

HOUSE BILL NO. 44

INTRODUCED BY KEENAN, TOWE, HAGER, RAMIREZ, M. WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

June 21, 1986	Introduced and referred to Committee on Taxation.
June 28, 1986	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
	Second reading, do pass.
	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

June 28, 1986	Introduced and referred to Committee on Taxation.
June 30, 1986	Committee recommend bill be concurrent in. Report adopted.
	Second reading, concurred in.
	Third reading, concurred in. Ayes, 31; Noes, 19.
	Returned to House.

IN THE HOUSE

July 1, 1986	Received from Senate.
	Sent to enrolling.
	Reported correctly enrolled.

1 House BILL NO. 44
2 INTRODUCED BY Keenan Fox Hager Ramsey M Williams
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURES
6 FOR THE PAYMENT OF A MONTANA TAX OR LICENSE FEE UNDER
7 PROTEST; REVISING THE PROCEDURES FOR THE FIXING OF TAX
8 LEVIES AS AFFECTED BY TAX PROTESTS; AMENDING SECTIONS
9 7-6-2321, 7-6-4232, 7-6-4453, 15-1-402, 15-10-202, AND
10 20-9-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
11 AN APPLICABILITY DATE."
12

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

14 Section 1. Section 15-1-402, MCA, is amended to read:

15 "15-1-402. Payment of taxes under protest -- action to
16 recover. (1) The person upon whom a tax or license fee is
17 being imposed may proceed under 15-1-406 or may, before the
18 tax or license fee becomes delinquent, pay under written
19 protest that portion of the tax or license fee protested.
20 The payment must:

21 (a) be made to the officer designated and authorized
22 to collect it; and

23 (b) specify the grounds of protest; and

24 (c) not exceed the difference between the payment for
25 the immediately preceding tax year and the amount owing in

1 the tax year protested unless a different amount results
2 from the specified grounds of protest.

3 (2) After having exhausted the administrative appeals
4 available under Title 15, chapters 2 and 15, a person or his
5 legal representative may bring an action in any court of
6 competent jurisdiction against the officers to whom said tax
7 or license fee was paid or against the county or
8 municipality in whose behalf the same was collected and the
9 department of revenue.

10 (3) Both the officers to whom the tax or license fee
11 was paid or the county or municipality in whose behalf the
12 same was collected and the department of revenue must be
13 served with timely summons and complaint within the time
14 prescribed.

15 (4) Any action instituted to recover any such portions
16 of tax or license fee paid under protest shall be commenced
17 and summons timely served within 60 days after the date of
18 the final decision of the state tax appeal board.

19 (5) When any protested tax or license fee is payable
20 in installments, then any subsequent installment portion
21 considered unlawful by the state tax appeal board need not
22 be paid and no action or suit need be commenced to recover
23 the same, but the determination of the action or suit
24 commenced to recover the first installment portion paid
25 under protest shall determine the right of the party paying

1 such subsequent installment to have the same or any part
2 thereof refunded to him or the right of the taxing authority
3 to collect a subsequent installment not paid by the taxpayer
4 plus interest from the date the subsequent installment was
5 due.

6 (6) All portions of taxes and license fees paid under
7 protest to a county or municipality shall be deposited by
8 the treasurer of the county or municipality to the credit of
9 a special fund to be designated as a protest fund and shall
10 be ~~invested--in-interest-bearing-deposits-in-local-banks-or~~
11 ~~savings-and-loan-associations-and~~ retained in such protest
12 fund until the final determination of any action or suit to
13 recover the same unless released at the request of the
14 county, municipality, or other local taxing jurisdiction
15 pursuant to subsection (7).

16 {7} Nothing contained herein prohibits the investment
17 of the money of this fund in the state unified investment
18 program or in any manner provided in Title 7, chapter 6. The
19 provision creating the special protest fund does not apply
20 to any payments made under protest directly to the state.

21 (7) The governing board of a taxing jurisdiction
22 affected by the payment of taxes under protest in the second
23 and subsequent years that a tax protest remains unresolved
24 may demand that the treasurer of the county or municipality
25 pay the requesting taxing jurisdiction all or a portion of

1 the protest payments to which it is entitled, except the
2 amount paid by the taxpayer in the first year of the
3 protest. The decision in a previous year of a taxing
4 jurisdiction to leave protested taxes in the protest fund
5 does not preclude it from demanding in a subsequent year any
6 or all of the payments to which it is entitled, except the
7 first-year protest amount.

8 (8) (a) If no action is commenced within the time
9 herein specified or if such action is commenced and finally
10 determined in favor of the county or municipality or
11 treasurer thereof, the amount of the protested portions of
12 the tax or license fee shall be taken from the protest fund
13 and deposited to the credit of the fund or funds to which
14 the same property belongs, less a pro rata deduction for the
15 costs of administration of the protest fund and related
16 expenses charged the local government units.

17 (b) If such action is finally determined adversely to
18 a county or municipality or the treasurer thereof, then the
19 treasurer shall, upon receiving a certified copy of the
20 final judgment in said action from the state tax appeal
21 board, or from the district or supreme court, as
22 appropriate, if the final action of the state tax appeal
23 board is appealed in the time prescribed, refund to the
24 person in whose favor such judgment is rendered the amount
25 of such protested portions of the tax or license fee ~~with~~

costs-of-suit-and-interest-at-the--rate--currently--paid--on
 short-term--interest-bearing--time--deposits-in-banks-in-the
 county-or-5% a-year, whichever-is-greater,--from-the-date--of
 payment--under-protest,--if-such-action-was-commenced-for-the
 purpose-of-recovering-the-first-installment-portions-of--any
 such--tax--or--license--fee--and--any-subsequent-installment
 thereof-has-been-paid-under-protest-as-herein-provided,--then
 the-county-treasurer-shall,--at-the--time--of--refunding--the
 amount--of-such-first-installment-required-by-such-judgment,
 also-refund--such--portion--of--any--subsequent--installment
deposited in the protest fund, and not released pursuant to
subsection (7), as the person holding such judgment is
entitled to recover, together with interest thereon at the
rate of 6% a year from the date of payment under protest.
If the amount retained in the protest fund is insufficient
to pay all sums due the taxpayer, the treasurer shall apply
the available amount first to tax repayment, then interest
owed, and lastly to costs.

(c) If the protest action is decided adversely to a
taxing jurisdiction and the amount retained in the protest
fund is insufficient to refund the tax payments, interest,
and costs to which the taxpayer is entitled and for which
local government units are responsible, the treasurer shall
bill and the taxing jurisdiction shall refund to the
treasurer that portion of the taxpayer refund, including tax

payments, interest, and costs, for which the taxing
jurisdiction is proratably responsible.

(d) In satisfying the requirements of subsection
(8)(c), the taxing jurisdiction is allowed not more than 1
year from the beginning of the fiscal year following a final
resolution of the protest. The taxpayer is entitled to
interest on the unpaid balance at the rate of 6% a year from
the date of payment under protest until the date of final
resolution of the protest and at the rate of 10% from the
date of final resolution of the protest until refund is
made.

