of-capital-gains-excluded-from-adjusted gross-income;~~

~~(c)--alimony;~~

~~(d)--support-money;~~

~~(e)--nontaxable-strike-benefits;~~

~~(f)--cash-public-assistance-and-relief;~~

~~(g)--payments-and-interest-on-federal,--state,--county, and-municipal-bonds;-and~~

~~(h)--all-payments-under-federal-social-security.~~

~~(2)~~~~(1)~~~~--"Claim---period"---means---the---tax--year--for~~

~~individuals-required-to-file-Montana-individual--income--tax returns--and--the-calendar-year-for-individuals-not-required to-file-returns.~~

~~(3)~~ ~~(2)~~ ~~--"Claimant"-means-an-individual--natural--person who-is-eligible-to-file-a-claim-under-15-30-172.~~

~~(4)~~ ~~(3)~~ ~~--"Household"-means-an-association-of-persons-who live---in---the--same--dwelling,--sharing--its--furnishings, facilities,-accommodations,-and-expenses.-The-term-does--not include--bona-fide-lessees,-tenants,-or-roomers-and-boarders on-contract.~~

~~(5)~~ ~~(4)~~ ~~--"Gross--household--income"--means--all---income received--by--all--individuals-of-a-household-while-they-are members-of-the-household.~~ ~~--monetary--benefits--of--any--kind received-by-each-individual-member-of-the-household,-without regard--to--losses-of-any-kind-and-without-regard-to-whether such-benefits-are-taxable--income--under--state--or--federal income--tax-laws.-Such-income-includes-but-is-not-limited-to the-following:~~

~~(a)--100%-of-the-gains-on-all-sales;~~

~~(b)--alimony,-child--support,--or--any--other--type--of maintenance-payment;~~

~~(c)--cash-public-assistance-and-relief;~~

~~(d)--life-insurance-and-endowment-contracts;~~

~~(e)--social--security--and--the--gross--amount--of--any pension-or-annuity-(including-railroad--retirement--benefits~~

~~and-veterans'-disability-benefits);~~

~~(f)--unemployment--and--workers'-compensation-benefits;~~

~~(g)--all-tax-refunds;~~-and

~~(h)(6)--any-monetary-benefits-defined-as-income-in--the Internal-Revenue-Code-or-by-this-chapter.~~

~~(6)(5)--"Household--income"--means--$0--or--the--amount obtained-by-subtracting-$4,000-from-gross-household--income, whichever-is-greater-less-$4,000,-times-the-inflation-factor provided--for-in-this-section,-but-in-no-case-may-it-be-less than-$0.~~

~~(7)(6)--"Homestead"-means-a-single-family--dwelling--or unit--of--a--multiple-unit--dwelling--that--is-subject-to-ad valorem-taxes-in-Montana,-owned-and-occupied-as-a--residence by--the--owner--for-at-least-6-months-of-the-claim-period-or occupied-as-a-dwelling-of-a-renter-or-lessee-for-at-least--6 months--of--the-claim-period,-and-as-much-of-the-surrounding land,-but--not--in--excess--of--1--acre,--as--is--reasonably necessary-for-its-use-as-a-dwelling.~~

~~(8)(7)--"Department"--means--the-department-of-revenue.~~

~~(9)(8)--"Gross-rent"-means-the-total-rent--in--cash--or its--equivalent-actually-paid-during-the-claim-period-by-the renter-or-lessee-for-the-right-of-occupancy-of-the-homestead pursuant-to-an-arm's-length-transaction-with--the--landlord.~~

~~(10)(9)--"Property--tax--paid~~--billed~~"-means-general-ad valorem-taxes,-exclusive-of-special-assessments,--penalties,~~

~~or--interest,--levied--against--the--homestead,-exclusive-of special-assessments,-penalties,-or-interest-and-paid--during the-claim-period.~~

~~(11)(10)-"Rent-equivalent--tax--paid"--means-15%-of-the gross-rent.~~

~~(11)-"Inflation-factor"-means-a--number--determined--by November--1--for--each-taxable-year-by-dividing-the-consumer price-index-for-June-of-the-taxable--year--by--the--consumer price-index-for-June-1987."~~

~~Section-5.--Section-15-30-172,-MCA,-is-amended-to-read:~~

~~"15-30-172.--Residential---property---tax---credit--for elderly----eligibility.--(1)-In-order-to-be-eligible-to-make a-claim-under-15-30-171--through--15-30-179,--an--individual must--have--reached--age-62-or-older-during-the-claim-period for-which-relief-is-sought-and-must-have-resided-in--Montana for--at-least-9-months-of-that-period.--a-household-income-of less-than-$45,000-during-the-claim-period-and-be-a--resident as-defined-in-15-30-101.~~

~~(2)--A--person--who--has-been-a-full-time-student-at-an educational-institution-for-6-months-or-more-of-the--taxable year---is---not---eligible---for--the--credit.--"Educational institution"-means-one-that--normally--maintains--a--regular faculty---and---curriculum--and--normally--has--a--regularly organized-body-of-students-in-attendance-at-the-place--where its--educational--activities--are--carried-on.-A-person-is-a~~

~~full-time-student-if-he-is-considered--to--be--such--by--the educational--institution-or-if-the-person-claims-such-status for-any-other-tax-purpose."~~

~~Section-6.--Section-15-30-174,-MCA,-is-amended-to-read:~~

~~"15-30-174.--Residential--property---tax---credit---for elderly----filing-date.--(1)-Except-as-provided-in-subsection (2),--a--claim-for-relief-must-be-submitted-at-the-same-time the-claimant's-individual-income-tax-return-is-due.--For--an individual-not-required-to-file-a-tax-return,-the-claim-must be-submitted-on-or-before-April-15-of-the-year-following-the year-for-which-relief-is-sought.~~

~~(2)--The--department--may--grant-a-reasonable-extension for-filing-a-claim-whenever,-in--its--judgment,--good--cause exists.--However,--the--extension--granted-may-not-be-longer than-the-statute-of-limitations-provided--in--this--chapter. The-department-shall-keep-a-record-of-each-extension-and-the reason-for-granting-the-extension.~~

~~(3)--In--the--event-that-an-individual-who-would-have-a claim-under-15-30-171-through-15-30-179-dies--before--filing the--claim,-the-personal-representative-of-the-estate-of-the decedent-may-file-the-claim."~~

~~Section-7.--Section-15-30-176,-MCA,-is-amended-to-read:~~

~~"15-30-176.--Residential--property---tax---credit---for elderly------computation--of--relief.--The-amount-of-the-tax credit-granted-under-the--provisions--of--15-30-171--through~~

~~15-30-179 is computed as follows:~~

~~(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax paid~~ billed ~~less the deduction specified in subsection (4).~~

~~(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).~~

~~(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:~~

~~(a) the amount of property tax paid~~ billed ~~on the owned portion of the homestead less the deduction specified in subsection (4), plus~~

~~(b) the amount of rent-equivalent tax paid on the rented portion of the homestead, less~~

~~(c) the deduction specified in subsection (4).~~

~~(4) Property tax paid~~ billed ~~and rent-equivalent tax paid are reduced according to the following schedule:~~

~~Household income~~	~~Amount of reduction~~
~~$ 0-999~~	~~$0~~
~~1,000-1,999~~	~~$0~~
~~2,000-2,999~~	~~the product of .006 times the household income~~
~~3,000-3,999~~	~~the product of .016 times the household income~~
~~4,000-4,999~~	~~the product of .024 times the household income~~

~~5,000-5,999 the-product-of-.028-times-the-household-income~~
~~6,000-6,999 the-product-of-.032-times-the-household-income~~
~~7,000-7,999 the-product-of-.035-times-the-household-income~~
~~8,000-8,999 the-product-of-.039-times-the-household-income~~
~~9,000-9,999 the-product-of-.042-times-the-household-income~~
~~10,000-10,999 the-product-of-.045-times-the-household-income~~
~~11,000-11,999 the-product-of-.048-times-the-household-income~~
~~12,000-&-over the-product-of-.050-times-the-household-income~~

~~(5)--In-no-case-may-the-credit-granted-exceed-$400.~~

~~(6)--Property-taxes-billed-must--be--allocated--on--the basis-of-period-of-ownership-during-the-claim-period."~~

~~Section-8.--Section-15-30-178,-MCA,-is-amended-to-read:~~

~~"15-30-178.--Residential---property---tax---credit--for elderly----proof-of-claim.-A-receipt--showing--property--tax paid--or--a--receipt--showing--gross-rent-paid,-whichever-is appropriate,-must-be-filed-with--each--claim.--In--addition, each--~~Each~~--claimant-must,-at-the-request-of-the-department, supply-all-additional-information-necessary-to--support--his claim."~~

Section 1. Section 1-1-207, MCA, is amended to read:

"1-1-207. Miscellaneous terms. Unless the context requires otherwise, the following definitions apply in the Montana Code Annotated:

(1) "Bribe" means anything of value or advantage, present or prospective, or any promise or undertaking to

give anything of value or advantage, which is asked, given, or accepted with a corrupt intent to unlawfully influence the person to whom it is given in his action, vote, or opinion in any public or official capacity.

(2) "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

~~(2)~~(3) "Peace officer" means any person described in 46-1-201(8).

~~(3)~~(4) "Vessel", when used in reference to shipping, includes ships of all kinds, steamboats and steamships, canal boats, and every structure adapted to be navigated from place to place."

Section 2. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

(a) any port or transportation and storage facility;

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

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

(d) other sources.

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

(3) The bonds may be sold at public or private sale and may bear interest at a rate not exceeding the limitation of 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and

governmental purpose by a political subdivision ~~within-the meaning-of-15-30-111(2)(a)~~ <u>for purposes of tax exemption determinations under the Internal Revenue Code</u>.

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

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

"7-34-2416. Tax-exempt status of bonds. Bonds issued by a county pursuant to the provisions of 7-34-2411 through 7-34-2418 are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the-meaning-of-15-30-111(2)(a)~~ <u>for purposes of tax exemption determinations under the Internal Revenue Code</u>."

Section 4. Section 15-1-101, MCA, is amended to read:

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

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

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

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

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

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

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

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

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

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

(h) The term "Internal Revenue Code" means the Internal Revenue Title enacted August 16, 1954, and redesignated as the "Internal Revenue Code of 1986" by section 2 of Public Law 99-514, as amended.

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

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

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

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

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

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

~~(n)~~(o) The term "real estate" includes:

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

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

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

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

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

NEW SECTION. SECTION 5. INCOME TAX WINDFALL RESERVE ACCOUNT. (1) THERE IS AN INCOME TAX WINDFALL RESERVE ACCOUNT IN THE STATE SPECIAL REVENUE FUND.

(2) FOR FISCAL YEARS 1988 AND 1989, THE FIRST $12.5 MILLION RECEIVED IN EACH FISCAL YEAR FROM THE COLLECTION OF INDIVIDUAL INCOME TAXES UNDER TITLE 15, CHAPTER 30, MUST BE DEPOSITED IN THE INCOME TAX WINDFALL RESERVE ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR THE PURPOSE OF PROVIDING A RESERVE TO OFFSET THE IMPACT OF POTENTIAL OVERESTIMATES OF THE INCOME TAX WINDFALL REVENUES TO THE STATE.

(3) THE BALANCE IN THE INCOME TAX WINDFALL RESERVE ACCOUNT AT THE END OF THE 1989 FISCAL YEAR MUST BE TRANSFERRED TO THE GENERAL FUND AND INCLUDED IN THE ENDING GENERAL FUND BALANCE.

SECTION 6. SECTION 15-1-501, MCA, IS AMENDED TO READ:

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

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

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

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

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

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

(2) ~~Seventy-five--percent--of-all-moneys-received-from the--collection--of--income--taxes--under--chapter--30---and corporation--license--and--income--taxes--under--chapter-31, except-as-provided-in-15-31-702,-shall-be-deposited--in--the general--fund--subject-to-the-prior-pledge-and-appropriation of-such-income-tax-and-corporation-license--tax--collections for--the--payment--of-long-range-building-program-bonds.--The remaining-25%-of-the-proceeds--of--the--corporation--license tax,---excluding---that--allocated--to--the--counties--under 15-31-702,-corporation-income-tax,-and-income-tax--shall--be deposited--to--the--credit-of-the-state-special-revenue-fund for-state-equalization-aid-to-the-public-schools-of-Montana.~~ All moneys received from the collection of income taxes under chapter 30 of this title that is not deposited in the income tax windfall reserve account pursuant to [section 5] shall be deposited as follows:

(a) 58.2% to the credit of the state general fund;

(b) 10% to the credit of the debt service account for long-range building program bonds as described in 17-5-408;

and

(c) 31.8% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All moneys received from the collection of corporation license and income taxes under chapter 31 of this title, except as provided in 15-31-702, shall be deposited as follows:

(a) 64% to the credit of the state general fund;

(b) 11% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) 25% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

~~(3)~~(4) The state treasurer shall also deposit to the credit of the state general fund all moneys received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

~~(4)~~(5) Thirty-three and one-third percent of the total collections of the oil severance tax under chapter 36 shall be deposited into the local government block grant account within the state special revenue fund. After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections shall be deposited in the general fund."

Section 7. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the ~~following-elements of-the-income-tax-structure:~~

~~(a)--the~~ tax brackets established in 15-30-103, but unadjusted by subsection ~~(2)~~ (3) of 15-30-103, in effect on June 30 of the taxable year~~;~~

~~(b)--the--exemptions--contained---in---15-30-112,---but unadjusted--by--subsections--(7)--and--(8)--of-15-30-112,-in effect-on-June-30-of-the-taxable-year;~~

~~(c)--the--maximum--standard---deduction---provided---in 15-30-122,-but-unadjusted-by-subsection-(2)-of-15-30-122,-in effect-on-June-30-of-the-taxable-year~~.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

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

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other

property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

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

(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code ~~of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended~~.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June~~, 1980~~ 1987.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers

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

(10) "Knowingly" is as defined in 45-2-101.

(11) "Net taxable income" ~~means--the--adjusted-gross income-of-a-taxpayer-less-the--deductions--allowed--by--this chapter~~ is the federal taxable income of a taxpayer, including interest received from obligations of another state or political subdivision thereof, less the adjustments specified in 15-30-111.

(12) "Nonresident" refers to a person who has not established a residence in this state during the taxable year.

~~(12)~~(13) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(14) "Part-year resident" refers to a taxpayer who is a

resident of this state and another state during the taxpayer's taxable year.

~~(13)~~(15) "Purposely" is as defined in 45-2-101.

~~(14)~~(16) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(15)~~(17) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

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

~~(17)~~(18) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(18)~~(19) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Section 8. Section 15-30-103, MCA, is amended to read:

"15-30-103. Rate of tax. (1) There shall be levied, collected, and paid for each taxable year commencing on or after December 31, ~~1968~~ 1986, upon the net taxable income of every taxpayer subject to this tax, ~~after--making--allowance for-exemptions-and-deductions-as-hereinafter-provided~~ except those subject to subsection (2), a tax on the following brackets of net taxable income, as adjusted under subsection ~~(2)~~ (3), at the following rates:

~~(a)--on-the-first-$1,000-of-taxable-income-or-any--part thereof,-2%;~~

~~(b)--on--the--next-$1,000-of-taxable-income-or-any-part thereof,-3%;~~

~~(c)--on-the-next-$2,000-of-taxable-income-or--any--part thereof,-4%;~~

~~(d)--on--the--next-$2,000-of-taxable-income-or-any-part thereof,-5%;~~

~~(e)--on-the-next-$2,000-of-taxable-income-or--any--part thereof,-6%;~~

~~(f)--on--the--next-$2,000-of-taxable-income-or-any-part thereof,-7%;~~

~~(g)--on-the-next-$4,000-of-taxable-income-or--any--part thereof,-8%;~~

~~(h)--on--the--next-$6,000-of-taxable-income-or-any-part thereof,-9%;~~

~~(i)--on-the-next-$15,000-of-taxable-income-or-any--part~~

~~thereof,-10%,~~

~~(j)--on--any-taxable-income-in-excess-of-$35,000-or-any part-thereof,-11%.~~

(a) $0 to $4,500 of net taxable income, ~~4%~~ 3% of net taxable income;

(b) over $4,500 to $12,000 of net taxable income, ~~$180~~ $135 plus ~~6%~~ 5% of net taxable income over $4,500;

(c) over $12,000 of net taxable income, ~~$630~~ $510 plus ~~8%~~ 7% of net taxable income over $12,000.

(2) There shall be levied, collected, and paid for each taxable year commencing on or after December 31, 1986, upon the net taxable income of every taxpayer filing a return using the married filing separate status a tax on the following brackets of net taxable income, as adjusted under subsection (3), at the following rates:

(a) $0 to $2,250 of net taxable income, ~~4%~~ 3% of net taxable income;

(b) over $2,250 to $6,000 of net taxable income, ~~$90~~ $67.50 plus ~~6%~~ 5% of net taxable income over $2,250;

(c) over $6,000 of net taxable income, ~~$315~~ $255 plus ~~8%~~ 7% of net taxable income over $6,000.

~~(2)~~(3) By November 1 of each year, the department shall multiply the bracket amount contained in ~~subsection~~ subsections (1) and (2) by the inflation factor for that taxable year and round the cumulative brackets to the nearest $100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in ~~subsection~~ subsections (1) and (2) of this section."

Section 9. Section 15-30-105, MCA, is amended to read:

"15-30-105. Tax on nonresident -- alternative tax based on gross sales. (1) A like tax is imposed upon every person not resident of this state, which tax shall be levied, collected, and paid annually at the rates specified in 15-30-103 with respect to his entire net income as herein defined from all property owned and from every business, trade, profession, or occupation carried on in this state.

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed $100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. Such tax shall be in lieu of the ~~tax~~ ~~taxes~~ TAX imposed under 15-30-103 ~~and-[section-16]~~. The gross volume of sales made in Montana during the taxable year shall be determined according to the provisions of Article IV, sections 16 and

17, of the Multistate Tax Compact."

~~NEW-SECTION.--Section-16.--Montana--alternative-minimum tax.--(1)-A-minimum-tax-shall-be-levied,-collected,-and-paid for-each-taxable-year-commencing-on-or--after--December--31, 1986,--upon--the--income--of--every--taxpayer-subject-to-the provisions-of-this-chapter.~~

~~(2)--A-person-who-is-a-resident-of-Montana-shall-file-a Montana-alternative-minimum-tax-return-if-he:~~

~~(a)--is-required-by-sections--SECTION--55--through--59, Internal--Revenue--Code,--to--file-PAY-a-federal-alternative minimum-tax-return;-or~~

~~(b)--has-received-interest-from-obligations-of--another state--or-political-subdivision-thereof-that-are-exempt-from taxation-pursuant-to-section-103(a)-of-the-Internal--Revenue Code-and-the-amount-of-interest-exceeds:~~

~~(i)--$40,000,-if-married-filing-jointly;~~

~~(ii)-$30,000,-if-single-or-head-of-household;~~

~~(iii)-$20,000,-if-married-filing-separately.~~

~~(3)--A--person--who--is--a--nonresident--or--who--is--a part-year--resident--of--Montana--shall---file---a---Montana alternative--minimum--tax--return--if-he-has-one-or-more-tax preference-items-as-defined-in-sections-55-through-59-of-the Internal--Revenue--Code--that--are--attributable--to--income derived--from-sources-in-this-state-and-that-income-exceeds:~~

~~(a)--$40,000,-if-married-filing-jointly;~~

~~(b) $30,000, if single or head of household;~~

~~(c) $20,000, if married filing separately.~~

~~(4) For a resident, the taxpayer's federal alternative minimum taxable income, LESS THE APPLICABLE EXEMPTION AMOUNT PROVIDED FOR IN SECTION 55 OF THE INTERNAL REVENUE CODE, must be increased by the amount of interest received from obligations of another state or political subdivision thereof, which sum shall be reduced by the following:~~

~~(a) all interest received from obligations of the United States government;~~

~~(b) all railroad retirement benefits; and~~

~~(c) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation.~~

~~(5) (a) For a nonresident or part-year resident, the taxpayer's federal alternative minimum taxable income, LESS THE APPLICABLE EXEMPTION AMOUNT PROVIDED FOR IN SECTION 55 OF THE INTERNAL REVENUE CODE, must be prorated to determine his Montana alternative minimum taxable income. The prorated income is arrived at by dividing the Montana adjusted gross income determined pursuant to 15-30-131 or [section 19] by the federal adjusted gross income and multiplying this percentage by the taxpayer's federal alternative minimum taxable income.~~

~~(b) The taxpayer's prorated Montana alternative~~

~~minimum--taxable--income--is--then--adjusted--to-include-the interest-received-from-obligations-of--another--state--or--a political--subdivision-thereof,-if-the-interest-is-used-in-a trade,-occupation,-or-business-carried-on-in-this-state;~~

~~(c)--The--taxpayer's---prorated---Montana---alternative minimum-taxable-income-must-then-be-reduced-by:~~

~~(i)--all--interest--received--from--obligations--of-the United-States-government;~~

~~(ii)-all-railroad-retirement-benefits;-and~~

~~(iii)-all-income-earned-by--an--enrolled--member--of--a federally--recognized--Indian-tribe-while-living-and-working on-a-federally-established-Indian-reservation.~~

~~(d)--For---residents,---nonresidents,---and---part-year residents,--the--rates--provided-for-in-15-30-103-must-<u>A-TAX RATE-OF-5%-SHALL</u>--be--applied--to--the--Montana--alternative minimum--taxable--income.-The-taxpayer-shall-pay-the-greater amount-of-the-Montana-alternative-minimum--tax--or--the--tax provided-for-in:~~

~~(i)--15-30-111,-if-a-resident;~~

~~(ii)-15-30-131,-if-a-nonresident;-or~~

~~(iii)-[section-19],-if-a-part-year-resident.~~

~~(6)--Each--taxpayer--shall--furnish--with--his--Montana alternative--minimum--tax--return--a--copy--of--his--federal alternative-minimum-tax-return.~~

Section 10. Section 15-30-111, MCA, is amended to

read:

"15-30-111. ~~Adjusted-gross~~ Montana net taxable income for residents. (1) ~~Adjusted-gross~~ Montana net taxable income for residents shall be the taxpayer's federal ~~income-tax adjusted-gross~~ taxable income as defined in ~~section--62--of~~ the Internal Revenue Code ~~of-1954-or-as-that-section-may-be labeled--or--amended~~ and in addition shall include the following:

(a) all interest received on obligations of another state ~~or-territory-or--county,--municipality,--district,~~ or ~~other~~ political subdivision thereof;

(b) all refunds received of federal income tax in 1987, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability~~,--and~~

~~(c)--that--portion--of--a--shareholder's--income--under subchapter-S,-of-Chapter-1-of-the-Internal-Revenue--Code--of 1954--that-has-been-reduced-by-any-federal-taxes-paid-by-the subchapter-S,-corporation-on-the-income.~~

(2) Notwithstanding the provisions of the ~~federal~~ Internal Revenue Code ~~of--1954--as--labeled--or--amended,~~ ~~adjusted-gross~~, Montana net taxable income does not include the following, which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government~~,---the---state---of---Montana,---county,~~

~~municipality,---district,--or--other--political--subdivision thereof~~;

~~(b)--interest-income-earned-by-a--taxpayer--age--65--or older--in--a--taxable--year--up--to-and-including-$800-for-a taxpayer-filing-a-separate-return-and-$1,600-for-each--joint return,~~

~~(c)--all-benefits-received-under-the-Federal-Employees' Retirement-Act-not-in-excess-of-$3,600,~~

~~(d)--all--benefits,--not-in-excess-of-$360,-received-as an-annuity,-pension,--or--endowment--under--any--private--or corporate-retirement-plan-or-system,~~

~~(e)--all--benefits--paid-under-the-teachers'-retirement law-which-are-specified-as-exempt-from-taxation-by-19-4-706,~~

~~(f)--all-benefits--paid--under--The--Public--Employees' Retirement--System--Act--which--are-specified-as-exempt-from taxation-by-19-3-105,~~

~~(g)--all--benefits--paid--under--the---highway---patrol retirement--law--which-are-specified-as-exempt-from-taxation by-19-6-705,~~

~~(h)--all-Montana-income-tax-refunds-or-credits-thereof,~~

~~(i)--all-benefits-paid-under-19-11-602,-19-11-604,--and 19-11-605---to--retired--and--disabled--firefighters,--their surviving-spouses-and-orphans,~~

~~(j)--all--benefits--paid--under--the--municipal--police officers'--retirement--system--that--are-specified-as-exempt~~

~~from taxation by 19-9-1005,~~

~~(k) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii),~~

~~(l) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging,~~

~~(m) all benefits received under the workers' compensation laws, and~~

~~(n) all health insurance premiums paid by an employer for an employee if attributed as income to the employee under federal law.~~

~~(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S, of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the~~

~~extent-they-would-be-treated-as--taxable--dividends--if--the subchapter-S,-election-were-not-in-effect.~~

~~(4)--A--shareholder--of--a-DISC-that-is-exempt-from-the corporation-license-tax-under-15-31-102(1)(1)-shall--include in-his-adjusted-gross-income-the-earnings-and-profits-of-the DISC--in-the-same-manner-as-provided-by-federal-law-(section 995,-Internal-Revenue-Code)-for-all-periods--for--which--the DISC-election-is-effective.~~

~~(5)--A--taxpayer--who,--in-determining-federal-adjusted gross-income,-has-reduced--his--business--deductions--by--an amount-for-wages-and-salaries-for-which-a-federal-tax-credit was--elected--under-section-44B-of-the-Internal-Revenue-Code of-1954-or-as-that-section-may--be--labeled--or--amended--is allowed-to-deduct-the-amount-of-such-wages-and-salaries-paid regardless--of--the-credit-taken.-The-deduction-must-be-made in-the-year-the-wages-and-salaries-were-used-to-compute--the credit.--In--the--case--of--a--partnership-or-small-business corporation,-the-deduction-must-be--made--to--determine--the amount--of--income--or--loss--of--the--partnership--or-small business-corporation.~~

~~(6)--Married-taxpayers-filing-a--joint--federal--return who--must--include-part-of-their-social-security-benefits-or part-of-their-tier-1-railroad-retirement-benefits-in-federal adjusted-gross-income-may-split-the--federal--base--used--in calculation--of--federal-taxable-social-security-benefits-or~~

~~federal-taxable-tier-1--railroad--retirement--benefits--when they--file--separate-Montana-income-tax-returns.--The-federal base-must-be-split-equally-on-the-Montana-return.~~

~~(7)--A---taxpayer---receiving---retirement---disability benefits--who--has--not--attained--age--65-by-the-end-of-the taxable-year-and-who-has-retired-as-permanently-and--totally disabled--may--exclude-from-adjusted-gross-income-up-to-$100 per-week-received-as-wages-or-payments-in-lieu-of-wages--for a--period--during-which-the-employee-is-absent-from-work-due to-the-disability.--If-the-adjusted-gross-income-before-this exclusion-and-before-application-of-the--two-earner--married couple--deduction--exceeds--$15,000,--the-excess-reduces-the exclusion-by-an-equal-amount.-This--limitation--affects--the amount--of-exclusion,-but-not-the-taxpayer's-eligibility-for the-exclusion.--If-eligible,-married-individuals-shall-apply the-exclusion-separately,--but--the--limitation--for--income exceeding--$15,000-is-determined-with-respect-to-the-spouses on-their-combined-adjusted-gross-income.-For-the-purpose--of this--subsection,--permanently--and--totally--disabled-means unable-to-engage-in--any--substantial--gainful--activity--by reason--of--any--medically--determined--physical--or--mental impairment-lasting-or-expected-to-last-at-least--12--months.~~

(b) all railroad retirement benefits;

(C) ALL BENEFITS, NOT IN EXCESS OF $3,600, RECEIVED AS AN ANNUITY, PENSION, OR ENDOWMENT UNDER ANY PUBLIC, PRIVATE,

OR CORPORATE RETIREMENT PLAN OR SYSTEM OTHER THAN A RAILROAD RETIREMENT PLAN;

~~(c)~~(D) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation;

(E) 40% OF CAPITAL GAINS ON THE SALE OR EXCHANGE OF CAPITAL ASSETS BEFORE DECEMBER 31, 1986, AS CAPITAL GAINS ARE DETERMINED UNDER SUBCHAPTER P OF CHAPTER 1 OF THE INTERNAL REVENUE CODE AS IT READ ON DECEMBER 31, 1986.

(3) A taxpayer who elects to itemize his deductions from income on his federal return for tax year 1987 and who is required to pay additional federal tax due in 1987 for the 1986 tax year may deduct the federal tax paid in 1987 from his Montana net income."

Section 11. Section 15-30-131, MCA, is amended to read:

"15-30-131. ~~Nonresident----and----temporary---resident taxpayers----adjusted-gross-income----deductions~~ Montana net taxable income for nonresidents. (1) ~~In--the--case--of--a taxpayer--other--than--a-resident-of-this-state,~~ Montana net taxable income for nonresidents is derived from adjusted gross income from sources within and without the state, determined as follows:

(a) Montana adjusted gross income includes the entire amount of federal adjusted gross income from sources within this state, but ~~shall~~ does not include income from annuities, interest on bank deposits, interest on bonds, notes, or other interest-bearing obligations, or dividends on stock of corporations except to the extent to which the same ~~shall-be~~ are a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in adjusted gross income. ~~Adjusted-gross-income from--sources--within--and--without--this--state--shall---be allocated--and--apportioned--under--rules--prescribed-by-the department.~~

~~(2)--In-the-case-of-a-taxpayer-other-than-a-resident-of this-state-who-is-a-resident-of-a-state-that-imposes--a--tax on-the-income-of-natural-persons-residing-within-that-state, the---deductions---allowed---in--computing--net--income--are restricted-to-those-directly-connected-with--the--production of-Montana-income.~~

~~(3)--In-the-case-of-a-taxpayer-other-than-a-resident-of this-state-who-is-a-resident-of-a-state-that-does-not-impose a--tax-on-the-income-of-natural-persons-residing-within-that state,-the-deductions-allowed-in-computing--net--income--are restricted--to-the-greater-of-those-directly-relating-to-the production-of-Montana-income-or-a-prorated-amount--of--those allowed---under---15-30-121.---For---the--purposes--of--this~~

~~subsection, deductions allowed under 15-30-121 apply only to earned income and must be prorated according to the ratio that the taxpayer's Montana earned income bears to his federal earned income.~~

~~(4) A temporary resident shall be allowed those deductions and the credit under 15-32-109 allowed a resident to the extent that such deductions or credit were actually incurred or expended in the state of Montana during the course of his residency.~~

~~(5) For the purposes of this section, "earned income" shall be defined as the same term is defined in section 43 of the Internal Revenue Code, or as that section may subsequently be amended.~~

~~(6) Notwithstanding the provisions of subsections (2) and (3), any contribution made after December 31, 1982, to the state of Montana or a political subdivision thereof shall be an allowable deduction in computing net income. The deduction is subject to the limitations set forth in section 170 of the Internal Revenue Code of 1954, as labeled or amended.~~

(b) To determine his Montana net taxable income, a nonresident may deduct from his Montana adjusted gross income only the following items:

(i) a prorated part of the federal exemption provided for in section 151 of the Internal Revenue Code;

(ii) a prorated part of the taxpayer's federally allowed home mortgage interest;

(iii) a prorated part of the taxpayer's federally allowed medical expenses;

(iv) all sums donated to:

(A) an organization qualified under section 501(c)(3) of the Internal Revenue Code to receive tax-exempt contributions, which conducts its principal activity in this state; or

(B) the state of Montana or a political subdivision or agency thereof;

(v) all railroad retirement benefits;

(vi) all interest received from United States obligations;

(vii) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation;

(VIII) INTEREST AND TAXES ON MONTANA PROPERTY USED FOR THE PRODUCTION OF MONTANA INCOME.

(c) The prorated part referred to in subsections (1)(b)(i) through (1)(b)(iii) is determined by multiplying the ratio of Montana adjusted gross income to federal adjusted gross income by the federally allowed deductions specified in subsections (1)(b)(i) through (1)(b)(iii).

(d) The department may adopt rules for allocating and apportioning adjusted gross income from sources within and without this state.

~~(7)~~(2) For purposes of this section, "installment sales" means sales in which the buyer agrees to pay the seller in one or more deferred installments.

(3) The nonresident's Montana net taxable income is subject to the rates provided in 15-30-103."

NEW SECTION. Section 12. Montana net taxable income for part-year residents. (1) To determine Montana net taxable income, a part-year resident may deduct from his Montana adjusted gross income a prorated part of his federal standard deduction or a prorated part of the itemized deductions allowed by the Internal Revenue Code. The deduction allowed in this section must be the same as taken by the taxpayer on his federal return for the year. The prorated part is determined by multiplying the ratio of Montana adjusted gross income to federal adjusted gross income by the standard deductions or itemized deductions.

(2) For purposes of this section, Montana adjusted gross income is determined as follows:

(a) Montana adjusted gross income includes federal adjusted gross income from all sources received during the period of residency and all interest income from installment sales of real or tangible commercial or business property located in Montana, less the following:

(i) all interest received from obligations of the United States government;

(ii) all railroad retirement income; and

(iii) all income earned by an enrolled member of a federally recognized Indian tribe while living and working on a federally established Indian reservation.

(b) Montana adjusted gross income does not include the following unless a part of income from a business, trade, profession, or occupation carried on in this state:

(i) income from annuities;

(ii) interest on bank deposits;

(iii) interest on bonds, notes, or other interest-bearing obligations; or

(iv) dividends on stock of corporations.

(3) The part-year resident's Montana net taxable income is subject to the rates provided in 15-30-103.

Section 13. Section 15-30-132, MCA, is amended to read:

"15-30-132. Change ~~from--nonresident--to--resident-or vice-versa~~ of residency status. ~~If-a--taxpayer--changes--his status--from-that-of-resident-to-that-of-nonresident-or-from that-of-nonresident-to-that-of-resident-during--the--taxable year,--he--shall--file-a-return-covering-the-fraction-of-the year-during-which-he-was-a-resident.-The-exemptions-provided in-15-30-112-shall-be-prorated--on--the--ratio--the--Montana~~

~~adjusted--gross--income--bears--to--federal--adjusted--gross income.~~ A Montana citizen moving out of the state, abandoning his residence in the state, and establishing a residence elsewhere must file a return ~~on--the--fractional basis~~. If he obtains employment outside the state without abandoning his Montana residence, then income from such employment is taxable in Montana."

Section 14. Section 15-30-135, MCA, is amended to read:

"15-30-135. Tax on beneficiaries or fiduciaries of estates or trusts. (1) A tax shall be imposed upon either the fiduciaries or the beneficiaries of estates and trusts as hereinafter provided, except to the extent such estates and trusts ~~shall-be~~ are held for educational, charitable, or religious purposes, which tax shall be levied, collected, and paid annually with respect to the income of estates or of any kind of property held in trust, including:

(a) income received by estates of deceased persons during the period of administration or settlement of the estate;

(b) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(c) income held for future distribution under the terms of the will or trust; and

(d) income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of a minor, to be held or distributed as the court may direct.

(2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts, whether the fiduciary or the beneficiaries are taxable with reference to the income of such estate or trust. In cases under subsections (a) and (d) of subsection (1), the fiduciary shall include in the return a statement of each beneficiary's distributive share of net income, whether or not distributed before the close of the taxable year for which the return is made.

(3) In cases under subsections (a), (b), and (c) of subsection (1), the tax shall be imposed upon the fiduciary of the estate or trust with respect to the <u>Montana</u> net income of the estate or trust and shall be paid by the fiduciary. If the taxpayer's net income for the taxable year of the estate or trust is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year shall be computed upon the basis on which such beneficiary's net income is

computed. In such cases, a beneficiary not a resident shall be taxable with respect to his income derived through such estate or trust only to the extent provided in 15-30-131 for individuals other than residents.

(4) The fiduciary of a trust created by an employer as a part of a stock bonus, pension, or profit-sharing plan for the exclusive benefit of some or all of his employees, to which contributions are made by such employer or employees, or both, for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, shall not be taxable under this section, but any amount contributed to such fund by the employer and all earnings of such fund shall be included in computing the income of the distributee in the year in which distributed or made available to him.

(5) Where any part of the income of a trust other than a testamentary trust is or may be applied to the payment of premiums upon policies of insurance on the life of the grantor (except policies of insurance irrevocably payable for the purposes and in the manner specified relating to the so-called "charitable contribution" deduction) or to the payment of premiums upon policies of life insurance under which the grantor is the beneficiary, such part of the income of the trust shall be included in computing the net income of the grantor."

Section 15. Section 15-30-136, MCA, is amended to read:

"15-30-136. Computation of income of estates or trusts ~~---exemption~~. ~~(1)--Except--as--otherwise--provided--in--this chapter,--"gross--income"--of--estates--or--trusts-means-all income-from-whatever-source-derived--in--the--taxable--year, including-but-not-limited-to-the-following-items:~~

~~(a)--dividends;~~

~~(b)--interest--received--or-accrued,-including-interest received-on-obligations-of-another-state-or-territory--or--a county,---municipality,---district,---or---other---political subdivision-thereof,--but--excluding--interest--income--from obligations-of:~~

~~(i)--the--United--States--government--or--the--state-of Montana;~~

~~(ii)-a-school-district;-or~~

~~(iii)-a--county,--municipality,--district,---or---other political-subdivision-of-the-state;~~

~~(c)--income-from-partnerships-and-other-fiduciaries;~~

~~(d)--gross-rents-and-royalties;~~

~~(e)--gain--from-sale-or-exchange-of-property,-including those-gains-that-are-excluded-from-gross-income-for--federal fiduciary--income--tax--purposes--by--section--641(c)-of-the Internal-Revenue-Code-of-1954,-as-amended;~~

~~(f)--gross-profit-from-trade-or-business,-and~~

~~(g)--refunds-recovered-on-federal-income--tax,--to--the extent--the-deduction-of-such-tax-resulted-in-a-reduction-of Montana-income-tax-liability.~~

~~(2)--In-computing-net--income,--there--are--allowed--as deductions:~~

~~(a)--interest---expenses--deductible--for--federal--tax purposes-according-to-section-163-of--the--Internal--Revenue Code-of-1954,-as-amended;~~

~~(b)--taxes--paid--or--accrued--within-the-taxable-year, including--but--not--limited--to--federal--income--tax,--but excluding-Montana-income-tax;~~

~~(c)--that---fiduciary's---portion--of--depreciation--or depletion-which--is--deductible--for--federal--tax--purposes according--to--sections--167,--611,--and-642-of-the-Internal Revenue-Code-of-1954,-as-amended;~~

~~(d)--charitable-contributions-that-are--deductible--for federal--tax--purposes--according--to--section-642(c)-of-the Internal-Revenue-Code-of-1954,-as-amended;~~

~~(e)--administrative-expenses-claimed-for-federal-income tax-purposes,-according-to-sections-212-and--642(g)--of--the Internal--Revenue-Code-of-1954,-as-amended,-if-such-expenses were-not-claimed-as-a--deduction--in--the--determination--of Montana-inheritance-tax;~~

~~(f)--losses--from--fire,--storm,--shipwreck,--or--other casualty-or-from-theft,-to-the-extent-not-compensated-for-by~~

~~insurance-or-otherwise,-that-are-deductible-for-federal--tax purposes--according--to--section-165-of-the-Internal-Revenue Code-of-1954,-as-amended;~~

~~(g)--net-operating-loss-deductions-allowed-for--federal income-tax-under-section-642(d)-of-the-Internal-Revenue-Code of--1954,--as--amended,--except-estates-may-not-claim-losses that-are-deductible-on-the-decedent's-final-return;~~

~~(h)--all--benefits--received--as---federal---employees' retirement-not-in-excess-of-$3,600;~~

~~(i)--all--benefits--paid--under--the--Montana-teachers' retirement-system-that-are-specified-as-exempt-from-taxation by-19-4-706;~~

~~(j)--all--benefits--paid--under--the---Montana---Public Employees'--Retirement--System--Act--that--are--specified-as exempt-from-taxation-by-19-3-105;~~

~~(k)--all--benefits--paid--under--the--Montana---highway patrolmen's--retirement--system-that-are-specified-as-exempt from-taxation-by-19-6-705;~~

~~(l)--Montana-income-tax-refunds-or-credits-thereof;~~

~~(m)--all-benefits-paid-under-19-11-602,-19-11-604,--and 19-11-605-to-retired-and-disabled-firemen-or-their-surviving spouses-or-children;~~

~~(n)--all--benefits--paid--under--the--municipal--police officers'-retirement-system-that--are--specified--as--exempt from-taxation-by-19-9-1005;~~

~~(c)--all--benefits-not-in-excess-of-$360-received-as-an annuity,-pension,-or-endowment-under--private--or--corporate retirement-plans-or-systems.~~

~~(3)--In-the-case-of-a-shareholder-of-a-corporation-with respect--to-which-the-election-provided-for-under-subchapter S,-of-the-Internal-Revenue-Code-of-1954,-as-amended,--is--in effect--but--with-respect-to-which-the-election-provided-for under-15-31-202-is--not--in--effect,--net--income--does--not include--any-part-of-the-corporation's-undistributed-taxable income,-net-operating-loss,-capital-gains--or--other--gains, profits,---or---losses---required--to--be--included--in--the shareholder's-federal-income-tax-net-income-by-reason-of-the election-under-subchapter-S.-However,-the-shareholder's--net income---shall---include---actual---distribution---from--the corporation-to-the-extent-it-would--be--treated--as--taxable dividends--if-the-subchapter-S,-election-were-not-in-effect.~~

(1) The Montana taxable income of an estate or trust is its federal taxable income as provided by the Internal Revenue Code, including interest received on obligations of another state or a political subdivision thereof, reduced by interest received from obligations of the United States government.

~~(4)~~(2) ~~The--following-additional-deductions-shall-be~~ A deduction is allowed in deriving taxable income of estates and trusts~~:~~

~~(a)--any~~ for the amount of income ~~for~~ in the taxable year currently required to be distributed to beneficiaries for such ~~year;~~ year.

~~(b)--any--other--amounts--properly--paid-or-credited-or required-to-be-distributed-for-the-taxable-year;~~

~~(c)--the-amount--of--60%--of--the--excess--of--the--net long-term--capital-gain-over-the-net-short-term-capital-loss for-the-taxable-year.~~

~~(5)--The-exemption-allowed-for-estates--and--trusts--is that----exemption----provided----in----15-30-112(2)(a)---and 15-30-112(8).~~"

Section 16. Section 15-30-141, MCA, is amended to read:

"15-30-141. Tax as personal debt. Every tax imposed by this chapter and all increases, interest, and penalties thereon ~~shall-be~~ are from the time they are due and payable a personal debt from the person or fiduciary liable to pay the same to the state. Taxpayers filing a joint return are jointly and severally liable for the tax and any interest and penalty unless the department determines, based on the criteria in section 6013(e) of the Internal Revenue Code, that a spouse is relieved of liability."

