

SENATE BILL 469

Introduced by Crippen, et al.

3/27	Hearing
3/27	Introduced
3/27	Referred to Taxation
3/27	Committee Report--Bill Passed as Amended
3/28	Fiscal Note Requested
3/28	2nd Reading Passed as Amended
3/29	3rd Reading Passed

Transmitted to House

3/29	Referred to Taxation
4/04	Fiscal Note Received
4/06	Hearing
4/06	Fiscal Note printed
4/10	Hearing
4/10	Tabled in Committee
4/18	Motion Failed To Take From Committee

1 *Senate* BILL NO. *469*
 2 INTRODUCED BY *Copper Brodley, Erik Ramirez*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 4
 5 PERCENT SALES TAX AND USE TAX; PROVIDING FOR CERTAIN
 6 DEDUCTIONS AND EXEMPTIONS FROM THE TAX; GENERALLY REVISING
 7 THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES;
 8 PROVIDING PROPERTY TAX RELIEF; REVISING LOCAL GOVERNMENT
 9 BONDING AND DEBT LIMITS; PROVIDING CREDITS AGAINST OR REFUND
 10 OF INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR THE
 11 DISTRIBUTION OF THE REVENUE FROM THE SALES TAX AND USE TAX;
 12 REPEALING COUNTY MILL LEVIES FOR TEACHER RETIREMENT;
 13 AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121,
 14 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201,
 15 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525,
 16 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107,
 17 7-34-2131, 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-207,
 18 15-8-111, 15-8-205, 15-10-402, 15-16-611, 15-16-613,
 19 15-24-301, 15-24-1102, 15-24-1103, 17-3-213, 19-4-605,
 20 19-11-503, 19-11-504, 20-3-106, 20-3-324, 20-5-305,
 21 20-5-312, 20-9-141, 20-9-201, 20-9-212, 20-9-301, 20-9-331,
 22 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-502,
 23 20-10-144, 20-15-311, 20-16-202, 23-5-1027, 33-7-407, AND
 24 61-3-501, MCA; REPEALING SECTIONS 15-6-136 THROUGH 15-6-140,
 25 15-6-142 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149,

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

6 STATEMENT OF INTENT

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

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

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

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

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

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

1 taxes;

2 (5) the necessary forms and the required procedures

3 for reporting the taxes; and

4 (6) the definition of terms and establishment of

5 procedures as appropriate for efficient administration of

6 the sales tax and use tax.

7

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

9 NEW SECTION. **Section 1. Definitions.** For purposes of

10 [sections 1 through 68 and 74], unless the context requires

11 otherwise, the following definitions apply:

12 (1) "Buying", "selling", "buy", "sell", or "sale"

13 means the transfer of property for consideration or the

14 performance of a service for consideration.

15 (2) "Construction" means:

16 (a) the building, altering, repairing, or demolishing

17 in the ordinary course of business of any:

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

19 project;

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

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

22 (iv) park, trail, athletic field, golf course, or

23 similar facility;

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

25 (vi) sewage or water treatment facility, power

1 generating plant, pump station, natural gas compressing

2 station, gas processing plant, coal gasification plant,

3 refinery, distillery, or similar facility;

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

5 (viii) transmission line;

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

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

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

9 (xii) microwave station or similar facility;

10 (b) the leveling or clearing of land;

11 (c) the excavating of earth;

12 (d) the drilling of wells of any type, including

13 seismograph shot holes or core drilling; or

14 (e) any similar work.

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

16 (4) "Engaging in business" means carrying on or

17 causing to be carried on any activity with the purpose of

18 direct or indirect benefit.

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

20 (a) means food for domestic home consumption as

21 defined in 7 U.S.C. 2012(g), as amended, for purposes of the

22 federal food stamp program as defined in 7 U.S.C. 2012(h),

23 as amended; and

24 (b) does not mean or include:

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

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

1 receipts at the time of the sale.

2 (ii) If the seller or lessor transfers his interest in
 3 any such contract to a third person, the seller or lessor
 4 shall pay the sales tax or use tax upon the full sale or
 5 leasing contract amount, excluding any type of time-price
 6 differential.

7 (d) Gross receipts includes all amounts paid by
 8 members of a cooperative association or similar organization
 9 for sales or leases of personal property or performance of
 10 services by the organization.

11 (7) "Lease" or "leasing" means an arrangement in
 12 which, for consideration, property is used for or by a
 13 person other than the owner of the property.

14 (8) "Manufacturing" means combining or processing
 15 components or materials to increase their value for sale in
 16 the ordinary course of business. The term does not include
 17 construction.

18 (9) "Medical services" means a service:

19 (a) performed by a person licensed to practice
 20 medicine, osteopathy, dentistry, podiatry, optometry,
 21 chiropractic, or psychology as a regular part of his
 22 business activities; and

23 (b) applied externally or internally to the human body
 24 or mind for the diagnosis, cure, mitigation, treatment, or
 25 prevention of disease.

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

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

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

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

10 (12) "Person" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 3. Presumption of taxability --

value. (1) In order to prevent evasion of the sales tax or use tax and to aid in its administration, it is presumed that:

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

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

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

NEW SECTION. Section 4. Separate statement of tax.

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

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

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

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

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

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

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

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

4 (ii) canvassing;

5 (iii) demonstrating;

6 (iv) collecting money;

7 (v) warehousing or storing merchandise;

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

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

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

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

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

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

(2) To ensure the orderly and efficient collection of the tax imposed by [sections 1 through 68 and 74], if any application of this section is held invalid, the section's application to other situations or persons is not affected.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 10. Exemption -- special supplemental food program for women, infants, and children.

The receipts from the sale of food purchased under the

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

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

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

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

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

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

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

3 NEW SECTION. Section 15. Exemption -- used tangible
4 personal property upon which a sales or use tax has been
5 paid. The receipts from the sale of used tangible personal
6 property upon which a tax has been paid pursuant to
7 [sections 1 through 68 and 74] are exempt from the sales
8 tax.

9 NEW SECTION. Section 16. Exemption -- vehicles. The
10 receipts from the sale of any vehicle upon which a tax
11 pursuant to [sections 1 through 68 and 74] has been paid or
12 which was purchased prior to [the applicability date of this
13 act] are exempt from the sales tax. A registration
14 certificate showing that the vehicle was registered in this
15 state prior to [the applicability date of this act] is
16 conclusive proof that it was purchased before it was subject
17 to taxation under [sections 1 through 68 and 74] and is
18 exempt under this section.

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

1 to the department of either of the following:

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

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

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

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

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

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

1 tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) the buyer delivers a nontaxable transaction

1 certificate to the seller; and

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

6 NEW SECTION. Section 30. Deduction -- sale of
7 tangible personal property for leasing. Receipts from the
8 sale of tangible personal property, other than furniture or
9 appliances, and from the rental or lease of property, other
10 than coin-operated machines and mobile homes, that is
11 deductible under [sections 1 through 68 and 74] may be
12 deducted from gross receipts if:

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

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

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

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

1 from the rental or lease of property, other than
2 coin-operated machines and mobile homes, that is deductible
3 under [sections 1 through 68 and 74] may be deducted from
4 gross receipts if:

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

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

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

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

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

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

1 upon which it was constructed.

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

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

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

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

19 **NEW SECTION. Section 34. Deduction -- sale or lease**
20 **of real property and lease of mobile homes.** (1) (a) Except
21 as provided in subsections (1)(b) and (3), receipts from the
22 sale or lease of real property, from the lease of a mobile
23 home, or from the rental of a mobile home for a period of at
24 least 1 month may be deducted from gross receipts.

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

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

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

10 (3) Receipts received by hotels, motels,
11 roominghouses, campgrounds, guest ranches, trailer parks, or
12 similar facilities may not be deducted for gross receipts
13 for purposes of this section if either the operator or the
14 user must pay tax on the receipts under Title 15, chapter
15 65. The receipts of hotels, motels, roominghouses,
16 campgrounds, guest ranches, trailer parks, or similar
17 facilities are subject to the sales tax or use tax.

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

24 (2) (a) The following may be deducted from gross
25 receipts:

1 (i) receipts from transmitting messages or
2 conversations by radio, originating from a point outside
3 this state and received at a point within this state; and

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

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

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

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

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

25 (b) the services are performed by a local agent for a

1 carrier or by a carrier; and

2 (c) the services are performed under a single contract
3 in relation to transportation services.

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

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

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

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

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

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

25 (i) does not have any communication in this state

1 related in any way to the subject matter, performance, or
2 administration of the service with the person performing the
3 service; or

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

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

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

24 (2) Receipts of auctioneers from selling livestock or
25 other agricultural products at auction may be deducted from

1 gross receipts.

2 **NEW SECTION. Section 39.** Deduction -- certain
3 chemicals and reagents. (1) The following may be deducted
4 from gross receipts:

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

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

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

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

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

23 **NEW SECTION. Section 41.** Deduction -- sale of certain
24 services performed directly on product manufactured. (1)
25 Receipts from sale of the service of combining or processing

1 components or materials may be deducted from gross receipts
2 if the sale is made to a buyer who is engaged in the
3 business of manufacturing and who delivers a nontaxable
4 transaction certificate to the seller.

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

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

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

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

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

24 (2) The deduction provided in subsection (1) does not
25 apply to the value of furniture or appliances furnished by

1 the landlord or lessor as part of a leased or rented
2 dwelling, house, cabin, condominium, or apartment or to the
3 lease of coin-operated machines or mobile homes.

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

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

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

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

1 construction services performed upon the construction
2 project may be credited against the sales tax or use tax due
3 on the sale.

4 NEW SECTION. Section 45. Seller's permit. Upon an
5 applicant's compliance with [sections 1 through 68 and 74],
6 the department shall issue to the applicant a separate,
7 numbered seller's permit for each place of business within
8 Montana. A permit is valid until revoked or suspended but is
9 not assignable. A permit is valid only for the person in
10 whose name it is issued and for the transaction of business
11 at the place designated. The permit must be conspicuously
12 displayed at all times at the place for which it is issued.

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

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

23 (ii) An applicant who has no regular place of business
24 and who moves from place to place is considered to have only
25 one place of business and shall attach the permit to his

1 cart, stand, truck, or other merchandising device.

2 (b) Each person or class of persons obligated to file
3 a return under [sections 1 through 68 and 74] is required to
4 file application for a permit.

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

14 NEW SECTION. Section 47. Special activities --
15 permits -- penalty. (1) The operator of a flea market, craft
16 show, antique show, coin show, stamp show, comic book show,
17 convention exhibit area, or similar selling event, as a
18 prerequisite to renting or leasing space on the premises
19 owned or controlled by the operator to a person desiring to
20 engage in or conduct business as a seller, shall obtain
21 evidence that the seller is the holder of a valid seller's
22 permit issued pursuant to [section 45] or a written
23 statement from the seller that he is not offering for sale
24 any item that is taxable under [sections 1 through 68 and
25 74].

1 (2) "Flea market, craft show, antique show, coin show,
2 stamp show, comic book show, convention exhibit area, or
3 similar selling event", as used in this section, means an
4 activity that involves a series of sales sufficient in
5 number, scope, and character to constitute a regular course
6 of business but does not qualify as an isolated or
7 occasional sale pursuant to [section 21].

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

14 NEW SECTION. Section 48. Revocation or suspension of
15 permit -- hearing -- notice -- appeal. (1) Subject to the
16 provisions of subsection (2), the department may, for
17 reasonable cause, revoke or suspend any permit held by a
18 person who fails to comply with the provisions of [sections
19 1 through 68 and 74].

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

25 (b) The notice must include a requirement that the

1 person show cause why the permit or permits should not be
2 revoked or suspended.

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

5 (3) After revocation, the department may not issue a
6 new permit except upon application accompanied by reasonable
7 evidence of the intention of the applicant to comply with
8 the provisions of [sections 1 through 68 and 74]. The
9 department may require security in addition to that
10 authorized by [section 56] in an amount reasonably necessary
11 to ensure compliance with [sections 1 through 68 and 74] as
12 a condition for the issuance of a new permit to such an
13 applicant.

14 (4) A person aggrieved by the department's final
15 decision to revoke a permit as provided in subsection (1)
16 may appeal the decision to the state tax appeal board within
17 30 days following the date on which the department issued
18 its final decision.

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

21 **NEW SECTION. Section 49. Nontaxable transaction**
22 **certificate -- form.** (1) The department shall provide for a
23 uniform nontaxable transaction certificate. In order to
24 obtain a deduction under [sections 1 through 68 and 74], a
25 purchaser shall use the certificate when purchasing goods or

1 services for resale.

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

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

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

7 (c) the property or service purchased for resale;

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

9 (e) a signature line for the purchaser.

10 **NEW SECTION. Section 50. Improper use of subject of**
11 **purchase obtained with nontaxable transaction certificate --**
12 **penalty.** (1) If a purchaser who uses a nontaxable
13 transaction certificate utilizes the subject of the purchase
14 for a purpose other than one allowed as a deduction under
15 [sections 1 through 68 and 74], the use is considered a
16 taxable sale by the purchaser as of the time of first use by
17 him and the sale price he receives is considered the gross
18 receipts from the sale. If the sole nonexempt use is rental
19 while holding for sale, the purchaser shall include in his
20 gross receipts the amount of the rental charged. Upon
21 subsequent sale of the property, the seller shall include
22 the entire amount of gross receipts received from the
23 resale, without deduction of amounts previously received as
24 rentals.

25 (2) A person who uses a certificate for property that

will be utilized for purposes other than the purpose claimed is subject to a penalty, payable to the department, of \$100 for each transaction in which an improper use of an exemption certificate has occurred.

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

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

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

(2) A retailer who does not maintain a place of business in this state is liable for the sales tax or use tax in accordance with [sections 1 through 68 and 74] and

shall furnish adequate security as required in [section 56] to ensure collection and payment of the taxes. When so authorized and except as otherwise provided in [sections 1 through 68 and 74], the retailer is liable for the taxes upon all tangible property sold that is to be used within this state in the same manner as a retailer who maintains a place of business within this state. The permit provided for in [section 45] may be canceled at any time if the department considers the security inadequate or believes that the taxes can be collected more effectively in another manner.

(3) No agent, canvasser, or employee of a retailer doing business in this state who is not authorized by permit from the department may sell, solicit orders for, or deliver any tangible personal property in Montana. If such an agent, canvasser, or employee violates the provisions of [sections 1 through 68 and 74], he is subject to a fine of not more than \$100 for each separate transaction or event.

NEW SECTION. Section 53. Common carriers as retailers. A person engaged in the business of intrastate or interstate transportation by motor vehicle of tangible personal property or passengers shall register as a retailer and pay the taxes imposed by [sections 1 through 68 and 74].

NEW SECTION. Section 54. Application for permission to report on accrual basis. (1) A person who has a permit

1 issued pursuant to [section 45] may apply to the department
2 for permission to report and pay the sales tax or use tax on
3 an accrual basis.

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

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

10 **NEW SECTION. Section 55. Returns -- payment --**
11 **authority of department.** (1) Except as provided in
12 subsection (2), on or before the 25th day of each month in
13 which the tax imposed by [sections 1 through 68 and 74] is
14 payable, a return, on a form provided by the department, and
15 payment of the tax for the preceding month must be filed
16 with the department. Each return must contain a confession
17 of judgment for the amount of the tax shown due, to the
18 extent not timely paid. A person making retail sales at two
19 or more places of business may file a consolidated return,
20 subject to rules prescribed by the department.

21 (2) A person who has a tax liability that averages
22 less than \$100 per month and who has been granted the
23 authority to report and pay the tax imposed by [sections 1
24 through 68 and 74] on a quarterly basis shall file a return
25 with payment on or before the 25th day of the month

1 following the end of the quarter.

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

4 (i) a retailer required to pay such tax; and

5 (ii) a person:

6 (A) purchasing any items the storage, use, or other
7 consumption of which is subject to the sales tax or use tax;
8 and

9 (B) who has not paid the tax to a retailer required to
10 pay the tax.

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

13 (4) (a) A person liable for the taxes imposed by
14 [sections 1 through 68 and 74] shall keep records, render
15 statements, make returns, and comply with the provisions of
16 [sections 1 through 68 and 74] and the rules prescribed by
17 the department. Each return or statement must include the
18 information required by the rules of the department.

19 (b) For the purpose of determining compliance with the
20 provisions of this section, the department is authorized to
21 examine or cause to be examined any books, papers, records,
22 or memoranda relevant to making a determination of the
23 amount of tax due, whether the books, papers, records, or
24 memoranda are the property of or in the possession of the
25 person filing the return or another person. The department

1 may also:

2 (i) require the attendance of a person having
3 knowledge or information relevant to a return;

4 (ii) compel the production of books, papers, records,
5 or memoranda by a person required to attend;

6 (iii) take testimony on matters material to the
7 determination; and

8 (iv) administer oaths or affirmations.

9 (5) The returns due for July, August, and September of
10 1990 are due on or before October 25, 1990.

11 NEW SECTION. Section 56. Security -- limitations --
12 sale of security deposit at auction -- bond. (1) The
13 department may require a retailer to deposit with the
14 department security in a form and amount the department
15 determines appropriate. The deposit may not be more than
16 twice the estimated average liability for the period for
17 which the return is required to be filed or \$10,000,
18 whichever is less. The amount of security may be increased
19 or decreased by the department, subject to the limitations
20 provided in this section.

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

25 (b) Notice of the sale must be served personally or by

1 certified mail upon the person who deposited the security.

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

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

9 (4) In addition to the other requirements of this
10 section, the department may require the corporate officers,
11 directors, or shareholders of a corporation to provide a
12 personal guaranty and assumption of liability for the
13 payment of the tax due under [sections 1 through 68 and 74].

14 NEW SECTION. Section 57. Extensions. (1) The
15 department may extend the time for filing a return and
16 remittance of tax, deficiencies, and penalties for a period
17 not to exceed 60 days from the date a return was due and may
18 require both an estimated return at the time fixed for
19 filing the regularly required return and the payment of tax
20 on the basis of the estimated return.

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

25 NEW SECTION. Section 58. Examination of return --

1 adjustments -- delivery of notices and demands. (1) The
2 department may examine a return and make an investigation or
3 examination of the records and accounts of a person making
4 the return if the department considers it necessary to
5 determine the accuracy of the return.

6 (2) To determine the accuracy of a return, the
7 department may examine the records and accounts, using
8 statistical or other sampling techniques consistent with
9 generally accepted accounting principles.

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

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

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

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

3 (b) served personally upon the taxpayer.

4 NEW SECTION. Section 59. Penalties and interest for
5 violation. (1) (a) If a person, without purposely or
6 knowingly violating any requirement imposed by [sections 1
7 through 68 and 74], fails to file a return and pay the tax
8 on or before the due date there must be imposed a penalty of
9 5% of any balance of debt unpaid with respect to such a
10 return as of the date due, but in no event may the penalty
11 for failure to file a return by its due date be less than
12 \$5. The department may abate the penalty if the person
13 establishes that the failure to file on time was due to
14 reasonable cause and was not due to neglect on his part.

15 (b) If a person, without purposely or knowingly
16 violating any requirement imposed by [sections 1 through 68
17 and 74], fails to pay a debt on or before its due date,
18 there must be added to the debt a penalty of 10% of the
19 debt, but not less than \$5, and interest must accrue on the
20 debt at a rate of 12% per annum for the entire period it
21 remains unpaid. The department may abate the penalty if the
22 person establishes that the failure to pay was due to
23 reasonable cause and was not due to neglect on his part.

24 (2) If a person purposely or knowingly violates any
25 requirements imposed by [sections 1 through 68 and 74] by

1 failing to file a return or to pay a debt, if one is due at
2 the time, required by or under the provisions of [section
3 55], there must be added to the debt an additional amount
4 equal to 25% thereof, but not less than \$25, and interest at
5 1% for each month or fraction of a month during which the
6 debt remains unpaid.

7 **NEW SECTION. Section 60. Warrants for distraint.** If a
8 tax imposed by [sections 1 through 68 and 74] or any portion
9 of such tax is not paid when due, the department may issue a
10 warrant for distraint as provided in Title 15, chapter 1,
11 part 7.

12 **NEW SECTION. Section 61. Authority to collect**
13 **delinquent taxes.** (1) The department shall collect taxes
14 that are delinquent as determined under [sections 1 through
15 68 and 74].

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

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

24 (4) The department may file a claim for state funds on
25 behalf of the taxpayer if a claim is required before funds

1 are available for offset.

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

10 **NEW SECTION. Section 62. Penalty for deficiency.**
11 (1) (a) If the payment of a tax deficiency is not made
12 within 60 days after it is due and payable and if the
13 deficiency is due to negligence on the part of the taxpayer
14 but without fraud, there must be added to the amount of the
15 deficiency a penalty of 10% of the tax.

16 (b) Interest accrues on the unpaid taxes at the rate
17 of 1% for each month or part thereof during which the taxes
18 remain unpaid. The interest must be computed from the date
19 the return and tax were originally due.

20 (c) In no event may the penalty imposed under
21 subsection (1)(a) exceed 25% of the total tax due.

22 (2) If the time for filing a return is extended, the
23 taxpayer shall pay, in addition to the tax due, interest
24 thereon at the rate of 1% for each month or part thereof
25 from the date the return was originally required to be filed

1 to the time of payment.

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

5 NEW SECTION. Section 63. Limitations. Except in the
6 case of a person who, with intent to evade the tax,
7 purposely or knowingly files a false or fraudulent return
8 violating the provisions of [sections 1 through 68 and 74],
9 the amount of tax due under any return must be determined by
10 the department within 5 years after the return was made. The
11 department is barred from revising a return or recomputing
12 the tax due thereon, and no proceeding in court for the
13 collection of the tax may be instituted unless notice of an
14 additional tax was provided within the period described in
15 this section.

16 NEW SECTION. Section 64. Refunds. A claim for a
17 refund made for taxes collected under [sections 1 through 68
18 and 74] must be in accordance with the procedure and time
19 limits provided in 15-1-503.

20 NEW SECTION. Section 65. Administration -- rules. The
21 department shall:

22 (1) administer and enforce the provisions of [sections
23 1 through 68 and 74];

24 (2) cause to be prepared and distributed such forms
25 and information as may be necessary to administer the

1 provisions of [sections 1 through 68 and 74]; and

2 (3) promulgate such rules as may be appropriate to
3 administer and enforce the provisions of [sections 1 through
4 68 and 74].

5 NEW SECTION. Section 66. Revocation of corporate
6 license. (1) If a corporation authorized to do business in
7 this state and required to pay the taxes imposed under
8 [sections 1 through 68 and 74] fails to comply with any of
9 the provisions of [sections 1 through 68 and 74] or any rule
10 of the department, the department may, for reasonable cause,
11 certify to the secretary of state a copy of an order finding
12 that the corporation has failed to comply with specific
13 statutory provisions or rules.

14 (2) The secretary of state shall, upon receipt of the
15 certification, revoke the license authorizing the
16 corporation to do business in this state and may issue a new
17 license only when the corporation has obtained from the
18 department an order finding that the corporation has
19 complied with its obligations under [sections 1 through 68
20 and 74].

21 (3) No order authorized in this section may be made
22 until the corporation is given an opportunity to be heard
23 and to show cause at a contested case hearing before the
24 department why such order should not be made. The
25 corporation must be given 30 days' notice of the time and

place of the hearing and the reason for the proposed order.

NEW SECTION. Section 67. Tax as debt. (1) The taxes imposed by [sections 1 through 68 and 74] and related interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of such liability occurs.

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

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

NEW SECTION. Section 68. Information -- confidentiality -- agreements with another state. (1) (a) Except as provided in subsections (1)(b) and (2), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known any information disclosed in a report or return required to be filed under [sections 1 through 68 and 74] or

any information concerning the affairs of the person making the return that is acquired from his records, officers, or employees in an examination or audit.

(b) Subsection (1)(a) does not apply to information obtained from the taxpayer making the report or return in connection with a proceeding involving taxes due under [sections 1 through 68 and 74] or to compliance with the provisions of subsection (2).

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

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

(b) The department, in order to implement the provisions of [sections 1 through 68 and 74], may furnish information on a reciprocal basis to the taxing officials of another state or to the taxing officials of a municipality

1 of this state that has a local sales tax or use tax.

2 (3) In order to facilitate processing of returns and
3 payments of taxes required by [sections 1 through 68 and
4 74], the department may contract with vendors and may
5 disclose data to the vendors. The data disclosed must be
6 administered by the vendor in a manner consistent with this
7 section.

8 **NEW SECTION. Section 69.** Credit for sales tax and use
9 tax -- definitions. As used in [sections 69 through 73], the
10 following definitions apply:

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

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

14 (3) "Gross household income" means all monetary
15 benefits of any kind received by each individual member of
16 the household, without regard to losses of any kind and
17 without regard to whether the benefits are taxable income
18 under state or federal income tax laws. Such income
19 includes but is not limited to the following:

- 20 (a) 100% of the gains on all sales;
- 21 (b) alimony, child support, or any other type of
- 22 maintenance payments;
- 23 (c) cash public assistance and relief;
- 24 (d) life insurance and endowment contracts;
- 25 (e) social security and the gross amount of any

1 pension or annuity (including railroad retirement benefits
2 and veterans' disability benefits);

3 (f) unemployment and workers' compensation benefits;

4 (g) all tax refunds; and

5 (h) any monetary benefits defined as income in the
6 Internal Revenue Code or by this chapter.

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

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

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

21 (a) is an inmate of a public institution for more than
22 6 months during the tax year for which the tax credit is
23 claimed; or

24 (b) is not physically present in Montana for at least
25 6 months during the tax year for which the tax credit is

1 claimed.

2 (3) For each exemption claimed under 15-30-112(2) and
3 (5), a credit is allowed according to the following
4 schedule:

5 <u>Gross Household Income</u>	<u>Credit per Exemption</u>
6 \$ 0 - 12,999	\$100
7 13,000 - 14,990	50
8 15,000 - 19,999	25
9 20,000 or more	0

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

15 NEW SECTION. Section 71. Credit for sales tax and use
16 tax -- filing date -- extension. (1) Except as provided in
17 subsection (2), a claim for a credit must be submitted at
18 the same time the claimant's individual income tax return is
19 due. For an individual not required to file a tax return, a
20 claim for relief must be submitted on or before April 15 of
21 the year following the year for which relief is sought. In
22 submitting a claim for the credit, the taxpayer shall
23 provide the social security number for each person claimed
24 as an exemption, except dependent children under 2 years of
25 age, for which the credit is claimed.

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

5 (3) In the event that an individual who would have a
6 claim under [sections 69 through 73] dies before filing the
7 claim, the personal representative of the estate of the
8 decedent may file the claim.

9 NEW SECTION. Section 72. Examination of credit claims
10 -- adjustments -- delivery of notices and demands. (1) The
11 department may examine a claim for credit and may make an
12 investigation of the records and accounts of a person making
13 the claim if the department considers it necessary to
14 determine the accuracy of the claim.

15 (2) If the department determines that the amount of
16 the credit due is different from the amount reported, the
17 amount of credit computed on the basis of the examination
18 conducted pursuant to subsection (1) constitutes the amount
19 of credit due.

20 (3) If the credit due is less than the amount claimed
21 as due by the claimant, the excess must be paid to the
22 department within 60 days after notice of the amount and
23 demand for payment is mailed to the person making the claim.

24 (4) The notice and demand provided for in this section
25 must contain a statement of the computation of the credit

1 and must be:

2 (a) sent to the claimant at the address given on his
3 claim, if any, or to his last-known address; or

4 (b) served personally upon the taxpayer.

5 NEW SECTION. Section 73. Penalties for violation. (1)

6 If a person, without purposely or knowingly violating the
7 provisions of [sections 70 and 71], claims credits for which
8 he is not entitled, there must be added a penalty of 10% of
9 the amount of excess, but in no case may the penalty be less
10 than \$5. Interest in the amount of 12% per annum must be
11 added to the penalty on the amount of excess until the debt
12 is satisfied.

13 (2) If a claimant, purposely or knowingly violates the
14 provisions of [sections 70 and 71], future claims for
15 credits may be denied by the department.

16 NEW SECTION. Section 74. Sales tax and use tax
17 account. (1) There is within the state special revenue fund
18 a sales tax and use tax account.

19 (2) All money collected under [sections 1 through 68
20 and 74] must be paid by the department into the sales tax
21 and use tax account.

22 (3) There must be retained in the sales tax and use
23 tax account the amounts necessary under [sections 1 through
24 75] to repay overpayments, pay any erroneous receipts
25 illegally assessed or collected or that are excessive in

1 amount, and pay any other refunds otherwise required.

2 NEW SECTION. Section 75. Disposition of sales tax and
3 use tax revenue -- legislative appropriation. (1) Sales tax
4 and use tax revenue is allocated as follows:

5 (a) the amount determined under [section 76(3)] to
6 provide property tax replacement revenue for each taxing
7 jurisdiction;

8 (b) the amount of sales tax and use tax revenue
9 remaining after the allocation in subsection (1)(a) is
10 distributed as follows:

11 (i) 53% to state equalization aid as provided in
12 20-9-343;

13 (ii) 15% to the state special revenue fund for the
14 support, maintenance, and improvement of the Montana
15 university system, vocational-technical centers, and
16 community college districts, subject to the board of
17 regents' supervision, as provided in [section 107]; and

18 (iii) 11% to the local government block grant account
19 in the state special revenue fund as provided in [section
20 140]; and

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

22 (2) This section provides for the disposition of sales
23 tax and use tax revenue. No allocations may be made from the
24 sales tax and use tax account until appropriated by the
25 legislature.

NEW SECTION. Section 76. Property tax replacement

revenue. (1) For the taxable year beginning January 1, 1989, the department of revenue shall determine for each taxing jurisdiction in each county the taxable value of all property in the following categories, calculated at the taxable rate in effect on January 1, 1989:

- (a) class four through class ten;
- (b) class twelve; and
- (c) class fourteen through class nineteen.

(2) For the taxable year beginning January 1, 1990, the department shall determine for each taxing jurisdiction in each county the taxable value of all property in the following categories:

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

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

(a) subtract the taxable value for the taxable year beginning January 1, 1990, as described under subsection (2), from the taxable value for the taxable year beginning January 1, 1989, as described under subsection (1);

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

(c) distribute to each county and the appropriate

state accounts, beginning in 1990 and each year thereafter, the amount resulting from the calculations made in subsections (3)(a) and (3)(b) in two installments for each taxing jurisdiction, for distribution on or before November 30 and May 31 in each fiscal year.

(4) On or before May 31, 1990, the department shall remit to the county treasurer of each county 30% of the reimbursement amount computed by the department. The department shall base the reimbursement on the reduction in personal property tax revenues due to the reduction in personal property tax rates for class five property as provided in 15-6-135 and agricultural exemptions as provided in 15-6-207. The reimbursement revenue must be based on the county's taxable value and mill levies for taxable year 1989.

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

Section 77. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of

1 this state shall be classified according to that percentage
2 of the true and full valuation of the property therein upon
3 which the tax levy is made, except for vehicles subject to
4 taxation under 61-3-504(2), as follows:

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

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

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

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

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

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

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

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

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

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

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

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

12 **Section 78.** Section 7-3-1321, MCA, is amended to read:

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

19 (2) The municipality may not become indebted in any
20 manner or for any purpose to an amount, including existing
21 indebtedness, in the aggregate exceeding 28% 32% of the
22 taxable value of the taxable property therein, as
23 ascertained by the last assessment for state and county
24 taxes prior to incurring such indebtedness. All warrants,
25 bonds, or obligations in excess of such amount given by or

1 on behalf of the municipality shall be void."

2 **Section 79.** Section 7-6-2211, MCA, is amended to read:

3 "7-6-2211. Authorization to conduct county business on
4 a cash basis. (1) In case the total indebtedness of a
5 county, lawful when incurred, exceeds the limit of ~~23%~~ 26%
6 established in 7-7-2101 by reason of great diminution of
7 taxable value, the county may conduct its business affairs
8 on a cash basis and pay the reasonable and necessary current
9 expenses of the county out of the cash in the county
10 treasury derived from its current revenue and under such
11 restrictions and regulations as may be imposed by the board
12 of county commissioners of the county by a resolution duly
13 adopted and included in the minutes of the board.

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

19 **Section 80.** Section 7-6-4121, MCA, is amended to read:

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

1 on a cash basis as provided by subsection (2).

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

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

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

23 **Section 81.** Section 7-6-4254, MCA, is amended to read:

24 "7-6-4254. Limitation on amount of emergency budgets
25 and appropriations. (1) The total of all emergency budgets

and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 43% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

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

Section 82. Section 7-7-107, MCA, is amended to read:

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

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

Section 83. Section 7-7-108, MCA, is amended to read:

"7-7-108. Authorization for additional indebtedness for water or sewer systems. (1) For the purpose of

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

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

Section 84. Section 7-7-2101, MCA, is amended to read:

"7-7-2101. Limitation on amount of county indebtedness. (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~23%~~ 26% of the total of the taxable value of the property therein subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production

1 exempted from tax as provided in 15-23-612, as ascertained
2 by the last assessment for state and county taxes previous
3 to the incurring of such indebtedness.

4 (2) No county may incur indebtedness or liability for
5 any single purpose to an amount exceeding \$500,000 without
6 the approval of a majority of the electors thereof voting at
7 an election to be provided by law, except as provided in
8 7-21-3413 and 7-21-3414.

9 (3) Nothing in this section shall apply to the
10 acquisition of conservation easements as set forth in Title
11 76, chapter 6."

12 **Section 85.** Section 7-7-2203, MCA, is amended to read:

13 "7-7-2203. Limitation on amount of bonded
14 indebtedness. (1) Except as provided in subsections (2)
15 through (4), no county may issue general obligation bonds
16 for any purpose which, with all outstanding bonds and
17 warrants except county high school bonds and emergency
18 bonds, will exceed ~~11-25%~~ 12.5% of the total of the taxable
19 value of the property therein, plus the amount of interim
20 production and new production taxes levied divided by the
21 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
22 and multiplied by 60%, plus the amount of value represented
23 by new production exempted from tax as provided in
24 15-23-612, to be ascertained by the last assessment for
25 state and county taxes prior to the proposed issuance of

1 bonds.

2 (2) In addition to the bonds allowed by subsection
3 (1), a county may issue bonds which, with all outstanding
4 bonds and warrants, will not exceed ~~27-75%~~ 31% of the total
5 of the taxable value of the property in the county subject
6 to taxation, plus the amount of interim production and new
7 production taxes levied divided by the appropriate tax rates
8 described in 15-23-607(2)(a) or (2)(b) and multiplied by
9 60%, plus the amount of value represented by new production
10 exempted from tax as provided in 15-23-612, when necessary
11 to do so, for the purpose of acquiring land for a site for
12 county high school buildings and for erecting or acquiring
13 buildings thereon and furnishing and equipping the same for
14 county high school purposes.

15 (3) In addition to the bonds allowed by subsections
16 (1) and (2), a county may issue bonds for the construction
17 or improvement of a jail which will not exceed ~~12-5%~~ 14% of
18 the taxable value of the property in the county subject to
19 taxation.

20 (4) The limitation in subsection (1) shall not apply
21 to refunding bonds issued for the purpose of paying or
22 retiring county bonds lawfully issued prior to January 1,
23 1932."

24 **Section 86.** Section 7-7-4201, MCA, is amended to read:

25 "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% 32% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

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

Section 87. Section 7-7-4202, MCA, is amended to read:

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

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or

outstanding, may not in the aggregate exceed 55% over and above the 28% 32%, referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 88. Section 7-13-4103, MCA, is amended to read:

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

Section 89. Section 7-14-236, MCA, is amended to read:

"7-14-236. Limitation on bonded indebtedness. The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed 28% 32% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds."

Section 90. Section 7-14-2524, MCA, is amended to read:

"7-14-2524. Limitation on amount of bonds issued -- excess void. (1) Except as otherwise provided hereafter and

1 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
 2 with all outstanding bonds and warrants except county high
 3 school bonds and emergency bonds, will exceed ~~11.25%~~ 12.5%
 4 of the total of the taxable value of the property therein,
 5 plus the amount of interim production and new production
 6 taxes levied divided by the appropriate tax rates described
 7 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 8 amount of value represented by new production exempted from
 9 tax as provided in 15-23-612. The taxable property and the
 10 amount of interim production and new production taxes levied
 11 shall be ascertained by the last assessment for state and
 12 county taxes prior to the issuance of such bonds.

13 (2) A county may issue bonds which, with all
 14 outstanding bonds and warrants except county high school
 15 bonds, will exceed ~~11.25%~~ 12.5% but will not exceed ~~22.5%~~
 16 25.5% of the total of the taxable value of such property,
 17 plus the amount of interim production and new production
 18 taxes levied divided by the appropriate tax rates described
 19 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 20 amount of value represented by new production exempted from
 21 tax as provided in 15-23-612, when necessary for the purpose
 22 of replacing, rebuilding, or repairing county buildings,
 23 bridges, or highways which have been destroyed or damaged by
 24 an act of God, disaster, catastrophe, or accident.

25 (3) The value of the bonds issued and all other

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

10 **Section 91.** Section 7-14-2525, MCA, is amended to
 11 read:

12 **"7-14-2525. Refunding agreements and refunding bonds**
 13 **authorized.** (1) Whenever the total indebtedness of a county
 14 exceeds ~~22.5%~~ 25.5% of the total of the taxable value of the
 15 property therein, plus the amount of interim production and
 16 new production taxes levied divided by the appropriate tax
 17 rates described in 15-23-607(2)(a) or (2)(b) and multiplied
 18 by 60%, plus the amount of value represented by new
 19 production exempted from tax as provided in 15-23-612, and
 20 the board determines that the county is unable to pay such
 21 indebtedness in full, the board may:

22 (a) negotiate with the bondholders for an agreement
 23 whereby the bondholders agree to accept less than the full
 24 amount of the bonds and the accrued unpaid interest thereon
 25 in satisfaction thereof;

(b) enter into such agreement;

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

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

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

Section 92. Section 7-14-4402, MCA, is amended to read:

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

Section 93. Section 7-16-2327, MCA, is amended to read:

"7-16-2327. Indebtedness for park purposes. (1) Subject to the provisions of subsection (2), a county park board, in addition to powers and duties now given under law,

shall have the power and duty to contract an indebtedness in behalf of a county, upon the credit thereof, for the purposes of 7-16-2321(1) and (2).

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~13%~~ 15% of the total of the taxable value of the taxable property in the county, 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, ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

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

Section 94. Section 7-16-4104, MCA, is amended to read:

"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes. (1) A city or town council or commission may contract an

1 indebtedness on behalf of the city or town, upon the credit
2 thereof, by borrowing money or issuing bonds:

3 (a) for the purpose of purchasing and improving lands
4 for public parks and grounds;

5 (b) for procuring by purchase, construction, or
6 otherwise swimming pools, athletic fields, skating rinks,
7 playgrounds, museums, a golf course, a site and building for
8 a civic center, a youth center, or combination thereof; and

9 (c) for furnishing and equipping the same.

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

21 **Section 95.** Section 7-31-106, MCA, is amended to read:

22 "7-31-106. Authorization for county to issue bonds --
23 election required. (1) If the petition is presented to the
24 board of county commissioners, it shall be the duty of the
25 board, for the purpose of raising money to meet the payments

1 under the terms and conditions of said contract and other
2 necessary and proper expenses in and about the same and for
3 the approval or disapproval thereof:

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

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

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

17 **Section 96.** Section 7-31-107, MCA, is amended to read:

18 "7-31-107. Authorization for municipality to issue
19 bonds -- election required. (1) If said petition is
20 presented to the council of any incorporated city or town,
21 the council, for the purpose of raising money to meet the
22 payments under the terms and conditions of said contract and
23 other necessary and proper expenses in and about the same
24 and for the approval or disapproval thereof:

25 (a) shall ascertain, within 30 days after submission

1 of the petition, the aggregate indebtedness of such city or
2 town; and

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

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

12 **Section 97.** Section 7-34-2131, MCA, is amended to
13 read:

14 "7-34-2131. Hospital district bonds authorized. (1) A
15 hospital district may borrow money by the issuance of its
16 bonds to provide funds for payment of part or all of the
17 cost of acquisition, furnishing, equipment, improvement,
18 extension, and betterment of hospital facilities and to
19 provide an adequate working capital for a new hospital.

20 (2) The amount of bonds issued for such purpose and
21 outstanding at any time may not exceed ~~22.5%~~ 25.5% of the
22 taxable value of the property therein as ascertained by the
23 last assessment for state and county taxes previous to the
24 issuance of such bonds.

25 (3) Such bonds shall be authorized, sold, and issued

1 and provisions made for their payment in the manner and
2 subject to the conditions and limitations prescribed for
3 bonds of school districts by Title 20, chapter 9, part 4.

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

7 **Section 98.** Section 20-9-406, MCA, is amended to read:

8 "20-9-406. Limitations on amount of bond issue. (1)
9 The maximum amount for which each school district may become
10 indebted by the issuance of bonds, including all
11 indebtedness represented by outstanding bonds of previous
12 issues and registered warrants, is ~~45%~~ 51% of the taxable
13 value of the property subject to taxation as ascertained by
14 the last completed assessment for state, county, and school
15 taxes previous to the incurring of such indebtedness. The
16 ~~45%~~ 51% maximum, however, may not pertain to indebtedness
17 imposed by special improvement district obligations or
18 assessments against the school district. All bonds issued in
19 excess of such amount shall be null and void, except as
20 provided in this section.

21 (2) When the total indebtedness of a school district
22 has reached the ~~45%~~ 51% limitation prescribed in this
23 section, the school district may pay all reasonable and
24 necessary expenses of the school district on a cash basis in
25 accordance with the financial administration provisions of

1 this chapter.

2 (3) Whenever bonds are issued for the purpose of
3 refunding bonds, any moneys to the credit of the debt
4 service fund for the payment of the bonds to be refunded are
5 applied towards the payment of such bonds and the refunding
6 bond issue is decreased accordingly."

7 **Section 99.** Section 20-9-407, MCA, is amended to read:

8 "20-9-407. Industrial facility agreement for bond
9 issue in excess of maximum. (1) In a school district within
10 which a new major industrial facility which seeks to qualify
11 for taxation as class five property under 15-6-135 is being
12 constructed or is about to be constructed, the school
13 district may require, as a precondition of the new major
14 industrial facility qualifying as class five property, that
15 the owners of the proposed industrial facility enter into an
16 agreement with the school district concerning the issuing of
17 bonds in excess of the 45% 51% limitation prescribed in
18 20-9-406. Under such an agreement, the school district may,
19 with the approval of the voters, issue bonds which exceed
20 the limitation prescribed in this section by a maximum of
21 45% 51% of the estimated taxable value of the property of
22 the new major industrial facility subject to taxation when
23 completed. The estimated taxable value of the property of
24 the new major industrial facility subject to taxation shall
25 be computed by the department of revenue when requested to

1 do so by a resolution of the board of trustees of the school
2 district. A copy of the department's statement of estimated
3 taxable value shall be printed on each ballot used to vote
4 on a bond issue proposed under this section.

5 (2) Pursuant to the agreement between the new major
6 industrial facility and the school district and as a
7 precondition to qualifying as class five property, the new
8 major industrial facility and its owners shall pay, in
9 addition to the taxes imposed by the school district on
10 property owners generally, so much of the principal and
11 interest on the bonds provided for under this section as
12 represents payment on an indebtedness in excess of the
13 limitation prescribed in 20-9-406. After the completion of
14 the new major industrial facility and when the indebtedness
15 of the school district no longer exceeds the limitation
16 prescribed in this section, the new major industrial
17 facility shall be entitled, after all the current
18 indebtedness of the school district has been paid, to a tax
19 credit over a period of no more than 20 years. The credit
20 shall as a total amount be equal to the amount which the
21 facility paid the principal and interest of the school
22 district's bonds in excess of its general liability as a
23 taxpayer within the district.

24 (3) A major industrial facility is a facility subject
25 to the taxing power of the school district, whose

1 construction or operation will increase the population of
2 the district, imposing a significant burden upon the
3 resources of the district and requiring construction of new
4 school facilities. A significant burden is an increase in
5 ANB of at least 20% in a single year."

6 **Section 100.** Section 15-1-101, MCA, is amended to
7 read:

8 "15-1-101. Definitions. (1) Except as otherwise
9 specifically provided, when terms mentioned in this section
10 are used in connection with taxation, they are defined in
11 the following manner:

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

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

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

23 (d) (i) The term "commercial", when used to describe
24 property, means any property used or owned by a business, a
25 trade, or a nonprofit corporation as defined in 35-2-102 or

1 used for the production of income, except that property
2 described in subsection (ii).

3 (ii) The following types of property are not
4 commercial:

5 (A) agricultural lands and timberlands;

6 ~~(B)~~--timberlands;

7 ~~(C)~~(B) single-family residences and ancillary
8 improvements and improvements necessary to the function of a
9 bona fide farm, ranch, or stock operation;

10 ~~(D)~~(C) mobile homes used exclusively as a residence
11 except when held by a distributor or dealer of trailers or
12 mobile homes as his stock in trade; and

13 ~~(E)~~(D) all property described in 15-6-135(1)(h).7

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

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

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

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

23 (g) The term "improvements" includes all buildings,
24 structures, fences, and improvements situated upon, erected
25 upon, or affixed to land. When the department of revenue or

1 its agent determines that the permanency of location of a
 2 mobile home or housetrailer has been established, the mobile
 3 home or housetrailer is presumed to be an improvement to
 4 real property. A mobile home or housetrailer may be
 5 determined to be permanently located only when it is
 6 attached to a foundation which cannot feasibly be relocated
 7 and only when the wheels are removed.

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

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

17 (j) The term "mobile home" means forms of housing
 18 known as "trailers", "housetrailer", or "trailer coaches"
 19 exceeding 8 feet in width or 45 feet in length, designed to
 20 be moved from one place to another by an independent power
 21 connected to them, or any "trailer", "housetrailer", or
 22 "trailer coach" up to 8 feet in width or 45 feet in length
 23 used as a principal residence.

24 (k) The term "personal property" includes everything
 25 that is the subject of ownership but that is not included

1 within the meaning of the terms "real estate" and
 2 "improvements".

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

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

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

14 (i) the possession of, claim to, ownership of, or
 15 right to the possession of land;

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

21 (o) "Research and development firm" means an entity
 22 incorporated under the laws of this state or a foreign
 23 corporation authorized to do business in this state whose
 24 principal purpose is to engage in theoretical analysis,
 25 exploration, and experimentation and the extension of

investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

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

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

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

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

Section 101. Section 15-6-133, MCA, is amended to read:

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

(a) agricultural land as defined in 15-7-202; and

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

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

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

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

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

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

~~(c)--This---table---limits--the--statewide---increase---in taxable-valuation--resulting--from--reappraisal--to--0%--in~~

calculating--the--percentage--increase--the--department--may--not
consider--agricultural--use--changes--during--calendar--year--1985--

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

Certified-Statewide Percentage-Increase	Class-Three-Taxable Percentage--"P"
0	30.00
10	27.27
20	25.00
30	23.00
40	21.43
50	20.00

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

Section 102. Section 15-6-134, MCA, is amended to
read:

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

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

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

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

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

(2) Class four property is taxed as follows:

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

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

Income	Income	Percentage
Single Person	Married Couple	Multiplier
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
1,001 - 2,000	1,201 - 2,400	10%
2,001 - 3,000	2,401 - 3,600	20%

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

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

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

16 (B) rounding the product thus obtained to the nearest
17 whole dollar amount.

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

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

25 (3) After July 1, 1986, no adjustment may be made by

1 the department to the taxable percentage rate for class four
2 property until a revaluation has been made as provided in
3 15-7-111.

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

10 **Section 103.** Section 15-6-135, MCA, is amended to
11 read:

12 "15-6-135. Class five property -- description --
13 taxable percentage. (1) Class five property includes:

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

19 (b) air and water pollution control equipment as
20 defined in this section;

21 (c) new industrial property as defined in this
22 section;

23 ~~(d)--any-personal-or-real-property--used--primarily--in~~
24 ~~the--production--of--gasohol--during--construction--and--for--the~~
25 ~~first-3-years-of-its-operation;~~

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

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

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

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

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

(ii) specifically included in another class;

(f) the first \$80,000 or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including otherwise tax-exempt income of all types, is not more than \$10,000 for a single person or \$12,000 for a married couple, as adjusted according to 15-6-134(2)(b)(ii);

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

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

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

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

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

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

(3) "New industrial property" means any new industrial

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

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

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

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

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

19 (iii) engage in the mechanical or chemical
20 transformation of materials or substances into new products
21 in the manner defined as manufacturing in the 1972 Standard
22 Industrial Classification Manual prepared by the United
23 States office of management and budget.

24 (5) New industrial property does not include:

25 (a) property used by retail or wholesale merchants,

1 commercial services of any type, agriculture, trades, or
2 professions;

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

5 (c) property used or employed in any industrial plant
6 that has been in operation in this state for 3 years or
7 longer.

8 (6) Class five property is taxed at 3% of its market
9 value as follows:

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

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

17 **Section 104.** Section 15-6-207, MCA, is amended to
18 read:

19 "15-6-207. Agricultural exemptions. (1) The following
20 agricultural products are exempt from taxation:

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

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

24 (c) all nonperishable, unprocessed agricultural
25 products, except livestock, held in possession of the

1 original producer for less than 7 months following harvest;

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

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

8 (f) poultry and the unprocessed products of poultry;
9 and

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

11 (h) the unprocessed products of livestock and other
12 domestic animals and wildlife raised in domestication or a
13 captive environment; and

14 (i) cats, dogs, and other household pets not raised
15 for profit.

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

24 **Section 105.** Section 15-8-111, MCA, is amended to
25 read:

1 "15-8-111. Assessment -- market value standard --
2 exceptions. (1) All taxable property must be assessed at
3 100% of its market value except as otherwise provided.

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

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

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

22 (3) The department of revenue or its agents may not
23 adopt a lower or different standard of value from market
24 value in making the official assessment and appraisal of the
25 value of property, except:

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

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

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

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

13 (5) The taxable value for all property is the
14 percentage of market or assessed value established for each
15 class of property.

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

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

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

23 (c) Properties in 15-6-133, under class three, are
24 assessed at 100% of the productive capacity of the lands
25 when valued for agricultural purposes or at 100% of the

1 combined assessed value of the standing timber and grazing
2 productivity of the land when valued as timberland. All
3 lands that meet the qualifications of 15-7-202 are valued as
4 agricultural lands for tax purposes.

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

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

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

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

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

15 **Section 106.** Section 15-8-205, MCA, is amended to
16 read:

17 "15-8-205. Initial assessment of class-twelve-property
18 mobile homes -- when. The county assessor shall assess all
19 class---twelve---property mobile homes described in
20 15-6-135(1)(e) and (1)(f) immediately upon arrival in the
21 county if the taxes have not been previously paid for that
22 year in another county in Montana."

23 **NEW SECTION. Section 107.** University system
24 funding. There is allocated from the money collected from
25 the sales tax and use tax to the state special revenue fund

1 15% of the sales tax and use tax, as allocated in [section
2 75(1)(b)(ii)], for the support, maintenance, and improvement
3 of the Montana university system, vocational-technical
4 centers, and community college districts, subject to the
5 board of regents' supervision.

6 **Section 108.** Section 15-10-402, MCA, is amended to
7 read:

8 "15-10-402. Property tax limited to 1986 levels. (1)
9 Except as provided in subsections (2) and (3), the amount of
10 taxes levied on property described in 15-6-133, and
11 15-6-134, ~~15-6-136, 15-6-139, 15-6-142, and 15-6-144~~ may
12 not, for any taxing jurisdiction, exceed the amount levied
13 for taxable year 1986.

14 (2) The limitation contained in subsection (1) does
15 not apply to levies for rural improvement districts, Title
16 7, chapter 12, part 21; special improvement districts, Title
17 7, chapter 12, part 41; or bonded indebtedness.

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

21 (4) As used in this section, the "amount of taxes
22 levied" and the "amount levied" mean the actual dollar
23 amount of taxes imposed on an individual piece of property,
24 notwithstanding an increase or decrease in value due to
25 inflation, reappraisal, adjustments in the percentage

1 multiplier used to convert appraised value to taxable value,
2 changes in the number of mills levied, or increase or
3 decrease in the value of a mill."

