

HOUSE BILL 747

Introduced by Bradley, et al.

2/20	Introduced
2/22	Referred to Taxation
2/27	Fiscal Note Requested
3/03	Fiscal NOte Received
3/06	Hearing
3/20	Hearing
3/27	Committee Report--Bill Not Passed as Amended
3/28	Motion Carried to Lay on Table

1 *HOUSE* BILL NO. *247*
 2 INTRODUCED BY *Bradley Cooper, Benton Gillert*
 3 *Eck Wilson*
 4 *Stephen Rammer* FOR AN ACT ENTITLED: *WYB ACT PROVIDING FOR*
 5 PERCENT SALES TAX AND USE TAX; PROVIDING FOR CERTAIN
 6 DEDUCTIONS AND EXEMPTIONS FROM THE TAX; GENERALLY REVISING
 7 THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES;
 8 PROVIDING PROPERTY TAX RELIEF; REVISING LOCAL GOVERNMENT
 9 BONDING AND DEBT LIMITS; PROVIDING CREDITS AGAINST OR REFUND
 10 OF INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR THE
 11 DISTRIBUTION OF THE REVENUE FROM THE SALES TAX AND USE TAX;
 12 REPEALING COUNTY MILL LEVIES FOR TEACHER RETIREMENT;
 13 AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121,
 14 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201,
 15 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525,
 16 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107,
 17 7-34-2131, 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-207,
 18 15-8-111, 15-8-205, 15-10-402, 15-16-611, 15-16-613,
 19 15-24-301, 15-24-1102, 15-24-1103, 17-3-213, 19-4-605,
 20 19-11-503, 19-11-504, 20-3-106, 20-3-324, 20-5-305,
 21 20-5-312, 20-9-141, 20-9-201, 20-9-212, 20-9-301, 20-9-331,
 22 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-502,
 23 20-10-144, 20-15-311, 20-16-202, 23-5-1027, 33-7-407, AND
 24 61-3-501, MCA; REPEALING SECTIONS 15-6-136 THROUGH 15-6-140,
 25 15-6-142 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149,

1 15-6-153, 15-6-154, 20-9-501, 20-9-531, AND 20-9-532;
 2 PROVIDING THAT CERTAIN SECTIONS OF THIS ACT BE SUBMITTED TO
 3 THE QUALIFIED ELECTORS OF THE STATE OF MONTANA; AND
 4 PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

STATEMENT OF INTENT

7 A statement of intent is required for this bill because
 8 the department of revenue is granted authority to adopt
 9 rules for the administration and enforcement of the sales
 10 tax and use tax. The rules are intended to provide for an
 11 efficient process for the collection of the taxes, with
 12 minimum expense to both the taxpayer and the state.

13 The legislature contemplates that rules adopted by the
 14 department should, at a minimum, address the following:

15 (1) the registration and issuance of permits to
 16 persons engaging in the business of retail sales and
 17 services;

18 (2) the reporting form for the payment of the taxes,
 19 along with the requirements for the retention by the
 20 taxpayers of the necessary records;

21 (3) the required security and the acceptable forms of
 22 security for those taxpayers required to give security for
 23 payment of the taxes;

24 (4) the use of the nontaxable transaction certificate
 25 and clarification of any exemption from or deduction of the

1 taxes;

2 (5) the necessary forms and the required procedures
3 for reporting the taxes; and

4 (6) the definition of terms and establishment of
5 procedures as appropriate for efficient administration of
6 the sales tax and use tax.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Definitions. For purposes of
10 [sections 1 through 68 and 72], unless the context requires
11 otherwise, the following definitions apply:

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

15 (2) "Construction" means:

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

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

20 (ii) building, stadium, or other structure;

21 (iii) airport, subway, or similar facility;

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

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

25 (vi) sewage or water treatment facility, power

1 generating plant, pump station, natural gas compressing
2 station, gas processing plant, coal gasification plant,
3 refinery, distillery, or similar facility;

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

5 (viii) transmission line;

6 (ix) radio, television, or other tower;

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

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

9 (xii) microwave station or similar facility;

10 (b) the leveling or clearing of land;

11 (c) the excavating of earth;

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

14 (e) any similar work.

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

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

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

20 (a) means food for domestic home consumption as
21 defined in 7 U.S.C. 2012(g), as amended, for purposes of the
22 federal food stamp program as defined in 7 U.S.C. 2012(h),
23 as amended; and

24 (b) does not mean or include:

25 (i) medicines or preparations, in liquid, powdered,

1 granular, bottled, capsule, lozenge, or pill form, sold as a
 2 dietary supplement or adjunct not prescribed by a licensed
 3 physician;
 4 (ii) carbonated water marketed in containers;
 5 (iii) chewing gum;
 6 (iv) candies or confectioneries; or
 7 (v) seeds and plants to grow foods.
 8 (6) (a) "Gross receipts", in addition to the other
 9 meanings provided in this subsection (6), means the total
 10 amount of money or the value of other consideration received
 11 from selling property in Montana, from leasing property used
 12 in Montana, or from performing services in Montana. The term
 13 includes all receipts from the sale of tangible personal
 14 property handled on consignment but excludes cash discounts
 15 allowed and taken and any type of time-price differential.
 16 (b) In an exchange in which the money or other
 17 consideration received does not represent the value of the
 18 property or service exchanged, gross receipts means the
 19 reasonable value of the property or service exchanged.
 20 (c) (i) Except as provided in [section 54], when the
 21 sale of property or services is made under any type of
 22 charge or conditional or time-sales contract or the leasing
 23 of property is made under a leasing contract, the seller or
 24 lessor shall treat all receipts, excluding any type of
 25 time-price differential, under such contracts as gross

1 receipts at the time of the sale.
 2 (ii) If the seller or lessor transfers his interest in
 3 any such contract to a third person, the seller or lessor
 4 shall pay the sales tax or use tax upon the full sale or
 5 leasing contract amount, excluding any type of time-price
 6 differential.
 7 (d) Gross receipts includes all amounts paid by
 8 members of a cooperative association or similar organization
 9 for sales or leases of personal property or performance of
 10 services by the organization.
 11 (7) "Lease" or "leasing" means an arrangement in
 12 which, for consideration, property is used for or by a
 13 person other than the owner of the property.
 14 (8) "Manufacturing" means combining or processing
 15 components or materials to increase their value for sale in
 16 the ordinary course of business. The term does not include
 17 construction.
 18 (9) "Medical services" means a service:
 19 (a) performed by a person licensed to practice
 20 medicine, osteopathy, dentistry, podiatry, optometry,
 21 chiropractic, or psychology as a regular part of his
 22 business activities; and
 23 (b) applied externally or internally to the human body
 24 or mind for the diagnosis, cure, mitigation, treatment, or
 25 prevention of disease.

1 (10) "Medicine" or "drug" means and includes any
2 substance or preparation that is:

3 (a) intended for use by external or internal
4 application to the human body or mind in the diagnosis,
5 cure, mitigation, treatment, or prevention of disease; and

6 (b) required by law or regulation to be prescribed by
7 a person licensed to prescribe such medicine or drug.

8 (11) "Permit" means a seller's permit as described in
9 [section 45].

10 (12) "Person" means:

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

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

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

22 (14) (a) "Service" means an activity that is engaged in
23 for another person for consideration and that is
24 distinguished from the sale or lease of property. The term
25 includes:

1 (i) activities performed by a person for its members
2 or shareholders; and

3 (ii) construction activities and all tangible personal
4 property that will become an ingredient or component part of
5 a construction project.

6 (b) In determining what a service is, the intended
7 use, principal objective, or ultimate objective of the
8 contracting parties is irrelevant.

9 (15) "Therapeutic and prosthetic devices" includes but
10 is not limited to prescription eyeglasses, contact lenses,
11 dentures, or artificial limbs, prescribed or ordered by a
12 person licensed to perform medical services.

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

16 **NEW SECTION. Section 2. Imposition and rate of sales**
17 **tax and use tax.** (1) Except as provided in subsection (5), a
18 sales tax of 4% is imposed on all gross receipts, as defined
19 in [section 1], for the privilege of engaging in business in
20 this state.

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

24 (a) manufactured by the person using the property in
25 this state;

(b) acquired outside this state as the result of a transaction that would have been subject to the sales tax had it occurred within this state; or

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

(3) For the privilege of using services rendered in this state, there is imposed on the person using such services a use tax equal to 4% of the value of the services at the time at which they were rendered. Services taxable under this section must have been rendered as the result of a transaction that was not initially subject to the sales tax or use tax but that, because of the buyer's subsequent use of the service, is subject to the sales tax or use tax.

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

(5) A sales tax of 2 1/2% is imposed on the gross receipts from the sale of any new motor vehicle subject to the provisions of 61-3-502. The total of the tax imposed in this subsection and the tax imposed in 61-3-502 may not exceed 4%.

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

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

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

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

NEW SECTION. Section 4. Separate statement of tax.
(1) If the sales tax or use tax is stated separately on the books of the seller or lessor and the total amount of tax stated separately on transactions within the reporting period is in excess of the amount of sales tax or use tax otherwise payable on those transactions, the excess amount

1 of tax otherwise payable and stated on the transactions
2 within the reporting period must be included in gross
3 receipts.

4 (2) If the sales tax or use tax is not stated
5 separately on transactions, the gross receipts for sales tax
6 and use tax purposes include the total amounts received,
7 with no deduction for the sales tax or use tax.

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

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

15 **NEW SECTION. Section 6. Agents for collection of**
16 **sales tax and use tax -- severability.** (1) (a) A person who
17 performs or attempts to perform an activity within this
18 state that attempts to exploit this state's markets, who
19 sells property or services for use in this state, and who is
20 not subject to the sales tax or use tax on receipts from
21 these sales shall collect the sales tax or use tax from the
22 buyer and pay the tax collected to the department.

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

1 (i) maintaining an office or other place of business
2 that solicits orders through employees or independent
3 contractors;

4 (ii) canvassing;

5 (iii) demonstrating;

6 (iv) collecting money;

7 (v) warehousing or storing merchandise;

8 (vi) delivering or distributing products as a
9 consequence of an advertising or other sales program
10 directed at potential customers;

11 (vii) soliciting orders for tangible personal property
12 by means of a telecommunication or television shopping
13 system that utilizes toll-free numbers and that is intended
14 to be broadcast by cable television or other means to
15 consumers in this state;

16 (viii) soliciting orders, pursuant to a contract with a
17 broadcaster or publisher located within this state, for
18 tangible personal property by means of advertising
19 disseminated primarily to consumers located in this state
20 and only secondarily to bordering jurisdictions;

21 (ix) soliciting orders for tangible personal property
22 by mail if the solicitations are substantial and recurring
23 and if the person engaging in such activity benefits from
24 any banking, financing, debt collection, telecommunication,
25 or marketing activities occurring in this state or benefits

from the location in this state of authorized installation, servicing, or repair facilities; or

(x) soliciting orders, pursuant to a contract with a cable television operator located in this state, for tangible property by means of advertising transmitted or distributed over a cable television system in this state.

(2) To ensure the orderly and efficient collection of the tax imposed by [sections 1 through 68 and 72], if any application of this section is held invalid, the section's application to other situations or persons is not affected.

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

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

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

(4) Only a buyer or lessee who has registered with the department and whose permit is not suspended or revoked may be allowed to execute a nontaxable transaction certificate.

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

NEW SECTION. Section 8. Receipts of government agencies exempt. (1) Except as provided in subsection (2), all receipts of the United States or any agency or instrumentality of the United States or of this state or any political subdivision of this state are exempt from the sales tax and use tax.

(2) Receipts from the sale of gas, water, or electricity by a utility owned or operated by a political subdivision of the state are subject to the sales tax and use tax.

NEW SECTION. Section 9. Exemption -- food products. (1) Except as provided in subsection (2), receipts from sales of food products for human consumption, as defined in [section 1(5)(a)], are exempt from the sales tax.

(2) The gross receipts from food products sold in the following manner are subject to the sales tax:

(a) any food products served as meals on or off the premises of the retailer;

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

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

(d) food products sold for immediate consumption on or near a location at which parking facilities are provided primarily for the convenience of patrons in consuming the products purchased at the location, even though such products are sold on a "takeout", "to go", or "U-bake" order and are actually packaged or wrapped and taken from the premises of the retailer;

(e) food products sold for consumption within a place that charges an admission fee; or

(f) food or drink vended by or through machines on behalf of a vendor.

NEW SECTION. Section 10. Exemption -- special supplemental food program for women, infants, and children. The receipts from the sale of food purchased under the

special supplemental food program for women, infants, and children (WIC) as specified in 42 U.S.C. 1786, as amended, are exempt from the sales tax.

NEW SECTION. Section 11. Exemption -- medicines, drugs, certain devices, and medical services. (1) The gross receipts from the sale of medicines, drugs, insulin, and therapeutic and prosthetic devices are exempt from the sales tax.

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

NEW SECTION. Section 12. Exemption -- wages. The receipts of an employee from an employer for wages, salary, commissions, or any other form of remuneration for personal services are exempt from the sales tax.

NEW SECTION. Section 13. Exemption -- agricultural products. The receipts of a grower, producer, trapper, or nonprofit marketing association from the sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts are exempt from the sales tax. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account and without the services of a broker, auctioneer, or other agent are considered producers for the purposes of this section.

NEW SECTION. Section 14. Exemption -- livestock feeding. A person's receipts derived from feeding,

1 pasturing, penning, or handling or training livestock prior
2 to sale are exempt from the sales tax.

3 NEW SECTION. Section 15. Exemption -- used tangible
4 personal property upon which a sales or use tax has been
5 paid. The receipts from the sale of used tangible personal
6 property upon which a tax has been paid pursuant to
7 [sections 1 through 68 and 72] are exempt from the sales
8 tax.

9 NEW SECTION. Section 16. Exemption -- vehicles. The
10 receipts from the sale of any vehicle upon which a tax
11 pursuant to [sections 1 through 68 and 72] has been paid or
12 which was purchased prior to [the applicability date of this
13 act] are exempt from the sales tax. A registration
14 certificate showing that the vehicle was registered in this
15 state prior to [the applicability date of this act] is
16 conclusive proof that it was purchased before it was subject
17 to taxation under [sections 1 through 68 and 72] and is
18 exempt under this section.

19 NEW SECTION. Section 17. Exemption -- certain mobile
20 homes. Receipts from the resale of a mobile home may be
21 deducted from gross receipts if the sale is of a mobile home
22 that was subject to the sales tax or use tax upon its
23 initial sale or use in this state or was initially sold or
24 used in this state prior to [the applicability date of this
25 act]. The seller shall retain and furnish proof satisfactory

1 to the department of either of the following:

2 (1) that the sales tax or use tax was paid upon the
3 initial sale or use in this state of the mobile home. In the
4 absence of such proof, it is presumed that the tax was not
5 paid.

6 (2) that a Montana certificate of title was issued for
7 a mobile home prior to [the applicability date of this act].
8 The certificate is proof that the mobile home was initially
9 sold or used in this state prior to [the applicability date
10 of this act] and that the mobile home is exempt under this
11 section.

12 NEW SECTION. Section 18. Exemption -- insurance
13 companies. The receipts of an insurance company or any of
14 its agents from premiums are exempt from the sales tax.

15 NEW SECTION. Section 19. Exemption -- dividends and
16 interest. The following are exempt from the sales tax:

- 17 (1) interest on money loaned or deposited;
18 (2) dividends or interest from stocks, bonds, or
19 securities; and
20 (3) proceeds from the sale of stocks, bonds, or
21 securities.

22 NEW SECTION. Section 20. Exemption -- fuel. The
23 receipts from the sale of gasoline or ethanol blended for
24 fuel on which the Montana gasoline tax has been paid under
25 Title 15, chapter 70, are exempt from the sales tax and use

1 tax.

2 NEW SECTION. Section 21. Exemption -- isolated or
3 occasional sale or lease of property or services. The
4 receipts from the isolated or occasional sale or lease of
5 property or from the performance of a service by a person
6 who is not regularly engaged in or who does not represent
7 himself as engaged in the business of selling or leasing the
8 same or a similar property or service are exempt from the
9 sales tax.

10 NEW SECTION. Section 22. Exemption -- oil, gas, and
11 mineral interests. The receipts from the sale or lease of
12 oil, natural gas, or mineral interests are exempt from the
13 sales tax.

14 NEW SECTION. Section 23. Exemption -- minerals --
15 exception. (1) The receipts from the sale or use of a
16 mineral as defined in 15-38-103 are exempt from the sales
17 tax and use tax.

18 (2) Minerals refined, reduced, polished, cut, faceted,
19 or otherwise processed for the purpose of being used as or
20 integrated into jewelry, art, or sculpture or as a
21 decorative embellishment or adornment, either in their own
22 right or in combination with other property, are not
23 included in the exemption provided in this section.

