

HOUSE BILL NO. 916

Introduced: 03/21/83

Referred to Committee on Taxation: 03/21/83

Hearing: 3/24/83

Rereferred to Select Committee on Economic Development:

04/05/83

Died in Committee

1 *House* BILL NO. 916
 2 INTRODUCED BY Callard - Fagg
 3
 4 A BILL FOR AN ACT ENTITLED: "THE PROPERTY TAX REPLACEMENT
 5 ACT OF 1983; PROVIDING FOR THE LEVYING OF A 5 PERCENT SALES
 6 AND USE TAX TO REPLACE CERTAIN PROPERTY AND STATE TAXES;
 7 PROVIDING EXEMPTIONS FOR FOODS, DRUGS, AND OTHER PROPERTIES;
 8 PROVIDING A RESTRICTION ON CHANGING THE RATE AND USES OF THE
 9 SALES TAX REVENUE; RESTRICTING FUTURE LEGISLATURES FROM
 10 CHANGING THE SALES TAX RATE AND USES EXCEPT BY REFERENDUM;
 11 PROVIDING TAX RELIEF; FREEZING THE VALUE OF ALL PROPERTY NOT
 12 REMOVED FROM TAXATION; MANDATING THAT ADDITIONAL TAXES FOR
 13 STATE OR LOCAL GOVERNMENT MUST BE DERIVED FROM INCOME
 14 TAXATION; PROVIDING INCOME TAX CREDITS TO RENTERS BASED ON
 15 INCOME; CREATING A TRUST FUND FOR THE ELDERLY AND DISABLED;
 16 PROVIDING AN APPROPRIATION FOR ADMINISTRATION AND
 17 ENFORCEMENT OF THE SALES AND USE TAX; AMENDING SECTIONS
 18 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107,
 19 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103,
 20 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327,
 21 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101,
 22 15-6-134, 15-6-135, 15-6-138, 15-6-201, 15-6-207, 15-7-101
 23 THROUGH 15-7-104, 15-7-106, 15-7-107, 15-7-303, 15-7-304,
 24 15-8-111, 15-8-112, 15-8-201, 15-8-301, 15-8-307, 15-8-701,
 25 15-8-706, 15-10-202, 15-10-302, 15-16-403, 15-16-601,

1 15-24-302, 19-11-503, 19-11-504, 20-9-406, 20-9-502,
 2 61-3-502, 61-3-532, 61-12-206, AND 85-7-2001, MCA; REPEALING
 3 SECTIONS 15-6-136, 15-6-151, 15-6-203, 15-6-209, 15-6-211,
 4 15-7-401 THROUGH 15-7-403, 15-10-101 THROUGH 15-10-105,
 5 15-10-321, 15-16-611, 15-24-201 THROUGH 15-24-208, 15-24-901
 6 THROUGH 15-24-906, 15-24-908 THROUGH 15-24-911, 15-24-921
 7 THROUGH 15-24-926, 15-24-931, 15-24-941 THROUGH 15-24-943,
 8 15-24-1301 THROUGH 15-24-1318, 15-24-1401, 15-24-1402,
 9 15-24-1501, AND 15-30-171 THROUGH 15-30-179, MCA; PROVIDING
 10 AN APPLICABILITY DATE; AND PROVIDING A CONTINGENT EFFECTIVE
 11 DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Short title. [Sections 1
 15 through 44] shall be known and may be cited as the "Property
 16 Tax Replacement Act of 1983".

17 NEW SECTION. Section 2. General definitions. As used
 18 in [sections 1 through 44], unless the context requires
 19 otherwise, the following definitions apply:

20 (1) "Business" means any activity engaged in by any
 21 person or caused to be engaged in by him with the object of
 22 gain, benefit, or advantage, either direct or indirect.

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

24 (3) "Export" or "exported" means to export tangible
 25 personal property from this state to other states, as well

1 as to foreign countries.

2 (4) "Import" or "imported" means to import tangible
3 personal property into this state from other states, as well
4 as from foreign countries.

5 (5) "In this state" or "in the state" means within the
6 exterior limits of the state of Montana and includes all
7 territory within these limits owned by or ceded to the
8 United States.

9 (6) "Person" means any individual, firm, partnership,
10 cooperative, nonprofit corporation, joint venture,
11 association, corporation, estate, trust, business trust,
12 trustee in bankruptcy, receiver, syndicate, assignee, club,
13 society, or other group or combination acting as a unit,
14 body politic, or political subdivision, whether public or
15 private or quasi-public.

16 (7) "Retailer" means a person engaged in the business
17 of making sales of tangible personal property and taxable
18 services.

19 (8) "Tangible personal property" means personal
20 property that may be seen, weighed, measured, felt, or
21 touched or is in any other manner perceptible to the senses.
22 The term "tangible personal property" does not include
23 stocks, bonds, notes, insurance, or other obligations or
24 securities.

25 (9) "Use tax" means the tax imposed upon the use,

1 consumption, distribution, or storage of tangible personal
2 property.

3 NEW SECTION. Section 3. Definitions -- distribution
4 -- lease or rental -- storage -- use. As used in [sections 1
5 through 44], unless the context requires otherwise, the
6 following definitions apply:

7 (1) "Distribution" includes the transfer or delivery
8 of tangible personal property for use, consumption, or
9 storage by the distributee and the use, consumption, or
10 storage of tangible personal property by a person who has
11 processed, manufactured, refined, or converted the property.
12 It does not include the transfer or delivery of tangible
13 personal property for resale or any use, consumption, or
14 storage otherwise exempt under [sections 1 through 44].

15 (2) "Lease or rental" means the leasing or renting of
16 tangible personal property and the possession or use thereof
17 by the lessee or renter for a consideration, without
18 transfer of the title to the property.

19 (3) "Storage" means any keeping or retention of
20 tangible personal property for use, consumption, or
21 distribution in this state or for any purpose other than the
22 sale at retail in the regular course of business.

23 (4) "Use" means the exercise of any right or power
24 over tangible personal property incident to the ownership
25 thereof, except that it does not include the sale at retail

of that property in the regular course of business.

NEW SECTION. Section 4. Definitions -- sale -- retail sale. As used in [sections 1 through 44], unless the context requires otherwise, the following definitions apply:

(1) "Sale" means any transfer of title or possession, or both, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means, of tangible personal property and any rendition of a taxable service for a consideration and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction in which the possession of property is transferred but the seller retains title as security for the payment of the price is considered a sale.

(2) "Retail sale" or a "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property or services taxable under [sections 1 through 44] and includes any such transaction as the department upon investigation finds to be in lieu of a sale. A sale for resale must be made in strict compliance with the rules adopted pursuant to [sections 1 through 44]. Any person making a sale for resale

that is not in strict compliance with such rules is liable for and must pay the tax. Retail sale or sale at retail includes:

(a) the sale or charges for any room or rooms, lodging, or accommodations furnished to transients by any hotel, motel, inn, tourist camp, tourist cabin, campground, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. A transient is a person who occupies rooms, lodgings, or accommodations for less than a period of 90 continuous days.

(b) sales of tangible personal property to persons for resale if, because of the operation of the business or its very nature, the lack of a place of business in which to display a certificate of registration, the lack of a place of business in which to keep records, or the lack of adequate records or because the persons are minors or transients or are engaged in essentially service businesses or for any other reason, there is likelihood that the state will lose tax funds due to the difficulty of policing the business operations. The department may adopt rules requiring vendors or sellers to collect the tax imposed by [sections 1 through 44] on the cost price of the tangible personal property to such persons and may refuse to issue certificates of registration, provided for in [section 15],

1 to such persons.

2 (c) the sale or charge of admissions;

3 (d) the charge or consideration for the service of
4 repairing, altering, mending, pressing, fitting, dyeing,
5 laundering, dry cleaning, or cleaning tangible personal
6 property or applying or installing tangible personal
7 property as a repair or replacement part of other personal
8 property for a consideration, whether or not the services
9 are performed directly or by means of coin-operated
10 equipment or by any other means and whether or not any
11 tangible personal property is transferred in conjunction
12 with the service, except such services as are rendered in
13 the construction, remodeling, repair, or maintenance of real
14 estate and such services as are rendered directly in
15 conjunction with the processing, manufacturing, refining, or
16 conversion of products for sale or resale;

17 (e) the charge for the service of printing or
18 imprinting, photographing, or copying by any means for a
19 consideration for persons who furnish, either directly or
20 indirectly, the materials used in conjunction with the
21 rendition of the service;

22 (f) the charge for barber and beauty services to
23 persons and animals for a consideration, whether or not any
24 tangible personal property is transferred in conjunction
25 with the performance of the service;

1 (g) the charge for motor vehicle parking service or
2 parking space in privately owned parking lots or garages and
3 the charge for docking or storage space for boats in
4 privately owned boat docks or marinas;

5 (h) all charges for work relating to motor vehicles,
6 as defined in 61-1-102, and boats of another, whether or not
7 any tangible personal property is transferred in conjunction
8 with services performed; and

9 (i) the furnishing of intrastate telephonic and
10 telegraphic communications and services.

11 NEW SECTION. Section 5. Definitions -- cost and sales
12 price -- gross proceeds and sales. As used in [sections 1
13 through 44], unless the context requires otherwise, the
14 following definitions apply:

15 (1) "Cost price" means the actual cost of an item or
16 article of tangible personal property, computed in the same
17 manner as the sales price in subsection (4) without any
18 deductions from the actual cost on account of the cost of
19 materials used, cost of labor, or service costs,
20 transportation charges, or any expenses whatsoever.

21 (2) "Gross proceeds" means the charges made or
22 voluntary contributions received for the lease or rental of
23 tangible personal property or for furnishing services,
24 computed with the same deductions, if applicable, as for
25 sales price in subsection (4) over the term of the lease,

1 rental, service, or use, but not less frequently than
2 monthly.

3 (3) "Gross sales" means the sum total of all retail
4 sales of tangible personal property or services as defined
5 in [sections 1 through 44], without a deduction of any kind,
6 except as provided in [sections 1 through 44]. Gross sales
7 do not include the federal retailers' excise tax, if this
8 excise tax is billed to the purchaser separately from the
9 selling price of the article, or the retail sales or use tax
10 or any sales tax imposed by any county or city.

11 (4) "Sales price" means the total amount for which
12 tangible personal property or services are sold, including
13 any services that are a part of the sale, valued in money,
14 whether paid in money or otherwise, and includes any amount
15 for which credit is given to a purchaser, consumer, or
16 lessee by the dealer, without any deduction therefrom on
17 account of the cost of the property sold, the cost of
18 materials used, labor or service costs, losses, or any other
19 expenses; but cash discounts allowed and taken on sales and
20 finance charges, carrying charges, service charges, or
21 interest from credit extended on sales of tangible personal
22 property under conditional sales contracts or other
23 conditional contracts providing for deferred payments of the
24 purchase price or transportation charges separately stated
25 are not included in the sales price. If used articles are

1 taken in trade or in a series of trades as a credit or part
2 payment on the sale of new or used articles, the tax levied
3 by [sections 1 through 44] must be paid on the net
4 difference between the sales price of the new or used
5 articles and the credit for the used articles.

6 NEW SECTION. Section 6. Imposition of sales tax.
7 There is levied and imposed, in addition to all other taxes
8 and fees of every kind imposed by law, a license or
9 privilege tax upon every person who engages in the business
10 of selling at retail or distributing tangible personal
11 property in this state or who rents or furnishes any of the
12 things or services taxable under [sections 1 through 44] or
13 who stores for use or consumption in this state any item or
14 article of tangible personal property as defined in
15 [sections 1 through 44] or who leases or rents such property
16 within this state, to be collected in the amount to be
17 determined by applying the rate of 5% to:

18 (1) the sales price of each item or article of
19 tangible personal property when sold at retail or
20 distributed in this state, the tax to be computed on gross
21 sales;

22 (2) the gross proceeds derived from the lease or
23 rental of tangible personal property, as defined in
24 [sections 1 through 44], if the lease or rental of such
25 property is an established business or part of an

1 established business or is incidental or germane to the
2 business;

3 (3) the cost price of each item or article of tangible
4 personal property stored in this state for use or
5 consumption in this state;

6 (4) the gross proceeds derived from the sale or
7 charges for rooms, lodgings, or accommodations furnished to
8 transients as set out in [subsection (2)(a) of section 4];
9 and

10 (5) the gross sales of all services taxable under
11 [sections 1 through 44]. No services are taxable under
12 [sections 1 through 44] except those expressly enumerated
13 and made taxable.

14 **NEW SECTION.** Section 7. Imposition of use tax. (1)
15 There is levied and imposed, in addition to all other taxes
16 and fees except the tax imposed under [section 6], a tax
17 upon the use or consumption of tangible personal property in
18 this state, to be collected in the amount determined by
19 applying the rate of 5% to the cost price of each item or
20 article of tangible personal property used or consumed in
21 this state.

22 (2) (a) If tangible personal property has been
23 acquired after [the effective date of this act] for use
24 outside this state and subsequently becomes subject to the
25 tax imposed under [sections 1 through 44], it shall be taxed

1 on the basis of:

2 (i) its cost price if such property is brought within
3 this state for use within 6 months of its acquisition; or

4 (ii) the current market value (but not in excess of its
5 cost price) of the property at the time of its first use
6 within this state if brought within this state more than 6
7 months after its acquisition.

8 (b) The tax shall be based on such proportion of the
9 cost price or current market value as the duration of time
10 of use within this state bears to the total useful life of
11 the property, but it is presumed in all cases that the
12 property will remain within this state for the remainder of
13 its useful life unless convincing evidence is provided to
14 the contrary.