(9) A taxing jurisdiction may satisfy the requirements
of this section by use of funds from one or more of the
following sources:

(a) imposition of a property tax to be collected by a
special tax protest refund levy;

(b) the general fund or any other funds legally
available to the governing body; and

(c) proceeds from the sale of bonds issued by a
county, city, or school district for the purpose of deriving
revenue for the repayment of tax protests lost by the taxing
jurisdiction. The governing body of a county, city, or
school district is hereby authorized to issue such bonds
pursuant to procedures established by law. Property taxes
may be levied to amortize such bonds, provided the levy for

payment of any such bonds may not exceed, in the aggregate,
10 mills annually."

Section 2. Section 7-6-4453, MCA, is amended to read:

"7-6-4453. Certain special mill levies also available.

(1) The all-purpose mill levy shall not and may not include the levies imposed for bonded indebtedness, to pay judgments or tax protest refunds, or for special improvement district revolving funds of municipalities, which levies may be made in addition to the all-purpose levy, as provided in subsection (2). Sections 7-6-4451 through 7-6-4455 shall not be construed as repealing those statutes providing for multiple separate levies.

(2) Extraordinary levies otherwise authorized to pay for bonded indebtedness, judgments, tax protest refunds, or special improvement district revolving funds may be made by such municipalities in addition to such all-purpose levy provided for in 7-6-4451 through 7-6-4455.

(3) In a third-class city or town, the all-purpose mill levy may not include the special tax levy for the firefighters' disability and pension fund provided for in 19-11-503. This special tax levy must be made in addition to the all-purpose mill levy."

Section 3. Section 7-6-2321, MCA, is amended to read:

"7-6-2321. Fixing of tax levy. (1) On the second Monday in August and after the approval and adoption of the

final budget, the board of county commissioners shall fix the tax levy for each fund at a rate which will raise the amount set out in the budget as the amount necessary to be raised by tax levy for the fund during the current fiscal year. ~~Except as provided in subsection (2), the~~ The taxable valuation of the county for the current fiscal year shall be the basis for determining the amount of the tax levy for each fund. Each tax levy shall be at a rate no higher than is required on that basis, without including any amount for anticipated tax delinquency, to produce the amount set out in the budget, without including any amount for anticipated tax delinquency, as being the amount to be raised by tax levy.

~~(2) (a) The taxable value of property which is the subject of a protest and which remains under protest on the first Monday in August of the current year may be excluded from the county's taxable valuation if the taxable value of such property remaining under protest exceeds 5% of the county's taxable valuation in computing mill levies to fund the amounts necessary to be raised under the provisions of subsection (1) or fund amounts necessary under any other provision of law providing for a levy on the taxable valuation of the county or any district or portion thereof.~~

~~(b) If tax money that was collected on property excluded under subsection (2)(a) is not required to be~~

1 refunded--to--the--taxpayer--from--the--protest--fund--at--the
 2 conclusion--of--a--protest--proceeding;--such--money--must--be--used
 3 to--reduce--subsequent--property--tax--levies--of--the--appropriate
 4 funds--or--levies--from--which--it--was--previously--withheld--in
 5 protest;--except--for--statewide--education--and--university--mill
 6 levies;--The--county--shall--calculate--such--levies--by--crediting
 7 the--revenue--from--released--protest--funds--directly--to--the
 8 revenue--section--of--the--budget--and--not--to--the--cash--reserves;
 9 if--the--crediting--of--such--revenue--reduces--to--zero--the--amount
 10 necessary--to--be--raised--by--tax--levy;--the--county--treasurer
 11 shall--refund--any--excess--protest--fund--revenue--to--the
 12 taxpayers;--If--a--taxpayer--is--delinquent--in--the--payment--of
 13 prior--taxes;--the--county--may--offset--the--delinquency--rather
 14 than--make--a--refund;--A--copy--of--the--calculations--made--in
 15 fixing--the--tax--levies--under--this--subsection--and--calculations
 16 of--any--refunds--must--be--delivered--to--the--legislative--auditor;
 17 the--office--of--public--instruction;--and--the--department--of
 18 revenue;

19 {3}{2} The tax levy shall be made in the manner
 20 provided by 15-10-201."

21 Section 4. Section 7-6-4232, MCA, is amended to read:

22 "7-6-4232. Fixing of tax levy. (1) On the second
 23 Monday in August and after the approval and adoption of the
 24 final budget, the council shall fix the tax levy for each
 25 fund at a rate, not exceeding limits prescribed by law,

1 which will raise the amount set out in the budget as the
 2 amount necessary to be raised by tax levy for that fund
 3 during the current fiscal year. Except--as--provided--in
 4 subsections--{2}--and--{4};--the The taxable valuation of the
 5 city for the current fiscal year shall be the basis for
 6 determining the amount of the tax levy for each fund, and
 7 each tax levy shall be at a rate no higher than is required
 8 on that basis, without including any amount for anticipated
 9 tax delinquency, to raise the amount set out in the budget.

10 (2) If the council considers that a levy made for a
 11 bond sinking or interest fund will not provide a sufficient
 12 amount to pay all bond principal and interest becoming due
 13 during the current fiscal year or within 6 months after the
 14 current fiscal year because of anticipated tax delinquency,
 15 the council may fix the levy at a rate it considers
 16 necessary to raise the amount for making the payments of
 17 principal and interest over and above the anticipated tax
 18 delinquency.

19 (3) Each levy shall be made in the manner provided by
 20 15-10-201.

21 {4}--{a}--The--taxable--value--of--property--which--is--the
 22 subject--of--a--protest--and--which--remains--under--protest--on--the
 23 first--Monday--in--August--of--the--current--year--may--be--excluded
 24 from--the--city's--taxable--valuation--if--the--taxable--value--of
 25 such--property--remaining--under--protest--exceeds--5%--of--the

city's taxable valuation in computing mill levies to fund the amounts necessary to be raised under the provisions of subsection (1);

(b) If tax money that was collected on property excluded under subsection (4)(a) is not required to be refunded to the taxpayer from the protest fund at the conclusion of a protest proceeding, such money shall be used to reduce subsequent property tax levies of the appropriate funds or levies from which it was previously withheld in protest. The city shall calculate such levies by crediting the revenue from released protest funds directly to the revenue section of the budget and not to the cash reserves. If the crediting of such revenue reduces to zero the amount necessary to be raised by tax levy, the city shall refund any excess protest fund revenue to the taxpayers. If a taxpayer is delinquent in the payment of prior taxes, the city may offset the delinquency rather than make a refund. A copy of the calculations made in fixing the tax levies under this subsection and calculations of any refunds must be delivered to the legislative auditor, the office of public instruction, and the department of revenue."

Section 5. Section 15-10-202, MCA, is amended to read:

"15-10-202. Certification of taxable values and millage rates. (1) At the time that the assessment roll is prepared and published, the department of revenue shall

certify to each taxing authority the taxable value within the jurisdiction of the taxing authority. The department shall also send to each taxing authority a written statement of its best estimate of the total assessed value of all new construction and improvements not included on the previous assessment roll and the value of deletions from the previous assessment roll. Exclusive of such new construction, improvements, and deletions, and the taxable value of property which is the subject of a protest and which remains under protest on the first Monday in August of the current year if the taxable value of such property remaining under protest exceeds 5% of that taxing jurisdiction's taxable valuation, and if requested to do so by the county commissioners, the department shall certify to each taxing authority a millage rate which will provide the same ad valorem revenue for each taxing authority as was levied during the prior year. For the purpose of calculating the certified millage, the department shall use 95% of the taxable value appearing on the roll, exclusive of properties appearing for the first time on the assessment roll.

