

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 Boodle, 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."

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;

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

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

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

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

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

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

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

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

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

20 NEW SECTION. Section 4. Separate statement of tax.

21 (1) If the sales tax or use tax is stated separately on the  
22 books of the seller or lessor and the total amount of tax  
23 stated separately on transactions within the reporting  
24 period is in excess of the amount of sales tax or use tax  
25 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 The receipts from the sale of food purchased under the

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

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

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

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

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

24 NEW SECTION. Section 14. Exemption -- livestock  
25 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

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

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

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

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

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

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

12 (3) No agent, canvasser, or employee of a retailer  
 13 doing business in this state who is not authorized by permit  
 14 from the department may sell, solicit orders for, or deliver  
 15 any tangible personal property in Montana. If such an agent,  
 16 canvasser, or employee violates the provisions of [sections  
 17 1 through 68 and 74], he is subject to a fine of not more  
 18 than \$100 for each separate transaction or event.

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

24 NEW SECTION. **Section 54. Application for permission**  
 25 **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

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

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

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

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

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

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

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

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

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

22 (b) The department, in order to implement the  
23 provisions of [sections 1 through 68 and 74], may furnish  
24 information on a reciprocal basis to the taxing officials of  
25 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:

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

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.

1        **NEW SECTION. Section 76. Property tax replacement**  
 2 **revenue.** (1) For the taxable year beginning January 1, 1989,  
 3 the department of revenue shall determine for each taxing  
 4 jurisdiction in each county the taxable value of all  
 5 property in the following categories, calculated at the  
 6 taxable rate in effect on January 1, 1989:

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

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

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

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

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

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

25        (c) distribute to each county and the appropriate

1 state accounts, beginning in 1990 and each year thereafter,  
 2 the amount resulting from the calculations made in  
 3 subsections (3)(a) and (3)(b) in two installments for each  
 4 taxing jurisdiction, for distribution on or before November  
 5 30 and May 31 in each fiscal year.

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

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

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

22        "7-1-2111. **Classification of counties.** (1) For the  
 23 purpose of regulating the compensation and salaries of all  
 24 county officers, not otherwise provided for, and for fixing  
 25 the penalties of officers' bonds, the several counties of

1 this state shall be classified according to that percentage  
 2 of the true and full valuation of the property therein upon  
 3 which the tax levy is made, 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 ~~17%~~ 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

1 and appropriations made therein in any one year and to be  
2 paid from any city fund may not exceed ~~30%~~ 43% of the total  
3 amount which could be produced for such city fund by a  
4 maximum levy authorized by law to be made for such fund, as  
5 shown by the last completed assessment roll of the county.

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

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

12 "7-7-107. Limitation on amount of bonds for  
13 city-county consolidated units. (1) Except as provided in  
14 7-7-108, no city-county consolidated local government may  
15 issue bonds for any purpose which, with all outstanding  
16 indebtedness, may exceed ~~39%~~ 44% of the taxable value of the  
17 property therein subject to taxation as ascertained by the  
18 last assessment for state and county taxes.

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

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

24 "7-7-108. Authorization for additional indebtedness  
25 for water or sewer systems. (1) For the purpose of

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

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

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

17 "7-7-2101. Limitation on amount of county  
18 indebtedness. (1) No county may become indebted in any  
19 manner or for any purpose to an amount, including existing  
20 indebtedness, in the aggregate exceeding ~~23%~~ 26% of the  
21 total of the taxable value of the property therein subject  
22 to taxation, plus the amount of interim production and new  
23 production taxes levied divided by the appropriate tax rates  
24 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
25 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

1 indebtedness. (1) Except as otherwise provided, no city or  
 2 town may issue bonds or incur other indebtedness for any  
 3 purpose in an amount which with all outstanding and unpaid  
 4 indebtedness will exceed 28% 32% of the taxable value of the  
 5 property therein subject to taxation, to be ascertained by  
 6 the last assessment for state and county taxes.

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

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

12 "7-7-4202. Special provisions relating to water and  
 13 sewer systems. (1) Notwithstanding the provisions of  
 14 7-7-4201, for the purpose of constructing a sewer system,  
 15 procuring a water supply, or constructing or acquiring a  
 16 water system for a city or town which owns and controls the  
 17 water supply and water system and devotes the revenues  
 18 therefrom to the payment of the debt, a city or town may  
 19 incur an additional indebtedness by borrowing money or  
 20 issuing bonds.

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

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

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

8 "7-13-4103. Limitation on indebtedness for acquisition  
 9 of natural gas system. The total amount of indebtedness  
 10 authorized to be contracted in any form, including the  
 11 then-existing indebtedness, must not at any time exceed 17%  
 12 19% of the total taxable value of the property of the city  
 13 or town subject to taxation as ascertained by the last  
 14 assessment for state and county taxes."

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

16 "7-14-236. Limitation on bonded indebtedness. The  
 17 amount of bonds issued to provide funds for the district and  
 18 outstanding at any time shall not exceed 28% 32% of the  
 19 taxable value of taxable property therein as ascertained by  
 20 the last assessment for state and county taxes previous to  
 21 the issuance of such bonds."

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

24 "7-14-2524. Limitation on amount of bonds issued --  
 25 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;

1 (b) enter into such agreement;  
 2 (c) issue refunding bonds for the amount agreed upon.  
 3 (2) These bonds may be issued in more than one series,  
 4 and each series may be either amortization or serial bonds.  
 5 (3) The plan agreed upon between the board and the  
 6 bondholders shall be embodied in full in the resolution  
 7 providing for the issue of the bonds."

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

10 "7-14-4402. Limit on indebtedness to provide bus  
 11 service. The total amount of indebtedness authorized under  
 12 7-14-4401(1) to be contracted in any form, including the  
 13 then-existing indebtedness, may not at any time exceed ~~20%~~  
 14 32% of the total taxable value of the property of the city  
 15 or town subject to taxation as ascertained by the last  
 16 assessment for state and county taxes. No money may be  
 17 borrowed or bonds issued for the purposes specified in  
 18 7-14-4401(1) until the proposition has been submitted to the  
 19 vote of the taxpayers of the city or town and the majority  
 20 vote cast in its favor."

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

23 "7-16-2327. Indebtedness for park purposes. (1)  
 24 Subject to the provisions of subsection (2), a county park  
 25 board, in addition to powers and duties now given under law,

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

4 (2) (a) The total amount of indebtedness authorized to  
 5 be contracted in any form, including the then-existing  
 6 indebtedness, must not at any time exceed ~~±3%~~ 15% of the  
 7 total of the taxable value of the taxable property in the  
 8 county, plus the amount of interim production and new  
 9 production taxes levied divided by the appropriate tax rates  
 10 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
 11 60%, plus the amount of value represented by new production  
 12 exempted from tax as provided in 15-23-612, ascertained by  
 13 the last assessment for state and county taxes previous to  
 14 the incurring of such indebtedness.

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

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

23 "7-16-4104. Authorization for municipal indebtedness  
 24 for various cultural, social, and recreational purposes. (1)  
 25 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) 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) 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) all property described in 15-6-135(1)(h).~~

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

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

6 (p) The term "taxable value" means the percentage of  
7 market or assessed value as provided for in 15-6-131 through  
8 ~~15-6-149~~ 15-6-135, 15-6-141, 15-6-145, and 15-6-147.

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

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

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

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

23 **"15-6-133. Class three property -- description --**  
24 **taxable percentage. (1) Class three property includes:**

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

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

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

7 ~~{3}--Until-July-17-1986,-the--taxable--percentage--rate~~  
8 ~~"P"--for-class-three-property-is-30%.~~

9 ~~{4}--Prior--to--July-17-1986,-the-department-of-revenue~~  
10 ~~shall-determine-the-taxable-percentage-rate--"P"--applicable~~  
11 ~~to--class-three-property-for-the-revaluation-cycle-beginning~~  
12 ~~January-17-1986,-as-follows:~~

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

20 ~~{b}--The-taxable-value-of-property-in--class--three--is~~  
21 ~~determined---as---a--function--of--the--certified--statewide~~  
22 ~~percentage-increase--in--accordance--with--the--table--shown~~  
23 ~~below.~~

24 ~~{c}--This---table--limits--the--statewide--increase--in~~  
25 ~~taxable-valuation--resulting--from--reappraisal--to--0%--in~~

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

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

7 Certified-Statewide	8 Class-Three-Taxable
9 Percentage-Increase	10 Percentage-"P"
11 -0	12 30.00
13 10	14 27.27
15 20	16 25.00
17 30	18 23.00
19 40	20 21.43
21 50	22 20.00

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

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

28 "15-6-134. Class four property -- description --  
 29 taxable percentage. (1) Class four property includes:

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

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

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

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

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

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

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

21 Income	22 Income	23 Percentage
24 Single Person	25 Married Couple	Multiplier
26 \$ 0 - \$ 1,000	27 \$ 0 - \$ 1,200	28 0%
29 1,001 - 2,000	30 1,201 - 2,400	31 10%
32 2,001 - 3,000	33 2,401 - 3,600	34 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;~~

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

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

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

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

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

17 (ii) specifically included in another class;

18 (f) the first \$80,000 or less of the market value of a  
 19 trailer or mobile home used as a residence and actually  
 20 occupied for at least 10 months a year as the primary  
 21 residential dwelling of any person whose total income from  
 22 all sources, including otherwise tax-exempt income of all  
 23 types, is not more than \$10,000 for a single person or  
 24 \$12,000 for a married couple, as adjusted according to  
 25 15-6-134(2)(b)(ii);

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

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

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

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

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

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

25 (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(i)(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;~~

1        ~~3~~(2) If the employer is the superintendent of public  
2 instruction, a public institution of the state of Montana, a  
3 unit of the Montana university system, or the Montana state  
4 school for the deaf and blind, the legislature shall  
5 appropriate to the employer an adequate amount to allow the  
6 payment of the employer's contribution.

7        ~~4~~(3) If the employer is a county, the county  
8 commissioners shall budget and pay for the employer's  
9 contribution in the manner provided by law for the adoption  
10 of a county budget and for payments under the budget.

11        ~~5~~(4) All interest and other earnings realized on the  
12 moneys money of the retirement system ~~shall~~ must be credited  
13 to the pension accumulation fund, and the amount required to  
14 allow regular interest on the annuity savings fund ~~shall~~  
15 must be transferred to that fund from the pension  
16 accumulation fund.

17        ~~6~~(5) All pensions, annuities, and benefits in lieu  
18 thereof--~~shall~~ of pensions and annuities must be paid from  
19 the pension accumulation fund.

20        ~~7~~(6) The retirement board may, in its discretion,  
21 transfer from the pension accumulation fund an amount  
22 necessary to cover expenses of administration."

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

25        "19-11-503. Special tax levy for fund required. (1)

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

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

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

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

19        "19-11-504. Amount of special tax levy. Whenever the  
20 fund contains an amount which is less than ~~3%~~ 3.4% of the  
21 taxable valuation of all taxable property in the city or  
22 town, the city council shall levy an annual special tax of  
23 not less than 1 mill and not more than 4 mills on each  
24 dollar of taxable valuation of all taxable property within  
25 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

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

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

8 ~~{33}-administer-the-distribution--of--state--retirement~~  
9 ~~equalization-aid-in-accordance-with-20-9-532;-and~~

10 {34}{33} perform any other duty prescribed from time to  
11 time by this title, any other act of the legislature, or the  
12 policies of the board of public education. ~~{Subsection-}{33}~~  
13 ~~effective-July-17-1988--sec-87-Ch-6357-57-1987-}~~"

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

16 "20-3-324. Powers and duties. As prescribed elsewhere  
17 in this title, the trustees of each district shall ~~have-the~~  
18 ~~power-and-it-shall-be-their-duty-to--perform--the--following~~  
19 ~~duties-or-acts:~~

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

1 accordance with the provisions of Title 20, chapter 4;

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

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

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

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

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

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

23 (8) adopt and administer the annual budget or an  
24 emergency budget of the district in accordance with the  
25 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:

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

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

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

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

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

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

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

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

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

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

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

6 and

7 (viii) anticipated sales tax and use tax revenue; and

8 ~~(viii)~~(ix) any other revenue anticipated by the  
9 trustees to be received during the ensuing school fiscal  
10 year which may be used to finance the general fund.

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

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

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

23 "20-9-201. Definitions and application. (1) As used in  
24 this title, unless the context clearly indicates otherwise,  
25 "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

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

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

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

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

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

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

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

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

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

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

20 (h) sales tax and use tax revenue."

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

23 **"20-9-333. Basic special levy and other revenues for**  
24 **county equalization of high school district foundation**  
25 **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

1 supplemental appropriation shall provide enough revenue to  
 2 fund the permissive deficiency of the elementary and high  
 3 school districts of the state. The proceeds of this  
 4 appropriation shall be deposited to the state special  
 5 revenue fund, permissive account, and shall be distributed  
 6 to the elementary and high school districts in accordance  
 7 with their entitlements as determined by the superintendent  
 8 of public instruction according to the provisions of  
 9 subsections (1) and (2) of this section.

