

SENATE BILL NO. 118

INTRODUCED BY BECK, RAPP-SVRCEK, CAMPBELL, MARKS, STANG

IN THE SENATE

JANUARY 13, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 6, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 7, 1989	PRINTING REPORT.
FEBRUARY 8, 1989	SECOND READING, DO PASS.
FEBRUARY 9, 1989	ENGROSSING REPORT.
FEBRUARY 10, 1989	THIRD READING, PASSED. AYES, 46; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
FEBRUARY 20, 1989	FIRST READING.
MARCH 7, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 8, 1989	SECOND READING, CONCURRED IN.
MARCH 9, 1989	THIRD READING, CONCURRED IN. AYES, 90; NOES, 4.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 10, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Sen. Smith* BILL NO. *118*  
 2 INTRODUCED BY *Sen. Kopp-Smith*  
 3 *Sen. Marks*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 5 LAWS RELATING TO PROPERTY UNDER A TAX PROTEST OR APPEAL  
 6 PROCEEDING; ALLOWING A TAXING UNIT TO EXCLUDE THE TAXABLE  
 7 VALUE OF PROPERTY SUBJECT TO A TAX PROTEST IN FIXING LEVIES;  
 8 MAKING INTEREST ON PROTESTED TAXES A STATE RESPONSIBILITY;  
 9 ALLOWING FOR BOND ISSUES WITHOUT AN ELECTION TO REPAY LOST  
 10 TAX PROTESTS; EXCLUDING TAX PROTEST REPAYMENT BONDS FROM THE  
 11 LIMITATIONS ON THE AMOUNT OF BONDED INDEBTEDNESS; AMENDING  
 12 SECTIONS 2-9-316, 7-6-2321, 7-6-4232, 7-7-2202, 7-7-2203,  
 13 7-7-2221, 7-7-4101, 7-7-4201, 7-7-4221, 15-1-402, 15-10-202,  
 14 15-10-412, 20-9-142, 20-9-403, 20-9-406, AND 20-9-421, MCA;  
 15 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
 16 APPLICABILITY DATE."

17  
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19 **Section 1.** Section 7-6-2321, MCA, is amended to read:

20 "7-6-2321. Fixing of tax levy. (1) On the second  
 21 Monday in August and after the approval and adoption of the  
 22 final budget, the board of county commissioners shall fix  
 23 the tax levy for each fund at a rate which will raise the  
 24 amount set out in the budget as the amount necessary to be  
 25 raised by tax levy for the fund during the current fiscal

1 year. The Except as provided in subsection (2), the taxable  
 2 valuation of the county for the current fiscal year shall be  
 3 the basis for determining the amount of the tax levy for  
 4 each fund. Each tax levy shall be at a rate no higher than  
 5 is required on that basis, without including any amount for  
 6 anticipated tax delinquency, to produce the amount set out  
 7 in the budget, without including any amount for anticipated  
 8 tax delinquency, as being the amount to be raised by tax  
 9 levy.

10 (2) The taxable value of property that is the subject  
 11 of a property tax protest or appeal as of the first Monday  
 12 in August may be excluded from the county's taxable  
 13 valuation if the taxable value of all of the property under  
 14 protest or appeal exceeds 5% of the county's total taxable  
 15 valuation.

16 ~~†2†~~(3) The tax levy shall be made in the manner  
 17 provided by 15-10-201."

18 **Section 2.** Section 7-6-4232, MCA, is amended to read:

19 "7-6-4232. Fixing of tax levy. (1) On the second  
 20 Monday in August and after the approval and adoption of the  
 21 final budget, the council shall fix the tax levy for each  
 22 fund at a rate, not exceeding limits prescribed by law,  
 23 which will raise the amount set out in the budget as the  
 24 amount necessary to be raised by tax levy for that fund  
 25 during the current fiscal year. The Except as provided in

subsections (2) and (3), the taxable valuation of the city for the current fiscal year shall be the basis for determining the amount of the tax levy for each fund, and each tax levy shall be at a rate no higher than is required on that basis, without including any amount for anticipated tax delinquency, to raise the amount set out in the budget.

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

(3) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the city's taxable valuation if the taxable value of all of the property under protest or appeal exceeds 5% of the city's total taxable valuation.

~~f3}~~(4) Each levy shall be made in the manner provided by 15-10-201."

**Section 3.** Section 20-9-142, MCA, is amended to read:

"20-9-142. Fixing and levying taxes by board of county commissioners. (1) On the second Monday in August, the

county superintendent shall place before the board of county commissioners the final adopted budget of the district and any emergency budget adopted by the district during the previous school fiscal year. It Except as provided in subsection (2), it shall be the duty of the board of county commissioners to fix and levy on all the taxable value of all the real and personal property within the district all district and county taxation required to finance, within the limitations provided by law, the final budget and any emergency budget of the district.

(2) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the district's taxable valuation upon notification to the board of county commissioners by the school district trustees if the taxable value of all of the property under protest or appeal exceeds 5% of the district's total taxable valuation."

**Section 4.** Section 15-10-202, MCA, is amended to read:

"15-10-202. Certification of taxable values and millage rates. (1) At the time that the assessment roll is prepared and published, the department of revenue shall certify to each taxing authority the taxable value within the jurisdiction of the taxing authority. The department shall also send to each taxing authority a written statement of its best estimate of the total assessed value of all new

1 construction and improvements not included on the previous  
 2 assessment roll and the value of deletions from the previous  
 3 assessment roll. Exclusive of such new construction,  
 4 improvements, and deletions and of the taxable value of  
 5 property that is the subject of a protest or appeal in  
 6 accordance with 7-6-2321, 7-6-4232, or 20-9-142, the  
 7 department shall certify to each taxing authority a millage  
 8 rate which will provide the same ad valorem revenue for each  
 9 taxing authority as was levied during the prior year. For  
 10 the purpose of calculating the certified millage, the  
 11 department shall use 95% of the taxable value appearing on  
 12 the roll, exclusive of properties appearing for the first  
 13 time on the assessment roll.

14 (2) A taxing authority shall inform the department and  
 15 the board of county commissioners in writing on or before  
 16 July 15 if it wishes to exclude the taxable value of  
 17 property subject to a tax appeal or tax protest from its  
 18 taxable valuation pursuant to 7-6-2321, 7-6-4232, or  
 19 20-9-142."

20 **Section 5.** Section 15-1-402, MCA, is amended to read:

21 "15-1-402. Payment of taxes under protest -- action to  
 22 recover. (1) The person upon whom a tax or license fee is  
 23 being imposed may proceed under 15-1-406 or may, before the  
 24 tax or license fee becomes delinquent, pay under written  
 25 protest that portion of the tax or license fee protested.

1 The payment must:

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

4 (b) specify the grounds of protest; and

5 (c) not exceed the difference between the payment for  
 6 the immediately preceding tax year and the amount owing in  
 7 the tax year protested unless a different amount results  
 8 from the specified grounds of protest, which grounds may  
 9 include but are not limited to changes in assessment due to  
 10 reappraisal under 15-7-111.

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

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

23 (4) Any An action instituted to recover any such  
 24 portions of tax or license fee paid under protest shall must  
 25 be commenced and summons timely served within 60 days after

1 the date of the final decision of the state tax appeal  
2 board.

3 (5) ~~When--any~~ If a protested tax or license fee is  
4 payable in installments, ~~then--any a~~ subsequent installment  
5 portion considered unlawful by the state tax appeal board  
6 need not be paid and no action or suit need be commenced to  
7 recover ~~the--same--but~~ the subsequent installment. The  
8 determination of the action or suit commenced to recover the  
9 first installment portion paid under protest ~~shall--determine~~  
10 determines the right of the party paying such subsequent  
11 installment to have the same or any part thereof refunded to  
12 him or the right of the taxing authority to collect a  
13 subsequent installment not paid by the taxpayer plus  
14 interest from the date the subsequent installment was due.

15 (6) All ~~portions--of~~ taxes and license fees paid under  
16 protest to a county or municipality ~~shall must~~ be deposited  
17 by the treasurer of the county or municipality to the credit  
18 of a special fund to be designated as a protest fund and  
19 ~~shall must~~ be retained in such the protest fund until the  
20 final determination of any action or suit to recover the  
21 same unless released at the request of the county,  
22 municipality, or other local taxing jurisdiction pursuant to  
23 subsection (7). Nothing contained herein prohibits the  
24 investment of the money of this fund in the state unified  
25 investment program or in any manner provided in Title 7,

1 chapter 6. The provision creating the special protest fund  
2 does not apply to any payments made under protest directly  
3 to the state.

4 (7) The governing board of a taxing jurisdiction  
5 affected by the payment of taxes under protest in the second  
6 and subsequent years that a tax protest remains unresolved  
7 may demand that the treasurer of the county or municipality  
8 pay the requesting taxing jurisdiction all or a portion of  
9 the protest payments to which it is entitled, except the  
10 amount paid by the taxpayer in the first year of the  
11 protest. The decision in a previous year of a taxing  
12 jurisdiction to leave protested taxes in the protest fund  
13 does not preclude it from demanding in a subsequent year any  
14 or all of the payments to which it is entitled, except the  
15 first-year protest amount.

16 (8) (a) If no action is commenced within the time  
17 herein specified or if such action is commenced and finally  
18 determined in favor of the county or municipality or  
19 treasurer thereof, the amount of the protested portions of  
20 the tax or license fee ~~shall must~~ be taken from the protest  
21 fund and deposited to the credit of the fund or funds to  
22 which the same property belongs, less a pro rata deduction  
23 for the costs of administration of the protest fund, and  
24 related expenses charged the local government units, and the  
25 interest earned on the protested funds or income derived

1 from their investment that must be deposited to the credit  
 2 of the state general fund.

3 (b) If such action is finally determined adversely to  
 4 a county or municipality or the treasurer thereof, then the  
 5 treasurer shall, upon receiving a certified copy of the  
 6 final judgment in said action from the state tax appeal  
 7 board, or from the district or supreme court, as  
 8 appropriate, if the final action of the state tax appeal  
 9 board is appealed in the time prescribed, refund to the  
 10 person in whose favor such judgment is rendered the amount  
 11 of such protested portions of the tax or license fee  
 12 deposited in the protest fund, and not released pursuant to  
 13 subsection (7), as the person holding such judgment is  
 14 entitled to recover, together with interest thereon ~~at the~~  
 15 ~~rate of 6% a year~~ from the date of payment under protest, at  
 16 the greater of:

17 (i) the rate of interest generated from the pooled  
 18 investment fund provided for in 17-6-203 for the applicable  
 19 period; or

20 (ii) 6% a year.

21 (c) If the amount retained in the protest fund is  
 22 insufficient to pay all sums due the taxpayer, the treasurer  
 23 shall apply the available amount first to tax repayment,  
 24 ~~then interest owed,~~ and ~~lastly then~~ to costs.

25 ~~(c)(d)~~ If the protest action is decided adversely to a

1 taxing jurisdiction and the amount retained in the protest  
 2 fund is insufficient to refund the tax payments, ~~interest,~~  
 3 and costs to which the taxpayer is entitled and for which  
 4 local government units are responsible, the treasurer shall  
 5 bill and the taxing jurisdiction shall refund to the  
 6 treasurer that portion of the taxpayer refund, including tax  
 7 payments, ~~interest,~~ and costs, for which the taxing  
 8 jurisdiction is proratably responsible. The interest earned  
 9 on the protested funds released in accordance with  
 10 subsection (7) must be refunded to the taxpayer by the  
 11 state.

12 ~~(d)(e)~~ In satisfying the requirements of subsection  
 13 ~~(b)(c)~~ (8)(d), the taxing jurisdiction is allowed not more  
 14 than 1 year from the beginning of the fiscal year following  
 15 a final resolution of the protest. The taxpayer is entitled  
 16 to interest on the unpaid balance at the ~~rate of 6% a year~~  
 17 greater of the rates referred to in subsections (8)(b)(i)  
 18 and (8)(b)(ii) from the date of payment under protest until  
 19 the date of final resolution of the protest and at the  
 20 combined rate of the federal reserve discount rate quoted  
 21 from the federal reserve bank in New York, New York, on the  
 22 date of final resolution, plus four percentage points, from  
 23 the date of final resolution of the protest until refund is  
 24 made.