(2) The county commissioners shall inform the department of revenue in writing by July 15 as to whether the county wishes to exclude protested values from the tax base for the purpose of calculating certified mill levies. The decision of the county commissioners shall apply to all

1 ~~taxing-jurisdictions-within-the-county;"~~

2 Section 6. Section 20-9-142, MCA, is amended to read:

3 "20-9-142. Fixing and levying taxes by board of county
4 commissioners. {1} On the second Monday in August, the
5 county superintendent shall place before the board of county
6 commissioners the final adopted budget of the district and
7 any emergency budget adopted by the district during the
8 previous school fiscal year. It shall be the duty of the
9 board of county commissioners to fix and levy on all the
10 taxable value of all the real and personal property within
11 the district, ~~except as provided in subsection (2),~~ all
12 district and county taxation required to finance, within the
13 limitations provided by law, the final budget and any
14 emergency budget of the district.

15 {2}--(a)--The--taxable--value--of--property--which--is--the
16 subject--of--a--protest--and--which--remains--under--protest--on--the
17 first--Monday--in--August--of--the--current--year--may--be--excluded
18 from--the--district's--taxable--valuation--if--the--taxable--value
19 of--such--property--remaining--under--protest--exceeds--5%--of--the
20 district's--taxable--valuation--in--computing--the--mill--levies--to
21 fund--the--final--adopted--budget--of--the--district--and--any
22 emergency--budget--adopted--by--the--district--during--the--previous
23 school--fiscal--year;

24 {b}--If--tax--money--that--was--collected--on--property
25 excluded--under--subsection--(2)(a)--is--not--required--to--be

1 refunded--to--the--taxpayer--from--the--protest--fund--at--the
2 conclusion--of--a--protest--proceeding,--such--money--shall--be--used
3 to--reduce--subsequent--property--tax--levies;---The--district
4 shall--calculate--such--levies--by--crediting--the--revenue--from
5 released--protest--funds--directly--to--the--revenue--section--of
6 the--budget--and--not--to--the--cash--reserves--if--the--crediting--of
7 such--revenue--reduces--to--zero--the--amount--necessary--to--be
8 raised--by--tax--levy;--the--county--treasurer--shall--refund--on
9 behalf--of--the--district--any--excess--protest--fund--revenue--to
10 the--taxpayers;--If--a--taxpayer--is--delinquent--in--the--payment--of
11 prior--taxes,--the--county--treasurer--may--offset--the--delinquency
12 rather--than--make--a--refund;--A--copy--of--the--calculations--made
13 in--fixing--the--tax--levies--under--this--subsection--and
14 calculations--of--any--refunds--must--be--delivered--to--the
15 legislative--auditor,--the--office--of--public--instruction,--and
16 the--department--of--revenue."

17 NEW SECTION. Section 7. Extension of authority. Any
18 existing authority of the department of revenue to make
19 rules on the subject of the provisions of this act is
20 extended to the provisions of this act.

21 NEW SECTION. Section 8. Effective date --
22 applicability. This act is effective on passage and approval
23 and applies to any appeal or tax paid under protest on or
24 after the effective date of this act.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 44

INTRODUCED BY KEENAN, TOWE, HAGER, RAMIREZ, M. WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURES FOR THE PAYMENT OF A MONTANA TAX OR LICENSE FEE UNDER PROTEST; REVISING THE PROCEDURES FOR THE FIXING OF TAX LEVIES AS AFFECTED BY TAX PROTESTS; AMENDING SECTIONS 7-6-2321, 7-6-4232, 7-6-4453, 15-1-402, 15-10-202, AND 20-9-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to recover. (1) The person upon whom a tax or license fee is being imposed may proceed under 15-1-406 or may, before the tax or license fee becomes delinquent, pay under written protest that portion of the tax or license fee protested. The payment must:

(a) be made to the officer designated and authorized to collect it; and

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in

the tax year protested unless a different amount results from the specified grounds of protest, WHICH GROUNDS MAY INCLUDE BUT ARE NOT LIMITED TO CHANGES IN ASSESSMENT DUE TO REAPPRAISAL UNDER 15-7-111.

(2) After having exhausted the administrative appeals available under Title 15, chapters 2 and 15, a person or his legal representative may bring an action in any court of competent jurisdiction against the officers to whom said tax or license fee was paid or against the county or municipality in whose behalf the same was collected and the department of revenue.

(3) Both the officers to whom the tax or license fee was paid or the county or municipality in whose behalf the same was collected and the department of revenue must be served with timely summons and complaint within the time prescribed.

(4) Any action instituted to recover any such portions of tax or license fee paid under protest shall be commenced and summons timely served within 60 days after the date of the final decision of the state tax appeal board.

(5) When any protested tax or license fee is payable in installments, then any subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover the same, but the determination of the action or suit

SECOND READING
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1 commenced to recover the first installment portion paid
 2 under protest shall determine the right of the party paying
 3 such subsequent installment to have the same or any part
 4 thereof refunded to him or the right of the taxing authority
 5 to collect a subsequent installment not paid by the taxpayer
 6 plus interest from the date the subsequent installment was
 7 due.

8 (6) All portions of taxes and license fees paid under
 9 protest to a county or municipality shall be deposited by
 10 the treasurer of the county or municipality to the credit of
 11 a special fund to be designated as a protest fund and shall
 12 be ~~invested--in-interest-bearing-deposits-in-local-banks-or~~
 13 ~~savings-and-loan-associations-and~~ retained in such protest
 14 fund until the final determination of any action or suit to
 15 recover the same unless released at the request of the
 16 county, municipality, or other local taxing jurisdiction
 17 pursuant to subsection (7).

18 {7} Nothing contained herein prohibits the investment
 19 of the money of this fund in the state unified investment
 20 program or in any manner provided in Title 7, chapter 6. The
 21 provision creating the special protest fund does not apply
 22 to any payments made under protest directly to the state.

23 (7) The governing board of a taxing jurisdiction
 24 affected by the payment of taxes under protest in the second
 25 and subsequent years that a tax protest remains unresolved

1 may demand that the treasurer of the county or municipality
 2 pay the requesting taxing jurisdiction all or a portion of
 3 the protest payments to which it is entitled, except the
 4 amount paid by the taxpayer in the first year of the
 5 protest. The decision in a previous year of a taxing
 6 jurisdiction to leave protested taxes in the protest fund
 7 does not preclude it from demanding in a subsequent year any
 8 or all of the payments to which it is entitled, except the
 9 first-year protest amount.

10 (8) (a) If no action is commenced within the time
 11 herein specified or if such action is commenced and finally
 12 determined in favor of the county or municipality or
 13 treasurer thereof, the amount of the protested portions of
 14 the tax or license fee shall be taken from the protest fund
 15 and deposited to the credit of the fund or funds to which
 16 the same property belongs, less a pro rata deduction for the
 17 costs of administration of the protest fund and related
 18 expenses charged the local government units.