10 (4) Distribution under this section from the state  
 11 special revenue fund shall be made in two payments. The  
 12 first payment shall be made at the same time as the first  
 13 distribution of state equalization aid is made after January  
 14 1 of the fiscal year. The second payment shall be made at  
 15 the same time as the last payment of state equalization aid  
 16 is made for the fiscal year. If the appropriation is not  
 17 sufficient to finance the deficiencies of the districts as  
 18 determined according to subsection (2), each district will  
 19 receive the same percentage of its deficiency. Surplus  
 20 revenue in the second year of the biennium may be used to  
 21 reduce the appropriation required for the next succeeding  
 22 biennium or may be transferred to the state equalization aid  
 23 state special revenue fund if revenues in that fund are  
 24 insufficient to meet foundation program requirements."

25 **Section 130.** Section 20-9-502, MCA, is amended to

1 read:

2 "20-9-502. Purpose and authorization of a building  
 3 reserve fund by an election. (1) The trustees of any  
 4 district, with the approval of the qualified electors of the  
 5 district, may establish a building reserve for the purpose  
 6 of raising money for the future construction, equipping, or  
 7 enlarging of school buildings or for the purpose of  
 8 purchasing land needed for school purposes in the district.  
 9 In order to submit to the qualified electors of the district  
 10 a building reserve proposition for the establishment of or  
 11 addition to a building reserve, the trustees shall pass a  
 12 resolution that specifies:

13 (a) the purpose or purposes for which the new or  
 14 addition to the building reserve will be used;

15 (b) the duration of time over which the new or  
 16 addition to the building reserve will be raised in annual,  
 17 equal installments;

18 (c) the total amount of money that will be raised  
 19 during the duration of time specified in subsection (1)(b);  
 20 and

21 (d) any other requirements under 20-20-201 for the  
 22 calling of an election.

23 (2) The total amount of building reserve when added to  
 24 the outstanding indebtedness of the district shall not be  
 25 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 ~~f~~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 ~~fh~~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 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

1 o the remainder to be deposited in the state general  
2 fund.

3 NEW SECTION. Section 148. Special election. Pursuant  
4 to Article III, sections 5 and 6, of The Constitution of the  
5 State of Montana, [sections 1 through 146 and 149] shall be  
6 submitted to the qualified electors of Montana for their  
7 approval or disapproval at a statewide election to be held  
8 November 7, 1989.

9 NEW SECTION. Section 149. Repealer. Sections 15-6-136  
10 through 15-6-140, 15-6-142 through 15-6-144, 15-6-146,  
11 15-6-148, 15-6-149, 15-6-153, 15-6-154, 20-9-501, 20-9-531,  
12 and 20-9-532, MCA, are repealed.

13 NEW SECTION. Section 150. Codification instruction.  
14 (1) [Sections 1 through 68, 74, 75, and 138] are intended  
15 to be codified as an integral part of Title 15, and the  
16 provisions of Title 15 apply to [sections 1 through 68, 74,  
17 75, and 138].

18 (2) [Sections 69 through 73] are intended to be  
19 codified as an integral part of Title 15, chapter 30, and  
20 the provisions of Title 15, chapter 30, apply to [sections  
21 69 through 73].

22 (3) [Sections 76 and 137] are intended to be codified  
23 as an integral part of Title 15, chapter 6, part 1, and the  
24 provisions of Title 15, chapter 6, apply to [sections 76 and  
25 137].

1 (4) [Section 107] is intended to be codified as an  
2 integral part of Title 20, chapter 25, and the provisions of  
3 Title 20, chapter 25, apply to [section 107].

4 (5) [Sections 139 through 146] are intended to be  
5 codified as an integral part of Title 7, chapter 6, and the  
6 provisions of Title 7, chapter 6, apply to [sections 139  
7 through 146].

8 NEW SECTION. Section 151. Coordination instruction.  
9 If [this act] passes and Senate Bill No. 463 fails, the  
10 sales tax rate imposed in [section 2 of this act] is 3%, and  
11 wherever the sales tax of 4% appears in [this act], it must  
12 be changed to 3%.

13 NEW SECTION. Section 152. Extension of authority. Any  
14 existing authority to make rules on the subject of the  
15 provisions of [this act] is extended to the provisions of  
16 [this act].

17 NEW SECTION. Section 153. Severability. If a part of  
18 [this act] is invalid, all valid parts that are severable  
19 from the invalid part remain in effect. If a part of [this  
20 act] is invalid in one or more of its applications, the part  
21 remains in effect in all valid applications that are  
22 severable from the invalid applications.

23 NEW SECTION. Section 154. Saving clause. [This act]  
24 does not affect rights and duties that matured, penalties  
25 that were incurred, or proceedings that were begun before

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

1 SENATE BILL NO. 469  
2 INTRODUCED BY CRIPPEN, BRADLEY, ECK, RAMIREZ  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT THE EDUCATION AND TAX  
5 REFORM ACT; PROVIDING FOR A 4 PERCENT SALES TAX AND USE TAX;  
6 PROVIDING FOR CERTAIN DEDUCTIONS AND EXEMPTIONS FROM THE  
7 TAX; GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR  
8 PROPERTY TAX PURPOSES; PROVIDING PROPERTY TAX RELIEF;  
9 REVISING LOCAL GOVERNMENT BONDING AND DEBT LIMITS; PROVIDING  
10 CREDITS AGAINST OR REFUND OF INDIVIDUAL INCOME TAX  
11 LIABILITY; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE  
12 FROM THE SALES TAX AND USE TAX; REPEALING COUNTY MILL LEVIES  
13 FOR TEACHER RETIREMENT; LINKING THE IMPOSITION OF A  
14 STATEWIDE SALES TAX TO STATE INCOME TAX REFORM; AMENDING  
15 SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254,  
16 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202,  
17 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402,  
18 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131,  
19 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-207, 15-8-111,  
20 15-8-205, 15-10-402, 15-10-411, 15-10-412, 15-16-611,  
21 15-16-613, 15-24-301, 15-24-1102, 15-24-1103, 17-3-213,  
22 19-4-605, 19-11-503, 19-11-504, 20-3-106, 20-3-324,  
23 20-5-305, 20-5-312, 20-9-141, 20-9-201, 20-9-212, 20-9-301,  
24 20-9-331, 20-9-333, 20-9-343, 20-9-352, 20-9-406, 20-9-407,  
25 20-9-502, 20-10-144, 20-15-311, 20-16-202, 23-5-1027,

1 33-7-407, AND 61-3-501, AND 61-3-502, MCA; REPEALING  
2 SECTIONS 15-6-136 THROUGH 15-6-140, 15-6-142 THROUGH  
3 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153, 15-6-154,  
4 20-9-501, 20-9-531, AND 20-9-532; PROVIDING THAT CERTAIN  
5 SECTIONS OF THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS  
6 OF THE STATE OF MONTANA; AND PROVIDING EFFECTIVE DATES AND  
7 APPLICABILITY DATES."  
8

9 STATEMENT OF INTENT

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

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

18 (1) the registration and issuance of permits to  
19 persons engaging in the business of retail sales and  
20 services;

21 (2) the reporting form for the payment of the taxes,  
22 along with the requirements for the retention by the  
23 taxpayers of the necessary records;

24 (3) the required security and the acceptable forms of  
25 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.

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

4 (a) manufactured by the person using the property in  
5 this state;

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

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

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

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

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

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

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

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

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

25 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 6B 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

1 pelts are exempt from the sales tax. Persons engaged in the  
2 business of buying and selling wool or mohair or of buying  
3 and selling livestock on their own account and without the  
4 services of a broker, auctioneer, or other agent are  
5 considered producers for the purposes of this section.

6 NEW SECTION. Section 14. Exemption -- livestock  
7 feeding. A person's receipts derived from feeding,  
8 pasturing, penning, or handling or training livestock prior  
9 to sale are exempt from the sales tax.

10 NEW SECTION. Section 15. Exemption -- used tangible  
11 personal property upon which a sales or use tax has been  
12 paid. The receipts from the sale of used tangible personal  
13 property upon which a tax has been paid pursuant to  
14 [sections 1 through 68 and 74] are exempt from the sales  
15 tax.

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

1 NEW SECTION. Section 17. Exemption -- certain mobile  
2 homes. Receipts from the resale of a mobile home may be  
3 deducted from gross receipts if the sale is of a mobile home  
4 that was subject to the sales tax or use tax upon its  
5 initial sale or use in this state or was initially sold or  
6 used in this state prior to [the applicability date of this  
7 act]. The seller shall retain and furnish proof satisfactory  
8 to the department of either of the following:

9 (1) that the sales tax or use tax was paid upon the  
10 initial sale or use in this state of the mobile home. In the  
11 absence of such proof, it is presumed that the tax was not  
12 paid.

13 (2) that a Montana certificate of title was issued for  
14 a mobile home prior to [the applicability date of this act].  
15 The certificate is proof that the mobile home was initially  
16 sold or used in this state prior to [the applicability date  
17 of this act] and that the mobile home is exempt under this  
18 section.

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

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

24 (1) interest on money loaned or deposited;  
25 (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

1 than 50% of its receipts from leasing or selling tangible  
2 personal property of the type leased; and

3 (3) the buyer does not use the property in any manner  
4 other than holding it for lease or sale or leasing or  
5 selling it, either by itself or in combination with other  
6 tangible personal property, in the ordinary course of  
7 business.

8 **NEW SECTION. Section 31. Deduction -- lease for**  
9 **subsequent lease.** Receipts from the lease of tangible  
10 personal property, other than furniture or appliances, and  
11 from the rental or lease of property, other than  
12 coin-operated machines and mobile homes, that is deductible  
13 under [sections 1 through 68 and 74] may be deducted from  
14 gross receipts if:

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

17 (2) the lessee does not use the property in any manner  
18 other than for subsequent lease in the ordinary course of  
19 business.

20 **NEW SECTION. Section 32. Deduction -- sale of**  
21 **tangible personal property to person engaged in construction**  
22 **business.** (1) Receipts from the sale of tangible personal  
23 property may be deducted from gross receipts if the sale is  
24 made to a buyer engaged in the construction business who  
25 delivers a nontaxable transaction certificate to the seller.

1 (2) The buyer delivering the nontaxable transaction  
2 certificate shall incorporate the tangible personal property  
3 as:

4 (a) an ingredient or component part of a construction  
5 project that is subject to the sales tax or use tax upon its  
6 completion or upon the completion of the overall  
7 construction project of which it is a part; or

8 (b) an ingredient or component part of a construction  
9 project that is subject to the sales tax or use tax upon the  
10 sale in the ordinary course of business of the real property  
11 upon which it was constructed.

12 **NEW SECTION. Section 33. Deduction -- sale of**  
13 **construction service to person engaged in construction**  
14 **business.** (1) Receipts from the sale of a construction  
15 service may be deducted from gross receipts if the sale is  
16 made to a buyer engaged in the construction business and he  
17 delivers a nontaxable transaction certificate to the person  
18 performing the construction service.

19 (2) The buyer delivering the nontaxable transaction  
20 certificate shall have the construction services performed  
21 upon:

22 (a) a construction project that is subject to the  
23 sales tax or use tax upon its completion or upon the  
24 completion of the overall construction project of which it  
25 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

1 be returned to the person who deposited the security.

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

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

11 NEW SECTION. Section 58. Extensions. (1) The  
12 department may extend the time for filing a return and  
13 remittance of tax, deficiencies, and penalties for a period  
14 not to exceed 60 days from the date a return was due and may  
15 require both an estimated return at the time fixed for  
16 filing the regularly required return and the payment of tax  
17 on the basis of the estimated return.

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

22 NEW SECTION. Section 59. Examination of return --  
23 adjustments -- delivery of notices and demands. (1) The  
24 department may examine a return and make an investigation or  
25 examination of the records and accounts of a person making

1 the return if the department considers it necessary to  
2 determine the accuracy of the return.

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

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

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

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

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

25 (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);

1 (f) unemployment and workers' compensation benefits;  
 2 (g) all tax refunds; and  
 3 (h) any monetary benefits defined as income in the  
 4 Internal Revenue Code or by this chapter.

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

10 NEW SECTION. Section 71. Credit for sales tax and use  
 11 tax. (1) Except as provided in subsection (2), there is  
 12 allowed a credit against tax liability for each resident who  
 13 files an individual Montana income tax return under this  
 14 chapter as provided in subsection (3). The credit may be  
 15 claimed even though the resident has no taxable income under  
 16 Title 15, chapter 30.

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

19 (a) is an inmate of a public institution for more than  
 20 6 months during the tax year for which the tax credit is  
 21 claimed; or

22 (b) is not physically present in Montana for at least  
 23 6 months during the tax year for which the tax credit is  
 24 claimed.