15 **NEW SECTION.** Section 8. Exclusions and exemptions.
16 "Retail sale" or "sale at retail" does not include the sale
17 of:

18 (1) tangible personal property that becomes an
19 ingredient or component part of or is consumed or destroyed
20 or loses its identity in the manufacture of tangible
21 personal property for later sale;

22 (2) specific machinery and processing equipment and
23 repair parts or replacements thereof, exclusively designed
24 or made for and specifically used in the manufacture of a
25 product or the rendering of a taxable service;

1 (3) materials, containers, labels, sacks, cans, boxes,
2 drums, or bags and other packing, packaging, or shipping
3 materials for use in packing, packaging, or shipping
4 tangible personal property;

5 (4) tangible personal property delivered pursuant to
6 bona fide written contracts entered into before [the
7 effective date of this act], if delivery is made within 90
8 days after [the effective date of this act]; and building
9 supplies, fixtures, or equipment that enter into or become
10 a part of a building or other kind of structure in this
11 state if the construction contract for the specific project
12 has been entered into prior to [the effective date of this
13 act], if delivery is made within the time specified in such
14 contract for the completion of such specific project;

15 (5) commercial feeds, seed, plants, fertilizers,
16 liming materials, breeding and other livestock, semen,
17 breeding fees, baby chicks, turkey poults, agricultural
18 chemicals, fuel for drying or curing crops, containers for
19 fruits and vegetables, and all other agricultural supplies
20 if they are sold to and purchased by farmers for use in
21 agricultural production for market;

22 (6) tangible personal property sold or leased to a
23 public utility for use or consumption by the utility
24 directly in the rendition of its public service;

25 (7) government subsidized school lunches sold and

1 served to pupils and employees of schools, school textbooks
2 sold by a public school district or authorized agent
3 thereof, and school textbooks sold by a college or other
4 institution of learning, not conducted for profit, for use
5 of students attending the institution of learning;

6 (8) tangible personal property not held or used by a
7 seller in the course of an activity for which he is required
8 to hold a certificate of registration, sometimes referred to
9 as "casual sales";

10 (9) tangible personal property for future use for
11 taxable lease or rental as an established business or part
12 of an established business or incidental or germane to the
13 business, including a simultaneous purchase and taxable
14 leaseback;

15 (10) tangible personal property and taxable services
16 for use or consumption by the United States; but this
17 exclusion does not apply to sales and leases to privately
18 owned financial and other privately owned corporations
19 chartered by the United States;

20 (11) tangible personal property delivered outside this
21 state for use or consumption outside this state;

22 (12) tangible personal property that is subject to:

23 (a) the gasoline and vehicle fuel tax contained in
24 Title 15, chapter 70;

25 (b) the alcoholic beverage tax contained in Title 16,

1 chapter 1, part 4;
 2 (c) the tobacco products tax contained in Title 16,
 3 chapter 11; and
 4 (d) the tax on new motor vehicles contained in
 5 61-3-502;
 6 (13) fuel, electricity, and water;
 7 (14) food purchased for human consumption, other than
 8 meals purchased at restaurants, hotels, motels, and other
 9 food dispensing establishments and other than food sold
 10 ready for immediate consumption on or off the premises;
 11 (15) drugs sold by a registered pharmacist upon the
 12 prescription of a practitioner licensed to prescribe drugs
 13 to human beings in the course of his professional practices;
 14 (16) tangible personal property sold pursuant to
 15 15-17-901; or
 16 (17) individual sales of tangible personal property
 17 that total 25 cents or less per transaction.
 18 **NEW SECTION.** Section 9. Credit for taxes paid in
 19 another state. A credit must be granted against the taxes
 20 imposed by [sections 1 through 44] with respect to a
 21 person's use in this state of tangible personal property
 22 purchased by him in another state. The amount of the credit
 23 must be equal to the tax paid by him to another state or
 24 political subdivision thereof by reason of the imposition of
 25 a similar tax on his purchase or use of the property. The

1 amount of the credit may not exceed the tax imposed by
 2 [sections 1 through 44].
 3 **NEW SECTION.** Section 10. Applicability or
 4 inapplicability of use tax in certain cases. (1) The use tax
 5 does not apply to tangible personal property owned or
 6 acquired in this state or imported into this state or held
 7 or stored in this state prior to [the effective date of this
 8 act].
 9 (2) The use tax does apply to tangible personal
 10 property imported or caused to be imported into this state
 11 on or after [the effective date of this act], except as
 12 provided in [sections 1 through 44], unless:
 13 (a) the property has previously been subject to a
 14 sales or use tax in another state or political subdivision
 15 equal to or greater than the tax imposed by [sections 1
 16 through 44] for which credit is given under [section 9]; or
 17 (b) proof is furnished that the tangible personal
 18 property imported or caused to be imported into this state
 19 was owned or acquired prior to [the effective date of this
 20 act] or otherwise is exempt under [sections 1 through 44].
 21 (3) The use tax does not apply to the use of any
 22 article or tangible personal property brought into the state
 23 by a nonresident individual for his personal use while
 24 visiting within the state.
 25 **NEW SECTION.** Section 11. Moving residence or business

1 into state — use tax. (1) The use tax does not apply to
 2 tangible personal property purchased outside this state for
 3 use outside this state by a then nonresident natural person
 4 or a business entity not actually doing business within this
 5 state that later brings the tangible personal property into
 6 this state in connection with establishment of a permanent
 7 residence or business in this state if the property was
 8 purchased more than 6 months prior to the date it was first
 9 brought into this state or prior to the establishment of the
 10 residence or business, whichever occurs first.

11 (2) Subsection (1) does not apply to tangible personal
 12 property temporarily brought into this state for the
 13 performance of contracts for the construction,
 14 reconstruction, installation, or repair or any other service
 15 with respect to real estate or fixtures thereon.

16 **NEW SECTION.** Section 12. Diversion of tangible
 17 personal property to personal use. The use tax applies to
 18 tangible personal property and taxable services of persons
 19 holding themselves out as sellers of goods and services when
 20 tangible personal property or taxable services are diverted
 21 to the personal use of the person, his family, or his
 22 employees.

23 **NEW SECTION.** Section 13. Dealers. (1) The taxes
 24 levied in [sections 6 and 7] must be collected from dealers.

25 (2) For the purpose of [sections 1 through 44], the

1 term "dealer" means:

2 (a) any person physically located in this state who:
 3 (i) manufactures or produces tangible personal
 4 property for sale at retail or for use, consumption, or
 5 distribution or for storage to be used or consumed in this
 6 state;

7 (ii) imports or causes to be imported into this state
 8 tangible personal property from any state or foreign country
 9 for sale at retail for use, consumption, or distribution or
 10 for storage to be used or consumed in this state;

11 (iii) sells at retail or offers for sale at retail or
 12 has in possession for sale at retail or for use,
 13 consumption, or distribution or for storage to be used or
 14 consumed in this state tangible personal property and
 15 taxable services as defined in [sections 1 through 44];

16 (iv) has sold at retail or used, consumed, or
 17 distributed or stored for use or consumption in this state
 18 tangible personal property or who has performed taxable
 19 services and who cannot prove that the tax levied by
 20 [sections 1 through 44] has been paid on the sale at retail,
 21 the use, consumption, distribution, or storage of such
 22 tangible personal property, or the charge for the rendition
 23 of taxable services; or

24 (v) leases or rents tangible personal property, as
 25 defined in [sections 1 through 44], for a consideration,

1 permitting the use or possession of the property without
2 transferring title thereto; and

3 (b) every other person who:

4 (i) maintains or has within this state, directly or by
5 an agent or a subsidiary, an office, distributing house,
6 salesroom, house, warehouse, or other place of business;

7 (ii) solicits business in this state, either by
8 employees, independent contractors, agents, or other
9 representatives, and by reason thereof makes sales to
10 persons within this state of tangible personal property, the
11 use of which is taxed by [sections 1 through 44]; and any
12 other person making sales to persons within this state of
13 tangible personal property, the use of which is taxed by
14 [sections 1 through 44], who may be authorized by the
15 department to collect such tax;

16 (iii) as a representative, agent, or solicitor for an
17 out-of-state principal, solicits, receives, or accepts
18 orders from persons in this state for future delivery and
19 whose principal refuses to register under [sections 1
20 through 44]; or

21 (iv) becomes liable to and owes this state any amount
22 of tax imposed by [sections 1 through 44], whether or not he
23 holds or is required to hold a certificate of registration
24 under [section 15].

25 NEW SECTION. Section 14. Contractors. (1) Any person

1 who contracts orally, in writing, or by purchase order to
2 perform construction, reconstruction, installation, or
3 repair or any other service with respect to real estate or
4 fixtures thereon and in connection therewith to furnish
5 tangible personal property or taxable services is considered
6 to have purchased the tangible personal property for use or
7 consumption. Any sale, distribution, or lease to or storage
8 for such person is considered a sale, distribution, or lease
9 to or storage for the ultimate consumer and not for resale,
10 and the dealer making the sale, distribution, or lease to or
11 storage for the person shall collect the tax to the extent
12 required by [sections 1 through 44].

13 (2) Any person who contracts to perform services in
14 this state and is furnished tangible personal property for
15 use under the contract by the person or his agent or
16 representative for whom the contract is performed, if a sale
17 or use tax has not been paid to this state by the person
18 supplying the tangible personal property, is considered to
19 be the consumer of the tangible personal property so used
20 and shall pay a use tax based on the fair market value of
21 the tangible personal property so used, irrespective of
22 whether or not any right, title, or interest in the tangible
23 personal property becomes vested in the contractor. This
24 subsection does not apply to the sale of tangible personal
25 property that becomes an ingredient or component part of or

1 is consumed or destroyed or loses its identity in the
2 manufacture of tangible personal property for later sale or
3 governmental exclusion as indicated in [section 8].

4 (3) Any person who contracts orally, in writing, or by
5 purchase order to perform any service in the nature of
6 equipment rental and the principal part of that service is
7 the furnishing of equipment or machinery that will not be
8 under the exclusive control of the contractor is liable for
9 the sales or use tax on the gross proceeds from the contract
10 to the same extent as the lessor of tangible personal
11 property.

12 (4) Tangible personal property incorporated in real
13 property construction that loses its identity as tangible
14 personal property is considered to be tangible personal
15 property used or consumed within the meaning of this
16 section.

17 (5) Nothing in this section affects the resale
18 exclusion provided for in [sections 1 through 44], and
19 nothing contained in this section imposes any sales or use
20 tax with respect to the use, in the performance of contracts
21 with the United States or this state and its political
22 subdivisions, of tangible personal property owned by a
23 governmental body that actually is not used or consumed in
24 the performance thereof.

25 NEW SECTION. Section 15. Certificates of registration

1 -- revocation. (1) Every person desiring to engage in or
2 conduct business as a dealer in this state shall file with
3 the department an application for a certificate of
4 registration for each place of business in this state.

5 (2) Every application for a certificate of
6 registration must be made upon a form prescribed by the
7 department and shall set forth the name under which the
8 applicant transacts or intends to transact business, the
9 location of his place or places of business, and such other
10 information as the department requires. The application must
11 be signed by the owner if a natural person; in the case of
12 an association or partnership, by a member or partner; in
13 the case of a corporation, by an executive officer or some
14 person specifically authorized by the corporation to sign
15 the application.

16 (3) When the required application has been made, the
17 department shall issue to each applicant a separate
18 certificate of registration for each place of business
19 within this state. A certificate of registration is not
20 assignable and is valid only for the person in whose name it
21 is issued and for the transaction of business at the place
22 designated therein. It must be at all times conspicuously
23 displayed at the place for which issued.

24 (4) If any person fails to comply with any provision
25 of [sections 1 through 44] or any rule of the department

1 relating thereto, the department, upon hearing, after giving
 2 such person 10 days' notice in writing, specifying the time
 3 and place of hearing and requiring him to show cause why his
 4 certificate of registration should not be revoked or
 5 suspended, may revoke or suspend any one or more of the
 6 certificates of registration held by such person. The notice
 7 may be personally served or served by certified mail
 8 directed to the last-known address of the person. A dealer
 9 whose certificate of registration has been previously
 10 suspended or revoked shall pay the department a fee of \$200
 11 for the renewal or reissuance of a certificate of
 12 registration.

13 (5) Any person who engages in business as a dealer in
 14 this state without obtaining a certificate of registration
 15 or after a certificate of registration has been suspended or
 16 revoked and each officer of any corporation that so engages
 17 in business is guilty of a misdemeanor punishable as
 18 provided in 46-18-212. Each day's continuance in business in
 19 violation of this section is a separate offense.

20 (6) If the holder of a certificate of registration
 21 ceases to conduct his business at the place specified in his
 22 certificate, the certificate expires and the holder shall
 23 inform the department in writing within 30 days after he has
 24 ceased to conduct the business at that place. If the holder
 25 of a certificate of registration desires to change his place

1 of business to another place in this state, he shall inform
 2 the department in writing and his certificate shall be
 3 revised accordingly.

4 (7) This section applies to any person who engages in
 5 the business of furnishing any of the things or services
 6 taxable under [sections 1 through 44]. This section applies
 7 to any person who is liable only for the collection of the
 8 use tax, but that person may be issued a certificate of
 9 registration in relevant form.

10 NEW SECTION. Section 16. Exemption certificates. (1)
 11 All sales or leases are subject to the tax until the
 12 contrary is established. The burden of proving that a sale,
 13 distribution, lease, or storage of tangible personal
 14 property is not taxable is upon the person who makes the
 15 sale, distribution, lease, or storage unless he receives
 16 from the purchaser or lessee a certificate to the effect
 17 that the property is exempt under [sections 1 through 44].

18 (2) The certificate mentioned in this section relieves
 19 the person who receives the certificate from any liability
 20 for the payment or collection of the tax, except upon notice
 21 from the department that the certificate is no longer
 22 acceptable. The certificate must be signed by and bear the
 23 name and address of the purchaser or lessee; indicate the
 24 number of the certificate of registration, if any, issued to
 25 the purchaser or lessee; indicate the general character of

1 the taxable service rendered or tangible personal property
2 sold, distributed, leased, or stored or to be sold,
3 distributed, leased, or stored under a blanket exemption
4 certificate; and be substantially in such form as the
5 department prescribes.

6 (3) If a purchaser or lessee who gives a certificate
7 under this section makes any use of the property other than
8 an exempt use or retention, demonstration, or display while
9 holding property for resale, distribution, or lease in the
10 regular course of business, the use is considered a taxable
11 sale by the purchaser or lessee as of the time the property
12 or service is first used by him and the cost of the property
13 to him is considered the sales price of the retail sale. If
14 the sole use of the property other than retention,
15 demonstration, or display in the regular course of business
16 is the rental of the property while holding it for sale,
17 distribution, or lease, the purchaser shall pay the tax on
18 the cost of the property to him and when the property is
19 sold shall collect and pay the tax on the difference between
20 the cost of the property to him and the retail sales price.