19 (b) If such action is finally determined adversely to
 20 a county or municipality or the treasurer thereof, then the
 21 treasurer shall, upon receiving a certified copy of the
 22 final judgment in said action from the state tax appeal
 23 board, or from the district or supreme court, as
 24 appropriate, if the final action of the state tax appeal
 25 board is appealed in the time prescribed, refund to the

1 person in whose favor such judgment is rendered the amount
 2 of such protested portions of the tax or license fee, with
 3 ~~costs of suit and interest at the rate currently paid on~~
 4 ~~short-term interest-bearing time deposits in banks in the~~
 5 ~~county or 5% a year, whichever is greater, from the date of~~
 6 ~~payment under protest. If such action was commenced for the~~
 7 ~~purpose of recovering the first installment portions of any~~
 8 ~~such tax or license fee and any subsequent installment~~
 9 ~~thereof has been paid under protest as herein provided, then~~
 10 ~~the county treasurer shall, at the time of refunding the~~
 11 ~~amount of such first installment required by such judgment,~~
 12 ~~also refund such portion of any subsequent installment~~
 13 deposited in the protest fund, and not released pursuant to
 14 subsection (7), as the person holding such judgment is
 15 entitled to recover, together with interest thereon at the
 16 rate of 6% a year from the date of payment under protest.
 17 If the amount retained in the protest fund is insufficient
 18 to pay all sums due the taxpayer, the treasurer shall apply
 19 the available amount first to tax repayment, then interest
 20 owed, and lastly to costs.

21 (c) If the protest action is decided adversely to a
 22 taxing jurisdiction and the amount retained in the protest
 23 fund is insufficient to refund the tax payments, interest,
 24 and costs to which the taxpayer is entitled and for which
 25 local government units are responsible, the treasurer shall

1 bill and the taxing jurisdiction shall refund to the
 2 treasurer that portion of the taxpayer refund, including tax
 3 payments, interest, and costs, for which the taxing
 4 jurisdiction is proratably responsible.

5 (d) In satisfying the requirements of subsection
 6 (8)(c), the taxing jurisdiction is allowed not more than 1
 7 year from the beginning of the fiscal year following a final
 8 resolution of the protest. The taxpayer is entitled to
 9 interest on the unpaid balance at the rate of 6% a year from
 10 the date of payment under protest until the date of final
 11 resolution of the protest and at the COMBINED rate of 10%
 12 THE FEDERAL RESERVE DISCOUNT RATE QUOTED FROM THE FEDERAL
 13 RESERVE BANK IN NEW YORK, NEW YORK, ON THE DATE OF FINAL
 14 RESOLUTION, PLUS FOUR PERCENTAGE POINTS, from the date of
 15 final resolution of the protest until refund is made.

16 (9) A taxing jurisdiction may satisfy the requirements
 17 of this section by use of funds from one or more of the
 18 following sources:

19 (a) imposition of a property tax to be collected by a
 20 special tax protest refund levy;

21 (b) the general fund, EXCEPT THAT AMOUNT GENERATED BY
 22 THE ALL-PURPOSE MILL LEVY, or any other funds legally
 23 available to the governing body; and

24 (c) proceeds from the sale of bonds issued by a
 25 county, city, or school district for the purpose of deriving

1 revenue for the repayment of tax protests lost by the taxing
 2 jurisdiction. The governing body of a county, city, or
 3 school district is hereby authorized to issue such bonds
 4 pursuant to procedures established by law. Property taxes
 5 may be levied to amortize such bonds, provided the levy for
 6 payment of any such bonds may not exceed, in the aggregate,
 7 10 mills annually."

8 Section 2. Section 7-6-4453, MCA, is amended to read:
 9 "7-6-4453. Certain special mill levies also available.
 10 (1) The all-purpose mill levy shall not and may not include
 11 the levies imposed for bonded indebtedness, to pay judgments
 12 or tax protest refunds, or for special improvement district
 13 revolving funds of municipalities, which levies may be made
 14 in addition to the all-purpose levy, as provided in
 15 subsection (2). Sections 7-6-4451 through 7-6-4455 shall not
 16 be construed as repealing those statutes providing for
 17 multiple separate levies.

18 (2) Extraordinary levies otherwise authorized to pay
 19 for bonded indebtedness, judgments, tax protest refunds, or
 20 special improvement district revolving funds may be made by
 21 such municipalities in addition to such all-purpose levy
 22 provided for in 7-6-4451 through 7-6-4455.

23 (3) In a third-class city or town, the all-purpose
 24 mill levy may not include the special tax levy for the
 25 firefighters' disability and pension fund provided for in

1 19-11-503. This special tax levy must be made in addition to
 2 the all-purpose mill levy."

3 Section 3. Section 7-6-2321, MCA, is amended to read:
 4 "7-6-2321. Fixing of tax levy. (1) On the second
 5 Monday in August and after the approval and adoption of the
 6 final budget, the board of county commissioners shall fix
 7 the tax levy for each fund at a rate which will raise the
 8 amount set out in the budget as the amount necessary to be
 9 raised by tax levy for the fund during the current fiscal
 10 year. ~~Except as provided in subsection (2), the~~ The taxable
 11 valuation of the county for the current fiscal year shall be
 12 the basis for determining the amount of the tax levy for
 13 each fund. Each tax levy shall be at a rate no higher than
 14 is required on that basis, without including any amount for
 15 anticipated tax delinquency, to produce the amount set out
 16 in the budget, without including any amount for anticipated
 17 tax delinquency, as being the amount to be raised by tax
 18 levy.

19 ~~(2) (a) The taxable value of property which is the~~
 20 ~~subject of a protest and which remains under protest on the~~
 21 ~~first Monday in August of the current year may be excluded~~
 22 ~~from the county's taxable valuation if the taxable value of~~
 23 ~~such property remaining under protest exceeds 5% of the~~
 24 ~~county's taxable valuation in computing mill levies to fund~~
 25 ~~the amounts necessary to be raised under the provisions of~~

1 subsection--(1)--or--fund--amounts--necessary--under--any--other
 2 provision--of--law--providing--for--a--levy--on--the--taxable
 3 valuation--of--the--county--or--any--district--or--portion--thereof;
 4 (b)--if--tax--money--that--was--collected--on--property
 5 excluded--under--subsection--(2)(a)--is--not--required--to--be
 6 refunded--to--the--taxpayer--from--the--protest--fund--at--the
 7 conclusion--of--a--protest--proceeding,--such--money--must--be--used
 8 to--reduce--subsequent--property--tax--levies--of--the--appropriate
 9 funds--or--levies--from--which--it--was--previously--withheld--in
 10 protest,--except--for--statewide--education--and--university--mill
 11 levies. The county shall calculate such levies by crediting
 12 the revenue from released protest funds directly to the
 13 revenue--section--of--the--budget--and--not--to--the--cash--reserves.
 14 If the crediting of such revenue reduces to zero the amount
 15 necessary--to--be--raised--by--tax--levy, the county treasurer
 16 shall--refund--any--excess--protest--fund--revenue--to--the
 17 taxpayers. If a taxpayer is delinquent in the payment of
 18 prior taxes, the county may offset the delinquency rather
 19 than--make--a--refund. A copy of the calculations made in
 20 fixing the tax levies under this subsection and calculations
 21 of any refunds must be delivered to the legislative auditor,
 22 the office of public instruction, and the department of
 23 revenue.
 24 (3)(2) The tax levy shall be made in the manner
 25 provided by 15-10-201."