24 NEW SECTION. Section 24. Exemption -- property of
25 certain governmental agencies. (1) The use of property by

1 the United States or any agency or instrumentality of the
2 United States or by this state or any political subdivision
3 of this state is exempt from the use tax.

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

7 NEW SECTION. Section 25. Exemption -- personal
8 effects. The use by an individual of personal or household
9 effects brought into the state for the establishment by him
10 of an initial residence in this state and the use of
11 property brought into the state by a nonresident for his own
12 nonbusiness use while temporarily within this state are
13 exempt from the use tax.

14 NEW SECTION. Section 26. Exemption -- advertising
15 services. The gross receipts from the sale of advertising
16 services, including the actual creation or development of
17 the advertising, are exempt from the sales tax. For the
18 purpose of this section, "advertising services" includes but
19 is not limited to all advertising by:

- 20 (1) newspaper, magazine, or other publication;
- 21 (2) radio or television;
- 22 (3) billboard, banner, sign, placard, and the like;
- 23 (4) handbill; or
- 24 (5) any other advertising means, media, or method.

25 NEW SECTION. Section 27. Deduction -- sale of

1 tangible personal property for resale. Receipts from the
2 sale of tangible personal property may be deducted from
3 gross receipts if:

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

6 (2) the buyer resells or plans to resell the tangible
7 personal property either by itself or in combination with
8 other tangible personal property in the ordinary course of
9 business and the property will subsequently be subject to
10 the sales tax.

11 NEW SECTION. Section 28. Deduction -- sale of service
12 for resale. Receipts from the sale of a service for resale
13 may be deducted from gross receipts if:

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

16 (2) the buyer separately states the value of the
17 service purchased in his charge for the service on its
18 subsequent sale; and

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

21 NEW SECTION. Section 29. Deduction -- sale to
22 manufacturer. Receipts from the sale of tangible personal
23 property to a buyer engaged in the business of manufacturing
24 may be deducted from gross receipts if:

25 (1) the buyer delivers a nontaxable transaction

1 certificate to the seller; and

2 (2) the buyer incorporates or will incorporate the
3 tangible personal property as an ingredient or component
4 part of the product which he is in the business of
5 manufacturing.

6 NEW SECTION. Section 30. Deduction -- sale of
7 tangible personal property for leasing. Receipts from the
8 sale of tangible personal property, other than furniture or
9 appliances, and from the rental or lease of property, other
10 than coin-operated machines and mobile homes, that is
11 deductible under [sections 1 through 68 and 72] may be
12 deducted from gross receipts if:

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

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

18 (3) the buyer does not use the property in any manner
19 other than holding it for lease or sale or leasing or
20 selling it, either by itself or in combination with other
21 tangible personal property, in the ordinary course of
22 business.

23 NEW SECTION. Section 31. Deduction -- lease for
24 subsequent lease. Receipts from the lease of tangible
25 personal property, other than furniture or appliances, and

1 from the rental or lease of property, other than
2 coin-operated machines and mobile homes, that is deductible
3 under [sections 1 through 68 and 72] may be deducted from
4 gross receipts if:

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

7 (2) the lessee does not use the property in any manner
8 other than for subsequent lease in the ordinary course of
9 business.

10 **NEW SECTION. Section 32. Deduction -- sale of**
11 **tangible personal property to person engaged in construction**
12 **business.** (1) Receipts from the sale of tangible personal
13 property may be deducted from gross receipts if the sale is
14 made to a buyer engaged in the construction business who
15 delivers a nontaxable transaction certificate to the seller.

16 (2) The buyer delivering the nontaxable transaction
17 certificate shall incorporate the tangible personal property
18 as:

19 (a) an ingredient or component part of a construction
20 project that is subject to the sales tax or use tax upon its
21 completion or upon the completion of the overall
22 construction project of which it is a part; or

23 (b) an ingredient or component part of a construction
24 project that is subject to the sales tax or use tax upon the
25 sale in the ordinary course of business of the real property

1 upon which it was constructed.

2 **NEW SECTION. Section 33. Deduction -- sale of**
3 **construction service to person engaged in construction**
4 **business.** (1) Receipts from the sale of a construction
5 service may be deducted from gross receipts if the sale is
6 made to a buyer engaged in the construction business and he
7 delivers a nontaxable transaction certificate to the person
8 performing the construction service.

9 (2) The buyer delivering the nontaxable transaction
10 certificate shall have the construction services performed
11 upon:

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

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

19 **NEW SECTION. Section 34. Deduction -- sale or lease**
20 **of real property and lease of mobile homes.** (1) (a) Except
21 as provided in subsection (1)(b), receipts from the sale or
22 lease of real property, from the lease of a mobile home, or
23 from the rental of a mobile home for a period of at least 1
24 month may be deducted from gross receipts.

25 (b) The portion of the gross receipts from the sale of

1 real property that is attributable to improvements
2 constructed on the real property by the seller in the
3 ordinary course of his construction business may not be
4 deducted from gross receipts.

5 (2) Receipts attributable to the inclusion of
6 furniture or appliances furnished by the landlord or lessor
7 as part of a leased or rented dwelling, house, mobile home,
8 cabin, condominium, or apartment may be deducted from gross
9 receipts.

10 (3) Receipts received by hotels, motels,
11 roominghouses, campgrounds, guest ranches, trailer parks, or
12 similar facilities are not receipts from leasing real
13 property for purposes of this section if either the operator
14 or the user must pay tax on the receipts under Title 15,
15 chapter 65.

16 **NEW SECTION. Section 35. Deduction -- transactions in**
17 **interstate commerce -- exception.** (1) Receipts from a
18 transaction in interstate commerce may be deducted from
19 gross receipts to the extent that the imposition of the
20 sales tax or use tax would be unlawful under the United
21 States constitution.

22 (2) (a) The following may be deducted from gross
23 receipts:

24 (i) receipts from transmitting messages or
25 conversations by radio, originating from a point outside

1 this state and received at a point within this state; and

2 (ii) receipts from the sale of radio or television
3 broadcast time if the advertising message is supplied by or
4 on behalf of a national or regional seller or an advertiser
5 not having its principal place of business in or being
6 incorporated under the laws of this state.

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

10 **NEW SECTION. Section 36. Deduction -- intrastate**
11 **transportation and services in interstate commerce.** (1)
12 Receipts from the transport of persons or property from one
13 point within this state to another point within this state
14 may be deducted from gross receipts if such persons or
15 property, including any reasonably necessary services, are
16 being transported in interstate or foreign commerce under a
17 single contract.

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

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

23 (b) the services are performed by a local agent for a
24 carrier or by a carrier; and

25 (c) the services are performed under a single contract

1 in relation to transportation services.

2 NEW SECTION. Section 37. Deduction -- sale of certain
3 services to an out-of-state buyer. (1) Receipts from
4 performing a service may be deducted from gross receipts if
5 the sale of the service is made to a buyer who delivers to
6 the seller either a nontaxable transaction certificate or
7 other evidence acceptable to the department that the
8 transaction meets the conditions set out in subsection (3).

9 (2) The person who delivers the nontaxable transaction
10 certificate or other evidence acceptable to the department
11 must meet the criteria set out in subsection (3).

12 (3) Receipts from the performance of a service are
13 deductible if the buyer of the service, any of his
14 employees, or any person in privity with him:

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

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

19 (c) concurrent with the performance of the service,
20 does not have a regular place of work in this state or spend
21 more than brief and occasional periods of time in this state
22 and:

23 (i) does not have any communication in this state
24 related in any way to the subject matter, performance, or
25 administration of the service with the person performing the

1 service; or

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

4 (4) Receipts from performing a service that initially
5 qualified for the deduction provided in this section but
6 that no longer meets the criteria set forth in subsection
7 (3) are deductible for the period prior to the
8 disqualification.

9 NEW SECTION. Section 38. Deduction -- feed,
10 fertilizers, and agricultural supplies -- livestock
11 auctioneers. (1) Receipts from the sale of feed for
12 livestock, fish raised for human consumption, poultry,
13 animals raised for their hides or pelts, semen used in
14 animal husbandry, seeds, roots, bulbs, soil conditioners,
15 fertilizers, insecticides, insects used to control the
16 population of other insects, fungicides, weedicides,
17 herbicides, or water for irrigation purposes may be deducted
18 from gross receipts if the sale is made to a person who
19 states in writing that he is regularly engaged in the
20 business of farming, ranching, or the raising of animals for
21 their hides or pelts.

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

25 NEW SECTION. Section 39. Deduction -- certain

1 chemicals and reagents. (1) The following may be deducted
2 from gross receipts:

3 (a) receipts from the sale of chemicals or reagents to
4 any mining concern or milling company for use in processing
5 ores or oil in a mill, smelter, or refinery or in acidizing
6 oil wells; and

7 (b) receipts from the sale of chemicals or reagents in
8 an amount in excess of 18 tons.

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

12 NEW SECTION. Section 40. Deduction -- certain uses of
13 special fuel. (1) Receipts from the sale of special fuel, as
14 defined in 15-70-301, on which the special fuels tax has
15 been paid under Title 15, chapter 70, or which is used in
16 agriculture or to operate machinery, equipment, or vehicles
17 used in a trade or business may be deducted from gross
18 receipts.

19 (2) Receipts from the sale of special fuel used to
20 heat buildings for human comfort are not deductible.

21 NEW SECTION. Section 41. Deduction -- sale of certain
22 services performed directly on product manufactured. (1)
23 Receipts from sale of the service of combining or processing
24 components or materials may be deducted from gross receipts
25 if the sale is made to a buyer who is engaged in the

1 business of manufacturing and who delivers a nontaxable
2 transaction certificate to the seller.

3 (2) The buyer delivering the nontaxable transaction
4 certificate shall have the service performed directly upon
5 tangible personal property that he is in the business of
6 manufacturing or upon ingredients or component parts of such
7 property.

8 NEW SECTION. Section 42. Deduction -- use of tangible
9 personal property for leasing. (1) Except as provided in
10 subsection (2), the value of leased property may be deducted
11 in computing the use tax due if the person holding the
12 tangible personal property for lease:

13 (a) is engaged in a business that derives a
14 substantial portion of its receipts from leasing or selling
15 property of the type leased;

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

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

22 (2) The deduction provided in subsection (1) does not
23 apply to the value of furniture or appliances furnished by
24 the landlord or lessor as part of a leased or rented
25 dwelling, house, cabin, condominium, or apartment or to the

1 lease of coin-operated machines or mobile homes.

2 NEW SECTION. Section 43. Deduction -- sales to
3 government agencies and Indian tribes. (1) Receipts from a
4 sale to the United States or any agency or instrumentality
5 of the United States or to this state or any political
6 subdivision of this state may be deducted from gross
7 receipts.

8 (2) Receipts from a sale to the governing body of an
9 Indian tribe for use on a federally recognized Indian
10 reservation may be deducted from gross receipts.

11 NEW SECTION. Section 44. Credit -- out-of-state
12 taxes. (1) If a gross receipts, sales, use, or similar tax
13 has been levied by another state or a political subdivision
14 of another state on property bought outside this state but
15 which will be used or consumed in this state and the tax was
16 paid, the amount of tax paid may be credited against any use
17 tax due this state on the same property.

18 (2) If the receipts from the sale of improvements to
19 real property constructed by a person in the ordinary course
20 of his construction business are subject to the sales tax or
21 use tax, the amount of tax paid by the person under
22 subsection (1) on materials that became an ingredient or
23 component part of the construction project and on
24 construction services performed upon the construction
25 project may be credited against the sales tax or use tax due

1 on the sale.

2 NEW SECTION. Section 45. Seller's permit. Upon an
3 applicant's compliance with [sections 1 through 68 and 72],
4 the department shall issue to the applicant a separate,
5 numbered seller's permit for each place of business within
6 Montana. A permit is valid until revoked or suspended but is
7 not assignable. A permit is valid only for the person in
8 whose name it is issued and for the transaction of business
9 at the place designated. The permit must be conspicuously
10 displayed at all times at the place for which it is issued.

11 NEW SECTION. Section 46. Permit application --
12 requirements -- place of business -- form. (1) (a) A person
13 desiring to engage in the business of making retail sales or
14 providing services in Montana shall file with the department
15 an application for a permit. If the person has more than one
16 place of business, an application must be filed for each
17 place of business.

18 (i) A vending machine operator who has more than one
19 vending machine location is considered to have only one
20 place of business for purposes of this section.

21 (ii) An applicant who has no regular place of business
22 and who moves from place to place is considered to have only
23 one place of business and shall attach the permit to his
24 cart, stand, truck, or other merchandising device.

25 (b) Each person or class of persons obligated to file

1 a return under [sections 1 through 68 and 72] is required to
2 file application for a permit.

3 (2) Each application for a permit must be on a form
4 prescribed by the department and must set forth the name
5 under which the applicant intends to transact business, the
6 location of his place or places of business, and such other
7 information as the department may require. The application
8 must be filed by the owner if the owner is a natural person,
9 by a member or partner if the owner is an association or
10 partnership, or by a person authorized to sign the
11 application if the owner is a corporation.

12 NEW SECTION. Section 47. Special activities --
13 permits -- penalty. (1) The operator of a flea market, craft
14 show, antique show, coin show, stamp show, comic book show,
15 convention exhibit area, or similar selling event, as a
16 prerequisite to renting or leasing space on the premises
17 owned or controlled by the operator to a person desiring to
18 engage in or conduct business as a seller, shall obtain
19 evidence that the seller is the holder of a valid seller's
20 permit issued pursuant to [section 45] or a written
21 statement from the seller that he is not offering for sale
22 any item that is taxable under [sections 1 through 68 and
23 72].

24 (2) "Flea market, craft show, antique show, coin show,
25 stamp show, comic book show, convention exhibit area, or

1 similar selling event", as used in this section, means an
2 activity that involves a series of sales sufficient in
3 number, scope, and character to constitute a regular course
4 of business but does not qualify as an isolated or
5 occasional sale pursuant to [section 21].

6 (3) An operator who fails or refuses to comply with
7 the provisions of this section is subject to a penalty,
8 payable to the department, of \$100 per day per seller at
9 each selling event at which the operator fails to obtain
10 evidence that a seller is the holder of a valid seller's
11 permit issued pursuant to [section 45].

12 NEW SECTION. Section 48. Revocation or suspension of
13 permit -- hearing -- notice -- appeal. (1) Subject to the
14 provisions of subsection (2), the department may, for
15 reasonable cause, revoke or suspend any permit held by a
16 person who fails to comply with the provisions of [sections
17 1 through 68 and 72].

18 (2) (a) The department shall hold a hearing on the
19 proposed revocation or suspension after giving the person 30
20 days' notice in writing, specifying the time and place of
21 the hearing and the reason for the proposed revocation or
22 suspension.

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

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

(3) After revocation, the department may not issue a new permit except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections 1 through 68 and 72]. The department may require security in addition to that authorized by [section 56] in an amount reasonably necessary to ensure compliance with [sections 1 through 68 and 72] as a condition for the issuance of a new permit to such an applicant.

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

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

NEW SECTION. Section 49. Nontaxable transaction certificate -- form. (1) The department shall provide for a uniform nontaxable transaction certificate. In order to obtain a deduction under [sections 1 through 68 and 72], a purchaser shall use the certificate when purchasing goods or services for resale.

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

(a) the number of the permit issued to the purchaser as provided in [section 45];

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

(c) the property or service purchased for resale;

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

(e) a signature line for the purchaser.

NEW SECTION. Section 50. Improper use of subject of purchase obtained with nontaxable transaction certificate -- penalty. (1) If a purchaser who uses a nontaxable transaction certificate utilizes the subject of the purchase for a purpose other than one allowed as a deduction under [sections 1 through 68 and 72], the use is considered a taxable sale by the purchaser as of the time of first use by him and the sale price he receives is considered the gross receipts from the sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in his gross receipts the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the entire amount of gross receipts received from the resale, without deduction of amounts previously received as rentals.

(2) A person who uses a certificate for property that will be utilized for purposes other than the purpose claimed is subject to a penalty, payable to the department, of \$100

1 for each transaction in which an improper use of an
2 exemption certificate has occurred.

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

5 NEW SECTION. Section 51. Commingling nontaxable
6 certificate goods. If a purchaser uses a nontaxable
7 transaction certificate with respect to the purchase of
8 fungible goods and thereafter commingles these goods with
9 fungible goods not so purchased but of such similarity that
10 the identity of the goods in the commingled mass cannot be
11 determined, sales from the mass of commingled goods are
12 considered to be sales of the goods purchased with the
13 certificate until the quantity of commingled goods sold
14 equals the quantity of goods originally purchased under the
15 certificate.

16 NEW SECTION. Section 52. Liability for payment of tax
17 -- security for retailer without place of business --
18 penalty. (1) Liability for the payment of the sales tax and
19 use tax is not extinguished until the taxes have been paid
20 to the department.