Section 17. Section 15-30-142, MCA, is amended to read:

"15-30-142. ~~Returns~~ Filing of returns and payment of tax ~~---penalty-and-interest----refunds----credits~~. (1) Every ~~single~~ individual ~~and-every-married-individual-not-filing--a joint--return--with--his--or--her--spouse-and-having-a-gross income-for-the-taxable-year-of-more-than-$1,000,-as-adjusted under--the--provisions--of--subsection--(7),---and---married individuals---not--filing--separate--returns--and--having--a combined-gross-income-for-the--taxable--year--of--more--than $2,000,--as--adjusted-under-the-provisions-of-subsection-(7)~~ subject to a tax pursuant to this chapter who is required by section 6012 of the Internal Revenue Code to file a federal income tax return or who receives income in excess of $5,000 from obligations of another state or a political subdivision thereof~~,-shall-be~~ is liable for a return to be filed on such forms and according to such rules as the department may prescribe. ~~The-gross--income--amounts--referred--to--in--the preceding--sentence--shall-be-increased-by-$800,-as-adjusted under-the-provisions--of--15-30-112(7)--and--(8),--for--each additional--personal--exemption--allowance--the--taxpayer-is entitled--to--claim--for--himself--and--his---spouse---under 15-30-112(3)--and--(4).--A--nonresident-shall-be-required-to file-a-return-if-his--gross--income--for--the--taxable--year derived--from--sources--within-Montana-exceeds-the-amount-of the-exemption-deduction-he-is-entitled-to-claim-for--himself and--his--spouse--under-the-provisions-of-15-30-112(2),-(3), and-(4),-as-prorated-according-to-15-30-112(6).~~

~~(2)--In-accordance-with-instructions-set-forth--by--the department,--every--taxpayer--who-is-married-and-living-with husband-or-wife-and-is-required-to-file-a-return-may,-at-his or-her-option,-file-a-joint-return-with-husband-or-wife-even though-one-of-the--spouses--has--neither--gross--income--nor deductions.--If--a--joint--return--is-made,-the-tax-shall-be computed-on-the-aggregate-taxable-income-and--the--liability with--respect--to--the--tax-shall-be-joint-and-several.--If-a joint-return-has-been-filed-for-a-taxable-year,-the--spouses may--not-file-separate-returns-after-the-time-for-filing-the return-of--either--has--expired--unless--the--department--so consents.~~

<u>(2) Every person who is required to file a return under subsection (1) shall use the same filing status to file his state return as that used by him to file his federal return.</u>

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid

after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241~~, provided, however,~~ if the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer ~~shall be~~ is entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of ~~9% per annum~~ 3/4 of 1% per month or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

~~(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than~~

~~these-adjusted-amounts-are-not-required-to-file-a-return.~~

~~(8)--Individual-income-tax--forms--distributed--by--the department--for--each-taxable-year-must-contain-instructions and-tables-based-on-the-adjusted--base--year--structure--for that-taxable-year.~~"

Section 18. Section 15-30-144, MCA, is amended to read:

"15-30-144. Time for filing -- extensions of time. (1) Returns shall be made to the department on or before the 15th day of the 4th month following the close of the taxpayer's fiscal year, or if the return is made on the basis of the calendar year, then the return shall be made on or before the 15th day of April following the close of the calendar year. Each return shall set forth such facts as the department considers necessary for the proper enforcement of this chapter. There shall be annexed to such return the affidavit or affirmation of the persons making the return to the effect that the statements contained therein are true. Blank forms of return shall be furnished by the department upon application, but failure to secure the form shall not relieve any taxpayer of the obligation to make any return required under this law. ~~Every-taxpayer-liable-for-a-tax under-this-law-shall-pay-a-minimum-tax-of-$1.~~

~~(2)--An-automatic-6-month-extension-of-time-for--filing a-return-is-allowed,-provided-that-on-or-before-the-due-date~~

~~of--the--return,--an--application-is-made-on-forms-available from-the-department-or-in-writing-to-the-department.~~

(2) The person making the return may obtain an automatic ~~2-month~~ 4-MONTH extension of time for filing a return, subject to the following:

(a) An application for extension must be filed before the due date for filing the return on a form prescribed by the department ~~and--be--accompanied--by--a--copy--of---the applicant's--federal--income--tax-form-4868-submitted-to-the internal-revenue-service-for-the--same--tax--year--and--same extension-of-the-return-filing-period~~.

(b) If the applicant is not required to make a federal income tax return, he must indicate that fact on the application for extension filed with the department.

(c) An automatic extension of time to make the state income tax return is not an extension of time to pay the income tax due. The applicant must calculate and remit with the application the tax due, less withheld tax payments, estimated tax payments, and tax credits for which the applicant may be eligible.

(d) If the applicant underestimates his tax due by 10% or more, he is liable for penalties and interest under 15-30-323 from the date the tax is due.

(3) The department shall grant an application for extension of time for filing a return if the applicant

submits an application as set forth in subsection (2). The department need not notify an applicant of its determination unless it denies the application.

(4) A person granted an automatic extension under subsection (2) may be granted an additional extension, not to exceed ~~4~~ 2 months from the date for filing a return, if upon further application the person shows good cause to receive another extension. The filing of an appeal from a denial of the application for another extension does not stay the time for filing the return."

Section 19. Section 15-30-146, MCA, is amended to read:

"15-30-146. Tolling of statute of limitations. The running of the statute of limitations provided for under 15-30-145 shall be suspended during any period that the federal statute of limitations for collection of federal income tax has been suspended by written agreement signed by the taxpayer or when the taxpayer has instituted an action which has the effect of suspending the running of the federal statute of limitations and for 1 additional year. If the taxpayer fails to file a record of changes in federal taxable income or an amended return as required by 15-30-304, the statute of limitations shall not apply until 5 years from the date the federal changes become final or the amended federal return was filed. If the taxpayer omits from gross income an amount properly includable therein which is in excess of 25% of the amount of ~~adjusted--gross~~ net taxable income stated in the return, the statute of limitations shall not apply for 2 additional years from the time specified in 15-30-145."

Section 20. Section 15-30-162, MCA, is amended to read:

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

~~(a)--it-was-placed-in-service-in-Montana;-and~~

~~(b)--it-was-used-for-the-production-of-Montana-adjusted gross-income.~~

~~(2)--The--amount--of-the-credit-allowed-for-the-taxable year-is-5%-of-the-amount-of-credit-determined-under--section~~

~~46(a)(2)--of--the-Internal-Revenue-Code-of-1954,-as-amended, or-as-section-46(a)(2)-may-be-renumbered-or-amended.~~

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

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

~~(5)~~ The investment credit ~~allowed--by--this--section~~ taken by a taxpayer pursuant to this chapter is subject to recapture as provided for in section 47 of the Internal Revenue Code ~~of--1954,-as-amended,-or-as-section-47-may-be renumbered-or-amended~~."

Section 21. Section 15-30-303, MCA, is amended to read:

"15-30-303. Confidentiality of tax records. (1) Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for the department or any deputy, assistant, agent, clerk, or other officer or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this chapter or any other information secured in the administration of this chapter. It is also unlawful to divulge or make known in any manner any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) The officers charged with the custody of such reports and returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except in any action or proceeding to which the department is a party under the provisions of this chapter or any other taxing act or on behalf of any party to any action or proceedings under the provisions of this chapter or such other act when the reports or facts shown thereby are directly involved in such action or proceedings, in either of which events the court may require the production of and may admit in evidence so

much of said reports or of the facts shown thereby as are pertinent to the action or proceedings and no more.

(3) Nothing herein shall be construed to prohibit:

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

(b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof; or

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

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

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

(6) Notwithstanding the provisions of this section, the department may permit the commissioner of internal revenue of the United States or the proper officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either such officer to inspect the return of income of any individual or may furnish to such officer or his authorized representative an abstract of the return of income of any individual or supply him with information concerning any item of income contained in any return or disclosed by the report of any investigation of the income or return of income of any individual, but such permission shall be granted or such information furnished to such officer or his representative only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter.

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

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

~~(b)~~ to the department of social and rehabilitation services information acquired under 15-30-301, pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public assistance fraud and abuse, provided notice to the applicant has been given."

Section 22. Section 15-31-202, MCA, is amended to read:

"15-31-202. Election by small business corporation. (1) A small business corporation ~~may-elect~~ THAT HAS MADE A VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL REVENUE CODE IS not ~~to--be~~ subject to the taxes imposed by this chapter.

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

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

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

~~shareholder.~~

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

(2) A SMALL BUSINESS CORPORATION THAT HAS MADE A VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL REVENUE CODE SHALL FILE BY THE 15TH DAY OF THE THIRD MONTH OF ITS FIRST TAXABLE YEAR A COPY OF THE INTERNAL REVENUE SERVICE NOTIFICATION OR OTHER PROOF THAT A VALID FEDERAL ELECTION HAS BEEN MADE. IF SUCH PROOF IS NOT FILED BY THE TIME THE DEPARTMENT RECEIVES THE CORPORATION'S FIRST TAX RETURN, THE DEPARTMENT SHALL NOTIFY THE CORPORATION THAT SUCH PROOF IS REQUIRED WITHIN 60 DAYS OF THE DATE OF THE NOTICE. IF PROOF IS NOT RECEIVED WITHIN 60 DAYS, OR A REASONABLE EXTENSION DATE BASED UPON A REQUEST BY THE TAXPAYER PRIOR TO THE EXPIRATION OF THE 60 DAYS, THE CORPORATION IS SUBJECT TO THE TAXES IMPOSED BY THIS CHAPTER.

(3) A SMALL BUSINESS CORPORATION THAT HAS MADE A VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL REVENUE CODE MAY ELECT TO BE SUBJECT TO THE TAXES IMPOSED BY THIS CHAPTER BY FILING AN ELECTION ON A FORM PROVIDED BY THE DEPARTMENT. THE FORM MUST HAVE PRINTED ON IT A NOTIFICATION THAT MAKING THE ELECTION WILL SUBJECT INCOME TO TAX UNDER BOTH THIS CHAPTER AND CHAPTER 30. FOR TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 1987, BUT BEFORE MARCH 1, 1988, THE

ELECTION MUST BE FILED BY MAY 15, 1988. THEREAFTER THE ELECTION MUST BE FILED BY THE 15TH DAY OF THE THIRD MONTH OF THE TAXABLE YEAR FOR WHICH THE ELECTION IS TO BECOME EFFECTIVE. THE ELECTION MAY BE REVOKED BY WRITTEN NOTIFICATION TO THE DEPARTMENT. SUCH REVOCATION MUST BE FILED BY THE 15TH DAY OF THE THIRD MONTH OF THE TAXABLE YEAR FOR WHICH THE REVOCATION IS TO BE EFFECTIVE.

(4) This ~~election~~ SECTION is not effective unless the corporate net income or loss of ~~such---electing~~ THE NONELECTING SMALL BUSINESS corporation is included in the stockholders' ~~adjusted-gross~~ income ~~as-defined-in-15-30-111~~.

(5) Every ~~electing~~ NONELECTING SMALL BUSINESS corporation is required to pay ~~the~~ A minimum fee of $10 required by 15-31-204."

SECTION 23. SECTION 15-31-204, MCA, IS AMENDED TO READ:

"15-31-204. Minimum fee of qualifying corporations unaffected. Notwithstanding the provisions of 15-31-121 corporations ~~electing--and~~ qualifying under 15-31-202 shall pay a minimum fee of $10."

SECTION 24. SECTION 15-31-209, MCA, IS AMENDED TO READ:

"15-31-209. Termination and revocation. If the election under the provisions of Subchapter S is either terminated or revoked for federal purposes, the corporation must notify the department within 30 days of such termination or revocation. ~~The-department-may-terminate-an election-at-any-time-if-it-discovers--the--corporation--does not--qualify-as-a-small-business-corporation-as-provided-for under-the-provisions-of-Subchapter-S-of-the-Internal-Revenue Code-of-1954.~~ A corporation that does not have a valid federal election for the entire taxable year is subject to tax under this chapter."

SECTION 25. SECTION 15-32-402, MCA, IS AMENDED TO READ:

"15-32-402. Commercial investment credit -- wind-generated electricity. (1) An individual, corporation, partnership, or small business corporation as defined in ~~15-31-201~~ Subchapter S of Chapter 1 of the Internal Revenue Code that makes an investment of $5,000 or more in certain depreciable property qualifying under section 38 of the Internal Revenue Code ~~of-1954,-as-amended,~~ for a commercial system located in Montana which generates electricity by means of wind power is entitled to a tax credit against taxes imposed by 15-30-103 or 15-31-121 in an amount equal to 35% of the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income produced by one of the following:

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

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

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

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

(a) generating equipment;

(b) safety devices and storage components;

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

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

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

SECTION 26. SECTION 17-5-408, MCA, IS AMENDED TO READ:

"17-5-408. (Effective unless contingency occurs--see compiler's comments) Percentage of income, corporation license, and cigarette tax pledged. (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account ~~11%~~ 10% of all money~~,~~ ~~except--as--provided--in--15-31-702,~~ received from the collection of the individual income tax and 11% of all money, except as provided in 15-31-702, received from the collection of the corporation license and income tax ~~referred-to~~ as provided in 15-1-501, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4)~~,-provided-that~~.

(b) ~~no~~ No more than ~~11%~~ the percentages described in subsection (1)(a) of such tax collections ~~shall-be-deemed-to~~ may be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

(2) The state pledges and appropriates and directs to be credited to the debt service account 79.75% of all money received from the collection of the excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and

assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2). (Revived July 1, 1987--sec. 4, Ch. 704, L. 1985.)

17-5-408. (Effective on occurrence of contingency--see compiler's comments) Percentage of income, corporation license, and cigarette tax pledged. (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account ~~11%~~ 10% of all money~~,~~ ~~except--as--provided--in--15-31-702,~~ received from the collection of the individual income tax and 11% of all money, except as provided in 15-31-702, received from the collection of the corporation license and income tax ~~referred-to~~ as provided in 15-1-501, and such additional amount of said taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4)~~,-provided-that~~.

(b) ~~no~~ No more than ~~11%~~ the percentages described in subsection (1)(a) of such tax collections ~~shall-be-deemed-to~~

may be pledged for the purpose of 17-5-403(2). The pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of said taxes.

(2) The state pledges and appropriates and directs to be credited to the debt service account 53.17% of all money received from the collection of the excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing herein shall impair or otherwise affect the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation herein made shall be and remain at all times a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 27. Section 19-3-105, MCA, is amended to read:

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

~~(1)~~(1) subject to execution, garnishment, attachment, or any other process~~;,~~;

~~(2)--subject--to--state,--county,--or--municipal--taxes except-for-a--refund--paid--under--19-3-703--of--a--member's contributions--picked-up-by-an-employer-after-June-30,-1985, as-provided-in-19-3-701;-or~~

(2) SUBJECT TO STATE, COUNTY, OR MUNICIPAL TAXES TO THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID UNDER 19-3-703 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-3-701; OR

~~(3)~~(3) ~~nor--is-it~~ assignable except as in this chapter specifically provided."

Section 28. Section 19-4-706, MCA, is amended to read:

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

~~(1)--exempted-from-any-state,-county,-or-municipal--tax of--the--state--of--Montana--except--for-a-refund-paid-under 19-4-603--of--a--member's--contributions--picked--up--by--an employer-after-June-30,-1985,-as-provided-in-19-4-602,~~

(1) EXEMPTED FROM ANY STATE, COUNTY, OR MUNICIPAL TAX

OF THE STATE OF MONTANA TO THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID UNDER 19-4-603 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-4-602;

~~(2)~~(2) not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process~~,~~; and

~~(3)~~(3) ~~are~~ unassignable except as specifically provided in this chapter."

SECTION 29. SECTION 19-5-704, MCA, IS AMENDED TO READ:

"19-5-704. Exemption from taxes and legal process. Any money received or to be paid as a member's annuity, state annuity, or return of deductions or the right of any of these shall be exempt from any state or municipal tax to the extent provided in 15-30-111 and from levy, sale, garnishment, attachment, or any other process whatsoever and shall be unassignable except as specifically provided in 19-5-705."

Section 30. Section 19-6-705, MCA, is amended to read:

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

~~(1)--exempt--from--any--state,--county,--or--municipal-tax except-for-a--refund--paid--under--19-6-403--of--a--member's~~

~~contributions--picked-up-by-an-employer-after-June-30,-1985, as-provided-in-19-6-402;~~

(1) EXEMPT FROM ANY STATE, COUNTY, OR MUNICIPAL TAX TO THE EXTENT PROVIDED IN 15-30-111, EXCEPT FOR A REFUND PAID UNDER 19-6-403 OF A MEMBER'S CONTRIBUTIONS PICKED UP BY AN EMPLOYER AFTER JUNE 30, 1985, AS PROVIDED IN 19-6-402;

~~(2)~~(2) exempt from levy, sale, garnishment, attachment, or any other process~~,~~; and

~~(3)~~(3) ~~is~~ unassignable except as specifically provided in 19-6-706."

SECTION 31. SECTION 19-7-705, MCA, IS AMENDED TO READ:

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

(1) exempt from any state, county, or municipal tax to the extent provided in 15-30-111, except for a refund paid under 19-7-304(1) of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-7-403;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-7-706."

SECTION 32. SECTION 19-8-805, MCA, IS AMENDED TO READ:

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

(1) exempt from any state, county, or municipal tax <u>to the extent provided in 15-30-111,</u> except for a refund paid under 19-8-503 of the member's contributions picked up by an employer after June 30, 1985, as provided in 19-8-502;

(2) exempt from levy, sale, garnishment, attachment, or any other process; and

(3) unassignable except as specifically provided in 19-8-806."

<u>SECTION 33. SECTION 19-9-1005, MCA, IS AMENDED TO READ:</u>

"19-9-1005. Exemption from taxes. Any money paid in accordance with the provisions of this chapter is exempt from any state, county, or municipal tax <u>to the extent provided in 15-30-111,</u> except a refund paid under 19-9-304 of a member's contributions picked up by an employer after June 30, 1985, as provided in 19-9-601."

<u>SECTION 34. SECTION 19-13-1003, MCA, IS AMENDED TO READ:</u>

"19-13-1003. Exemption from taxes. Any money received as a retirement allowance in accordance with the provisions of this chapter is exempt from any state or municipal tax <u>to</u>

<u>the extent provided in 15-30-111</u>."

Section 35. Section 53-2-101, MCA, is amended to read:

"53-2-101. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Department" means the department of social and rehabilitation services provided for in Title 2, chapter 15, part 22.

(2) "Public assistance" or "assistance" means any type of monetary or other assistance furnished under this title to a person by a state or county agency, regardless of the original source of the assistance.

(3) "Needy person" is one who is eligible for public assistance under the laws of this state.

(4) "Net monthly income" means one-twelfth of the difference between the net <u>taxable</u> income for the taxable year as the term net <u>taxable</u> income is defined in 15-30-101 and the state income tax paid as determined by the state income tax return filed during the current year.

(5) "Ward Indian" is hereby defined as an Indian who is living on an Indian reservation set aside for tribal use or is a member of a tribe or nation accorded certain rights and privileges by treaty or by federal statutes. If and when the federal Social Security Act is amended to define a "ward Indian", such definition shall supersede the foregoing definition."

Section 36. Section 67-11-303, MCA, is amended to read:

"67-11-303. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including revenues derived from:

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

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

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

(d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that no such bonds may be issued at any time if the total amount of principal and interest to become due in any year on such bonds and on any then outstanding bonds for which revenues from the same source or sources are pledged exceeds the amount of such revenues to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any are pledged,

sufficient to make the revenues from the pledged source in such year at least equal to the amount of such principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest at a rate not exceeding the limitation of 17-5-102. Except as otherwise provided herein, any bonds issued pursuant to this chapter by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose by a political subdivision ~~within the meaning of 15-30-111(2)(a)~~ <u>for purposes of tax exemption determinations under the Internal Revenue Code</u>.

(5) For the security of any such bonds, the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenues referred to in this chapter,

prior to the payment of current costs of operation and maintenance of the facilities.

(6) Subject to the conditions stated in this subsection (6), the governing body of any municipality having a population in excess of 10,000, with respect to bonds issued pursuant to this chapter by the municipality or by an authority in which the municipality is included, may by resolution covenant that in the event that at any time all revenues, including taxes, appropriated and collected for such bonds are insufficient to pay principal or interest then due, it will levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency; and may further covenant that at any time a deficiency is likely to occur within 1 year for the payment of principal and interest due on such bonds, it will levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes are not subject to any limitation of rate or amount applicable to other municipal taxes but are limited to a rate estimated to be sufficient to produce the amount of the deficiency. In the event more than one municipality having a population in excess of 10,000 is included in an authority issuing bonds pursuant to this chapter, the municipalities may apportion the obligation to levy taxes for the payment of, or in anticipation of, a deficiency in the revenues

appropriated for such bonds in such manner as the municipalities may determine. The resolution shall state the principal amount and purpose of the bonds and the substance of the covenant respecting deficiencies. No such resolution becomes effective until the question of its approval has been submitted to the qualified electors of the municipality at a special election called for that purpose by the governing body of the municipality and a majority of the electors voting on the question have voted in favor thereof. The notice and conduct of the election is governed, to the extent applicable, as provided for municipal general obligation bonds in Title 7, chapter 7, part 42, for an election called by cities and towns, and as provided for county general obligation bonds in Title 7, chapter 7, part 22, for an election called by counties. If a majority of the electors voting thereon vote against approval of the resolution, the municipality has no authority to make the covenant or to levy a tax for the payment of deficiencies pursuant to this section, but such municipality or authority may nevertheless issue bonds under this chapter payable solely from the sources referred to in subsection (1) above."

SECTION 37. SECTION 20-9-318, MCA, IS AMENDED TO READ:

"20-9-318. Elementary school maximum budget schedule for ~~1986-87~~ 1987-88 and succeeding years. For ~~1986-87~~

1987-88 and succeeding school years, the elementary school maximum budget schedule is as follows:

(1) For each elementary school having an ANB of nine or fewer pupils, the maximum shall be $20,158 if said school is approved as an isolated school.

(2) For schools with an ANB of 10 pupils but less than 18 pupils, the maximum shall be $20,158 plus $842.50 per pupil on the basis of the average number belonging over nine.

(3) For schools with an ANB of at least 14 pupils but less than 18 pupils that qualify for instructional aide funding under 20-9-322, the maximum shall be $33,042 plus $842.50 per pupil on the basis of the average number belonging over 14.

(4) For schools with an ANB of 18 pupils and employing one teacher, the maximum shall be $27,741 plus $842.50 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 25.

(5) For schools with an ANB of 18 pupils and employing two full-time teachers, the maximum shall be $44,290 plus $527.60 per pupil on the basis of the average number belonging over 18, not to exceed an ANB of 50.

(6) For schools having an ANB in excess of 40, the maximum on the basis of the total pupils (ANB) in the district for elementary pupils will be as follows:

(a) For a school having an ANB of more than 40 and employing a minimum of three teachers, the maximum of $1,957 shall be decreased at the rate of $1.90 for each additional pupil until the total number (ANB) shall have reached a total of 100 pupils.

(b) For a school having an ANB of more than 100 pupils, the maximum of $1,843 shall be decreased at the rate of $1.74 for each additional pupil until the ANB shall have reached 300 pupils.

(c) For a school having an ANB of more than 300 pupils, the maximum shall not exceed $1,496 for each pupil.

(7) The maximum per pupil for all pupils (ANB) and for all elementary schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil (ANB). All elementary schools operated within the incorporated limits of a city or town shall be treated as one school for the purpose of this schedule."

SECTION 38. SECTION 20-9-319, MCA, IS AMENDED TO READ:

"20-9-319. High school maximum budget schedule for ~~1986-87~~ 1987-88 and succeeding years. For ~~1986-87~~ 1987-88 and succeeding school years, the high school maximum budget schedule is as follows:

(1) For each high school having an ANB of 24 or fewer pupils, the maximum shall be $114,845.

(2) For a secondary school having an ANB of more than

24 pupils, the maximum $4,785 shall be decreased at the rate of $26.10 for each additional pupil until the ANB shall have reached a total of 40 such pupils.

(3) For a school having an ANB of more than 40 pupils, the maximum of $4,368 shall be decreased at the rate of $26.10 for each additional pupil until the ANB shall have reached 100 pupils.

(4) For a school having an ANB of more than 100 pupils, a maximum of $2,802 shall be decreased at the rate of $4.37 for each additional pupil until the ANB shall have reached 200 pupils.

(5) For a school having an ANB of more than 200 pupils, the maximum of $2,365 shall be decreased by $2.40 for each additional pupil until the ANB shall have reached 300 pupils.

(6) For a school having an ANB of more than 300 pupils, the maximum of $2,125 shall be decreased at the rate of 44 cents until the ANB shall have reached 600 pupils.

(7) For a school having an ANB over 600 pupils, the maximum shall not exceed $1,993 per pupil.

(8) The maximum per pupil for all pupils (ANB) and for all high schools shall be computed on the basis of the amount allowed herein on account of the last eligible pupil (ANB). All high schools and junior high schools which have been approved and accredited as junior high schools,

operated within the incorporated limits of a city or town, shall be treated as one school for the purpose of this schedule."

SECTION 39. SECTION 20-9-343, MCA, IS AMENDED TO READ:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means those moneys deposited in the state special revenue fund as required in this section plus any legislative appropriation of moneys from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state equalization aid shall be made in a single sum for the biennium. The superintendent of public instruction has authority to spend such appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following shall be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) ~~25%~~ 31.8% of all moneys received from the collection of income taxes under chapter 30 of Title 15;

(b) 25% of all moneys, except as provided in 15-31-702, received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) 10% of the moneys received from the collection of the severance tax on coal under chapter 35 of Title 15;

(d) 100% of the moneys received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income moneys described in 20-9-341 and 20-9-342;

(f) income from the local impact and education trust fund account; and

(g) in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333 shall be paid into the same state special revenue fund.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium [or may be transferred to the state permissive account if revenues in that fund are insufficient to meet the state's permissive amount obligation]."

NEW SECTION. SECTION 40. SURTAX. AFTER THE AMOUNT OF TAX LIABILITY HAS BEEN COMPUTED AS REQUIRED IN 15-30-103, EACH PERSON FILING A MONTANA INDIVIDUAL INCOME TAX RETURN SHALL ADD AS A SURTAX 22% OF THE TAX LIABILITY, AND THE

AMOUNT SO ARRIVED AT IS THE AMOUNT DUE THE STATE.

Section 41. Section 15-31-113, MCA, is amended to read:

"15-31-113. Gross income and net income. (1) The term "gross income" means all income recognized in determining the corporation's gross income for federal income tax purposes and:

(a) including:

(i) interest exempt from federal income tax;

(ii) the portion of gain from a liquidation of the reporting corporation not recognized for federal corporate income tax purposes pursuant to sections 331 through ~~337~~ 338 of the Internal Revenue Code ~~(as--those-sections-may-be amended-or-renumbered)~~ attributable to stockholders, either individual or corporate, not subject to Montana income or license tax under Title 15, chapter 30 or chapter 31, as appropriate, on the gain passing through to the stockholders pursuant to federal law; and

(b) excluding gain recognized for federal tax purposes as a shareholder of a liquidating corporation pursuant to sections 331 through ~~337~~ 338 of the Internal Revenue Code ~~(as--those--sections--may-be-amended-or-renumbered)~~ when the gain is required to be recognized by the liquidating corporation pursuant to subsection (1)(a)(ii) of this section.

(2) The term "net income" means the gross income of the corporation ~~less-the-deductions-set-forth-in~~ as adjusted by 15-31-114 and [section ~~37~~ ~~44~~ 43].

(3) No corporation is exempt from the corporation license tax unless specifically provided for under 15-31-101(3) or 15-31-102. Any corporation not subject to or liable for federal income tax but not exempt from the corporation license tax under 15-31-101(3) or 15-31-102 shall compute gross income for corporation license tax purposes in the same manner as a corporation that is subject to or liable for federal income tax according to the provisions for determining gross income in the federal Internal Revenue Code in effect for the taxable year."

Section 42. Section 15-31-114, MCA, is amended to read:

"15-31-114. Deductions allowed in computing income. In computing the net income, the following deductions shall be allowed from the gross income received by such corporation within the year from all sources:

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in the maintenance and operation of its business and properties, including reasonable ~~allowance~~ deductions for salaries for personal services actually rendered, subject to the limitation hereinafter contained, rentals or other payments required to

be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title or in which it has no equity. These deductions shall be determined and calculated in accordance with the Internal Revenue Code. No deduction shall be allowed for salaries paid upon which the recipient thereof has not paid Montana state income tax; provided, however, that where domestic corporations are taxed on income derived from without the state, salaries of officers paid in connection with securing such income shall be deductible.

(2) (a) All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the wear and tear and obsolescence of property used in the trade or business, such allowance to be determined according to the provisions of section 167 of the Internal Revenue Code in effect with respect to the taxable year. All elections for depreciation shall be the same as the elections made for federal income tax purposes. No deduction shall be allowed for any amount paid out for any buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) (i) There shall be allowed as a deduction for the taxable period a net operating loss deduction determined according to the provisions of this subsection. The net operating loss deduction is the aggregate of net operating loss carryovers to such taxable period ~~plus--the--net operating-loss-carrybacks-to-such-taxable--period~~ PLUS THE NET OPERATING LOSS CARRYBACKS TO SUCH TAXABLE PERIOD, SUBJECT TO A $100,000 LIMIT ON NET OPERATING LOSS IN ANY ONE LOSS YEAR. The term "net operating loss" means the excess of the deductions allowed by this section, 15-31-114, over the gross income, with the modifications specified in (ii) of this subsection. If for any taxable period ~~beginning--after December--31,--1970,~~ a net operating loss is sustained, NOT MORE THAN $100,000 OF such loss ~~shall--be--a--net--operating loss---carryback--to--each--of--the--three--taxable--periods preceding-the-taxable-period-of-such-loss-and~~ SHALL BE A NET OPERATING LOSS CARRYBACK TO EACH OF THE THREE TAXABLE PERIODS PRECEDING THE TAXABLE PERIOD OF THE LOSS, AND THE AMOUNT OF THE LOSS NOT CARRIED BACK shall be a net operating loss ~~carryover~~ carryforward to each of the ~~five~~ ~~three~~ SEVEN taxable periods following the taxable period of such loss. A net operating loss sustained for any taxable period ending after December 31, 1975, ~~in-addition-to-being~~ and beginning before January 1, 1987, shall be a net operating loss carryback to each of the three preceding taxable periods~~,~~

~~shall--be~~, NOT SUBJECT TO THE $100,000 CARRYBACK LIMITATION, and a net operating loss ~~carryover~~ carryforward to each of the seven taxable periods following the taxable period of such loss. ~~The~~ SUBJECT TO THE $100,000 CARRYBACK LIMITATION FOR A LOSS YEAR, THE portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the net income for each of the prior taxable periods to which such loss was carried. For purposes of the preceding sentence, the net income for such prior taxable period shall be computed with the modifications specified in (ii)(B) of this subsection and by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss period or any taxable period thereafter, and the net income so computed shall not be considered to be less than zero.

(ii) The modifications referred to in (i) of this subsection shall be as follows:

(A) No net operating loss deduction shall be allowed.

(B) The deduction for depletion shall not exceed the amount which would be allowable if computed under the cost method.

(C) Any net operating loss carried over to any taxable years beginning after December 31, 1978, must be calculated under the provisions of this section effective for the taxable year for which the ~~return-claiming-the-net-operating loss-carryover-is-filed~~ loss occurred.

(iii) A net operating loss deduction shall be allowed only with regard to losses attributable to the business carried on within the state of Montana.

(iv) In the case of a merger of corporations, the surviving corporation shall not be allowed a net operating loss deduction for net operating losses sustained by the merged corporations prior to the date of merger. In the case of a consolidation of corporations, the new corporate entity shall not be allowed a deduction for net operating losses sustained by the consolidated corporations prior to the date of consolidation.

(v) Notwithstanding the provisions of 15-31-531, interest shall not be paid with respect to a refund of tax resulting from a net operating loss carryback or ~~carryover~~ carryforward.

~~(vi)-The-net-operating--loss--deduction--shall--not--be allowed--with--respect--to-taxable-periods-which-ended-on-or before-December-31,-1970,-but-shall--be--allowed--only--with respect--to-taxable-periods-beginning-on-or-after-January-1, 1971.~~

(3) In the case of mines, other natural deposits, oil and gas wells, and timber, a reasonable allowance for depletion and for depreciation of improvements; such

reasonable allowance to be determined according to the provisions of the Internal Revenue Code in effect for the taxable year. All elections made under the Internal Revenue Code with respect to capitalizing or expensing exploration and development costs and intangible drilling expenses for corporation license tax purposes shall be the same as the elections made for federal income tax purposes.

(4) The amount of interest paid within the year on its indebtedness incurred in the operation of the business from which its income is derived; but no interest shall be allowed as a deduction if paid on an indebtedness created for the purchase, maintenance, or improvement of property or for the conduct of business unless the income from such property or business would be taxable under this part.

(5) (a) Taxes paid within the year, except the following:

(i) Taxes imposed by this part.

(ii) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed.

(iii) Taxes on or according to or measured by net income or profits imposed by authority of the government of the United States.

(iv) Taxes imposed by any other state or country upon or measured by net income or profits.

(b) Taxes deductible under this part shall be construed to include taxes imposed by any county, school district, or municipality of this state.

(6) Light vehicle license fees, as provided by 61-3-532, and fees in lieu of taxes for motorcycles and quadricycles, as provided by 61-3-541, paid within the year.

~~(7)--That--portion--of--an--energy-related---investment allowed-as-a-deduction-under-15-32-103.~~

~~(8)~~(7) (a) Except as provided in subsection (b), charitable contributions and gifts that qualify for deduction under section 170 of the Internal Revenue Code~~,-as amended~~.

(b) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under this subsection.

~~(9)~~(8) In lieu of the deduction allowed under subsection ~~(8)~~ (7), the taxpayer may deduct the fair market value, not to exceed 30% of the taxpayer's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(a) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(b) the property is not transferred by the donee in exchange for money, other property, or services; and

(c) the taxpayer receives a written statement from the donee in which the donee agrees to accept the property and representing that the use and disposition of the property will be in accordance with the provisions of (b) of this subsection ~~(9)~~ (8)."

NEW SECTION. Section 43. Deductions not allowed. In computing net income, ~~the-following-are-not-deductible--from gross-income-under-this-chapter:~~

~~(1)--the--election--fee--for--a--water's-edge--election pursuant-to-[section-49];~~

~~(2)~~ the deductions allowed for dividends under sections 243 through 245 of the Internal Revenue Code ARE NOT DEDUCTIBLE FROM GROSS INCOME UNDER THIS CHAPTER, unless otherwise provided in this title.

Section 44. Section 15-31-121, MCA, is amended to read:

"15-31-121. Rate of tax -- ~~alternative~~ minimum tax. (1) ~~The~~ Except as provided in subsection ~~(3)~~ (2) ~~AND [SECTION-44]~~, the percentage of net income to be paid under 15-31-101 shall be ~~6-3/4%~~ ~~6%~~ 6 3/4% of all net income for the taxable period. ~~The-rate-set-forth-in-this-part-shall-be effective-for-all-taxable-years-ending-on-or-after--February 28,--1971.-This-rate-is-retroactive-to-and-effective-for-all taxable-years-ending-on-or-after-February-28,-1971.~~

~~(2)--Every-corporation-subject-to-taxation--under--this part-shall,-in-any-event,-pay-a-minimum-tax-of-not-less-than $50.~~

~~(2)--(a)-There-is-an-alternative-minimum-tax-imposed-on all-corporations-filing-tax-returns-pursuant-to-this-part-IF THEY-ARE-REQUIRED-TO-PAY-A-TAX-PURSUANT-TO-SECTION-55-OF-THE INTERNAL--REVENUE-CODE.-The-minimum-tax-is-an-alternative-to the-tax,-if-any,-computed-in-subsection-(1).-Taxable--income for--purposes--of--the--minimum--tax--is--the--corporation's alternative-minimum-taxable-income-as-calculated-pursuant-to the-Internal-Revenue-Code,--LESS--THE--APPLICABLE--EXEMPTION AMOUNT--PROVIDED--FOR--IN-SECTION-55-OF-THE-INTERNAL-REVENUE CODE.~~

~~(b)--If-the-corporation-is-required--to--apportion--its income---pursuant--to--15-31-305,--the--federal--alternative minimum--taxable--income--shall---be---multiplied---by---the apportionment-factor-for-the-corporation.--If-the-corporation allocates---its---income---pursuant---to--15-31-301(3),--the adjustments,-preferences,-and-losses--used--to--compute--the federal---alternative---minimum---taxable--income--shall--be allocated-on-the-same-basis-as-its-income-and-expenses.~~

~~(c)--The-MONTANA-alternative-minimum-tax-shall-be:~~

~~(i)--6%-4%-of-the-federal-alternative--minimum--taxable income--in-the-case-of-a-corporation-that-does-not-apportion its-income-pursuant-to--15-31-305--or--allocate--its--income~~

~~pursuant-to-15-31-301;-or~~

~~(ii)-6%--4%--of--the--amount--computed-under-subsection (2)(b)-in-the-case-of--a--corporation--that--is--subject--to 15-31-301-or-15-31-305.~~

~~(3)~~(2) Each corporation shall compute its tax under ~~both~~ subsection (1) ~~and-subsection-(2)~~ and shall pay ~~the higher~~ THAT amount or $50, whichever is greater."

NEW SECTION. Section 45. Dividend credit. (1) A corporation subject to tax as provided in this chapter that receives a cash dividend from a member of the same affiliated group that is also subject to tax as provided in this chapter is entitled to a tax credit. The credit is equal to the tax rate provided in 15-31-121(1) multiplied by the amount of the dividend and, in the case of a multistate corporation, also multiplied by the Montana apportionment ratio of the payee corporation.

(2) The credit is refundable in the year it is claimed, to the extent that it exceeds what would otherwise be the tax liability of the recipient pursuant to this chapter.

(3) The term "affiliated group" as used in this section has the same meaning as used in section 1504(a)(1) of the Internal Revenue Code.

~~Section-47.--Section--15-31-305,--MCA,--is--amended--to read:~~

~~"15-31-305.--Apportionment-of-business-income.--(1)-All business-income--shall--be--apportioned--to--this--state--by multiplying-the-income-by-a-fraction,-the-numerator-of-which is--the--property--factor--plus--the-payroll-factor-plus-the sales-factor-and-the-denominator-of-which-is-3.~~

~~(2)--In-the--case--of--a--parent--corporation--that--is incorporated--in--a--foreign-country,-neither-the-income-nor the-factors-described-in-subsection-(1)-shall-be--considered for-purposes-of-calculations-under-subsection-(1)-unless-the corporation--is--subject--to-tax-in-this-state-as-a-separate taxable-entity.~~

~~(3)--IN-THE-CASE-OF-A-CORPORATION-SUBJECT-TO-TAX--UNDER THIS-CHAPTER-THAT-RECEIVES-DIVIDEND-INCOME-FROM-CORPORATIONS INCORPORATED--IN--A--FOREIGN-COUNTRY,-THE-DIVIDEND-INCOME-IS SUBJECT-TO-APPORTIONMENT-ONLY--TO--THE--EXTENT--SUCH--INCOME CONSTITUTES-BUSINESS-INCOME-AS-DEFINED-IN-15-31-302.~~

~~(4)--IN-THE-FIRST-5-YEARS-THAT-A-CORPORATION-IS-TAXABLE UNDER-THIS-CHAPTER,-ONLY-15%-OF-DIVIDEND-INCOME-DESCRIBED-IN SUBSECTION-(3)-IS-TAXABLE.--THEREAFTER,-100%-OF-SUCH-DIVIDEND INCOME--THAT--CONSTITUTES--BUSINESS--INCOME--AS--DEFINED--IN 15-31-302-IS-TAXABLE.--THE-15%-TAXABILITY-OF-DIVIDEND--INCOME DOES--NOT-APPLY-TO-A-CORPORATION-THAT-OPERATES-FOR-THE-FIRST TIME-IN-MONTANA-MERELY-AS-A-RESULT-OF-A-REORGANIZATION-OF-AN EXISTING--CORPORATION--OR--UNITARY--BUSINESS--OPERATING---IN MONTANA."~~

~~NEW-SECTION.--Section-48.--Water's-edge--election.--(1) A-corporation-that-is-subject-to-apportionment--as--provided in--15-31-305-may-elect-to-determine-its-income-derived-from or-attributable-to-sources-within-this-state-pursuant--to--a water's-edge--election--in-accordance-with-the-provisions-of this-part.-A-corporation-that-makes-a-water's-edge--election shall-take-into-account-the-income-and-apportionment-factors of-the-following-affiliated-entities-only:~~

~~(a)--an--affiliated--corporation-that-is-eligible-to-be included-in-a-federal-consolidated-return--as--described--in sections-1501-through-1505-of-the-Internal-Revenue-Code,~~

~~(b)--any--corporation,-regardless-of-the-place-where-it is-incorporated,-if-the-average-of--its--property,--payroll, and--sales--factors-within-the-United-States-is-20%-or-more,~~

~~(c)--a-corporation-that-is-incorporated-in--the--United States,--excluding--corporations--described--in-sections-931 through-936-of-the-Internal-Revenue-Code,-of-which-more-than 50%-of-its-stock-is-controlled-directly-or-indirectly-by-the same-interests,-which-are-not-included-in-subsection-(1)(a),~~

~~(d)--a-corporation-that-is-not-described-in-subsections (1)(a)-through-(1)(c),-but-only-to-the-extent-of-its--income derived--from--or--attributable-to-sources-within-the-United States-and-its-factors-assignable-to-a-location--within--the United--States.-Income-of-such-a-corporation-derived-from-or attributable-to-sources-within-the-United-States-is--limited~~

~~to and determined from the books of account maintained by the corporation with respect to its activities conducted within the United States, as determined by federal income tax law;~~

~~(e) an export trade corporation, as described in sections 970 and 971 of the Internal Revenue Code;~~

~~(f) an affiliated corporation that is a "controlled foreign corporation", as defined in section 957 of the Internal Revenue Code, if all or part of the income of that affiliate is defined in section 952 of the Internal Revenue Code as "subpart F income". The income and apportionment factors of an affiliate to be included under this subsection (f) must be determined by multiplying the income and apportionment factors of the affiliate without application of this subsection by a fraction (not to exceed one), the numerator of which is the "subpart F income" of the corporation and the denominator of which is the "earnings and profits" of the corporation, as defined in section 964 of the Internal Revenue Code.~~

~~(2) The income and factors of the corporations enumerated in subsections (1)(a) through (1)(e) must be taken into account only if the income and factors would have been taken into account under 15-31-305 if this section had not been enacted.~~

~~(3) For purposes of this section an "affiliated~~

~~corporation"-is-a-corporation-that-is-part-of--one--or--more chains--of--corporations,-connected-through-stock-ownership, with-a-common-parent,-if-both-of--the--following--conditions exist:~~

~~(a)--over-50%-of-the-voting-stock-of-the-corporation-is directly-or-indirectly-owned-or-controlled-by-one-or-more-of the-other-corporations;-and~~

~~(b)--the--common--parent--owns,-directly-or-indirectly, over-50%-of-the-voting-stock-of-at-least-one--of--the--other corporations.~~

~~NEW-SECTION.--Section-49.--Qualifications----------for water's-edge-election.--In-order-to-qualify-for-the-election in-[section-41-48],-a-corporation-shall:~~

~~(1)--file-with--the--state--tax--return--on--which--the election---is---made---written--consent--to--the--taking--of depositions-from-key-domestic-corporate-individuals--and--to the-acceptance-of-subpoenas-duces-tecum-requiring-reasonable production-of-documents-to-the-department-as-required-by-the state--tax--appeal-board-or-by-the-courts-of-this-state.-The consent-remains-in-effect-while-the-water's-edge-election-is in-effect.-The-consent-is-limited-to--providing--information necessary:~~

~~(a)--to--review--or--adjust--income--or-deductions-in-a manner-authorized-under-sections-482,-861,-and--951--through 964--of--the-Internal-Revenue-Code-(or-similar-provisions-of~~

~~the-Internal-Revenue-Code),-together--with--the--regulations adopted-pursuant-thereto;-and~~

~~(b)--for--the--conduct-of-an-investigation-with-respect to-any-unitary-business-in--which--the--corporation--may--be involved;-and~~

~~(2)--agree-that-for-purposes-of-this-chapter:~~

~~(a)--dividends--received--by--it,if-it-is-a-corporation whose--income--and--apportionment--factors--are--taken--into account--pursuant-to-15-31-305,-from-either-of-the-following are-considered-to-be-functionally-related-dividends-and--are presumed-to-be-business-income:~~

~~(i)--a-corporation-that-has-more-than-50%-of-the-voting stock--owned,--directly--or--indirectly,--by--members-of-the unitary-group-and-that-is-engaged-in-the-same--general--line of-business;-or~~

~~(ii)-a-corporation-that:~~

~~(A)--is--either--a-significant-source-of-supply-for-the unitary-business-or-a-significant-purchaser-of-the-output-of the-unitary-business;-or~~