4 **Section 109.** Section 15-16-611, MCA, is amended to
5 read:

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

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

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

20 (a) multiply the amount of tax levied and assessed on
21 the original taxable value of the property for the year by
22 the ratio that the number of days in the year that the
23 property existed before destruction bears to 365; and

24 (b) multiply the amount of tax levied and assessed on
25 the adjusted taxable value of the property for the remainder

1 of the year by the ratio that the number of days remaining
2 in the year after the destruction of the property bears to
3 365.

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

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

10 **Section 110.** Section 15-16-613, MCA, is amended to
11 read:

12 "15-16-613. Refund of certain taxes paid in other
13 states. Subject to the provisions of 15-16-601 and upon
14 proof that tax was paid in another state, a taxpayer is
15 entitled to a refund equal to the amount of tax paid in
16 another state on a helicopter or property that was assessed
17 in Montana under ~~15-6-138(1)(g)~~ 15-6-135 on January 1 of the
18 year for which the refund is due. The refund under this
19 section may not exceed the tax that was paid in Montana on
20 the same property for the same period of time."

21 **Section 111.** Section 15-24-301, MCA, is amended to
22 read:

23 "15-24-301. Personal property brought into the state
24 -- assessment -- exceptions -- custom combine equipment. (1)
25 Except as provided in subsections (2) through (5), property

1 in the following cases is subject to taxation and assessment
2 for all taxes levied that year in the county in which it is
3 located:

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

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

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

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

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

22 (4) Any motor vehicle not subject to a fee in lieu of
23 tax brought, driven, or coming into this state by any
24 nonresident person temporarily employed in Montana and used
25 exclusively for transportation of such person is subject to

1 taxation and assessment for taxes as follows:

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

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

8 (c) The quarterly taxes are due the first day of the
9 quarter.

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

18 **Section 112.** Section 15-24-1102, MCA, is amended to
19 read:

20 "15-24-1102. Federal property held under contract of
21 sale. When the property is held under a contract of sale or
22 other agreement whereby upon payment the legal title is or
23 may be acquired by the person, the real property shall be
24 assessed and taxed as defined in ~~15-6-131 through 15-6-149~~
25 Title 15, chapter 6, part 1, and 15-8-111 without deduction

1 on account of the whole or any part of the purchase price or
2 other sum due on the property remaining unpaid. The lien for
3 the tax may not attach to, impair, or be enforced against
4 any interest of the United States in the real property."

5 **Section 113.** Section 15-24-1103, MCA, is amended to
6 read:

7 "15-24-1103. Federal property held under lease. When
8 the property is held under lease, other interest, or estate
9 therein less than the fee, except under contract of sale,
10 the property shall be assessed and taxed as for the value,
11 as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6,
12 part 1, of such leasehold, interest, or estate in the
13 property and the lien for the tax shall attach to and be
14 enforced against only the leasehold, interest, or estate in
15 the property. When the United States authorizes the taxation
16 of the property for the full assessed value of the fee
17 thereof, the property shall be assessed for full assessed
18 value as defined in 15-8-111."

19 **Section 114.** Section 17-3-213, MCA, is amended to
20 read:

21 "17-3-213. Allocation to general road fund and
22 countywide school levies. (1) The forest reserve funds ~~so~~
23 apportioned to each county ~~shall~~ must be apportioned by the
24 county treasurer in each county ~~between the several funds~~ as
25 follows:

1 (a) to the general road fund, 66 2/3% of the total
 2 amount received;
 3 (b) to the following countywide school levies, 33 1/3%
 4 of the total sum received:
 5 (i) the annual basic tax levy for elementary schools
 6 provided for in 20-9-331;
 7 (ii) the annual special tax for high schools provided
 8 for in 20-9-333; and
 9 (iii) the high school transportation fund provided for
 10 in 20-10-143;
 11 ~~{iv}--the--elementary--teacher--retirement--and--social~~
 12 ~~security--fund--provided--for--in--20-9-501;~~
 13 ~~{v}--the--high--school--teacher--retirement--and--social~~
 14 ~~security--fund--provided--for--in--20-9-501.~~
 15 (2) The apportionment of money to the funds provided
 16 for under subsection (1)(b) ~~shall~~ must be made by the county
 17 superintendent based on the proportion that the mill levy of
 18 each fund bears to the total number of mills for all the
 19 funds. Whenever the total amount of money available for
 20 apportionment under this section is greater than the total
 21 requirements of a levy, the excess money and any interest
 22 income must be retained in a separate reserve fund, to be
 23 reapportioned in the ensuing school fiscal year to the
 24 levies designated in subsection (1)(b).
 25 (3) In counties wherein in which special road

1 districts have been created according to law, the board of
 2 county commissioners shall distribute a proportionate share
 3 of the 66 2/3% of the total amount received for the general
 4 road fund to such the special road district or districts
 5 within the county based upon the percentage that the total
 6 area of such the road district bears to the total area of
 7 the entire county."

8 **Section 115.** Section 19-4-605, MCA, is amended to
 9 read:

10 "19-4-605. Pension accumulation fund -- employer's
 11 contribution. The pension accumulation fund is the fund in
 12 which the reserves for payment of pensions and annuities
 13 ~~shall~~ must be accumulated and from which pensions,
 14 annuities, and benefits in lieu thereof ~~shall~~ of pensions
 15 and annuities must be paid to or on account of beneficiaries
 16 credited with prior service. Contributions to and payments
 17 from the pension accumulation fund ~~shall~~ must be made as
 18 follows:

19 (1) Each employer shall pay into the pension
 20 accumulation fund an amount equal to 7.428% of the earned
 21 compensation of each member employed during the whole or
 22 part of the preceding payroll period.
 23 ~~{2}--If-the-employer-is-a-district-or-community-college~~
 24 ~~district,--the-trustees--shall--budget--and--pay--for--the~~
 25 ~~employer's-contribution-under-the-provisions-of-20-9-501;~~

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

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

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

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

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

Section 116. Section 19-11-503, MCA, is amended to read:

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

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

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

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

Section 117. Section 19-11-504, MCA, is amended to read:

"19-11-504. Amount of special tax levy. Whenever the fund contains an amount which is less than ~~3%~~ 3.4% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

1 **Section 118.** Section 20-3-106, MCA, is amended to
2 read:

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

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

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

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

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

17 (5) approve or disapprove the orders of a high school
18 boundary commission in accordance with the provisions of
19 20-6-311;

20 (6) approve or disapprove the opening or reopening of
21 a school in accordance with the provisions of 20-6-502,
22 20-6-503, 20-6-504, or 20-6-505;

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

25 (8) generally supervise the school budgeting

1 procedures prescribed by law in accordance with the
2 provisions of 20-9-102 and prescribe the school budget
3 format in accordance with the provisions of 20-9-103 and
4 20-9-506;

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

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

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

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

21 (13) approve, disapprove, or adjust an increase of the
22 average number belonging (ANB) in accordance with the
23 provisions of 20-9-313 and 20-9-314;

24 (14) distribute state equalization aid in support of
25 the foundation program in accordance with the provisions of

1 20-9-342, 20-9-346, and 20-9-347;

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

4 (16) provide for the uniform and equal provision of
5 transportation by performing the duties prescribed by the
6 provisions of 20-10-112;

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

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

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

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

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

21 (22) recommend standards of accreditation for all
22 schools to the board of public education and evaluate
23 compliance with such the standards and recommend
24 accreditation status of every school to the board of public
25 education in accordance with the provisions of 20-7-101 and

1 20-7-102;

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

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

8 (25) license textbook dealers and initiate prosecution
9 of textbook dealers violating the law in accordance with the
10 provisions of the textbooks part of this title;

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

15 (27) supervise and coordinate the conduct of special
16 education in the state in accordance with the provisions of
17 20-7-403;

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

20 (29) administer the school food services program in
21 accordance with the provisions of 20-10-201, 20-10-202, and
22 20-10-203;

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

25 (31) prescribe the method of identification and signals

to be used by school safety patrols in accordance with the provisions of 20-1-408;

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

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

~~{34}{33}~~ perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education. ~~{Subsection-{33} effective-July-17-1988--sec-87-Ch-6357-B7-1987-}~~"

Section 119. Section 20-3-324, MCA, is amended to read:

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

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board ~~may--deem~~ considers necessary, accepting or rejecting ~~such~~ any recommendation as the trustees shall in their sole discretion determine, in

accordance with the provisions of Title 20, chapter 4;

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

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

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

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

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

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

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

1 (9) conduct the fiscal business of the district in
2 accordance with the provisions of the school financial
3 administration part of this title;

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

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

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

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

22 (14) when applicable, administer any interlocal
23 cooperative agreement, gifts, legacies, or devises in
24 accordance with the provisions of the miscellaneous
25 financial parts of this title;

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

5 (16) operate the schools of the district in accordance
6 with the provisions of the school calendar part of this
7 title;

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

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

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

19 (20) retain, when deemed considered advisable, a
20 physician or registered nurse to inspect the sanitary
21 conditions of the school or the general health conditions of
22 each pupil and, upon request, make available to any parent
23 or guardian any medical reports or health records maintained
24 by the district pertaining to his child;

25 (21) for each member of the trustees, visit each school

1 of the district not less than once each school fiscal year
2 to examine its management, conditions, and needs, except
3 trustees from a first-class school district may share the
4 responsibility for visiting each school in the district;

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

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

13 **Section 120.** Section 20-5-305, MCA, is amended to
14 read:

15 "20-5-305. Elementary tuition rates. (1) Whenever a
16 pupil of an elementary district has been granted approval to
17 attend a school outside of the district in which he resides,
18 under the provisions of 20-5-301 or 20-5-302, such the
19 district shall pay tuition to the elementary district where
20 the pupil attends school. Except as provided in subsection
21 (2), the basis of the rate of tuition shall be determined by
22 the attended district. The rate of tuition shall be
23 determined by:

24 (a) totaling the actual expenditures from the district
25 general fund, and the debt service fund, ~~and if the pupil~~

1 ~~is a resident of another county, the retirement fund;~~

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

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

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

17 **Section 121.** Section 20-5-312, MCA, is amended to
18 read:

19 "20-5-312. Reporting, budgeting, and payment for high
20 school tuition. (1) Except as provided in subsection (2), at
21 the close of the school term of each school fiscal year, the
22 trustees of each high school district shall determine the
23 rate of tuition for the current school fiscal year by:

24 (a) totaling the actual expenditures from the district
25 general fund, and the debt service fund, ~~and if the pupil~~

1 ~~is-a-resident-of-another-county;-the-retirement-fund;~~

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

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

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

17 (3) Before July 15, the trustees shall report to the
18 county superintendent of the county in which the district is
19 located:

20 (a) the names, addresses, and resident districts of
21 the pupils attending the schools of the district under an
22 approved tuition agreement;

23 (b) the number of days of school attended by each
24 pupil;

25 (c) the amount, if any, of each pupil's tuition

1 payment that the trustees, in their discretion, shall have
2 the authority to waive; and

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

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

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

19 (6) The total amount of the high school tuition, with
20 consideration of any tuition waivers, for pupils attending a
21 high school outside the county of residence shall be
22 financed by the county basic special tax for high schools as
23 provided in 20-9-334. In December, the county superintendent
24 shall cause the payment by county warrant of at least
25 one-half of the high school tuition obligations established

1 under this section out of the first moneys realized from the
 2 county basic special tax for high schools. The remaining
 3 obligations must be paid by June 15 of the school fiscal
 4 year. The payments shall be made to the county treasurer of
 5 the county where each high school entitled to tuition is
 6 located. The county treasurer shall credit such tuition
 7 receipts to the general fund of the applicable high school
 8 district, and the tuition receipts shall be used in
 9 accordance with the provisions of 20-9-141.

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

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

15 **Section 122.** Section 20-9-141, MCA, is amended to
 16 read:

17 "20-9-141. Computation of general fund net levy
 18 requirement by county superintendent. (1) The county
 19 superintendent shall compute the levy requirement for each
 20 district's general fund on the basis of the following
 21 procedure:

22 (a) Determine the total of the funding required for
 23 the district's final general fund budget less the amount
 24 established by the schedules in 20-9-316 through 20-9-321 by
 25 totaling:

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

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

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

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

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

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

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

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

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

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

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

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

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

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

Section 123. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and

1 expenditures for a specific purpose as authorized by law.
2 Funds are classified as follows:

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

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

19 (2) The school financial administration provisions of
20 this title apply to all money of any elementary or high
21 school district except the extracurricular money realized
22 from pupil activities. The superintendent of public
23 instruction has general supervisory authority as prescribed
24 by law over the school financial administration provisions,
25 as they relate to elementary and high school districts, ~~as~~

1 ~~prescribed-by-law-and~~ He shall ~~establish-such~~ adopt rules ~~as~~
2 ~~are~~ necessary to secure compliance with the law."

3 **Section 124.** Section 20-9-212, MCA, is amended to
4 read:

5 "20-9-212. Duties of county treasurer. The county
6 treasurer of each county shall:

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

15 (a) the basic county tax in support of the elementary
16 foundation programs;

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

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

21 ~~{d}--the-county-tax--in--support--of--the--high--school~~
22 ~~obligations--to--the--retirement--systems--of--the--state--of~~
23 ~~Montana;~~

24 ~~{e}~~(d) any additional county tax required by law to
25 provide for deficiency financing of the elementary

1 foundation programs;

2 ~~†f†~~(e) any additional county tax required by law to
3 provide for deficiency financing of the high school
4 foundation programs; and

5 ~~†g†~~(f) any other county tax for schools, including the
6 community colleges, which may be authorized by law and
7 levied by the county commissioners;

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

16 (3) keep a separate accounting of the expenditures for
17 each budgeted fund included in the final budget of each
18 district;

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

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

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

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

13 (8) at the direction of the trustees of a district,
14 assist the district in the issuance and sale of tax and
15 revenue anticipation notes as provided in Title 7, chapter
16 6, part 11;

17 (9) register district warrants drawn on a budgeted
18 fund in accordance with 7-6-2604 when there is insufficient
19 money available ~~in the sum of money~~ in all funds of the
20 district to make payment of ~~such the~~ warrant. Redemption of
21 registered warrants ~~shall~~ must be made in accordance with
22 7-6-2116, 7-6-2605, and 7-6-2606.

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

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

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

9 **Section 125.** Section 20-9-301, MCA, is amended to
10 read:

11 **"20-9-301. Purpose and definition of foundation**
12 **program and general fund.** (1) A uniform system of free
13 public schools sufficient for the education of and open to
14 all school age children of the state ~~shall~~ must be
15 established and maintained throughout the state of Montana.
16 The state shall aid in the support of its several school
17 districts on the basis of their financial need as measured
18 by the foundation program and in the manner established in
19 this title.

20 (2) The principal budgetary vehicle for achieving the
21 minimum financing as established by the foundation program
22 ~~shall-be~~ is the general fund of the district. The purpose of
23 the general fund ~~shall--be~~ is to finance those general
24 maintenance and operational costs, including employee
25 retirement benefits, of a district not financed by other

1 funds established for special purposes in this title.

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

10 **Section 126.** Section 20-9-331, MCA, is amended to
11 read:

12 **"20-9-331. Basic county tax and other revenues for**
13 **county equalization of the elementary district foundation**
14 **program.** (1) It ~~shall--be~~ is the duty of the county
15 commissioners of each county to levy an annual basic tax of
16 28 mills on the dollars of the taxable value of all taxable
17 property within the county, except for vehicles subject to
18 taxation under 61-3-504(2), for the purposes of local and
19 state foundation program support. The revenue to be
20 collected from this levy ~~shall~~ must be apportioned to the
21 support of the foundation programs of the elementary school
22 districts in the county and to the state special revenue
23 fund, state equalization aid account, in the following
24 manner:

25 (a) In order to determine the amount of revenue raised

by this levy which is retained by the county, the sum of the estimated revenues identified in subsection (2) ~~below-shall~~ be is subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

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

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

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

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

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

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

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

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

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

(h) sales tax and use tax revenue."

Section 127. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It ~~shall--be~~ is the duty of the county

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

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

18 (b) If the basic levy prescribed by this section
 19 produces more revenue than is required to finance the
 20 difference determined above, the county treasurer shall
 21 remit the surplus funds to the state treasurer for deposit
 22 to the state special revenue fund, state equalization aid
 23 account, immediately upon occurrence of a surplus balance
 24 and each subsequent month thereafter, with any final
 25 remittance due no later than June 20 of the fiscal year for

1 which the levy has been set.

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

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

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

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

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

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

21 **Section 128.** Section 20-9-343, MCA, is amended to
 22 read:

23 "20-9-343. Definition of and revenue for state
 24 equalization aid. (1) As used in this title, the term "state
 25 equalization aid" means ~~those-moneys~~ the money deposited in

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

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

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

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

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

21 (c) 100% of the money allocated to state equalization
 22 from the collection of the severance tax on coal;

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

1 Leasing Act, as amended;

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

4 (f) income from the education trust fund account; ~~and~~
 5 (g) money received from the collection of the sales
 6 tax and use tax, as provided in [section 75(1)(b)(i)];

7 (h) state lottery proceeds as provided for in
 8 23-5-1027; and

9 ~~fg)(i)~~ in addition to these revenues, the surplus
 10 revenues collected by the counties for foundation program
 11 support according to 20-9-331 and 20-9-333.

12 (4) Any surplus revenue in the state equalization aid
 13 account in the second year of a biennium may be used to
 14 reduce the appropriation required for the next succeeding
 15 biennium."

16 **Section 129.** Section 20-9-352, MCA, is amended to
 17 read:

18 "20-9-352. Permissive amount and permissive levy. (1)
 19 Whenever the trustees of any district shall deem it
 20 necessary to adopt a general fund budget in excess of the
 21 foundation program amount but not in excess of the maximum
 22 general fund budget amount for such district as established
 23 by the schedules in 20-9-316 through 20-9-321, the trustees
 24 shall adopt a resolution stating the reasons and purposes
 25 for exceeding the foundation program amount. Such excess

1 above the foundation program amount shall be known as the
 2 "permissive amount", and it shall be financed by a levy, as
 3 prescribed in 20-9-141, on the taxable value of all taxable
 4 property within the district, except for vehicles subject to
 5 taxation under 61-3-504(2), supplemented with any biennial
 6 appropriation by the legislature for this purpose. The
 7 proceeds of such an appropriation shall be deposited to the
 8 state special revenue fund, permissive account.

9 (2) The district levies to be set for the purpose of
 10 funding the permissive amount are determined as follows:

11 (a) For each elementary school district, the county
 12 commissioners shall annually set a levy not exceeding 6
 13 mills on all the taxable property in the district, except
 14 for vehicles subject to taxation under 61-3-504(2), for the
 15 purpose of funding the permissive amount of the district.
 16 The permissive levy in mills shall be obtained by
 17 multiplying the ratio of the permissive amount to the
 18 maximum permissive amount by 6 or by using the number of
 19 mills which would fund the permissive amount, whichever is
 20 less. If the ~~amount-of~~ revenue raised by this levy, plus
 21 anticipated revenue from vehicle property taxes imposed
 22 under 61-3-504(2) and 61-3-537, ~~is~~ and the revenue from a
 23 sales tax and use tax are not sufficient to fund the
 24 permissive amount in full, the amount of the deficiency
 25 shall be paid to the district from the state special revenue

1 fund according to the provisions of subsections (3) and (4)
 2 of this section.

3 (b) For each high school district, the county
 4 commissioners shall annually set a levy not exceeding 4
 5 mills on all taxable property in the district, except for
 6 vehicles subject to taxation under 61-3-504(2), for the
 7 purpose of funding the permissive amount of the district.
 8 The permissive levy in mills shall be obtained by
 9 multiplying the ratio of the permissive levy to the maximum
 10 permissive amount by 4 or by using the number of mills which
 11 would fund the permissive amount, whichever is less. If the
 12 ~~amount-of~~ revenue raised by this levy, plus anticipated
 13 revenue from vehicle property taxes imposed under
 14 61-3-504(2) and 61-3-537, and plus net proceeds taxes for
 15 interim production and new production, as defined in
 16 15-23-601, ~~is~~ and the revenue from a sales tax and use tax
 17 are not sufficient to fund the permissive amount in full,
 18 the amount of the deficiency shall be paid to the district
 19 from the state special revenue fund according to the
 20 provisions of subsections (3) and (4) of this section.

21 (3) The superintendent of public instruction shall, if
 22 the appropriation by the legislature for the permissive
 23 account for the biennium is insufficient, request the budget
 24 director to submit a request for a supplemental
 25 appropriation in the second year of the biennium. The

supplemental appropriation shall provide enough revenue to fund the permissive deficiency of the elementary and high school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.

(4) Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 130. Section 20-9-502, MCA, is amended to

read:

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

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

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

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

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

(2) The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than 45% 51% of the taxable value of the taxable

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

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

11 OFFICIAL BALLOT

12 SCHOOL DISTRICT BUILDING RESERVE ELECTION

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

20 Shall the trustees be authorized to impose an
21 additional levy each year for years to establish a
22 building reserve (add to the building reserve) of this
23 school district to raise a total amount of dollars
24 (\$....), for the purpose(s) (here state the purpose or
25 purposes for which the building reserve will be used)?

1 BUILDING RESERVE--YES.

2 BUILDING RESERVE--NO.

3 (4) The building reserve proposition shall be approved
4 if a majority of those electors voting at the election
5 approve the establishment of or addition to such building
6 reserve. The annual budgeting and taxation authority of the
7 trustees for a building reserve shall be computed by
8 dividing the total authorized amount by the specified number
9 of years. The authority of the trustees to budget and
10 impose the taxation for the annual amount to be raised for
11 the building reserve shall lapse when, at a later time, a
12 bond issue is approved by the qualified electors of the
13 district for the same purpose or purposes for which the
14 building reserve fund of the district was established.
15 Whenever a subsequent bond issue is made for the same
16 purpose or purposes of a building reserve, the money in the
17 building reserve shall be used for such purpose or purposes
18 before any money realized by the bond issue is used."

19 Section 131. Section 20-10-144, MCA, is amended to
20 read:

21 "20-10-144. Computation of revenues and net tax levy
22 requirements for the transportation fund budget. Before the
23 fourth Monday of July and in accordance with 20-9-123, the
24 county superintendent shall compute the revenue available to
25 finance the transportation fund budget of each district. The

1 county superintendent shall compute the revenue for each
2 district on the following basis:

3 (1) The "schedule amount" of the preliminary budget
4 expenditures that is derived from the rate schedules in
5 20-10-141 and 20-10-142 shall be determined by adding the
6 following amounts:

7 (a) the sum of the maximum reimbursable expenditures
8 for all approved school bus routes maintained by the
9 district (to determine the maximum reimbursable expenditure,
10 multiply the applicable rate per bus mile by the total
11 number of miles to be traveled during the ensuing school
12 fiscal year on each bus route approved by the county
13 transportation committee and maintained by such district);
14 plus

15 (b) the total of all individual transportation per
16 diem reimbursement rates for such district as determined
17 from the contracts submitted by the district multiplied by
18 the number of pupil-instruction days scheduled for the
19 ensuing school attendance year; plus

20 (c) any estimated costs for supervised home study or
21 supervised correspondence study for the ensuing school
22 fiscal year; plus

23 (d) the amount budgeted on the preliminary budget for
24 the contingency amount permitted in 20-10-143, except if
25 such amount exceeds 10% of the total of subsections (1)(a),

1 (1)(b), and (1)(c) or \$100, whichever is larger, the
2 contingency amount on the preliminary budget shall be
3 reduced to such limitation amount and used in this
4 determination of the schedule amount.

5 (2) The schedule amount determined in subsection (1)
6 or the total preliminary transportation fund budget,
7 whichever is smaller, shall be divided by 3 and the
8 resulting one-third amount shall be used to determine the
9 available state and county revenue to be budgeted on the
10 following basis:

11 (a) the resulting one-third amount shall be the
12 budgeted state transportation reimbursement, except that the
13 state transportation reimbursement for the transportation of
14 special education pupils under the provisions of 20-7-442
15 shall be two-thirds of the schedule amount attributed to the
16 transportation of special education pupils;

17 (b) the resulting one-third amount, except as provided
18 for joint elementary districts in subsection (2)(e), shall
19 be the budgeted county transportation reimbursement for
20 elementary districts and shall be financed by the basic
21 county tax under the provisions of 20-9-334;

22 (c) the resulting one-third amount multiplied by 2
23 shall be the budgeted county transportation reimbursement
24 amount for high school districts financed under the
25 provisions of subsection (5) of this section, except as

1 provided for joint high school districts in subsection
2 (2)(e), and except that the county transportation
3 reimbursement for the transportation of special education
4 pupils under the provisions of 20-7-442 shall be one-third
5 of the schedule amount attributed to the transportation of
6 special education pupils;

7 (d) when the district has a sufficient amount of cash
8 for reappropriation and other sources of district revenue,
9 as determined in subsection (3), to reduce the total
10 district obligation for financing to zero, any remaining
11 amount of such district revenue and cash reappropriated
12 shall be used to reduce the county financing obligation in
13 subsections (2)(b) or (2)(c) and, if such county financing
14 obligations are reduced to zero, to reduce the state
15 financial obligation in subsection (2)(a); and

16 (e) the county revenue requirement for a joint
17 district, after the application of any district moneys under
18 subsection (2)(d) above, shall be prorated to each county
19 incorporated by the joint district in the same proportion as
20 the ANB of the joint district is distributed by pupil
21 residence in each such county.

22 (3) The total of the moneys available for the
23 reduction of property tax on the district for the
24 transportation fund shall be determined by totaling:

25 (a) anticipated federal moneys received under the

1 provisions of Title I of Public Law 81-874 or other
2 anticipated federal moneys received in lieu of such federal
3 act; plus

4 (b) anticipated payments from other districts for
5 providing school bus transportation services for such
6 district; plus

7 (c) anticipated payments from a parent or guardian for
8 providing school bus transportation services for his child;
9 plus

10 (d) anticipated interest to be earned by the
11 investment of transportation fund cash in accordance with
12 the provisions of 20-9-213(4); plus

13 (e) anticipated revenue from vehicle property taxes
14 imposed under 61-3-504(2) and 61-3-537; plus

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

17 (g) sales tax and use tax revenue; plus

18 ~~(g)}~~(h) any other revenue anticipated by the trustees
19 to be earned during the ensuing school fiscal year which may
20 be used to finance the transportation fund; plus

21 ~~(h)}~~(i) any cash available for reappropriation as
22 determined by subtracting the amount of the end-of-the-year
23 cash balance earmarked as the transportation fund cash
24 reserve for the ensuing school fiscal year by the trustees
25 from the end-of-the-year cash balance in the transportation

1 fund. Such cash reserve shall not be more than 20% of the
2 final transportation fund budget for the ensuing school
3 fiscal year and shall be for the purpose of paying
4 transportation fund warrants issued by the district under
5 the final transportation fund budget.

6 (4) The district levy requirement for each district's
7 transportation fund shall be computed by:

8 (a) subtracting the schedule amount calculated in
9 subsection (1) from the total preliminary transportation
10 budget amount and, for an elementary district, adding such
11 difference to the district obligation to finance one-third
12 of the schedule amount as determined in subsection (2); and

13 (b) subtracting the amount of moneys available to
14 reduce the property tax on the district, as determined in
15 subsection (3), from the amount determined in subsection
16 (4)(a) above.

17 (5) The county levy requirement for the financing of
18 the county transportation reimbursement to high school
19 districts shall be computed by adding all such requirements
20 for all the high school districts of the county, including
21 the county's obligation for reimbursements in joint high
22 school districts.

23 (6) The transportation fund levy requirements
24 determined in subsection (4) for each district and in
25 subsection (5) for the county shall be reported to the

1 county commissioners on the second Monday of August by the
2 county superintendent as the transportation fund levy
3 requirements for the district and for the county, and such
4 levies shall be made by the county commissioners in
5 accordance with 20-9-142."

6 **Section 132.** Section 20-15-311, MCA, is amended to
7 read:

8 "20-15-311. Funding sources. The annual operating
9 budget of a community college district shall be financed
10 from the following sources:

11 (1) the estimated revenues to be realized from student
12 tuition and fees, except those related to community service
13 courses as defined by the board of regents;

14 (2) a mandatory mill levy on the community college
15 district;

16 (3) the 1-mill adult education levy authorized under
17 provisions of 20-15-305;

18 (4) the state general fund appropriation;

19 (5) an optional voted levy on the community college
20 district that shall be submitted to the electorate in
21 accordance with general school election laws;

22 (6) all other income, revenue, balances, or reserves
23 not restricted by a source outside the community college
24 district to a specific purpose;

25 (7) income, revenue, balances, or reserves restricted

1 by a source outside the community college district to a
2 specific purpose. Student fees paid for community service
3 courses as defined by the board of regents shall be
4 considered restricted to a specific purpose;

5 (8) income from a political subdivision that is
6 designated a community college service region under
7 20-15-241; and

8 (9) sales tax and use tax revenue."

9 **Section 133.** Section 20-16-202, MCA, is amended to
10 read:

11 "20-16-202. Sources of financing for
12 vocational-technical center budgets -- distribution of
13 funds. (1) The total of the budgets approved by the board of
14 regents shall constitute the total maximum approved
15 statewide vocational-technical center system budget which
16 shall be financed as follows:

17 (a) The primary source of financing is to be those
18 funds specifically designated by legislative enactment or
19 referendum by the people for financing vocational-technical
20 education in Montana, including sales tax and use tax
21 revenue.

22 (b) The board of county commissioners of each county
23 in which a designated vocational-technical center is located
24 shall levy a tax in each calendar year of 1 1/2 mills on the
25 dollar of all taxable property, real and personal, within

1 the county to raise the amount appropriated by the
2 legislature for the support and maintenance of the
3 vocational-technical center system. The tax is to be
4 effective for property tax years beginning on or after
5 January 1, 1987. It is the intent of this subsection (1)(b)
6 that the county commissioners shall levy this tax for fiscal
7 year 1988 operation of the vocational-technical system and
8 thereafter.

9 (c) Designated vocational-technical centers shall be
10 eligible to receive such funds from the federal government
11 as the board of regents may provide pursuant to applicable
12 acts of congress.

13 (2) The board of regents shall direct the distribution
14 of the funds specified in subsection (1) on the basis of the
15 budgets approved by the board of regents. The funds earned
16 by the mill levy specified in subsection (1)(b) shall be
17 credited to the vocational-technical center account in the
18 unrestricted subfund of the current fund in the state
19 treasury."

20 **Section 134.** Section 23-5-1027, MCA, is amended to
21 read:

22 "23-5-1027. Disposition of revenue. (1) (a) As near as
23 possible to 45% of the money paid for tickets or chances
24 must be paid out as prize money, except as provided in
25 subsection (1)(b).

1 (b) In the case of a regional lottery game, a maximum
2 of 50% of the money paid for tickets or chances may be paid
3 out as prize money.

4 (2) Up to 15% of the gross revenue from the state
5 lottery may be used by the director to pay the operating
6 expenses of the state lottery. Commissions paid to lottery
7 ticket or chance sales agents are not a state lottery
8 operating expense.

9 (3) Funds to pay the operating expenses of the lottery
10 are statutorily appropriated as provided in 17-7-502.

11 (4) That part of all gross revenue not used for the
12 payment of prizes, commissions, and operating expenses is
13 net revenue and must be paid quarterly from the enterprise
14 fund established by 23-5-1026 to the superintendent-of
15 public-instruction-for-distribution-as-equalization--aid--to
16 the--retirement--fund--obligations--of state special revenue
17 fund for state equalization aid provided for in 20-9-343 for
18 equalization of the foundation program for elementary and
19 high school districts in-the-manner-provided-in-20-9-532."

20 **Section 135.** Section 33-7-407, MCA, is amended to
21 read:

22 "33-7-407. **Taxes.** Every society organized or licensed
23 under this chapter is hereby declared to be a charitable and
24 benevolent institution, and all of its funds shall be exempt
25 from all and every state, county, district, municipal, and

1 school tax other than taxes on real--estate-and-office
2 equipment gross receipts taxable under the sales tax and use
3 tax and taxes on property subject to taxation under Title
4 15."

5 **Section 136.** Section 61-3-501, MCA, is amended to
6 read:

7 "61-3-501. When vehicle taxes and fees are due. (1)
8 Property All taxes, new--car-taxes--and-fees except sales
9 taxes and use taxes paid at the time of purchase, must be
10 paid on the date of registration or reregistration of the
11 vehicle.

12 (2) If the anniversary date for reregistration of a
13 vehicle passes while the vehicle is owned and held for sale
14 by a licensed new or used car dealer, property taxes abate
15 on such vehicle properly reported with the department of
16 revenue until the vehicle is sold and thereafter the
17 purchaser shall pay the pro rata balance of the taxes due
18 and owing on the vehicle.

19 (3) In the event a vehicle's registration period is
20 changed under 61-3-315, all taxes and other fees due thereon
21 shall be prorated and paid from the last day of the old
22 period until the first day of the new period in which the
23 vehicle shall be registered. Thereafter taxes and other fees
24 must be paid from the first day of the new period for a
25 minimum period of 1 year. When the change is to a later

1 registration period, taxes and fees shall be prorated and
2 paid based on the same tax year as the original registration
3 period. Thereafter, during the appropriate anniversary
4 registration period, each vehicle shall again register or
5 reregister and shall pay all taxes and fees due thereon for
6 a 12-month period."

7 **NEW SECTION. Section 137. Taxable percentage rates --**
8 **restrictions on increasing.** The taxable percentage rates
9 provided in this part, except the percentage rate "R" in
10 15-6-145 or 15-6-147, may be increased only if the increase
11 is:

12 (1) adopted by vote of two-thirds of the members of
13 each house of the legislature; or

14 (2) approved by the electorate.

15 **NEW SECTION. Section 138. Sales tax rates --**
16 **restriction on increasing.** A sales tax rate or use tax rate
17 imposed in [section 2] may be increased only if the increase
18 is approved by the electorate.

19 **NEW SECTION. Section 139. Definitions.** As used in
20 [sections 139 through 146], the following definitions apply:

21 (1) "County" means any county government, excluding
22 those classified as consolidated governments.

23 (2) "Incorporated population" means the number of
24 persons residing within the boundaries of a municipality.

25 (3) "Mill value" means the amount of revenue that can

1 be raised within a county or municipality by levying 1 mill.
2 It is determined by multiplying a county's or municipality's
3 taxable valuation by 0.001.

4 (4) "Municipality" means an incorporated city, town,
5 or city-county consolidated government.

6 (5) "Unincorporated population" means the number of
7 persons not residing within a municipality.

8 **NEW SECTION. Section 140. Local government block**
9 **grant account.** (1) There is a local government block grant
10 account within the state special revenue fund.

11 (2) Funds in this account must be used to provide
12 payments from the local government block grant program to
13 counties and municipalities.

14 (3) The 11% of the sales tax and use tax revenue that
15 is distributed under [section 75(1)(b)(iii)] must be
16 deposited in the account.

17 **NEW SECTION. Section 141. Local government block**
18 **grant program.** (1) The department of commerce shall
19 administer the local government block grant program and
20 distribute funds from the local government block grant
21 account.

22 (2) The local government block grant program is
23 comprised of:

24 (a) a block grant for counties; and

25 (b) a block grant for municipalities.

1 NEW SECTION. Section 142. Division of block grant
2 funds. The division of funds within the local government
3 block grant account is as follows:

4 (1) The block grant for counties must be funded from
5 the percentage of funds deposited in the account that equals
6 the ratio of the unincorporated population to the state
7 population.

8 (2) The block grant for municipalities must be funded
9 from the percentage of funds deposited in the account that
10 equals the ratio of the incorporated population to the state
11 population.

12 NEW SECTION. Section 143. Distribution of block grant
13 funds to counties. Funds in the block grant account for
14 counties must be distributed as follows:

15 (1) One-half of each county's share is determined by
16 the ratio of the county's population to the total county
17 population in the state.

18 (2) One-half is distributed according to the following
19 formula in which CMV = average mill value per capita of all
20 counties, IMV = individual county mill value per capita, ICP
21 = individual county population, and CG = 1/2 total county
22 grant:

23 $\text{CMV} \times \text{ICP} = \text{county tax base factor (TBF)}$

24 IMV

25 $\text{CG} \times \text{individual county TBF} = 1/2 \text{ individual county}$

1 sum of all county TBFs share

2 NEW SECTION. Section 144. Distribution of block grant
3 funds to municipalities. (1) The block grant for
4 municipalities is divided into the city/town category and
5 the consolidated category.

6 (2) The consolidated category must receive a
7 percentage of the total municipal grant as determined by the
8 following formula in which PCG = population of consolidated
9 governments, UP = unincorporated population, TSP = total
10 stated population, and TSMP = total state municipal
11 population:

12 $\frac{\text{PCG} + (\text{PCG} \times \text{UP}/\text{TSP})}{\text{TSMP}} = \text{consolidated category percentage}$

13
14 (3) The city/town and consolidated categories must be
15 distributed as follows:

16 (a) One-half of each municipality's share is
17 determined by the ratio of the municipality's population to
18 the total municipal population of that category.

19 (b) One-half is distributed according to the following
20 formula in which MVPC = average mill value per capita for
21 all municipalities within each category, IVC = individual
22 municipality mill value per capita, IMP = individual
23 municipality population, and CG = 1/2 total grant for each
24 category:

25 $\text{MVPC} \times \text{IMP} = \text{municipal tax base factor (TBF)}$

1 IVC
 2 CG X individual municipality TBF = 1/2 individual
 3 sum of all municipality TBFs municipality
 4 share
 5 **NEW SECTION. Section 145.** Population and taxable
 6 valuation figures to be used. (1) Population figures used in
 7 [sections 139 through 144] must be the most recent figures
 8 as determined by the department of commerce.
 9 (2) Mill values used in [sections 139 through 144]
 10 must be the most recent taxable valuation figures as
 11 determined by the department of revenue for the fiscal year
 12 in which payments will be made.
 13 **NEW SECTION. Section 146.** Disposition and use of
 14 funds. (1) Disbursements from the local government block
 15 grant account must be made on June 30, 1991, and on June 30
 16 of each succeeding year.
 17 (2) One-half of each disbursement must be used to
 18 reduce the local government's general fund mill levy, and
 19 one-half of the disbursement may be used for any purpose
 20 authorized by law.
 21 **NEW SECTION. Section 147.** Submission to electorate.
 22 The question of whether sections 1 through 146 and 149 of
 23 this act will become effective shall be submitted to the
 24 qualified electors of Montana at the election called
 25 pursuant to section 146 by printing on the ballot the full

1 title of this act and the following:
 2 **FOR** imposing a 4% sales tax and use tax, to be used
 3 approximately as follows:
 4 o 35% for state funding of public education, to reduce
 5 local property taxes;
 6 o 10% for higher education;
 7 o 21% to reduce residential, personal, and commercial
 8 property taxes;
 9 o 3.5% to reduce municipal and county property taxes;
 10 o 3.5% new revenue for municipal and county
 11 governments;
 12 o 12.5% for refunds to low-income families; and
 13 o the remainder to be deposited in the state general
 14 fund.
 15 **AGAINST** imposing a 4% sales tax and use tax, to be
 16 used approximately as follows:
 17 o 35% for state funding of public education, to reduce
 18 local property taxes;
 19 o 10% for higher education;
 20 o 21% to reduce residential, personal, and commercial
 21 property taxes;
 22 o 3.5% to reduce municipal and county property taxes;
 23 o 3.5% new revenue for municipal and county
 24 governments;
 25 o 12.5% for refunds to low-income families; and

o the remainder to be deposited in the state general fund.

NEW SECTION. Section 148. Special election. Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, [sections 1 through 146 and 149] shall be submitted to the qualified electors of Montana for their approval or disapproval at a statewide election to be held November 7, 1989.

NEW SECTION. Section 149. Repealer. Sections 15-6-136 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531, and 20-9-532, MCA, are repealed.

NEW SECTION. Section 150. Codification instruction. (1) [Sections 1 through 68, 74, 75, and 138] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 68, 74, 75, and 138].

(2) [Sections 69 through 73] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 69 through 73].

(3) [Sections 76 and 137] are intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, apply to [sections 76 and 137].

(4) [Section 107] is intended to be codified as an integral part of Title 20, chapter 25, and the provisions of Title 20, chapter 25, apply to [section 107].

(5) [Sections 139 through 146] are intended to be codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 139 through 146].

NEW SECTION. Section 151. Coordination instruction. If [this act] passes and Senate Bill No. 463 fails, the sales tax rate imposed in [section 2 of this act] is 3%, and wherever the sales tax of 4% appears in [this act], it must be changed to 3%.

NEW SECTION. Section 152. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 153. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 154. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before

LC 1717/01

1 [the effective date of this act].

2 NEW SECTION. Section 155. Effective dates. (1) Except
3 as provided in subsections (2) and (3), [this act] is
4 effective on approval by the electorate.

5 (2) [Sections 147, 148, and this section] are
6 effective on passage by the legislature.

7 (3) [Section 149] is effective December 31, 1990.

8 NEW SECTION. Section 156. Applicability. (1)
9 [Sections 1 through 75 and 139 through 146] are applicable
10 on and after July 1, 1990.

11 (2) [Sections 76 through 136] apply to taxable years,
12 fiscal years, and school fiscal years beginning after
13 December 31, 1989. However, all taxes, levies, fees,
14 assessments, and the like levied in 1989 for fiscal year
15 1990 must be paid and are collectible as provided by law.

-End-

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 469

INTRODUCED BY CRIPPEN, BRADLEY, ECK, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT THE EDUCATION AND TAX REFORM ACT; PROVIDING FOR A 4 PERCENT SALES TAX AND USE TAX; PROVIDING FOR CERTAIN DEDUCTIONS AND EXEMPTIONS FROM THE TAX; GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES; PROVIDING PROPERTY TAX RELIEF; REVISING LOCAL GOVERNMENT BONDING AND DEBT LIMITS; PROVIDING CREDITS AGAINST OR REFUND OF INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE FROM THE SALES TAX AND USE TAX; REPEALING COUNTY MILL LEVIES FOR TEACHER RETIREMENT; LINKING THE IMPOSITION OF A STATEWIDE SALES TAX TO STATE INCOME TAX REFORM; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-207, 15-8-111, 15-8-205, 15-10-402, 15-10-411, 15-10-412, 15-16-611, 15-16-613, 15-24-301, 15-24-1102, 15-24-1103, 17-3-213, 19-4-605, 19-11-503, 19-11-504, 20-3-106, 20-3-324, 20-5-305, 20-5-312, 20-9-141, 20-9-201, 20-9-212, 20-9-301, 20-9-331, 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-502, 20-10-144, 20-15-311, 20-16-202, 23-5-1027,

33-7-407, AND 61-3-501, AND 61-3-502, MCA; REPEALING SECTIONS 15-6-136 THROUGH 15-6-140, 15-6-142 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531, AND 20-9-532; PROVIDING THAT CERTAIN SECTIONS OF THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE STATE OF MONTANA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

STATEMENT OF INTENT

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

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

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

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

(3) the required security and the acceptable forms of security for those taxpayers required to give security for

1 payment of the taxes;
 2 (4) the use of the nontaxable transaction certificate
 3 and clarification of any exemption from or deduction of the
 4 taxes;
 5 (5) the necessary forms and the required procedures
 6 for reporting the taxes; and
 7 (6) the definition of terms and establishment of
 8 procedures as appropriate for efficient administration of
 9 the sales tax and use tax.

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. **Section 1. Definitions.** For purposes of
 13 [sections 1 through 68 and 74], unless the context requires
 14 otherwise, the following definitions apply:

15 (1) "Buying", "selling", "buy", "sell", or "sale"
 16 means the transfer of property for consideration or the
 17 performance of a service for consideration.

18 (2) "Construction" means:

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

- 21 (i) road, highway, bridge, parking area, or related
- 22 project;
- 23 (ii) building, stadium, or other structure;
- 24 (iii) airport, subway, or similar facility;
- 25 (iv) park, trail, athletic field, golf course, or

1 similar facility;
 2 (v) dam, reservoir, canal, ditch, or similar facility;
 3 (vi) sewage or water treatment facility, power
 4 generating plant, pump station, natural gas compressing
 5 station, gas processing plant, coal gasification plant,
 6 refinery, distillery, or similar facility;
 7 (vii) sewage, water, gas, or other pipeline;
 8 (viii) transmission line;
 9 (ix) radio, television, or other tower;
 10 (x) water, oil, or other storage tank;
 11 (xi) shaft, tunnel, or other mining appurtenance; or
 12 (xii) microwave station or similar facility;
 13 (b) the leveling or clearing of land;
 14 (c) the excavating of earth;
 15 (d) the drilling of wells of any type, including
 16 seismograph shot holes or core drilling; or
 17 (e) any similar work.
 18 (3) "Department" means the department of revenue.
 19 (4) "Engaging in business" means carrying on or
 20 causing to be carried on any activity with the purpose of
 21 direct or indirect benefit.
 22 (5) "Food product for human consumption":
 23 (a) means food for domestic home consumption as
 24 defined in 7 U.S.C. 2012(g), as amended, for purposes of the
 25 federal food stamp program as defined in 7 U.S.C. 2012(h),

1 as amended; and

2 (b) does not mean or include:

3 (i) medicines or preparations, in liquid, powdered,
4 granular, bottled, capsule, lozenge, or pill form, sold as a
5 dietary supplement or adjunct not prescribed by a licensed
6 physician;

7 (ii) carbonated water marketed in containers;

8 (iii) chewing gum;

9 (iv) candies or confectioneries; or

10 (v) seeds and plants to grow foods.

11 (6) (a) "Gross receipts", in addition to the other
12 meanings provided in this subsection (6), means the total
13 amount of money or the value of other consideration received
14 from selling property in Montana, from leasing property used
15 in Montana, or from performing services in Montana. The term
16 includes all receipts from the sale of tangible personal
17 property handled on consignment but excludes cash discounts
18 allowed and taken and any type of time-price differential.

19 (b) In an exchange in which the money or other
20 consideration received does not represent the value of the
21 property or service exchanged, gross receipts means the
22 reasonable value of the property or service exchanged.

23 (c) (i) Except as provided in [section 54], when the
24 sale of property or services is made under any type of
25 charge or conditional or time-sales contract or the leasing

1 of property is made under a leasing contract, the seller or
2 lessor shall treat all receipts, excluding any type of
3 time-price differential, under such contracts as gross
4 receipts at the time of the sale.

5 (ii) If the seller or lessor transfers his interest in
6 any such contract to a third person, the seller or lessor
7 shall pay the sales tax or use tax upon the full sale or
8 leasing contract amount, excluding any type of time-price
9 differential.

10 (d) Gross receipts includes all amounts paid by
11 members of a cooperative association or similar organization
12 for sales or leases of personal property or performance of
13 services by the organization.

14 (7) "Lease" or "leasing" means an arrangement in
15 which, for consideration, property is used for or by a
16 person other than the owner of the property.

17 (8) "Manufacturing" means combining or processing
18 components or materials, INCLUDING THE PROCESSING FOR ORES
19 IN A MILL, SMELTER, REFINERY, OR REDUCTION FACILITY, to
20 increase their value for sale in the ordinary course of
21 business. The term does not include construction.

22 (9) "Medical services" means a service:

23 (a) performed by a person licensed to practice
24 medicine, osteopathy, dentistry, podiatry, optometry,
25 chiropractic, or psychology OR LICENSED AS A MENTAL HEALTH

1 PROFESSIONAL OR CHEMICAL DEPENDENCY COUNSELOR as a regular
 2 part of his business activities; and
 3 (b) applied externally or internally to the human body
 4 or mind for the diagnosis, cure, mitigation, treatment, or
 5 prevention of disease.
 6 (10) "Medicine" or "drug" means and includes any
 7 substance or preparation that is:
 8 (a) intended for use by external or internal
 9 application to the human body or mind in the diagnosis,
 10 cure, mitigation, treatment, or prevention of disease; and
 11 (b) required by law or regulation to be prescribed by
 12 a person licensed to prescribe such medicine or drug.
 13 (11) "Permit" means a seller's permit as described in
 14 [section 45].
 15 (12) "Person" means:
 16 (a) an individual, estate, trust, receiver,
 17 cooperative association, club, corporation, company, firm,
 18 partnership, joint venture, syndicate, or other entity,
 19 including any gas, water, or electric utility owned or
 20 operated by a county, municipality, or other political
 21 subdivision of the state; or
 22 (b) the United States or any agency or instrumentality
 23 of the United States or the state of Montana or any
 24 political subdivision of the state.
 25 (13) "Sales tax" and "use tax" mean the applicable tax

1 imposed by [section 2].

2 (14) (a) "Service" means an activity that is engaged in
 3 for another person for consideration and that is
 4 distinguished from the sale or lease of property. The term
 5 includes:

6 (i) activities performed by a person for its members
 7 or shareholders; and

8 (ii) construction activities and all tangible personal
 9 property that will become an ingredient or component part of
 10 a construction project.

11 (b) In determining what a service is, the intended
 12 use, principal objective, or ultimate objective of the
 13 contracting parties is irrelevant.

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

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

21 NEW SECTION. Section 2. Imposition and rate of sales
 22 tax and use tax. (1) Except as provided in subsection (5), a
 23 sales tax of 4% is imposed on all gross receipts, as defined
 24 in [section 1], for the privilege of engaging in business in
 25 this state.

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

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Section 4.** Separate statement of tax.

1 (1) If the sales tax or use tax is stated separately on the
2 books of the seller or lessor and the total amount of tax
3 stated separately on transactions within the reporting
4 period is in excess of the amount of sales tax or use tax
5 otherwise payable on those transactions, the excess amount
6 of tax otherwise payable and stated on the transactions
7 within the reporting period must be included in gross
8 receipts.

9 (2) If the sales tax or use tax is not stated
10 separately on transactions, the gross receipts for sales tax
11 and use tax purposes include the total amounts received,
12 with no deduction for the sales tax or use tax.

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

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

20 **NEW SECTION. Section 6. Agents for collection of**
21 **sales tax and use tax -- severability.** (1) (a) A person who
22 performs or attempts to perform an activity within this
23 state that attempts to exploit this state's markets, who
24 sells property or services for use in this state, and who is
25 not subject to the sales tax or use tax on receipts from

1 these sales shall collect the sales tax or use tax from the
2 buyer and pay the tax collected to the department.

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

6 (i) maintaining an office or other place of business
7 that solicits orders through employees or independent
8 contractors;

9 (ii) canvassing;

10 (iii) demonstrating;

11 (iv) collecting money;

12 (v) warehousing or storing merchandise;

13 (vi) delivering or distributing products as a
14 consequence of an advertising or other sales program
15 directed at potential customers;

16 (vii) soliciting orders for tangible personal property
17 by means of a telecommunication or television shopping
18 system that utilizes toll-free numbers and that is intended
19 to be broadcast by cable television or other means to
20 consumers in this state;

21 (viii) soliciting orders, pursuant to a contract with a
22 broadcaster or publisher located within this state, for
23 tangible personal property by means of advertising
24 disseminated primarily to consumers located in this state
25 and only secondarily to bordering jurisdictions;

1 (ix) soliciting orders for tangible personal property
 2 by mail if the solicitations are substantial and recurring
 3 and if the person engaging in such activity benefits from
 4 any banking, financing, debt collection, telecommunication,
 5 or marketing activities occurring in this state or benefits
 6 from the location in this state of authorized installation,
 7 servicing, or repair facilities; or

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

12 (2) To ensure the orderly and efficient collection of
 13 the tax imposed by [sections 1 through 68 and 74], if any
 14 application of this section is held invalid, the section's
 15 application to other situations or persons is not affected.

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

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

1 delivery of a nontaxable transaction certificate are
 2 disallowed.

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

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

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

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

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

1 use tax.

2 **NEW SECTION. Section 9. Exemption -- food products.**

3 (1) Except as provided in subsection (2), receipts from
4 sales of food products for human consumption, as defined in
5 [section 1(5)(a)], are exempt from the sales tax.

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

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

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

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

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

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

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

3 **NEW SECTION. Section 10. Exemption -- special**
4 **supplemental food program for women, infants, and children.**

5 The receipts from the sale of food purchased under the
6 special supplemental food program for women, infants, and
7 children (WIC) as specified in 42 U.S.C. 1786, as amended,
8 are exempt from the sales tax.

9 **NEW SECTION. Section 11. Exemption -- PRESCRIBED**
10 **medicines, drugs, AND certain devices,---and -- medical**
11 **services.** (1) The gross receipts from the sale, BY
12 PRESCRIPTION FROM A PERSON DESCRIBED IN [SECTION 1(9)(A)],
13 of medicines, drugs, insulin, and therapeutic and prosthetic
14 devices are exempt from the sales tax.