21 (2) A retailer who does not maintain a place of
22 business in this state is liable for the sales tax or use
23 tax in accordance with [sections 1 through 68 and 72] and
24 shall furnish adequate security as required in [section 56]
25 to ensure collection and payment of the taxes. When so

1 authorized and except as otherwise provided in [sections 1
2 through 68 and 72], the retailer is liable for the taxes
3 upon all tangible property sold that is to be used within
4 this state in the same manner as a retailer who maintains a
5 place of business within this state. The permit provided
6 for in [section 45] may be canceled at any time if the
7 department considers the security inadequate or believes
8 that the taxes can be collected more effectively in another
9 manner.

10 (3) No agent, canvasser, or employee of a retailer
11 doing business in this state who is not authorized by permit
12 from the department may sell, solicit orders for, or deliver
13 any tangible personal property in Montana. If such an agent,
14 canvasser, or employee violates the provisions of [sections
15 1 through 68 and 72], he is subject to a fine of not more
16 than \$100 for each separate transaction or event.

17 NEW SECTION. Section 53. Common carriers as
18 retailers. A person engaged in the business of intrastate or
19 interstate transportation by motor vehicle of tangible
20 personal property or passengers shall register as a retailer
21 and pay the taxes imposed by [sections 1 through 68 and 72].

22 NEW SECTION. Section 54. Application for permission
23 to report on accrual basis. (1) A person who has a permit
24 issued pursuant to [section 45] may apply to the department
25 for permission to report and pay the sales tax or use tax on

1 an accrual basis.

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

5 (3) A person may not report or pay the sales tax or
6 use tax on an accrual basis unless he has received written
7 permission from the department.

8 NEW SECTION. Section 55. Returns -- authority of
9 department. (1) On or before the 25th day of each month in
10 which the tax imposed by [sections 1 through 68 and 72] is
11 payable, a return for the preceding month must be filed with
12 the department, on a form provided by the department. Each
13 return must contain a confession of judgment for the amount
14 of the tax shown due, to the extent not timely paid. A
15 person making retail sales at two or more places of business
16 may file a consolidated return, subject to rules prescribed
17 by the department.

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

- 20 (i) a retailer required to pay such tax; and
- 21 (ii) a person:

22 (A) purchasing any items the storage, use, or other
23 consumption of which is subject to the sales tax or use tax;
24 and

25 (B) who has not paid the tax to a retailer required to

1 pay the tax.

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

4 (3) (a) A person liable for the taxes imposed by
5 [sections 1 through 68 and 72] shall keep records, render
6 statements, make returns, and comply with the provisions of
7 [sections 1 through 68 and 72] and the rules prescribed by
8 the department. Each return or statement must include the
9 information required by the rules of the department.

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

- 18 (i) require the attendance of a person having
- 19 knowledge or information relevant to a return;
- 20 (ii) compel the production of books, papers, records,
- 21 or memoranda by a person required to attend;
- 22 (iii) take testimony on matters material to the
- 23 determination; and
- 24 (iv) administer oaths or affirmations.
- 25 (4) The returns due for July, August, and September of

1 1990 are due on or before October 25, 1990.

2 NEW SECTION. Section 56. Security -- limitations --
 3 sale of security deposit at auction -- bond. (1) The
 4 department may require a retailer to deposit with the
 5 department security in a form and amount the department
 6 determines appropriate. The deposit may not be more than
 7 twice the estimated average liability for the period for
 8 which the return is required to be filed or \$10,000,
 9 whichever is less. The amount of security may be increased
 10 or decreased by the department, subject to the limitations
 11 provided in this section.

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

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

18 (c) After the sale, any surplus above the amount due
 19 and that is not required as security under this section must
 20 be returned to the person who deposited the security.

21 (3) In lieu of security, the department may require a
 22 retailer to file a bond, issued by a surety company
 23 authorized to transact business in this state, to guarantee
 24 solvency and responsibility.

25 (4) In addition to the other requirements of this

1 section, the department may require the corporate officers,
 2 directors, or shareholders of a corporation to provide a
 3 personal guaranty and assumption of liability for the
 4 payment of the tax due under [sections 1 through 68 and 72].

5 NEW SECTION. Section 57. Extensions. (1) The
 6 department may extend the time for filing a return and
 7 remittance of tax, deficiencies, and penalties for a period
 8 not to exceed 60 days from the date a return was due and may
 9 require both an estimated return at the time fixed for
 10 filing the regularly required return and the payment of tax
 11 on the basis of the estimated return.

12 (2) If an extension of time for payment has been
 13 granted under this section, interest at the rate provided in
 14 [section 62(2)] is payable from the date on which payment
 15 was first due without extension until the tax is paid.

16 NEW SECTION. Section 58. Examination of return --
 17 adjustments -- delivery of notices and demands. (1) The
 18 department may examine a return and make an investigation or
 19 examination of the records and accounts of a person making
 20 the return if the department considers it necessary to
 21 determine the accuracy of the return.

22 (2) To determine the accuracy of a return, the
 23 department may examine the records and accounts, using
 24 statistical or other sampling techniques consistent with
 25 generally accepted accounting principles.

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

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

(5) The notice and demand provided for in this section must contain a statement of the computation of the tax and must be:

(a) sent by mail to the taxpayer at the address given in his return, if any, or to his last-known address; or

(b) served personally upon the taxpayer.

NEW SECTION. Section 59. Penalties for violation.

(1) (a) Subject to the provisions of subsection (1)(b), if a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 68 and 72], fails to file a return or pay the tax due on or before the date the return or tax is due (determined with regard to any

extension of time granted for filing the return), there must immediately be imposed a penalty of 5% of any tax due on the return. The penalty increases by the amount of 5% of the tax due for each 30-day period or portion thereof that the return remains unfiled after notification of failure to file.

(b) The penalty imposed by subsection (1)(a) may not exceed 25% of the total tax due.

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

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

(2) (a) If a person purposely or knowingly violates any requirement imposed by [sections 1 through 68 and 72], fails to make a return, or fails to pay a tax, if one is due, at the time required under the provisions of [sections 1 through 68 and 72], there is added to the tax an additional amount equal to the greater of 25% of the tax or \$25.

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

(3) (a) Any individual, corporation, or partnership,

1 any officer or employee of a corporation, or any member or
 2 employee of a partnership who, with intent to evade any
 3 requirement of [sections 1 through 68 and 72] or any lawful
 4 requirement of the department adopted pursuant to [sections
 5 1 through 68 and 72], purposely or knowingly fails to pay
 6 the tax or to make, render, or sign any return or to supply
 7 any information within the time required under the
 8 provisions of [sections 1 through 68 and 72] or who
 9 purposely or knowingly makes, renders, or signs any false or
 10 fraudulent return or statement or supplies any false or
 11 fraudulent information is subject to a civil penalty of not
 12 more than \$5,000.

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

16 (4) The department may abate or waive all or a portion
 17 of the penalty imposed by subsection (1) if the taxpayer
 18 establishes to the satisfaction of the department that his
 19 failure to file or to pay on time was due to reasonable
 20 cause and was not due to neglect on his part.

21 NEW SECTION. Section 60. Warrants for distraint. If a
 22 tax imposed by [sections 1 through 68 and 72] or any portion
 23 of such tax is not paid when due, the department may issue a
 24 warrant for distraint as provided in Title 15, chapter 1,
 25 part 7.

1 NEW SECTION. Section 61. Authority to collect
 2 delinquent taxes. (1) The department shall collect taxes
 3 that are delinquent as determined under [sections 1 through
 4 68 and 72].

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

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

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

16 (5) The department shall provide the taxpayer with
 17 written notice of the right to request a hearing under the
 18 contested case procedures of Title 2, chapter 4, on the
 19 matter of the offset action or the department's intent to
 20 file a claim on behalf of the taxpayer. A written request
 21 for a hearing must be made within 30 days of the date of the
 22 notice, and the hearing must be held within 30 days
 23 following receipt by the department of the written request.

24 NEW SECTION. Section 62. Penalty for deficiency.
 25 (1) (a) If the payment of a tax deficiency is not made

1 within 60 days after it is due and payable and if the
2 deficiency is due to negligence on the part of the taxpayer
3 but without fraud, there must be added to the amount of the
4 deficiency a penalty of 5% of the tax.

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

9 (c) Interest accrues on the unpaid taxes at the rate
10 of 1% for each month or part thereof during which the taxes
11 remain unpaid. The interest must be computed from the date
12 the return and tax were originally due.

13 (d) In no event may the penalties imposed under
14 subsections (1)(a) and (1)(b) exceed 25% of the total tax
15 due.

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

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

24 NEW SECTION. Section 63. Limitations. Except in the
25 case of a person who, with intent to evade the tax,

1 purposely or knowingly files a false or fraudulent return
2 violating the provisions of [sections 1 through 68 and 72],
3 the amount of tax due under any return must be determined by
4 the department within 5 years after the return was made. The
5 department is barred from revising a return or recomputing
6 the tax due thereon, and no proceeding in court for the
7 collection of the tax may be instituted unless notice of an
8 additional tax was provided within the period described in
9 this section.

10 NEW SECTION. Section 64. Refunds. A claim for a
11 refund made for taxes collected under [sections 1 through 68
12 and 72] must be in accordance with the procedure and time
13 limits provided in 15-1-503.

14 NEW SECTION. Section 65. Administration -- rules. The
15 department shall:

16 (1) administer and enforce the provisions of [sections
17 1 through 68 and 72];

18 (2) cause to be prepared and distributed such forms
19 and information as may be necessary to administer the
20 provisions of [sections 1 through 68 and 72]; and

21 (3) promulgate such rules as may be appropriate to
22 administer and enforce the provisions of [sections 1 through
23 68 and 72].

24 NEW SECTION. Section 66. Revocation of corporate
25 license. (1) If a corporation authorized to do business in

1 this state and required to pay the taxes imposed under
 2 [sections 1 through 68 and 72] fails to comply with any of
 3 the provisions of [sections 1 through 68 and 72] or any rule
 4 of the department, the department may, for reasonable cause,
 5 certify to the secretary of state a copy of an order finding
 6 that the corporation has failed to comply with specific
 7 statutory provisions or rules.

8 (2) The secretary of state shall, upon receipt of the
 9 certification, revoke the license authorizing the
 10 corporation to do business in this state and may issue a new
 11 license only when the corporation has obtained from the
 12 department an order finding that the corporation has
 13 complied with its obligations under [sections 1 through 68
 14 and 72].

15 (3) No order authorized in this section may be made
 16 until the corporation is given an opportunity to be heard
 17 and to show cause at a contested case hearing before the
 18 department why such order should not be made. The
 19 corporation must be given 30 days' notice of the time and
 20 place of the hearing and the reason for the proposed order.

21 NEW SECTION. Section 67. Tax as debt. (1) The taxes
 22 imposed by [sections 1 through 68 and 72] and related
 23 interest and penalties become a personal debt of the person
 24 required to file a return from the time the liability
 25 arises, regardless of when the time for payment of such

1 liability occurs.

2 (2) In the case of an executor or administrator of the
 3 estate of a decedent or in the case of a fiduciary, the debt
 4 is that of the person in his official or fiduciary capacity
 5 only. However, if he has voluntarily distributed the assets
 6 held in such capacity without reserving sufficient assets to
 7 pay the taxes, interest, and penalties, he is personally
 8 liable for any deficiency.

9 (3) This section also applies to those corporate
 10 officers, directors, or shareholders required by the
 11 department to personally guarantee the payment of the taxes
 12 for their corporations.

13 NEW SECTION. Section 68. Information
 14 confidentiality -- agreements with another state. (1) (a)
 15 Except as provided in subsections (1)(b) and (2), it is
 16 unlawful for an employee of the department or any other
 17 public official or public employee to divulge or otherwise
 18 make known any information disclosed in a report or return
 19 required to be filed under [sections 1 through 68 and 72] or
 20 any information concerning the affairs of the person making
 21 the return that is acquired from his records, officers, or
 22 employees in an examination or audit.

23 (b) Subsection (1)(a) does not apply to information
 24 obtained from the taxpayer making the report or return in
 25 connection with a proceeding involving taxes due under

1 [sections 1 through 68 and 72] or to compliance with the
2 provisions of subsection (2).

3 (c) Nothing in this section may be construed to
4 prohibit the department from publishing statistics if they
5 are classified in a way that does not disclose the identity
6 and content of any particular return or report. A person
7 violating the provisions of this section is subject to the
8 penalty provided in 15-30-303 for violating the
9 confidentiality of individual income tax information.

10 (2) (a) The department may enter into an agreement
11 with the taxing officials of another state for the
12 interpretation and administration of the laws of their state
13 that provide for the collection of sales taxes or use taxes
14 in order to promote fair and equitable administration of
15 such laws and to eliminate double taxation.

16 (b) The department, in order to implement the
17 provisions of [sections 1 through 68 and 72], may furnish
18 information on a reciprocal basis to the taxing officials of
19 another state or to the taxing officials of a municipality
20 of this state that has a local sales tax or use tax.

21 (3) In order to facilitate processing of returns and
22 payments of taxes required by [sections 1 through 68 and
23 72], the department may contract with vendors and may
24 disclose data to the vendors. The data disclosed must be
25 administered by the vendor in a manner consistent with this

1 section.

2 **NEW SECTION. Section 69. Credit for sales tax and use**
3 **tax -- definitions.** As used in [sections 69 through 71], the
4 following definitions apply:

5 (1) "Claimant" means an individual natural person who
6 is eligible to file a claim under [section 70].

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

8 (3) "Gross household income" means all monetary
9 benefits of any kind received by each individual member of
10 the household, without regard to losses of any kind and
11 without regard to whether the benefits are taxable income
12 under state or federal income tax laws. Such income
13 includes but is not limited to the following:

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

15 (b) alimony, child support, or any other type of
16 maintenance payments;

17 (c) cash public assistance and relief (including the
18 face value of all food stamps received);

19 (d) life insurance and endowment contracts;

20 (e) social security and the gross amount of any
21 pension or annuity (including railroad retirement benefits
22 and veterans' disability benefits);

23 (f) unemployment and workers' compensation benefits;

24 (g) all tax refunds; and

25 (h) any monetary benefits defined as income in the

1 Internal Revenue Code or by this chapter.

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

7 NEW SECTION. Section 70. Credit for sales tax and use
8 tax. (1) Except as provided in subsection (2), there is
9 allowed a credit against tax liability for each resident who
10 files an individual Montana income tax return under this
11 chapter as provided in subsection (3). The credit may be
12 claimed even though the resident has no taxable income under
13 Title 15, chapter 30.

14 (2) A claim for the tax credit provided in this
15 section may not be filed by a resident who:

16 (a) is an inmate of a public institution for more than
17 6 months during the tax year for which the tax credit is
18 claimed; or

19 (b) is not physically present in Montana for at least
20 6 months during the tax year for which the tax credit is
21 claimed.

22 (3) For each exemption claimed under 15-30-112, a
23 credit is allowed according to the following schedule:

24 <u>Gross Household Income</u>	<u>Credit per Exemption</u>
25 \$ 0 - 4,999	\$100

1	5,000 - 5,999	90
2	6,000 - 6,999	80
3	7,000 - 7,999	70
4	8,000 - 8,999	64
5	9,000 - 9,999	54
6	10,000 - 10,999	44
7	11,000 - 11,999	38
8	12,000 - 12,999	32
9	13,000 - 13,999	24
10	14,000 - 19,999	18
11	20,000 or more	0

12 (4) If the amount of credit allowed in this section
13 exceeds the amount of tax liability under this chapter by \$1
14 or more, the department shall refund the amount in excess.
15 If the excess is less than \$1, the department may not make a
16 refund.

17 NEW SECTION. Section 71. Credit for sales tax and use
18 tax -- filing date -- extension. (1) Except as provided in
19 subsection (2), a claim for a credit must be submitted at
20 the same time the claimant's individual income tax return is
21 due. For an individual not required to file a tax return, a
22 claim for relief must be submitted on or before April 15 of
23 the year following the year for which relief is sought.

24 (2) The department may grant a reasonable extension
25 for filing a claim whenever in its judgment good cause

1 exists. The department shall keep a record of each extension
2 and the reason for granting the extension.

3 (3) In the event that an individual who would have a
4 claim under [sections 69 through 71] dies before filing the
5 claim, the personal representative of the estate of the
6 decedent may file the claim.

7 NEW SECTION. **Section 72. Sales tax and use tax**
8 **account.** (1) There is within the state special revenue fund
9 a sales tax and use tax account.

10 (2) All money collected under [sections 1 through 68
11 and 72] must be paid by the department into the sales tax
12 and use tax account.

13 (3) There must be retained in the sales tax and use
14 tax account the amounts necessary under [sections 1 through
15 73] to repay overpayments, pay any erroneous receipts
16 illegally assessed or collected or that are excessive in
17 amount, and pay any other refunds otherwise required.