~~(B)--sells-a-significant-part-of-its-output-or--obtains a--significant--part--of-its-raw-materials-or-input-from-the unitary-business;~~

~~(b)--as-used-in--subsection--(2)(a)(ii),--"significant" means--an--amount--of--15%-or-more-of-supply,-raw-materials, input,-or-output;~~

~~(c)--all-other-dividends-are-classified-as-business--or nonbusiness-income.~~

~~NEW-SECTION.--Section-50.--Laws---and---regulations--of other-states.--The-definitions-and--locations--of--property, payroll,--and--sales--must--be-determined-under-the-laws-and regulations-that-set-forth-the-apportionment--formulas--used by--the--individual--states--to-assign-net-income-subject-to taxes-on-or-measured-by-net-income.--If--a--state--does--not impose--a--tax-on-or-measured-by-net-income-or-does-not-have laws-or--regulations--with--respect--to--the--assignment--of property,--payroll,--and--sales,--the--laws--and-regulations provided-in-this-chapter-apply.~~

~~NEW-SECTION.--Section-51.--Rejection--of---water's-edge election.---(1)--A--water's-edge-election-may-be-rejected-by the-department-only-if-a-corporation-fails-to:~~

~~(a)--comply-substantially-with-[section-48-~~55~~]--or--any federal--law--requiring-the-filing-of-domestic-spreadsheets, or~~

~~(b)--do-any-of-the-following:~~

~~(i)--retain--and--make--available--upon---request---the documents--and--information,--including--any--questionnaires completed-and-submitted-to-the-internal-revenue--service--or qualified---states,--that--are--necessary--to--audit--issues involving-attribution-of-income--to--the--United--States--or foreign--jurisdictions--under--sections--482,-861,-863,-902,~~

~~984,-and-951-through-964-of-the-Internal--Revenue--Code--(or similar-sections-of-the-Internal-Revenue-Code),~~

~~(ii)-identify,--upon--request,--principal--officers--or employees-who-have-substantial-knowledge-of--and--access--to documents--and-records-that-address-pricing-policies,-profit centers,-cost-centers,-and-the-methods-of-allocating--income and--expenses--among--such--centers.--The--information--must include-the-employees'-titles-and-addresses.~~

~~(iii)-(A)-retain-and-make-available-upon--request--all:~~

~~(I)--documents--ordinarily--available--to-a-corporation included-in-the-water's-edge-election-that-are-submitted--to or--obtained--from--the--internal-revenue-service-or-foreign countries-or-their-territories-or-possessions,-and~~

~~(II)-competent--authority---pertaining---to---documents described--in--(1)(b)(iii)(A)(I),-including-ruling-requests, rulings,--settlement--resolutions,--and---competing---claims involving--jurisdictional--assignment--of-income-that-affect the-assignment-of-income-to-the-United-States.~~

~~(B)--The-documents-must-include-all-ruling-requests-and rulings-on-reorganizations-involving--foreign--incorporation of--branches,--all-ruling-requests-and-rulings-on-changing-a corporation's---jurisdictional---incorporation,---and----all documents--ordinarily-available-to-a-corporation-included-in the-water's-edge-election-that-pertain-to-the--determination of--foreign--tax--liability,--including--examination-reports~~

~~issued-by-foreign-taxing-administrations.--If--the--documents have-been-translated,-the-translations-must-be-furnished.~~

~~(iv)-prepare--and-make-available-upon-request,-for-each corporation-included-in-the-disclosure-spreadsheet--referred to--in--[section-48-~~55~~]-in-which-the-taxpayer-is-included,-a list-of-each-state-of-the-United--States,--the--District--of Columbia,--territories--or--possessions,--and--each--foreign country-in-which-it-has-payroll,--property,--or--sales.--The sales--must-be-determined-by-destination,-whether-or-not-the taxpayer-is-taxable-in-the-destination-jurisdiction.~~

~~(v)--retain-and-make-available-upon-request-forms-filed with-the-internal-revenue-service-to--comply--with--sections 6038,-6038A,-and-6041-of-the-Internal-Revenue-Code;~~

~~(vi)-prepare--and-make-available-upon-request,-for-each corporation-organized-or--created--under--the--laws--of--the United--States--or-a-political-subdivision-thereof,-of-which corporation-50%-or-more-of-its-voting-stock-is--directly--or indirectly--owned--or-controlled,-the-information-that-would be-included-in-the-forms-described-in--subsection--(1)(b)(v) if-those-forms-were-required-for-United-States-corporations;~~

~~(vii)-retain--and-make-available-upon-request-all-state tax--returns--filed--by--each--corporation--included---under subsection--(1)(b)(i)--in--each--state--and--the-District-of Columbia;-or~~

~~(viii)-comply-with-reasonable--requests--for--discovery~~

~~directed--at-obtaining-information-necessary-to-determine-or verify-its--net--income--or--apportionment--factors--or--the geographic--source--of-that-income,-pursuant-to-the-Internal Revenue-Code.~~

~~(2)--For-purposes-of-this-section,-information-for--any year--must--be-retained-for-that-period-of-time-in-which-the taxpayer's-income-or-license-tax-liability-to-this-state-may be-subject-to-adjustment,-including--all--periods--in--which additional-income-or-license-taxes-may-be-assessed-or-during which-an-appeal-is-pending-before-the-state-tax-appeal-board or--a--lawsuit-is-pending-in-the-courts-of-this-state-or-the United-States-with-respect-to-a-Montana--income--or--license tax.~~

~~(3)--A--failure--to--satisfy-any-of-the-requirements-of subsections-(1)-and-(2)-constitutes--a--willful--failure--to retain--and--make-available-documents-that-are-material-to-a determination-by-the-department-of-a-qualified-corporation's tax-under-this-chapter.~~

~~<u>NEW-SECTION.</u>--Section-52.--Contract--for---water's-edge election.---(1)--A--water's-edge--election--must--be-made-by contract-with-the-department-in-the-original--return--for--a year--and--is-effective-only-if-every-affiliated-corporation subject-to-tax-under-this-chapter-consents-to-the--election. Consent---by--the--common--parent--of--an--affiliated--group constitutes-consent-of-all-members-of-the--group.---The--form~~

~~and--manner--of--making--the--water's-edge--election-must-be prescribed--by--the--department.---Each---contract---for---a water's-edge--election--must--be--for--a-term-of-10-years.--A contract-is-conditioned-by-an-agreement-to--pay--the--amount specified--in--{section--49}-~~<u>~~A-CORPORATION-LICENSE-OR-INCOME TAX-AT-THE-RATE-OF-7.25%~~</u>~~.--Except-as-provided-in--subsection (2),--the-department-shall-enter-into-a-contract-as-provided by-this-section-with-any-qualified-corporation--that--wishes to--make--a-water's-edge-election.--An-affiliated-corporation that-becomes-subject-to-tax-under-this-chapter-subsequent-to the-water's-edge-election-is-considered-to-have-consented-to the-election.-No-water's-edge-election-may-be--made--for--an income--year--beginning--prior-to-{the-applicability-date-of this-section}.~~

~~(2)--A-water's-edge-election-may--be--rejected--by--the department--as-provided-in-{section-44-~~<u>~~51~~</u>~~}-but-it-may-not-be changed-by-a-corporation-prior-to-the--end--of--the--10-year period.~~

~~(3)--When--rejecting--an-election,-the-department-shall impose-any-conditions-necessary-to-prevent-the-avoidance--of tax--or--necessary--to-clearly-reflect-income-for-the-period the-election-was-or-was-purported-to--be--in--effect.--These conditions--may-include-a-requirement-that-income,-including dividends-paid--from--income--earned--while--a--water's-edge election---was---in--effect,--that--would,--except--for--the~~

~~water's-edge-election,-have-been-included-in-determining-the income-of-the-corporation-from-sources--within--and--without this--state-pursuant-to-15-31-305-must-be-included-in-income for-the-year-in-which-the-election-is-changed--or--rejected.~~

~~(4)--If--the-taxpayer-desires-at-the-end-of-the-10-year term-to-renew-the-contract,-the-taxpayer-shall-serve-written notice-of-renewal-of-the-contract--upon--the--department--30 days--in-advance-of-the-annual-renewal-date-of-the-contract. The-renewal-must-be-for-an-additional-10-year-term.~~

~~NEW-SECTION.--Section-53.--Penalties--for--failure---to supply--information.---(1)--If--a-corporation-electing-under {section-41-~~48~~}-fails-to-supply-any-required-information,-in addition-to-being-subject-to--rejection--by--the--department pursuant--to--{section-44-~~51~~}-and-to-any-penalties-otherwise provided-by--this--chapter,--the--corporation--shall--pay--a penalty-of-$1,000-for-each-income-year-with-respect-to-which the-failure-occurs.~~

~~(2)--If--such--failure-continues-after-90-days-from-the date-on-which-the-department-mails-to-the-corporation-notice of-the-failure,-the-corporation-shall-pay,--in--addition--to the--amount--required--under--subsection--(1),--a-penalty-of $1,000-for-each-30-day-period--or--fraction--thereof--during which--the--failure-continues-after-expiration-of-the-90-day period.-No-penalty-under-this-subsection-may-exceed-$24,000.~~

~~(3)--If-the-corporation-fails-to--substantially--comply~~

~~with--any--formal-document-request,-as-defined-in-subsection (6),-arising-out-of-the-examination-of-the-tax-treatment--of any--item--(hereinafter--in--this-section-referred-to-as-the "examined-item")-before-the-90th-day-after-the-date--of--the mailing--of--the--request,--the--state-tax-appeal-board-or-a court-having-jurisdiction-of-a-civil-proceeding-in-which-the tax-treatment-of-the-examined-item-is-an-issue--shall,--upon motion--by--the-department,-prohibit-the-introduction-by-the corporation-of-any-documentation,-as-defined--in--subsection (9),-covered-by-that-request.~~

~~(4)--For--purposes--of--this-section,-the-time-in-which information-is-to-be-furnished-(and--the--beginning--of--the 90-day--period--after--notice--by--the--department)--must-be treated-as-beginning-not-earlier-than-the-last-day-on--which reasonable---cause---existed--for--failure--to--furnish--the information.~~

~~(5)--This-section-does-not-apply-with--respect--to--any requested-documentation-if-the-taxpayer-establishes-that-the failure--to--provide--the--documentation--requested--by--the department-is-due-to-reasonable-cause.~~

~~(6)--For-purposes-of-this--section,--the--term--"formal document--request"--means--a--request,-made-after-the-normal request-procedures-have--failed--to--produce--the--requested documentation,--for--the-production-of-documentation-that-is sent-by-certified-mail-to-the-corporation-at-its--last-known~~

~~address-and-that-sets-forth-all-of-the-following:~~

~~(a)--the--time--and--place--for--the--production-of-the documentation;~~

~~(b)--a--statement--of--the--reason--any---documentation previously-produced-is-not-sufficient;~~

~~(c)--a--description--of-the-documentation-being-sought;~~ and

~~(d)--the-consequences-to-the-corporation-of-the-failure to-produce-the-documentation-described-in-this-section.~~

~~(7)--Notwithstanding-any--other--provision--of--law,--a corporation--to-whom-a-formal-document-request-is-mailed-may begin-a-proceeding-to-quash-that-request-not-later-than--the 90th-day-after-the-date-the-request-was-mailed.--In-any-such proceeding-the-department-may-seek-to-compel-compliance-with the-request.~~

~~(8)--The--state--tax-appeal-board-or-the-district-court of-the-first-judicial-district-has-jurisdiction--to--hear--a proceeding--brought--under--subsection-(7).-An-order-denying the-petition--is--considered--a--final--order--that--may--be appealed.-The-90-day-period-referred-to-in-subsection-(2)-is suspended--for--the--time--during-which-a-proceeding-brought under-subsection-(7)-is-pending.~~

~~(9)--For--purposes--of--this--section,--"documentation" means--any--evidence-that-may-be-relevant-or-material-to-the tax-treatment-of-the-examined-item.~~

~~(10)-The-department,-the-state-tax--appeal--board,--and the--court--having--jurisdiction--over--a--proceeding--under subsection-(7)-may-extend-the-90-day-period-referred--to--in subsection-(2).~~

~~(11)-If--a--corporation-begins-a-proceeding-as-provided in-subsection-(7),-the-running-of-any-period-of--limitations relating-to-the-assessment-and-collection-of-tax-or-relating to--criminal--prosecutions--with--respect-to-the-corporation must--be--suspended--for--the--period---during---which---the proceedings--under--subsection--(7)--and-appeals-thereto-are pending.~~

~~NEW-SECTION.--Section-54.--Admissibility--of--evidence. (1)--In--any--administrative--or--judicial--proceeding,--the department-may-introduce-into-evidence--the--record--of--any final--court--determination--in--another-state-involving-the same--corporation--or--a--unitary--business--of--which---the corporation-is-alleged-to-be-a-member.~~

~~(2)--Tax--information--pertaining-to-the-examination-of multinational---operations,---including---underlying---data, obtained--from--the--internal--revenue--service-or-a-foreign government--is--admissible--into--evidence,--without---being contestable--as--to--its--relevancy,-in-an-administrative-or judicial--proceeding--involving--a--corporation's--liability under-this-chapter.~~

~~NEW-SECTION.--Section-55.--Domestic---------disclosure~~

~~spreadsheet. A corporation required to file a United States tax return or that could be included in a consolidated federal tax return shall file with the department within 3 months after the corporation files its federal income tax return a domestic disclosure spreadsheet if its and its related corporation's payroll, property, or sales in a foreign country exceed \$1 million or if its and its related corporation's total assets exceed \$250 million or such higher levels as may be subsequently established by regulation. For purposes of this section, two corporations are related if more than 50% of the voting stock of one company is directly or indirectly owned or controlled by the other or if more than 50% of the voting stock of both is directly or indirectly owned or controlled by the same interest. The spreadsheet must provide for full disclosure of the income reported to each state, the state tax liability, the method used for apportioning or allocating income to the states, and any other information, as provided for by regulations, necessary to properly determine the amount of taxes due each state and to identify the corporate parent and those of its affiliates of which more than 20% of the voting stock is directly or indirectly owned or controlled by the parent. The spreadsheet must be reviewed by the department for completeness. If it is not properly completed, the spreadsheet fails to comply with [section 44~~

5~~1]-and-may-not-be-accepted-by-the-department.~~

~~NEW-SECTION.--Section-49.--Fee-----for-----water's-edge election.---(1)-Each-contract-described-in-[section-45]-must provide-that-a-corporation-making--a--water's-edge--election pursuant--to--this--chapter-shall-pay-to-the-state-an-annual election--fee.--The--election--fee--is--not--deductible---in determining--the--net-income-of-the-corporation-for-purposes of-this-chapter.~~

~~(2)--The-election-fee--is--an--amount--equal--to--.0003 multiplied---by--the--sum--of--the--corporation's--property, payroll,-and--sales--in--this--state,--as--defined--in--this chapter,-with-the-following-adjustments:~~

~~(a)--Intangibles--may--not--be-included-in-the-property factor.~~

~~(b)--The--property--and---payroll---factors---must---be calculated--with--respect--to--the-income-year-ending-during calendar-year-1986.~~

~~(c)--The-sum-of-the-property,-payroll,-and--sales--must be--reduced--by-the-cumulative-amount-expended-after-January 1,-1988,-for-investment-in-new-plants-or-facilities-in--this state,--as--defined--in--subsection-(3),-and-must-further-be reduced-by-the-amount-expended-for--new--employees--in--this state-as-provided-in-subsection-(5).~~

~~(3)--A--new--plant--or-facility-includes-an-addition-to real--property,--whether--land--or--improvements--(including~~

~~fixtures), or a major rehabilitation of land or improvements (including fixtures) that converts the property to a new use. A major rehabilitation means an alteration of any kind that is the substantial equivalent of a new improvement or fixture. The property must be used for production of income taxable under this chapter and must be placed in service after January 1, 1988. A new plant or facility does not include a reconstruction because of misfortune or calamity or property that is a replacement, in whole or in part, for an existing plant or facility in this state. A plant or facility must be considered a replacement if the taxpayer or an affiliated corporation as defined in [section 41] closes, takes out of service, sells, or leases to an unrelated party, in either the 3 immediately preceding or the 3 immediately succeeding years from the time the new plant or facility is operational, a plant or facility with a cost basis equal to 25% or more of the cost basis of the new plant or facility.~~

~~(4) (a) The number of new employees in this state for any income year is determined by comparing the total number of work years in this state for the income year to the greater of:~~

~~(i) the average of the total number of work years in this state for the income years ending in 1985, 1986, or 1987; or~~

~~(ii)-the-total-number-of-work-years-in-this--state--for the-income-year-ending-in-1987.~~

~~(b)--A--"work--year"--means,-in-the-case-of-workers-who are-paid-an-hourly-wage,-2,000-paid-hours-or,-in-the-case-of salaried-employees,-a-total-of-12-paid-months.~~

~~(5)--The-amount--expended--for--new--employees--is--the product--of--the-number-of-new-employees-determined-pursuant to-subsection-(4)-and-the-average-wages-paid-for--each--work year-in-this-state-for-the-income-year.~~

~~(6)--Each--contract--must--provide--that,--without--the consent-of-the-corporation,-the-amount-of-the--election--fee determined--in--this-section-is-not-subject-to-any-statutory changes--for--the--period--the--contract--is--in--effect.--A statutory---change---is--applicable--for--any--renewal--year beginning-10-years-after-the-date-of-that-statutory--change.~~

~~(7)--Election--fees-determined-pursuant-to-this-section must-be-collected-in-the-same-manner-as-the-taxes-imposed-by this-chapter-and-are-subject-to-interest--and--penalties--as provided-in-this-part.~~

~~(8)--In---no---event--may--an--election--fee--determined pursuant-to-this-section-be-less-than--.0001--multiplied--by the-sum-of-the-corporation's-property,-payroll,-and-sales-in this-state-for-the-current-year.~~

~~(9)--The---annual--election--fee--otherwise--determined pursuant-to--this--section--and--payable--under--a--contract~~

~~described in [section 45] may not be imposed for an income year in which a corporation incurs no tax liability under 15-31-121 other than the $50 minimum.~~

Section 46. Section 15-31-554, MCA, is amended to read:

"15-31-554. Returns to which sections apply. The provisions of ~~15-31-551 through 15-31-553~~ ~~and~~ 15-31-552 ~~AND 15-31-553~~ shall apply to all returns on file and all returns to be filed hereafter."

Section 47. Section 15-32-102, MCA, is amended to read:

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

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

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

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

~~(4) "Passive solar system" means a direct thermal~~

~~energy-system-that-uses-the-structure-of-a-building-and--its operable-components-to-provide-heating-or-cooling-during-the appropriate-times-of-the-year-by-using-the-climate-resources available--at--the-site.--It-includes-only-those-portions-and components-of-a-building-that--are--expressly--designed--and required--for--the--collection,-storage,-and-distribution-of solar-energy-and-that--are--not--standard--components--of--a conventional-building.~~

~~(5)~~(1) "Low emission wood or biomass combustion device" means a stove or furnace or a catalytic converter added to a stove or furnace which burns wood or other nonfossil biomass and which has an emission rate of less than 6 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves as adopted by the department of health and environmental sciences pursuant to 15-32-203.

(2) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

~~(6)~~(3) "Recognized nonfossil forms of energy generation" means a system for the utilization of solar energy, including passive solar systems, wind, solid wastes, or the decomposition of organic wastes for capturing energy or converting energy sources into usable sources, for the production of electric power from solid wood wastes, a low emission wood or biomass combustion device, and also means a small system for the utilization of water power by means of an impoundment not over 20 acres in surface area."

Section 48. Section 15-32-203, MCA, is amended to read:

"15-32-203. Department to make rules. ~~(1)--The department-of-revenue-shall--prescribe--rules--necessary--to carry-out-the-purposes-of-this-part.~~

~~(2)~~ The department of health and environmental sciences shall adopt rules establishing emission testing and emission certification standards for low emission wood or biomass combustion devices and maintain a list of such devices that are certified."

~~Section-59.--Section--15-36-101,--MCA,--is--amended--to read:~~

~~"15-36-101.--Definitions--and--rate--of-tax.--(1)-Every person-engaging-in-or-carrying-on-the-business-of--producing petroleum,-other-mineral-or-crude-oil,-or-natural-gas-within this--state--or--engaging--in-or-carrying-on-the-business-of~~

~~owning,-controlling,-managing,-leasing,-or-operating--within this--state-any-well-or-wells-from-which-any-merchantable-or marketable-petroleum,-other-mineral-or-crude-oil,-or-natural gas-is-extracted--or--produced--sufficient--in--quantity--to justify--the--marketing-of-the-same-must,-except-as-provided in-15-36-121,-each-year-when-engaged-in-or-carrying--on--any such--business--in-this-state-shall-pay-to-the-department-of revenue-for-the-exclusive-use-and-benefit-of--the--state--of Montana-a-severance-tax-computed-at-the-following-rates:~~

~~(a)--except--as--provided--in--subsections--(1)(b)--and (1)(c),-5%-of-the-total-gross-value-of-all-the-petroleum-and other-mineral-or-crude-oil-produced-by-such-person-from-each lease-or-unit-on-or-after-April-1,-1981,-and--on--or--before March--31,--1983,--6%--of--the--total-gross-value-of-all-the petroleum-and-other-mineral-or-crude-oil--produced--by--such person--from--each--lease-or-unit-on-or-after-April-1,-1983, and-on-or-before-March-31,-1985,-and-5%-of-the--total--gross value--of--all--the-petroleum-and-other-mineral-or-crude-oil produced-by-such-person-from-each-lease-or-unit--thereafter, but--in--determining--the--amount-of-such-tax-there-shall-be excluded-from-consideration-all-petroleum-or-other-crude--or mineral--oil--produced--and--used-by-such-person-during-such year-in-connection-with-his-operations-in--prospecting--for, developing,-and-producing-such-petroleum-or-crude-or-mineral oil,~~

~~(b) 2.65% of the total gross value of natural gas produced from each lease or unit, but in determining the amount of such tax there shall be excluded from consideration all gas produced and used by such person during such year in connection with his operations in prospecting for, developing, and producing such gas or petroleum or crude or mineral oil, and there shall also be excluded from consideration all gas, including carbon dioxide gas, recycled or reinjected into the ground.~~

~~(c) 2.5% of the total gross value of the incremental petroleum and other mineral or crude oil produced from each lease or unit in a tertiary recovery project after July 1, 1985, and before July 1, 1987. For purposes of this section, a tertiary recovery project, no matter when it was completed, must meet the following requirements:~~

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

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

~~(iii) the project must involve the application of one or more tertiary recovery methods that can reasonably be expected to result in an increase, determined by the~~

~~department--to--be-significant-in-light-of-all-the-facts-and circumstances,--in--the--amount--of--crude--oil--which---may potentially--be--recovered.--For-the-purpose-of-this-section, tertiary-recovery-methods-include-but-are-not-limited-to:~~

~~(A)--miscible-fluid-displacement;~~

~~(B)--steam-drive-injection;~~

~~(C)--micellar/emulsion-flooding;~~

~~(D)--in-situ-combustion;~~

~~(E)--polymer-augmented-water-flooding;~~

~~(F)--cyclic-steam-injection;~~

~~(G)--alkaline-or-caustic-flooding;~~

~~(H)--carbon-dioxide-water-flooding;~~

~~(I)--immiscible-carbon-dioxide-displacement;~~

~~(J)--any-other-method-approved-by-the-department--as--a tertiary-recovery-method.~~

~~(d)--4%--of--the-total-gross-value-of-all-the-petroleum and-other-mineral-or-crude-oil-produced-and-sold--from--each producing--well-in-a-tertiary-recovery-project-in-Montana-on or-after-July-1,-1987,-as-long-as-the-price-of-oil--for--the calendar--year--quarter--in-which-the-oil-is-produced-is-$40 per-barrel-or-less.~~

~~(e)--3%-of-the-total-gross-value-of-all--the--petroleum and--other--mineral-or-crude-oil-produced-and-sold-from-each stripper-well-in-Montana-on-or-after-July-1,-1987,--as--long as--the--price-of-oil-for-the-calendar-year-quarter-in-which~~

~~the-oil-is-produced-is-$20-per-barrel-or-less.--For--purposes of-this-subsection-(1)(e):~~

~~(i)--a--"stripper--well"--is--an-oil-well-on-a-property which-has-a-total-daily-production-that-averages-10--barrels of--oil--or-less-per-well-for-the-entire-property-for-the-12 consecutive-months-immediately--preceding--the--end--of--the quarter--for--which--a--return-is-filed.-Only-wells-actually producing-may-be-included.-Each-well-on--the--property--must have--been--maintained--at--the--maximum--feasible--rate--of production-throughout--the--applicable--12-month--period--in accordance---with--recognized--conservation--practices,--and production-must-not-have--been--significantly--curtailed--by reason---of---mechanical--failure--or--other--disruption--in production.~~

~~(ii)-"property"-means-the--right--to--produce--domestic crude-oil-that-arises-from-a-lease-or-from-a-fee-interest.--A producer--may-treat-as-a-separate-property-each-separate-and distinct-producing-reservoir-subject-to-the--same--right--to produce---crude---oil,---provided--that--such--reservoir--is recognized--by--the--appropriate---governmental---regulatory authority--as--a--producing--formation--that-is-separate-and distinct-from,-and-not--in--communication--with,--any--other producing-formation.~~

~~(2)--For---purposes---of---this---section,---the---term "incremental-petroleum-and-other-mineral-or-crude-oil"-means~~

~~the amount of oil, as determined by the department of revenue, to be in excess of what would have been produced by primary and secondary methods. The determination arrived at by the department must be made only after notice and hearing and shall specify through the life of a tertiary project, calendar year by calendar year, the combined amount of primary and secondary production that must be used to establish the incremental production from each lease or unit in a tertiary recovery project.~~

~~(3) For purposes of subsections (1)(d) and (1)(e), "the price of oil for the calendar year quarter" means the price of West Texas intermediate crude, averaged on a quarterly basis, less $1.25 per barrel as a price differential for Montana oil.~~

~~(3)~~(4) ~~Nothing in this part may be construed as requiring laborers or employees hired or employed by any person to drill any oil well or to work in or about any oil well or prospect or explore for or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such severance tax, nor may any work done or the drilling of any well or wells for the purpose of prospecting or exploring for petroleum or other mineral or crude oils or for the purpose of developing same be considered to be the engaging in or carrying on of any such business. If, in the doing of any such work, in the drilling~~

~~of any oil well, or in such prospecting, exploring, or development work, any merchantable or marketable petroleum or other mineral or crude oil in excess of the quantity required by such person for carrying on such operation is produced sufficient in quantity to justify the marketing of the same, such work, drilling, prospecting, exploring, or development work is considered to be the engaging in and carrying on of such business within this state within the meaning of this section.~~

~~(4)~~ ~~<u>(5)</u>~~ ~~Every person required to pay such tax hereunder shall pay the same in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of such extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the aforesaid interests that are owned by the federal, state, county, or municipal governments shall be exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners~~

~~will--be--deducted--from-any-settlements-under-said-lease-or leases-or-division-of-proceeds-orders-or--other--contracts."~~

~~Section-60.--Section--15-35-103,--MCA,--is--amended--to read:~~

~~"15-35-103.--Severance--tax--------rates---imposed----- exemptions.---(1)--A-severance-tax-is-imposed-on-each-ton-of coal-produced-in--the--state--prior--to--July--1,--1988,--in accordance-with-the-following-schedule:~~

~~Heating-quality (Btu-per-pound ---of-coal):~~	~~Surface-- Mining--~~	~~Underground Mining---~~
~~Under-7,000~~	~~12-cents-or 20%-of-value~~	~~5-cents-or 3%-of-value~~
~~7,000-8,000~~	~~22-cents-or 30%-of-value~~	~~8-cents-or 4%-of-value~~
~~8,000-9,000~~	~~34-cents-or 30%-of-value~~	~~10-cents-or 4%-of-value~~
~~Over-9,000~~	~~40-cents-or 30%-of-value~~	~~12-cents-or 4%-of-value~~

~~(2)--A--severance--tax--is--imposed-on-each-ton-of-coal produced-in-the-state-from-July-1,-1988,--through--June--30, 1990,-in-accordance-with-the-following-schedule:~~

~~Heating-quality (Btu-per-pound ---of-coal):~~	~~Surface-- Mining--~~	~~Underground Mining---~~

~~Under-7,000~~	~~12-cents-or~~	~~5-cents-or~~
	~~17%-of-value~~	~~3%-of-value~~
~~7,000-8,000~~	~~22-cents-or~~	~~8-cents-or~~
	~~25%-of-value~~	~~4%-of-value~~
~~8,000-9,000~~	~~34-cents-or~~	~~10-cents-or~~
	~~25%-of-value~~	~~4%-of-value~~
~~Over-9,000~~	~~40-cents-or~~	~~12-cents-or~~
	~~25%-of-value~~	~~4%-of-value~~

~~(3)--A--severance--tax--is--imposed-on-each-ton-of-coal produced-in-the-state-after-June--30,--1990,--in--accordance with-the-following-schedule:~~

~~Heating-quality (Btu-per-pound ---of-coal):~~	~~Surface-- Mining-- --~~	~~Underground Mining--- --~~
~~Under-7,000~~	~~12-cents-or~~	~~5-cents-or~~
	~~13%-of-value~~	~~3%-of-value~~
~~7,000-8,000~~	~~22-cents-or~~	~~8-cents-or~~
	~~20%-of-value~~	~~4%-of-value~~
~~8,000-9,000~~	~~34-cents-or~~	~~10-cents-or~~
	~~20%-of-value~~	~~4%-of-value~~
~~Over-9,000~~	~~40-cents-or~~	~~12-cents-or~~
	~~20%-of-value~~	~~4%-of-value~~

~~(4)--"Value"-means-the-contract-sales-price.~~

~~(2)~~(5)~~--The--formula-which-yields-the-greater-amount-of tax-in-a-particular-case-shall-be-used-at-each-point-on-this~~

~~schedule.~~

~~(3)~~~~(6)~~~~--A-person-is-not-liable-for--any--severance--tax upon-50,000-tons-of-the-coal-he-produces-in-a-calendar-year, except--that-if-he-produces-more-than-50,000-tons-of-coal-in a-calendar-year,-he-will-be-liable-for--severance--tax--upon all-coal-produced-in-excess-of-the-first-20,000-tons.~~

~~(4)~~~~(7)~~~~--A--new-coal-production-incentive-tax-credit-may be-claimed-on-certain-coal-as-provided-in-15-35-202."~~

~~Section-61.--Section--15-35-202,--MCA,--is--amended--to read:~~

~~"15-35-202.--New--coal--production-incentive-tax-credit allowed----application-limited.--(1)-A-coal-mine-operator-is entitled-to-a-new-coal-production-incentive--tax--credit--of 33-1/3%---of---the---tax--imposed--under--15-35-103--on--any incremental-production-produced--and--sold--during--calendar years--from-January-1,-1985,-and-1986-through-June-30,-1988.~~

~~(2)--A-coal-mine-operator-is-entitled--to--a--new--coal production--incentive--tax--credit-of-33-1/3%-20%-of-the-tax imposed-under-15-35-103-on-any--incremental--production--for the--entire--term--of--an--agreement,--except-as-provided-in subsection-(3),-if-the-incremental-production-resulted--from coal-purchases-under:~~

~~(a)--an--existing--agreement-which-was-extended-between January-1,-1985,-and-June-30,-1987,-for-at--least--a--5-year period,-or~~

~~(b)--a--new-agreement-that-was-executed-between-January 1,-1985,-and-June-30,-1987-produced-and-sold--from--July--1, 1988,-through-June-30,-1990.~~

~~(3)--No--credit--may-be-claimed-for-coal-produced-prior to-January-1,-1985~~, or after June 30, 1990~~.~~"

~~Section-62.--Section--15-35-203,--MCA,--is--amended--to read:~~

~~"15-35-203.--Calculation--and--application--of--credit. (1)-The-amount-of-new-coal-production-incentive--tax--credit that--a-coal-mine-operator-may-claim-against-the-tax-imposed in-15-35-103-is-calculated-by:~~

~~(a)--determining-the-incremental-production-for-each-of his-qualified-purchasers--that--was--produced--each--quarter during-a-calendar-year;~~

~~(b)--determining--the--arithmetic-average-severance-tax per-ton-calculated-prior-to-application--of--the--credit--on coal--sold--to--each-qualified-purchaser-each-quarter-during the-calendar-year;~~

~~(c)--multiplying--the--incremental--production--for---a calendar--year--quarter--for--a--purchaser--by--the--average severance-tax-per-ton-for-that-purchaser-and-multiplying-the total-by-33-1/3%-the-appropriate-percentage-as--provided--in 15-35-202-for-each-quarter;-and~~

~~(d)--totaling---the---amount---so--calculated--for--all qualified-purchasers-for-all-four-quarters-of--the--calendar~~

year~~.~~

~~(2)--When--filing--the--quarterly-statement-required-in 15-35-104,-a-coal-mine-operator-may-claim-against--the--coal severance-tax-calculated-for-that-quarter-an-amount-equal-to 25%--of-the-new-coal-production-incentive-tax-credit-allowed on-incremental-production-that-occurred-during-the--previous calendar-year.~~

~~(3)--If--in--any--calendar-year-a-purchaser-exceeds-his base-consumption-level-and-he-has-purchased-from--more--than one--Montana--coal-mine-operator-during-the-year,-the-credit on-the-incremental-production--must--be--divided--among--the operators--on--a-pro-rata-basis.-To-determine-each-coal-mine operator's-pro-rata-share-of-the-tax-credit,--each--operator shall--divide--his--incremental-production-by-the-sum-of-all coal--mine--operators'--incremental--production---for---that purchaser--and--multiply--the--quotient--by-the-purchases-in excess-of-the-base-consumption-level-for-that-purchaser.~~

~~(4)--Neither-a-coal-mine-operator-nor--a--purchaser--is entitled--to--a--direct--payment--for--the-credit-allowed-in 15-35-202.-A-credit-terminates-if-not-taken-during-the--year following--the--year--in--which--the--incremental-production occurred.~~

~~(5)--Each-coal-mine-operator-must-reduce-the--delivered price--of-coal-sold-to-each-qualified-purchaser-by-an-amount equal-to-the-credit-received-on-incremental-production--sold~~

~~to-that-purchaser.~~"

NEW SECTION. Section 49. Penalty for failure to file and failure to pay tax on date required. (1) Unless otherwise specified, the department shall add to the amount of any tax due under Title 15, chapters 30, 31, 35 through 38, 50 through 53, 55, 70, and 71, Title 16, 69-1-225, 69-1-226, 82-11-131, and 82-11-132, a penalty equal to 5% of the tax due or $10, whichever is greater, for the failure to file a return or statement required by law on the date due. In addition, a penalty of 5% of the delinquent or estimated tax due must be assessed for each 30-day period during which the return remains unfiled following notification of delinquency.

(2) Unless otherwise specified by another section of this title, the department shall add to the amount of any delinquent tax or any delinquent tax determined by an estimate a penalty equal to 5% of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency.

(3) Interest must be assessed on any tax due at the rate of 1% per month or part thereof from the date the tax should have been paid until such time as the tax is paid.

(4) The maximum penalty under this section is ~~30%~~ ~~25%~~ 15%. In no case for the same tax period or return may the

department impose the penalty for late payment of the tax if it imposed a penalty for failure to file the return. The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement.

NEW SECTION. Section 50. Payments to be applied to penalty and interest. All payments received by the department for the payment of tax, penalty, and interest must be first applied to the amount of interest due, then to the penalty due, then to the tax due.

NEW SECTION. Section 51. Penalty for understatement of tax. (1) If after examination of any return the department determines that the taxpayer understated his tax liability by 25% or more of the amount originally stated, a penalty of 10% of the amount of tax difference must be added to any tax delinquency.

(2) If at any time there is a final administrative determination or a final judicial decision that there was no understatement of tax liability of 25% or more and the penalty has been paid, the amount paid must be refunded as any other refund is made.

(3) The department may in its discretion waive the assessment of this penalty for good cause shown and under procedures established by the department.

NEW SECTION. Section 52. Publication of names of delinquent taxpayers. (1) The department may in its discretion, AFTER 30 DAYS' NOTICE TO THE AFFECTED PERSONS, publish the names of taxpayers that are delinquent in the payment of any tax if the tax is delinquent for 12 months or more.

(2) The department may in its discretion, AFTER 30 DAYS' NOTICE TO THE AFFECTED PERSONS, publish the names of persons who failed to file a tax return or a statement required by any section of this title if the return or statement is overdue for 12 months or more.

(3) The publication of this return information by the department does not constitute a violation of 15-30-303, 15-31-507, or 15-38-109.

(4) THIS SECTION DOES NOT PERMIT PUBLICATION OF THE NAME OF A TAXPAYER WHO HAS FILED A TAX APPEAL, PAID THE TAX UNDER PROTEST, OR OTHERWISE LITIGATED THE TAX CONSIDERED DELINQUENT FOR PURPOSES OF THIS SECTION. HOWEVER, SUCH A TAXPAYER'S NAME MAY BE PUBLISHED UPON FAILURE TO SATISFY THE DELINQUENCY, IF ANY, REMAINING AT THE CONCLUSION OF THE APPEAL, PROTEST, OR LITIGATION, OR UPON FAILURE TO FILE A RETURN OR SATISFY A TAX DELINQUENCY AS PROVIDED IN SUBSECTIONS (1) AND (2) IN ANOTHER MATTER NOT APPEALED, PROTESTED, OR LITIGATED.

NEW SECTION. Section 53. Procedure to compute tax in absence of statement. (1) If a person fails, neglects, or refuses to file any statement required by law to be filed with the department within the time required or fails to pay the required tax on or before the date payment is due, the department of revenue shall proceed to determine the proper amount of tax due for the period concerned, based upon available information.

(2) The department shall compute the amount of taxes due from the person and shall mail to the person a letter and a tax assessment statement, setting forth the amount of delinquent tax, penalty, and interest due. The letter shall advise that if payment is not made, a warrant for distraint may be filed.

Section 54. Section 15-1-206, MCA, is amended to read:

"15-1-206. Waiver and abatement of penalties -- interest. (1) The department may~~,~~ in its discretion~~,~~ waive the assessment of penalty for the late filing of any tax statement or return required to be filed with the department when the filing is done within 5 days of the date specified for filing the return or statement and for the late payment of any tax collected by the department when the payment is made within 5 days of the date specified for payment of the tax.

(2) The department may in its discretion, subject to subsection (1), waive the assessment of a penalty for late filing of a return or statement or late payment of a tax

upon a showing of reasonable cause by the taxpayer seeking waiver of the penalty. THE DEPARTMENT SHALL ADJUST THE ASSESSMENT OF A PENALTY FOR LATE FILING OF A RETURN OR STATEMENT OR LATE PAYMENT OF A TAX UPON FINAL DISPOSITION OF A TAX APPEAL, PROTEST, OR OTHER LITIGATION, OR UPON ACCEPTANCE OF AN AMENDED RETURN, THAT RESULTS IN A CANCELLATION OR REDUCTION OF THE TAX.

~~(2)~~(3) Whenever the department waives or abates a penalty provided for in this title, it also may~~,~~ in its discretion~~,~~ waive or abate interest ~~not-to-exceed--$100~~ due upon the tax.

~~(3)~~(4) Whenever the department is notified of a change in federal taxable income as the result of a federal adjustment or upon filing an amended federal return, as provided for in 15-30-304, the department shall abate the interest on the additional tax liability from the date the department is notified until the department sends the statement of increased tax liability to the taxpayer."

Section 55. Section 15-30-321, MCA, is amended to read:

"15-30-321. Penalties for violation of chapter. (1) If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to file a return of income on or before its due date (determined with regard to an extension of time granted for filing the return), there shall be imposed a penalty of 5% of any balance of tax unpaid with respect to such return as of its due date~~,--but in-no-event-shall-the-penalty-for-failure-to-file--a--return by--its--due--date--be--less--than--$5.~~ or $10, whichever is greater. In addition, a penalty of 5% of any balance of tax unpaid with respect to the return must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 25% penalty. The department may abate the penalty if the taxpayer establishes that the failure to file on time was due to reasonable cause and was not due to neglect on his part. If any person, without purposely or knowingly violating any requirement imposed by this chapter, fails to pay any tax on or before its due date ~~(determined-with regard-to-an-extension-of-time-granted-for-the-filing--of--a return)~~, there shall be added to the tax a penalty of ~~10%~~ 5% of said tax~~,--but--not--less--than--$5,--and--interest~~. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty. Interest shall accrue on the tax at the rate of ~~9%--per--annum~~ 3/4 of 1% per month for the entire period it remains unpaid. THE DEPARTMENT MAY NOT ASSESS A PENALTY FOR FAILURE TO PAY A TAX IF IT HAS ALREADY ASSESSED AGAINST THE SAME TAXPAYER FOR THE SAME PERIOD A PENALTY FOR

FAILURE TO FILE A RETURN. The department may abate the penalty if the taxpayer establishes that the failure to pay on time was due to reasonable cause and was not due to neglect on his part.

(2) If any person fails, purposely or knowingly violating any requirement imposed by this chapter, to make a return of income or to pay a tax if one is due at the time required by or under the provisions of this chapter, there shall be added to the tax an additional amount equal to 25% thereof, but such additional amount shall in no case be less than $25, and interest at 1% for each month or fraction of a month during which the tax remains unpaid.

(3) Any individual, corporation, or partnership or any officer or employee of any corporation or member or employee of any partnership who, with intent to evade any tax or any requirement of this chapter or any lawful requirement of the department thereunder, purposely or knowingly~~,~~ fails to pay the tax or to make, render, or sign any return or to supply any information within the time required by or under the provisions of this chapter or who, with like intent, purposely or knowingly makes, renders, or signs any false or fraudulent return or statement or supplies any false or fraudulent information shall be liable to a penalty of not more than $1,000, to be recovered by the attorney general in the name of the state by action in any court of competent

jurisdiction, and shall also be guilty of a misdemeanor and shall upon conviction be fined not to exceed $1,000 or be imprisoned not to exceed 1 year, or both, at the discretion of the court.

(4) With respect to the imposition of a civil penalty, evidence produced by the department to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied as required under the provisions of this chapter is prima facie evidence that the tax has not been paid, the return has not been filed, or the information has not been supplied.

(5) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 56. Section 15-30-323, MCA, is amended to read:

"15-30-323. Penalty for deficiency. (1) If the payment required by 15-30-142(6) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall be added to the amount of the deficiency 5% ~~thereof;-provided,-however,-that no-deficiency-penalty-shall-be-less-than-$2.~~ of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum

~~30%~~ ~~25%~~ 15% penalty. Interest will be computed at the rate of ~~9%--per-annum~~ 3/4 of 1% per month or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon at the rate of ~~9%-per-annum~~ 3/4 of 1% per month from the time when the return was originally required to be filed to the time of payment.

(3) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 57. Section 15-31-502, MCA, is amended to read:

"15-31-502. Assessment and payment of tax, penalty, and interest. (1) All taxpayers shall compute the amount of tax payable under this chapter and shall remit such amount to the department of revenue on or before the 15th day of the 5th month following the close of the taxable period. If the tax is not paid on or before the due date, there shall be assessed a penalty of ~~10%-of-the-amount-of-the-tax-unless it-is-shown-that-the-failure-was-due-to-reasonable-cause-and~~

~~not-due-to-neglect.~~ 5% of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty. If any tax ~~and-penalty~~ due under this chapter is not paid when due, by reason of extension granted or otherwise, interest shall be added thereto at the rate of ~~12%--per--annum~~ 1% a month or fraction thereof from the due date until paid.

(2) Any corporation required BY THIS CHAPTER to pay the minimum license tax for the privilege of doing business in this state ~~shall-be-required-to-pay-a-minimum-penalty--of $10--for--its--failure--to--file-the-return-required-by-this chapter-or-pay-the-minimum-$50-fee-on-the-date-specified--in this--chapter.~~ THAT FAILS TO DO SO ON THE DATE REQUIRED OR FAILS TO FILE THE RETURN REQUIRED BY THIS CHAPTER MUST BE ASSESSED A PENALTY OF NOT LESS THAN $10.