21 (4) If a purchaser gives a certificate under this
22 section with respect to the purchase of fungible goods and
23 thereafter commingles these goods with other fungible goods
24 not so purchased but of such similarity that the identity of
25 the constituent goods in the commingled mass cannot be

1 determined, sales or distribution from the mass of
2 commingled goods is considered to be sales or distributions
3 of the goods so purchased until a quantity of commingled
4 goods equal to the quantity of purchased goods so commingled
5 has been sold or distributed.

6 ~~NEW SECTION.~~ Section 17. Collection. (1) The tax
7 levied by [sections 1 through 44] must be paid by the
8 dealer, but the dealer shall separately state the amount of
9 the tax and add the tax to the sales price or charge; and
10 thereafter, the tax is a debt from the purchaser, consumer,
11 or lessee to the dealer until paid and is recoverable at law
12 in the same manner as other debts, but no action at law or
13 suit in equity under [sections 1 through 44] may be
14 maintained in this state by any dealer who is not registered
15 under [sections 1 through 44] or is delinquent in the
16 payment of the taxes imposed under [sections 1 through 44].

17 (2) To eliminate separate statement of the amount of
18 tax in fractions of 1 cent, dealers shall add to the sales
19 price or charge and collect from the purchaser, consumer, or
20 lessee such amounts as may be prescribed by the department
21 to carry out the purposes of this section.

22 (3) Notwithstanding any exemption from taxes that any
23 dealer enjoys under the constitution or laws of this or any
24 other state or of the United States, the dealer shall
25 collect the tax from the purchaser, consumer, or lessee and

1 shall pay it over to the department as provided in [sections
2 1 through 44].

3 (4) Any dealer who neglects, fails, or refuses to
4 collect the tax upon each and every taxable sale,
5 distribution, lease, or storage of tangible personal
6 property made by him, his agents, or employees is liable for
7 and must pay the tax himself, and the dealer may not
8 thereafter be entitled to sue for or recover in this state
9 any part of the purchase price or rental from the purchaser
10 until the tax is paid. Any dealer who neglects, fails, or
11 refuses to pay or collect the tax provided in [sections 1
12 through 44], either by himself or through his agents or
13 employees, is guilty of a misdemeanor and is punishable as
14 provided in 46-18-212.

15 NEW SECTION. Section 18. Absorption of tax
16 prohibited. No person may advertise or hold out to the
17 public in any manner, directly or indirectly, that he will
18 absorb all or any part of the sales or use tax or that he
19 will relieve the purchaser, consumer, or lessee of the
20 payment of all or any part of the tax, except as authorized
21 under [section 33]. Any person who violates this section is
22 guilty of a misdemeanor and is punishable as provided in
23 46-18-212.

24 NEW SECTION. Section 19. Returns by dealers. (1)
25 Every dealer required to collect or pay the sales or use tax

1 shall, on or before the 28th day of each month, transmit to
2 the department, upon a form prescribed, prepared, and
3 furnished by it, a return showing the gross sales, gross
4 proceeds, or cost price, as the case may be, arising from
5 all transactions taxable under [sections 1 through 44]
6 during the preceding calendar month. The return shall also
7 contain a statement showing the amount in each class of
8 exclusions and exemptions that is not subject to the tax
9 imposed by [sections 1 through 44] or, if the form so
10 provides, the total amount thereof without specifying each
11 class. In the case of dealers regularly keeping books and
12 accounts on the basis of an annual period that varies from
13 52 to 53 weeks, the department may make rules for reporting
14 consistent with the accounting period.

15 (2) If the tax for which any dealer is liable under
16 [sections 1 through 44] does not exceed \$50 in any month or
17 \$500 in any annual reporting period, the department may
18 permit a dealer, upon written application, to file an annual
19 return and pay the amount of tax due on the last day of the
20 month following the end of the annual period.

21 (3) If the tax for which any dealer is liable under
22 [sections 1 through 44] does not exceed \$100 in any month or
23 \$1,000 in any annual reporting period, the department may
24 permit a dealer, upon written application, to file a
25 quarterly return and pay the amount of tax due on the last

1 day of the month following the end of the quarterly period.
 2 NEW SECTION. Section 20. Payment to accompany
 3 dealer's return -- dealer discount. At the time of
 4 transmitting to the department the return required under
 5 [section 19], the dealer shall remit to the department the
 6 amount of tax due under the applicable provisions of
 7 [sections 1 through 44], after making appropriate
 8 adjustments for purchases returned, repossessions, accounts
 9 uncollectible and charged off as provided in [sections 21
 10 through 23] and after subtracting 0.5% for defrayment of his
 11 collection and administrative expenses. The tax imposed by
 12 [sections 1 through 44] for each month becomes delinquent on
 13 the day following the 28th day of the succeeding month if
 14 not paid before that day.

15 NEW SECTION. Section 21. Returned purchases. If
 16 purchases are returned to the dealer by the purchaser or
 17 consumer after the tax imposed by [sections 1 through 44]
 18 has been collected or charged to the account of the
 19 purchaser, the dealer is entitled to reimbursement of the
 20 amount of tax collected or charged by him, in the manner
 21 prescribed by the department, but the amount of tax so
 22 reimbursed to the dealer may not include the tax paid upon
 23 any cash retained by the dealer after the return of
 24 merchandise. If the tax has not been remitted by the dealer,
 25 the dealer may deduct it in submitting his return. The

1 dealer must be issued a refund by the department equal to
 2 the net amount remitted by the dealer for the tax collected
 3 if the dealer can establish that the tax was not due.

4 NEW SECTION. Section 22. Repossessions. A dealer who
 5 has paid the tax on tangible personal property sold under a
 6 retained title, conditional sale, or similar contract may
 7 take credit for the tax paid by him upon the unpaid balance
 8 due him when he repossesses the property, the credit to be
 9 administered by the department in the same manner as
 10 provided for returned purchases under [section 21]. If
 11 repossessed property is resold, the sale is subject in all
 12 respects to [sections 1 through 44].

13 NEW SECTION. Section 23. Bad debts. In any return
 14 filed under the provisions of [sections 1 through 44], the
 15 dealer, under rules adopted by the department, may credit
 16 against the tax shown to be due on the return the amount of
 17 sales or use tax previously returned and paid on accounts
 18 that during the period covered by the current return have
 19 been found to be worthless and actually charged off for
 20 income tax purposes; except that if any accounts so charged
 21 off are thereafter in whole or in part paid to the dealer,
 22 the amount paid shall be included in the first return filed
 23 after the collection and the tax paid accordingly.

24 NEW SECTION. Section 24. Extensions. The department
 25 may grant an extension upon written application therefor to

the end of the calendar month in which any tax return is due under [sections 1 through 44] or for a period not exceeding 30 days, and no interest or penalty may be charged, assessed, or collected by reason of the granting of the extension, except that when an extension is granted beyond the end of the calendar month in which any tax return is due, interest on the tax at the rate of 0.5% a month or fraction thereof must be charged.

NEW SECTION. Section 25. Assessment based on estimate by department. (1) If any dealer fails to make a return as provided by [sections 1 through 44], makes a grossly incorrect return, or makes a return that is false or fraudulent, the department shall make an estimate for the taxable period of the retail sales or distributions of the dealer, the gross proceeds from leases of tangible personal property, the taxable services by the dealer, or the cost price of all articles of tangible personal property imported by the dealer for use or consumption in the state or storage by the dealer of tangible personal property to be used or consumed in the state and shall assess the tax, plus penalties. The department shall give the dealer 10 days' notice in writing requiring the dealer to appear before a designee of the department with such books, records, and papers as the department requires relating to the business of the dealer for the taxable period. The department may

require the dealer or the agents and employees of the dealer to give testimony or to answer interrogatories under oath administered by the department's designee respecting the sale, distribution, lease, use, consumption, or storage of tangible personal property or taxable services or the failure to make a return thereof as provided in [sections 1 through 44]. If any dealer fails to make any return or refuses to permit an examination of his books, records, or papers or to appear and answer questions within the scope of an investigation relating to the sale, distribution, lease, use, consumption, or storage of tangible personal property or taxable services, the department may make the assessment based upon information available to it and issue a warrant for the collection of the taxes and penalties found to be due. The assessment must be considered prima facie correct.

(2) If the dealer has imported the tangible personal property and fails to produce an invoice showing the sales price of the articles or the invoice does not reflect the true or actual sales price as defined in [sections 1 through 44], the department shall ascertain, in any manner feasible, the true sales price and shall assess and collect the tax, with penalties to the extent they have accrued, on the true sales price as ascertained by it. The assessment must be considered prima facie correct.

(3) In the case of the lease of tangible personal

1 property, if the consideration given or reported by the
2 dealer, in the judgment of the department, does not
3 represent the true or actual consideration, the department
4 may fix and assess and collect the tax thereon as provided
5 in this section, with penalties as have accrued. The
6 assessment must be considered prima facie correct.

7 NEW SECTION. Section 26. Records. (1) Every dealer
8 required to make a return and pay or collect any tax under
9 [sections 1 through 44] shall keep and preserve suitable
10 records of the sales or leases, as the case may be, taxable
11 under [sections 1 through 44] and other books of account as
12 necessary to determine the amount of tax due and other
13 pertinent information required by the department. Every
14 dealer shall keep and preserve for a period of 4 years all
15 invoices and other records of goods, wares, and merchandise
16 or other subjects of taxation under [sections 1 through 44],
17 and all the books, invoices, and other records must be open
18 to examination at all reasonable hours by the department or
19 any of its duly authorized agents.

20 (2) In order to aid in the administration and
21 enforcement of the provisions of [sections 1 through 44],
22 all wholesalers and jobbers in this state shall keep a
23 record of all sales of tangible personal property, whether
24 the sales be for cash or on terms of credit. The records
25 required to be kept by all wholesalers and jobbers must

1 include the name and address of the purchaser, the number of
2 the certificate of registration issued to the purchaser, the
3 date of the purchase, the article purchased, and the price
4 at which the article is sold to the purchaser. These records
5 must be kept for a period of 4 years and must be open to the
6 inspection of the department or its authorized agents at all
7 reasonable hours. The failure of any wholesaler or jobber in
8 this state to keep the records or the failure of any
9 wholesaler or jobber in this state to permit an inspection
10 of the records by the department, as provided in this
11 subsection, is a misdemeanor punishable as provided in
12 46-18-212. Moreover, if any person who is both a retailer
13 and a wholesaler or jobber fails to keep proper records
14 showing wholesale sales and retail sales separately, he
15 shall pay the tax as a retailer on both classes of his
16 business.

17 (3) For the purpose of enforcing the collection of the
18 tax levied by [sections 1 through 44], the department,
19 through its authorized agents, may examine during business
20 hours the books, records, and other documents of all
21 transportation companies, agencies, firms, or persons that
22 conduct their business by truck, rail, water, airplane, or
23 otherwise, in order to determine the dealers that are
24 importing or otherwise shipping articles of tangible
25 personal property that are liable for the tax. If the

1 transportation company, agency, firm, or person refuses to
 2 permit an examination of its or his books, records, and
 3 other documents by the department, it or he is guilty of a
 4 misdemeanor punishable as provided in 46-18-212. Moreover,
 5 the department may proceed by citing the transportation
 6 company, agency, firm, or person to show cause before any
 7 court of record why the books, records, and other documents
 8 should not be examined pursuant to the injunction of the
 9 court and why a bond should not be required, with proper
 10 security in the penalty of not more than \$2,000, conditioned
 11 upon compliance with the provisions of this section for a
 12 period of not more than 1 year.

13 NEW SECTION. Section 27. Sale of business. If any
 14 dealer liable for any tax, penalty, or interest levied under
 15 [sections 1 through 44] sells his business or stock of goods
 16 or quits the business, he shall make a final return and
 17 payment within 15 days after the date of selling or quitting
 18 the business. The return must include any sales made at
 19 retail during liquidation. His successors or assigns, if
 20 any, shall withhold a sufficient amount of the purchase
 21 money to cover the amount of taxes, penalties, and interest
 22 due and unpaid until the former owner produces a receipt
 23 from the department showing that they have been paid or a
 24 certificate stating that no taxes, penalties, or interest
 25 are due. If the purchaser of a business or stock of goods

1 fails to withhold the purchase money as provided in this
 2 section, he shall be personally liable for the payment of
 3 the taxes, penalties, and interest due and unpaid on account
 4 of the operation of the business by any former owner.
 5 Nothing in this section affects the exemption as to such a
 6 sale as is covered by [section 8].

7 NEW SECTION. Section 28. Bond. The department, if
 8 necessary and advisable in order to secure the collection of
 9 the tax levied by [sections 1 through 44], may require any
 10 person subject to the tax to file a bond of a surety company
 11 authorized to do business in this state as surety, in such
 12 reasonable amount as the department fixes, to secure the
 13 payment of any tax, penalty, or interest due or that may
 14 become due from the person. In lieu of a bond, securities
 15 approved by the department may be deposited with the state
 16 treasurer, which securities must be kept in the custody of
 17 the state treasurer and must be sold by him at the request
 18 of the department at public or private sale, without notice
 19 to the depositor thereof, if necessary, in order to recover
 20 any tax, penalty, or interest due the state under [sections
 21 1 through 44]. Upon the sale, the surplus, if any, above the
 22 amount due under [sections 1 through 44] must be returned to
 23 the person who deposited the securities.

