

SB 333 INTRODUCED BY CRIPPEN, RAMIREZ, FRITZ, ET AL.  
"THE RETAIL SALES AND USE TAX ACT OF 1987"; IMPOSING  
A 5 PERCENT RETAIL SALES TAX.

3/09 INTRODUCED  
3/09 REFERRED TO TAXATION  
3/09 FISCAL NOTE REQUESTED  
3/11 HEARING  
3/16 FISCAL NOTE RECEIVED  
DIED IN COMMITTEE

1 *Senate* BILL NO. *333* *Kesting*  
 2 INTRODUCED BY *Cyrus Hamner, Fritz Hirsch*  
 3 *Snyder, Benjamin D. Robison, Dick E. Smith*  
 4 A BILL FOR AN ACT ENTITLED: "THE RETAIL SALES AND USE TAX *Kesting*  
 5 ACT; PROVIDING FOR THE LEVYING OF A 5 PERCENT RETAIL SALES *Wilson*  
 6 AND USE TAX; PROVIDING FOR THE ALLOCATION OF THE SALES AND *Walt*  
 7 USE TAX PROCEEDS; PROVIDING FOR THE REDUCTION OF AD VALOREM *Walt*  
 8 TAXES ON PROPERTY; PROVIDING FOR A SPECIAL PURPOSE LOCAL *Walt*  
 9 OPTION RETAIL SALES AND USE TAX; ESTABLISHING A RETAIL SALES *Walt*  
 10 AND USE TAX ACCOUNT; PROVIDING CERTAIN CREDITS AGAINST *Walt*  
 11 INCOME TAX LIABILITY; AMENDING SECTIONS 2-9-212, 7-1-2111,  
 12 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108,  
 13 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236,  
 14 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104,  
 15 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133, 15-6-134,  
 16 15-6-137 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149,  
 17 20-1-208, 20-9-343, 20-9-406, 81-6-104, 81-6-204, 81-6-209,  
 18 81-7-201, 81-7-202, 81-7-303, 81-7-305, AND 81-8-804, MCA;  
 19 REPEALING SECTIONS 15-10-105, 20-9-105, AND 20-9-407, MCA;  
 20 AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."  
 21  
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 23 NEW SECTION. Section 1. Short title. [Sections 1  
 24 through 57] shall be known and may be cited as the "Retail  
 25 Sales and Use Tax Act".

1 NEW SECTION. Section 2. Definitions. As used in  
 2 [sections 1 through 57], unless the context clearly requires  
 3 otherwise, the following definitions apply:  
 4 (1) "Business" means an activity engaged in or caused  
 5 to be engaged in by a person with the object of direct or  
 6 indirect gain, benefit, or advantage.  
 7 (2) "Consumer cooperative" means a corporation or  
 8 group of persons composed of ultimate producers or consumers  
 9 organized for the purpose of conducting any lawful business  
 10 primarily for the mutual benefit of its shareholders, who  
 11 may be natural or legal persons, provided that the earnings,  
 12 savings, or benefits of the business are used for the  
 13 general welfare of the shareholders or patrons or are  
 14 distributed, in the form of cash, stock, evidences of  
 15 indebtedness, goods, or services, proportionately among the  
 16 persons for whom the cooperative does business on the basis  
 17 of the amount of the shareholders' or patrons' transactions  
 18 or participation in production.  
 19 (3) "Cost price" means the actual cost of an item or  
 20 article of tangible personal property, computed in the same  
 21 manner as the sales price in subsection (16), without any  
 22 deductions from the actual cost on account of the cost of  
 23 materials, cost of labor, service costs, transportation  
 24 charges, or any expenses.  
 25 (4) "Department" means the department of revenue.



1 (5) (a) "Distribution" means:  
 2 (i) the transfer or delivery of tangible personal  
 3 property for use, consumption, or storage by the  
 4 distributee; or  
 5 (ii) the use, consumption, or storage of tangible  
 6 personal property by a person who has processed,  
 7 manufactured, refined, or converted the property.  
 8 (b) Distribution does not include the transfer or  
 9 delivery of tangible personal property for resale or any  
 10 use, consumption, or storage otherwise exempt under  
 11 [sections 1 through 57].  
 12 (6) "Export" means the transport of tangible personal  
 13 property from this state to another state or to a foreign  
 14 country.  
 15 (7) "Gross proceeds" means charges made or voluntary  
 16 contributions received for the lease or rental of tangible  
 17 personal property or for furnishing services, computed with  
 18 the same deductions, where applicable, as for sales price in  
 19 subsection (16) over the term of the lease, rental, service,  
 20 or use, but not less frequently than monthly.  
 21 (8) "Gross sales" means the total of all retail sales  
 22 of tangible personal property or services as defined in  
 23 [sections 1 through 57]. Gross sales do not include the  
 24 federal retailers' excise tax, if this excise tax is billed  
 25 to the purchaser separately from the selling price of the

1 article, or the retail sales or use tax, or any sales tax  
 2 imposed by a county or city.  
 3 (9) "Import" means the transport of tangible personal  
 4 property into this state from another state or from a  
 5 foreign country.  
 6 (10) "In this state" or "in the state" means within the  
 7 exterior limits of the state of Montana and includes all  
 8 territory within these limits owned by or ceded to the  
 9 United States.  
 10 (11) "Lease or rental" means the leasing or renting of  
 11 tangible personal property and the possession or use thereof  
 12 by the lessee or rentee for a consideration without transfer  
 13 of the title to the property.  
 14 (12) "Person" means an individual, firm, partnership,  
 15 cooperative, nonprofit corporation, joint venture,  
 16 association, corporation, estate, trust, business trust,  
 17 trustee in bankruptcy, receiver, auctioneer, syndicate,  
 18 assignee, club, society, or other group or combination  
 19 acting as a unit, body politic, or political subdivision,  
 20 whether public, private, or quasi-public.  
 21 (13) "Retailer" means a person engaged in the business  
 22 of making sales of tangible personal property or taxable  
 23 services.  
 24 (14) (a) "Retail sale" or "sale at retail" means a sale  
 25 to a consumer or to any person for any purpose other than

1 for resale in the form of tangible personal property or  
 2 services taxable under [sections 1 through 57] and includes  
 3 any transaction that the department, upon investigation,  
 4 finds to be in lieu of a sale.

5 (b) Retail sale or sale at retail includes the sale,  
 6 charge for, or other giving of consideration for:

7 (i) any room, lodging, or accommodations furnished to  
 8 transients by any hotel, motel, inn, tourist camp, tourist  
 9 cabin, campground, club, or other place where rooms,  
 10 lodging, space, or accommodations are regularly furnished to  
 11 transients for a consideration;

12 (ii) tangible personal property to persons for resale  
 13 if there is a likelihood that the state will lose tax  
 14 revenues due to the difficulty of policing business  
 15 operations because:

16 (A) of the operation of the business or its very  
 17 nature;

18 (B) of the lack of a place of business in which to  
 19 display a certificate of registration;

20 (C) of the lack of a place of business in which to  
 21 keep records;

22 (D) of the lack of adequate records;

23 (E) the person doing business is a minor or transient;

24 or

25 (F) the person is engaged in essentially a service

1 business;

2 (iii) admission;

3 (iv) the service of:

4 (A) repairing, altering, mending, pressing, fitting,  
 5 dyeing, laundering, dry cleaning, or cleaning tangible  
 6 personal property; and

7 (B) applying or installing tangible personal property  
 8 as a repair or replacement part of other personal property,  
 9 whether or not the service is performed directly or by means  
 10 of coin-operated equipment or other means and whether or not  
 11 any 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;

15 (v) such services as are rendered directly in  
 16 conjunction with the processing, manufacturing, refining, or  
 17 conversion of products for sale or resale;

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

22 (vii) barber or beauty services to persons or animals,  
 23 whether or not any tangible personal property is transferred  
 24 in conjunction with the performance of the service;

25 (viii) motor vehicle parking service or parking space

1 in privately owned parking lots or garages and docking or  
2 storage space for boats in privately owned boat docks or  
3 marinas;

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

8 (x) furnishing telephonic and telegraphic  
9 communications and services; and

10 (xi) furnishing and consumption of fuel and  
11 electricity.

12 (15) (a) "Sale" means a transfer of title or  
13 possession, exchange, barter, lease, or rental, conditional  
14 or otherwise, in any manner or by any means, of tangible  
15 personal property and any rendition of a taxable service for  
16 a consideration.

17 (b) Sale includes:

18 (i) the fabrication of tangible personal property for  
19 consumers who either directly or indirectly furnish the  
20 materials used in fabrication; or

21 (ii) the furnishing, preparing, or serving for a  
22 consideration of any tangible personal property consumed on  
23 the premises of the person furnishing, preparing, or serving  
24 such tangible personal property.

25 (c) A transaction whereby the possession of property

1 is transferred but the seller retains title as security for  
2 the payment of the price is considered a sale.

3 (16) "Sales price" means the total amount for which  
4 tangible personal property or services are sold, including  
5 any services that are a part of the sale, whether paid in  
6 money or otherwise, and includes any amount for which credit  
7 is given to purchaser, consumer, or lessee by the dealer  
8 without any deduction therefrom on account of the cost of  
9 the property sold, the cost of materials, the cost of labor,  
10 service costs, losses, or any other expenses. Cash discounts  
11 allowed and taken on sales and the finance charges, carrying  
12 charges, service charges, or interest from credit extended  
13 on sales of tangible personal property under conditional  
14 sales contracts or other conditional contracts providing for  
15 deferred payments of the purchase price or transportation  
16 charges separately stated are not included in the sales  
17 price.

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

22 (18) "Tangible personal property" means personal  
23 property that may be seen, weighed, measured, or touched or  
24 is in any other manner perceptible to the senses. The term  
25 does not include stocks, bonds, notes, insurance, or other

1 obligations or securities.

2 (19) "Use" means the exercise of any right or power  
3 over tangible personal property incident to the ownership  
4 thereof, except that use does not include the sale at retail  
5 of that property in the regular course of business.

6 (20) "Use tax" means the tax imposed upon the use,  
7 consumption, distribution, or storage of tangible personal  
8 property.

9 NEW SECTION. Section 3. Imposition of sales tax.  
10 There is levied and imposed, in addition to all other taxes  
11 and fees imposed by law, a license or privilege tax on every  
12 person who engages in the business of selling at retail or  
13 distributing tangible personal property in this state, who  
14 rents or furnishes any of the things or services taxable  
15 under [sections 1 through 57], who stores for use or  
16 consumption in this state any item or article of tangible  
17 personal property, or who leases or rents such property in  
18 this state, to be collected in the amount to be determined  
19 by applying the rate of 5% to:

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

24 (2) the gross proceeds derived from the lease or  
25 rental of tangible personal property if the lease or rental

1 of such property is an established business, part of an  
2 established business, or incidental or germane to the  
3 business;

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

7 (4) the gross proceeds derived from the sale or  
8 charges for rooms, lodgings, or accommodations furnished to  
9 transients as set out in [subsection (14)(b)(i) of section  
10 2];

11 (5) the sales price of a transaction wherein an  
12 article is taken in trade as a credit or partial payment on  
13 the sale of a new or used article, where the sales price of  
14 such transaction must be the net difference between the  
15 sales price of the new or used article and the sales price  
16 of the article taken in trade; and

17 (6) the gross sales of all services taxable under  
18 [sections 1 through 57]. No services are taxable under  
19 [sections 1 through 57] except those expressly enumerated  
20 and made taxable.

21 NEW SECTION. Section 4. Imposition of use tax. (1)  
22 There is levied and imposed, in addition to all other taxes  
23 and fees except the tax imposed under [section 3], a tax  
24 upon the use or consumption of tangible personal property in  
25 this state, to be collected in the amount determined by

1 applying the rate of 5% to the cost price of each item or  
2 article of tangible personal property used or consumed in  
3 this state.

4 (2) (a) If tangible personal property has been  
5 acquired after [the effective date of this act] for use  
6 outside this state and subsequently becomes subject to the  
7 tax imposed under [sections 1 through 57], it must be taxed  
8 on the basis of:

9 (i) its cost price if such property is imported for  
10 use within 6 months of its acquisition; or

11 (ii) the current market value (but not in excess of its  
12 cost price) of the property at the time of its first use in  
13 this state if imported more than 6 months after its  
14 acquisition.

15 (b) The tax must be based on such proportion of the  
16 cost price or current market value as the duration of time  
17 of use in this state bears to the total useful life of the  
18 property, but it is presumed in all cases that the property  
19 will remain in this state for the remainder of its useful  
20 life unless convincing evidence is provided to the contrary.

21 NEW SECTION. Section 5. Gross proceeds -- consumer  
22 cooperatives. Notwithstanding [section 3], gross proceeds  
23 from the sale of tangible personal property by consumer  
24 cooperatives do not include the value of initial or periodic  
25 membership fees or the value of labor performed in lieu of

1 or as part of monthly membership fees. The exclusion  
2 provided by this section may not be interpreted to permit  
3 consumer cooperatives to exclude from gross proceeds the  
4 cost of property sold.

5 NEW SECTION. Section 6. Exemptions. The following  
6 types of retail sales are not taxable under the provisions  
7 of [sections 1 through 57]:

8 (1) tangible personal property that becomes an  
9 ingredient or component part of or is consumed or destroyed  
10 or loses its identity in the manufacture of tangible  
11 personal property for later sale;

12 (2) specific machinery and processing equipment and  
13 repair parts or replacements thereof, exclusively designed  
14 or made for and specifically used in the manufacture of a  
15 product or the rendering of a taxable service;

16 (3) materials, containers, labels, sacks, cans, boxes,  
17 drums, bags, and other packing, packaging, or shipping  
18 materials for use in packing, packaging, or shipping  
19 tangible personal property;

20 (4) tangible personal property delivered pursuant to a  
21 bona fide written contract entered into before [the  
22 effective date of this act], provided delivery is made  
23 within 90 days after [the effective date of this act];

24 (5) building supplies, fixtures, or equipment that  
25 enter into or become a part of a building or other kind of

1 structure in this state if the construction contract for a  
 2 specific project has been entered into prior to [the  
 3 effective date of this act] and if delivery is made within  
 4 the time specified in such contract for the completion of  
 5 the specific project;

6 (6) commercial feeds, seed, plants, fertilizers,  
 7 liming materials, breeding and other livestock, semen,  
 8 breeding fees, baby chicks, turkey poults, agricultural  
 9 chemicals, fuel for drying or curing crops, containers for  
 10 fruits and vegetables, farm machinery, and all other  
 11 agricultural supplies, provided they are sold to and  
 12 purchased by farmers for use in agricultural production for  
 13 market;

14 (7) tangible personal property sold or leased to a  
 15 public utility for use or consumption by the utility  
 16 directly in rendering its public service;

17 (8) government-subsidized school lunches sold and  
 18 served to pupils and employees of schools, school textbooks  
 19 sold by a public school district or authorized agency  
 20 thereof, and school textbooks sold by a nonprofit college or  
 21 other institution of learning for use by students attending  
 22 the institution of learning;

23 (9) tangible personal property not held or used by a  
 24 seller in the course of an activity for which he is required  
 25 to hold a certificate of registration, sometimes referred to

1 as "casual sales";

2 (10) tangible personal property for future use for  
 3 taxable lease or rental as an established business or part  
 4 of an established business or incidental or germane to the  
 5 business, including a simultaneous purchase and taxable  
 6 leaseback;

7 (11) tangible personal property and taxable services  
 8 for use or consumption by the United States, the state of  
 9 Montana, or any unit of local government, including school  
 10 districts; however, this exclusion does not apply to sales  
 11 and leases to privately owned financial and other privately  
 12 owned corporations chartered by the United States;

13 (12) export of tangible personal property for use or  
 14 consumption outside this state;

15 (13) (a) transactions with Indians, as defined in  
 16 30-14-601, which this state is prohibited from taxing under  
 17 the constitution or laws of the United States or under The  
 18 Constitution of the State of Montana; or

19 (b) gross receipts from the sale, storage, use, or  
 20 consumption of tangible personal property to an Indian tribe  
 21 or Indian enterprise within an Indian reservation;

22 (14) monetized bullion, including the gross receipts  
 23 from the sales of monetized bullion, which sales are  
 24 substantially equivalent to transactions in securities or  
 25 commodities through a national securities or commodities



1 exchange and the storage, use, or other consumption in this  
 2 state of monetized bullion so sold. For the purposes of  
 3 this section, "monetized bullion" means coins or other forms  
 4 of money manufactured of gold, silver, or other metal and  
 5 used as a medium of exchange under the laws of this state,  
 6 the United States, or any foreign nation or sold through a  
 7 person registered pursuant to the Commodity Exchange Act, 7  
 8 U.S.C. 1 through 24, or not required to be registered under  
 9 the Commodity Exchange Act.