18 NEW SECTION. **Section 73. Disposition of sales tax and**
19 **use tax revenue -- legislative appropriation.** (1) Sales tax
20 and use tax revenue is allocated as follows:

21 (a) the amount determined under [section 74(3)] to
22 provide property tax replacement revenue for each taxing
23 jurisdiction;

24 (b) the amount of sales tax and use tax revenue
25 remaining after the allocation in subsection (1)(a) is

1 distributed as follows:

2 (i) 53% to state equalization aid as provided in
3 20-9-343;

4 (ii) 15% to the state special revenue fund for the
5 support, maintenance, and improvement of the Montana
6 university system, vocational-technical centers, and
7 community college districts, subject to the board of
8 regents' supervision, as provided in [section 105]; and

9 (iii) 11% to the local government block grant account
10 in the state special revenue fund as provided in [section
11 138]; and

12 (c) the remainder to the state general fund.

13 (2) This section provides for the disposition of sales
14 tax and use tax revenue. No allocations may be made from the
15 sales tax and use tax account until appropriated by the
16 legislature.

17 NEW SECTION. **Section 74. Property tax replacement**
18 **revenue.** (1) For the taxable year beginning January 1, 1990,
19 and each year thereafter, the department of revenue shall
20 determine for each taxing jurisdiction in each county the
21 taxable value of all property in the following categories,
22 calculated at the taxable rate in effect on January 1, 1990:

23 (a) class four through class ten;

24 (b) class twelve; and

25 (c) class fourteen through class nineteen.

(2) For the taxable year beginning January 1, 1991, the department shall determine for each taxing jurisdiction in each county the taxable value of all property in the following categories:

- (a) class four and class five;
- (b) class fifteen; and
- (c) class seventeen.

(3) For each taxing jurisdiction in each county, the department shall:

(a) subtract the taxable value for the taxable year beginning January 1, 1991, as described under subsection (2), from the taxable value for the taxable year beginning January 1, 1990, as described under subsection (1);

(b) multiply the amount resulting from the subtraction by the certified mill levy for 1990; and

(c) distribute to each county, beginning in 1991 and each year thereafter, the amount resulting from the calculations made in subsections (3)(a) and (3)(b) in two installments for each taxing jurisdiction, for distribution on or before November 30 and May 31 in each fiscal year.

(4) Upon receipt of the funds distributed according to this section, the county treasurer shall distribute the funds for state, county, school district, municipal, and special district purposes in the same manner as property taxes are distributed.

Section 75. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of this state shall be classified according to that percentage of the true and full valuation of the property therein upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504(2), as follows:

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

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

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

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

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

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

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

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

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

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

(c) the amount of value represented by new production exempted from tax as provided in 15-23-612; and

(d) 12.9% of the total taxable value of the county on December 31, 1990."

Section 76. Section 7-3-1321, MCA, is amended to read:

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

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing

indebtedness, in the aggregate exceeding 28% 32% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

Section 77. Section 7-6-2211, MCA, is amended to read:

"7-6-2211. Authorization to conduct county business on a cash basis. (1) In case the total indebtedness of a county, lawful when incurred, exceeds the limit of 23% 26% established in 7-7-2101 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

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

Section 78. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business

1 on a cash basis. (1) In case the total indebtedness of a
 2 city or town has reached ~~17%~~ 19% of the total taxable value
 3 of the property of the city or town subject to taxation, as
 4 ascertained by the last assessment for state and county
 5 taxes, the city or town may conduct its affairs and business
 6 on a cash basis as provided by subsection (2).

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

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

21 (c) Before the payment of the current expenses
 22 mentioned above, the city or town council shall first set
 23 apart sufficient money to pay the interest upon its legal,
 24 valid, and outstanding bonded indebtedness and any sinking
 25 funds therein provided for and shall be authorized to pay

1 all valid claims against funds raised by tax especially
 2 authorized by law for the purpose of paying such claims."

3 **Section 79.** Section 7-6-4254, MCA, is amended to read:

4 "7-6-4254. Limitation on amount of emergency budgets
 5 and appropriations. (1) The total of all emergency budgets
 6 and appropriations made therein in any one year and to be
 7 paid from any city fund may not exceed ~~38%~~ 43% of the total
 8 amount which could be produced for such city fund by a
 9 maximum levy authorized by law to be made for such fund, as
 10 shown by the last completed assessment roll of the county.

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

16 **Section 80.** Section 7-7-107, MCA, is amended to read:

17 "7-7-107. Limitation on amount of bonds for
 18 city-county consolidated units. (1) Except as provided in
 19 7-7-108, no city-county consolidated local government may
 20 issue bonds for any purpose which, with all outstanding
 21 indebtedness, may exceed ~~39%~~ 44% of the taxable value of the
 22 property therein subject to taxation as ascertained by the
 23 last assessment for state and county taxes.

24 (2) The issuing of bonds for the purpose of funding or
 25 refunding outstanding warrants or bonds is not the incurring

of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 81. Section 7-7-108, MCA, is amended to read:

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

(2) The additional indebtedness which may be incurred by borrowing money or issuing bonds for the construction of a sewer system or for the procurement of a water supply or for both such purposes may not in the aggregate exceed 10% over and above the 39% 44% referred to in 7-7-107 of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 82. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 23% 26% of the

total of the taxable value of the property therein subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

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

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

Section 83. Section 7-7-2203, MCA, is amended to read:

"7-7-2203. Limitation on amount of bonded indebtedness. (1) Except as provided in subsections (2) through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11+25%~~ 12.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the

appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will not exceed ~~27.75%~~ 31% of the total of the taxable value of the property in the county subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

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

(4) The limitation in subsection (1) shall not apply

to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932."

Section 84. Section 7-7-4201, MCA, is amended to read:

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any purpose in an amount which with all outstanding and unpaid indebtedness will exceed ~~20%~~ 32% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

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

Section 85. Section 7-7-4202, MCA, is amended to read:

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

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ 32%, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 86. Section 7-13-4103, MCA, is amended to read:

"7-13-4103. Limitation on indebtedness for acquisition of natural gas system. The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~17%~~ 19% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes."

Section 87. Section 7-14-236, MCA, is amended to read:

"7-14-236. Limitation on bonded indebtedness. The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed ~~20%~~ 32% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to

the issuance of such bonds."

Section 88. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, no county shall issue bonds which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11-25%~~ 12.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612. The taxable property and the amount of interim production and new production taxes levied shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11-25%~~ 12.5% but will not exceed ~~22-5%~~ 25.5% of the total of the taxable value of such property, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from

1 tax as provided in 15-23-612, when necessary for the purpose
2 of replacing, rebuilding, or repairing county buildings,
3 bridges, or highways which have been destroyed or damaged by
4 an act of God, disaster, catastrophe, or accident.

5 (3) The value of the bonds issued and all other
6 outstanding indebtedness of the county, except county high
7 school bonds, shall not exceed ~~22.5%~~ 25.5% of the total of
8 the taxable value of the property within the county, plus
9 the amount of interim production and new production taxes
10 levied divided by the appropriate tax rates described in
11 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
12 amount of value represented by new production exempted from
13 tax as provided in 15-23-612, as ascertained by the last
14 preceding general assessment."

15 **Section 89.** Section 7-14-2525, MCA, is amended to
16 read:

17 "7-14-2525. Refunding agreements and refunding bonds
18 authorized. (1) Whenever the total indebtedness of a county
19 exceeds ~~22.5%~~ 25.5% of the total of the taxable value of the
20 property therein, plus the amount of interim production and
21 new production taxes levied divided by the appropriate tax
22 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
23 by 60%, plus the amount of value represented by new
24 production exempted from tax as provided in 15-23-612, and
25 the board determines that the county is unable to pay such

1 indebtedness in full, the board may:

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

6 (b) enter into such agreement;

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

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

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

13 **Section 90.** Section 7-14-4402, MCA, is amended to
14 read:

15 "7-14-4402. Limit on indebtedness to provide bus
16 service. The total amount of indebtedness authorized under
17 7-14-4401(1) to be contracted in any form, including the
18 then-existing indebtedness, may not at any time exceed ~~20%~~
19 32% of the total taxable value of the property of the city
20 or town subject to taxation as ascertained by the last
21 assessment for state and county taxes. No money may be
22 borrowed or bonds issued for the purposes specified in
23 7-14-4401(1) until the proposition has been submitted to the
24 vote of the taxpayers of the city or town and the majority
25 vote cast in its favor."

1 **Section 91.** Section 7-16-2327, MCA, is amended to
2 read:

3 "7-16-2327. Indebtedness for park purposes. (1)
4 Subject to the provisions of subsection (2), a county park
5 board, in addition to powers and duties now given under law,
6 shall have the power and duty to contract an indebtedness in
7 behalf of a county, upon the credit thereof, for the
8 purposes of 7-16-2321(1) and (2).

9 (2) (a) The total amount of indebtedness authorized to
10 be contracted in any form, including the then-existing
11 indebtedness, must not at any time exceed ~~13%~~ 15% of the
12 total of the taxable value of the taxable property in the
13 county, plus the amount of interim production and new
14 production taxes levied divided by the appropriate tax rates
15 described in 15-23-607(2)(a) or (2)(b) and multiplied by
16 60%, plus the amount of value represented by new production
17 exempted from tax as provided in 15-23-612, ascertained by
18 the last assessment for state and county taxes previous to
19 the incurring of such indebtedness.

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

1 **Section 92.** Section 7-16-4104, MCA, is amended to
2 read:

3 "7-16-4104. Authorization for municipal indebtedness
4 for various cultural, social, and recreational purposes. (1)
5 A city or town council or commission may contract an
6 indebtedness on behalf of the city or town, upon the credit
7 thereof, by borrowing money or issuing bonds:

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

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

14 (c) for furnishing and equipping the same.

15 (2) The total amount of indebtedness authorized to be
16 contracted in any form, including the then-existing
17 indebtedness, may not at any time exceed ~~16.5%~~ 19% of the
18 taxable value of the taxable property of the city or town as
19 ascertained by the last assessment for state and county
20 taxes previous to the incurring of such indebtedness. No
21 money may be borrowed on bonds issued for the purchase of
22 lands and improving the same for any such purpose until the
23 proposition has been submitted to the vote of the qualified
24 electors of the city or town and a majority vote is cast in
25 favor thereof."

Section 93. Section 7-31-106, MCA, is amended to read:

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

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

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

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 25% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 94. Section 7-31-107, MCA, is amended to read:

"7-31-107. Authorization for municipality to issue bonds -- election required. (1) If said petition is presented to the council of any incorporated city or town,

the council, for the purpose of raising money to meet the payments under the terms and conditions of said contract and other necessary and proper expenses in and about the same and for the approval or disapproval thereof:

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

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

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

Section 95. Section 7-34-2131, MCA, is amended to read:

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

(2) The amount of bonds issued for such purpose and

1 outstanding at any time may not exceed ~~22-5%~~ 25.5% of the
2 taxable value of the property therein as ascertained by the
3 last assessment for state and county taxes previous to the
4 issuance of such bonds.

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

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

12 **Section 96.** Section 20-9-406, MCA, is amended to read:

13 "**20-9-406. Limitations on amount of bond issue.** (1)
14 The maximum amount for which each school district may become
15 indebted by the issuance of bonds, including all
16 indebtedness represented by outstanding bonds of previous
17 issues and registered warrants, is ~~45%~~ 51% of the taxable
18 value of the property subject to taxation as ascertained by
19 the last completed assessment for state, county, and school
20 taxes previous to the incurring of such indebtedness. The
21 ~~45%~~ 51% maximum, however, may not pertain to indebtedness
22 imposed by special improvement district obligations or
23 assessments against the school district. All bonds issued in
24 excess of such amount shall be null and void, except as
25 provided in this section.

1 (2) When the total indebtedness of a school district
2 has reached the ~~45%~~ 51% limitation prescribed in this
3 section, the school district may pay all reasonable and
4 necessary expenses of the school district on a cash basis in
5 accordance with the financial administration provisions of
6 this chapter.

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

12 **Section 97.** Section 20-9-407, MCA, is amended to read:

13 "**20-9-407. Industrial facility agreement for bond**
14 **issue in excess of maximum.** (1) In a school district within
15 which a new major industrial facility which seeks to qualify
16 for taxation as class five property under 15-6-135 is being
17 constructed or is about to be constructed, the school
18 district may require, as a precondition of the new major
19 industrial facility qualifying as class five property, that
20 the owners of the proposed industrial facility enter into an
21 agreement with the school district concerning the issuing of
22 bonds in excess of the ~~45%~~ 51% limitation prescribed in
23 20-9-406. Under such an agreement, the school district may,
24 with the approval of the voters, issue bonds which exceed
25 the limitation prescribed in this section by a maximum of

45% 51% of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the

facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

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

Section 98. Section 15-1-101, MCA, is amended to read:

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

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

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

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

1 schedules of the department of revenue.

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

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

9 (A) agricultural lands and timberlands;

10 ~~(B) timberlands;~~

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

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

17 ~~(E) all property described in 15-6-135(1)(h).~~

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

19 ~~(G) all property described in 15-6-146;~~

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

25 (f) The term "credit" means solvent debts, secured or

1 unsecured, owing to a person.

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

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

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

21 (j) The term "mobile home" means forms of housing
22 known as "trailers", "housetrailer", or "trailer coaches"
23 exceeding 8 feet in width or 45 feet in length, designed to
24 be moved from one place to another by an independent power
25 connected to them, or any "trailer", "housetrailer", or

1 "trailer coach" up to 8 feet in width or 45 feet in length
2 used as a principal residence.

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

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

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

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

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

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

25 (o) "Research and development firm" means an entity

1 incorporated under the laws of this state or a foreign
2 corporation authorized to do business in this state whose
3 principal purpose is to engage in theoretical analysis,
4 exploration, and experimentation and the extension of
5 investigative findings and theories of a scientific and
6 technical nature into practical application for experimental
7 and demonstration purposes, including the experimental
8 production and testing of models, devices, equipment,
9 materials, and processes.

10 (p) The term "taxable value" means the percentage of
11 market or assessed value as provided for in 15-6-131 through
12 ~~15-6-149~~ 15-6-135, 15-6-141, 15-6-145, and 15-6-147.

13 (q) The term "weighted mean assessment ratio" means
14 the total of the assessed values divided by the total of the
15 selling prices of all area sales in the stratum.

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

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

25 **Section 99.** Section 15-6-133, MCA, is amended to read:

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

(a) agricultural land as defined in 15-7-202; and
(b) timberland. For the purpose of this section, "timberland" means contiguous land that exceeds 15 acres in one ownership and that is capable of producing timber that can be harvested in commercial quantity.

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

(3) Until July 1, 1986, the taxable percentage rate for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate for class three property for the revaluation cycle beginning January 1, 1986, as follows:

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

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

below:

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

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

Certified- Statewide Percentage-Increase	Class-Three-Taxable Percentage-"P"
0	30.00
10	27.27
20	25.00
30	23.08
40	21.43
50	20.00

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

Section 100. Section 15-6-134, MCA, is amended to read:

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

(a) all land except that specifically included in

1 another class;
2 (b) all improvements except those specifically
3 included in another class;

4 (c) the first \$80,000 or less of the market value of
5 any improvement on real property and appurtenant land not
6 exceeding 5 acres owned or under contract for deed and
7 actually occupied for at least 10 months a year as the
8 primary residential dwelling of any person whose total
9 income from all sources including otherwise tax-exempt
10 income of all types is not more than \$10,000 for a single
11 person or \$12,000 for a married couple, as adjusted
12 according to subsection (2)(b)(ii);

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

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

17 (a) Except as provided in 15-24-1402 or 15-24-1501,
18 property described in subsections (1)(a) and (1)(b) is taxed
19 at ~~3.86%~~ 3.5% of its market value.

20 (b) (i) Property described in subsection (1)(c) is
21 taxed at ~~3.86%~~ 3.5% of its market value multiplied by a
22 percentage figure based on income and determined from the
23 following table:

24	Income	Income	Percentage
25	Single Person	Married Couple	Multiplier

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

11 (ii) The income levels contained in the table in
12 subsection (2)(b)(i) must be adjusted for inflation annually
13 by the department of revenue. The adjustment to the income
14 levels is determined by:

15 (A) multiplying the appropriate dollar amount from the
16 table in subsection (2)(b)(i) by the ratio of the PCE for
17 the second quarter of the year prior to the year of
18 application to the PCE for the second quarter of 1986; and

19 (B) rounding the product thus obtained to the nearest
20 whole dollar amount.

21 (iii) "PCE" means the implicit price deflator for
22 personal consumption expenditures as published quarterly in
23 the Survey of Current Business by the bureau of economic
24 analysis of the U.S. department of commerce.

25 (c) Property described in subsection (1)(d) is taxed

1 at one-half two-thirds the taxable percentage rate
2 established in subsection (2)(a).