24 NEW SECTION. Section 29. Jeopardy assessment. If the
 25 department considers that the collection of any tax or any

1 amount of tax required to be collected and paid under
 2 [sections 1 through 44] may be jeopardized by delay; it
 3 shall make an assessment of the tax or amount of tax
 4 required to be collected and shall mail or issue a notice of
 5 the assessment to the taxpayer, together with a demand for
 6 immediate payment of the tax or of the deficiency in tax
 7 declared to be in jeopardy, including penalties. In the case
 8 of a tax for a current period, the department may declare
 9 the taxable period of the taxpayer immediately terminated
 10 and, if it so declares, shall cause notice of the assessment
 11 and declaration to be mailed or issued to the taxpayer,
 12 together with a demand for immediate payment of the tax
 13 based on the period declared terminated, and the tax is
 14 immediately due and payable, whether or not the time
 15 otherwise allowed by law for filing a return and paying the
 16 tax has expired. Assessments provided for in this section
 17 become immediately due and payable; and if any tax, penalty,
 18 or interest is not paid upon demand of the department, it
 19 shall proceed to collect it by legal process or, in its
 20 discretion, it may require the taxpayer to file a bond
 21 sufficient to protect the interest of the state.

22 NEW SECTION. Section 30. Direct payment permits.
 23 (1) (a) Notwithstanding any other provision of [sections 1
 24 through 44], upon application to the department and the
 25 issuance by the department of a direct payment permit, the

1 department may authorize the following persons to pay any
 2 tax levied by [sections 1 through 44] directly to the state
 3 and waive the collection of the tax by the dealer:

4 (i) a manufacturer, mine operator, or public service
 5 corporation that is a user, consumer, distributor, or lessee
 6 to which sales, distributions, leases, or storage of
 7 tangible personal property are made under circumstances that
 8 normally make it impossible at the time thereof to determine
 9 the manner in which the property will be used by the person;
 10 or

11 (ii) any person who stores tangible personal property
 12 in this state for use both within and outside this state.

13 (b) If a direct payment permit is granted, payment of
 14 the tax on all sales, distributions, and leases, including
 15 sales, distributions, leases, and storage of tangible
 16 personal property and sales of taxable services for use
 17 known at the time thereof, must be made directly to the
 18 department by the permitholder.

19 (2) On or before the 28th day of each month, every
 20 permitholder shall make and file with the department a
 21 return for the preceding month, in the form prescribed by
 22 the department, showing the total value of the tangible
 23 personal property used, the amount of tax due from the
 24 permitholder (which amount shall be paid to the department
 25 with such return), and such other information as the

department considers necessary. The department, upon written request by the permit holder, may grant a reasonable extension of time for making and filing returns and paying the tax. Interest on the tax at the rate of 0.5% a month or fraction thereof must be charged on every extended payment.

(3) Each permit holder required to make a return and pay tax under this section shall keep and preserve suitable records of purchases, together with invoices of purchases, bills of lading, and other pertinent records and documents in the form the department requires by rule. All records and other documents must be open during business hours to the inspection of the department and must be preserved for a period of 4 years unless the department, in writing, authorizes their destruction or disposal at an earlier date.

(4) A permit granted pursuant to this section is valid until surrendered by the holder or canceled for cause by the department.

(5) A person who holds a direct payment permit that has not been canceled may not be required to pay the tax to the dealer. The person shall notify each dealer from whom purchases or leases of tangible personal property are made of his direct payment permit number and that the tax is being paid directly to the department. Upon receipt of the notice, the dealer is absolved from all duties and liabilities imposed by [sections 1 through 44] for the

collection and remittance of the tax with respect to sales, distributions, leases, or storage of tangible personal property to the permit holder. Dealers who make sales upon which the tax is not collected by reason of the provisions of this section shall maintain records in such manner that the amount involved and identity of each purchaser may be ascertained.

(6) Upon the cancellation or surrender of a direct payment permit, the provisions of [sections 1 through 44] thereafter apply to the person who previously held the permit, and the person shall promptly notify in writing dealers from whom purchases, leases, and storage of tangible personal property are made of the cancellation or surrender. Upon receipt of the notice, the dealer is subject to the provisions of [sections 1 through 44] with respect to all sales, distributions, leases, or storage of tangible personal property thereafter made to the person who held the permit.

NEW SECTION. Section 31. Vending machine sales. If a dealer makes sales of tangible personal property through vending machines or in any other manner making collection of the tax impractical, the department may authorize the dealer to prepay the tax and waive collection from the purchaser and may require the dealer to furnish bond sufficient to secure prepayment of the tax. The dealer must be required to

1 print upon the property sold or post on the vending machine
2 a statement to the effect that the tax has been paid in
3 advance. Prepayment and waiver of collection under this
4 section are allowed only if the dealer makes application to
5 the department and the department finds that the collection
6 of the tax in the manner otherwise provided in [sections 1
7 through 44] is impractical.

8 **NEW_SECTION.** Section 32. Tax warrants. If any tax
9 becomes delinquent under [sections 1 through 44], the
10 department may issue a warrant for the collection of the
11 tax, penalty, and interest from the delinquent taxpayer.

12 **NEW_SECTION.** Section 33. Erroneous assessments. Upon
13 any claim of an erroneous or illegal assessment or
14 collection, the taxpayer has a remedy under Title 15,
15 chapter 2, part 3, which is applicable to all sales and use
16 taxes imposed under [sections 1 through 44].

17 **NEW_SECTION.** Section 34. Period of limitations. The
18 taxes imposed by [sections 1 through 44] must be assessed
19 within 3 years from December 31 of the year in which the
20 taxes became due and payable; but in the case of a false or
21 fraudulent return with intent to evade payment of the taxes
22 imposed by [sections 1 through 44] or a failure to file a
23 return, the taxes may be assessed or a proceeding in court
24 for the collection of the taxes may be begun without
25 assessment at any time within 6 years from December 31 of

1 the year in which the taxes became due and payable.

2 **NEW_SECTION.** Section 35. Administration. The
3 department shall administer and enforce the assessment and
4 collection of the taxes and penalties imposed by [sections 1
5 through 44]. It shall design, prepare, print, and furnish to
6 all dealers or make available to them all necessary forms
7 for filing returns, together with instructions to assure a
8 full collection from dealers and an accounting for the taxes
9 due; but failure of any dealer to receive or procure forms
10 or instructions, or both, does not relieve him from the
11 payment of the tax at the time and in the manner provided in
12 [sections 1 through 44].

13 **NEW_SECTION.** Section 36. Rules — deduction guides.
14 The department may adopt rules consistent with [sections 1
15 through 44] for the enforcement of the provisions of
16 [sections 1 through 44] and the collection of the revenue
17 under [sections 1 through 44].

18 **NEW_SECTION.** Section 37. Protection of information.
19 Except in accordance with a proper judicial order or as
20 provided by law, it is unlawful for any agent, auditor, or
21 other officer or employee of the department to divulge or
22 make known in any manner the amount of sales, the amount of
23 tax paid, or any other particulars set forth or disclosed in
24 any return required by [sections 1 through 44]. Nothing in
25 [sections 1 through 44] prohibits the publication of

statistics if classified so as to prevent the identity of particular reports or returns and the items thereof or the inspection by the legal representative of this state of the report or return of any taxpayer who applies for a review or appeal from any determination or against whom an action or proceeding is about to be instituted or has been instituted to recover any tax or penalty imposed by [sections 1 through 44].

NEW SECTION. Section 38. Exchange of information with other tax officials. The department may furnish to the tax officials of any other state and its political subdivisions, the political subdivisions of this state, the District of Columbia, and the United States and its territories any information contained in tax returns, reports, and related schedules and documents filed pursuant to [sections 1 through 44] or in the report of an audit or investigation made with respect thereto, if those jurisdictions grant similar privileges to this state and the information is to be used only for tax purposes.

NEW SECTION. Section 39. Sales and use tax account -- creation -- sales tax refund account -- appropriation. (1) There is within the earmarked revenue fund a sales and use tax account.

(2) All money collected under [sections 1 through 44] must be paid by the department into the sales and use tax

account.

(3) A portion of the amount deposited in the sales and use tax account, not exceeding \$750,000 in any fiscal year, must be retained and is hereby appropriated as a sales and use tax administration and enforcement account for the purposes of administration and enforcement of [sections 1 through 44]. There must be retained in the sales and use tax account such amounts as are necessary for the purpose of repaying overpayments made under [sections 1 through 44], paying any other erroneous receipts illegally assessed or collected or which are excessive in amount, and paying the refunds otherwise provided in [sections 1 through 44]; and there is hereby appropriated from this account so much as may be necessary for the payment of these refunds and credits.

NEW SECTION. Section 40. Civil penalties. If a dealer fails to make any return and pay the full amount of the tax required by [sections 1 through 44], there must be imposed, in addition to other penalties provided in [sections 1 through 44], a civil penalty to be added to the tax in the amount of \$10 plus 10% of the tax due if the failure is for not more than 30 days, with an additional 5% for each additional 30 days or fraction thereof during which the failure continues, not to exceed 25% in the aggregate. However, if the failure is due to providential cause shown

to the satisfaction of the department, the return with remittance may be accepted exclusive of penalties. In the case of a false or fraudulent return with the purpose to defraud the state of any tax due under [sections 1 through 44], a civil penalty of 50% of the amount of the proper tax must be assessed. All penalties and interest imposed by [sections 1 through 44] are payable by the dealer and collectible by the department as if they were a part of the tax imposed.

NEW SECTION. Section 41. Violation of act by dealer a misdemeanor. Any dealer subject to the provisions of [sections 1 through 44] who fails or refuses to furnish any return required to be made under [sections 1 through 44] or a supplemental return or other data required by the department, who makes a false or fraudulent return with the purpose to evade a tax levied under [sections 1 through 44], who makes a false or fraudulent claim for refund, who gives or knowingly receives a false or fraudulent exemption certificate, or who violates any other provision of [sections 1 through 44], punishment for which is not otherwise provided in [sections 1 through 44], is guilty of a misdemeanor and is punishable as provided in 46-18-212.

NEW SECTION. Section 42. Sales tax rate and allocation to be changed only by referendum. The tax rate imposed by [sections 6 and 7] and the allocations

established in [section 43] may not be altered by the legislature except by submission at a general election to the electorate of the state of Montana of the question of whether to change the tax rate or the allocation percentages.

NEW SECTION. Section 43. Disposition of sales and use taxes. Sales and use taxes remaining after allocation to the sales and use tax administration and enforcement account in [section 39] are allocated as follows:

(1) the total amount of property taxes to be replaced in all counties and at the state level as computed in accordance with [section 44];

(2) \$2,500,000 to the trust fund created in [section 45];

(3) \$2,500,000 to the earmarked revenue fund to the credit of the travel and tourism promotion account created in [section 46]; and

(4) the remaining balance allocated according to the most recent United States census as follows:

(a) one-half to incorporated cities and towns allocated according to the proportion of each city or town population to the total incorporated city and town population of the state; and

(b) one-half to counties allocated according to the proportion of each county's population to the total state

1 population.

2 **NEW SECTION.** Section 44. Sales tax distribution
3 formulas for state and local government. (1) Each county
4 treasurer shall compute:

5 (a) the total amount received during the period from
6 January 1, 1984, through December 31, 1984, for property
7 taxes on all improvements and residential land and on
8 livestock, and agricultural tools, implements, and
9 machinery, minus 50% of the taxes collected during the
10 period on industrial improvements. This quantity is denoted
11 as "property taxes to be replaced".

12 (b) the state's pro rata share of the quantity
13 determined in subsection (1)(a) for livestock levies, the
14 school equalization aid program, and the 6-mill university
15 levy.

16 (2) The quantities determined in subsection (1) must
17 be certified to the department by April 1, 1985.

18 (3) On December 1, 1985, and thereafter on a calendar
19 quarter basis, the department shall transmit from the sales
20 and use tax account to the state treasurer and each county
21 treasurer a warrant in the amount of each taxing
22 jurisdiction's share of total property taxes to be replaced
23 as determined in this section.

24 (4) Upon receipt of the payment provided for in
25 subsection (3):

1 (a) the state treasurer shall credit the payment to
2 the appropriate state accounting entities for purposes of
3 livestock levies, school equalization aid, and university
4 funding, prorated respectively; and

5 (b) the county treasurer shall credit the payment to a
6 state sales tax suspense fund and, within 15 days, shall
7 distribute the payment in the same manner as other property
8 taxes are distributed to taxing jurisdictions within the
9 county. The county treasurer must insure that, in
10 distributing money from the sales tax suspense fund, urban
11 renewal districts using tax increment financing continue to
12 receive replacement revenue based upon the incremental
13 taxable value due the district under the provisions of Title
14 7, chapter 15, part 42.

15 **NEW SECTION.** Section 45. Creation, investment, and
16 use of account in trust and legacy fund for elderly and
17 disabled. (1) For the purpose of carrying out this section,
18 there is a new environments for the elderly and disabled
19 trust account in the trust and legacy fund. The account
20 shall be credited with all money received under the
21 provisions of [section 43].

22 (2) All money paid into the new environments for the
23 elderly and disabled trust account shall be invested at the
24 discretion of the board of investments. All the net earnings
25 accruing to the trust account shall annually be added

1 thereto until it has reached the sum of \$5 million.
 2 Thereafter, only the net earnings may be appropriated and
 3 expended until the account reaches \$100 million. Thereafter,
 4 all net earnings and all receipts shall be appropriated by
 5 the legislature and expended; however, the balance in the
 6 account may never be less than \$100 million.

7 (3) Any funds made available from the new environments
 8 for the elderly and disabled trust account must be used and
 9 expended to provide Montana citizens who are elderly,
 10 infirm, or disabled with clean, safe, and decent housing,
 11 either by providing low interest loans to construct such
 12 housing, by providing rental subsidies to such persons, or
 13 by providing interest rate subsidies to the elderly, infirm,
 14 or disabled so that they may buy their own homes.

15 NEW SECTION. Section 46. Travel and tourism promotion
 16 account. There is within the earmarked revenue fund a travel
 17 and tourism promotion account for use by the department of
 18 commerce. Money is payable into this account under [section
 19 43]. The state treasurer shall draw warrants from this
 20 account upon order of the department of commerce.

21 NEW SECTION. Section 47. Usage of travel and tourism
 22 promotion account funds -- restrictions. (1) The money in
 23 the travel and tourism promotion account must be used for
 24 direct advertisement and travel and tourism promotion
 25 activities.

1 (2) Money from the account may not be used for
 2 administrative operations or expenses of the department of
 3 commerce.