(3) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 58. Section 15-36-105, MCA, is amended to read:

"15-36-105. Statement to accompany payment -- records -- collection of tax -- refunds. (1) Each and every person must, within 60 days after the end of each following quarter, make out on forms prescribed by the department of revenue a statement showing the total number of barrels of merchantable or marketable petroleum and other mineral or crude oil or cubic feet of natural gas produced or extracted by such person in the state during each month of such quarter and during the whole quarter, the average value thereof during each month, and the total value thereof for the whole quarter, together with the total amount due to the state as severance taxes for such quarter, and must within such 60 days deliver such statement and, except as provided in 15-36-121, pay to the department the amount of the taxes shown by such statement to be due to the state for the quarter for which such statement is made. Such statement must be signed by the individual or the president, vice-president, treasurer, assistant treasurer, or managing agent in this state of the association, corporation, joint-stock company, or syndicate making the statement. Any such person engaged in carrying on such business at more than one place in this state or owning, leasing, controlling, or operating more than one oil or gas well in this state may include all thereof in one statement. The department shall receive and file all such statements and collect and receive from such person making and filing a statement the amount of tax payable by such person, if any, as the same shall appear from the face of the statement.

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

~~(3)--If-the-tax-is-not-paid-on-or-before-the-due--date, there--shall--be--assessed-a-penalty-of-10%-of-the-amount-of the-tax,-unless-it-is-shown-that--the--failure--was--due--to reasonable--cause--and--not-due-to-neglect.-If-any-tax-under this-chapter-is-not-paid-when-due,-interest-shall--be--added thereto--at--the--rate--of--1%--a-month-or-fraction-thereof, computed-on-the-total-amount-of-severance--tax--and--penalty from-the-due-date-until-paid.~~"

Section 59. Section 15-37-104, MCA, is amended to read:

"15-37-104. Mine operator's statement of gross value -- reports and sampling. (1) Every person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, precious or semiprecious gems or stones are produced must, not later than 60 days following the quarterly reporting date of each quarter when engaged in or carrying on any such business, work, or operation, make out a statement of the gross value of product from all mines and mining properties worked or operated by such person during the calendar quarter immediately preceding. If good cause is shown, the department may grant a reasonable extension of the time for filing statements. The statement shall be in the form prescribed by the department of revenue and shall show the following:

(a) the name, address, and telephone number of the owner, lessee, or operator of the mine or mining property;

(b) the mine's location by county and legal description;

(c) the number of tons of ore, concentrate, or other mineral products or deposits extracted from the mine or mining property during the period covered by the statement;

(d) the name and location of the smelter, mill, or reduction works to which such ore or concentrate has been shipped or sold during the period covered by the statement and such other information as the department may require;

(e) the gross yield of such ores, concentrates, mineral products, or deposits in constituents of commercial value, that is to say, the number of ounces of gold or silver, pounds of copper, lead, or zinc, or other commercially valuable constituents of said ores, concentrates, or mineral products or deposits, measured by standard units of measurement, during the period covered by the statement;

(f) the quarterly gross value of product in dollars and cents.

(2) This section applies regardless of the location of any smelter, mill, or reduction works to which the ore or concentrate is shipped.

(3) Any sampling, testing, or assaying made necessary to comply with this section must be completed within this state and prior to any mixture of the ore or concentrate to be assayed with ore or concentrate from any other mine or mining property.

~~(4)--If--the--quarterly--statement---of---gross---value described--herein-is-not-filed-with-the-department-within-60 days-following-the-calendar-quarter-ending,-a-penalty--shall be--assessed.--The-penalty-shall-be-the-greater-of-$25-or-2% of-the-tax-that-would-be-due-under-this--part--if--collected quarterly.--If-good-cause-is-shown,-the-department-may-waive the-penalty.~~"

Section 60. Section 15-50-206, MCA, is amended to read:

"15-50-206. Withholding license fee from payments -- refunds. (1) The prime contractor shall withhold the additional 1% license fee from payments to his subcontractors and inform the department of revenue on prescribed forms of the amount of the additional 1% license fee in his account to be allocated and transferred to the subcontractor. The notification to transfer portions of the additional 1% license fee must be filed within 30 days after each payment is made to subcontractors. If any prime contractor fails to file the required allocation and transfer report at the time required by or under the provisions of this chapter, a penalty ~~computed-at-the-rate of-10%-of--the--additional--1%--license--fee--withheld--from subcontractors-shall-be-due-from-the-prime-contractor~~ <u>may be imposed for such failure as provided in [section ~~57~~ ~~63~~ 49]</u>.

(2) The state, county, city, or any agency or department thereof, as described in 37-71-101(3) for whom the contractor is performing public work shall withhold, in addition to other amounts withheld as provided by law, 1% of all payments due the contractor and shall transmit such moneys to the department of revenue. In the event that the 1% of gross receipts, as defined in 15-50-101, is not withheld as provided, the contractor shall make payment of

these amounts to the department within 30 days after the date on which the contractor receives each increment of payment for work performed by the contractor.

(3) Any overpayment of the 1% of gross receipts, as defined in 15-50-101, withheld or paid by any contractor hereunder shall be refunded by the department of revenue at the end of the income year upon written application therefor."

Section 61. Section 15-51-103, MCA, is amended to read:

"15-51-103. Disposition of revenue ~~----interest--on delinquency~~. The department of revenue shall issue a receipt ~~therefor~~ for the license tax and promptly turn the ~~same~~ tax over to the state treasurer. ~~Taxes-not-met-on-the--due--date shall--become-delinquent,-and-a-penalty-of-10%-plus-interest at-the-rate-of-1%-per-month-or-fraction-of-a-month--computed on-the-total-of-tax-and-penalty-shall-be-charged.~~"

Section 62. Section 15-55-108, MCA, is amended to read:

"15-55-108. ~~Penalty-and-interest--for--delinquency---- waiver~~ Delinquent taxes. ~~(1)~~ License taxes due under this chapter become delinquent if not paid by March 1. ~~The department-shall-add-to-the-amount-of-all-delinquent-freight line-company-license-taxes-a-penalty-of-10%-of-the-amount-of license--taxes--plus-interest-at-the-rate-of-1%-per-month-or~~

~~fraction-thereof-computed-on-the--total--amount--of--license taxes--and--penalty.--Interest-is-computed-from-the-date-the license-taxes-were-due-to-the-date-of-payment.~~

~~(2)--The-10%-penalty-may-be-waived-by-the-department-if reasonable-cause-for-the-failure--or--neglect--to--file--the statement--required--by--15-55-103--or--pay--the--tax-due-is provided-to-the-department.~~"

Section 63. Section 15-70-210, MCA, is amended to read:

"15-70-210. ~~Tax----penalty~~ <u>Penalty</u> for <u>willful</u> delinquency. ~~(1)-Any-license-tax-not-paid--within--the--time provided--shall-be-delinquent,-and-a-penalty-of-10%-shall-be added-to-the-tax-and-the-tax-shall-bear-interest-at-the-rate of-1%-per-month-from-the-date--of--delinquency--until--paid. Upon--a--showing--of--good--cause--by--the--distributor,-the department-of-revenue-may-waive-penalty.~~

~~(2)~~ If any distributor or other person subject to the payment of such license tax shall willfully fail, neglect, or refuse to make any statement required by this part or shall willfully fail to make payment of such license tax within the time provided, the department shall be authorized to revoke any license issued under this part.

~~(3)--In-addition,-the-department--shall--inform--itself regarding--the--matters-required-to-be-in-such-statement-and determine-the-amount-of-the-license-tax-due-the--state--from~~

~~such--distributor--and-shall-add-thereto-a-penalty-of-\$25-or 10%-thereof,-whichever-is-greater,-together-with-interest-at the-rate-of-1%-per--month--from--the--date--such--statements should-have-been-made-and-said-license-tax-paid.~~

~~(4)--The--state-treasurer-shall-proceed-to-collect-such license-tax,-with-penalties-and-interest.--Upon--the--request of--the-state-treasurer,-the-attorney-general-shall-commence and--prosecute--to--final--determination--in--any--court--of competent--jurisdiction--an--action--to-collect-such-license tax.~~"

Section 64. Section 15-70-332, MCA, is amended to read:

"15-70-332. Determination if no return made. (1) If any special fuel dealer or special fuel user, whether or not he is licensed as such, fails, neglects, or refuses to file a special fuel tax return when due, the department shall on the basis of information available to it determine the tax liability of the special fuel dealer or special fuel user for the period during which no return was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in ~~15-70-330(1)~~ [section ~~57~~ ~~63~~ 49].

(2) An assessment made by the department pursuant to this section or to 15-70-331 shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the

person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be."

Section 65. Section 16-1-409, MCA, is amended to read:

"16-1-409. Failure to make beer tax returns -- penalties. (1) If any brewer or wholesaler subject to the payment of the tax provided for in 16-1-406 through 16-1-408 shall fail, neglect, or refuse to make any return required by this code or shall fail to make payment of such tax within the time herein provided, the department shall, forthwith after such time has expired, proceed to inform itself as best it may regarding the matters and things required to be set forth in such return and, from such information as it may be able to obtain, to make a statement showing such matters and things and determine and fix the amount of such tax due the state from such delinquent brewer or wholesaler.

(2) The department shall add to the amount of tax due a penalty of 5% ~~thereof for the first failure, willful neglect, or refusal, 10% for the second, 15% for the third, and 25% for the fourth and each subsequent failure, neglect, or refusal, which shall be in addition to the 5% penalty provided for nonpayment of such tax within the time provided,~~ <u>of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period</u>

during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty.

(3) Said tax ~~and-the--penalties--added--thereto~~ shall bear interest at the rate of 1% per month or fraction thereof from the date such returns should have been made and said tax paid.

(4) The department shall then proceed to collect such tax with penalties and interest. Upon request of the department it shall be the duty of the attorney general to commence and prosecute to final determination in any court of competent jurisdiction an action to collect such tax.

(5) If all or part of the tax imposed upon a brewer or wholesaler by this part is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand thereafter filed or recorded.

(6) No action shall be maintained to enjoin the collection of such tax or any part thereof.

(7) ~~Any-tax-owed-by-a-brewer-or-wholesaler-under--this code--not-paid-within-the-time-provided-shall-be-delinquent, and-a-penalty-of-5%-shall-be-added-thereto,--and--the--whole thereof-shall-bear-interest-at-the-rate-of-1%-per-month-from the-date-of-delinquency-until-paid.~~ Any brewer or wholesaler who fails, neglects, or refuses to make the return to the

department provided for in 16-3-211 or 16-3-231 or refuses to allow such examination as provided for in 16-3-211 or 16-3-231 or fails to make an accurate return according to the manner prescribed shall be deemed guilty of having committed a misdemeanor and upon conviction shall be fined in an amount not exceeding $1,000.

(8) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 66. Section 16-11-143, MCA, is amended to read:

"16-11-143. Penalty for unpaid cigarette tax. (1) If any person fails or refuses to pay the tax required by this part when due, the department shall proceed to determine the tax due from such information as the department can obtain and shall assess the tax so determined against such person and notify him of the amount. After such notice such tax shall become due and payable, together with a penalty of 5% ~~of--such--tax--or--$5-per-day-for-each-day-after-the-date-of such-notice,-whichever-is-greater.~~ of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty.

(2) In the case of any violation of this chapter, the

department shall be entitled to sue, in the district where the department maintains its principal office, for the amount of the unpaid tax and costs, including reasonable expense of the department in effecting collection of the unpaid tax. Where the court finds the failure to pay the tax has been willful, the court must, in addition, assess damages in treble the amount of the tax found to be due.

(3) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 67. Section 69-1-225, MCA, is amended to read:

"69-1-225. Computation and collection of fee in absence of statement -- penalty and interest. (1) If a regulated company or an officer or employee of a regulated company fails, neglects, or refuses to file the statement required by 69-1-223(2), the department of revenue may after the time for filing has expired proceed to inform itself, as best it may, regarding the regulated company's gross operating revenue from all activities regulated by the commission within the state for the calendar quarter, quarters, or portion thereof and may determine and fix the amount of the consumer counsel fee due.

(2) The department may add to the amount of the fee computed under subsection (1), in addition to any other penalty provided by law, a penalty of ~~10%-thereof-plus~~

~~interest-at-the-rate-of-1%-per-month-or--fraction--of--month computed--on--the-total-amount-of-fee-and-penalty.~~ 5% of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty. Interest is computed from the date the fee is due to the date of payment.

(3) The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within 15 days of the regulated company's receipt of the letter; otherwise a lien may be filed.

(4) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to file the statement is provided to the department.

(5) The department may not assess a penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

Section 68. Section 69-1-226, MCA, is amended to read:

"69-1-226. Failure to pay fee -- penalty and interest -- collection of fee. (1) If a regulated company or an officer or employee of a regulated company files the statement required by 69-1-223(2) but fails, neglects, or refuses to pay the fee due within the time required, the department of revenue may after the time for payment has expired add to the fee due, in addition to any other penalty provided by law, a penalty of ~~10%-thereof-plus-interest-at the-rate-of-1%-per-month-or-fraction-of--month--computed--on the--total--amount-of-the-fee-and-penalty.~~ 5% of the tax. In addition, a penalty of 5% of the delinquent tax must be assessed for each 30-day period during which the tax remains unpaid following notification of delinquency, with a maximum ~~30%~~ ~~25%~~ 15% penalty. Interest is computed from the date the fee is due to the date of payment.

(2) The department of revenue shall mail to the regulated company a letter setting forth the amount of the fee, penalty, and interest and notifying the company that payment of the full amount of the fee, penalty, and interest must be remitted within 15 days of the regulated company's receipt of the letter; otherwise a warrant for distraint may be filed.

(3) The 10% penalty may be waived by the department of revenue if reasonable cause for failure and neglect to make payment is provided to the department.

(4) The department may not assess any penalty until the penalty equals $10 or more for any one tax period or the period covered by a return or statement."

~~Section-83.--Section-90-8-202,-MCA,-is-amended-to-read:~~

~~"90-8-202.--Designation-of--qualified--Montana--capital~~

~~companies tax credit. (1) The board shall designate as qualified Montana capital companies those certified companies that have been privately capitalized at a minimum level of $200,000. A certified company seeking designation as a qualified Montana capital company must make written application to the board on forms provided by the board. The application must contain the information required by 90-8-204 and such other information as the board requires.~~

~~(2) (A) The total amount of tax credits authorized for a single qualified company may not exceed $375,000 $1,500,000. In the event the capitalization of the company is later increased, the company may apply for authorization of additional tax credits within the foregoing limitation.~~

~~(B) The total credits authorized for all companies may not exceed a total of $1 million prior to June 30, 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may not exceed $1 million plus any portion of the $1 million available for authorization before June 30, 1985, that is allocated to qualified companies. The total credits authorized for all companies between July 1, 1987, and June 30, 1989, may not exceed $3 million plus any portion of the credits available for authorization before July 1, 1987, that is allocated to qualified companies. THE TOTAL CREDITS AUTHORIZED FOR ALL COMPANIES BETWEEN JULY 1, 1989, AND JUNE 30, 1991, MAY NOT EXCEED $3~~

~~MILLION-PLUS--ANY--PORTION--OF--THE--CREDITS--AVAILABLE--FOR AUTHORIZATION--BEFORE--JUNE--30,--1989,-THAT-IS-ALLOCATED-TO QUALIFIED-COMPANIES.~~

~~(3)--The--credits--shall--be--allocated--to---qualified companies--in--the--order--that--completed--applications-for designation-as-qualified-capital-companies-are--received--by the--board,-and-the-board-shall-certify-to-each-such-company its-appropriate-allocation.~~

~~(3)(4)--Investors--in--a--qualified---Montana---capital company--are--entitled--to--the--tax-credits-provided-for-in subsection-(4)-(5).--Funds-invested-in-a--certified--company prior--to-designation-as-a-qualified-Montana-capital-company may,-at-the-discretion-of-the--investor,--be--placed--in--an escrow--account--in--a-Montana-financial-institution-pending designation-of-the-company-as-a--qualified--Montana--capital company.~~

~~(4)(5)--Subject-to-the-provisions-of-subsection-(2),-an individual,--small--business--corporation,--partnership,--or corporate-taxpayer-who--makes--a--capital--investment--in--a qualified--Montana--capital--company--is--entitled--to-a-tax credit-equal-to-25%-50%-of-the-investment,-up-to--a--maximum credit--of-$25,000-$50,000-$150,000-per-taxpayer.--The-credit may-be-taken--against--the--tax--liability--imposed--on--the investor-pursuant-to-Title-15,-chapter-30-or-31.--The-credit for--investments-by-a-small-business-corporation-electing-to~~

~~be-taxed-under-15-31-202-or-a-partnership-may-be-claimed--by the-small-business-corporation-shareholders-or-the-partners.~~

~~(5)(6)--The-tax-credit-allowed-under-subsection-(4)-(5) is---to--be--credited--against--the--taxpayer's--income--tax liability-for-the-taxable-year-in-which-the-investment-in--a qualified-Montana-capital-company-is-made.--If-the-amount-of the--tax-credit-exceeds-the-taxpayer's-tax-liability-for-the taxable-year,-the-amount-of-the-credit-which-exceeds-the-tax liability--may--be--carried--back--or--carried--forward---in accordance--with--the--provisions--of--section--46(b)-of-the Internal-Revenue-Code-of-1954,-as-amended.~~

~~(6)(7)--The-tax-credit-provided-for-in-this-section--is available--only-to-those-taxpayers-who-invest-in-a-qualified Montana-capital-company-within-5-years-of--April--18,--1983. before--June--30,--1990.--After--that--date-the-only-credits available-pursuant-to-this-chapter-are-carryovers-of--unused credits--as--provided--in--subsection-(5).-WITHIN-4-YEARS-OF JULY-1,-1987.~~"

Section 69. Section 15-30-207, MCA, is amended to read:

"15-30-207. Annual statement by employer. (1) Every employer shall, on or before February ~~15~~ 28 in each year, file with the department a wage and tax statement for each employee in such form and summarizing such information as the department requires, including the total wages paid to the employee during the preceding calendar year or any part thereof and showing the total amount of the federal income tax deducted and withheld from such wages and the total amount of the tax deducted and withheld therefrom under the provisions of 15-30-201 through 15-30-209.

(2) The annual statement filed by an employer with respect to the wage payments reported constitutes full compliance with the requirements of 15-30-301 relating to the duties of information agents, and no additional information return is required with respect to such wage payments.

(3) In addition to any other penalty provided by law, the failure of an employer to furnish a statement as required by subsection (1) subjects the employer to a penalty of $5 for each failure, provided that the minimum penalty for failure to file the statements required on or before February ~~15~~ <u>28</u> of each year shall be $50. This penalty may be abated by the department upon a showing of good cause by the employer. The penalty may be collected in the same manner as are other tax debts."

Section 70. Section 15-31-552, MCA, is amended to read:

"15-31-552. Corporation license tax clearance certificates furnished ~~---fee~~. Upon request of a corporation ~~and--upon--the--payment-of-$1~~, the department of revenue may furnish to it a certificate to the effect that all taxes have been paid, that a return has been filed, and that all information has been supplied as required by the provisions of this chapter."

~~SECTION-86.--SECTION--15-31-553,--MCA,--IS--AMENDED--TO READ:~~

~~"15-31-553.--Fees-to-reimburse-department-for-costs----deposit---in--general--fund.---All--moneys--collected--under 15-31-551-and-15-31-552-shall-be-required-to--reimburse--the department--of-revenue-for-costs-involved-in-the-preparation of-the-copies-and-certificates.-All--such--moneys--collected shall-go-into-the-general-fund."~~

Section 71. Section 15-70-203, MCA, is amended to read:

"15-70-203. License to sell gasoline on which refund may be claimed. (1) Any person other than a licensed distributor shall obtain a license from the department of revenue prior to selling gasoline on which a refund may be claimed. The application for license shall contain the applicant's name, address, place or places of business in the state of Montana, and other information which may be required by the department. Licenses issued shall bear a license number and the date of issuance. The department shall keep a record of all licenses issued, canceled, or suspended. A nontransferable license shall be issued, ~~for--3~~

~~years--upon-payment-of-a-fee-of-$3,--Licenses-must-be-renewed and-the-fee-paid-every-3-years-from-date-of--issuance~~ which shall be effective until canceled or suspended by the department.

(2) Any person failing to comply with this section shall be subject to a fine of not less than $25 or more than $200 or imprisonment in the county jail for a period not less than 10 days or more than 60 days or both fine and imprisonment."

Section 72. Section 61-1-129, MCA, is amended to read:

"61-1-129. Camper. The term "camper" as used in ~~61-3-524~~ 61-3-523 and 61-3-525 includes but is not limited to truck camper, chassis-mounted camper, cab over, half cab over, non cab over, telescopic, and telescopic cab over, but does not include a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached."

SECTION 73. SECTION 35-18-503, MCA, IS AMENDED TO READ:

"35-18-503. ~~Annual-fee-to--department--of--revenue----exemption~~ Exemption from ~~other~~ taxes. ~~Cooperatives~~ Except as provided in 10-4-201, cooperatives and foreign corporations transacting business in this state pursuant to the provisions of this chapter ~~shall-pay-annually-on-or-before July-1,-to-the-department-of-revenue-a-fee-of-$10--for--each 100--persons--or--fractions--thereof--to-whom-electricity-or~~

~~telephone-service-is-supplied-within-the-state--but,--except as--provided-in-10-4-201,-shall-be~~ are exempt from all ~~other~~ excise and income taxes of whatsoever kind or nature."

Section 74. Section 61-3-523, MCA, is amended to read:

"61-3-523. Schedule of fees for travel trailers and campers -- decals. (1) The fee imposed by 61-3-521 on a travel trailer less than 3 years old is $40. In all other cases the fee is $15.

(2) The fee imposed by 61-3-521 on a camper less than 3 years old is $35. In all other cases the fee is $15.

(3) The age of a travel trailer or camper is determined by subtracting the manufacturer's designated model year from the current calendar year.

(4) The county treasurer shall, upon payment of the fee provided for in subsection (1) or (2), issue a decal to the person paying such fee as proof the fee in lieu of tax has been paid for the current year. THE DEPARTMENT OF REVENUE SHALL FURNISH DECALS TO THE COUNTY TREASURERS AT NO CHARGE.

(5) No camper subject to taxation in Montana may be operated by any person on the públic highways or streets in this state unless there is displayed in a conspicuous place thereon a decal as visual proof that the fee has been paid for the current year."

Section 75. Section 61-3-525, MCA, is amended to read:

"61-3-525. ~~Annual--application-for~~ Issuance of decals. Application may be made to the ~~department--of--revenue--or~~ county treasurer for the issuance of camper decals annually when the motor vehicle to which the camper is customarily attached is registered."

Section 76. Section 61-3-606, MCA, is amended to read:

"61-3-606. Penalty for violation of camper decal requirement. Operation of a camper in violation of ~~61-3-524~~ 61-3-523(5) is a misdemeanor punishable by a fine not to exceed $50."

~~Section-93.--Section-15-2-301,-MCA,-is-amended-to-read:~~

~~"15-2-301.--Appeal---of---county---tax---appeal---board decisions.---(1)--Any-person-or-the-department-of-revenue-in behalf-of-the-state-or-any-municipal--corporation--aggrieved by--the--action-of-any-county-tax-appeal-board-may-appeal-to the-state-board-by-filing-with-the-county-tax-appeal-board-a notice-of-appeal-and-a--duplicate--thereof--with--the--state board--within--20--calendar--days--after--the-receipt-of-the decision-of-the-county-board,-which-notice-shall-specify-the action-complained-of--and--the--reasons--assigned--for--such complaint.--The--county--tax--appeal-boards-shall-mail-their decisions--to--the--property--assessment--division--of---the department.---Receipt,---for--purposes--of--appeal,--by--the department-is-when-the-county-tax-appeal-board--decision--is received---by---the--property--assessment--division--of--the~~

~~department,-The--state--board--shall--set--such--appeal--for hearing--either--in-its-office-in-the-capital-or-such-county seat-as-the-board--considers--advisable--to--facilitate--the performance--of--its--duties--or--to--accommodate-parties-in interest-and-shall-give-to-the-appellant-and-to--the--county board--at--least--15--calendar--days'-notice-of-the-time-and place-of-such-hearing,~~

~~(2)--At-the-time-of-giving-such-notice,-the-state-board may-require-the-county-board-to-certify-to-it-the-minutes-of the-proceedings-resulting-in-such-action-and--all--testimony taken--in--connection-therewith,-The-state-board-may,-in-its discretion,-determine-the--appeal--on--such--record--if--all parties--receive--a-copy-of-the-transcript-and-are-permitted to-submit-additional-sworn-statements,-or--the--state--board may--hear--further--testimony,-For-the-purpose-of-expediting its-work,-the-state-board-may-refer-any-such-appeal--to--one of--its--members-and-the-person-so-designated-shall-have-and exercise-all-the-powers-of--the--board--in--conducting--such hearings--and--shall,-as-soon-as-possible-thereafter,-report the-proceedings,-together-with-a-transcript-of-the-testimony received,-to-the-board-and-the-state-board--shall--determine such-appeal-on-the-record-so-made,~~

~~(3)--For--the-purpose-of-expediting-its-work,-the-state board-may-employ-hearings-examiners-to-hear-appeals-from-the county-tax-appeal-boards,-The-hearing--examiner--shall--have~~

~~and exercise all powers of the state board in conducting such hearings and shall, as soon as possible thereafter, report the proceedings, together with a transcript OR A TAPE RECORDING of the testimony received HEARING, to the board. The state board shall determine the appeal on the record made by the hearing examiner. The board in its discretion shall establish the qualifications for hearings examiners and may employ qualified members of county tax appeal boards. However, in no case may a member of a county tax appeal board serve as hearing examiner in a matter which he heard originally.~~

~~(3)(4) On all hearings at county seats throughout the state, the state board or the member designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received and the cost thereof may be paid out of the general appropriation for the board.~~

~~(4)(5) In connection with any appeal under this section, the state board shall not be bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. The decision of the state tax appeal board shall be final and binding upon all interested parties unless reversed or modified by judicial review. To the extent this section is in conflict with the Montana Administrative Procedure Act, this section~~

~~shall-supersede-that-act.--The-state-tax-appeal-board-may-not amend--or--repeal-any-administrative-rule-of-the-department. The-state-tax-appeal-board-must-give-an-administrative--rule full--effect-unless-the-board-finds-any-such-rule-arbitrary, capricious,-or-otherwise-unlawful.~~"

NEW SECTION. Section 77. Repealer. Sections 15-30-112 through 15-30-117, MCA, are repealed.

NEW SECTION. Section 78. Repealer. Sections 15-30-121 through 15-30-123, MCA, are repealed.

NEW SECTION. Section 79. Repealer. Sections 15-30-125 and 15-30-126, MCA, are repealed.

NEW SECTION. Section 80. Repealer. Section 15-30-156, MCA, is repealed.

NEW SECTION. Section 81. Repealer. Section 15-30-157, MCA, is repealed.

NEW SECTION. Section 82. Repealer. Section 15-30-161, MCA, is repealed.

NEW SECTION. Section 83. Repealer. Section 15-31-116, MCA, is repealed.

NEW SECTION. Section 84. Repealer. Sections 15-31-124 through 15-31-127, MCA, are repealed.

NEW SECTION. SECTION 85. REPEALER. SECTIONS 15-31-201 AND 15-31-208, MCA, ARE REPEALED.

NEW SECTION. Section 86. Repealer. ~~Section~~ SECTIONS ~~15-31-553~~ 15-31-551 AND 15-31-553, MCA, is repealed.

NEW SECTION. Section 87. Repealer. Sections 15-31-601 and 15-31-602, MCA, are repealed.

NEW SECTION. Section 88. Repealer. Sections 15-31-604 through 15-31-607, MCA, are repealed.

NEW SECTION. Section 89. Repealer. Sections 15-32-101 and 15-32-103 through 15-32-106, MCA, are repealed.

NEW SECTION. Section 90. Repealer. Sections 15-32-108, 15-32-109, 15-32-201, 15-32-202, 15-32-301 through 15-32-303, and 15-32-401 through 15-32-407, MCA, are repealed.

NEW SECTION. Section 91. Repealer. Section 15-35-105, MCA, is repealed.

NEW SECTION. Section 92. Repealer. Section 15-36-107, MCA, is repealed.

NEW SECTION. Section 93. Repealer. Sections 15-37-201 through 15-37-207, 15-37-210 through 15-37-212, and 15-37-221, MCA, are repealed.

NEW SECTION. Section 94. Repealer. Section 15-38-107, MCA, is repealed.

NEW SECTION. Section 95. Repealer. Section 15-51-111, MCA, is repealed.

NEW SECTION. Section 96. Repealer. Section 15-53-111, MCA, is repealed.

NEW SECTION. Section 97. Repealer. Section 15-53-112, MCA, is repealed.

NEW SECTION. Section 98. Repealer. Sections 15-54-101 through 15-54-105, 15-54-111 through 15-54-113, MCA, are repealed.

NEW SECTION. Section 99. Repealer. Sections 15-56-101 through 15-56-108 and 15-56-111 through 15-56-113, MCA, are repealed.

NEW SECTION. Section 100. Repealer. Sections 15-57-101 through 15-57-110, MCA, are repealed.

NEW SECTION. Section 101. Repealer. Sections 15-58-101, 15-58-102, 15-58-104 through 15-58-111, and 15-58-121 through 15-58-126, MCA, are repealed.

NEW SECTION. Section 102. Repealer. Sections 15-59-101, 15-59-102, 15-59-104 through 15-59-110, 15-59-112 through 15-59-114, 15-59-121, 15-59-201, 15-59-203~~,~~ THROUGH 15-59-210, 15-59-212 through 15-59-214, and 15-59-221, MCA, are repealed.

NEW SECTION. Section 103. Repealer. Section 15-70-330, MCA, is repealed.

NEW SECTION. Section 104. Repealer. Section 16-11-101, MCA, is repealed.

~~NEW-SECTION.--Section-113.--Repealer.------------Section 19-9-1005,-MCA,-is-repealed.~~

NEW SECTION. Section 105. Repealer. Sections 23-2-714 and 23-2-715, MCA, are repealed.

~~NEW-SECTION.--Section-115.--Repealer.------------Section~~

~~35-18-503,-MCA,-is-repealed.~~

NEW SECTION. Section 106. Repealer. Section 61-3-524, MCA, is repealed.

NEW SECTION. Section 107. Repealer. Section 82-11-133, MCA, is repealed.

NEW SECTION. Section 108. Extension of authority. Any existing authority of the department of revenue ~~and--the state--tax--appeal-board~~ to make rules on the subject of the provisions of ~~this-act~~ SECTIONS 1 THROUGH 112 is extended to the provisions of this act.

NEW SECTION. Section 109. Codification instructions. (1) Sections ~~16~~ 12 and ~~19~~ 40 are intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to sections ~~16~~ 12 and ~~19~~ 40.

(2) Sections ~~37~~ ~~44~~ 43 and ~~39~~ ~~46~~ 45 are intended to be codified as an integral part of Title 15, chapter 31, part 1, and the provisions of Title 15, chapter 31, part 1, apply to sections ~~37~~ ~~44~~ 43 and ~~39~~ ~~46~~ 45.

~~(3)--Sections-41-48-through-49-55-are--intended--to--be codified--as--an-integral-part-of-Title-15,-chapter-31,-part 3,-and-the-provisions-of-Title--15,--chapter--31,--apply--to sections-41-48-through-49-55.~~

~~(4)~~(3) Sections ~~57~~ ~~63~~ 49 through ~~61~~ ~~67~~ 53 are intended to be codified as an integral part of Title 15, chapter 1, and the provisions of Title 15 apply to sections ~~57~~ ~~63~~ 49 through ~~61~~ ~~67~~ 53. It is also intended that section 15-1-206 be renumbered and codified together with sections ~~57~~ ~~63~~ 49 through ~~61~~ ~~67~~ 53.

~~(5)~~(4) Section 15-32-203 is intended to be renumbered and codified as an integral part of Title 15, chapter 32, part 1.

NEW SECTION. Section 110. Severability. If a part of ~~this-act~~ SECTIONS 1 THROUGH 112 is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of ~~this-act~~ SECTIONS 1 THROUGH 112 is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

~~NEW-SECTION.--SECTION-128.--COORDINATION---INSTRUCTION. IF-SENATE-BILL-NO.--122,--INCLUDING--THAT--SECTION--AMENDING 15-2-301,--IS--PASSED--AND-APPROVED,-SECTION-85-OF-THIS-ACT, AMENDING-15-2-301,-IS-VOID.~~

NEW SECTION. Section 111. Applicability. (1) Unless otherwise specified or required by a particular section ~~of this-act-or-this-section~~ IN SECTIONS 1 THROUGH 112, the provisions of ~~this--act~~ SECTIONS 1 THROUGH 112 shall apply retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1986.

(2) Sections ~~1--through--3,~~ ~~78~~ ~~84~~ 69 through ~~84,-101,~~

~~106~~ ~~92, 110, 115~~ 76, 93, 98 through ~~110~~ ~~119~~ 102, ~~and~~ ~~114~~ ~~122~~ 105 ~~through~~ ~~116~~ ~~123~~ AND 106, apply beginning January 1, 1988.

(3) SECTIONS ~~29, 30, AND 31~~ 22 THROUGH 25 APPLY RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO ALL SMALL BUSINESS CORPORATIONS THAT HAVE MADE A VALID ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF THE INTERNAL REVENUE CODE ON OR BEFORE DECEMBER 31, 1986, AND FOR TAX YEARS ENDING AFTER DECEMBER 31, 1986.

NEW SECTION. Section 112. Effective date -- TERMINATION DATE. (1) ~~This act is~~ SECTIONS 1 THROUGH 112 ARE effective on passage and approval.

(2) SECTION 40 TERMINATES DECEMBER 31, 1989.

NEW SECTION. SECTION 113. DEFINITIONS. FOR PURPOSES OF [SECTIONS 113 THROUGH 187] 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;

(C) THE EXCAVATING OF EARTH;

(D) THE DRILLING OF WELLS OF ANY TYPE, INCLUDING SEISMOGRAPH SHOT HOLES OR CORE DRILLING; OR

(E) ANY SIMILAR WORK.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(4) "ENGAGING IN BUSINESS" MEANS CARRYING ON OR CAUSING TO BE CARRIED ON ANY ACTIVITY WITH THE PURPOSE OF DIRECT OR INDIRECT BENEFIT.

(5) "FOOD PRODUCT FOR HUMAN CONSUMPTION":

(A) MEANS AND INCLUDES:

(I) CEREALS AND CEREAL PRODUCTS, MARGARINE, MEAT AND MEAT PRODUCTS, FISH AND FISH PRODUCTS, EGGS AND EGG PRODUCTS, VEGETABLES AND VEGETABLE PRODUCTS, FRUIT AND FRUIT PRODUCTS, SPICES, SALT, SUGAR, SUGAR SUBSTITUTES, SUGAR PRODUCTS OTHER THAN CANDY AND CONFECTIONERIES, COFFEE AND COFFEE SUBSTITUTES, TEA, AND COCOA AND COCOA PRODUCTS OTHER THAN CANDY OR CONFECTIONERIES;

(II) MILK AND CREAM AND THEIR PRODUCTS;

(III) ALL FRUIT JUICES CONTAINING 15% OR MORE REAL FRUIT JUICE, VEGETABLE JUICES, AND OTHER BEVERAGES, EXCEPT BOTTLED WATER, SPIRITUOUS, MALT, OR VARIOUS OTHER LIQUORS, OR CARBONATED BEVERAGES, WHETHER LIQUID OR FROZEN; AND

(B) DOES NOT MEAN OR INCLUDE MEDICINES OR PREPARATIONS, IN LIQUID, POWDERED, GRANULAR, BOTTLED, CAPSULE, LOZENGE, OR PILL FORM, SOLD AS A DIETARY SUPPLEMENT OR ADJUNCT NOT PRESCRIBED BY A LICENSED PHYSICIAN.

(6) (A) "GROSS RECEIPTS", IN ADDITION TO THE OTHER MEANINGS PROVIDED IN THIS SUBSECTION (6), MEANS THE TOTAL AMOUNT OF MONEY OR THE VALUE OF OTHER CONSIDERATION RECEIVED FROM SELLING PROPERTY IN MONTANA, FROM LEASING PROPERTY USED IN MONTANA, OR FROM PERFORMING SERVICES IN MONTANA. THE TERM INCLUDES ALL RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL PROPERTY HANDLED ON CONSIGNMENT BUT EXCLUDES CASH DISCOUNTS ALLOWED AND TAKEN AND ANY TYPE OF TIME-PRICE DIFFERENTIAL.

(B) IN AN EXCHANGE IN WHICH THE MONEY OR OTHER

CONSIDERATION RECEIVED DOES NOT REPRESENT THE VALUE OF THE PROPERTY OR SERVICE EXCHANGED, GROSS RECEIPTS MEANS THE REASONABLE VALUE OF THE PROPERTY OR SERVICE EXCHANGED.

(C) (I) EXCEPT AS PROVIDED IN [SECTION 165], WHEN THE SALE OF PROPERTY OR SERVICE IS MADE UNDER ANY TYPE OF CHARGE OR CONDITIONAL OR TIME-SALES CONTRACT OR THE LEASING OF PROPERTY IS MADE UNDER A LEASING CONTRACT, THE SELLER OR LESSOR SHALL TREAT ALL RECEIPTS, EXCLUDING ANY TYPE OF TIME-PRICE DIFFERENTIAL, UNDER SUCH CONTRACTS AS GROSS RECEIPTS AT THE TIME OF THE SALE.

(II) IF THE SELLER OR LESSOR TRANSFERS HIS INTEREST IN ANY SUCH CONTRACT TO A THIRD PERSON, THE SELLER OR LESSOR SHALL PAY THE SALES TAX OR USE TAX UPON THE FULL SALE OR LEASING CONTRACT AMOUNT, EXCLUDING ANY TYPE OF TIME-PRICE DIFFERENTIAL.

(D) GROSS RECEIPTS INCLUDES ALL AMOUNTS PAID BY MEMBERS OF ANY COOPERATIVE ASSOCIATION OR SIMILAR ORGANIZATION FOR SALES OR LEASES OF PERSONAL PROPERTY OR PERFORMANCE OF SERVICES BY SUCH ORGANIZATION.

(7) "LEASE" OR "LEASING" MEANS AN ARRANGEMENT IN WHICH, FOR A CONSIDERATION, PROPERTY IS USED FOR OR BY A PERSON OTHER THAN THE OWNER OF THE PROPERTY.

(8) "MANUFACTURING" MEANS COMBINING OR PROCESSING COMPONENTS OR MATERIALS TO INCREASE THEIR VALUE FOR SALE IN THE ORDINARY COURSE OF BUSINESS. THE TERM DOES NOT INCLUDE

CONSTRUCTION.

(9) "MEDICAL SERVICES" MEANS A SERVICE PERFORMED BY A PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY, PODIATRY, OPTOMETRY, CHIROPRACTIC, OR PSYCHOLOGY AS A REGULAR PART OF HIS BUSINESS ACTIVITIES AND APPLIED EXTERNALLY OR INTERNALLY TO THE HUMAN BODY OR MIND FOR THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE.

(10) "MEDICINE" OR "DRUG" MEANS AND INCLUDES ANY SUBSTANCE OR PREPARATION INTENDED FOR USE BY EXTERNAL OR INTERNAL APPLICATION TO THE HUMAN BODY OR MIND IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE, WHICH SUBSTANCE OR PREPARATION IS REQUIRED BY LAW OR REGULATION TO BE PRESCRIBED BY A PERSON LICENSED TO PRESCRIBE SUCH DRUG OR MEDICINE.

(11) "PERMIT" MEANS A SELLER'S PERMIT AS DESCRIBED IN [SECTION 156].

(12) "PERSON" MEANS:

(A) AN INDIVIDUAL, ESTATE, TRUST, RECEIVER, COOPERATIVE ASSOCIATION, CLUB, CORPORATION, COMPANY, FIRM, PARTNERSHIP, JOINT VENTURE, SYNDICATE, OR OTHER ENTITY, INCLUDING ANY GAS, WATER, OR ELECTRIC UTILITY OWNED OR OPERATED BY A COUNTY, MUNICIPALITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE; OR

(B) THE UNITED STATES OR ANY AGENCY OR INSTRUMENTALITY

<u>OF THE UNITED STATES OR THE STATE OF MONTANA OR ANY POLITICAL SUBDIVISION OF THE STATE.</u>

<u>(13) "SALES TAX" AND "USE TAX" MEAN THE APPLICABLE TAX IMPOSED BY [SECTION 114].</u>

<u>(14) (A) "SERVICE" MEANS ANY ACTIVITY ENGAGED IN FOR ANOTHER PERSON FOR A CONSIDERATION, WHICH ACTIVITY INVOLVES THE PERFORMANCE OF A SERVICE AS DISTINGUISHED FROM THE SALE OR LEASE OF PROPERTY. THE TERM INCLUDES ACTIVITIES PERFORMED BY A PERSON FOR ITS MEMBERS OR SHAREHOLDERS AND CONSTRUCTION ACTIVITIES AND ALL TANGIBLE PERSONAL PROPERTY THAT WILL BECOME AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION PROJECT.</u>

<u>(B) IN DETERMINING WHAT A SERVICE IS, THE INTENDED USE, PRINCIPAL OBJECTIVE, OR ULTIMATE OBJECTIVE OF THE CONTRACTING PARTIES IS IRRELEVANT.</u>

<u>(15) "THERAPEUTIC AND PROSTHETIC DEVICES" INCLUDES BUT IS NOT LIMITED TO PRESCRIPTION EYEGLASSES, CONTACT LENSES, DENTURES, AND ARTIFICIAL LIMBS, PRESCRIBED OR ORDERED BY A PERSON LICENSED TO PRACTICE MEDICINE, OSTEOPATHY, DENTISTRY, PODIATRY, OPTOMETRY, OR CHIROPRACTIC.</u>

<u>(16) "USE" OR "USING" INCLUDES USE, CONSUMPTION, OR STORAGE OTHER THAN STORAGE FOR SUBSEQUENT SALE, IN THE ORDINARY COURSE OF BUSINESS, OR FOR USE SOLELY OUTSIDE THIS STATE.</u>

<u>NEW SECTION. SECTION 114. IMPOSITION AND RATE OF</u>

SALES TAX AND USE TAX. (1) A SALES TAX OF 5% IS IMPOSED ON ALL GROSS RECEIPTS, AS DEFINED IN [SECTION 113], FOR THE PRIVILEGE OF ENGAGING IN BUSINESS IN THIS STATE.

(2) FOR THE PRIVILEGE OF USING PROPERTY IN THIS STATE, THERE IS IMPOSED ON THE PERSON USING THE PROPERTY A USE TAX EQUAL TO 5% OF THE VALUE OF THE PROPERTY THAT WAS:

(A) MANUFACTURED BY THE PERSON USING THE PROPERTY IN THIS STATE;

(B) ACQUIRED OUTSIDE THIS STATE AS THE RESULT OF A TRANSACTION THAT WOULD HAVE BEEN SUBJECT TO THE SALES TAX HAD IT OCCURRED WITHIN THIS STATE; OR

(C) ACQUIRED AS THE RESULT OF A TRANSACTION THAT WAS NOT INITIALLY SUBJECT TO THE USE TAX IMPOSED BY SUBSECTION (2)(B) OR THE SALES TAX IMPOSED BY SUBSECTION (1) BUT WHICH TRANSACTION, BECAUSE OF THE BUYER'S SUBSEQUENT USE OF THE PROPERTY, IS SUBJECT TO THE SALES TAX OR USE TAX.