25 (3) For each exemption claimed under 15-30-112(2) and

1 (5), a credit is allowed according--to--the---following  
 2 schedule:

3 Gross-Household-Income	4 Credit-per-Exemption
5 \$-----0-----12,999	6 \$100
7 -13,000---14,990	8 --50
9 -15,000---19,999	10 --25
11 -20,000-or-more-	12 ---0

13 IN THE AMOUNT OF \$90 PER EXEMPTION, PROVIDED THAT GROSS  
 14 HOUSEHOLD INCOME IS LESS THAN \$13,000.

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

20 NEW SECTION. Section 72. Credit for sales tax and use  
 21 tax -- filing date -- extension. (1) Except as provided in  
 22 subsection (2), a claim for a credit must be submitted at  
 23 the same time the claimant's individual income tax return is  
 24 due. For an individual not required to file a tax return, a  
 25 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.

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 73. 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 74. 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 75. 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 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) ~~5%~~ 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);

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

3 (c) distribute to each county and the appropriate  
4 state accounts, beginning in 1990 and each year thereafter,  
5 the amount resulting from the calculations made in  
6 subsections (3)(a) and (3)(b) in two installments for each  
7 taxing jurisdiction, for distribution on or before November  
8 30 and May 31 in each fiscal year.

9 (4) On or before May 31, 1990, the department shall  
10 remit to the county treasurer of each county 30% of the  
11 reimbursement amount computed by the department. The  
12 department shall base the reimbursement on the reduction in  
13 personal property tax revenues due to the reduction in  
14 personal property tax rates for class five property as  
15 provided in 15-6-135 and agricultural exemptions as provided  
16 in 15-6-207. The reimbursement revenue must be based on the  
17 county's taxable value and mill levies for taxable year  
18 1989.

19 (5) Upon receipt of the funds distributed according to  
20 this section, the county treasurer shall distribute the  
21 funds for county, school district, municipal, CONSERVATION  
22 DISTRICT, and special district purposes in the same manner  
23 as property taxes are distributed, but ignoring SHALL  
24 DISREGARD state property tax levies.

25 (6) FOR THE PURPOSES OF 15-10-412(7), PROPERTY TAX

1 REPLACEMENT REVENUE RECEIVED BY A TAXING JURISDICTION UNDER  
2 THIS SECTION IS CONSIDERED TO BE REVENUE FROM PROPERTY  
3 TAXES.

4 **Section 78.** Section 7-1-2111, MCA, is amended to read:

5 "7-1-2111. Classification of counties. (1) For the  
6 purpose of regulating the compensation and salaries of all  
7 county officers, not otherwise provided for, and for fixing  
8 the penalties of officers' bonds, the several counties of  
9 this state shall be classified according to that percentage  
10 of the true and full valuation of the property therein upon  
11 which the tax levy is made, except for vehicles subject to  
12 taxation under 61-3-504(2), as follows:

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

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

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

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

24 (e) fifth class--all counties having such a taxable  
25 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 ~~30%~~ 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

1 bonds, will exceed ~~11-25%~~ 12.5% of the total of the taxable  
 2 value of the property therein, plus the amount of interim  
 3 production and new production taxes levied divided by the  
 4 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
 5 and multiplied by 60%, plus the amount of value represented  
 6 by new production exempted from tax as provided in  
 7 15-23-612, to be ascertained by the last assessment for  
 8 state and county taxes prior to the proposed issuance of  
 9 bonds.

10 (2) In addition to the bonds allowed by subsection  
 11 (1), a county may issue bonds which, with all outstanding  
 12 bonds and warrants, will not exceed ~~27-75%~~ 31% of the total  
 13 of the taxable value of the property in the county subject  
 14 to taxation, plus the amount of interim production and new  
 15 production taxes levied divided by the appropriate tax rates  
 16 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
 17 60%, plus the amount of value represented by new production  
 18 exempted from tax as provided in 15-23-612, when necessary  
 19 to do so, for the purpose of acquiring land for a site for  
 20 county high school buildings and for erecting or acquiring  
 21 buildings thereon and furnishing and equipping the same for  
 22 county high school purposes.

23 (3) In addition to the bonds allowed by subsections  
 24 (1) and (2), a county may issue bonds for the construction  
 25 or improvement of a jail which will not exceed ~~12-5%~~ 14% of

1 the taxable value of the property in the county subject to  
 2 taxation.

3 (4) The limitation in subsection (1) shall not apply  
 4 to refunding bonds issued for the purpose of paying or  
 5 retiring county bonds lawfully issued prior to January 1,  
 6 1932."

7 **Section 87.** Section 7-7-4201, MCA, is amended to read:

8 **"7-7-4201. Limitation on amount of bonded**  
 9 **indebtedness.** (1) Except as otherwise provided, no city or  
 10 town may issue bonds or incur other indebtedness for any  
 11 purpose in an amount which with all outstanding and unpaid  
 12 indebtedness will exceed ~~28%~~ 32% of the taxable value of the  
 13 property therein subject to taxation, to be ascertained by  
 14 the last assessment for state and county taxes.

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

19 **Section 88.** Section 7-7-4202, MCA, is amended to read:

20 **"7-7-4202. Special provisions relating to water and**  
 21 **sewer systems.** (1) Notwithstanding the provisions of  
 22 7-7-4201, for the purpose of constructing a sewer system,  
 23 procuring a water supply, or constructing or acquiring a  
 24 water system for a city or town which owns and controls the  
 25 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 ~~20%~~ 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 ~~17-25%~~ 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 ~~17-25%~~ 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

1 taxes levied divided by the appropriate tax rates described  
 2 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
 3 amount of value represented by new production exempted from  
 4 tax as provided in 15-23-612, when necessary for the purpose  
 5 of replacing, rebuilding, or repairing county buildings,  
 6 bridges, or highways which have been destroyed or damaged by  
 7 an act of God, disaster, catastrophe, or accident.

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

18 **Section 92.** Section 7-14-2525, MCA, is amended to  
 19 read:

20 "7-14-2525. Refunding agreements and refunding bonds  
 21 authorized. (1) Whenever the total indebtedness of a county  
 22 exceeds ~~22.5%~~ 25.5% of the total of the taxable value of the  
 23 property therein, plus the amount of interim production and  
 24 new production taxes levied divided by the appropriate tax  
 25 rates described in 15-23-607(2)(a) or (2)(b) and multiplied

1 by 60%, plus the amount of value represented by new  
 2 production exempted from tax as provided in 15-23-612, and  
 3 the board determines that the county is unable to pay such  
 4 indebtedness in full, the board may:

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

9 (b) enter into such agreement;

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

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

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

16 **Section 93.** Section 7-14-4402, MCA, is amended to  
 17 read:

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

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

4 **Section 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,

1 extension, and betterment of hospital facilities and to  
2 provide an adequate working capital for a new hospital.

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

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

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

15 **Section 99.** Section 20-9-406, MCA, is amended to read:

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

1 assessments against the school district. All bonds issued in  
2 excess of such amount shall be null and void, except as  
3 provided in this section.

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

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

15 **Section 100.** Section 20-9-407, MCA, is amended to  
16 read:

17 **"20-9-407. Industrial facility agreement for bond**  
18 **issue in excess of maximum.** (1) In a school district within  
19 which a new major industrial facility which seeks to qualify  
20 for taxation as class five property under 15-6-135 is being  
21 constructed or is about to be constructed, the school  
22 district may require, as a precondition of the new major  
23 industrial facility qualifying as class five property, that  
24 the owners of the proposed industrial facility enter into an  
25 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 houstrailer has been established, the mobile  
12 home or houstrailer is presumed to be an improvement to  
13 real property. A mobile home or houstrailer 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.

1 (j) The term "mobile home" means forms of housing  
2 known as "trailers", "housetrailers", or "trailer coaches"  
3 exceeding 8 feet in width or 45 feet in length, designed to  
4 be moved from one place to another by an independent power  
5 connected to them, or any "trailer", "housetrailer", or  
6 "trailer coach" up to 8 feet in width or 45 feet in length  
7 used as a principal residence.

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

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

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

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

23 (i) the possession of, claim to, ownership of, or  
24 right to the possession of land;

25 (ii) all mines, minerals, and quarries in and under the

1 land subject to the provisions of 15-23-501 and Title 15,  
2 chapter 23, part 8; all timber belonging to individuals or  
3 corporations growing or being on the lands of the United  
4 States; and all rights and privileges appertaining thereto.

5 (o) "Research and development firm" means an entity  
6 incorporated under the laws of this state or a foreign  
7 corporation authorized to do business in this state whose  
8 principal purpose is to engage in theoretical analysis,  
9 exploration, and experimentation and the extension of  
10 investigative findings and theories of a scientific and  
11 technical nature into practical application for experimental  
12 and demonstration purposes, including the experimental  
13 production and testing of models, devices, equipment,  
14 materials, and processes.

15 (p) The term "taxable value" means the percentage of  
16 market or assessed value as provided for in 15-6-131 through  
17 ~~15-6-149~~ 15-6-135, 15-6-141, 15-6-145, and 15-6-147.

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

21 (2) The phrase "municipal corporation" or  
22 "municipality" or "taxing unit" shall be deemed to include a  
23 county, city, incorporated town, township, school district,  
24 irrigation district, drainage district, or any person,  
25 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 17, 1986, the taxable percentage rate  
17 of class three property is 30%.

18 (4) Prior to July 17, 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 17, 1986, as follows:

22 (a) The director of the department of revenue shall  
23 certify to the governor before July 17, 1986, the percentage  
24 by which the appraised value of all property in the state  
25 classified under class three as of January 17, 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	Class-Three-Taxable
17 Percentage-Increase	Percentage-%
18 0	30.00
19 10	27.27
20 20	25.00
21 30	23.00
22 40	21.43
23 50	20.00

24 (5) After July 17, 1986, no adjustment may be made by  
25 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

1 (ii) specifically included in another class;

2 (f) the first \$80,000 or less of the market value of a  
 3 trailer or mobile home used as a residence and actually  
 4 occupied for at least 10 months a year as the primary  
 5 residential dwelling of any person whose total income from  
 6 all sources, including otherwise tax-exempt income of all  
 7 types, is not more than \$10,000 for a single person or  
 8 \$12,000 for a married couple, as adjusted according to  
 9 15-6-134(2)(b)(ii);

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

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

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

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

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

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

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

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

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

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

23 (ii) do similar work, employing capital and labor, in  
 24 which materials unserviceable in their natural state are  
 25 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,

1 beet thinner, beet cultivator, beet planter, or beet top  
 2 saver designed exclusively to plant, cultivate, and harvest  
 3 sugar beets is exempt from taxation if such implement has  
 4 not been used to plant, cultivate, or harvest sugar beets  
 5 for the 2 years immediately preceding the current assessment  
 6 date and there are no available sugar beet contracts in the  
 7 sugar beet grower's marketing area."

8 **Section 106.** Section 15-8-111, MCA, is amended to  
 9 read:

10 "15-8-111. Assessment -- market value standard --  
 11 exceptions. (1) All taxable property must be assessed at  
 12 100% of its market value except as otherwise provided.

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

17 (b) If the department uses construction cost as one  
 18 approximation of market value, the department shall fully  
 19 consider reduction in value caused by depreciation, whether  
 20 through physical depreciation, functional obsolescence, or  
 21 economic obsolescence.

22 (c) Except as provided in subsection (3), the market  
 23 value of all motor trucks; agricultural tools, implements,  
 24 and machinery; and vehicles of all kinds, including but not  
 25 limited to boats and all watercraft, is the average

1 wholesale value shown in national appraisal guides and  
 2 manuals or the value of the vehicle before reconditioning  
 3 and profit margin. The department of revenue shall prepare  
 4 valuation schedules showing the average wholesale value when  
 5 no national appraisal guide exists.

6 (3) The department of revenue or its agents may not  
 7 adopt a lower or different standard of value from market  
 8 value in making the official assessment and appraisal of the  
 9 value of property, except:

10 (a) the wholesale value for agricultural implements  
 11 and machinery is the loan value as shown in the Official  
 12 Guide, Tractor and Farm Equipment, published by the national  
 13 farm and power equipment dealers association, St. Louis,  
 14 Missouri;

15 (b) for agricultural implements and machinery not  
 16 listed in the official guide, the department shall prepare a  
 17 supplemental manual where the values reflect the same  
 18 depreciation as those found in the official guide; and

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

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

22 (5) The taxable value for all property is the  
 23 percentage of market or assessed value established for each  
 24 class of property.

25 (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 **fundings.** 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~~7~~  
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

1 7, chapter 12, part 41; or bonded indebtedness.

2 (3) New construction or improvements to or deletions  
3 from property described in subsection (1) are subject to  
4 taxation at ~~1986~~ 1991 levels.