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

17 **NEW SECTION. Section 12. Exemption -- wages. The**
18 **EXCEPT AS PROVIDED IN [SECTIONS 1 THROUGH 69 AND 75], THE**
19 receipts of an employee from an employer for wages, salary,
20 commissions, or any other form of remuneration for personal
21 services are exempt from the sales tax.

22 **NEW SECTION. Section 13. Exemption -- agricultural**
23 **products.** The receipts of a grower, producer, trapper, or
24 nonprofit marketing association from the sale of livestock,
25 live poultry, unprocessed agricultural products, hides, or

pelts are exempt from the sales tax. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account and without the services of a broker, auctioneer, or other agent are considered producers for the purposes of this section.

NEW SECTION. Section 14. Exemption -- livestock feeding. A person's receipts derived from feeding, pasturing, penning, or handling or training livestock prior to sale are exempt from the sales tax.

NEW SECTION. Section 15. Exemption -- used tangible personal property upon which a sales or use tax has been paid. The receipts from the sale of used tangible personal property upon which a tax has been paid pursuant to [sections 1 through 68 and 74] are exempt from the sales tax.

NEW SECTION. Section 16. Exemption -- vehicles. The receipts from the sale of any vehicle upon which a tax pursuant to [sections 1 through 68 and 74] has been paid or which was purchased prior to [the applicability date of this act] are exempt from the sales tax. A registration certificate showing that the vehicle was registered in this state prior to [the applicability date of this act] is conclusive proof that it was purchased before it was subject to taxation under [sections 1 through 68 and 74] and is exempt under this section.

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

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

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

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

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

(1) interest on money loaned or deposited;

(2) dividends or interest from stocks, bonds, or

1 securities; and

2 (3) proceeds from the sale of stocks, bonds, or
3 securities.

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

9 NEW SECTION. Section 21. Exemption -- isolated or
10 occasional sale or lease of property or services. The
11 receipts from the isolated or occasional sale or lease of
12 property or from the performance of a service by a person
13 who is not regularly engaged in or who does not represent
14 himself as engaged in the business of selling or leasing the
15 same or a similar property or service are exempt from the
16 sales tax.

17 NEW SECTION. Section 22. Exemption -- oil, gas, and
18 mineral interests. The receipts from the sale or lease of
19 oil, natural gas, or mineral interests are exempt from the
20 sales tax.

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

25 (2) Minerals refined, reduced, polished, cut, faceted,

1 or otherwise processed for the purpose of being used as or
2 integrated into jewelry, art, or sculpture or as a
3 decorative embellishment or adornment, either in their own
4 right or in combination with other property, are not
5 included in the exemption provided in this section.

6 NEW SECTION. Section 24. Exemption -- property of
7 certain governmental agencies. (1) The use of property by
8 the United States or any agency or instrumentality of the
9 United States or by this state or any political subdivision
10 of this state is exempt from the use tax.

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

14 NEW SECTION. Section 25. Exemption -- personal
15 effects. The use by an individual of personal or household
16 effects brought into the state for the establishment by him
17 of an initial residence in this state and the use of
18 property brought into the state by a nonresident for his own
19 nonbusiness use while temporarily within this state are
20 exempt from the use tax.

21 NEW SECTION. Section 26 Exemption -- SUBSCRIPTIONS
22 -- advertising services. (1) THE GROSS RECEIPTS FROM THE
23 SALE OF SUBSCRIPTIONS TO NEWSPAPERS, MAGAZINES, AND ALL
24 OTHER PRINTED MATERIAL ARE EXEMPT FROM THE SALES TAX.

25 (2) The gross receipts from the sale of advertising

1 services, including the actual creation or development of
 2 the advertising, are exempt from the sales tax. For the
 3 purpose of this section, "advertising services" includes but
 4 is not limited to all advertising by:

- 5 {1}(A) newspaper, magazine, or other publication;
- 6 {2}(B) radio or television;
- 7 {3}(C) billboard, banner, sign, placard, and the like;
- 8 {4}(D) handbill; or
- 9 {5}(E) any other advertising means, media, or method.

10 **NEW SECTION. Section 27.** Deduction -- sale of
 11 tangible personal property for resale. Receipts from the
 12 sale of tangible personal property may be deducted from
 13 gross receipts if:

- 14 (1) the sale is made to a buyer who delivers a
 15 nontaxable transaction certificate to the seller; and
- 16 (2) the buyer resells or plans to resell the tangible
 17 personal property either by itself or in combination with
 18 other tangible personal property in the ordinary course of
 19 business and the property will subsequently be subject to
 20 the sales tax.

21 **NEW SECTION. Section 28.** Deduction -- sale of service
 22 for resale. Receipts from the sale of a service for resale
 23 may be deducted from gross receipts if:

- 24 (1) the sale is made to a person who delivers a
 25 nontaxable transaction certificate;

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

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

6 **NEW SECTION. Section 29.** Deduction -- sale to MINER
 7 OR manufacturer. Receipts from the sale of tangible personal
 8 property to a buyer engaged in the business of MINING OR
 9 manufacturing may be deducted from gross receipts if:

- 10 (1) the buyer delivers a nontaxable transaction
 11 certificate to the seller; and
- 12 (2) the buyer incorporates or will incorporate the
 13 tangible personal property as an ingredient or component
 14 part of the product which he is in the business of MINING OR
 15 manufacturing.

16 **NEW SECTION. Section 30.** Deduction -- sale of
 17 tangible personal property for leasing. Receipts from the
 18 sale of tangible personal property, other than furniture or
 19 appliances, and from the rental or lease of property, other
 20 than coin-operated machines and mobile homes, that is
 21 deductible under [sections 1 through 68 and 74] may be
 22 deducted from gross receipts if:

- 23 (1) the sale is made to a buyer who delivers a
 24 nontaxable transaction certificate to the seller;
- 25 (2) the buyer is engaged in a business deriving more

than 50% of its receipts from leasing or selling tangible personal property of the type leased; and

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

NEW SECTION. Section 31. Deduction -- lease for subsequent lease. Receipts from the lease of tangible personal property, other than furniture or appliances, and from the rental or lease of property, other than coin-operated machines and mobile homes, that is deductible under [sections 1 through 68 and 74] may be deducted from gross receipts if:

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

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

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

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

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

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

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

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

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

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

NEW SECTION. Section 34. Deduction -- sale or lease of real property and lease of mobile homes. (1) ~~(a)~~ Except as provided in subsections ~~(1)~~~~(b)~~ (2) and ~~(3)~~ (4), receipts from the sale or lease of real property, from the lease of a mobile home, or from the rental of a mobile home for a period of at least 1 month may be deducted from gross receipts.

~~(b)~~(2) (A) The portion of the gross receipts from the sale of real property that is attributable to improvements, OTHER THAN RESIDENTIAL IMPROVEMENTS, constructed on the real property by the seller in the ordinary course of his construction business may not be deducted from gross receipts.

(B) THE PROPORTION OF THE GROSS RECEIPTS FROM THE SALE OF REAL PROPERTY THAT IS ATTRIBUTABLE TO RESIDENTIAL IMPROVEMENTS CONSTRUCTED ON THE REAL PROPERTY BY THE SELLER IN THE ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS MAY BE DEDUCTED FROM GROSS RECEIPTS IN THE PROPORTION THAT THE COST OF THE CONSTRUCTION FOR EVERYTHING OTHER THAN MATERIALS BEARS TO THE GROSS RECEIPTS FOR THE IMPROVEMENTS.

~~(2)~~(3) Receipts attributable to the inclusion of furniture or appliances furnished by the landlord or lessor

as part of a leased or rented dwelling, house, mobile home, cabin, condominium, or apartment may be deducted from gross receipts.

~~(3)~~(4) Receipts received by hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities may not be deducted ~~for~~ FROM gross receipts for purposes of ~~this-section~~ [SECTIONS 1 THROUGH 69 AND 75] if either the operator or the user must pay tax on the receipts under Title 15, chapter 65, AND ALL SUCH RECEIPTS ARE SUBJECT TO THE TAX IMPOSED IN [SECTION 2]. The receipts of hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities are subject to the sales tax or use tax.

(5) FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL IMPROVEMENTS" MEANS IMPROVEMENTS TO REAL PROPERTY THAT ARE CONSTRUCTED FOR HUMAN HABITATION IN A STRUCTURE CONTAINING FEWER THAN THREE UNITS. THE TERM INCLUDES IMPROVEMENTS MADE TO EXISTING RESIDENTIAL IMPROVEMENTS.

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

(2) (a) The following may be deducted from gross

1 receipts:

2 (i) receipts from transmitting messages or
3 conversations by radio, originating from a point outside
4 this state and received at a point within this state; and

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

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

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

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

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

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

3 (c) the services are performed under a single contract
4 in relation to transportation services.

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

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

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

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

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

23 (c) concurrent with the performance of the service,
24 does not have a regular place of work in this state or spend
25 more than brief and occasional periods of time in this state

1 and:

2 (i) does not have any communication in this state
3 related in any way to the subject matter, performance, or
4 administration of the service with the person performing the
5 service; or

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

8 (4) RECEIPTS FROM PERFORMING ARCHITECTURAL,
9 ENGINEERING, SURVEYING, OR GRAPHIC DESIGN SERVICES MAY BE
10 DEDUCTED FROM GROSS RECEIPTS IF THE PRODUCT RESULTING FROM
11 THE SERVICE OR THE SERVICE IS USED OR APPLIED EXCLUSIVELY
12 OUTSIDE MONTANA. FOR THE PURPOSES OF THIS SUBSECTION, THE
13 PROVISIONS OF SUBSECTION (3) DO NOT APPLY.

14 ~~{4}~~(5) Receipts from performing a service that
15 initially qualified for the deduction provided in this
16 section but that no longer meets the criteria set forth in
17 subsection (3) are deductible for the period prior to the
18 disqualification.

19 NEW SECTION. Section 38. Deduction -- feed,
20 fertilizers, and agricultural supplies -- livestock
21 auctioneers. (1) Receipts from the sale of feed for
22 livestock, fish raised for human consumption, poultry,
23 animals raised for their hides or pelts, semen used in
24 animal husbandry, seeds, roots, bulbs, soil conditioners,
25 fertilizers, insecticides, insects used to control the

1 population of other insects, fungicides, weedicides,
2 herbicides, or water for irrigation purposes may be deducted
3 from gross receipts if the sale is made to a person who
4 PRESENTS A NONTAXABLE TRANSACTION CERTIFICATE OR states in
5 writing that he is regularly engaged in the business of
6 farming, ranching, or the raising of animals for their hides
7 or pelts.

8 (2) RECEIPTS FROM THE SALE OF AN AGRICULTURAL SERVICE
9 MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A
10 BUYER ENGAGED IN THE BUSINESS OF FARMING OR RANCHING OR THE
11 RAISING OF ANIMALS FOR THEIR HIDES OR PELTS AND WHO STATES
12 IN WRITING THAT HE IS REGULARLY ENGAGED IN THE BUSINESS OF
13 FARMING OR RANCHING OR THE RAISING OF ANIMALS FOR THEIR
14 HIDES OR PELTS OR WHO DELIVERS A NONTAXABLE TRANSACTION
15 CERTIFICATE TO THE PERSON PERFORMING THE AGRICULTURAL
16 SERVICE. THE BUYER MAKING THE STATEMENT OR DELIVERING THE
17 NONTAXABLE TRANSACTION CERTIFICATE SHALL HAVE THE
18 AGRICULTURAL SERVICE PERFORMED UPON PROPERTY, REAL OR
19 PERSONAL, INCLUDING LIVESTOCK AND ANIMALS RAISED FOR THEIR
20 HIDES OR PELTS, THAT IS AN INTEGRAL PART OF AN AGRICULTURAL
21 OPERATION.

22 ~~{2}~~(3) Receipts of auctioneers from selling livestock
23 or other agricultural products at auction may be deducted
24 from gross receipts.

25 NEW SECTION. Section 39. Deduction -- certain

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

3 (a) receipts from the sale of chemicals--or--reagents
4 ANY CHEMICAL, REAGENT, OR OTHER SUBSTANCE to any mining
5 concern or milling company for-use THAT IS USED OR CONSUMED
6 in THE processing OF ores or oil in a mill, smelter, or
7 refinery, OR REDUCTION FACILITY or in acidizing oil wells;
8 and

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

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

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

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

23 NEW SECTION. Section 41. Deduction -- sale of certain
24 services performed directly on product MINED OR
25 manufactured. (1) Receipts from sale of the service of

1 MINING, combining, or processing components or materials,
2 INCLUDING MINERALS, may be deducted from gross receipts if
3 the sale is made to a buyer who is engaged in the business
4 of MINING OR manufacturing and who delivers a nontaxable
5 transaction certificate to the seller.

6 (2) The buyer delivering the nontaxable transaction
7 certificate shall have the service performed directly upon
8 tangible personal property, INCLUDING MINERALS, that he is
9 in the business of MINING OR manufacturing or upon
10 ingredients or component parts of such property.

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

16 (a) is engaged in a business that derives a
17 substantial portion of its receipts from leasing or selling
18 property of the type leased;

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

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

25 (2) The deduction provided in subsection (1) does not

1 apply to the value of furniture or appliances furnished by
2 the landlord or lessor as part of a leased or rented
3 dwelling, house, cabin, condominium, or apartment or to the
4 lease of coin-operated machines or mobile homes.

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

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

14 NEW SECTION. SECTION 44. DEDUCTION -- COMPUTER DATA
15 BASE SERVICES. (1) RECEIPTS FROM THE SALE OR USE OF
16 COMPUTER DATA BASE SERVICES MAY BE DEDUCTED FROM GROSS
17 RECEIPTS.

18 (2) FOR THE PURPOSES OF [SECTIONS 1 THROUGH 69 AND
19 75], "COMPUTER DATA BASE SERVICES" MEANS IDENTIFYING,
20 COMPILING, ORGANIZING, MANIPULATING, OR DELIVERING
21 INFORMATION ACTUALLY CONTAINED IN OR TO BE CONTAINED IN A
22 COMPUTER DATA BASE.

23 (3) RECEIPTS FROM THE SALE OF COMPUTER HARDWARE,
24 SOFTWARE, SYSTEM DEVELOPMENT, DESIGN, OR INSTALLATION OR THE
25 SALE OF AN EXISTING COMPUTER DATA BASE (AS OPPOSED TO THE

1 SALE OR USE OF A COMPUTER DATA BASE SERVICE) MAY NOT BE
2 DEDUCTED FROM GROSS RECEIPTS.

3 NEW SECTION. Section 45. Credit -- out-of-state
4 taxes. (1) If a gross receipts, sales, use, or similar tax
5 has been levied by another state or a political subdivision
6 of another state on property bought outside this state but
7 which will be used or consumed in this state and the tax was
8 paid, the amount of tax paid may be credited against any use
9 tax due this state on the same property.

10 (2) If the receipts from the sale of improvements to
11 real property constructed by a person in the ordinary course
12 of his construction business are subject to the sales tax or
13 use tax, the amount of tax paid by the person under
14 subsection (1) on materials that became an ingredient or
15 component part of the construction project and on
16 construction services performed upon the construction
17 project may be credited against the sales tax or use tax due
18 on the sale.

19 NEW SECTION. Section 46. Seller's permit. Upon an
20 applicant's compliance with [sections 1 through 68 and 74],
21 the department shall issue to the applicant a separate,
22 numbered seller's permit for each place of business within
23 Montana. A permit is valid until revoked or suspended but is
24 not assignable. A permit is valid only for the person in
25 whose name it is issued and for the transaction of business

1 at the place designated. The permit must be conspicuously
2 displayed at all times at the place for which it is issued.

3 NEW SECTION. Section 47. Permit application --
4 requirements -- place of business -- form. (1) (a) A person
5 desiring to engage in the business of making retail sales or
6 providing services in Montana shall file with the department
7 an application for a permit. If the person has more than one
8 place of business, an application must be filed for each
9 place of business.

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

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

17 (b) Each person or class of persons obligated to file
18 a return under [sections 1 through 68 and 74] is required to
19 file application for a permit.

20 (2) Each application for a permit must be on a form
21 prescribed by the department and must set forth the name
22 under which the applicant intends to transact business, the
23 location of his place or places of business, and such other
24 information as the department may require. The application
25 must be filed by the owner if the owner is a natural person,

1 by a member or partner if the owner is an association or
2 partnership, or by a person authorized to sign the
3 application if the owner is a corporation.

4 NEW SECTION. Section 48. Special activities --
5 permits -- penalty. (1) The operator of a flea market, craft
6 show, antique show, coin show, stamp show, comic book show,
7 convention exhibit area, or similar selling event, as a
8 prerequisite to renting or leasing space on the premises
9 owned or controlled by the operator to a person desiring to
10 engage in or conduct business as a seller, shall obtain
11 evidence that the seller is the holder of a valid seller's
12 permit issued pursuant to [section 45] or a written
13 statement from the seller that he is not offering for sale
14 any item that is taxable under [sections 1 through 68 and
15 74].

16 (2) "Flea market, craft show, antique show, coin show,
17 stamp show, comic book show, convention exhibit area, or
18 similar selling event", as used in this section, means an
19 activity that involves a series of sales sufficient in
20 number, scope, and character to constitute a regular course
21 of business but does not qualify as an isolated or
22 occasional sale pursuant to [section 21].

23 (3) An operator who fails or refuses to comply with
24 the provisions of this section is subject to a penalty,
25 payable to the department, of \$100 per day per seller at

1 each selling event at which the operator fails to obtain
2 evidence that a seller is the holder of a valid seller's
3 permit issued pursuant to [section 45].

4 NEW SECTION. Section 49. Revocation or suspension of
5 permit -- hearing -- notice -- appeal. (1) Subject to the
6 provisions of subsection (2), the department may, for
7 reasonable cause, revoke or suspend any permit held by a
8 person who fails to comply with the provisions of [sections
9 1 through 68 and 74].

10 (2) (a) The department shall hold a hearing on the
11 proposed revocation or suspension after giving the person 30
12 days' notice in writing, specifying the time and place of
13 the hearing and the reason for the proposed revocation or
14 suspension.

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

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

20 (3) After revocation, the department may not issue a
21 new permit except upon application accompanied by reasonable
22 evidence of the intention of the applicant to comply with
23 the provisions of [sections 1 through 68 and 74]. The
24 department may require security in addition to that
25 authorized by [section 56] in an amount reasonably necessary

1 to ensure compliance with [sections 1 through 68 and 74] as
2 a condition for the issuance of a new permit to such an
3 applicant.

4 (4) A person aggrieved by the department's final
5 decision to revoke a permit as provided in subsection (1)
6 may appeal the decision to the state tax appeal board within
7 30 days following the date on which the department issued
8 its final decision.

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

11 NEW SECTION. Section 50. Nontaxable transaction
12 certificate -- form. (1) The department shall provide for a
13 uniform nontaxable transaction certificate. In order to
14 obtain a deduction under [sections 1 through 68 and 74], a
15 purchaser shall use the certificate when purchasing goods or
16 services for resale.

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

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

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

22 (c) the property or service purchased for resale;

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

24 (e) a signature line for the purchaser.

25 NEW SECTION. Section 51. Improper use of subject of

1 purchase obtained with nontaxable transaction certificate --
 2 penalty. (1) If a purchaser who uses a nontaxable
 3 transaction certificate utilizes the subject of the purchase
 4 for a purpose other than one allowed as a deduction under
 5 [sections 1 through 68 and 74], the use is considered a
 6 taxable sale by the purchaser as of the time of first use by
 7 him and the sale price he receives is considered the gross
 8 receipts from the sale. If the sole nonexempt use is rental
 9 while holding for sale, the purchaser shall include in his
 10 gross receipts the amount of the rental charged. Upon
 11 subsequent sale of the property, the seller shall include
 12 the entire amount of gross receipts received from the
 13 resale, without deduction of amounts previously received as
 14 rentals.

15 (2) A person who uses a certificate for property that
 16 will be utilized for purposes other than the purpose claimed
 17 is subject to a penalty, payable to the department, of \$100
 18 for each transaction in which an improper use of an
 19 exemption certificate has occurred.

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

22 NEW SECTION. Section 52. Commingling nontaxable
 23 certificate goods. If a purchaser uses a nontaxable
 24 transaction certificate with respect to the purchase of
 25 fungible goods and thereafter commingles these goods with

1 fungible goods not so purchased but of such similarity that
 2 the identity of the goods in the commingled mass cannot be
 3 determined, sales from the mass of commingled goods are
 4 considered to be sales of the goods purchased with the
 5 certificate until the quantity of commingled goods sold
 6 equals the quantity of goods originally purchased under the
 7 certificate.

8 NEW SECTION. Section 53. Liability for payment of tax
 9 -- security for retailer without place of business --
 10 penalty. (1) Liability for the payment of the sales tax and
 11 use tax is not extinguished until the taxes have been paid
 12 to the department.

13 (2) A retailer who does not maintain a place of
 14 business in this state is liable for the sales tax or use
 15 tax in accordance with [sections 1 through 68 and 74] and
 16 shall furnish adequate security as required in [section 56]
 17 to ensure collection and payment of the taxes. When so
 18 authorized and except as otherwise provided in [sections 1
 19 through 68 and 74], the retailer is liable for the taxes
 20 upon all tangible property sold that is to be used within
 21 this state in the same manner as a retailer who maintains a
 22 place of business within this state. The permit provided
 23 for in [section 45] may be canceled at any time if the
 24 department considers the security inadequate or believes
 25 that the taxes can be collected more effectively in another

1 manner.

2 (3) No agent, canvasser, or employee of a retailer
3 doing business in this state who is not authorized by permit
4 from the department may sell, solicit orders for, or deliver
5 any tangible personal property in Montana. If such an agent,
6 canvasser, or employee violates the provisions of [sections
7 1 through 68 and 74], he is subject to a fine of not more
8 than \$100 for each separate transaction or event.

9 NEW SECTION. Section 54. Common INTERSTATE AND
10 INTRASTATE carriers as retailers. A person engaged in the
11 business of intrastate or interstate transportation by motor
12 vehicle of tangible personal property or passengers shall
13 register as a retailer and pay the taxes imposed by
14 [sections 1 through 68 and 74].

15 NEW SECTION. Section 55. Application for permission
16 to report on accrual basis. (1) A person who has a permit
17 issued pursuant to [section 45] may apply to the department
18 for permission to report and pay the sales tax or use tax on
19 an accrual basis.

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

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

1 NEW SECTION. Section 56. Returns -- payment --
2 authority of department. (1) Except as provided in
3 subsection (2), on or before the 25th day of each month in
4 which the tax imposed by [sections 1 through 68 and 74] is
5 payable, a return, on a form provided by the department, and
6 payment of the tax, LESS THE VENDOR ALLOWANCE PROVIDED IN
7 SUBSECTION (5), for the preceding month must be filed with
8 the department. Each return must contain a confession of
9 judgment for the amount of the tax shown due, to the extent
10 not timely paid. A person making retail sales at two or more
11 places of business may file a consolidated return, subject
12 to rules prescribed by the department.

13 (2) A person who has a tax liability that averages
14 less than \$100 per month and who has been granted the
15 authority to report and pay the tax imposed by [sections 1
16 through 68 and 74] on a quarterly basis shall file a return
17 with payment on or before the 25th day of the month
18 following the end of the quarter.

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

21 (i) a retailer required to pay such tax; and

22 (ii) a person:

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

1 (B) who has not paid the tax to a retailer required to
2 pay the tax.

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

5 (4) (a) A person liable for the taxes imposed by
6 [sections 1 through 68 and 74] shall keep records, render
7 statements, make returns, and comply with the provisions of
8 [sections 1 through 68 and 74] and the rules prescribed by
9 the department. Each return or statement must include the
10 information required by the rules of the department.

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

19 (i) require the attendance of a person having
20 knowledge or information relevant to a return;

21 (ii) compel the production of books, papers, records,
22 or memoranda by a person required to attend;

23 (iii) take testimony on matters material to the
24 determination; and

25 (iv) administer oaths or affirmations.

1 (5) A PERSON FILING A RETURN UNDER THIS SECTION MAY
2 ANNUALLY DEDUCT FROM THE AMOUNT OF TAX TO BE REMITTED TO THE
3 STATE AND RETURN AS A VENDER ALLOWANCE 3% OF THE TAX
4 DETERMINED TO BE PAYABLE TO THE STATE OR \$1,200, WHICHEVER
5 IS LESS.

6 ~~(5)~~(6) The returns due for July, August, and September
7 of 1990 are due on or before October 25, 1990.

8 NEW SECTION. Section 57. Security -- limitations --
9 sale of security deposit at auction -- bond. (1) The
10 department may require a retailer to deposit with the
11 department security in a form and amount the department
12 determines appropriate. The deposit may not be more than
13 twice the estimated average liability for the period for
14 which the return is required to be filed or \$10,000,
15 whichever is less. The amount of security may be increased
16 or decreased by the department, subject to the limitations
17 provided in this section.

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

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

24 (c) After the sale, any surplus above the amount due
25 and that is not required as security under this section must

be returned to the person who deposited the security.

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

(4) In addition to the other requirements of this section, the department may require the corporate officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of liability for the payment of the tax due under [sections 1 through 68 and 74].

NEW SECTION. Section 58. Extensions. (1) The department may extend the time for filing a return and remittance of tax, deficiencies, and penalties for a period not to exceed 60 days from the date a return was due and may require both an estimated return at the time fixed for filing the regularly required return and the payment of tax on the basis of the estimated return.

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

NEW SECTION. Section 59. Examination of return -- adjustments -- delivery of notices and demands. (1) The department may examine a return and make an investigation or examination of the records and accounts of a person making

the return if the department considers it necessary to determine the accuracy of the return.

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

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

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

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

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

1 **NEW SECTION. Section 60. Penalties and interest for**
 2 **violation.** (1) (a) If a person, without purposely or
 3 knowingly violating any requirement imposed by [sections 1
 4 through 68 and 74], fails to file a return and pay the tax
 5 on or before the due date there must be imposed a penalty of
 6 5% of any balance of debt unpaid with respect to such a
 7 return as of the date due, but in no event may the penalty
 8 for failure to file a return by its due date be less than
 9 \$5. The department may abate the penalty if the person
 10 establishes that the failure to file on time was due to
 11 reasonable cause and was not due to neglect on his part.

12 (b) If a person, without purposely or knowingly
 13 violating any requirement imposed by [sections 1 through 68
 14 and 74], fails to pay a debt on or before its due date,
 15 there must be added to the debt a penalty of 10% of the
 16 debt, but not less than \$5, and interest must accrue on the
 17 debt at a rate of 12% per annum for the entire period it
 18 remains unpaid. The department may abate the penalty if the
 19 person establishes that the failure to pay was due to
 20 reasonable cause and was not due to neglect on his part.

21 (2) If a person purposely or knowingly violates any
 22 requirements imposed by [sections 1 through 68 and 74] by
 23 failing to file a return or to pay a debt, if one is due at
 24 the time, required by or under the provisions of [section
 25 55], there must be added to the debt an additional amount

1 equal to 25% thereof, but not less than \$25, and interest at
 2 1% for each month or fraction of a month during which the
 3 debt remains unpaid.

4 **NEW SECTION. Section 61. Warrants for distraint.** If a
 5 tax imposed by [sections 1 through 68 and 74] or any portion
 6 of such tax is not paid when due, the department may issue a
 7 warrant for distraint as provided in Title 15, chapter 1,
 8 part 7.

9 **NEW SECTION. Section 62. Authority to collect**
 10 **delinquent taxes.** (1) The department shall collect taxes
 11 that are delinquent as determined under [sections 1 through
 12 68 and 74].

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

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

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

24 (5) The department shall provide the taxpayer with
 25 written notice of the right to request a hearing under the

1 contested case procedures of Title 2, chapter 4, on the
2 matter of the offset action or the department's intent to
3 file a claim on behalf of the taxpayer. A written request
4 for a hearing must be made within 30 days of the date of the
5 notice, and the hearing must be held within 30 days
6 following receipt by the department of the written request.

7 **NEW SECTION. Section 63. Penalty for deficiency.**

8 (1) (a) If the payment of a tax deficiency is not made
9 within 60 days after it is due and payable and if the
10 deficiency is due to negligence on the part of the taxpayer
11 but without fraud, there must be added to the amount of the
12 deficiency a penalty of 10% of the tax.

13 (b) Interest accrues on the unpaid taxes at the rate
14 of 1% for each month or part thereof during which the taxes
15 remain unpaid. The interest must be computed from the date
16 the return and tax were originally due.

17 (c) In no event may the penalty imposed under
18 subsection (1)(a) exceed 25% of the total tax due.

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

24 (3) The department may not assess a penalty until such
25 time as the penalty equals \$10 or more for any one tax

1 period or the period covered by any return or statement.

2 **NEW SECTION. Section 64. Limitations.** Except in the
3 case of a person who, with intent to evade the tax,
4 purposely or knowingly files a false or fraudulent return
5 violating the provisions of [sections 1 through 68 and 74],
6 the amount of tax due under any return must be determined by
7 the department within 5 years after the return was made. The
8 department is barred from revising a return or recomputing
9 the tax due thereon, and no proceeding in court for the
10 collection of the tax may be instituted unless notice of an
11 additional tax was provided within the period described in
12 this section.

13 **NEW SECTION. Section 65. Refunds.** A claim for a
14 refund made for taxes collected under [sections 1 through 68
15 and 74] must be in accordance with the procedure and time
16 limits provided in 15-1-503.

17 **NEW SECTION. Section 66. Administration -- rules.** The
18 department shall:

19 (1) administer and enforce the provisions of [sections
20 1 through 68 and 74];

21 (2) cause to be prepared and distributed such forms
22 and information as may be necessary to administer the
23 provisions of [sections 1 through 68 and 74]; and

24 (3) promulgate such rules as may be appropriate to
25 administer and enforce the provisions of [sections 1 through

1 68 and 74].

2 NEW SECTION. Section 67. Revocation of corporate
3 license. (1) If a corporation authorized to do business in
4 this state and required to pay the taxes imposed under
5 [sections 1 through 68 and 74] fails to comply with any of
6 the provisions of [sections 1 through 68 and 74] or any rule
7 of the department, the department may, for reasonable cause,
8 certify to the secretary of state a copy of an order finding
9 that the corporation has failed to comply with specific
10 statutory provisions or rules.

11 (2) The secretary of state shall, upon receipt of the
12 certification, revoke the license authorizing the
13 corporation to do business in this state and may issue a new
14 license only when the corporation has obtained from the
15 department an order finding that the corporation has
16 complied with its obligations under [sections 1 through 68
17 and 74].

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

24 NEW SECTION. Section 68. Tax as debt. (1) The taxes
25 imposed by [sections 1 through 68 and 74] and related

1 interest and penalties become a personal debt of the person
2 required to file a return from the time the liability
3 arises, regardless of when the time for payment of such
4 liability occurs.

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

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

16 NEW SECTION. Section 69. Information --
17 confidentiality -- agreements with another state. (1) (a)
18 Except as provided in subsections (1)(b) and (2), it is
19 unlawful for an employee of the department or any other
20 public official or public employee to divulge or otherwise
21 make known any information disclosed in a report or return
22 required to be filed under [sections 1 through 68 and 74] or
23 any information concerning the affairs of the person making
24 the return that is acquired from his records, officers, or
25 employees in an examination or audit.

(b) Subsection (1)(a) does not apply to information obtained from the taxpayer making the report or return in connection with a proceeding involving taxes due under [sections 1 through 68 and 74] or to compliance with the provisions of subsection (2).

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

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

(b) The department, in order to implement the provisions of [sections 1 through 68 and 74], may furnish information on a reciprocal basis to the taxing officials of another state or to the taxing officials of a municipality of this state that has a local sales tax or use tax.

(3) In order to facilitate processing of returns and payments of taxes required by [sections 1 through 68 and

74], the department may contract with vendors and may disclose data to the vendors. The data disclosed must be administered by the vendor in a manner consistent with this section.

NEW SECTION. Section 70. Credit for sales tax and use tax -- definitions. As used in [sections 69 through 73], the following definitions apply:

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

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

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

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

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

(c) cash public assistance and relief (EXCLUDING THE FACE VALUE OF ALL FOOD STAMPS RECEIVED);

(d) life insurance and endowment contracts;

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

(f) unemployment and workers' compensation benefits;

(g) all tax refunds; and

(h) any monetary benefits defined as income in the Internal Revenue Code or by this chapter.

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

NEW SECTION. Section 71. Credit for sales tax and use tax. (1) Except as provided in subsection (2), there is allowed a credit against tax liability for each resident who files an individual Montana income tax return under this chapter as provided in subsection (3). The credit may be claimed even though the resident has no taxable income under Title 15, chapter 30.

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

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

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

(3) For each exemption claimed under 15-30-112(2) and

(5), a credit is allowed according--to--the---following schedule:

Gross-Household-Income	Credit-per-Exemption
\$-----0-----12,999	\$100
-13,000---14,990	--50
-15,000---19,999	--25
-20,000-or-more-	---0

IN THE AMOUNT OF \$90 PER EXEMPTION, PROVIDED THAT GROSS HOUSEHOLD INCOME IS LESS THAN \$13,000.

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

NEW SECTION. Section 72. Credit for sales tax and use tax -- filing date -- extension. (1) Except as provided in subsection (2), a claim for a credit must be submitted at the same time the claimant's individual income tax return is due. For an individual not required to file a tax return, a claim for relief must be submitted on or before April 15 of the year following the year for which relief is sought. In submitting a claim for the credit, the taxpayer shall provide the social security number for each person claimed as an exemption, except dependent children under 2 years of age, for which the credit is claimed.

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

(3) In the event that an individual who would have a claim under [sections 69 through 73] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

NEW SECTION. Section 73. Examination of credit claims -- adjustments -- delivery of notices and demands. (1) The department may examine a claim for credit and may make an investigation of the records and accounts of a person making the claim if the department considers it necessary to determine the accuracy of the claim.

(2) If the department determines that the amount of the credit due is different from the amount reported, the amount of credit computed on the basis of the examination conducted pursuant to subsection (1) constitutes the amount of credit due.

(3) If the credit due is less than the amount claimed as due by the claimant, the excess must be paid to the department within 60 days after notice of the amount and demand for payment is mailed to the person making the claim.

(4) The notice and demand provided for in this section must contain a statement of the computation of the credit

and must be:

(a) sent to the claimant at the address given on his claim, if any, or to his last-known address; or

(b) served personally upon the taxpayer.

NEW SECTION. Section 74. Penalties for violation. (1) If a person, without purposely or knowingly violating the provisions of [sections 70 and 71], claims credits for which he is not entitled, there must be added a penalty of 10% of the amount of excess, but in no case may the penalty be less than \$5. Interest in the amount of 12% per annum must be added to the penalty on the amount of excess until the debt is satisfied.

(2) If a claimant, purposely or knowingly violates the provisions of [sections 70 and 71], future claims for credits may be denied by the department.

NEW SECTION. Section 75. Sales tax and use tax account. (1) There is within the state special revenue fund a sales tax and use tax account.

(2) All money collected under [sections 1 through 68 and 74] must be paid by the department into the sales tax and use tax account.

(3) There must be retained in the sales tax and use tax account the amounts necessary under [sections 1 through 75] to repay overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in

1 amount, and pay any other refunds otherwise required.

2 **NEW SECTION. Section 76.** Disposition of sales tax and
3 use tax revenue -- legislative appropriation. (1) Sales tax
4 and use tax revenue is allocated as follows:

5 (a) the amount determined under [section 76(3)] to
6 provide property tax replacement revenue for each taxing
7 jurisdiction;

8 (B) THE TOTAL AMOUNT CLAIMED UNDER [SECTION 72], WHICH
9 AMOUNT MUST BE FURTHER ALLOCATED IN THE SAME MANNER AS
10 INCOME TAX REVENUE IS ALLOCATED UNDER 15-1-501(2);

11 ~~(b)~~(C) the amount of sales tax and use tax revenue
12 remaining after the allocation ALLOCATIONS in subsection
13 SUBSECTIONS (1)(a) AND (1)(B) is distributed as follows:

14 (i) ~~53%~~ 52% to state equalization aid as provided in
15 20-9-343;

16 (ii) ~~15%~~ 13% to the state special revenue fund for the
17 support, maintenance, and improvement of the Montana
18 university system, vocational-technical centers, and
19 community college districts, subject to the board of
20 regents' supervision, as provided in [section 107]; and

21 (iii) ~~11%~~ 5% to the local government block grant
22 account in the state special revenue fund as provided in
23 [section 140]; and

24 ~~(e)~~(D) the remainder to the state general fund.

25 (2) This section provides for the disposition of sales

1 tax and use tax revenue. No allocations may be made from the
2 sales tax and use tax account until appropriated by the
3 legislature.

4 **NEW SECTION. Section 77.** Property tax replacement
5 revenue. (1) For the taxable year beginning January 1, 1989,
6 the department of revenue shall determine for each taxing
7 jurisdiction in each county the taxable value of all
8 property in the following categories, calculated at the
9 taxable rate in effect on January 1, 1989:

10 (a) class four through class ten;

11 (b) class twelve; and

12 (c) class fourteen through class nineteen.

13 (2) For the taxable year beginning January 1, 1990,
14 the department shall determine for each taxing jurisdiction
15 in each county the taxable value of all property in the
16 following categories:

17 (a) class four and class five;

18 (b) class fifteen; and

19 (c) class seventeen.

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

22 (a) subtract the taxable value for the taxable year
23 beginning January 1, 1990, as described under subsection
24 (2), from the taxable value for the taxable year beginning
25 January 1, 1989, as described under subsection (1);

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

(c) distribute to each county and the appropriate state accounts, beginning in 1990 and each year thereafter, the amount resulting from the calculations made in subsections (3)(a) and (3)(b) in two installments for each taxing jurisdiction, for distribution on or before November 30 and May 31 in each fiscal year.

(4) On or before May 31, 1990, the department shall remit to the county treasurer of each county 30% of the reimbursement amount computed by the department. The department shall base the reimbursement on the reduction in personal property tax revenues due to the reduction in personal property tax rates for class five property as provided in 15-6-135 and agricultural exemptions as provided in 15-6-207. The reimbursement revenue must be based on the county's taxable value and mill levies for taxable year 1989.

(5) Upon receipt of the funds distributed according to this section, the county treasurer shall distribute the funds for county, school district, municipal, CONSERVATION DISTRICT, and special district purposes in the same manner as property taxes are distributed, but ignoring SHALL DISREGARD state property tax levies.

(6) FOR THE PURPOSES OF 15-10-412(7), PROPERTY TAX

REPLACEMENT REVENUE RECEIVED BY A TAXING JURISDICTION UNDER THIS SECTION IS CONSIDERED TO BE REVENUE FROM PROPERTY TAXES.

Section 78. Section 7-1-2111, MCA, is amended to read:

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

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

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

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

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

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

1 million;

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

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

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

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

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

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

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

20 **Section 79.** Section 7-3-1321, MCA, is amended to read:

21 "7-3-1321. Authorization to incur indebtedness --
22 limitation. (1) The consolidated municipality may borrow
23 money or issue bonds for any municipal purpose to the extent
24 and in the manner provided by the constitution and laws of
25 Montana for the borrowing of money or issuing of bonds by

1 counties and cities and towns.

2 (2) The municipality may not become indebted in any
3 manner or for any purpose to an amount, including existing
4 indebtedness, in the aggregate exceeding ~~28%~~ 32% of the
5 taxable value of the taxable property therein, as
6 ascertained by the last assessment for state and county
7 taxes prior to incurring such indebtedness. All warrants,
8 bonds, or obligations in excess of such amount given by or
9 on behalf of the municipality shall be void."

10 **Section 80.** Section 7-6-2211, MCA, is amended to read:

11 "7-6-2211. Authorization to conduct county business on
12 a cash basis. (1) In case the total indebtedness of a
13 county, lawful when incurred, exceeds the limit of ~~23%~~ 26%
14 established in 7-7-2101 by reason of great diminution of
15 taxable value, the county may conduct its business affairs
16 on a cash basis and pay the reasonable and necessary current
17 expenses of the county out of the cash in the county
18 treasury derived from its current revenue and under such
19 restrictions and regulations as may be imposed by the board
20 of county commissioners of the county by a resolution duly
21 adopted and included in the minutes of the board.

22 (2) Nothing in this section restricts the right of the
23 board to make the necessary tax levies for interest and
24 sinking fund purposes, and nothing in this section affects
25 the right of any creditor of the county to pursue any remedy

1 now given him by law to obtain payment of his claim."

2 **Section 81.** Section 7-6-4121, MCA, is amended to read:

3 "7-6-4121. Authorization to conduct municipal business
4 on a cash basis. (1) In case the total indebtedness of a
5 city or town has reached ~~17%~~ 19% of the total taxable value
6 of the property of the city or town subject to taxation, as
7 ascertained by the last assessment for state and county
8 taxes, the city or town may conduct its affairs and business
9 on a cash basis as provided by subsection (2).

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

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

24 (c) Before the payment of the current expenses
25 mentioned above, the city or town council shall first set

1 apart sufficient money to pay the interest upon its legal,
2 valid, and outstanding bonded indebtedness and any sinking
3 funds therein provided for and shall be authorized to pay
4 all valid claims against funds raised by tax especially
5 authorized by law for the purpose of paying such claims."

6 **Section 82.** Section 7-6-4254, MCA, is amended to read:

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

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

19 **Section 83.** Section 7-7-107, MCA, is amended to read:

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

1 last assessment for state and county taxes.

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

6 **Section 84.** Section 7-7-108, MCA, is amended to read:

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

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

24 **Section 85.** Section 7-7-2101, MCA, is amended to read:

25 "7-7-2101. Limitation on amount of county

1 indebtedness. (1) No county may become indebted in any
2 manner or for any purpose to an amount, including existing
3 indebtedness, in the aggregate exceeding 23% 26% of the
4 total of the taxable value of the property therein subject
5 to taxation, plus the amount of interim production and new
6 production taxes levied divided by the appropriate tax rates
7 described in 15-23-607(2)(a) or (2)(b) and multiplied by
8 60%, plus the amount of value represented by new production
9 exempted from tax as provided in 15-23-612, as ascertained
10 by the last assessment for state and county taxes previous
11 to the incurring of such indebtedness.

12 (2) No county may incur indebtedness or liability for
13 any single purpose to an amount exceeding \$500,000 without
14 the approval of a majority of the electors thereof voting at
15 an election to be provided by law, except as provided in
16 7-21-3413 and 7-21-3414.

17 (3) Nothing in this section shall apply to the
18 acquisition of conservation easements as set forth in Title
19 76, chapter 6."

20 **Section 86.** Section 7-7-2203, MCA, is amended to read:

21 "7-7-2203. Limitation on amount of bonded
22 indebtedness. (1) Except as provided in subsections (2)
23 through (4), no county may issue general obligation bonds
24 for any purpose which, with all outstanding bonds and
25 warrants except county high school bonds and emergency

bonds, will exceed ~~11-25%~~ 12.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will not exceed ~~27-75%~~ 31% of the total of the taxable value of the property in the county subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, when necessary to do so, for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed ~~12-5%~~ 14% of

the taxable value of the property in the county subject to taxation.

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

Section 87. 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%~~ 32% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

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

Section 88. Section 7-7-4202, MCA, is amended to read:

"7-7-4202. Special provisions relating to water and sewer systems. (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town which owns and controls the water supply and water system and devotes the revenues

1 therefrom to the payment of the debt, a city or town may
2 incur an additional indebtedness by borrowing money or
3 issuing bonds.

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

14 **Section 89.** Section 7-13-4103, MCA, is amended to
15 read:

16 "7-13-4103. Limitation on indebtedness for acquisition
17 of natural gas system. The total amount of indebtedness
18 authorized to be contracted in any form, including the
19 then-existing indebtedness, must not at any time exceed ~~17%~~
20 19% of the total taxable value of the property of the city
21 or town subject to taxation as ascertained by the last
22 assessment for state and county taxes."

23 **Section 90.** Section 7-14-236, MCA, is amended to read:

24 "7-14-236. Limitation on bonded indebtedness. The
25 amount of bonds issued to provide funds for the district and

1 outstanding at any time shall not exceed ~~28%~~ 32% of the
2 taxable value of taxable property therein as ascertained by
3 the last assessment for state and county taxes previous to
4 the issuance of such bonds."

5 **Section 91.** Section 7-14-2524, MCA, is amended to
6 read:

7 "7-14-2524. Limitation on amount of bonds issued --
8 excess void. (1) Except as otherwise provided hereafter and
9 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
10 with all outstanding bonds and warrants except county high
11 school bonds and emergency bonds, will exceed ~~11.25%~~ 12.5%
12 of the total of the taxable value of the property therein,
13 plus the amount of interim production and new production
14 taxes levied divided by the appropriate tax rates described
15 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
16 amount of value represented by new production exempted from
17 tax as provided in 15-23-612. The taxable property and the
18 amount of interim production and new production taxes levied
19 shall be ascertained by the last assessment for state and
20 county taxes prior to the issuance of such bonds.

21 (2) A county may issue bonds which, with all
22 outstanding bonds and warrants except county high school
23 bonds, will exceed ~~11.25%~~ 12.5% but will not exceed ~~22.5%~~
24 25.5% of the total of the taxable value of such property,
25 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 for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

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

Section 92. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds ~~22.5%~~ 25.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied

by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, and the board determines that the county is unable to pay such indebtedness in full, the board may:

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

(b) enter into such agreement;

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

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

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

Section 93. Section 7-14-4402, MCA, is amended to read:

"7-14-4402. Limit on indebtedness to provide bus service. The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~20%~~ 32% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes. No money may be borrowed or bonds issued for the purposes specified in

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

4 **Section 94.** Section 7-16-2327, MCA, is amended to
5 read:

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

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

23 (b) No money may be borrowed on bonds issued for the
24 purchase of lands and improving same for any such purpose
25 until the proposition has been submitted to the vote of

1 those qualified under the provisions of the state
2 constitution to vote at such election in the county affected
3 thereby and a majority vote is cast in favor thereof."

4 **Section 95.** Section 7-16-4104, MCA, is amended to
5 read:

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

11 (a) for the purpose of purchasing and improving lands
12 for public parks and grounds;

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

17 (c) for furnishing and equipping the same.

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

1 proposition has been submitted to the vote of the qualified
2 electors of the city or town and a majority vote is cast in
3 favor thereof."

4 **Section 96.** Section 7-31-106, MCA, is amended to read:

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

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

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

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

25 **Section 97.** Section 7-31-107, MCA, is amended to read:

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

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

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

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

20 **Section 98.** Section 7-34-2131, MCA, is amended to
21 read:

22 "7-34-2131. Hospital district bonds authorized. (1) A
23 hospital district may borrow money by the issuance of its
24 bonds to provide funds for payment of part or all of the
25 cost of acquisition, furnishing, equipment, improvement,

extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

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

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

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

Section 99. 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 issues and registered warrants, is ~~45%~~ 51% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The ~~45%~~ 51% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or

assessments against the school district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

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

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

Section 100. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of

1 bonds in excess of the ~~45%~~ 51% limitation prescribed in
 2 20-9-406. Under such an agreement, the school district may,
 3 with the approval of the voters, issue bonds which exceed
 4 the limitation prescribed in this section by a maximum of
 5 ~~45%~~ 51% of the estimated taxable value of the property of
 6 the new major industrial facility subject to taxation when
 7 completed. The estimated taxable value of the property of
 8 the new major industrial facility subject to taxation shall
 9 be computed by the department of revenue when requested to
 10 do so by a resolution of the board of trustees of the school
 11 district. A copy of the department's statement of estimated
 12 taxable value shall be printed on each ballot used to vote
 13 on a bond issue proposed under this section.

14 (2) Pursuant to the agreement between the new major
 15 industrial facility and the school district and as a
 16 precondition to qualifying as class five property, the new
 17 major industrial facility and its owners shall pay, in
 18 addition to the taxes imposed by the school district on
 19 property owners generally, so much of the principal and
 20 interest on the bonds provided for under this section as
 21 represents payment on an indebtedness in excess of the
 22 limitation prescribed in 20-9-406. After the completion of
 23 the new major industrial facility and when the indebtedness
 24 of the school district no longer exceeds the limitation
 25 prescribed in this section, the new major industrial

1 facility shall be entitled, after all the current
 2 indebtedness of the school district has been paid, to a tax
 3 credit over a period of no more than 20 years. The credit
 4 shall as a total amount be equal to the amount which the
 5 facility paid the principal and interest of the school
 6 district's bonds in excess of its general liability as a
 7 taxpayer within the district.

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

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

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

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

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

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

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

12 (ii) The following types of property are not
13 commercial:

14 (A) agricultural lands and timberlands;

15 ~~{B}--timberlands;~~

16 ~~{E}{B}~~ single-family residences and ancillary
17 improvements and improvements necessary to the function of a
18 bona fide farm, ranch, or stock operation;

19 ~~{B}{C}~~ mobile homes used exclusively as a residence
20 except when held by a distributor or dealer of trailers or
21 mobile homes as his stock in trade; and

22 ~~{E}{D}~~ all property described in 15-6-135(1)(h).7

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

24 ~~{G}--all-property-described-in-15-6-146-~~

25 (e) The term "comparable property" means property that

1 has similar use, function, and utility; that is influenced
2 by the same set of economic trends and physical,
3 governmental, and social factors; and that has the potential
4 of a similar highest and best use.

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

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

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

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

(j) The term "mobile home" means forms of housing known as "trailers", "housetrainers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

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

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

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

(n) The term "real estate" includes:

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

(ii) all mines, minerals, and quarries in and under the

land subject to the provisions of 15-23-501 and Title 15, chapter 23, part 8; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(o) "Research and development firm" means an entity incorporated under the laws of this state or a foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific and technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

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

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

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish

1 tax levies for the purpose of raising public revenue.

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

5 **Section 102.** Section 15-6-133, MCA, is amended to
6 read:

7 "15-6-133. Class three property -- description --
8 taxable percentage. (1) Class three property includes:

9 (a) agricultural land as defined in 15-7-202; and

10 (b) timberland. For the purpose of this section,
11 "timberland" means contiguous land that exceeds 15 acres in
12 one ownership and that is capable of producing timber that
13 can be harvested in commercial quantity.

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

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

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

22 (a) The director of the department of revenue shall
23 certify to the governor before July 1, 1986, the percentage
24 by which the appraised value of all property in the state
25 classified under class three as of January 1, 1986, has

1 increased due to the revaluation conducted under 15-7-111.
2 This figure is the "certified statewide percentage
3 increase".

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

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

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

16 Certified-Statewide	17 Class-Three-Taxable
18 Percentage-Increase	19 Percentage-P
20 0	21 30.00
22 10	23 27.27
24 20	25 25.00
26 30	27 23.08
28 40	29 21.43
30 50	31 20.00

32 (5) After July 1, 1986, no adjustment may be made by
33 the department to the taxable percentage rate until a

1 ~~revaluation-has-been-made-as-provided-in-15-7-111-~~"

2 **Section 103.** Section 15-6-134, MCA, is amended to
3 read:

4 "15-6-134. Class four property -- description --
5 taxable percentage. (1) Class four property includes:

6 (a) all land except that specifically included in
7 another class;

8 (b) all improvements except those specifically
9 included in another class;

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

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

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

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

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

5	Income	Income	Percentage
6	Single Person	Married Couple	Multiplier
7	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
8	1,001 - 2,000	1,201 - 2,400	10%
9	2,001 - 3,000	2,401 - 3,600	20%
10	3,001 - 4,000	3,601 - 4,800	30%
11	4,001 - 5,000	4,801 - 6,000	40%
12	5,001 - 6,000	6,001 - 7,200	50%
13	6,001 - 7,000	7,201 - 8,400	60%
14	7,001 - 8,000	8,401 - 9,600	70%
15	8,001 - 9,000	9,601 - 10,800	80%
16	9,001 - 10,000	10,801 - 12,000	90%

17 (ii) The income levels contained in the table in
18 subsection (2)(b)(i) must be adjusted for inflation annually
19 by the department of revenue. The adjustment to the income
20 levels is determined by:

21 (A) multiplying the appropriate dollar amount from the
22 table in subsection (2)(b)(i) by the ratio of the PCE for
23 the second quarter of the year prior to the year of
24 application to the PCE for the second quarter of 1986; and

25 (B) rounding the product thus obtained to the nearest

1 whole dollar amount.

2 (iii) "PCE" means the implicit price deflator for
3 personal consumption expenditures as published quarterly in
4 the Survey of Current Business by the bureau of economic
5 analysis of the U.S. department of commerce.