3 (3) After July 1, 1986, no adjustment may be made by
4 the department to the taxable percentage rate for class four
5 property until a revaluation has been made as provided in
6 15-7-111.

7 (4) Within the meaning of comparable property as
8 defined in 15-1-101, property assessed as commercial
9 property is comparable only to other property assessed as
10 commercial property, and property assessed as other than
11 commercial property is comparable only to other property
12 assessed as other than commercial property."

13 **Section 101.** Section 15-6-135, MCA, is amended to
14 read:

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

17 (a) all property used and owned by cooperative rural
18 electrical and cooperative rural telephone associations
19 organized under the laws of Montana, ~~except property owned~~
20 ~~by cooperative organizations described in subsection (1)(b)~~
21 ~~of 15-6-137;~~

22 (b) air and water pollution control equipment as
23 defined in this section;

24 (c) new industrial property as defined in this
25 section;

1 ~~(d) any personal or real property used primarily in~~
2 ~~the production of gasoline during construction and for the~~
3 ~~first 3 years of its operation;~~

4 ~~(e) all land and improvements and all personal~~
5 ~~property owned by a research and development firm, provided~~
6 ~~that the property is actively devoted to research and~~
7 ~~development;~~

8 ~~(f) machinery and equipment used in electrolytic~~
9 ~~reduction facilities;~~

10 (d) electric transformers and meters; electric light
11 and power substation machinery; natural gas measuring and
12 regulating station equipment, meters, and compressor station
13 machinery, owned by noncentrally assessed public utilities;
14 and tools used in the repair and maintenance of this
15 property;

16 (e) a trailer or mobile home used as a residence
17 except when:

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

20 (ii) specifically included in another class;

21 (f) the first \$80,000 or less of the market value of a
22 trailer or mobile home used as a residence and actually
23 occupied for at least 10 months a year as the primary
24 residential dwelling of any person whose total income from
25 all sources, including otherwise tax-exempt income of all

types, is not more than \$10,000 for a single person or \$12,000 for a married couple, as adjusted according to 15-6-134(2)(b)(ii);

(g) all other personal property not included in any other class in this part except personal property that is:

(i) subject to a fee in lieu of a property tax; or

(ii) exempt from taxation under Title 15, chapter 6, part 2; and

(h) all other property used for noncommercial purposes that is not real property or an improvement to real property and that is not included in another class or exempt from taxation under Title 15, chapter 6, part 2.

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

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined

by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

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

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

(b) New industry includes only those industries that:

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

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

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United

1 States office of management and budget.

2 (5) New industrial property does not include:

3 (a) property used by retail or wholesale merchants,
4 commercial services of any type, agriculture, trades, or
5 professions;

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

8 (c) property used or employed in any industrial plant
9 that has been in operation in this state for 3 years or
10 longer.

11 (6) Class five property is taxed ~~at 3% of its market~~
12 value as follows:

13 (a) Property described in subsections (1)(a) through
14 (1)(e), (1)(g), and (1)(h) is taxed at 3.5% of its market
15 value.

16 (b) Property described in subsection (1)(f) is taxed
17 at 3.5% of its market value multiplied by a percentage
18 figure based on income and determined from the table in
19 15-6-134(2)(b)(i)."

20 **Section 102.** Section 15-6-207, MCA, is amended to
21 read:

22 **"15-6-207. Agricultural exemptions.** (1) The following
23 agricultural products are exempt from taxation:

24 (a) all unprocessed, perishable fruits and vegetables
25 in farm storage and owned by the producer;

1 (b) all producer-held grain in storage;

2 (c) all nonperishable, unprocessed agricultural
3 products, except livestock, held in possession of the
4 original producer for less than 7 months following harvest;

5 (d) except as provided in subsection (1)(e), livestock
6 which have not attained the age of 24 months as of the last
7 day of any month if assessed on the average inventory basis
8 or on March 1 if assessed as provided in 15-24-911(1)(a);

9 (e) swine which have not attained the age of 6 months
10 as of January 1;

11 (f) poultry and the unprocessed products of poultry;
12 and

13 (g) bees and the unprocessed product of bees;

14 (h) the unprocessed products of livestock and other
15 domestic animals and wildlife raised in domestication or a
16 captive environment; and

17 (i) cats, dogs, and other household pets not raised
18 for profit.

19 (2) Any beet digger, beet topper, beet defoliator,
20 beet thinner, beet cultivator, beet planter, or beet top
21 saver designed exclusively to plant, cultivate, and harvest
22 sugar beets is exempt from taxation if such implement has
23 not been used to plant, cultivate, or harvest sugar beets
24 for the 2 years immediately preceding the current assessment
25 date and there are no available sugar beet contracts in the

1 sugar beet grower's marketing area."

2 **Section 103.** Section 15-8-111, MCA, is amended to
3 read:

4 "15-8-111. Assessment -- market value standard --
5 exceptions. (1) All taxable property must be assessed at
6 100% of its market value except as otherwise provided.

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

11 (b) If the department uses construction cost as one
12 approximation of market value, the department shall fully
13 consider reduction in value caused by depreciation, whether
14 through physical depreciation, functional obsolescence, or
15 economic obsolescence.

16 (c) Except as provided in subsection (3), the market
17 value of all motor trucks; agricultural tools, implements,
18 and machinery; and vehicles of all kinds, including but not
19 limited to boats and all watercraft, is the average
20 wholesale value shown in national appraisal guides and
21 manuals or the value of the vehicle before reconditioning
22 and profit margin. The department of revenue shall prepare
23 valuation schedules showing the average wholesale value when
24 no national appraisal guide exists.

25 (3) The department of revenue or its agents may not

1 adopt a lower or different standard of value from market
2 value in making the official assessment and appraisal of the
3 value of property, except:

4 (a) the wholesale value for agricultural implements
5 and machinery is the loan value as shown in the Official
6 Guide, Tractor and Farm Equipment, published by the national
7 farm and power equipment dealers association, St. Louis,
8 Missouri;

9 (b) for agricultural implements and machinery not
10 listed in the official guide, the department shall prepare a
11 supplemental manual where the values reflect the same
12 depreciation as those found in the official guide; and

13 (c) as otherwise authorized in Title 15 and Title 61.

14 (4) For purposes of taxation, assessed value is the
15 same as appraised value.

16 (5) The taxable value for all property is the
17 percentage of market or assessed value established for each
18 class of property.

19 (6) The assessed value of properties in 15-6-131
20 through 15-6-133 is as follows:

21 (a) Properties in 15-6-131, under class one, are
22 assessed at 100% of the annual net proceeds after deducting
23 the expenses specified and allowed by 15-23-503.

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

(c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes or at 100% of the combined assessed value of the standing timber and grazing productivity of the land when valued as timberland. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

~~(d) Properties in 15-6-143, under class thirteen, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity of the land when valued as timberland.~~

(7) Land and the improvements thereon are separately assessed when any of the following conditions occur:

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

(b) the taxpayer makes a written request; or

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

Section 104. Section 15-8-205, MCA, is amended to read:

"15-8-205. Initial assessment of ~~class-twelve-property~~ mobile homes -- when. The county assessor shall assess all ~~class---twelve---property~~ mobile homes described in 15-6-135(1)(e) and (1)(f) immediately upon arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

NEW SECTION. Section 105. University system funding. There is allocated from the money collected from the sales tax and use tax to the state special revenue fund 15% of the sales tax and use tax, as allocated in [section 73(1)(b)(ii)], for the support, maintenance, and improvement of the Montana university system, vocational-technical centers, and community college districts, subject to the board of regents' supervision.

Section 106. Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, and 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar

amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

Section 107. Section 15-16-611, MCA, is amended to read:

"15-16-611. Reduction of property tax for property destroyed by natural disaster. (1) The department of revenue shall, upon showing by a taxpayer that some or all of the improvements on his real property or a trailer or mobile home ~~as described in 15-6-142~~ have been destroyed to such an extent that such improvements have been rendered unsuitable for their previous use by natural disaster, adjust the taxable value on the property, accounting for the destruction.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the

property existed before destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the destruction of the property bears to 365.

(4) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(5) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 108. Section 15-16-613, MCA, is amended to read:

"15-16-613. Refund of certain taxes paid in other states. Subject to the provisions of 15-16-601 and upon proof that tax was paid in another state, a taxpayer is entitled to a refund equal to the amount of tax paid in another state on a helicopter or property that was assessed in Montana under ~~15-6-138(1)(g)~~ 15-6-135 on January 1 of the year for which the refund is due. The refund under this section may not exceed the tax that was paid in Montana on the same property for the same period of time."

Section 109. Section 15-24-301, MCA, is amended to read:

1 "15-24-301. Personal property brought into the state
2 -- assessment -- exceptions -- custom combine equipment. (1)
3 Except as provided in subsections (2) through (5), property
4 in the following cases is subject to taxation and assessment
5 for all taxes levied that year in the county in which it is
6 located:

7 (a) any personal property (including livestock)
8 brought, driven, or coming into this state at any time
9 during the year that is used in the state for hire,
10 compensation, or profit;

11 (b) property whose owner or user is engaged in gainful
12 occupation or business enterprise in the state; or

13 (c) property which comes to rest and becomes a part of
14 the general property of the state.

15 (2) The taxes on this property are levied in the same
16 manner and to the same extent, except as otherwise provided,
17 as though the property had been in the county on the regular
18 assessment date, provided that the property has not been
19 regularly assessed for the year in some other county of the
20 state.

21 (3) Nothing in this section shall be construed to levy
22 a tax against a merchant or dealer within this state on
23 goods, wares, or merchandise brought into the county to
24 replenish the stock of the merchant or dealer.

25 (4) Any motor vehicle not subject to a fee in lieu of

1 tax brought, driven, or coming into this state by any
2 nonresident person temporarily employed in Montana and used
3 exclusively for transportation of such person is subject to
4 taxation and assessment for taxes as follows:

5 (a) The motor vehicle is taxed by the county in which
6 it is located.

7 (b) One-fourth of the annual tax liability of the
8 motor vehicle must be paid for each quarter or portion of a
9 quarter of the year that the motor vehicle is located in
10 Montana.

11 (c) The quarterly taxes are due the first day of the
12 quarter.

13 (5) Agricultural harvesting machinery ~~classified under~~
14 ~~class-eighty~~ licensed in other states and operated on the
15 lands of persons other than the owner of the machinery under
16 contracts for hire shall be subject to a fee in lieu of
17 taxation of \$35 per machine for the calendar year in which
18 the fee is collected. The machines shall be subject to
19 taxation ~~under--class--eight~~ only if they are sold in
20 Montana."

21 **Section 110.** Section 15-24-1102, MCA, is amended to
22 read:

23 "15-24-1102. Federal property held under contract of
24 sale. When the property is held under a contract of sale or
25 other agreement whereby upon payment the legal title is or

may be acquired by the person, the real property shall be assessed and taxed as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6, part 1, and 15-8-111 without deduction on account of the whole or any part of the purchase price or other sum due on the property remaining unpaid. The lien for the tax may not attach to, impair, or be enforced against any interest of the United States in the real property."

Section 111. Section 15-24-1103, MCA, is amended to read:

"15-24-1103. Federal property held under lease. When the property is held under lease, other interest, or estate therein less than the fee, except under contract of sale, the property shall be assessed and taxed as for the value, as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6, part 1, of such leasehold, interest, or estate in the property and the lien for the tax shall attach to and be enforced against only the leasehold, interest, or estate in the property. When the United States authorizes the taxation of the property for the full assessed value of the fee thereof, the property shall be assessed for full assessed value as defined in 15-8-111."

Section 112. Section 17-3-213, MCA, is amended to read:

"17-3-213. Allocation to general road fund and countywide school levies. (1) The forest reserve funds so

apportioned to each county ~~shall~~ must be apportioned by the county treasurer in each county ~~between the several funds~~ as follows:

(a) to the general road fund, 66 2/3% of the total amount received;

(b) to the following countywide school levies, 33 1/3% of the total sum received:

(i) the annual basic tax levy for elementary schools provided for in 20-9-331;

(ii) the annual special tax for high schools provided for in 20-9-333; and

(iii) the high school transportation fund provided for in 20-10-143;

~~{iv} the elementary teacher retirement and social security fund provided for in 20-9-501;~~

~~{v} the high school teacher retirement and social security fund provided for in 20-9-501.~~

(2) The apportionment of money to the funds provided for under subsection (1)(b) ~~shall~~ must be made by the county superintendent based on the proportion that the mill levy of each fund bears to the total number of mills for all the funds. Whenever the total amount of money available for apportionment under this section is greater than the total requirements of a levy, the excess money and any interest income must be retained in a separate reserve fund, to be

1 reapportioned in the ensuing school fiscal year to the
2 levies designated in subsection (1)(b).

3 (3) In counties wherein in which special road
4 districts have been created according to law, the board of
5 county commissioners shall distribute a proportionate share
6 of the 66 2/3% of the total amount received for the general
7 road fund to ~~such the~~ special road district--or districts
8 within the county based upon the percentage that the total
9 area of ~~such the~~ road district bears to the total area of
10 the entire county."

11 **Section 113.** Section 19-4-605, MCA, is amended to
12 read:

13 "19-4-605. Pension accumulation fund -- employer's
14 contribution. The pension accumulation fund is the fund in
15 which the reserves for payment of pensions and annuities
16 ~~shall must~~ be accumulated and from which pensions,
17 annuities, and benefits in lieu thereof--~~shall of pensions~~
18 ~~and annuities must~~ be paid to or on account of beneficiaries
19 credited with prior service. Contributions to and payments
20 from the pension accumulation fund ~~shall must~~ be made as
21 follows:

22 (1) Each employer shall pay into the pension
23 accumulation fund an amount equal to 7.428% of the earned
24 compensation of each member employed during the whole or
25 part of the preceding payroll period.

1 ~~†2) If the employer is a district or community college~~
2 ~~district, the trustees shall budget and pay for the~~
3 ~~employer's contribution under the provisions of 20-9-501.~~

4 ~~†3) (2)~~ If the employer is the superintendent of public
5 instruction, a public institution of the state of Montana, a
6 unit of the Montana university system, or the Montana state
7 school for the deaf and blind, the legislature shall
8 appropriate to the employer an adequate amount to allow the
9 payment of the employer's contribution.

10 ~~†4) (3)~~ If the employer is a county, the county
11 commissioners shall budget and pay for the employer's
12 contribution in the manner provided by law for the adoption
13 of a county budget and for payments under the budget.

14 ~~†5) (4)~~ All interest and other earnings realized on the
15 ~~moneys money~~ of the retirement system ~~shall must~~ be credited
16 to the pension accumulation fund, and the amount required to
17 allow regular interest on the annuity savings fund ~~shall~~
18 ~~must~~ be transferred to that fund from the pension
19 accumulation fund.

20 ~~†6) (5)~~ All pensions, annuities, and benefits in lieu
21 ~~thereof shall of pensions and annuities must~~ be paid from
22 the pension accumulation fund.

23 ~~†7) (6)~~ The retirement board may, in its discretion,
24 transfer from the pension accumulation fund an amount
25 necessary to cover expenses of administration."

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

"19-11-503. Special tax levy for fund required. (1)

The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to 3% 3.4% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than 3% 3.4% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax shall be collected as other taxes are collected and, when so collected, shall be paid into the disability and pension fund.

(3) If a special tax for the disability and pension fund is levied by a third-class city or town using the all-purpose mill levy, the special tax levy must be made in addition to the all-purpose levy."