1 Section 4. Section 7-6-4232, MCA, is amended to read:
 2 "7-6-4232. Fixing of tax levy. (1) On the second
 3 Monday in August and after the approval and adoption of the
 4 final budget, the council shall fix the tax levy for each
 5 fund at a rate, not exceeding limits prescribed by law,
 6 which will raise the amount set out in the budget as the
 7 amount necessary to be raised by tax levy for that fund
 8 during the current fiscal year. Except--as--provided--in
 9 subsections--(2)--and--(4), the taxable valuation of the
 10 city for the current fiscal year shall be the basis for
 11 determining the amount of the tax levy for each fund, and
 12 each tax levy shall be at a rate no higher than is required
 13 on that basis, without including any amount for anticipated
 14 tax delinquency, to raise the amount set out in the budget.
 15 (2) If the council considers that a levy made for a
 16 bond sinking or interest fund will not provide a sufficient
 17 amount to pay all bond principal and interest becoming due
 18 during the current fiscal year or within 6 months after the
 19 current fiscal year because of anticipated tax delinquency,
 20 the council may fix the levy at a rate it considers
 21 necessary to raise the amount for making the payments of
 22 principal and interest over and above the anticipated tax
 23 delinquency.
 24 (3) Each levy shall be made in the manner provided by
 25 15-10-201.

1 ~~{4}--(a)--The--taxable--value--of--property--which--is--the~~
 2 ~~subject--of--a--protest--and--which--remains--under--protest--on--the~~
 3 ~~first--Monday--in--August--of--the--current--year--may--be--excluded~~
 4 ~~from--the--city's--taxable--valuation--if--the--taxable--value--of~~
 5 ~~such--property--remaining--under--protest--exceeds--5%--of--the~~
 6 ~~city's--taxable--valuation--in--computing--mill--levies--to--fund~~
 7 ~~the--amounts--necessary--to--be--raised--under--the--provisions--of~~
 8 ~~subsection--(1)--~~

9 ~~{b}--if--tax--money--that--was--collected--on--property~~
 10 ~~excluded--under--subsection--(4)(a)--is--not--required--to--be~~
 11 ~~refunded--to--the--taxpayer--from--the--protest--fund--at--the~~
 12 ~~conclusion--of--a--protest--proceeding,--such--money--shall--be--used~~
 13 ~~to--reduce--subsequent--property--tax--levies--of--the--appropriate~~
 14 ~~funds--or--levies--from--which--it--was--previously--withheld--in~~
 15 ~~protest.---The--city--shall--calculate--such--levies--by--crediting~~
 16 ~~the--revenue--from--released--protest--funds--directly--to--the~~
 17 ~~revenue--section--of--the--budget--and--not--to--the--cash--reserves.~~
 18 ~~If--the--crediting--of--such--revenue--reduces--to--zero--the--amount~~
 19 ~~necessary--to--be--raised--by--tax--levy,--the--city--shall--refund~~
 20 ~~any--excess--protest--fund--revenue--to--the--taxpayers.---if--a~~
 21 ~~taxpayer--is--delinquent--in--the--payment--of--prior--taxes,--the~~
 22 ~~city--may--offset--the--delinquency--rather--than--make--a--refund.~~
 23 ~~A--copy--of--the--calculations--made--in--fixing--the--tax--levies~~
 24 ~~under--this--subsection--and--calculations--of--any--refunds--must~~
 25 ~~be--delivered--to--the--legislative--auditor,--the--office--of~~

1 ~~public--instruction--and--the--department--of--revenue."~~

2 Section 5. Section 15-10-202, MCA, is amended to read:
 3 "15-10-202. Certification of taxable values and
 4 millage rates. {1} At the time that the assessment roll is
 5 prepared and published, the department of revenue shall
 6 certify to each taxing authority the taxable value within
 7 the jurisdiction of the taxing authority. The department
 8 shall also send to each taxing authority a written statement
 9 of its best estimate of the total assessed value of all new
 10 construction and improvements not included on the previous
 11 assessment roll and the value of deletions from the previous
 12 assessment roll. Exclusive of such new construction,
 13 improvements, and deletions, and--the--taxable--value--of
 14 property--which--is--the--subject--of--a--protest--and--which--remains
 15 under--protest--on--the--first--Monday--in--August--of--the--current
 16 year--if--the--taxable--value--of--such--property--remaining--under
 17 protest--exceeds--5%--of--that--taxing--jurisdiction's--taxable
 18 valuation,--and--if--requested--to--do--so--by--the--county
 19 commissioners, the department shall certify to each taxing
 20 authority a millage rate which will provide the same ad
 21 valorem revenue for each taxing authority as was levied
 22 during the prior year. For the purpose of calculating the
 23 certified millage, the department shall use 95% of the
 24 taxable value appearing on the roll, exclusive of properties
 25 appearing for the first time on the assessment roll.

{2}--The--county--commissioners--shall--inform--the department--of--revenue--in-writing-by-July-15-as-to-whether the-county-wishes-to-exclude-protested-values-from-the-tax base--for--the-purpose-of-calculating-certified-mill-levies. The-decision-of-the-county-commissioners-shall-apply-to--all taxing-jurisdictions-within-the-county."

Section 6. Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. {1} On the second Monday in August, the county superintendent shall place before the board of county commissioners the final adopted budget of the district and any emergency budget adopted by the district during the previous school fiscal year. It shall be the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district, except as provided in subsection {2}, all district and county taxation required to finance, within the limitations provided by law, the final budget and any emergency budget of the district.

{2}--{a}--The-taxable-value-of--property--which--is--the subject--of--a-protest-and-which-remains-under-protest-on-the first-Monday-in-August-of-the-current-year-may--be--excluded from--the--district's-taxable-valuation-if-the-taxable-value of-such-property-remaining-under-protest-exceeds-5%--of--the district's-taxable-valuation-in-computing-the-mill-levies-to

fund--the--final--adopted--budget--of--the--district-and-any emergency-budget-adopted-by-the-district-during-the-previous school-fiscal-year.

{b}--If--tax--money--that--was--collected--on--property excluded--under--subsection--{2}{a}--is--not--required--to--be refunded--to--the--taxpayer--from--the--protest--fund--at--the conclusion-of-a-protest-proceeding,--such-money-shall-be-used to--reduce--subsequent--property--tax--levies--The-district shall-calculate-such-levies-by-crediting--the--revenue--from released--protest--funds--directly-to-the-revenue-section-of the-budget-and-not-to-the-cash-reserves;--if-the-crediting-of such-revenue-reduces-to-zero--the--amount--necessary--to--be raised--by--tax--levy--the-county-treasurer-shall-refund-on behalf-of-the-district-any-excess-protest--fund--revenue--to the-taxpayers;--if-a-taxpayer-is-delinquent-in-the-payment-of prior-taxes,--the-county-treasurer-may-offset-the-delinquency rather--than--make-a-refund;--A-copy-of-the-calculations-made in--fixing--the--tax--levies--under--this--subsection--and calculations--of--any--refunds--must--be--delivered--to--the legislative-auditor,--the-office-of-public-instruction,--and the-department-of-revenue."