5 (4) As used in this section, the "amount of taxes  
6 levied" and the "amount levied" mean the actual dollar  
7 amount of taxes imposed on an individual piece of property,  
8 notwithstanding an increase or decrease in value due to  
9 inflation, reappraisal, adjustments in the percentage  
10 multiplier used to convert appraised value to taxable value,  
11 changes in the number of mills levied, or increase or  
12 decrease in the value of a mill."

13 **SECTION 110. SECTION 15-10-411, MCA, IS AMENDED TO**

14 **READ:**

15 "15-10-411. (Temporary) Declaration of policy --  
16 clarification -- extension to all property classes. Section  
17 15-10-401 is interpreted, clarified, and extended as  
18 follows:

19 (1) In order to avoid constitutional challenges based  
20 on discriminatory treatment of taxpayers in tax classes not  
21 enumerated in 15-10-401 and 15-10-402, the limitation to  
22 ~~1986~~ 1991 levels is extended to apply to all classes of  
23 property described in Title 15, chapter 6, part 1.

24 (2) The policy declaration in 15-10-401(5) that no  
25 further property tax increases be imposed is interpreted to

1 mean no further increase may be made in the tax rate applied  
2 to property in each class in ~~1986~~ 1991.

3 (3) No new class of property may be created solely to  
4 circumvent the policy underlying 15-10-401 and 15-10-402. If  
5 a new class of property is created in order to afford  
6 preferential treatment to a category of property, the  
7 taxable rate that applies may not exceed the rate at which  
8 such property was taxed in ~~1986~~ 1991. (Terminates December  
9 31, 1989--sec. 6, Ch. 654, L. 1987.)"

10 **SECTION 111. SECTION 15-10-412, MCA, IS AMENDED TO**

11 **READ:**

12 "15-10-412. (Temporary) Property tax limited to ~~1986~~  
13 1991 levels -- clarification -- extension to all property  
14 classes. Section 15-10-402 is interpreted and clarified as  
15 follows:

16 (1) The limitation to ~~1986~~ 1991 levels is extended to  
17 apply to all classes of property described in Title 15,  
18 chapter 6, part 1.

19 (2) The limitation on the amount of taxes levied is  
20 interpreted to mean that the actual tax liability for an  
21 individual property is capped at the dollar amount due in  
22 each taxing unit for the ~~1986~~ 1991 tax year. In tax years  
23 thereafter, the property must be taxed in each taxing unit  
24 at the ~~1986~~ 1991 cap or the product of the taxable value and  
25 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

1 (5)(d) that is not class four, class twelve, or class  
 2 fourteen property, as amended by [this act], is valued  
 3 according to the procedures used in 1986, or a subsequent  
 4 revaluation completed pursuant to 15-7-111, but is also  
 5 subject to the dollar cap in each taxing unit based on 1986  
 6 the mills levied in 1986, or in 1991 if a revaluation  
 7 pursuant to 15-7-111 has been completed subsequent to 1986.

8 (7) (a) The limitation on the amount of taxes, as  
 9 clarified in this section, is intended to leave the property  
 10 appraisal and valuation methodology of the department of  
 11 revenue intact. Determinations of county classifications,  
 12 salaries of local government officers, and all other matters  
 13 in which total taxable valuation is an integral component  
 14 are not affected by 15-10-401 and 15-10-402 except for the  
 15 use of taxable valuation in fixing tax levies. In fixing tax  
 16 levies, the taxing units of local government may anticipate  
 17 the deficiency in revenues resulting from the tax  
 18 limitations in 15-10-401 and 15-10-402, while understanding  
 19 that regardless of the amount of mills levied, a taxpayer's  
 20 liability may not exceed the dollar amount due in each  
 21 taxing unit for the 1986 tax year, or the 1991 tax year if a  
 22 revaluation pursuant to 15-7-111 has been completed, unless  
 23 the taxing unit's taxable valuation decreases by 5% or more  
 24 from the previous 1986 tax year, or the 1991 tax year if a  
 25 revaluation pursuant to 15-7-111 has been completed. If a

1 taxing unit's taxable valuation decreases by 5% or more from  
 2 the previous 1986 tax year, or the 1991 tax year if a  
 3 revaluation pursuant to 15-7-111 has been completed, it may  
 4 levy additional mills to compensate for the decreased  
 5 taxable valuation, but in no case may the mills levied  
 6 exceed a number calculated to equal the revenue from  
 7 property taxes for the 1986 tax year, or the 1991 tax year  
 8 if a revaluation pursuant to 15-7-111 has been completed, in  
 9 that taxing unit.

10 (b) For the purposes of this subsection (7), property  
 11 tax replacement revenue received as reimbursement from sales  
 12 tax proceeds is considered to be revenue from property  
 13 taxes.

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

- 18 (a) rural improvement districts;
- 19 (b) special improvement districts;
- 20 (c) levies pledged for the repayment of bonded
- 21 indebtedness, including tax increment bonds;
- 22 (d) city street maintenance districts;
- 23 (e) tax increment financing districts;
- 24 (f) satisfaction of judgments against a taxing unit;
- 25 (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;

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

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

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

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

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

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

13 (2) The apportionment of money to the funds provided  
14 for under subsection (1)(b) shall must be made by the county  
15 superintendent based on the proportion that the mill levy of  
16 each fund bears to the total number of mills for all the  
17 funds. Whenever the total amount of money available for  
18 apportionment under this section is greater than the total  
19 requirements of a levy, the excess money and any interest  
20 income must be retained in a separate reserve fund, to be  
21 reapportioned in the ensuing school fiscal year to the  
22 levies designated in subsection (1)(b).

23 (3) In counties wherein in which special road  
24 districts have been created according to law, the board of  
25 county commissioners shall distribute a proportionate share

1 of the 66 2/3% of the total amount received for the general  
2 road fund to such the special road district--or districts  
3 within the county based upon the percentage that the total  
4 area of such the road district bears to the total area of  
5 the entire county."

6 **Section 118.** Section 19-4-605, MCA, is amended to  
7 read:

8 "19-4-605. Pension accumulation fund -- employer's  
9 contribution. The pension accumulation fund is the fund in  
10 which the reserves for payment of pensions and annuities  
11 shall must be accumulated and from which pensions,  
12 annuities, and benefits in lieu thereof--shall of pensions  
13 and annuities must be paid to or on account of beneficiaries  
14 credited with prior service. Contributions to and payments  
15 from the pension accumulation fund shall must be made as  
16 follows:

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

21 ~~{2}--if the employer is a district or community college  
22 district, the trustees shall budget and pay for the  
23 employer's contribution under the provisions of 20-9-501;~~

24 ~~{3}{2}~~ If the employer is the superintendent of public  
25 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;

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

6 ~~{33}-administer--the--distribution--of--state--retirement~~  
7 ~~equalization--aid--in--accordance--with--20-9-532;-and~~

8 ~~{34}{33}~~ perform any other duty prescribed from time to  
9 time by this title, any other act of the legislature, or the  
10 policies of the board of public education. ~~{Subsection-{33}}~~  
11 ~~effective--July--17--1988--sec--8,-Ch--635,-B--1987;}~~"

12 **Section 122.** Section 20-3-324, MCA, is amended to  
13 read:

14 "20-3-324. Powers and duties. As prescribed elsewhere  
15 in this title, the trustees of each district shall ~~have--the~~  
16 ~~power--and--it--shall--be--their--duty--to--perform--the--following~~  
17 ~~duties--or--acts:~~

18 (1) employ or dismiss a teacher, principal, or other  
19 assistant upon the recommendation of the district  
20 superintendent, the county high school principal, or other  
21 principal as the board ~~may--deem~~ considers necessary,  
22 accepting or rejecting such any recommendation as the  
23 trustees shall in their sole discretion determine, in  
24 accordance with the provisions of Title 20, chapter 4;

25 (2) employ and dismiss administrative personnel,

1 clerks, secretaries, teacher aides, custodians, maintenance  
2 personnel, school bus drivers, food service personnel,  
3 nurses, and any other personnel deemed considered necessary  
4 to carry out the various services of the district;

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

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

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

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

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

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

24 (9) conduct the fiscal business of the district in  
25 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

1 trustees from a first-class school district may share the  
2 responsibility for visiting each school in the district;

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

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

11 **Section 123.** Section 20-5-305, MCA, is amended to  
12 read:

13 "20-5-305. Elementary tuition rates. (1) Whenever a  
14 pupil of an elementary district has been granted approval to  
15 attend a school outside of the district in which he resides,  
16 under the provisions of 20-5-301 or 20-5-302, ~~such the~~  
17 district shall pay tuition to the elementary district where  
18 the pupil attends school. Except as provided in subsection  
19 (2), the basis of the rate of tuition shall be determined by  
20 the attended district. The rate of tuition shall be  
21 determined by:

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

25 (b) dividing the amount determined in subsection

1 (1)(a) by the ANB of the district for the current fiscal  
2 year, as determined under the provisions of 20-9-311; and

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

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

15 **Section 124.** Section 20-5-312, MCA, is amended to  
16 read:

17 "20-5-312. Reporting, budgeting, and payment for high  
18 school tuition. (1) Except as provided in subsection (2), at  
19 the close of the school term of each school fiscal year, the  
20 trustees of each high school district shall determine the  
21 rate of tuition for the current school fiscal year by:

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

25 (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, ~~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

1 district, showing the paid warrants, outstanding warrants,  
2 registered warrants, amounts and types of revenue received,  
3 and the cash balance; and

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

7 **Section 128.** Section 20-9-301, MCA, is amended to  
8 read:

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

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

25 (3) The amount of the general fund budget for each

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

8 **Section 129.** Section 20-9-331, MCA, is amended to  
9 read:

10 "20-9-331. Basic county tax and other revenues for  
11 county equalization of the elementary district foundation  
12 program. (1) It ~~shall--be~~ is the duty of the county  
13 commissioners of each county to levy an annual basic tax of  
14 28 mills on the dollars of the taxable value of all taxable  
15 property within the county, except for vehicles subject to  
16 taxation under 61-3-504(2), for the purposes of local and  
17 state foundation program support. The revenue to be  
18 collected from this levy ~~shall~~ must be apportioned to the  
19 support of the foundation programs of the elementary school  
20 districts in the county and to the state special revenue  
21 fund, state equalization aid account, in the following  
22 manner:

23 (a) In order to determine the amount of revenue raised  
24 by this levy which is retained by the county, the sum of the  
25 estimated revenues identified in subsection (2) ~~below--shall~~

1 be is subtracted from the sum of the county elementary  
2 transportation obligation and the total of the foundation  
3 programs of all elementary districts of the 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 by this section and the revenues from  
15 the following sources ~~shall~~ must be used for the  
16 equalization of the elementary district foundation programs  
17 of the county as prescribed in 20-9-334, and a separate  
18 accounting ~~shall~~ must be kept of such the proceeds and  
19 revenues by the county treasurer in accordance with  
20 20-9-212(1):

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

24 (b) the portion of the federal flood control act funds  
25 distributed to a county and designated for expenditure for

1 the benefit of the county common schools under the  
2 provisions of 17-3-232;

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

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

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

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

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

18 (h) sales tax and use tax revenue."

19 **Section 130.** Section 20-9-333, MCA, is amended to  
20 read:

21 "20-9-333. Basic special levy and other revenues for  
22 county equalization of high school district foundation  
23 program. (1) It ~~shall--be~~ is the duty of the county  
24 commissioners of each county to levy an annual basic special  
25 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 ~~(g)~~(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

1 prescribed in 20-9-141, on the taxable value of all taxable  
 2 property within the district, except for vehicles subject to  
 3 taxation under 61-3-504(2), supplemented with any biennial  
 4 appropriation by the legislature for this purpose. The  
 5 proceeds of such an appropriation shall be deposited to the  
 6 state special revenue fund, permissive account.

7 (2) The district levies to be set for the purpose of  
 8 funding the permissive amount are determined as follows:

9 (a) For each elementary school district, the county  
 10 commissioners shall annually set a levy not exceeding 6  
 11 mills on all the taxable property in the district, except  
 12 for vehicles subject to taxation under 61-3-504(2), for the  
 13 purpose of funding the permissive amount of the district.  
 14 The permissive levy in mills shall be obtained by  
 15 multiplying the ratio of the permissive amount to the  
 16 maximum permissive amount by 6 or by using the number of  
 17 mills which would fund the permissive amount, whichever is  
 18 less. If the ~~amount--of~~ revenue raised by this levy, plus  
 19 anticipated revenue from vehicle property taxes imposed  
 20 under 61-3-504(2) and 61-3-537, ~~is~~ and the revenue from a  
 21 sales tax and use tax are not sufficient to fund the  
 22 permissive amount in full, the amount of the deficiency  
 23 shall be paid to the district from the state special revenue  
 24 fund according to the provisions of subsections (3) and (4)  
 25 of this section.