(3) FOR THE PRIVILEGE OF USING SERVICES RENDERED IN THIS STATE, THERE IS IMPOSED ON THE PERSON USING SUCH SERVICES A USE TAX EQUAL TO 5% OF THE VALUE OF THE SERVICES AT THE TIME AT WHICH THEY WERE RENDERED. SERVICES TAXABLE UNDER THIS SECTION MUST HAVE BEEN RENDERED AS THE RESULT OF A TRANSACTION THAT WAS NOT INITIALLY SUBJECT TO THE SALES TAX OR USE TAX BUT WHICH TRANSACTION, BECAUSE OF THE BUYER'S SUBSEQUENT USE OF THE SERVICE, IS SUBJECT TO THE SALES TAX OR USE TAX.

(4) FOR PURPOSES OF THIS SECTION, THE VALUE OF PROPERTY MUST BE DETERMINED AS OF THE TIME OF ACQUISITION, INTRODUCTION INTO THIS STATE, OR CONVERSION TO USE, WHICHEVER IS LATER.

NEW SECTION. SECTION 115. PRESUMPTION OF TAXABILITY -- VALUE. (1) IN ORDER TO PREVENT EVASION OF THE SALES TAX OR USE TAX AND TO AID IN ITS ADMINISTRATION, IT IS PRESUMED THAT:

(A) ALL RECEIPTS OF A PERSON ENGAGING IN BUSINESS ARE SUBJECT TO THE SALES TAX OR USE TAX; AND

(B) ALL PROPERTY BOUGHT OR SOLD BY ANY PERSON FOR DELIVERY INTO THIS STATE IS BOUGHT OR SOLD FOR A TAXABLE USE IN THIS STATE.

(2) IN DETERMINING THE AMOUNT OF TAX DUE ON THE USE OF PROPERTY OR SERVICES, IT IS PRESUMED, IN THE ABSENCE OF PREPONDERANT EVIDENCE OF ANOTHER VALUE, THAT VALUE MEANS THE TOTAL AMOUNT OF PROPERTY OR THE REASONABLE VALUE OF OTHER CONSIDERATION PAID FOR THE USE OF THE PROPERTY OR SERVICE, EXCLUSIVE OF ANY TYPE OF TAX-PRICE DIFFERENTIAL. HOWEVER, IN AN EXCHANGE IN WHICH THE AMOUNT OF MONEY PAID DOES NOT REPRESENT THE VALUE OF THE PROPERTY OR SERVICE PURCHASED, THE USE TAX MUST BE IMPOSED ON THE REASONABLE VALUE OF THE PROPERTY OR SERVICE PURCHASED.

NEW SECTION. SECTION 116. SEPARATE STATEMENT OF TAX. (1) IF THE SALES TAX OR USE TAX IS STATED SEPARATELY ON THE

BOOKS OF THE SELLER OR LESSOR AND THE TOTAL AMOUNT OF TAX STATED SEPARATELY ON TRANSACTIONS REPORTABLE WITHIN THE REPORTING PERIOD IS IN EXCESS OF THE AMOUNT OF SALES TAX OR USE TAX OTHERWISE PAYABLE ON THOSE TRANSACTIONS, THE EXCESS AMOUNT OF TAX OTHERWISE PAYABLE AND STATED ON THE TRANSACTIONS WITHIN THE REPORTING PERIOD MUST BE INCLUDED IN GROSS RECEIPTS.

(2) IF THE SALES TAX OR USE TAX IS NOT STATED SEPARATELY ON TRANSACTIONS, THE GROSS RECEIPTS FOR SALES TAX AND USE TAX PURPOSES INCLUDE THE TOTAL AMOUNTS RECEIVED, WITH NO DEDUCTION FOR THE SALES TAX OR USE TAX.

NEW SECTION. SECTION 117. LIABILITY OF USER FOR PAYMENT OF USE TAX. (1) A PERSON IN THIS STATE WHO USES PROPERTY IS LIABLE TO THE STATE FOR PAYMENT OF THE USE TAX IF THE TAX IS PAYABLE ON THE VALUE OF THE PROPERTY BUT HAS NOT BEEN PAID.

(2) THE LIABILITY IMPOSED BY THIS SECTION IS DISCHARGED IF THE BUYER HAS PAID THE USE TAX TO THE SELLER FOR PAYMENT TO THE DEPARTMENT.

NEW SECTION. SECTION 118. AGENTS FOR COLLECTION OF SALES TAX AND USE TAX. (1) (A) A PERSON WHO PERFORMS OR ATTEMPTS TO PERFORM AN ACTIVITY WITHIN THIS STATE THAT ATTEMPTS TO EXPLOIT THIS STATE'S MARKETS, WHO SELLS PROPERTY OR SERVICES FOR USE IN THIS STATE, AND WHO IS NOT SUBJECT TO THE SALES TAX OR USE TAX ON RECEIPTS FROM THESE SALES SHALL

COLLECT THE SALES TAX OR USE TAX FROM THE BUYER AND PAY THE TAX COLLECTED TO THE DEPARTMENT.

(B) "ACTIVITY", FOR THE PURPOSES OF THIS SECTION, INCLUDES BUT IS NOT LIMITED TO ENGAGING IN ANY OF THE FOLLOWING IN THIS STATE:

(I) MAINTAINING AN OFFICE OR OTHER PLACE OF BUSINESS THAT SOLICITS ORDERS THROUGH EMPLOYEES OR INDEPENDENT CONTRACTORS;

(II) CANVASSING;

(III) DEMONSTRATING;

(IV) COLLECTING MONEY;

(V) WAREHOUSING OR STORING MERCHANDISE; OR

(VI) DELIVERING OR DISTRIBUTING PRODUCTS AS A CONSEQUENCE OF AN ADVERTISING OR OTHER SALES PROGRAM DIRECTED AT POTENTIAL CUSTOMERS.

(2) TO ENSURE ORDERLY AND EFFICIENT COLLECTION OF THE TAX IMPOSED BY [SECTIONS 113 THROUGH 187], IF ANY APPLICATION OF THIS SECTION IS HELD INVALID, THE SECTION'S APPLICATION TO OTHER SITUATIONS OR PERSONS IS NOT AFFECTED.

NEW SECTION. SECTION 119. NONTAXABLE TRANSACTION CERTIFICATE. (1) A NONTAXABLE TRANSACTION CERTIFICATE EXECUTED BY A BUYER OR LESSEE MUST BE IN THE POSSESSION OF THE SELLER OR LESSOR AT THE TIME A NONTAXABLE TRANSACTION OCCURS.

(2) IF THE SELLER OR LESSOR IS NOT IN POSSESSION OF A

NONTAXABLE TRANSACTION CERTIFICATE WITHIN 60 DAYS FROM THE DATE NOTICE OF THE REQUIREMENT FOR POSSESSION OF A NONTAXABLE TRANSACTION CERTIFICATE IS GIVEN TO HIM BY THE DEPARTMENT, ALL DEDUCTIONS CLAIMED BY HIM THAT REQUIRE DELIVERY OF A NONTAXABLE TRANSACTION CERTIFICATE ARE DISALLOWED.

(3) A NONTAXABLE TRANSACTION CERTIFICATE MUST CONTAIN THE INFORMATION AND BE IN THE FORM PRESCRIBED BY THE DEPARTMENT.

(4) ONLY A BUYER OR LESSEE WHO HAS REGISTERED WITH THE DEPARTMENT AND WHOSE PERMIT IS NOT SUSPENDED OR REVOKED MAY BE ALLOWED TO EXECUTE A NONTAXABLE TRANSACTION CERTIFICATE.

(5) IF THE SELLER OR LESSOR ACCEPTS A NONTAXABLE TRANSACTION CERTIFICATE WITHIN THE REQUIRED TIME AND BELIEVES IN GOOD FAITH THAT THE BUYER OR LESSEE WILL EMPLOY THE PROPERTY OR SERVICE TRANSFERRED IN A NONTAXABLE MANNER, THE PROPERLY EXECUTED NONTAXABLE TRANSACTION CERTIFICATE IS CONSIDERED CONCLUSIVE EVIDENCE THAT THE PROCEEDS FROM THE TRANSACTION ARE DEDUCTIBLE FROM THE SELLER'S OR LESSOR'S GROSS RECEIPTS.

NEW SECTION. SECTION 120. GOVERNMENT AGENCIES AND UTILITIES EXEMPT. (1) ALL RECEIPTS OF THE UNITED STATES OR ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES OR OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE ARE EXEMPTED FROM THE SALES TAX AND USE TAX.

(2) ALL RECEIPTS FROM THE SALE OF GAS, WATER, ELECTRICITY, ANY FUEL OR ENERGY USED TO PRODUCE HEATING, COOLING, OR LIGHTING, AND TELEPHONE SERVICE INCLUDING LONG-DISTANCE CHARGES AND ACCESS CHARGES ARE EXEMPT FROM THE SALES TAX AND USE TAX.

NEW SECTION. SECTION 121. EXEMPTION -- FOOD PRODUCTS. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), RECEIPTS FROM SALES OF FOOD PRODUCTS FOR HUMAN CONSUMPTION ARE EXEMPT FROM THE SALES TAX.

(2) THE GROSS RECEIPTS FROM FOOD PRODUCTS SOLD IN THE FOLLOWING MANNER ARE NOT EXEMPT FROM THE SALES TAX:

(A) ANY FOOD PRODUCTS SERVED AS MEALS ON OR OFF THE PREMISES OF THE RETAILER;

(B) MILK OR CREAM SOLD AS BEVERAGES COMMONLY REFERRED TO AS MILK SHAKES, MALTED MILKS, OR ANY SIMILAR BEVERAGE;

(C) FOOD PRODUCTS FURNISHED, PREPARED, OR SERVED FOR CONSUMPTION AT TABLES, CHAIRS, OR COUNTERS OR FROM TRAYS, GLASSES, DISHES, OR OTHER TABLEWARE, WHETHER PROVIDED BY THE RETAILER OR BY A PERSON WITH WHOM THE RETAILER CONTRACTS TO FURNISH, PREPARE, OR SERVE FOOD PRODUCTS TO OTHERS;

(D) FOOD PRODUCTS SOLD FOR IMMEDIATE CONSUMPTION ON OR NEAR A LOCATION AT WHICH PARKING FACILITIES ARE PROVIDED PRIMARILY FOR THE EASE OF PATRONS IN CONSUMING THE PRODUCTS PURCHASED AT THE LOCATION, EVEN THOUGH SUCH PRODUCTS ARE SOLD ON A "TAKE OUT", "TO GO", OR "U-BAKE" ORDER AND ARE

ACTUALLY PACKAGED OR WRAPPED AND TAKEN FROM THE PREMISES OF THE RETAILER; OR

(E) FOOD PRODUCTS SOLD FOR CONSUMPTION WITHIN A PLACE THAT CHARGES AN ADMISSION FEE.

NEW SECTION. SECTION 122. EXEMPTION -- MEDICINES, DRUGS, AND MEDICAL SERVICES. (1) THE GROSS RECEIPTS FROM THE SALE OF MEDICINES, DRUGS, AND THERAPEUTIC AND PROSTHETIC DEVICES ARE EXEMPT FROM THE SALES TAX.

(2) THE GROSS RECEIPTS FROM THE SALE OF MEDICAL SERVICES ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 123. EXEMPTION -- WAGES. THE RECEIPTS OF AN EMPLOYEE FROM AN EMPLOYER FOR WAGES, SALARY, COMMISSIONS, OR ANY OTHER FORM OF REMUNERATION FOR PERSONAL SERVICES ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 124. EXEMPTION -- AGRICULTURAL PRODUCTS. THE RECEIPTS OF A GROWER, PRODUCER, TRAPPER, OR NONPROFIT MARKETING ASSOCIATION FROM THE SALE OF LIVESTOCK, LIVE POULTRY, UNPROCESSED AGRICULTURAL PRODUCTS, HIDES, OR PELTS ARE EXEMPT FROM THE SALES TAX. PERSONS ENGAGED IN THE BUSINESS OF BUYING AND SELLING WOOL OR MOHAIR OR OF BUYING AND SELLING LIVESTOCK ON THEIR OWN ACCOUNT AND WITHOUT THE SERVICES OF A BROKER, AUCTIONEER, OR OTHER AGENT ARE CONSIDERED PRODUCERS FOR THE PURPOSES OF THIS SECTION.

NEW SECTION. SECTION 125. EXEMPTION -- LIVESTOCK FEEDING. A PERSON'S RECEIPTS DERIVED FROM FEEDING,

PASTURING, PENNING, OR HANDLING OR THE TRAINING OF LIVESTOCK PRIOR TO SALE ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 126. EXEMPTION -- VEHICLES. THE RECEIPTS FROM THE SALE OF ANY VEHICLE UPON WHICH A TAX PURSUANT TO [SECTIONS 113 THROUGH 187] HAS BEEN PAID OR WHICH WAS PURCHASED PRIOR TO [THE APPLICABILITY DATE OF THIS ACT] ARE EXEMPT FROM THE SALES TAX. A REGISTRATION CERTIFICATE SHOWING THAT THE VEHICLE WAS REGISTERED IN THIS STATE PRIOR TO [THE APPLICABILITY DATE OF THIS ACT] IS CONCLUSIVE PROOF THAT IT WAS PURCHASED BEFORE IT WAS SUBJECT TO TAXATION UNDER [SECTIONS 113 THROUGH 187] AND IS EXEMPT UNDER THIS SECTION.

NEW SECTION. SECTION 127. EXEMPTION -- INSURANCE COMPANIES. THE RECEIPTS OF AN INSURANCE COMPANY OR ANY OF ITS AGENTS FROM PREMIUMS ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 128. EXEMPTION -- COMMISSIONS ON REAL ESTATE AND SECURITIES -- DIVIDENDS AND INTEREST. (1) THE RECEIPTS OF INTEREST ON MONEY LOANED OR DEPOSITED OR DIVIDENDS OR INTEREST FROM STOCKS, BONDS, OR SECURITIES OR FROM THE SALE OF STOCKS, BONDS, OR SECURITIES ARE EXEMPT FROM THE SALES TAX.

(2) THE RECEIPTS FROM COMMISSIONS OR FEES DERIVED FROM THE BUSINESS OF BUYING, SELLING, OR PROMOTING THE PURCHASE, SALE, OR LEASE OF ANY REAL PROPERTY, STOCK, BOND, OR SECURITY ARE EXEMPT FROM THE SALES TAX AND USE TAX.

NEW SECTION. SECTION 129. EXEMPTION -- FUEL. THE RECEIPTS FROM THE SALE OF GASOLINE, ETHANOL BLENDED FOR FUEL, OR SPECIAL FUEL ON WHICH THE MONTANA GASOLINE AND SPECIAL FUELS TAX HAS BEEN PAID UNDER TITLE 15, CHAPTER 70, ARE EXEMPT FROM THE SALES TAX AND USE TAX.

NEW SECTION. SECTION 130. EXEMPTION -- ISOLATED OR OCCASIONAL SALE OR LEASE OF PROPERTY OR SERVICES. THE RECEIPTS FROM THE ISOLATED OR OCCASIONAL SALE OR LEASE OF PROPERTY OR PERFORMANCE OF A SERVICE BY A PERSON WHO IS NOT REGULARLY ENGAGED IN OR WHO DOES NOT REPRESENT HIMSELF AS ENGAGED IN THE BUSINESS OF SELLING OR LEASING THE SAME OR A SIMILAR PROPERTY OR SERVICE ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 131. EXEMPTION -- OIL, GAS, AND MINERAL INTERESTS. THE RECEIPTS FROM THE SALE OR LEASE OF OIL, NATURAL GAS, OR MINERAL INTERESTS ARE EXEMPT FROM THE SALES TAX.

NEW SECTION. SECTION 132. EXEMPTION -- MINERALS. THE RECEIPTS FROM THE SALE OR USE OF A MINERAL AS DEFINED IN 15-38-103 ARE EXEMPT FROM THE SALES TAX AND USE TAX. MINERALS REFINED, REDUCED, POLISHED, CUT, FACETED, OR OTHERWISE PROCESSED FOR THE PURPOSE OF BEING USED AS OR INTEGRATED INTO JEWELRY, ART, OR SCULPTURE, OR AS A DECORATIVE EMBELLISHMENT OR ADORNMENT IN THEIR OWN RIGHT OR TO OTHER PROPERTY ARE NOT INCLUDED IN THE EXEMPTION PROVIDED IN THIS SECTION.

NEW SECTION. SECTION 133. EXEMPTION -- GOVERNMENTAL AGENCIES. (1) THE USE OF PROPERTY BY THE UNITED STATES OR ANY AGENCY OR INSTRUMENTALITY OF THE UNITED STATES OR BY THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE IS EXEMPT FROM THE USE TAX.

(2) THE USE OF PROPERTY BY THE GOVERNING BODY OF AN INDIAN TRIBE ON A FEDERALLY RECOGNIZED INDIAN RESERVATION IS EXEMPT FROM THE USE TAX.

NEW SECTION. SECTION 134. EXEMPTION -- PERSONAL EFFECTS. THE USE BY AN INDIVIDUAL OF PERSONAL OR HOUSEHOLD EFFECTS BROUGHT INTO THE STATE FOR THE ESTABLISHMENT BY HIM OF AN INITIAL RESIDENCE IN THIS STATE AND THE USE OF PROPERTY BROUGHT INTO THE STATE BY A NONRESIDENT FOR HIS OWN NONBUSINESS USE WHILE TEMPORARILY WITHIN THIS STATE ARE EXEMPT FROM THE USE TAX.

NEW SECTION. SECTION 135. EXEMPTION -- ADVERTISING SERVICES. THE GROSS RECEIPTS FROM THE SALE OF ADVERTISING SERVICES, INCLUDING THE ACTUAL CREATION OR DEVELOPMENT OF THE ADVERTISING, ARE EXEMPT FROM THE SALES TAX. FOR THE PURPOSE OF THIS SECTION, "ADVERTISING SERVICE" INCLUDES BUT IS NOT LIMITED TO ALL ADVERTISING IN OR BY:

(A) ANY NEWSPAPER, MAGAZINE, OR OTHER PUBLICATION;

(B) RADIO OR TELEVISION;

(C) BILLBOARD, BANNER, SIGN, PLACARD, AND THE LIKE;

(D) HANDBILL; OR

(E) ANY OTHER ADVERTISING MEANS, MEDIA, OR METHOD.

NEW SECTION. SECTION 136. DEDUCTION -- SALE OF TANGIBLE PERSONAL PROPERTY FOR RESALE. RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL PROPERTY MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

(1) THE SALE IS MADE TO A BUYER WHO DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER; AND

(2) THE BUYER RESELLS OR PLANS TO RESELL THE TANGIBLE PERSONAL PROPERTY EITHER BY ITSELF OR IN COMBINATION WITH OTHER TANGIBLE PERSONAL PROPERTY IN THE ORDINARY COURSE OF BUSINESS AND THE PROPERTY WILL SUBSEQUENTLY BE SUBJECT TO THE SALES TAX.

NEW SECTION. SECTION 137. DEDUCTION -- SALE OF SERVICE FOR RESALE. RECEIPTS FROM THE SALE OF A SERVICE FOR RESALE MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

(1) THE SALE IS MADE TO A PERSON WHO DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE;

(2) THE BUYER SEPARATELY STATES THE VALUE OF THE SERVICE PURCHASED IN HIS CHARGE FOR THE SERVICE ON ITS SUBSEQUENT SALE; AND

(3) THE SUBSEQUENT SALE IS IN THE ORDINARY COURSE OF BUSINESS AND SUBJECT TO THE USE TAX.

NEW SECTION. SECTION 138. DEDUCTION -- SALE TO MANUFACTURER. RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL PROPERTY TO A BUYER ENGAGED IN THE BUSINESS OF MANUFACTURING

MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

(1) THE BUYER DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER; AND

(2) THE BUYER INCORPORATES OR WILL INCORPORATE THE TANGIBLE PERSONAL PROPERTY AS AN INGREDIENT OR COMPONENT PART OF THE PRODUCT WHICH HE IS IN THE BUSINESS OF MANUFACTURING.

NEW SECTION. SECTION 139. DEDUCTION -- SALE OF TANGIBLE PERSONAL PROPERTY FOR LEASING. RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL PROPERTY, OTHER THAN FURNITURE OR APPLIANCES, AND FROM THE RENTAL OR LEASE OF PROPERTY, OTHER THAN COIN-OPERATED MACHINES AND MOBILE HOMES, THAT IS DEDUCTIBLE UNDER [SECTIONS 113 THROUGH 187] MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

(1) THE SALE IS MADE TO A BUYER WHO DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER;

(2) THE BUYER IS ENGAGED IN A BUSINESS DERIVING MORE THAN 50% OF ITS RECEIPTS FROM LEASING OR SELLING TANGIBLE PERSONAL PROPERTY OF THE TYPE LEASED; AND

(3) THE BUYER DOES NOT USE THE PROPERTY IN ANY MANNER OTHER THAN HOLDING IT FOR LEASE OR SALE OR LEASING OR SELLING IT, EITHER BY ITSELF OR IN COMBINATION WITH OTHER TANGIBLE PERSONAL PROPERTY, IN THE ORDINARY COURSE OF BUSINESS.

NEW SECTION. SECTION 140. DEDUCTION -- LEASE FOR

SUBSEQUENT LEASE. RECEIPTS FROM THE LEASE OF TANGIBLE PERSONAL PROPERTY, OTHER THAN FURNITURE OR APPLIANCES, AND FROM THE RENTAL OR LEASE OF PROPERTY, OTHER THAN COIN-OPERATED MACHINES AND MOBILE HOMES, THAT IS DEDUCTIBLE UNDER [SECTIONS 113 THROUGH 187] MAY BE DEDUCTED FROM GROSS RECEIPTS IF:

(1) THE LEASE IS MADE TO A LESSEE WHO DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE; AND

(2) THE LESSEE DOES NOT USE THE PROPERTY IN ANY MANNER OTHER THAN FOR SUBSEQUENT LEASE IN THE ORDINARY COURSE OF BUSINESS.

NEW SECTION. SECTION 141. DEDUCTION -- SALE OF TANGIBLE PERSONAL PROPERTY TO PERSON ENGAGED IN CONSTRUCTION BUSINESS. (1) RECEIPTS FROM THE SALE OF TANGIBLE PERSONAL PROPERTY MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A BUYER ENGAGED IN THE CONSTRUCTION BUSINESS WHO DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER.

(2) RECEIPTS FROM THE SALE MAY BE DEDUCTED IF THE BUYER INCORPORATES THE TANGIBLE PERSONAL PROPERTY AS:

(A) AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON ITS COMPLETION OR UPON THE COMPLETION OF THE OVERALL CONSTRUCTION PROJECT OF WHICH IT IS A PART; OR

(B) AN INGREDIENT OR COMPONENT PART OF A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON THE

SALE IN THE ORDINARY COURSE OF BUSINESS OF THE REAL PROPERTY UPON WHICH IT WAS CONSTRUCTED.

NEW SECTION. SECTION 142. DEDUCTION -- MACHINERY AND EQUIPMENT USED IN TRADE OR BUSINESS. (1) THE RECEIPTS FROM THE SALE OR USE OF MACHINERY OR EQUIPMENT USED IN A TRADE OR BUSINESS MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE BUYER:

(A) DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER; OR

(B) BRINGS THE MACHINERY AND EQUIPMENT INTO THIS STATE FOR USE IN A TRADE OR BUSINESS.

(2) RECEIPTS FROM THE SALE OR USE OF MACHINERY OR EQUIPMENT MAY BE DEDUCTED IF THE BUYER USES THE PROPERTY AS EQUIPMENT OR MACHINERY IN HIS BUSINESS. FOR PURPOSES OF THIS SECTION, "EQUIPMENT AND MACHINERY" MEANS TANGIBLE PERSONAL PROPERTY THAT WILL NOT BE CONSUMED IN OR MADE A PART OF ANY PRODUCT OR SERVICE.

NEW SECTION. SECTION 143. DEDUCTION -- SALE OF CONSTRUCTION SERVICE TO PERSON ENGAGED IN CONSTRUCTION BUSINESS. (1) RECEIPTS FROM THE SALE OF A CONSTRUCTION SERVICE MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A BUYER ENGAGED IN THE CONSTRUCTION BUSINESS AND HE DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE PERSON PERFORMING THE CONSTRUCTION SERVICE.

(2) RECEIPTS FROM THE SERVICE MAY BE DEDUCTED IF THE BUYER HAS THE CONSTRUCTION SERVICES PERFORMED UPON:

(A) A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON ITS COMPLETION OR UPON THE COMPLETION OF THE OVERALL CONSTRUCTION PROJECT OF WHICH IT IS A PART; OR

(B) A CONSTRUCTION PROJECT THAT IS SUBJECT TO THE SALES TAX OR USE TAX UPON THE SALE IN THE ORDINARY COURSE OF BUSINESS OF THE REAL PROPERTY UPON WHICH IT WAS CONSTRUCTED.

NEW SECTION. SECTION 144. DEDUCTION -- SALE OR LEASE OF REAL PROPERTY AND LEASE OF MOBILE HOMES. (1) (A) RECEIPTS FROM THE SALE OR LEASE OF REAL PROPERTY EXCEPT AS PROVIDED IN SUBSECTION (B), FROM THE LEASE OF A MOBILE HOME, OR FROM THE RENTAL OF A MOBILE HOME FOR A PERIOD OF AT LEAST 1 MONTH MAY BE DEDUCTED FROM GROSS RECEIPTS.

(B) THE PORTION OF THE GROSS RECEIPTS FROM THE SALE OF REAL PROPERTY THAT IS ATTRIBUTABLE TO IMPROVEMENTS CONSTRUCTED ON THE REAL PROPERTY BY THE SELLER IN THE ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS MAY NOT BE DEDUCTED FROM GROSS RECEIPTS.

(2) RECEIPTS ATTRIBUTABLE TO THE INCLUSION OF FURNITURE OR APPLIANCES FURNISHED BY THE LANDLORD OR LESSOR AS PART OF A LEASED OR RENTED DWELLING, HOUSE, MOBILE HOME, CABIN, CONDOMINIUM, OR APARTMENT MAY BE DEDUCTED FROM GROSS RECEIPTS.

(3) RECEIPTS RECEIVED BY HOTELS, MOTELS, ROOMINGHOUSES, CAMPGROUNDS, GUEST RANCHES, TRAILER PARKS, OR

<u>SIMILAR FACILITIES ARE NOT RECEIPTS FROM LEASING REAL PROPERTY FOR PURPOSES OF THIS SECTION IF SUCH RECEIPTS ARE TAXABLE UNDER A LODGING OR ACCOMMODATION TYPE TAX ON EITHER THE OPERATOR OR THE USER.</u>

<u>NEW SECTION. SECTION 145. DEDUCTION -- TRANSACTION IN INTERSTATE COMMERCE. (1) RECEIPTS FROM A TRANSACTION IN INTERSTATE COMMERCE MAY BE DEDUCTED FROM GROSS RECEIPTS TO THE EXTENT THAT THE IMPOSITION OF THE SALES TAX OR USE TAX WOULD BE UNLAWFUL UNDER THE UNITED STATES CONSTITUTION.</u>

<u>(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.</u>

<u>(B) COMMISSIONS RECEIVED BY AN ADVERTISING AGENCY FOR PERFORMING SERVICES IN THIS STATE MAY NOT BE DEDUCTED FROM GROSS RECEIPTS UNDER THIS SECTION.</u>

<u>NEW SECTION. SECTION 146. 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</u>

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 CARRIER OR BY A CARRIER; AND

(C) THE SERVICES ARE PERFORMED UNDER A SINGLE CONTRACT IN RELATION TO TRANSPORTATION SERVICES.

NEW SECTION. SECTION 147. DEDUCTION -- SALE OF CERTAIN SERVICES TO OUT-OF-STATE BUYER. (1) RECEIPTS FROM PERFORMING A SERVICE, OTHER THAN A LEGAL OR ACCOUNTING SERVICE, MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE OF THE SERVICE IS MADE TO A BUYER WHO DELIVERS TO THE SELLER EITHER A NONTAXABLE TRANSACTION CERTIFICATE OR OTHER EVIDENCE ACCEPTABLE TO THE DEPARTMENT THAT THE TRANSACTION MEETS THE CONDITIONS SET OUT IN SUBSECTION (3).

(2) THE PERSON WHO DELIVERS THE NONTAXABLE TRANSACTION CERTIFICATE OR OTHER EVIDENCE ACCEPTABLE TO THE DEPARTMENT MUST MEET THE CONDITIONS SET OUT IN SUBSECTION (3).

(3) RECEIPTS FROM THE PERFORMANCE OF A SERVICE ARE SUBJECT TO THE DEDUCTION PROVIDED IN THIS SECTION IF THE

BUYER OF THE SERVICE, ANY OF HIS EMPLOYEES, OR ANY PERSON IN PRIVITY WITH HIM:

(A) DOES NOT MAKE INITIAL USE OF THE PRODUCT OR THE SERVICE IN THIS STATE;

(B) DOES NOT TAKE DELIVERY OF THE PRODUCT OR THE SERVICE IN THIS STATE; OR

(C) CONCURRENT WITH THE PERFORMANCE OF THE SERVICE, DOES NOT HAVE A REGULAR PLACE OF WORK IN THIS STATE OR SPEND MORE THAN BRIEF AND OCCASIONAL PERIODS OF TIME IN THIS STATE AND:

(I) DOES NOT HAVE ANY COMMUNICATION IN THIS STATE RELATED IN ANY WAY TO THE SUBJECT MATTER, PERFORMANCE, OR ADMINISTRATION OF THE SERVICE WITH THE PERSON PERFORMING THE SERVICE; OR

(II) DOES NOT HIMSELF PERFORM WORK IN THIS STATE RELATED TO THE SUBJECT MATTER OF THE SERVICE.

(4) RECEIPTS FROM PERFORMING A SERVICE THAT INITIALLY QUALIFIED FOR THE DEDUCTION PROVIDED IN THIS SECTION BUT WHICH NO LONGER MEETS THE CRITERIA SET FORTH IN SUBSECTION (3) IS DEDUCTIBLE FOR THE PERIOD PRIOR TO THE DISQUALIFICATION.

NEW SECTION. SECTION 148. DEDUCTION -- FEED, FERTILIZERS, AND AGRICULTURAL SUPPLIES -- LIVESTOCK AUCTIONEERS. (1) RECEIPTS FROM THE SALE OF FEED FOR LIVESTOCK, FISH RAISED FOR HUMAN CONSUMPTION, POULTRY,

ANIMALS RAISED FOR THEIR HIDES OR PELTS, SEMEN USED IN ANIMAL HUSBANDRY, SEEDS, ROOTS, BULBS, SOIL CONDITIONERS, FERTILIZERS, INSECTICIDES, INSECTS USED TO CONTROL THE POPULATION OF OTHER INSECTS, FUNGICIDES, WEEDICIDES, HERBICIDES, OR WATER FOR IRRIGATION PURPOSES MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A PERSON WHO STATES IN WRITING THAT HE IS REGULARLY ENGAGED IN THE BUSINESS OF FARMING, RANCHING, OR THE RAISING OF ANIMALS FOR THEIR HIDES OR PELTS.

(2) RECEIPTS OF AUCTIONEERS FROM SELLING LIVESTOCK OR OTHER AGRICULTURAL PRODUCTS AT AUCTION MAY BE DEDUCTED FROM GROSS RECEIPTS.

NEW SECTION. SECTION 149. DEDUCTION -- CERTAIN CHEMICALS AND REAGENTS. (1) RECEIPTS FROM THE SALE OF CHEMICALS OR REAGENTS TO ANY MINING CONCERN OR MILLING COMPANY FOR USE IN PROCESSING ORES OR OIL IN A MILL, SMELTER, OR REFINERY OR IN ACIDIZING OIL WELLS AND RECEIPTS FROM THE SALE OF CHEMICALS OR REAGENTS IN AN AMOUNT IN EXCESS OF 18 TONS MAY BE DEDUCTED FROM GROSS RECEIPTS.

(2) RECEIPTS FROM THE SALE OF EXPLOSIVES, BLASTING MATERIAL, OR DYNAMITE MAY NOT BE DEDUCTED FROM GROSS RECEIPTS.

NEW SECTION. SECTION 150. DEDUCTION -- TRADE-IN ALLOWANCE. THAT PORTION OF THE RECEIPTS OF A SELLER THAT IS REPRESENTED BY A TRADE-IN OF TANGIBLE PERSONAL PROPERTY OF

THE SAME TYPE AS THE PROPERTY BEING SOLD MAY BE DEDUCTED FROM GROSS RECEIPTS.

NEW SECTION. SECTION 151. DEDUCTION -- SPECIAL FUEL. (1) RECEIPTS FROM THE SALE OF SPECIAL FUEL, AS DEFINED IN 15-70-301, MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE PURCHASER USES THE SPECIAL FUEL IN AGRICULTURE, OR TO OPERATE MACHINERY, EQUIPMENT, OR VEHICLES USED IN A TRADE OR BUSINESS.

(2) RECEIPTS FROM THE SALE OF SPECIAL FUEL USED TO HEAT BUILDINGS FOR HUMAN COMFORT ARE NOT DEDUCTIBLE.

NEW SECTION. SECTION 152. DEDUCTION -- SALE OF CERTAIN SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED. RECEIPTS FROM SALE OF THE SERVICE OF COMBINING OR PROCESSING COMPONENTS OR MATERIALS MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A BUYER WHO IS ENGAGED IN THE BUSINESS OF MANUFACTURING AND DELIVERS A NONTAXABLE TRANSACTION CERTIFICATE TO THE SELLER. THE RECEIPTS FROM THE SERVICE MAY BE DEDUCTED IF THE BUYER HAS THE SERVICE PERFORMED DIRECTLY UPON TANGIBLE PERSONAL PROPERTY THAT HE IS IN THE BUSINESS OF MANUFACTURING OR UPON INGREDIENTS OR COMPONENT PARTS OF SUCH PROPERTY.

NEW SECTION. SECTION 153. DEDUCTION -- CERTAIN MOBILE HOMES. RECEIPTS FROM THE RESALE OF A MOBILE HOME MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS OF A MOBILE HOME THAT WAS SUBJECT TO THE SALES TAX OR USE TAX UPON ITS

INITIAL SALE OR USE IN THIS STATE OR WAS INITIALLY SOLD OR USED IN THIS STATE PRIOR TO [THE APPLICABILITY DATE OF THIS ACT]. THE RECEIPTS FROM THE RESALE MAY BE DEDUCTED IF THE SELLER RETAINS AND FURNISHES PROOF SATISFACTORY TO THE DEPARTMENT THAT THE SALES TAX OR USE TAX WAS PAID UPON THE INITIAL SALE OR USE IN THIS STATE OF THE MOBILE HOME. IN THE ABSENCE OF SUCH PROOF, IT IS PRESUMED THAT THE TAX WAS NOT PAID. PROOF THAT A MONTANA CERTIFICATE OF TITLE WAS ISSUED FOR A MOBILE HOME PRIOR TO [THE APPLICABILITY DATE OF THIS ACT] IS PROOF THAT THE MOBILE HOME WAS INITIALLY SOLD OR USED IN THIS STATE PRIOR TO [THE APPLICABILITY DATE OF THIS ACT] AND EXEMPT UNDER THIS SECTION.

NEW SECTION. SECTION 154. DEDUCTION -- USE OF TANGIBLE PERSONAL PROPERTY FOR LEASING. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), THE VALUE OF LEASED PROPERTY MAY BE DEDUCTED IN COMPUTING THE USE TAX DUE IF THE PERSON HOLDING THE TANGIBLE PERSONAL PROPERTY FOR LEASE:

(A) IS ENGAGED IN A BUSINESS THAT DERIVES A SUBSTANTIAL PORTION OF ITS RECEIPTS FROM LEASING OR SELLING PROPERTY OF THE TYPE LEASED;

(B) DOES NOT USE THE PROPERTY IN ANY MANNER OTHER THAN HOLDING IT FOR LEASE OR SALE OR LEASING OR SELLING IT EITHER BY ITSELF OR IN COMBINATION WITH OTHER TANGIBLE PERSONAL PROPERTY IN THE ORDINARY COURSE OF BUSINESS; AND

(C) DOES NOT USE THE PROPERTY IN A MANNER INCIDENTAL

TO THE PERFORMANCE OF A SERVICE.

(2) THE DEDUCTION PROVIDED IN SUBSECTION (1) DOES NOT APPLY TO THE VALUE OF FURNITURE OR APPLIANCES FURNISHED BY THE LANDLORD OR LESSOR AS PART OF A LEASED OR RENTED DWELLING, HOUSE, CABIN, CONDOMINIUM, OR APARTMENT OR TO THE LEASE OF COIN-OPERATED MACHINES OR MOBILE HOMES.

NEW SECTION. SECTION 155. CREDIT -- OUT-OF-STATE TAXES. (1) IF A GROSS RECEIPTS, SALES, USE, OR SIMILAR TAX HAS BEEN LEVIED BY ANOTHER STATE OR A POLITICAL SUBDIVISION OF ANOTHER STATE ON PROPERTY BOUGHT OUTSIDE THIS STATE BUT WHICH WILL BE USED OR CONSUMED IN THIS STATE AND THE TAX WAS PAID, THE AMOUNT OF TAX PAID MAY BE CREDITED AGAINST ANY USE TAX DUE THIS STATE ON THE SAME PROPERTY.

(2) IF THE RECEIPTS FROM THE SALE OF IMPROVEMENTS TO REAL PROPERTY CONSTRUCTED BY A PERSON IN THE ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS ARE SUBJECT TO THE SALES TAX OR USE TAX, THE AMOUNT OF TAX PAID BY THE PERSON UNDER SUBSECTION (1) ON MATERIALS THAT BECAME AN INGREDIENT OR COMPONENT PART OF THE CONSTRUCTION PROJECT AND ON CONSTRUCTION SERVICES PERFORMED UPON THE CONSTRUCTION PROJECT MAY BE CREDITED AGAINST THE SALES TAX OR USE TAX DUE ON THE SALE.

NEW SECTION. SECTION 156. SELLER'S PERMIT. UPON AN APPLICANT'S COMPLIANCE WITH [SECTIONS 113 THROUGH 187], THE DEPARTMENT SHALL ISSUE TO THE APPLICANT A SEPARATE, NUMBERED

SELLER'S PERMIT FOR EACH PLACE OF BUSINESS WITHIN MONTANA. A PERMIT IS VALID UNTIL REVOKED OR SUSPENDED BUT IS NOT ASSIGNABLE. A PERMIT IS VALID ONLY FOR THE PERSON IN WHOSE NAME IT IS ISSUED AND FOR THE TRANSACTION OF BUSINESS AT THE PLACE DESIGNATED. THE PERMIT MUST BE CONSPICUOUSLY DISPLAYED AT ALL TIMES AT THE PLACE FOR WHICH IT IS ISSUED.

NEW SECTION. SECTION 157. PERMIT APPLICATION -- GENERALLY -- VENDING MACHINES -- FORM. (1) A PERSON DESIRING TO ENGAGE IN THE BUSINESS OF MAKING RETAIL SALES OR PROVIDING SERVICES IN MONTANA SHALL FILE WITH THE DEPARTMENT AN APPLICATION FOR A PERMIT. IF THE PERSON HAS MORE THAN ONE PLACE OF BUSINESS, AN APPLICATION MUST BE FILED FOR EACH PLACE OF BUSINESS. A VENDING MACHINE OPERATOR WHO HAS MORE THAN ONE VENDING MACHINE LOCATION IS CONSIDERED TO HAVE ONLY ONE PLACE OF BUSINESS FOR PURPOSES OF THIS SECTION. AN APPLICANT WHO HAS NO REGULAR PLACE OF BUSINESS AND WHO MOVES FROM PLACE TO PLACE IS CONSIDERED TO HAVE ONLY ONE PLACE OF BUSINESS AND SHALL ATTACH THE PERMIT TO HIS CART, STAND, TRUCK, OR OTHER MERCHANDISING DEVICE. EACH PERSON OR CLASS OF PERSONS OBLIGATED TO FILE A RETURN UNDER [SECTIONS 113 THROUGH 187] IS REQUIRED TO FILE APPLICATION FOR A PERMIT.

(2) EACH APPLICATION FOR A PERMIT MUST BE ON A FORM PRESCRIBED BY THE DEPARTMENT AND MUST SET FORTH THE NAME UNDER WHICH THE APPLICANT INTENDS TO TRANSACT BUSINESS, THE LOCATION OF HIS PLACE OR PLACES OF BUSINESS, AND SUCH OTHER

INFORMATION AS THE DEPARTMENT MAY REQUIRE. THE APPLICATION MUST BE FILED BY THE OWNER IF THE OWNER IS A NATURAL PERSON, BY A MEMBER OR PARTNER IF THE OWNER IS AN ASSOCIATION OR PARTNERSHIP, OR BY A PERSON AUTHORIZED TO SIGN THE APPLICATION IF THE OWNER IS A CORPORATION.

NEW SECTION. SECTION 158. SPECIAL ACTIVITIES -- PERMITS -- PENALTY. (1) THE OPERATOR OF A FLEA MARKET, CRAFT SHOW, ANTIQUE SHOW, COIN SHOW, STAMP SHOW, COMIC BOOK SHOW, CONVENTION EXHIBIT AREA, OR SIMILAR SELLING EVENT, AS A PREREQUISITE TO RENTING OR LEASING SPACE ON THE PREMISES OWNED OR CONTROLLED BY THE OPERATOR TO A PERSON DESIRING TO ENGAGE IN OR CONDUCT BUSINESS AS A SELLER, SHALL OBTAIN EVIDENCE THAT THE SELLER IS THE HOLDER OF A VALID SELLER'S PERMIT ISSUED PURSUANT TO [SECTION 156] OR A WRITTEN STATEMENT FROM THE SELLER THAT HE IS NOT OFFERING FOR SALE ANY ITEM THAT IS TAXABLE UNDER [SECTIONS 113 THROUGH 187].

(2) "FLEA MARKET, CRAFT SHOW, ANTIQUE SHOW, COIN SHOW, STAMP SHOW, COMIC BOOK SHOW, CONVENTION EXHIBIT AREA, OR SIMILAR SELLING EVENT", AS USED IN THIS SECTION, MEANS AN ACTIVITY THAT INVOLVES A SERIES OF SALES SUFFICIENT IN NUMBER, SCOPE, AND CHARACTER TO CONSTITUTE A REGULAR COURSE OF BUSINESS BUT DOES NOT QUALIFY AS AN ISOLATED OR OCCASIONAL SALE PURSUANT TO [SECTION 130].

(3) AN OPERATOR WHO FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS OF THIS SECTION IS SUBJECT TO A PENALTY,

PAYABLE TO THE DEPARTMENT, OF $100 PER DAY PER SELLER AT EACH SELLING EVENT AT WHICH THE OPERATOR FAILS TO OBTAIN EVIDENCE THAT A SELLER IS THE HOLDER OF A VALID SELLER'S PERMIT ISSUED PURSUANT TO [SECTION 156].

NEW SECTION. SECTION 159. REVOCATION OR SUSPENSION OF PERMIT -- HEARING -- NOTICE. (1) SUBJECT TO THE PROVISIONS OF SUBSECTION (2), THE DEPARTMENT MAY, FOR REASONABLE CAUSE, REVOKE OR SUSPEND ANY PERMIT HELD BY A PERSON WHO FAILS TO COMPLY WITH THE PROVISIONS OF [SECTIONS 113 THROUGH 187].

(2) (A) THE DEPARTMENT SHALL HOLD A HEARING ON THE PROPOSED REVOCATION OR SUSPENSION AFTER GIVING THE PERSON 30 DAYS' NOTICE IN WRITING, SPECIFYING THE TIME AND PLACE OF THE HEARING AND THE REASON FOR THE PROPOSED REVOCATION OR SUSPENSION.

(B) THE NOTICE MUST INCLUDE A REQUIREMENT THAT THE PERSON SHOW CAUSE WHY THE PERMIT OR PERMITS SHOULD NOT BE REVOKED OR SUSPENDED.

(C) THE NOTICE MUST BE SERVED PERSONALLY OR BY CERTIFIED MAIL.