10 NEW SECTION. Section 7. Credit for taxes paid in  
 11 another state. A credit must be granted against the taxes  
 12 imposed by [sections 1 through 57] with respect to a  
 13 person's use in this state of tangible personal property  
 14 purchased by him in another state. The amount of the credit  
 15 must be equal to the tax paid by him to another state or  
 16 political subdivision thereof by reason of the imposition of  
 17 a similar tax on his purchase or use of the property. The  
 18 amount of the credit may not exceed the tax imposed by  
 19 [sections 1 through 57].

20 NEW SECTION. Section 8. Applicability or  
 21 inapplicability of use tax in certain cases. (1) The use tax  
 22 does not apply to tangible personal property owned or  
 23 acquired in this state or imported into this state or held  
 24 or stored in this state prior to [the effective date of this  
 25 act].

1 (2) Except as provided in [sections 1 through 57], the  
 2 use tax does apply to tangible personal property imported or  
 3 caused to be imported into this state on or after [the  
 4 effective date of this act], unless:

5 (a) the property has previously been subject to a  
 6 sales or use tax in another state or political subdivision  
 7 equal to or greater than the tax imposed by [sections 1  
 8 through 57] for which credit is given under [section 7]; or

9 (b) proof is furnished that the tangible personal  
 10 property imported or caused to be imported into this state  
 11 was owned or acquired prior to [the effective date of this  
 12 act] or otherwise is exempt under [sections 1 through 57].

13 (3) The use tax does not apply to the use of any  
 14 tangible personal property brought into the state by a  
 15 nonresident individual for his personal use while visiting  
 16 in the state.

17 NEW SECTION. Section 9. Moving residence or business  
 18 into state -- use tax. (1) The sales and use tax does not  
 19 apply to tangible personal property purchased outside this  
 20 state for use outside this state by a then nonresident  
 21 natural person or a business entity not actually doing  
 22 business in this state that later brings the tangible  
 23 personal property into this state in connection with  
 24 establishment of a permanent residence or business in this  
 25 state if the property was purchased more than 6 months prior

1 to the date it was first brought into this state or prior to  
2 the establishment of the residence or business, whichever  
3 occurs first.

4 (2) Tangible personal property temporarily brought  
5 into this state for the performance of contracts for  
6 construction, reconstruction, installation, or repair or any  
7 other service with respect to real estate or fixtures  
8 thereon is not taxable.

9 NEW SECTION. Section 10. Diversion of tangible  
10 personal property to personal use. The sales and use tax  
11 applies to tangible personal property and taxable services  
12 of persons holding themselves out as sellers of goods and  
13 services when the tangible personal property or taxable  
14 services are diverted to the personal use of the person, his  
15 family, or his employees.

16 NEW SECTION. Section 11. Dealers. (1) The taxes  
17 levied in [sections 3 and 4] must be collected from dealers.

18 (2) For the purpose of [sections 1 through 57], the  
19 term "dealer" means:

20 (a) a person physically located in this state who:

21 (i) manufactures or produces tangible personal  
22 property for sale at retail or for use, consumption, or  
23 distribution or for storage to be used or consumed in this  
24 state;

25 (ii) imports or causes to be imported into this state

1 tangible personal property from any state or foreign country  
2 for sale at retail for use, consumption, or distribution or  
3 for storage to be used or consumed in this state;

4 (iii) sells at retail or offers for sale at retail or  
5 has in possession for sale at retail or for use,  
6 consumption, or distribution or for storage to be used or  
7 consumed in this state tangible personal property or taxable  
8 services as defined in [sections 1 through 57];

9 (iv) has sold at retail or used, consumed, or  
10 distributed or stored for use or consumption in this state  
11 tangible personal property or who has performed taxable  
12 services and cannot prove that the tax levied by [sections 1  
13 through 57] has been paid on the sale at retail or on the  
14 use, consumption, distribution, or storage of such tangible  
15 personal property or on the charge for the rendition of  
16 taxable services; or

17 (v) leases or rents tangible personal property for a  
18 consideration, permitting the use or possession of the  
19 property without transferring title thereto; and

20 (b) every other person who:

21 (i) maintains or has in this state, directly or by an  
22 agent or a subsidiary, an office, distributing house,  
23 salesroom, house, warehouse, or other place of business;

24 (ii) solicits business in this state, either by  
25 employees, independent contractors, agents, or other

1 representatives, and by reason thereof makes sales to  
2 persons in this state of tangible personal property, the use  
3 of which is taxed by [sections 1 through 57];

4 (iii) as a representative, agent, or solicitor for an  
5 out-of-state principal, solicits, receives, or accepts  
6 orders from persons in this state for future delivery and  
7 whose principal refuses to register under [sections 1  
8 through 57]; or

9 (iv) becomes liable to and owes this state any amount  
10 of tax imposed by [sections 1 through 57], whether or not he  
11 holds or is required to hold a certificate of registration  
12 under [section 13]; and

13 (c) any other person making sales to persons in this  
14 state of tangible personal property, the use of which is  
15 taxed by [sections 1 through 57], who may be authorized by  
16 the department to collect such tax.

17 NEW SECTION. Section 12. Contractors. (1) A person  
18 who contracts orally, in writing, or by purchase order to  
19 perform construction, reconstruction, installation, repair,  
20 or any other service with respect to real estate or fixtures  
21 thereon and in connection therewith to furnish tangible  
22 personal property or taxable services is considered to have  
23 purchased the tangible personal property for use or  
24 consumption. Any sale, distribution, or lease to or storage  
25 for such person is considered a sale, distribution, or lease

1 to or storage for the ultimate consumer and not for resale,  
2 and the dealer making the sale, distribution, or lease to or  
3 storage for the person shall collect the tax to the extent  
4 required by [sections 1 through 57].

5 (2) A person who contracts to perform services in this  
6 state and is furnished tangible personal property for use  
7 under the contract by the person or his agent or  
8 representative for whom the contract is performed, if a sale  
9 or use tax has not been paid to this state by the person  
10 supplying the tangible personal property, is considered to  
11 be the consumer of the tangible personal property so used  
12 and shall pay a use tax based on the fair market value of  
13 the tangible personal property so used, irrespective of  
14 whether or not any right, title, or interest in the tangible  
15 personal property becomes vested in the contractor. This  
16 subsection does not apply to the sale of tangible personal  
17 property that becomes an ingredient or component part of or  
18 is consumed or destroyed or loses its identity in the  
19 manufacture of tangible personal property for later sale or  
20 is subject to governmental exclusion as indicated in  
21 [section 6].

22 (3) A person who contracts orally, in writing, or by  
23 purchase order to perform any service in the nature of  
24 equipment rental if the principal part of that service is  
25 the furnishing of equipment or machinery that will not be

1 under the exclusive control of the contractor is liable for  
2 the retail sales or use tax on the gross proceeds from the  
3 contract to the same extent as the lessor of tangible  
4 personal property.

5 (4) Tangible personal property incorporated in real  
6 property construction that loses its identity as tangible  
7 personal property is considered to be tangible personal  
8 property used or consumed within the meaning of this  
9 section.

10 (5) Nothing in this section affects the resale  
11 exclusion provided for in [sections 1 through 57], and  
12 nothing contained in this section imposes any sales or use  
13 tax with respect to the use, in the performance of contracts  
14 with the United States or this state and its political  
15 subdivisions, of tangible personal property owned by a  
16 governmental body that is not actually used or consumed in  
17 the performance thereof.

18 NEW SECTION. Section 13. Certificates of registration  
19 -- revocation. (1) Every person desiring to engage in or  
20 conduct business as a dealer in this state shall file with  
21 the department an application for a certificate of  
22 registration for each place of business in this state.

23 (2) Every application for a certificate of  
24 registration must be made upon a form prescribed by the  
25 department and must set forth the name under which the

1 applicant transacts or intends to transact business, the  
2 location of his place or places of business, and such other  
3 information as the department requires. The application must  
4 be signed by the owner if a natural person; in the case of  
5 an association or partnership, by a member or partner; in  
6 the case of a corporation, by an executive officer or some  
7 person specifically authorized by the corporation to sign  
8 the application.

9 (3) When the required application has been made, the  
10 department shall issue to each applicant a separate  
11 certificate of registration for each place of business in  
12 this state. A certificate of registration is not assignable  
13 and is valid only for the person in whose name it is issued  
14 and for the transaction of business at the place designated  
15 therein. It must be at all times conspicuously displayed at  
16 the place for which it is issued.

17 (4) If a person fails to comply with any provision of  
18 [sections 1 through 57] or any rule of the department  
19 relating thereto, the department, upon hearing, after giving  
20 the person 10 days' notice in writing, specifying the time  
21 and place of hearing and requiring him to show cause why his  
22 certificate of registration should not be revoked or  
23 suspended, may revoke or suspend any one or more of the  
24 certificates of registration held by such person. The notice  
25 may be personally served or served by certified mail

1 directed to the last-known address of the person. A dealer  
2 whose certificate of registration has been previously  
3 suspended or revoked shall pay the department a fee of \$200  
4 for the renewal or reissuance of a certificate of  
5 registration.

6 (5) A person who engages in business as a dealer in  
7 this state without obtaining a certificate of registration  
8 or after a certificate of registration has been suspended or  
9 revoked and each officer of any corporation that so engages  
10 in business is guilty of a misdemeanor punishable as  
11 provided in 46-18-212. Each day's continuance in business in  
12 violation of this section is a separate offense.

13 (6) If the holder of a certificate of registration  
14 ceases to conduct his business at the place specified in his  
15 certificate, the certificate expires and the holder shall  
16 inform the department in writing within 30 days after he has  
17 ceased to conduct the business at that place. If the holder  
18 of a certificate of registration desires to change his place  
19 of business to another place in this state, he shall inform  
20 the department in writing and his certificate must be  
21 revised accordingly.

22 (7) This section applies to a person who engages in  
23 the business of furnishing any of the tangible personal  
24 property or services taxable under [sections 1 through 57]  
25 and includes any person who is liable only for the

1 collection of the use tax.

2 NEW SECTION. Section 14. Exemption certificates. (1)  
3 All sales or leases are subject to the retail sales or use  
4 tax until the contrary is established. The burden of  
5 proving that a sale, distribution, lease, or storage of  
6 tangible personal property is not taxable is upon the person  
7 who makes the sale, distribution, lease, or storage unless  
8 he receives from the purchaser or lessee a certificate to  
9 the effect that the property is exempt under [sections 1  
10 through 57].

11 (2) The certificate mentioned in this section relieves  
12 the person who receives the certificate from any liability  
13 for the payment or collection of the tax, except upon notice  
14 from the department that the certificate is no longer  
15 acceptable. The certificate must:

16 (a) be signed by and bear the name and address of the  
17 purchaser or lessee;

18 (b) indicate the number of the certificate of  
19 registration, if any, issued to the purchaser or lessee;

20 (c) indicate the general character of the taxable  
21 service rendered or tangible personal property sold,  
22 distributed, leased, or stored or to be sold, distributed,  
23 leased, or stored under a blanket exemption certificate; and

24 (d) be substantially in such form as the department  
25 prescribes.

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

16 (4) If a purchaser gives a certificate under this  
 17 section with respect to the purchase of fungible goods and  
 18 thereafter commingles these goods with other fungible goods  
 19 not so purchased but of such similarity that the identity of  
 20 the constituent goods in the commingled mass cannot be  
 21 determined, sale or distribution from the mass of commingled  
 22 goods is considered to be sale or distribution of the goods  
 23 so purchased until a quantity of commingled goods equal to  
 24 the quantity of purchased goods so commingled has been sold  
 25 or distributed.

1 NEW SECTION. Section 15. Collection. (1) The tax  
 2 levied by [sections 1 through 57] must be paid by the  
 3 dealer, but the dealer shall separately state the amount of  
 4 the tax and add the tax to the retail sales price or charge.  
 5 Thereafter, the tax is a debt from the purchaser, consumer,  
 6 or lessee to the dealer until paid and is recoverable at law  
 7 in the same manner as other debts, but no action at law or  
 8 suit in equity under [sections 1 through 57] may be  
 9 maintained in this state by any dealer who is not registered  
 10 under [section 13] or is delinquent in the payment of the  
 11 taxes imposed under [sections 1 through 57].

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

17 (3) Notwithstanding any exemption from taxes that a  
 18 dealer enjoys under the constitution or laws of this or any  
 19 other state or of the United States, the dealer shall  
 20 collect the tax from the purchaser, consumer, or lessee and  
 21 shall pay it to the department as provided in [sections 1  
 22 through 57].

23 (4) A dealer who neglects, fails, or refuses to  
 24 collect the tax upon each and every taxable sale,  
 25 distribution, lease, or storage of tangible personal

1 property made by him, his agents, or his employees is liable  
 2 for and must pay the tax himself, and the dealer is not  
 3 thereafter entitled to sue for or recover in this state any  
 4 part of the purchase price or rental from the purchaser  
 5 until the tax is paid. A dealer who neglects, fails, or  
 6 refuses to pay or collect the tax provided in [sections 1  
 7 through 57], either by himself or through his agents or  
 8 employees, is guilty of a misdemeanor and is punishable as  
 9 provided in 46-18-212.