25 (9) A taxing jurisdiction may satisfy the requirements

1 of this section by use of funds from one or more of the  
2 following sources:

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

5 (b) the general fund, except that amount generated by  
6 the all-purpose mill levy, or any other funds legally  
7 available to the governing body; and

8 (c) proceeds from the sale of bonds issued by a  
9 county, city, or school district for the purpose of deriving  
10 revenue for the repayment of tax protests lost by the taxing  
11 jurisdiction. The governing body of a county, city, or  
12 school district is hereby authorized to issue such bonds  
13 pursuant to procedures established by law. The bonds may be  
14 issued without being submitted to an election. Property  
15 taxes may be levied to amortize such the bonds, ~~provided the~~  
16 ~~levy for payment of any such bonds may not exceed, in the~~  
17 ~~aggregate, 10 mills annually.~~

18 **Section 6.** Section 15-10-412, MCA, is amended to read:

19 "15-10-412. (Temporary) Property tax limited to 1986  
20 levels -- clarification -- extension to all property  
21 classes. Section 15-10-402 is interpreted and clarified as  
22 follows:

23 (1) The limitation to 1986 levels is extended to apply  
24 to all classes of property described in Title 15, chapter 6,  
25 part 1.

1 (2) The limitation on the amount of taxes levied is  
2 interpreted to mean that the actual tax liability for an  
3 individual property is capped at the dollar amount due in  
4 each taxing unit for the 1986 tax year. In tax years  
5 thereafter, the property must be taxed in each taxing unit  
6 at the 1986 cap or the product of the taxable value and  
7 mills levied, whichever is less for each taxing unit.

8 (3) The limitation on the amount of taxes levied does  
9 not mean that no further increase may be made in the total  
10 taxable valuation of a taxing unit as a result of:

11 (a) annexation of real property and improvements into  
12 a taxing unit;

13 (b) construction, expansion, or remodeling of  
14 improvements;

15 (c) transfer of property into a taxing unit;

16 (d) subdivision of real property;

17 (e) reclassification of property;

18 (f) increases in the amount of production or the value  
19 of production for property described in 15-6-131 or  
20 15-6-132;

21 (g) transfer of property from tax-exempt to taxable  
22 status; or

23 (h) revaluations caused by:

24 (i) cyclical reappraisal; or

25 (ii) expansion, addition, replacement, or remodeling of



1 improvements.

2 (4) The limitation on the amount of taxes levied does  
3 not mean that no further increase may be made in the taxable  
4 valuation or in the actual tax liability on individual  
5 property in each class as a result of:

6 (a) construction, expansion, replacement, or  
7 remodeling of improvements that adds value to the property;

8 (b) transfer of property into a taxing unit;

9 (c) reclassification of property;

10 (d) increases in the amount of production or the value  
11 of production for property described in 15-6-131 or  
12 15-6-132;

13 (e) annexation of the individual property into a new  
14 taxing unit; or

15 (f) conversion of the individual property from  
16 tax-exempt to taxable status.

17 (5) Property in classes four, twelve, and fourteen is  
18 valued according to the procedures used in 1986, including  
19 the designation of 1982 as the base year, until the  
20 reappraisal cycle beginning January 1, 1986, is completed  
21 and new valuations are placed on the tax rolls and a new  
22 base year designated, if the property is:

23 (a) new construction;

24 (b) expanded, deleted, replaced, or remodeled  
25 improvements;

1 (c) annexed property; or

2 (d) property converted from tax-exempt to taxable  
3 status.

4 (6) Property described in subsections (5)(a) through  
5 (5)(d) that is not class four, class twelve, or class  
6 fourteen property is valued according to the procedures used  
7 in 1986 but is also subject to the dollar cap in each taxing  
8 unit based on 1986 mills levied.

9 (7) The limitation on the amount of taxes, as  
10 clarified in this section, is intended to leave the property  
11 appraisal and valuation methodology of the department of  
12 revenue intact. Determinations of county classifications,  
13 salaries of local government officers, and all other matters  
14 in which total taxable valuation is an integral component  
15 are not affected by 15-10-401 and 15-10-402 except for the  
16 use of taxable valuation in fixing tax levies. In fixing tax  
17 levies, the taxing units of local government may anticipate  
18 the deficiency in revenues resulting from the tax  
19 limitations in 15-10-401 and 15-10-402, while understanding  
20 that regardless of the amount of mills levied, a taxpayer's  
21 liability may not exceed the dollar amount due in each  
22 taxing unit for the 1986 tax year unless the taxing unit's  
23 taxable valuation decreases by 5% or more from the previous  
24 tax year. If a taxing unit's taxable valuation decreases by  
25 5% or more from the previous tax year, it may levy

1 additional mills to compensate for the decreased taxable  
 2 valuation, but in no case may the mills levied exceed a  
 3 number calculated to equal the revenue from property taxes  
 4 for the 1986 tax year in that taxing unit. Exclusion of the  
 5 taxable value of property under a property tax protest or  
 6 appeal from a taxing unit's taxable value under 7-6-2321,  
 7 7-6-4232, or 20-9-142 constitutes a decrease in taxable  
 8 valuation for purposes of this subsection.

9 (8) The limitation on the amount of taxes levied does  
 10 not apply to the following levy or special assessment  
 11 categories, whether or not they are based on commitments  
 12 made before or after approval of 15-10-401 and 15-10-402:

- 13 (a) rural improvement districts;
- 14 (b) special improvement districts;
- 15 (c) levies pledged for the repayment of bonded
- 16 indebtedness, including tax increment bonds;
- 17 (d) city street maintenance districts;
- 18 (e) tax increment financing districts;
- 19 (f) satisfaction of judgments against a taxing unit;
- 20 (g) electric company street lighting assessments; and
- 21 (h) revolving funds to support any categories
- 22 specified in this subsection (8).

23 (9) The limitation on the amount of taxes levied does  
 24 not apply in a taxing unit if the voters in the taxing unit  
 25 approve an increase in tax liability following a resolution

1 of the governing body of the taxing unit containing:

2 (a) a finding that there are insufficient funds to  
 3 adequately operate the taxing unit as a result of 15-10-401  
 4 and 15-10-402;

5 (b) an explanation of the nature of the financial  
 6 emergency;

7 (c) an estimate of the amount of funding shortfall  
 8 expected by the taxing unit;

9 (d) a statement that applicable fund balances are or  
 10 by the end of the fiscal year will be depleted;

11 (e) a finding that there are no alternative sources of  
 12 revenue;

13 (f) a summary of the alternatives that the governing  
 14 body of the taxing unit has considered; and

15 (g) a statement of the need for the increased revenue  
 16 and how it will be used.

17 (10) The limitation on the amount of taxes levied does  
 18 not apply to levies required to address the funding of  
 19 relief of suffering of inhabitants caused by famine,  
 20 conflagration, or other public calamity.

21 (11) The limitation on the amount of taxes levied does  
 22 not apply to a levy increase to repay taxes paid under  
 23 protest in accordance with 15-1-402. (Terminates December  
 24 31, 1989--sec. 6, Ch. 654, L. 1987.)"

25 **Section 7.** Section 2-9-316, MCA, is amended to read:

"2-9-316. Judgments against governmental entities except state. A Except as provided in 15-1-402, a political subdivision of the state shall satisfy a final judgment out of funds that may be available from the following sources:

(1) insurance;

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

(3) a property tax, otherwise properly authorized by law, collected by a special levy authorized by law, in an amount necessary to pay any unpaid portion of the judgment, except that such levy may not exceed 10 mills;

(4) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the payment of the judgment liability. The governing body of a county, city, or school district is hereby authorized to issue such bonds pursuant to procedures established by law. Property taxes may be levied to amortize such bonds, provided the levy for payment of any such bonds or judgments may not exceed, in the aggregate, 10 mills annually."

**Section 8.** Section 7-7-2202, MCA, is amended to read:

"7-7-2202. Authority to issue general obligation bonds to satisfy judgments. (1) The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate, and sell coupon bonds on

the credit of the county, as more specifically provided in this part, for the purpose of funding, paying in full, or compromising, settling, and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, including the repayment of tax protests lost by the county, when:

(a) there are not sufficient funds available to pay such judgment; and

(b) sufficient money cannot be raised to satisfy such judgment by an annual tax levy of 10 mills levied on all the taxable property within the county through a period of 3 years.

(2) The resolution providing for the issue of such bonds must recite the facts concerning the judgment to be funded and the terms of any compromise agreement which may have been entered into between the board and the judgment creditor."

**Section 9.** Section 7-7-2221, MCA, is amended to read:

"7-7-2221. Issuance of certain general obligation bonds without election. Bonds may be issued without submitting the same to an election if the bonds are issued for the purpose of:

(1) enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of a county boundary line, as set forth in

1 7-7-2201(5); and

2 (2) funding, paying in full, or compromising,  
3 settling, and satisfying any judgment which may have been  
4 rendered against the county in a court of competent  
5 jurisdiction, as set forth in 7-7-2202 and 15-1-402."

6 **Section 10.** Section 7-7-4101, MCA, is amended to read:

7 "7-7-4101. Purposes for which indebtedness may be  
8 incurred. The city or town council has power to contract an  
9 indebtedness on behalf of a city or town, upon the credit  
10 thereof, by borrowing money or issuing bonds for the  
11 following purposes:

12 (1) erection of public buildings;

13 (2) construction of sewers, sewage treatment and  
14 disposal plants, waterworks, reservoirs, reservoir sites,  
15 and lighting plants;

16 (3) supplying the city or town with water by contract  
17 and the construction or purchase of canals or ditches and  
18 water rights for supplying the city or town with water;

19 (4) construction of bridges, docks, wharves,  
20 breakwaters, piers, jetties, and moles;

21 (5) to acquire, open, and/or widen any street and to  
22 improve the same by constructing, reconstructing, and  
23 repairing pavement, gutters, curbs, and vehicle parking  
24 strips and to pay all or any portion of the cost thereof;

25 (6) the purchase of fire apparatus and street and

1 other equipment;

2 (7) building, purchasing, constructing, and  
3 maintaining devices intended to protect the safety of the  
4 public from open ditches carrying irrigation or other water;  
5 and

6 (8) the funding of outstanding warrants and maturing  
7 bonds; and

8 (9) the repayment of tax protests lost by the city,  
9 town, or other municipal corporation."

10 **Section 11.** Section 7-7-4221, MCA, is amended to read:

11 "7-7-4221. Election on question of incurring  
12 indebtedness -- exception. (1) Except as provided in  
13 subsection (2) and 15-1-402, whenever the governing body of  
14 any municipality considers it necessary to issue bonds  
15 pledging the general credit of the municipality for any  
16 purpose authorized by law, the question of issuing the bonds  
17 shall first be submitted to the registered electors of the  
18 city or town.

19 (2) It is not necessary to submit to the electors the  
20 question of issuing refunding bonds to refund bonds issued  
21 and outstanding or the question of issuing revenue bonds not  
22 pledging the general credit of the municipality under any  
23 laws of this state."

24 **Section 12.** Section 20-9-403, MCA, is amended to read:

25 "20-9-403. Bond issues for certain purposes. (1) The

trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, and/or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of said buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

(e) funding a judgment against the district, including the repayment of tax protests lost by the district.

(2) Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent that the 9th grade of the high school is served thereby."

**Section 13.** Section 20-9-421, MCA, is amended to read:

"20-9-421. Election to authorize the issuance of school district bonds and the methods of introduction. A

school district shall not issue bonds for any purpose other than that provided in 15-1-402 and 20-9-412 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of 20-20-201 when:

(1) the trustees, of their own volition, adopt a resolution to that effect; or

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition and which has been validated under the provisions of 20-9-425."

**Section 14.** 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% 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

1 15-23-612, to be ascertained by the last assessment for  
2 state and county taxes prior to the proposed issuance of  
3 bonds.