1 (b) For each high school district, the county  
 2 commissioners shall annually set a levy not exceeding 4  
 3 mills on all taxable property in the district, except for  
 4 vehicles subject to taxation under 61-3-504(2), for the  
 5 purpose of funding the permissive amount of the district.  
 6 The permissive levy in mills shall be obtained by  
 7 multiplying the ratio of the permissive levy to the maximum  
 8 permissive amount by 4 or by using the number of mills which  
 9 would fund the permissive amount, whichever is less. If the  
 10 ~~amount--of~~ revenue raised by this levy, plus anticipated  
 11 revenue from vehicle property taxes imposed under  
 12 61-3-504(2) and 61-3-537, ~~and plus net proceeds taxes for~~  
 13 ~~interim production and new production, as defined in~~  
 14 ~~15-23-601, is~~ and the revenue from a sales tax and use tax  
 15 are not sufficient to fund the permissive amount in full,  
 16 the amount of the deficiency shall be paid to the district  
 17 from the state special revenue fund according to the  
 18 provisions of subsections (3) and (4) of this section.

19 (3) The superintendent of public instruction shall, if  
 20 the appropriation by the legislature for the permissive  
 21 account for the biennium is insufficient, request the budget  
 22 director to submit a request for a supplemental  
 23 appropriation in the second year of the biennium. The  
 24 supplemental appropriation shall provide enough revenue to  
 25 fund the permissive deficiency of the elementary and high

1 school districts of the state. The proceeds of this  
 2 appropriation shall be deposited to the state special  
 3 revenue fund, permissive account, and shall be distributed  
 4 to the elementary and high school districts in accordance  
 5 with their entitlements as determined by the superintendent  
 6 of public instruction according to the provisions of  
 7 subsections (1) and (2) of this section.

8 (4) Distribution under this section from the state  
 9 special revenue fund shall be made in two payments. The  
 10 first payment shall be made at the same time as the first  
 11 distribution of state equalization aid is made after January  
 12 1 of the fiscal year. The second payment shall be made at  
 13 the same time as the last payment of state equalization aid  
 14 is made for the fiscal year. If the appropriation is not  
 15 sufficient to finance the deficiencies of the districts as  
 16 determined according to subsection (2), each district will  
 17 receive the same percentage of its deficiency. Surplus  
 18 revenue in the second year of the biennium may be used to  
 19 reduce the appropriation required for the next succeeding  
 20 biennium or may be transferred to the state equalization aid  
 21 state special revenue fund if revenues in that fund are  
 22 insufficient to meet foundation program requirements."

23 **Section 133.** Section 20-9-502, MCA, is amended to  
 24 read:

25 \*20-9-502. Purpose and authorization of a building

1 reserve fund by an election. (1) The trustees of any  
 2 district, with the approval of the qualified electors of the  
 3 district, may establish a building reserve for the purpose  
 4 of raising money for the future construction, equipping, or  
 5 enlarging of school buildings or for the purpose of  
 6 purchasing land needed for school purposes in the district.  
 7 In order to submit to the qualified electors of the district  
 8 a building reserve proposition for the establishment of or  
 9 addition to a building reserve, the trustees shall pass a  
 10 resolution that specifies:

11 (a) the purpose or purposes for which the new or  
 12 addition to the building reserve will be used;

13 (b) the duration of time over which the new or  
 14 addition to the building reserve will be raised in annual,  
 15 equal installments;

16 (c) the total amount of money that will be raised  
 17 during the duration of time specified in subsection (1)(b);  
 18 and

19 (d) any other requirements under 20-20-201 for the  
 20 calling of an election.

21 (2) The total amount of building reserve when added to  
 22 the outstanding indebtedness of the district shall not be  
 23 more than ~~45%~~ 51% of the taxable value of the taxable  
 24 property of the district. Such limitation shall be  
 25 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

1 period. Thereafter, during the appropriate anniversary  
2 registration period, each vehicle shall again register or  
3 reregister and shall pay all taxes and fees due thereon for  
4 a 12-month period."

5 **SECTION 140. SECTION 61-3-502, MCA, IS AMENDED TO**

6 **READ:**

7 "61-3-502. Sales tax on new motor vehicles --  
8 exemptions. (1) In consideration of the right to use the  
9 highways of the state, there is imposed a tax upon all sales  
10 of new motor vehicles, excluding trailers, semitrailers, and  
11 housetrailers, for which a license is sought and an original  
12 application for title is made. The tax shall be paid by the  
13 purchaser when he applies for his original Montana license  
14 through the county treasurer.

15 (2) ~~Except as provided in subsection (4), the~~ The  
16 sales tax shall be:

17 ~~(a) 1 1/2% is 4% of the f.o.b. factory list price or~~  
18 ~~f.o.b. port-of-entry list price, during the first quarter of~~  
19 ~~the year or for a registration period other than a calendar~~  
20 ~~year or calendar quarter;~~

21 ~~(b) 1 1/8% of the list price during the second quarter~~  
22 ~~of the year;~~

23 ~~(c) 3/4 of 1% during the third quarter of the year;~~

24 ~~(d) 3/8 of 1% during the fourth quarter of the year;~~

25 ~~(3) If the manufacturer or importer fails to furnish~~

1 ~~the f.o.b. factory list price or f.o.b. port-of-entry list~~  
2 ~~price, the department may use published price lists;~~

3 ~~(4) The new car sales tax on vehicles subject to the~~  
4 ~~provisions of 61-3-313 through 61-3-316 is 1 1/2% of the~~  
5 ~~f.o.b. factory list price or f.o.b. port-of-entry list price~~  
6 ~~regardless of the month in which the new vehicle is~~  
7 ~~purchased.~~

8 ~~(5)(3)~~ The proceeds from this tax shall be remitted to  
9 the state treasurer every 30 days for credit as follows:

10 (a) 32.5% to the state highway account of the state  
11 special revenue fund; and

12 (b) 67.5% to the sales tax and use tax account  
13 described in [section 75].

14 ~~(6)(4)~~ The new vehicle is not subject to any other  
15 assessment, fee in lieu of tax, or tax during the calendar  
16 year in which the original application for title is made.

17 ~~(7)(5)~~ (a) The applicant for original registration of  
18 any new and unused motor vehicle, or a new motor vehicle  
19 furnished without charge by a dealer to a school district  
20 for use as a traffic education motor vehicle by a school  
21 district operating a state-approved traffic education  
22 program within the state, whether or not previously licensed  
23 or titled to the school district (except a mobile home as  
24 defined in 15-1-101(1)), acquired by original contract after  
25 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 IMV  
 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

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- 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-

1                                   SENATE BILL NO. 469  
 2           INTRODUCED BY CRIPPEN, BRADLEY, ECK, RAMIREZ  
 3  
 4   A BILL FOR AN ACT ENTITLED: "~~AN ACT~~ THE EDUCATION AND TAX  
 5 REFORM ACT; PROVIDING FOR A 4 PERCENT SALES TAX AND USE TAX;  
 6 PROVIDING FOR CERTAIN DEDUCTIONS AND EXEMPTIONS FROM THE  
 7 TAX; GENERALLY REVISING THE CLASSIFICATION OF PROPERTY FOR  
 8 PROPERTY TAX PURPOSES; PROVIDING PROPERTY TAX RELIEF;  
 9 EXEMPTING THE FIRST \$15,000 OR LESS OF MARKET VALUE OF  
 10 SINGLE-FAMILY RESIDENCES OF MONTANA RESIDENTS FROM PROPERTY  
 11 TAXATION; REVISING LOCAL GOVERNMENT BONDING AND DEBT LIMITS;  
 12 PROVIDING CREDITS AGAINST OR REFUND OF INDIVIDUAL INCOME TAX  
 13 LIABILITY; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE  
 14 FROM THE SALES TAX AND USE TAX; REPEALING COUNTY MILL LEVIES  
 15 FOR TEACHER RETIREMENT; LINKING THE IMPOSITION OF A  
 16 STATEWIDE SALES TAX TO STATE INCOME TAX REFORM; AMENDING  
 17 SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254,  
 18 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202,  
 19 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402,  
 20 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131,  
 21 15-1-101, 15-6-133 THROUGH 15-6-135, 15-6-201, 15-6-207,  
 22 15-8-111, 15-8-205, 15-10-402, 15-10-411, 15-10-412,  
 23 15-16-611, 15-16-613, 15-24-301, 15-24-1102, 15-24-1103,  
 24 17-3-213, 19-4-605, 19-11-503, 19-11-504, 20-3-106,  
 25 20-3-324, 20-5-305, 20-5-312, 20-9-141, 20-9-201, 20-9-212,

1 20-9-301, 20-9-331, 20-9-333, 20-9-343, 20-9-352, 20-9-406,  
 2 20-9-407, 20-9-502, 20-10-144, 20-15-311, 20-16-202,  
 3 23-5-1027, 33-7-407, ~~AND 61-3-501~~, AND 61-3-502, MCA;  
 4 REPEALING SECTIONS 15-6-136 THROUGH 15-6-140, 15-6-142  
 5 THROUGH 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153,  
 6 15-6-154, 20-9-501, 20-9-531, AND 20-9-532; PROVIDING THAT  
 7 CERTAIN SECTIONS OF THIS ACT BE SUBMITTED TO THE QUALIFIED  
 8 ELECTORS OF THE STATE OF MONTANA; AND PROVIDING EFFECTIVE  
 9 DATES AND APPLICABILITY DATES."

11                                   STATEMENT OF INTENT

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

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

20           (1) the registration and issuance of permits to  
 21 persons engaging in the business of retail sales and  
 22 services;

23           (2) the reporting form for the payment of the taxes,  
 24 along with the requirements for the retention by the  
 25 taxpayers of the necessary records;

- 1 (3) the required security and the acceptable forms of
- 2 security for those taxpayers required to give security for
- 3 payment of the taxes;
- 4 (4) the use of the nontaxable transaction certificate
- 5 and clarification of any exemption from or deduction of the
- 6 taxes;
- 7 (5) the necessary forms and the required procedures
- 8 for reporting the taxes; and
- 9 (6) the definition of terms and establishment of
- 10 procedures as appropriate for efficient administration of
- 11 the sales tax and use tax.

12  
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

16 otherwise, the following definitions apply:

- 17 (1) "Buying", "selling", "buy", "sell", or "sale"
- 18 means the transfer of property for consideration or the
- 19 performance of a service for consideration.
- 20 (2) "Construction" means:
- 21 (a) the building, altering, repairing, or demolishing
- 22 in the ordinary course of business of any:
- 23 (i) road, highway, bridge, parking area, or related
- 24 project;
- 25 (ii) building, stadium, or other structure;

- 1 (iii) airport, subway, or similar facility;
- 2 (iv) park, trail, athletic field, golf course, or
- 3 similar facility;
- 4 (v) dam, reservoir, canal, ditch, or similar facility;
- 5 (vi) sewage or water treatment facility, power
- 6 generating plant, pump station, natural gas compressing
- 7 station, gas processing plant, coal gasification plant,
- 8 refinery, distillery, or similar facility;
- 9 (vii) sewage, water, gas, or other pipeline;
- 10 (viii) transmission line;
- 11 (ix) radio, television, or other tower;
- 12 (x) water, oil, or other storage tank;
- 13 (xi) shaft, tunnel, or other mining appurtenance; or
- 14 (xii) microwave station or similar facility;
- 15 (b) the leveling or clearing of land;
- 16 (c) the excavating of earth;
- 17 (d) the drilling of wells of any type, including
- 18 seismograph shot holes or core drilling; or
- 19 (e) any similar work.
- 20 (3) "Department" means the department of revenue.
- 21 (4) "Engaging in business" means carrying on or
- 22 causing to be carried on any activity with the purpose of
- 23 direct or indirect benefit.
- 24 (5) "Food product for human consumption":
- 25 (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

1 nonprofit marketing association from the sale of livestock,  
 2 live poultry, unprocessed agricultural products, hides, or  
 3 pelts are exempt from the sales tax. Persons engaged in the  
 4 business of buying and selling wool or mohair or of buying  
 5 and selling livestock on their own account and without the  
 6 services of a broker, auctioneer, or other agent are  
 7 considered producers for the purposes of this section.

8 NEW SECTION. Section 14. Exemption -- livestock  
 9 feeding. A person's receipts derived from feeding,  
 10 pasturing, penning, or handling or training livestock prior  
 11 to sale are exempt from the sales tax.

12 NEW SECTION. Section 15. Exemption -- used tangible  
 13 personal property upon which a sales or use tax has been  
 14 paid. The receipts from the sale of used tangible personal  
 15 property upon which a tax has been paid pursuant to  
 16 [sections 1 through 68 and 74] are exempt from the sales  
 17 tax.