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

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than 3% 3.4% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of

not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 116. Section 20-3-106, MCA, is amended to read:

"20-3-106. Supervision of schools -- powers and duties. The superintendent of public instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew, or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;

1 (7) approve or disapprove school isolation within the
 2 limitations prescribed by 20-9-302;

3 (8) generally supervise the school budgeting
 4 procedures prescribed by law in accordance with the
 5 provisions of 20-9-102 and prescribe the school budget
 6 format in accordance with the provisions of 20-9-103 and
 7 20-9-506;

8 (9) establish a system of communication for
 9 calculating joint district revenues in accordance with the
 10 provisions of 20-9-151;

11 (10) approve or disapprove the adoption of a district's
 12 emergency budget resolution under the conditions prescribed
 13 in 20-9-163 and publish rules for an application for
 14 additional state aid for an emergency budget in accordance
 15 with the approval and disbursement provisions of 20-9-166;

16 (11) generally supervise the school financial
 17 administration provisions as prescribed by 20-9-201(2);

18 (12) prescribe and furnish the annual report forms to
 19 enable the districts to report to the county superintendent
 20 in accordance with the provisions of 20-9-213(5) and the
 21 annual report forms to enable the county superintendents to
 22 report to the superintendent of public instruction in
 23 accordance with the provisions of 20-3-209;

24 (13) approve, disapprove, or adjust an increase of the
 25 average number belonging (ANB) in accordance with the

1 provisions of 20-9-313 and 20-9-314;

2 (14) distribute state equalization aid in support of
 3 the foundation program in accordance with the provisions of
 4 20-9-342, 20-9-346, and 20-9-347;

5 (15) distribute state impact aid in accordance with the
 6 provisions of 20-9-304;

7 (16) provide for the uniform and equal provision of
 8 transportation by performing the duties prescribed by the
 9 provisions of 20-10-112;

10 (17) approve or disapprove an adult education program
 11 for which a district proposes to levy a tax in accordance
 12 with the provisions of 20-7-705;

13 (18) request, accept, deposit, and expend federal
 14 moneys money in accordance with the provisions of 20-9-603;

15 (19) authorize the use of federal moneys money for the
 16 support of an interlocal cooperative agreement in accordance
 17 with the provisions of 20-9-703 and 20-9-704;

18 (20) prescribe the form and contents of and approve or
 19 disapprove interstate contracts in accordance with the
 20 provisions of 20-9-705;

21 (21) approve or disapprove the conduct of school on a
 22 Saturday or on pupil-instruction-related days in accordance
 23 with the provisions of 20-1-303 and 20-1-304;

24 (22) recommend standards of accreditation for all
 25 schools to the board of public education and evaluate

1 compliance with such the standards and recommend
2 accreditation status of every school to the board of public
3 education in accordance with the provisions of 20-7-101 and
4 20-7-102;

5 (23) collect and maintain a file of curriculum guides
6 and assist schools with instructional programs in accordance
7 with the provisions of 20-7-113 and 20-7-114;

8 (24) establish and maintain a library of visual, aural,
9 and other educational media in accordance with the
10 provisions of 20-7-201;

11 (25) license textbook dealers and initiate prosecution
12 of textbook dealers violating the law in accordance with the
13 provisions of the textbooks part of this title;

14 (26) as the governing agent and executive officer of
15 the state of Montana for K-12 vocational education, adopt
16 the policies prescribed by and in accordance with the
17 provisions of 20-7-301;

18 (27) supervise and coordinate the conduct of special
19 education in the state in accordance with the provisions of
20 20-7-403;

21 (28) administer the traffic education program in
22 accordance with the provisions of 20-7-502;

23 (29) administer the school food services program in
24 accordance with the provisions of 20-10-201, 20-10-202, and
25 20-10-203;

1 (30) review school building plans and specifications in
2 accordance with the provisions of 20-6-622;

3 (31) prescribe the method of identification and signals
4 to be used by school safety patrols in accordance with the
5 provisions of 20-1-408;

6 (32) provide schools with information and technical
7 assistance for compliance with the student assessment rules
8 provided for in 20-2-121 and collect and summarize the
9 results of such the student assessment for the board of
10 public education and the legislature; and

11 ~~{33}-administer--the--distribution--of--state--retirement~~
12 ~~equalization-aid-in-accordance-with-20-9-532;-and~~

13 ~~{34}{33}~~ perform any other duty prescribed from time to
14 time by this title, any other act of the legislature, or the
15 policies of the board of public education. ~~{Subsection-{33}}~~
16 ~~effective-duty-1-1-1988--sec--87-enr--6357-b--1987-}~~"

17 **Section 117.** Section 20-3-324, MCA, is amended to
18 read:

19 **"20-3-324. Powers and duties.** As prescribed elsewhere
20 in this title, the trustees of each district shall ~~have--the~~
21 ~~power--and--it--shall-be-their-duty-to-perform-the-following~~
22 ~~duties-or-acts:~~

23 (1) employ or dismiss a teacher, principal, or other
24 assistant upon the recommendation of the district
25 superintendent, the county high school principal, or other

1 principal as the board ~~may--deem~~ considers necessary,
 2 accepting or rejecting such any recommendation as the
 3 trustees shall in their sole discretion determine, in
 4 accordance with the provisions of Title 20, chapter 4;

5 (2) employ and dismiss administrative personnel,
 6 clerks, secretaries, teacher aides, custodians, maintenance
 7 personnel, school bus drivers, food service personnel,
 8 nurses, and any other personnel ~~deemed~~ considered necessary
 9 to carry out the various services of the district;

10 (3) administer the attendance and tuition provisions
 11 and otherwise govern the pupils of the district in
 12 accordance with the provisions of the pupils chapter of this
 13 title;

14 (4) call, conduct, and certify the elections of the
 15 district in accordance with the provisions of the school
 16 elections chapter of this title;

17 (5) participate in the teachers' retirement system of
 18 the state of Montana in accordance with the provisions of
 19 the teachers' retirement system chapter of Title 19;

20 (6) participate in district boundary change actions in
 21 accordance with the provisions of the districts chapter of
 22 this title;

23 (7) organize, open, close, or acquire isolation status
 24 for the schools of the district in accordance with the
 25 provisions of the school organization part of this title;

1 (8) adopt and administer the annual budget or an
 2 emergency budget of the district in accordance with the
 3 provisions of the school budget system part of this title;

4 (9) conduct the fiscal business of the district in
 5 accordance with the provisions of the school financial
 6 administration part of this title;

7 (10) establish the ANB, foundation program, permissive
 8 levy, additional levy, cash reserve, and state impact aid
 9 amount for the general fund of the district in accordance
 10 with the provisions of the general fund part of this title;

11 (11) establish, maintain, budget, and finance the
 12 transportation program of the district in accordance with
 13 the provisions of the transportation parts of this title;

14 (12) issue, refund, sell, budget, and redeem the bonds
 15 of the district in accordance with the provisions of the
 16 bonds parts of this title;

17 (13) when applicable, establish, financially
 18 administer, and budget for the ~~tuition--fund--retirement~~
 19 ~~fund~~; building reserve fund, adult education fund,
 20 nonoperating fund, school food services fund, miscellaneous
 21 federal programs fund, building fund, lease or rental
 22 agreement fund, traffic education fund, and interlocal
 23 cooperative agreement fund in accordance with the provisions
 24 of the other school funds parts of this title;

25 (14) when applicable, administer any interlocal

1 cooperative agreement, gifts, legacies, or devises in
2 accordance with the provisions of the miscellaneous
3 financial parts of this title;

4 (15) hold in trust, acquire, and dispose of the real
5 and personal property of the district in accordance with the
6 provisions of the school sites and facilities part of this
7 title;

8 (16) operate the schools of the district in accordance
9 with the provisions of the school calendar part of this
10 title;

11 (17) establish and maintain the instructional services
12 of the schools of the district in accordance with the
13 provisions of the instructional services, textbooks,
14 vocational education, and special education parts of this
15 title;

16 (18) establish and maintain the school food services of
17 the district in accordance with the provisions of the school
18 food services parts of this title;

19 (19) make ~~such~~ reports from time to time as the county
20 superintendent, superintendent of public instruction, and
21 board of public education may require;

22 (20) retain, when deemed considered advisable, a
23 physician or registered nurse to inspect the sanitary
24 conditions of the school or the general health conditions of
25 each pupil and, upon request, make available to any parent

1 or guardian any medical reports or health records maintained
2 by the district pertaining to his child;

3 (21) for each member of the trustees, visit each school
4 of the district not less than once each school fiscal year
5 to examine its management, conditions, and needs, except
6 trustees from a first-class school district may share the
7 responsibility for visiting each school in the district;

8 (22) procure and display outside daily in suitable
9 weather at each school of the district an American flag
10 ~~which shall be~~ that measures not less than 4 feet by 6 feet;
11 and

12 (23) perform any other duty and enforce any other
13 requirements for the government of the schools prescribed by
14 this title, the policies of the board of public education,
15 or the rules of the superintendent of public instruction."

16 **Section 118.** Section 20-5-305, MCA, is amended to
17 read:

18 "20-5-305. Elementary tuition rates. (1) Whenever a
19 pupil of an elementary district has been granted approval to
20 attend a school outside of the district in which he resides,
21 under the provisions of 20-5-301 or 20-5-302, such the
22 district shall pay tuition to the elementary district where
23 the pupil attends school. Except as provided in subsection
24 (2), the basis of the rate of tuition shall be determined by
25 the attended district. The rate of tuition shall be

1 determined by:

2 (a) totaling the actual expenditures from the district
3 general fund; and the debt service fund; ~~and, if the pupil~~
4 ~~is a resident of another county, the retirement fund;~~

5 (b) dividing the amount determined in subsection
6 (1)(a) by the ANB of the district for the current fiscal
7 year, as determined under the provisions of 20-9-311; and

8 (c) subtracting the total of the per-ANB amount
9 allowed by 20-9-316 through 20-9-321 that represents the
10 foundation program as prescribed by 20-9-303 plus the
11 per-ANB amount determined by dividing the state financing of
12 the district permissive levy by the ANB of the district,
13 from the amount determined in subsection (1)(b).

14 (2) The tuition for a full-time elementary special
15 education pupil must be determined under rules adopted by
16 the superintendent of public instruction for the calculation
17 of elementary tuition for full-time elementary special
18 education pupils as designated in 20-9-311 for funding
19 purposes."

20 **Section 119.** Section 20-5-312, MCA, is amended to
21 read:

22 "20-5-312. Reporting, budgeting, and payment for high
23 school tuition. (1) Except as provided in subsection (2), at
24 the close of the school term of each school fiscal year, the
25 trustees of each high school district shall determine the

1 rate of tuition for the current school fiscal year by:

2 (a) totaling the actual expenditures from the district
3 general fund; and the debt service fund; ~~and, if the pupil~~
4 ~~is a resident of another county, the retirement fund;~~

5 (b) dividing the amount determined in subsection
6 (1)(a) above by the ANB of the district for the current
7 fiscal year, as determined under the provisions of 20-9-311;
8 and

9 (c) subtracting the total of the per-ANB amount
10 allowed by 20-9-316 through 20-9-321 that represents the
11 foundation program as prescribed by 20-9-303 plus the
12 per-ANB amount determined by dividing the state financing of
13 the district permissive levy by the ANB of the district,
14 from the amount determined in subsection (1)(b) above.

15 (2) The tuition for a full-time high school special
16 education pupil must be determined under rules adopted by
17 the superintendent of public instruction for the calculation
18 of tuition for full-time high school special education
19 pupils as designated in 20-9-311 for funding purposes.

20 (3) Before July 15, the trustees shall report to the
21 county superintendent of the county in which the district is
22 located:

23 (a) the names, addresses, and resident districts of
24 the pupils attending the schools of the district under an
25 approved tuition agreement;

1 (b) the number of days of school attended by each
2 pupil;

3 (c) the amount, if any, of each pupil's tuition
4 payment that the trustees, in their discretion, ~~shall~~ have
5 the authority to waive; and

6 (d) the rate of current school fiscal year tuition, as
7 determined under the provisions of this section.

8 (4) When the county superintendent receives a tuition
9 report from a district, he shall immediately send the
10 reported information to the superintendent of each district
11 in which the reported pupils reside.

12 (5) When the district superintendent receives a
13 tuition report or reports for high school pupils residing in
14 his district and attending an out-of-district high school
15 under approved tuition agreements, he shall determine the
16 total amount of tuition due ~~such~~ the out-of-district high
17 schools on the basis of the following per-pupil schedule:
18 the rate of tuition, number of pupils attending under an
19 approved tuition agreement, and other information provided
20 by each high school district where resident district pupils
21 have attended school.

22 (6) The total amount of the high school tuition, with
23 consideration of any tuition waivers, for pupils attending a
24 high school outside the county of residence shall be
25 financed by the county basic special tax for high schools as

1 provided in 20-9-334. In December, the county superintendent
2 shall cause the payment by county warrant of at least
3 one-half of the high school tuition obligations established
4 under this section out of the first moneys realized from the
5 county basic special tax for high schools. The remaining
6 obligations must be paid by June 15 of the school fiscal
7 year. The payments shall be made to the county treasurer of
8 the county where each high school entitled to tuition is
9 located. The county treasurer shall credit ~~such~~ tuition
10 receipts to the general fund of the applicable high school
11 district, and the tuition receipts shall be used in
12 accordance with the provisions of 20-9-141.

13 (7) For pupils attending a high school outside their
14 district of residence but within the county of residence,
15 the total amount of the tuition, with consideration of any
16 tuition waivers, must be paid during the ensuing school
17 fiscal year. The trustees of the sending high school
18 district shall include the tuition amount in the tuition
19 fund of the preliminary and final budgets. This budgeted
20 tuition amount is not subject to the budget adjustment
21 provisions of 20-9-132. The county superintendent shall
22 report the net tuition fund levy requirement for each high
23 school district to the county commissioners on the second
24 Monday of August, and a levy on the district shall be made
25 by the county commissioners in accordance with 20-9-142.

1 This levy requirement shall be calculated by subtracting
 2 from the total expenditure amount authorized in the final
 3 tuition fund budget the sum of the cash balance in the
 4 tuition fund at the end of the immediately preceding school
 5 fiscal year plus any other anticipated money that may be
 6 realized in the tuition fund. The trustees shall pay by
 7 warrants drawn on the tuition fund the tuition amounts owed
 8 to each district included in the county superintendent's
 9 notification. Payments shall be made whenever there is a
 10 sufficient amount of cash available in the tuition fund but
 11 no later than the end of the school fiscal year for which
 12 the budget is adopted. However, if the trustees of either
 13 the sending or receiving high school feel the transfer
 14 privilege provided by this subsection is being abused they
 15 may appeal to the county superintendent of schools who shall
 16 hold a hearing and either approve or disapprove the
 17 transfer."

18 **Section 120.** Section 20-9-141, MCA, is amended to
 19 read:

20 "20-9-141. Computation of general fund net levy
 21 requirement by county superintendent. (1) The county
 22 superintendent shall compute the levy requirement for each
 23 district's general fund on the basis of the following
 24 procedure:

25 (a) Determine the total of the funding required for

1 the district's final general fund budget less the amount
 2 established by the schedules in 20-9-316 through 20-9-321 by
 3 totaling:

4 (i) the district's nonisolated school foundation
 5 program requirement to be met by a district levy as provided
 6 in 20-9-303;

7 (ii) the district's permissive levy amount as provided
 8 in 20-9-352; and

9 (iii) any general fund budget amount adopted by the
 10 trustees of the district under the provisions of 20-9-353,
 11 including any additional levies authorized by the electors
 12 of the district.

13 (b) Determine the total of the moneys available for
 14 the reduction of the property tax on the district for the
 15 general fund by totaling:

16 (i) anticipated federal moneys received under the
 17 provisions of Title I of Public Law 81-874 or other
 18 anticipated federal moneys received in lieu of such federal
 19 act;

20 (ii) anticipated tuition payments for out-of-district
 21 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,
 22 and 20-5-313;

23 (iii) general fund cash reappropriated, as established
 24 under the provisions of 20-9-104;

25 (iv) anticipated or reappropriated state impact aid

1 received under the provisions of 20-9-304;

2 (v) anticipated revenue from vehicle property taxes
3 imposed under 61-3-504(2) and 61-3-537;

4 (vi) anticipated net proceeds taxes for interim
5 production and new production, as defined in 15-23-601;

6 (vii) anticipated interest to be earned or
7 reappropriated interest earned by the investment of general
8 fund cash in accordance with the provisions of 20-9-213(4);
9 and

10 (viii) anticipated sales tax and use tax revenue; and
11 ~~(viii)~~(ix) any other revenue anticipated by the
12 trustees to be received during the ensuing school fiscal
13 year which may be used to finance the general fund.

14 (c) Subtract the total of the moneys available to
15 reduce the property tax required to finance the general fund
16 that has been determined in subsection (1)(b) from the total
17 requirement determined in subsection (1)(a).

18 (2) The net general fund levy requirement determined
19 in subsection (1)(c) shall be reported to the county
20 commissioners on the second Monday of August by the county
21 superintendent as the general fund levy requirement for the
22 district, and a levy shall be made by the county
23 commissioners in accordance with 20-9-142."

24 **Section 121.** Section 20-9-201, MCA, is amended to
25 read:

1 **"20-9-201. Definitions and application.** (1) As used in
2 this title, unless the context clearly indicates otherwise,
3 "fund" means a separate detailed account of receipts and
4 expenditures for a specific purpose as authorized by law.
5 Funds are classified as follows:

6 (a) A "budgeted fund" means any fund for which a
7 budget must be adopted in order to expend any money from
8 such the fund. The general fund, transportation fund, bus
9 depreciation reserve fund, elementary tuition fund,
10 ~~retirement--fund~~, debt service fund, leased facilities fund,
11 building reserve fund, adult education fund, nonoperating
12 fund, vocational-technical center fund, and any other funds
13 ~~so designated by the legislature shall--be~~ are budgeted
14 funds.

15 (b) A "nonbudgeted fund" means any fund for which a
16 budget is not required in order to expend any money on
17 deposit in such the fund. The school food services fund,
18 miscellaneous federal programs fund, building fund, lease or
19 rental agreement fund, traffic education fund, interlocal
20 cooperative fund, and any other funds ~~so designated by the~~
21 legislature ~~shall--be~~ are nonbudgeted funds.