4 (2) In addition to the bonds allowed by subsection  
5 (1), a county may issue bonds which, with all outstanding  
6 bonds and warrants, will not exceed 27.75% of the total of  
7 the taxable value of the property in the county subject to  
8 taxation, plus the amount of interim production and new  
9 production taxes levied divided by the appropriate tax rates  
10 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
11 60%, plus the amount of value represented by new production  
12 exempted from tax as provided in 15-23-612, when necessary  
13 to do so, for the purpose of acquiring land for a site for  
14 county high school buildings and for erecting or acquiring  
15 buildings thereon and furnishing and equipping the same for  
16 county high school purposes.

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

22 (4) The limitation in subsection (1) ~~shall~~ does not  
23 apply to refunding bonds issued for the purpose of paying or  
24 retiring county bonds lawfully issued prior to January 1,  
25 1932, or to bonds issued for the repayment of tax protests

1 lost by the county."

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

3 "7-7-4201. Limitation on amount of bonded  
4 indebtedness. (1) Except as otherwise provided, no city or  
5 town may issue bonds or incur other indebtedness for any  
6 purpose in an amount which with all outstanding and unpaid  
7 indebtedness will exceed 28% of the taxable value of the  
8 property therein subject to taxation, to be ascertained by  
9 the last assessment for state and county taxes.

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

14 (3) The limitation in subsection (1) does not apply to  
15 bonds issued for the repayment of tax protests lost by the  
16 city or town."

17 **Section 16.** Section 20-9-406, MCA, is amended to read:

18 "20-9-406. Limitations on amount of bond issue. (1)  
19 The maximum amount for which each school district may become  
20 indebted by the issuance of bonds, including all  
21 indebtedness represented by outstanding bonds of previous  
22 issues and registered warrants, is 45% of the taxable value  
23 of the property subject to taxation as ascertained by the  
24 last completed assessment for state, county, and school  
25 taxes previous to the incurring of such indebtedness. The

1 45% maximum, however, may not pertain to indebtedness  
 2 imposed by special improvement district obligations or  
 3 assessments against the school district or to bonds issued  
 4 for the repayment of tax protests lost by the district. All  
 5 bonds issued in excess of such amount shall be null and  
 6 void, except as provided in this section.

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

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

18 NEW SECTION. **Section 17.** Extension of authority. Any  
 19 existing authority to make rules on the subject of the  
 20 provisions of [this act] is extended to the provisions of  
 21 [this act].

22 NEW SECTION. **Section 18.** Effective date --  
 23 retroactive applicability. [This act] is effective on  
 24 passage and approval and applies retroactively, within the  
 25 meaning of 1-2-109, to any tax appeal or tax paid under

1 protest after December 31, 1983.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB118, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the laws relating to property under a tax protest or appeal proceeding; allowing a taxing unit to exclude the taxable value of property subject to a tax protest in fixing levies; making interest on protested taxes a state responsibility; allowing for bond issues without an election to repay lost tax protests; excluding tax protest repayment bonds from the limitations on the amount of bonded indebtedness; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

Under current law, property taxes paid under protest are deposited by the county treasurer in a specially designated protest fund. These funds may be invested in the state unified investment program and accrue interest. When a protest action is decided favorably to a taxing jurisdiction, any interest accrued remains with the county.

Under the proposal, the interest would be credited to the state general fund. To the extent that protest actions are decided favorably to the taxing jurisdictions, this interest would be deposited to the state general fund, rather than being distributed to the taxing jurisdictions. This would increase general fund revenues.

Alternatively, if the protest action is decided in favor of the taxpayer, and the county has expended the protested funds without allowing any interest to accrue, then the state would be responsible for repaying interest out of the general fund, which would decrease general fund revenues. The net effect of these two actions is not known.

No impact is anticipated on Department of Revenue administrative expenditures.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Counties that currently have a large portion of their taxable valuation associated with protested tax property would be able to exclude that property from the tax base, increase the number of mills applied to the remaining property, and increase the amount of property tax revenue available to fund current operations.

Ray Shackleford 1/19/89  
RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

Tom Beck 1/20/89  
TOM BECK, PRIMARY SPONSOR DATE

Fiscal Note for SB118, Introduced

SB 118



TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The proposal provides that exclusion of the taxable value of property under a property tax protest or appeal constitutes a decrease in taxable valuation for the purpose of complying with the provisions of I-105, and SB71 passed during the 1987 legislative session. However, the proposal does not explicitly provide for a continuance of this exclusion vis-a-vis the state attorney general's opinion regarding subsequent 5% decreases in taxable valuation in each succeeding year. Given current law, this proposal does not clarify that the taxable value decrease stemming from protested tax property has continuing force.

**SB 118**

APPROVED BY COMMITTEE  
ON TAXATION

## SENATE BILL NO. 118

INTRODUCED BY BECK, RAPP-SVRCEK, CAMPBELL, MARKS, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO PROPERTY UNDER A TAX PROTEST OR APPEAL PROCEEDING; ~~ALLOWING--A--TAXING-UNIT--TO--EXCLUDE--THE--TAXABLE VALUE--OF--PROPERTY--SUBJECT--TO--A--TAX--PROTEST--IN--FIXING--LEVIES; MAKING--INTEREST--ON--PROTESTED--TAXES--A--STATE--RESPONSIBILITY; ALLOWING FOR--BOND--ISSUES~~ THE GOVERNING BODY OF A COUNTY, CITY, OR SCHOOL DISTRICT TO ISSUE BONDS WITHOUT AN ELECTION TO REPAY LOST TAX PROTESTS; EXCLUDING TAX PROTEST REPAYMENT BONDS FROM THE LIMITATIONS ON THE AMOUNT OF BONDED INDEBTEDNESS; EXCLUDING FROM LIMITATION TO 1986 LEVELS THOSE TAXES LEVIED TO REPAY TAXES PAID UNDER PROTEST; AMENDING SECTIONS 2-9-316, 7-6-2321, 7-6-4232, 7-7-2202, 7-7-2203, 7-7-2221, 7-7-4101, 7-7-4201, 7-7-4221, 15-1-402, 15-10-202, 15-10-412, 20-9-142, 20-9-403, 20-9-406, AND 20-9-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** ~~Section 7-6-2321, MCA, is amended to read:~~

~~"7-6-2321. Fixing of tax levy. (1) On the second Monday in August and after the approval and adoption of the final budget, the board of county commissioners shall fix~~

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

~~(2) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the county's taxable valuation if the taxable value of all of the property under protest or appeal exceeds 5% of the county's total taxable valuation.~~

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

**Section 2.** ~~Section 7-6-4232, MCA, is amended to read:~~

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

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

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

(3) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the city's taxable valuation if the taxable value of all of the property under protest or appeal exceeds 5% of the city's total taxable valuation.

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

**Section 3.** Section 20-9-142, MCA, is amended to read:

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

(2) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the district's taxable valuation upon notification to the board of county commissioners by the school district trustees if the taxable value of all of the property under protest or appeal exceeds 5% of the district's total taxable valuation."

**Section 4.** Section 15-10-202, MCA, is amended to read:

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

1 the jurisdiction of the taxing authority. The department  
 2 shall also send to each taxing authority a written statement  
 3 of its best estimate of the total assessed value of all new  
 4 construction and improvements not included on the previous  
 5 assessment roll and the value of deletions from the previous  
 6 assessment roll. Exclusive of such new construction,  
 7 improvements, and deletions and of the taxable value of  
 8 property that is the subject of a protest or appeal in  
 9 accordance with 7-6-2321, 7-6-4232, or 28-9-142, the  
 10 department shall certify to each taxing authority a millage  
 11 rate which will provide the same ad valorem revenue for each  
 12 taxing authority as was levied during the prior year. For  
 13 the purpose of calculating the certified millage, the  
 14 department shall use 95% of the taxable value appearing on  
 15 the roll, exclusive of properties appearing for the first  
 16 time on the assessment roll.

17 (2) A taxing authority shall inform the department and  
 18 the board of county commissioners in writing on or before  
 19 July 15 if it wishes to exclude the taxable value of  
 20 property subject to a tax appeal or tax protest from its  
 21 taxable valuation pursuant to 7-6-2321, 7-6-4232, or  
 22 28-9-142."

23 **Section 1.** Section 15-1-402, MCA, is amended to read:  
 24 "15-1-402. Payment of taxes under protest -- action to  
 25 recover. (1) The person upon whom a tax or license fee is

1 being imposed may proceed under 15-1-406 or may, before the  
 2 tax or license fee becomes delinquent, pay under written  
 3 protest that portion of the tax or license fee protested.

4 The payment must:

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

7 (b) specify the grounds of protest; and

8 (c) not exceed the difference between the payment for  
 9 the immediately preceding tax year and the amount owing in  
 10 the tax year protested unless a different amount results  
 11 from the specified grounds of protest, which grounds may  
 12 include but are not limited to changes in assessment due to  
 13 reappraisal under 15-7-111.

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

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

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

(5) ~~When-any~~ If a protested tax or license fee is payable in installments, ~~then-any a~~ subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover ~~the--same--but~~ the subsequent installment. ~~The~~ determination of the action or suit commenced to recover the first installment portion paid under protest ~~shall-determine~~ determines the right of the party paying such subsequent installment to have the same or any part thereof refunded to him or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

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

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

(7) The governing board of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

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

1 for the costs of administration of the protest fund, and AND  
 2 related expenses charged the local government units, and the  
 3 ~~interest-earned-on-the-protested-funds-or-income-derived~~  
 4 ~~from-their-investment-that-must-be-deposited-to-the-credit~~  
 5 ~~of-the-state-general-fund.~~

6 (b) If such action is finally determined adversely to  
 7 a county or municipality or the treasurer thereof, then the  
 8 treasurer shall, upon receiving a certified copy of the  
 9 final judgment in said action from the state tax appeal  
 10 board, or from the district or supreme court, as  
 11 appropriate, if the final action of the state tax appeal  
 12 board is appealed in the time prescribed, refund to the  
 13 person in whose favor such judgment is rendered the amount  
 14 of such protested portions of the tax or license fee  
 15 deposited in the protest fund, and not released pursuant to  
 16 subsection (7), as the person holding such judgment is  
 17 entitled to recover, together with interest thereon at the  
 18 ~~rate-of-6-a-year~~ from the date of payment under protest, at  
 19 the greater of:

20 (i) the rate of interest generated from the pooled  
 21 investment fund provided for in 17-6-203 for the applicable  
 22 period; or

23 (ii) 6% a year.

24 (c) If the amount retained in the protest fund is  
 25 insufficient to pay all sums due the taxpayer, the treasurer

1 shall apply the available amount first to tax repayment,  
 2 ~~then-interest-owed, THEN INTEREST OWED,~~ and ~~lastly then~~  
 3 LASTLY to costs.

4 {c}(d) If the protest action is decided adversely to a  
 5 taxing jurisdiction and the amount retained in the protest  
 6 fund is insufficient to refund the tax payments, interest,  
 7 and costs to which the taxpayer is entitled and for which  
 8 local government units are responsible, the treasurer shall  
 9 bill and the taxing jurisdiction shall refund to the  
 10 treasurer that portion of the taxpayer refund, including tax  
 11 payments, interest, and costs, for which the taxing  
 12 jurisdiction is proratably responsible. ~~The interest-earned~~  
 13 ~~on-the-protested-funds-released-in-accordance-with~~  
 14 ~~subsection-(7)-must-be-refunded-to-the-taxpayer-by-the~~  
 15 ~~state.~~

16 {d}(e) In satisfying the requirements of subsection  
 17 {b}(c) (8)(d), the taxing jurisdiction is allowed not more  
 18 than 1 year from the beginning of the fiscal year following  
 19 a final resolution of the protest. The taxpayer is entitled  
 20 to interest on the unpaid balance at the ~~rate-of-6-a-year~~  
 21 greater of the rates referred to in subsections (8)(b)(i)  
 22 and (8)(b)(ii) from the date of payment under protest until  
 23 the date of final resolution of the protest and at the  
 24 combined rate of the federal reserve discount rate quoted  
 25 from the federal reserve bank in New York, New York, on the

1 date of final resolution, plus four percentage points, from  
2 the date of final resolution of the protest until refund is  
3 made.