18 NEW SECTION. Section 16. Exemption -- vehicles. The  
 19 receipts from the sale of any vehicle upon which a tax  
 20 pursuant to [sections 1 through 68 and 74] has been paid or  
 21 which was purchased prior to [the applicability date of this  
 22 act] are exempt from the sales tax. A registration  
 23 certificate showing that the vehicle was registered in this  
 24 state prior to [the applicability date of this act] is  
 25 conclusive proof that it was purchased before it was subject

1 to taxation under [sections 1 through 68 and 74] and is  
 2 exempt under this section.

3 NEW SECTION. Section 17. Exemption -- certain mobile  
 4 homes. Receipts from the resale of a mobile home may be  
 5 deducted from gross receipts if the sale is of a mobile home  
 6 that was subject to the sales tax or use tax upon its  
 7 initial sale or use in this state or was initially sold or  
 8 used in this state prior to [the applicability date of this  
 9 act]. The seller shall retain and furnish proof satisfactory  
 10 to the department of either of the following:

11 (1) that the sales tax or use tax was paid upon the  
 12 initial sale or use in this state of the mobile home. In the  
 13 absence of such proof, it is presumed that the tax was not  
 14 paid.

15 (2) that a Montana certificate of title was issued for  
 16 a mobile home prior to [the applicability date of this act].  
 17 The certificate is proof that the mobile home was initially  
 18 sold or used in this state prior to [the applicability date  
 19 of this act] and that the mobile home is exempt under this  
 20 section.

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

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

1 (1) interest on money loaned or deposited;

2 (2) dividends or interest from stocks, bonds, or  
3 securities; and

4 (3) proceeds from the sale of stocks, bonds, or  
5 securities.

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

11 NEW SECTION. Section 21. Exemption -- isolated or  
12 occasional sale or lease of property or services. The  
13 receipts from the isolated or occasional sale or lease of  
14 property or from the performance of a service by a person  
15 who is not regularly engaged in or who does not represent  
16 himself as engaged in the business of selling or leasing the  
17 same or a similar property or service are exempt from the  
18 sales tax.

19 NEW SECTION. Section 22. Exemption -- oil, gas, and  
20 mineral interests. The receipts from the sale or lease of  
21 oil, natural gas, or mineral interests are exempt from the  
22 sales tax.

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

1 tax and use tax.

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

8 NEW SECTION. Section 24. Exemption -- property of  
9 certain governmental agencies. (1) The use of property by  
10 the United States or any agency or instrumentality of the  
11 United States or by this state or any political subdivision  
12 of this state is exempt from the use tax.

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

16 NEW SECTION. Section 25. Exemption -- personal  
17 effects. The use by an individual of personal or household  
18 effects brought into the state for the establishment by him  
19 of an initial residence in this state and the use of  
20 property brought into the state by a nonresident for his own  
21 nonbusiness use while temporarily within this state are  
22 exempt from the use tax.

23 NEW SECTION. Section 26. Exemption -- SUBSCRIPTIONS  
24 -- advertising services. (1) THE GROSS RECEIPTS FROM THE  
25 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

1 nontaxable transaction certificate to the seller;

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

5 (3) the buyer does not use the property in any manner  
6 other than holding it for lease or sale or leasing or  
7 selling it, either by itself or in combination with other  
8 tangible personal property, in the ordinary course of  
9 business.

10 NEW SECTION. Section 31. Deduction -- lease for  
11 subsequent lease. Receipts from the lease of tangible  
12 personal property, other than furniture or appliances, and  
13 from the rental or lease of property, other than  
14 coin-operated machines and mobile homes, that is deductible  
15 under [sections 1 through 68 and 74] may be deducted from  
16 gross receipts if:

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

19 (2) the lessee does not use the property in any manner  
20 other than for subsequent lease in the ordinary course of  
21 business.

22 NEW SECTION. Section 32. Deduction -- sale of  
23 tangible personal property to person engaged in construction  
24 business. (1) Receipts from the sale of tangible personal  
25 property may be deducted from gross receipts if the sale is

1 made to a buyer engaged in the construction business who  
2 delivers a nontaxable transaction certificate to the seller.

3 (2) The buyer delivering the nontaxable transaction  
4 certificate shall incorporate the tangible personal property  
5 as:

6 (a) an ingredient or component part of a construction  
7 project that is subject to the sales tax or use tax upon its  
8 completion or upon the completion of the overall  
9 construction project of which it is a part; or

10 (b) an ingredient or component part of a construction  
11 project that is subject to the sales tax or use tax upon the  
12 sale in the ordinary course of business of the real property  
13 upon which it was constructed.

14 NEW SECTION. Section 33. Deduction -- sale of  
15 construction service to person engaged in construction  
16 business. (1) Receipts from the sale of a construction  
17 service may be deducted from gross receipts if the sale is  
18 made to a buyer engaged in the construction business and he  
19 delivers a nontaxable transaction certificate to the person  
20 performing the construction service.

21 (2) The buyer delivering the nontaxable transaction  
22 certificate shall have the construction services performed  
23 upon:

24 (a) a construction project that is subject to the  
25 sales tax or use tax upon its completion or upon the

1 completion of the overall construction project of which it  
2 is a part; or

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

6 NEW SECTION. Section 34. Deduction -- sale or lease  
7 of real property and lease of mobile homes. (1) (a) Except  
8 as provided in subsections (1)(b) (2) and (3) (4), receipts  
9 from the sale or lease of real property, from the lease of a  
10 mobile home, or from the rental of a mobile home for a  
11 period of at least 1 month may be deducted from gross  
12 receipts.

13 (b)(2) (A) The portion of the gross receipts from the  
14 sale of real property that is attributable to improvements,  
15 OTHER THAN RESIDENTIAL IMPROVEMENTS, constructed on the real  
16 property by the seller in the ordinary course of his  
17 construction business may not be deducted from gross  
18 receipts.

19 (B) THE PROPORTION OF THE GROSS RECEIPTS FROM THE SALE  
20 OF REAL PROPERTY THAT IS ATTRIBUTABLE TO RESIDENTIAL  
21 IMPROVEMENTS CONSTRUCTED ON THE REAL PROPERTY BY THE SELLER  
22 IN THE ORDINARY COURSE OF HIS CONSTRUCTION BUSINESS MAY BE  
23 DEDUCTED FROM GROSS RECEIPTS IN THE PROPORTION THAT THE COST  
24 OF THE CONSTRUCTION FOR EVERYTHING OTHER THAN MATERIALS  
25 BEARS TO THE GROSS RECEIPTS FOR THE IMPROVEMENTS.

1 ~~(2)(3)~~ Receipts attributable to the inclusion of  
2 furniture or appliances furnished by the landlord or lessor  
3 as part of a leased or rented dwelling, house, mobile home,  
4 cabin, condominium, or apartment may be deducted from gross  
5 receipts.

6 ~~(3)(4)~~ Receipts received by hotels, motels,  
7 roominghouses, campgrounds, guest ranches, trailer parks, or  
8 similar facilities may not be deducted for FROM gross  
9 receipts for purposes of this-section [SECTIONS 1 THROUGH 69  
10 AND 75] if either the operator or the user must pay tax on  
11 the receipts under Title 15, chapter 65, AND ALL SUCH  
12 RECEIPTS ARE SUBJECT TO THE TAX IMPOSED IN [SECTION 2]. The  
13 receipts of hotels, motels, roominghouses, campgrounds,  
14 guest ranches, trailer parks, or similar facilities are  
15 subject to the sales tax or use tax.

16 (5) FOR THE PURPOSES OF THIS SECTION, "RESIDENTIAL  
17 IMPROVEMENTS" MEANS IMPROVEMENTS TO REAL PROPERTY THAT ARE  
18 CONSTRUCTED FOR HUMAN HABITATION IN A STRUCTURE CONTAINING  
19 FEWER THAN THREE UNITS. THE TERM INCLUDES IMPROVEMENTS MADE  
20 TO EXISTING RESIDENTIAL IMPROVEMENTS.

21 NEW SECTION. Section 35. Deduction -- transactions in  
22 interstate commerce -- exception. (1) Receipts from a  
23 transaction in interstate commerce may be deducted from  
24 gross receipts to the extent that the imposition of the  
25 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

1 to the performance of a service.

2 (2) The deduction provided in subsection (1) does not  
 3 apply to the value of furniture or appliances furnished by  
 4 the landlord or lessor as part of a leased or rented  
 5 dwelling, house, cabin, condominium, or apartment or to the  
 6 lease of coin-operated machines or mobile homes.

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

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

16 NEW SECTION. SECTION 44. DEDUCTION -- COMPUTER DATA  
 17 BASE SERVICES. (1) RECEIPTS FROM THE SALE OR USE OF  
 18 COMPUTER DATA BASE SERVICES MAY BE DEDUCTED FROM GROSS  
 19 RECEIPTS.

20 (2) FOR THE PURPOSES OF [SECTIONS 1 THROUGH 69 AND  
 21 75], "COMPUTER DATA BASE SERVICES" MEANS IDENTIFYING,  
 22 COMPILING, ORGANIZING, MANIPULATING, OR DELIVERING  
 23 INFORMATION ACTUALLY CONTAINED IN OR TO BE CONTAINED IN A  
 24 COMPUTER DATA BASE.

25 (3) RECEIPTS FROM THE SALE OF COMPUTER HARDWARE,

1 SOFTWARE, SYSTEM DEVELOPMENT, DESIGN, OR INSTALLATION OR THE  
 2 SALE OF AN EXISTING COMPUTER DATA BASE (AS OPPOSED TO THE  
 3 SALE OR USE OF A COMPUTER DATA BASE SERVICE) MAY NOT BE  
 4 DEDUCTED FROM GROSS RECEIPTS.

5 NEW SECTION. Section 45. Credit -- out-of-state  
 6 taxes. (1) If a gross receipts, sales, use, or similar tax  
 7 has been levied by another state or a political subdivision  
 8 of another state on property bought outside this state but  
 9 which will be used or consumed in this state and the tax was  
 10 paid, the amount of tax paid may be credited against any use  
 11 tax due this state on the same property.

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

21 NEW SECTION. Section 46. Seller's permit. Upon an  
 22 applicant's compliance with [sections 1 through 68 and 74],  
 23 the department shall issue to the applicant a separate,  
 24 numbered seller's permit for each place of business within  
 25 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

1 (e) a signature line for the purchaser.

2 **NEW SECTION. Section 51. Improper use of subject of**  
 3 **purchase obtained with nontaxable transaction certificate --**  
 4 **penalty.** (1) If a purchaser who uses a nontaxable  
 5 transaction certificate utilizes the subject of the purchase  
 6 for a purpose other than one allowed as a deduction under  
 7 [sections 1 through 68 and 74], the use is considered a  
 8 taxable sale by the purchaser as of the time of first use by  
 9 him and the sale price he receives is considered the gross  
 10 receipts from the sale. If the sole nonexempt use is rental  
 11 while holding for sale, the purchaser shall include in his  
 12 gross receipts the amount of the rental charged. Upon  
 13 subsequent sale of the property, the seller shall include  
 14 the entire amount of gross receipts received from the  
 15 resale, without deduction of amounts previously received as  
 16 rentals.

17 (2) A person who uses a certificate for property that  
 18 will be utilized for purposes other than the purpose claimed  
 19 is subject to a penalty, payable to the department, of \$100  
 20 for each transaction in which an improper use of an  
 21 exemption certificate has occurred.

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

24 **NEW SECTION. Section 52. Commingling nontaxable**  
 25 **certificate goods.** If a purchaser uses a nontaxable

1 transaction certificate with respect to the purchase of  
 2 fungible goods and thereafter commingles these goods with  
 3 fungible goods not so purchased but of such similarity that  
 4 the identity of the goods in the commingled mass cannot be  
 5 determined, sales from the mass of commingled goods are  
 6 considered to be sales of the goods purchased with the  
 7 certificate until the quantity of commingled goods sold  
 8 equals the quantity of goods originally purchased under the  
 9 certificate.

10 **NEW SECTION. Section 53. Liability for payment of tax**  
 11 **-- security for retailer without place of business --**  
 12 **penalty.** (1) Liability for the payment of the sales tax and  
 13 use tax is not extinguished until the taxes have been paid  
 14 to the department.

15 (2) A retailer who does not maintain a place of  
 16 business in this state is liable for the sales tax or use  
 17 tax in accordance with [sections 1 through 68 and 74] and  
 18 shall furnish adequate security as required in [section 56]  
 19 to ensure collection and payment of the taxes. When so  
 20 authorized and except as otherwise provided in [sections 1  
 21 through 68 and 74], the retailer is liable for the taxes  
 22 upon all tangible property sold that is to be used within  
 23 this state in the same manner as a retailer who maintains a  
 24 place of business within this state. The permit provided  
 25 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.

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

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

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

13 NEW SECTION. Section 58. Extensions. (1) The  
14 department may extend the time for filing a return and  
15 remittance of tax, deficiencies, and penalties for a period  
16 not to exceed 60 days from the date a return was due and may  
17 require both an estimated return at the time fixed for  
18 filing the regularly required return and the payment of tax  
19 on the basis of the estimated return.