4 NEW SECTION. Section 48. Restriction on state uses of
 5 property tax. (1) The legislature declares that the property
 6 tax is a primarily local tax source and that its use by
 7 state government for the general operations of state
 8 government is inappropriate. Therefore, property taxes may
 9 not be levied for the support of the general operations of
 10 state government.

11 (2) However, this section does not limit the
 12 imposition of state property tax assessments on livestock
 13 under the provisions of Title 15, chapter 24, part 9.

14 NEW SECTION. Section 49. Future property tax mill
 15 levies limited -- income tax to be used if additional tax
 16 revenue necessary. (1) No property tax mill levy imposed by
 17 a taxing jurisdiction after December 31, 1984, may exceed
 18 the number of mills that were actually imposed by that
 19 jurisdiction on December 31, 1984. However, this mill levy
 20 limit does not include mill levies imposed for bonding
 21 purposes.

22 (2) Whenever the governing body of a local government
 23 unit with taxing authority, including any school district,
 24 determines that additional revenue is necessary beyond that
 25 which can be raised by property taxation, it may raise

1 additional tax revenue only by imposing the local income tax
2 provided for in [sections 50 through 55].

3 (3) For the purposes of local taxation, references in
4 the Montana Code Annotated to property tax mill levies are
5 considered to include the local income tax whenever
6 appropriate.

7 NEW SECTION. Section 50. Local income tax. Pursuant
8 to the provisions of [section 51], a local government unit
9 with taxing authority, including a school district, may
10 impose a local income tax on its residents for the purpose
11 of raising revenue beyond that which is allowed to be raised
12 by a mill levy upon taxable property.

13 NEW SECTION. Section 51. Election required to impose
14 local income tax. (1) A local government unit, including any
15 school district, may impose or repeal a tax authorized by
16 [section 50] only after approval by a simple majority of the
17 electors voting on the question who are residents of the
18 jurisdiction that is or will be subject to the tax.

19 (2) The ballot issue may be presented to the electors
20 of the local government by:

21 (a) a petition signed by 15% of the electors; or

22 (b) a resolution of the governing body.

23 (3) Upon the receipt of a petition or a resolution
24 requesting an election, the question on the local tax must
25 be placed on the ballot at the next regularly scheduled

1 election.

2 (4) The question must be presented in substantially
3 the following form:

4 ☐ FOR the local government income tax.

5 ☐ AGAINST the local government income tax.

6 (5) The question of imposition of a local tax may not
7 be placed before the electors more than one time in any
8 fiscal year.

9 NEW SECTION. Section 52. Rate of income tax. The rate
10 of the income tax must be determined by the electors when
11 voting on the question. The governing body of the local
12 government unit shall certify the rate of the tax to the
13 department of revenue on or before October 1.

14 NEW SECTION. Section 53. Suspension of income tax.
15 The governing body of a local government unit imposing an
16 income tax may suspend for any fiscal year the collection of
17 the income tax only after first giving at least 120 days'
18 notice of the suspension to the department of revenue. The
19 suspension is effective the first day of the next calendar
20 year. The suspension does not impair the authority of the
21 local government unit to impose the tax in subsequent years.

22 NEW SECTION. Section 54. Administration of income tax
23 -- role of department of revenue. (1) The local income tax
24 must be administered by the department of revenue under
25 rules adopted by the department. The rules for the

1 administration of the state income tax apply to the local
2 income tax except when, in the judgment of the department,
3 the rules would be inconsistent or not feasible for proper
4 administration.

5 (2) The department may make refunds to taxpayers
6 pursuant to [sections 50 through 55].

7 (3) Money collected pursuant to [sections 50 through
8 55] must be accounted for separately by taxing jurisdiction
9 and must be credited to a separate local income tax account
10 in the state treasury.

11 (4) The department may deduct from the money collected
12 an amount not exceeding 1% to cover necessary costs incurred
13 by the department in administrating the local income tax.

14 NEW SECTION. Section 55. Distribution of income tax
15 collection. (1) All money collected pursuant to [sections 50
16 through 55] must be distributed by the department of revenue
17 to the local government unit of origin in May and November
18 of each year after the following deductions are made:

- 19 (a) the amount for refunds;
- 20 (b) a reserve for expected or anticipated refunds; and
- 21 (c) the costs of administering the tax.

22 (2) The department shall provide the necessary revenue
23 information for the proper distribution of the revenues to
24 the county finance administrator.

25 NEW SECTION. Section 56. Residential renter tax

1 credit -- definitions. As used in [sections 56 through 63],
2 the following definitions apply:

3 (1) "Claim period" means the tax year for individuals
4 required to file Montana individual income tax returns and
5 the calendar year for individuals not required to file
6 returns.

7 (2) "Claimant" means an individual natural person who
8 is eligible to file a claim under [section 57].

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

10 (4) "Gross household income" means all income received
11 by all individuals of a household while they are members of
12 the household.

13 (5) "Homestead" means a single-family dwelling or unit
14 of a multiple-unit dwelling that is occupied as a dwelling
15 of a renter or lessee for at least 6 months of the claim
16 period and as much of the surrounding land, but not in
17 excess of 1 acre, as is reasonably necessary for its use as
18 a dwelling.

19 (6) "Household" means an association of persons who
20 live in the same dwelling, sharing its furnishings,
21 facilities, accommodations, and expenses. The term does not
22 include bona fide lessees, tenants, or roomers and boarders
23 on contract.

24 (7) "Income" means federal adjusted gross income,
25 without regard to loss, as that quantity is defined in the

1 Internal Revenue Code of 1954, as amended, plus all
 2 nontaxable income, including but not limited to:

- 3 (a) the gross amount of any pension or annuity
- 4 (including Railroad Retirement Act benefits and veterans'
- 5 disability benefits);
- 6 (b) the amount of capital gains excluded from adjusted
- 7 gross income;
- 8 (c) alimony;
- 9 (d) support money;
- 10 (e) nontaxable strike benefits;
- 11 (f) cash public assistance and relief;
- 12 (g) payments and interest on federal, state, county,
- 13 and municipal bonds; and
- 14 (h) all payments under federal social security.

15 **NEW SECTION.** Section 57. Residential renter tax
 16 credit -- eligibility. In order to be eligible to make a
 17 claim under [sections 56 through 63], an individual must
 18 have resided in Montana for at least 9 months of the claim
 19 period for which relief is sought and must have rented a
 20 homestead for at least the same period.

21 **NEW SECTION.** Section 58. Residential renter tax
 22 credit -- filing date. (1) Except as provided in subsection
 23 (2), a claim for relief must be submitted at the same time
 24 the claimant's individual income tax return is due. For an
 25 individual not required to file a tax return, the claim must

1 be submitted on or before April 15 of the year following the
 2 year for which relief is sought.

3 (2) The department may grant a reasonable extension
 4 for filing a claim whenever in its judgment good cause
 5 exists. The department shall keep a record of each extension
 6 and the reason for granting the extension.

7 (3) In the event that an individual who would have a
 8 claim under [sections 56 through 63] dies before filing the
 9 claim, the personal representative of the estate of the
 10 decedent may file the claim.

11 **NEW SECTION.** Section 59. Residential renter tax
 12 credit -- form of relief. Relief under [sections 56 through
 13 63] is a credit against the claimant's Montana individual
 14 income tax liability for the claim period. If the amount of
 15 the credit exceeds the claimant's liability under this
 16 chapter, the amount of the excess shall be refunded to the
 17 claimant. The credit may be claimed even though the claimant
 18 has no income taxable under this chapter.

19 **NEW SECTION.** Section 60. Residential renter tax
 20 credit -- computation of relief. (1) The amount of the tax
 21 credit granted under the provisions of [sections 56 through
 22 63] is the amount of household income times the factor
 23 specified in subsection (2).

24 (2) Factors used to compute the credit are:

25 Household income	Factor
---------------------	--------

1	\$ 0 - 5,000	.075
2	5,001 - 10,000	.025
3	10,001 - 15,000	.0083
4	over \$15,000	.003

5 (3) In no case may the credit granted exceed \$500.

6 **NEW SECTION.** Section 61. Residential renter tax
7 credit -- limitations. (1) Only one claimant per household
8 is entitled to relief under the provisions of [sections 56
9 through 63] in a claim period.

10 (2) No claim for relief may be allowed if the
11 homestead of a renter is part of a public rent or tax
12 subsidy program or if the homestead was not subject to ad
13 valorem taxation in Montana prior to [the effective date of
14 this act].

15 **NEW SECTION.** Section 62. Residential renter tax
16 credit -- proof of claim. Each claimant must, at the request
17 of the department, supply all information necessary to
18 support his claim.

19 **NEW SECTION.** Section 63. Residential renter tax
20 credit -- denial of claim. A person filing a false or
21 fraudulent claim under the provisions of [sections 56
22 through 63] must be charged with the offense of unsworn
23 falsification to authorities pursuant to 45-7-203. If a
24 false or fraudulent claim has been paid, the amount paid may
25 be recovered as any other debt owed to the state. An

1 additional 10% may be added to the amount due as a penalty.
2 The unpaid debt shall bear interest from the date of the
3 original payment of claim until paid, at the rate of 1% a
4 month.

5 Section 64. Section 15-1-101, MCA, is amended to read:
6 "15-1-101. Definitions. (1) When terms mentioned in
7 this section are used in connection with taxation, they are
8 defined in the following manner:

9 (a) The term "agricultural" refers to the raising of
10 livestock, swine, poultry, field crops, fruit, and other
11 animal and vegetable matter for food or fiber.

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

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

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

20 (e) The term "improvements" includes all buildings,
21 structures, fixtures, fences, and improvements situated
22 upon, erected upon, or affixed to land. When the department
23 of revenue or its agent determines that the permanency of
24 location of a mobile home or house trailer has been
25 established, the mobile home or house trailer is presumed to

~~be--or--improvement-to-real-property--if-the-mobile-home-or
housetrailer-is-an-improvement-located-on-land-not-owned--by
the-owner--of-such-improvement--the-improvement-is-assessed
as-a-leasehold-improvement-to-real-property--and--delinquent
taxes-can-be-a-tien-only-on-the-leasehold-improvements~~

(f) "Industrial property" means any industrial plants
including lands, buildings, machinery, and fixtures, used by
an industry. Industrial property does not include property
used by retail or wholesale merchants, commercial services
of any type, agriculture, trades, or professions.

(g) "Industry" means any person, corporation, firm,
partnership, association, or other group that:

(i) manufactures, mills, mines, produces, processes,
or fabricates materials;

(ii) does 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) engages 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.

(h) The term "mobile home" means forms of housing

known as "trailers", "housetrailers", or "trailer coaches",
exceeding 8 feet in width or 32 feet in length, designed to
be moved from one place to another by an independent power
connected to them.

(i) 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".

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

(k) 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.

(l) 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 15-23-801;
all timber belonging to individuals or corporations growing
or being on the lands of the United States; and all rights

and privileges appertaining thereto.

~~{k}{l}~~ 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."

Section 65. 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; and

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

~~{c}--all trailers--and--mobile-homes-used-as-permanent dwellings-except;~~

~~{i}--those-held-by-a-distributor-or-dealer-of--trailers or-mobile-homes-as-his-stock-in-trade;and~~

~~{ii}--those-specifically-included-in-another-class;~~

~~{d}--the-first--\$35,000-or-less-of-the-market-value-of any-improvement-on-real-property-or-a-trailer-or-mobile-home used-as-a-permanent-dwelling-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;~~

~~{i}--a--widow--or--widower--62-years-of-age-or-older-who qualifies-under-the-income-limitations-of--{iii}--of--this subsection;~~

~~{ii}--a--widow--or--widower--of--any--age-with-dependent children-who-qualifies-under-the-income-limitations-of--{iii}--of--this-subsection;or~~

~~{iii}--a--recipient--or--recipients--of--retirement--or disability--benefits--whose--total--income--from--all--sources including--otherwise-tax-exempt-income-of--all--types--is--not more--than--\$8,000--for--a--single--person--or--\$10,000--for--a married-couple.~~

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property properly described in subsections subsection (1)(a) through {i}{e} is taxed at 8.55% of its market value.

(b) Property described in subsection {i}{d} 11(b) is taxed at 8.55% ~~4.275%~~ of its market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single-Person	Married-Couple	Multiplier
\$0-----\$17,000	\$0-----\$17,000	-0%
17,001-----27,000	17,001-----27,000	10%
27,001-----37,000	27,001-----37,000	20%
37,001-----47,000	37,001-----47,000	30%
47,001-----57,000	47,001-----57,000	40%
57,001-----67,000	57,001-----67,000	50%
67,001-----77,000	67,001-----77,000	60%
77,001-----87,000	77,001-----87,000	70%
87,001-----97,000	87,001-----97,000	80%
97,001-----107,000	97,001-----107,000	90%

Section 66. 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;

(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 taxable real property used

primarily in the production of gasoline 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

1 new industrial endeavor, as distinguished from a mere
2 expansion, reorganization, or merger of an existing
3 industry.

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

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

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

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

17 (5) New industrial property does not include:

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

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

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

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

3 Section 67. Section 15-6-138, MCA, is amended to read:

4 "15-6-138. Class eight property -- description --
5 taxable percentage. (1) Class eight property includes:

6 ~~(a) all agriculture implements and equipment;~~

7 ~~(b)(1) all mining machinery, fixtures, equipment,~~
8 ~~tools, and supplies except:~~

9 (i) those included in class five; and

10 (ii) coal and ore haulers;

11 ~~(c)(1) all manufacturing machinery, fixtures,~~
12 ~~equipment, tools, and supplies except those included in~~
13 ~~class five;~~

14 ~~(d)(1) motorcycles;~~

15 ~~(e)(1) watercraft;~~

16 ~~(f)(1) light utility and boat trailers;~~

17 ~~(g)(1) aircraft;~~

18 ~~(h)(1) all-terrain vehicles;~~

19 ~~(i)(1) harness, saddlery, and other tack equipment;~~

20 and

21 ~~(j)(1) all other machinery except that specifically~~
22 ~~included in another class.~~

23 (2) Class eight property is taxed at 11% of its market
24 value."