10 NEW SECTION. Section 16. Absorption of tax  
 11 prohibited. No person may advertise or hold out to the  
 12 public in any manner, directly or indirectly, that he will  
 13 absorb all or any part of the retail sales or use tax or  
 14 that he will relieve the purchaser, consumer, or lessee of  
 15 the payment of all or any part of the tax, except as  
 16 authorized under [section 30]. Any person who violates this  
 17 section is guilty of a misdemeanor and is punishable as  
 18 provided in 46-18-212.

19 NEW SECTION. Section 17. Returns by dealers. (1)  
 20 Every dealer required to collect or pay the retail sales or  
 21 use tax shall, on or before the 28th day of each month,  
 22 transmit to the department, on a form prescribed, prepared,  
 23 and furnished by the department, a return showing the gross  
 24 sales, gross proceeds, sales price, or cost price, as the  
 25 case may be, arising from all transactions taxable under

1 [sections 1 through 57] during the preceding calendar month.  
 2 The return must also contain a statement showing the amount  
 3 in each class of exclusions and exemptions that is not  
 4 subject to the tax imposed by [sections 1 through 57] or, if  
 5 the form so provides, the total amount thereof without  
 6 specifying each class. In the case of dealers regularly  
 7 keeping books and accounts on the basis of an annual period  
 8 that varies from 52 to 53 weeks, the department may make  
 9 rules for reporting consistent with the accounting period.

10 (2) If the tax for which any dealer is liable under  
 11 [sections 1 through 57] does not exceed \$100 in any month or  
 12 \$1,000 in any annual reporting period, the department may  
 13 permit a dealer, upon written application, to file a  
 14 quarterly return and pay the amount of tax due on the last  
 15 day of the month following the end of the quarterly period.

16 (3) If the tax for which any dealer is liable under  
 17 [sections 1 through 57] does not exceed \$50 in any month or  
 18 \$500 in any annual reporting period, the department may  
 19 permit a dealer, upon written application, to file an annual  
 20 return and pay the amount of tax due on the last day of the  
 21 month following the end of the annual period.

22 NEW SECTION. Section 18. Payment to accompany  
 23 dealer's return -- dealer adjustment. At the time of  
 24 transmitting to the department the return required under  
 25 [section 17], the dealer shall remit to the department the

1 amount of tax due under the applicable provisions of  
 2 [sections 1 through 57], after making appropriate  
 3 adjustments for purchases returned, repossessions, and  
 4 accounts uncollectible and charged off as provided in  
 5 [sections 19 through 21]. The tax imposed by [sections 1  
 6 through 57] for each month becomes delinquent on the day  
 7 following the 28th day of the succeeding month if not paid  
 8 before that day.

9 NEW SECTION. Section 19. Returned purchases. If  
 10 purchases are returned to the dealer by the purchaser or  
 11 consumer after the tax imposed by [sections 1 through 57]  
 12 has been collected or charged to the account of the  
 13 purchaser, the dealer is entitled to reimbursement of the  
 14 amount of tax collected or charged by him, in the manner  
 15 prescribed by the department, but the amount of tax so  
 16 reimbursed to the dealer may not include the tax paid upon  
 17 any cash retained by the dealer after the return of  
 18 merchandise. If the tax has not been remitted by the dealer,  
 19 the dealer may deduct it in submitting his return. The  
 20 dealer must be issued a refund by the department equal to  
 21 the net amount remitted by the dealer for the tax collected  
 22 if the dealer can establish that the tax was not due.

23 NEW SECTION. Section 20. Repossessions. A dealer who  
 24 has paid the tax on tangible personal property sold under a  
 25 retained title, conditional sale, or similar contract may

1 take credit for the tax paid by him upon the unpaid balance  
 2 due him when he repossesses the property, the credit to be  
 3 administered by the department in the same manner as  
 4 provided for returned purchases under [section 19]. If  
 5 repossessed property is resold, the sale is subject in all  
 6 respects to [sections 1 through 57].

7 NEW SECTION. Section 21. Uncollectible accounts. In a  
 8 return filed under the provisions of [sections 1 through  
 9 57], the dealer, under rules adopted by the department, may  
 10 credit against the tax shown to be due on the return the  
 11 amount of retail sales or use tax previously reported and  
 12 paid on accounts that during the period covered by the  
 13 current return have been found to be worthless and actually  
 14 charged off for income tax purposes; except that if any  
 15 accounts so charged off are thereafter in whole or in part  
 16 paid to the dealer, the amount paid must be included in the  
 17 first return filed after the collection and the tax paid  
 18 accordingly.

19 NEW SECTION. Section 22. Extensions. The department  
 20 may grant an extension upon written application therefor to  
 21 the end of the calendar month in which any tax return is due  
 22 under [sections 1 through 57] or for a period not exceeding  
 23 30 days, and no interest or penalty may be charged,  
 24 assessed, or collected by reason of the granting of the  
 25 extension, except that when an extension is granted beyond



1 the end of the calendar month in which any tax return is  
 2 due, interest on the tax at the rate of 0.5% a month or  
 3 fraction thereof must be charged.

4 NEW SECTION. Section 23. Civil penalties. If a dealer  
 5 fails to make any return and pay the full amount of the tax  
 6 required by [sections 1 through 57], there must be imposed,  
 7 in addition to other penalties provided in [sections 1  
 8 through 57], a civil penalty to be added to the tax in the  
 9 amount of \$10 plus 10% of the tax due if the failure is for  
 10 not more than 30 days, with an additional 5% for each  
 11 additional 30 days or fraction thereof during which the  
 12 failure continues, not to exceed 25% in the aggregate.  
 13 However, if the failure is due to providential cause and  
 14 proved to the satisfaction of the department, the return  
 15 with remittance may be accepted exclusive of penalties. In  
 16 the case of a false or fraudulent return with the purpose to  
 17 defraud the state of any tax due under [sections 1 through  
 18 57], a civil penalty of 50% of the amount of the proper tax  
 19 must be assessed. All penalties and interest imposed by  
 20 [sections 1 through 57] are payable by the dealer and  
 21 collectible by the department as if they were a part of the  
 22 tax imposed.

23 NEW SECTION. Section 24. Assessment based on estimate  
 24 by department. (1) If a dealer fails to make a return as  
 25 provided by [sections 1 through 57], makes a grossly

1 incorrect return, or makes a return that is false or  
 2 fraudulent, the department shall make an estimate for the  
 3 taxable period of the retail sales or distributions of the  
 4 dealer, the gross proceeds from leases of tangible personal  
 5 property, the taxable services by the dealer, or the cost  
 6 price of all articles of tangible personal property imported  
 7 by the dealer for use or consumption in the state or storage  
 8 by the dealer of tangible personal property to be used or  
 9 consumed in the state and shall assess the tax plus  
 10 penalties. The department shall give the dealer 10 days'  
 11 notice in writing requiring the dealer to appear before a  
 12 designee of the department with such books, records, and  
 13 papers as the department requires relating to the business  
 14 of the dealer for the taxable period. The department may  
 15 require the dealer or the agents and employees of the dealer  
 16 to give testimony or to answer interrogatories under oath  
 17 administered by the department's designee respecting the  
 18 sale, distribution, lease, use, consumption, or storage of  
 19 tangible personal property or taxable services or the  
 20 failure to make a return thereof as provided in [sections 1  
 21 through 57]. If the dealer fails to make any return, refuses  
 22 to permit an examination of his books, records, or papers,  
 23 or fails to appear and answer questions within the scope of  
 24 an investigation relating to the sale, distribution, lease,  
 25 use, consumption, or storage of tangible personal property

1 or taxable services, the department may make the assessment  
 2 based upon information available to it and issue a warrant  
 3 for the collection of the taxes and penalties found to be  
 4 due. The assessment must be considered prima facie correct.

5 (2) If the dealer has imported the tangible personal  
 6 property and fails to produce an invoice showing the sales  
 7 price of the articles or the invoice does not reflect the  
 8 true or actual sales price as defined in [sections 1 through  
 9 57], the department shall ascertain, in any manner feasible,  
 10 the true sales price and shall assess and collect the tax,  
 11 with penalties to the extent they have accrued, on the true  
 12 sales price as ascertained by it. The assessment must be  
 13 considered prima facie correct.

14 (3) In the case of the lease of tangible personal  
 15 property, if the consideration given or reported by the  
 16 dealer, in the judgment of the department, does not  
 17 represent the true or actual consideration, the department  
 18 may fix and assess and collect the tax thereon as provided  
 19 in this section, with penalties as have accrued. The  
 20 assessment must be considered prima facie correct.

21 NEW SECTION. Section 25. Records. (1) Each dealer  
 22 required to make a return and pay or collect any tax under  
 23 [sections 1 through 57] shall keep and preserve suitable  
 24 records of the sales or leases, as the case may be, taxable  
 25 under [sections 1 through 57] and other books of account as

1 necessary to determine the amount of tax due and other  
 2 pertinent information required by the department. Each  
 3 dealer shall keep and preserve for a period of 4 years all  
 4 invoices and other records of goods, wares, merchandise, and  
 5 other subjects of taxation under [sections 1 through 57],  
 6 and all the books, invoices, and other records must be open  
 7 to examination at all reasonable hours by the department or  
 8 any of its duly authorized agents.

9 (2) In order to aid in the administration and  
 10 enforcement of the provisions of [sections 1 through 57],  
 11 all wholesalers in this state shall keep a record of all  
 12 sales of tangible personal property, whether the sales be  
 13 for cash or on terms of credit. The records required to be  
 14 kept by all wholesalers and jobbers must include the name  
 15 and address of the purchaser, the number of the certificate  
 16 of registration issued to the purchaser, the date of the  
 17 purchase, the article purchased, and the price at which the  
 18 article is sold to the purchaser. These records must be kept  
 19 for a period of 4 years and must be open to the inspection  
 20 of the department or its authorized agents at all reasonable  
 21 hours. The failure of any wholesaler or jobber in this state  
 22 to keep the records or the failure of any wholesaler or  
 23 jobber in this state to permit an inspection of the records  
 24 by the department, as provided in this subsection, is a  
 25 misdemeanor punishable as provided in 46-18-212. If any

1 person who is both a retailer and a wholesaler or jobber  
 2 fails to keep proper records showing wholesale sales and  
 3 retail sales separately, he shall pay the tax as a retailer  
 4 on both classes of his business.

5 (3) For the purpose of enforcing the collection of the  
 6 tax levied by [sections 1 through 57], the department,  
 7 through its authorized agents, may examine during business  
 8 hours the books, records, and other documents of all  
 9 transportation companies, agencies, firms, or persons that  
 10 conduct their business by truck, rail, water, airplane, or  
 11 otherwise, in order to determine the dealers that are  
 12 importing or otherwise shipping articles of tangible  
 13 personal property that are liable for the tax. If the  
 14 transportation company, agency, firm, or person refuses to  
 15 permit an examination of its or his books, records, and  
 16 other documents by the department, it or he is guilty of a  
 17 misdemeanor punishable as provided in 46-18-212. Moreover,  
 18 the department may proceed by requiring the transportation  
 19 company, agency, firm, or person to show cause before any  
 20 court of record why the books, records, and other documents  
 21 should not be examined pursuant to the injunction of the  
 22 court and why a bond should not be required, with proper  
 23 security in the penalty of not more than \$2,000, conditioned  
 24 upon compliance with the provisions of this section for a  
 25 period of not more than 1 year.

1 NEW SECTION. Section 26. Sale of business. If any  
 2 dealer liable for any tax, penalty, or interest levied under  
 3 [sections 1 through 57] sells his business or stock of goods  
 4 or quits the business, he shall make a final return and  
 5 payment within 15 days after the date of selling or quitting  
 6 the business. The return must include any sales made at  
 7 retail during liquidation. His successors or assigns, if  
 8 any, shall withhold a sufficient amount of the purchase  
 9 money to cover the amount of taxes, penalties, and interest  
 10 due and unpaid until the former owner produces a receipt  
 11 from the department showing that they have been paid or a  
 12 certificate stating that no taxes, penalties, or interest is  
 13 due. If the purchaser of a business or stock of goods fails  
 14 to withhold the purchase money as provided in this section,  
 15 he shall be personally liable for the payment of the taxes,  
 16 penalties, and interest due and unpaid on account of the  
 17 operation of the business by any former owner. Nothing in  
 18 this section affects the exemption for such a sale as  
 19 covered by [section 6].

20 NEW SECTION. Section 27. Bond. The department, if  
 21 necessary and advisable in order to secure the collection of  
 22 the tax levied by [sections 1 through 57], may require any  
 23 person subject to the tax to file a bond of a surety company  
 24 authorized to do business in this state as surety, in such  
 25 reasonable amount as the department fixes, to secure the

1 payment of any tax, penalty, or interest due or that may  
 2 become due from the person. In lieu of a bond, securities  
 3 approved by the department may be deposited with the state  
 4 treasurer and must be kept in the custody of the state  
 5 treasurer and must be sold by him at the request of the  
 6 department at public or private sale, without notice to the  
 7 depositor thereof, if necessary, in order to recover any  
 8 tax, penalty, or interest due the state under [sections 1  
 9 through 57]. Upon the sale, any surplus above the amount due  
 10 under [sections 1 through 57] must be returned to the person  
 11 who deposited the securities.

12 NEW SECTION. Section 28. Jeopardy assessment. If the  
 13 department considers that the collection of any tax or any  
 14 amount of tax required to be collected and paid under  
 15 [sections 1 through 57] may be jeopardized by delay, the  
 16 director or his agent shall make an assessment of the tax or  
 17 amount of tax required to be collected and shall mail or  
 18 issue a notice of the assessment to the taxpayer, together  
 19 with a demand for immediate payment of the tax or of the  
 20 deficiency in tax declared to be in jeopardy, including  
 21 penalties. In the case of a tax for a current period, the  
 22 director or his agent may declare the taxable period of the  
 23 taxpayer immediately terminated and, if he so declares,  
 24 shall cause notice of the assessment and declaration to be  
 25 mailed or issued to the taxpayer, together with a demand for

1 immediate payment of the tax based on the period declared  
 2 terminated, and the tax is immediately due and payable  
 3 whether or not the time otherwise allowed by law for filing  
 4 a return and paying the tax has expired. Assessments  
 5 provided for in this section become immediately due and  
 6 payable; and if any tax, penalty, or interest is not paid  
 7 upon demand, the department shall proceed to collect it by  
 8 legal process or may require the taxpayer to file a bond  
 9 sufficient to protect the interest of the state.

10 NEW SECTION. Section 29. Direct payment permits.  
 11 (1) (a) Notwithstanding any other provision of [sections 1  
 12 through 57], upon application to the department and the  
 13 issuance by the department of a direct payment permit, the  
 14 department may waive collection by the dealer and authorize  
 15 the following persons to pay any tax levied by [sections 1  
 16 through 57] directly to the state and waive the collection  
 17 of the tax by the dealer:

18 (i) a manufacturer, mine operator, or public service  
 19 corporation that is a user, consumer, distributor, or lessee  
 20 to which sales, distributions, leases, or storage of  
 21 tangible personal property is made under circumstances that  
 22 normally make it impossible at the time thereof to determine  
 23 the manner in which the property will be used by the person;  
 24 or

25 (ii) any person who stores tangible personal property

1 in this state for use both within and outside this state.