6 (c) Property described in subsection (1)(d) is taxed
7 at one-half two-thirds the taxable percentage rate
8 established in subsection (2)(a).

9 (3) After July 1, 1986, no adjustment may be made by
10 the department to the taxable percentage rate for class four
11 property until a revaluation has been made as provided in
12 15-7-111.

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

19 **Section 104.** Section 15-6-135, MCA, is amended to
20 read:

21 **"15-6-135. Class five property -- description --**
22 **taxable percentage. (1) Class five property includes:**

23 (a) all property used and owned by cooperative rural
24 electrical and cooperative rural telephone associations
25 organized under the laws of Montana; ~~except--property--owned~~

1 ~~by--cooperative-organizations-described-in-subsection-(1)(b)~~
2 ~~of-15-6-137;~~

3 (b) air and water pollution control equipment as
4 defined in this section;

5 (c) new industrial property as defined in this
6 section;

7 ~~{d}--any-personal-or-real-property--used--primarily--in~~
8 ~~the--production--of--gasohol-during-construction-and-for-the~~
9 ~~first-3-years-of-its-operation;~~

10 ~~{e}--all--land--and--improvements--and--all--personal~~
11 ~~property--owned-by-a-research-and-development-firm, provided~~
12 ~~that-the--property--is--actively--devoted--to--research--and~~
13 ~~development;~~

14 ~~{f}--machinery--and--equipment--used--in--electrolytic~~
15 ~~reduction-facilities;~~

16 {d) electric transformers and meters; electric light
17 and power substation machinery; natural gas measuring and
18 regulating station equipment, meters, and compressor station
19 machinery, owned by noncentrally assessed public utilities;
20 and tools used in the repair and maintenance of this
21 property;

22 {e) a trailer or mobile home used as a residence
23 except when:

24 {i) held by a distributor or dealer of trailers or
25 mobile homes as his stock in trade; or

(ii) specifically included in another class;

(f) the first \$80,000 or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including otherwise tax-exempt income of all types, is not more than \$10,000 for a single person or \$12,000 for a married couple, as adjusted according to 15-6-134(2)(b)(ii);

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

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

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

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

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

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

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

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

(b) New industry includes only those industries that:

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

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are

1 substantially altered or treated so as to create commercial
2 products or materials; or

3 (iii) engage in the mechanical or chemical
4 transformation of materials or substances into new products
5 in the manner defined as manufacturing in the 1972 Standard
6 Industrial Classification Manual prepared by the United
7 States office of management and budget.

8 (5) New industrial property does not include:

9 (a) property used by retail or wholesale merchants,
10 commercial services of any type, agriculture, trades, or
11 professions;

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

14 (c) property used or employed in any industrial plant
15 that has been in operation in this state for 3 years or
16 longer.

17 (6) Class five property is taxed at 3% of its market
18 value as follows:

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

22 (b) Property described in subsection (1)(f) is taxed
23 at 3.5% of its market value multiplied by a percentage
24 figure based on income and determined from the table in
25 15-6-134(2)(b)(i)."

1 **Section 105.** Section 15-6-207, MCA, is amended to
2 read:

3 **"15-6-207. Agricultural exemptions.** (1) The following
4 agricultural products are exempt from taxation:

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

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

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

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

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

17 (f) poultry and the unprocessed products of poultry;
18 and

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

20 (h) the unprocessed products of livestock and THE
21 UNPROCESSED PRODUCTS OF other domestic animals and wildlife
22 raised in domestication or a captive environment; and

23 (i) cats, dogs, and other household pets not raised
24 for profit.

25 (2) Any beet digger, beet topper, beet defoliator,

beet thinner, beet cultivator, beet planter, or beet top saver designed exclusively to plant, cultivate, and harvest sugar beets is exempt from taxation if such implement has not been used to plant, cultivate, or harvest sugar beets for the 2 years immediately preceding the current assessment date and there are no available sugar beet contracts in the sugar beet grower's marketing area."

Section 106. Section 15-8-111, MCA, is amended to read:

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

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

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

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds, including but not limited to boats and all watercraft, is the average

wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

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

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

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

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

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

(6) The assessed value of properties in 15-6-131

1 through 15-6-133 is as follows:

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

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

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

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

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

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

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

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

24 **Section 107.** Section 15-8-205, MCA, is amended to
25 read:

1 **"15-8-205. Initial assessment of class-twelve-property**
2 **mobile homes -- when.** The county assessor shall assess all
3 **class----twelve---property mobile homes described in**
4 **15-6-135(1)(e) and (1)(f) immediately upon arrival in the**
5 **county if the taxes have not been previously paid for that**
6 **year in another county in Montana."**

7 **NEW SECTION. Section 108. University system**
8 **funding.** There is allocated from the money collected from
9 the sales tax and use tax to the state special revenue fund
10 ~~±5%~~ 13% of the sales tax and use tax, as allocated in
11 [section 75(1)(b)(ii)], for the support, maintenance, and
12 improvement of the Montana university system,
13 vocational-technical centers, and community college
14 districts, subject to the board of regents' supervision.

15 **Section 109.** Section 15-10-402, MCA, is amended to
16 read:

17 **"15-10-402. Property tax limited to 1986 1991 levels.**
18 (1) Except as provided in subsections (2) and (3), the
19 amount of taxes levied on property described in 15-6-133,
20 and 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may
21 not, for any taxing jurisdiction, exceed the amount levied
22 for taxable year ~~1986~~ 1991.

23 (2) The limitation contained in subsection (1) does
24 not apply to levies for rural improvement districts, Title
25 7, chapter 12, part 21; special improvement districts, Title

7, chapter 12, part 41; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 1991 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

SECTION 110. SECTION 15-10-411, MCA, IS AMENDED TO

READ:

"15-10-411. (Temporary) Declaration of policy -- clarification -- extension to all property classes. Section 15-10-401 is interpreted, clarified, and extended as follows:

(1) In order to avoid constitutional challenges based on discriminatory treatment of taxpayers in tax classes not enumerated in 15-10-401 and 15-10-402, the limitation to 1986 1991 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The policy declaration in 15-10-401(5) that no further property tax increases be imposed is interpreted to

mean no further increase may be made in the tax rate applied to property in each class in 1986 1991.

(3) No new class of property may be created solely to circumvent the policy underlying 15-10-401 and 15-10-402. If a new class of property is created in order to afford preferential treatment to a category of property, the taxable rate that applies may not exceed the rate at which such property was taxed in 1986 1991. (Terminates December 31, 1989--sec. 6, Ch. 654, L. 1987.)"

SECTION 111. SECTION 15-10-412, MCA, IS AMENDED TO

READ:

"15-10-412. (Temporary) Property tax limited to 1986 1991 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 1991 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 1991 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 1991 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit.

1 (3) The limitation on the amount of taxes levied does
 2 not mean that no further increase may be made in the total
 3 taxable valuation of a taxing unit as a result of:
 4 (a) annexation of real property and improvements into
 5 a taxing unit;
 6 (b) construction, expansion, or remodeling of
 7 improvements;
 8 (c) transfer of property into a taxing unit;
 9 (d) subdivision of real property;
 10 (e) reclassification of property;
 11 (f) increases in the amount of production or the value
 12 of production for property described in 15-6-131 or
 13 15-6-132;
 14 (g) transfer of property from tax-exempt to taxable
 15 status; or
 16 (h) revaluations caused by:
 17 (i) cyclical reappraisal; or
 18 (ii) expansion, addition, replacement, or remodeling of
 19 improvements.
 20 (4) The limitation on the amount of taxes levied does
 21 not mean that no further increase may be made in the taxable
 22 valuation or in the actual tax liability on individual
 23 property in each class as a result of:
 24 (a) construction, expansion, replacement, or
 25 remodeling of improvements that adds value to the property;

1 (b) transfer of property into a taxing unit;
 2 (c) reclassification of property;
 3 (d) increases in the amount of production or the value
 4 of production for property described in 15-6-131 or
 5 15-6-132;
 6 (e) annexation of the individual property into a new
 7 taxing unit; or
 8 (f) conversion of the individual property from
 9 tax-exempt to taxable status.
 10 (5) Property in classes four, twelve, and fourteen, as
 11 amended by [this act], is valued according to the procedures
 12 used in 1986, or the 1991 tax year if a revaluation pursuant
 13 to 15-7-111 has been completed, including the designation of
 14 1982 as the base year, or the designation of a new base year
 15 if a revaluation pursuant to 15-7-111 has been completed,
 16 until the reappraisal cycle beginning January 1, 1986, is
 17 completed and new valuations are placed on the tax rolls and
 18 a new base year designated, if the property is:
 19 (a) new construction;
 20 (b) expanded, deleted, replaced, or remodeled
 21 improvements;
 22 (c) annexed property; or
 23 (d) property converted from tax-exempt to taxable
 24 status.
 25 (6) Property described in subsections (5)(a) through

(5)(d) that is not class four, class twelve, or class fourteen property, as amended by [this act], is valued according to the procedures used in 1986, or a subsequent revaluation completed pursuant to 15-7-111, but is also subject to the dollar cap in each taxing unit based on 1986 the mills levied in 1986, or in 1991 if a revaluation pursuant to 15-7-111 has been completed subsequent to 1986.

(7) (a) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, unless the taxing unit's taxable valuation decreases by 5% or more from the previous 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed. If a

taxing unit's taxable valuation decreases by 5% or more from the previous 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, 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, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, in that taxing unit.

(b) For the purposes of this subsection (7), property tax replacement revenue received as reimbursement from sales tax proceeds is considered to be revenue from property taxes.

(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

1 (h) revolving funds to support any categories
2 specified in this subsection (8).

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

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

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

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

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

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

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

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

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

1 December 31, 1989--sec. 6, Ch. 654, L. 1987.)"

2 **Section 112.** Section 15-16-611, MCA, is amended to
3 read:

4 "15-16-611. Reduction of property tax for property
5 destroyed by natural disaster. (1) The department of revenue
6 shall, upon showing by a taxpayer that some or all of the
7 improvements on his real property or a trailer or mobile
8 home as-described-in-15-6-142 have been destroyed to such an
9 extent that such improvements have been rendered unsuitable
10 for their previous use by natural disaster, adjust the
11 taxable value on the property, accounting for the
12 destruction.

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

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

18 (a) multiply the amount of tax levied and assessed on
19 the original taxable value of the property for the year by
20 the ratio that the number of days in the year that the
21 property existed before destruction bears to 365; and

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

1 365.

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

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

8 **Section 113.** Section 15-16-613, MCA, is amended to
9 read:

10 "15-16-613. Refund of certain taxes paid in other
11 states. Subject to the provisions of 15-16-601 and upon
12 proof that tax was paid in another state, a taxpayer is
13 entitled to a refund equal to the amount of tax paid in
14 another state on a helicopter or property that was assessed
15 in Montana under ~~15-6-130(1)(g)~~ 15-6-135 on January 1 of the
16 year for which the refund is due. The refund under this
17 section may not exceed the tax that was paid in Montana on
18 the same property for the same period of time."

19 **Section 114.** Section 15-24-301, MCA, is amended to
20 read:

21 "15-24-301. Personal property brought into the state
22 -- assessment -- exceptions -- custom combine equipment. (1)
23 Except as provided in subsections (2) through (5), property
24 in the following cases is subject to taxation and assessment
25 for all taxes levied that year in the county in which it is

1 located:

2 (a) any personal property (including livestock)
3 brought, driven, or coming into this state at any time
4 during the year that is used in the state for hire,
5 compensation, or profit;

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

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

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

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

20 (4) Any motor vehicle not subject to a fee in lieu of
21 tax brought, driven, or coming into this state by any
22 nonresident person temporarily employed in Montana and used
23 exclusively for transportation of such person is subject to
24 taxation and assessment for taxes as follows:

25 (a) The motor vehicle is taxed by the county in which

1 it is located.

2 (b) One-fourth of the annual tax liability of the
3 motor vehicle must be paid for each quarter or portion of a
4 quarter of the year that the motor vehicle is located in
5 Montana.

6 (c) The quarterly taxes are due the first day of the
7 quarter.

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

16 **Section 115.** Section 15-24-1102, MCA, is amended to
17 read:

18 "15-24-1102. Federal property held under contract of
19 sale. When the property is held under a contract of sale or
20 other agreement whereby upon payment the legal title is or
21 may be acquired by the person, the real property shall be
22 assessed and taxed as defined in ~~15-6-131--through--15-6-149~~
23 Title 15, chapter 6, part 1, and 15-8-111 without deduction
24 on account of the whole or any part of the purchase price or
25 other sum due on the property remaining unpaid. The lien for

1 the tax may not attach to, impair, or be enforced against
2 any interest of the United States in the real property."

3 **Section 116.** Section 15-24-1103, MCA, is amended to
4 read:

5 "15-24-1103. Federal property held under lease. When
6 the property is held under lease, other interest, or estate
7 therein less than the fee, except under contract of sale,
8 the property shall be assessed and taxed as for the value,
9 as defined in ~~15-6-131-through-15-6-149~~ Title 15, chapter 6,
10 part 1, of such leasehold, interest, or estate in the
11 property and the lien for the tax shall attach to and be
12 enforced against only the leasehold, interest, or estate in
13 the property. When the United States authorizes the taxation
14 of the property for the full assessed value of the fee
15 thereof, the property shall be assessed for full assessed
16 value as defined in 15-8-111."

17 **Section 117.** Section 17-3-213, MCA, is amended to
18 read:

19 "17-3-213. Allocation to general road fund and
20 countywide school levies. (1) The forest reserve funds ~~so~~
21 apportioned to each county ~~shall~~ must be apportioned by the
22 county treasurer in each county ~~between the several funds~~ as
23 follows:

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

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

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

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

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

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

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

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

(3) In counties wherein in which special road districts have been created according to law, the board of county commissioners shall distribute a proportionate share

of the 66 2/3% of the total amount received for the general road fund to such the special road district--or districts within the county based upon the percentage that the total area of such the road district bears to the total area of the entire county."

Section 118. Section 19-4-605, MCA, is amended to read:

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

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

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

~~(3)~~ (2) If the employer is the superintendent of public instruction, a public institution of the state of Montana, a

1 unit of the Montana university system, or the Montana state
2 school for the deaf and blind, the legislature shall
3 appropriate to the employer an adequate amount to allow the
4 payment of the employer's contribution.

5 ~~(4)~~(3) If the employer is a county, the county
6 commissioners shall budget and pay for the employer's
7 contribution in the manner provided by law for the adoption
8 of a county budget and for payments under the budget.

9 ~~(5)~~(4) All interest and other earnings realized on the
10 moneys money of the retirement system shall must be credited
11 to the pension accumulation fund, and the amount required to
12 allow regular interest on the annuity savings fund shall
13 must be transferred to that fund from the pension
14 accumulation fund.

15 ~~(6)~~(5) All pensions, annuities, and benefits in lieu
16 thereof ~~shall~~ of pensions and annuities must be paid from
17 the pension accumulation fund.

18 ~~(7)~~(6) The retirement board may, in its discretion,
19 transfer from the pension accumulation fund an amount
20 necessary to cover expenses of administration."

21 **Section 119.** Section 19-11-503, MCA, is amended to
22 read:

23 "19-11-503. Special tax levy for fund required. (1)
24 The purpose of this section is to provide a means by which
25 each disability and pension fund may be maintained at a

1 level equal to 3% 3.4% of the taxable valuation of all
2 taxable property within the limits of the city or town.

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

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

15 **Section 120.** Section 19-11-504, MCA, is amended to
16 read:

17 "19-11-504. Amount of special tax levy. Whenever the
18 fund contains an amount which is less than 3% 3.4% of the
19 taxable valuation of all taxable property in the city or
20 town, the city council shall levy an annual special tax of
21 not less than 1 mill and not more than 4 mills on each
22 dollar of taxable valuation of all taxable property within
23 the city or town."

24 **Section 121.** Section 20-3-106, MCA, is amended to
25 read:

1 "20-3-106. Supervision of schools -- powers and
2 duties. The superintendent of public instruction has the
3 general supervision of the public schools and districts of
4 the state, and he shall perform the following duties or acts
5 in implementing and enforcing the provisions of this title:

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

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

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

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

15 (5) approve or disapprove the orders of a high school
16 boundary commission in accordance with the provisions of
17 20-6-311;

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

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

23 (8) generally supervise the school budgeting
24 procedures prescribed by law in accordance with the
25 provisions of 20-9-102 and prescribe the school budget

1 format in accordance with the provisions of 20-9-103 and
2 20-9-506;

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

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

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

13 (12) prescribe and furnish the annual report forms to
14 enable the districts to report to the county superintendent
15 in accordance with the provisions of 20-9-213(5) and the
16 annual report forms to enable the county superintendents to
17 report to the superintendent of public instruction in
18 accordance with the provisions of 20-3-209;

19 (13) approve, disapprove, or adjust an increase of the
20 average number belonging (ANB) in accordance with the
21 provisions of 20-9-313 and 20-9-314;

22 (14) distribute state equalization aid in support of
23 the foundation program in accordance with the provisions of
24 20-9-342, 20-9-346, and 20-9-347;

25 (15) distribute state impact aid in accordance with the

1 provisions of 20-9-304;

2 (16) provide for the uniform and equal provision of

3 transportation by performing the duties prescribed by the

4 provisions of 20-10-112;

5 (17) approve or disapprove an adult education program

6 for which a district proposes to levy a tax in accordance

7 with the provisions of 20-7-705;

8 (18) request, accept, deposit, and expend federal

9 moneys money in accordance with the provisions of 20-9-603;

10 (19) authorize the use of federal moneys money for the

11 support of an interlocal cooperative agreement in accordance

12 with the provisions of 20-9-703 and 20-9-704;

13 (20) prescribe the form and contents of and approve or

14 disapprove interstate contracts in accordance with the

15 provisions of 20-9-705;

16 (21) approve or disapprove the conduct of school on a

17 Saturday or on pupil-instruction-related days in accordance

18 with the provisions of 20-1-303 and 20-1-304;

19 (22) recommend standards of accreditation for all

20 schools to the board of public education and evaluate

21 compliance with such the standards and recommend

22 accreditation status of every school to the board of public

23 education in accordance with the provisions of 20-7-101 and

24 20-7-102;

25 (23) collect and maintain a file of curriculum guides

1 and assist schools with instructional programs in accordance

2 with the provisions of 20-7-113 and 20-7-114;

3 (24) establish and maintain a library of visual, aural,

4 and other educational media in accordance with the

5 provisions of 20-7-201;

6 (25) license textbook dealers and initiate prosecution

7 of textbook dealers violating the law in accordance with the

8 provisions of the textbooks part of this title;

9 (26) as the governing agent and executive officer of

10 the state of Montana for K-12 vocational education, adopt

11 the policies prescribed by and in accordance with the

12 provisions of 20-7-301;

13 (27) supervise and coordinate the conduct of special

14 education in the state in accordance with the provisions of

15 20-7-403;

16 (28) administer the traffic education program in

17 accordance with the provisions of 20-7-502;

18 (29) administer the school food services program in

19 accordance with the provisions of 20-10-201, 20-10-202, and

20 20-10-203;

21 (30) review school building plans and specifications in

22 accordance with the provisions of 20-6-622;

23 (31) prescribe the method of identification and signals

24 to be used by school safety patrols in accordance with the

25 provisions of 20-1-408;

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

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

~~{34}{33}~~ perform any other duty prescribed from time to time by this title, any other act of the legislature, or the policies of the board of public education. ~~{Subsection-{33} effective-July-17-1988--sec:-8,-Ch:-635,-B:-1987;-}~~"

Section 122. Section 20-3-324, MCA, is amended to read:

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

(1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board ~~may--deem~~ considers necessary, accepting or rejecting such any recommendation as the trustees shall in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel,

clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel ~~deemed~~ considered necessary to carry out the various services of the district;

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

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

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

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

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

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

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial

1 administration part of this title;

2 (10) establish the ANB, foundation program, permissive

3 levy, additional levy, cash reserve, and state impact aid

4 amount for the general fund of the district in accordance

5 with the provisions of the general fund part of this title;

6 (11) establish, maintain, budget, and finance the

7 transportation program of the district in accordance with

8 the provisions of the transportation parts of this title;

9 (12) issue, refund, sell, budget, and redeem the bonds

10 of the district in accordance with the provisions of the

11 bonds parts of this title;

12 (13) when applicable, establish, financially

13 administer, and budget for the tuition--fund,--retirement

14 fund, building reserve fund, adult education fund,

15 nonoperating fund, school food services fund, miscellaneous

16 federal programs fund, building fund, lease or rental

17 agreement fund, traffic education fund, and interlocal

18 cooperative agreement fund in accordance with the provisions

19 of the other school funds parts of this title;

20 (14) when applicable, administer any interlocal

21 cooperative agreement, gifts, legacies, or devises in

22 accordance with the provisions of the miscellaneous

23 financial parts of this title;

24 (15) hold in trust, acquire, and dispose of the real

25 and personal property of the district in accordance with the

1 provisions of the school sites and facilities part of this

2 title;

3 (16) operate the schools of the district in accordance

4 with the provisions of the school calendar part of this

5 title;

6 (17) establish and maintain the instructional services

7 of the schools of the district in accordance with the

8 provisions of the instructional services, textbooks,

9 vocational education, and special education parts of this

10 title;

11 (18) establish and maintain the school food services of

12 the district in accordance with the provisions of the school

13 food services parts of this title;

14 (19) make such reports from time to time as the county

15 superintendent, superintendent of public instruction, and

16 board of public education may require;

17 (20) retain, when deemed considered advisable, a

18 physician or registered nurse to inspect the sanitary

19 conditions of the school or the general health conditions of

20 each pupil and, upon request, make available to any parent

21 or guardian any medical reports or health records maintained

22 by the district pertaining to his child;

23 (21) for each member of the trustees, visit each school

24 of the district not less than once each school fiscal year

25 to examine its management, conditions, and needs, except

trustees from a first-class school district may share the responsibility for visiting each school in the district;

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

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

Section 123. Section 20-5-305, MCA, is amended to read:

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

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

(b) dividing the amount determined in subsection

(1)(a) by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and

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

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

Section 124. Section 20-5-312, MCA, is amended to read:

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

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

(b) dividing the amount determined in subsection

1 (1)(a) above by the ANB of the district for the current
2 fiscal year, as determined under the provisions of 20-9-311;
3 and

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

10 (2) The tuition for a full-time high school special
11 education pupil must be determined under rules adopted by
12 the superintendent of public instruction for the calculation
13 of tuition for full-time high school special education
14 pupils as designated in 20-9-311 for funding purposes.

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

18 (a) the names, addresses, and resident districts of
19 the pupils attending the schools of the district under an
20 approved tuition agreement;

21 (b) the number of days of school attended by each
22 pupil;

23 (c) the amount, if any, of each pupil's tuition
24 payment that the trustees, in their discretion, shall have
25 the authority to waive; and

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

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

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

17 (6) The total amount of the high school tuition, with
18 consideration of any tuition waivers, for pupils attending a
19 high school outside the county of residence shall be
20 financed by the county basic special tax for high schools as
21 provided in 20-9-334. In December, the county superintendent
22 shall cause the payment by county warrant of at least
23 one-half of the high school tuition obligations established
24 under this section out of the first moneys realized from the
25 county basic special tax for high schools. The remaining

1 obligations must be paid by June 15 of the school fiscal
 2 year. The payments shall be made to the county treasurer of
 3 the county where each high school entitled to tuition is
 4 located. The county treasurer shall credit such tuition
 5 receipts to the general fund of the applicable high school
 6 district, and the tuition receipts shall be used in
 7 accordance with the provisions of 20-9-141.

8 (7) For pupils attending a high school outside their
 9 district of residence but within the county of residence,
 10 the total amount of the tuition, with consideration of any
 11 tuition waivers, must be paid during the ensuing school
 12 fiscal year. The trustees of the sending high school
 13 district shall include the tuition amount in the tuition
 14 fund of the preliminary and final budgets. This budgeted
 15 tuition amount is not subject to the budget adjustment
 16 provisions of 20-9-132. The county superintendent shall
 17 report the net tuition fund levy requirement for each high
 18 school district to the county commissioners on the second
 19 Monday of August, and a levy on the district shall be made
 20 by the county commissioners in accordance with 20-9-142.
 21 This levy requirement shall be calculated by subtracting
 22 from the total expenditure amount authorized in the final
 23 tuition fund budget the sum of the cash balance in the
 24 tuition fund at the end of the immediately preceding school
 25 fiscal year plus any other anticipated money that may be

1 realized in the tuition fund. The trustees shall pay by
 2 warrants drawn on the tuition fund the tuition amounts owed
 3 to each district included in the county superintendent's
 4 notification. Payments shall be made whenever there is a
 5 sufficient amount of cash available in the tuition fund but
 6 no later than the end of the school fiscal year for which
 7 the budget is adopted. However, if the trustees of either
 8 the sending or receiving high school feel the transfer
 9 privilege provided by this subsection is being abused they
 10 may appeal to the county superintendent of schools who shall
 11 hold a hearing and either approve or disapprove the
 12 transfer."

13 **Section 125.** Section 20-9-141, MCA, is amended to
 14 read:

15 "20-9-141. Computation of general fund net levy
 16 requirement by county superintendent. (1) The county
 17 superintendent shall compute the levy requirement for each
 18 district's general fund on the basis of the following
 19 procedure:

20 (a) Determine the total of the funding required for
 21 the district's final general fund budget less the amount
 22 established by the schedules in 20-9-316 through 20-9-321 by
 23 totaling:

24 (i) the district's nonisolated school foundation
 25 program requirement to be met by a district levy as provided

1 in 20-9-303;

2 (ii) the district's permissive levy amount as provided

3 in 20-9-352; and

4 (iii) any general fund budget amount adopted by the

5 trustees of the district under the provisions of 20-9-353,

6 including any additional levies authorized by the electors

7 of the district.

8 (b) Determine the total of the moneys available for

9 the reduction of the property tax on the district for the

10 general fund by totaling:

11 (i) anticipated federal moneys received under the

12 provisions of Title I of Public Law 81-874 or other

13 anticipated federal moneys received in lieu of such federal

14 act;

15 (ii) anticipated tuition payments for out-of-district

16 pupils under the provisions of 20-5-303, 20-5-307, 20-5-312,

17 and 20-5-313;

18 (iii) general fund cash reappropriated, as established

19 under the provisions of 20-9-104;

20 (iv) anticipated or reappropriated state impact aid

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

22 (v) anticipated revenue from vehicle property taxes

23 imposed under 61-3-504(2) and 61-3-537;

24 (vi) anticipated net proceeds taxes for interim

25 production and new production, as defined in 15-23-601;

1 (vii) anticipated interest to be earned or

2 reappropriated interest earned by the investment of general

3 fund cash in accordance with the provisions of 20-9-213(4);

4 and

5 (viii) anticipated sales tax and use tax revenue; and

6 ~~(viii)~~(ix) any other revenue anticipated by the

7 trustees to be received during the ensuing school fiscal

8 year which may be used to finance the general fund.

9 (c) Subtract the total of the moneys available to

10 reduce the property tax required to finance the general fund

11 that has been determined in subsection (1)(b) from the total

12 requirement determined in subsection (1)(a).

13 (2) The net general fund levy requirement determined

14 in subsection (1)(c) shall be reported to the county

15 commissioners on the second Monday of August by the county

16 superintendent as the general fund levy requirement for the

17 district, and a levy shall be made by the county

18 commissioners in accordance with 20-9-142."

19 **Section 126.** Section 20-9-201, MCA, is amended to

20 read:

21 "20-9-201. Definitions and application. (1) As used in

22 this title, unless the context clearly indicates otherwise,

23 "fund" means a separate detailed account of receipts and

24 expenditures for a specific purpose as authorized by law.

25 Funds are classified as follows:

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

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

17 (2) The school financial administration provisions of
 18 this title apply to all money of any elementary or high
 19 school district except the extracurricular money realized
 20 from pupil activities. The superintendent of public
 21 instruction has general supervisory authority as prescribed
 22 by law over the school financial administration provisions,
 23 as they relate to elementary and high school districts~~7.~~ as
 24 ~~prescribed-by-law-and~~ He shall ~~establish-such~~ adopt rules ~~as~~
 25 are necessary to secure compliance with the law."

1 **Section 127.** Section 20-9-212, MCA, is amended to
 2 read:

3 "20-9-212. Duties of county treasurer. The county
 4 treasurer of each county shall:

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

13 (a) the basic county tax in support of the elementary
 14 foundation programs;

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

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

19 ~~{d}--the--county--tax--in--support--of--the--high--school~~
 20 ~~obligations-to--the--retirement--systems--of--the--state--of~~
 21 ~~Montana;~~

22 ~~{e}~~(d) any additional county tax required by law to
 23 provide for deficiency financing of the elementary
 24 foundation programs;

25 ~~{f}~~(e) any additional county tax required by law to

1 provide for deficiency financing of the high school
 2 foundation programs; and
 3 ~~(g)~~(f) any other county tax for schools, including the
 4 community colleges, which may be authorized by law and
 5 levied by the county commissioners;
 6 (2) whenever requested, notify the county
 7 superintendent and the superintendent of public instruction
 8 of the amount of county school money on deposit in ~~each--of~~
 9 ~~the-funds-enumerated~~ any fund provided for in subsection (1)
 10 of this section and the amount of any other school money
 11 subject to apportionment and apportion ~~such~~ the county and
 12 other school money to the districts in accordance with the
 13 apportionment ordered by the county superintendent;
 14 (3) keep a separate accounting of the expenditures for
 15 each budgeted fund included in the final budget of each
 16 district;
 17 (4) keep a separate accounting of the receipts,
 18 expenditures, and cash balances for each budgeted fund
 19 included in the final budget of each district and for each
 20 nonbudgeted fund established by each district;
 21 (5) except as otherwise limited by law, pay all
 22 warrants properly drawn on the county or district school
 23 money and properly endorsed by their holders;
 24 (6) receive all revenue collected by and for each
 25 district and deposit these receipts in the fund designated

1 by law or by the district if no fund is designated by law.
 2 Interest and penalties on delinquent school taxes ~~shall~~ must
 3 be credited to the same fund and district for which the
 4 original taxes were levied.
 5 (7) send all ~~revenues~~ revenue received for a joint
 6 district, part of which is situated in his county, to the
 7 county treasurer designated as the custodian of ~~such~~
 8 ~~revenues~~ the revenue, no later than December 15 of each year
 9 and every 3 months thereafter until the end of the school
 10 fiscal year;
 11 (8) at the direction of the trustees of a district,
 12 assist the district in the issuance and sale of tax and
 13 revenue anticipation notes as provided in Title 7, chapter
 14 6, part 11;
 15 (9) register district warrants drawn on a budgeted
 16 fund in accordance with 7-6-2604 when there is insufficient
 17 money available ~~in--the--sum--of--money~~ in all funds of the
 18 district to make payment of ~~such~~ the warrant. Redemption of
 19 registered warrants ~~shall~~ must be made in accordance with
 20 7-6-2116, 7-6-2605, and 7-6-2606.
 21 (10) invest the money of any district as directed by
 22 the trustees of the district within 3 working days of ~~such~~
 23 the direction;
 24 (11) ~~give~~ give each month give to the trustees of each
 25 district an itemized report for each fund maintained by the

district, showing the paid warrants, outstanding warrants, registered warrants, amounts and types of revenue received, and the cash balance; and

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

Section 128. Section 20-9-301, MCA, is amended to read:

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

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program ~~shall-be~~ is the general fund of the district. The purpose of the general fund ~~shall--be~~ is to finance those general maintenance and operational costs, including employee retirement benefits, of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each

school fiscal year ~~shall~~ may not exceed the financing limitations established by this title but ~~shall--be--no~~ may not be less than the amount established by law as the foundation program. The general fund budget ~~shall~~ must be financed by the foundation program revenues and may be supplemented by the permissive levy and additional voted levies in the manner provided by law."

Section 129. Section 20-9-331, MCA, is amended to read:

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

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenues identified in subsection (2) ~~below--shall~~

be is subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

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

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

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

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for

the benefit of the county common schools under the provisions of 17-3-232;

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

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

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

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

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

(h) sales tax and use tax revenue."

Section 130. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) It ~~shall--be~~ is the duty of the county commissioners of each county to levy an annual basic special tax for high schools of 17 mills on the dollar of the

1 taxable value of all taxable property within the county,
 2 except for vehicles subject to taxation under 61-3-504(2),
 3 for the purposes of local and state foundation program
 4 support. The revenue to be collected from this levy ~~shall~~
 5 must be apportioned to the support of the foundation
 6 programs of high school districts in the county and to the
 7 state special revenue fund, state equalization aid account,
 8 in the following manner:

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

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

25 (2) The proceeds realized from the county's portion of

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

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

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

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

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

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

19 **Section 131.** Section 20-9-343, MCA, is amended to
 20 read:

21 "20-9-343. Definition of and revenue for state
 22 equalization aid. (1) As used in this title, the term "state
 23 equalization aid" means ~~those-moneys~~ the money deposited in
 24 the state special revenue fund as required in this section
 25 plus any legislative appropriation of money from other

1 sources for distribution to the public schools for the
2 purpose of equalization of the foundation program.

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

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

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

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

19 (c) 100% of the money allocated to state equalization
20 from the collection of the severance tax on coal;

21 (d) 100% of the money received from the treasurer of
22 the United States as the state's shares of oil, gas, and
23 other mineral royalties under the federal Mineral Lands
24 Leasing Act, as amended;

25 (e) interest and income money described in 20-9-341

1 and 20-9-342;

2 (f) income from the education trust fund account; and

3 (g) money received from the collection of the sales
4 tax and use tax, as provided in [section 75(1)(b)(i)];

5 (h) state lottery proceeds as provided for in
6 23-5-1027; and

7 ~~to~~ (i) in addition to these revenues, the surplus
8 revenues collected by the counties for foundation program
9 support according to 20-9-331 and 20-9-333.

10 (4) Any surplus revenue in the state equalization aid
11 account in the second year of a biennium may be used to
12 reduce the appropriation required for the next succeeding
13 biennium."

14 **Section 132.** Section 20-9-352, MCA, is amended to
15 read:

16 "20-9-352. Permissive amount and permissive levy. (1)
17 Whenever the trustees of any district shall deem it
18 necessary to adopt a general fund budget in excess of the
19 foundation program amount but not in excess of the maximum
20 general fund budget amount for such district as established
21 by the schedules in 20-9-316 through 20-9-321, the trustees
22 shall adopt a resolution stating the reasons and purposes
23 for exceeding the foundation program amount. Such excess
24 above the foundation program amount shall be known as the
25 "permissive amount", and it shall be financed by a levy, as

prescribed in 20-9-141, on the taxable value of all taxable property within the district, except for vehicles subject to taxation under 61-3-504(2), supplemented with any biennial appropriation by the legislature for this purpose. The proceeds of such an appropriation shall be deposited to the state special revenue fund, permissive account.

(2) The district levies to be set for the purpose of funding the permissive amount are determined as follows:

(a) For each elementary school district, the county commissioners shall annually set a levy not exceeding 6 mills on all the taxable property in the district, except for vehicles subject to taxation under 61-3-504(2), for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive amount to the maximum permissive amount by 6 or by using the number of mills which would fund the permissive amount, whichever is less. If the ~~amount--of~~ revenue raised by this levy, plus anticipated revenue from vehicle property taxes imposed under 61-3-504(2) and 61-3-537, ~~is and the revenue from a sales tax and use tax are~~ not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(b) For each high school district, the county commissioners shall annually set a levy not exceeding 4 mills on all taxable property in the district, except for vehicles subject to taxation under 61-3-504(2), for the purpose of funding the permissive amount of the district. The permissive levy in mills shall be obtained by multiplying the ratio of the permissive levy to the maximum permissive amount by 4 or by using the number of mills which would fund the permissive amount, whichever is less. If the ~~amount--of~~ revenue raised by this levy, plus anticipated revenue from vehicle property taxes imposed under 61-3-504(2) and 61-3-537, and plus net proceeds taxes for interim production and new production, as defined in 15-23-601, ~~is and the revenue from a sales tax and use tax are~~ not sufficient to fund the permissive amount in full, the amount of the deficiency shall be paid to the district from the state special revenue fund according to the provisions of subsections (3) and (4) of this section.

(3) The superintendent of public instruction shall, if the appropriation by the legislature for the permissive account for the biennium is insufficient, request the budget director to submit a request for a supplemental appropriation in the second year of the biennium. The supplemental appropriation shall provide enough revenue to fund the permissive deficiency of the elementary and high

school districts of the state. The proceeds of this appropriation shall be deposited to the state special revenue fund, permissive account, and shall be distributed to the elementary and high school districts in accordance with their entitlements as determined by the superintendent of public instruction according to the provisions of subsections (1) and (2) of this section.

(4) Distribution under this section from the state special revenue fund shall be made in two payments. The first payment shall be made at the same time as the first distribution of state equalization aid is made after January 1 of the fiscal year. The second payment shall be made at the same time as the last payment of state equalization aid is made for the fiscal year. If the appropriation is not sufficient to finance the deficiencies of the districts as determined according to subsection (2), each district will receive the same percentage of its deficiency. Surplus revenue in the second year of the biennium may be used to reduce the appropriation required for the next succeeding biennium or may be transferred to the state equalization aid state special revenue fund if revenues in that fund are insufficient to meet foundation program requirements."

Section 133. Section 20-9-502, MCA, is amended to read:

"20-9-502. Purpose and authorization of a building

reserve fund by an election. (1) The trustees of any district, with the approval of the qualified electors of the district, may establish a building reserve for the purpose of raising money for the future construction, equipping, or enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In order to submit to the qualified electors of the district a building reserve proposition for the establishment of or addition to a building reserve, the trustees shall pass a resolution that specifies:

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

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

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

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

(2) The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than ~~45%~~ 51% of the taxable value of the taxable property of the district. Such limitation shall be determined in the manner provided in 20-9-406. A building

1 reserve tax authorization shall not be for more than 20
2 years.

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

9 OFFICIAL BALLOT

10 SCHOOL DISTRICT BUILDING RESERVE ELECTION

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

18 Shall the trustees be authorized to impose an
19 additional levy each year for years to establish a
20 building reserve (add to the building reserve) of this
21 school district to raise a total amount of dollars
22 (\$....), for the purpose(s) (here state the purpose or
23 purposes for which the building reserve will be used)?

24 BUILDING RESERVE--YES.

25 BUILDING RESERVE--NO.

1 (4) The building reserve proposition shall be approved
2 if a majority of those electors voting at the election
3 approve the establishment of or addition to such building
4 reserve. The annual budgeting and taxation authority of the
5 trustees for a building reserve shall be computed by
6 dividing the total authorized amount by the specified number
7 of years. The authority of the trustees to budget and
8 impose the taxation for the annual amount to be raised for
9 the building reserve shall lapse when, at a later time, a
10 bond issue is approved by the qualified electors of the
11 district for the same purpose or purposes for which the
12 building reserve fund of the district was established.
13 Whenever a subsequent bond issue is made for the same
14 purpose or purposes of a building reserve, the money in the
15 building reserve shall be used for such purpose or purposes
16 before any money realized by the bond issue is used."

17 **Section 134.** Section 20-10-144, MCA, is amended to
18 read:

19 "20-10-144. Computation of revenues and net tax levy
20 requirements for the transportation fund budget. Before the
21 fourth Monday of July and in accordance with 20-9-123, the
22 county superintendent shall compute the revenue available to
23 finance the transportation fund budget of each district. The
24 county superintendent shall compute the revenue for each
25 district on the following basis:

1 (1) The "schedule amount" of the preliminary budget
2 expenditures that is derived from the rate schedules in
3 20-10-141 and 20-10-142 shall be determined by adding the
4 following amounts:

5 (a) the sum of the maximum reimbursable expenditures
6 for all approved school bus routes maintained by the
7 district (to determine the maximum reimbursable expenditure,
8 multiply the applicable rate per bus mile by the total
9 number of miles to be traveled during the ensuing school
10 fiscal year on each bus route approved by the county
11 transportation committee and maintained by such district);
12 plus

13 (b) the total of all individual transportation per
14 diem reimbursement rates for such district as determined
15 from the contracts submitted by the district multiplied by
16 the number of pupil-instruction days scheduled for the
17 ensuing school attendance year; plus

18 (c) any estimated costs for supervised home study or
19 supervised correspondence study for the ensuing school
20 fiscal year; plus

21 (d) the amount budgeted on the preliminary budget for
22 the contingency amount permitted in 20-10-143, except if
23 such amount exceeds 10% of the total of subsections (1)(a),
24 (1)(b), and (1)(c) or \$100, whichever is larger, the
25 contingency amount on the preliminary budget shall be

1 reduced to such limitation amount and used in this
2 determination of the schedule amount.

3 (2) The schedule amount determined in subsection (1)
4 or the total preliminary transportation fund budget,
5 whichever is smaller, shall be divided by 3 and the
6 resulting one-third amount shall be used to determine the
7 available state and county revenue to be budgeted on the
8 following basis:

9 (a) the resulting one-third amount shall be the
10 budgeted state transportation reimbursement, except that the
11 state transportation reimbursement for the transportation of
12 special education pupils under the provisions of 20-7-442
13 shall be two-thirds of the schedule amount attributed to the
14 transportation of special education pupils;

15 (b) the resulting one-third amount, except as provided
16 for joint elementary districts in subsection (2)(e), shall
17 be the budgeted county transportation reimbursement for
18 elementary districts and shall be financed by the basic
19 county tax under the provisions of 20-9-334;

20 (c) the resulting one-third amount multiplied by 2
21 shall be the budgeted county transportation reimbursement
22 amount for high school districts financed under the
23 provisions of subsection (5) of this section, except as
24 provided for joint high school districts in subsection
25 (2)(e), and except that the county transportation

1 reimbursement for the transportation of special education
2 pupils under the provisions of 20-7-442 shall be one-third
3 of the schedule amount attributed to the transportation of
4 special education pupils;

5 (d) when the district has a sufficient amount of cash
6 for reappropriation and other sources of district revenue,
7 as determined in subsection (3), to reduce the total
8 district obligation for financing to zero, any remaining
9 amount of such district revenue and cash reappropriated
10 shall be used to reduce the county financing obligation in
11 subsections (2)(b) or (2)(c) and, if such county financing
12 obligations are reduced to zero, to reduce the state
13 financial obligation in subsection (2)(a); and

14 (e) the county revenue requirement for a joint
15 district, after the application of any district moneys under
16 subsection (2)(d) above, shall be prorated to each county
17 incorporated by the joint district in the same proportion as
18 the ANB of the joint district is distributed by pupil
19 residence in each such county.

20 (3) The total of the moneys available for the
21 reduction of property tax on the district for the
22 transportation fund shall be determined by totaling:

23 (a) anticipated federal moneys received under the
24 provisions of Title I of Public Law 81-874 or other
25 anticipated federal moneys received in lieu of such federal

1 act; plus

2 (b) anticipated payments from other districts for
3 providing school bus transportation services for such
4 district; plus

5 (c) anticipated payments from a parent or guardian for
6 providing school bus transportation services for his child;
7 plus

8 (d) anticipated interest to be earned by the
9 investment of transportation fund cash in accordance with
10 the provisions of 20-9-213(4); plus

11 (e) anticipated revenue from vehicle property taxes
12 imposed under 61-3-504(2) and 61-3-537; plus

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

15 (g) sales tax and use tax revenue; plus

16 ~~(g)~~(h) any other revenue anticipated by the trustees
17 to be earned during the ensuing school fiscal year which may
18 be used to finance the transportation fund; plus

19 ~~(h)~~(i) any cash available for reappropriation as
20 determined by subtracting the amount of the end-of-the-year
21 cash balance earmarked as the transportation fund cash
22 reserve for the ensuing school fiscal year by the trustees
23 from the end-of-the-year cash balance in the transportation
24 fund. Such cash reserve shall not be more than 20% of the
25 final transportation fund budget for the ensuing school

1 fiscal year and shall be for the purpose of paying
2 transportation fund warrants issued by the district under
3 the final transportation fund budget.

4 (4) The district levy requirement for each district's
5 transportation fund shall be computed by:

6 (a) subtracting the schedule amount calculated in
7 subsection (1) from the total preliminary transportation
8 budget amount and, for an elementary district, adding such
9 difference to the district obligation to finance one-third
10 of the schedule amount as determined in subsection (2); and

11 (b) subtracting the amount of moneys available to
12 reduce the property tax on the district, as determined in
13 subsection (3), from the amount determined in subsection
14 (4)(a) above.

15 (5) The county levy requirement for the financing of
16 the county transportation reimbursement to high school
17 districts shall be computed by adding all such requirements
18 for all the high school districts of the county, including
19 the county's obligation for reimbursements in joint high
20 school districts.

21 (6) The transportation fund levy requirements
22 determined in subsection (4) for each district and in
23 subsection (5) for the county shall be reported to the
24 county commissioners on the second Monday of August by the
25 county superintendent as the transportation fund levy

1 requirements for the district and for the county, and such
2 levies shall be made by the county commissioners in
3 accordance with 20-9-142."

4 **Section 135.** Section 20-15-311, MCA, is amended to
5 read:

6 "20-15-311. Funding sources. The annual operating
7 budget of a community college district shall be financed
8 from the following sources:

9 (1) the estimated revenues to be realized from student
10 tuition and fees, except those related to community service
11 courses as defined by the board of regents;

12 (2) a mandatory mill levy on the community college
13 district;

14 (3) the 1-mill adult education levy authorized under
15 provisions of 20-15-305;

16 (4) the state general fund appropriation;

17 (5) an optional voted levy on the community college
18 district that shall be submitted to the electorate in
19 accordance with general school election laws;

20 (6) all other income, revenue, balances, or reserves
21 not restricted by a source outside the community college
22 district to a specific purpose;

23 (7) income, revenue, balances, or reserves restricted
24 by a source outside the community college district to a
25 specific purpose. Student fees paid for community service

1 courses as defined by the board of regents shall be
2 considered restricted to a specific purpose;

3 (8) income from a political subdivision that is
4 designated a community college service region under
5 20-15-241; and

6 (9) sales tax and use tax revenue."

7 **Section 136.** Section 20-16-202, MCA, is amended to
8 read:

9 "20-16-202. Sources of financing for
10 vocational-technical center budgets -- distribution of
11 funds. (1) The total of the budgets approved by the board of
12 regents shall constitute the total maximum approved
13 statewide vocational-technical center system budget which
14 shall be financed as follows:

15 (a) The primary source of financing is to be those
16 funds specifically designated by legislative enactment or
17 referendum by the people for financing vocational-technical
18 education in Montana, including sales tax and use tax
19 revenue.

20 (b) The board of county commissioners of each county
21 in which a designated vocational-technical center is located
22 shall levy a tax in each calendar year of 1 1/2 mills on the
23 dollar of all taxable property, real and personal, within
24 the county to raise the amount appropriated by the
25 legislature for the support and maintenance of the

1 vocational-technical center system. The tax is to be
2 effective for property tax years beginning on or after
3 January 1, 1987. It is the intent of this subsection (1)(b)
4 that the county commissioners shall levy this tax for fiscal
5 year 1988 operation of the vocational-technical system and
6 thereafter.

7 (c) Designated vocational-technical centers shall be
8 eligible to receive such funds from the federal government
9 as the board of regents may provide pursuant to applicable
10 acts of congress.

11 (2) The board of regents shall direct the distribution
12 of the funds specified in subsection (1) on the basis of the
13 budgets approved by the board of regents. The funds earned
14 by the mill levy specified in subsection (1)(b) shall be
15 credited to the vocational-technical center account in the
16 unrestricted subfund of the current fund in the state
17 treasury."

18 **Section 137.** Section 23-5-1027, MCA, is amended to
19 read:

20 "23-5-1027. Disposition of revenue. (1) (a) As near as
21 possible to 45% of the money paid for tickets or chances
22 must be paid out as prize money, except as provided in
23 subsection (1)(b).

24 (b) In the case of a regional lottery game, a maximum
25 of 50% of the money paid for tickets or chances may be paid

1 out as prize money.

2 (2) Up to 15% of the gross revenue from the state
3 lottery may be used by the director to pay the operating
4 expenses of the state lottery. Commissions paid to lottery
5 ticket or chance sales agents are not a state lottery
6 operating expense.

7 (3) Funds to pay the operating expenses of the lottery
8 are statutorily appropriated as provided in 17-7-502.

9 (4) That part of all gross revenue not used for the
10 payment of prizes, commissions, and operating expenses is
11 net revenue and must be paid quarterly from the enterprise
12 fund established by 23-5-1026 to the superintendent--of
13 ~~public--instruction--for-distribution-as-equalization-aid-to~~
14 ~~the-retirement-fund-obligations--of state special revenue~~
15 fund for state equalization aid provided for in 20-9-343 for
16 equalization of the foundation program for elementary and
17 high school districts in-the-manner-provided--in--20-9-532."

18 **Section 138.** Section 33-7-407, MCA, is amended to
19 read:

20 "33-7-407. Taxes. Every society organized or licensed
21 under this chapter is hereby declared to be a charitable and
22 benevolent institution, and all of its funds shall be exempt
23 from all and every state, county, district, municipal, and
24 school tax other than taxes on ~~real--estate--and--office~~
25 equipment gross receipts taxable under the sales tax and use

1 tax and taxes on property subject to taxation under Title
2 15."

3 **Section 139.** Section 61-3-501, MCA, is amended to
4 read:

5 "61-3-501. When vehicle taxes and fees are due. (1)
6 Property All taxes, new-car-taxes,--and-fees except INCLUDING
7 sales taxes and use taxes paid at the time of purchase, AND
8 FEES must be paid on the date of registration or
9 reregistration of the vehicle.

10 (2) If the anniversary date for reregistration of a
11 vehicle passes while the vehicle is owned and held for sale
12 by a licensed new or used car dealer, property taxes abate
13 on such vehicle properly reported with the department of
14 revenue until the vehicle is sold and thereafter the
15 purchaser shall pay the pro rata balance of the taxes due
16 and owing on the vehicle.

17 (3) In the event a vehicle's registration period is
18 changed under 61-3-315, all taxes and other fees due thereon
19 shall be prorated and paid from the last day of the old
20 period until the first day of the new period in which the
21 vehicle shall be registered. Thereafter taxes and other fees
22 must be paid from the first day of the new period for a
23 minimum period of 1 year. When the change is to a later
24 registration period, taxes and fees shall be prorated and
25 paid based on the same tax year as the original registration

period. Thereafter, during the appropriate anniversary registration period, each vehicle shall again register or reregister and shall pay all taxes and fees due thereon for a 12-month period."

SECTION 140. SECTION 61-3-502, MCA, IS AMENDED TO

READ:

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

(2) ~~Except as provided in subsection (4), the~~ The sales tax shall be:

~~(a) 1-1/2% is 4% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;~~

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

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

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

~~(3) If the manufacturer or importer fails to furnish~~

~~the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists;~~

~~(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1-1/2% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the new vehicle is purchased.~~

~~(5)(3)~~ The proceeds from this tax shall be remitted to the state treasurer every 30 days for credit as follows:

~~(a) 32.5% to the state highway account of the state special revenue fund; and~~

~~(b) 67.5% to the sales tax and use tax account described in [section 75].~~

~~(6)(4)~~ The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

~~(7)(5)~~ (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has

1 not been otherwise assessed, to pay the motor vehicle sales
2 tax provided by this section irrespective of whether the
3 vehicle was in the state of Montana on January 1 of the
4 year.

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

15 ~~(8)~~(6) (a) Motor vehicles operating exclusively for
16 transportation of persons for hire within the limits of
17 incorporated cities or towns and within 15 miles from such
18 limits are exempt from subsection (1).

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

25 (c) Vehicles lawfully displaying a licensed dealer's

1 plate as provided in 61-4-103 are exempt from subsection (1)
2 when moving to or from a dealer's place of business when
3 unloaded or loaded with dealer's property only, and in the
4 case of vehicles having a gross loaded weight of less than
5 24,000 pounds, while being demonstrated in the course of the
6 dealer's business."

7 NEW SECTION. Section 141. Taxable percentage rates --
8 restrictions on increasing. The taxable percentage rates
9 provided in this part, except the percentage rate "R" in
10 15-6-145 or 15-6-147, may be increased only if the increase
11 is:

12 (1) adopted by vote of two-thirds of the members of
13 each house of the legislature; or

14 (2) approved by the electorate.

15 NEW SECTION. Section 142. Sales tax rates AND CREDITS
16 -- restriction--on-increasing RESTRICTIONS. (1) A sales tax
17 rate or use tax rate imposed in [section 2] may be increased
18 only if the increase is approved by the electorate.