25 Section 68. Section 15-6-201, MCA, is amended to read:

1 "15-6-201. (Temporary) Exempt categories. (1) The
 2 following categories of property are exempt from taxation:
 3 (a) the property of:
 4 (i) the United States, the state, counties, cities,
 5 towns, school districts;
 6 (ii) irrigation districts organized under the laws of
 7 Montana and not operating for profit;
 8 (iii) municipal corporations; and
 9 (iv) public libraries;
 10 (b) ~~buildings improvements, with land they occupy, and~~
 11 ~~furnishings--thereby--owned-by-a-church-and-used-for-actual~~
 12 ~~religious-worship-or-for-residences-of-the-clergy--together~~
 13 ~~with-adjacent-land-reasonably-necessary-for-convenient-use~~
 14 ~~of-such-buildings except industrial improvements and the~~
 15 ~~land occupied by commercial or industrial improvements;~~
 16 (c) property used exclusively for agricultural and
 17 horticultural societies, for educational purposes, and for
 18 hospitals;
 19 (d) property that meets the following conditions:
 20 (i) is owned and held by any association or
 21 corporation organized under Title 35, chapter 2, 3, 20, or
 22 21;
 23 (ii) is devoted exclusively to use in connection with a
 24 cemetery or cemeteries for which a permanent care and
 25 improvement fund has been established as provided for in

1 Title 35, chapter 20, part 3; and
 2 (iii) is not maintained and operated for private or
 3 corporate profit;
 4 (e) institutions of purely public charity;
 5 (f) evidence of debt secured by mortgages of record
 6 upon real or personal property in the state of Montana;
 7 (g) public art galleries and public observatories not
 8 used or held for private or corporate profit;
 9 (h) all household goods and furniture, including but
 10 not limited to clocks, musical instruments, sewing machines,
 11 and wearing apparel of members of the family, used by the
 12 owner for personal and domestic purposes or for furnishing
 13 or equipping the family residence;
 14 (i) a truck canopy cover or topper weighing less than
 15 300 pounds and having no accommodations attached. Such
 16 property is also exempt from the fee in lieu of tax.
 17 (j) a bicycle, as defined in 61-1-123, used by the
 18 owner for personal transportation purposes; and
 19 (k) automobiles and trucks having a rated capacity of
 20 three-quarters of a ton or less.
 21 (2) (a) The term "institutions of purely public
 22 charity" includes organizations owning and operating
 23 facilities for the care of the retired or aged or
 24 chronically ill, which are not operated for gain or profit.
 25 (b) The terms "public art galleries" and "public

1 observatories" include only those art galleries and
2 observatories, whether of public or private ownership, that
3 are open to the public without charge at all reasonable
4 hours and are used for the purpose of education only.

5 (3) ~~The following portions \$100,000~~ of the appraised
6 value of a capital investment made after January 1, 1979, in
7 industrial property for a recognized nonfossil form of
8 energy generation, as defined in 15-32-102, ~~are is~~ exempt
9 from taxation for a period of 10 years following
10 installation of the property*.

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

13 ~~(b) --\$100,000 in the case of a multifamily residential~~
14 ~~dwelling or a nonresidential structure."~~

15 Section 69. Section 15-6-207, MCA, is amended to read:
16 "15-6-207. Agricultural exemptions. The following
17 agricultural products ~~items~~ are exempt from taxation:

18 (1) all unprocessed, perishable ~~fruits and vegetables~~
19 agricultural products on the farm or in farm storage and
20 owned by the producer;

21 (2) all nonperishable unprocessed agricultural
22 products, ~~except livestock~~ held in possession of the
23 original producer for less than 7 months following harvest;
24 and

25 (3) all livestock, defined as cattle, sheep, horses,

1 or mules, which have not attained the age of 9 months as of
2 the last day of any month if assessed on the average
3 inventory basis or on March 1 if assessed as provided in
4 15-24-911(1)(a) and swine which have not attained the age of
5 3 months as of January 1; and

6 (4) all agricultural tools, implements, and
7 machinery."

8 Section 70. Section 15-7-101, MCA, is amended to read:

9 "15-7-101. Classification and appraisal -- duties of
10 the department of revenue. (1) It is the duty of the
11 department of revenue to accomplish the following:

12 (a) the classification of all taxable lands;

13 (b) the appraisal of all taxable city and town lots;

14 and

15 (c) the appraisal of all taxable industrial
16 improvements rural and urban improvements.

17 (2) A record thereof must be kept upon such maps,
18 plats, and forms and entered in such books of record as may
19 be prescribed by the department. Such maps, plats, forms,
20 and books of record shall be official records of the state.
21 A certified copy of all such records as may be desired shall
22 be furnished to the department.

23 (3) It shall be the duty of the department to maintain
24 current the classification of all taxable lands and
25 appraisal of city and town lots and industrial rural and

urban improvements, as provided for herein."

Section 71. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) It shall be the duty of the department of revenue to cause to be mailed to each owner a notice of the classification of the taxable land owned by him and the appraisal of the industrial improvements thereon.

(2) If the owner of any taxable land and improvements is dissatisfied with the appraisal or classification of his land or improvements, he may submit his objection in writing to the department's agent. The department shall give reasonable notice to such taxpayer of the time and place of hearing and hear any testimony or other evidence which the taxpayer may desire to produce at such time and afford the opportunity to other interested persons to produce evidence at such hearing. Thereafter, the department shall determine the true and correct appraisal and classification of such land or improvements and forthwith notify the taxpayer of its determination. In the notification, the department must state its reasons for revising the classification or appraisal. When so determined, the land shall be classified and improvements appraised in the manner ordered by the department.

(3) Whether a hearing as provided in subsection (2) is

held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(4) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make such records available for inspection during regular office hours.

(5) If any property owner shall feel aggrieved at the classification and/or the appraisal so made by the department, he shall have the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings shall be final subject to the right of review in the proper court or courts."

Section 72. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

(a) for a general and uniform method of classifying

1 ~~taxable~~ lands in the state for the purpose of securing an
2 equitable and uniform basis of assessment of said lands for
3 taxation purposes;

4 (b) for a general and uniform method of appraising
5 ~~taxable~~ city and town lots;

6 (c) for a general and uniform method of appraising
7 ~~rural-and-urban industrial~~ improvements;

8 (d) for a general and uniform method of appraising
9 timberlands.

10 (2) All lands shall be classified according to their
11 use or uses and graded within each class according to soil
12 and productive capacity. In such classification work, use
13 shall be made of soil surveys and maps and all other
14 pertinent available information.

15 (3) All lands must be classified by 40-acre tracts or
16 fractional lots.

17 (4) All agricultural lands must be classified and
18 appraised as agricultural lands without regard to the best
19 and highest value use of adjacent or neighboring lands.

20 (5) In any periodic revaluation of taxable property
21 completed under the provisions of 15-7-111 after January 1,
22 1979, all property classified in [15-6-112] must be
23 appraised on its market value in the same year. The
24 department must publish a rule specifying the year used in
25 the appraisal."

1 Section 73. Section 15-7-104, MCA, is amended to read:

2 "15-7-104. Work done under prior law. Any and all work
3 performed or caused to be performed by the boards of county
4 commissioners of the various counties for the classification
5 of lands and appraisal of ~~taxable~~ city and town lots and
6 ~~rural-and-urban industrial~~ improvements under the provisions
7 of Chapter 198, Laws of 1955, is hereby declared to be valid
8 and of the same effect as if performed under the provisions
9 of present law."

10 Section 74. Section 15-7-106, MCA, is amended to read:

11 "15-7-106. Courses of instruction, examination, and
12 certification. (1) The department of revenue shall offer
13 courses in the principles, methods, and techniques of
14 appraising for property tax purposes property in ~~three~~ ~~two~~
15 fields:

16 ~~(a) residential property;~~

17 ~~(b) agricultural land; and~~

18 ~~(c) taxable commercial and industrial property.~~

19 (2) Twice each year the department shall conduct an
20 examination for those who have completed a course of
21 instruction in any of the ~~three~~ ~~two~~ fields listed in
22 subsection (1).

23 (3) The department shall issue a certificate to each
24 appraiser successfully completing a course of instruction
25 and passing an examination in ~~any either~~ of these fields.

(4) No person may take the examination for appraising commercial and industrial property unless he holds a certificate in appraising residential property."

Section 75. Section 15-7-107, MCA, is amended to read:

"15-7-107. Certification required. (1) Within 1 year after his employment by the department or by July 1, 1980, whichever occurs later, any appraiser employed by the department to appraise:

~~(a) residential property must obtain a certificate in appraising residential property;~~

~~(b)(a)~~ agricultural land must obtain a certificate in appraising agricultural land; and

~~(c)(b)~~ taxable commercial and industrial property must obtain a certificate in appraising commercial and industrial property.

(2) The department may promulgate rules requiring appraisers to complete continuing education courses in laws, rules, and methods relating to appraisal."

Section 76. Section 15-7-303, MCA, is amended to read:

"15-7-303. Definitions. As used in this part, the following definitions apply:

(1) "Partial interest" means a percentage interest in property when less than 100%.

(2) "Person" means and includes an individual, corporation, partnership, or other business organization,

trust, fiduciary, or agent or any other party presenting a document for recordation.

(3) "Real estate" includes:

(a) taxable land;

(b) growing timber; and

(c) industrial buildings, structures, fixtures, fences, and other improvements affixed-to-land.

(4) "Transfer" means an act of the parties or of the law by which the title to real property estate is conveyed from one person to another.

(5) "Value" means the amount of the full actual consideration therefor paid or to be paid, including the amount of any lien or liens thereon."

Section 77. Section 15-7-304, MCA, is amended to read:

"15-7-304. Report of transfers -- change of ownership records. (1) All transfers of real property estate which are not evidenced by a recorded document, except those transfers otherwise provided for in this part, shall be reported to the department of revenue or its agent on the form prescribed.

(2) No agent of the department may change or be required to change any ownership records used for the assessment or taxation of real property estate unless he has received a transfer certificate from the clerk and recorder or a transfer has been reported to him."

1 Section 78. Section 15-8-111, MCA, is amended to read:
 2 "15-8-111. Assessment -- market value standard --
 3 exceptions. (1) All taxable property must be assessed at
 4 100% of its market value except as provided in subsection
 5 (5) of this section and in 15-7-111 through 15-7-114.

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

10 (b) The market value of all motor trucks, ~~agriculture~~
 11 ~~tools, implements, and machinery~~ and vehicles of all kinds,
 12 including but not limited to motorcycles, aircraft, and
 13 boats and all watercraft, is the average wholesale value
 14 shown in national appraisal guides and manuals or the value
 15 of the vehicle before reconditioning and profit margin. The
 16 department of revenue shall prepare valuation schedules
 17 showing the average wholesale value when no national
 18 appraisal guide exists.

19 (3) The department of revenue or its agents may not
 20 adopt a lower or different standard of value from market
 21 value in making the official assessment and appraisal of the
 22 value of property in subsection (1)(a) of 15-6-131 and
 23 15-6-134 through 15-6-140. For purposes of taxation,
 24 assessed value is the same as appraised value.

25 (4) The taxable value for all property in subsection

1 (1)(a) of 15-6-131 and classes four through eleven is the
 2 percentage of market value established for each class of
 3 property in subsection (2)(a) of 15-6-131 and 15-6-134
 4 through 15-6-141.

5 (5) The assessed value of properties in subsection
 6 (1)(b) of 15-6-131, 15-6-132, and 15-6-133 is as follows:

7 (a) Properties in subsection (1)(b) of 15-6-131, under
 8 class one, are assessed at 100% of the annual net proceeds
 9 after deducting the expenses specified and allowed by
 10 15-23-503.

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

13 (c) Properties in 15-6-133, under class three, are
 14 assessed at 100% of the productive capacity of the lands
 15 when valued for agricultural purposes. All lands that meet
 16 the qualifications of 15-7-202 are valued as agricultural
 17 lands for tax purposes.

18 (6) Land and the industrial improvements thereon are
 19 separately assessed when any of the following conditions
 20 occur:

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

23 (b) the taxpayer makes a written request; or

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

25 (7) The taxable value of all property in subsection

(1)(b) of 15-6-131 and classes two and three is the percentage of assessed value established in 15-6-131(2)(b), 15-6-132, and 15-6-133 for each class of property."

Section 79. Section 15-8-112, MCA, is amended to read:

"15-8-112. Assessments to be made on classification and appraisal. (1) The assessments of all taxable lands, ~~city-and-town-lots~~, and ~~all~~ improvements must be made on the classification and appraisal as made or caused to be made by the department of revenue.

(2) The percentage basis of assessed value as provided for in chapter 6, part 1, is determined and assigned by the department when it makes its annual assessment of the property which it is required to assess centrally under the laws of this state. The department shall transmit such determination and assignment to its agents in the various counties with the assessments so made, and its determination is final except as to the right of review in the state tax appeal board or the proper court."

Section 80. Section 15-8-201, MCA, is amended to read:

"15-8-201. General assessment day. (1) The department of revenue or its agent must, between January 1 and the second Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county. The department or its agent must assess property to the person by whom it was owned or

claimed or in whose possession or control it was at midnight of January 1 next preceding. ~~it--must--also--ascertain--and--assess--all--mobile--homes--arriving--in--the--county--after--midnight--of--January--1--next--preceding.~~ No mistake in the name of the owner or supposed owner of real taxable property, however, renders the assessment invalid.

(2) The procedure provided by this section may not apply to:

(a) motor vehicles that are required by 15-8-202 to be assessed on January 1 or upon their anniversary registration date;

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

(c) motor homes and travel trailers subject to a fee in lieu of property tax; and

~~(d)--livestock;~~

~~(e)(d)~~ property defined in 61-1-104(2) as "special mobile equipment" that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate; and

~~(f)--mobile-homes-held-by-a-distributor--or--dealer--of--mobile-homes-as-a-part-of-his-stock-in-trade.~~

(3) Credits must be assessed as provided in 15-1-101(1)(c)."