2 (b) If a direct payment permit is granted, payment of  
3 the tax on all sales, distributions, leases, and storage,  
4 including sales, distributions, leases, and storage of  
5 tangible personal property and sales of taxable services for  
6 use known at the time thereof, must be made directly to the  
7 department by the permitholder.

8 (2) On or before the 28th day of each month, every  
9 permitholder shall make and file with the department a  
10 return for the preceding month, in the form prescribed by  
11 the department, showing the total value of the tangible  
12 personal property used, the amount of tax due from the  
13 permitholder (which amount must be paid to the department  
14 with such return), and such other information as the  
15 department considers necessary. The department, upon  
16 written request by the permitholder, may grant a reasonable  
17 extension of time for making and filing returns and paying  
18 the tax. Interest on the tax at the rate of 0.5% a month or  
19 fraction thereof must be charged on every extended payment.

20 (3) Each permitholder required to make a return and  
21 pay tax under this section shall keep and preserve suitable  
22 records of purchases, together with invoices of purchases,  
23 bills of lading, and other pertinent records and documents,  
24 in the form the department requires by rule. All records and  
25 other documents must be open during business hours to the

1 inspection of the department and must be preserved for a  
2 period of 4 years unless the department, in writing,  
3 authorizes their destruction or disposal at an earlier date.

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

7 (5) A person who holds a direct payment permit that  
8 has not been canceled may not be required to pay the tax to  
9 the dealer. The person shall notify each dealer from whom  
10 purchases or leases of tangible personal property are made  
11 of his direct payment permit number and that the tax is  
12 being paid directly to the department. Upon receipt of the  
13 notice, the dealer is absolved from all duties and  
14 liabilities imposed by [sections 1 through 57] for the  
15 collection and remittance of the tax with respect to sales,  
16 distributions, leases, or storage of tangible personal  
17 property to the permitholder. Dealers who make sales upon  
18 which the tax is not collected by reason of the provisions  
19 of this section shall maintain records in such manner that  
20 the amount involved and identity of each purchaser may be  
21 ascertained.

22 (6) Upon the cancellation or surrender of a direct  
23 payment permit, the provisions of [sections 1 through 57]  
24 thereafter apply to the person who previously held the  
25 permit, and the person shall promptly notify in writing

1 dealers from whom purchases, leases, and storage of tangible  
 2 personal property are made of the cancellation or surrender.  
 3 Upon receipt of the notice, the dealer is subject to the  
 4 provisions of [sections 1 through 57] with respect to all  
 5 sales, distributions, leases, or storage of tangible  
 6 personal property thereafter made to the person who held the  
 7 permit.

8 NEW SECTION. Section 30. Vending machine sales. If a  
 9 dealer makes sales of tangible personal property through  
 10 vending machines or in any other manner making collection of  
 11 the tax impractical, the department may authorize the dealer  
 12 to prepay the tax and waive collection from the purchaser  
 13 and may require the dealer to furnish bond sufficient to  
 14 secure prepayment of the tax. The dealer must be required to  
 15 print upon the property sold or post on the vending machine  
 16 a statement to the effect that the tax has been paid in  
 17 advance. Prepayment and waiver of collection under this  
 18 section are allowed only if the dealer makes application to  
 19 the department and the department finds that the collection  
 20 of the tax in the manner otherwise provided in [sections 1  
 21 through 57] is impractical.

22 NEW SECTION. Section 31. Tax warrants. If any tax  
 23 becomes delinquent under [sections 1 through 57], the  
 24 department may issue a warrant under Title 15, chapter 1,  
 25 part 7, for the collection of the tax, penalty, and interest

1 from the delinquent taxpayer.

2 NEW SECTION. Section 32. Erroneous assessments. Upon  
 3 any claim of an erroneous or illegal assessment or  
 4 collection, the taxpayer has a remedy under Title 15,  
 5 chapter 2, part 3, which is applicable to all retail sales  
 6 and use taxes imposed under [sections 1 through 57].

7 NEW SECTION. Section 33. Period of limitations. The  
 8 taxes imposed by [sections 1 through 57] must be assessed  
 9 within 3 years from December 31 of the year in which the  
 10 taxes became due and payable. In the case of a false or  
 11 fraudulent return with intent to evade payment of the taxes  
 12 imposed by [sections 1 through 57] or a failure to file a  
 13 return, the taxes may be assessed or a proceeding in court  
 14 for the collection of the taxes may be begun without  
 15 assessment at any time within 6 years from December 31 of  
 16 the year in which the taxes became due and payable.

17 NEW SECTION. Section 34. Violation of act by dealer a  
 18 misdemeanor. Any dealer subject to the provisions of  
 19 [sections 1 through 57] who fails or refuses to furnish any  
 20 return required to be made under [sections 1 through 57] or  
 21 a supplemental return or other data required by the  
 22 department, who makes a false or fraudulent return with the  
 23 purpose to evade a tax levied under [sections 1 through 57],  
 24 who makes a false or fraudulent claim for refund, who gives  
 25 or knowingly receives a false or fraudulent exemption

1 certificate, or who violates any other provision of  
2 [sections 1 through 57], punishment for which is not  
3 otherwise provided in [sections 1 through 57], is guilty of  
4 a misdemeanor and is punishable as provided in 46-18-212.

5 NEW SECTION. Section 35. Retail sales and use tax  
6 account. (1) There is within the state special revenue fund  
7 a retail sales and use tax account.

8 (2) All money collected under [sections 1 through 57]  
9 must be paid by the department into the retail sales and use  
10 tax account.

11 NEW SECTION. Section 36. Special purpose local option  
12 retail sales and use tax. As required by 7-1-112, [sections  
13 36 through 42] specifically delegate to the electors of any  
14 local government, as defined in 7-12-1103(6), the power to  
15 authorize their local government to impose a special purpose  
16 retail sales and use tax within the corporate boundary of  
17 the local government.

18 NEW SECTION. Section 37. Limit on tax rate -- goods  
19 and services subject to tax. (1) The rate of the special  
20 purpose local option retail sales and use tax must be  
21 established by the election petition provided for in  
22 [section 38], but the rate may not exceed 1%.

23 (2) The tax imposed under [sections 36 through 42] is  
24 in addition to the retail sales and use tax imposed by  
25 [sections 3 and 4].

1 (3) The special purpose local option retail sales and  
2 use tax is a tax on the retail value of all goods and  
3 services sold except those specifically exempted or excluded  
4 under [section 6].

5 NEW SECTION. Section 38. Election required to impose  
6 or repeal special purpose local option retail sales and use  
7 tax. (1) A local government unit may impose or repeal a tax  
8 authorized by [section 36] only after approval by a simple  
9 majority of the electors voting on the question who are  
10 residents of the jurisdiction that is or will be subject to  
11 the tax.

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

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

15 (b) a resolution of the governing body.

16 (3) Upon the receipt of a petition or a resolution  
17 requesting an election, the question on the special purpose  
18 local tax must be placed on the ballot at the next regularly  
19 scheduled election.

20 (4) The question must include the information required  
21 by [section 40] and be presented in substantially the  
22 following form:

23  FOR the special purpose local option retail sales and  
24 use tax.

25  AGAINST the special purpose local option retail sales

1 and use tax.

2 (5) The question of imposition of a special purpose  
3 local option retail sales and use tax may not be placed  
4 before the electors more than one time in any fiscal year.

5 NEW SECTION. Section 39. Rate of special purpose  
6 retail sales and use tax. (1) The rate of the special  
7 purpose retail sales and use tax must be determined by the  
8 electors when voting on the question. The governing body of  
9 the local government unit shall certify the rate of the tax  
10 to the department on or before October 1 of the first year  
11 in which the tax is to be imposed.

12 (2) The tax imposed by [sections 36 through 42] is in  
13 addition to the retail sales and use tax imposed by  
14 [sections 3 and 4].

15 NEW SECTION. Section 40. Specific purpose of special  
16 purpose retail sales and use tax. (1) The project for which  
17 the special purpose sales and use tax will be used must be  
18 determined by the electors when voting on the question.

19 (2) The project must be identified on the ballot.

20 NEW SECTION. Section 41. Administration of local  
21 option retail sales and use taxes -- role of department. (1)  
22 The special purpose local option retail sales and use taxes  
23 authorized under [sections 36 through 42] must be  
24 administered by the department under rules adopted by the  
25 department. The rules for the administration of the state

1 retail sales and use tax apply to the special purpose local  
2 option retail sales and use taxes except when, in the  
3 judgment of the department, the rules would be inconsistent  
4 or not feasible for proper administration.

5 (2) Money collected pursuant to [sections 36 through  
6 42] must be accounted for separately by taxing jurisdiction  
7 and must be credited to a separate special purpose local  
8 retail sales and use tax account in the state treasury.

9 (3) The department may deduct from the money collected  
10 an amount not exceeding 1% to cover necessary costs incurred  
11 by the department in administering the special purpose local  
12 retail sales and use taxes.

13 NEW SECTION. Section 42. Distribution of special  
14 purpose local option retail sales and use tax collections.  
15 (1) All money collected pursuant to [sections 36 through 42]  
16 must be distributed by the department to the local  
17 government unit of origin in May and November of each year,  
18 after deducting the costs of administering the tax.

19 (2) The department shall provide the necessary revenue  
20 information for the proper distribution of the revenues to  
21 the county finance administrator.

22 NEW SECTION. Section 43. Administration. The  
23 department shall administer and enforce the assessment and  
24 collection of the taxes and penalties imposed by [sections 1  
25 through 57]. It shall design, prepare, print, and furnish to



1 all dealers or make available to them all necessary forms  
 2 for filing returns, together with instructions to assure a  
 3 full collection from dealers and an accounting for the taxes  
 4 due; but failure of any dealer to receive or procure forms  
 5 or instructions, or both, does not relieve him from the  
 6 payment of the tax at the time and in the manner provided in  
 7 [sections 1 through 57].

8 NEW SECTION. Section 44. Rules. The department shall  
 9 adopt rules consistent with [sections 1 through 57] for the  
 10 enforcement of the provisions of [sections 1 through 57] and  
 11 the collection of the revenue under [sections 1 through 57].

12 NEW SECTION. Section 45. Protection of information.  
 13 Except in accordance with a proper judicial order or as  
 14 provided by law, it is unlawful for any agent, auditor, or  
 15 other officer or employee of the department to divulge or  
 16 make known in any manner the amount of sales, the amount of  
 17 tax paid, or any other particulars set forth or disclosed in  
 18 any return required by [sections 1 through 57]. Nothing in  
 19 [sections 1 through 57] prohibits the publication of  
 20 statistics if classified so as to prevent the identification  
 21 of particular reports or returns and the items thereof or  
 22 the inspection by the legal representative of this state of  
 23 the report or return of any taxpayer who applies for a  
 24 review or appeal from any determination or against whom an  
 25 action or proceeding is about to be instituted or has been

1 instituted to recover any tax or penalty imposed by  
 2 [sections 1 through 57].

3 NEW SECTION. Section 46. Exchange of information with  
 4 other tax officials. The department may furnish to the tax  
 5 officials of any other state or its political subdivisions,  
 6 the political subdivisions of this state, the District of  
 7 Columbia, and the United States and its territories any  
 8 information contained in tax returns, reports, and related  
 9 schedules and documents filed pursuant to [sections 1  
 10 through 57] or in the report of an audit or investigation  
 11 made with respect thereto, if those jurisdictions grant  
 12 similar privileges to this state and the information is to  
 13 be used only for tax purposes.

14 NEW SECTION. Section 47. Credit for sales and use tax  
 15 paid. (1) There is a credit against tax liability under this  
 16 chapter as provided in subsection (2).

17 (2) For each exemption claimed under 15-30-112, a  
 18 credit is allowed according to the following schedule:

19	Gross Household Income	Credit Per Exemption
20	\$ 0 - 4,999	\$48
21	5,000 - 5,999	39
22	6,000 - 6,999	34
23	7,000 - 7,999	32
24	8,000 - 8,999	27
25	9,000 - 9,999	24

1	10,000 - 10,999	20
2	11,000 - 11,999	17
3	12,000 - 12,999	14
4	13,000 - 13,999	10
5	14,000 - 19,999	8
6	20,000 or more	0

7 (3) For the purpose of this section, "gross household  
8 income" is defined as provided in [section 48].

9 NEW SECTION. Section 48. Renters' property tax credit  
10 -- definitions. As used in [sections 48 through 56], the  
11 following definitions apply:

12 (1) "Claimant" means an individual natural person who  
13 is eligible to file a claim under [section 49].

14 (2) "Claim period" means the tax year for individuals  
15 required to file Montana individual income tax returns and  
16 the calendar year for individuals not required to file  
17 returns.

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

19 (4) "Gross household income" means all income received  
20 by all individuals of a household while they are members of  
21 the household.

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

1 (6) "Homestead" means a single-family dwelling or unit  
2 of a multiple-unit dwelling that is subject to ad valorem  
3 taxes in Montana and as much of the surrounding land, but  
4 not in excess of 1 acre, as is reasonably necessary for its  
5 use as a dwelling.

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

11 (8) "Household income" means \$0 or the amount obtained  
12 by subtracting \$4,000 from gross household income, whichever  
13 is greater.

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

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

21 (b) the amount of capital gains excluded from adjusted  
22 gross income;

23 (c) alimony;

24 (d) support money;

25 (e) nontaxable strike benefits;

1 (f) cash public assistance and relief;  
 2 (g) payments and interest on federal, state, county,  
 3 and municipal bonds; and

4 (h) all payments under federal social security.

5 (10) "Property tax paid" means general ad valorem taxes  
 6 levied against the homestead, exclusive of special  
 7 assessments, penalties, or interest and paid during the  
 8 claim period.

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

11 NEW SECTION. Section 49. Renters' property tax credit  
 12 -- eligibility. (1) In order to be eligible to make a claim  
 13 under [sections 48 through 56], an individual:

14 (a) must have resided in Montana for at least 9 months  
 15 of that period; and

16 (b) must have occupied one or more dwellings in  
 17 Montana as a renter or lessee for at least 6 months of the  
 18 claim period.

19 (2) A person is not disqualified as a claimant if he  
 20 changes residences during the claim period, provided that he  
 21 occupies one or more dwellings in Montana as a renter or  
 22 lessee for at least 6 months during the claim period.

23 NEW SECTION. Section 50. Renters' property tax credit  
 24 -- disallowance or adjustment of certain claims. If the  
 25 landlord and tenant have not dealt at arm's length and the

1 department judges the gross rent charged to be excessive,  
 2 the department may adjust the gross rent to a reasonable  
 3 amount.

4 NEW SECTION. Section 51. Renters' property tax credit  
 5 -- filing date. (1) Except as provided in subsection (2), a  
 6 claim for relief must be submitted at the same time the  
 7 claimant's individual income tax return is due. For an  
 8 individual not required to file a tax return, the claim must  
 9 be submitted on or before April 15 of the year following the  
 10 year for which relief is sought.