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

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

9 (b) the general fund, except that amount generated by  
10 the all-purpose mill levy, or any other funds legally  
11 available to the governing body; and

12 (c) proceeds from the sale of bonds issued by a  
13 county, city, or school district for the purpose of deriving  
14 revenue for the repayment of tax protests lost by the taxing  
15 jurisdiction. The governing body of a county, city, or  
16 school district is hereby authorized to issue such bonds  
17 pursuant to procedures established by law. The bonds may be  
18 issued without being submitted to an election. Property  
19 taxes may be levied to amortize such the bonds, ~~provided the~~  
20 ~~levy--for--payment--of--any--such--bonds--may--not--exceed--in--the~~  
21 ~~aggregate--10--mills--annually."~~

22 **Section 2.** Section 15-10-412, MCA, is amended to read:

23 "15-10-412. (Temporary) Property tax limited to 1986  
24 levels -- clarification -- extension to all property  
25 classes. Section 15-10-402 is interpreted and clarified as

1 follows:

2 (1) The limitation to 1986 levels is extended to apply  
3 to all classes of property described in Title 15, chapter 6,  
4 part 1.

5 (2) The limitation on the amount of taxes levied is  
6 interpreted to mean that the actual tax liability for an  
7 individual property is capped at the dollar amount due in  
8 each taxing unit for the 1986 tax year. In tax years  
9 thereafter, the property must be taxed in each taxing unit  
10 at the 1986 cap or the product of the taxable value and  
11 mills levied, whichever is less for each taxing unit.

12 (3) The limitation on the amount of taxes levied does  
13 not mean that no further increase may be made in the total  
14 taxable valuation of a taxing unit as a result of:

15 (a) annexation of real property and improvements into  
16 a taxing unit;

17 (b) construction, expansion, or remodeling of  
18 improvements;

19 (c) transfer of property into a taxing unit;

20 (d) subdivision of real property;

21 (e) reclassification of property;

22 (f) increases in the amount of production or the value  
23 of production for property described in 15-6-131 or  
24 15-6-132;

25 (g) transfer of property from tax-exempt to taxable

1 status; or

2 (h) revaluations caused by:

3 (i) cyclical reappraisal; or

4 (ii) expansion, addition, replacement, or remodeling of  
5 improvements.

6 (4) The limitation on the amount of taxes levied does  
7 not mean that no further increase may be made in the taxable  
8 valuation or in the actual tax liability on individual  
9 property in each class as a result of:

10 (a) construction, expansion, replacement, or  
11 remodeling of improvements that adds value to the property;

12 (b) transfer of property into a taxing unit;

13 (c) reclassification of property;

14 (d) increases in the amount of production or the value  
15 of production for property described in 15-6-131 or  
16 15-6-132;

17 (e) annexation of the individual property into a new  
18 taxing unit; or

19 (f) conversion of the individual property from  
20 tax-exempt to taxable status.

21 (5) Property in classes four, twelve, and fourteen is  
22 valued according to the procedures used in 1986, including  
23 the designation of 1982 as the base year, until the  
24 reappraisal cycle beginning January 1, 1986, is completed  
25 and new valuations are placed on the tax rolls and a new

1 base year designated, if the property is:

2 (a) new construction;

3 (b) expanded, deleted, replaced, or remodeled  
4 improvements;

5 (c) annexed property; or

6 (d) property converted from tax-exempt to taxable  
7 status.

8 (6) Property described in subsections (5)(a) through  
9 (5)(d) that is not class four, class twelve, or class  
10 fourteen property is valued according to the procedures used  
11 in 1986 but is also subject to the dollar cap in each taxing  
12 unit based on 1986 mills levied.

13 (7) The limitation on the amount of taxes, as  
14 clarified in this section, is intended to leave the property  
15 appraisal and valuation methodology of the department of  
16 revenue intact. Determinations of county classifications,  
17 salaries of local government officers, and all other matters  
18 in which total taxable valuation is an integral component  
19 are not affected by 15-10-401 and 15-10-402 except for the  
20 use of taxable valuation in fixing tax levies. In fixing tax  
21 levies, the taxing units of local government may anticipate  
22 the deficiency in revenues resulting from the tax  
23 limitations in 15-10-401 and 15-10-402, while understanding  
24 that regardless of the amount of mills levied, a taxpayer's  
25 liability may not exceed the dollar amount due in each



taxing unit for the 1986 tax year unless the taxing unit's taxable valuation decreases by 5% or more from the previous tax year. If a taxing unit's taxable valuation decreases by 5% or more from the previous tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit. Excision-of-the-taxable-value-of-property-under-a-property-tax-protest-or-appeal-from-a-taxing-unit's-taxable-value-under--7-6-2321, 7-6-4232,--or--20-9-142--constitutes-a-decrease-in-taxable-valuation-for-purposes-of-this-subsection:

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

- (a) rural improvement districts;
- (b) special improvement districts;
- (c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;
- (d) city street maintenance districts;
- (e) tax increment financing districts;
- (f) satisfaction of judgments against a taxing unit;
- (g) electric company street lighting assessments; and
- (h) revolving funds to support any categories

specified in this subsection (8).

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

(a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

(10) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(11) The limitation on the amount of taxes levied does

1 not apply to a levy increase to repay taxes paid under  
 2 protest in accordance with 15-1-402. (Terminates December  
 3 31, 1989--sec. 6, Ch. 654, L. 1987.)"

4 **Section 3.** Section 2-9-316, MCA, is amended to read:

5 "2-9-316. Judgments against governmental entities  
 6 except state. A Except as provided in 15-1-402, a political  
 7 subdivision of the state shall satisfy a final judgment out  
 8 of funds that may be available from the following sources:

9 (1) insurance;

10 (2) the general fund or any other funds legally  
 11 available to the governing body;

12 (3) a property tax, otherwise properly authorized by  
 13 law, collected by a special levy authorized by law, in an  
 14 amount necessary to pay any unpaid portion of the judgment,  
 15 except that such levy may not exceed 10 mills;

16 (4) proceeds from the sale of bonds issued by a  
 17 county, city, or school district for the purpose of deriving  
 18 revenue for the payment of the judgment liability. The  
 19 governing body of a county, city, or school district is  
 20 hereby authorized to issue such bonds pursuant to procedures  
 21 established by law. Property taxes may be levied to amortize  
 22 such bonds, provided the levy for payment of any such bonds  
 23 or judgments may not exceed, in the aggregate, 10 mills  
 24 annually."

25 **Section 4.** Section 7-7-2202, MCA, is amended to read:

1 "7-7-2202. Authority to issue general obligation bonds  
 2 to satisfy judgments. (1) The board of county commissioners  
 3 of every county of the state is hereby vested with the power  
 4 and authority to issue, negotiate, and sell coupon bonds on  
 5 the credit of the county, as more specifically provided in  
 6 this part, for the purpose of funding, paying in full, or  
 7 compromising, settling, and satisfying any judgment which  
 8 may have been rendered against the county in a court of  
 9 competent jurisdiction, including the repayment of tax  
 10 protests lost by the county, when:

11 (a) there are not sufficient funds available to pay  
 12 such judgment; and

13 (b) sufficient money cannot be raised to satisfy such  
 14 judgment by an annual tax levy of 10 mills levied on all the  
 15 taxable property within the county through a period of 3  
 16 years.

17 (2) The resolution providing for the issue of such  
 18 bonds must recite the facts concerning the judgment to be  
 19 funded and the terms of any compromise agreement which may  
 20 have been entered into between the board and the judgment  
 21 creditor."

22 **Section 5.** Section 7-7-2221, MCA, is amended to read:

23 "7-7-2221. Issuance of certain general obligation  
 24 bonds without election. Bonds may be issued without  
 25 submitting the same to an election if the bonds are issued

1 for the purpose of:

2 (1) enabling a county to liquidate its indebtedness to  
3 another county incident to the creation of a new county or  
4 the changing of a county boundary line, as set forth in  
5 7-7-2201(5); and

6 (2) funding, paying in full, or compromising,  
7 settling, and satisfying any judgment which may have been  
8 rendered against the county in a court of competent  
9 jurisdiction, as set forth in 7-7-2202 and 15-1-402."

10 **Section 6.** Section 7-7-4101, MCA, is amended to read:

11 "7-7-4101. Purposes for which indebtedness may be  
12 incurred. The city or town council has power to contract an  
13 indebtedness on behalf of a city or town, upon the credit  
14 thereof, by borrowing money or issuing bonds for the  
15 following purposes:

16 (1) erection of public buildings;

17 (2) construction of sewers, sewage treatment and  
18 disposal plants, waterworks, reservoirs, reservoir sites,  
19 and lighting plants;

20 (3) supplying the city or town with water by contract  
21 and the construction or purchase of canals or ditches and  
22 water rights for supplying the city or town with water;

23 (4) construction of bridges, docks, wharves,  
24 breakwaters, piers, jetties, and moles;

25 (5) to acquire, open, and/or widen any street and to

1 improve the same by constructing, reconstructing, and  
2 repairing pavement, gutters, curbs, and vehicle parking  
3 strips and to pay all or any portion of the cost thereof;

4 (6) the purchase of fire apparatus and street and  
5 other equipment;

6 (7) building, purchasing, constructing, and  
7 maintaining devices intended to protect the safety of the  
8 public from open ditches carrying irrigation or other water;  
9 and

10 (8) the funding of outstanding warrants and maturing  
11 bonds; and

12 (9) the repayment of tax protests lost by the city,  
13 town, or other municipal corporation."

14 **Section 7.** Section 7-7-4221, MCA, is amended to read:

15 "7-7-4221. Election on question of incurring  
16 indebtedness -- exception. (1) Except as provided in  
17 subsection (2) and 15-1-402, whenever the governing body of  
18 any municipality considers it necessary to issue bonds  
19 pledging the general credit of the municipality for any  
20 purpose authorized by law, the question of issuing the bonds  
21 shall first be submitted to the registered electors of the  
22 city or town.

23 (2) It is not necessary to submit to the electors the  
24 question of issuing refunding bonds to refund bonds issued  
25 and outstanding or the question of issuing revenue bonds not

pledging the general credit of the municipality under any laws of this state."

**Section 8.** Section 20-9-403, MCA, is amended to read:

"20-9-403. Bond issues for certain purposes. (1) The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, and/or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of said buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

(e) funding a judgment against the district, including the repayment of tax protests lost by the district.

(2) Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent

that the 9th grade of the high school is served thereby."

**Section 9.** Section 20-9-421, MCA, is amended to read:

"20-9-421. Election to authorize the issuance of school district bonds and the methods of introduction. A school district shall not issue bonds for any purpose other than that provided in 15-1-402 and 20-9-412 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of 20-20-201 when:

(1) the trustees, of their own volition, adopt a resolution to that effect; or

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition and which has been validated under the provisions of 20-9-425."

**Section 10.** 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% of the total of the taxable value of the property therein, plus the amount of interim

1 production and new production taxes levied divided by the  
2 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
3 and multiplied by 60%, plus the amount of value represented  
4 by new production exempted from tax as provided in  
5 15-23-612, to be ascertained by the last assessment for  
6 state and county taxes prior to the proposed issuance of  
7 bonds.

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

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

1 (4) The limitation in subsection (1) ~~shall~~ does not  
2 apply to refunding bonds issued for the purpose of paying or  
3 retiring county bonds lawfully issued prior to January 1,  
4 1932, or to bonds issued for the repayment of tax protests  
5 lost by the county."

6 **Section 11.** Section 7-7-4201, MCA, is amended to read:

7 "7-7-4201. Limitation on amount of bonded  
8 indebtedness. (1) Except as otherwise provided, no city or  
9 town may issue bonds or incur other indebtedness for any  
10 purpose in an amount which with all outstanding and unpaid  
11 indebtedness will exceed 28% of the taxable value of the  
12 property therein subject to taxation, to be ascertained by  
13 the last assessment for state and county taxes.

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

18 (3) The limitation in subsection (1) does not apply to  
19 bonds issued for the repayment of tax protests lost by the  
20 city or town."