Section 81. Section 15-8-301, MCA, is amended to read:

1 "15-8-301. Statement -- what to contain. (1) The
 2 department of revenue or its agent must require from each
 3 person a statement under oath setting forth specifically all
 4 the real and personal property owned by such person or in
 5 his possession or under his control at midnight on January
 6 1. Such statement must be in writing, showing separately:
 7 (a) all taxable property belonging to, claimed by, or
 8 in the possession or under the control or management of such
 9 person;
 10 (b) all taxable property belonging to, claimed by, or
 11 in the possession or under the control or management of any
 12 firm of which such person is a member;
 13 (c) all taxable property belonging to, claimed by, or
 14 in the possession or under the control or management of any
 15 corporation of which such person is president, secretary,
 16 cashier, or managing agent;
 17 (d) the county in which such property is situated or
 18 in which it is liable to taxation and (if liable to taxation
 19 in the county in which the statement is made) also the city,
 20 town, school district, road district, or other revenue
 21 districts in which it is situated;
 22 (e) an exact description of all taxable lands in
 23 parcels or subdivisions not exceeding 640 acres each and the
 24 sections and fractional sections of all tracts of land
 25 containing more than 640 acres which have been sectionized

1 by the United States government; taxable improvements and
 2 personal property, including all vessels, steamers, and
 3 other watercraft; all taxable state, county, city, or other
 4 municipal or public bonds and the taxable bonds of any
 5 person, firm, or corporation and deposits of money, gold
 6 dust, or other valuables and the names of the persons with
 7 whom such deposits are made and the places in which they may
 8 be found; all mortgages, deeds of trust, contracts, and
 9 other obligations by which a debt is secured and the
 10 property in the county affected thereby;
 11 (f) all solvent credits, secured or unsecured, due or
 12 owing to such person or any firm of which he is a member or
 13 due or owing to any corporation of which he is president,
 14 secretary, cashier, or managing agent;
 15 ~~(g) all depots, shops, stations, buildings, and other~~
 16 ~~structures erected on the space covered by the right-of-way~~
 17 ~~and all other property owned by any person owning or~~
 18 ~~operating any railroad within the county~~
 19 (2) Whenever one member of a firm or one of the proper
 20 officers of a corporation has made a statement showing the
 21 taxable property of the firm or corporation, another member
 22 of the firm or another officer need not include such
 23 property in the statement made by him but this statement
 24 must show the name of the person or officer who made the
 25 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 82. Section 15-8-307, MCA, is amended to read:

"15-8-307. Land assessment. (1) Land taxable land must be assessed in parcels or subdivisions not exceeding 640 acres, and tracts of land containing more than 640 acres which have been sectionized by the United States government must be assessed by sections or fractions of sections.

(2) The department of revenue or its agent must set aside one line in the assessment book for the description of each 640 acres of land or less, the number of acres to be entered in one column, the description in another column, value in another column, value of taxable improvements in another column, and the total in the total column. It must also set aside a line in the assessment book for the description of each taxable town or city lot, the description to be entered in one column and the value of the lot and any taxable improvements thereon in another column, except that a lot and improvements thereon shall be separately assessed when required under 15-8-111; provided that all of the unimproved lots of the same value, situate in one block or belonging to the same party, may be described and assessed in one line in the manner above provided for each lot. It is the intention hereby that each

parcel and lot show in its own line and opposite the description thereof the total value of the same and any taxable improvements thereon."

Section 83. Section 15-8-701, MCA, is amended to read:

"15-8-701. Assessment book -- listing property in. (1)

The form of the assessment book must be as directed by the department of revenue.

(2) The department must prepare an assessment book with appropriate headings, alphabetically arranged, in which must be listed all taxable property within the state and in which must be specified, in separate columns under the appropriate head:

(a) the name of the person to whom the property is assessed;

(b) taxable land, by township, range, section or fractional section, and when such land is not a United States land division or subdivision, by metes and bounds or other description sufficient to identify it, giving an estimate of the number of acres, not exceeding in each and every tract 640 acres, locality, and the taxable improvements thereon;

(c) taxable city and town lots, naming the city or town and the number of the lot and block, according to the system of numbering in such city or town, and the value of same with taxable improvements thereon;

1 (d) all taxable personal property, showing the number,
2 kind, amount, and quality; but a failure to enumerate in
3 detail such personal property does not invalidate the
4 assessment;

5 (e) the assessed value of taxable real estate other
6 than city or town lots;

7 (f) the assessed value of taxable city and town lots
8 with taxable improvements thereon, except that a lot and
9 improvements thereon shall be separately listed when
10 required under 15-8-111;

11 (g) the assessed value of taxable improvements on real
12 estate assessed to persons other than the owners of the real
13 estate. Taxable improvements owned by a person, located upon
14 land exempt from taxation, shall, as to the manner of
15 assessment, be assessed as other real estate upon the
16 assessment roll. No value, however, may be assessed against
17 the exempt land, nor under any circumstances may the land be
18 charged with or become responsible for the assessment made
19 against any taxable improvements located thereon.

20 (h) the assessed value of all taxable personal
21 property;

22 (i) the school, road, and other revenue districts in
23 which each piece of property assessed is situated;

24 (j) the total assessed value of all property."

25 Section 84. Section 15-8-706, MCA, is amended to read:

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

5 (a) the several kinds of personal property;

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

7 (c) the ~~number--of--livestock~~ number of bushels of
8 grain, number of pounds or tons of any article sold by the
9 pound or ton;

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

13 (2) Every agent of the department who fails to
14 complete his assessment book or who fails to transmit the
15 statement to the department forfeits the sum of \$1,000 for
16 the use of the department, to be recovered on his official
17 bond or to be deducted from his salary by the director of
18 revenue."

19 Section 85. Section 15-10-202, MCA, is amended to
20 read:

21 "15-10-202. Certification of taxable values and
22 millage rates. At the time that the assessment roll is
23 prepared and published, the department of revenue shall
24 certify to each taxing authority the taxable value within
25 the jurisdiction of the taxing authority. The department

1 shall also send to each taxing authority a written statement
 2 of its best estimate of the total assessed value of all new
 3 industrial construction and improvements not included on the
 4 previous assessment roll and the value of deletions from the
 5 previous assessment roll. Exclusive of such new
 6 construction, improvements, and deletions, the department
 7 shall certify to each taxing authority a millage rate which
 8 will provide the same ad valorem revenue for each taxing
 9 authority as was levied during the prior year. For the
 10 purpose of calculating the certified millage, the department
 11 shall use 95% of the taxable value appearing on the roll,
 12 exclusive of properties appearing for the first time on the
 13 assessment roll."

14 Section 86. Section 15-10-302, MCA, is amended to
 15 read:

16 "15-10-302. County clerk -- duplicate statement. The
 17 county clerk and recorder shall, on or before the second
 18 Monday in August of each year, prepare from the assessment
 19 book of such year, as corrected by the department of revenue
 20 or its agent, duplicate statements showing in separate
 21 columns:

- 22 (1) the total value of all taxable property;
- 23 (2) the value of taxable real estate, including mining
- 24 claims, stated separately;
- 25 (3) the value of the taxable improvements thereon;

- 1 (4) the value of taxable personal property;
- 2 (5) the number of acres of taxable land and the number
- 3 of mining claims, stated separately."

4 Section 87. Section 15-16-403, MCA, is amended to
 5 read:

6 "15-16-403. Lien on real property and improvements.
 7 Every tax due upon taxable real property is a lien against
 8 the property assessed, and every tax due upon taxable
 9 improvements upon real estate assessed to other than the
 10 owner of the real estate is a lien upon the land and
 11 improvements, which several liens attach as of January 1 in
 12 each year."

13 Section 88. Section 15-16-601, MCA, is amended to
 14 read:

15 "15-16-601. Taxes or penalties illegally collected to
 16 be refunded. (1) (a) Any taxes, per centum, and costs paid
 17 more than once or erroneously or illegally collected ~~or--any~~
 18 ~~amount--of--tax--paid--for--which--a--taxpayer--is--entitled--to--a~~
 19 ~~refund--under--15-16-612~~ or any part or portion of taxes paid
 20 which were mistakenly computed on government bonus or
 21 subsidy received by the taxpayer may, by order of the board
 22 of county commissioners, be refunded by the county
 23 treasurer. Whenever any payment shall have been made to the
 24 state treasurer as provided in 15-1-504 and it shall
 25 afterwards appear to the satisfaction of the board of county

commissioners that a portion of the money so paid should be refunded as herein provided, said board of county commissioners may refund such portion of said taxes, penalties, and costs so paid to the state treasurer, and upon the rendering of the report required by 15-1-505 the county clerk and recorder shall certify to the state auditor, in such form as the state auditor may prescribe, all amounts so refunded, and in the next settlement of the county treasurer with the state, the state auditor shall give the county treasurer credit for the state's portion of the amounts so refunded.

(b) When any part of the taxes, penalties, or costs hereinbefore referred to were levied in behalf of any school district or municipal or other public corporation and collected by the county treasurer, the same may be refunded upon the order of the board of county commissioners.

(c) No order for the refund of any taxes, license fees, per centum, or costs under this section shall be made except upon a claim therefor, verified by the person who has paid such tax, license fee, penalty, or costs or his guardian or, in case of his death, by his executor or administrator, which claim must be filed within 10 years after the date when the second half of such taxes would have become delinquent if the same had not been paid.

(d) All refunds ordered to be paid by the board of

county commissioners shall be paid by the county treasurer out of the general fund of the county, and the county treasurer shall then make such transfers from other county funds and from state, school district, and other public corporation funds in his possession as may be necessary to reimburse the county general fund for payments made therefrom on account of such other funds.

(2) Upon the entering of judgment under 15-2-306, the county commissioners of the affected county shall order a refund of such portion of the taxes or license fees as the state tax appeal board has judged should be refunded."

Section 89. 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; and 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 90. Section 61-3-502, MCA, is amended to read:

"61-3-502. Sales tax on new motor vehicles -- exemptions. (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles for which a license is sought and an original application for title is made. The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

(2) The sales tax ~~shall be~~ is calculated as follows:

(a) 3 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price; plus

~~(a)(1)~~ 1 1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or prorated one-twelfth for each month or part of month for a registration period other than a calendar year or calendar quarter;

~~(b)(1)~~ 1 1/8% of the list price during the second quarter of the year;

~~(c)(1)~~ 3/4 of 1% during the third quarter of the year;

~~(d)(1)~~ 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the division may use published price lists.

(4) The proceeds from this tax shall be remitted to

the state treasurer every 30 days as follows:

~~(a) collections from the tax imposed under subsection (2)(a) to the credit of the sales and use tax account established in [section 32];~~

~~(b) collections from the tax imposed under subsection (2)(b) to the~~ for credit to of the state highway account of the earmarked revenue fund.

(5) The new vehicle is subject to the light vehicle license fee, if applicable, but is not subject to any other assessment, taxation, or fee in lieu of tax during the calendar year in which the original application for title is made.

(6) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

1 (b) No motor vehicle may be registered or licensed
 2 under the provisions of this subsection unless the
 3 application for registration is accompanied by a statement
 4 of origin to be furnished by the dealer selling the vehicle,
 5 showing that the vehicle has not previously been registered
 6 or owned, except as otherwise provided herein, by any
 7 person, firm, corporation, or association that is not a new
 8 motor vehicle dealer holding a franchise or distribution
 9 agreement from a new car manufacturer, distributor, or
 10 importer.

11 (7) (a) Motor vehicles operating exclusively for
 12 transportation of persons for hire within the limits of
 13 incorporated cities or towns and within 15 miles from such
 14 limits are exempt from subsection (1).

15 (b) Motor vehicles brought or driven into Montana by a
 16 nonresident, migratory, bona fide agricultural worker
 17 temporarily employed in agricultural work in this state
 18 where those motor vehicles are used exclusively for
 19 transportation of agricultural workers are also exempt from
 20 subsection (1).

21 (c) Vehicles lawfully displaying a licensed dealer's
 22 plate as provided in 61-4-103 are exempt from subsection (1)
 23 when moving to or from a dealer's place of business when
 24 unloaded or loaded with dealer's property only, and in the
 25 case of vehicles having a gross loaded weight of less than

1 24,000 pounds, while being demonstrated in the course of the
 2 dealer's business."

3 Section 91. Section 61-3-532, MCA, is amended to read:

4 "61-3-532. Light vehicle license fee. (1) Except as
 5 provided in subsection (2), light vehicles are subject to a
 6 license fee. This fee is imposed in lieu of a property tax
 7 and is in addition to the tax on new motor vehicles.

8 (2) (a) Light vehicles that meet the description of
 9 property exempt from taxation under the provisions of
 10 subsections (a), (c), (d), or (e) of 15-6-201(1) or
 11 ~~15-6-203(2)~~ are exempt from the fee imposed in subsection
 12 (1) of this section.

13 (b) A dealer for light vehicles is not required to pay
 14 the license fee for light vehicles held for sale or used in
 15 the dealer's business in selling or demonstrating the
 16 vehicles. Vehicles exempt under this subsection may not be
 17 used for the personal use of the dealer, his family, or
 18 employees or for any use not necessary in the pursuit of
 19 business."

20 Section 92. Section 61-12-206, MCA, is amended to
 21 read:

22 "61-12-206. Offenses for which arrest authorized. (1)
 23 Employees appointed under 61-12-201 may make arrests for
 24 violations of the following statutory provisions only:

25 (a) part 1, chapter 10, of this title;

(b) part 3, chapter 4, of this title;

~~(c) sections 15-24-281 through 15-24-285;~~

~~(d)(c)~~ sections 15-70-302 through 15-70-307;

~~(e)(d)~~ sections 15-70-311 through 15-70-314;

~~(f)(e)~~ section 61-3-502(1);

~~(g)(f)~~ sections 61-10-201 through 61-10-215;

~~(h)(g)~~ sections 61-10-222 through 61-10-224;

~~(i)(h)~~ sections 61-10-231 through 61-10-233.

(2) These employees may not arrest for violations other than specified in this section."

Section 93. 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) that portion of the taxable value of the county on December 31, 1983, attributable to improvements and residential land."

Section 94. 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

1 and in the manner provided by the constitution and laws of
2 Montana for the borrowing of money or issuing of bonds by
3 counties and cities and towns.