19 (2) THE INCOME TAX CREDIT FOR SALES TAX PAID PROVIDED
20 IN [SECTION 71] MAY BE DECREASED ONLY IF THE DECREASE IS
21 APPROVED BY THE ELECTORATE.

22 NEW SECTION. Section 143. Definitions. As used in
23 [sections 139 through 146], the following definitions apply:

24 (1) "County" means any county government, excluding
25 those classified as consolidated governments.

1 (2) "Incorporated population" means the number of
2 persons residing within the boundaries of a municipality.

3 (3) "Mill value" means the amount of revenue that can
4 be raised within a county or municipality by levying 1 mill.
5 It is determined by multiplying a county's or municipality's
6 taxable valuation by 0.001.

7 (4) "Municipality" means an incorporated city, town,
8 or city-county consolidated government.

9 (5) "Unincorporated population" means the number of
10 persons not residing within a municipality.

11 **NEW SECTION. Section 144.** Local government block
12 grant account. (1) There is a local government block grant
13 account within the state special revenue fund.

14 (2) Funds in this account must be used to provide
15 payments from the local government block grant program to
16 counties and municipalities.

17 (3) The 11% of the sales tax and use tax revenue that
18 is distributed under [section 75(1)(b)(iii)] must be
19 deposited in the account.

20 **NEW SECTION. Section 145.** Local government block
21 grant program. (1) The department of commerce shall
22 administer the local government block grant program and
23 distribute funds from the local government block grant
24 account.

25 (2) The local government block grant program is

1 comprised of:

2 (a) a block grant for counties; and

3 (b) a block grant for municipalities.

4 **NEW SECTION. Section 146.** Division of block grant
5 funds. The division of funds within the local government
6 block grant account is as follows:

7 (1) The block grant for counties must be funded from
8 the percentage of funds deposited in the account that equals
9 the ratio of the unincorporated population to the state
10 population.

11 (2) The block grant for municipalities must be funded
12 from the percentage of funds deposited in the account that
13 equals the ratio of the incorporated population to the state
14 population.

15 **NEW SECTION. Section 147.** Distribution of block grant
16 funds to counties. Funds in the block grant account for
17 counties must be distributed as follows:

18 (1) One-half of each county's share is determined by
19 the ratio of the county's population to the total county
20 population in the state.

21 (2) One-half is distributed according to the following
22 formula in which CMV = average mill value per capita of all
23 counties, IMV = individual county mill value per capita, ICP
24 = individual county population, and CG = 1/2 total county
25 grant:

1 CMV X ICP = county tax base factor(TBF)
 2 INV
 3 CG X individual county TBF = 1/2 individual county
 4 sum of all county TBFs share
 5 **NEW SECTION. Section 148.** Distribution of block grant
 6 funds to municipalities. (1) The block grant for
 7 municipalities is divided into the city/town category and
 8 the consolidated category.
 9 (2) The consolidated category must receive a
 10 percentage of the total municipal grant as determined by the
 11 following formula in which PCG = population of consolidated
 12 governments, UP = unincorporated population, TSP = total
 13 stated population, and TSMP = total state municipal
 14 population:
 15
$$\frac{PCG + (PCG \times UP/TSP)}{TSMP} = \text{consolidated category percentage}$$

 16
 17 (3) The city/town and consolidated categories must be
 18 distributed as follows:
 19 (a) One-half of each municipality's share is
 20 determined by the ratio of the municipality's population to
 21 the total municipal population of that category.
 22 (b) One-half is distributed according to the following
 23 formula in which MVPC = average mill value per capita for
 24 all municipalities within each category, IVC = individual
 25 municipality mill value per capita, IMP = individual

1 municipality population, and CG = 1/2 total grant for each
 2 category:
 3 MVPC X IMP = municipal tax base factor (TBF)
 4 IVC
 5 CG X individual municipality TBF = 1/2 individual
 6 sum of all municipality TBFs municipality
 7 share
 8 **NEW SECTION. Section 149.** Population and taxable
 9 valuation figures to be used. (1) Population figures used in
 10 [sections 139 through 144] must be the most recent figures
 11 as determined by the department of commerce.
 12 (2) Mill values used in [sections 139 through 144]
 13 must be the most recent taxable valuation figures as
 14 determined by the department of revenue for the fiscal year
 15 in which payments will be made.
 16 **NEW SECTION. Section 150.** Disposition and use of
 17 funds. (1) Disbursements from the local government block
 18 grant account must be made on June 30, 1991, and on June 30
 19 of each succeeding year.
 20 (2) One-half of each disbursement must be used to
 21 reduce the local government's general fund mill levy, and
 22 one-half of the disbursement may be used for any purpose
 23 authorized by law.
 24 **NEW SECTION. Section 151.** Submission to electorate.
 25 The question of whether sections 1 through 146 and 149 of

1 this act will become effective shall be submitted to the
 2 qualified electors of Montana at the election called
 3 pursuant to section 146 by printing on the ballot the full
 4 title of this act and the following:

5 ☐ FOR imposing a 4% sales tax and use tax, to be used
 6 approximately as follows:

7 • 35% for state funding of public education, to reduce
 8 local property taxes;

9 • 10% for higher education;

10 • 21% to reduce residential, personal, and commercial
 11 property taxes;

12 • 3.5% to reduce municipal and county property taxes;

13 • 3.5% new revenue for municipal and county
 14 governments;

15 • 12.5% for refunds to low-income families; and

16 • the remainder to be deposited in the state general
 17 fund.

18 ☐ AGAINST imposing a 4% sales tax and use tax, to be
 19 used approximately as follows:

20 • 35% for state funding of public education, to reduce
 21 local property taxes;

22 • 10% for higher education;

23 • 21% to reduce residential, personal, and commercial
 24 property taxes;

25 • 3.5% to reduce municipal and county property taxes;

1 • 3.5% new revenue for municipal and county
 2 governments;

3 • 12.5% for refunds to low-income families; and

4 • the remainder to be deposited in the state general
 5 fund.

6 **NEW SECTION. Section 152.** Special election. Pursuant
 7 to Article III, sections 5 and 6, of The Constitution of the
 8 State of Montana, [sections 1 through 146 and 149] shall be
 9 submitted to the qualified electors of Montana for their
 10 approval or disapproval at a statewide election to be held
 11 November 7, 1989.

12 **NEW SECTION. Section 153.** Repealer. Sections 15-6-136
 13 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146,
 14 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531,
 15 and 20-9-532, MCA, are repealed.

16 **NEW SECTION. Section 154.** Codification instruction.
 17 (1) [Sections 1 through 68, 74, 75, and 138] are intended
 18 to be codified as an integral part of Title 15, and the
 19 provisions of Title 15 apply to [sections 1 through 68, 74,
 20 75, and 138].

21 (2) [Sections 69 through 73] are intended to be
 22 codified as an integral part of Title 15, chapter 30, and
 23 the provisions of Title 15, chapter 30, apply to [sections
 24 69 through 73].

25 (3) [Sections 76 and 137] are intended to be codified

1 as an integral part of Title 15, chapter 6, part 1, and the
2 provisions of Title 15, chapter 6, apply to [sections 76 and
3 137].

4 (4) [Section 107] is intended to be codified as an
5 integral part of Title 20, chapter 25, and the provisions of
6 Title 20, chapter 25, apply to [section 107].

7 ~~{5}--{Sections--139--through--146}--are--intended-to-be~~
8 ~~codified-as-an-integral-part-of-Title-7,--chapter-6,--and--the~~
9 ~~provisions--of--Title--7,--chapter-6,--apply-to--{sections-139~~
10 ~~through-146}.~~

11 NEW SECTION. Section 155. Coordination instruction.
12 ~~if--{this--act}--passes--and--Senate-Bill-No--463-fails,--the~~
13 ~~sales-tax-rate-imposed-in--{section-2-of-this-act}--is-3%,--and~~
14 ~~wherever-the-sales-tax-of-4%--appears-in--{this-act},--it--must~~
15 ~~be--changed--to--3%.~~ (1) IF [THIS ACT] IS APPROVED AT THE
16 ELECTION HELD PURSUANT TO [SECTION 152] AND SENATE BILL NO.
17 287 IS PASSED AND APPROVED, SENATE BILL NO. 287 IS VOID.

18 (2) IF EITHER SENATE BILL NO. 463 OR HOUSE BILL NO.
19 664 IS NOT PASSED AND APPROVED, NO REFERENDUM MAY BE HELD ON
20 [THIS ACT] AND [THIS ACT] IS VOID.

21 NEW SECTION. Section 156. Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. Section 157. Severability. If a part of

1 [this act] is invalid, all valid parts that are severable
2 from the invalid part remain in effect. If a part of [this
3 act] is invalid in one or more of its applications, the part
4 remains in effect in all valid applications that are
5 severable from the invalid applications.

6 NEW SECTION. Section 158. Saving clause. [This act]
7 does not affect rights and duties that matured, penalties
8 that were incurred, or proceedings that were begun before
9 [the effective date of this act].

10 NEW SECTION. Section 159. Effective dates. (1) Except
11 as provided in subsections (2) and (3), [this act] is
12 effective on approval by the electorate.

13 (2) [Sections 147, 148, and this section] are
14 effective on passage by the legislature.

15 (3) [Section 149] is effective December 31, 1990.

16 NEW SECTION. Section 160. Applicability. (1)
17 [Sections 1 through 75 and 139 through 146] are applicable
18 on and after July 1, 1990.

19 (2) [Sections 76 through 136] apply to taxable years,
20 fiscal years, and school fiscal years beginning after
21 December 31, 1989. However, all taxes, levies, fees,
22 assessments, and the like levied in 1989 for fiscal year
23 1990 must be paid and are collectible as provided by law.

24 NEW SECTION. SECTION 161. SPECIAL INSTRUCTION TO CODE
25 COMMISSIONER. THE CODE COMMISSIONER IS INSTRUCTED TO MAKE

SB 0469/02

- 1 THE NECESSARY CHANGES TO THE INTERNAL REFERENCES CAUSED BY
- 2 THE ADDITION OF ANY SECTION TO [THIS ACT] OR THE DELETION OF
- 3 ANY SECTION FROM [THIS ACT].

-End-

SENATE BILL NO. 469

INTRODUCED BY CRIPPEN, BRADLEY, ECK, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT THE EDUCATION AND TAX REFORM ACT; PROVIDING FOR A 4 PERCENT SALES TAX AND USE TAX; PROVIDING FOR CERTAIN DEDUCTIONS AND EXEMPTIONS FROM THE TAX; GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX PURPOSES; PROVIDING PROPERTY TAX RELIEF; EXEMPTING THE FIRST \$15,000 OR LESS OF MARKET VALUE OF SINGLE-FAMILY RESIDENCES OF MONTANA RESIDENTS FROM PROPERTY TAXATION; REVISING LOCAL GOVERNMENT BONDING AND DEBT LIMITS; PROVIDING CREDITS AGAINST OR REFUND OF INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE FROM THE SALES TAX AND USE TAX; REPEALING COUNTY MILL LEVIES FOR TEACHER RETIREMENT; LINKING THE IMPOSITION OF A STATEWIDE SALES TAX TO STATE INCOME TAX REFORM; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-201, 15-6-207, 15-8-111, 15-8-205, 15-10-402, 15-10-411, 15-10-412, 15-16-611, 15-16-613, 15-24-301, 15-24-1102, 15-24-1103, 17-3-213, 19-4-605, 19-11-503, 19-11-504, 20-3-106, 20-3-324, 20-5-305, 20-5-312, 20-9-141, 20-9-201, 20-9-212,

20-9-301, 20-9-331, 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-502, 20-10-144, 20-15-311, 20-16-202, 23-5-1027, 33-7-407, AND 61-3-501, AND 61-3-502, MCA; REPEALING SECTIONS 15-6-136 THROUGH 15-6-140, 15-6-142 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531, AND 20-9-532; PROVIDING THAT CERTAIN SECTIONS OF THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE STATE OF MONTANA; AND PROVIDING EFFECTIVE DATES AND APPLICABILITY DATES."

STATEMENT OF INTENT

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

The legislature contemplates that rules adopted by the department should, at a minimum, address the following:

(1) the registration and issuance of permits to persons engaging in the business of retail sales and services;

(2) the reporting form for the payment of the taxes, along with the requirements for the retention by the taxpayers of the necessary records;

(3) the required security and the acceptable forms of security for those taxpayers required to give security for payment of the taxes;

(4) the use of the nontaxable transaction certificate and clarification of any exemption from or deduction of the taxes;

(5) the necessary forms and the required procedures for reporting the taxes; and

(6) the definition of terms and establishment of procedures as appropriate for efficient administration of the sales tax and use tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Definitions. For purposes of [sections 1 through 68 and 74], unless the context requires otherwise, the following definitions apply:

(1) "Buying", "selling", "buy", "sell", or "sale" means the transfer of property for consideration or the performance of a service for consideration.

(2) "Construction" means:

(a) the building, altering, repairing, or demolishing in the ordinary course of business of any:

(i) road, highway, bridge, parking area, or related project;

(ii) building, stadium, or other structure;

(iii) airport, subway, or similar facility;

(iv) park, trail, athletic field, golf course, or similar facility;

(v) dam, reservoir, canal, ditch, or similar facility;

(vi) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery, or similar facility;

(vii) sewage, water, gas, or other pipeline;

(viii) transmission line;

(ix) radio, television, or other tower;

(x) water, oil, or other storage tank;

(xi) shaft, tunnel, or other mining appurtenance; or

(xii) microwave station or similar facility;

(b) the leveling or clearing of land;

(c) the excavating of earth;

(d) the drilling of wells of any type, including seismograph shot holes or core drilling; or

(e) any similar work.

(3) "Department" means the department of revenue.

(4) "Engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit.

(5) "Food product for human consumption":

(a) means food for domestic home consumption as

1 defined in 7 U.S.C. 2012(g), as amended, for purposes of the
2 federal food stamp program as defined in 7 U.S.C. 2012(h),
3 as amended; and

4 (b) does not mean or include:

5 (i) medicines or preparations, in liquid, powdered,
6 granular, bottled, capsule, lozenge, or pill form, sold as a
7 dietary supplement or adjunct not prescribed by a licensed
8 physician;

9 (ii) carbonated water marketed in containers;

10 (iii) chewing gum;

11 (iv) candies or confectioneries; or

12 (v) seeds and plants to grow foods.

13 (6) (a) "Gross receipts", in addition to the other
14 meanings provided in this subsection (6), means the total
15 amount of money or the value of other consideration received
16 from selling property in Montana, from leasing property used
17 in Montana, or from performing services in Montana. The term
18 includes all receipts from the sale of tangible personal
19 property handled on consignment but excludes cash discounts
20 allowed and taken and any type of time-price differential.

21 (b) In an exchange in which the money or other
22 consideration received does not represent the value of the
23 property or service exchanged, gross receipts means the
24 reasonable value of the property or service exchanged.

25 (c) (i) Except as provided in [section 54], when the

1 sale of property or services is made under any type of
2 charge or conditional or time-sales contract or the leasing
3 of property is made under a leasing contract, the seller or
4 lessor shall treat all receipts, excluding any type of
5 time-price differential, under such contracts as gross
6 receipts at the time of the sale.

7 (ii) If the seller or lessor transfers his interest in
8 any such contract to a third person, the seller or lessor
9 shall pay the sales tax or use tax upon the full sale or
10 leasing contract amount, excluding any type of time-price
11 differential.

12 (d) Gross receipts includes all amounts paid by
13 members of a cooperative association or similar organization
14 for sales or leases of personal property or performance of
15 services by the organization.

16 (7) "Lease" or "leasing" means an arrangement in
17 which, for consideration, property is used for or by a
18 person other than the owner of the property.

19 (8) "Manufacturing" means combining or processing
20 components or materials, INCLUDING THE PROCESSING FOR ORES
21 IN A MILL, SMELTER, REFINERY, OR REDUCTION FACILITY, to
22 increase their value for sale in the ordinary course of
23 business. The term does not include construction.

24 (9) "Medical services" means a service:

25 (a) performed by a person licensed to practice

1 medicine, osteopathy, dentistry, podiatry, optometry,
2 chiropractic, or psychology OR LICENSED AS A MENTAL HEALTH
3 PROFESSIONAL OR CHEMICAL DEPENDENCY COUNSELOR as a regular
4 part of his business activities; and

5 (b) applied externally or internally to the human body
6 or mind for the diagnosis, cure, mitigation, treatment, or
7 prevention of disease.

8 (10) "Medicine" or "drug" means and includes any
9 substance or preparation that is:

10 (a) intended for use by external or internal
11 application to the human body or mind in the diagnosis,
12 cure, mitigation, treatment, or prevention of disease; and

13 (b) required by law or regulation to be prescribed by
14 a person licensed to prescribe such medicine or drug.

15 (11) "Permit" means a seller's permit as described in
16 [section 45].

17 (12) "Person" means:

18 (a) an individual, estate, trust, receiver,
19 cooperative association, club, corporation, company, firm,
20 partnership, joint venture, syndicate, or other entity,
21 including any gas, water, or electric utility owned or
22 operated by a county, municipality, or other political
23 subdivision of the state; or

24 (b) the United States or any agency or instrumentality
25 of the United States or the state of Montana or any

1 political subdivision of the state.

2 (13) "Sales tax" and "use tax" mean the applicable tax
3 imposed by [section 2].

4 (14) (a) "Service" means an activity that is engaged in
5 for another person for consideration and that is
6 distinguished from the sale or lease of property. The term
7 includes:

8 (i) activities performed by a person for its members
9 or shareholders; and

10 (ii) construction activities and all tangible personal
11 property that will become an ingredient or component part of
12 a construction project.

13 (b) In determining what a service is, the intended
14 use, principal objective, or ultimate objective of the
15 contracting parties is irrelevant.

16 (15) "Therapeutic and prosthetic devices" includes but
17 is not limited to prescription eyeglasses, contact lenses,
18 dentures, or artificial limbs, prescribed or ordered by a
19 person licensed to perform medical services.

20 (16) "Use" or "using" includes use, consumption, or
21 storage, other than storage for resale or for use solely
22 outside this state, in the ordinary course of business.

23 NEW SECTION. Section 2. Imposition and rate of sales
24 tax and use tax. (1) Except as provided in subsection (5), a
25 sales tax of 4% is imposed on all gross receipts, as defined

1 in [section 1], for the privilege of engaging in business in
2 this state.

3 (2) For the privilege of using property in this state,
4 there is imposed on the person using the property a use tax
5 equal to 4% of the value of the property that was:

6 (a) manufactured by the person using the property in
7 this state;

8 (b) acquired outside this state as the result of a
9 transaction that would have been subject to the sales tax
10 had it occurred within this state; or

11 (c) acquired as the result of a transaction that was
12 not initially subject to the sales tax imposed by subsection
13 (1) or the use tax imposed by subsection (2)(b) but which
14 transaction, because of the buyer's subsequent use of the
15 property, is subject to the sales tax or use tax.

16 (3) For the privilege of using services rendered in
17 this state, there is imposed on the person using such
18 services a use tax equal to 4% of the value of the services
19 at the time at which they were rendered. Services taxable
20 under this section must have been rendered as the result of
21 a transaction that was not initially subject to the sales
22 tax or use tax but that, because of the buyer's subsequent
23 use of the service, is subject to the sales tax or use tax.

24 (4) For purposes of this section, the value of
25 property must be determined as of the time of acquisition,

1 introduction into this state, or conversion to use,
2 whichever is later.

3 (5) A sales tax of 2-1/2% 4% is imposed on the gross
4 receipts from the sale of any new motor vehicle subject to
5 the provisions of 61-3-502. ~~The total of the tax imposed in~~
6 ~~this subsection and the tax imposed in 61-3-502 may not~~
7 ~~exceed 4%.~~

8 NEW SECTION. **Section 3.** Presumption of taxability --
9 value. (1) In order to prevent evasion of the sales tax or
10 use tax and to aid in its administration, it is presumed
11 that:

12 (a) all receipts of a person engaging in business are
13 subject to the sales tax or use tax; and

14 (b) all property bought or sold by any person for
15 delivery into this state is bought or sold for a taxable use
16 in this state.

17 (2) In determining the amount of tax due on the use of
18 property or services, it is presumed, in the absence of
19 preponderant evidence of another value, that value means the
20 total amount of property or the reasonable value of other
21 consideration paid for the use of the property or service,
22 exclusive of any type of time-price differential. However,
23 in an exchange in which the amount of money paid does not
24 represent the value of the property or service purchased,
25 the use tax must be imposed on the reasonable value of the

1 property or service purchased.

2 **NEW SECTION. Section 4. Separate statement of tax.**

3 (1) If the sales tax or use tax is stated separately on the
4 books of the seller or lessor and the total amount of tax
5 stated separately on transactions within the reporting
6 period is in excess of the amount of sales tax or use tax
7 otherwise payable on those transactions, the excess amount
8 of tax otherwise payable and stated on the transactions
9 within the reporting period must be included in gross
10 receipts.

11 (2) If the sales tax or use tax is not stated
12 separately on transactions, the gross receipts for sales tax
13 and use tax purposes include the total amounts received,
14 with no deduction for the sales tax or use tax.

15 **NEW SECTION. Section 5. Liability of user for payment**
16 **of use tax.** (1) A person in this state who uses property is
17 liable to the state for payment of the use tax if the tax is
18 payable on the value of the property but has not been paid.

19 (2) The liability imposed by this section is
20 discharged if the buyer has paid the use tax to the seller
21 for payment to the department.

22 **NEW SECTION. Section 6. Agents for collection of**
23 **sales tax and use tax -- severability.** (1) (a) A person who
24 performs or attempts to perform an activity within this
25 state that attempts to exploit this state's markets, who

1 sells property or services for use in this state, and who is
2 not subject to the sales tax or use tax on receipts from
3 these sales shall collect the sales tax or use tax from the
4 buyer and pay the tax collected to the department.

5 (b) "Activity", for the purposes of this section,
6 includes but is not limited to engaging in any of the
7 following in this state:

8 (i) maintaining an office or other place of business
9 that solicits orders through employees or independent
10 contractors;

11 (ii) canvassing;

12 (iii) demonstrating;

13 (iv) collecting money;

14 (v) warehousing or storing merchandise;

15 (vi) delivering or distributing products as a
16 consequence of an advertising or other sales program
17 directed at potential customers;

18 (vii) soliciting orders for tangible personal property
19 by means of a telecommunication or television shopping
20 system that utilizes toll-free numbers and that is intended
21 to be broadcast by cable television or other means to
22 consumers in this state;

23 (viii) soliciting orders, pursuant to a contract with a
24 broadcaster or publisher located within this state, for
25 tangible personal property by means of advertising

1 disseminated primarily to consumers located in this state
2 and only secondarily to bordering jurisdictions;

3 (ix) soliciting orders for tangible personal property
4 by mail if the solicitations are substantial and recurring
5 and if the person engaging in such activity benefits from
6 any banking, financing, debt collection, telecommunication,
7 or marketing activities occurring in this state or benefits
8 from the location in this state of authorized installation,
9 servicing, or repair facilities; or

10 (x) soliciting orders, pursuant to a contract with a
11 cable television operator located in this state, for
12 tangible property by means of advertising transmitted or
13 distributed over a cable television system in this state.

14 (2) To ensure the orderly and efficient collection of
15 the tax imposed by [sections 1 through 68 and 74], if any
16 application of this section is held invalid, the section's
17 application to other situations or persons is not affected.

18 NEW SECTION. Section 7. Nontaxable transaction
19 certificate -- requirements. (1) A nontaxable transaction
20 certificate executed by a buyer or lessee must be in the
21 possession of the seller or lessor at the time a nontaxable
22 transaction occurs.

23 (2) If the seller or lessor is not in possession of a
24 nontaxable transaction certificate within 60 days from the
25 date notice of the requirement for possession of a

1 nontaxable transaction certificate is given to him by the
2 department, all deductions claimed by him that require
3 delivery of a nontaxable transaction certificate are
4 disallowed.

5 (3) A nontaxable transaction certificate must contain
6 the information and be in the form prescribed by the
7 department.

8 (4) Only a buyer or lessee who has registered with the
9 department and whose permit is not suspended or revoked may
10 be allowed to execute a nontaxable transaction certificate.

11 (5) If the seller or lessor accepts a nontaxable
12 transaction certificate within the required time and
13 believes in good faith that the buyer or lessee will employ
14 the property or service transferred in a nontaxable manner,
15 the properly executed nontaxable transaction certificate is
16 considered conclusive evidence that the proceeds from the
17 transaction are deductible from the seller's or lessor's
18 gross receipts.

19 NEW SECTION. Section 8. Receipts of government
20 agencies exempt. (1) Except as provided in subsection (2),
21 all receipts of the United States or any agency or
22 instrumentality of the United States or of this state or any
23 political subdivision of this state are exempt from the
24 sales tax and use tax.

25 (2) Receipts from the sale of gas, water, or

1 electricity by a utility owned or operated by a political
2 subdivision of the state are subject to the sales tax and
3 use tax.

4 NEW SECTION. Section 9. Exemption -- food products.

5 (1) Except as provided in subsection (2), receipts from
6 sales of food products for human consumption, as defined in
7 [section 1(5)(a)], are exempt from the sales tax.

8 (2) The gross receipts from food products sold in the
9 following manner are subject to the sales tax:

10 (a) any food products served as meals on or off the
11 premises of the retailer;

12 (b) milk or cream sold as beverages commonly referred
13 to as milkshakes, malted milks, or any similar beverage;

14 (c) food products furnished, prepared, or served for
15 consumption at tables, chairs, or counters or from trays,
16 glasses, dishes, or other tableware, whether provided by the
17 retailer or by a person with whom the retailer contracts to
18 furnish, prepare, or serve food products to others;

19 (d) food products sold for immediate consumption on or
20 near a location at which parking facilities are provided
21 primarily for the convenience of patrons in consuming the
22 products purchased at the location, even though such
23 products are sold on a "takeout", "to go", or "U-bake" order
24 and are actually packaged or wrapped and taken from the
25 premises of the retailer;

1 (e) food products sold for consumption within a place
2 that charges an admission fee; or

3 (f) food or drink vended by or through machines on
4 behalf of a vendor.

5 NEW SECTION. Section 10. Exemption -- special
6 supplemental food program for women, infants, and children.
7 The receipts from the sale of food purchased under the
8 special supplemental food program for women, infants, and
9 children (WIC) as specified in 42 U.S.C. 1786, as amended,
10 are exempt from the sales tax.

11 NEW SECTION. Section 11. Exemption -- PRESCRIBED
12 medicines, drugs, AND certain devices,--and -- medical
13 services. (1) The gross receipts from the sale, BY
14 PRESCRIPTION FROM A PERSON DESCRIBED IN [SECTION 1(9)(A)],
15 of medicines, drugs, insulin, and therapeutic and prosthetic
16 devices are exempt from the sales tax.

17 (2) The gross receipts from the sale of medical
18 services are exempt from the sales tax.

19 NEW SECTION. Section 12. Exemption -- wages. The
20 EXCEPT AS PROVIDED IN [SECTIONS 1 THROUGH 69 AND 75], THE
21 receipts of an employee from an employer for wages, salary,
22 commissions, or any other form of remuneration for personal
23 services are exempt from the sales tax.

24 NEW SECTION. Section 13. Exemption -- agricultural
25 products. The receipts of a grower, producer, trapper, or

nonprofit marketing association from the sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts are exempt from the sales tax. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account and without the services of a broker, auctioneer, or other agent are considered producers for the purposes of this section.

NEW SECTION. Section 14. Exemption -- livestock feeding. A person's receipts derived from feeding, pasturing, penning, or handling or training livestock prior to sale are exempt from the sales tax.

NEW SECTION. Section 15. Exemption -- used tangible personal property upon which a sales or use tax has been paid. The receipts from the sale of used tangible personal property upon which a tax has been paid pursuant to [sections 1 through 68 and 74] are exempt from the sales tax.

NEW SECTION. Section 16. Exemption -- vehicles. The receipts from the sale of any vehicle upon which a tax pursuant to [sections 1 through 68 and 74] has been paid or which was purchased prior to [the applicability date of this act] are exempt from the sales tax. A registration certificate showing that the vehicle was registered in this state prior to [the applicability date of this act] is conclusive proof that it was purchased before it was subject

to taxation under [sections 1 through 68 and 74] and is exempt under this section.

NEW SECTION. Section 17. Exemption -- certain mobile homes. Receipts from the resale of a mobile home may be deducted from gross receipts if the sale is of a mobile home that was subject to the sales tax or use tax upon its initial sale or use in this state or was initially sold or used in this state prior to [the applicability date of this act]. The seller shall retain and furnish proof satisfactory to the department of either of the following:

(1) that the sales tax or use tax was paid upon the initial sale or use in this state of the mobile home. In the absence of such proof, it is presumed that the tax was not paid.

(2) that a Montana certificate of title was issued for a mobile home prior to [the applicability date of this act]. The certificate is proof that the mobile home was initially sold or used in this state prior to [the applicability date of this act] and that the mobile home is exempt under this section.

NEW SECTION. Section 18. Exemption -- insurance companies. The receipts of an insurance company or any of its agents from premiums are exempt from the sales tax.

NEW SECTION. Section 19. Exemption -- dividends and interest. The following are exempt from the sales tax:

(1) interest on money loaned or deposited;

(2) dividends or interest from stocks, bonds, or securities; and

(3) proceeds from the sale of stocks, bonds, or securities.

NEW SECTION. Section 20. Exemption -- fuel. The receipts from the sale of gasoline or ethanol blended for fuel on which the Montana gasoline tax has been paid under Title 15, chapter 70, are exempt from the sales tax and use tax.

NEW SECTION. Section 21. Exemption -- isolated or occasional sale or lease of property or services. The receipts from the isolated or occasional sale or lease of property or from the performance of a service by a person who is not regularly engaged in or who does not represent himself as engaged in the business of selling or leasing the same or a similar property or service are exempt from the sales tax.

NEW SECTION. Section 22. Exemption -- oil, gas, and mineral interests. The receipts from the sale or lease of oil, natural gas, or mineral interests are exempt from the sales tax.

NEW SECTION. Section 23. Exemption -- minerals -- exception. (1) The receipts from the sale or use of a mineral as defined in 15-38-103 are exempt from the sales

tax and use tax.

(2) Minerals refined, reduced, polished, cut, faceted, or otherwise processed for the purpose of being used as or integrated into jewelry, art, or sculpture or as a decorative embellishment or adornment, either in their own right or in combination with other property, are not included in the exemption provided in this section.

NEW SECTION. Section 24. Exemption -- property of certain governmental agencies. (1) The use of property by the United States or any agency or instrumentality of the United States or by this state or any political subdivision of this state is exempt from the use tax.

(2) The use of property by the governing body of an Indian tribe on a federally recognized Indian reservation is exempt from the use tax.

NEW SECTION. Section 25. Exemption -- personal effects. The use by an individual of personal or household effects brought into the state for the establishment by him of an initial residence in this state and the use of property brought into the state by a nonresident for his own nonbusiness use while temporarily within this state are exempt from the use tax.

NEW SECTION. Section 26. Exemption -- SUBSCRIPTIONS -- advertising services. (1) THE GROSS RECEIPTS FROM THE SALE OF SUBSCRIPTIONS TO NEWSPAPERS, MAGAZINES, AND ALL

1 OTHER PRINTED MATERIAL ARE EXEMPT FROM THE SALES TAX.

2 (2) The gross receipts from the sale of advertising
3 services, including the actual creation or development of
4 the advertising, are exempt from the sales tax. For the
5 purpose of this section, "advertising services" includes but
6 is not limited to all advertising by:

7 {1}{A} newspaper, magazine, or other publication;

8 {2}{B} radio or television;

9 {3}{C} billboard, banner, sign, placard, and the like;

10 {4}{D} handbill; or

11 {5}{E} any other advertising means, media, or method.

12 NEW SECTION. Section 27. Deduction -- sale of
13 tangible personal property for resale. Receipts from the
14 sale of tangible personal property may be deducted from
15 gross receipts if:

16 (1) the sale is made to a buyer who delivers a
17 nontaxable transaction certificate to the seller; and

18 (2) the buyer resells or plans to resell the tangible
19 personal property either by itself or in combination with
20 other tangible personal property in the ordinary course of
21 business and the property will subsequently be subject to
22 the sales tax.

23 NEW SECTION. Section 28. Deduction -- sale of service
24 for resale. Receipts from the sale of a service for resale
25 may be deducted from gross receipts if:

1 (1) the sale is made to a person who delivers a
2 nontaxable transaction certificate;

3 (2) the buyer separately states the value of the
4 service purchased in his charge for the service on its
5 subsequent sale; and

6 (3) the subsequent sale is in the ordinary course of
7 business and subject to the use tax.

8 NEW SECTION. Section 29. Deduction -- sale to MINER
9 OR manufacturer. Receipts from the sale of tangible personal
10 property to a buyer engaged in the business of MINING OR
11 manufacturing may be deducted from gross receipts if:

12 (1) the buyer delivers a nontaxable transaction
13 certificate to the seller; and

14 (2) the buyer incorporates or will incorporate the
15 tangible personal property as an ingredient or component
16 part of the product which he is in the business of MINING OR
17 manufacturing.

18 NEW SECTION. Section 30. Deduction -- sale of
19 tangible personal property for leasing. Receipts from the
20 sale of tangible personal property, other than furniture or
21 appliances, and from the rental or lease of property, other
22 than coin-operated machines and mobile homes, that is
23 deductible under [sections 1 through 68 and 74] may be
24 deducted from gross receipts if:

25 (1) the sale is made to a buyer who delivers a

nontaxable transaction certificate to the seller;

(2) the buyer is engaged in a business deriving more than 50% of its receipts from leasing or selling tangible personal property of the type leased; and

(3) the buyer does not use the property in any manner other than holding it for lease or sale or leasing or selling it, either by itself or in combination with other tangible personal property, in the ordinary course of business.

NEW SECTION. Section 31. Deduction -- lease for subsequent lease. Receipts from the lease of tangible personal property, other than furniture or appliances, and from the rental or lease of property, other than coin-operated machines and mobile homes, that is deductible under [sections 1 through 68 and 74] may be deducted from gross receipts if:

(1) the lease is made to a lessee who delivers a nontaxable transaction certificate; and

(2) the lessee does not use the property in any manner other than for subsequent lease in the ordinary course of business.

NEW SECTION. Section 32. Deduction -- sale of tangible personal property to person engaged in construction business. (1) Receipts from the sale of tangible personal property may be deducted from gross receipts if the sale is

made to a buyer engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

(2) The buyer delivering the nontaxable transaction certificate shall incorporate the tangible personal property as:

(a) an ingredient or component part of a construction project that is subject to the sales tax or use tax upon its completion or upon the completion of the overall construction project of which it is a part; or

(b) an ingredient or component part of a construction project that is subject to the sales tax or use tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

NEW SECTION. Section 33. Deduction -- sale of construction service to person engaged in construction business. (1) Receipts from the sale of a construction service may be deducted from gross receipts if the sale is made to a buyer engaged in the construction business and he delivers a nontaxable transaction certificate to the person performing the construction service.

(2) The buyer delivering the nontaxable transaction certificate shall have the construction services performed upon:

(a) a construction project that is subject to the sales tax or use tax upon its completion or upon the

completion of the overall construction project of which it is a part; or

(b) a construction project that is subject to the sales tax or use tax upon the sale in the ordinary course of business of the real property upon which it was constructed.

NEW SECTION. Section 34. Deduction -- sale or lease of real property and lease of mobile homes. (1) ~~(a)~~ Except as provided in subsections ~~(1)(b)~~ (2) and ~~(3)~~ (4), receipts from the sale or lease of real property, from the lease of a mobile home, or from the rental of a mobile home for a period of at least 1 month may be deducted from gross receipts.

~~(b)(2)~~ (A) The portion of the gross receipts from the sale of real property that is attributable to improvements, OTHER THAN RESIDENTIAL IMPROVEMENTS, constructed on the real property by the seller in the ordinary course of his construction business may not be deducted from gross receipts.

(B) THE PROPORTION OF THE GROSS RECEIPTS FROM THE SALE OF REAL PROPERTY THAT IS ATTRIBUTABLE TO RESIDENTIAL IMPROVEMENTS CONSTRUCTED ON THE REAL PROPERTY BY THE SELLER IN THE ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS MAY BE DEDUCTED FROM GROSS RECEIPTS IN THE PROPORTION THAT THE COST OF THE CONSTRUCTION FOR EVERYTHING OTHER THAN MATERIALS BEARS TO THE GROSS RECEIPTS FOR THE IMPROVEMENTS.

~~(2)(3)~~ Receipts attributable to the inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or rented dwelling, house, mobile home, cabin, condominium, or apartment may be deducted from gross receipts.

~~(3)(4)~~ Receipts received by hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities may not be deducted for FROM gross receipts for purposes of this-section [SECTIONS 1 THROUGH 69 AND 75] if either the operator or the user must pay tax on the receipts under Title 15, chapter 65, AND ALL SUCH RECEIPTS ARE SUBJECT TO THE TAX IMPOSED IN [SECTION 2]. The receipts of hotels, motels, roominghouses, campgrounds, guest ranches, trailer parks, or similar facilities are subject to the sales tax or use tax.

(5) FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL IMPROVEMENTS" MEANS IMPROVEMENTS TO REAL PROPERTY THAT ARE CONSTRUCTED FOR HUMAN HABITATION IN A STRUCTURE CONTAINING FEWER THAN THREE UNITS. THE TERM INCLUDES IMPROVEMENTS MADE TO EXISTING RESIDENTIAL IMPROVEMENTS.

NEW SECTION. Section 35. Deduction -- transactions in interstate commerce -- exception. (1) Receipts from a transaction in interstate commerce may be deducted from gross receipts to the extent that the imposition of the sales tax or use tax would be unlawful under the United

1 States constitution.

2 (2) (a) The following may be deducted from gross
3 receipts:

4 (i) receipts from transmitting messages or
5 conversations by radio, originating from a point outside
6 this state and received at a point within this state; and

7 (ii) receipts from the sale of radio or television
8 broadcast time if the advertising message is supplied by or
9 on behalf of a national or regional seller or an advertiser
10 not having its principal place of business in or being
11 incorporated under the laws of this state.

12 (b) Commissions received by an advertising agency for
13 performing services in this state may not be deducted from
14 gross receipts under this section.

15 NEW SECTION. Section 36. Deduction -- intrastate
16 transportation and services in interstate commerce. (1)
17 Receipts from the transport of persons or property from one
18 point within this state to another point within this state
19 may be deducted from gross receipts if such persons or
20 property, including any reasonably necessary services, are
21 being transported in interstate or foreign commerce under a
22 single contract.

23 (2) Receipts from handling, storage, drayage, or
24 packing of property or any other accessorial services on
25 property may be deducted from gross receipts if:

1 (a) the property has been or will be moved in
2 interstate or foreign commerce;

3 (b) the services are performed by a local agent for a
4 carrier or by a carrier; and

5 (c) the services are performed under a single contract
6 in relation to transportation services.

7 NEW SECTION. Section 37. Deduction -- sale of certain
8 services to an out-of-state buyer. (1) Receipts EXCEPT AS
9 PROVIDED IN SUBSECTION (4), RECEIPTS from performing a
10 service may be deducted from gross receipts if the sale of
11 the service is made to a buyer who delivers to the seller
12 either a nontaxable transaction certificate or other
13 evidence acceptable to the department that the transaction
14 meets the conditions set out in subsection (3).

15 (2) The person who delivers the nontaxable transaction
16 certificate or other evidence acceptable to the department
17 must meet the criteria set out in subsection (3).

18 (3) Receipts from the performance of a service are
19 deductible if the buyer of the service, any of his
20 employees, or any person in privity with him:

21 (a) does not make initial use of the product or the
22 service in this state;

23 (b) does not take delivery of the product or the
24 service in this state; or

25 (c) concurrent with the performance of the service,

1 does not have a regular place of work in this state or spend
2 more than brief and occasional periods of time in this state
3 and:

4 (i) does not have any communication in this state
5 related in any way to the subject matter, performance, or
6 administration of the service with the person performing the
7 service; or

8 (ii) does not himself perform work in this state
9 related to the subject matter of the service.

10 (4) RECEIPTS FROM PERFORMING ARCHITECTURAL,
11 ENGINEERING, SURVEYING, OR GRAPHIC DESIGN SERVICES MAY BE
12 DEDUCTED FROM GROSS RECEIPTS IF THE PRODUCT RESULTING FROM
13 THE SERVICE OR THE SERVICE IS USED OR APPLIED EXCLUSIVELY
14 OUTSIDE MONTANA. FOR THE PURPOSES OF THIS SUBSECTION, THE
15 PROVISIONS OF SUBSECTION (3) DO NOT APPLY.

16 ~~{4}~~(5) Receipts from performing a service that
17 initially qualified for the deduction provided in this
18 section but that no longer meets the criteria set forth in
19 subsection (3) are deductible for the period prior to the
20 disqualification.

21 **NEW SECTION. Section 38. Deduction -- feed,**
22 **fertilizers, and agricultural supplies -- livestock**
23 **auctioneers. (1) Receipts from the sale of feed for**
24 **livestock, fish raised for human consumption, poultry,**
25 **animals raised for their hides or pelts, semen used in**

1 animal husbandry, seeds, roots, bulbs, soil conditioners,
2 fertilizers, insecticides, insects used to control the
3 population of other insects, fungicides, weedicides,
4 herbicides, or water for irrigation purposes may be deducted
5 from gross receipts if the sale is made to a person who
6 PRESENTS A NONTAXABLE TRANSACTION CERTIFICATE OR states in
7 writing that he is regularly engaged in the business of
8 farming, ranching, or the raising of animals for their hides
9 or pelts.

10 (2) RECEIPTS FROM THE SALE OF AN AGRICULTURAL SERVICE
11 MAY BE DEDUCTED FROM GROSS RECEIPTS IF THE SALE IS MADE TO A
12 BUYER ENGAGED IN THE BUSINESS OF FARMING OR RANCHING OR THE
13 RAISING OF ANIMALS FOR THEIR HIDES OR PELTS AND WHO STATES
14 IN WRITING THAT HE IS REGULARLY ENGAGED IN THE BUSINESS OF
15 FARMING OR RANCHING OR THE RAISING OF ANIMALS FOR THEIR
16 HIDES OR PELTS OR WHO DELIVERS A NONTAXABLE TRANSACTION
17 CERTIFICATE TO THE PERSON PERFORMING THE AGRICULTURAL
18 SERVICE. THE BUYER MAKING THE STATEMENT OR DELIVERING THE
19 NONTAXABLE TRANSACTION CERTIFICATE SHALL HAVE THE
20 AGRICULTURAL SERVICE PERFORMED UPON PROPERTY, REAL OR
21 PERSONAL, INCLUDING LIVESTOCK AND ANIMALS RAISED FOR THEIR
22 HIDES OR PELTS, THAT IS AN INTEGRAL PART OF AN AGRICULTURAL
23 OPERATION.

24 ~~{2}~~(3) Receipts of auctioneers from selling livestock
25 or other agricultural products at auction may be deducted

1 from gross receipts.

2 NEW SECTION. Section 39. Deduction -- certain
3 chemicals, and reagents, AND SUBSTANCES. (1) The following
4 may be deducted from gross receipts:

5 (a) receipts from the sale of chemicals-or-reagents
6 ANY CHEMICAL, REAGENT, OR OTHER SUBSTANCE to any mining
7 concern or milling company for-use THAT IS USED OR CONSUMED
8 in THE processing OF ores or oil in a mill, smelter, or
9 refinery, OR REDUCTION FACILITY or in acidizing oil wells;
10 and

11 (b) receipts from the sale of chemicals or reagents in
12 an amount in excess of 18 tons.

13 (2) Receipts from the sale of explosives, blasting
14 material, or dynamite may not be deducted from gross
15 receipts.

16 NEW SECTION. Section 40. Deduction -- certain uses of
17 special fuel. (1) Receipts from the sale of special fuel, as
18 defined in 15-70-301, on which the special fuels tax has
19 been paid under Title 15, chapter 70, or which is used in
20 agriculture or to operate machinery, equipment, or vehicles
21 used in a trade or business may be deducted from gross
22 receipts.

23 (2) Receipts from the sale of special fuel used to
24 heat buildings for human comfort are not deductible.

25 NEW SECTION. Section 41. Deduction -- sale of certain

1 services performed directly on product MINED OR
2 manufactured. (1) Receipts from sale of the service of
3 MINING, combining, or processing components or materials,
4 INCLUDING MINERALS, may be deducted from gross receipts if
5 the sale is made to a buyer who is engaged in the business
6 of MINING OR manufacturing and who delivers a nontaxable
7 transaction certificate to the seller.

8 (2) The buyer delivering the nontaxable transaction
9 certificate shall have the service performed directly upon
10 tangible personal property, INCLUDING MINERALS, that he is
11 in the business of MINING OR manufacturing or upon
12 ingredients or component parts of such property.

13 NEW SECTION. Section 42. Deduction -- use of tangible
14 personal property for leasing. (1) Except as provided in
15 subsection (2), the value of leased property may be deducted
16 in computing the use tax due if the person holding the
17 tangible personal property for lease:

18 (a) is engaged in a business that derives a
19 substantial portion of its receipts from leasing or selling
20 property of the type leased;

21 (b) does not use the property in any manner other than
22 holding it for lease or sale or leasing or selling it either
23 by itself or in combination with other tangible personal
24 property in the ordinary course of business; and

25 (c) does not use the property in a manner incidental

to the performance of a service.

(2) The deduction provided in subsection (1) does not apply to the value of furniture or appliances furnished by the landlord or lessor as part of a leased or rented dwelling, house, cabin, condominium, or apartment or to the lease of coin-operated machines or mobile homes.

NEW SECTION. Section 43. Deduction -- sales to government agencies and Indian tribes. (1) Receipts from a sale to the United States or any agency or instrumentality of the United States or to this state or any political subdivision of this state may be deducted from gross receipts.

(2) Receipts from a sale to the governing body of an Indian tribe for use on a federally recognized Indian reservation may be deducted from gross receipts.

NEW SECTION. SECTION 44. DEDUCTION -- COMPUTER DATA BASE SERVICES. (1) RECEIPTS FROM THE SALE OR USE OF COMPUTER DATA BASE SERVICES MAY BE DEDUCTED FROM GROSS RECEIPTS.

(2) FOR THE PURPOSES OF [SECTIONS 1 THROUGH 69 AND 75], "COMPUTER DATA BASE SERVICES" MEANS IDENTIFYING, COMPILING, ORGANIZING, MANIPULATING, OR DELIVERING INFORMATION ACTUALLY CONTAINED IN OR TO BE CONTAINED IN A COMPUTER DATA BASE.

(3) RECEIPTS FROM THE SALE OF COMPUTER HARDWARE,

SOFTWARE, SYSTEM DEVELOPMENT, DESIGN, OR INSTALLATION OR THE SALE OF AN EXISTING COMPUTER DATA BASE (AS OPPOSED TO THE SALE OR USE OF A COMPUTER DATA BASE SERVICE) MAY NOT BE DEDUCTED FROM GROSS RECEIPTS.

NEW SECTION. Section 45. Credit -- out-of-state taxes. (1) If a gross receipts, sales, use, or similar tax has been levied by another state or a political subdivision of another state on property bought outside this state but which will be used or consumed in this state and the tax was paid, the amount of tax paid may be credited against any use tax due this state on the same property.

(2) If the receipts from the sale of improvements to real property constructed by a person in the ordinary course of his construction business are subject to the sales tax or use tax, the amount of tax paid by the person under subsection (1) on materials that became an ingredient or component part of the construction project and on construction services performed upon the construction project may be credited against the sales tax or use tax due on the sale.

NEW SECTION. Section 46. Seller's permit. Upon an applicant's compliance with [sections 1 through 68 and 74], the department shall issue to the applicant a separate, numbered seller's permit for each place of business within Montana. A permit is valid until revoked or suspended but is

1 not assignable. A permit is valid only for the person in
2 whose name it is issued and for the transaction of business
3 at the place designated. The permit must be conspicuously
4 displayed at all times at the place for which it is issued.

5 NEW SECTION. Section 47. Permit application --
6 requirements -- place of business -- form. (1) (a) A person
7 desiring to engage in the business of making retail sales or
8 providing services in Montana shall file with the department
9 an application for a permit. If the person has more than one
10 place of business, an application must be filed for each
11 place of business.

12 (i) A vending machine operator who has more than one
13 vending machine location is considered to have only one
14 place of business for purposes of this section.

15 (ii) An applicant who has no regular place of business
16 and who moves from place to place is considered to have only
17 one place of business and shall attach the permit to his
18 cart, stand, truck, or other merchandising device.

19 (b) Each person or class of persons obligated to file
20 a return under [sections 1 through 68 and 74] is required to
21 file application for a permit.

22 (2) Each application for a permit must be on a form
23 prescribed by the department and must set forth the name
24 under which the applicant intends to transact business, the
25 location of his place or places of business, and such other

1 information as the department may require. The application
2 must be filed by the owner if the owner is a natural person,
3 by a member or partner if the owner is an association or
4 partnership, or by a person authorized to sign the
5 application if the owner is a corporation.

6 NEW SECTION. Section 48. Special activities --
7 permits -- penalty. (1) The operator of a flea market, craft
8 show, antique show, coin show, stamp show, comic book show,
9 convention exhibit area, or similar selling event, as a
10 prerequisite to renting or leasing space on the premises
11 owned or controlled by the operator to a person desiring to
12 engage in or conduct business as a seller, shall obtain
13 evidence that the seller is the holder of a valid seller's
14 permit issued pursuant to [section 45] or a written
15 statement from the seller that he is not offering for sale
16 any item that is taxable under [sections 1 through 68 and
17 74].

18 (2) "Flea market, craft show, antique show, coin show,
19 stamp show, comic book show, convention exhibit area, or
20 similar selling event", as used in this section, means an
21 activity that involves a series of sales sufficient in
22 number, scope, and character to constitute a regular course
23 of business but does not qualify as an isolated or
24 occasional sale pursuant to [section 21].

25 (3) An operator who fails or refuses to comply with

1 the provisions of this section is subject to a penalty,
 2 payable to the department, of \$100 per day per seller at
 3 each selling event at which the operator fails to obtain
 4 evidence that a seller is the holder of a valid seller's
 5 permit issued pursuant to [section 45].

6 NEW SECTION. **Section 49.** Revocation or suspension of
 7 permit -- hearing -- notice -- appeal. (1) Subject to the
 8 provisions of subsection (2), the department may, for
 9 reasonable cause, revoke or suspend any permit held by a
 10 person who fails to comply with the provisions of [sections
 11 1 through 68 and 74].

12 (2) (a) The department shall hold a hearing on the
 13 proposed revocation or suspension after giving the person 30
 14 days' notice in writing, specifying the time and place of
 15 the hearing and the reason for the proposed revocation or
 16 suspension.

17 (b) The notice must include a requirement that the
 18 person show cause why the permit or permits should not be
 19 revoked or suspended.

20 (c) The notice must be served personally or by
 21 certified mail.

22 (3) After revocation, the department may not issue a
 23 new permit except upon application accompanied by reasonable
 24 evidence of the intention of the applicant to comply with
 25 the provisions of [sections 1 through 68 and 74]. The

1 department may require security in addition to that
 2 authorized by [section 56] in an amount reasonably necessary
 3 to ensure compliance with [sections 1 through 68 and 74] as
 4 a condition for the issuance of a new permit to such an
 5 applicant.

6 (4) A person aggrieved by the department's final
 7 decision to revoke a permit as provided in subsection (1)
 8 may appeal the decision to the state tax appeal board within
 9 30 days following the date on which the department issued
 10 its final decision.

11 (5) A decision of the state tax appeal board may be
 12 appealed to a court of competent jurisdiction.

13 NEW SECTION. **Section 50.** Nontaxable transaction
 14 certificate -- form. (1) The department shall provide for a
 15 uniform nontaxable transaction certificate. In order to
 16 obtain a deduction under [sections 1 through 68 and 74], a
 17 purchaser shall use the certificate when purchasing goods or
 18 services for resale.

19 (2) At a minimum, the certificate must provide:

20 (a) the number of the permit issued to the purchaser
 21 as provided in [section 45];

22 (b) the general character of property or service sold
 23 by the purchaser in the regular course of business;

24 (c) the property or service purchased for resale;

25 (d) the name and address of the purchaser; and

(e) a signature line for the purchaser.