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

22 "20-9-406. Limitations on amount of bond issue. (1)  
23 The maximum amount for which each school district may become  
24 indebted by the issuance of bonds, including all  
25 indebtedness represented by outstanding bonds of previous

1 issues and registered warrants, is 45% of the taxable value  
 2 of the property subject to taxation as ascertained by the  
 3 last completed assessment for state, county, and school  
 4 taxes previous to the incurring of such indebtedness. The  
 5 45% maximum, however, may not pertain to indebtedness  
 6 imposed by special improvement district obligations or  
 7 assessments against the school district or to bonds issued  
 8 for the repayment of tax protests lost by the district. All  
 9 bonds issued in excess of such amount shall be null and  
 10 void, except as provided in this section.

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

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

22 NEW SECTION. **Section 13.** Extension of authority. Any  
 23 existing authority to make rules on the subject of the  
 24 provisions of [this act] is extended to the provisions of  
 25 [this act].

1 NEW SECTION. **Section 14.** Effective date --  
 2 retroactive applicability. [This act] is effective on  
 3 passage and approval and applies retroactively, within the  
 4 meaning of 1-2-109, to any tax appeal or tax paid under  
 5 protest after December 31, 1983.

-End-

## SENATE BILL NO. 118

INTRODUCED BY BECK, RAPP-SVRCEK, CAMPBELL, MARKS, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO PROPERTY UNDER A TAX PROTEST OR APPEAL PROCEEDING; ~~ALLOWING--A--TAKING-UNIT-TO-EXCLUDE-THE-TAXABLE VALUE-OF-PROPERTY-SUBJECT-TO-A-TAX-PROTEST-IN-FIXING-LEVIES; MAKING-INTEREST-ON-PROTESTED-TAXES-A--STATE--RESPONSIBILITY;~~ ALLOWING FOR ~~BOND--ISSUES~~ THE GOVERNING BODY OF A COUNTY, CITY, OR SCHOOL DISTRICT TO ISSUE BONDS WITHOUT AN ELECTION TO REPAY LOST TAX PROTESTS; EXCLUDING TAX PROTEST REPAYMENT BONDS FROM THE LIMITATIONS ON THE AMOUNT OF BONDED INDEBTEDNESS; EXCLUDING FROM LIMITATION TO 1986 LEVELS THOSE TAXES LEVIED TO REPAY TAXES PAID UNDER PROTEST; AMENDING SECTIONS 2-9-316, 7-6-2321, 7-6-4232, 7-7-2202, 7-7-2203, 7-7-2221, 7-7-4101, 7-7-4201, 7-7-4221, 15-1-402, 15-10-202, 15-10-412, 20-9-142, 20-9-403, 20-9-406, AND 20-9-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** ~~Section 7-6-2321, MCA, is amended to read:~~

~~"7-6-2321.--Fixing-of-tax--levy.--(1)--On--the--second Monday--in--August--and--after--the--approval--and--adoption--of--the final--budget,--the--board--of--county--commissioners--shall--fix~~

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

~~(2)--The--taxable--value--of--property--that--is--the--subject of--a--property--tax--protest--or--appeal--as--of--the--first--Monday in--August--may--be--excluded--from--the--county's--taxable valuation--if--the--taxable--value--of--all--of--the--property--under protest--or--appeal--exceeds--5%--of--the--county's--total--taxable valuation.~~

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

**Section 2.** ~~Section 7-6-4232, MCA, is amended to read:~~

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

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

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

19 (3) The taxable value of property that is the subject  
 20 of a property tax protest or appeal as of the first Monday  
 21 in August may be excluded from the city's taxable valuation  
 22 if the taxable value of all of the property under protest or  
 23 appeal exceeds 5% of the city's total taxable valuation;

24 (3)(4) Each levy shall be made in the manner provided  
 25 by 15-10-201."

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

14 (2) The taxable value of property that is the subject  
 15 of a property tax protest or appeal as of the first Monday  
 16 in August may be excluded from the district's taxable  
 17 valuation upon notification to the board of county  
 18 commissioners by the school district trustees if the taxable  
 19 value of all of the property under protest or appeal exceeds  
 20 5% of the district's total taxable valuation."

21 **Section 4.** Section 15-10-202, MCA, is amended to read:  
 22 "15-10-202. Certification of taxable values and  
 23 millage rates. (1) At the time that the assessment roll is  
 24 prepared and published, the department of revenue shall  
 25 certify to each taxing authority the taxable value within



the-jurisdiction-of-the-taxing-authority.--The--department  
 shall-also-send-to-each-taxing-authority-a-written-statement  
 of--its-best-estimate-of-the-total-assessed-value-of-all-new  
 construction-and-improvements-not-included-on-the--previous  
 assessment-roll-and-the-value-of-deletions-from-the-previous  
 assessment---roll;---Exclusive--of--such--new--construction,  
 improvements, and deletions and of the taxable value of  
 property--that--is--the--subject--of--a--protest--or--appeal--in  
 accordance--with--7-6-2321,--7-6-4232,--or--20-9-142,---the  
 department--shall--certify--to--each--taxing--authority--a--millage  
 rate--which--will--provide--the--same--ad-valorem--revenue--for--each  
 taxing-authority--as--was--levied--during--the--prior--year.--For  
 the--purpose--of--calculating--the--certified--millage,--the  
 department--shall--use--95%--of--the--taxable--value--appearing--on  
 the--roll,--exclusive--of--properties--appearing--for--the--first  
 time--on--the--assessment--roll;

{2}--A--taxing--authority--shall--inform--the--department--and  
the--board--of--county--commissioners--in--writing--on--or--before  
July--15--if--it--wishes--to--exclude--the--taxable--value--of  
property--subject--to--a--tax--appeal--or--tax--protest--from--its  
taxable---valuation---pursuant--to--7-6-2321,--7-6-4232,--or  
20-9-142."

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

"15-1-402. Payment of taxes under protest -- action to  
 recover. (1) The person upon whom a tax or license fee is

being imposed may proceed under 15-1-406 or may, before the  
 tax or license fee becomes delinquent, pay under written  
 protest that portion of the tax or license fee protested.

The payment must:

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

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for  
 the immediately preceding tax year and the amount owing in  
 the tax year protested unless a different amount results  
 from the specified grounds of protest, which grounds may  
 include but are not limited to changes in assessment due to  
 reappraisal under 15-7-111.

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

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

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

(5) ~~When-any~~ If a protested tax or license fee is payable in installments, ~~then-any~~ a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover ~~the--same--but~~ the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest ~~shall-determine~~ determines the right of the party paying such subsequent installment to have the same or any part thereof refunded to him or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

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

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

(7) The governing board of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

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

1 for the costs of administration of the protest fund, ~~and AND~~  
 2 related expenses charged the local government units, ~~and the~~  
 3 ~~interest earned on the protested funds or income derived~~  
 4 ~~from their investment that must be deposited to the credit~~  
 5 ~~of the state general fund.~~

6 (b) If such action is finally determined adversely to  
 7 a county or municipality or the treasurer thereof, then the  
 8 treasurer shall, upon receiving a certified copy of the  
 9 final judgment in said action from the state tax appeal  
 10 board, or from the district or supreme court, as  
 11 appropriate, if the final action of the state tax appeal  
 12 board is appealed in the time prescribed, refund to the  
 13 person in whose favor such judgment is rendered the amount  
 14 of such protested portions of the tax or license fee  
 15 deposited in the protest fund, and not released pursuant to  
 16 subsection (7), as the person holding such judgment is  
 17 entitled to recover, together with interest thereon ~~at the~~  
 18 ~~rate of 6% a year~~ from the date of payment under protest, at  
 19 the greater of:

20 (i) the rate of interest generated from the pooled  
 21 investment fund provided for in 17-6-203 for the applicable  
 22 period; or

23 (ii) 6% a year.

24 (c) If the amount retained in the protest fund is  
 25 insufficient to pay all sums due the taxpayer, the treasurer

1 shall apply the available amount first to tax repayment, ~~and~~  
 2 ~~then interest owed, THEN INTEREST OWED,~~ and ~~lastly then~~  
 3 LASTLY to costs.

4 (c)(d) If the protest action is decided adversely to a  
 5 taxing jurisdiction and the amount retained in the protest  
 6 fund is insufficient to refund the tax payments, ~~interest,~~  
 7 and costs to which the taxpayer is entitled and for which  
 8 local government units are responsible, the treasurer shall  
 9 bill and the taxing jurisdiction shall refund to the  
 10 treasurer that portion of the taxpayer refund, including tax  
 11 payments, ~~interest,~~ and costs, for which the taxing  
 12 jurisdiction is proratably responsible. ~~The interest earned~~  
 13 ~~on the protested funds released in accordance with~~  
 14 ~~subsection (7) must be refunded to the taxpayer by the~~  
 15 ~~state.~~

16 (d)(e) In satisfying the requirements of subsection  
 17 (8)(c) (8)(d), the taxing jurisdiction is allowed not more  
 18 than 1 year from the beginning of the fiscal year following  
 19 a final resolution of the protest. The taxpayer is entitled  
 20 to interest on the unpaid balance at the ~~rate of 6% a year~~  
 21 greater of the rates referred to in subsections (8)(b)(i)  
 22 and (8)(b)(ii) from the date of payment under protest until  
 23 the date of final resolution of the protest and at the  
 24 combined rate of the federal reserve discount rate quoted  
 25 from the federal reserve bank in New York, New York, on the

1 date of final resolution, plus four percentage points, from  
2 the date of final resolution of the protest until refund is  
3 made.

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

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

9 (b) the general fund, except that amount generated by  
10 the all-purpose mill levy, or any other funds legally  
11 available to the governing body; and

12 (c) proceeds from the sale of bonds issued by a  
13 county, city, or school district for the purpose of deriving  
14 revenue for the repayment of tax protests lost by the taxing  
15 jurisdiction. The governing body of a county, city, or  
16 school district is hereby authorized to issue such bonds  
17 pursuant to procedures established by law. The bonds may be  
18 issued without being submitted to an election. Property  
19 taxes may be levied to amortize such the bonds, ~~provided the~~  
20 ~~levy--for--payment--of--any--such--bonds--may--not--exceed--in--the~~  
21 ~~aggregate--10--mills--annually."~~

22 **Section 2.** Section 15-10-412, MCA, is amended to read:

23 "15-10-412. (Temporary) Property tax limited to 1986  
24 levels -- clarification -- extension to all property  
25 classes. Section 15-10-402 is interpreted and clarified as

1 follows:

2 (1) The limitation to 1986 levels is extended to apply  
3 to all classes of property described in Title 15, chapter 6,  
4 part 1.

5 (2) The limitation on the amount of taxes levied is  
6 interpreted to mean that the actual tax liability for an  
7 individual property is capped at the dollar amount due in  
8 each taxing unit for the 1986 tax year. In tax years  
9 thereafter, the property must be taxed in each taxing unit  
10 at the 1986 cap or the product of the taxable value and  
11 mills levied, whichever is less for each taxing unit.

12 (3) The limitation on the amount of taxes levied does  
13 not mean that no further increase may be made in the total  
14 taxable valuation of a taxing unit as a result of:

15 (a) annexation of real property and improvements into  
16 a taxing unit;

17 (b) construction, expansion, or remodeling of  
18 improvements;

19 (c) transfer of property into a taxing unit;

20 (d) subdivision of real property;

21 (e) reclassification of property;

22 (f) increases in the amount of production or the value  
23 of production for property described in 15-6-131 or  
24 15-6-132;

25 (g) transfer of property from tax-exempt to taxable

1 status; or

2 (h) revaluations caused by:

3 (i) cyclical reappraisal; or

4 (ii) expansion, addition, replacement, or remodeling of  
5 improvements.

6 (4) The limitation on the amount of taxes levied does  
7 not mean that no further increase may be made in the taxable  
8 valuation or in the actual tax liability on individual  
9 property in each class as a result of:

10 (a) construction, expansion, replacement, or  
11 remodeling of improvements that adds value to the property;

12 (b) transfer of property into a taxing unit;

13 (c) reclassification of property;

14 (d) increases in the amount of production or the value  
15 of production for property described in 15-6-131 or  
16 15-6-132;

17 (e) annexation of the individual property into a new  
18 taxing unit; or

19 (f) conversion of the individual property from  
20 tax-exempt to taxable status.