(3) AFTER REVOCATION, THE DEPARTMENT MAY NOT ISSUE A NEW PERMIT EXCEPT UPON APPLICATION ACCOMPANIED BY REASONABLE EVIDENCE OF THE INTENTION OF THE APPLICANT TO COMPLY WITH THE PROVISIONS OF [SECTIONS 113 THROUGH 187]. THE DEPARTMENT MAY REQUIRE SECURITY IN ADDITION TO THAT AUTHORIZED BY [SECTION 167] IN AN AMOUNT REASONABLY NECESSARY TO ENSURE

COMPLIANCE WITH [SECTIONS 113 THROUGH 187] AS A CONDITION FOR THE ISSUANCE OF A NEW PERMIT TO SUCH AN APPLICANT.

(4) A PERSON AGGRIEVED BY THE DEPARTMENT'S FINAL DECISION TO REVOKE A PERMIT AS PROVIDED IN SUBSECTION (1) MAY APPEAL THE DECISION TO THE STATE TAX APPEAL BOARD WITHIN 30 DAYS FOLLOWING THE DATE ON WHICH THE DEPARTMENT ISSUED ITS FINAL DECISION.

(5) A DECISION OF THE STATE TAX APPEAL BOARD MAY BE APPEALED TO A COURT OF COMPETENT JURISDICTION.

NEW SECTION. SECTION 160. NONTAXABLE TRANSACTION CERTIFICATE -- FORM. (1) THE DEPARTMENT SHALL PROVIDE FOR A UNIFORM NONTAXABLE TRANSACTION CERTIFICATE. IN ORDER TO OBTAIN A DEDUCTION UNDER [SECTIONS 113 THROUGH 187], A PURCHASER MUST USE THE CERTIFICATE WHEN PURCHASING GOODS OR SERVICES FOR RESALE.

(2) AT A MINIMUM, THE CERTIFICATE MUST PROVIDE:

(A) THE NUMBER OF THE PERMIT ISSUED TO THE PURCHASER AS PROVIDED IN [SECTION 156 OR 157];

(B) THE GENERAL CHARACTER OF PROPERTY OR SERVICE SOLD BY THE PURCHASER IN THE REGULAR COURSE OF BUSINESS;

(C) THE PROPERTY OR SERVICE PURCHASED FOR RESALE;

(D) THE NAME AND ADDRESS OF THE PURCHASER; AND

(E) A SIGNATURE LINE FOR THE PURCHASER.

NEW SECTION. SECTION 161. IMPROPER USE OF SUBJECT OF PURCHASE OBTAINED WITH NONTAXABLE TRANSACTION CERTIFICATE --

PENALTY. (1) IF A PURCHASER WHO USES A NONTAXABLE TRANSACTION CERTIFICATE UTILIZES THE SUBJECT OF THE PURCHASE OTHER THAN FOR A PURPOSE ALLOWED AS A DEDUCTION UNDER [SECTIONS 113 THROUGH 187], SUCH USE IS CONSIDERED A TAXABLE SALE BY THE PURCHASER AS OF THE TIME OF FIRST USE BY HIM AND THE SALE PRICE HE RECEIVES IS CONSIDERED THE GROSS RECEIPTS FROM THE SALE. IF THE SOLE NONEXEMPT USE IS RENTAL WHILE HOLDING FOR SALE, THE PURCHASER SHALL INCLUDE IN HIS GROSS RECEIPTS THE AMOUNT OF THE RENTAL CHARGED. UPON SUBSEQUENT SALE OF THE PROPERTY, THE SELLER SHALL INCLUDE THE ENTIRE AMOUNT OF GROSS RECEIPTS RECEIVED FROM THE RESALE, WITHOUT DEDUCTION OF AMOUNTS PREVIOUSLY RECEIVED AS RENTALS.

(2) A PERSON WHO USES A CERTIFICATE FOR PROPERTY THAT WILL BE UTILIZED FOR PURPOSES OTHER THAN THE PURPOSE CLAIMED IS SUBJECT TO A PENALTY, PAYABLE TO THE DEPARTMENT, OF $100 FOR EACH TRANSACTION IN WHICH AN IMPROPER USE OF AN EXEMPTION CERTIFICATE HAS OCCURRED.

(3) UPON A SHOWING OF GOOD CAUSE, THE DEPARTMENT MAY ABATE OR WAIVE THE PENALTY OR A PORTION OF THE PENALTY.

NEW SECTION. SECTION 162. COMMINGLING NONTAXABLE CERTIFICATE GOODS. IF A PURCHASER USES A NONTAXABLE TRANSACTION CERTIFICATE WITH RESPECT TO THE PURCHASE OF FUNGIBLE GOODS AND THEREAFTER COMMINGLES THESE GOODS WITH FUNGIBLE GOODS NOT SO PURCHASED BUT OF SUCH SIMILARITY THAT THE IDENTITY OF THE GOODS IN THE COMMINGLED MASS CANNOT BE

DETERMINED, SALES FROM THE MASS OF COMMINGLED GOODS ARE CONSIDERED TO BE SALES OF THE GOODS PURCHASED WITH THE CERTIFICATE UNTIL THE QUANTITY OF COMMINGLED GOODS SOLD EQUALS THE QUANTITY OF GOODS ORIGINALLY PURCHASED UNDER THE CERTIFICATE.

NEW SECTION. SECTION 163. COLLECTION AND PAYMENT -- PENALTY. (1) LIABILITY FOR THE PAYMENT OF THE SALES TAX AND USE TAX IS NOT EXTINGUISHED UNTIL THE TAXES HAVE BEEN PAID TO THE DEPARTMENT.

(2) A RETAILER WHO DOES NOT MAINTAIN A PLACE OF BUSINESS IN THIS STATE IS LIABLE FOR THE SALES TAX OR USE TAX AND SHALL FURNISH, IN ACCORDANCE WITH [SECTIONS 113 THROUGH 187], ADEQUATE SECURITY TO ENSURE COLLECTION AND PAYMENT OF THE TAXES. WHEN SO AUTHORIZED AND EXCEPT AS OTHERWISE PROVIDED IN [SECTIONS 113 THROUGH 187], THE RETAILER IS LIABLE FOR THE TAXES UPON ALL TANGIBLE PROPERTY SOLD THAT IS TO BE USED WITHIN THIS STATE IN THE SAME MANNER AS A RETAILER WHO MAINTAINS A PLACE OF BUSINESS WITHIN THIS STATE. THE PERMIT PROVIDED FOR IN SUBSECTION (3) MAY BE CANCELED AT ANY TIME IF THE DEPARTMENT CONSIDERS THE SECURITY INADEQUATE OR BELIEVES THAT THE TAXES CAN BE COLLECTED MORE EFFECTIVELY IN ANOTHER MANNER.

(3) NO AGENT, CANVASSER, OR EMPLOYEE OF A RETAILER DOING BUSINESS IN THIS STATE WHO IS NOT AUTHORIZED BY PERMIT FROM THE DEPARTMENT MAY SELL, SOLICIT ORDERS FOR, OR DELIVER

ANY TANGIBLE PERSONAL PROPERTY IN MONTANA. IF SUCH AN AGENT, CANVASSER, OR EMPLOYEE VIOLATES THE PROVISIONS OF [SECTIONS 113 THROUGH 187], HE IS SUBJECT TO A FINE OF NOT MORE THAN $100 FOR EACH SEPARATE TRANSACTION OR EVENT.

NEW SECTION. SECTION 164. COMMON CARRIERS AS RETAILERS. A PERSON ENGAGED IN THE BUSINESS OF INTRASTATE OR INTERSTATE TRANSPORTATION BY MOTOR VEHICLE OF TANGIBLE PERSONAL PROPERTY OR PASSENGERS SHALL REGISTER AS A RETAILER AND PAY THE TAXES IMPOSED BY [SECTIONS 113 THROUGH 187].

NEW SECTION. SECTION 165. APPLICATION FOR PERMISSION TO REPORT ON ACCRUAL BASIS. (1) A PERSON HAVING A PERMIT PURSUANT TO [SECTION 156] MAY APPLY TO THE DEPARTMENT FOR PERMISSION TO REPORT AND PAY THE SALES TAX OR USE TAX ON AN ACCRUAL BASIS.

(2) THE APPLICATION MUST BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT THAT CONTAINS SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE.

(3) NO PERSON MAY REPORT OR PAY THE SALES TAX OR USE TAX ON AN ACCRUAL BASIS UNLESS HE HAS FIRST RECEIVED WRITTEN PERMISSION FROM THE DEPARTMENT.

NEW SECTION. SECTION 166. RETURNS -- AUTHORITY OF DEPARTMENT. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), ON OR BEFORE THE 25TH DAY OF EACH MONTH IN WHICH THE TAX IMPOSED BY [SECTIONS 113 THROUGH 187] IS PAYABLE, A RETURN FOR THE PRECEDING MONTH MUST BE FILED WITH THE DEPARTMENT, ON A FORM

PROVIDED BY THE DEPARTMENT. EACH RETURN MUST CONTAIN A CONFESSION OF JUDGMENT FOR THE AMOUNT OF THE TAX SHOWN DUE, TO THE EXTENT NOT TIMELY PAID. A PERSON MAKING SALES AT RETAIL AT TWO OR MORE PLACES OF BUSINESS MAY FILE A CONSOLIDATED RETURN, SUBJECT TO RULES PRESCRIBED BY THE DEPARTMENT.

(2) (A) FOR THE PURPOSES OF THE SALES TAX OR USE TAX, A RETURN MUST BE FILED BY:

(I) A RETAILER REQUIRED TO PAY SUCH TAX; AND

(II) A PERSON:

(A) PURCHASING ANY ITEMS THE STORAGE, USE, OR OTHER CONSUMPTION OF WHICH IS SUBJECT TO THE SALES TAX OR USE TAX; AND

(B) WHO HAS NOT PAID THE TAX TO A RETAILER REQUIRED TO PAY THE TAX.

(B) EACH RETURN MUST BE SIGNED BY THE PERSON FILING THE RETURN OR BY HIS AGENT DULY AUTHORIZED IN WRITING.

(3) (A) A PERSON LIABLE FOR THE TAXES IMPOSED BY [SECTIONS 113 THROUGH 187] SHALL KEEP RECORDS, RENDER STATEMENTS, MAKE RETURNS, AND COMPLY WITH THE PROVISIONS OF [SECTIONS 113 THROUGH 187] AND THE RULES PRESCRIBED BY THE DEPARTMENT. EACH RETURN OR STATEMENT MUST INCLUDE THE INFORMATION REQUIRED BY THE RULES OF THE DEPARTMENT.

(B) FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, THE DEPARTMENT IS AUTHORIZED TO

EXAMINE OR CAUSE TO BE EXAMINED ANY BOOKS, PAPERS, RECORDS, OR MEMORANDA RELEVANT TO MAKING A DETERMINATION OF THE AMOUNT OF TAX DUE, WHETHER THE BOOKS, PAPERS, RECORDS, OR MEMORANDA ARE THE PROPERTY OF OR IN THE POSSESSION OF THE PERSON FILING THE RETURN OR ANOTHER PERSON. THE DEPARTMENT MAY ALSO:

(I) REQUIRE THE ATTENDANCE OF A PERSON HAVING KNOWLEDGE OR INFORMATION RELEVANT TO A RETURN;

(II) COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS, OR MEMORANDA BY A PERSON REQUIRED TO ATTEND;

(III) TAKE TESTIMONY ON MATTERS MATERIAL TO THE DETERMINATION; AND

(IV) ADMINISTER OATHS OR AFFIRMATIONS.

(4) THE RETURNS DUE FOR JUNE, JULY, AND AUGUST OF 1988 ARE DUE ON OR BEFORE SEPTEMBER 25, 1988.

NEW SECTION. SECTION 167. SECURITY -- LIMITATIONS -- SALE OF SECURITY DEPOSIT AT AUCTION -- BOND. (1) THE DEPARTMENT MAY REQUIRE A RETAILER TO DEPOSIT WITH THE DEPARTMENT SECURITY IN A FORM AND AMOUNT AS THE DEPARTMENT DETERMINES APPROPRIATE. THE DEPOSIT MAY NOT BE MORE THAN TWICE THE ESTIMATED AVERAGE LIABILITY FOR THE PERIOD FOR WHICH THE RETURN IS REQUIRED TO BE FILED OR $10,000, WHICHEVER IS LESS. THE AMOUNT OF SECURITY MAY BE INCREASED OR DECREASED BY THE DEPARTMENT, SUBJECT TO THE LIMITATIONS PROVIDED IN THIS SECTION.

(2) (A) IF NECESSARY, THE DEPARTMENT MAY SELL PROPERTY DEPOSITED AS SECURITY AT PUBLIC AUCTION TO RECOVER ANY SALES TAX OR USE TAX OR AMOUNT REQUIRED TO BE COLLECTED, INCLUDING INTEREST AND PENALTIES.

(B) NOTICE OF THE SALE MUST BE SERVED PERSONALLY UPON THE PERSON WHO DEPOSITED THE SECURITY OR BY CERTIFIED MAIL.

(C) AFTER THE SALE, ANY SURPLUS ABOVE THE AMOUNT DUE THAT IS NOT REQUIRED AS SECURITY UNDER THIS SECTION MUST BE RETURNED TO THE PERSON WHO DEPOSITED THE SECURITY.

(3) IN LIEU OF SECURITY, THE DEPARTMENT MAY REQUIRE A RETAILER TO FILE A BOND, ISSUED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, 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 113 THROUGH 187].

NEW SECTION. SECTION 168. 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 173(2)] IS PAYABLE FROM THE DATE ON WHICH SUCH PAYMENT WAS FIRST DUE WITHOUT EXTENSION UNTIL THE TAX IS PAID.

NEW SECTION. SECTION 169. EXAMINATION OF RETURN -- ADJUSTMENTS -- DELIVERY OF NOTICES AND DEMANDS. (1) THE DEPARTMENT MAY EXAMINE A RETURN AND MAKE ANY INVESTIGATION OR EXAMINATION OF THE RECORDS AND ACCOUNTS OF THE PERSON MAKING THE RETURN THAT THE DEPARTMENT CONSIDERS NECESSARY TO DETERMINE THE ACCURACY OF THE RETURN.

(2) TO DETERMINE THE ACCURACY OF A RETURN, THE DEPARTMENT MAY EXAMINE THE RETURNS OR RECORDS USING STATISTICAL OR OTHER SAMPLING TECHNIQUES CONSISTENT WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(3) IF THE DEPARTMENT DETERMINES THAT THE AMOUNT OF TAX DUE IS DIFFERENT FROM THE AMOUNT REPORTED, THE AMOUNT OF TAX COMPUTED ON THE BASIS OF THE EXAMINATION CONDUCTED PURSUANT TO SUBSECTIONS (1) AND (2) CONSTITUTES THE TAX TO BE PAID.

(4) IF THE TAX DUE EXCEEDS THE AMOUNT OF TAX REPORTED AS DUE ON THE TAXPAYER'S RETURN, THE EXCESS MUST BE PAID TO THE DEPARTMENT WITHIN 60 DAYS AFTER NOTICE OF THE AMOUNT AND DEMAND FOR PAYMENT IS MAILED TO THE PERSON MAKING THE

RETURN. IF THE AMOUNT OF THE TAX FOUND DUE BY THE DEPARTMENT IS LESS THAN THAT REPORTED AS DUE ON THE RETURN AND HAS BEEN PAID, THE EXCESS MUST BE REFUNDED TO THE PERSON MAKING THE RETURN IN THE MANNER PROVIDED IN 15-1-503.

(5) THE NOTICES AND DEMANDS PROVIDED FOR IN THIS SECTION MUST CONTAIN A STATEMENT OF THE COMPUTATION OF THE TAX AND MUST BE SENT BY MAIL TO THE PERSON MAKING THE RETURN AT THE ADDRESS GIVEN IN HIS RETURN, IF ANY, OR TO HIS LAST-KNOWN ADDRESS, OR A WRITTEN STATEMENT OF THE COMPUTATION OF THE TAX MAY BE SERVED PERSONALLY UPON THE TAXPAYER.

NEW SECTION. SECTION 170. PENALTIES FOR VIOLATION. (1) (A) SUBJECT TO THE PROVISIONS OF SUBSECTION (1)(B), IF A PERSON, WITHOUT PURPOSELY OR KNOWINGLY VIOLATING ANY REQUIREMENT IMPOSED BY [SECTIONS 113 THROUGH 187], FAILS TO FILE A RETURN OR PAY THE TAX DUE ON OR BEFORE THE DATE THE RETURN OR TAX IS DUE (DETERMINED WITH REGARD TO ANY EXTENSION OF TIME GRANTED FOR FILING THE RETURN), THERE MUST IMMEDIATELY BE IMPOSED A PENALTY OF 5% OF ANY TAX DUE ON THE RETURN. THE PENALTY INCREASES BY THE AMOUNT OF 5% OF THE TAX DUE FOR EACH 30-DAY PERIOD OR PORTION THEREOF THAT THE RETURN REMAINS UNFILED AFTER NOTIFICATION OF FAILURE TO FILE.

(B) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2), THE TOTAL AMOUNT OF THE PENALTY MAY NOT EXCEED 25% OF THE

TOTAL TAX DUE.

(C) INTEREST ACCRUES ON THE UNPAID TAX AT THE RATE OF 1% FOR EACH MONTH OR PART THEREOF DURING WHICH THE TAX REMAINS UNPAID.

(D) THE DEPARTMENT MAY NOT ASSESS A PENALTY UNTIL SUCH TIME AS THE PENALTY EQUALS $10 OR MORE FOR ANY ONE TAX PERIOD OR THE PERIOD COVERED BY ANY RETURN OR STATEMENT.

(2) (A) IF A PERSON PURPOSELY OR KNOWINGLY VIOLATES ANY REQUIREMENT IMPOSED BY [SECTIONS 113 THROUGH 187], FAILS TO MAKE A RETURN, OR FAILS TO PAY A TAX, IF ONE IS DUE, AT THE TIME REQUIRED UNDER THE PROVISIONS OF [SECTIONS 113 THROUGH 187], THERE IS ADDED TO THE TAX AN ADDITIONAL AMOUNT EQUAL TO 25% OF THE TAX. SUCH ADDITIONAL AMOUNT MAY IN NO CASE BE LESS THAN $25.

(B) INTEREST ACCRUES ON THE UNPAID TAX AT THE RATE OF 1% FOR EACH MONTH OR PART THEREOF DURING WHICH THE TAX REMAINS UNPAID.

(3) (A) ANY INDIVIDUAL, CORPORATION, OR PARTNERSHIP, ANY OFFICER OR EMPLOYEE OF A CORPORATION, OR ANY MEMBER OR EMPLOYEE OF A PARTNERSHIP WHO, WITH INTENT TO EVADE ANY REQUIREMENT OF [SECTIONS 113 THROUGH 187] OR ANY LAWFUL REQUIREMENT OF THE DEPARTMENT ADOPTED PURSUANT TO [SECTIONS 113 THROUGH 187], PURPOSELY OR KNOWINGLY FAILS TO PAY THE TAX OR TO MAKE, RENDER, OR SIGN ANY RETURN OR TO SUPPLY ANY INFORMATION WITHIN THE TIME REQUIRED UNDER THE PROVISIONS OF

[SECTIONS 113 THROUGH 187] OR WHO, WITH LIKE INTENT, PURPOSELY OR KNOWINGLY MAKES, RENDERS, OR SIGNS ANY FALSE OR FRAUDULENT RETURN OR STATEMENT OR SUPPLIES ANY FALSE OR FRAUDULENT INFORMATION IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN $5,000.

(B) A PENALTY IMPOSED BY SUBSECTION (3)(A) MUST BE RECOVERED BY THE DEPARTMENT IN THE NAME OF THE STATE BY ACTION IN A COURT OF COMPETENT JURISDICTION.

(4) THE DEPARTMENT MAY ABATE OR WAIVE ALL OR A PORTION OF THE PENALTIES IMPOSED IN SUBSECTION (1) IF THE TAXPAYER ESTABLISHES TO THE SATISFACTION OF THE DEPARTMENT THAT HIS FAILURE TO FILE OR TO PAY ON TIME WAS DUE TO REASONABLE CAUSE AND WAS NOT DUE TO NEGLECT ON HIS PART.

NEW SECTION. SECTION 171. WARRANTS FOR DISTRAINT. IF A TAX IMPOSED BY [SECTIONS 113 THROUGH 187] OR ANY PORTION OF SUCH TAX IS NOT PAID WHEN DUE, THE DEPARTMENT MAY ISSUE A WARRANT FOR DISTRAINT AS PROVIDED IN TITLE 15, CHAPTER 1, PART 7.

NEW SECTION. SECTION 172. AUTHORITY TO COLLECT DELINQUENT TAXES. (1) THE DEPARTMENT SHALL COLLECT TAXES THAT ARE DELINQUENT AS DETERMINED UNDER [SECTIONS 113 THROUGH 187].

(2) TO COLLECT DELINQUENT TAXES AFTER THE TIME FOR APPEAL HAS EXPIRED, THE DEPARTMENT MAY DIRECT THE OFFSET OF TAX REFUNDS OR OTHER FUNDS DUE THE TAXPAYER FROM THE STATE,

EXCEPT WAGES SUBJECT TO THE PROVISIONS OF 25-13-614 AND RETIREMENT BENEFITS.

(3) AS PROVIDED IN 15-1-705, THE TAXPAYER HAS THE RIGHT TO A HEARING ON THE TAX LIABILITY PRIOR TO ANY OFFSET BY THE DEPARTMENT.

(4) THE DEPARTMENT MAY FILE A CLAIM FOR STATE FUNDS ON BEHALF OF THE TAXPAYER IF A CLAIM IS REQUIRED BEFORE FUNDS ARE AVAILABLE FOR OFFSET.

(5) THE DEPARTMENT SHALL PROVIDE THE TAXPAYER WITH WRITTEN NOTICE OF THE RIGHT TO REQUEST A HEARING UNDER THE CONTESTED CASE PROCEDURES OF TITLE 2, CHAPTER 4, ON THE MATTER OF THE OFFSET ACTION OR THE DEPARTMENT'S INTENT TO FILE A CLAIM ON BEHALF OF THE TAXPAYER. A WRITTEN REQUEST FOR A HEARING MUST BE MADE WITHIN 30 DAYS OF THE DATE OF THE NOTICE, AND SUCH HEARING MUST BE HELD WITHIN 30 DAYS FOLLOWING RECEIPT BY THE DEPARTMENT OF THE WRITTEN REQUEST.

NEW SECTION. SECTION 173. PENALTY FOR DEFICIENCY. (1) (A) IF THE PAYMENT OF A TAX DEFICIENCY IS NOT MADE WITHIN 60 DAYS AFTER IT IS DUE AND PAYABLE AND IF THE DEFICIENCY IS DUE TO NEGLIGENCE ON THE PART OF THE TAXPAYER BUT WITHOUT FRAUD, THERE MUST BE ADDED TO THE AMOUNT OF THE DEFICIENCY A PENALTY OF 5% OF THE TAX.

(B) IN ADDITION, A PENALTY OF 5% OF THE DELINQUENT TAX SHALL BE ASSESSED FOR EACH 30-DAY PERIOD OR PORTION THEREOF THAT THE TAX REMAINS UNPAID FOLLOWING NOTIFICATION OF

DELINQUENCY.

(C) INTEREST ACCRUES ON THE UNPAID TAXES AT THE RATE OF 1% FOR EACH MONTH OR PART THEREOF DURING WHICH UNPAID TAXES REMAIN UNPAID. THE INTEREST MUST BE COMPUTED FROM THE DATE THE RETURN AND TAX WERE ORIGINALLY DUE, AS DISTINGUISHED FROM THE DUE DATE AS IT MAY HAVE BEEN EXTENDED TO THE DATE OF PAYMENT.

(D) IN NO EVENT MAY THE PENALTIES IMPOSED UNDER SUBSECTIONS (1)(A) AND (1)(B) EXCEED 25% OF THE TOTAL TAX DUE.

(2) IF THE TIME FOR FILING A RETURN IS EXTENDED, THE TAXPAYER SHALL PAY, IN ADDITION TO THE TAX DUE, INTEREST THEREON AT THE RATE OF 1% FOR EACH MONTH OR PART THEREOF FROM THE DATE THE RETURN WAS ORIGINALLY REQUIRED TO BE FILED TO THE TIME OF PAYMENT.

(3) THE DEPARTMENT MAY NOT ASSESS A PENALTY UNTIL SUCH TIME AS THE PENALTY EQUALS $10 OR MORE FOR ANY ONE TAX PERIOD OR THE PERIOD COVERED BY ANY RETURN OR STATEMENT.

NEW SECTION. SECTION 174. LIMITATIONS. 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 [SECTIONS 113 THROUGH 187], THE AMOUNT OF TAX DUE UNDER ANY RETURN MUST BE DETERMINED BY THE DEPARTMENT WITHIN 5 YEARS AFTER THE RETURN WAS MADE. THE DEPARTMENT IS BARRED FROM REVISING A RETURN OR RECOMPUTING

THE TAX DUE THEREON, AND NO PROCEEDING IN COURT FOR THE COLLECTION OF THE TAX MAY BE INSTITUTED UNLESS NOTICE OF AN ADDITIONAL TAX WAS PROVIDED WITHIN THE PERIOD DESCRIBED IN THIS SECTION.

NEW SECTION. SECTION 175. REFUNDS. A CLAIM FOR A REFUND MADE FOR TAXES COLLECTED UNDER [SECTIONS 113 THROUGH 187] MUST BE IN ACCORDANCE WITH THE PROCEDURE AND TIME LIMITS PROVIDED IN 15-1-503.

NEW SECTION. SECTION 176. ADMINISTRATION -- RULES. THE DEPARTMENT SHALL:

(1) ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 113 THROUGH 187];

(2) CAUSE TO BE PREPARED AND DISTRIBUTED SUCH FORMS AND INFORMATION AS MAY BE NECESSARY TO ADMINISTER THE PROVISIONS OF [SECTIONS 113 THROUGH 187]; AND

(3) PROMULGATE SUCH RULES AS MAY BE APPROPRIATE TO ADMINISTER AND ENFORCE THE PROVISIONS OF [SECTIONS 113 THROUGH 187].

NEW SECTION. SECTION 177. REVOCATION OF CORPORATE LICENSE. (1) IF A CORPORATION AUTHORIZED TO DO BUSINESS IN THIS STATE AND REQUIRED TO PAY THE TAXES IMPOSED UNDER [SECTIONS 113 THROUGH 187] FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF [SECTIONS 113 THROUGH 187] OR ANY RULE OF THE DEPARTMENT, THE DEPARTMENT MAY, FOR REASONABLE CAUSE, CERTIFY TO THE SECRETARY OF STATE A COPY OF AN ORDER FINDING

THAT THE CORPORATION HAS FAILED TO COMPLY WITH SPECIFIC STATUTORY PROVISIONS OR RULES.

(2) THE SECRETARY OF STATE SHALL, UPON RECEIPT OF THE CERTIFICATION, REVOKE THE LICENSE AUTHORIZING THE CORPORATION TO DO BUSINESS IN THIS STATE AND MAY ISSUE A NEW LICENSE ONLY WHEN THE CORPORATION HAS OBTAINED FROM THE DEPARTMENT AN ORDER FINDING THAT THE CORPORATION HAS COMPLIED WITH ITS OBLIGATIONS UNDER [SECTIONS 113 THROUGH 187].

(3) NO ORDER AUTHORIZED IN THIS SECTION MAY BE MADE UNTIL THE CORPORATION IS GIVEN AN OPPORTUNITY TO BE HEARD AND TO SHOW CAUSE AT A CONTESTED CASE HEARING BEFORE THE DEPARTMENT WHY SUCH ORDER SHOULD NOT BE MADE. THE CORPORATION MUST BE GIVEN 30 DAYS' NOTICE OF THE TIME AND PLACE OF THE HEARING AND THE REASON FOR THE PROPOSED ORDER.

NEW SECTION. SECTION 178. TAX AS DEBT. (1) THE TAXES IMPOSED BY [SECTIONS 113 THROUGH 187] AND RELATED INTEREST AND PENALTIES BECOME A PERSONAL DEBT OF THE PERSON REQUIRED TO FILE A RETURN FROM THE TIME THE LIABILITY ARISES, REGARDLESS OF WHEN THE TIME FOR PAYMENT OF SUCH LIABILITY OCCURS.

(2) IN THE CASE OF AN EXECUTOR OR ADMINISTRATOR OF THE ESTATE OF A DECEDENT OR IN THE CASE OF A FIDUCIARY, THE DEBT IS THAT OF THE PERSON IN HIS OFFICIAL OR FIDUCIARY CAPACITY ONLY, UNLESS HE HAS VOLUNTARILY DISTRIBUTED THE ASSETS HELD

IN SUCH CAPACITY WITHOUT RESERVING SUFFICIENT ASSETS TO PAY THE TAXES, INTEREST, AND PENALTIES, IN WHICH EVENT HE IS PERSONALLY LIABLE FOR ANY DEFICIENCY.

(3) THIS SECTION ALSO APPLIES TO THOSE CORPORATE OFFICERS, DIRECTORS, OR SHAREHOLDERS REQUIRED BY THE DEPARTMENT TO PERSONALLY GUARANTEE THE PAYMENT OF THE TAXES FOR THEIR CORPORATIONS.

NEW SECTION. SECTION 179. INFORMATION -- CONFIDENTIALITY -- AGREEMENTS. (1) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(B), IT IS UNLAWFUL FOR AN EMPLOYEE OF THE DEPARTMENT OR ANY OTHER PUBLIC OFFICIAL OR PUBLIC EMPLOYEE TO DIVULGE OR OTHERWISE MAKE KNOWN ANY INFORMATION DISCLOSED IN A REPORT OR RETURN REQUIRED TO BE FILED UNDER [SECTIONS 113 THROUGH 187] OR ANY INFORMATION CONCERNING THE AFFAIRS OF THE PERSON MAKING THE RETURN THAT IS ACQUIRED FROM HIS RECORDS, OFFICERS, OR EMPLOYEES IN AN EXAMINATION OR AUDIT.

(B) SUBSECTION (1)(A) DOES APPLY TO INFORMATION OBTAINED FROM THE TAXPAYER MAKING THE REPORT OR RETURN IN CONNECTION WITH A PROCEEDING INVOLVING TAXES DUE UNDER [SECTIONS 113 THROUGH 187] OR TO COMPLY WITH THE PROVISIONS OF SUBSECTION (2).

(C) NOTHING IN THIS SECTION MAY BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM PUBLISHING STATISTICS SO CLASSIFIED AS TO NOT DISCLOSE THE IDENTITY OF ANY PARTICULAR RETURN OR RETURNS OR REPORTS AND THE CONTENT THEREOF. A

PERSON VIOLATING THE PROVISIONS OF THIS SECTION IS SUBJECT TO THE PENALTY PROVIDED FOR VIOLATING THE CONFIDENTIALITY OF INDIVIDUAL INCOME TAX INFORMATION AS PROVIDED IN 15-30-303.

(2) (A) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE TAXING OFFICIALS OF ANOTHER STATE FOR THE INTERPRETATION AND ADMINISTRATION OF THE LAWS OF THEIR STATE THAT PROVIDE FOR THE COLLECTION OF SALES TAXES OR USE TAXES IN ORDER TO PROMOTE FAIR AND EQUITABLE ADMINISTRATION OF SUCH LAWS AND TO ELIMINATE DOUBLE TAXATION.

(B) THE DEPARTMENT, IN ORDER TO IMPLEMENT THE PROVISIONS OF [SECTIONS 113 THROUGH 187], MAY FURNISH INFORMATION ON A RECIPROCAL BASIS TO THE TAXING OFFICIALS OF ANOTHER STATE OR TO THE TAXING OFFICIALS OF A MUNICIPALITY OF THIS STATE THAT HAS A LOCAL SALES TAX OR USE TAX.

(3) IN ORDER TO FACILITATE PROCESSING OF RETURNS AND PAYMENTS OF TAXES REQUIRED BY [SECTIONS 113 THROUGH 187], THE DEPARTMENT MAY CONTRACT WITH VENDORS AND MAY DISCLOSE DATA TO THE VENDORS. THE DATA DISCLOSED MUST BE ADMINISTERED BY THE VENDOR IN A MANNER CONSISTENT WITH THIS SECTION.

NEW SECTION. SECTION 180. SALES AND USE TAX ACCOUNT -- ADMINISTRATION AND ENFORCEMENT ACCOUNT. (1) THERE IS WITHIN THE STATE SPECIAL REVENUE FUND A SALES AND USE TAX ACCOUNT.

(2) ALL MONEY COLLECTED UNDER [SECTIONS 113 THROUGH 180] MUST BE PAID BY THE DEPARTMENT INTO THE SALES AND USE

TAX ACCOUNT.

NEW SECTION. SECTION 181. SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX. AS REQUIRED BY 7-1-112, [SECTIONS 181 THROUGH 187] SPECIFICALLY DELEGATE TO THE ELECTORS OF ANY LOCAL GOVERNMENT, AS DEFINED IN 7-12-1103(6), THE POWER TO AUTHORIZE THEIR LOCAL GOVERNMENT TO IMPOSE A SPECIAL PURPOSE RETAIL SALES AND USE TAX WITHIN THE CORPORATE BOUNDARY OF THE LOCAL GOVERNMENT.

NEW SECTION. SECTION 182. LIMIT ON TAX RATE -- GOODS AND SERVICES SUBJECT TO TAX. (1) THE RATE OF THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX MUST BE ESTABLISHED BY THE ELECTION PETITION PROVIDED FOR IN [SECTION 183], BUT THE RATE MAY NOT EXCEED 1%.

(2) THE TAX IMPOSED UNDER [SECTIONS 181 THROUGH 187] IS IN ADDITION TO THE SALES TAX AND USE TAX IMPOSED BY [SECTION 114].

(3) THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX IS A TAX ON THE RETAIL VALUE OF ALL GOODS AND SERVICES SOLD EXCEPT THOSE SPECIFICALLY EXEMPTED OR EXCLUDED UNDER [SECTIONS 120 THROUGH 135] OR DEDUCTIBLE UNDER [SECTIONS 136 THROUGH 154<>.

NEW SECTION. SECTION 183. ELECTION REQUIRED TO IMPOSE OR REPEAL SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX. (1) A LOCAL GOVERNMENT UNIT MAY IMPOSE OR REPEAL A TAX AUTHORIZED BY [SECTION 181] ONLY AFTER APPROVAL BY A SIMPLE

MAJORITY OF THE ELECTORS VOTING ON THE QUESTION WHO ARE RESIDENTS OF THE JURISDICTION THAT IS OR WILL BE SUBJECT TO THE TAX.

(2) THE BALLOT ISSUE MAY BE PRESENTED TO THE ELECTORS OF THE LOCAL GOVERNMENT BY:

(A) A PETITION SIGNED BY 15% OF THE ELECTORS; OR

(B) A RESOLUTION OF THE GOVERNING BODY.

(3) UPON THE RECEIPT OF A PETITION OR A RESOLUTION REQUESTING AN ELECTION, THE QUESTION ON THE SPECIAL PURPOSE LOCAL TAX MUST BE PLACED ON THE BALLOT AT THE NEXT REGULARLY SCHEDULED ELECTION.

(4) THE QUESTION MUST INCLUDE THE INFORMATION REQUIRED BY [SECTION 185] AND BE PRESENTED IN SUBSTANTIALLY THE FOLLOWING FORM:

FOR THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX.

AGAINST THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX.

(5) THE QUESTION OF IMPOSITION OF A SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX MAY NOT BE PLACED BEFORE THE ELECTORS MORE THAN ONE TIME IN ANY FISCAL YEAR.

NEW SECTION. SECTION 184. RATE OF SPECIAL PURPOSE RETAIL SALES AND USE TAX. (1) THE RATE OF THE SPECIAL PURPOSE RETAIL SALES AND USE TAX MUST BE DETERMINED BY THE ELECTORS WHEN VOTING ON THE QUESTION. THE GOVERNING BODY OF

THE LOCAL GOVERNMENT UNIT SHALL CERTIFY THE RATE OF THE TAX TO THE DEPARTMENT ON OR BEFORE OCTOBER 1 OF THE FIRST YEAR IN WHICH THE TAX IS TO BE IMPOSED.

(2) THE TAX IMPOSED BY [SECTIONS 181 THROUGH 187] IS IN ADDITION TO THE SALES TAX AND USE TAX IMPOSED BY [SECTION 114].

NEW SECTION. SECTION 185. SPECIFIC PURPOSE OF SPECIAL PURPOSE RETAIL SALES AND USE TAX. (1) THE PROJECT FOR WHICH THE SPECIAL PURPOSE SALES AND USE TAX WILL BE USED MUST BE DETERMINED BY THE ELECTORS WHEN VOTING ON THE QUESTION.

(2) THE PROJECT MUST BE IDENTIFIED ON THE BALLOT.

NEW SECTION. SECTION 186. ADMINISTRATION OF LOCAL OPTION RETAIL SALES AND USE TAXES -- ROLE OF DEPARTMENT. (1) THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAXES AUTHORIZED UNDER [SECTIONS 181 THROUGH 187] MUST BE ADMINISTERED BY THE DEPARTMENT UNDER RULES ADOPTED BY THE DEPARTMENT. THE RULES FOR THE ADMINISTRATION OF THE STATE RETAIL SALES AND USE TAX APPLY TO THE SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAXES EXCEPT WHEN, IN THE JUDGMENT OF THE DEPARTMENT, THE RULES WOULD BE INCONSISTENT OR NOT FEASIBLE FOR PROPER ADMINISTRATION.

(2) MONEY COLLECTED PURSUANT TO [SECTIONS 181 THROUGH 187] MUST BE ACCOUNTED FOR SEPARATELY BY TAXING JURISDICTION AND MUST BE CREDITED TO A SEPARATE SPECIAL PURPOSE LOCAL RETAIL SALES AND USE TAX ACCOUNT IN THE STATE TREASURY.

(3) THE DEPARTMENT MAY DEDUCT FROM THE MONEY COLLECTED AN AMOUNT NOT EXCEEDING 1% TO COVER NECESSARY COSTS INCURRED BY THE DEPARTMENT IN ADMINISTERING THE SPECIAL PURPOSE LOCAL RETAIL SALES AND USE TAXES.

NEW SECTION. SECTION 187. DISTRIBUTION OF SPECIAL PURPOSE LOCAL OPTION RETAIL SALES AND USE TAX COLLECTIONS. (1) ALL MONEY COLLECTED PURSUANT TO [SECTIONS 181 THROUGH 187] MUST BE DISTRIBUTED BY THE DEPARTMENT TO THE LOCAL GOVERNMENT UNIT OF ORIGIN IN MAY AND NOVEMBER OF EACH YEAR, AFTER DEDUCTING THE COSTS OF ADMINISTERING THE TAX.

(2) THE DEPARTMENT SHALL PROVIDE THE NECESSARY REVENUE INFORMATION FOR THE PROPER DISTRIBUTION OF THE REVENUES TO THE COUNTY FINANCE ADMINISTRATOR.

NEW SECTION. SECTION 188. RENTERS' PROPERTY TAX CREDIT -- DEFINITIONS. AS USED IN [SECTIONS 188 THROUGH 196], THE FOLLOWING DEFINITIONS APPLY:

(1) "CLAIMANT" MEANS AN INDIVIDUAL NATURAL PERSON WHO IS ELIGIBLE TO FILE A CLAIM UNDER [SECTION 189].

(2) "CLAIM PERIOD" MEANS THE TAX YEAR FOR INDIVIDUALS REQUIRED TO FILE MONTANA INDIVIDUAL INCOME TAX RETURNS AND THE CALENDAR YEAR FOR INDIVIDUALS NOT REQUIRED TO FILE RETURNS.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(4) "GROSS HOUSEHOLD INCOME" MEANS ALL INCOME RECEIVED BY ALL INDIVIDUALS OF A HOUSEHOLD WHILE THEY ARE MEMBERS OF

THE HOUSEHOLD.

(5) "GROSS RENT" MEANS THE TOTAL RENT IN CASH OR ITS EQUIVALENT ACTUALLY PAID DURING THE CLAIM PERIOD BY THE RENTER OR LESSEE FOR THE RIGHT OF OCCUPANCY OF THE HOMESTEAD PURSUANT TO AN ARM'S LENGTH TRANSACTION WITH THE LANDLORD.

(6) "HOMESTEAD" MEANS A SINGLE-FAMILY DWELLING OR UNIT OF A MULTIPLE-UNIT DWELLING THAT IS SUBJECT TO AD VALOREM TAXES IN MONTANA AND AS MUCH OF THE SURROUNDING LAND, BUT NOT IN EXCESS OF 1 ACRE, AS IS REASONABLY NECESSARY FOR ITS USE AS A DWELLING.

(7) "HOUSEHOLD" MEANS AN ASSOCIATION OF PERSONS WHO LIVE IN THE SAME DWELLING, SHARING ITS FURNISHINGS, FACILITIES, ACCOMMODATIONS, AND EXPENSES. THE TERM DOES NOT INCLUDE BONA FIDE LESSEES, TENANTS, OR ROOMERS AND BOARDERS ON CONTRACT.

(8) "HOUSEHOLD INCOME" MEANS $0 OR THE AMOUNT OBTAINED BY SUBTRACTING $4,000 FROM GROSS HOUSEHOLD INCOME, WHICHEVER IS GREATER.

(9) "INCOME" MEANS FEDERAL ADJUSTED GROSS INCOME, WITHOUT REGARD TO LOSS, AS THAT QUANTITY IS DEFINED IN THE INTERNAL REVENUE CODE OF THE UNITED STATES, PLUS ALL NONTAXABLE INCOME, INCLUDING BUT NOT LIMITED TO:

(A) THE GROSS AMOUNT OF ANY PENSION OR ANNUITY (INCLUDING RAILROAD RETIREMENT ACT BENEFITS AND VETERANS' DISABILITY BENEFITS);

(B) THE AMOUNT OF CAPITAL GAINS EXCLUDED FROM ADJUSTED GROSS INCOME;

(C) ALIMONY;

(D) SUPPORT MONEY;

(E) NONTAXABLE STRIKE BENEFITS;

(F) CASH PUBLIC ASSISTANCE AND RELIEF;

(G) PAYMENTS AND INTEREST ON FEDERAL, STATE, COUNTY, AND MUNICIPAL BONDS; AND

(H) ALL PAYMENTS UNDER FEDERAL SOCIAL SECURITY.

(10) "PROPERTY TAX PAID" MEANS GENERAL AD VALOREM TAXES LEVIED AGAINST THE HOMESTEAD, EXCLUSIVE OF SPECIAL ASSESSMENTS, PENALTIES, OR INTEREST AND PAID DURING THE CLAIM PERIOD.

(11) "RENT-EQUIVALENT TAX PAID" MEANS 15% OF THE GROSS RENT.

NEW SECTION. SECTION 189. RENTERS' PROPERTY TAX CREDIT -- ELIGIBILITY. (1) IN ORDER TO BE ELIGIBLE TO MAKE A CLAIM UNDER [SECTIONS 188 THROUGH 196], AN INDIVIDUAL:

(A) MUST HAVE RESIDED IN MONTANA FOR AT LEAST 9 MONTHS OF THAT PERIOD; AND

(B) MUST HAVE OCCUPIED ONE OR MORE DWELLINGS IN MONTANA AS A RENTER OR LESSEE FOR AT LEAST 6 MONTHS OF THE CLAIM PERIOD.

(2) A PERSON IS NOT DISQUALIFIED AS A CLAIMANT IF HE CHANGES RESIDENCES DURING THE CLAIM PERIOD, PROVIDED THAT HE

OCCUPIES ONE OR MORE DWELLINGS IN MONTANA AS A RENTER OR LESSEE FOR AT LEAST 6 MONTHS DURING THE CLAIM PERIOD.

NEW SECTION. SECTION 190. RENTERS' PROPERTY TAX CREDIT -- DISALLOWANCE OR ADJUSTMENT OF CERTAIN CLAIMS. IF THE LANDLORD AND TENANT HAVE NOT DEALT AT ARM'S LENGTH AND THE DEPARTMENT JUDGES THE GROSS RENT CHARGED TO BE EXCESSIVE, THE DEPARTMENT MAY ADJUST THE GROSS RENT TO A REASONABLE AMOUNT.