22 (2) The school financial administration provisions of
23 this title apply to all money of any elementary or high
24 school district except the extracurricular money realized
25 from pupil activities. The superintendent of public

1 instruction has general supervisory authority as prescribed
 2 by law over the school financial administration provisions,
 3 as they relate to elementary and high school districts, as
 4 ~~prescribed-by-law-and~~ He shall establish-such adopt rules as
 5 ~~are~~ necessary to secure compliance with the law."

6 **Section 122.** Section 20-9-212, MCA, is amended to
 7 read:

8 "20-9-212. Duties of county treasurer. The county
 9 treasurer of each county shall:

10 (1) receive and hold all school money subject to
 11 apportionment and keep a separate accounting of its
 12 apportionment to the ~~several~~ districts which are entitled to
 13 a portion of ~~such the~~ money according to the apportionments
 14 ordered by the county superintendent. A separate accounting
 15 ~~shall must~~ be maintained for each county fund supported by a
 16 countywide levy for a specific, authorized purpose,
 17 including:

18 (a) the basic county tax in support of the elementary
 19 foundation programs;

20 (b) the basic special tax for high schools in support
 21 of the high school foundation programs;

22 (c) the county tax in support of the county's high
 23 school transportation obligation;

24 ~~{d}-the-county-tax-in-support-of-the-high-school~~
 25 ~~obligations-to-the-retirement-systems-of-the-state-of~~

1 ~~Montana;~~

2 ~~{e}{d}~~ any additional county tax required by law to
 3 provide for deficiency financing of the elementary
 4 foundation programs;

5 ~~{f}{e}~~ any additional county tax required by law to
 6 provide for deficiency financing of the high school
 7 foundation programs; and

8 ~~{g}{f}~~ any other county tax for schools, including the
 9 community colleges, which may be authorized by law and
 10 levied by the county commissioners;

11 (2) whenever requested, notify the county
 12 superintendent and the superintendent of public instruction
 13 of the amount of county school money on deposit in ~~each--of~~
 14 ~~the-funds-enumerated~~ any fund provided for in subsection (1)
 15 of this section and the amount of any other school money
 16 subject to apportionment and apportion ~~such the~~ county and
 17 other school money to the districts in accordance with the
 18 apportionment ordered by the county superintendent;

19 (3) keep a separate accounting of the expenditures for
 20 each budgeted fund included in the final budget of each
 21 district;

22 (4) keep a separate accounting of the receipts,
 23 expenditures, and cash balances for each budgeted fund
 24 included in the final budget of each district and for each
 25 nonbudgeted fund established by each district;

(5) except as otherwise limited by law, pay all warrants properly drawn on the county or district school money and properly endorsed by their holders;

(6) receive all revenue collected by and for each district and deposit these receipts in the fund designated by law or by the district if no fund is designated by law. Interest and penalties on delinquent school taxes ~~shall~~ must be credited to the same fund and district for which the original taxes were levied.

(7) send all ~~revenues~~ revenue received for a joint district, part of which is situated in his county, to the county treasurer designated as the custodian of ~~such revenues~~ the revenue, no later than December 15 of each year and every 3 months thereafter until the end of the school fiscal year;

(8) at the direction of the trustees of a district, assist the district in the issuance and sale of tax and revenue anticipation notes as provided in Title 7, chapter 6, part 11;

(9) register district warrants drawn on a budgeted fund in accordance with 7-6-2604 when there is insufficient money ~~available in--the--sum--of--money~~ in all funds of the district to make payment of ~~such~~ the warrant. Redemption of registered warrants ~~shall~~ must be made in accordance with 7-6-2116, 7-6-2605, and 7-6-2606.

(10) invest the money of any district as directed by the trustees of the district within 3 working days of ~~such~~ the direction;

(11) ~~give~~ each month give to the trustees of each district an itemized report for each fund maintained by the district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types of revenue received, and the cash balance; and

(12) remit promptly to the state treasurer receipts for the county tax for a vocational-technical center when levied by the board of county commissioners."

Section 123. Section 20-9-301, MCA, is amended to read:

"20-9-301. Purpose and definition of foundation program and general fund. (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state ~~shall~~ must be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program ~~shall-be~~ is the general fund of the district. The purpose of

1 the general fund ~~shall--be~~ is to finance those general
2 maintenance and operational costs, including employee
3 retirement benefits, of a district not financed by other
4 funds established for special purposes in this title.

5 (3) The amount of the general fund budget for each
6 school fiscal year ~~shall~~ may not exceed the financing
7 limitations established by this title but ~~shall--be--no~~ may
8 not be less than the amount established by law as the
9 foundation program. The general fund budget ~~shall~~ must be
10 financed by the foundation program revenues and may be
11 supplemented by the permissive levy and additional voted
12 levies in the manner provided by law."

13 **Section 124.** Section 20-9-331, MCA, is amended to
14 read:

15 "20-9-331. Basic county tax and other revenues for
16 county equalization of the elementary district foundation
17 program. (1) It ~~shall--be~~ is the duty of the county
18 commissioners of each county to levy an annual basic tax of
19 28 mills on the dollars of the taxable value of all taxable
20 property within the county, except for vehicles subject to
21 taxation under 61-3-504(2), for the purposes of local and
22 state foundation program support. The revenue to be
23 collected from this levy ~~shall~~ must be apportioned to the
24 support of the foundation programs of the elementary school
25 districts in the county and to the state special revenue

1 fund, state equalization aid account, in the following
2 manner:

3 (a) In order to determine the amount of revenue raised
4 by this levy which is retained by the county, the sum of the
5 estimated revenues identified in subsection (2) ~~below--shall~~
6 be is subtracted from the sum of the county elementary
7 transportation obligation and the total of the foundation
8 programs of all elementary districts of the county.

9 (b) If the basic levy prescribed by this section
10 produces more revenue than is required to finance the
11 difference determined ~~above~~, the county treasurer shall
12 remit the surplus funds to the state treasurer for deposit
13 to the state special revenue fund, state equalization aid
14 account, immediately upon occurrence of a surplus balance
15 and each subsequent month thereafter, with any final
16 remittance due no later than June 20 of the fiscal year for
17 which the levy has been set.

18 (2) The proceeds realized from the county's portion of
19 the levy prescribed by this section and the revenues from
20 the following sources ~~shall~~ must be used for the
21 equalization of the elementary district foundation programs
22 of the county as prescribed in 20-9-334, and a separate
23 accounting ~~shall~~ must be kept of such the proceeds and
24 revenues by the county treasurer in accordance with
25 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's account accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of the property taxation established by the county levy required by this section;

(f) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(g) anticipated revenue from vehicle property taxes imposed under 61-3-504(2) and 61-3-537; and

(h) sales tax and use tax revenue."

Section 125. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It ~~shall--be~~ is the duty of the county commissioners of each county to levy an annual basic special tax for high schools of 17 mills on the dollar of the taxable value of all taxable property within the county, except for vehicles subject to taxation under 61-3-504(2), for the purposes of local and state foundation program support. The revenue to be collected from this levy ~~shall~~ must be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenues identified in subsections (2)(a) and (2)(b) ~~below-shall-be~~ is subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined above, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid

1 account, immediately upon occurrence of a surplus balance
2 and each subsequent month thereafter, with any final
3 remittance due no later than June 20 of the fiscal year for
4 which the levy has been set.

5 (2) The proceeds realized from the county's portion of
6 the levy prescribed in this section and the revenues from
7 the following sources ~~shall~~ must be used for the
8 equalization of the high school district foundation programs
9 of the county as prescribed in 20-9-334, and a separate
10 accounting ~~shall~~ must be kept of these proceeds and revenues
11 by the county treasurer in accordance with 20-9-212(1):

12 (a) any money remaining at the end of the immediately
13 preceding school fiscal year in the county treasurer's
14 accounts for the various sources of revenue established or
15 referred to in this section;

16 (b) any federal or state ~~moneys~~ money distributed to
17 the county as a payment in lieu of the property taxation
18 established by the county levy required by this section;

19 (c) net proceeds taxes for interim production and new
20 production, as defined in 15-23-601; and

21 (d) anticipated revenue from vehicle property taxes
22 imposed under 61-3-504(2) and 61-3-537; and

23 (e) sales tax and use tax revenue."

24 **Section 126.** Section 20-9-343, MCA, is amended to
25 read:

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

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

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

18 (a) 31.8% of all money received from the collection of
19 income taxes under chapter 30 of Title 15;

20 (b) 25% of all money, except as provided in 15-31-702,
21 received from the collection of corporation license and
22 income taxes under chapter 31 of Title 15, as provided by
23 15-1-501;

24 (c) 100% of the money allocated to state equalization
25 from the collection of the severance tax on coal;

(d) 100% of the money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) income from the education trust fund account; and

(g) 30% of all money received from the collection of the sales tax and use tax, as provided in [section 73];

(h) state lottery proceeds as provided for in 23-5-1027; and

~~tg)(i)~~ in addition to these revenues, the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium."

Section 127. Section 20-9-352, MCA, is amended to read:

"20-9-352. Permissive amount and permissive levy. (1) Whenever the trustees of any district shall deem it necessary to adopt a general fund budget in excess of the foundation program amount but not in excess of the maximum general fund budget amount for such district as established

by the schedules in 20-9-316 through 20-9-321, the trustees shall adopt a resolution stating the reasons and purposes for exceeding the foundation program amount. Such excess above the foundation program amount shall be known as the "permissive amount", and it shall be financed by a levy, as prescribed in 20-9-141, on the taxable value of all taxable property within the district, except for vehicles subject to taxation under 61-3-504(2), supplemented with any biennial appropriation by the legislature for this purpose. The proceeds of such an appropriation shall be deposited to the state special revenue fund, permissive account.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 6 mills on all the taxable property in the district, except for vehicles subject to taxation under 61-3-504(2), for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 6 or by using the number of mills which would fund the permissive amount, whichever is less. If the ~~amount--of~~ revenue raised by this levy, plus anticipated revenue from vehicle property taxes imposed under 61-3-504(2) and 61-3-537~~7~~~~-is~~ and the revenue from a

1 sales tax and use tax are not sufficient to fund the
 2 permissive amount in full, the amount of the deficiency
 3 shall be paid to the district from the state special revenue
 4 fund according to the provisions of subsections (3) and (4)
 5 of this section.

6 (b) For each high school district, the county
 7 commissioners shall annually set a levy not exceeding 4
 8 mills on all taxable property in the district, except for
 9 vehicles subject to taxation under 61-3-504(2), for the
 10 purpose of funding the permissive amount of the district.
 11 The permissive levy in mills shall be obtained by
 12 multiplying the ratio of the permissive levy to the maximum
 13 permissive amount by 4 or by using the number of mills which
 14 would fund the permissive amount, whichever is less. If the
 15 ~~amount--of~~ revenue raised by this levy, plus anticipated
 16 revenue from vehicle property taxes imposed under
 17 61-3-504(2) and 61-3-537, and plus net proceeds taxes for
 18 interim production and new production, as defined in
 19 15-23-601, ~~is~~ and the revenue from a sales tax and use tax
 20 are not sufficient to fund the permissive amount in full,
 21 the amount of the deficiency shall be paid to the district
 22 from the state special revenue fund according to the
 23 provisions of subsections (3) and (4) of this section.

24 (3) The superintendent of public instruction shall, if
 25 the appropriation by the legislature for the permissive

1 account for the biennium is insufficient, request the budget
 2 director to submit a request for a supplemental
 3 appropriation in the second year of the biennium. The
 4 supplemental appropriation shall provide enough revenue to
 5 fund the permissive deficiency of the elementary and high
 6 school districts of the state. The proceeds of this
 7 appropriation shall be deposited to the state special
 8 revenue fund, permissive account, and shall be distributed
 9 to the elementary and high school districts in accordance
 10 with their entitlements as determined by the superintendent
 11 of public instruction according to the provisions of
 12 subsections (1) and (2) of this section.

13 (4) Distribution under this section from the state
 14 special revenue fund shall be made in two payments. The
 15 first payment shall be made at the same time as the first
 16 distribution of state equalization aid is made after January
 17 1 of the fiscal year. The second payment shall be made at
 18 the same time as the last payment of state equalization aid
 19 is made for the fiscal year. If the appropriation is not
 20 sufficient to finance the deficiencies of the districts as
 21 determined according to subsection (2), each district will
 22 receive the same percentage of its deficiency. Surplus
 23 revenue in the second year of the biennium may be used to
 24 reduce the appropriation required for the next succeeding
 25 biennium or may be transferred to the state equalization aid

1 state special revenue fund if revenues in that fund are
2 insufficient to meet foundation program requirements."

3 **Section 128.** Section 20-9-502, MCA, is amended to
4 read:

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

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

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

21 (c) the total amount of money that will be raised
22 during the duration of time specified in subsection (1)(b);
23 and

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

1 (2) The total amount of building reserve when added to
2 the outstanding indebtedness of the district shall not be
3 more than ~~45%~~ 51% of the taxable value of the taxable
4 property of the district. Such limitation shall be
5 determined in the manner provided in 20-9-406. A building
6 reserve tax authorization shall not be for more than 20
7 years.

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

14 OFFICIAL BALLOT

15 SCHOOL DISTRICT BUILDING RESERVE ELECTION

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

23 Shall the trustees be authorized to impose an
24 additional levy each year for years to establish a
25 building reserve (add to the building reserve) of this

1 school district to raise a total amount of dollars
 2 (\$....), for the purpose(s) (here state the purpose or
 3 purposes for which the building reserve will be used)?

4 BUILDING RESERVE--YES.

5 BUILDING RESERVE--NO.

6 (4) The building reserve proposition shall be approved
 7 if a majority of those electors voting at the election
 8 approve the establishment of or addition to such building
 9 reserve. The annual budgeting and taxation authority of the
 10 trustees for a building reserve shall be computed by
 11 dividing the total authorized amount by the specified number
 12 of years. The authority of the trustees to budget and
 13 impose the taxation for the annual amount to be raised for
 14 the building reserve shall lapse when, at a later time, a
 15 bond issue is approved by the qualified electors of the
 16 district for the same purpose or purposes for which the
 17 building reserve fund of the district was established.
 18 Whenever a subsequent bond issue is made for the same
 19 purpose or purposes of a building reserve, the money in the
 20 building reserve shall be used for such purpose or purposes
 21 before any money realized by the bond issue is used."

22 **Section 129.** Section 20-10-144, MCA, is amended to
 23 read:

24 "20-10-144. Computation of revenues and net tax levy
 25 requirements for the transportation fund budget. Before the

1 fourth Monday of July and in accordance with 20-9-123, the
 2 county superintendent shall compute the revenue available to
 3 finance the transportation fund budget of each district. The
 4 county superintendent shall compute the revenue for each
 5 district on the following basis:

6 (1) The "schedule amount" of the preliminary budget
 7 expenditures that is derived from the rate schedules in
 8 20-10-141 and 20-10-142 shall be determined by adding the
 9 following amounts:

10 (a) the sum of the maximum reimbursable expenditures
 11 for all approved school bus routes maintained by the
 12 district (to determine the maximum reimbursable expenditure,
 13 multiply the applicable rate per bus mile by the total
 14 number of miles to be traveled during the ensuing school
 15 fiscal year on each bus route approved by the county
 16 transportation committee and maintained by such district);
 17 plus

18 (b) the total of all individual transportation per
 19 diem reimbursement rates for such district as determined
 20 from the contracts submitted by the district multiplied by
 21 the number of pupil-instruction days scheduled for the
 22 ensuing school attendance year; plus

23 (c) any estimated costs for supervised home study or
 24 supervised correspondence study for the ensuing school
 25 fiscal year; plus

1 (d) the amount budgeted on the preliminary budget for
 2 the contingency amount permitted in 20-10-143, except if
 3 such amount exceeds 10% of the total of subsections (1)(a),
 4 (1)(b), and (1)(c) or \$100, whichever is larger, the
 5 contingency amount on the preliminary budget shall be
 6 reduced to such limitation amount and used in this
 7 determination of the schedule amount.