21 (5) Property in classes four, twelve, and fourteen is  
22 valued according to the procedures used in 1986, including  
23 the designation of 1982 as the base year, until the  
24 reappraisal cycle beginning January 1, 1986, is completed  
25 and new valuations are placed on the tax rolls and a new

1 base year designated, if the property is:

2 (a) new construction;

3 (b) expanded, deleted, replaced, or remodeled  
4 improvements;

5 (c) annexed property; or

6 (d) property converted from tax-exempt to taxable  
7 status.

8 (6) Property described in subsections (5)(a) through  
9 (5)(d) that is not class four, class twelve, or class  
10 fourteen property is valued according to the procedures used  
11 in 1986 but is also subject to the dollar cap in each taxing  
12 unit based on 1986 mills levied.

13 (7) The limitation on the amount of taxes, as  
14 clarified in this section, is intended to leave the property  
15 appraisal and valuation methodology of the department of  
16 revenue intact. Determinations of county classifications,  
17 salaries of local government officers, and all other matters  
18 in which total taxable valuation is an integral component  
19 are not affected by 15-10-401 and 15-10-402 except for the  
20 use of taxable valuation in fixing tax levies. In fixing tax  
21 levies, the taxing units of local government may anticipate  
22 the deficiency in revenues resulting from the tax  
23 limitations in 15-10-401 and 15-10-402, while understanding  
24 that regardless of the amount of mills levied, a taxpayer's  
25 liability may not exceed the dollar amount due in each

1 taxing unit for the 1986 tax year unless the taxing unit's  
 2 taxable valuation decreases by 5% or more from the previous  
 3 tax year. If a taxing unit's taxable valuation decreases by  
 4 5% or more from the previous tax year, it may levy  
 5 additional mills to compensate for the decreased taxable  
 6 valuation, but in no case may the mills levied exceed a  
 7 number calculated to equal the revenue from property taxes  
 8 for the 1986 tax year in that taxing unit. Exclusion-of--the  
 9 taxable--value--of--property-under-a-property-tax-protest-or  
 10 appeal-from-a-taxing-unit's-taxable--value--under--7-6-2321,  
 11 7-6-4232,--or--20-9-142--constitutes--a--decrease-in-taxable  
 12 valuation-for-purposes-of-this-subsection.

13 (8) The limitation on the amount of taxes levied does  
 14 not apply to the following levy or special assessment  
 15 categories, whether or not they are based on commitments  
 16 made before or after approval of 15-10-401 and 15-10-402:

- 17 (a) rural improvement districts;
- 18 (b) special improvement districts;
- 19 (c) levies pledged for the repayment of bonded
- 20 indebtedness, including tax increment bonds;
- 21 (d) city street maintenance districts;
- 22 (e) tax increment financing districts;
- 23 (f) satisfaction of judgments against a taxing unit;
- 24 (g) electric company street lighting assessments; and
- 25 (h) revolving funds to support any categories

1 specified in this subsection (8).

2 (9) The limitation on the amount of taxes levied does  
 3 not apply in a taxing unit if the voters in the taxing unit  
 4 approve an increase in tax liability following a resolution  
 5 of the governing body of the taxing unit containing:

6 (a) a finding that there are insufficient funds to  
 7 adequately operate the taxing unit as a result of 15-10-401  
 8 and 15-10-402;

9 (b) an explanation of the nature of the financial  
 10 emergency;

11 (c) an estimate of the amount of funding shortfall  
 12 expected by the taxing unit;

13 (d) a statement that applicable fund balances are or  
 14 by the end of the fiscal year will be depleted;

15 (e) a finding that there are no alternative sources of  
 16 revenue;

17 (f) a summary of the alternatives that the governing  
 18 body of the taxing unit has considered; and

19 (g) a statement of the need for the increased revenue  
 20 and how it will be used.

21 (10) The limitation on the amount of taxes levied does  
 22 not apply to levies required to address the funding of  
 23 relief of suffering of inhabitants caused by famine,  
 24 conflagration, or other public calamity.

25 (11) The limitation on the amount of taxes levied does

1 not apply to a levy increase to repay taxes paid under  
 2 protest in accordance with 15-1-402. (Terminates December  
 3 31, 1989--sec. 6, Ch. 654, L. 1987.)"

4 **Section 3.** Section 2-9-316, MCA, is amended to read:

5 "2-9-316. Judgments against governmental entities  
 6 except state. A Except as provided in 15-1-402, a political  
 7 subdivision of the state shall satisfy a final judgment out  
 8 of funds that may be available from the following sources:

9 (1) insurance;

10 (2) the general fund or any other funds legally  
 11 available to the governing body;

12 (3) a property tax, otherwise properly authorized by  
 13 law, collected by a special levy authorized by law, in an  
 14 amount necessary to pay any unpaid portion of the judgment,  
 15 except that such levy may not exceed 10 mills;

16 (4) proceeds from the sale of bonds issued by a  
 17 county, city, or school district for the purpose of deriving  
 18 revenue for the payment of the judgment liability. The  
 19 governing body of a county, city, or school district is  
 20 hereby authorized to issue such bonds pursuant to procedures  
 21 established by law. Property taxes may be levied to amortize  
 22 such bonds, provided the levy for payment of any such bonds  
 23 or judgments may not exceed, in the aggregate, 10 mills  
 24 annually."

25 **Section 4.** Section 7-7-2202, MCA, is amended to read:

1 "7-7-2202. Authority to issue general obligation bonds  
 2 to satisfy judgments. (1) The board of county commissioners  
 3 of every county of the state is hereby vested with the power  
 4 and authority to issue, negotiate, and sell coupon bonds on  
 5 the credit of the county, as more specifically provided in  
 6 this part, for the purpose of funding, paying in full, or  
 7 compromising, settling, and satisfying any judgment which  
 8 may have been rendered against the county in a court of  
 9 competent jurisdiction, including the repayment of tax  
 10 protests lost by the county, when:

11 (a) there are not sufficient funds available to pay  
 12 such judgment; and

13 (b) sufficient money cannot be raised to satisfy such  
 14 judgment by an annual tax levy of 10 mills levied on all the  
 15 taxable property within the county through a period of 3  
 16 years.

17 (2) The resolution providing for the issue of such  
 18 bonds must recite the facts concerning the judgment to be  
 19 funded and the terms of any compromise agreement which may  
 20 have been entered into between the board and the judgment  
 21 creditor."

22 **Section 5.** Section 7-7-2221, MCA, is amended to read:

23 "7-7-2221. Issuance of certain general obligation  
 24 bonds without election. Bonds may be issued without  
 25 submitting the same to an election if the bonds are issued

1 for the purpose of:

2 (1) enabling a county to liquidate its indebtedness to  
3 another county incident to the creation of a new county or  
4 the changing of a county boundary line, as set forth in  
5 7-7-2201(5); and

6 (2) funding, paying in full, or compromising,  
7 settling, and satisfying any judgment which may have been  
8 rendered against the county in a court of competent  
9 jurisdiction, as set forth in 7-7-2202 and 15-1-402."

10 **Section 6.** Section 7-7-4101, MCA, is amended to read:

11 "7-7-4101. Purposes for which indebtedness may be  
12 incurred. The city or town council has power to contract an  
13 indebtedness on behalf of a city or town, upon the credit  
14 thereof, by borrowing money or issuing bonds for the  
15 following purposes:

16 (1) erection of public buildings;

17 (2) construction of sewers, sewage treatment and  
18 disposal plants, waterworks, reservoirs, reservoir sites,  
19 and lighting plants;

20 (3) supplying the city or town with water by contract  
21 and the construction or purchase of canals or ditches and  
22 water rights for supplying the city or town with water;

23 (4) construction of bridges, docks, wharves,  
24 breakwaters, piers, jetties, and moles;

25 (5) to acquire, open, and/or widen any street and to

1 improve the same by constructing, reconstructing, and  
2 repairing pavement, gutters, curbs, and vehicle parking  
3 strips and to pay all or any portion of the cost thereof;

4 (6) the purchase of fire apparatus and street and  
5 other equipment;

6 (7) building, purchasing, constructing, and  
7 maintaining devices intended to protect the safety of the  
8 public from open ditches carrying irrigation or other water;  
9 and

10 (8) the funding of outstanding warrants and maturing  
11 bonds; and

12 (9) the repayment of tax protests lost by the city,  
13 town, or other municipal corporation."

14 **Section 7.** Section 7-7-4221, MCA, is amended to read:

15 "7-7-4221. Election on question of incurring  
16 indebtedness -- exception. (1) Except as provided in  
17 subsection (2) and 15-1-402, whenever the governing body of  
18 any municipality considers it necessary to issue bonds  
19 pledging the general credit of the municipality for any  
20 purpose authorized by law, the question of issuing the bonds  
21 shall first be submitted to the registered electors of the  
22 city or town.

23 (2) It is not necessary to submit to the electors the  
24 question of issuing refunding bonds to refund bonds issued  
25 and outstanding or the question of issuing revenue bonds not



1 pledging the general credit of the municipality under any  
2 laws of this state."

3 **Section 8.** Section 20-9-403, MCA, is amended to read:

4 "20-9-403. Bond issues for certain purposes. (1) The  
5 trustees of a school district may issue and negotiate bonds  
6 on the credit of the school district for the purpose of:

7 (a) building, altering, repairing, buying, furnishing,  
8 equipping, purchasing lands for, and/or obtaining a water  
9 supply for a school, teacherage, dormitory, gymnasium, other  
10 building, or combination of said buildings for school  
11 purposes;

12 (b) buying a school bus or buses;

13 (c) providing the necessary money to redeem matured  
14 bonds, maturing bonds, or coupons appurtenant to bonds when  
15 there is not sufficient money to redeem them;

16 (d) providing the necessary money to redeem optional  
17 or redeemable bonds when it is for the best interest of the  
18 school district to issue refunding bonds; or

19 (e) funding a judgment against the district, including  
20 the repayment of tax protests lost by the district.

21 (2) Any money realized from the sale of any bonds  
22 issued on the credit of a high school district shall not be  
23 used for any of the above purposes in an elementary school  
24 district, and such money may be used for any of the above  
25 purposes for a junior high school but only to the extent

1 that the 9th grade of the high school is served thereby."

2 **Section 9.** Section 20-9-421, MCA, is amended to read:

3 "20-9-421. Election to authorize the issuance of  
4 school district bonds and the methods of introduction. A  
5 school district shall not issue bonds for any purpose other  
6 than that provided in 15-1-402 and 20-9-412 unless the  
7 issuance of bonds has been authorized by the qualified  
8 electors of the school district at an election called for  
9 the purpose of considering a proposition to issue such  
10 bonds. A school district bond election shall be called by a  
11 resolution as prescribed under the provisions of 20-20-201  
12 when:

13 (1) the trustees, of their own volition, adopt a  
14 resolution to that effect; or

15 (2) the trustees have received a petition which asks  
16 that an election be held to consider a bond proposition and  
17 which has been validated under the provisions of 20-9-425."

18 **Section 10.** Section 7-7-2203, MCA, is amended to read:

19 "7-7-2203. Limitation on amount of bonded  
20 indebtedness. (1) Except as provided in subsections (2)  
21 through (4), no county may issue general obligation bonds  
22 for any purpose which, with all outstanding bonds and  
23 warrants except county high school bonds and emergency  
24 bonds, will exceed 11.25% of the total of the taxable value  
25 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% 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% of the taxable value of the property in the county subject to taxation.

(4) The limitation in subsection (1) ~~shall~~ does not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932, or to bonds issued for the repayment of tax protests lost by the county."

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

"7-7-4201. Limitation on amount of bonded indebtedness. (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any purpose in an amount which with all outstanding and unpaid indebtedness will exceed 28% 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.

(3) The limitation in subsection (1) does not apply to bonds issued for the repayment of tax protests lost by the city or town."