NEW SECTION. Section 7. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

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1 NEW SECTION. Section 8. Effective date --
2 applicability. This act is effective on passage and approval
3 and applies to any appeal or tax paid under protest on or
4 after the effective date of this act.

-End-

HOUSE BILL NO. 44

INTRODUCED BY KEENAN, TOWE, HAGER, RAMIREZ, M. WILLIAMS
BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURES
FOR THE PAYMENT OF A MONTANA TAX OR LICENSE FEE UNDER
PROTEST; REVISING THE PROCEDURES FOR THE FIXING OF TAX
LEVIES AS AFFECTED BY TAX PROTESTS; AMENDING SECTIONS
7-6-2321, 7-6-4232, 7-6-4453, 15-1-402, 15-10-202, AND
20-9-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
AN APPLICABILITY DATE."

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

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to
recover. (1) The person upon whom a tax or license fee is
being imposed may proceed under 15-1-406 or may, before the
tax or license fee becomes delinquent, pay under written
protest that portion of the tax or license fee protested.

The payment must:

(a) be made to the officer designated and authorized
to collect it; and

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for
the immediately preceding tax year and the amount owing in

the tax year protested unless a different amount results
from the specified grounds of protest, WHICH GROUNDS MAY
INCLUDE BUT ARE NOT LIMITED TO CHANGES IN ASSESSMENT DUE TO
REAPPRAISAL UNDER 15-7-111.

(2) After having exhausted the administrative appeals
available under Title 15, chapters 2 and 15, a person or his
legal representative may bring an action in any court of
competent jurisdiction against the officers to whom said tax
or license fee was paid or against the county or
municipality in whose behalf the same was collected and the
department of revenue.

(3) Both the officers to whom the tax or license fee
was paid or the county or municipality in whose behalf the
same was collected and the department of revenue must be
served with timely summons and complaint within the time
prescribed.

(4) Any action instituted to recover any such portions
of tax or license fee paid under protest shall be commenced
and summons timely served within 60 days after the date of
the final decision of the state tax appeal board.

(5) When any protested tax or license fee is payable
in installments, then any subsequent installment portion
considered unlawful by the state tax appeal board need not
be paid and no action or suit need be commenced to recover
the same, but the determination of the action or suit

THIRD READING ;

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There are no changes in HB 44 & will not be re-printed.
Please refer to yellow (2nd) for complete text.



1 commenced to recover the first installment portion paid
2 under protest shall determine the right of the party paying
3 such subsequent installment to have the same or any part
4 thereof refunded to him or the right of the taxing authority
5 to collect a subsequent installment not paid by the taxpayer
6 plus interest from the date the subsequent installment was
7 due.

8 (6) All portions of taxes and license fees paid under
9 protest to a county or municipality shall be deposited by
10 the treasurer of the county or municipality to the credit of
11 a special fund to be designated as a protest fund and shall
12 be ~~invested--in-interest-bearing-deposits-in-local-banks-or~~
13 ~~savings-and-loan-associations-and~~ retained in such protest
14 fund until the final determination of any action or suit to
15 recover the same unless released at the request of the
16 county, municipality, or other local taxing jurisdiction
17 pursuant to subsection (7).

18 (7) Nothing contained herein prohibits the investment
19 of the money of this fund in the state unified investment
20 program or in any manner provided in Title 7, chapter 6. The
21 provision creating the special protest fund does not apply
22 to any payments made under protest directly to the state.

23 (7) The governing board of a taxing jurisdiction
24 affected by the payment of taxes under protest in the second
25 and subsequent years that a tax protest remains unresolved

1 may demand that the treasurer of the county or municipality
2 pay the requesting taxing jurisdiction all or a portion of
3 the protest payments to which it is entitled, except the
4 amount paid by the taxpayer in the first year of the
5 protest. The decision in a previous year of a taxing
6 jurisdiction to leave protested taxes in the protest fund
7 does not preclude it from demanding in a subsequent year any
8 or all of the payments to which it is entitled, except the
9 first-year protest amount.

10 (8) (a) If no action is commenced within the time
11 herein specified or if such action is commenced and finally
12 determined in favor of the county or municipality or
13 treasurer thereof, the amount of the protested portions of
14 the tax or license fee shall be taken from the protest fund
15 and deposited to the credit of the fund or funds to which
16 the same property belongs, less a pro rata deduction for the
17 costs of administration of the protest fund and related
18 expenses charged the local government units.

19 (b) If such action is finally determined adversely to
20 a county or municipality or the treasurer thereof, then the
21 treasurer shall, upon receiving a certified copy of the
22 final judgment in said action from the state tax appeal
23 board, or from the district or supreme court, as
24 appropriate, if the final action of the state tax appeal
25 board is appealed in the time prescribed, refund to the

HOUSE BILL NO. 44

INTRODUCED BY KEENAN, TOWE, HAGER, RAMIREZ, M. WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURES FOR THE PAYMENT OF A MONTANA TAX OR LICENSE FEE UNDER PROTEST; REVISING THE PROCEDURES FOR THE FIXING OF TAX LEVIES AS AFFECTED BY TAX PROTESTS; AMENDING SECTIONS 7-6-2321, 7-6-4232, 7-6-4453, 15-1-402, 15-10-202, AND 20-9-142, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to recover. (1) The person upon whom a tax or license fee is being imposed may proceed under 15-1-406 or may, before the tax or license fee becomes delinquent, pay under written protest that portion of the tax or license fee protested.

The payment must:

(a) be made to the officer designated and authorized to collect it; and

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in

the tax year protested unless a different amount results from the specified grounds of protest, WHICH GROUNDS MAY INCLUDE BUT ARE NOT LIMITED TO CHANGES IN ASSESSMENT DUE TO REAPPRAISAL UNDER 15-7-111.

(2) After having exhausted the administrative appeals available under Title 15, chapters 2 and 15, a person or his legal representative may bring an action in any court of competent jurisdiction against the officers to whom said tax or license fee was paid or against the county or municipality in whose behalf the same was collected and the department of revenue.

(3) Both the officers to whom the tax or license fee was paid or the county or municipality in whose behalf the same was collected and the department of revenue must be served with timely summons and complaint within the time prescribed.

(4) Any action instituted to recover any such portions of tax or license fee paid under protest shall be commenced and summons timely served within 60 days after the date of the final decision of the state tax appeal board.

(5) When any protested tax or license fee is payable in installments, then any subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover the same, but the determination of the action or suit

REFERENCE BILL
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commenced to recover the first installment portion paid under protest shall determine the right of the party paying such subsequent installment to have the same or any part thereof refunded to him or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(6) All portions of taxes and license fees paid under protest to a county or municipality shall be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and shall be ~~invested--in-interest-bearing-deposits-in-local-banks-or savings-and-loan-associations-and~~ retained in such protest fund until the final determination of any action or suit to recover the same unless released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection (7).