8 (2) The schedule amount determined in subsection (1)
 9 or the total preliminary transportation fund budget,
 10 whichever is smaller, shall be divided by 3 and the
 11 resulting one-third amount shall be used to determine the
 12 available state and county revenue to be budgeted on the
 13 following basis:

14 (a) the resulting one-third amount shall be the
 15 budgeted state transportation reimbursement, except that the
 16 state transportation reimbursement for the transportation of
 17 special education pupils under the provisions of 20-7-442
 18 shall be two-thirds of the schedule amount attributed to the
 19 transportation of special education pupils;

20 (b) the resulting one-third amount, except as provided
 21 for joint elementary districts in subsection (2)(e), shall
 22 be the budgeted county transportation reimbursement for
 23 elementary districts and shall be financed by the basic
 24 county tax under the provisions of 20-9-334;

25 (c) the resulting one-third amount multiplied by 2

1 shall be the budgeted county transportation reimbursement
 2 amount for high school districts financed under the
 3 provisions of subsection (5) of this section, except as
 4 provided for joint high school districts in subsection
 5 (2)(e), and except that the county transportation
 6 reimbursement for the transportation of special education
 7 pupils under the provisions of 20-7-442 shall be one-third
 8 of the schedule amount attributed to the transportation of
 9 special education pupils;

10 (d) when the district has a sufficient amount of cash
 11 for reappropriation and other sources of district revenue,
 12 as determined in subsection (3), to reduce the total
 13 district obligation for financing to zero, any remaining
 14 amount of such district revenue and cash reappropriated
 15 shall be used to reduce the county financing obligation in
 16 subsections (2)(b) or (2)(c) and, if such county financing
 17 obligations are reduced to zero, to reduce the state
 18 financial obligation in subsection (2)(a); and

19 (e) the county revenue requirement for a joint
 20 district, after the application of any district moneys under
 21 subsection (2)(d) above, shall be prorated to each county
 22 incorporated by the joint district in the same proportion as
 23 the ANB of the joint district is distributed by pupil
 24 residence in each such county.

25 (3) The total of the moneys available for the

1 reduction of property tax on the district for the
2 transportation fund shall be determined by totaling:

3 (a) anticipated federal moneys received under the
4 provisions of Title I of Public Law 81-874 or other
5 anticipated federal moneys received in lieu of such federal
6 act; plus

7 (b) anticipated payments from other districts for
8 providing school bus transportation services for such
9 district; plus

10 (c) anticipated payments from a parent or guardian for
11 providing school bus transportation services for his child;
12 plus

13 (d) anticipated interest to be earned by the
14 investment of transportation fund cash in accordance with
15 the provisions of 20-9-213(4); plus

16 (e) anticipated revenue from vehicle property taxes
17 imposed under 61-3-504(2) and 61-3-537; plus

18 (f) net proceeds taxes for interim production and new
19 production, as defined in 15-23-601; plus

20 (g) sales tax and use tax revenue; plus

21 ~~(g)~~(h) any other revenue anticipated by the trustees
22 to be earned during the ensuing school fiscal year which may
23 be used to finance the transportation fund; plus

24 ~~(h)~~(i) any cash available for reappropriation as
25 determined by subtracting the amount of the end-of-the-year

1 cash balance earmarked as the transportation fund cash
2 reserve for the ensuing school fiscal year by the trustees
3 from the end-of-the-year cash balance in the transportation
4 fund. Such cash reserve shall not be more than 20% of the
5 final transportation fund budget for the ensuing school
6 fiscal year and shall be for the purpose of paying
7 transportation fund warrants issued by the district under
8 the final transportation fund budget.

9 (4) The district levy requirement for each district's
10 transportation fund shall be computed by:

11 (a) subtracting the schedule amount calculated in
12 subsection (1) from the total preliminary transportation
13 budget amount and, for an elementary district, adding such
14 difference to the district obligation to finance one-third
15 of the schedule amount as determined in subsection (2); and

16 (b) subtracting the amount of moneys available to
17 reduce the property tax on the district, as determined in
18 subsection (3), from the amount determined in subsection
19 (4)(a) above.

20 (5) The county levy requirement for the financing of
21 the county transportation reimbursement to high school
22 districts shall be computed by adding all such requirements
23 for all the high school districts of the county, including
24 the county's obligation for reimbursements in joint high
25 school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with 20-9-142."

Section 130. Section 20-15-311, MCA, is amended to read:

"20-15-311. Funding sources. The annual operating budget of a community college district shall be financed from the following sources:

(1) the estimated revenues to be realized from student tuition and fees, except those related to community service courses as defined by the board of regents;

(2) a mandatory mill levy on the community college district;

(3) the 1-mill adult education levy authorized under provisions of 20-15-305;

(4) the state general fund appropriation;

(5) an optional voted levy on the community college district that shall be submitted to the electorate in accordance with general school election laws;

(6) all other income, revenue, balances, or reserves

not restricted by a source outside the community college district to a specific purpose;

(7) income, revenue, balances, or reserves restricted by a source outside the community college district to a specific purpose. Student fees paid for community service courses as defined by the board of regents shall be considered restricted to a specific purpose;

(8) income from a political subdivision that is designated a community college service region under 20-15-241; and

(9) sales tax and use tax revenue."

Section 131. Section 20-16-202, MCA, is amended to read:

"20-16-202. Sources of financing for vocational-technical center budgets -- distribution of funds. (1) The total of the budgets approved by the board of regents shall constitute the total maximum approved statewide vocational-technical center system budget which shall be financed as follows:

(a) The primary source of financing is to be those funds specifically designated by legislative enactment or referendum by the people for financing vocational-technical education in Montana, including sales tax and use tax revenue.

(b) The board of county commissioners of each county

1 in which a designated vocational-technical center is located
 2 shall levy a tax in each calendar year of 1 1/2 mills on the
 3 dollar of all taxable property, real and personal, within
 4 the county to raise the amount appropriated by the
 5 legislature for the support and maintenance of the
 6 vocational-technical center system. The tax is to be
 7 effective for property tax years beginning on or after
 8 January 1, 1987. It is the intent of this subsection (1)(b)
 9 that the county commissioners shall levy this tax for fiscal
 10 year 1988 operation of the vocational-technical system and
 11 thereafter.

12 (c) Designated vocational-technical centers shall be
 13 eligible to receive such funds from the federal government
 14 as the board of regents may provide pursuant to applicable
 15 acts of congress.

16 (2) The board of regents shall direct the distribution
 17 of the funds specified in subsection (1) on the basis of the
 18 budgets approved by the board of regents. The funds earned
 19 by the mill levy specified in subsection (1)(b) shall be
 20 credited to the vocational-technical center account in the
 21 unrestricted subfund of the current fund in the state
 22 treasury."

23 **Section 132.** Section 23-5-1027, MCA, is amended to
 24 read:

25 "23-5-1027. Disposition of revenue. (1) (a) As near as

1 possible to 45% of the money paid for tickets or chances
 2 must be paid out as prize money, except as provided in
 3 subsection (1)(b).

4 (b) In the case of a regional lottery game, a maximum
 5 of 50% of the money paid for tickets or chances may be paid
 6 out as prize money.

7 (2) Up to 15% of the gross revenue from the state
 8 lottery may be used by the director to pay the operating
 9 expenses of the state lottery. Commissions paid to lottery
 10 ticket or chance sales agents are not a state lottery
 11 operating expense.

12 (3) Funds to pay the operating expenses of the lottery
 13 are statutorily appropriated as provided in 17-7-502.

14 (4) That part of all gross revenue not used for the
 15 payment of prizes, commissions, and operating expenses is
 16 net revenue and must be paid quarterly from the enterprise
 17 fund established by 23-5-1026 to the ~~superintendent--of~~
 18 ~~public--instruction--for-distribution-as-equalization-aid-to~~
 19 ~~the-retirement-fund-obligations--of~~ state special revenue
 20 fund for state equalization aid provided for in 20-9-343 for
 21 equalization of the foundation program for elementary and
 22 high school districts in-the-manner-provided--in--20-9-532."

23 **Section 133.** Section 33-7-407, MCA, is amended to
 24 read:

25 "33-7-407. Taxes. Every society organized or licensed

under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax other than taxes on ~~real-estate--and--office equipment gross receipts taxable under the sales tax and use tax and taxes on property subject to taxation under Title 15.~~"

Section 134. Section 61-3-501, MCA, is amended to read:

"61-3-501. When vehicle taxes and fees are due. (1) Property All taxes, new-car-taxes,--and--fees except sales taxes and use taxes paid at the time of purchase, must be paid on the date of registration or reregistration of the vehicle.

(2) If the anniversary date for reregistration of a vehicle passes while the vehicle is owned and held for sale by a licensed new or used car dealer, property taxes abate on such vehicle properly reported with the department of revenue until the vehicle is sold and thereafter the purchaser shall pay the pro rata balance of the taxes due and owing on the vehicle.

(3) In the event a vehicle's registration period is changed under 61-3-315, all taxes and other fees due thereon shall be prorated and paid from the last day of the old period until the first day of the new period in which the

vehicle shall be registered. Thereafter taxes and other fees must be paid from the first day of the new period for a minimum period of 1 year. When the change is to a later registration period, taxes and fees shall be prorated and paid based on the same tax year as the original registration period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

NEW SECTION. **Section 135.** Taxable percentage rates -- restrictions on increasing. The taxable percentage rates provided in this part, except the percentage rate "R" in 15-6-145 or 15-6-147, may be increased only if the increase is:

(1) adopted by vote of two-thirds of the members of each house of the legislature; or

(2) approved by the electorate.

NEW SECTION. **Section 136.** Sales tax rates -- restriction on increasing. A sales tax rate or use tax rate imposed in [section 2] may be increased only if the increase is approved by the electorate.

NEW SECTION. **Section 137.** Definitions. As used in [sections 137 through 144], the following definitions apply:

(1) "County" means any county government, excluding those classified as consolidated governments.

(2) "Incorporated population" means the number of persons residing within the boundaries of a municipality.

(3) "Mill value" means the amount of revenue that can be raised within a county or municipality by levying 1 mill. It is determined by multiplying a county's or municipality's taxable valuation by 0.0001.

(4) "Municipality" means an incorporated city, town, or city-county consolidated government.

(5) "Unincorporated population" means the number of persons not residing within a municipality.

NEW SECTION. Section 138. Local government block grant account. (1) There is a local government block grant account within the state special revenue fund.

(2) Funds in this account must be used to provide payments from the local government block grant program to counties and municipalities.

(3) The 11% of the sales tax and use tax revenue that is distributed under [section 73(1)(b)(iii)] must be deposited in the account.

NEW SECTION. Section 139. Local government block grant program. (1) The department of commerce shall administer the local government block grant program and distribute funds from the local government block grant account.

(2) The local government block grant program is

comprised of:

(a) a block grant for counties; and

(b) a block grant for municipalities.

NEW SECTION. Section 140. Division of block grant funds. The division of funds within the local government block grant account is as follows:

(1) The block grant for counties must be funded from the percentage of funds deposited in the account that equals the ratio of the unincorporated population to the state population.

(2) The block grant for municipalities must be funded from the percentage of funds deposited in the account that equals the ratio of the incorporated population to the state population.

NEW SECTION. Section 141. Distribution of block grant funds to counties. Funds in the block grant account for counties must be distributed as follows:

(1) One-half of each county's share is determined by the ratio of the county's population to the total county population in the state.

(2) One-half is distributed according to the following formula in which CMV = average mill value per capita of all counties, IMV = individual county mill value per capita, ICP = individual county population, and CG = 1/2 total county grant:

1 CMV X ICP = county tax base factor(TBF)

2 IMV

3 CG X individual county TBF = 1/2 individual county

4 sum of all county TBFs share

5 NEW SECTION. Section 142. Distribution of block grant
6 funds to municipalities. (1) The block grant for
7 municipalities is divided into the city/town category and
8 the consolidated category.

9 (2) The consolidated category must receive a
10 percentage of the total municipal grant as determined by the
11 following formula in which PCG = population of consolidated
12 governments, UP = unincorporated population, TSP = total
13 stated population, and TSMP = total state municipal
14 population:

15 PCG + (PCG X UP/TSP) = consolidated category percentage

16 TSMP

17 (3) The city/town and consolidated categories must be
18 distributed as follows:

19 (a) One-half of each municipality's share is
20 determined by the ratio of the municipality's population to
21 the total municipal population of that category.

22 (b) One-half is distributed according to the following
23 formula in which MVPC = average mill value per capita for
24 all municipalities within each category, IVC = individual
25 municipality mill value per capita, IMP = individual

1 municipality population, and CG = 1/2 total grant for each
2 category:

3 MVPC X IMP = municipal tax base factor (TBF)

4 IVC

5 CG X individual municipality TBF = 1/2 individual

6 sum of all municipality TBFs municipality

7 share

8 NEW SECTION. Section 143. Population and taxable
9 valuation figures to be used. (1) Population figures used in
10 [sections 137 through 142] must be the most recent figures
11 as determined by the department of commerce.

12 (2) Mill values used in [sections 137 through 142]
13 must be the most recent taxable valuation figures as
14 determined by the department of revenue for the fiscal year
15 in which payments will be made.

16 NEW SECTION. Section 144. Disposition and use of
17 funds. (1) Disbursements from the local government block
18 grant account must be made on June 30, 1991, and on June 30
19 of each succeeding year.

20 (2) One-half of each disbursement must be used to
21 reduce the local government's general fund mill levy, and
22 one-half of the disbursement may be used for any purpose
23 authorized by law.

24 NEW SECTION. Section 145. Submission to electorate.
25 The question of whether sections 1 through 136 and 147 of

1 this act will become effective shall be submitted to the
 2 qualified electors of Montana at the election called
 3 pursuant to section 146 by printing on the ballot the full
 4 title of this act and the following:

5 ☐ FOR imposing a 4% sales tax and use tax, to be used
 6 approximately as follows:

7 • 35% for state funding of public education, to reduce
 8 local property taxes;

9 • 10% for higher education;

10 • 21% to reduce residential, personal, and commercial
 11 property taxes;

12 • 3.5% to reduce municipal and county property taxes;

13 • 3.5% new revenue for municipal and county
 14 governments;

15 • 12.5% for refunds to low-income families; and

16 • the remainder to be deposited in the state general
 17 fund.

18 ☐ AGAINST imposing a 4% sales tax and use tax, to be
 19 used approximately as follows:

20 • 35% for state funding of public education, to reduce
 21 local property taxes;

22 • 10% for higher education;

23 • 21% to reduce residential, personal, and commercial
 24 property taxes;

25 • 3.5% to reduce municipal and county property taxes;

1 • 3.5% new revenue for municipal and county
 2 governments;

3 • 12.5% for refunds to low-income families; and

4 • the remainder to be deposited in the state general
 5 fund.

6 NEW SECTION. **Section 146.** Special election. Pursuant
 7 to Article III, sections 5 and 6, of The Constitution of the
 8 State of Montana, [sections 1 through 136 and 147] shall be
 9 submitted to the qualified electors of Montana for their
 10 approval or disapproval at a statewide election to be held
 11 June 13, 1989.

12 NEW SECTION. **Section 147.** Repealer. Sections 15-6-136
 13 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146,
 14 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531,
 15 and 20-9-532, MCA, are repealed.

16 NEW SECTION. **Section 148.** Codification instruction.
 17 (1) [Sections 1 through 68, 72, 73, and 136] are intended
 18 to be codified as an integral part of Title 15, and the
 19 provisions of Title 15 apply to [sections 1 through 68, 72,
 20 73, and 136].

21 (2) [Sections 69 through 71] are intended to be
 22 codified as an integral part of Title 15, chapter 30, and
 23 the provisions of Title 15, chapter 30, apply to [sections
 24 69 through 71].

25 (3) [Sections 74 and 135] are intended to be codified

1 as an integral part of Title 15, chapter 6, part 1, and the
2 provisions of Title 15, chapter 6, apply to [sections 74 and
3 135].

4 (4) [Section 105] is intended to be codified as an
5 integral part of Title 20, chapter 25, and the provisions of
6 Title 20, chapter 25, apply to [section 105].

7 (5) [Sections 137 through 144] are intended to be
8 codified as an integral part of Title 7, chapter 6, and the
9 provisions of Title 7, chapter 6, apply to [sections 137
10 through 144].

11 NEW SECTION. Section 149. Extension of authority. Any
12 existing authority to make rules on the subject of the
13 provisions of [this act] is extended to the provisions of
14 [this act].

15 NEW SECTION. Section 150. Severability. If a part of
16 [this act] is invalid, all valid parts that are severable
17 from the invalid part remain in effect. If a part of [this
18 act] is invalid in one or more of its applications, the part
19 remains in effect in all valid applications that are
20 severable from the invalid applications.

21 NEW SECTION. Section 151. Saving clause. [This act]
22 does not affect rights and duties that matured, penalties
23 that were incurred, or proceedings that were begun before
24 [the effective date of this act].

25 NEW SECTION. Section 152. Effective dates. (1) Except

1 as provided in subsections (2) and (3), [this act] is
2 effective on approval by the electorate.

3 (2) [Sections 145, 146, and this section] are
4 effective on passage by the legislature.

5 (3) [Section 137] is effective December 31, 1990.

6 NEW SECTION. Section 153. Applicability. (1)
7 [Sections 1 through 73 and 137 through 144] are applicable
8 on and after July 1, 1990.

9 (2) [Sections 74 through 134] apply to taxable years,
10 fiscal years, and school fiscal years beginning after
11 December 31, 1989. However, all taxes, levies, fees,
12 assessments, and the like levied in 1989 for fiscal year
13 1990 must be paid and are collectible as provided by law.

-End-