11 (2) The department may grant a reasonable extension  
 12 for filing a claim whenever, in its judgment, good cause  
 13 exists. The department shall keep a record of each extension  
 14 and the reason for granting the extension.

15 (3) In the event that an individual who would have a  
 16 claim under [sections 48 through 56] dies before filing the  
 17 claim, the personal representative of the estate of the  
 18 decedent may file the claim.

19 NEW SECTION. Section 52. Renters' property tax credit  
 20 -- form of relief. Relief under [sections 48 through 56] is  
 21 a credit against the claimant's Montana individual income  
 22 tax liability for the claim period. If the amount of the  
 23 credit exceeds the claimant's liability under this chapter,  
 24 the amount of the excess must be refunded to the claimant.  
 25 The credit may be claimed even though the claimant has no

1 income taxable under this chapter.

2 NEW SECTION. Section 53. Renters' property tax credit  
 3 -- computation of relief. The amount of the tax credit  
 4 granted under the provisions of [sections 48 through 56] is  
 5 computed as follows:

6 (1) In the case of a claimant who rents a homestead  
 7 for which a claim is made, the credit is the amount of  
 8 rent-equivalent tax paid less the deduction specified in  
 9 subsection (3).

10 (2) In the case of a claimant who both owns and rents  
 11 the homestead for which a claim is made, the credit is the  
 12 amount of rent-equivalent tax paid on the rented portion of  
 13 the homestead less the deduction specified in subsection  
 14 (3).

15 (3) Rent-equivalent tax paid is reduced according to  
 16 the following schedule:

Household Income	Amount of Reduction
17 \$ 0-1,999	\$0
18 2,000-2,999	the product of .006 times the household income
19 3,000-3,999	the product of .016 times the household income
20 4,000-4,999	the product of .024 times the household income
21 5,000-5,999	the product of .028 times the household income
22 6,000-6,999	the product of .032 times the household income
23 7,000-7,999	the product of .035 times the household income
24 8,000-8,999	the product of .039 times the household income

1 9,000-9,999 the product of .042 times the household income  
 2 10,000-10,999 the product of .045 times the household income  
 3 11,000-11,999 the product of .048 times the household income  
 4 12,000 & over the product of .050 times the household income

5 (4) In no case may the credit granted exceed \$400.

6 NEW SECTION. Section 54. Renters' property tax credit  
 7 -- limitations. (1) Only one claimant per household in a  
 8 claim period under the provisions of [sections 48 through  
 9 56] is entitled to relief.

10 (2) No claim for relief may be allowed for any portion  
 11 of rent-equivalent taxes paid that is derived from a public  
 12 rent or tax subsidy program.

13 (3) No claim for relief may be allowed on rented lands  
 14 or rented dwellings that are not subject to ad valorem  
 15 taxation in Montana during the claim period.

16 NEW SECTION. Section 55. Renters' property tax credit  
 17 -- proof of claim. A receipt showing gross rent paid must be  
 18 filed with each claim. In addition, each claimant shall, at  
 19 the request of the department, supply all additional  
 20 information necessary to support his claim.

21 NEW SECTION. Section 56. Renters' property tax credit  
 22 -- denial of claim. A person filing a false or fraudulent  
 23 claim under the provisions of [sections 48 through 56] must  
 24 be charged with the offense of unsworn falsification to  
 25 authorities pursuant to 45-7-203. If a false or fraudulent

1 claim has been paid, the amount paid may be recovered as any  
 2 other debt owed to the state. An additional 10% may be added  
 3 to the amount due as a penalty. The unpaid debt bears  
 4 interest, at the rate of 1% per month, from the date of the  
 5 original payment of claim until paid.

6 NEW SECTION. Section 57. Sales and use tax account --  
 7 allocation of proceeds. (1) There is a sales and use tax  
 8 account within the state special revenue fund.

9 (2) (a) Except as provided in subsection (2)(b), 0.5%  
 10 of the amount deposited in the retail sales and use tax  
 11 account must be retained and is allocated as a retail sales  
 12 and use tax administration and enforcement account for the  
 13 purposes of administration and enforcement of [sections 1  
 14 through 57].

15 (b) The amount allocated to the retail sales and use  
 16 tax administration and enforcement account as provided in  
 17 subsection (2)(a) may not exceed actual expenses incurred,  
 18 encumbered, or anticipated in any fiscal year for the  
 19 purposes of administration and enforcement of [sections 1  
 20 through 57] unless such additional amounts are specifically  
 21 otherwise appropriated by law.

22 (3) There must be retained in the retail sales and use  
 23 tax account such amounts as are necessary for the purposes  
 24 stated in [sections 1 through 57] of repaying overpayments,  
 25 paying any other erroneous receipts illegally assessed or

1 collected or which are excessive in amount, and paying any  
 2 other refunds otherwise provided. There is allocated from  
 3 the retail sales and use tax account so much as may be  
 4 necessary for the payment of these refunds.

5 (4) Funds remaining in the sales and use tax account  
 6 after the allocations provided in subsections (1) and (2)  
 7 are allocated in the following amounts:

8 (a) 48.6% to the state special revenue fund for state  
 9 equalization aid to public schools;

10 (b) 8.6% for the maintenance, support, and improvement  
 11 of the Montana university system and other public  
 12 educational institutions subject to the board of regents'  
 13 supervision, which amount must be deposited in the state  
 14 special revenue fund;

15 (c) 38.4% to the local government block grant account  
 16 created in 7-6-302; and

17 (d) all other revenues remaining in the retail sales  
 18 and use tax account to the credit of the state general fund.

19 (5) The allocations made under subsections (1) through  
 20 (3) may be specifically appropriated by the legislature.

21 Section 58. Section 7-1-2111, MCA, is amended to read:  
 22 "7-1-2111. Classification of counties. (1) For the  
 23 purpose of regulating the compensation and salaries of all  
 24 county officers, not otherwise provided for, and for fixing  
 25 the penalties of officers' bonds, the several counties of

1 this state shall be classified according to that percentage  
2 of the true and full valuation of the property therein upon  
3 which the tax levy is made, as follows:

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

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

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

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

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

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

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

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

25 (a) that portion of the taxable value of the county on

1 December 31, 1981, attributable to automobiles and trucks  
2 having a rated capacity of three-quarters of a ton or less;  
3 and

4 (b) the amount of new production taxes levied, as  
5 provided in 15-23-607, divided by the appropriate tax rates  
6 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
7 60%; and

8 (c) 46.5% of the taxable value of the county on  
9 December 31, 1986."

10 Section 59. Section 7-3-1321, MCA, is amended to read:

11 "7-3-1321. Authorization to incur indebtedness --  
12 limitation. (1) The consolidated municipality may borrow  
13 money or issue bonds for any municipal purpose to the extent  
14 and in the manner provided by the constitution and laws of  
15 Montana for the borrowing of money or issuing of bonds by  
16 counties and cities and towns.

17 (2) The municipality may not become indebted in any  
18 manner or for any purpose to an amount, including existing  
19 indebtedness, in the aggregate exceeding ~~28%~~ 53% of the  
20 taxable value of the taxable property therein, as  
21 ascertained by the last assessment for state and county  
22 taxes prior to incurring such indebtedness. All warrants,  
23 bonds, or obligations in excess of such amount given by or  
24 on behalf of the municipality shall be void."

25 Section 60. Section 7-6-2211, MCA, is amended to read:

1 "7-6-2211. Authorization to conduct county business on  
 2 a cash basis. (1) In case the total indebtedness of a  
 3 county, lawful when incurred, exceeds the limit of ~~23%~~ 43%  
 4 established in 7-7-2101 by reason of great diminution of  
 5 taxable value, the county may conduct its business affairs  
 6 on a cash basis and pay the reasonable and necessary current  
 7 expenses of the county out of the cash in the county  
 8 treasury derived from its current revenue and under such  
 9 restrictions and regulations as may be imposed by the board  
 10 of county commissioners of the county by a resolution duly  
 11 adopted and included in the minutes of the board.

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

17 Section 61. Section 7-6-4121, MCA, is amended to read:

18 "7-6-4121. Authorization to conduct municipal business  
 19 on a cash basis. (1) In case the total indebtedness of a  
 20 city or town has reached ~~17%~~ 32% of the total taxable value  
 21 of the property of the city or town subject to taxation, as  
 22 ascertained by the last assessment for state and county  
 23 taxes, the city or town may conduct its affairs and business  
 24 on a cash basis as provided by subsection (2).

25 (2) (a) Whenever a city or town is conducting its

1 business affairs on a cash basis, the reasonable and  
 2 necessary current expenses of the city or town may be paid  
 3 out of the cash in the city or town treasury and derived  
 4 from its current revenues, under such restrictions and  
 5 regulations as the city or town council may by ordinance  
 6 prescribe.

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

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

21 Section 62. Section 7-6-4254, MCA, is amended to read:

22 "7-6-4254. Limitation on amount of emergency budgets  
 23 and appropriations. (1) The total of all emergency budgets  
 24 and appropriations made therein in any one year and to be  
 25 paid from any city fund may not exceed ~~38%~~ 71% of the total

1 amount which could be produced for such city fund by a  
2 maximum levy authorized by law to be made for such fund, as  
3 shown by the last completed assessment roll of the county.

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

9 Section 63. Section 7-7-107, MCA, is amended to read:

10 "7-7-107. Limitation on amount of bonds for  
11 city-county consolidated units. (1) Except as provided in  
12 7-7-108, no city-county consolidated local government may  
13 issue bonds for any purpose which, with all outstanding  
14 indebtedness, may exceed ~~39%~~ 73% of the taxable value of the  
15 property therein subject to taxation as ascertained by the  
16 last assessment for state and county taxes.

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

21 Section 64. Section 7-7-108, MCA, is amended to read:

22 "7-7-108. Authorization for additional indebtedness  
23 for water or sewer systems. (1) For the purpose of  
24 constructing a sewer system or procuring a water supply or  
25 constructing or acquiring a water system for a city-county

1 consolidated government which shall own and control such  
2 water supply and water system and devote the revenues  
3 therefrom to the payment of the debt, a city-county  
4 consolidated government may incur an additional indebtedness  
5 by borrowing money or issuing bonds.

6 (2) The additional indebtedness which may be incurred  
7 by borrowing money or issuing bonds for the construction of  
8 a sewer system or for the procurement of a water supply or  
9 for both such purposes may not in the aggregate exceed 10%  
10 over and above the ~~39%~~ 73% referred to in 7-7-107 of the  
11 taxable value of the property therein subject to taxation as  
12 ascertained by the last assessment for state and county  
13 taxes."

14 Section 65. Section 7-7-2101, MCA, is amended to read:

15 "7-7-2101. Limitation on amount of county  
16 indebtedness. (1) No county may become indebted in any  
17 manner or for any purpose to an amount, including existing  
18 indebtedness, in the aggregate exceeding ~~23%~~ 43% of the  
19 total of the taxable value of the property therein subject  
20 to taxation, plus the amount of new production taxes levied  
21 divided by the appropriate tax rates described in  
22 15-23-607(2)(a) or (2)(b) and multiplied by 60%, as  
23 ascertained by the last assessment for state and county  
24 taxes previous to the incurring of such indebtedness.

25 (2) No county may incur indebtedness or liability for



1 any single purpose to an amount exceeding \$500,000 without  
 2 the approval of a majority of the electors thereof voting at  
 3 an election to be provided by law, except as provided in  
 4 7-21-3413 and 7-21-3414.

5 (3) Nothing in this section shall apply to the  
 6 acquisition of conservation easements as set forth in Title  
 7 76, chapter 6."

8 Section 66. Section 7-7-2203, MCA, is amended to read:

9 "7-7-2203. Limitation on amount of bonded  
 10 indebtedness. (1) Except as provided in subsections (2)  
 11 through (4), no county may issue general obligation bonds  
 12 for any purpose which, with all outstanding bonds and  
 13 warrants except county high school bonds and emergency  
 14 bonds, will exceed ~~11-25%~~ 21% of the total of the taxable  
 15 value of the property therein, plus the amount of new  
 16 production taxes levied divided by the appropriate tax rates  
 17 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
 18 60%, to be ascertained by the last assessment for state and  
 19 county taxes prior to the proposed issuance of bonds.

20 (2) In addition to the bonds allowed by subsection  
 21 (1), a county may issue bonds which, with all outstanding  
 22 bonds and warrants, will not exceed ~~27-75%~~ 52% of the total  
 23 of the taxable value of the property in the county subject  
 24 to taxation, plus the amount of new production taxes levied  
 25 divided by the appropriate tax rates described in

1 15-23-607(2)(a) or (2)(b) and multiplied by 60%, when  
 2 necessary to do so, for the purpose of acquiring land for a  
 3 site for county high school buildings and for erecting or  
 4 acquiring buildings thereon and furnishing and equipping the  
 5 same for county high school purposes.

6 (3) In addition to the bonds allowed by subsections  
 7 (1) and (2), a county may issue bonds for the construction  
 8 or improvement of a jail which will not exceed ~~12-5%~~ 23.5%  
 9 of the taxable value of the property in the county subject  
 10 to taxation.

11 (4) The limitation in subsection (1) shall not apply  
 12 to refunding bonds issued for the purpose of paying or  
 13 retiring county bonds lawfully issued prior to January 1,  
 14 1932."

15 Section 67. Section 7-7-4201, MCA, is amended to read:

16 "7-7-4201. Limitation on amount of bonded  
 17 indebtedness. (1) Except as otherwise provided, no city or  
 18 town may issue bonds or incur other indebtedness for any  
 19 purpose in an amount which with all outstanding and unpaid  
 20 indebtedness will exceed ~~20%~~ 53% of the taxable value of the  
 21 property therein subject to taxation, to be ascertained by  
 22 the last assessment for state and county taxes.

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

1 changing of the evidence of outstanding indebtedness."

2 Section 68. Section 7-7-4202, MCA, is amended to read:

3 "7-7-4202. Special provisions relating to water and  
4 sewer systems. (1) Notwithstanding the provisions of  
5 7-7-4201, for the purpose of constructing a sewer system,  
6 procuring a water supply, or constructing or acquiring a  
7 water system for a city or town which owns and controls the  
8 water supply and water system and devotes the revenues  
9 therefrom to the payment of the debt, a city or town may  
10 incur an additional indebtedness by borrowing money or  
11 issuing bonds.

12 (2) The additional total indebtedness that may be  
13 incurred by borrowing money or issuing bonds for the  
14 construction of a sewer system, for the procurement of a  
15 water supply, or for both such purposes, including all  
16 indebtedness theretofore contracted which is unpaid or  
17 outstanding, may not in the aggregate exceed 55% over and  
18 above the ~~28%~~ 53%, referred to in 7-7-4201, of the taxable  
19 value of the property therein subject to taxation as  
20 ascertained by the last assessment for state and county  
21 taxes."