NEW SECTION. Section 51. Improper use of subject of purchase obtained with nontaxable transaction certificate -- penalty. (1) If a purchaser who uses a nontaxable transaction certificate utilizes the subject of the purchase for a purpose other than one allowed as a deduction under [sections 1 through 68 and 74], the use is considered a taxable sale by the purchaser as of the time of first use by him and the sale price he receives is considered the gross receipts from the sale. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in his gross receipts the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the entire amount of gross receipts received from the resale, without deduction of amounts previously received as rentals.

(2) A person who uses a certificate for property that will be utilized for purposes other than the purpose claimed is subject to a penalty, payable to the department, of \$100 for each transaction in which an improper use of an exemption certificate has occurred.

(3) Upon a showing of good cause, the department may abate or waive the penalty or a portion of the penalty.

NEW SECTION. Section 52. Commingling nontaxable certificate goods. If a purchaser uses a nontaxable

transaction certificate with respect to the purchase of fungible goods and thereafter commingles these goods with fungible goods not so purchased but of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods purchased with the certificate until the quantity of commingled goods sold equals the quantity of goods originally purchased under the certificate.

NEW SECTION. Section 53. Liability for payment of tax -- security for retailer without place of business -- penalty. (1) Liability for the payment of the sales tax and use tax is not extinguished until the taxes have been paid to the department.

(2) A retailer who does not maintain a place of business in this state is liable for the sales tax or use tax in accordance with [sections 1 through 68 and 74] and shall furnish adequate security as required in [section 56] to ensure collection and payment of the taxes. When so authorized and except as otherwise provided in [sections 1 through 68 and 74], the retailer is liable for the taxes upon all tangible property sold that is to be used within this state in the same manner as a retailer who maintains a place of business within this state. The permit provided for in [section 45] may be canceled at any time if the

1 department considers the security inadequate or believes
2 that the taxes can be collected more effectively in another
3 manner.

4 (3) No agent, canvasser, or employee of a retailer
5 doing business in this state who is not authorized by permit
6 from the department may sell, solicit orders for, or deliver
7 any tangible personal property in Montana. If such an agent,
8 canvasser, or employee violates the provisions of [sections
9 1 through 68 and 74], he is subject to a fine of not more
10 than \$100 for each separate transaction or event.

11 NEW SECTION. Section 54. Common INTERSTATE AND
12 INTRASTATE carriers as retailers. A person engaged in the
13 business of intrastate or interstate transportation by-motor
14 vehicle of tangible personal property or passengers shall
15 register as a retailer and pay the taxes imposed by
16 [sections 1 through 68 and 74].

17 NEW SECTION. Section 55. Application for permission
18 to report on accrual basis. (1) A person who has a permit
19 issued pursuant to [section 45] may apply to the department
20 for permission to report and pay the sales tax or use tax on
21 an accrual basis.

22 (2) The application must be made on a form prescribed
23 by the department that contains such information as the
24 department may require.

25 (3) A person may not report or pay the sales tax or

1 use tax on an accrual basis unless he has received written
2 permission from the department.

3 NEW SECTION. Section 56. Returns -- payment --
4 authority of department. (1) Except as provided in
5 subsection (2), on or before the 25th day of each month in
6 which the tax imposed by [sections 1 through 68 and 74] is
7 payable, a return, on a form provided by the department, and
8 payment of the tax, LESS THE VENDOR ALLOWANCE PROVIDED IN
9 SUBSECTION (5), for the preceding month must be filed with
10 the department. Each return must contain a confession of
11 judgment for the amount of the tax shown due, to the extent
12 not timely paid. A person making retail sales at two or more
13 places of business may file a consolidated return, subject
14 to rules prescribed by the department.

15 (2) A person who has a tax liability that averages
16 less than \$100 per month and who has been granted the
17 authority to report and pay the tax imposed by [sections 1
18 through 68 and 74] on a quarterly basis shall file a return
19 with payment on or before the 25th day of the month
20 following the end of the quarter.

21 (3) (a) For the purposes of the sales tax or use tax,
22 a return must be filed by:

23 (i) a retailer required to pay such tax; and

24 (ii) a person:

25 (A) purchasing any items the storage, use, or other

1 consumption of which is subject to the sales tax or use tax;
 2 and
 3 (B) who has not paid the tax to a retailer required to
 4 pay the tax.

5 (b) Each return must be signed by the person filing
 6 the return or by his agent duly authorized in writing.

7 (4) (a) A person liable for the taxes imposed by
 8 [sections 1 through 68 and 74] shall keep records, render
 9 statements, make returns, and comply with the provisions of
 10 [sections 1 through 68 and 74] and the rules prescribed by
 11 the department. Each return or statement must include the
 12 information required by the rules of the department.

13 (b) For the purpose of determining compliance with the
 14 provisions of this section, the department is authorized to
 15 examine or cause to be examined any books, papers, records,
 16 or memoranda relevant to making a determination of the
 17 amount of tax due, whether the books, papers, records, or
 18 memoranda are the property of or in the possession of the
 19 person filing the return or another person. The department
 20 may also:

21 (i) require the attendance of a person having
 22 knowledge or information relevant to a return;

23 (ii) compel the production of books, papers, records,
 24 or memoranda by a person required to attend;

25 (iii) take testimony on matters material to the

1 determination; and

2 (iv) administer oaths or affirmations.

3 (5) A PERSON FILING A RETURN UNDER THIS SECTION MAY
 4 ANNUALLY DEDUCT FROM THE AMOUNT OF TAX TO BE REMITTED TO THE
 5 STATE AND RETURN AS A VENDER ALLOWANCE 3% OF THE TAX
 6 DETERMINED TO BE PAYABLE TO THE STATE OR \$1,200, WHICHEVER
 7 IS LESS.

8 ~~(5)~~(6) The returns due for July, August, and September
 9 of 1990 are due on or before October 25, 1990.

10 NEW SECTION. Section 57. Security -- limitations --
 11 sale of security deposit at auction -- bond. (1) The
 12 department may require a retailer to deposit with the
 13 department security in a form and amount the department
 14 determines appropriate. The deposit may not be more than
 15 twice the estimated average liability for the period for
 16 which the return is required to be filed or \$10,000,
 17 whichever is less. The amount of security may be increased
 18 or decreased by the department, subject to the limitations
 19 provided in this section.

20 (2) (a) If necessary, the department may sell property
 21 deposited as security at public auction to recover any sales
 22 tax or use tax or amount required to be collected, including
 23 interest and penalties.

24 (b) Notice of the sale must be served personally or by
 25 certified mail upon the person who deposited the security.

(c) After the sale, any surplus above the amount due and that is not required as security under this section must be returned to the person who deposited the security.

(3) In lieu of security, the department may require a retailer to file a bond, issued by a surety company authorized to transact business in this state, to guarantee solvency and responsibility.

(4) In addition to the other requirements of this section, the department may require the corporate officers, directors, or shareholders of a corporation to provide a personal guaranty and assumption of liability for the payment of the tax due under [sections 1 through 68 and 74].

NEW SECTION. Section 58. Extensions. (1) The department may extend the time for filing a return and remittance of tax, deficiencies, and penalties for a period not to exceed 60 days from the date a return was due and may require both an estimated return at the time fixed for filing the regularly required return and the payment of tax on the basis of the estimated return.

(2) If an extension of time for payment has been granted under this section, interest at the rate provided in [section 62(2)] is payable from the date on which payment was first due without extension until the tax is paid.

NEW SECTION. Section 59. Examination of return -- adjustments -- delivery of notices and demands. (1) The

department may examine a return and make an investigation or examination of the records and accounts of a person making the return if the department considers it necessary to determine the accuracy of the return.

(2) To determine the accuracy of a return, the department may examine the records and accounts, using statistical or other sampling techniques consistent with generally accepted accounting principles.

(3) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to subsections (1) and (2) constitutes the tax to be paid.

(4) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 60 days after notice of the amount and demand for payment is mailed or delivered to the person making the return. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be refunded to the person making the return in the manner provided in 15-1-503.

(5) The notice and demand provided for in this section must contain a statement of the computation of the tax and must be:

(a) sent by mail to the taxpayer at the address given

1 in his return, if any, or to his last-known address; or

2 (b) served personally upon the taxpayer.

3 **NEW SECTION. Section 60. Penalties and interest for**
 4 **violation.** (1) (a) If a person, without purposely or
 5 knowingly violating any requirement imposed by [sections 1
 6 through 68 and 74], fails to file a return and pay the tax
 7 on or before the due date there must be imposed a penalty of
 8 5% of any balance of debt unpaid with respect to such a
 9 return as of the date due, but in no event may the penalty
 10 for failure to file a return by its due date be less than
 11 \$5. The department may abate the penalty if the person
 12 establishes that the failure to file on time was due to
 13 reasonable cause and was not due to neglect on his part.

14 (b) If a person, without purposely or knowingly
 15 violating any requirement imposed by [sections 1 through 68
 16 and 74], fails to pay a debt on or before its due date,
 17 there must be added to the debt a penalty of 10% of the
 18 debt, but not less than \$5, and interest must accrue on the
 19 debt at a rate of 12% per annum for the entire period it
 20 remains unpaid. The department may abate the penalty if the
 21 person establishes that the failure to pay was due to
 22 reasonable cause and was not due to neglect on his part.

23 (2) If a person purposely or knowingly violates any
 24 requirements imposed by [sections 1 through 68 and 74] by
 25 failing to file a return or to pay a debt, if one is due at

1 the time, required by or under the provisions of [section
 2 55], there must be added to the debt an additional amount
 3 equal to 25% thereof, but not less than \$25, and interest at
 4 1% for each month or fraction of a month during which the
 5 debt remains unpaid.

6 **NEW SECTION. Section 61. Warrants for distraint.** If a
 7 tax imposed by [sections 1 through 68 and 74] or any portion
 8 of such tax is not paid when due, the department may issue a
 9 warrant for distraint as provided in Title 15, chapter 1,
 10 part 7.

11 **NEW SECTION. Section 62. Authority to collect**
 12 **delinquent taxes.** (1) The department shall collect taxes
 13 that are delinquent as determined under [sections 1 through
 14 68 and 74].

15 (2) To collect delinquent taxes after the time for
 16 appeal has expired, the department may direct the offset of
 17 tax refunds or other funds due the taxpayer from the state,
 18 except wages subject to the provisions of 25-13-614 and
 19 retirement benefits.

20 (3) As provided in 15-1-705, the taxpayer has the
 21 right to a hearing on the tax liability prior to any offset
 22 by the department.

23 (4) The department may file a claim for state funds on
 24 behalf of the taxpayer if a claim is required before funds
 25 are available for offset.

(5) The department shall provide the taxpayer with written notice of the right to request a hearing under the contested case procedures of Title 2, chapter 4, on the matter of the offset action or the department's intent to file a claim on behalf of the taxpayer. A written request for a hearing must be made within 30 days of the date of the notice, and the hearing must be held within 30 days following receipt by the department of the written request.

NEW SECTION. Section 63. Penalty for deficiency.

(1) (a) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added to the amount of the deficiency a penalty of 10% of the tax.

(b) Interest accrues on the unpaid taxes at the rate of 1% for each month or part thereof during which the taxes remain unpaid. The interest must be computed from the date the return and tax were originally due.

(c) In no event may the penalty imposed under subsection (1)(a) exceed 25% of the total tax due.

(2) If the time for filing a return is extended, the taxpayer shall pay, in addition to the tax due, interest thereon at the rate of 1% for each month or part thereof from the date the return was originally required to be filed to the time of payment.

(3) The department may not assess a penalty until such time as the penalty equals \$10 or more for any one tax period or the period covered by any return or statement.

NEW SECTION. Section 64. Limitations. Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false or fraudulent return violating the provisions of [sections 1 through 68 and 74], the amount of tax due under any return must be determined by the department within 5 years after the return was made. The department is barred from revising a return or recomputing the tax due thereon, and no proceeding in court for the collection of the tax may be instituted unless notice of an additional tax was provided within the period described in this section.

NEW SECTION. Section 65. Refunds. A claim for a refund made for taxes collected under [sections 1 through 68 and 74] must be in accordance with the procedure and time limits provided in 15-1-503.

NEW SECTION. Section 66. Administration -- rules. The department shall:

(1) administer and enforce the provisions of [sections 1 through 68 and 74];

(2) cause to be prepared and distributed such forms and information as may be necessary to administer the provisions of [sections 1 through 68 and 74]; and

(3) promulgate such rules as may be appropriate to administer and enforce the provisions of [sections 1 through 68 and 74].

NEW SECTION. Section 67. Revocation of corporate license. (1) If a corporation authorized to do business in this state and required to pay the taxes imposed under [sections 1 through 68 and 74] fails to comply with any of the provisions of [sections 1 through 68 and 74] or any rule of the department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the corporation has failed to comply with specific statutory provisions or rules.

(2) The secretary of state shall, upon receipt of the certification, revoke the license authorizing the corporation to do business in this state and may issue a new license only when the corporation has obtained from the department an order finding that the corporation has complied with its obligations under [sections 1 through 68 and 74].

(3) No order authorized in this section may be made until the corporation is given an opportunity to be heard and to show cause at a contested case hearing before the department why such order should not be made. The corporation must be given 30 days' notice of the time and place of the hearing and the reason for the proposed order.

NEW SECTION. Section 68. Tax as debt. (1) The taxes imposed by [sections 1 through 68 and 74] and related interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of such liability occurs.

(2) In the case of an executor or administrator of the estate of a decedent or in the case of a fiduciary, the debt is that of the person in his official or fiduciary capacity only. However, if he has voluntarily distributed the assets held in such capacity without reserving sufficient assets to pay the taxes, interest, and penalties, he is personally liable for any deficiency.

(3) This section also applies to those corporate officers, directors, or shareholders required by the department to personally guarantee the payment of the taxes for their corporations.

NEW SECTION. Section 69. Information -- confidentiality -- agreements with another state. (1) (a) Except as provided in subsections (1)(b) and (2), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known any information disclosed in a report or return required to be filed under [sections 1 through 68 and 74] or any information concerning the affairs of the person making

1 the return that is acquired from his records, officers, or
2 employees in an examination or audit.

3 (b) Subsection (1)(a) does not apply to information
4 obtained from the taxpayer making the report or return in
5 connection with a proceeding involving taxes due under
6 [sections 1 through 68 and 74] or to compliance with the
7 provisions of subsection (2).

8 (c) Nothing in this section may be construed to
9 prohibit the department from publishing statistics if they
10 are classified in a way that does not disclose the identity
11 and content of any particular return or report. A person
12 violating the provisions of this section is subject to the
13 penalty provided in 15-30-303 for violating the
14 confidentiality of individual income tax information.

15 (2) (a) The department may enter into an agreement
16 with the taxing officials of another state for the
17 interpretation and administration of the laws of their state
18 that provide for the collection of sales taxes or use taxes
19 in order to promote fair and equitable administration of
20 such laws and to eliminate double taxation.

21 (b) The department, in order to implement the
22 provisions of [sections 1 through 68 and 74], may furnish
23 information on a reciprocal basis to the taxing officials of
24 another state or to the taxing officials of a municipality
25 of this state that has a local sales tax or use tax.

1 (3) In order to facilitate processing of returns and
2 payments of taxes required by [sections 1 through 68 and
3 74], the department may contract with vendors and may
4 disclose data to the vendors. The data disclosed must be
5 administered by the vendor in a manner consistent with this
6 section.

7 NEW SECTION. Section 70. Credit for sales tax and use
8 tax -- definitions. As used in [sections 69 through 73], the
9 following definitions apply:

10 (1) "Claimant" means an individual natural person who
11 is eligible to file a claim under [section 70].

12 (2) "Department" means the department of revenue.

13 (3) "Gross household income" means all monetary
14 benefits of any kind received by each individual member of
15 the household, without regard to losses of any kind and
16 without regard to whether the benefits are taxable income
17 under state or federal income tax laws. Such income
18 includes but is not limited to the following:

19 (a) 100% of the gains on all sales;

20 (b) alimony, child support, or any other type of
21 maintenance payments;

22 (c) cash public assistance and relief (EXCLUDING THE
23 FACE VALUE OF ALL FOOD STAMPS RECEIVED);

24 (d) life insurance and endowment contracts;

25 (e) social security and the gross amount of any

1 pension or annuity (including railroad retirement benefits
2 and veterans' disability benefits);

3 (f) unemployment and workers' compensation benefits;

4 (g) all tax refunds; and

5 (h) any monetary benefits defined as income in the
6 Internal Revenue Code or by this chapter.

7 (4) "Household" means an association of persons who
8 live in the same dwelling, sharing its furnishings,
9 facilities, accommodations, and expenses. The term does not
10 include bona fide lessees, tenants, or roomers and boarders
11 on contract.

12 NEW SECTION. **Section 71.** Credit for sales tax and use
13 tax. (1) Except as provided in subsection (2), there is
14 allowed a credit against tax liability for each resident who
15 files an individual Montana income tax return under this
16 chapter as provided in subsection (3). The credit may be
17 claimed even though the resident has no taxable income under
18 Title 15, chapter 30.

19 (2) A claim for the tax credit provided in this
20 section may not be filed by a resident who:

21 (a) is an inmate of a public institution for more than
22 6 months during the tax year for which the tax credit is
23 claimed; or

24 (b) is not physically present in Montana for at least
25 6 months during the tax year for which the tax credit is

1 claimed.

2 (3) For each exemption claimed under 15-30-112(2) and
3 (5), a credit is allowed according--to--the--following
4 schedule:

5 Gross-Household-income	6 Credit-per-Exemption
7 \$-----0-----12,999	8 \$100
9 --13,000---14,999	--50
--15,000---19,999	--25
-20,000-or-more-	---

10 IN THE AMOUNT OF \$90 PER EXEMPTION, PROVIDED THAT GROSS
11 HOUSEHOLD INCOME IS LESS THAN \$13,000.

12 (4) If the amount of credit allowed in this section
13 exceeds the amount of tax liability under this chapter by \$1
14 or more, the department shall refund the amount in excess.
15 If the excess is less than \$1, the department may not make a
16 refund.

17 NEW SECTION. **Section 72.** Credit for sales tax and use
18 tax -- filing date -- extension. (1) Except as provided in
19 subsection (2), a claim for a credit must be submitted at
20 the same time the claimant's individual income tax return is
21 due. For an individual not required to file a tax return, a
22 claim for relief must be submitted on or before April 15 of
23 the year following the year for which relief is sought. In
24 submitting a claim for the credit, the taxpayer shall
25 provide the social security number for each person claimed

1 as an exemption, except dependent children under 2 years of
2 age, for which the credit is claimed.

3 (2) The department may grant a reasonable extension
4 for filing a claim whenever in its judgment good cause
5 exists. The department shall keep a record of each extension
6 and the reason for granting the extension.

7 (3) In the event that an individual who would have a
8 claim under [sections 69 through 73] dies before filing the
9 claim, the personal representative of the estate of the
10 decedent may file the claim.

11 NEW SECTION. Section 73. Examination of credit claims
12 -- adjustments -- delivery of notices and demands. (1) The
13 department may examine a claim for credit and may make an
14 investigation of the records and accounts of a person making
15 the claim if the department considers it necessary to
16 determine the accuracy of the claim.

17 (2) If the department determines that the amount of
18 the credit due is different from the amount reported, the
19 amount of credit computed on the basis of the examination
20 conducted pursuant to subsection (1) constitutes the amount
21 of credit due.

22 (3) If the credit due is less than the amount claimed
23 as due by the claimant, the excess must be paid to the
24 department within 60 days after notice of the amount and
25 demand for payment is mailed to the person making the claim.

1 (4) The notice and demand provided for in this section
2 must contain a statement of the computation of the credit
3 and must be:

4 (a) sent to the claimant at the address given on his
5 claim, if any, or to his last-known address; or

6 (b) served personally upon the taxpayer.

7 NEW SECTION. Section 74. Penalties for violation. (1)
8 If a person, without purposely or knowingly violating the
9 provisions of [sections 70 and 71], claims credits for which
10 he is not entitled, there must be added a penalty of 10% of
11 the amount of excess, but in no case may the penalty be less
12 than \$5. Interest in the amount of 12% per annum must be
13 added to the penalty on the amount of excess until the debt
14 is satisfied.

15 (2) If a claimant, purposely or knowingly violates the
16 provisions of [sections 70 and 71], future claims for
17 credits may be denied by the department.

18 NEW SECTION. Section 75. Sales tax and use tax
19 account. (1) There is within the state special revenue fund
20 a sales tax and use tax account.

21 (2) All money collected under [sections 1 through 68
22 and 74] must be paid by the department into the sales tax
23 and use tax account.

24 (3) There must be retained in the sales tax and use
25 tax account the amounts necessary under [sections 1 through

1 75] to repay overpayments, pay any erroneous receipts
2 illegally assessed or collected or that are excessive in
3 amount, and pay any other refunds otherwise required.

4 NEW SECTION. Section 76. Disposition of sales tax and
5 use tax revenue -- legislative appropriation. (1) Sales tax
6 and use tax revenue is allocated as follows:

7 (a) the amount determined under [section 76(3)] to
8 provide property tax replacement revenue for each taxing
9 jurisdiction;

10 (B) THE TOTAL AMOUNT CLAIMED UNDER [SECTION 72], WHICH
11 AMOUNT MUST BE FURTHER ALLOCATED IN THE SAME MANNER AS
12 INCOME TAX REVENUE IS ALLOCATED UNDER 15-1-501(2);

13 ~~(b)~~(C) the amount of sales tax and use tax revenue
14 remaining after the ~~allocation~~ ALLOCATIONS in subsection
15 SUBSECTIONS (1)(a) AND (1)(B) is distributed as follows:

16 (i) ~~53%~~ 52% 59% to state equalization aid as provided
17 in 20-9-343;

18 (ii) ~~15%~~ 13% 15% to the state special revenue fund for
19 the support, maintenance, and improvement of the Montana
20 university system, vocational-technical centers, and
21 community college districts, subject to the board of
22 regents' supervision, as provided in [section 107]; and

23 (iii) ~~11%~~ 5% 6% to the local government block grant
24 account in the state special revenue fund as provided in
25 [section 140]; and

1 ~~(c)~~(D) the remainder to the state general fund.

2 (2) This section provides for the disposition of sales
3 tax and use tax revenue. No allocations may be made from the
4 sales tax and use tax account until appropriated by the
5 legislature.

6 NEW SECTION. Section 77. Property tax replacement
7 revenue. (1) For the taxable year beginning January 1, 1989,
8 the department of revenue shall determine for each taxing
9 jurisdiction in each county the taxable value of all
10 property in the following categories, calculated at the
11 taxable rate in effect on January 1, 1989:

12 (a) class four through class ten;

13 (b) class twelve; and

14 (c) class fourteen through class nineteen.

15 (2) For the taxable year beginning January 1, 1990,
16 the department shall determine for each taxing jurisdiction
17 in each county the taxable value of all property in the
18 following categories:

19 (a) class four and class five;

20 (b) class fifteen; and

21 (c) class seventeen.

22 (3) For each taxing jurisdiction in each county, the
23 department shall:

24 (a) subtract the taxable value for the taxable year
25 beginning January 1, 1990, as described under subsection

1 (2), from the taxable value for the taxable year beginning
2 January 1, 1989, as described under subsection (1);

3 (b) multiply the amount resulting from the subtraction
4 by the certified state and local mill levies for 1990; and

5 (c) distribute to each county and the appropriate
6 state accounts, beginning in 1990 and each year thereafter,
7 the amount resulting from the calculations made in
8 subsections (3)(a) and (3)(b) in two installments for each
9 taxing jurisdiction, for distribution on or before November
10 30 and May 31 in each fiscal year.

11 (4) On or before May 31, 1990, the department shall
12 remit to the county treasurer of each county 30% of the
13 reimbursement amount computed by the department. The
14 department shall base the reimbursement on the reduction in
15 personal property tax revenues due to the reduction in
16 personal property tax rates for class five property as
17 provided in 15-6-135 and agricultural exemptions as provided
18 in 15-6-207. The reimbursement revenue must be based on the
19 county's taxable value and mill levies for taxable year
20 1989.

21 (5) Upon receipt of the funds distributed according to
22 this section, the county treasurer shall distribute the
23 funds for county, school district, municipal, CONSERVATION
24 DISTRICT, and special district purposes in the same manner
25 as property taxes are distributed, but ignoring SHALL

1 DISREGARD state property tax levies.

2 (6) FOR THE PURPOSES OF 15-10-412(7), PROPERTY TAX
3 REPLACEMENT REVENUE RECEIVED BY A TAXING JURISDICTION UNDER
4 THIS SECTION IS CONSIDERED TO BE REVENUE FROM PROPERTY
5 TAXES.

6 **Section 78.** Section 7-1-2111, MCA, is amended to read:

7 "7-1-2111. Classification of counties. (1) For the
8 purpose of regulating the compensation and salaries of all
9 county officers, not otherwise provided for, and for fixing
10 the penalties of officers' bonds, the several counties of
11 this state shall be classified according to that percentage
12 of the true and full valuation of the property therein upon
13 which the tax levy is made, except for vehicles subject to
14 taxation under 61-3-504(2), as follows:

15 (a) first class--all counties having such a taxable
16 valuation of \$50 million or over;

17 (b) second class--all counties having such a taxable
18 valuation of more than \$30 million and less than \$50
19 million;

20 (c) third class--all counties having such a taxable
21 valuation of more than \$20 million and less than \$30
22 million;

23 (d) fourth class--all counties having such a taxable
24 valuation of more than \$15 million and less than \$20
25 million;

1 (e) fifth class--all counties having such a taxable
2 valuation of more than \$10 million and less than \$15
3 million;

4 (f) sixth class--all counties having such a taxable
5 valuation of more than \$5 million and less than \$10 million;

6 (g) seventh class--all counties having such a taxable
7 valuation of less than \$5 million.

8 (2) As used in this section, taxable valuation means
9 the taxable value of taxable property in the county as of
10 the time of determination plus:

11 (a) that portion of the taxable value of the county on
12 December 31, 1981, attributable to automobiles and trucks
13 having a rated capacity of three-quarters of a ton or less;

14 (b) the amount of interim production and new
15 production taxes levied, as provided in 15-23-607, divided
16 by the appropriate tax rates described in 15-23-607(2)(a) or
17 (2)(b) and multiplied by 60%; and

18 (c) the amount of value represented by new production
19 exempted from tax as provided in 15-23-612; and

20 (d) 12.9% of the total taxable value of the county on
21 December 31, 1990."

22 **Section 79.** Section 7-3-1321, MCA, is amended to read:

23 "7-3-1321. Authorization to incur indebtedness --
24 limitation. (1) The consolidated municipality may borrow
25 money or issue bonds for any municipal purpose to the extent

1 and in the manner provided by the constitution and laws of
2 Montana for the borrowing of money or issuing of bonds by
3 counties and cities and towns.

4 (2) The municipality may not become indebted in any
5 manner or for any purpose to an amount, including existing
6 indebtedness, in the aggregate exceeding 28% 32% of the
7 taxable value of the taxable property therein, as
8 ascertained by the last assessment for state and county
9 taxes prior to incurring such indebtedness. All warrants,
10 bonds, or obligations in excess of such amount given by or
11 on behalf of the municipality shall be void."

12 **Section 80.** Section 7-6-2211, MCA, is amended to read:

13 "7-6-2211. Authorization to conduct county business on
14 a cash basis. (1) In case the total indebtedness of a
15 county, lawful when incurred, exceeds the limit of 23% 26%
16 established in 7-7-2101 by reason of great diminution of
17 taxable value, the county may conduct its business affairs
18 on a cash basis and pay the reasonable and necessary current
19 expenses of the county out of the cash in the county
20 treasury derived from its current revenue and under such
21 restrictions and regulations as may be imposed by the board
22 of county commissioners of the county by a resolution duly
23 adopted and included in the minutes of the board.

24 (2) Nothing in this section restricts the right of the
25 board to make the necessary tax levies for interest and

sinking fund purposes, and nothing in this section affects the right of any creditor of the county to pursue any remedy now given him by law to obtain payment of his claim."

Section 81. Section 7-6-4121, MCA, is amended to read:

"7-6-4121. Authorization to conduct municipal business on a cash basis. (1) In case the total indebtedness of a city or town has reached ~~17%~~ 19% of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2).

(2) (a) Whenever a city or town is conducting its business affairs on a cash basis, the reasonable and necessary current expenses of the city or town may be paid out of the cash in the city or town treasury and derived from its current revenues, under such restrictions and regulations as the city or town council may by ordinance prescribe.

(b) In the event that payment is made in advance, the city or town may require a cash deposit as collateral security and indemnity, equal in amount to such payment, and may hold the same as a special deposit with the city treasurer or town clerk, in package form, as a pledge for the fulfillment and performance of the contract or obligation for which the advance is made.

(c) Before the payment of the current expenses mentioned above, the city or town council shall first set apart sufficient money to pay the interest upon its legal, valid, and outstanding bonded indebtedness and any sinking funds therein provided for and shall be authorized to pay all valid claims against funds raised by tax especially authorized by law for the purpose of paying such claims."

Section 82. Section 7-6-4254, MCA, is amended to read:

"7-6-4254. Limitation on amount of emergency budgets and appropriations. (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 43% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

(2) The term "taxable property", as used herein, means the percentage of the value at which such property is assessed and which percentage is used for the purposes of computing taxes and does not mean the assessed value of such property as the same appears on the assessment roll."

Section 83. Section 7-7-107, MCA, is amended to read:

"7-7-107. Limitation on amount of bonds for city-county consolidated units. (1) Except as provided in 7-7-108, no city-county consolidated local government may issue bonds for any purpose which, with all outstanding

1 indebtedness, may exceed 39% 44% of the taxable value of the
2 property therein subject to taxation as ascertained by the
3 last assessment for state and county taxes.

4 (2) The issuing of bonds for the purpose of funding or
5 refunding outstanding warrants or bonds is not the incurring
6 of a new or additional indebtedness but is merely the
7 changing of the evidence of outstanding indebtedness."

8 **Section 84.** Section 7-7-108, MCA, is amended to read:

9 "7-7-108. Authorization for additional indebtedness
10 for water or sewer systems. (1) For the purpose of
11 constructing a sewer system or procuring a water supply or
12 constructing or acquiring a water system for a city-county
13 consolidated government which shall own and control such
14 water supply and water system and devote the revenues
15 therefrom to the payment of the debt, a city-county
16 consolidated government may incur an additional indebtedness
17 by borrowing money or issuing bonds.

18 (2) The additional indebtedness which may be incurred
19 by borrowing money or issuing bonds for the construction of
20 a sewer system or for the procurement of a water supply or
21 for both such purposes may not in the aggregate exceed 10%
22 over and above the 39% 44% referred to in 7-7-107 of the
23 taxable value of the property therein subject to taxation as
24 ascertained by the last assessment for state and county
25 taxes."

1 **Section 85.** Section 7-7-2101, MCA, is amended to read:

2 "7-7-2101. Limitation on amount of county
3 indebtedness. (1) No county may become indebted in any
4 manner or for any purpose to an amount, including existing
5 indebtedness, in the aggregate exceeding 23% 26% of the
6 total of the taxable value of the property therein subject
7 to taxation, plus the amount of interim production and new
8 production taxes levied divided by the appropriate tax rates
9 described in 15-23-607(2)(a) or (2)(b) and multiplied by
10 60%, plus the amount of value represented by new production
11 exempted from tax as provided in 15-23-612, as ascertained
12 by the last assessment for state and county taxes previous
13 to the incurring of such indebtedness.

14 (2) No county may incur indebtedness or liability for
15 any single purpose to an amount exceeding \$500,000 without
16 the approval of a majority of the electors thereof voting at
17 an election to be provided by law, except as provided in
18 7-21-3413 and 7-21-3414.

19 (3) Nothing in this section shall apply to the
20 acquisition of conservation easements as set forth in Title
21 76, chapter 6."

22 **Section 86.** Section 7-7-2203, MCA, is amended to read:

23 "7-7-2203. Limitation on amount of bonded
24 indebtedness. (1) Except as provided in subsections (2)
25 through (4), no county may issue general obligation bonds

1 for any purpose which, with all outstanding bonds and
 2 warrants except county high school bonds and emergency
 3 bonds, will exceed ~~11-25%~~ 12.5% of the total of the taxable
 4 value of the property therein, plus the amount of interim
 5 production and new production taxes levied divided by the
 6 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)
 7 and multiplied by 60%, plus the amount of value represented
 8 by new production exempted from tax as provided in
 9 15-23-612, to be ascertained by the last assessment for
 10 state and county taxes prior to the proposed issuance of
 11 bonds.

12 (2) In addition to the bonds allowed by subsection
 13 (1), a county may issue bonds which, with all outstanding
 14 bonds and warrants, will not exceed ~~27-75%~~ 31% of the total
 15 of the taxable value of the property in the county subject
 16 to taxation, plus the amount of interim production and new
 17 production taxes levied divided by the appropriate tax rates
 18 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 19 60%, plus the amount of value represented by new production
 20 exempted from tax as provided in 15-23-612, when necessary
 21 to do so, for the purpose of acquiring land for a site for
 22 county high school buildings and for erecting or acquiring
 23 buildings thereon and furnishing and equipping the same for
 24 county high school purposes.

25 (3) In addition to the bonds allowed by subsections

1 (1) and (2), a county may issue bonds for the construction
 2 or improvement of a jail which will not exceed ~~12-5%~~ 14% of
 3 the taxable value of the property in the county subject to
 4 taxation.

5 (4) The limitation in subsection (1) shall not apply
 6 to refunding bonds issued for the purpose of paying or
 7 retiring county bonds lawfully issued prior to January 1,
 8 1932."

9 **Section 87.** Section 7-7-4201, MCA, is amended to read:
 10 "7-7-4201. Limitation on amount of bonded
 11 indebtedness. (1) Except as otherwise provided, no city or
 12 town may issue bonds or incur other indebtedness for any
 13 purpose in an amount which with all outstanding and unpaid
 14 indebtedness will exceed ~~20%~~ 32% of the taxable value of the
 15 property therein subject to taxation, to be ascertained by
 16 the last assessment for state and county taxes.

17 (2) The issuing of bonds for the purpose of funding or
 18 refunding outstanding warrants or bonds is not the incurring
 19 of a new or additional indebtedness but is merely the
 20 changing of the evidence of outstanding indebtedness."

21 **Section 88.** Section 7-7-4202, MCA, is amended to read:
 22 "7-7-4202. Special provisions relating to water and
 23 sewer systems. (1) Notwithstanding the provisions of
 24 7-7-420', for the purpose of constructing a sewer system,
 25 procuring a water supply, or constructing or acquiring a

1 water system for a city or town which owns and controls the
2 water supply and water system and devotes the revenues
3 therefrom to the payment of the debt, a city or town may
4 incur an additional indebtedness by borrowing money or
5 issuing bonds.

6 (2) The additional total indebtedness that may be
7 incurred by borrowing money or issuing bonds for the
8 construction of a sewer system, for the procurement of a
9 water supply, or for both such purposes, including all
10 indebtedness theretofore contracted which is unpaid or
11 outstanding, may not in the aggregate exceed 55% over and
12 above the ~~28%~~ 32%, referred to in 7-7-4201, of the taxable
13 value of the property therein subject to taxation as
14 ascertained by the last assessment for state and county
15 taxes."

16 **Section 89.** Section 7-13-4103, MCA, is amended to
17 read:

18 "7-13-4103. Limitation on indebtedness for acquisition
19 of natural gas system. The total amount of indebtedness
20 authorized to be contracted in any form, including the
21 then-existing indebtedness, must not at any time exceed ~~17%~~
22 19% of the total taxable value of the property of the city
23 or town subject to taxation as ascertained by the last
24 assessment for state and county taxes."

25 **Section 90.** Section 7-14-236, MCA, is amended to read:

1 "7-14-236. Limitation on bonded indebtedness. The
2 amount of bonds issued to provide funds for the district and
3 outstanding at any time shall not exceed ~~28%~~ 32% of the
4 taxable value of taxable property therein as ascertained by
5 the last assessment for state and county taxes previous to
6 the issuance of such bonds."

7 **Section 91.** Section 7-14-2524, MCA, is amended to
8 read:

9 "7-14-2524. Limitation on amount of bonds issued --
10 excess void. (1) Except as otherwise provided hereafter and
11 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
12 with all outstanding bonds and warrants except county high
13 school bonds and emergency bonds, will exceed ~~11-25%~~ 12.5%
14 of the total of the taxable value of the property therein,
15 plus the amount of interim production and new production
16 taxes levied divided by the appropriate tax rates described
17 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
18 amount of value represented by new production exempted from
19 tax as provided in 15-23-612. The taxable property and the
20 amount of interim production and new production taxes levied
21 shall be ascertained by the last assessment for state and
22 county taxes prior to the issuance of such bonds.

23 (2) A county may issue bonds which, with all
24 outstanding bonds and warrants except county high school
25 bonds, will exceed ~~11-25%~~ 12.5% but will not exceed ~~22-5%~~

25.5% of the total of the taxable value of such property, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county, except county high school bonds, shall not exceed 22.5% 25.5% of the total of the taxable value of the property within the county, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, as ascertained by the last preceding general assessment."

Section 92. Section 7-14-2525, MCA, is amended to read:

"7-14-2525. Refunding agreements and refunding bonds authorized. (1) Whenever the total indebtedness of a county exceeds 22.5% 25.5% of the total of the taxable value of the property therein, plus the amount of interim production and

new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, and the board determines that the county is unable to pay such indebtedness in full, the board may:

(a) negotiate with the bondholders for an agreement whereby the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest thereon in satisfaction thereof;

(b) enter into such agreement;

(c) issue refunding bonds for the amount agreed upon.

(2) These bonds may be issued in more than one series, and each series may be either amortization or serial bonds.

(3) The plan agreed upon between the board and the bondholders shall be embodied in full in the resolution providing for the issue of the bonds."

Section 93. Section 7-14-4402, MCA, is amended to read:

"7-14-4402. Limit on indebtedness to provide bus service. The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 20% 32% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last

assessment for state and county taxes. No money may be borrowed or bonds issued for the purposes specified in 7-14-4401(1) until the proposition has been submitted to the vote of the taxpayers of the city or town and the majority vote cast in its favor."

Section 94. Section 7-16-2327, MCA, is amended to read:

"7-16-2327. Indebtedness for park purposes. (1) Subject to the provisions of subsection (2), a county park board, in addition to powers and duties now given under law, shall have the power and duty to contract an indebtedness in behalf of a county, upon the credit thereof, for the purposes of 7-16-2321(1) and (2).

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~13%~~ 15% of the total of the taxable value of the taxable property in the county, 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, ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness.

(b) No money may be borrowed on bonds issued for the

purchase of lands and improving same for any such purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at such election in the county affected thereby and a majority vote is cast in favor thereof."

Section 95. Section 7-16-4104, MCA, is amended to read:

"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes. (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit thereof, by borrowing money or issuing bonds:

(a) for the purpose of purchasing and improving lands for public parks and grounds;

(b) for procuring by purchase, construction, or otherwise swimming pools, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or combination thereof; and

(c) for furnishing and equipping the same.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~16.5%~~ 19% of the taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No

1 money may be borrowed on bonds issued for the purchase of
 2 lands and improving the same for any such purpose until the
 3 proposition has been submitted to the vote of the qualified
 4 electors of the city or town and a majority vote is cast in
 5 favor thereof."

6 **Section 96.** Section 7-31-106, MCA, is amended to read:

7 "7-31-106. Authorization for county to issue bonds --
 8 election required. (1) If the petition is presented to the
 9 board of county commissioners, it shall be the duty of the
 10 board, for the purpose of raising money to meet the payments
 11 under the terms and conditions of said contract and other
 12 necessary and proper expenses in and about the same and for
 13 the approval or disapproval thereof:

14 (a) to ascertain, within 30 days after submission of
 15 the petition, the existing indebtedness of the county in the
 16 aggregate; and

17 (b) to submit, within 60 days after ascertaining the
 18 same, to the electors of such county the proposition to
 19 approve or disapprove the contract and the issuance of bonds
 20 necessary to carry out the same.

21 (2) The amount of the bonds authorized by this section
 22 may not exceed ~~22-5%~~ 25% of the taxable value of the taxable
 23 property therein, inclusive of the existing indebtedness
 24 thereof, to be ascertained by the last assessment for state
 25 and county taxes previous to the issuance of said bonds and

1 incurring of said indebtedness."

2 **Section 97.** Section 7-31-107, MCA, is amended to read:

3 "7-31-107. Authorization for municipality to issue
 4 bonds -- election required. (1) If said petition is
 5 presented to the council of any incorporated city or town,
 6 the council, for the purpose of raising money to meet the
 7 payments under the terms and conditions of said contract and
 8 other necessary and proper expenses in and about the same
 9 and for the approval or disapproval thereof:

10 (a) shall ascertain, within 30 days after submission
 11 of the petition, the aggregate indebtedness of such city or
 12 town; and

13 (b) shall submit, within 60 days after ascertaining
 14 the same, to the electors of such city or town the
 15 proposition to approve or disapprove said contract and the
 16 issuance of bonds necessary to carry out the same.

17 (2) The amount of the bonds authorized by this section
 18 may not exceed ~~16-5%~~ 19% of the taxable value of the taxable
 19 property therein, inclusive of the existing indebtedness
 20 thereof, to be ascertained in the manner provided in this
 21 part."

22 **Section 98.** Section 7-34-2131, MCA, is amended to
 23 read:

24 "7-34-2131. Hospital district bonds authorized. (1) A
 25 hospital district may borrow money by the issuance of its

bonds to provide funds for payment of part or all of the cost of acquisition, furnishing, equipment, improvement, extension, and betterment of hospital facilities and to provide an adequate working capital for a new hospital.

(2) The amount of bonds issued for such purpose and outstanding at any time may not exceed ~~22.5%~~ 25.5% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

(3) Such bonds shall be authorized, sold, and issued and provisions made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of school districts by Title 20, chapter 9, part 4.

(4) Nothing herein shall be construed to preclude the provisions of Title 50, chapter 6, part 1, allowing the state to apply for and accept federal funds."

Section 99. 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 issues and registered warrants, is ~~45%~~ 51% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of such indebtedness. The

~~45%~~ 51% maximum, however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district. All bonds issued in excess of such amount shall be null and void, except as provided in this section.

(2) When the total indebtedness of a school district has reached the ~~45%~~ 51% limitation prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(3) Whenever bonds are issued for the purpose of refunding bonds, any moneys to the credit of the debt service fund for the payment of the bonds to be refunded are applied towards the payment of such bonds and the refunding bond issue is decreased accordingly."

Section 100. Section 20-9-407, MCA, is amended to read:

"20-9-407. Industrial facility agreement for bond issue in excess of maximum. (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that

1 the owners of the proposed industrial facility enter into an
 2 agreement with the school district concerning the issuing of
 3 bonds in excess of the ~~45%~~ 51% limitation prescribed in
 4 20-9-406. Under such an agreement, the school district may,
 5 with the approval of the voters, issue bonds which exceed
 6 the limitation prescribed in this section by a maximum of
 7 ~~45%~~ 51% of the estimated taxable value of the property of
 8 the new major industrial facility subject to taxation when
 9 completed. The estimated taxable value of the property of
 10 the new major industrial facility subject to taxation shall
 11 be computed by the department of revenue when requested to
 12 do so by a resolution of the board of trustees of the school
 13 district. A copy of the department's statement of estimated
 14 taxable value shall be printed on each ballot used to vote
 15 on a bond issue proposed under this section.

16 (2) Pursuant to the agreement between the new major
 17 industrial facility and the school district and as a
 18 precondition to qualifying as class five property, the new
 19 major industrial facility and its owners shall pay, in
 20 addition to the taxes imposed by the school district on
 21 property owners generally, so much of the principal and
 22 interest on the bonds provided for under this section as
 23 represents payment on an indebtedness in excess of the
 24 limitation prescribed in 20-9-406. After the completion of
 25 the new major industrial facility and when the indebtedness

1 of the school district no longer exceeds the limitation
 2 prescribed in this section, the new major industrial
 3 facility shall be entitled, after all the current
 4 indebtedness of the school district has been paid, to a tax
 5 credit over a period of no more than 20 years. The credit
 6 shall as a total amount be equal to the amount which the
 7 facility paid the principal and interest of the school
 8 district's bonds in excess of its general liability as a
 9 taxpayer within the district.

10 (3) A major industrial facility is a facility subject
 11 to the taxing power of the school district, whose
 12 construction or operation will increase the population of
 13 the district, imposing a significant burden upon the
 14 resources of the district and requiring construction of new
 15 school facilities. A significant burden is an increase in
 16 ANB of at least 20% in a single year."

17 **Section 101.** Section 15-1-101, MCA, is amended to
 18 read:

19 "15-1-101. Definitions. (1) Except as otherwise
 20 specifically provided, when terms mentioned in this section
 21 are used in connection with taxation, they are defined in
 22 the following manner:

23 (a) The term "agricultural" refers to the raising of
 24 livestock, poultry, bees, and other species of domestic
 25 animals and wildlife in domestication or a captive

1 environment, and the raising of field crops, fruit, and
2 other animal and vegetable matter for food or fiber.

3 (b) The term "assessed value" means the value of
4 property as defined in 15-8-111.

5 (c) The term "average wholesale value" means the value
6 to a dealer prior to reconditioning and profit margin shown
7 in national appraisal guides and manuals or the valuation
8 schedules of the department of revenue.

9 (d) (i) The term "commercial", when used to describe
10 property, means any property used or owned by a business, a
11 trade, or a nonprofit corporation as defined in 35-2-102 or
12 used for the production of income, except that property
13 described in subsection (ii).

14 (ii) The following types of property are not
15 commercial:

16 (A) agricultural lands and timberlands;

17 ~~{B}--timberlands;~~

18 ~~{C}~~(B) single-family residences and ancillary
19 improvements and improvements necessary to the function of a
20 bona fide farm, ranch, or stock operation;

21 ~~{B}~~(C) mobile homes used exclusively as a residence
22 except when held by a distributor or dealer of trailers or
23 mobile homes as his stock in trade; and

24 ~~{E}~~(D) all property described in 15-6-135(1)(h).;

25 ~~{F}--all-property-described-in-15-6-136; and~~

1 ~~{G}--all-property-described-in-15-6-146;~~

2 (e) The term "comparable property" means property that
3 has similar use, function, and utility; that is influenced
4 by the same set of economic trends and physical,
5 governmental, and social factors; and that has the potential
6 of a similar highest and best use.

7 (f) The term "credit" means solvent debts, secured or
8 unsecured, owing to a person.

9 (g) The term "improvements" includes all buildings,
10 structures, fences, and improvements situated upon, erected
11 upon, or affixed to land. When the department of revenue or
12 its agent determines that the permanency of location of a
13 mobile home or housetrailer has been established, the mobile
14 home or housetrailer is presumed to be an improvement to
15 real property. A mobile home or housetrailer may be
16 determined to be permanently located only when it is
17 attached to a foundation which cannot feasibly be relocated
18 and only when the wheels are removed.

19 (h) The term "leasehold improvements" means
20 improvements to mobile homes and mobile homes located on
21 land owned by another person. This property is assessed
22 under the appropriate classification and the taxes are due
23 and payable in two payments as provided in 15-24-202.
24 Delinquent taxes on such leasehold improvements are a lien
25 only on such leasehold improvements.

1 (i) The term "livestock" means cattle, sheep, swine,
2 goats, horses, mules, and asses.

3 (j) The term "mobile home" means forms of housing
4 known as "trailers", "housetrainers", or "trailer coaches"
5 exceeding 8 feet in width or 45 feet in length, designed to
6 be moved from one place to another by an independent power
7 connected to them, or any "trailer", "housetrailer", or
8 "trailer coach" up to 8 feet in width or 45 feet in length
9 used as a principal residence.

10 (k) The term "personal property" includes everything
11 that is the subject of ownership but that is not included
12 within the meaning of the terms "real estate" and
13 "improvements".

14 (l) The term "poultry" includes all chickens, turkeys,
15 geese, ducks, and other birds raised in domestication to
16 produce food or feathers.

17 (m) The term "property" includes moneys, credits,
18 bonds, stocks, franchises, and all other matters and things,
19 real, personal, and mixed, capable of private ownership.
20 This definition must not be construed to authorize the
21 taxation of the stocks of any company or corporation when
22 the property of such company or corporation represented by
23 the stocks is within the state and has been taxed.

24 (n) The term "real estate" includes:

25 (i) the possession of, claim to, ownership of, or

1 right to the possession of land;

2 (ii) all mines, minerals, and quarries in and under the
3 land subject to the provisions of 15-23-501 and Title 15,
4 chapter 23, part 8; all timber belonging to individuals or
5 corporations growing or being on the lands of the United
6 States; and all rights and privileges appertaining thereto.

7 (o) "Research and development firm" means an entity
8 incorporated under the laws of this state or a foreign
9 corporation authorized to do business in this state whose
10 principal purpose is to engage in theoretical analysis,
11 exploration, and experimentation and the extension of
12 investigative findings and theories of a scientific and
13 technical nature into practical application for experimental
14 and demonstration purposes, including the experimental
15 production and testing of models, devices, equipment,
16 materials, and processes.

17 (p) The term "taxable value" means the percentage of
18 market or assessed value as provided for in 15-6-131 through
19 ~~15-6-149~~ 15-6-135, 15-6-141, 15-6-145, and 15-6-147.

20 (q) The term "weighted mean assessment ratio" means
21 the total of the assessed values divided by the total of the
22 selling prices of all area sales in the stratum.

23 (2) The phrase "municipal corporation" or
24 "municipality" or "taxing unit" shall be deemed to include a
25 county, city, incorporated town, township, school district,

1 irrigation district, drainage district, or any person,
2 persons, or organized body authorized by law to establish
3 tax levies for the purpose of raising public revenue.

4 (3) The term "state board" or "board" when used
5 without other qualification shall mean the state tax appeal
6 board."

7 **Section 102.** Section 15-6-133, MCA, is amended to
8 read:

9 "15-6-133. Class three property -- description --
10 taxable percentage. (1) Class three property includes:

11 (a) agricultural land as defined in 15-7-202; and

12 (b) timberland. For the purpose of this section,
13 "timberland" means contiguous land that exceeds 15 acres in
14 one ownership and that is capable of producing timber that
15 can be harvested in commercial quantity.

16 (2) Class three property is taxed at the taxable
17 percentage rate "P" 30% of its productive capacity.

18 (3) Until July 1, 1986, the taxable percentage rate
19 "P" for class three property is 30%.

20 (4) Prior to July 1, 1986, the department of revenue
21 shall determine the taxable percentage rate "P" applicable
22 to class three property for the revaluation cycle beginning
23 January 1, 1986, as follows:

24 (a) The director of the department of revenue shall
25 certify to the governor before July 1, 1986, the percentage

1 by which the appraised value of all property in the state
2 classified under class three as of January 1, 1986, has
3 increased due to the revaluation conducted under 15-7-111.
4 This figure is the "certified statewide percentage
5 increase".

6 (b) The taxable value of property in class three is
7 determined as a function of the certified statewide
8 percentage increase in accordance with the table shown
9 below:

10 (c) This table limits the statewide increase in
11 taxable valuation resulting from reappraisal to 0% in
12 calculating the percentage increase; the department may not
13 consider agricultural use changes during calendar year 1985.

14 (d) The taxable percentage must be calculated by
15 interpolation to coincide with the nearest whole number
16 certified statewide percentage increase from the following
17 table:

18 Certified-Statewide	Class-Three-Taxable
19 Percentage-Increase	Percentage-"P"
20 0	30.00
21 10	27.27
22 20	25.00
23 30	23.00
24 40	21.43
25 50	20.00

~~{5}--After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate until a revaluation has been made as provided in 15-7-111."~~

Section 103. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) the first \$80,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources including otherwise tax-exempt income of all types is not more than \$10,000 for a single person or \$12,000 for a married couple, as adjusted according to subsection (2)(b)(ii);

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least 9 holes and not less than 3,000 lineal yards.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501,

property described in subsections (1)(a) and (1)(b) is taxed at 3.86% 3.5% of its market value.