NEW SECTION. SECTION 191. RENTERS' PROPERTY TAX CREDIT -- FILING DATE. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A CLAIM FOR RELIEF MUST BE SUBMITTED AT THE SAME TIME THE CLAIMANT'S INDIVIDUAL INCOME TAX RETURN IS DUE. FOR AN INDIVIDUAL NOT REQUIRED TO FILE A TAX RETURN, THE CLAIM MUST BE SUBMITTED ON OR BEFORE APRIL 15 OF THE YEAR FOLLOWING THE YEAR FOR WHICH RELIEF IS SOUGHT.

(2) THE DEPARTMENT MAY GRANT A REASONABLE EXTENSION FOR FILING A CLAIM WHENEVER, IN ITS JUDGMENT, GOOD CAUSE EXISTS. THE DEPARTMENT SHALL KEEP A RECORD OF EACH EXTENSION AND THE REASON FOR GRANTING THE EXTENSION.

(3) IN THE EVENT THAT AN INDIVIDUAL WHO WOULD HAVE A CLAIM UNDER [SECTIONS 188 THROUGH 196] DIES BEFORE FILING THE CLAIM, THE PERSONAL REPRESENTATIVE OF THE ESTATE OF THE DECEDENT MAY FILE THE CLAIM.

NEW SECTION. SECTION 192. RENTERS' PROPERTY TAX CREDIT -- FORM OF RELIEF. RELIEF UNDER [SECTIONS 188 THROUGH

196] IS A CREDIT AGAINST THE CLAIMANT'S MONTANA INDIVIDUAL INCOME TAX LIABILITY FOR THE CLAIM PERIOD. IF THE AMOUNT OF THE CREDIT EXCEEDS THE CLAIMANT'S LIABILITY UNDER THIS CHAPTER, THE AMOUNT OF THE EXCESS MUST BE REFUNDED TO THE CLAIMANT. THE CREDIT MAY BE CLAIMED EVEN THOUGH THE CLAIMANT HAS NO INCOME TAXABLE UNDER THIS CHAPTER.

NEW SECTION. SECTION 193. RENTERS' PROPERTY TAX CREDIT -- COMPUTATION OF RELIEF. THE AMOUNT OF THE TAX CREDIT GRANTED UNDER THE PROVISIONS OF [SECTIONS 188 THROUGH 196] IS COMPUTED AS FOLLOWS:

(1) IN THE CASE OF A CLAIMANT WHO RENTS A HOMESTEAD FOR WHICH A CLAIM IS MADE, THE CREDIT IS THE AMOUNT OF RENT-EQUIVALENT TAX PAID LESS THE DEDUCTION SPECIFIED IN SUBSECTION (3).

(2) IN THE CASE OF A CLAIMANT WHO BOTH OWNS AND RENTS THE HOMESTEAD FOR WHICH A CLAIM IS MADE, THE CREDIT IS THE AMOUNT OF RENT-EQUIVALENT TAX PAID ON THE RENTED PORTION OF THE HOMESTEAD LESS THE DEDUCTION SPECIFIED IN SUBSECTION (3).

(3) RENT-EQUIVALENT TAX PAID IS REDUCED ACCORDING TO THE FOLLOWING SCHEDULE:

HOUSEHOLD INCOME	AMOUNT OF REDUCTION
$ 0-1,999	$0
2,000-2,999	THE PRODUCT OF .006 TIMES THE HOUSEHOLD INCOME
3,000-3,999	THE PRODUCT OF .016 TIMES THE HOUSEHOLD INCOME

4,000-4,999	THE PRODUCT OF .024 TIMES THE HOUSEHOLD INCOME
5,000-5,999	THE PRODUCT OF .028 TIMES THE HOUSEHOLD INCOME
6,000-6,999	THE PRODUCT OF .032 TIMES THE HOUSEHOLD INCOME
7,000-7,999	THE PRODUCT OF .035 TIMES THE HOUSEHOLD INCOME
8,000-8,999	THE PRODUCT OF .039 TIMES THE HOUSEHOLD INCOME
9,000-9,999	THE PRODUCT OF .042 TIMES THE HOUSEHOLD INCOME
10,000-10,999	THE PRODUCT OF .045 TIMES THE HOUSEHOLD INCOME
11,000-11,999	THE PRODUCT OF .048 TIMES THE HOUSEHOLD INCOME
12,000 & OVER	THE PRODUCT OF .050 TIMES THE HOUSEHOLD INCOME

(4) IN NO CASE MAY THE CREDIT GRANTED EXCEED $200.

NEW SECTION. SECTION 194. RENTERS' PROPERTY TAX CREDIT -- LIMITATIONS. (1) ONLY ONE CLAIMANT PER HOUSEHOLD IN A CLAIM PERIOD UNDER THE PROVISIONS OF [SECTIONS 188 THROUGH 196] IS ENTITLED TO RELIEF.

(2) NO CLAIM FOR RELIEF MAY BE ALLOWED FOR ANY PORTION OF RENT-EQUIVALENT TAXES PAID THAT IS DERIVED FROM A PUBLIC RENT OR TAX SUBSIDY PROGRAM.

(3) NO CLAIM FOR RELIEF MAY BE ALLOWED ON RENTED LANDS OR RENTED DWELLINGS THAT ARE NOT SUBJECT TO AD VALOREM TAXATION IN MONTANA DURING THE CLAIM PERIOD.

NEW SECTION. SECTION 195. RENTERS' PROPERTY TAX CREDIT -- PROOF OF CLAIM. A RECEIPT SHOWING GROSS RENT PAID MUST BE FILED WITH EACH CLAIM. IN ADDITION, EACH CLAIMANT SHALL, AT THE REQUEST OF THE DEPARTMENT, SUPPLY ALL ADDITIONAL INFORMATION NECESSARY TO SUPPORT HIS CLAIM.

<u>NEW SECTION. SECTION 196. RENTERS' PROPERTY TAX CREDIT -- DENIAL OF CLAIM. A PERSON FILING A FALSE OR FRAUDULENT CLAIM UNDER THE PROVISIONS OF [SECTIONS 188 THROUGH 196] MUST BE CHARGED WITH THE OFFENSE OF UNSWORN FALSIFICATION TO AUTHORITIES PURSUANT TO 45-7-203. IF A FALSE OR FRAUDULENT CLAIM HAS BEEN PAID, THE AMOUNT PAID MAY BE RECOVERED AS ANY OTHER DEBT OWED TO THE STATE. AN ADDITIONAL 10% MAY BE ADDED TO THE AMOUNT DUE AS A PENALTY. THE UNPAID DEBT BEARS INTEREST, AT THE RATE OF 1% PER MONTH, FROM THE DATE OF THE ORIGINAL PAYMENT OF CLAIM UNTIL PAID.</u>

<u>NEW SECTION. SECTION 197. PER CAPITA FEE FOR EXPENSES OF ENFORCING LIVESTOCK AND POULTRY LAWS. (1) IN ADDITION TO APPROPRIATIONS MADE FOR SUCH PURPOSES, A PER CAPITA FEE IS AUTHORIZED AND DIRECTED TO BE PAID ON ALL LIVESTOCK AND POULTRY IN THIS STATE FOR THE PURPOSE OF AIDING IN THE PAYMENT OF THE EXPENSES, INCLUDING SALARIES, CONNECTED WITH THE ADMINISTRATION AND ENFORCEMENT OF THE LIVESTOCK AND POULTRY LAWS OF THE STATE, FOR PREDATOR CONTROL, AND FOR THE PAYMENT OF BOUNTIES ON WILD ANIMALS.</u>

<u>(2) AS USED IN THIS SECTION, "LIVESTOCK" MEANS CATTLE, SHEEP, SWINE, GOATS, HORSES, MULES, AND ASSES.</u>

<u>NEW SECTION. SECTION 198. BOARD OF LIVESTOCK TO PRESCRIBE PER CAPITA FEE. (1) THE BOARD OF LIVESTOCK SHALL ANNUALLY PRESCRIBE THE PER CAPITA FEE FOR LIVESTOCK AND POULTRY OF ALL CLASSES FOR THE PAYMENT OF THE EXPENSES,</u>

INCLUDING SALARIES, CONNECTED WITH THE ADMINISTRATION AND ENFORCEMENT OF THE LIVESTOCK AND POULTRY LAWS OF THE STATE, THE COLLECTION OF THE PER CAPITA FEE, AND THE PAYMENT OF BOUNTIES ON WILD ANIMALS.

(2) THE PER CAPITA FEE MUST BE CALCULATED EACH YEAR TO PROVIDE NOT MORE THAN 110% OF THE AVERAGE ANNUAL REVENUE GENERATED IN THE 3 PREVIOUS YEARS, BEGINNING WITH REVENUE GENERATED IN TAXABLE YEARS 1985, 1986, AND 1987 BY 15-24-922, 81-7-104, AND 81-7-118, AS THOSE SECTIONS READ IN THOSE YEARS. THE CALCULATION MUST INCLUDE A FACTOR TO ACCOUNT FOR NONPAYMENT AND LATE PAYMENT OF FEES AND FOR THE COLLECTION COSTS OF THE PER CAPITA FEE.

NEW SECTION. SECTION 199. COLLECTION OF FEE. (1) ON OR BEFORE JANUARY 15 OF EACH YEAR, AN OWNER OF LIVESTOCK OR POULTRY OR HIS AGENT SHALL MAKE AND DELIVER TO THE BOARD OF LIVESTOCK A VERIFIED STATEMENT SHOWING AS OF JANUARY 1 THE NUMBER OF EACH KIND OF LIVESTOCK OR POULTRY WITHIN THE STATE BELONGING TO HIM OR UNDER HIS CHARGE, WITH THE LIVESTOCK'S MARKS AND BRANDS AND THE COUNTY IN WHICH THE MAJORITY OF THE LIVESTOCK OR POULTRY IS LOCATED.

(2) UPON DETERMINATION OF THE NUMBERS OF EACH CLASS OF LIVESTOCK AND POULTRY AND ASSESSMENT OF THE AMOUNT OF THE LEVY SET BY THE BOARD OF LIVESTOCK, THE COUNTY TREASURER SHALL SEND TO EACH OWNER OR AGENT WHO FILED A REPORT A STATEMENT INDICATING THE TOTAL FEE DUE FOR THE YEAR, THE

FACT THAT PAYMENT IS TO BE MADE TO THE COUNTY TREASURER ON OR BEFORE JUNE 1 FOLLOWING ASSESSMENT OF THE FEE, AND THE PENALTY AND LIEN PROVISIONS THAT APPLY.

(3) THE COUNTY TREASURER MAY WITHHOLD 2% OF THE MONEY RECEIVED FOR THE PER CAPITA FEE FOR LIVESTOCK AND POULTRY AS REIMBURSEMENT TO THE COUNTY FOR THE COLLECTION OF THE FEE ON LIVESTOCK AND POULTRY.

NEW SECTION. SECTION 200. TRANSMISSION OF FEES FROM COUNTY TO STATE TREASURER. EXCEPT FOR THE MONEY WITHHELD BY THE COUNTY, THE FEES LEVIED AND THE MONEY COLLECTED PURSUANT TO THE PROVISIONS OF [SECTIONS 197 THROUGH 201] MUST BE TRANSMITTED TO THE STATE TREASURER BY THE COUNTY TREASURER OF EACH COUNTY, AS PROVIDED IN 15-1-504 BUT NOT LATER THAN JULY 1 FOLLOWING ASSESSMENT. THE COUNTY TREASURER SHALL DESIGNATE THE AMOUNT RECEIVED FROM THE FEE PAID ON POULTRY, THE AMOUNT RECEIVED FROM THE FEE PAID ON SHEEP, AND THE AMOUNT RECEIVED FROM THE FEE PAID ON ALL OTHER LIVESTOCK AND SHALL SPECIFY THE SEPARATE AMOUNTS IN HIS REPORT TO THE STATE TREASURER. THE MONEY, WHEN RECEIVED BY THE STATE TREASURER, MUST BE DEPOSITED TO THE CREDIT OF THE DEPARTMENT OF LIVESTOCK.

NEW SECTION. SECTION 201. PENALTY FOR FAILURE TO FILE STATEMENT ON LIVESTOCK OR POULTRY -- LIEN UPON REAL AND PERSONAL PROPERTY. (1) IF A PERSON WHO IS THE OWNER OF LIVESTOCK OR POULTRY WITHIN THE STATE FAILS TO FILE OR HAVE

HIS AGENT FILE THE STATEMENT REQUIRED IN [SECTION 199], THE COUNTY TREASURER SHALL, AFTER 10 DAYS' NOTICE TO THE PERSON WHO FAILED TO FILE THE STATEMENT, ASSESS THE FEE IMPOSED BY [SECTIONS 197 THROUGH 201] BASED ON THE BOARD OF LIVESTOCK'S ESTIMATE OF THE NUMBER OF LIVESTOCK OR POULTRY OWNED BY THE PERSON IN THE STATE. THE COUNTY TREASURER SHALL ADD A 10% PENALTY TO THE ASSESSMENT.

(2) THE FEE IMPOSED PURSUANT TO [SECTIONS 197 THROUGH 201] IS A LIEN UPON THE REAL AND PERSONAL PROPERTY OF THE LIVESTOCK OR POULTRY OWNER WHO FAILS TO PAY THE FEES ON OR BEFORE JUNE 1 FOLLOWING ASSESSMENT AND IS TO BE COLLECTED UNDER THE TAX LIEN ENFORCEMENT PROVISIONS OF TITLE 15.

NEW SECTION. SECTION 202. CREDIT FOR SALES AND USE TAX. (1) THERE IS A CREDIT AGAINST TAX LIABILITY UNDER THIS CHAPTER AS PROVIDED IN SUBSECTION (2).

(2) FOR EACH EXEMPTION CLAIMED UNDER 15-30-112, A CREDIT IS ALLOWED ACCORDING TO THE FOLLOWING SCHEDULE:

GROSS HOUSEHOLD INCOME	CREDIT PER EXEMPTION
$ 0 - 4,999	$30
5,000 - 5,999	27
6,000 - 6,999	24
7,000 - 7,999	21
8,000 - 8,999	19
9,000 - 9,999	16
10,000 - 10,999	13

11,000 - 11,999	11
12,000 - 12,999	9
13,000 - 13,999	7
14,000 - 19,999	5
20,000 OR MORE	0

(3) FOR THE PURPOSE OF THIS SECTION, "GROSS HOUSEHOLD INCOME" IS DEFINED AS PROVIDED IN [SECTION 188].

(4) IF THE AMOUNT OF CREDIT ALLOWED IN THIS SECTION EXCEEDS THE AMOUNT OF TAX LIABILITY UNDER THIS CHAPTER BY $1 OR MORE, THE DEPARTMENT SHALL REFUND THE AMOUNT IN EXCESS. IF THE EXCESS IS LESS THAN $1, THE DEPARTMENT MAY NOT MAKE A REFUND.

SECTION 203. SECTION 7-1-2111, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

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

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

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

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

(c) 19.03% of the total taxable value of the county on December 31, 1986."

SECTION 204. SECTION 7-3-1321, MCA, IS AMENDED TO READ:

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

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~28%~~ 33% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

SECTION 205. SECTION 7-6-2211, MCA, IS AMENDED TO READ:

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

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

SECTION 206. SECTION 7-6-4121, MCA, IS AMENDED TO READ:

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

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

regulations as the city or town council may by ordinance prescribe.

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

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

SECTION 207. SECTION 7-6-4254, MCA, IS AMENDED TO READ:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~30%~~ 45% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

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

SECTION 208. SECTION 7-7-107, MCA, IS AMENDED TO READ:

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

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

SECTION 209. SECTION 7-7-108, MCA, IS AMENDED TO READ:

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

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

<u>SECTION 210. SECTION 7-7-2101, MCA, IS AMENDED TO READ:</u>

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~23%~~ <u>27%</u> of the total of the taxable value of the property therein subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

(2) No county may incur indebtedness or liability for any single purpose to an amount exceeding $500,000 without the approval of a majority of the electors thereof voting at

an election to be provided by law, except as provided in 7-21-3413 and 7-21-3414.

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

SECTION 211. SECTION 7-7-2203, MCA, IS AMENDED TO READ:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11.25%~~ 13.4% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will not exceed ~~27.75%~~ 33% of the total of the taxable value of the property in the county subject to taxation, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when

necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

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

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

SECTION 212. SECTION 7-7-4201, MCA, IS AMENDED TO READ:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any purpose in an amount which with all outstanding and unpaid indebtedness will exceed ~~28%~~ 33% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

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

changing of the evidence of outstanding indebtedness."

<u>SECTION 213. SECTION 7-7-4202, MCA, IS AMENDED TO READ:</u>

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

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ <u>33%</u>, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

<u>SECTION 214. SECTION 7-13-4103, MCA, IS AMENDED TO READ:</u>

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

SECTION 215. SECTION 7-14-236, MCA, IS AMENDED TO READ:

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

SECTION 216. SECTION 7-14-2524, MCA, IS AMENDED TO READ:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, no county shall issue bonds which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11.25%~~ 13.4% of the total of the taxable value of the property therein, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%. The taxable property and the amount of new production taxes levied shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11.25%~~ 13.4% but will not exceed ~~22.5%~~ 26.5% of the total of the taxable value of such property, plus the amount of new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

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

SECTION 217. SECTION 7-14-2525, MCA, IS AMENDED TO READ:

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

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

(b) enter into such agreement;

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

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

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

SECTION 218. SECTION 7-14-4402, MCA, IS AMENDED TO READ:

"7-14-4402. Limit on indebtedness to provide bus service. The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~28%~~ 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 219. SECTION 7-16-2327, MCA, IS AMENDED TO READ:

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

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

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

SECTION 220. SECTION 7-16-4104, MCA, IS AMENDED TO READ:

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

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

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

(c) for furnishing and equipping the same.

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

proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

SECTION 221. SECTION 7-31-106, MCA, IS AMENDED TO READ:

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

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

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

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

SECTION 222. SECTION 7-31-107, MCA, IS AMENDED TO READ:

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

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

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

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

SECTION 223. SECTION 7-34-2131, MCA, IS AMENDED TO READ:

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

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

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

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

SECTION 224. SECTION 20-9-406, MCA, IS AMENDED TO READ:

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is ~~45%~~ 54% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The ~~45%~~ 54% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

(2) When the total indebtedness of a school district has reached the ~~45%~~ 54% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

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

SECTION 225. SECTION 20-9-407, MCA, IS AMENDED TO READ:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the ~~45%~~ 54% limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a maximum of ~~45%~~ 54% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

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

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

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

<u>SECTION 226. SECTION 15-1-101, MCA, IS AMENDED TO READ:</u>

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

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

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

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

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

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

(A) agricultural lands;

(B) timberlands;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) The term "real estate" includes:

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

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

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

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

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

SECTION 227. SECTION 15-6-133, MCA, IS AMENDED TO READ:

"15-6-133. Class three property -- description -- taxable percentage. (1) Class three property includes agricultural land as defined in 15-7-202.

(2) Class three property is taxed at ~~the--taxable percentage-rate-"P"~~ 25% of its productive capacity.

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

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

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

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

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

~~(d)--The--taxable--percentage--must--be--calculated--by~~

~~interpolation-to-coincide--with--the--nearest--whole--number certified--statewide--percentage-increase-from-the-following table:~~

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

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

SECTION 228. SECTION 15-6-134, MCA, IS AMENDED TO READ:

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

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

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

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

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

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a) and (1)(b) is taxed at ~~the--taxable--percentage--rate--"P"~~ 2.75% of its market value.

(b) Property described in subsection (1)(c) is taxed at ~~the-taxable-percentage-rate-"P"~~ 2.75% of its market value multiplied by a percentage figure based on income and determined from the following table:

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

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

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

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

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

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

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

~~(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In~~

~~calculating-the-percentage-increase,-the-department-may--not consider-changes-resulting-from-new-construction,-additions, or-deletions-during-calendar-year-1985.~~

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

~~Certified-Statewide Percentage-Increase~~	~~Class-Four-Taxable Percentage-"P"~~
~~0~~	~~8.55~~
~~10~~	~~7.77~~
~~20~~	~~7.12~~
~~30~~	~~6.57~~
~~40~~	~~6.10~~
~~50~~	~~5.70~~
~~60~~	~~5.34~~
~~70~~	~~5.02~~
~~80~~	~~4.75~~
~~90~~	~~4.50~~
~~100~~	~~4.27~~
~~110~~	~~4.07~~
~~120~~	~~3.88~~
~~130~~	~~3.71~~
~~140~~	~~3.56~~
~~150~~	~~3.42~~

~~160~~	~~3.28~~
~~170~~	~~3.16~~
~~180~~	~~3.05~~
~~190~~	~~2.94~~
~~200~~	~~2.85~~
~~210~~	~~2.75~~
~~220~~	~~2.67~~
~~230~~	~~2.59~~
~~240~~	~~2.51~~
~~250~~	~~2.44~~
~~260~~	~~2.37~~
~~270~~	~~2.31~~
~~280~~	~~2.25~~
~~290~~	~~2.19~~
~~300~~	~~2.13~~

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

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

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

are considered to be improvements."

SECTION 229. SECTION 15-6-135, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

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

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

(b) New industry includes only those industries that:

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

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

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

(5) New industrial property does not include:

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

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

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

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

SECTION 230. SECTION 15-6-136, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

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

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

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

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

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

(f) all agricultural implements and equipment;

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

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

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

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

(k) truck toppers weighing more than 300 pounds;

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

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

(n) citizens' band radios and mobile telephones;

(o) radio and television broadcasting and transmitting equipment;

(p) cable television systems;

(q) coal and ore haulers;

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

(s) theater projectors and sound equipment; and

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

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

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

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

SECTION 231. SECTION 15-6-143, MCA, IS AMENDED TO

READ:

"15-6-143. (Effective January 1, 1986) Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes all timberland.

(2) Timberland is contiguous land exceeding 15 acres in one ownership that is capable of producing timber that can be harvested in commercial quantity.

(3) Class thirteen property is taxed at ~~the-percentage rate--"P"~~ 2.75% of the combined appraised value of the standing timber and grazing productivity of the property.

~~(4)--For-taxable-years-beginning-January-1,--1986,--and thereafter,--the--taxable--percentage-rate-"P"-applicable-to class-thirteen-property-is-30%/B,-where-B-is--the--certified statewide--percentage--increase--to--be--determined--by--the department-of-revenue-as-provided--in--subsection--(5).--The taxable-percentage-rate-"P"-shall-be-rounded-downward-to-the nearest--0.01%--and--shall--be--calculated-by-the-department before-July-1,-1986.~~

~~(5)--(a)-Prior-to-July-1,-1986,--the--department--shall determine--the--certified--statewide-percentage-increase-for class-thirteen-property-using-the-formula-B-=-X/Y,-where:~~

~~(i)--X-is-the-appraised-value,-as-of-January--1,--1986, of---all--property--in--the--state,--excluding--use--changes occurring-during-the-preceding-year,-classified-under--class thirteen-as-class-thirteen-is-described-in-this-section,-and~~

~~(ii) Y is the appraised value, as of January 1, 1985, of all property in the state that, as of January 1, 1986, would be classified under class thirteen as class thirteen is described in this section.~~

~~(b) B shall be rounded downward to the nearest 0.0001%.~~

~~(6) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a valuation has been made as provided in 15-7-111.~~ (Terminates January 1, 1991--sec. 10, Ch. 681, L. 1985.)"

SECTION 232. SECTION 15-6-147, MCA, IS AMENDED TO READ:

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

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

(3) For the purpose of complying with the Tax Equity and Fiscal Responsibility Act of 1982, as it read on January 1, 1986, the taxable percentage rate "R" referred to in ~~this~~

~~section~~ subsection (2) is the equalized average tax rate generally applicable to commercial and industrial property, except class seventeen property, as commercial property is defined in 15-1-101(1)(d)."

SECTION 233. SECTION 15-6-201, MCA, IS AMENDED TO READ:

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

(a) the property of:

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

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

(iii) municipal corporations; and

(iv) public libraries;

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

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

(d) property that meets the following conditions:

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

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

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

(e) institutions of purely public charity;

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

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

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

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

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

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

(l) motorcycles and quadricycles;

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

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

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

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

(q) the first $16,500 or less of the market value of any single-family owner-occupied residence, exclusive of land and appurtenant improvements;

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

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

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

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

(t) all watercraft; and

(u) all all-terrain vehicles.

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

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

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

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

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

<u>SECTION 234. SECTION 15-6-207, MCA, IS AMENDED TO READ:</u>

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

(a) all unprocessed, perishable fruits and vegetables in farm storage and owned by the producer;

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

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

~~and~~

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

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

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

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

SECTION 235. SECTION 15-8-111, MCA, IS AMENDED TO READ:

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

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing

seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

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

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

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

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

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

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

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

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

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

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

~~(d)--Properties-in-15-6-143,-under-class-thirteen,--are assessed--at--100%--of--the--combined-appraised-value-of-the~~

~~standing-timber-and-grazing-productivity-of--the--land--when valued-as-timberland,~~

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

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

(b) the taxpayer makes a written request; or

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

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

SECTION 236. 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 237. SECTION 15-8-301, MCA, IS AMENDED TO

READ:

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

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

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

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

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

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

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

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

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

which such property is included.

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

SECTION 238. SECTION 15-8-404, MCA, IS AMENDED TO READ:

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

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

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

SECTION 239. SECTION 15-8-405, MCA, IS AMENDED TO READ:

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

SECTION 240. SECTION 15-8-706, MCA, IS AMENDED TO READ:

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

(a) the several kinds of personal property;

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

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

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

(2) An agent of the department who purposely or negligently fails to perform his duty under this section or a deputy or member of the agent's staff delegated such duty who purposely or negligently fails to perform such duty is guilty of official misconduct under 45-7-401."

SECTION 241. SECTION 15-16-611, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

(5) For the purposes of this section, "natural

disaster" includes but is not limited to fire, flood, earthquake, or wind."

<u>SECTION 242. SECTION 15-24-301, MCA, IS AMENDED TO READ:</u>

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

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

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

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

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

(3) Nothing in this section shall be construed to levy

a tax against a merchant or dealer within this state on goods, wares, or merchandise brought into the county to replenish the stock of the merchant or dealer.

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

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

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

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

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

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

SECTION 243. SECTION 15-24-302, MCA, IS AMENDED TO READ:

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

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

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

SECTION 244. SECTION 15-24-1102, MCA, IS AMENDED TO READ:

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

SECTION 245. SECTION 15-24-1103, MCA, IS AMENDED TO READ:

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

SECTION 246. SECTION 19-11-503, MCA, IS AMENDED TO READ:

"19-11-503. Special tax levy for fund required. (1) The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to ~~3%~~ 3.6% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than ~~3%~~ 3.6% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax shall be collected as other taxes are collected and, when so collected, shall be paid into the disability and pension fund.

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

SECTION 247. SECTION 19-11-504, MCA, IS AMENDED TO READ:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than ~~3%~~ 3.6% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

SECTION 248. SECTION 20-9-141, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The net general fund levy requirement determined

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

SECTION 249. SECTION 20-9-331, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

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

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

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

(g) sales tax and use tax revenue."

SECTION 250. SECTION 20-9-333, MCA, IS AMENDED TO READ:

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

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

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

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

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

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

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

(d) sales tax and use tax revenue."

SECTION 251. SECTION 20-9-352, MCA, IS AMENDED TO READ:

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

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

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

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 4 mills on all taxable property in the district for the purpose of funding the permissive amount of the district.

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

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

of public instruction according to the provisions of subsections (1) and (2) of this section.

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

SECTION 252. SECTION 20-9-501, MCA, IS AMENDED TO READ:

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

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

this title.

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

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

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

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

(iii) sales tax and use tax revenue; and

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

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

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

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

(6) The net retirement fund levy requirement for districts that are members of special education cooperative

agreements shall be prorated to each county in which such district is located in the same proportion as the budget for the special education cooperative agreement of the district bears to the total budget of the cooperative. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152."

<u>SECTION 253. SECTION 20-9-502, MCA, IS AMENDED TO READ:</u>

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

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

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

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

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

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

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

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

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

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

BUILDING RESERVE--YES.

BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established. Whenever a subsequent bond issue is made for the same

purpose or purposes of a building reserve, the money in the building reserve shall be used for such purpose or purposes before any money realized by the bond issue is used."

SECTION 254. SECTION 20-10-144, MCA, IS AMENDED TO READ:

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

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

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

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

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

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if such amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or $100, whichever is larger, the contingency amount on the preliminary budget shall be reduced to such limitation amount and used in this determination of the schedule amount.

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

(a) the resulting one-third amount shall be the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be two-thirds of the schedule amount attributed to the transportation of special education pupils;

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

(c) the resulting one-third amount multiplied by 2 shall be the budgeted county transportation reimbursement amount for high school districts financed under the provisions of subsection (5) of this section, except as provided for joint high school districts in subsection (2)(e), and except that the county transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 shall be one-third of the schedule amount attributed to the transportation of special education pupils;

(d) when the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any remaining amount of such district revenue and cash reappropriated shall be used to reduce the county financing obligation in subsections (2)(b) or (2)(c) and, if such county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a); and

(e) the county revenue requirement for a joint district, after the application of any district moneys under subsection (2)(d) above, shall be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each such county.

(3) The total of the moneys available for the reduction of property tax on the district for the transportation fund shall be determined by totaling:

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

(b) anticipated payments from other districts for providing school bus transportation services for such district; plus

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

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

(e) anticipated motor vehicle fees and reimbursement under the provisions of 61-3-532 and 61-3-536; plus

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

(g) sales tax and use tax revenue; plus

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

~~(h)~~(i) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

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

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

(b) subtracting the amount of moneys available to reduce the property tax on the district, as determined in subsection (3), from the amount determined in subsection

(4)(a) above.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with 20-9-142."

SECTION 255. SECTION 33-7-407, MCA, IS AMENDED TO READ:

"33-7-407. Taxes. Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on ~~real--estate-and-office equipment~~ gross receipts taxable under the sales and use tax and taxes on property subject to taxation under Title 15."

SECTION 256. SECTION 61-3-501, MCA, IS AMENDED TO

READ:

"61-3-501. When vehicle taxes and fees are due. (1) ~~Property~~ All taxes, ~~new-car-taxes,-light~~ except sales and use taxes paid at the time of purchase, and all vehicle license fees~~,~~ and fees in lieu of tax on a motorcycle, quadricycle, motor home, or travel trailer must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, ~~property~~ taxes, ~~light~~ vehicle license fees, or the fee in lieu of ~~property~~ taxes ~~abate~~ abates on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes or the fee in lieu of tax due and owing on the vehicle.

(3) In the event a vehicle's registration period is changed under 61-3-315, all taxes and other fees due thereon shall be prorated and paid from the last day of the old period until the first day of the new period in which the vehicle shall be registered. Thereafter taxes and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees shall be prorated and paid based on the same tax year as the original registration

period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

SECTION 257. SECTION 67-3-201, MCA, IS AMENDED TO READ:

"67-3-201. Aircraft registration and licensing. (1) Except as provided in 67-3-102 and in subsection ~~(7)~~ (6) of this section, a person may not operate or cause or authorize to be operated a civil aircraft within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued or approved by the United States government which has been registered with the department and the registration with the department is in force.

(2) Aircraft customarily kept in this state shall be registered with the department, which may charge a fee therefor of not more than $10. The registration shall be renewed annually on or before March 1 each year.

(3) Section 67-3-202 and subsections (2) through ~~(7)~~ (6) of this section shall not apply to:

(a) aircraft owned and operated by the federal government, the state, or any political subdivision thereof;

(b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

(c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying persons or property for hire in interstate or international transportation; or

(d) dismantled or otherwise nonflyable aircraft.

(4) An aircraft shall be registered as property within a particular county of the state. This county shall be the county of the owner's principal residence, if the owner is a natural person, or the owner's principal place of doing business in the state~~,~~ if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is customarily kept at a landing facility in another county within the state, he may register the aircraft as property within such other county.

~~(5)--Except-as-provided-in-15-6-210,-all-aircraft-shall be--subject--to--all--state,-county,-and-school-district--tax levies-and-all-other--levies--designated--for--aircraft---or airport-related--uses.--Such-aircraft-shall-not-be-liable-for other-city-tax-levies.~~

~~(6)~~(5) Aircraft not registered in the state but entering the state to engage in commercial operations shall be registered prior to commencing operation.

~~(7)~~(6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued by the United States government shall file with the department an appropriate registration recognized and approved by the United States government."

SECTION 258. SECTION 67-3-202, MCA, IS AMENDED TO READ:

"67-3-202. Penalty for registration violations. (1) When an aircraft required to be registered under the provisions of subsections (2) through ~~(7)~~ (6) of 67-3-201 is not registered on or before March 1 of the current calendar year, a penalty fee of $100 shall be added to the registration fee and collected. Registration of an aircraft in the name of the applicant for the year immediately preceding the year for which application for registration is made shall be prima facie evidence that the aircraft has been based in this state during the year for which application for registration is made.

~~(2)--Except--for-aircraft-exempt-from-property-taxation as-provided-in-15-6-210,--an--application--for--registration shall--be--accompanied--by--a--copy--of--the--receipt-for-or statement-of-personal--property--tax--paid,--signed--by--the treasurer-of-the-county-where-the-aircraft-is-registered,-or a-statement-of-lien-assignment-against-real-property,-signed by--the--county-assessor-where-the-aircraft-is-registered.--A person-who-pays-personal-property-tax-on-his-aircraft-to-any jurisdiction-other-than-the-county--where--the--aircraft--is required--to--be--registered--is--liable-for-the-tax-in-that~~

~~county-without-credit-for-such-other-taxes-paid.--In-addition to-this-civil-liability,-a-person-who-attempts-to--establish the-situs-of-his-aircraft-in-any-jurisdiction-other-than-the county--where-the-aircraft-is-required-to-be-registered-with intent-to-avoid-payment-of-taxes-to-that-county-commits--the offense-of-false-swearing-as-defined-in-45-7-202.~~

~~(3)~~(2) A person who operates an aircraft required to be registered in the state without having displayed upon such aircraft a certificate of registration issued by the department for that aircraft commits a misdemeanor."

SECTION 259. SECTION 81-6-101, MCA, IS AMENDED TO READ:

"81-6-101. Petition for county livestock protective committee -- members -- term. (1) The board of county commissioners must, upon receipt of a petition or petitions to do so, establish a county livestock protective committee of three members. The petition or petitions must be signed by at least 51% of the owners of cattle in the county and such petitioners ~~owning~~ shall own at least 55% of the cattle ~~as--shown-by-the-most-recent-completed-assessment-records-of the-county-assessor,-set-up-a--county--livestock--protective committee-of-three-members~~ in the county.

(2) Members appointed to serve on such committee shall be residents of the county engaged in the business of raising cattle. If there be in the county any organization

of cattle growers, the county commissioners shall give preference to names submitted by any such group for appointment to such committee. The term for which said committee members shall be appointed shall be 2 years with two members of the first committee named to serve for 2 years, one member to serve for 1 year. Members of such committee shall receive no remuneration or reimbursement for expenses for serving on said committee.

(3) By "organization of cattle growers", as used in this section, is meant any group or organization holding regular meetings at least annually, having officers, and composed predominantly of cattle growers resident in the county, with its membership open to cattle growers willing to abide by its governing rules or bylaws, and its general purpose being the promotion of the interests of its members in matters pertaining to the cattle or livestock industry.

(4) If owners of sheep in the county desire to come under the provisions of this part in cooperation with owners of cattle, they shall file a like petition to that set out herein for owners of cattle, and in such case at least one member of said livestock protective committee shall be a sheep grower and where the word "cattle" appears in this part, it shall be deemed to comprehend also the word "sheep".

(5) Owners of sheep alone may form a county livestock

protective committee, in which case the word "cattle" as in this part contained shall be considered as if it were the word "sheep"; and provided further that the levy as provided in 81-6-104 hereof shall, in the case of sheep, not exceed 5 cents per head."

SECTION 260. SECTION 81-6-104, MCA, IS AMENDED TO READ:

"81-6-104. ~~Tax--levy~~ Levy -- special fund. ~~Said~~ The county livestock protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of-a-tax-in-an amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the county on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited by the county treasurer in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

SECTION 261. SECTION 81-6-204, MCA, IS AMENDED TO READ:

"81-6-204. ~~Tax-levy~~ Levy -- deposit of proceeds. ~~Said~~

The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of-a-tax-in--an amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such--tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited in the county treasury of one of the counties in the district, to be selected by the district cattle protective committee, in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

SECTION 262. SECTION 81-6-209, MCA, IS AMENDED TO READ:

"81-6-209. ~~Tax--levy~~ Levy -- deposit of proceeds. ~~Said~~ The district cattle protective committee may recommend to the board of county commissioners ~~the~~ a levy ~~of-a-tax-in-an amount~~ not to exceed 50 cents per head on all ~~assessable~~ cattle in the district on January 1, and the board of county commissioners shall thereupon be empowered to impose the levy ~~such-tax,~~ to be collected as ~~other~~ taxes on personal property and when collected to be deposited in the county treasury in a special fund to be known as the stockmen's special deputy fund, together with any other funds made available from county, state, federal, or private sources for the purposes of this part. The board of livestock shall provide the board of county commissioners of each county with the number of cattle in the county on January 1, for the purpose of imposing the levy."

SECTION 263. SECTION 81-7-103, MCA, IS AMENDED TO READ:

"81-7-103. Administration of funds by the department. The department shall administer and expend for predatory animal extermination and control all money which is made available to it, including the money ~~from-the-levy~~ allocated for this purpose under 81-7-104 and all money which is made available to the department by appropriations made by the legislature for predatory animal control by the department. The department shall expend the funds for predatory animal control by all effective means responsive to the necessities of control in various areas of the state, including employment of hunters, trappers, and other personnel, procurement of traps, poisons, equipment, and supplies, and payment of bounties in the discretion of the department at those times of the year it considers advisable."

SECTION 264. SECTION 81-7-104, MCA, IS AMENDED TO

READ:

"81-7-104. ~~Levy--for--predator~~ Predator control moneys -- use of proceeds. (1) The department of ~~revenue--shall annually--levy--an--ad--valorem--tax-on-all-livestock-in-the state-of-Montana~~ livestock shall allocate a portion of the money from the levy under [section 197] for the purpose of protecting ~~them~~ livestock and poultry against destruction, depredation, and injury by wild animals, whether the livestock or poultry is on lands in private ownership, in the ownership of the state, or in the ownership of the United States, including open ranges and all lands in or of the public domain. This protection may be by any means of effective predatory animal destruction, extermination, and control, including systematic hunting and trapping and payment of bounties. ~~The-tax-levy-may-not-exceed-in-any--one year-15-mills-on-the-taxable-value-of-all-sheep-and-10-mills on-the-taxable-value-of-other-livestock.~~

(2) ~~The--moneys--received-from-the-tax-levies-shall-be transmitted-monthly-with-other-taxes-for-state--purposes--by the--county--treasurer-of-each-county-to-the-state-treasury. The-state-treasurer-shall--place--the--money--in--the--state special--revenue--fund--with-the-other-moneys-as-provided-in 81-7-119.--The-moneys~~ Money shall ~~thereafter~~ be paid out only on claims duly and regularly presented to the department of livestock and approved by the department in accordance with

the law applicable either to claims for bounties or for other expenditures necessary and proper for predatory animal control by means and methods other than payment of bounties, as determined by the department. All the moneys shall be available for the payment of bounty claims and for expenditures for planned, seasonal, or other campaigns directed or operated by the department in cooperation with other agencies for the systematic destruction, extermination, and control of predatory wild animals, as determined by the department and its advisory committee. No claims may be approved in excess of moneys available for such purposes, and no warrants may be registered against the moneys."

<u>SECTION 265. SECTION 81-7-201, MCA, IS AMENDED TO READ:</u>

"81-7-201. County levy for bounties on predatory animals. Whenever the owners, agent, or agents of the owners representing 51% of the livestock of any county in this state present a petition to the board of county commissioners of such county asking for the levy of a tax upon the livestock of the county for the purpose of paying bounties on predatory animals killed in the county, it is the duty of the board of county commissioners to make the levy, which may not exceed ~~50 mills on the dollar of the taxable value of~~ <u>$1 per head of livestock on</u> all livestock in the county. The ~~tax~~ <u>levy</u> shall be assessed and collected in the same manner as ~~all-other~~ state and county taxes."

<u>SECTION 266. SECTION 81-7-202, MCA, IS AMENDED TO READ:</u>

"81-7-202. Signers of petition -- time for presenting -- limitation on bounties -- bounty inspectors. (1) The petition provided for in 81-7-201 shall be signed by the owners, agent, or agents of not less than 51% of the livestock of such county ~~as-ascertained-from-the-assessment books-of-such-county~~ and shall recommend to the board of county commissioners the bounties to be paid on such predatory animals, which shall not exceed the following:

(a) on each wolf or mountain lion, $100;

(b) on each wolf pup or mountain lion kitten, $20;

(c) on one coyote, $5;

(d) on each coyote pup, $2.50.

(2) Such petition shall be presented not later than August 1 of each year, and the board of county commissioners on determining the sufficiency of such petition shall make an order granting such petition, which order shall fix the levy for that year and the amount of the bounties to be paid for the killing of each such predatory animal, which shall not exceed the amounts recommended in such petition, and appoint not less than 10 or more than 20 stockowners of such county to be bounty inspectors under this part, without

compensation, who shall hold their offices for 1 year."

SECTION 267. SECTION 81-7-303, MCA, IS AMENDED TO READ:

"81-7-303. County commissioners permitted to require per capita license fee on sheep. (1) To defray the expense of such protection the board of county commissioners of any county shall have the power to require all owners or persons in possession of any sheep coming 1 year old or over in the county on ~~the-regular-assessment-date~~ January 1 of each year to pay a license fee in an amount to be determined by the board on a per head basis for sheep so owned or possessed by him in the county. All owners or persons in possession of any sheep coming 1 year old or over coming into the county after ~~the-regular-assessment-date-and--subject--to--taxation under--the--provisions--of-15-24-301~~ January 1 shall also be subject to payment of the license fee herein prescribed.

(2) Upon the order of the board of county commissioners such license fees may be imposed by the entry thereof in the name of the licensee upon the property tax rolls of the county by the county assessor. Said license fees shall be payable to and collected by the county treasurer, and when so levied, shall be a lien upon the property, both real and personal, of the licensee. In case the person against whom said license fee is levied owns no real estate against which said license fee is or may become

a lien, then said license fee shall be payable immediately upon its levy and the treasurer shall collect the same in the manner provided by law for the collection of personal property taxes which are not a lien upon real estate.

(3) When collected, said fees shall be placed by the treasurer in the predatory animal control fund and the moneys in said fund shall be expended on order of the board of county commissioners of the county for predatory animal control only."

SECTION 268. SECTION 81-7-305, MCA, IS AMENDED TO READ:

"81-7-305. Duty of county commissioners -- petition of sheep owners -- license fees. (1) In conducting a predatory animal control program, the board of county commissioners shall give preference to recommendations for such program and its incidents as made by organized associations of sheep growers in the county. Upon petition of the resident owners of at least 51% of the sheep in the county, as shown by the ~~assessment-rolls--of--the--last--preceding--assessment~~ best available records of the board of livestock, which petition shall be filed with the board of county commissioners on or before the first Monday in December in any year, such board shall establish the predatory animal control program and cause said licenses to be secured and issued and the fees collected for the following year in such amount as will defray the cost of administering the program so established. The license fee determined and set by the board shall remain in full force and effect from year to year without change, unless there is filed with the board a petition subscribed by the resident owners of at least 51% of the sheep in the county, as shown by the ~~assessment--rolls--of--the--last assessment---preceding--the--filing--of--the--petition~~ best available records of the board of livestock, for termination of the program and repeal of the license fee, in which event the program shall by order of the board of county commissioners be disestablished and the license fee shall not be further levied.

(2) If the resident owners of at least 51% of the sheep in the county either petition for an increase in the license fee or petition for a decrease in the license fee then in force, the board of county commissioners shall upon receipt of any such petition fix a new license fee to continue from year to year and the program shall thereupon continue within the limits of the aggregate amount of the license fee as collected from year to year."