22 Section 69. Section 7-13-4103, MCA, is amended to  
23 read:

24 "7-13-4103. Limitation on indebtedness for acquisition  
25 of natural gas system. The total amount of indebtedness

1 authorized to be contracted in any form, including the  
2 then-existing indebtedness, must not at any time exceed ~~17%~~  
3 32% of the total taxable value of the property of the city  
4 or town subject to taxation as ascertained by the last  
5 assessment for state and county taxes."

6 Section 70. Section 7-14-236, MCA, is amended to read:

7 "7-14-236. Limitation on bonded indebtedness. The  
8 amount of bonds issued to provide funds for the district and  
9 outstanding at any time shall not exceed ~~28%~~ 53% of the  
10 taxable value of taxable property therein as ascertained by  
11 the last assessment for state and county taxes previous to  
12 the issuance of such bonds."

13 Section 71. Section 7-14-2524, MCA, is amended to  
14 read:

15 "7-14-2524. Limitation on amount of bonds issued --  
16 excess void. (1) Except as otherwise provided hereafter and  
17 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,  
18 with all outstanding bonds and warrants except county high  
19 school bonds and emergency bonds, will exceed ~~11.25%~~ 21% of  
20 the total of the taxable value of the property therein, plus  
21 the amount of new production taxes levied divided by the  
22 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
23 and multiplied by 60%. The taxable property and the amount  
24 of new production taxes levied shall be ascertained by the  
25 last assessment for state and county taxes prior to the

1 issuance of such bonds.

2 (2) A county may issue bonds which, with all  
3 outstanding bonds and warrants except county high school  
4 bonds, will exceed ~~17-25%~~ 21% but will not exceed ~~22-5%~~ 42%  
5 of the total of the taxable value of such property, plus the  
6 amount of new production taxes levied divided by the  
7 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
8 and multiplied by 60%, when necessary for the purpose of  
9 replacing, rebuilding, or repairing county buildings,  
10 bridges, or highways which have been destroyed or damaged by  
11 an act of God, disaster, catastrophe, or accident.

12 (3) The value of the bonds issued and all other  
13 outstanding indebtedness of the county, except county high  
14 school bonds, shall not exceed ~~22-5%~~ 42% of the total of the  
15 taxable value of the property within the county, plus the  
16 amount of new production taxes levied divided by the  
17 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
18 and multiplied by 60%, as ascertained by the last preceding  
19 general assessment."

20 Section 72. Section 7-14-2525, MCA, is amended to  
21 read:

22 "7-14-2525. Refunding agreements and refunding bonds  
23 authorized. (1) Whenever the total indebtedness of a county  
24 exceeds ~~22-5%~~ 42% of the total of the taxable value of the  
25 property therein, plus the amount of new production taxes

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

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

9 (b) enter into such agreement;

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

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

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

16 Section 73. Section 7-14-4402, MCA, is amended to  
17 read:

18 "7-14-4402. Limit on indebtedness to provide bus  
19 service. The total amount of indebtedness authorized under  
20 7-14-4401(1) to be contracted in any form, including the  
21 then-existing indebtedness, may not at any time exceed ~~28%~~  
22 53% of the total taxable value of the property of the city  
23 or town subject to taxation as ascertained by the last  
24 assessment for state and county taxes. No money may be  
25 borrowed or bonds issued for the purposes specified in

1 7-14-4401(1) until the proposition has been submitted to the  
2 vote of the taxpayers of the city or town and the majority  
3 vote cast in its favor."

4 Section 74. Section 7-16-2327, MCA, is amended to  
5 read:

6 "7-16-2327. Indebtedness for park purposes. (1)  
7 Subject to the provisions of subsection (2), a county park  
8 board, in addition to powers and duties now given under law,  
9 shall have the power and duty to contract an indebtedness in  
10 behalf of a county, upon the credit thereof, for the  
11 purposes of 7-16-2321(1) and (2).

12 (2) (a) The total amount of indebtedness authorized to  
13 be contracted in any form, including the then-existing  
14 indebtedness, must not at any time exceed ~~13%~~ 24.5% of the  
15 total of the taxable value of the taxable property in the  
16 county, plus the amount of new production taxes levied  
17 divided by the appropriate tax rates described in  
18 15-23-607(2)(a) or (2)(b) and multiplied by 60%, ascertained  
19 by the last assessment for state and county taxes previous  
20 to the incurring of such indebtedness.

21 (b) No money may be borrowed on bonds issued for the  
22 purchase of lands and improving same for any such purpose  
23 until the proposition has been submitted to the vote of  
24 those qualified under the provisions of the state  
25 constitution to vote at such election in the county affected

1 thereby and a majority vote is cast in favor thereof."

2 Section 75. Section 7-16-4104, MCA, is amended to  
3 read:

4 "7-16-4104. Authorization for municipal indebtedness  
5 for various cultural, social, and recreational purposes. (1)  
6 A city or town council or commission may contract an  
7 indebtedness on behalf of the city or town, upon the credit  
8 thereof, by borrowing money or issuing bonds:

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

11 (b) for procuring by purchase, construction, or  
12 otherwise swimming pools, athletic fields, skating rinks,  
13 playgrounds, museums, a golf course, a site and building for  
14 a civic center, a youth center, or combination thereof; and

15 (c) for furnishing and equipping the same.

16 (2) The total amount of indebtedness authorized to be  
17 contracted in any form, including the then-existing  
18 indebtedness, may not at any time exceed ~~16-5%~~ 31% of the  
19 taxable value of the taxable property of the city or town as  
20 ascertained by the last assessment for state and county  
21 taxes previous to the incurring of such indebtedness. No  
22 money may be borrowed on bonds issued for the purchase of  
23 lands and improving the same for any such purpose until the  
24 proposition has been submitted to the vote of the qualified  
25 electors of the city or town and a majority vote is cast in

1 favor thereof."

2 Section 76. Section 7-31-106, MCA, is amended to read:

3 "7-31-106. Authorization for county to issue bonds --  
4 election required. (1) If the petition is presented to the  
5 board of county commissioners, it shall be the duty of the  
6 board, for the purpose of raising money to meet the payments  
7 under the terms and conditions of said contract and other  
8 necessary and proper expenses in and about the same and for  
9 the approval or disapproval thereof:

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

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

17 (2) The amount of the bonds authorized by this section  
18 may not exceed ~~22.5%~~ 42% of the taxable value of the taxable  
19 property therein, inclusive of the existing indebtedness  
20 thereof, to be ascertained by the last assessment for state  
21 and county taxes previous to the issuance of said bonds and  
22 incurring of said indebtedness."

23 Section 77. Section 7-31-107, MCA, is amended to read:

24 "7-31-107. Authorization for municipality to issue  
25 bonds -- election required. (1) If said petition is

1 presented to the council of any incorporated city or town,  
2 the council, for the purpose of raising money to meet the  
3 payments under the terms and conditions of said contract and  
4 other necessary and proper expenses in and about the same  
5 and for the approval or disapproval thereof:

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

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

13 (2) The amount of the bonds authorized by this section  
14 may not exceed ~~16.5%~~ 31% of the taxable value of the taxable  
15 property therein, inclusive of the existing indebtedness  
16 thereof, to be ascertained in the manner provided in this  
17 part."

18 Section 78. Section 7-34-2131, MCA, is amended to  
19 read:

20 "7-34-2131. Hospital district bonds authorized. (1) A  
21 hospital district may borrow money by the issuance of its  
22 bonds to provide funds for payment of part or all of the  
23 cost of acquisition, furnishing, equipment, improvement,  
24 extension, and betterment of hospital facilities and to  
25 provide an adequate working capital for a new hospital.

1 (2) The amount of bonds issued for such purpose and  
 2 outstanding at any time may not exceed ~~22.5%~~ 43% of the  
 3 taxable value of the property therein as ascertained by the  
 4 last assessment for state and county taxes previous to the  
 5 issuance of such bonds.

6 (3) Such bonds shall be authorized, sold, and issued  
 7 and provisions made for their payment in the manner and  
 8 subject to the conditions and limitations prescribed for  
 9 bonds of second- or third-class school districts by Title  
 10 20, chapter 9, part 4.

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

14 Section 79. Section 20-9-406, MCA, is amended to read:

15 "20-9-406. Limitations on amount of bond issue. (1)  
 16 The maximum amount for which each school district may become  
 17 indebted by the issuance of bonds, including all  
 18 indebtedness represented by outstanding bonds of previous  
 19 issues and registered warrants, is ~~45%~~ 84.5% of the taxable  
 20 value of the property subject to taxation as ascertained by  
 21 the last completed assessment for state, county, and school  
 22 taxes previous to the incurring of such indebtedness. The  
 23 ~~45%~~ 84.5% maximum, however, may not pertain to indebtedness  
 24 imposed by special improvement district obligations or  
 25 assessments against the school district. All bonds issued in

1 excess of such amount shall be null and void, except as  
 2 provided in this section.

3 (2) When the total indebtedness of a school district  
 4 has reached the ~~45%~~ 84.5% limitation prescribed in this  
 5 section, the school district may pay all reasonable and  
 6 necessary expenses of the school district on a cash basis in  
 7 accordance with the financial administration provisions of  
 8 this chapter.

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

14 Section 80. Section 15-1-101, MCA, is amended to read:

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

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

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

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

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

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

12 (A) agricultural lands;

13 (B) timberlands;

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

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

20 ~~{E}--all-property-described-in-15-6-135;~~

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

22 ~~{G}~~{E} all property described in 15-6-146.

23 (e) The term "comparable property" means property that  
24 has similar use, function, and utility; that is influenced  
25 by the same set of economic trends and physical,

1 governmental, and social factors; and that has the potential  
2 of a similar highest and best use.

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

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

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

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

24 (j) The term "mobile home" means forms of housing  
25 shelter known as "trailers", "housetrailer", or "trailer

1 coaches" exceeding 8 feet in width or 45 feet in length,  
2 designed to be moved from one place to another by an  
3 independent power connected to them, or any "trailer",  
4 "housetrailer", or "trailer coach" up to 8 feet in width or  
5 45 feet in length used as a principal residence.

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

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

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

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

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

23 (ii) all mines, minerals, and quarries in and under the  
24 land subject to the provisions of 15-23-501 and Title 15,  
25 chapter 23, part 8; all timber belonging to individuals or

1 corporations growing or being on the lands of the United  
2 States; and all rights and privileges appertaining thereto.

3 (o) The term "taxable value" means the percentage of  
4 market or assessed value as provided for in ~~15-6-131~~ through  
5 ~~15-6-140~~ this part.

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

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

15 Section 81. Section 15-6-133, MCA, is amended to read:

16 "15-6-133. Class three property -- description --  
17 taxable percentage. (1) Class three property includes  
18 agricultural land as defined in 15-7-202.

19 (2) Class three property is taxed at the taxable  
20 percentage-rate--"P" 15% of its productive capacity.

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

23 ~~(4)--Prior to July 17, 1986, the department of revenue~~  
24 ~~shall determine the taxable percentage rate--"P"--applicable~~  
25 ~~to class three property for the revaluation cycle beginning~~



1 January 17, 1986, as follows:  
 2 (a) The director of the department of revenue shall  
 3 certify to the governor before July 17, 1986, the percentage  
 4 by which the appraised value of all property in the state  
 5 classified under class three as of January 17, 1986, has  
 6 increased due to the revaluation conducted under 15-7-111.  
 7 This figure is the "certified statewide percentage  
 8 increase".

9 (b) The taxable value of property in class three is  
 10 determined as a function of the certified statewide  
 11 percentage increase in accordance with the table shown  
 12 below:

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

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

21 Certified Statewide	21 Class Three Taxable
22 Percentage Increase	22 Percentage "P"
23 0	30.00
24 10	27.27
25 20	25.00

1 30	23.00
2 40	21.43
3 50	20.00

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

7 Section 82. Section 15-6-134, MCA, is amended to read:  
 8 "15-6-134. Class four property -- description --  
 9 taxable percentage. (1) Class four property includes:

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

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

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

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

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

2 (a) Except as provided in 15-24-1402 or 15-24-1501,  
3 property described in subsections (1)(a) and (1)(b) is taxed  
4 at the taxable percentage rate "P" 1.93% of its market  
5 value.

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

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

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

25 (3) Until January 1, 1986, the taxable percentage rate

1 "P" for class four property is 0.55%.

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

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

12 (b) The taxable value of property in class four is  
13 determined as a function of the certified statewide  
14 percentage increase in accordance with the table shown  
15 below:

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

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

Certified Statewide	Class Four Taxable
---------------------	--------------------

	Percentage-Increase	Percentage-"P"
1		
2	0	8-55
3	10	7-77
4	20	7-12
5	30	6-57
6	40	6-10
7	50	5-70
8	60	5-34
9	70	5-02
10	80	4-75
11	90	4-50
12	100	4-27
13	110	4-07
14	120	3-80
15	130	3-71
16	140	3-56
17	150	3-42
18	160	3-28
19	170	3-16
20	180	3-05
21	190	2-94
22	200	2-85
23	210	2-75
24	220	2-67
25	230	2-59

1	240	2-51
2	250	2-44
3	260	2-37
4	270	2-31
5	280	2-25
6	290	2-19
7	300	2-13

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

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

Section 83. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

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

(b) all property owned by cooperative rural electrical

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

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

10 (d) tools, implements, and machinery used to repair  
11 and maintain machinery not used for manufacturing and mining  
12 purposes.

13 (2) To qualify for this classification, the average  
14 circuit miles for each station on the telephone  
15 communication system described in subsection (1)(b) must be  
16 more than 1 mile.

17 (3) Class seven property is taxed at ~~0%~~ 4% of its  
18 market value."

19 Section 84. Section 15-6-138, MCA, is amended to read:

20 "15-6-138. Class eight property -- description --  
21 taxable percentage. (1) Class eight property includes:

22 (a) all agricultural implements and equipment;  
23 (b) all mining machinery, fixtures, equipment, tools,  
24 and supplies except:

25 (i) those included in class five; and

1 (ii) coal and ore haulers;

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

4 (d) all trailers up to and including 18,000 pounds  
5 maximum gross loaded weight, except those subject to a fee  
6 in lieu of property tax;

7 (e) aircraft;

8 (f) all goods and equipment intended for rent or  
9 lease, except goods and equipment specifically included and  
10 taxed in another class; and

11 (g) all other machinery except that specifically  
12 included in another class.

13 (2) Class eight property is taxed at ~~11%~~ 5.5% of its  
14 market value."