4 (2) The municipality may not become indebted in any
5 manner or for any purpose to an amount, including existing
6 indebtedness, in the aggregate exceeding ~~20%~~ 38.35% of the
7 taxable value of the taxable property therein, as
8 ascertained by the last assessment for state and county
9 taxes prior to incurring such indebtedness. All warrants,
10 bonds, or obligations in excess of such amount given by or
11 on behalf of the municipality shall be void."

12 Section 95. Section 7-6-2211, MCA, is amended to read:

13 "7-6-2211. Authorization to conduct county business on
14 a cash basis. (1) In case the total indebtedness of a
15 county, lawful when incurred, exceeds the limit of ~~22.5%~~
16 30.8% established in 7-7-2101 by reason of great diminution
17 of taxable value, the county may conduct its business
18 affairs on a cash basis and pay the reasonable and necessary
19 current expenses of the county out of the cash in the county
20 treasury derived from its current revenue and under such
21 restrictions and regulations as may be imposed by the board
22 of county commissioners of the county by a resolution duly
23 adopted and included in the minutes of the board.

24 (2) Nothing in this section restricts the right of the
25 board to make the necessary tax levies for interest and

1 sinking fund purposes, and nothing in this section affects
2 the right of any creditor of the county to pursue any remedy
3 now given him by law to obtain payment of his claim."

4 Section 96. Section 7-6-4121, MCA, is amended to read:

5 "7-6-4121. Authorization to conduct municipal business
6 on a cash basis. (1) In case the total indebtedness of a
7 city or town has reached ~~17%~~ 23.3% of the total taxable
8 value of the property of the city or town subject to
9 taxation, as ascertained by the last assessment for state
10 and county taxes, the city or town may conduct its affairs
11 and business on a cash basis as provided by subsection (2).

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

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

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

8 Section 97. Section 7-6-4254, MCA, is amended to read:

9 "7-6-4254. Limitation on amount of emergency budgets
10 and appropriations. (1) The total of all emergency budgets
11 and appropriations made therein in any one year and to be
12 paid from any city fund may not exceed 38% ~~52%~~ of the total
13 amount which could be produced for such city fund by a
14 maximum levy authorized by law to be made for such fund, as
15 shown by the last completed assessment roll of the county.

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

21 Section 98. Section 7-7-107, MCA, is amended to read:

22 "7-7-107. Limitation on amount of bonds for
23 city-county consolidated units. (1) Except as provided in
24 7-7-108, no city-county consolidated local government may
25 issue bonds for any purpose which, with all outstanding

1 indebtedness, may exceed 39% ~~53.4%~~ of the taxable value of
2 the property therein subject to taxation as ascertained by
3 the last assessment for state and county taxes.

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

8 Section 99. Section 7-7-108, MCA, is amended to read:

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

18 (2) The additional indebtedness which may be incurred
19 by borrowing money or issuing bonds for the construction of
20 a sewer system or for the procurement of a water supply or
21 for both such purposes may not in the aggregate exceed 10%
22 over and above the 39% ~~53.4%~~ referred to in 7-7-107 of the
23 taxable value of the property therein subject to taxation as
24 ascertained by the last assessment for state and county
25 taxes."

1 Section 100. Section 7-7-2101, MCA, is amended to
2 read:

3 "7-7-2101. Limitation on amount of county
4 indebtedness. (1) No county may become indebted in any
5 manner or for any purpose to an amount, including existing
6 indebtedness, in the aggregate exceeding ~~23%~~ 31.5% of the
7 taxable value of the property therein subject to taxation as
8 ascertained by the last assessment for state and county
9 taxes previous to the incurring of such indebtedness.

10 (2) No county may incur indebtedness or liability for
11 any single purpose to an amount exceeding \$150,000 without
12 the approval of a majority of the electors thereof voting at
13 an election to be provided by law, except as provided in
14 7-21-3413 and 7-21-3414."

15 Section 101. Section 7-7-2203, MCA, is amended to
16 read:

17 "7-7-2203. Limitation on amount of bonded
18 indebtedness. (1) Except as provided in subsections (2) and
19 (3), no county may issue general obligation bonds for any
20 purpose which, with all outstanding bonds and warrants
21 except county high school bonds and emergency bonds, will
22 exceed ~~11.25%~~ 15.4% of the taxable value of the property
23 therein, to be ascertained by the last assessment for state
24 and county taxes prior to the proposed issuance of bonds.

25 (2) A county may issue bonds which, with all

1 outstanding bonds and warrants, will exceed ~~11.25%~~ 15.4% but
2 will not exceed ~~37%~~ 50.7% of the taxable value of such
3 property, when necessary to do so, for the purpose of
4 acquiring land for a site for county high school buildings
5 and for erecting or acquiring buildings thereon and
6 furnishing and equipping the same for county high school
7 purposes.

8 (3) The foregoing limitation shall not apply to
9 refunding bonds issued for the purpose of paying or retiring
10 county bonds lawfully issued prior to January 1, 1932."

11 Section 102. Section 7-7-4201, MCA, is amended to
12 read:

13 "7-7-4201. Limitation on amount of bonded
14 indebtedness. (1) Except as otherwise provided, no city or
15 town may issue bonds or incur other indebtedness for any
16 purpose in an amount which with all outstanding and unpaid
17 indebtedness will exceed ~~20%~~ 38% of the taxable value of the
18 property therein subject to taxation, to be ascertained by
19 the last assessment for state and county taxes.

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

24 Section 103. Section 7-7-4202, MCA, is amended to
25 read:

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

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~20% 38%~~, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 104. Section 7-13-4103, MCA, is amended to read:

"7-13-4103. Limitation on indebtedness for acquisition of natural gas system. The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed 17%

22% 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 105. 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 ~~20% 38%~~ 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 106. 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% 15+4%~~ of the taxable value of the property therein. The taxable property 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% 15+4%~~ but will not exceed ~~22+5% 20+0%~~ of the taxable value of such property when necessary

1 for the purpose of replacing, rebuilding, or repairing
2 county buildings, bridges, or highways which have been
3 destroyed or damaged by an act of God, disaster,
4 catastrophe, or accident.

5 (3) The value of the bonds issued and all other
6 outstanding indebtedness of the county, except county high
7 school bonds, shall not exceed ~~22.5%~~ 30.8% of the taxable
8 value of the property within the county as ascertained by
9 the last preceding general assessment."

10 Section 107. Section 7-14-2525, MCA, is amended to
11 read:

12 "7-14-2525. Refunding agreements and refunding bonds
13 authorized. (1) Whenever the total indebtedness of a county
14 exceeds ~~22.5%~~ 30.8% of the taxable value of the property
15 therein and the board determines that the county is unable
16 to pay such indebtedness in full, the board may:

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

21 (b) enter into such agreement;

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

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

25 (3) The plan agreed upon between the board and the

1 bondholders shall be embodied in full in the resolution
2 providing for the issue of the bonds."

3 Section 108. Section 7-14-4402, MCA, is amended to
4 read:

5 "7-14-4402. Limit on indebtedness to provide bus
6 service. The total amount of indebtedness authorized under
7 7-14-4401(1) to be contracted in any form, including the
8 then-existing indebtedness, may not at any time exceed ~~28%~~
9 38% of the total taxable value of the property of the city
10 or town subject to taxation as ascertained by the last
11 assessment for state and county taxes. No money may be
12 borrowed or bonds issued for the purposes specified in
13 7-14-4401(1) until the proposition has been submitted to the
14 vote of the taxpayers of the city or town and the majority
15 vote cast in its favor."

16 Section 109. Section 7-16-2327, MCA, is amended to
17 read:

18 "7-16-2327. Indebtedness for park purposes. (1)
19 Subject to the provisions of subsection (2), a county park
20 board, in addition to powers and duties now given under law,
21 shall have the power and duty to contract an indebtedness in
22 behalf of a county, upon the credit thereof, for the
23 purposes of 7-16-2321(1) and (2).

24 (2) (a) The total amount of indebtedness authorized to
25 be contracted in any form, including the then-existing

indebtedness, must not at any time exceed ~~19%~~ 17.8% of the taxable value of the taxable property in the county 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 110. 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%~~ 22.6% 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 111. 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

1 necessary to carry out the same.

2 (2) The amount of the bonds authorized by this section
3 may not exceed ~~22.5%~~ 30.8% of the taxable value of the
4 taxable property therein, inclusive of the existing
5 indebtedness thereof, to be ascertained by the last
6 assessment for state and county taxes previous to the
7 issuance of said bonds and incurring of said indebtedness."

8 Section 112. Section 7-31-107, MCA, is amended to
9 read:

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

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

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

24 (2) The amount of the bonds authorized by this section
25 may not exceed ~~16.5%~~ 22.6% of the taxable value of the

1 taxable property therein, inclusive of the existing
2 indebtedness thereof, to be ascertained in the manner
3 provided in this part."

4 Section 113. Section 7-34-2131, MCA, is amended to
5 read:

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

12 (2) The amount of bonds issued for such purpose and
13 outstanding at any time may not exceed ~~22.5%~~ 30.8% of the
14 taxable value of the property therein as ascertained by the
15 last assessment for state and county taxes previous to the
16 issuance of such bonds.

17 (3) Such bonds shall be authorized, sold, and issued
18 and provisions made for their payment in the manner and
19 subject to the conditions and limitations prescribed for
20 bonds of second- or third-class school districts by Title
21 20, chapter 9, part 4.

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

25 Section 114. Section 19-11-503, MCA, is amended to

1 read:

2 "19-11-503. Special tax levy for fund required. (1)
3 The purpose of this section is to provide a means by which
4 each disability and pension fund may be maintained at a
5 level equal to 3% ~~4.1%~~ of the taxable valuation of all
6 taxable property within the limits of the city or town.

7 (2) Whenever the fund contains less than 3% ~~4.1%~~ of
8 the taxable valuation of all taxable property within the
9 limits of the city or town, the governing body of the city
10 or town shall, at the time of the levy of the annual tax,
11 levy a special tax as provided in 19-11-504. The special tax
12 shall be collected as other taxes are collected and, when so
13 collected, shall be paid into the disability and pension
14 fund."

15 Section 115. Section 19-11-504, MCA, is amended to
16 read:

17 "19-11-504. Amount of special tax levy. Whenever the
18 fund contains an amount which is less than 3% ~~4.1%~~ of the
19 taxable valuation of all taxable property in the city or
20 town, the city council shall levy an annual special tax of
21 not less than 1 mill and not more than 4 mills on each
22 dollar of taxable valuation of all taxable property within
23 the city or town."

24 Section 116. Section 20-9-406, MCA, is amended to
25 read:

1 "20-9-406. Limitations on amount of bond issue. (1)
2 The maximum amount for which each school district may become
3 indebted by the issuance of bonds, including all
4 indebtedness represented by outstanding bonds of previous
5 issues and registered warrants, is 45% ~~61.6%~~ of the taxable
6 value of the property subject to taxation as ascertained by
7 the last completed assessment for state, county, and school
8 taxes previous to the incurring of such indebtedness. The
9 45% ~~61.6%~~ maximum, however, may not pertain to indebtedness
10 imposed by special improvement district obligations or
11 assessments against the school district. All bonds issued in
12 excess of such amount shall be null and void, except as
13 provided in this section.

14 (2) When the total indebtedness of a school district
15 has reached the 45% ~~61.6%~~ limitation prescribed in this
16 section, the school district may pay all reasonable and
17 necessary expenses of the school district on a cash basis in
18 accordance with the financial administration provisions of
19 this chapter.

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

25 Section 117. Section 20-9-502, MCA, is amended to

1 read:

2 "20-9-502. Purpose and authorization of a building
3 reserve fund by an election. (1) The trustees of any
4 district, with the approval of the qualified electors of the
5 district, may establish a building reserve for the purpose
6 of raising money for the future construction, equipping, or
7 enlarging of school buildings or for the purpose of
8 purchasing land needed for school purposes in the district.
9 In order to submit to the qualified electors of the district
10 a building reserve proposition for the establishment of or
11 addition to a building reserve, the trustees shall pass a
12 resolution that specifies:

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

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

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

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

23 (2) The total amount of building reserve when added to
24 the outstanding indebtedness of the district shall not be
25 more than 45% ~~61.6%~~ of the taxable value of the taxable

1 property of the district. Such limitation shall be
2 determined in the manner provided in 20-9-406. A building
3 reserve tax authorization shall not be for more than 20
4 years.

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

11 OFFICIAL BALLOT

12 SCHOOL DISTRICT BUILDING RESERVE ELECTION

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

20 Shall the trustees be authorized to impose an
21 additional levy each year for years to establish a
22 building reserve (add to the building reserve) of this
23 school district to raise a total amount of dollars
24 (\$.....), for the purpose(s) (here state the purpose or
25 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 118. 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%~~ 25.7% 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%~~ 25.7% limitation of subsection (1)) an additional indebtedness not exceeding ~~12.5%~~ 17.1% 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 119. Repealer. Sections 15-6-136, 15-6-151, 15-6-203, 15-6-209, 15-6-211, 15-7-401 through 15-7-403, 15-10-101 through 15-10-105, 15-10-321, 15-16-611, 15-24-201 through 15-24-208, 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, 15-24-1301 through 15-24-1318, 15-24-1401, 15-24-1402, 15-24-1501, and 15-30-171 through 15-30-179, MCA, are repealed.

NEW SECTION. Section 120. 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 121. Department to prepare legislation. The department of revenue, in consultation with the department of commerce, the office of public instruction, and any other appropriate agency, shall prepare legislation for introduction in the 49th legislature that:

(1) will appropriately amend all references in the MCA to property tax mill levies in order to conform such

references with the local income tax provisions of this act; and

(2) is otherwise necessary or appropriate to fully implement the purposes of this act.

NEW SECTION. Section 122. Effective date and applicability date. This act is effective only if the constitutional amendment submitted to the voters pursuant to ___ Bill No. ___ [LC 1435] becomes effective. If this act becomes effective it does so on the effective date of such constitutional amendment, except that section 120 becomes effective immediately upon approval by the electors of such amendment.

-End-