~~(7)~~ Nothing contained herein prohibits the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision creating the special protest fund does not apply to any payments made under protest directly to the state.

(7) The governing board of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved

may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

(8) (a) If no action is commenced within the time herein specified or if such action is commenced and finally determined in favor of the county or municipality or treasurer thereof, the amount of the protested portions of the tax or license fee shall be taken from the protest fund and deposited to the credit of the fund or funds to which the same property belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged the local government units.

(b) If such action is finally determined adversely to a county or municipality or the treasurer thereof, then the treasurer shall, upon receiving a certified copy of the final judgment in said action from the state tax appeal board, or from the district or supreme court, as appropriate, if the final action of the state tax appeal board is appealed in the time prescribed, refund to the

1 person in whose favor such judgment is rendered the amount
 2 of such protested portions of the tax or license fee, with
 3 ~~costs-of-suit-and-interest-at-the--rate--currently--paid--on~~
 4 ~~short-term--interest-bearing--time--deposits-in-banks-in-the~~
 5 ~~county-or-5%-a-year, whichever is greater, from the date of~~
 6 ~~payment under protest, if such action was commenced for the~~
 7 ~~purpose of recovering the first installment portions of any~~
 8 ~~such tax or license fee and any subsequent installment~~
 9 ~~thereof has been paid under protest as herein provided, then~~
 10 ~~the county treasurer shall, at the time of refunding the~~
 11 ~~amount of such first installment required by such judgment,~~
 12 ~~also refund such portion of any subsequent installment~~
 13 deposited in the protest fund, and not released pursuant to
 14 subsection (7), as the person holding such judgment is
 15 entitled to recover, together with interest thereon at the
 16 rate of 6% a year from the date of payment under protest.
 17 If the amount retained in the protest fund is insufficient
 18 to pay all sums due the taxpayer, the treasurer shall apply
 19 the available amount first to tax repayment, then interest
 20 owed, and lastly to costs.

21 (c) If the protest action is decided adversely to a
 22 taxing jurisdiction and the amount retained in the protest
 23 fund is insufficient to refund the tax payments, interest,
 24 and costs to which the taxpayer is entitled and for which
 25 local government units are responsible, the treasurer shall

1 bill and the taxing jurisdiction shall refund to the
 2 treasurer that portion of the taxpayer refund, including tax
 3 payments, interest, and costs, for which the taxing
 4 jurisdiction is proratably responsible.

5 (d) In satisfying the requirements of subsection
 6 (8)(c), the taxing jurisdiction is allowed not more than 1
 7 year from the beginning of the fiscal year following a final
 8 resolution of the protest. The taxpayer is entitled to
 9 interest on the unpaid balance at the rate of 6% a year from
 10 the date of payment under protest until the date of final
 11 resolution of the protest and at the COMBINED rate of 10%
 12 THE FEDERAL RESERVE DISCOUNT RATE QUOTED FROM THE FEDERAL
 13 RESERVE BANK IN NEW YORK, NEW YORK, ON THE DATE OF FINAL
 14 RESOLUTION, PLUS FOUR PERCENTAGE POINTS, from the date of
 15 final resolution of the protest until refund is made.

16 (9) A taxing jurisdiction may satisfy the requirements
 17 of this section by use of funds from one or more of the
 18 following sources:

19 (a) imposition of a property tax to be collected by a
 20 special tax protest refund levy;

21 (b) the general fund, EXCEPT THAT AMOUNT GENERATED BY
 22 THE ALL-PURPOSE MILL LEVY, or any other funds legally
 23 available to the governing body; and

24 (c) proceeds from the sale of bonds issued by a
 25 county, city, or school district for the purpose of deriving

revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such bonds pursuant to procedures established by law. Property taxes may be levied to amortize such bonds, provided the levy for payment of any such bonds may not exceed, in the aggregate, 10 mills annually."

Section 2. Section 7-6-4453, MCA, is amended to read:

"7-6-4453. Certain special mill levies also available.

(1) The all-purpose mill levy shall not and may not include the levies imposed for bonded indebtedness, to pay judgments or tax protest refunds, or for special improvement district revolving funds of municipalities, which levies may be made in addition to the all-purpose levy, as provided in subsection (2). Sections 7-6-4451 through 7-6-4455 shall not be construed as repealing those statutes providing for multiple separate levies.

(2) Extraordinary levies otherwise authorized to pay for bonded indebtedness, judgments, tax protest refunds, or special improvement district revolving funds may be made by such municipalities in addition to such all-purpose levy provided for in 7-6-4451 through 7-6-4455.

(3) In a third-class city or town, the all-purpose mill levy may not include the special tax levy for the firefighters' disability and pension fund provided for in

19-11-503. This special tax levy must be made in addition to the all-purpose mill levy."

Section 3. Section 7-6-2321, MCA, is amended to read:

"7-6-2321. Fixing of tax levy. (1) On the second Monday in August and after the approval and adoption of the final budget, the board of county commissioners shall fix the tax levy for each fund at a rate which will raise the amount set out in the budget as the amount necessary to be raised by tax levy for the fund during the current fiscal year. ~~Except as provided in subsection (2),~~ The taxable valuation of the county for the current fiscal year shall be the basis for determining the amount of the tax levy for each fund. Each tax levy shall be at a rate no higher than is required on that basis, without including any amount for anticipated tax delinquency, to produce the amount set out in the budget, without including any amount for anticipated tax delinquency, as being the amount to be raised by tax levy.

~~{2}--(a)--The taxable value of--property--which--is--the subject--of--a--protest--and--which--remains--under--protest--on--the first--Monday--in--August--of--the--current--year--may--be--excluded from--the--county's--taxable--valuation--if--the--taxable--value--of such--property--remaining--under--protest--exceeds--5%--of--the county's--taxable--valuation--in--computing--mill--levies--to--fund the--amounts--necessary--to--be--raised--under--the--provisions--of~~

subsection--(1)--or--fund--amounts--necessary--under--any--other
 provision--of--law--providing--for--a--levy--on--the--taxable
 valuation--of--the--county--or--any--district--or--portion--thereof;

(b)--if--tax--money--that--was--collected--on--property
 excluded--under--subsection--(2)(a)--is--not--required--to--be
 refunded--to--the--taxpayer--from--the--protest--fund--at--the
 conclusion--of--a--protest--proceeding, such money must be used
 to reduce subsequent property tax levies of the appropriate
 funds--or--levies--from--which--it--was--previously--withheld--in
 protest, except for statewide education and university--mill
 levies. The county shall calculate such levies by crediting
 the revenue from released protest funds directly to the
 revenue--section--of--the--budget--and--not--to--the--cash--reserves;
 if the crediting of such revenue reduces to zero the amount
 necessary--to--be--raised--by--tax--levy, the county treasurer
 shall--refund--any--excess--protest--fund--revenue--to--the
 taxpayers. If a taxpayer is delinquent in the payment of
 prior taxes, the county may offset the delinquency rather
 than--make--a--refund. A copy of the calculations made in
 fixing the tax levies under this subsection and calculations
 of any refunds must be delivered to the legislative auditor,
 the office of public instruction, and the department of
 revenue.

(3)(2) The tax levy shall be made in the manner
 provided by 15-10-201."