15 Section 85. Section 15-6-139, MCA, is amended to read:

16 "15-6-139. Class nine property -- description --  
17 taxable percentage. (1) Class nine property includes:

18 (a) buses and trucks having a rated capacity of more  
19 than three-quarters of a ton but less than or equal to 1 1/2  
20 tons;

21 (b) truck toppers weighing more than 300 pounds;

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

25 (d) x-ray and medical and dental equipment; and

1 (e) citizens' band radios and mobile telephones.  
 2 (2) "Commercial establishment" includes any hotel;  
 3 motel; office; petroleum marketing station; or service,  
 4 wholesale, retail, or food-handling business.  
 5 (3) Class nine property is taxed at ~~13%~~ 6.5% of its  
 6 market value."  
 7 Section 86. Section 15-6-140, MCA, is amended to read:  
 8 "15-6-140. Class ten property -- description --  
 9 taxable percentage. (1) Class ten property includes:  
 10 (a) radio and television broadcasting and transmitting  
 11 equipment;  
 12 (b) cable television systems;  
 13 (c) coal and ore haulers;  
 14 (d) trucks having a rated capacity of more than 1 1/2  
 15 tons, including those prorated under 15-24-102;  
 16 (e) all trailers exceeding 18,000 pounds maximum gross  
 17 loaded weight, including those prorated under 15-24-102 and  
 18 except those subject to a fee in lieu of property tax;  
 19 (f) theater projectors and sound equipment; and  
 20 (g) all other property not included in any other class  
 21 in this part except that property subject to a fee in lieu  
 22 of a property tax.  
 23 (2) Class ten property is taxed at ~~16%~~ 8% of its  
 24 market value."  
 25 Section 87. Section 15-6-141, MCA, is amended to read:

1 "15-6-141. Class eleven property -- description --  
 2 taxable percentage. (1) Class eleven property includes:  
 3 (a) centrally assessed electric power companies'  
 4 allocations, including, if congress passes legislation that  
 5 allows the state to tax property owned by an agency created  
 6 by congress to transmit or distribute electrical energy,  
 7 allocations of properties constructed, owned, or operated by  
 8 a public agency created by the congress to transmit or  
 9 distribute electric energy produced at privately owned  
 10 generating facilities (not including rural electric  
 11 cooperatives);  
 12 (b) allocations for centrally assessed natural gas  
 13 companies having a major distribution system in this state;  
 14 and  
 15 (c) centrally assessed companies' allocations except:  
 16 (i) electric power and natural gas companies'  
 17 property;  
 18 (ii) property owned by cooperative rural electric and  
 19 cooperative rural telephone associations and classified in  
 20 class five;  
 21 (iii) property owned by organizations providing  
 22 telephone communications to rural areas and classified in  
 23 class seven;  
 24 (iv) railroad transportation property included in class  
 25 fifteen; and

1 (v) airline transportation property included in class  
2 seventeen.

3 (2) Class eleven property is taxed at 12% 6% of market  
4 value."

5 Section 88. Section 15-6-142, MCA, is amended to read:

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

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

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

12 (ii)(b) specifically included in another class; or

13 (c) used as a residence.

14 (b) the first \$35,000 or less of the market value of a  
15 trailer or mobile home used as a residence and actually  
16 occupied for at least 10 months a year as the primary  
17 residential dwelling of any person whose total income from  
18 all sources including otherwise tax exempt income of all  
19 types is not more than \$10,000 for a single person or  
20 \$12,000 for a married couple.

21 (2) Class twelve property is taxed as follows:

22 (a) Property described in subsection (1)(a) that is  
23 not of the type described in subsection (1)(b) is taxed at  
24 the taxable percentage rate "P" described in 15-6-134,  
25 1.93% of its market value.

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

6 Section 89. Section 15-6-143, MCA, is amended to read:

7 "15-6-143. (Effective January 1, 1986) Class thirteen  
8 property -- description -- taxable percentage. (1) Class  
9 thirteen property includes all timberland.

10 (2) Timberland is contiguous land exceeding 15 acres  
11 in one ownership that is capable of producing timber that  
12 can be harvested in commercial quantity.

13 (3) Class thirteen property is taxed at the percentage  
14 rate "P" 1.92% of the combined appraised value of the  
15 standing timber and grazing productivity of the property.

16 (4) For taxable years beginning January 1, 1986, and  
17 thereafter, the taxable percentage rate "P" applicable to  
18 class thirteen property is  $30\%/B$ , where B is the certified  
19 statewide percentage increase to be determined by the  
20 department of revenue as provided in subsection (5). The  
21 taxable percentage rate "P" shall be rounded downward to the  
22 nearest 0.01% and shall be calculated by the department  
23 before July 1, 1986.

24 (5) (a) Prior to July 1, 1986, the department shall  
25 determine the certified statewide percentage increase for

1 class-thirteen-property-using-the-formula  $B = X/Y$ , where:  
 2 (i) X is the appraised value, as of January 1, 1986,  
 3 of all property in the state, excluding use changes  
 4 occurring during the preceding year, classified under class  
 5 thirteen as class thirteen is described in this section, and  
 6 (ii) Y is the appraised value, as of January 1, 1985,  
 7 of all property in the state that, as of January 1, 1986,  
 8 would be classified under class thirteen as class thirteen  
 9 is described in this section.  
 10 (b) B shall be rounded downward to the nearest  
 11 0.0001%.  
 12 (6) After July 1, 1986, no adjustment may be made by  
 13 the department to the taxable percentage rate "P" until a  
 14 valuation has been made as provided in 15-7-111. (Terminates  
 15 January 1, 1991--sec. 10, Ch. 681, L. 1985.)"  
 16 Section 90. Section 15-6-144, MCA, is amended to read:  
 17 "15-6-144. Class fourteen property -- description --  
 18 taxable percentage. (1) Class fourteen property includes all  
 19 improvements, except a residence and improvements ancillary  
 20 to a residence, on land that is eligible for valuation,  
 21 assessment, and taxation as agricultural land under  
 22 15-7-202(2). Class fourteen property includes 1 acre of real  
 23 property beneath the agricultural improvements. The 1 acre  
 24 shall be valued at market value.  
 25 (2) Class fourteen property is taxed at 80% of the

1 taxable percentage applicable to class four property."  
 2 Section 91. Section 15-6-146, MCA, is amended to read:  
 3 "15-6-146. Class sixteen property -- description --  
 4 taxable percentage. (1) Class sixteen property includes:  
 5 (a) watercraft;  
 6 (b) all-terrain vehicles [not registered under  
 7 61-3-301];  
 8 (c) harness, saddlery, and other tack equipment;  
 9 (d) all other property used for noncommercial purposes  
 10 which is not real property or an improvement to real  
 11 property and which is not included in another class or  
 12 exempt from taxation under Title 15, chapter 6, part 2.  
 13 (2) Class sixteen property is taxed at ~~11%~~ 5.5% of its  
 14 market value."  
 15 Section 92. Section 15-6-148, MCA, is amended to read:  
 16 "15-6-148. Class eighteen property -- description --  
 17 taxable percentage. (1) Class eighteen property includes all  
 18 nonproductive patented mining claims outside the limits of  
 19 an incorporated city or town held by an owner for the  
 20 ultimate purpose of developing the mineral interests on the  
 21 property. Class eighteen does not include any property that  
 22 is used for residential, recreational as described in  
 23 70-16-301, or commercial as defined in 15-1-101, purposes,  
 24 or if the surface is being used for other than mining  
 25 purposes or has a separate and independent value for such

1 other purposes.

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

8 (3) Class eighteen property must be valued as if such  
9 land were devoted to agricultural grazing use and is taxed  
10 at ~~30%~~ 15% of its value."

11 Section 93. Section 15-6-149, MCA, is amended to read:

12 "15-6-149. Class nineteen property -- description --  
13 taxable percentage. (1) Class nineteen property includes  
14 parcels of nonproductive real property containing less than  
15 20 acres that are precluded from being developed for  
16 residential, commercial, or industrial purposes because of  
17 subdivision or zoning laws, regulations, or ordinances or  
18 that are precluded from being so developed for other  
19 reasons.

20 (2) Improvements to class nineteen property are taxed  
21 as class four property.

22 (3) Class nineteen property is taxed at ~~2%~~ 1% of its  
23 market value."

24 Section 94. Section 20-1-208, MCA, is amended to read:

25 "20-1-208. Educational impact statements. When a

1 county superintendent of schools finds that a person intends  
2 to ~~construct--or--locate--a--major--industrial--facility--as~~  
3 ~~defined-in-20-9-407--or--intends-to~~ open a new strip mine, as  
4 defined by 82-4-103, within the county, the superintendent  
5 may require such person to file with the county an  
6 educational impact statement. An educational impact  
7 statement is a report estimating the increased demands on  
8 public schools in the county as a consequence of the ~~major~~  
9 ~~industrial--facility--or~~ strip mine. The statement shall  
10 indicate:

11 (1) the number of persons to be employed during the  
12 construction or preparation and during the operation of the  
13 ~~major--industrial--facility--or~~ strip mine and their  
14 anticipated residential distribution;

15 (2) the number and anticipated distribution of persons  
16 employed in providing goods and services to the persons  
17 enumerated in the preceding category;

18 (3) the number of school age children anticipated to  
19 be living with the persons enumerated in the preceding  
20 categories; and

21 (4) the time periods covered by each preceding  
22 estimate."

23 Section 95. Section 20-9-343, MCA, is amended to read:

24 "20-9-343. Definition of and revenue for state  
25 equalization aid. (1) As used in this title, the term "state



1 equalization aid" means those moneys deposited in the state  
2 special revenue fund as required in this section plus any  
3 legislative appropriation of moneys from other sources for  
4 distribution to the public schools for the purpose of  
5 equalization of the foundation program.

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

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

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

17 (b) 25% of all moneys, except as provided in  
18 15-31-702, received from the collection of corporation  
19 license taxes under chapter 31 of Title 15, as provided by  
20 15-1-501;

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

23 (d) 100% of the moneys received from the treasurer of  
24 the United States as the state's shares of oil, gas, and  
25 other mineral royalties under the federal Mineral Lands

1 Leasing Act, as amended;

2 (e) interest and income moneys described in 20-9-341  
3 and 20-9-342;

4 (f) sales and use tax revenue allocated as provided in  
5 [section 57] and specifically appropriated by the  
6 legislature to the state special revenue fund for state  
7 equalization aid;

8 (f)(g) income from the local impact and education  
9 trust fund account; and

10 (g)(h) in addition to these revenues, the surplus  
11 revenues collected by the counties for foundation program  
12 support according to 20-9-331 and 20-9-333 shall be paid  
13 into the same state special revenue fund.

14 (4) Any surplus revenue in the state equalization aid  
15 account in the second year of a biennium may be used to  
16 reduce the appropriation required for the next succeeding  
17 biennium [or may be transferred to the state permissive  
18 account if revenues in that fund are insufficient to meet  
19 the state's permissive amount obligation]."

20 Section 96. Section 2-9-212, MCA, is amended to read:

21 "2-9-212. Political subdivision tax levy to pay  
22 premiums. Notwithstanding any provisions of law to the  
23 contrary, all political subdivisions, except school  
24 districts, may levy an annual property tax in the amount  
25 necessary to fund the premium for insurance, deductible

1 reserve fund, and self-insurance reserve fund as herein  
 2 authorized and to pay the principal and interest on bonds or  
 3 notes issued pursuant to 2-9-211(5), even though as a result  
 4 of such levy the maximum levy as otherwise restricted by law  
 5 is exceeded thereby, provided that the revenues derived  
 6 therefrom may not be used for any other purpose."

7 NEW SECTION. Section 97. School insurance budget. The  
 8 board of trustees of a school district shall include in the  
 9 general fund budget of the district the cost of providing  
 10 comprehensive insurance coverage for the district.

11 Section 98. Section 81-6-104, MCA, is amended to read:

12 "81-6-104. ~~Tax--levy~~ Levy -- special fund. Said county  
 13 livestock protective committee may recommend to the board of  
 14 county commissioners the a levy of-a-tax-in-an-amount not to  
 15 exceed 50 cents per head on all assessable cattle in the  
 16 county on January 1, and the board of county commissioners  
 17 shall thereupon be empowered to impose the levy such-tax, to  
 18 be collected as other taxes on personal property and when  
 19 collected to be deposited by the county treasurer in a  
 20 special fund to be known as the stockmen's special deputy  
 21 fund, together with any other funds made available from  
 22 county, state, federal, or private sources for the purposes  
 23 of this part."

24 Section 99. Section 81-6-204, MCA, is amended to read:

25 "81-6-204. ~~Tax--levy~~ Levy -- deposit of proceeds. Said

1 district cattle protective committee may recommend to the  
 2 board of county commissioners the a levy of-a-tax-in-an  
 3 amount not to exceed 50 cents per head on all assessable  
 4 cattle in the district on January 1, and the board of county  
 5 commissioners shall thereupon be empowered to impose the  
 6 levy such-tax, to be collected as other taxes on personal  
 7 property and when collected to be deposited in the county  
 8 treasury of one of the counties in the district, to be  
 9 selected by the district cattle protective committee, in a  
 10 special fund to be known as the stockmen's special deputy  
 11 fund, together with any other funds made available from  
 12 county, state, federal, or private sources for the purposes  
 13 of this part."

14 Section 100. Section 81-6-209, MCA, is amended to  
 15 read:

16 "81-6-209. ~~Tax--levy~~ Levy -- deposit of proceeds. Said  
 17 district cattle protective committee may recommend to the  
 18 board of county commissioners the a levy of--a--tax--in--an  
 19 amount not to exceed 50 cents per head on all assessable  
 20 cattle in the district on January 1, and the board of county  
 21 commissioners shall thereupon be empowered to impose the  
 22 levy such--tax, to be collected as other taxes on personal  
 23 property and when collected to be deposited in the county  
 24 treasury in a special fund to be known as the stockmen's  
 25 special deputy fund, together with any other funds made

1 available from county, state, federal, or private sources  
2 for the purposes of this part."

3 Section 101. Section 81-7-201, MCA, is amended to  
4 read:

5 "81-7-201. County levy for bounties on predatory  
6 animals. Whenever the owners, agent, or agents of the owners  
7 representing 51% of the livestock of any county in this  
8 state present a petition to the board of county  
9 commissioners of such county asking for the levy of a tax  
10 upon the livestock of the county for the purpose of paying  
11 bounties on predatory animals killed in the county, it is  
12 the duty of the board of county commissioners to make the  
13 levy, which may not exceed ~~50 mills on the dollar of the~~  
14 taxable value of \$1 per head of livestock on all livestock  
15 in the county. The tax levy shall be assessed and collected  
16 in the same manner as ~~all other~~ state and county taxes."

17 Section 102. Section 81-7-202, MCA, is amended to  
18 read:

19 "81-7-202. Signers of petition -- time for presenting  
20 -- limitation on bounties -- bounty inspectors. (1) The  
21 petition provided for in 81-7-201 shall be signed by the  
22 owners, agent, or agents of not less than 51% of the  
23 livestock of such county ~~as ascertained from the assessment~~  
24 ~~books of such county~~ and shall recommend to the board of  
25 county commissioners the bounties to be paid on such

1 predatory animals, which shall not exceed the following:

- 2 (a) on each wolf or mountain lion, \$100;
- 3 (b) on each wolf pup or mountain lion kitten, \$20;
- 4 (c) on one coyote, \$5;
- 5 (d) on each coyote pup, \$2.50.

6 (2) Such petition shall be presented not later than  
7 August 1 of each year, and the board of county commissioners  
8 on determining the sufficiency of such petition shall make  
9 an order granting such petition, which order shall fix the  
10 levy for that year and the amount of the bounties to be paid  
11 for the killing of each such predatory animal, which shall  
12 not exceed the amounts recommended in such petition, and  
13 appoint not less than 10 or more than 20 stockowners of such  
14 county to be bounty inspectors under this part, without  
15 compensation, who shall hold their offices for 1 year."