(b) (i) Property described in subsection (1)(c) is taxed at 3.86% 3.5% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income		Income		Percentage
Single Person		Married Couple		Multiplier
\$ 0 - \$ 1,000		\$ 0 - \$ 1,200		0%
1,001 - 2,000		1,201 - 2,400		10%
2,001 - 3,000		2,401 - 3,600		20%
3,001 - 4,000		3,601 - 4,800		30%
4,001 - 5,000		4,801 - 6,000		40%
5,001 - 6,000		6,001 - 7,200		50%
6,001 - 7,000		7,201 - 8,400		60%
7,001 - 8,000		8,401 - 9,600		70%
8,001 - 9,000		9,601 - 10,800		80%
9,001 - 10,000		10,801 - 12,000		90%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of

1 application to the PCE for the second quarter of 1986; and

2 (B) rounding the product thus obtained to the nearest
3 whole dollar amount.

4 (iii) "PCE" means the implicit price deflator for
5 personal consumption expenditures as published quarterly in
6 the Survey of Current Business by the bureau of economic
7 analysis of the U.S. department of commerce.

8 (c) Property described in subsection (1)(d) is taxed
9 at one-half two-thirds the taxable percentage rate
10 established in subsection (2)(a).

11 (3) After July 1, 1986, no adjustment may be made by
12 the department to the taxable percentage rate for class four
13 property until a revaluation has been made as provided in
14 15-7-111.

15 (4) Within the meaning of comparable property as
16 defined in 15-1-101, property assessed as commercial
17 property is comparable only to other property assessed as
18 commercial property, and property assessed as other than
19 commercial property is comparable only to other property
20 assessed as other than commercial property."

21 **Section 104.** Section 15-6-135, MCA, is amended to
22 read:

23 "15-6-135. Class five property -- description --
24 taxable percentage. (1) Class five property includes:

25 (a) all property used and owned by cooperative rural

1 electrical and cooperative rural telephone associations
2 organized under the laws of Montana; ~~except property owned~~
3 ~~by cooperative organizations described in subsection (1)(b)~~
4 ~~of 15-6-137;~~

5 (b) air and water pollution control equipment as
6 defined in this section;

7 (c) new industrial property as defined in this
8 section;

9 ~~(d) any personal or real property used primarily in~~
10 ~~the production of gasoline during construction and for the~~
11 ~~first 3 years of its operation;~~

12 ~~(e) all land and improvements and all personal~~
13 ~~property owned by a research and development firm, provided~~
14 ~~that the property is actively devoted to research and~~
15 ~~development;~~

16 ~~(f) machinery and equipment used in electrolytic~~
17 ~~reduction facilities;~~

18 (d) electric transformers and meters; electric light
19 and power substation machinery; natural gas measuring and
20 regulating station equipment, meters, and compressor station
21 machinery, owned by noncentrally assessed public utilities;
22 and tools used in the repair and maintenance of this
23 property;

24 (e) a trailer or mobile home used as a residence
25 except when:

(i) held by a distributor or dealer of trailers or mobile homes as his stock in trade; or

(ii) specifically included in another class;

(F) the first \$80,000 or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including otherwise tax-exempt income of all types, is not more than \$10,000 for a single person or \$12,000 for a married couple, as adjusted according to 15-6-134(2)(b)(ii);

(g) all other personal property not included in any other class in this part except personal property that is:

(i) subject to a fee in lieu of a property tax; or

(ii) exempt from taxation under Title 15, chapter 6, part 2; and

(h) all other property used for noncommercial purposes that is not real property or an improvement to real property and that is not included in another class or exempt from taxation under Title 15, chapter 6, part 2.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing of, or storing pollutants, contaminants, wastes, or heat. The department of

health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in

1 which materials unserviceable in their natural state are
2 extracted, processed, or made fit for use or are
3 substantially altered or treated so as to create commercial
4 products or materials; or

5 (iii) engage in the mechanical or chemical
6 transformation of materials or substances into new products
7 in the manner defined as manufacturing in the 1972 Standard
8 Industrial Classification Manual prepared by the United
9 States office of management and budget.

10 (5) New industrial property does not include:

11 (a) property used by retail or wholesale merchants,
12 commercial services of any type, agriculture, trades, or
13 professions;

14 (b) a plant that will create adverse impact on
15 existing state, county, or municipal services; or

16 (c) property used or employed in any industrial plant
17 that has been in operation in this state for 3 years or
18 longer.

19 (6) Class five property is taxed at 3% of its market
20 value as follows:

21 (a) Property described in subsections (1)(a) through
22 ~~(1)(f)~~ (1)(D), (1)(g), and (1)(h) is taxed at ~~3.5%~~ 4% of its
23 market value.

24 (B) PROPERTY DESCRIBED IN SUBSECTION (1)(E) IS TAXED
25 AT 3.5% OF ITS MARKET VALUE.

1 (b)(C) Property described in subsection (1)(f) is
2 taxed at 3.5% of its market value multiplied by a percentage
3 figure based on income and determined from the table in
4 15-6-134(2)(b)(i)."

5 SECTION 105. SECTION 15-6-201, MCA, IS AMENDED TO

6 READ:

7 "15-6-201. Exempt categories. (1) The following
8 categories of property are exempt from taxation:

9 (a) the property of:

10 (i) the United States, the state, counties, cities,
11 towns, school districts, except, if congress passes
12 legislation that allows the state to tax property owned by
13 an agency created by congress to transmit or distribute
14 electrical energy, the property constructed, owned, or
15 operated by a public agency created by the congress to
16 transmit or distribute electric energy produced at privately
17 owned generating facilities (not including rural electric
18 cooperatives);

19 (ii) irrigation districts organized under the laws of
20 Montana and not operating for profit;

21 (iii) municipal corporations; and

22 (iv) public libraries;

23 (b) buildings, with land they occupy and furnishings
24 therein, owned by a church and used for actual religious
25 worship or for residences of the clergy, together with

1 adjacent land reasonably necessary for convenient use of
2 such buildings;

3 (c) property used exclusively for agricultural and
4 horticultural societies, for educational purposes, and for
5 nonprofit health care facilities, as defined in 50-5-101,
6 licensed by the department of health and environmental
7 sciences and organized under Title 35, chapter 2 or 3. A
8 health care facility that is not licensed by the department
9 of health and environmental sciences and organized under
10 Title 35, chapter 2 or 3, is not exempt.

11 (d) property that meets the following conditions:

12 (i) is owned and held by any association or
13 corporation organized under Title 35, chapter 2, 3, 20, or
14 21;

15 (ii) is devoted exclusively to use in connection with a
16 cemetery or cemeteries for which a permanent care and
17 improvement fund has been established as provided for in
18 Title 35, chapter 20, part 3; and

19 (iii) is not maintained and operated for private or
20 corporate profit;

21 (e) institutions of purely public charity;

22 (f) evidence of debt secured by mortgages of record
23 upon real or personal property in the state of Montana;

24 (g) public art galleries and public observatories not
25 used or held for private or corporate profit;

1 (h) all household goods and furniture, including but
2 not limited to clocks, musical instruments, sewing machines,
3 and wearing apparel of members of the family, used by the
4 owner for personal and domestic purposes or for furnishing
5 or equipping the family residence;

6 (i) a truck canopy cover or topper weighing less than
7 300 pounds and having no accommodations attached. Such
8 property is also exempt from taxation under 61-3-504(2) and
9 61-3-537.

10 (j) a bicycle, as defined in 61-1-123, used by the
11 owner for personal transportation purposes;

12 (k) motor homes, travel trailers, and campers;

13 (l) all watercraft;

14 (m) land, fixtures, buildings, and improvements owned
15 by a cooperative association or nonprofit corporation
16 organized to furnish potable water to its members or
17 customers for uses other than the irrigation of agricultural
18 land;

19 (n) the right of entry that is a property right
20 reserved in land or received by mesne conveyance (exclusive
21 of leasehold interests), devise, or succession to enter land
22 whose surface title is held by another to explore, prospect,
23 or dig for oil, gas, coal, or minerals;

24 (o) property owned and used by a corporation or
25 association organized and operated exclusively for the care

1 of the developmentally disabled, mentally ill, or
 2 vocationally handicapped as defined in 18-5-101, which is
 3 not operated for gain or profit;

4 (p) all farm buildings with a market value of less
 5 than \$500 and all agricultural implements and machinery with
 6 a market value of less than \$100; and

7 (q) property owned by a nonprofit corporation
 8 organized to provide facilities primarily for training and
 9 practice for or competition in international sports and
 10 athletic events and not held or used for private or
 11 corporate gain or profit. For purposes of this subsection
 12 (l)(q), "nonprofit corporation" means an organization exempt
 13 from taxation under section 501(c) of the Internal Revenue
 14 Code and incorporated and admitted under the Montana
 15 Nonprofit Corporation Act; and

16 (r) the first \$15,000 or less of market value of any
 17 single-family owner-occupied residence owned by a Montana
 18 resident.

19 (2) (a) The term "institutions of purely public
 20 charity" includes organizations owning and operating
 21 facilities for the care of the retired or aged or
 22 chronically ill, which are not operated for gain or profit.

23 (b) The terms "public art galleries" and "public
 24 observatories" include only those art galleries and
 25 observatories, whether of public or private ownership, that

1 are open to the public without charge at all reasonable
 2 hours and are used for the purpose of education only.

3 (3) The following portions of the appraised value of a
 4 capital investment made after January 1, 1979, in a
 5 recognized nonfossil form of energy generation, as defined
 6 in 15-32-102, are exempt from taxation for a period of 10
 7 years following installation of the property:

8 (a) \$20,000 in the case of a single-family residential
 9 dwelling;

10 (b) \$100,000 in the case of a multifamily residential
 11 dwelling or a nonresidential structure. (Subsection (1)(c)
 12 applicable to taxable years beginning after December 31,
 13 1987--sec. 4, Ch. 455, L. 1987.)"

14 **Section 106.** Section 15-6-207, MCA, is amended to
 15 read:

16 "15-6-207. Agricultural exemptions. (1) The following
 17 agricultural products are exempt from taxation:

18 (a) all unprocessed, perishable fruits and vegetables
 19 in farm storage and owned by the producer;

20 (b) all producer-held grain in storage;

21 (c) all nonperishable, unprocessed agricultural
 22 products, except livestock, held in possession of the
 23 original producer for less than 7 months following harvest;

24 (d) except as provided in subsection (1)(e), livestock
 25 which have not attained the age of 24 months as of the last

1 day of any month if assessed on the average inventory basis
2 or on March 1 if assessed as provided in 15-24-911(1)(a);

3 (e) swine which have not attained the age of 6 months
4 as of January 1;

5 (f) poultry and the unprocessed products of poultry;
6 and

7 (g) bees and the unprocessed product of bees;

8 (h) the unprocessed products of livestock and THE
9 UNPROCESSED PRODUCTS OF other domestic animals and wildlife
10 raised in domestication or a captive environment; and

11 (i) cats, dogs, and other household pets not raised
12 for profit.

13 (2) Any beet digger, beet topper, beet defoliator,
14 beet thinner, beet cultivator, beet planter, or beet top
15 saver designed exclusively to plant, cultivate, and harvest
16 sugar beets is exempt from taxation if such implement has
17 not been used to plant, cultivate, or harvest sugar beets
18 for the 2 years immediately preceding the current assessment
19 date and there are no available sugar beet contracts in the
20 sugar beet grower's marketing area."

21 **Section 107.** Section 15-8-111, MCA, is amended to
22 read:

23 "15-8-111. Assessment -- market value standard --
24 exceptions. (1) All taxable property must be assessed at
25 100% of its market value except as otherwise provided.

1 (2) (a) Market value is the value at which property
2 would change hands between a willing buyer and a willing
3 seller, neither being under any compulsion to buy or to sell
4 and both having reasonable knowledge of relevant facts.

5 (b) If the department uses construction cost as one
6 approximation of market value, the department shall fully
7 consider reduction in value caused by depreciation, whether
8 through physical depreciation, functional obsolescence, or
9 economic obsolescence.

10 (c) Except as provided in subsection (3), the market
11 value of all motor trucks, agricultural tools, implements,
12 and machinery; and vehicles of all kinds, including but not
13 limited to boats and all watercraft, is the average
14 wholesale value shown in national appraisal guides and
15 manuals or the value of the vehicle before reconditioning
16 and profit margin. The department of revenue shall prepare
17 valuation schedules showing the average wholesale value when
18 no national appraisal guide exists.

19 (3) The department of revenue or its agents may not
20 adopt a lower or different standard of value from market
21 value in making the official assessment and appraisal of the
22 value of property, except:

23 (a) the wholesale value for agricultural implements
24 and machinery is the loan value as shown in the Official
25 Guide, Tractor and Farm Equipment, published by the national

1 farm and power equipment dealers association, St. Louis,
2 Missouri;

3 (b) for agricultural implements and machinery not
4 listed in the official guide, the department shall prepare a
5 supplemental manual where the values reflect the same
6 depreciation as those found in the official guide; and

7 (c) as otherwise authorized in Title 15 and Title 61.

8 (4) For purposes of taxation, assessed value is the
9 same as appraised value.

10 (5) The taxable value for all property is the
11 percentage of market or assessed value established for each
12 class of property.

13 (6) The assessed value of properties in 15-6-131
14 through 15-6-133 is as follows:

15 (a) Properties in 15-6-131, under class one, are
16 assessed at 100% of the annual net proceeds after deducting
17 the expenses specified and allowed by 15-23-503.

18 (b) Properties in 15-6-132, under class two, are
19 assessed at 100% of the annual gross proceeds.

20 (c) Properties in 15-6-133, under class three, are
21 assessed at 100% of the productive capacity of the lands
22 when valued for agricultural purposes or at 100% of the
23 combined assessed value of the standing timber and grazing
24 productivity of the land when valued as timberland. All
25 lands that meet the qualifications of 15-7-202 are valued as

1 agricultural lands for tax purposes.

2 ~~(d)--Properties in 15-6-143, under class thirteen, are~~
3 ~~assessed at 100% of the combined appraised value of the~~
4 ~~standing timber and grazing productivity of the land when~~
5 ~~valued as timberland.~~

6 (7) Land and the improvements thereon are separately
7 assessed when any of the following conditions occur:

8 (a) ownership of the improvements is different from
9 ownership of the land;

10 (b) the taxpayer makes a written request; or

11 (c) the land is outside an incorporated city or town."

12 **Section 108.** Section 15-8-205, MCA, is amended to
13 read:

14 "15-8-205. Initial assessment of ~~class twelve property~~
15 mobile homes -- when. The county assessor shall assess all
16 ~~class ---- twelve --- property~~ mobile homes described in
17 15-6-135(1)(e) and (1)(f) immediately upon arrival in the
18 county if the taxes have not been previously paid for that
19 year in another county in Montana."

20 **NEW SECTION. Section 109.** University system
21 funding. There is allocated from the money collected from
22 the sales tax and use tax to the state special revenue fund
23 ~~15% ± 3%~~ 15% of the sales tax and use tax, as allocated in
24 [section 75(1)(b)(ii)], for the support, maintenance, and
25 improvement of the Montana university system,

1 vocational-technical centers, and community college
2 districts, subject to the board of regents' supervision.

3 **Section 110.** Section 15-10-402, MCA, is amended to
4 read:

5 "15-10-402. Property tax limited to 1986 1991 levels.
6 (1) Except as provided in subsections (2) and (3), the
7 amount of taxes levied on property described in 15-6-133,
8 and 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may
9 not, for any taxing jurisdiction, exceed the amount levied
10 for taxable year 1986 1991.

11 (2) The limitation contained in subsection (1) does
12 not apply to levies for rural improvement districts, Title
13 7, chapter 12, part 21; special improvement districts, Title
14 7, chapter 12, part 41; or bonded indebtedness.

15 (3) New construction or improvements to or deletions
16 from property described in subsection (1) are subject to
17 taxation at 1986 1991 levels.

18 (4) As used in this section, the "amount of taxes
19 levied" and the "amount levied" mean the actual dollar
20 amount of taxes imposed on an individual piece of property,
21 notwithstanding an increase or decrease in value due to
22 inflation, reappraisal, adjustments in the percentage
23 multiplier used to convert appraised value to taxable value,
24 changes in the number of mills levied, or increase or
25 decrease in the value of a mill."

1 **SECTION 111.** SECTION 15-10-411, MCA, IS AMENDED TO

2 READ:

3 "15-10-411. (Temporary) Declaration of policy --
4 clarification -- extension to all property classes. Section
5 15-10-401 is interpreted, clarified, and extended as
6 follows:

7 (1) In order to avoid constitutional challenges based
8 on discriminatory treatment of taxpayers in tax classes not
9 enumerated in 15-10-401 and 15-10-402, the limitation to
10 1986 1991 levels is extended to apply to all classes of
11 property described in Title 15, chapter 6, part 1.

12 (2) The policy declaration in 15-10-401(5) that no
13 further property tax increases be imposed is interpreted to
14 mean no further increase may be made in the tax rate applied
15 to property in each class in 1986 1991.

16 (3) No new class of property may be created solely to
17 circumvent the policy underlying 15-10-401 and 15-10-402. If
18 a new class of property is created in order to afford
19 preferential treatment to a category of property, the
20 taxable rate that applies may not exceed the rate at which
21 such property was taxed in 1986 1991. (Terminates December
22 31, 1989--sec. 6, Ch. 654, L. 1987.)"

23 **SECTION 112.** SECTION 15-10-412, MCA, IS AMENDED TO

24 READ:

25 "15-10-412. (Temporary) Property tax limited to 1986

1 1991 levels -- clarification -- extension to all property
2 classes. Section 15-10-402 is interpreted and clarified as
3 follows:

4 (1) The limitation to ~~1986~~ 1991 levels is extended to
5 apply to all classes of property described in Title 15,
6 chapter 6, part 1.

7 (2) The limitation on the amount of taxes levied is
8 interpreted to mean that the actual tax liability for an
9 individual property is capped at the dollar amount due in
10 each taxing unit for the ~~1986~~ 1991 tax year. In tax years
11 thereafter, the property must be taxed in each taxing unit
12 at the ~~1986~~ 1991 cap or the product of the taxable value and
13 mills levied, whichever is less for each taxing unit.

14 (3) The limitation on the amount of taxes levied does
15 not mean that no further increase may be made in the total
16 taxable valuation of a taxing unit as a result of:

17 (a) annexation of real property and improvements into
18 a taxing unit;

19 (b) construction, expansion, or remodeling of
20 improvements;

21 (c) transfer of property into a taxing unit;

22 (d) subdivision of real property;

23 (e) reclassification of property;

24 (f) increases in the amount of production or the value
25 of production for property described in 15-6-131 or

1 15-6-132;

2 (g) transfer of property from tax-exempt to taxable
3 status; or

4 (h) revaluations caused by:

5 (i) cyclical reappraisal; or

6 (ii) expansion, addition, replacement, or remodeling of
7 improvements.

8 (4) The limitation on the amount of taxes levied does
9 not mean that no further increase may be made in the taxable
10 valuation or in the actual tax liability on individual
11 property in each class as a result of:

12 (a) construction, expansion, replacement, or
13 remodeling of improvements that adds value to the property;

14 (b) transfer of property into a taxing unit;

15 (c) reclassification of property;

16 (d) increases in the amount of production or the value
17 of production for property described in 15-6-131 or
18 15-6-132;

19 (e) annexation of the individual property into a new
20 taxing unit; or

21 (f) conversion of the individual property from
22 tax-exempt to taxable status.

23 (5) Property in classes four, twelve, and fourteen, as
24 amended by [this act], is valued according to the procedures
25 used in 1986, or the 1991 tax year if a revaluation pursuant

to 15-7-111 has been completed, including the designation of 1982 as the base year, or the designation of a new base year if a revaluation pursuant to 15-7-111 has been completed, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

- (a) new construction;
- (b) expanded, deleted, replaced, or remodeled improvements;
- (c) annexed property; or
- (d) property converted from tax-exempt to taxable status.

(6) Property described in subsections (5)(a) through (5)(d) that is not class four, class twelve, or class fourteen property, as amended by [this act], is valued according to the procedures used in 1986, or a subsequent revaluation completed pursuant to 15-7-111, but is also subject to the dollar cap in each taxing unit based on 1986 the mills levied in 1986, or in 1991 if a revaluation pursuant to 15-7-111 has been completed subsequent to 1986.

(7) (a) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters

in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, unless the taxing unit's taxable valuation decreases by 5% or more from the previous 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed. If a taxing unit's taxable valuation decreases by 5% or more from the previous 1986 tax year, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, 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, or the 1991 tax year if a revaluation pursuant to 15-7-111 has been completed, in that taxing unit.

(b) For the purposes of this subsection (7), property tax replacement revenue received as reimbursement from sales tax proceeds is considered to be revenue from property

1 taxes.

2 (8) The limitation on the amount of taxes levied does
3 not apply to the following levy or special assessment
4 categories, whether or not they are based on commitments
5 made before or after approval of 15-10-401 and 15-10-402:

- 6 (a) rural improvement districts;
- 7 (b) special improvement districts;
- 8 (c) levies pledged for the repayment of bonded
9 indebtedness, including tax increment bonds;
- 10 (d) city street maintenance districts;
- 11 (e) tax increment financing districts;
- 12 (f) satisfaction of judgments against a taxing unit;
- 13 (g) electric company street lighting assessments; and
- 14 (h) revolving funds to support any categories
15 specified in this subsection (8).

16 (9) The limitation on the amount of taxes levied does
17 not apply in a taxing unit if the voters in the taxing unit
18 approve an increase in tax liability following a resolution
19 of the governing body of the taxing unit containing:

- 20 (a) a finding that there are insufficient funds to
21 adequately operate the taxing unit as a result of 15-10-401
22 and 15-10-402;
- 23 (b) an explanation of the nature of the financial
24 emergency;
- 25 (c) an estimate of the amount of funding shortfall

1 expected by the taxing unit;

2 (d) a statement that applicable fund balances are or
3 by the end of the fiscal year will be depleted;

4 (e) a finding that there are no alternative sources of
5 revenue;

6 (f) a summary of the alternatives that the governing
7 body of the taxing unit has considered; and

8 (g) a statement of the need for the increased revenue
9 and how it will be used.

10 (10) The limitation on the amount of taxes levied does
11 not apply to levies required to address the funding of
12 relief of suffering of inhabitants caused by famine,
13 conflagration, or other public calamity. (Terminates
14 December 31, 1989--sec. 6, Ch. 654, L. 1987.)"

15 **Section 113.** Section 15-16-611, MCA, is amended to
16 read:

17 "15-16-611. Reduction of property tax for property
18 destroyed by natural disaster. (1) The department of revenue
19 shall, upon showing by a taxpayer that some or all of the
20 improvements on his real property or a trailer or mobile
21 home ~~as described in 15-6-142~~ have been destroyed to such an
22 extent that such improvements have been rendered unsuitable
23 for their previous use by natural disaster, adjust the
24 taxable value on the property, accounting for the
25 destruction.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the destruction of the property bears to 365.

(4) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year in which the property was destroyed.

(5) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 114. Section 15-16-613, MCA, is amended to read:

"15-16-613. Refund of certain taxes paid in other states. Subject to the provisions of 15-16-601 and upon proof that tax was paid in another state, a taxpayer is

entitled to a refund equal to the amount of tax paid in another state on a helicopter or property that was assessed in Montana under ~~15-6-138(i)(g)~~ 15-6-135 on January 1 of the year for which the refund is due. The refund under this section may not exceed the tax that was paid in Montana on the same property for the same period of time."

Section 115. Section 15-24-301, MCA, is amended to read:

"15-24-301. Personal property brought into the state -- assessment -- exceptions -- custom combine equipment. (1) Except as provided in subsections (2) through (5), property in the following cases is subject to taxation and assessment for all taxes levied that year in the county in which it is located:

(a) any personal property (including livestock) brought, driven, or coming into this state at any time during the year that is used in the state for hire, compensation, or profit;

(b) property whose owner or user is engaged in gainful occupation or business enterprise in the state; or

(c) property which comes to rest and becomes a part of the general property of the state.

(2) The taxes on this property are levied in the same manner and to the same extent, except as otherwise provided, as though the property had been in the county on the regular

1 assessment date, provided that the property has not been
2 regularly assessed for the year in some other county of the
3 state.

4 (3) Nothing in this section shall be construed to levy
5 a tax against a merchant or dealer within this state on
6 goods, wares, or merchandise brought into the county to
7 replenish the stock of the merchant or dealer.

8 (4) Any motor vehicle not subject to a fee in lieu of
9 tax brought, driven, or coming into this state by any
10 nonresident person temporarily employed in Montana and used
11 exclusively for transportation of such person is subject to
12 taxation and assessment for taxes as follows:

13 (a) The motor vehicle is taxed by the county in which
14 it is located.

15 (b) One-fourth of the annual tax liability of the
16 motor vehicle must be paid for each quarter or portion of a
17 quarter of the year that the motor vehicle is located in
18 Montana.

19 (c) The quarterly taxes are due the first day of the
20 quarter.

21 (5) Agricultural harvesting machinery ~~classified-under~~
22 ~~class-eight~~, licensed in other states, and operated on the
23 lands of persons other than the owner of the machinery under
24 contracts for hire shall be subject to a fee in lieu of
25 taxation of \$35 per machine for the calendar year in which

1 the fee is collected. The machines shall be subject to
2 taxation ~~under--class--eight~~ only if they are sold in
3 Montana."

4 **Section 116.** Section 15-24-1102, MCA, is amended to
5 read:

6 "15-24-1102. Federal property held under contract of
7 sale. When the property is held under a contract of sale or
8 other agreement whereby upon payment the legal title is or
9 may be acquired by the person, the real property shall be
10 assessed and taxed as defined in ~~15-6-131--through--15-6-149~~
11 Title 15, chapter 6, part 1, and 15-8-111 without deduction
12 on account of the whole or any part of the purchase price or
13 other sum due on the property remaining unpaid. The lien for
14 the tax may not attach to, impair, or be enforced against
15 any interest of the United States in the real property."

16 **Section 117.** Section 15-24-1103, MCA, is amended to
17 read:

18 "15-24-1103. Federal property held under lease. When
19 the property is held under lease, other interest, or estate
20 therein less than the fee, except under contract of sale,
21 the property shall be assessed and taxed as for the value,
22 as defined in ~~15-6-131-through-15-6-149~~ Title 15, chapter 6,
23 part 1, of such leasehold, interest, or estate in the
24 property and the lien for the tax shall attach to and be
25 enforced against only the leasehold, interest, or estate in

1 the property. When the United States authorizes the taxation
2 of the property for the full assessed value of the fee
3 thereof, the property shall be assessed for full assessed
4 value as defined in 15-8-111."

5 **Section 118.** Section 17-3-213, MCA, is amended to
6 read:

7 "17-3-213. Allocation to general road fund and
8 countywide school levies. (1) The forest reserve funds so
9 apportioned to each county ~~shall~~ must be apportioned by the
10 county treasurer in each county ~~between-the-several-funds~~ as
11 follows:

12 (a) to the general road fund, 66 2/3% of the total
13 amount received;

14 (b) to the following countywide school levies, 33 1/3%
15 of the total sum received:

16 (i) the annual basic tax levy for elementary schools
17 provided for in 20-9-331;

18 (ii) the annual special tax for high schools provided
19 for in 20-9-333; and

20 (iii) the high school transportation fund provided for
21 in 20-10-143;

22 ~~(iv) the elementary teacher retirement and social~~
23 ~~security fund provided for in 20-9-501;~~

24 ~~(v) the high school teacher retirement and social~~
25 ~~security fund provided for in 20-9-501.~~

1 (2) The apportionment of money to the funds provided
2 for under subsection (1)(b) ~~shall~~ must be made by the county
3 superintendent based on the proportion that the mill levy of
4 each fund bears to the total number of mills for all the
5 funds. Whenever the total amount of money available for
6 apportionment under this section is greater than the total
7 requirements of a levy, the excess money and any interest
8 income must be retained in a separate reserve fund, to be
9 reapportioned in the ensuing school fiscal year to the
10 levies designated in subsection (1)(b).

11 (3) In counties ~~wherein~~ in which special road
12 districts have been created according to law, the board of
13 county commissioners shall distribute a proportionate share
14 of the 66 2/3% of the total amount received for the general
15 road fund to ~~such the~~ special road district--or districts
16 within the county based upon the percentage that the total
17 area of ~~such the~~ road district bears to the total area of
18 the entire county."

19 **Section 119.** Section 19-4-605, MCA, is amended to
20 read:

21 "19-4-605. Pension accumulation fund -- employer's
22 contribution. The pension accumulation fund is the fund in
23 which the reserves for payment of pensions and annuities
24 ~~shall~~ must be accumulated and from which pensions,
25 annuities, and benefits in lieu thereof--~~shall~~ of pensions

1 and annuities must be paid to or on account of beneficiaries
2 credited with prior service. Contributions to and payments
3 from the pension accumulation fund ~~shall~~ must be made as
4 follows:

5 (1) Each employer shall pay into the pension
6 accumulation fund an amount equal to 7.428% of the earned
7 compensation of each member employed during the whole or
8 part of the preceding payroll period.

9 ~~{2}--if-the-employer-is-a-district-or-community-college~~
10 ~~district,--the--trustees--shall--budget--and--pay--for--the~~
11 ~~employer's-contribution-under-the-provisions-of-20-9-501.~~

12 {3}{2} If the employer is the superintendent of public
13 instruction, a public institution of the state of Montana, a
14 unit of the Montana university system, or the Montana state
15 school for the deaf and blind, the legislature shall
16 appropriate to the employer an adequate amount to allow the
17 payment of the employer's contribution.

18 {4}{3} If the employer is a county, the county
19 commissioners shall budget and pay for the employer's
20 contribution in the manner provided by law for the adoption
21 of a county budget and for payments under the budget.

22 {5}{4} All interest and other earnings realized on the
23 moneys money of the retirement system ~~shall~~ must be credited
24 to the pension accumulation fund, and the amount required to
25 allow regular interest on the annuity savings fund ~~shall~~

1 must be transferred to that fund from the pension
2 accumulation fund.

3 ~~{6}{5}~~ All pensions, annuities, and benefits in lieu
4 ~~thereof--shall of pensions and annuities must~~ be paid from
5 the pension accumulation fund.

6 ~~{7}{6}~~ The retirement board may, in its discretion,
7 transfer from the pension accumulation fund an amount
8 necessary to cover expenses of administration."

9 **Section 120.** Section 19-11-503, MCA, is amended to
10 read:

11 **"19-11-503. Special tax levy for fund required.** (1)
12 The purpose of this section is to provide a means by which
13 each disability and pension fund may be maintained at a
14 level equal to 3% 3.4% of the taxable valuation of all
15 taxable property within the limits of the city or town.

16 (2) Whenever the fund contains less than 3% 3.4% of
17 the taxable valuation of all taxable property within the
18 limits of the city or town, the governing body of the city
19 or town shall, at the time of the levy of the annual tax,
20 levy a special tax as provided in 19-11-504. The special tax
21 shall be collected as other taxes are collected and, when so
22 collected, shall be paid into the disability and pension
23 fund.

24 (3) If a special tax for the disability and pension
25 fund is levied by a third-class city or town using the

1 all-purpose mill levy, the special tax levy must be made in
2 addition to the all-purpose levy."

3 **Section 121.** Section 19-11-504, MCA, is amended to
4 read:

5 "19-11-504. Amount of special tax levy. Whenever the
6 fund contains an amount which is less than 3% 3.4% of the
7 taxable valuation of all taxable property in the city or
8 town, the city council shall levy an annual special tax of
9 not less than 1 mill and not more than 4 mills on each
10 dollar of taxable valuation of all taxable property within
11 the city or town."

12 **Section 122.** Section 20-3-106, MCA, is amended to
13 read:

14 "20-3-106. Supervision of schools -- powers and
15 duties. The superintendent of public instruction has the
16 general supervision of the public schools and districts of
17 the state, and he shall perform the following duties or acts
18 in implementing and enforcing the provisions of this title:

19 (1) resolve any controversy resulting from the
20 proration of costs by a joint board of trustees under the
21 provisions of 20-3-362;

22 (2) issue, renew, or deny teacher certification and
23 emergency authorizations of employment;

24 (3) negotiate reciprocal tuition agreements with other
25 states in accordance with the provisions of 20-5-314;

1 (4) serve on the teachers' retirement board in
2 accordance with the provisions of 2-15-1010;

3 (5) approve or disapprove the orders of a high school
4 boundary commission in accordance with the provisions of
5 20-6-311;

6 (6) approve or disapprove the opening or reopening of
7 a school in accordance with the provisions of 20-6-502,
8 20-6-503, 20-6-504, or 20-6-505;

9 (7) approve or disapprove school isolation within the
10 limitations prescribed by 20-9-302;

11 (8) generally supervise the school budgeting
12 procedures prescribed by law in accordance with the
13 provisions of 20-9-102 and prescribe the school budget
14 format in accordance with the provisions of 20-9-103 and
15 20-9-506;

16 (9) establish a system of communication for
17 calculating joint district revenues in accordance with the
18 provisions of 20-9-151;

19 (10) approve or disapprove the adoption of a district's
20 emergency budget resolution under the conditions prescribed
21 in 20-9-163 and publish rules for an application for
22 additional state aid for an emergency budget in accordance
23 with the approval and disbursement provisions of 20-9-166;

24 (11) generally supervise the school financial
25 administration provisions as prescribed by 20-9-201(2);

1 (12) prescribe and furnish the annual report forms to
 2 enable the districts to report to the county superintendent
 3 in accordance with the provisions of 20-9-213(5) and the
 4 annual report forms to enable the county superintendents to
 5 report to the superintendent of public instruction in
 6 accordance with the provisions of 20-3-209;
 7 (13) approve, disapprove, or adjust an increase of the
 8 average number belonging (ANB) in accordance with the
 9 provisions of 20-9-313 and 20-9-314;
 10 (14) distribute state equalization aid in support of
 11 the foundation program in accordance with the provisions of
 12 20-9-342, 20-9-346, and 20-9-347;
 13 (15) distribute state impact aid in accordance with the
 14 provisions of 20-9-304;
 15 (16) provide for the uniform and equal provision of
 16 transportation by performing the duties prescribed by the
 17 provisions of 20-10-112;
 18 (17) approve or disapprove an adult education program
 19 for which a district proposes to levy a tax in accordance
 20 with the provisions of 20-7-705;
 21 (18) request, accept, deposit, and expend federal
 22 moneys money in accordance with the provisions of 20-9-603;
 23 (19) authorize the use of federal moneys money for the
 24 support of an interlocal cooperative agreement in accordance
 25 with the provisions of 20-9-703 and 20-9-704;

1 (20) prescribe the form and contents of and approve or
 2 disapprove interstate contracts in accordance with the
 3 provisions of 20-9-705;
 4 (21) approve or disapprove the conduct of school on a
 5 Saturday or on pupil-instruction-related days in accordance
 6 with the provisions of 20-1-303 and 20-1-304;
 7 (22) recommend standards of accreditation for all
 8 schools to the board of public education and evaluate
 9 compliance with such the standards and recommend
 10 accreditation status of every school to the board of public
 11 education in accordance with the provisions of 20-7-101 and
 12 20-7-102;
 13 (23) collect and maintain a file of curriculum guides
 14 and assist schools with instructional programs in accordance
 15 with the provisions of 20-7-113 and 20-7-114;
 16 (24) establish and maintain a library of visual, aural,
 17 and other educational media in accordance with the
 18 provisions of 20-7-201;
 19 (25) license textbook dealers and initiate prosecution
 20 of textbook dealers violating the law in accordance with the
 21 provisions of the textbooks part of this title;
 22 (26) as the governing agent and executive officer of
 23 the state of Montana for K-12 vocational education, adopt
 24 the policies prescribed by and in accordance with the
 25 provisions of 20-7-301;

1 (27) supervise and coordinate the conduct of special
 2 education in the state in accordance with the provisions of
 3 20-7-403;
 4 (28) administer the traffic education program in
 5 accordance with the provisions of 20-7-502;
 6 (29) administer the school food services program in
 7 accordance with the provisions of 20-10-201, 20-10-202, and
 8 20-10-203;
 9 (30) review school building plans and specifications in
 10 accordance with the provisions of 20-6-622;
 11 (31) prescribe the method of identification and signals
 12 to be used by school safety patrols in accordance with the
 13 provisions of 20-1-408;
 14 (32) provide schools with information and technical
 15 assistance for compliance with the student assessment rules
 16 provided for in 20-2-121 and collect and summarize the
 17 results of such the student assessment for the board of
 18 public education and the legislature; and
 19 ~~{33}-administer--the--distribution--of--state--retirement~~
 20 ~~equalization--aid--in--accordance--with--20-9-532;--and~~
 21 ~~{34}{33}~~ perform any other duty prescribed from time to
 22 time by this title, any other act of the legislature, or the
 23 policies of the board of public education. ~~{Subsection-{33}~~
 24 ~~effective-July-17-1988--sec-87-Chr-6357-hr-1987-}~~"

25 **Section 123.** Section 20-3-324, MCA, is amended to

1 read:

2 "20-3-324. Powers and duties. As prescribed elsewhere
 3 in this title, the trustees of each district shall ~~have--the~~
 4 ~~power--and--it--shall--be--their--duty--to--perform--the--following~~
 5 ~~duties--or--acts:~~

6 (1) employ or dismiss a teacher, principal, or other
 7 assistant upon the recommendation of the district
 8 superintendent, the county high school principal, or other
 9 principal as the board ~~may--deem~~ considers necessary,
 10 accepting or rejecting such any recommendation as the
 11 trustees shall in their sole discretion determine, in
 12 accordance with the provisions of Title 20, chapter 4;

13 (2) employ and dismiss administrative personnel,
 14 clerks, secretaries, teacher aides, custodians, maintenance
 15 personnel, school bus drivers, food service personnel,
 16 nurses, and any other personnel ~~deemed~~ considered necessary
 17 to carry out the various services of the district;

18 (3) administer the attendance and tuition provisions
 19 and otherwise govern the pupils of the district in
 20 accordance with the provisions of the pupils chapter of this
 21 title;

22 (4) call, conduct, and certify the elections of the
 23 district in accordance with the provisions of the school
 24 elections chapter of this title;

25 (5) participate in the teachers' retirement system of

1 the state of Montana in accordance with the provisions of
2 the teachers' retirement system chapter of Title 19;

3 (6) participate in district boundary change actions in
4 accordance with the provisions of the districts chapter of
5 this title;

6 (7) organize, open, close, or acquire isolation status
7 for the schools of the district in accordance with the
8 provisions of the school organization part of this title;

9 (8) adopt and administer the annual budget or an
10 emergency budget of the district in accordance with the
11 provisions of the school budget system part of this title;

12 (9) conduct the fiscal business of the district in
13 accordance with the provisions of the school financial
14 administration part of this title;

15 (10) establish the ANB, foundation program, permissive
16 levy, additional levy, cash reserve, and state impact aid
17 amount for the general fund of the district in accordance
18 with the provisions of the general fund part of this title;

19 (11) establish, maintain, budget, and finance the
20 transportation program of the district in accordance with
21 the provisions of the transportation parts of this title;

22 (12) issue, refund, sell, budget, and redeem the bonds
23 of the district in accordance with the provisions of the
24 bonds parts of this title;

25 (13) when applicable, establish, financially

1 administer, and budget for the tuition--fund,--retirement
2 fund, building reserve fund, adult education fund,
3 nonoperating fund, school food services fund, miscellaneous
4 federal programs fund, building fund, lease or rental
5 agreement fund, traffic education fund, and interlocal
6 cooperative agreement fund in accordance with the provisions
7 of the other school funds parts of this title;

8 (14) when applicable, administer any interlocal
9 cooperative agreement, gifts, legacies, or devises in
10 accordance with the provisions of the miscellaneous
11 financial parts of this title;

12 (15) hold in trust, acquire, and dispose of the real
13 and personal property of the district in accordance with the
14 provisions of the school sites and facilities part of this
15 title;

16 (16) operate the schools of the district in accordance
17 with the provisions of the school calendar part of this
18 title;

19 (17) establish and maintain the instructional services
20 of the schools of the district in accordance with the
21 provisions of the instructional services, textbooks,
22 vocational education, and special education parts of this
23 title;

24 (18) establish and maintain the school food services of
25 the district in accordance with the provisions of the school

1 food services parts of this title;

2 (19) make such reports from time to time as the county
3 superintendent, superintendent of public instruction, and
4 board of public education may require;

5 (20) retain, when deemed considered advisable, a
6 physician or registered nurse to inspect the sanitary
7 conditions of the school or the general health conditions of
8 each pupil and, upon request, make available to any parent
9 or guardian any medical reports or health records maintained
10 by the district pertaining to his child;

11 (21) for each member of the trustees, visit each school
12 of the district not less than once each school fiscal year
13 to examine its management, conditions, and needs, except
14 trustees from a first-class school district may share the
15 responsibility for visiting each school in the district;

16 (22) procure and display outside daily in suitable
17 weather at each school of the district an American flag
18 ~~which-shall-be~~ that measures not less than 4 feet by 6 feet;
19 and

20 (23) perform any other duty and enforce any other
21 requirements for the government of the schools prescribed by
22 this title, the policies of the board of public education,
23 or the rules of the superintendent of public instruction."

24 **Section 124.** Section 20-5-305, MCA, is amended to
25 read:

1 **"20-5-305. Elementary tuition rates.** (1) Whenever a
2 pupil of an elementary district has been granted approval to
3 attend a school outside of the district in which he resides,
4 under the provisions of 20-5-301 or 20-5-302, such the
5 district shall pay tuition to the elementary district where
6 the pupil attends school. Except as provided in subsection
7 (2), the basis of the rate of tuition shall be determined by
8 the attended district. The rate of tuition shall be
9 determined by:

10 (a) totaling the actual expenditures from the district
11 general fund, and the debt service fund, ~~and-if-the-pupil~~
12 ~~is-a-resident-of-another-county,-the-retirement-fund;~~

13 (b) dividing the amount determined in subsection
14 (1)(a) by the ANB of the district for the current fiscal
15 year, as determined under the provisions of 20-9-311; and

16 (c) subtracting the total of the per-ANB amount
17 allowed by 20-9-316 through 20-9-321 that represents the
18 foundation program as prescribed by 20-9-303 plus the
19 per-ANB amount determined by dividing the state financing of
20 the district permissive levy by the ANB of the district,
21 from the amount determined in subsection (1)(b).

22 (2) The tuition for a full-time elementary special
23 education pupil must be determined under rules adopted by
24 the superintendent of public instruction for the calculation
25 of elementary tuition for full-time elementary special

1 education pupils as designated in 20-9-311 for funding
2 purposes."

3 **Section 125.** Section 20-5-312, MCA, is amended to
4 read:

5 "20-5-312. Reporting, budgeting, and payment for high
6 school tuition. (1) Except as provided in subsection (2), at
7 the close of the school term of each school fiscal year, the
8 trustees of each high school district shall determine the
9 rate of tuition for the current school fiscal year by:

10 (a) totaling the actual expenditures from the district
11 general fund, and the debt service fund, ~~and, if the pupil~~
12 ~~is a resident of another county, the retirement fund;~~

13 (b) dividing the amount determined in subsection
14 (1)(a) above by the ANB of the district for the current
15 fiscal year, as determined under the provisions of 20-9-311;
16 and

17 (c) subtracting the total of the per-ANB amount
18 allowed by 20-9-316 through 20-9-321 that represents the
19 foundation program as prescribed by 20-9-303 plus the
20 per-ANB amount determined by dividing the state financing of
21 the district permissive levy by the ANB of the district,
22 from the amount determined in subsection (1)(b) above.

23 (2) The tuition for a full-time high school special
24 education pupil must be determined under rules adopted by
25 the superintendent of public instruction for the calculation

1 of tuition for full-time high school special education
2 pupils as designated in 20-9-311 for funding purposes.

3 (3) Before July 15, the trustees shall report to the
4 county superintendent of the county in which the district is
5 located:

6 (a) the names, addresses, and resident districts of
7 the pupils attending the schools of the district under an
8 approved tuition agreement;

9 (b) the number of days of school attended by each
10 pupil;

11 (c) the amount, if any, of each pupil's tuition
12 payment that the trustees, in their discretion, shall have
13 the authority to waive; and

14 (d) the rate of current school fiscal year tuition, as
15 determined under the provisions of this section.

16 (4) When the county superintendent receives a tuition
17 report from a district, he shall immediately send the
18 reported information to the superintendent of each district
19 in which the reported pupils reside.

20 (5) When the district superintendent receives a
21 tuition report or reports for high school pupils residing in
22 his district and attending an out-of-district high school
23 under approved tuition agreements, he shall determine the
24 total amount of tuition due ~~such~~ the out-of-district high
25 schools on the basis of the following per-pupil schedule:

1 the rate of tuition, number of pupils attending under an
2 approved tuition agreement, and other information provided
3 by each high school district where resident district pupils
4 have attended school.

5 (6) The total amount of the high school tuition, with
6 consideration of any tuition waivers, for pupils attending a
7 high school outside the county of residence shall be
8 financed by the county basic special tax for high schools as
9 provided in 20-9-334. In December, the county superintendent
10 shall cause the payment by county warrant of at least
11 one-half of the high school tuition obligations established
12 under this section out of the first moneys realized from the
13 county basic special tax for high schools. The remaining
14 obligations must be paid by June 15 of the school fiscal
15 year. The payments shall be made to the county treasurer of
16 the county where each high school entitled to tuition is
17 located. The county treasurer shall credit such tuition
18 receipts to the general fund of the applicable high school
19 district, and the tuition receipts shall be used in
20 accordance with the provisions of 20-9-141.

21 (7) For pupils attending a high school outside their
22 district of residence but within the county of residence,
23 the total amount of the tuition, with consideration of any
24 tuition waivers, must be paid during the ensuing school
25 fiscal year. The trustees of the sending high school

1 district shall include the tuition amount in the tuition
2 fund of the preliminary and final budgets. This budgeted
3 tuition amount is not subject to the budget adjustment
4 provisions of 20-9-132. The county superintendent shall
5 report the net tuition fund levy requirement for each high
6 school district to the county commissioners on the second
7 Monday of August, and a levy on the district shall be made
8 by the county commissioners in accordance with 20-9-142.
9 This levy requirement shall be calculated by subtracting
10 from the total expenditure amount authorized in the final
11 tuition fund budget the sum of the cash balance in the
12 tuition fund at the end of the immediately preceding school
13 fiscal year plus any other anticipated money that may be
14 realized in the tuition fund. The trustees shall pay by
15 warrants drawn on the tuition fund the tuition amounts owed
16 to each district included in the county superintendent's
17 notification. Payments shall be made whenever there is a
18 sufficient amount of cash available in the tuition fund but
19 no later than the end of the school fiscal year for which
20 the budget is adopted. However, if the trustees of either
21 the sending or receiving high school feel the transfer
22 privilege provided by this subsection is being abused they
23 may appeal to the county superintendent of schools who shall
24 hold a hearing and either approve or disapprove the
25 transfer."

Section 126. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the total of the funding required for the district's final general fund budget less the amount established by the schedules in 20-9-316 through 20-9-321 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303;

(ii) the district's permissive levy amount as provided in 20-9-352; and

(iii) any general fund budget amount adopted by the trustees of the district under the provisions of 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the total of the moneys available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal moneys received under the provisions of Title I of Public Law 81-874 or other

anticipated federal moneys received in lieu of such federal act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated revenue from vehicle property taxes imposed under 61-3-504(2) and 61-3-537;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated interest to be earned or reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(viii) anticipated sales tax and use tax revenue; and
~~(viii)~~ (ix) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(c) Subtract the total of the moneys available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(C) shall be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy shall be made by the county commissioners in accordance with 20-9-142."

Section 127. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law. Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend any money from such the fund. The general fund, transportation fund, bus depreciation reserve fund, elementary tuition fund, retirement--fund, debt service fund, leased facilities fund, building reserve fund, adult education fund, nonoperating fund, vocational-technical center fund, and any other funds so designated by the legislature ~~shall--be~~ are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend any money on deposit in such the fund. The school food services fund,

miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, and any other funds so designated by the legislature ~~shall-be~~ are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district except the extracurricular money realized from pupil activities. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts⁷. ~~as prescribed-by-law-and~~ He shall establish-such adopt rules as are necessary to secure compliance with the law."

Section 128. Section 20-9-212, MCA, is amended to read:

"20-9-212. Duties of county treasurer. The county treasurer of each county shall:

(1) receive and hold all school money subject to apportionment and keep a separate accounting of its apportionment to the ~~several~~ districts which are entitled to a portion of such the money according to the apportionments ordered by the county superintendent. A separate accounting ~~shall must~~ be maintained for each county fund supported by a countywide levy for a specific, authorized purpose, including:

1 (a) the basic county tax in support of the elementary
2 foundation programs;

3 (b) the basic special tax for high schools in support
4 of the high school foundation programs;

5 (c) the county tax in support of the county's high
6 school transportation obligation;

7 ~~(d) the county tax in support of the high school~~
8 ~~obligations to the retirement systems of the state of~~
9 ~~Montana;~~

10 ~~(e)~~(d) any additional county tax required by law to
11 provide for deficiency financing of the elementary
12 foundation programs;

13 ~~(f)~~(e) any additional county tax required by law to
14 provide for deficiency financing of the high school
15 foundation programs; and

16 ~~(g)~~(f) any other county tax for schools, including the
17 community colleges, which may be authorized by law and
18 levied by the county commissioners;

19 (2) whenever requested, notify the county
20 superintendent and the superintendent of public instruction
21 of the amount of county school money on deposit in each of
22 the funds enumerated any fund provided for in subsection (1)
23 of this section and the amount of any other school money
24 subject to apportionment and apportion such the county and
25 other school money to the districts in accordance with the

1 apportionment ordered by the county superintendent;

2 (3) keep a separate accounting of the expenditures for
3 each budgeted fund included in the final budget of each
4 district;

5 (4) keep a separate accounting of the receipts,
6 expenditures, and cash balances for each budgeted fund
7 included in the final budget of each district and for each
8 nonbudgeted fund established by each district;

9 (5) except as otherwise limited by law, pay all
10 warrants properly drawn on the county or district school
11 money and properly endorsed by their holders;

12 (6) receive all revenue collected by and for each
13 district and deposit these receipts in the fund designated
14 by law or by the district if no fund is designated by law.
15 Interest and penalties on delinquent school taxes shall must
16 be credited to the same fund and district for which the
17 original taxes were levied.

18 (7) send all revenues revenue received for a joint
19 district, part of which is situated in his county, to the
20 county treasurer designated as the custodian of such
21 revenues the revenue, no later than December 15 of each year
22 and every 3 months thereafter until the end of the school
23 fiscal year;

24 (8) at the direction of the trustees of a district,
25 assist the district in the issuance and sale of tax and

1 revenue anticipation notes as provided in Title 7, chapter
2 6, part 11;

3 (9) register district warrants drawn on a budgeted
4 fund in accordance with 7-6-2604 when there is insufficient
5 money available ~~in--the--sum--of--money~~ in all funds of the
6 district to make payment of ~~such~~ the warrant. Redemption of
7 registered warrants ~~shall~~ must be made in accordance with
8 7-6-2116, 7-6-2605, and 7-6-2606.

9 (10) invest the money of any district as directed by
10 the trustees of the district within 3 working days of ~~such~~
11 the direction;

12 (11) ~~give~~ give each month give to the trustees of each
13 district an itemized report for each fund maintained by the
14 district, showing the paid warrants, outstanding warrants,
15 registered warrants, amounts and types of revenue received,
16 and the cash balance; and

17 (12) remit promptly to the state treasurer receipts for
18 the county tax for a vocational-technical center when levied
19 by the board of county commissioners."

20 **Section 129.** Section 20-9-301, MCA, is amended to
21 read:

22 "20-9-301. Purpose and definition of foundation
23 program and general fund. (1) A uniform system of free
24 public schools sufficient for the education of and open to
25 all school age children of the state ~~shall~~ must be

1 established and maintained throughout the state of Montana.
2 The state shall aid in the support of its several school
3 districts on the basis of their financial need as measured
4 by the foundation program and in the manner established in
5 this title.

6 (2) The principal budgetary vehicle for achieving the
7 minimum financing as established by the foundation program
8 ~~shall-be~~ is the general fund of the district. The purpose of
9 the general fund ~~shall--be~~ is to finance those general
10 maintenance and operational costs, including employee
11 retirement benefits, of a district not financed by other
12 funds established for special purposes in this title.

13 (3) The amount of the general fund budget for each
14 school fiscal year ~~shall~~ may not exceed the financing
15 limitations established by this title but ~~shall--be--no~~ may
16 not be less than the amount established by law as the
17 foundation program. The general fund budget ~~shall~~ must be
18 financed by the foundation program revenues and may be
19 supplemented by the permissive levy and additional voted
20 levies in the manner provided by law."