SECTION 269. SECTION 81-8-804, MCA, IS AMENDED TO READ:

"81-8-804. Assessments -- refunds. (1) There is levied, in addition to ~~the-tax-on-livestock-prescribed-in Title-15,-chapter-24,-part-9,-a--per--head--tax~~ other fees levied, an amount of 25 cents on each head of cattle that is more than 9 months of age and is owned or possessed within a county for the support and maintenance of research into beef production as provided in this part. The ~~tax~~ levy shall be paid to the county treasurer of that county on or before March 1 of each year.

(2) The ~~tax~~ levy required in subsection (1) must be paid for each head of cattle that is more than 9 months of age and is brought into the county after March 1 ~~and-is subject-to-taxation-and-assessment-under-15-24-301~~.

(3) Each county is entitled to receive $250 annually as reimbursement for the administration of this section.

(4) A person who has paid the ~~tax~~ levy required by this section may obtain a refund of the ~~tax~~ levy upon submission of a written request to the department. The application must be made within 30 days after the payment of the ~~tax~~ levy and on forms furnished by the department. The department shall, upon receipt of a timely and otherwise properly submitted refund request, refund the ~~tax~~ levy."

SECTION 270. SECTION 85-7-2001, MCA, IS AMENDED TO READ:

"85-7-2001. Limitations on debt-incurring power. (1) The board of commissioners or other officers of the district may not incur any debt or liability, either by issuing bonds or otherwise, except as provided in this chapter. No irrigation district may become indebted, in any manner or for any purpose in any one year, in an amount exceeding ~~18.75%~~ 22% of the assessed valuation of the district, except as provided in subsection (2).

(2) (a) For the purpose of organization; for any of the immediate purposes of this chapter; to make or purchase surveys, plans, and specifications; for stream gauging and gathering data; or to make any repairs occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur the indebtedness of as many dollars as there are acres in the district and may cause warrants of the district to issue therefor.

(b) For the purpose of organization, for any of the immediate purposes of this chapter, or to meet the expenses occasioned by any calamity or other unforeseen contingency, the board of commissioners may, in any one year, incur (in addition to the ~~18.75%~~ 22% limitation of subsection (1)) an additional indebtedness not exceeding ~~12.5%~~ 15% of the assessed valuation of the district and may cause warrants of the district to issue therefor.

(c) The limitation of subsection (1) does not apply to warrants issued for unpaid interest on the valid bonds of any irrigation district.

(d) The limitation of subsection (1) does not apply to any bonds issued under this chapter pursuant to a provision which expressly supersedes the limitation.

(3) Any debt or liability incurred in excess of the limitations provided by the irrigation district laws is void."

NEW SECTION. SECTION 271. REPEALER. SECTIONS 15-6-137 THROUGH 15-6-140, 15-6-142, 15-6-143, 15-6-146, 15-24-304, 15-24-901 THROUGH 15-24-906, 15-24-908 THROUGH 15-24-911, 15-24-921 THROUGH 15-24-926, 15-24-931, 15-24-941 THROUGH 15-24-943, AND 81-7-118, MCA, ARE REPEALED.

NEW SECTION. SECTION 272. CODIFICATION INSTRUCTIONS. (1) SECTIONS 113 THROUGH 187 ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, AND THE PROVISIONS OF TITLE 15 APPLY TO SECTIONS 113 THROUGH 187.

(2) SECTIONS 188 THROUGH 196 ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 30, AND THE PROVISIONS OF TITLE 15, CHAPTER 30, APPLY TO SECTIONS 188 THROUGH 196.

(3) SECTIONS 197 THROUGH 201 ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 81 AND THE PROVISIONS OF TITLE 81 APPLY TO SECTIONS 197 THROUGH 201.

(4) SECTION 202 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 30, AND THE PROVISIONS OF TITLE 15, CHAPTER 30, APPLY TO SECTION 202.

NEW SECTION. SECTION 273. EXTENSION OF AUTHORITY. ANY EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE, THE

DEPARTMENT OF LIVESTOCK, THE BOARD OF LIVESTOCK, THE DEPARTMENT OF HIGHWAYS, THE DEPARTMENT OF COMMERCE, OR THE BOARD OF AERONAUTICS TO MAKE RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS EXTENDED TO THE PROVISIONS OF THIS ACT.

NEW SECTION. SECTION 274. SEVERABILITY. IF A PART OF THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID APPLICATIONS.

NEW SECTION. SECTION 275. SAVING CLAUSE. THIS ACT DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE THE EFFECTIVE DATE OF THIS ACT.

NEW SECTION. SECTION 276. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL.

NEW SECTION. SECTION 277. APPLICABILITY. (1) SECTIONS 113 THROUGH 187 APPLY ON AND AFTER JUNE 1, 1988.

(2) SECTIONS 197 THROUGH 201 APPLY ON AND AFTER JANUARY 1, 1988.

(3) SECTIONS 188 THROUGH 196 AND 202 APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.

(4) SECTIONS 197 THROUGH 201 AND 203 THROUGH 271 APPLY TO TAXABLE YEARS, FISCAL YEARS, AND SCHOOL FISCAL YEARS

BEGINNING AFTER DECEMBER 31, 1988. HOWEVER, ALL TAXES, LEVIES, FEES, ASSESSMENTS, AND THE LIKE LEVIED IN 1988 FOR FISCAL YEAR 1989 MUST BE PAID AND ARE COLLECTIBLE AS PROVIDED BY LAW.

(5) SECTIONS 272 THROUGH 277 APPLY ON PASSAGE AND APPROVAL.

-End-

STANDING COMMITTEE REPORT

April 10 19 87

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE BILL NO. No. 377

third reading copy (blue)
color

Respectfully report as follows: That HOUSE BILL No. 377

1. Title, lines 4 and 5.
Following: "ENTITLED:"" on line 4
Strike: "THE RETAIL SALES AND USE TAX ACT;"
Insert: "AN ACT"

2. Title, line 16.
Strike: "A CREDIT"
Insert: "CREDITS"

3. Title, line 24.
Following: "15-6-133"
Strike: "THROUGH"
Insert: "15-6-135,"

4. Page 2, line 9.
Following: "~~15-6-144~~"
Strike: "15-6-143"
Insert: "15-6-144"

5. Pages 2 through 64.
Following: "insert:" on page 2, line 18
Strike: the remainder of page 2 through line 6 on page 64

DO PASS

DO NOT PASS

BE CONCURRED IN AS AMENDED

Chairman.

McCallum

STANDING COMMITTEE REPORT

April 10 19 87

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE BILL NO. No. 377

third reading copy (blue)
color

Respectfully report as follows: That HOUSE BILL No. 377

1. Title, lines 4 and 5.
Following: "ENTITLED:"" on line 4
Strike: "THE RETAIL SALES AND USE TAX ACT;"
Insert: "AN ACT"

2. Title, line 16.
Strike: "A CREDIT"
Insert: "CREDITS"

3. Title, line 24.
Following: "15-6-133"
Strike: "THROUGH"
Insert: "15-6-135,"

4. Page 2, line 9.
Following: "~~15-6-144~~"
Strike: "15-6-143"
Insert: "15-6-144"

5. Pages 2 through 64.
Following: "insert:" on page 2, line 18
Strike: the remainder of page 2 through line 6 on page 64

1

DO PASS

DO NOT PASS

BE CONCURRED IN AS AMENDED

Chairman.

McCallum

Insert: "NEW SECTION. **Section 1. Definitions.** For purposes of [sections 1 through 67 and 78] 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;

(c) the excavating of earth;

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

(e) any similar work.

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

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

(5) "Food product for human consumption":

(a) means and includes:

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

(ii) milk and cream and their products;

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

(b) does not mean or include medicines or preparations, in liquid, powdered, granular, bottled, capsule, lozenge, or pill form, sold as a dietary supplement or adjunct not prescribed by a licensed physician.

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

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

(c) (i) Except as provided in [section 53], when the sale of property or service is made under any type of charge or conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts at the time of the sale.

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

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

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

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

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

(10) "Medicine" or "drug" means and includes any substance or preparation intended for use by external or internal application to the human body or mind in the diagnosis, cure, mitigation, treatment, or prevention of disease, which substance or preparation is required by law

or regulation to be prescribed by a person licensed to prescribe such drug or medicine.

(11) "Permit" means a seller's permit as described in [section 44].

(12) "Person" means:

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

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

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

(14) (a) "Service" means any activity engaged in for another person for a consideration, which activity involves the performance of a service as distinguished from the sale or lease of property. The term includes activities performed by a person for its members or shareholders and construction activities and all tangible personal property that will become an ingredient or component part of a construction project.

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

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

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

NEW SECTION. **Section 2. Imposition and rate of sales tax and use tax.** (1) Except as provided in subsection (5), a sales tax of 5% is imposed on all gross receipts, as defined in [section 1], for the privilege of engaging in business in this state.

(2) For the privilege of using property in this state, there is imposed on the person using the property a use tax equal to 5% of the value of the property that was:

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

(b) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state; or

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

(3) For the privilege of using services rendered in this state, there is imposed on the person using such services a use tax equal to 5% of the value of the services at the time at which they were rendered. Services taxable under this section must have been rendered as the result of a transaction that was not initially subject to the sales tax or use tax but which transaction, because of the buyer's subsequent use of the service, is subject to the sales tax or use tax.

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

(5) A sales tax of 3 1/2% is imposed on the gross receipts from the sale of any new motor vehicle subject to the provisions of 61-3-502.

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

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

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

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

NEW SECTION. **Section 4. Separate statement of tax.** (1) If the sales tax or use tax is stated separately on the books of the seller or lessor and the total amount of tax stated separately on transactions reportable within the reporting period is in excess of the amount of sales tax or use tax otherwise payable on those transactions, the excess amount of tax otherwise payable and stated on the transactions within the reporting period must be included in gross receipts.

(2) If the sales tax or use tax is not stated separately on transactions, the gross receipts for sales tax

and use tax purposes include the total amounts received, with no deduction for the sales tax or use tax.

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

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

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

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

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

(ii) canvassing;

(iii) demonstrating;

(iv) collecting money;

(v) warehousing or storing merchandise; or

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

(2) To ensure orderly and efficient collection of the tax imposed by [sections 1 through 67 and 78], if any application of this section is held invalid, the section's application to other situations or persons is not affected.

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

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

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

(4) Only a buyer or lessee who has registered with the

department and whose permit is not suspended or revoked may be allowed to execute a nontaxable transaction certificate.

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

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

(2) All receipts from the sale of gas, water, or electricity, and fuel or energy used to produce heating, cooling, or lighting, and telephone service, including long-distance charges and access charges are exempt from the sales and use tax.

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

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

(a) any food products served as meals on or off the premises of the retailer;

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

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

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

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

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

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

NEW SECTION. **Section 11. Exemption -- wages.** The receipts of an employee from an employer for wages, salary, commissions, or any other form of remuneration for personal services are exempt from the sales tax.

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

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

NEW SECTION. **Section 14. Exemption -- vehicles.** The receipts from the sale of any vehicle upon which a tax pursuant to [sections 1 through 67 and 78] has been paid or which was purchased prior to [the applicability date of this act] are exempt from the sales tax. A registration certificate showing that the vehicle was registered in this state prior to [the applicability date of this act] is conclusive proof that it was purchased on or before it was subject to taxation under [sections 1 through 67 and 78] and is exempt under this section.

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

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

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

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

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

NEW SECTION. **Section 20. Exemption -- minerals.** The receipts from the sale or use of a mineral as defined in 15-38-103 are exempt from the sales tax and use tax. Minerals refined, reduced, polished, cut, faceted, or otherwise processed for the purpose of being used as or integrated into jewelry, art, or sculpture, or as a decorative embellishment or adornment in their own right or to other property are not included in the exemption provided in this section.

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

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

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

NEW SECTION. **Section 23. Exemption -- advertising services.** The gross receipts from the sale of advertising services, including the actual creation or development of the advertising, are exempt from the sales tax. For the purpose of this section, "advertising service" includes but is not limited to all advertising in or by:

(a) any newspaper, magazine, or other publication;
(b) radio or television;
(c) billboard, banner, sign, placard, and the like;
(d) handbill; or
(e) any other advertising means, media, or method.

NEW SECTION. **Section 24. Deduction -- sale of tangible personal property for resale.** Receipts from the sale of tangible personal property may be deducted from gross receipts if:

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

(2) the buyer resells or plans to resell the tangible personal property either by itself or in combination with other tangible personal property in the ordinary course of business and the property will subsequently be subject to the sales tax.

NEW SECTION. **Section 25. Deduction -- sale of service for resale.** Receipts from the sale of a service for resale may be deducted from gross receipts if:

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

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

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

NEW SECTION. **Section 26. Deduction -- sale to manufacturer.** Receipts from the sale of tangible personal property to a buyer engaged in the business of manufacturing may be deducted from gross receipts if:

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

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

NEW SECTION. Section 27. **Deduction -- sale of tangible personal property for leasing.** Receipts from the sale of tangible personal property, other than furniture or appliances, and from the rental or lease of property, other than coin-operated machines and mobile homes, that is deductible under [sections 1 through 67 and 78] may be deducted from gross receipts if: (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;

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

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

NEW SECTION. Section 28. **Deduction -- lease for subsequent lease.** Receipts from the lease of tangible personal property, other than furniture or appliances, and from the rental or lease of property, other than coin-operated machines and mobile homes, that is deductible under [sections 1 through 67 and 78] may be deducted from gross receipts if: (1) the lease is made to a lessee who delivers a nontaxable transaction certificate; and

(2) the lessee does not use the property in any manner other than for subsequent lease in the ordinary course of business.

NEW SECTION. Section 29. **Deduction -- sale of tangible personal property to person engaged in construction business.** (1) Receipts from the sale of tangible personal property may be deducted from gross receipts if the sale is made to a buyer engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

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

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

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

NEW SECTION. **Section 30. Deduction -- machinery and equipment used in trade or business.** (1) The receipts from the sale or use of machinery or equipment used in a trade or business may be deducted from gross receipts if the buyer:

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

(b) brings the machinery and equipment into this state for use in a trade or business.

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

NEW SECTION. **Section 31. Deduction -- sale of construction service to person engaged in construction business.** (1) Receipts from the sale of a construction service may be deducted from gross receipts if the sale is made to a buyer engaged in the construction business and he delivers a nontaxable transaction certificate to the person performing the construction service.

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

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

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

NEW SECTION. **Section 32. Deduction -- sale or lease of real property and lease of mobile homes.** (1) (a) Receipts from the sale or lease of real property except as provided in subsection (b), from the lease of a mobile home, or from the rental of a mobile home for a period of at least 1 month may be deducted from gross receipts.

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

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

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

NEW SECTION. **Section 33. Deduction -- transaction in interstate commerce.** (1) Receipts from a transaction in interstate commerce may be deducted from gross receipts to the extent that the imposition of the sales tax or use tax 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 34. 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 carrier or by a carrier; and

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

NEW SECTION. **Section 35. Deduction -- sale of certain services to out-of-state buyer.** (1) Receipts from performing a service, other than a legal or accounting service, may be deducted from gross receipts if the sale of the service is made to a buyer who delivers to the seller either a nontaxable transaction certificate or other evidence acceptable to the department that the transaction meets the conditions set out in subsection (3).

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

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

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

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

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

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

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

(4) Receipts from performing a service that initially qualified for the deduction provided in this section but which no longer meets the criteria set forth in subsection

(5) is deductible for the period prior to the disqualification.

<u>NEW SECTION.</u> Section 36. **Deduction -- feed, fertilizers, and agricultural supplies -- livestock auctioneers.** (1) Receipts from the sale of feed for livestock, fish raised for human consumption, poultry, animals raised for their hides or pelts, semen used in animal husbandry, seeds, roots, bulbs, soil conditioners, fertilizers, insecticides, insects used to control the population of other insects, fungicides, weedicides, herbicides, or water for irrigation purposes may be deducted from gross receipts if the sale is made to a person who states in writing that he is regularly engaged in the business of farming, ranching, or the raising of animals for their hides or pelts.

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

<u>NEW SECTION.</u> Section 37. **Deduction -- certain chemicals and reagents.** (1) Receipts from the sale of chemicals or reagents to any mining concern or milling company for use in processing ores or oil in a mill,

smelter, or refinery or in acidizing oil wells and receipts from the sale of chemicals or reagents in an amount in excess of 18 tons may be deducted from gross receipts.

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

NEW SECTION. **Section 38. Deduction -- trade-in allowance.** That portion of the receipts of a seller that is represented by a trade-in of tangible personal property of the same type as the property being sold may be deducted from gross receipts.

NEW SECTION. **Section 39. Deduction -- special fuel.** (1) Receipts from the sale of special fuel, as defined in 15-70-301, may be deducted from gross receipts if the purchaser uses the special fuel in agriculture, or to operate machinery, equipment, or vehicles used in a trade or business.

(2) Receipts from the sale of special fuel used to heat buildings for human comfort are not deductible.

NEW SECTION. **Section 40. Deduction -- sale of certain services performed directly on product manufactured.** Receipts from sale of the service of combining or processing components or materials may be deducted from gross receipts if the sale is made to a buyer who is engaged in the business of manufacturing and delivers a nontaxable transaction certificate to the seller. The receipts from the service may be deducted if the buyer has the service performed directly upon tangible personal property that he is in the business of manufacturing or upon ingredients or component parts of such property.

NEW SECTION. **Section 41. Deduction -- certain mobile homes.** Receipts from the resale of a mobile home may be deducted from gross receipts if the sale is of a mobile home that was subject to the sales tax or use tax upon its initial sale or use in this state or was initially sold or used in this state prior to [the applicability date of this act]. The receipts from the resale may be deducted if the seller retains and furnishes proof satisfactory to the department that the sales tax or use tax was paid upon the initial sale or use in this state of the mobile home. In the absence of such proof, it is presumed that the tax was not paid. Proof that a Montana certificate of title was issued for a mobile home prior to [the applicability date of this act] is proof that the mobile home was initially sold or used in this state prior to [the applicability date of this act] and exempt under this section.

NEW SECTION. **Section 42. Deduction -- use of tangible personal property for leasing.** (1) Except as provided in subsection (2), the value of leased property may be deducted in computing the use tax due if the person holding the tangible personal property for lease:

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

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

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

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

NEW SECTION. **Section 43. Credit -- out-of-state taxes.** (1) If a gross receipts, sales, use, or similar tax has been levied by another state or a political subdivision of another state on property bought outside this state but which will be used or consumed in this state and the tax was paid, the amount of tax paid may be credited against any use tax due this state on the same property.

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

NEW SECTION. **Section 44. Seller's permit.** Upon an applicant's compliance with [sections 1 through 67 and 78], the department shall issue to the applicant a separate, numbered seller's permit for each place of business within Montana. A permit is valid until revoked or suspended but is not assignable. A permit is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at all times at the place for which it is issued.

NEW SECTION. **Section 45. Permit application -- generally -- vending machines -- form.** (1) A person desiring to engage in the business of making retail sales or providing services in Montana shall file with the department an application for a permit. If the person has more than one place of business, an application must be filed for each place of business. A vending machine operator who has more than one vending machine location is considered to have only one place of business for purposes of this section. An applicant who has no regular place of business and who moves from place to place is considered to have only one place of business and shall attach the permit to his cart, stand, truck, or other merchandising device. Each person or class of persons obligated to file a return under [sections 1 through 67 and 78] is required to file application for a permit.

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

NEW SECTION. **Section 46. Special activities -- permits -- penalty.** (1) The operator of a flea market, craft show, antique show, coin show, stamp show, comic book show, convention exhibit area, or similar selling event, as a prerequisite to renting or leasing space on the premises owned or controlled by the operator to a person desiring to engage in or conduct business as a seller, shall obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to [section 44] or a written statement from the seller that he is not offering for sale any item that is taxable under [sections 1 through 67 and 78].

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

(3) An operator who fails or refuses to comply with the provisions of this section is subject to a penalty, payable to the department, of $100 per day per seller at each selling event at which the operator fails to obtain evidence that a seller is the holder of a valid seller's permit issued pursuant to [section 44].

NEW SECTION. **Section 47. Revocation or suspension of permit -- hearing -- notice.** (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit held by a person who fails to comply with the provisions of [sections 1 through 67 and 78].

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

suspension.

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

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

(3) After revocation, the department may not issue a new permit except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections 1 through 67 and 78]. The department may require security in addition to that authorized by [section 55] in an amount reasonably necessary to ensure compliance with [sections 1 through 67 and 78] as a condition for the issuance of a new permit to such an applicant.

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

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

NEW SECTION. **Section 48. Nontaxable transaction certificate -- form.** (1) The department shall provide for a uniform nontaxable transaction certificate. In order to obtain a deduction under [sections 1 through 67 and 78], a purchaser must use the certificate when purchasing goods or services for resale.

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

(a) the number of the permit issued to the purchaser as provided in [section 44 or 45];

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

(c) the property or service purchased for resale;

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

(e) a signature line for the purchaser.

NEW SECTION. **Section 49. Improper use of subject of purchase obtained with nontaxable transaction certificate -- penalty.** (1) If a purchaser who uses a nontaxable transaction certificate utilizes the subject of the purchase other than for a purpose allowed as a deduction under [sections 1 through 67 and 78], such use is considered a taxable sale by the purchaser as of the time of first use by him and the sale price he receives is considered the gross receipts from the sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in his gross receipts the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the entire amount of gross receipts received from the resale, without deduction of amounts previously received as rentals.

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

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

NEW SECTION. **Section 50. Commingling nontaxable certificate goods.** If a purchaser uses a nontaxable transaction certificate with respect to the purchase of fungible goods and thereafter commingles these goods with fungible goods not so purchased but of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods purchased with the certificate until the quantity of commingled goods sold equals the quantity of goods originally purchased under the certificate.

NEW SECTION. **Section 51. Collection and payment -- penalty.** (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the department.

(2) A retailer who does not maintain a place of business in this state is liable for the sales tax or use tax and shall furnish, in accordance with [sections 1 through 67 and 78], adequate security to ensure collection and payment of the taxes. When so authorized and except as otherwise provided in [sections 1 through 67 and 78], the retailer is liable for the taxes upon all tangible property sold that is to be used within this state in the same manner as a retailer who maintains a place of business within this state. The permit provided for in subsection (3) may be canceled at any time if the department considers the security inadequate or believes that the taxes can be collected more effectively in another manner.

(3) No agent, canvasser, or employee of a retailer doing business in this state who is not authorized by permit from the department may sell, solicit orders for, or deliver any tangible personal property in Montana. If such an agent, canvasser, or employee violates the provisions of [sections 1 through 67 and 78], he is subject to a fine of not more than $100 for each separate transaction or event.

NEW SECTION. Section 52. Common carriers as retailers. A person engaged in the business of intrastate or interstate transportation by motor vehicle of tangible personal property or passengers shall register as a retailer and pay the taxes imposed by [sections 1 through 67 and 78].

NEW SECTION. Section 53. Application for permission to report on accrual basis. (1) A person having a permit pursuant to [section 44] may apply to the department for permission to report and pay the sales tax or use tax on an accrual basis.

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

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

NEW SECTION. **Section 54. Returns -- authority of department.** (1) Except as provided in subsection (2), on or before the 25th day of each month in which the tax imposed by [sections 1 through 67 and 78] is payable, a return for the preceding month must be filed with the department, on a form provided by the department. Each return must contain a confession of judgment for the amount of the tax shown due, to the extent not timely paid. A person making sales at retail at two or more places of business may file a consolidated return, subject to rules prescribed by the department.

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

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

(ii) a person:

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

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

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

(3) (a) A person liable for the taxes imposed by [sections 1 through 67 and 78] shall keep records, render statements, make returns, and comply with the provisions of [sections 1 through 67 and 78] and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

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

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

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

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

(iv) administer oaths or affirmations.

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

NEW SECTION. **Section 55. Security -- limitations -- sale of security deposit at auction -- bond.** (1) The department may require a retailer to deposit with the department security in a form and amount as the department determines appropriate. The deposit may not be more than twice the estimated average liability for the period for which the return is required to be filed or $10,000, whichever is less. The amount of security may be increased or decreased by the department, subject to the limitations provided in this section.

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

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

(c) After the sale, any surplus above the amount due that is not required as security under this section must be returned to the person who deposited the security.

(3) In lieu of security, the department may require a retailer to file a bond, issued by a surety company authorized to transact business in this state, 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 and 78].

NEW SECTION. **Section 56. 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 61(2)] is payable from the date on which such payment was first due without extension until the tax is paid.

NEW SECTION. **Section 57. Examination of return -- adjustments -- delivery of notices and demands.** (1) The department may examine a return and make any investigation or examination of the records and accounts of the person making the return that the department considers necessary to determine the accuracy of the return.

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

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

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

(5) The notices and demands provided for in this section must contain a statement of the computation of the tax and must be sent by mail to the person making the return at the address given in his return, if any, or to his last-known address, or a written statement of the computation of the tax may be served personally upon the taxpayer.

NEW SECTION. **Section 58. Penalties for violation.** (1) (a) Subject to the provisions of subsection (1)(b), if a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 67 and 78], fails to file a return or pay the tax due on or before the date the return or tax is due (determined with regard to any extension of time granted for filing the return), there must immediately be imposed a penalty of 5% of any tax due on the return. The penalty increases by the amount of 5% of the tax due for each 30-day period or portion thereof that the return remains unfiled after notification of failure to file.

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

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

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

(2) (a) If a person purposely or knowingly violates any requirement imposed by [sections 1 through 67 and 78], fails to make a return, or fails to pay a tax, if one is due, at the time required under the provisions of [sections

1 through 67 and 78], there is added to the tax an additional amount equal to 25% of the tax. Such additional amount may in no case be less than $25.

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

(3) (a) Any individual, corporation, or partnership, any officer or employee of a corporation, or any member or employee of a partnership who, with intent to evade any requirement of [sections 1 through 67 and 78] or any lawful requirement of the department adopted pursuant to [sections 1 through 67 and 78], purposely or knowingly fails to pay the tax or to make, render, or sign any return or to supply any information within the time required under the provisions of [sections 1 through 67 and 78] or who, with like intent, purposely or knowingly makes, renders, or signs any false or fraudulent return or statement or supplies any false or fraudulent information is subject to a civil penalty of not more than $5,000.

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

(4) The department may abate or waive all or a portion of the penalties imposed in subsection (1) if the taxpayer establishes to the satisfaction of the department that his failure to file or to pay on time was due to reasonable cause and was not due to neglect on his part.

NEW SECTION. **Section 59. Warrants for distraint.** If a tax imposed by [sections 1 through 67 and 78] or any portion of such tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

NEW SECTION. **Section 60. Authority to collect delinquent taxes.** (1) The department shall collect taxes that are delinquent as determined under [sections 1 through 67 and 78].

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

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

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

(5) The department shall provide the taxpayer with written notice of the right to request a hearing under the contested case procedures of Title 2, chapter 4, on the

matter of the offset action or the department's intent to file a claim on behalf of the taxpayer. A written request for a hearing must be made within 30 days of the date of the notice, and such hearing must be held within 30 days following receipt by the department of the written request.

NEW SECTION. **Section 61. Penalty for deficiency.** (1) (a) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added to the amount of the deficiency a penalty of 5% of the tax.

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

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

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

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

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

NEW SECTION. **Section 62. Limitations.** 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 [sections 1 through 67 and 78], the amount of tax due under any return must be determined by the department within 5 years after the return was made. The department is barred from revising a return or recomputing the tax due thereon, and no proceeding in court for the collection of the tax may be instituted unless notice of an additional tax was provided within the period described in this section.

NEW SECTION. **Section 63. Refunds.** A claim for a refund made for taxes collected under [sections 1 through 67 and 78] must be in accordance with the procedure and time limits provided in 15-1-503.

NEW SECTION. **Section 64. Administration -- rules.** The department shall: (1) administer and enforce the provisions of [sections 1 through 67 and 78];

(2) cause to be prepared and distributed such forms and information as may be necessary to administer the provisions of [sections 1 through 67 and 78]; and

(3) promulgate such rules as may be appropriate to administer and enforce the provisions of [sections 1 through 67 and 78].

NEW SECTION. **Section 65. Revocation of corporate license.** (1) If a corporation authorized to do business in this state and required to pay the taxes imposed under [sections 1 through 67 and 78] fails to comply with any of the provisions of [sections 1 through 67 and 78] or any rule of the department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the corporation has failed to comply with specific statutory provisions or rules.

(2) The secretary of state shall, upon receipt of the certification, revoke the license authorizing the corporation to do business in this state and may issue a new license only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under [sections 1 through 67 and 78]. (3) No order authorized in this section may be made until the corporation is given an opportunity to be heard and to show cause at a contested case hearing before the department why such order should not be made. The corporation must be given 30 days' notice of the time and place of the hearing and the reason for the proposed order.

NEW SECTION. **Section 66. Tax as debt.** (1) The taxes imposed by [sections 1 through 67 and 78] and related interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of such liability occurs.

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

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

NEW SECTION. Section 67. Information -- confidentiality -- agreements. (1) (a) Except as provided in subsection (1)(b), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known any information disclosed in a report or return required to be filed under [sections 1 through 67 and 78] or any information concerning the affairs of the person making the return that is acquired from his records, officers, or employees in an examination or audit.

(b) Subsection (1)(a) does apply to information obtained from the taxpayer making the report or return in connection with a proceeding involving taxes due under [sections 1 through 67 and 78] or to comply with the provisions of subsection (2).

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

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

(b) The department, in order to implement the provisions of [sections 1 through 67 and 78], may furnish information on a reciprocal basis to the taxing officials of another state or to the taxing officials of a municipality of this state that has a local sales tax or use tax.

(3) In order to facilitate processing of returns and payments of taxes required by [sections 1 through 67 and 78], the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

NEW SECTION. **Section 68. Renters' property tax credit -- definitions.** As used in [sections 68 through 76], the following definitions apply: (1) "Claimant" means an individual natural person who is eligible to file a claim under [section 69].

(2) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

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

(4) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(5) "Gross rent" means the total rent in cash or item equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's length transaction with the landlord.

(6) "Homestead" means a single-family dwelling or unit

of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

(7) "Household" means an association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(8) "Household income" means $0 or the amount obtained by subtracting $4,000 from gross household income, whichever is greater.

(9) "Income" means federal adjusted gross income, without regard to loss, as that quantity is defined in the internal revenue code of the United States, plus all nontaxable income, including but not limited to:

(a) the gross amount of any pension or annuity (including railroad retirement act benefits and veterans' disability benefits);

(b) the amount of capital gains excluded from adjusted gross income;

(c) alimony;

(d) support money;

(e) nontaxable strike benefits;

(f) cash public assistance and relief;

(g) payments and interest in federal, state, county, and municipal bonds; and

(h) all payments under federal social security.

(10) "Property tax paid" means general ad valorem taxes levied against the homestead, exclusive of special assessments, penalties, or interest and paid during the claim period.

(11) "Rent-equivalent tax paid" means 15% of the gross rent.

NEW SECTION. Section 69. Renters' property tax credit -- eligibility. (1) In order to be eligible to make a claim under [sections 68 through 76], an individual:

(a) must have resided in Montana for at least 9 months of that period; and

(b) must have occupied one or more dwellings in Montana as a renter or lessee for at least 6 months of the claim period.

(2) A person is not disqualified as a claimant if he changes residences during the claim period, provided that he occupies one or more dwellings in Montana as a renter or lessee for at least 6 months during the claim period.

NEW SECTION. Section 70. Renters' property tax credit -- disallowance or adjustment of certain claims. If the landlord and tenant have not dealt at arm's length and the department judges the gross rent charged to be excessive, the department may adjust the gross rent to a reasonable amount.

NEW SECTION. **Section 71. Renters' property tax credit -- filing date.** (1) Except as provided in subsection (2), a claim for relief must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which relief is sought.

(2) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists. The department shall keep a record of each extension and the reason for granting the extension.

(3) In the event that an individual who would have a claim under [sections 68 through 76] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

NEW SECTION. **Section 72. Renters' property tax credit -- form of relief.** Relief under [sections 68 through 76] is a credit against the claimant's Montana individual income tax liability for the claim period. If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even though the claimant has no income taxable under this chapter.

NEW SECTION. **Section 73. Renters' property tax credit -- computation of relief.** The amount of the tax credit granted under the provisions of [sections 68 through 76] is computed as follows: (1) In the case of a claimant who rents a homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (3).

(2) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (3).

(3) Rent-equivalent tax paid is reduced according to the following schedule:

HOUSEHOLD INCOME	AMOUNT OF REDUCTION
$ 0 - 1,999	$0
2,000 - 2,999	The product of .006 times the household income
3,000 - 3,999	The product of .016 times the household income

4,000 - 4,999	The product of .024 times the household income
5,000 - 5,999	The product of .028 times the household income
6,000 - 6,999	The product of .032 times the household income
7,000 - 7,999	The product of .035 times the household income
8,000 - 8,999	The product of .039 times the household income
9,000 - 9,999	The product of .042 times the household income
10,000 - 10,999	The product of .045 times the household income
11,000 - 11,999	The product of .048 times the household income
12,000 & over	The product of .050 times the household income

(4) In no case may the credit granted exceed $200.

NEW SECTION. Section 74. **Renters' property tax credit -- limitations.** (1) Only one claimant per household in a claim period under the provisions of [sections 68 through 76] is entitled to relief.

(2) No claim for relief may be allowed for any portion of rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) No claim for relief may be allowed on rented lands or rented dwellings that are not subject to ad valorem taxation in Montana during the claim period.

NEW SECTION. Section 75. **Renters' property tax credit -- proof of claim.** A, a receipt showing gross rent paid must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support his claim.

NEW SECTION. Section 76. **Renters' property tax credit -- denial of claim.** A person filing a false or fraudulent claim under the provisions of [sections 68 through 76] must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears interest, at the rate of 1% per month, from the date of the original payment of claim until paid.

NEW SECTION. **Section 77. Credit for sales and use tax.** (1) There is a credit against tax liability under this chapter as provided in subsection (2).

(2) For each exemption claimed under 15-30-112, a credit is allowed according to the following schedule:

GROSS HOUSEHOLD INCOME	CREDIT PER EXEMPTION
$ 0 - 4,999	$30
5,000 - 5,999	27
6,000 - 6,999	24
7,000 - 7,999	21
8,000 - 8,999	19
9,000 - 9,999	16
10,000 - 10,999	13
11,000 - 11,999	11
12,000 - 12,999	9
13,000 - 13,999	7
14,000 - 19,999	5
20,000 or more	0

(3) For the purpose of this section, "gross household income" is defined as provided in [section 68].

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

6. Page 64, line 10.
Strike: "43"
Insert: "67 and 78"

7. Page 65, line 20.
Strike: "their"
Insert: "the livestock's"

8. Page 66, line 13.
Strike: "44"
Insert: "79"
Strike: "48"
Insert: "83"

9. Page 67, line 3.
Strike: "46"
Insert: "81"

10. Page 67, line 6.
Strike: "44"
Insert: "79"
Strike: "48"
Insert: "83"

11. Page 67, line 10.
Strike: "44"
Insert: "79"

12. Page 67, line 11.
Strike: "48"
Insert: "83"

13. Page 67, lines 15 through 22.
Strike: section 49 in its entirety
Renumber: subsequent sections

14. Page 92, line 2.
Strike: "30%"
Insert: "29%"

15. Page 94, line 10.
Strike: "3%"
Insert: "2.75%"

16. Page 94, line 12.
Strike: "3%"
Insert: "2.75%"

17. Page 104, line 2.
Following: "12%"
Insert: "of its market value"

18. Page 104, line 4.
Following: "of"
Insert: ": (a)"
Following: "12%"
Insert: "of its market value;"

Following: "or"
Insert: "(b)"

19. Page 104, line 5.
Strike: "without adjustment"

20. Page 107, lines 9 and 10.
Following: "residence" on line 9
Strike: "ASSESSED AND TAXED AS CLASS FOUR PROPERTY UNDER 15-6-134"

21. Page 109, line 12.
Strike: "except"
Insert: "including"

22. Page 158, line 21.
Strike: "44"
Insert: "79"

23. Page 171.
Following: line 6
Insert: "NEW SECTION. **Section 151. Submission to electorate.** The question of whether sections 1 through 150 of this act shall be submitted to the electors of Montana at the election called pursuant to section 151 by printing on the ballot the full title of this act and the following:

__ FOR imposing a 5% sales and use tax, with approximately 75% of the proceeds to be used for business and residential property tax relief and the remainder to be deposited in the state general fund.

__ AGAINST imposing a 5% sales and use tax, with approximately 75% of the proceeds to be used for business and residential property tax relief and the remainder to be deposited in the state general fund.

NEW SECTION. **Section 152. Special election.** Pursuant to Article III, sections 5 and 6 of the Constitution of the Constitution of the State of Montana, sections 1 through 150 shall be submitted to the people for their approval or disapproval at a statewide election to be held June 9, 1987.

NEW SECTION. **Section 153. Transmittal to the attorney general -- statements by attorney general.** (1) The secretary of state shall, within 1 working day of receipt, transmit a copy of sections 1 through 150 and a copy of the form in which the issue will appear on the ballot to the attorney general. The attorney general shall examine the ballot form submitted to his office and within 7 days of receipt of the ballot form notify the secretary of state of his approval or rejection of the ballot form.

(2) Upon receipt of a copy of the ballot form under subsection (1), the attorney general shall order a fiscal note, the substance of which must substantially comply with the provisions of 5-4-205. The budget director is responsible for preparing the fiscal note and shall return it within 4 days. The attorney general shall prepare a fiscal statement of no more than 50 words to be forwarded to the secretary of state t the same time he informs the secretary of state of his approval or rejection of the ballot form.

(3) Upon receipt of a copy of the ballot form, the attorney general shall prepare a statement not exceeding 100 words expressing an impartial explanation of the purpose of sections 1 through 150 in plain, easily understood language. The statement may not be an argument for or against or written to create a prejudice for or against the issue. The attorney general shall forward his explanatory statement prepared under this subsection to the secretary of state at the same time he informs the secretary of state of his approval or rejection of the ballot form.

NEW SECTION. **Section 154. Secretary of state to certify ballot.** Thirty-five days or more before the special election, the secretary of state shall certify to each county election administrator the form in which the issue is to appear on the ballot, as provided by 13-27-501. Each of the county election administrators shall order the official ballot to be printed in the form certified by the secretary of state.

NEW SECTION. **Section 155. Voter information pamphlet.** (1) At least 20 days prior to the election called under section 152, the secretary of state shall deliver or have delivered to the counties sufficient copies of a voter information pamphlet. The voter information pamphlet must substantially comply with the provisions of 13-27-401, except the secretary of state may omit publication of the complete text of this act.

(2) The county election administrator shall mail 1 copy of the voter information pamphlet to each registered voter in the county, except that for the purposes of this mailing, 2 or more voters with the same last name and same mailing address may be counted as 1 voter. The mailing must take place no later than 1 week after the pamphlets are received from the printer.

(3) The secretary of state may contract for the printing and delivery of the voter information pamphlet under the immediate procurement provisions of 18-4-133(2).

NEW SECTION. **Section 156. Committee appointments -- arguments for and against.** (1) The arguments advocating approval or rejection of sections 1 through 150 shall be prepared by committees appointed as provided in 13-27-402 and submitted to the secretary of state.

(2) Appointments to committees advocating approval or rejection must be made within 2 days of the passage of [this act]. The persons responsible for appointing members to such committees shall submit the names and written consent of the appointees to the secretary of state.

(3) The argument advocating approval or rejection is limited to 750 words and must be filed in typewritten form with the secretary of state no later than 38 days before the special election. A majority of the committee responsible for preparation must approve and sign the argument.

(4) The secretary of state shall provide copies of the argument advocating approval or rejection to the chairman of the adversary committee immediately following the filing of both the approval and rejection arguments not to exceed 350 words that must be filed in typewritten form with the secretary of state no later than 3 days after the deadline for filing the original arguments. Discussion in the rebuttal arguments must be limited to the subject matter raised in the argument being rebutted. The rebuttal must be approved and signed by a majority of the committee responsible for its preparation.

NEW SECTION. Section 157. **When ballots available for absentee voting.** The county election administrator shall ensure that ballots are printed and available for absentee voting at least 10 days prior to the election.

NEW SECTION. Section 158. **Special election procedures.** (1) The polls for the special election called under section 152 must open not later than noon and must remain open until 8 p.m. or until all registered electors eligible to vote at the polling place have voted, whichever is earlier, at which time the polls shall be closed. The county election administrator may order the polls to open earlier than noon, but no earlier than 7 a.m.

(2) The county election administrator may designate polling places for the election that differ from the polling places designated for other county elections. Notice of the location of the polling places must be given as provided in 13-3-105(2).

NEW SECTION. Section 159. **Determination of result of special election.** (1) The votes cast at the election required under section 152 shall be counted and canvassed following procedures prescribed by the secretary of state.

(2) The report form for the abstract of votes shall be prepared by the secretary of state and sent to the county election administrators. The county election administrator shall provide the required information and shall send the abstract of votes to the secretary of state by certified mail in an envelope marked "special election returns". Such

returns must be received by the secretary of state no later than 5 p.m. on the sixth day following the election.

(3) The board of state canvassers shall meet on the seventh day following the special election. The secretary of state, as secretary of the board of state canvassers, shall prepare and file in his office a report of the canvass which lists:

(a) the total number of electors voting in each county and in each legislative house district, together with the total number of electors in each state; and

(b) the votes by county and legislative house district for and against the issue, together with the total number of votes cast for and against the issue in the state.

(4) The secretary of state shall transmit a certified copy of the statement of the canvass to the governor and the code commissioner within 10 days following the special election.

NEW SECTION. Section 160. Application of election laws. (1) Except as provided in sections 151 through 160, the special election called under section 152 must be conducted and canvassed, and the results returned in the same manner as a general election in Title 13.

(2) The provisions of 13-1-106, 13-2-301(1)(b), 13-3-105, 13-12-201, 13-18-205, and Title 13, chapter 27 do not apply to the election called under section 152.

(3) The secretary of state shall publish notice of the special election as provided by 13-1-108."

24. Page 171, line 8.
Following: "~~15-6-144~~"
Strike: "15-6-143"
Insert: "15-6-144"

25. Page 171, line 14.
Strike: "43"
Insert: "67 and 78"

26. Page 171, line 16.
Strike: "43"
Insert: "67 and 78"

27. Page 171, line 17.
Strike: "44"
Insert: "79"
Strike: "48"
Insert: "83"

28. Page 171, line 19.
Strike: "44"
Insert: "79"

Strike: "48"
Insert: "83"

29. Page 171, line 20.
Strike: "Section 49 is"
Insert: "Sections 68 through 77 are"

30. Page 172, line 22.
Strike: "section 49"
Insert: "sections 68 through 77"
Strike: "43"
Insert: "67 and 68"

31. Page 172, line 23.
Strike: "44"
Insert: "79"
Strike: "48"
Insert: "83"

32. Page 172, line 25.
Strike: "Sections 49"
Insert: "Sections 68 through 77"

33. Page 173, line 2.
Strike: "50"
Insert: "84"
Strike: "117"
Insert: "150 and 161"

34. Page 173, line 4.
Strike: "1988"
Insert: "1987"

35. Page 173, line 5.
Strike: "1988"
Insert: "1987"

36. Page 173, line 6.
Strike: "1989"
Insert: "1988"

37. Page 173, line 9.
Strike: "118"
Insert: "162"
Strike: "123"
Insert: "167"

38. Page 173.
Following: line 10
Insert: "(6) Sections 151 through 160 and 168 are effective on

passage by the legislature.

NEW SECTION. Section 168. Coordination instruction. If this act is passed by the legislature and submitted to the electorate at a referndum, section 166, i.e. the effective date section, shall be interpreted to mean that sections 1 through 150 and 161 must be submitted to the electorate on June 9, 1987, that sections 1 through 150 and 161 through 167 are effective on approval by the electorate, and that sections 151 through 160 and 168 are effective on approval by the legislature."

Amendments, SB 377
7101b/C:JEANNE\WP:jj