16 Section 103. Section 81-7-303, MCA, is amended to  
17 read:

18 "81-7-303. County commissioners permitted to require  
19 per capita license fee on sheep. (1) To defray the expense  
20 of such protection the board of county commissioners of any  
21 county shall have the power to require all owners or persons  
22 in possession of any sheep coming 1 year old or over in the  
23 county on the regular assessment date of each year to pay a  
24 license fee in an amount to be determined by the board on a  
25 per head basis for sheep so owned or possessed by him in the

1 county. All owners or persons in possession of any sheep  
 2 coming 1 year old or over coming into the county after the  
 3 ~~regular assessment date and subject to taxation under the~~  
 4 ~~provisions of 15-24-301~~ January 1 shall also be subject to  
 5 payment of the license fee herein prescribed.

6 (2) Upon the order of the board of county  
 7 commissioners such license fees may be imposed by the entry  
 8 thereof in the name of the licensee upon the property tax  
 9 rolls of the county by the county assessor. Said license  
 10 fees shall be payable to and collected by the county  
 11 treasurer, and when so levied, shall be a lien upon the  
 12 property, both real and personal, of the licensee. In case  
 13 the person against whom said license fee is levied owns no  
 14 real estate against which said license fee is or may become  
 15 a lien, then said license fee shall be payable immediately  
 16 upon its levy and the treasurer shall collect the same in  
 17 the manner provided by law for the collection of personal  
 18 property taxes which are not a lien upon real estate.

19 (3) When collected, said fees shall be placed by the  
 20 treasurer in the predatory animal control fund and the  
 21 moneys in said fund shall be expended on order of the board  
 22 of county commissioners of the county for predatory animal  
 23 control only."

24 Section 104. Section 81-7-305, MCA, is amended to  
 25 read:

1 "81-7-305. Duty of county commissioners -- petition of  
 2 sheep owners -- license fees. (1) In conducting a predatory  
 3 animal control program, the board of county commissioners  
 4 shall give preference to recommendations for such program  
 5 and its incidents as made by organized associations of sheep  
 6 growers in the county. Upon petition of the resident owners  
 7 of at least 51% of the sheep in the county, as shown by the  
 8 ~~assessment rolls of the last preceding assessment~~ best  
 9 available records, which petition shall be filed with the  
 10 board of county commissioners on or before the first Monday  
 11 in December in any year, such board shall establish the  
 12 predatory animal control program and cause said licenses to  
 13 be secured and issued and the fees collected for the  
 14 following year in such amount as will defray the cost of  
 15 administering the program so established. The license fee  
 16 determined and set by the board shall remain in full force  
 17 and effect from year to year without change, unless there is  
 18 filed with the board a petition subscribed by the resident  
 19 owners of at least 51% of the sheep in the county, as shown  
 20 by the ~~assessment rolls of the last assessment preceding the~~  
 21 ~~filing of the petition~~ best available records, for  
 22 termination of the program and repeal of the license fee, in  
 23 which event the program shall by order of the board of  
 24 county commissioners be disestablished and the license fee  
 25 shall not be further levied.

(2) If the resident owners of at least 51% of the sheep in the county either petition for an increase in the license fee or petition for a decrease in the license fee then in force, the board of county commissioners shall upon receipt of any such petition fix a new license fee to continue from year to year and the program shall thereupon continue within the limits of the aggregate amount of the license fee as collected from year to year."

Section 105. Section 81-8-804, MCA, is amended to read:

"81-8-804. Assessments -- refunds. (1) There is levied, in addition to ~~the tax on livestock prescribed in Title 15, chapter 24, part 9~~ other fees levied, a per head tax levy of 25 cents on each head of cattle that is more than 9 months of age and is owned or possessed within a county for the support and maintenance of research into beef production as provided in this part. The tax levy shall be paid to the county treasurer of that county on or before March 1 of each year.

(2) The tax levy required in subsection (1) must be paid for each head of cattle that is more than 9 months of age and is brought into the county after March 1 ~~and is subject to taxation and assessment under 15-24-301.~~

(3) Each county is entitled to receive \$250 annually as reimbursement for the administration of this section.

(4) A person who has paid the tax levy required by this section may obtain a refund of the tax levy upon submission of a written request to the department. The application must be made within 30 days after the payment of the tax levy and on forms furnished by the department. The department shall, upon receipt of a timely and otherwise properly submitted refund request, refund the tax levy."

NEW SECTION. Section 106. Repealer. Section 15-10-105, MCA, is repealed.

NEW SECTION. Section 107. Repealer. Section 20-9-105, MCA, is repealed.

NEW SECTION. Section 108. Repealer. Section 20-9-407, MCA, is repealed.

NEW SECTION. Section 109. Nonseverability. It is the intent of the legislature that each part of this act is essentially dependent upon every other part, and if one part is held unconstitutional or invalid, all other parts are invalid.

NEW SECTION. Section 110. Saving clause. This act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this act.

NEW SECTION. Section 111. Codification instructions. (1) Sections 1 through 35 and sections 43 through 57 are intended to be codified as an integral part of Title 15, and

1 the provisions of Title 15 apply to sections 1 through 35  
2 and 43 through 57.

3 (2) Sections 36 through 42 are intended to be codified  
4 as an integral part of Title 7, and the provisions of Title  
5 7 apply to sections 36 through 42.

6 (3) Section 97 is intended to be codified as an  
7 integral part of Title 20, chapter 9, and the provisions of  
8 Title 20, chapter 9, apply to section 97.

9 NEW SECTION. Section 112. Extension of authority. Any  
10 existing authority of the department of revenue, the  
11 department of livestock, or the board of livestock to make  
12 rules on the subject of the provisions of this act is  
13 extended to the provisions of this act.

14 NEW SECTION. Section 113. Effective dates --  
15 applicability. (1) Sections 1 through 56 are effective on  
16 passage and approval and apply October 1, 1987, and  
17 thereafter.

18 (2) Section 57 is effective July 1, 1988.

19 (3) (a) Sections 58 through 93, sections 94 through  
20 106, and section 108 are effective on passage and approval  
21 and apply to fiscal years beginning after June 30, 1988.

22 (b) All property assessments made and property taxes  
23 levied for fiscal year 1988 must be collected and  
24 distributed.

25 (4) No allocation under section 57 may be appropriated

1 before July 1, 1988.

2 (5) Sections 109 through 113 are effective on passage  
3 and approval.

4 (6) Section 107 is effective on passage and approval  
5 and applies to school fiscal years beginning after June 30,  
6 1988. All funds remaining in the insurance cash reserve fund  
7 on June 30, 1988, must be transferred on July 1, 1988, to  
8 the school district's general fund.

9 (7) Property that is exempted from property taxation  
10 as provided in this act is not exempt until taxable year  
11 1988, beginning January 1, 1988. However, taxes levied in  
12 1987 for collection in fiscal year 1988 are due and  
13 collectible in their entirety.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

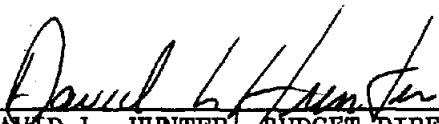
In compliance with a written request, there is hereby submitted a Fiscal Note for SB333, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The Retail Sales and Use Tax Act; providing for the levying of a 5 percent sales and use tax; providing for the allocation of the sales and use tax proceeds; providing for the reduction of ad valorem taxes on property; providing for a special purpose local option retail sales and use tax; establishing a retail sales and use tax account; providing for certain credits against income tax liability; and providing effective dates and applicability dates.

ASSUMPTIONS:

1. The taxable value of the state will be \$1,997,193,000 in FY88 and \$2,024,661,000 in FY89 (REAC).
2. Individual income tax collections will be \$208,088,000 in FY88 and \$229,990,000 in FY89 (REAC).
3. Sales tax collections of Idaho form the basis for the estimate. Idaho's sales tax base is 59 percent of total personal income.
4. Total personal income of Montanans will be \$10.5 billion in CY88 and \$11.0 billion in CY89 (REAC).
5. One year is required to implement the collection of sales tax revenue from the date of enactment. Assuming enactment in March 1987, sales tax revenue will not be collected until May 1988.
6. The proposed sales tax will generate \$51,671,000 in the 2 months it is collected in FY88 and \$324,791,000 in FY89.
7. The proposed property tax changes are estimated to reduce FY89 revenues to the university levy by \$12,147,966, to the foundation levy by \$43,369,000, and to local governments by \$222,274,000 including a \$28,030,000 loss for cities and towns (DOR simulations on property values by class and county/city).
8. The sales and use tax credit is estimated to reduce individual income tax collections by \$13,550,000 in FY88 and thereafter (based on exemptions claimed for individual income tax purposes with an adjustment for non-filing households).
9. The proposed renter credit is estimated to reduce individual income tax collections by \$3,948,000 each year based on utilization statistics of the elderly homeowner/renter credit and 70 percent of the low income non-elderly rent their home. The credit applies to returns filed in CY88.
10. Sales tax collections in FY88 are not distributed until FY89.
11. No local governments will impose the local option sales tax in the biennium.
12. The local government block grant revenues will be distributed by the general services block grant for counties and municipalities. (Assume full funding for the general purpose block grant program for motor vehicle reimbursement.)

 DATE 3/16/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

DATE 3/18/87  
 BRUCE CRIPPEN, PRIMARY SPONSOR

Fiscal Note for SB333, as introduced.

**SB 333**

13. The administrative costs to administer the sales tax are as follows (HB377): (General Fund)

<u>Category of Expenditure</u>	<u>Start-up Costs FY87 and FY88</u>	<u>Ongoing Costs FY88 and thereafter</u>
Personal Services	\$ 179,886	\$2,623,345
Contracted Services	71,447	445,740
Supplies and Materials	1,904	84,332
Communications	5,100	97,784
Travel	0	108,737
Rent	2,920	48,676
Repairs and Maintenance	0	22,392
Equipment	40,500	0
<b>Total Program Costs</b>	<b>\$ 301,757</b>	<b>\$3,431,006</b>

14. Administrative costs savings from the repeal of residential property taxes will total \$804,335 in FY89 (\$167,627 for operation and \$636,708 for personnel).

Revenue Summary per Assumptions:

Change in Revenues

<u>Tax</u>	<u>FY 88</u>	<u>FY 89</u>
Individual Income Tax	(\$ 17,498,000)	(\$ 17,498,000)
Sales and Use Tax	51,671,000	324,791,000
Property Tax	0	( 277,790,966)
<b>Total Revenue</b>	<b>\$ 34,173,000</b>	<b>\$ 29,502,034</b>

FISCAL IMPACT:

	<u>FY88</u>			<u>FY89</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<b>Revenue Impact:</b>						
Sales and Use Tax	\$ 0	\$ 51,671,000	\$51,671,000	\$ 0	\$324,791,000	\$324,791,000
Indiv. Income Tax	208,088,000	190,590,000	( 17,498,000)	229,990,000	212,492,000	( 17,498,000)
University Levy	11,983,158	11,983,158	0	12,147,966	0	( 12,147,966)
County Equalization (45 mill levy)	89,873,685	89,873,685	0	91,109,745	47,740,745	( 43,369,000)
<b>Total</b>	<b>\$309,944,843</b>	<b>\$344,117,843</b>	<b>\$34,173,000</b>	<b>\$333,247,711</b>	<b>\$585,023,745</b>	<b>\$251,776,034</b>



Expenditure Impact:

Shown in the assumptions 13 and 14 on preceding page.

Fund Information:

No sales tax revenues are distributed in FY88. Fourteen months of collections are distributed in FY89, as shown below.

	FY88			FY89		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Dept. of Revenue	\$ 0	\$ 0	\$ 0	\$ 0	\$ 1,882,310	\$ 1,882,310
State General Fund	133,176,320	121,977,600	( 11,198,720)	147,193,600	152,476,386	5,282,786
County Equalization (45 mills)	89,873,685	89,873,685	0	91,109,745	47,740,745	( 43,369,000)
School Equalization	52,022,000	47,647,500	( 4,374,500)	57,497,500	235,168,730	177,671,230
Debt Service Fund	22,889,680	20,964,900	( 1,924,780)	25,298,900	23,374,120	( 1,924,780)
Block Grant Program	0	0	0	0	143,838,601	143,838,601
University System	<u>11,983,158</u>	<u>11,983,158</u>	<u>0</u>	<u>12,147,966</u>	<u>32,213,853</u>	<u>20,065,887</u>
Total	\$309,944,843	\$292,446,843	(\$17,498,000)	\$333,247,711	\$636,694,745	\$303,447,034

Effect on Local Government Revenues:

The change in local government revenues for FY89 is shown below. FY89 distributions of the sales tax revenues contain 2 years of collections (see below for long-range effects).

<u>Revenue Source</u>	<u>FY89 Difference</u>
Property Tax Revenue	(\$222,200,000)
Block Grant Revenue	143,838,601
School Equalization	<u>134,302,229</u>
Additional Revenue	\$ 55,940,830

LONG-RANGE IMPACT OF PROPOSED LEGISLATION:

Fund Information:

The FY89 distribution of sales tax revenues contains 14 months of collections. Only 1 year of collections will be distributed in FY90 and thereafter as shown below (based on FY89 estimates).

	<u>FY90</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
State General Fund	\$147,193,600	\$150,214,230	\$ 3,020,630
County Equalization (45 mill)	91,109,745	47,740,745	( 43,369,000)
School Equalization	57,497,500	210,182,184	152,684,684
Debt Service Fund	25,298,900	23,374,120	( 1,924,780)
Dept. of Revenue	0	1,623,955	1,623,955
Block Grant Program	0	124,096,145	124,096,145
University System	12,147,966	27,792,366	15,644,400
Total	<u>\$333,247,711</u>	<u>\$585,023,745</u>	<u>\$251,776,034</u>

Effect on Local Government Revenues:

The change in local government revenue for FY90 (based on FY89 estimates) is shown below.

<u>Revenue Source</u>	<u>FY89</u> <u>Difference</u>
Property Tax Revenue	(\$222,200,000)
Block Grant Revenue	124,100,000
School Equalization	109,300,000
Additional Revenue	\$ 11,200,000

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The proposal would require the Department of Revenue to implement a major new tax in less than 6 months. This task includes rulemaking, form design, developing a computer system, identifying and notifying taxpayers, and hiring and training staff. An orderly development process requires at least one year from the enactment date to the effective date.

The statutory appropriation of 0.5 percent of the revenues is not adequate to pay for the cost of the program. Moreover, the proposal does not contain provisions for the funding of development costs that would be incurred prior to the effective date of the proposal.

The proposal uses the block grant program to distributed sales tax revenues back to the counties. However, SB 200 repeals the block grant program. Therefore, if SB200 is signed into law, the proposal will have to reinstate the block grant program.

The proposal does not specify the tax to which the general sales tax credit applies. This note assumes it is a refundable individual income tax credit.