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

"20-9-406. Limitations on amount of bond issue. (1) The maximum amount for which each school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous

1 issues and registered warrants, is 45% of the taxable value  
 2 of the property subject to taxation as ascertained by the  
 3 last completed assessment for state, county, and school  
 4 taxes previous to the incurring of such indebtedness. The  
 5 45% maximum, however, may not pertain to indebtedness  
 6 imposed by special improvement district obligations or  
 7 assessments against the school district or to bonds issued  
 8 for the repayment of tax protests lost by the district. All  
 9 bonds issued in excess of such amount shall be null and  
 10 void, except as provided in this section.

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

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

22 NEW SECTION. Section 13. Extension of authority. Any  
 23 existing authority to make rules on the subject of the  
 24 provisions of [this act] is extended to the provisions of  
 25 [this act].

1 NEW SECTION. Section 14. Effective date --  
 2 retroactive applicability. [This act] is effective on  
 3 passage and approval and applies retroactively, within the  
 4 meaning of 1-2-109, to any tax appeal or tax paid under  
 5 protest after December 31, 1983.

-End-

## SENATE BILL NO. 118

INTRODUCED BY BECK, RAPP-SVRCEK, CAMPBELL, MARKS, STANG

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO PROPERTY UNDER A TAX PROTEST OR APPEAL PROCEEDING; ~~ALLOWING--A--TAKING--UNIT--TO--EXCLUDE--THE--TAXABLE--VALUE--OF--PROPERTY--SUBJECT--TO--A--TAX--PROTEST--IN--FIXING--LEVIES;~~ ~~MAKING--INTEREST--ON--PROTESTED--TAXES--A--STATE--RESPONSIBILITY;~~ ALLOWING ~~FOR--BOND--ISSUES~~ THE GOVERNING BODY OF A COUNTY, CITY, OR SCHOOL DISTRICT TO ISSUE BONDS WITHOUT AN ELECTION TO REPAY LOST TAX PROTESTS; EXCLUDING TAX PROTEST REPAYMENT BONDS FROM THE LIMITATIONS ON THE AMOUNT OF BONDED INDEBTEDNESS; EXCLUDING FROM LIMITATION TO 1986 LEVELS THOSE TAXES LEVIED TO REPAY TAXES PAID UNDER PROTEST; AMENDING SECTIONS 2-9-316, 7-6-2321, 7-6-4232, 7-7-2202, 7-7-2203, 7-7-2221, 7-7-4101, 7-7-4201, 7-7-4221, 15-1-402, 15-10-202, 15-10-412, 20-9-142, 20-9-403, 20-9-406, AND 20-9-421, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

~~Section 1. Section 7-6-2321, MCA, is amended to read:~~

~~"7-6-2321. Fixing of tax levy. (1) On the second Monday in August and after the approval and adoption of the final budget, the board of county commissioners shall fix~~

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

~~(2) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the county's taxable valuation if the taxable value of all of the property under protest or appeal exceeds 5% of the county's total taxable valuation.~~

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

~~Section 2. Section 7-6-4232, MCA, is amended to read:~~

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

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

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

(3) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the city's taxable valuation if the taxable value of all of the property under protest or appeal exceeds 5% of the city's total taxable valuation.

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

**Section 3.** Section 20-9-142, MCA, is amended to read:

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

(2) The taxable value of property that is the subject of a property tax protest or appeal as of the first Monday in August may be excluded from the district's taxable valuation upon notification to the board of county commissioners by the school district trustees if the taxable value of all of the property under protest or appeal exceeds 5% of the district's total taxable valuation."

**Section 4.** Section 15-10-202, MCA, is amended to read:

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

1 the-jurisdiction-of-the--taxing--authority.--The--department  
 2 shall-also-send-to-each-taxing-authority-a-written-statement  
 3 of--its-best-estimate-of-the-total-assessed-value-of-all-new  
 4 construction-and-improvements-not-included-on--the--previous  
 5 assessment-roll-and-the-value-of-deletions-from-the-previous  
 6 assessment---roll:---Exclusive--of--such--new--construction,  
 7 improvements, and deletions and of the taxable value of  
 8 property that is the subject of a protest or appeal in  
 9 accordance with 7-6-2321, 7-6-4232, or 20-9-142, the  
 10 department shall certify to each taxing authority a millage  
 11 rate which will provide the same ad valorem revenue for each  
 12 taxing authority as was levied during the prior year. For  
 13 the purpose of calculating the certified millage, the  
 14 department shall use 95% of the taxable value appearing on  
 15 the roll, exclusive of properties appearing for the first  
 16 time on the assessment roll.

17 (2) A taxing authority shall inform the department and  
 18 the board of county commissioners in writing on or before  
 19 July 15 if it wishes to exclude the taxable value of  
 20 property subject to a tax appeal or tax protest from its  
 21 taxable valuation pursuant to 7-6-2321, 7-6-4232, or  
 22 20-9-142."

23 **Section 1.** Section 15-1-402, MCA, is amended to read:  
 24 "15-1-402. Payment of taxes under protest -- action to  
 25 recover. (1) The person upon whom a tax or license fee is

1 being imposed may proceed under 15-1-406 or may, before the  
 2 tax or license fee becomes delinquent, pay under written  
 3 protest that portion of the tax or license fee protested.  
 4 The payment must:

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

7 (b) specify the grounds of protest; and

8 (c) not exceed the difference between the payment for  
 9 the immediately preceding tax year and the amount owing in  
 10 the tax year protested unless a different amount results  
 11 from the specified grounds of protest, which grounds may  
 12 include but are not limited to changes in assessment due to  
 13 reappraisal under 15-7-111.

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

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

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

(5) When-any If a protested tax or license fee is payable in installments, then-any a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover the--same--but the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest shall-determine determines the right of the party paying such subsequent installment to have the same or any part thereof refunded to him or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(6) All ~~portions of~~ taxes and license fees paid under protest to a county or municipality shall must be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and shall must be retained in such the protest fund until the final determination of any action or suit to recover the same unless released at the request of the county, municipality, or other local taxing jurisdiction pursuant to

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

(7) The governing board of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

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

1 for the costs of administration of the protest fund, and AND  
 2 related expenses charged the local government units, and the  
 3 interest earned on the protested funds or income derived  
 4 from their investment that must be deposited to the credit  
 5 of the state general fund.

6 (b) If such action is finally determined adversely to  
 7 a county or municipality or the treasurer thereof, then the  
 8 treasurer shall, upon receiving a certified copy of the  
 9 final judgment in said action from the state tax appeal  
 10 board, or from the district or supreme court, as  
 11 appropriate, if the final action of the state tax appeal  
 12 board is appealed in the time prescribed, refund to the  
 13 person in whose favor such judgment is rendered the amount  
 14 of such protested portions of the tax or license fee  
 15 deposited in the protest fund, and not released pursuant to  
 16 subsection (7), as the person holding such judgment is  
 17 entitled to recover, together with interest thereon at the  
 18 rate of 6% a year from the date of payment under protest, at  
 19 the greater of:

20 (i) the rate of interest generated from the pooled  
 21 investment fund provided for in 17-6-203 for the applicable  
 22 period; or

23 (ii) 6% a year.

24 (c) If the amount retained in the protest fund is  
 25 insufficient to pay all sums due the taxpayer, the treasurer

1 shall apply the available amount first to tax repayment, 1  
 2 then interest owed, THEN INTEREST OWED, and lastly then  
 3 LASTLY to costs.

4 (c)(d) If the protest action is decided adversely to a  
 5 taxing jurisdiction and the amount retained in the protest  
 6 fund is insufficient to refund the tax payments, interest,  
 7 and costs to which the taxpayer is entitled and for which  
 8 local government units are responsible, the treasurer shall  
 9 bill and the taxing jurisdiction shall refund to the  
 10 treasurer that portion of the taxpayer refund, including tax  
 11 payments, interest, and costs, for which the taxing  
 12 jurisdiction is proratably responsible. The interest earned  
 13 on the protested funds released in accordance with  
 14 subsection (7) must be refunded to the taxpayer by the  
 15 state.

16 (d)(e) In satisfying the requirements of subsection  
 17 (8)(c) (8)(d), the taxing jurisdiction is allowed not more  
 18 than 1 year from the beginning of the fiscal year following  
 19 a final resolution of the protest. The taxpayer is entitled  
 20 to interest on the unpaid balance at the rate of 6% a year  
 21 greater of the rates referred to in subsections (8)(b)(i)  
 22 and (8)(b)(ii) from the date of payment under protest until  
 23 the date of final resolution of the protest and at the  
 24 combined rate of the federal reserve discount rate quoted  
 25 from the federal reserve bank in New York, New York, on the



1 date of final resolution, plus four percentage points, from  
2 the date of final resolution of the protest until refund is  
3 made.

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

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

9 (b) the general fund, except that amount generated by  
10 the all-purpose mill levy, or any other funds legally  
11 available to the governing body; and

12 (c) proceeds from the sale of bonds issued by a  
13 county, city, or school district for the purpose of deriving  
14 revenue for the repayment of tax protests lost by the taxing  
15 jurisdiction. The governing body of a county, city, or  
16 school district is hereby authorized to issue such bonds  
17 pursuant to procedures established by law. The bonds may be  
18 issued without being submitted to an election. Property  
19 taxes may be levied to amortize such the bonds, provided the  
20 levy--for--payment--of--any--such--bonds--may--not--exceed--in--the  
21 aggregate, 10 mills annually."

22 Section 2. Section 15-10-412, MCA, is amended to read:

23 "15-10-412. (Temporary) Property tax limited to 1986  
24 levels -- clarification -- extension to all property  
25 classes. Section 15-10-402 is interpreted and clarified as

1 follows:

2 (1) The limitation to 1986 levels is extended to apply  
3 to all classes of property described in Title 15, chapter 6,  
4 part 1.

5 (2) The limitation on the amount of taxes levied is  
6 interpreted to mean that the actual tax liability for an  
7 individual property is capped at the dollar amount due in  
8 each taxing unit for the 1986 tax year. In tax years  
9 thereafter, the property must be taxed in each taxing unit  
10 at the 1986 cap or the product of the taxable value and  
11 mills levied, whichever is less for each taxing unit.

12 (3) The limitation on the amount of taxes levied does  
13 not mean that no further increase may be made in the total  
14 taxable valuation of a taxing unit as a result of:

15 (a) annexation of real property and improvements into  
16 a taxing unit;

17 (b) construction, expansion, or remodeling of  
18 improvements;

19 (c) transfer of property into a taxing unit;

20 (d) subdivision of real property;

21 (e) reclassification of property;

22 (f) increases in the amount of production or the value  
23 of production for property described in 15-6-131 or  
24 15-6-132;

25 (g) transfer of property from tax-exempt to taxable

1 status; or

2 (h) revaluations caused by:

3 (i) cyclical reappraisal; or

4 (ii) expansion, addition, replacement, or remodeling of  
5 improvements.

6 (4) The limitation on the amount of taxes levied does  
7 not mean that no further increase may be made in the taxable  
8 valuation or in the actual tax liability on individual  
9 property in each class as a result of:

10 (a) construction, expansion, replacement, or  
11 remodeling of improvements that adds value to the property;

12 (b) transfer of property into a taxing unit;

13 (c) reclassification of property;

14 (d) increases in the amount of production or the value  
15 of production for property described in 15-6-131 or  
16 15-6-132;

17 (e) annexation of the individual property into a new  
18 taxing unit; or

19 (f) conversion of the individual property from  
20 tax-exempt to taxable status.

21 (5) Property in classes four, twelve, and fourteen is  
22 valued according to the procedures used in 1986, including  
23 the designation of 1982 as the base year, until the  
24 reappraisal cycle beginning January 1, 1986, is completed  
25 and new valuations are placed on the tax rolls and a new

1 base year designated, if the property is:

2 (a) new construction;

3 (b) expanded, deleted, replaced, or remodeled  
4 improvements;

5 (c) annexed property; or

6 (d) property converted from tax-exempt to taxable  
7 status.

8 (6) Property described in subsections (5)(a) through  
9 (5)(d) that is not class four, class twelve, or class  
10 fourteen property is valued according to the procedures used  
11 in 1986 but is also subject to the dollar cap in each taxing  
12 unit based on 1986 mills levied.