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

24 NEW SECTION. Section 59. Examination of return --  
25 adjustments -- delivery of notices and demands. (1) The

1 department may examine a return and make an investigation or  
2 examination of the records and accounts of a person making  
3 the return if the department considers it necessary to  
4 determine the accuracy of the return.

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

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

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

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

25 (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.

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

9 NEW SECTION. Section 63. Penalty for deficiency.

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

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

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

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

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

4 NEW SECTION. Section 64. Limitations. Except in the  
 5 case of a person who, with intent to evade the tax,  
 6 purposely or knowingly files a false or fraudulent return  
 7 violating the provisions of [sections 1 through 68 and 74],  
 8 the amount of tax due under any return must be determined by  
 9 the department within 5 years after the return was made. The  
 10 department is barred from revising a return or recomputing  
 11 the tax due thereon, and no proceeding in court for the  
 12 collection of the tax may be instituted unless notice of an  
 13 additional tax was provided within the period described in  
 14 this section.

15 NEW SECTION. Section 65. Refunds. A claim for a  
 16 refund made for taxes collected under [sections 1 through 68  
 17 and 74] must be in accordance with the procedure and time  
 18 limits provided in 15-1-503.

19 NEW SECTION. Section 66. Administration -- rules. The  
 20 department shall:

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

23 (2) cause to be prepared and distributed such forms  
 24 and information as may be necessary to administer the  
 25 provisions of [sections 1 through 68 and 74]; and

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

4 NEW SECTION. Section 67. Revocation of corporate  
5 license. (1) If a corporation authorized to do business in  
6 this state and required to pay the taxes imposed under  
7 [sections 1 through 68 and 74] fails to comply with any of  
8 the provisions of [sections 1 through 68 and 74] or any rule  
9 of the department, the department may, for reasonable cause,  
10 certify to the secretary of state a copy of an order finding  
11 that the corporation has failed to comply with specific  
12 statutory provisions or rules.

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

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

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

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

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

18 NEW SECTION. Section 69. Information --  
19 confidentiality -- agreements with another state. (1) (a)  
20 Except as provided in subsections (1)(b) and (2), it is  
21 unlawful for an employee of the department or any other  
22 public official or public employee to divulge or otherwise  
23 make known any information disclosed in a report or return  
24 required to be filed under [sections 1 through 68 and 74] or  
25 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:

Gross-Household-income	Credit-per-Exemption
\$-----0-----12,999	\$100
-13,000---14,999	--50
-15,000---19,999	--25
-20,000-or-more-	---0

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

1 sinking fund purposes, and nothing in this section affects  
 2 the right of any creditor of the county to pursue any remedy  
 3 now given him by law to obtain payment of his claim."

4 **Section 81.** Section 7-6-4121, MCA, is amended to read:

5 **"7-6-4121. Authorization to conduct municipal business**  
 6 **on a cash basis.** (1) In case the total indebtedness of a  
 7 city or town has reached ~~17%~~ 19% of the total taxable value  
 8 of the property of the city or town subject to taxation, as  
 9 ascertained by the last assessment for state and county  
 10 taxes, the city or town may conduct its affairs and business  
 11 on a cash basis as provided by subsection (2).

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

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

1 (c) Before the payment of the current expenses  
 2 mentioned above, the city or town council shall first set  
 3 apart sufficient money to pay the interest upon its legal,  
 4 valid, and outstanding bonded indebtedness and any sinking  
 5 funds therein provided for and shall be authorized to pay  
 6 all valid claims against funds raised by tax especially  
 7 authorized by law for the purpose of paying such claims."

8 **Section 82.** Section 7-6-4254, MCA, is amended to read:

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

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

21 **Section 83.** Section 7-7-107, MCA, is amended to read:

22 **"7-7-107. Limitation on amount of bonds for**  
 23 **city-county consolidated units.** (1) Except as provided in  
 24 7-7-108, no city-county consolidated local government may  
 25 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%~~

1 25.5% of the total of the taxable value of such property,  
 2 plus the amount of interim production and new production  
 3 taxes levied divided by the appropriate tax rates described  
 4 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
 5 amount of value represented by new production exempted from  
 6 tax as provided in 15-23-612, when necessary for the purpose  
 7 of replacing, rebuilding, or repairing county buildings,  
 8 bridges, or highways which have been destroyed or damaged by  
 9 an act of God, disaster, catastrophe, or accident.

10 (3) The value of the bonds issued and all other  
 11 outstanding indebtedness of the county, except county high  
 12 school bonds, shall not exceed ~~22.5%~~ 25.5% of the total of  
 13 the taxable value of the property within the county, plus  
 14 the amount of interim production and new production taxes  
 15 levied divided by the appropriate tax rates described in  
 16 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
 17 amount of value represented by new production exempted from  
 18 tax as provided in 15-23-612, as ascertained by the last  
 19 preceding general assessment."

20 **Section 92.** Section 7-14-2525, MCA, is amended to  
 21 read:

22 "7-14-2525. Refunding agreements and refunding bonds  
 23 authorized. (1) Whenever the total indebtedness of a county  
 24 exceeds ~~22.5%~~ 25.5% of the total of the taxable value of the  
 25 property therein, plus the amount of interim production and

1 new production taxes levied divided by the appropriate tax  
 2 rates described in 15-23-607(2)(a) or (2)(b) and multiplied  
 3 by 60%, plus the amount of value represented by new  
 4 production exempted from tax as provided in 15-23-612, and  
 5 the board determines that the county is unable to pay such  
 6 indebtedness in full, the board may:

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

11 (b) enter into such agreement;

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

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

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

18 **Section 93.** Section 7-14-4402, MCA, is amended to  
 19 read:

20 "7-14-4402. Limit on indebtedness to provide bus  
 21 service. The total amount of indebtedness authorized under  
 22 7-14-4401(1) to be contracted in any form, including the  
 23 then-existing indebtedness, may not at any time exceed ~~20%~~  
 24 32% of the total taxable value of the property of the city  
 25 or town subject to taxation as ascertained by the last

1 assessment for state and county taxes. No money may be  
 2 borrowed or bonds issued for the purposes specified in  
 3 7-14-4401(1) until the proposition has been submitted to the  
 4 vote of the taxpayers of the city or town and the majority  
 5 vote cast in its favor."

6 **Section 94.** Section 7-16-2327, MCA, is amended to  
 7 read:

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

14 (2) (a) The total amount of indebtedness authorized to  
 15 be contracted in any form, including the then-existing  
 16 indebtedness, must not at any time exceed ~~13%~~ 15% of the  
 17 total of the taxable value of the taxable property in the  
 18 county, plus the amount of interim production and new  
 19 production taxes levied divided by the appropriate tax rates  
 20 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
 21 60%, plus the amount of value represented by new production  
 22 exempted from tax as provided in 15-23-612, ascertained by  
 23 the last assessment for state and county taxes previous to  
 24 the incurring of such indebtedness.

25 (b) No money may be borrowed on bonds issued for the

1 purchase of lands and improving same for any such purpose  
 2 until the proposition has been submitted to the vote of  
 3 those qualified under the provisions of the state  
 4 constitution to vote at such election in the county affected  
 5 thereby and a majority vote is cast in favor thereof."

6 **Section 95.** Section 7-16-4104, MCA, is amended to  
 7 read:

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

13 (a) for the purpose of purchasing and improving lands  
 14 for public parks and grounds;

15 (b) for procuring by purchase, construction, or  
 16 otherwise swimming pools, athletic fields, skating rinks,  
 17 playgrounds, museums, a golf course, a site and building for  
 18 a civic center, a youth center, or combination thereof; and

19 (c) for furnishing and equipping the same.

20 (2) The total amount of indebtedness authorized to be  
 21 contracted in any form, including the then-existing  
 22 indebtedness, may not at any time exceed ~~16.5%~~ 19% of the  
 23 taxable value of the taxable property of the city or town as  
 24 ascertained by the last assessment for state and county  
 25 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

1 bonds to provide funds for payment of part or all of the  
 2 cost of acquisition, furnishing, equipment, improvement,  
 3 extension, and betterment of hospital facilities and to  
 4 provide an adequate working capital for a new hospital.

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

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

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

17 **Section 99.** Section 20-9-406, MCA, is amended to read:

18 **"20-9-406. Limitations on amount of bond issue.** (1)  
 19 The maximum amount for which each school district may become  
 20 indebted by the issuance of bonds, including all  
 21 indebtedness represented by outstanding bonds of previous  
 22 issues and registered warrants, is ~~45%~~ 51% of the taxable  
 23 value of the property subject to taxation as ascertained by  
 24 the last completed assessment for state, county, and school  
 25 taxes previous to the incurring of such indebtedness. The

1 ~~45%~~ 51% maximum, however, may not pertain to indebtedness  
 2 imposed by special improvement district obligations or  
 3 assessments against the school district. All bonds issued in  
 4 excess of such amount shall be null and void, except as  
 5 provided in this section.

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

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

17 **Section 100.** Section 20-9-407, MCA, is amended to  
 18 read:

19 **"20-9-407. Industrial facility agreement for bond**  
 20 **issue in excess of maximum.** (1) In a school district within  
 21 which a new major industrial facility which seeks to qualify  
 22 for taxation as class five property under 15-6-135 is being  
 23 constructed or is about to be constructed, the school  
 24 district may require, as a precondition of the new major  
 25 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 ~~{E}{B}~~ (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 of 30% of its productive capacity.

18 (3) ~~Until July 1, 1986, the taxable percentage rate~~  
19 ~~of class three property is 30%.~~

20 (4) ~~Prior to July 1, 1986, the department of revenue~~  
21 ~~shall determine the taxable percentage rate 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-17-19867-no-adjustment-may-be--made--by  
the--department--to--the-taxable-percentage-rate--"P"--until-a  
revaluation-has-been-made-as-provided-in-15-7-111."~~

**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:

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

3 (ii) specifically included in another class;

4 (F) the first \$80,000 or less of the market value of a  
5 trailer or mobile home used as a residence and actually  
6 occupied for at least 10 months a year as the primary  
7 residential dwelling of any person whose total income from  
8 all sources, including otherwise tax-exempt income of all  
9 types, is not more than \$10,000 for a single person or  
10 \$12,000 for a married couple, as adjusted according to  
11 15-6-134(2)(b)(ii);

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

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

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

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

21 (2) (a) "Air and water pollution equipment" means  
22 facilities, machinery, or equipment used to reduce or  
23 control water or atmospheric pollution or contamination by  
24 removing, reducing, altering, disposing of, or storing  
25 pollutants, contaminants, wastes, or heat. The department of

1 health and environmental sciences shall determine if such  
2 utilization is being made.

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

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

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

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

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

25 (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%~~ ~~13%~~ 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

1 to 15-7-111 has been completed, including the designation of  
 2 1982 as the base year, or the designation of a new base year  
 3 if a revaluation pursuant to 15-7-111 has been completed,  
 4 until the reappraisal cycle beginning January 1, 1986, is  
 5 completed and new valuations are placed on the tax rolls and  
 6 a new base year designated, if the property is:

7 (a) new construction;

8 (b) expanded, deleted, replaced, or remodeled  
 9 improvements;

10 (c) annexed property; or

11 (d) property converted from tax-exempt to taxable  
 12 status.

13 (6) Property described in subsections (5)(a) through  
 14 (5)(d) that is not class four, class twelve, or class  
 15 fourteen property, as amended by [this act], is valued  
 16 according to the procedures used in 1986, or a subsequent  
 17 revaluation completed pursuant to 15-7-111, but is also  
 18 subject to the dollar cap in each taxing unit based on 1986  
 19 the mills levied in 1986, or in 1991 if a revaluation  
 20 pursuant to 15-7-111 has been completed subsequent to 1986.

21 (7) (a) The limitation on the amount of taxes, as  
 22 clarified in this section, is intended to leave the property  
 23 appraisal and valuation methodology of the department of  
 24 revenue intact. Determinations of county classifications,  
 25 salaries of local government officers, and all other matters

1 in which total taxable valuation is an integral component  
 2 are not affected by 15-10-401 and 15-10-402 except for the  
 3 use of taxable valuation in fixing tax levies. In fixing tax  
 4 levies, the taxing units of local government may anticipate  
 5 the deficiency in revenues resulting from the tax  
 6 limitations in 15-10-401 and 15-10-402, while understanding  
 7 that regardless of the amount of mills levied, a taxpayer's  
 8 liability may not exceed the dollar amount due in each  
 9 taxing unit for the 1986 tax year, or the 1991 tax year if a  
 10 revaluation pursuant to 15-7-111 has been completed, unless  
 11 the taxing unit's taxable valuation decreases by 5% or more  
 12 from the previous 1986 tax year, or the 1991 tax year if a  
 13 revaluation pursuant to 15-7-111 has been completed. If a  
 14 taxing unit's taxable valuation decreases by 5% or more from  
 15 the previous 1986 tax year, or the 1991 tax year if a  
 16 revaluation pursuant to 15-7-111 has been completed, it may  
 17 levy additional mills to compensate for the decreased  
 18 taxable valuation, but in no case may the mills levied  
 19 exceed a number calculated to equal the revenue from  
 20 property taxes for the 1986 tax year, or the 1991 tax year  
 21 if a revaluation pursuant to 15-7-111 has been completed, in  
 22 that taxing unit.