21 **Section 130.** Section 20-9-331, MCA, is amended to
22 read:

23 "20-9-331. Basic county tax and other revenues for
24 county equalization of the elementary district foundation
25 program. (1) It ~~shall--be~~ is the duty of the county

1 commissioners of each county to levy an annual basic tax of
 2 28 mills on the dollars of the taxable value of all taxable
 3 property within the county, except for vehicles subject to
 4 taxation under 61-3-504(2), for the purposes of local and
 5 state foundation program support. The revenue to be
 6 collected from this levy ~~shall~~ must be apportioned to the
 7 support of the foundation programs of the elementary school
 8 districts in the county and to the state special revenue
 9 fund, state equalization aid account, in the following
 10 manner:

11 (a) In order to determine the amount of revenue raised
 12 by this levy which is retained by the county, the sum of the
 13 estimated revenues identified in subsection (2) ~~below--shall~~
 14 ~~be is~~ subtracted from the sum of the county elementary
 15 transportation obligation and the total of the foundation
 16 programs of all elementary districts of the county.

17 (b) If the basic levy prescribed by this section
 18 produces more revenue than is required to finance the
 19 difference determined ~~above~~, the county treasurer shall
 20 remit the surplus funds to the state treasurer for deposit
 21 to the state special revenue fund, state equalization aid
 22 account, immediately upon occurrence of a surplus balance
 23 and each subsequent month thereafter, with any final
 24 remittance due no later than June 20 of the fiscal year for
 25 which the levy has been set.

1 (2) The proceeds realized from the county's portion of
 2 the levy prescribed by this section and the revenues from
 3 the following sources ~~shall~~ must be used for the
 4 equalization of the elementary district foundation programs
 5 of the county as prescribed in 20-9-334, and a separate
 6 accounting ~~shall~~ must be kept of ~~such the~~ proceeds and
 7 revenues by the county treasurer in accordance with
 8 20-9-212(1):

9 (a) the portion of the federal Taylor Grazing Act
 10 funds distributed to a county and designated for the common
 11 school fund under the provisions of 17-3-222;

12 (b) the portion of the federal flood control act funds
 13 distributed to a county and designated for expenditure for
 14 the benefit of the county common schools under the
 15 provisions of 17-3-232;

16 (c) all money paid into the county treasury as a
 17 result of fines for violations of law, except money paid to
 18 a justice's court, and the use of which is not otherwise
 19 specified by law;

20 (d) any money remaining at the end of the immediately
 21 preceding school fiscal year in the county treasurer's
 22 ~~account~~ accounts for the various sources of revenue
 23 established or referred to in this section;

24 (e) any federal or state money distributed to the
 25 county as payment in lieu of the property taxation

1 established by the county levy required by this section;

2 (f) net proceeds taxes for interim production and new
3 production, as defined in 15-23-601; and

4 (g) anticipated revenue from vehicle property taxes
5 imposed under 61-3-504(2) and 61-3-537; and

6 (h) sales tax and use tax revenue."

7 **Section 131.** Section 20-9-333, MCA, is amended to
8 read:

9 "20-9-333. Basic special levy and other revenues for
10 county equalization of high school district foundation
11 program. (1) It ~~shall--be~~ is the duty of the county
12 commissioners of each county to levy an annual basic special
13 tax for high schools of 17 mills on the dollar of the
14 taxable value of all taxable property within the county,
15 except for vehicles subject to taxation under 61-3-504(2),
16 for the purposes of local and state foundation program
17 support. The revenue to be collected from this levy ~~shall~~
18 must be apportioned to the support of the foundation
19 programs of high school districts in the county and to the
20 state special revenue fund, state equalization aid account,
21 in the following manner:

22 (a) In order to determine the amount of revenue raised
23 by this levy which is retained by the county, the sum of the
24 estimated revenues identified in subsections (2)(a) and
25 (2)(b) ~~below--shall--be~~ is subtracted from the sum of the

1 county's high school tuition obligation and the total of the
2 foundation programs of all high school districts of the
3 county.

4 (b) If the basic levy prescribed by this section
5 produces more revenue than is required to finance the
6 difference determined ~~above~~, the county treasurer shall
7 remit the surplus funds to the state treasurer for deposit
8 to the state special revenue fund, state equalization aid
9 account, immediately upon occurrence of a surplus balance
10 and each subsequent month thereafter, with any final
11 remittance due no later than June 20 of the fiscal year for
12 which the levy has been set.

13 (2) The proceeds realized from the county's portion of
14 the levy prescribed in this section and the revenues from
15 the following sources ~~shall~~ must be used for the
16 equalization of the high school district foundation programs
17 of the county as prescribed in 20-9-334, and a separate
18 accounting ~~shall~~ must be kept of these proceeds and revenues
19 by the county treasurer in accordance with 20-9-212(1):

20 (a) any money remaining at the end of the immediately
21 preceding school fiscal year in the county treasurer's
22 accounts for the various sources of revenue established or
23 referred to in this section;

24 (b) any federal or state ~~moneys~~ money distributed to
25 the county as a payment in lieu of the property taxation

1 established by the county levy required by this section;

2 (c) net proceeds taxes for interim production and new
3 production, as defined in 15-23-601; and

4 (d) anticipated revenue from vehicle property taxes
5 imposed under 61-3-504(2) and 61-3-537; and

6 (e) sales tax and use tax revenue."

7 **Section 132.** Section 20-9-343, MCA, is amended to
8 read:

9 "20-9-343. Definition of and revenue for state
10 equalization aid. (1) As used in this title, the term "state
11 equalization aid" means ~~those-moneys~~ the money deposited in
12 the state special revenue fund as required in this section
13 plus any legislative appropriation of money from other
14 sources for distribution to the public schools for the
15 purpose of equalization of the foundation program.

16 (2) The legislative appropriation for state
17 equalization aid ~~shall~~ must be made in a single sum for the
18 biennium. The superintendent of public instruction ~~has~~
19 ~~authority-to may~~ may spend ~~such the~~ the appropriation, together with
20 the earmarked revenues provided in subsection (3), as
21 required for foundation program purposes throughout the
22 biennium.

23 (3) The following ~~shall~~ must be paid into the state
24 special revenue fund for state equalization aid to public
25 schools of the state:

1 (a) 31.8% of all money received from the collection of
2 income taxes under chapter 30 of Title 15;

3 (b) 25% of all money, except as provided in 15-31-702,
4 received from the collection of corporation license and
5 income taxes under chapter 31 of Title 15, as provided by
6 15-1-501;

7 (c) 100% of the money allocated to state equalization
8 from the collection of the severance tax on coal;

9 (d) 100% of the money received from the treasurer of
10 the United States as the state's shares of oil, gas, and
11 other mineral royalties under the federal Mineral Lands
12 Leasing Act, as amended;

13 (e) interest and income money described in 20-9-341
14 and 20-9-342;

15 (f) income from the education trust fund account; and

16 (g) money received from the collection of the sales
17 tax and use tax, as provided in [section 75(1)(b)(i)];

18 (h) state lottery proceeds as provided for in
19 23-5-1027; and

20 (g)(i) in addition to these revenues, the surplus
21 revenues collected by the counties for foundation program
22 support according to 20-9-331 and 20-9-333.

23 (4) Any surplus revenue in the state equalization aid
24 account in the second year of a biennium may be used to
25 reduce the appropriation required for the next succeeding

1 biennium."

2 **Section 133.** Section 20-9-352, MCA, is amended to
3 read:

4 "20-9-352. Permissive amount and permissive levy. (1)
5 Whenever the trustees of any district shall deem it
6 necessary to adopt a general fund budget in excess of the
7 foundation program amount but not in excess of the maximum
8 general fund budget amount for such district as established
9 by the schedules in 20-9-316 through 20-9-321, the trustees
10 shall adopt a resolution stating the reasons and purposes
11 for exceeding the foundation program amount. Such excess
12 above the foundation program amount shall be known as the
13 "permissive amount", and it shall be financed by a levy, as
14 prescribed in 20-9-141, on the taxable value of all taxable
15 property within the district, except for vehicles subject to
16 taxation under 61-3-504(2), supplemented with any biennial
17 appropriation by the legislature for this purpose. The
18 proceeds of such an appropriation shall be deposited to the
19 state special revenue fund, permissive account.

20 (2) The district levies to be set for the purpose of
21 funding the permissive amount are determined as follows:

22 (a) For each elementary school district, the county
23 commissioners shall annually set a levy not exceeding 6
24 mills on all the taxable property in the district, except
25 for vehicles subject to taxation under 61-3-504(2), for the

1 purpose of funding the permissive amount of the district.
2 The permissive levy in mills shall be obtained by
3 multiplying the ratio of the permissive amount to the
4 maximum permissive amount by 6 or by using the number of
5 mills which would fund the permissive amount, whichever is
6 less. If the ~~amount--of~~ revenue raised by this levy, plus
7 anticipated revenue from vehicle property taxes imposed
8 under 61-3-504(2) and 61-3-537, is and the revenue from a
9 sales tax and use tax are not sufficient to fund the
10 permissive amount in full, the amount of the deficiency
11 shall be paid to the district from the state special revenue
12 fund according to the provisions of subsections (3) and (4)
13 of this section.

14 (b) For each high school district, the county
15 commissioners shall annually set a levy not exceeding 4
16 mills on all taxable property in the district, except for
17 vehicles subject to taxation under 61-3-504(2), for the
18 purpose of funding the permissive amount of the district.
19 The permissive levy in mills shall be obtained by
20 multiplying the ratio of the permissive levy to the maximum
21 permissive amount by 4 or by using the number of mills which
22 would fund the permissive amount, whichever is less. If the
23 ~~amount--of~~ revenue raised by this levy, plus anticipated
24 revenue from vehicle property taxes imposed under
25 61-3-504(2) and 61-3-537, ~~and~~ plus net proceeds taxes for

1 interim production and new production, as defined in
 2 15-23-601, is and the revenue from a sales tax and use tax
 3 are not sufficient to fund the permissive amount in full,
 4 the amount of the deficiency shall be paid to the district
 5 from the state special revenue fund according to the
 6 provisions of subsections (3) and (4) of this section.

7 (3) The superintendent of public instruction shall, if
 8 the appropriation by the legislature for the permissive
 9 account for the biennium is insufficient, request the budget
 10 director to submit a request for a supplemental
 11 appropriation in the second year of the biennium. The
 12 supplemental appropriation shall provide enough revenue to
 13 fund the permissive deficiency of the elementary and high
 14 school districts of the state. The proceeds of this
 15 appropriation shall be deposited to the state special
 16 revenue fund, permissive account, and shall be distributed
 17 to the elementary and high school districts in accordance
 18 with their entitlements as determined by the superintendent
 19 of public instruction according to the provisions of
 20 subsections (1) and (2) of this section.

21 (4) Distribution under this section from the state
 22 special revenue fund shall be made in two payments. The
 23 first payment shall be made at the same time as the first
 24 distribution of state equalization aid is made after January
 25 1 of the fiscal year. The second payment shall be made at

1 the same time as the last payment of state equalization aid
 2 is made for the fiscal year. If the appropriation is not
 3 sufficient to finance the deficiencies of the districts as
 4 determined according to subsection (2), each district will
 5 receive the same percentage of its deficiency. Surplus
 6 revenue in the second year of the biennium may be used to
 7 reduce the appropriation required for the next succeeding
 8 biennium or may be transferred to the state equalization aid
 9 state special revenue fund if revenues in that fund are
 10 insufficient to meet foundation program requirements."

11 **Section 134.** Section 20-9-502, MCA, is amended to
 12 read:

13 "20-9-502. Purpose and authorization of a building
 14 reserve fund by an election. (1) The trustees of any
 15 district, with the approval of the qualified electors of the
 16 district, may establish a building reserve for the purpose
 17 of raising money for the future construction, equipping, or
 18 enlarging of school buildings or for the purpose of
 19 purchasing land needed for school purposes in the district.
 20 In order to submit to the qualified electors of the district
 21 a building reserve proposition for the establishment of or
 22 addition to a building reserve, the trustees shall pass a
 23 resolution that specifies:

24 (a) the purpose or purposes for which the new or
 25 addition to the building reserve will be used;

(b) the duration of time over which the new or addition to the building reserve will be raised in annual, equal installments;

(c) the total amount of money that will be raised during the duration of time specified in subsection (1)(b); and

(d) any other requirements under 20-20-201 for the calling of an election.

(2) The total amount of building reserve when added to the outstanding indebtedness of the district shall not be more than 45% 51% of the taxable value of the taxable property of the district. Such limitation shall be determined in the manner provided in 20-9-406. A building reserve tax authorization shall not be for more than 20 years.

(3) The election shall be conducted in accordance with the school election laws of this title, and the electors qualified to vote in the election shall be qualified under the provisions of 20-20-301. The ballot for a building reserve proposition shall be substantially in the following form:

OFFICIAL BALLOT

SCHOOL DISTRICT BUILDING RESERVE ELECTION

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BUILDING RESERVE--YES"

if you wish to vote for the establishment of a building reserve (addition to the building reserve); if you are opposed to the establishment of a building reserve (addition to the building reserve) make an X or similar mark in the square before the words "BUILDING RESERVE--NO".

Shall the trustees be authorized to impose an additional levy each year for years to establish a building reserve (add to the building reserve) of this school district to raise a total amount of dollars (\$....), for the purpose(s) (here state the purpose or purposes for which the building reserve will be used)?

☐ BUILDING RESERVE--YES.

☐ BUILDING RESERVE--NO.

(4) The building reserve proposition shall be approved if a majority of those electors voting at the election approve the establishment of or addition to such building reserve. The annual budgeting and taxation authority of the trustees for a building reserve shall be computed by dividing the total authorized amount by the specified number of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for the building reserve shall lapse when, at a later time, a bond issue is approved by the qualified electors of the district for the same purpose or purposes for which the building reserve fund of the district was established.

1 Whenever a subsequent bond issue is made for the same
 2 purpose or purposes of a building reserve, the money in the
 3 building reserve shall be used for such purpose or purposes
 4 before any money realized by the bond issue is used."

5 **Section 135.** Section 20-10-144, MCA, is amended to
 6 read:

7 "20-10-144. Computation of revenues and net tax levy
 8 requirements for the transportation fund budget. Before the
 9 fourth Monday of July and in accordance with 20-9-123, the
 10 county superintendent shall compute the revenue available to
 11 finance the transportation fund budget of each district. The
 12 county superintendent shall compute the revenue for each
 13 district on the following basis:

14 (1) The "schedule amount" of the preliminary budget
 15 expenditures that is derived from the rate schedules in
 16 20-10-141 and 20-10-142 shall be determined by adding the
 17 following amounts:

18 (a) the sum of the maximum reimbursable expenditures
 19 for all approved school bus routes maintained by the
 20 district (to determine the maximum reimbursable expenditure,
 21 multiply the applicable rate per bus mile by the total
 22 number of miles to be traveled during the ensuing school
 23 fiscal year on each bus route approved by the county
 24 transportation committee and maintained by such district);
 25 plus

1 (b) the total of all individual transportation per
 2 diem reimbursement rates for such district as determined
 3 from the contracts submitted by the district multiplied by
 4 the number of pupil-instruction days scheduled for the
 5 ensuing school attendance year; plus

6 (c) any estimated costs for supervised home study or
 7 supervised correspondence study for the ensuing school
 8 fiscal year; plus

9 (d) the amount budgeted on the preliminary budget for
 10 the contingency amount permitted in 20-10-143, except if
 11 such amount exceeds 10% of the total of subsections (1)(a),
 12 (1)(b), and (1)(c) or \$100, whichever is larger, the
 13 contingency amount on the preliminary budget shall be
 14 reduced to such limitation amount and used in this
 15 determination of the schedule amount.

16 (2) The schedule amount determined in subsection (1)
 17 or the total preliminary transportation fund budget,
 18 whichever is smaller, shall be divided by 3 and the
 19 resulting one-third amount shall be used to determine the
 20 available state and county revenue to be budgeted on the
 21 following basis:

22 (a) the resulting one-third amount shall be the
 23 budgeted state transportation reimbursement, except that the
 24 state transportation reimbursement for the transportation of
 25 special education pupils under the provisions of 20-7-442

1 shall be two-thirds of the schedule amount attributed to the
2 transportation of special education pupils;

3 (b) the resulting one-third amount, except as provided
4 for joint elementary districts in subsection (2)(e), shall
5 be the budgeted county transportation reimbursement for
6 elementary districts and shall be financed by the basic
7 county tax under the provisions of 20-9-334;

8 (c) the resulting one-third amount multiplied by 2
9 shall be the budgeted county transportation reimbursement
10 amount for high school districts financed under the
11 provisions of subsection (5) of this section, except as
12 provided for joint high school districts in subsection
13 (2)(e), and except that the county transportation
14 reimbursement for the transportation of special education
15 pupils under the provisions of 20-7-442 shall be one-third
16 of the schedule amount attributed to the transportation of
17 special education pupils;

18 (d) when the district has a sufficient amount of cash
19 for reappropriation and other sources of district revenue,
20 as determined in subsection (3), to reduce the total
21 district obligation for financing to zero, any remaining
22 amount of such district revenue and cash reappropriated
23 shall be used to reduce the county financing obligation in
24 subsections (2)(b) or (2)(c) and, if such county financing
25 obligations are reduced to zero, to reduce the state

1 financial obligation in subsection (2)(a); and

2 (e) the county revenue requirement for a joint
3 district, after the application of any district moneys under
4 subsection (2)(d) above, shall be prorated to each county
5 incorporated by the joint district in the same proportion as
6 the ANB of the joint district is distributed by pupil
7 residence in each such county.

8 (3) The total of the moneys available for the
9 reduction of property tax on the district for the
10 transportation fund shall be determined by totaling:

11 (a) anticipated federal moneys received under the
12 provisions of Title I of Public Law 81-874 or other
13 anticipated federal moneys received in lieu of such federal
14 act; plus

15 (b) anticipated payments from other districts for
16 providing school bus transportation services for such
17 district; plus

18 (c) anticipated payments from a parent or guardian for
19 providing school bus transportation services for his child;
20 plus

21 (d) anticipated interest to be earned by the
22 investment of transportation fund cash in accordance with
23 the provisions of 20-9-213(4); plus

24 (e) anticipated revenue from vehicle property taxes
25 imposed under 61-3-504(2) and 61-3-537; plus

(f) net proceeds taxes for interim production and new production, as defined in 15-23-601; plus

(g) sales tax and use tax revenue; plus

~~fg~~(h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year which may be used to finance the transportation fund; plus

~~th~~(i) any cash available for reappropriation as determined by subtracting the amount of the end-of-the-year cash balance earmarked as the transportation fund cash reserve for the ensuing school fiscal year by the trustees from the end-of-the-year cash balance in the transportation fund. Such cash reserve shall not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and shall be for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(4) The district levy requirement for each district's transportation fund shall be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount and, for an elementary district, adding such difference to the district obligation to finance one-third of the schedule amount as determined in subsection (2); and

(b) subtracting the amount of moneys available to reduce the property tax on the district, as determined in

subsection (3), from the amount determined in subsection (4)(a) above.

(5) The county levy requirement for the financing of the county transportation reimbursement to high school districts shall be computed by adding all such requirements for all the high school districts of the county, including the county's obligation for reimbursements in joint high school districts.

(6) The transportation fund levy requirements determined in subsection (4) for each district and in subsection (5) for the county shall be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district and for the county, and such levies shall be made by the county commissioners in accordance with 20-9-142."

Section 136. Section 20-15-311, MCA, is amended to read:

"20-15-311. Funding sources. The annual operating budget of a community college district shall be financed from the following sources:

(1) the estimated revenues to be realized from student tuition and fees, except those related to community service courses as defined by the board of regents;

(2) a mandatory mill levy on the community college

1 district;

2 (3) the 1-mill adult education levy authorized under
3 provisions of 20-15-305;

4 (4) the state general fund appropriation;

5 (5) an optional voted levy on the community college
6 district that shall be submitted to the electorate in
7 accordance with general school election laws;

8 (6) all other income, revenue, balances, or reserves
9 not restricted by a source outside the community college
10 district to a specific purpose;

11 (7) income, revenue, balances, or reserves restricted
12 by a source outside the community college district to a
13 specific purpose. Student fees paid for community service
14 courses as defined by the board of regents shall be
15 considered restricted to a specific purpose;

16 (8) income from a political subdivision that is
17 designated a community college service region under
18 20-15-241; and

19 (9) sales tax and use tax revenue."

20 **Section 137.** Section 20-16-202, MCA, is amended to
21 read:

22 "20-16-202. Sources of financing for
23 vocational-technical center budgets -- distribution of
24 funds. (1) The total of the budgets approved by the board of
25 regents shall constitute the total maximum approved

1 statewide vocational-technical center system budget which
2 shall be financed as follows:

3 (a) The primary source of financing is to be those
4 funds specifically designated by legislative enactment or
5 referendum by the people for financing vocational-technical
6 education in Montana, including sales tax and use tax
7 revenue.

8 (b) The board of county commissioners of each county
9 in which a designated vocational-technical center is located
10 shall levy a tax in each calendar year of 1 1/2 mills on the
11 dollar of all taxable property, real and personal, within
12 the county to raise the amount appropriated by the
13 legislature for the support and maintenance of the
14 vocational-technical center system. The tax is to be
15 effective for property tax years beginning on or after
16 January 1, 1987. It is the intent of this subsection (1)(b)
17 that the county commissioners shall levy this tax for fiscal
18 year 1988 operation of the vocational-technical system and
19 thereafter.

20 (c) Designated vocational-technical centers shall be
21 eligible to receive such funds from the federal government
22 as the board of regents may provide pursuant to applicable
23 acts of congress.

24 (2) The board of regents shall direct the distribution
25 of the funds specified in subsection (1) on the basis of the

1 budgets approved by the board of regents. The funds earned
2 by the mill levy specified in subsection (1)(b) shall be
3 credited to the vocational-technical center account in the
4 unrestricted subfund of the current fund in the state
5 treasury."

6 **Section 138.** Section 23-5-1027, MCA, is amended to
7 read:

8 "23-5-1027. Disposition of revenue. (1) (a) As near as
9 possible to 45% of the money paid for tickets or chances
10 must be paid out as prize money, except as provided in
11 subsection (1)(b).

12 (b) In the case of a regional lottery game, a maximum
13 of 50% of the money paid for tickets or chances may be paid
14 out as prize money.

15 (2) Up to 15% of the gross revenue from the state
16 lottery may be used by the director to pay the operating
17 expenses of the state lottery. Commissions paid to lottery
18 ticket or chance sales agents are not a state lottery
19 operating expense.

20 (3) Funds to pay the operating expenses of the lottery
21 are statutorily appropriated as provided in 17-7-502.

22 (4) That part of all gross revenue not used for the
23 payment of prizes, commissions, and operating expenses is
24 net revenue and must be paid quarterly from the enterprise
25 fund established by 23-5-1026 to the superintendent--of

1 ~~public--instruction--for-distribution-as-equalization-aid-to~~
2 ~~the-retirement-fund-obligations--of~~ state special revenue
3 fund for state equalization aid provided for in 20-9-343 for
4 equalization of the foundation program for elementary and
5 high school districts ~~in-the-manner-provided--in--20-9-532."~~

6 **Section 139.** Section 33-7-407, MCA, is amended to
7 read:

8 "33-7-407. Taxes. Every society organized or licensed
9 under this chapter is hereby declared to be a charitable and
10 benevolent institution, and all of its funds shall be exempt
11 from all and every state, county, district, municipal, and
12 school tax other than taxes on ~~real--estate--and--office~~
13 equipment gross receipts taxable under the sales tax and use
14 tax and taxes on property subject to taxation under Title
15 15."

16 **Section 140.** Section 61-3-501, MCA, is amended to
17 read:

18 "61-3-501. When vehicle taxes and fees are due. (1)
19 Property All taxes, new-car-taxes, and-fees except INCLUDING
20 sales taxes and use taxes paid at the time of purchase, AND
21 FEES must be paid on the date of registration or
22 reregistration of the vehicle.

23 (2) If the anniversary date for reregistration of a
24 vehicle passes while the vehicle is owned and held for sale
25 by a licensed new or used car dealer, property taxes abate

1 on such vehicle properly reported with the department of
2 revenue until the vehicle is sold and thereafter the
3 purchaser shall pay the pro rata balance of the taxes due
4 and owing on the vehicle.

5 (3) In the event a vehicle's registration period is
6 changed under 61-3-315, all taxes and other fees due thereon
7 shall be prorated and paid from the last day of the old
8 period until the first day of the new period in which the
9 vehicle shall be registered. Thereafter taxes and other fees
10 must be paid from the first day of the new period for a
11 minimum period of 1 year. When the change is to a later
12 registration period, taxes and fees shall be prorated and
13 paid based on the same tax year as the original registration
14 period. Thereafter, during the appropriate anniversary
15 registration period, each vehicle shall again register or
16 reregister and shall pay all taxes and fees due thereon for
17 a 12-month period."

18 **SECTION 141. SECTION 61-3-502, MCA, IS AMENDED TO**

19 **READ:**

20 "61-3-502. Sales tax on new motor vehicles --
21 exemptions. (1) In consideration of the right to use the
22 highways of the state, there is imposed a tax upon all sales
23 of new motor vehicles, excluding trailers, semitrailers, and
24 housetrailer, for which a license is sought and an original
25 application for title is made. The tax shall be paid by the

1 purchaser when he applies for his original Montana license
2 through the county treasurer.

3 (2) ~~Except as provided in subsection (4), the~~ The
4 sales tax shall be:

5 ~~(a) 1 1/2% is~~ 4% of the f.o.b. factory list price or
6 f.o.b. port-of-entry list price, during the first quarter of
7 the year or for a registration period other than a calendar
8 year or calendar quarter;

9 ~~(b) 1 1/8% of the list price during the second quarter~~
10 ~~of the year;~~

11 ~~(c) 3/4 of 1% during the third quarter of the year;~~

12 ~~(d) 3/8 of 1% during the fourth quarter of the year;~~

13 ~~(3) If the manufacturer or importer fails to furnish~~
14 ~~the f.o.b. factory list price or f.o.b. port-of-entry list~~
15 ~~price, the department may use published price lists.~~

16 ~~(4) The new car sales tax on vehicles subject to the~~
17 ~~provisions of 61-3-313 through 61-3-316 is 1 1/2% of the~~
18 ~~f.o.b. factory list price or f.o.b. port-of-entry list price~~
19 ~~regardless of the month in which the new vehicle is~~
20 ~~purchased.~~

21 ~~(5)(3)~~ (3) The proceeds from this tax shall be remitted to
22 the state treasurer every 30 days for credit as follows:

23 (a) 32.5% to the state highway account of the state
24 special revenue fund; and

25 (b) 67.5% to the sales tax and use tax account

1 described in [section 75].

2 {6}(4) The new vehicle is not subject to any other
3 assessment, fee in lieu of tax, or tax during the calendar
4 year in which the original application for title is made.

5 {7}(5) (a) The applicant for original registration of
6 any new and unused motor vehicle, or a new motor vehicle
7 furnished without charge by a dealer to a school district
8 for use as a traffic education motor vehicle by a school
9 district operating a state-approved traffic education
10 program within the state, whether or not previously licensed
11 or titled to the school district (except a mobile home as
12 defined in 15-1-101(1)), acquired by original contract after
13 January 1 of any year, is required, whenever the vehicle has
14 not been otherwise assessed, to pay the motor vehicle sales
15 tax provided by this section irrespective of whether the
16 vehicle was in the state of Montana on January 1 of the
17 year.

18 (b) No motor vehicle may be registered or licensed
19 under the provisions of this subsection unless the
20 application for registration is accompanied by a statement
21 of origin to be furnished by the dealer selling the vehicle,
22 showing that the vehicle has not previously been registered
23 or owned, except as otherwise provided herein, by any
24 person, firm, corporation, or association that is not a new
25 motor vehicle dealer holding a franchise or distribution

1 agreement from a new car manufacturer, distributor, or
2 importer.

3 {8}(6) (a) Motor vehicles operating exclusively for
4 transportation of persons for hire within the limits of
5 incorporated cities or towns and within 15 miles from such
6 limits are exempt from subsection (1).

7 (b) Motor vehicles brought or driven into Montana by a
8 nonresident, migratory, bona fide agricultural worker
9 temporarily employed in agricultural work in this state
10 where those motor vehicles are used exclusively for
11 transportation of agricultural workers are also exempt from
12 subsection (1).

13 (c) Vehicles lawfully displaying a licensed dealer's
14 plate as provided in 61-4-103 are exempt from subsection (1)
15 when moving to or from a dealer's place of business when
16 unloaded or loaded with dealer's property only, and in the
17 case of vehicles having a gross loaded weight of less than
18 24,000 pounds, while being demonstrated in the course of the
19 dealer's business."

20 NEW SECTION. Section 142. Taxable percentage rates --
21 restrictions on increasing. The taxable percentage rates
22 provided in this part, except the percentage rate "R" in
23 15-6-145 or 15-6-147, may be increased only if the increase
24 is:

25 (1) adopted by vote of two-thirds of the members of

each house of the legislature; or

(2) approved by the electorate.

NEW SECTION. Section 143. Sales tax rates AND CREDITS

-- ~~restriction--on-increasing~~ **RESTRICTIONS.** (1) A sales tax rate or use tax rate imposed in [section 2] may be increased only if the increase is approved by the electorate.

(2) THE INCOME TAX CREDIT FOR SALES TAX PAID PROVIDED IN [SECTION 71] MAY BE DECREASED ONLY IF THE DECREASE IS APPROVED BY THE ELECTORATE.

NEW SECTION. Section 144. Definitions. As used in [sections 139 through 146], the following definitions apply:

(1) "County" means any county government, excluding those classified as consolidated governments.

(2) "Incorporated population" means the number of persons residing within the boundaries of a municipality.

(3) "Mill value" means the amount of revenue that can be raised within a county or municipality by levying 1 mill. It is determined by multiplying a county's or municipality's taxable valuation by 0.001.

(4) "Municipality" means an incorporated city, town, or city-county consolidated government.

(5) "Unincorporated population" means the number of persons not residing within a municipality.

NEW SECTION. Section 145. Local government block grant account. (1) There is a local government block grant

account within the state special revenue fund.

(2) Funds in this account must be used to provide payments from the local government block grant program to counties and municipalities.

(3) The 11% of the sales tax and use tax revenue that is distributed under [section 75(1)(b)(iii)] must be deposited in the account.

NEW SECTION. Section 146. Local government block grant program. (1) The department of commerce shall administer the local government block grant program and distribute funds from the local government block grant account.

(2) The local government block grant program is comprised of:

(a) a block grant for counties; and

(b) a block grant for municipalities.

NEW SECTION. Section 147. Division of block grant funds. The division of funds within the local government block grant account is as follows:

(1) The block grant for counties must be funded from the percentage of funds deposited in the account that equals the ratio of the unincorporated population to the state population.

(2) The block grant for municipalities must be funded from the percentage of funds deposited in the account that

1 equals the ratio of the incorporated population to the state
2 population.

3 **NEW SECTION. Section 148.** Distribution of block grant
4 funds to counties. Funds in the block grant account for
5 counties must be distributed as follows:

6 (1) One-half of each county's share is determined by
7 the ratio of the county's population to the total county
8 population in the state.

9 (2) One-half is distributed according to the following
10 formula in which CMV = average mill value per capita of all
11 counties, IMV = individual county mill value per capita, ICP
12 = individual county population, and CG = 1/2 total county
13 grant:

14 $\frac{CMV \times ICP}{\text{sum of all county TBFs}} = \text{county tax base factor (TBF)}$

15 IMV

16 $CG \times \frac{\text{individual county TBF}}{\text{sum of all county TBFs}} = 1/2 \text{ individual county}$

17 share

18 **NEW SECTION. Section 149.** Distribution of block grant
19 funds to municipalities. (1) The block grant for
20 municipalities is divided into the city/town category and
21 the consolidated category.

22 (2) The consolidated category must receive a
23 percentage of the total municipal grant as determined by the
24 following formula in which PCG = population of consolidated
25 governments, UP = unincorporated population, TSP = total

1 stated population, and TSMP = total state municipal
2 population:

3 $\frac{PCG + (PCG \times UP/TSP)}{TSMP} = \text{consolidated category percentage}$

4 TSMP

5 (3) The city/town and consolidated categories must be
6 distributed as follows:

7 (a) One-half of each municipality's share is
8 determined by the ratio of the municipality's population to
9 the total municipal population of that category.

10 (b) One-half is distributed according to the following
11 formula in which MVPC = average mill value per capita for
12 all municipalities within each category, IVC = individual
13 municipality mill value per capita, IMP = individual
14 municipality population, and CG = 1/2 total grant for each
15 category:

16 $\frac{MVPC \times IMP}{\text{sum of all municipality TBFs}} = \text{municipal tax base factor (TBF)}$

17 IVC

18 $CG \times \frac{\text{individual municipality TBF}}{\text{sum of all municipality TBFs}} = 1/2 \text{ individual}$

19 municipality share

20 share

21 **NEW SECTION. Section 150.** Population and taxable
22 valuation figures to be used. (1) Population figures used in
23 [sections 139 through 144] must be the most recent figures
24 as determined by the department of commerce.

25 (2) Mill values used in [sections 139 through 144]

1 must be the most recent taxable valuation figures as
2 determined by the department of revenue for the fiscal year
3 in which payments will be made.

4 NEW SECTION. Section 151. Disposition and use of
5 funds. (1) Disbursements from the local government block
6 grant account must be made on June 30, 1991, and on June 30
7 of each succeeding year.

8 (2) One-half of each disbursement must be used to
9 reduce the local government's general fund mill levy, and
10 one-half of the disbursement may be used for any purpose
11 authorized by law.

12 NEW SECTION. Section 152. Submission to electorate.
13 The question of whether sections 1 through 146 and 149 of
14 this act will become effective shall be submitted to the
15 qualified electors of Montana at the election called
16 pursuant to section 146 by printing on the ballot the full
17 title of this act and the following:

18 ☐ FOR imposing a 4% sales tax and use tax, to be used
19 approximately as follows:

- 20 • 35% for state funding of public education, to reduce
- 21 local property taxes;
- 22 • 10% for higher education;
- 23 • 21% to reduce residential, personal, and commercial
- 24 property taxes;
- 25 • 3.5% to reduce municipal and county property taxes;

- 1 • 3.5% new revenue for municipal and county
- 2 governments;
- 3 • 12.5% for refunds to low-income families; and
- 4 • the remainder to be deposited in the state general
- 5 fund.

6 ☐ AGAINST imposing a 4% sales tax and use tax, to be
7 used approximately as follows:

- 8 • 35% for state funding of public education, to reduce
- 9 local property taxes;
- 10 • 10% for higher education;
- 11 • 21% to reduce residential, personal, and commercial
- 12 property taxes;
- 13 • 3.5% to reduce municipal and county property taxes;
- 14 • 3.5% new revenue for municipal and county
- 15 governments;
- 16 • 12.5% for refunds to low-income families; and
- 17 • the remainder to be deposited in the state general
- 18 fund.

19 NEW SECTION. Section 153. Special election. Pursuant
20 to Article III, sections 5 and 6, of The Constitution of the
21 State of Montana, [sections 1 through 146 and 149] shall be
22 submitted to the qualified electors of Montana for their
23 approval or disapproval at a statewide election to be held
24 November 7, 1989.

25 NEW SECTION. Section 154. Repealer. Sections 15-6-136

1 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146,
2 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531,
3 and 20-9-532, MCA, are repealed.

4 NEW SECTION. Section 155. Codification instruction.
5 (1) [Sections 1 through 68, 74, 75, and 138] are intended
6 to be codified as an integral part of Title 15, and the
7 provisions of Title 15 apply to [sections 1 through 68, 74,
8 75, and 138].

9 (2) [Sections 69 through 73] are intended to be
10 codified as an integral part of Title 15, chapter 30, and
11 the provisions of Title 15, chapter 30, apply to [sections
12 69 through 73].

13 (3) [Sections 76 and 137] are intended to be codified
14 as an integral part of Title 15, chapter 6, part 1, and the
15 provisions of Title 15, chapter 6, apply to [sections 76 and
16 137].

17 (4) [Section 107] is intended to be codified as an
18 integral part of Title 20, chapter 25, and the provisions of
19 Title 20, chapter 25, apply to [section 107].

20 ~~{5}--{Sections--139--through--146}--are--intended-to-be~~
21 ~~codified-as-an-integral-part-of-Title-7--chapter-6--and--the~~
22 ~~provisions--of--Title--7--chapter-6--apply-to--{sections-139~~
23 ~~through-146}--~~

24 NEW SECTION. Section 156. Coordination instruction.
25 ~~If--{this--act}--passes--and--Senate-Bill-No-463-fails--the~~

1 ~~sales-tax-rate-imposed-in-{section-2-of-this-act}-is-3%, and~~
2 ~~wherever-the-sales-tax-of-4%-appears-in-{this-act}, it must~~
3 ~~be--changed--to--3%.~~ (1) IF [THIS ACT] IS APPROVED AT THE
4 ELECTION HELD PURSUANT TO [SECTION 152] AND SENATE BILL NO.
5 287 IS PASSED AND APPROVED, SENATE BILL NO. 287 IS VOID.

6 (2) IF EITHER SENATE BILL NO. 463 OR HOUSE BILL NO.
7 664 IS NOT PASSED AND APPROVED, NO REFERENDUM MAY BE HELD ON
8 [THIS ACT] AND [THIS ACT] IS VOID.

9 NEW SECTION. Section 157. Extension of authority. Any
10 existing authority to make rules on the subject of the
11 provisions of [this act] is extended to the provisions of
12 [this act].

13 NEW SECTION. Section 158. Severability. If a part of
14 [this act] is invalid, all valid parts that are severable
15 from the invalid part remain in effect. If a part of [this
16 act] is invalid in one or more of its applications, the part
17 remains in effect in all valid applications that are
18 severable from the invalid applications.

19 NEW SECTION. Section 159. Saving clause. [This act]
20 does not affect rights and duties that matured, penalties
21 that were incurred, or proceedings that were begun before
22 [the effective date of this act].

23 NEW SECTION. Section 160. Effective dates. (1) Except
24 as provided in subsections (2) and (3), [this act] is
25 effective on approval by the electorate.

1 (2) [Sections 147, 148, and this section] are
2 effective on passage by the legislature.

3 (3) [Section 149] is effective December 31, 1990.

4 **NEW SECTION. Section 161. Applicability.** (1)

5 [Sections 1 through 75 and 139 through 146] are applicable
6 on and after July 1, 1990.

7 (2) [Sections 76 through 136] apply to taxable years,
8 fiscal years, and school fiscal years beginning after
9 December 31, 1989. However, all taxes, levies, fees,
10 assessments, and the like levied in 1989 for fiscal year
11 1990 must be paid and are collectible as provided by law.

12 **NEW SECTION. SECTION 162. SPECIAL INSTRUCTION TO CODE**
13 **COMMISSIONER. THE CODE COMMISSIONER IS INSTRUCTED TO MAKE**
14 **THE NECESSARY CHANGES TO THE INTERNAL REFERENCES CAUSED BY**
15 **THE ADDITION OF ANY SECTION TO [THIS ACT] OR THE DELETION OF**
16 **ANY SECTION FROM [THIS ACT].**

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB469, on third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

The Education and Tax Reform Act; providing for a 4 percent sales tax and use tax; providing for certain deductions and exemptions from the tax; generally revising the classification of property for property tax purposes; providing property tax relief; exempting the first \$15,000 or less of market value of single-family residences of Montana residents from property taxation; revising local government bonding and debt limits; providing credits against or refund of individual income tax liability; providing for the distribution of the revenue from the sales tax and use tax; repealing county mill levies for teacher retirement; linking the imposition of a statewide sales tax to state income tax reform; providing that certain sections of this act be submitted to the qualified electors of the state of Montana; and providing effective dates and applicability dates.

ASSUMPTIONS:SALES TAX

1. The sales tax, as provided for in this bill, is projected to produce annualized revenue of \$291,596,000 in calendar year 1990, \$306,836,000 in calendar year 1991, and \$322,873,000 in calendar year 1992.
2. The use tax will produce revenue equal to 5 percent of the sales tax.
3. Revenue for the sales and use tax is distributed evenly in each month of the year. Total sales and use tax collections are projected to be \$287,328,000 in FY91, and \$329,193,000 in FY92. No sales tax is collected in FY90.
4. The total sales tax on new automobiles and trucks is 4.0 percent.
5. The sales tax revenue projections assume that the sales tax will be fully operational by July 1, 1990; that vendors will be in full compliance with the sales tax; and that imposition of a sales tax has no adverse impact on consumption.
6. Implementing the sales tax will increase administrative expenses \$21,344 in FY89; \$1,584,879 in FY90; and \$3,638,221 in FY91.
7. After funding property tax replacement and sales tax credits, sales tax revenue is distributed 59% to state equalization, 15% to units of higher education, 6% to the local government block grant, and 20% to the state general fund. Total sales tax revenue to be distributed by this formula is: FY91-\$185,726,261, FY92-\$216,141,786.

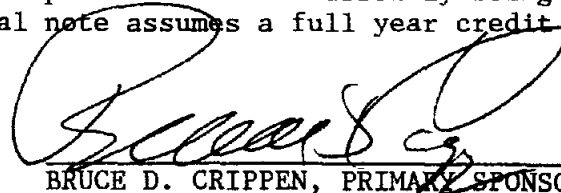
INDIVIDUAL INCOME TAX

8. Individual income tax collections are projected to be \$256,617,000 in FY90, \$274,732,000 in FY91, and \$288,164,000 in FY92 (HJR13 and extrapolation of HJR13).
9. Refundable sales tax credits will be \$29,257,000 in FY91 and FY92 (no credits will be claimed in FY90). This assumes 325,081 exemptions (which includes 206,687 exemptions that are currently being claimed on income tax returns) will claim the \$90 credit. This fiscal note assumes a full year credit in FY91.



DATE

DAVE LEWIS, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING



DATE

BRUCE D. CRIPPEN, PRIMARY SPONSOR

Fiscal Note for SB469, on third reading

Fiscal Note Request SB469, on third reading

Form BD-15

Page 2

PROPERTY TAX

10. The sales tax credits will be paid of out sales tax receipts and will be allocated in the same manner as individual income tax receipts.
11. The total taxable valuation of the state is \$1,903,008,000 in FY90, \$1,882,194,000 in FY91, and \$1,850,960,000 in FY92 (HJR13 and extrapolation of HJR13).
12. Based on 1988 taxable values, it is estimated that the proposal will reduce the taxable valuation of personal property by \$155,878,998 in tax year 1990 and subsequent tax years.
13. It is assumed that 30% of the reduction in personal property taxable value pertains to unsecured personal property. Taxes on this property are assessed and collected in April or May of the tax year. Given the applicability date of January 1, 1990 for the new property tax classification and rates, there is a revenue reduction in FY90. Total revenue is reduced \$2,269,026 to state equalization, \$302,704 to the university system, and \$9,936,685 to local governments. This bill provides for reimbursement of these revenue losses by May 31, 1990. Because this is before the sales tax is implemented, it is assumed that these payments will be made through a loan mechanism.
14. The exclusion of \$15,000 from the taxable valuation of single-family residences applies to the principal dwelling only.
15. Based on 1988 taxable values, it is estimated that the proposal will reduce the taxable valuation of real property by \$103,892,272 in tax year 1990, and by \$148,096,023 in tax year 1991 and subsequent tax years. The large difference between these years stems from the assumption that under current law timberland (which is currently taxed in Class 13 at a rate of 3.84 percent) would not be transferred to Class 3 (which is taxed at 30%) until January 1, 1991. However, under this proposal timberland is transferred to Class 3 on January 1, 1990.
16. Total property taxes to local governments are reduced \$56,295,663 in FY91, and \$65,191,184 in FY92 and each subsequent year.
17. The additional foundation program revenue will be used to reduce retirement levies (an average of 22 mills in FY91 and FY92), but not to reduce other district levies.
18. Mill levies are 6 mills for universities and 45 mills for the school foundation program.
19. The provisions in this bill pertaining to property tax reclassification and rate reduction apply to tax years beginning after December 31, 1989.

OTHER ASSUMPTIONS

20. Forest reserve funds are projected to be \$2,779,744 in FY90 - FY92.
21. Revenue from the lottery is projected to be \$13,500,000 in FY90 - FY92 (Department of Commerce).
22. Revenue from school districts levies for teacher retirement is projected to be \$51,779,433 in FY90; \$54,779,433 in FY91; and \$57,779,433 in FY92.
23. Implementation of all the proposals in this act is contingent upon (1) passage and approval of both SB463 and HB664, and (2) approval of the electorate in a general election to be held November 7, 1989.

SPECIAL ELECTION

24. The special election on November 7, 1989 will necessitate the preparation and distribution of a voter information pamphlet. The cost to the Secretary of State in FY90 will be \$154,000 for producing the pamphlet. Mailing the pamphlet will cost local governments \$253,000 in FY90.

FISCAL IMPACT: (See the section on long-range effects for the impact of this proposal in FY92.)

	FY90			FY91		
Revenue Impact:	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Sales & Use Tax	\$ 0	\$ 0	\$ 0	\$ 0	\$287,328,000	\$287,328,000
Individual Income	256,617,000	256,617,000	0	274,732,000	245,475,000	(29,257,000)
Property Tax(State)	97,053,000	94,481,270	(2,571,730)	95,992,000	79,942,924	(16,049,076)
Forest Funds	2,779,744	2,779,744	0	2,779,744	2,779,744	0
Retirement Levy	51,779,433	51,779,433	0	54,779,433	0	(54,779,433)
Lottery	13,500,000	13,500,000	0	13,500,000	13,500,000	0
Prop. Replace Loan	0	12,508,415	12,508,415	0	0	0
Total	\$421,729,177	\$431,665,862	\$ 9,936,685	\$441,783,177	\$629,025,668	\$187,242,491
<u>Fund Information:</u>						
<u>Property Tax Replacement</u>						
University Levy	\$ 11,418,000	\$ 11,418,000	\$ 0	\$ 11,293,000	\$ 11,293,000	0
School Equalization	85,635,000	85,635,000	0	84,699,000	84,699,000	0
Local Government	0	9,936,685	9,936,685	0	56,295,663	56,295,663
School Equalization	82,209,058	83,559,058	1,350,000	87,970,058	203,225,865	115,255,807
Sales Tax-Higher Ed.	0	0	0	0	27,858,939	27,858,939
Loc.Govt.Blk.Grant	0	0	0	0	11,143,576	11,143,576
General Fund	149,351,000	149,351,000	0	159,894,000	197,038,826	37,144,826
Sinking Fund	25,662,000	25,662,000	0	27,473,000	27,473,700	700
Teacher's Retirement	57,470,380	56,120,380	(1,350,000)	60,470,380	0	(60,470,380)
County Road Fund	1,853,163	1,853,163	0	1,853,163	1,853,163	0
High School Trans.	30,576	30,576	0	30,576	43,936	13,360
Lottery Prizes	6,075,000	6,075,000	0	6,075,000	6,075,000	0
Lottery Admin.	2,025,000	2,025,000	0	2,025,000	2,025,000	0
Total	\$421,729,177	\$431,665,862	\$ 9,936,685	\$441,783,177	\$629,025,668	\$187,242,491
<u>Expenditure Impact:</u>						
<u>Department of Revenue (General Fund)</u>						
Personal Services	\$ 0	\$ 350,776	\$ 350,776	\$ 0	\$ 2,707,205	\$ 2,707,205
Operating Expense	0	510,815	510,815	0	931,016	931,016
Equipment	0	723,288	723,288	0	0	0
Total	\$ 0	\$ 1,584,879	\$1,584,879	\$ 0	\$ 3,638,221	\$ 3,638,221

Fiscal Note Request, SB469 on third reading

Form BD-15

Page 4

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURE:

The reclassification of property, and the reduction in taxable value rates produces a reduction in property tax revenues of \$9,936,685 in FY90, and \$56,295,663 in FY91. These revenue losses would be replaced in their entirety with loan proceeds in FY90, and sales tax revenue in FY91. The reduction in property tax mill levies results in local government taxing jurisdiction levies becoming a larger proportion of total levies. These local tax jurisdictions would receive additional revenue from fees in lieu of tax that are distributed in the same manner as property taxes.

The special election on November 7, 1989 will cost local governments \$253,000 in FY90 to mail the voter information pamphlet.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The following tables show the revenue and fund impacts in FY92.

Revenue Impact:

	FY92		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Sales & Use Tax	\$ 0	\$329,193,000	\$329,193,000
Individual Income	288,164,000	258,907,000	(29,257,000)
Property Tax	94,399,000	75,795,970	(18,603,030)
Forest Funds	2,779,744	2,779,744	0
Retirement Levy	57,779,433	0	(57,779,433)
Lottery	13,500,000	13,500,000	0
Total	\$456,622,177	\$680,175,714	\$223,553,537

Fund Information:

Property Tax Replacement

University Levy	\$ 11,106,000	\$ 11,106,000	\$ 0
School Equalization	83,293,000	83,293,000	0
Local Government	0	65,191,184	65,191,184
School Equalization	92,241,258	225,442,025	133,200,767
Sales Tax-Higher Ed.	0	32,421,268	32,421,268
Loc.Govt.Blk.Grant	0	12,968,507	12,968,507
General Fund	167,711,400	210,939,931	43,228,531
Sinking Fund	28,816,400	28,816,700	300
Teacher's Retirement	63,470,380	0	(63,470,380)
County Road Fund	1,853,163	1,853,163	0
High School Trans.	30,576	43,936	13,360
Lottery Prizes	6,075,000	6,075,000	0
Lottery Admin.	2,025,000	2,025,000	0
Total	\$456,622,177	\$680,175,714	\$223,553,537

Long-Range Impact on Local Government Revenue:

The reclassification of property, and the reduction in taxable value rates produces a reduction in property tax revenues of \$65,191,184 in FY92. These revenue losses would be replaced in their entirety with proceeds from the sales tax. Local taxing jurisdictions would also receive additional revenue from fees that are paid in lieu of tax.

TECHNICAL NOTES:

As drafted, the proposal repeals the tax class for timberland (current law Class 13) beginning in tax year 1990. As a result, the tax rate for timberland is increased from 3.84 percent to 30 percent, without any offsetting changes in valuation. This increases property taxes by approximately \$12.4 million annually. (Under current law Class 13 is due to be sunsetted beginning January 1, 1991. It is assumed that the legislature would take appropriate action to avoid a precipitous rise in the tax on timberland at that time.)

Also, the proposal provides for approximately, \$112 million in increased revenue for local schools in fiscal 1991. If it is assumed that the entire amount of this revenue would be used to reduce local district levies, then the cost of the property tax reclassification and rate reductions contained in this bill falls from \$90,482,000 (assuming timberland is not subject to a 30% taxable value rate beginning in 1990) to \$68,330,000. Under this assumption, the total property tax relief contained in the bill is estimated to be \$180,330,000.

Appendix

Combined Fiscal Impact of SB463, SB469, and HB664
(Change in Revenue)

	<u>FY90</u>	<u>FY91</u>	<u>FY92</u>
Individual Income Tax	\$ 3,336,000	(\$58,161,000)	(\$57,987,000)
Sales & Use Tax	0	287,328,000	329,193,000
Property Tax (State)	(2,571,730)	(16,049,076)	(18,603,030)
Retirement Levy	0	(54,779,433)	(57,779,433)
Property Replacement			
Revenue Loan	<u>12,508,415</u>		
Total	\$13,272,685	\$158,338,491	\$194,823,537

Fiscal Note Request, SB469, on third reading

Form BD-15

Page 6

Appendix (continued)Fund Information:

	<u>FY90</u>	<u>FY91</u>	<u>FY92</u>
(Change in Revenue)			
General Fund	\$ 1,942,000	\$ 20,322,826	\$ 26,507,531
School Equalization	2,411,000	108,669,807	126,669,767
Sinking Fund	333,000	(2,889,300)	(2,871,700)
Local Govt. (Corp Tax)	0	(2,606,000)	(2,606,000)
Local Govt.			
Replacement Revenue	9,936,685	56,295,663	65,191,184
Higher Education			
(Sales Tax)	0	27,858,939	32,421,268
Local Govt. Block Grant	0	11,143,576	12,968,507
Teacher's Retirement	(1,350,000)	(60,470,380)	(63,470,380)
High School			
Transportation	0	13,360	13,360
Total	\$ 13,272,685	\$158,338,491	\$194,823,537