13 (7) The limitation on the amount of taxes, as  
14 clarified in this section, is intended to leave the property  
15 appraisal and valuation methodology of the department of  
16 revenue intact. Determinations of county classifications,  
17 salaries of local government officers, and all other matters  
18 in which total taxable valuation is an integral component  
19 are not affected by 15-10-401 and 15-10-402 except for the  
20 use of taxable valuation in fixing tax levies. In fixing tax  
21 levies, the taxing units of local government may anticipate  
22 the deficiency in revenues resulting from the tax  
23 limitations in 15-10-401 and 15-10-402, while understanding  
24 that regardless of the amount of mills levied, a taxpayer's  
25 liability may not exceed the dollar amount due in each

1 taxing unit for the 1986 tax year unless the taxing unit's  
 2 taxable valuation decreases by 5% or more from the previous  
 3 tax year. If a taxing unit's taxable valuation decreases by  
 4 5% or more from the previous tax year, it may levy  
 5 additional mills to compensate for the decreased taxable  
 6 valuation, but in no case may the mills levied exceed a  
 7 number calculated to equal the revenue from property taxes  
 8 for the 1986 tax year in that taxing unit. Exclusion-of--the  
 9 taxable--value--of--property-under-a-property-tax-protest-or  
 10 appeal-from-a-taxing-unit's-taxable--value--under--7-6-2321,  
 11 7-6-4232,--or--20-9-142--constitutes--a--decrease-in-taxable  
 12 valuation-for-purposes-of-this-subsection:

13 (8) The limitation on the amount of taxes levied does  
 14 not apply to the following levy or special assessment  
 15 categories, whether or not they are based on commitments  
 16 made before or after approval of 15-10-401 and 15-10-402:

- 17 (a) rural improvement districts;
- 18 (b) special improvement districts;
- 19 (c) levies pledged for the repayment of bonded
- 20 indebtedness, including tax increment bonds;
- 21 (d) city street maintenance districts;
- 22 (e) tax increment financing districts;
- 23 (f) satisfaction of judgments against a taxing unit;
- 24 (g) electric company street lighting assessments; and
- 25 (h) revolving funds to support any categories

1 specified in this subsection (8).

2 (9) The limitation on the amount of taxes levied does  
 3 not apply in a taxing unit if the voters in the taxing unit  
 4 approve an increase in tax liability following a resolution  
 5 of the governing body of the taxing unit containing:

6 (a) a finding that there are insufficient funds to  
 7 adequately operate the taxing unit as a result of 15-10-401  
 8 and 15-10-402;

9 (b) an explanation of the nature of the financial  
 10 emergency;

11 (c) an estimate of the amount of funding shortfall  
 12 expected by the taxing unit;

13 (d) a statement that applicable fund balances are or  
 14 by the end of the fiscal year will be depleted;

15 (e) a finding that there are no alternative sources of  
 16 revenue;

17 (f) a summary of the alternatives that the governing  
 18 body of the taxing unit has considered; and

19 (g) a statement of the need for the increased revenue  
 20 and how it will be used.

21 (10) The limitation on the amount of taxes levied does  
 22 not apply to levies required to address the funding of  
 23 relief of suffering of inhabitants caused by famine,  
 24 conflagration, or other public calamity.

25 (11) The limitation on the amount of taxes levied does

1 not apply to a levy increase to repay taxes paid under  
 2 protest in accordance with 15-1-402. (Terminates December  
 3 31, 1989--sec. 6, Ch. 654, L. 1987.)"

4 **Section 3.** Section 2-9-316, MCA, is amended to read:

5 "2-9-316. Judgments against governmental entities  
 6 except state. A Except as provided in 15-1-402, a political  
 7 subdivision of the state shall satisfy a final judgment out  
 8 of funds that may be available from the following sources:

9 (1) insurance;

10 (2) the general fund or any other funds legally  
 11 available to the governing body;

12 (3) a property tax, otherwise properly authorized by  
 13 law, collected by a special levy authorized by law, in an  
 14 amount necessary to pay any unpaid portion of the judgment,  
 15 except that such levy may not exceed 10 mills;

16 (4) proceeds from the sale of bonds issued by a  
 17 county, city, or school district for the purpose of deriving  
 18 revenue for the payment of the judgment liability. The  
 19 governing body of a county, city, or school district is  
 20 hereby authorized to issue such bonds pursuant to procedures  
 21 established by law. Property taxes may be levied to amortize  
 22 such bonds, provided the levy for payment of any such bonds  
 23 or judgments may not exceed, in the aggregate, 10 mills  
 24 annually."

25 **Section 4.** Section 7-7-2202, MCA, is amended to read:

1 "7-7-2202. Authority to issue general obligation bonds  
 2 to satisfy judgments. (1) The board of county commissioners  
 3 of every county of the state is hereby vested with the power  
 4 and authority to issue, negotiate, and sell coupon bonds on  
 5 the credit of the county, as more specifically provided in  
 6 this part, for the purpose of funding, paying in full, or  
 7 compromising, settling, and satisfying any judgment which  
 8 may have been rendered against the county in a court of  
 9 competent jurisdiction, including the repayment of tax  
 10 protests lost by the county, when:

11 (a) there are not sufficient funds available to pay  
 12 such judgment; and

13 (b) sufficient money cannot be raised to satisfy such  
 14 judgment by an annual tax levy of 10 mills levied on all the  
 15 taxable property within the county through a period of 3  
 16 years.

17 (2) The resolution providing for the issue of such  
 18 bonds must recite the facts concerning the judgment to be  
 19 funded and the terms of any compromise agreement which may  
 20 have been entered into between the board and the judgment  
 21 creditor."

22 **Section 5.** Section 7-7-2221, MCA, is amended to read:

23 "7-7-2221. Issuance of certain general obligation  
 24 bonds without election. Bonds may be issued without  
 25 submitting the same to an election if the bonds are issued

1 for the purpose of:

2 (1) enabling a county to liquidate its indebtedness to  
3 another county incident to the creation of a new county or  
4 the changing of a county boundary line, as set forth in  
5 7-7-2201(5); and

6 (2) funding, paying in full, or compromising,  
7 settling, and satisfying any judgment which may have been  
8 rendered against the county in a court of competent  
9 jurisdiction, as set forth in 7-7-2202 and 15-1-402."

10 **Section 6.** Section 7-7-4101, MCA, is amended to read:

11 "7-7-4101. Purposes for which indebtedness may be  
12 incurred. The city or town council has power to contract an  
13 indebtedness on behalf of a city or town, upon the credit  
14 thereof, by borrowing money or issuing bonds for the  
15 following purposes:

16 (1) erection of public buildings;

17 (2) construction of sewers, sewage treatment and  
18 disposal plants, waterworks, reservoirs, reservoir sites,  
19 and lighting plants;

20 (3) supplying the city or town with water by contract  
21 and the construction or purchase of canals or ditches and  
22 water rights for supplying the city or town with water;

23 (4) construction of bridges, docks, wharves,  
24 breakwaters, piers, jetties, and moles;

25 (5) to acquire, open, and/or widen any street and to

1 improve the same by constructing, reconstructing, and  
2 repairing pavement, gutters, curbs, and vehicle parking  
3 strips and to pay all or any portion of the cost thereof;

4 (6) the purchase of fire apparatus and street and  
5 other equipment;

6 (7) building, purchasing, constructing, and  
7 maintaining devices intended to protect the safety of the  
8 public from open ditches carrying irrigation or other water;  
9 and

10 (8) the funding of outstanding warrants and maturing  
11 bonds; and

12 (9) the repayment of tax protests lost by the city,  
13 town, or other municipal corporation."

14 **Section 7.** Section 7-7-4221, MCA, is amended to read:

15 "7-7-4221. Election on question of incurring  
16 indebtedness -- exception. (1) Except as provided in  
17 subsection (2) and 15-1-402, whenever the governing body of  
18 any municipality considers it necessary to issue bonds  
19 pledging the general credit of the municipality for any  
20 purpose authorized by law, the question of issuing the bonds  
21 shall first be submitted to the registered electors of the  
22 city or town.

23 (2) It is not necessary to submit to the electors the  
24 question of issuing refunding bonds to refund bonds issued  
25 and outstanding or the question of issuing revenue bonds not

pledging the general credit of the municipality under any laws of this state."

**Section 8.** Section 20-9-403, MCA, is amended to read:

"20-9-403. Bond issues for certain purposes. (1) The trustees of a school district may issue and negotiate bonds on the credit of the school district for the purpose of:

(a) building, altering, repairing, buying, furnishing, equipping, purchasing lands for, and/or obtaining a water supply for a school, teacherage, dormitory, gymnasium, other building, or combination of said buildings for school purposes;

(b) buying a school bus or buses;

(c) providing the necessary money to redeem matured bonds, maturing bonds, or coupons appurtenant to bonds when there is not sufficient money to redeem them;

(d) providing the necessary money to redeem optional or redeemable bonds when it is for the best interest of the school district to issue refunding bonds; or

(e) funding a judgment against the district, including the repayment of tax protests lost by the district.

(2) Any money realized from the sale of any bonds issued on the credit of a high school district shall not be used for any of the above purposes in an elementary school district, and such money may be used for any of the above purposes for a junior high school but only to the extent

that the 9th grade of the high school is served thereby."

**Section 9.** Section 20-9-421, MCA, is amended to read:

"20-9-421. Election to authorize the issuance of school district bonds and the methods of introduction. A school district shall not issue bonds for any purpose other than that provided in 15-1-402 and 20-9-412 unless the issuance of bonds has been authorized by the qualified electors of the school district at an election called for the purpose of considering a proposition to issue such bonds. A school district bond election shall be called by a resolution as prescribed under the provisions of 20-20-201 when:

(1) the trustees, of their own volition, adopt a resolution to that effect; or

(2) the trustees have received a petition which asks that an election be held to consider a bond proposition and which has been validated under the provisions of 20-9-425."

**Section 10.** 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% of the total of the taxable value of the property therein, plus the amount of interim

1 production and new production taxes levied divided by the  
2 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
3 and multiplied by 60%, plus the amount of value represented  
4 by new production exempted from tax as provided in  
5 15-23-612, to be ascertained by the last assessment for  
6 state and county taxes prior to the proposed issuance of  
7 bonds.

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

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

1 (4) The limitation in subsection (1) ~~shall~~ does not  
2 apply to refunding bonds issued for the purpose of paying or  
3 retiring county bonds lawfully issued prior to January 1,  
4 1932, or to bonds issued for the repayment of tax protests  
5 lost by the county."

6 **Section 11.** Section 7-7-4201, MCA, is amended to read:

7 "7-7-4201. Limitation on amount of bonded  
8 indebtedness. (1) Except as otherwise provided, no city or  
9 town may issue bonds or incur other indebtedness for any  
10 purpose in an amount which with all outstanding and unpaid  
11 indebtedness will exceed 28% of the taxable value of the  
12 property therein subject to taxation, to be ascertained by  
13 the last assessment for state and county taxes.

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

18 (3) The limitation in subsection (1) does not apply to  
19 bonds issued for the repayment of tax protests lost by the  
20 city or town."

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

22 "20-9-406. Limitations on amount of bond issue. (1)  
23 The maximum amount for which each school district may become  
24 indebted by the issuance of bonds, including all  
25 indebtedness represented by outstanding bonds of previous

1 issues and registered warrants, is 45% of the taxable value  
 2 of the property subject to taxation as ascertained by the  
 3 last completed assessment for state, county, and school  
 4 taxes previous to the incurring of such indebtedness. The  
 5 45% maximum, however, may not pertain to indebtedness  
 6 imposed by special improvement district obligations or  
 7 assessments against the school district or to bonds issued  
 8 for the repayment of tax protests lost by the district. All  
 9 bonds issued in excess of such amount shall be null and  
 10 void, except as provided in this section.

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

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

22 NEW SECTION. Section 13. Extension of authority. Any  
 23 existing authority to make rules on the subject of the  
 24 provisions of [this act] is extended to the provisions of  
 25 [this act].

1 NEW SECTION. Section 14. Effective date --  
 2 retroactive applicability. [This act] is effective on  
 3 passage and approval and applies retroactively, within the  
 4 meaning of 1-2-109, to any tax appeal or tax paid under  
 5 protest after December 31, 1983.

-End-