Section 4. Section 7-6-4232, MCA, is amended to read:

"7-6-4232. Fixing of tax levy. (1) On the second
 Monday in August and after the approval and adoption of the
 final budget, the council shall fix the tax levy for each
 fund at a rate, not exceeding limits prescribed by law,
 which will raise the amount set out in the budget as the
 amount necessary to be raised by tax levy for that fund
 during the current fiscal year. Except--as--provided--in
 subsections (2) and (4), the The taxable valuation of the
 city for the current fiscal year shall be the basis for
 determining the amount of the tax levy for each fund, and
 each tax levy shall be at a rate no higher than is required
 on that basis, without including any amount for anticipated
 tax delinquency, to raise the amount set out in the budget.

(2) If the council considers that a levy made for a
 bond sinking or interest fund will not provide a sufficient
 amount to pay all bond principal and interest becoming due
 during the current fiscal year or within 6 months after the
 current fiscal year because of anticipated tax delinquency,
 the council may fix the levy at a rate it considers
 necessary to raise the amount for making the payments of
 principal and interest over and above the anticipated tax
 delinquency.

(3) Each levy shall be made in the manner provided by
 15-10-201.

1 ~~{4}{a} The taxable value of property which is the~~
 2 ~~subject of a protest and which remains under protest on the~~
 3 ~~first Monday in August of the current year may be excluded~~
 4 ~~from the city's taxable valuation if the taxable value of~~
 5 ~~such property remaining under protest exceeds 5% of the~~
 6 ~~city's taxable valuation in computing mill levies to fund~~
 7 ~~the amounts necessary to be raised under the provisions of~~
 8 ~~subsection {1}.~~

9 ~~{b} If tax money that was collected on property~~
 10 ~~excluded under subsection {4}{a} is not required to be~~
 11 ~~refunded to the taxpayer from the protest fund at the~~
 12 ~~conclusion of a protest proceeding, such money shall be used~~
 13 ~~to reduce subsequent property tax levies of the appropriate~~
 14 ~~funds or levies from which it was previously withheld in~~
 15 ~~protest. The city shall calculate such levies by crediting~~
 16 ~~the revenue from released protest funds directly to the~~
 17 ~~revenue section of the budget and not to the cash reserves.~~
 18 ~~If the crediting of such revenue reduces to zero the amount~~
 19 ~~necessary to be raised by tax levy, the city shall refund~~
 20 ~~any excess protest fund revenue to the taxpayers. If a~~
 21 ~~taxpayer is delinquent in the payment of prior taxes, the~~
 22 ~~city may offset the delinquency rather than make a refund.~~
 23 ~~A copy of the calculations made in fixing the tax levies~~
 24 ~~under this subsection and calculations of any refunds must~~
 25 ~~be delivered to the legislative auditor, the office of~~

1 ~~public instruction, and the department of revenue."~~

2 Section 5. Section 15-10-202, MCA, is amended to read:
 3 "15-10-202. Certification of taxable values and
 4 millage rates. {1} At the time that the assessment roll is
 5 prepared and published, the department of revenue shall
 6 certify to each taxing authority the taxable value within
 7 the jurisdiction of the taxing authority. The department
 8 shall also send to each taxing authority a written statement
 9 of its best estimate of the total assessed value of all new
 10 construction and improvements not included on the previous
 11 assessment roll and the value of deletions from the previous
 12 assessment roll. Exclusive of such new construction,
 13 improvements, and deletions, and the taxable value of
 14 property which is the subject of a protest and which remains
 15 under protest on the first Monday in August of the current
 16 year if the taxable value of such property remaining under
 17 protest exceeds 5% of that taxing jurisdiction's taxable
 18 valuation, and if requested to do so by the county
 19 commissioners, the department shall certify to each taxing
 20 authority a millage rate which will provide the same ad
 21 valorem revenue for each taxing authority as was levied
 22 during the prior year. For the purpose of calculating the
 23 certified millage, the department shall use 95% of the
 24 taxable value appearing on the roll, exclusive of properties
 25 appearing for the first time on the assessment roll.

1 {2}--The--county---commissioners---shall---inform---the
2 department--of--revenue--in-writing-by-July-15-as-to-whether
3 the-county-wishes-to-exclude-protested-values-from--the--tax
4 base--for--the-purpose-of-calculating-certified-mill-levies.
5 The-decision-of-the-county-commissioners-shall-apply-to--all
6 taxing-jurisdictions-within-the-county."

7 Section 6. Section 20-9-142, MCA, is amended to read:

8 "20-9-142. Fixing and levying taxes by board of county
9 commissioners. {1} On the second Monday in August, the
10 county superintendent shall place before the board of county
11 commissioners the final adopted budget of the district and
12 any emergency budget adopted by the district during the
13 previous school fiscal year. It shall be the duty of the
14 board of county commissioners to fix and levy on all the
15 taxable value of all the real and personal property within
16 the district, except as provided in subsection {2}, all
17 district and county taxation required to finance, within the
18 limitations provided by law, the final budget and any
19 emergency budget of the district.

20 {2}--{a}--The-taxable-value-of--property--which--is--the
21 subject--of-a-protest-and-which-remains-under-protest-on-the
22 first-Monday-in-August-of-the-current-year-may--be--excluded
23 from--the--district's-taxable-valuation-if-the-taxable-value
24 of-such-property-remaining-under-protest-exceeds-5%--of--the
25 district's-taxable-valuation-in-computing-the-mill-levies-to

1 fund--the--final--adopted--budget--of--the--district-and-any
2 emergency-budget-adopted-by-the-district-during-the-previous
3 school-fiscal-year.

4 {b}--If--tax--money--that--was--collected--on--property
5 excluded--under--subsection--{2}{a}--is--not--required-to-be
6 refunded-to-the--taxpayer--from--the--protest--fund--at--the
7 conclusion-of-a-protest-proceeding,--such-money-shall-be-used
8 to--reduce--subsequent--property--tax--levies--The-district
9 shall-calculate-such-levies-by-crediting--the--revenue--from
10 released--protest--funds--directly-to-the-revenue-section-of
11 the-budget-and-not-to-the-cash-reserves--if-the-crediting-of
12 such-revenue-reduces-to-zero--the--amount--necessary--to--be
13 raised--by--tax--levy,--the-county-treasurer-shall-refund-on
14 behalf-of-the-district-any-excess-protest--fund--revenue--to
15 the-taxpayers--if-a-taxpayer-is-delinquent-in-the-payment-of
16 prior-taxes,--the-county-treasurer-may-offset-the-delinquency
17 rather--than--make-a-refund--A-copy-of-the-calculations-made
18 in--fixing--the--tax--levies--under--this--subsection--and
19 calculations--of--any--refunds--must--be--delivered--to--the
20 legislative-auditor,--the-office-of-public--instruction,--and
21 the-department-of-revenue."

22 NEW SECTION. Section 7. Extension of authority. Any
23 existing authority of the department of revenue to make
24 rules on the subject of the provisions of this act is
25 extended to the provisions of this act.

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1 NEW SECTION. Section 8. Effective date --
2 applicability. This act is effective on passage and approval
3 and applies to any appeal or tax paid under protest on or
4 after the effective date of this act.

-End-