23 (b) For the purposes of this subsection (7), property  
 24 tax replacement revenue received as reimbursement from sales  
 25 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.

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

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

6 (a) multiply the amount of tax levied and assessed on  
7 the original taxable value of the property for the year by  
8 the ratio that the number of days in the year that the  
9 property existed before destruction bears to 365; and

10 (b) multiply the amount of tax levied and assessed on  
11 the adjusted taxable value of the property for the remainder  
12 of the year by the ratio that the number of days remaining  
13 in the year after the destruction of the property bears to  
14 365.

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

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

21 **Section 114.** Section 15-16-613, MCA, is amended to  
22 read:

23 "15-16-613. Refund of certain taxes paid in other  
24 states. Subject to the provisions of 15-16-601 and upon  
25 proof that tax was paid in another state, a taxpayer is

1 entitled to a refund equal to the amount of tax paid in  
2 another state on a helicopter or property that was assessed  
3 in Montana under ~~15-6-138(i)(g)~~ 15-6-135 on January 1 of the  
4 year for which the refund is due. The refund under this  
5 section may not exceed the tax that was paid in Montana on  
6 the same property for the same period of time."

7 **Section 115.** Section 15-24-301, MCA, is amended to  
8 read:

9 "15-24-301. Personal property brought into the state  
10 -- assessment -- exceptions -- custom combine equipment. (1)  
11 Except as provided in subsections (2) through (5), property  
12 in the following cases is subject to taxation and assessment  
13 for all taxes levied that year in the county in which it is  
14 located:

15 (a) any personal property (including livestock)  
16 brought, driven, or coming into this state at any time  
17 during the year that is used in the state for hire,  
18 compensation, or profit;

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

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

23 (2) The taxes on this property are levied in the same  
24 manner and to the same extent, except as otherwise provided,  
25 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~~<sub>7</sub> licensed in other states<sub>7</sub> 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 7-07-06357-h-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."

1       **Section 126.** Section 20-9-141, MCA, is amended to  
2 read:

3       **"20-9-141. Computation of general fund net levy**  
4 **requirement by county superintendent.** (1) The county  
5 superintendent shall compute the levy requirement for each  
6 district's general fund on the basis of the following  
7 procedure:

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

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

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

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

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

24       (i) anticipated federal moneys received under the  
25 provisions of Title I of Public Law 81-874 or other

1 anticipated federal moneys received in lieu of such federal  
2 act;

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

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

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

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

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

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

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

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

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

7 **Section 127.** Section 20-9-201, MCA, is amended to  
 8 read:

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

14 (a) A "budgeted fund" means any fund for which a  
 15 budget must be adopted in order to expend any money from  
 16 such the fund. The general fund, transportation fund, bus  
 17 depreciation reserve fund, elementary tuition fund,  
 18 retirement--fund, debt service fund, leased facilities fund,  
 19 building reserve fund, adult education fund, nonoperating  
 20 fund, vocational-technical center fund, and any other funds  
 21 so designated by the legislature shall--be are budgeted  
 22 funds.

23 (b) A "nonbudgeted fund" means any fund for which a  
 24 budget is not required in order to expend any money on  
 25 deposit in such the fund. The school food services fund,

1 miscellaneous federal programs fund, building fund, lease or  
 2 rental agreement fund, traffic education fund, interlocal  
 3 cooperative fund, and any other funds so designated by the  
 4 legislature shall-be are nonbudgeted funds.

5 (2) The school financial administration provisions of  
 6 this title apply to all money of any elementary or high  
 7 school district except the extracurricular money realized  
 8 from pupil activities. The superintendent of public  
 9 instruction has general supervisory authority as prescribed  
 10 by law over the school financial administration provisions,  
 11 as they relate to elementary and high school districts<sup>7</sup>. as  
 12 ~~prescribed-by-law-and~~ He shall establish-such adopt rules as  
 13 are necessary to secure compliance with the law."

14 **Section 128.** Section 20-9-212, MCA, is amended to  
 15 read:

16 "20-9-212. Duties of county treasurer. The county  
 17 treasurer of each county shall:

18 (1) receive and hold all school money subject to  
 19 apportionment and keep a separate accounting of its  
 20 apportionment to the several districts which are entitled to  
 21 a portion of such the money according to the apportionments  
 22 ordered by the county superintendent. A separate accounting  
 23 shall must be maintained for each county fund supported by a  
 24 countywide levy for a specific, authorized purpose,  
 25 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 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 spend ~~such~~ 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)~~ (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;

1 (b) the duration of time over which the new or  
2 addition to the building reserve will be raised in annual,  
3 equal installments;

4 (c) the total amount of money that will be raised  
5 during the duration of time specified in subsection (1)(b);  
6 and

7 (d) any other requirements under 20-20-201 for the  
8 calling of an election.

9 (2) The total amount of building reserve when added to  
10 the outstanding indebtedness of the district shall not be  
11 more than 45% 51% of the taxable value of the taxable  
12 property of the district. Such limitation shall be  
13 determined in the manner provided in 20-9-406. A building  
14 reserve tax authorization shall not be for more than 20  
15 years.

16 (3) The election shall be conducted in accordance with  
17 the school election laws of this title, and the electors  
18 qualified to vote in the election shall be qualified under  
19 the provisions of 20-20-301. The ballot for a building  
20 reserve proposition shall be substantially in the following  
21 form:

22 OFFICIAL BALLOT

23 SCHOOL DISTRICT BUILDING RESERVE ELECTION

24 INSTRUCTIONS TO VOTERS: Make an X or similar mark in  
25 the vacant square before the words "BUILDING RESERVE--YES"

1 if you wish to vote for the establishment of a building  
2 reserve (addition to the building reserve); if you are  
3 opposed to the establishment of a building reserve (addition  
4 to the building reserve) make an X or similar mark in the  
5 square before the words "BUILDING RESERVE--NO".

6 Shall the trustees be authorized to impose an  
7 additional levy each year for .... years to establish a  
8 building reserve (add to the building reserve) of this  
9 school district to raise a total amount of .... dollars  
10 (\$....), for the purpose(s) .... (here state the purpose or  
11 purposes for which the building reserve will be used)?

12  BUILDING RESERVE--YES.

13  BUILDING RESERVE--NO.

14 (4) The building reserve proposition shall be approved  
15 if a majority of those electors voting at the election  
16 approve the establishment of or addition to such building  
17 reserve. The annual budgeting and taxation authority of the  
18 trustees for a building reserve shall be computed by  
19 dividing the total authorized amount by the specified number  
20 of years. The authority of the trustees to budget and  
21 impose the taxation for the annual amount to be raised for  
22 the building reserve shall lapse when, at a later time, a  
23 bond issue is approved by the qualified electors of the  
24 district for the same purpose or purposes for which the  
25 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

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

3 (g) sales tax and use tax revenue; plus

4 ~~f~~g(h) any other revenue anticipated by the trustees  
5 to be earned during the ensuing school fiscal year which may  
6 be used to finance the transportation fund; plus

7 ~~th~~i any cash available for reappropriation as  
8 determined by subtracting the amount of the end-of-the-year  
9 cash balance earmarked as the transportation fund cash  
10 reserve for the ensuing school fiscal year by the trustees  
11 from the end-of-the-year cash balance in the transportation  
12 fund. Such cash reserve shall not be more than 20% of the  
13 final transportation fund budget for the ensuing school  
14 fiscal year and shall be for the purpose of paying  
15 transportation fund warrants issued by the district under  
16 the final transportation fund budget.

17 (4) The district levy requirement for each district's  
18 transportation fund shall be computed by:

19 (a) subtracting the schedule amount calculated in  
20 subsection (1) from the total preliminary transportation  
21 budget amount and, for an elementary district, adding such  
22 difference to the district obligation to finance one-third  
23 of the schedule amount as determined in subsection (2); and

24 (b) subtracting the amount of moneys available to  
25 reduce the property tax on the district, as determined in

1 subsection (3), from the amount determined in subsection  
2 (4)(a) above.

3 (5) The county levy requirement for the financing of  
4 the county transportation reimbursement to high school  
5 districts shall be computed by adding all such requirements  
6 for all the high school districts of the county, including  
7 the county's obligation for reimbursements in joint high  
8 school districts.

9 (6) The transportation fund levy requirements  
10 determined in subsection (4) for each district and in  
11 subsection (5) for the county shall be reported to the  
12 county commissioners on the second Monday of August by the  
13 county superintendent as the transportation fund levy  
14 requirements for the district and for the county, and such  
15 levies shall be made by the county commissioners in  
16 accordance with 20-9-142."

17 **Section 136.** Section 20-15-311, MCA, is amended to  
18 read:

19 **"20-15-311. Funding sources.** The annual operating  
20 budget of a community college district shall be financed  
21 from the following sources:

22 (1) the estimated revenues to be realized from student  
23 tuition and fees, except those related to community service  
24 courses as defined by the board of regents;

25 (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)~~ 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

1 each house of the legislature; or

2 (2) approved by the electorate.

3 NEW SECTION. Section 143. Sales tax rates AND CREDITS

4 -- ~~restriction--on-increasing~~ RESTRICTIONS. (1) A sales tax  
5 rate or use tax rate imposed in [section 2] may be increased  
6 only if the increase is approved by the electorate.

7 (2) THE INCOME TAX CREDIT FOR SALES TAX PAID PROVIDED  
8 IN [SECTION 71] MAY BE DECREASED ONLY IF THE DECREASE IS  
9 APPROVED BY THE ELECTORATE.

10 NEW SECTION. Section 144. Definitions. As used in  
11 [sections 139 through 146], the following definitions apply:

12 (1) "County" means any county government, excluding  
13 those classified as consolidated governments.

14 (2) "Incorporated population" means the number of  
15 persons residing within the boundaries of a municipality.

16 (3) "Mill value" means the amount of revenue that can  
17 be raised within a county or municipality by levying 1 mill.  
18 It is determined by multiplying a county's or municipality's  
19 taxable valuation by 0.001.

20 (4) "Municipality" means an incorporated city, town,  
21 or city-county consolidated government.

22 (5) "Unincorporated population" means the number of  
23 persons not residing within a municipality.

24 NEW SECTION. Section 145. Local government block  
25 grant account. (1) There is a local government block grant

1 account within the state special revenue fund.

2 (2) Funds in this account must be used to provide  
3 payments from the local government block grant program to  
4 counties and municipalities.

5 (3) The 11% of the sales tax and use tax revenue that  
6 is distributed under [section 75(1)(b)(iii)] must be  
7 deposited in the account.

8 NEW SECTION. Section 146. Local government block  
9 grant program. (1) The department of commerce shall  
10 administer the local government block grant program and  
11 distribute funds from the local government block grant  
12 account.

13 (2) The local government block grant program is  
14 comprised of:

15 (a) a block grant for counties; and

16 (b) a block grant for municipalities.

17 NEW SECTION. Section 147. Division of block grant  
18 funds. The division of funds within the local government  
19 block grant account is as follows:

20 (1) The block grant for counties must be funded from  
21 the percentage of funds deposited in the account that equals  
22 the ratio of the unincorporated population to the state  
23 population.

24 (2) The block grant for municipalities must be funded  
25 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  $\frac{CMV \times ICP}{IMV} = \text{county tax base factor (TBF)}$   
15

16  $\frac{CG \times \text{individual county TBF}}{\text{sum of all county TBFs}} = 1/2 \text{ individual county}$   
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

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  $\frac{MVPC \times IMP}{IVC} = \text{municipal tax base factor (TBF)}$   
17

18  $\frac{CG \times \text{individual municipality TBF}}{\text{sum of all municipality TBFs}} = 1/2 \text{ individual}$   
19 municipality  
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.

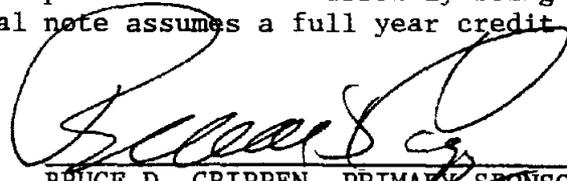
INDIVIDUAL INCOME TAX

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

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		
<u>Revenue Impact:</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
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

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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:

	<u>FY92</u>		
	<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	<u>\$456,622,177</u>	<u>\$680,175,714</u>	<u>\$223,553,537</u>

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	<u>\$456,622,177</u>	<u>\$680,175,714</u>	<u>\$223,553,537</u>

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

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Appendix (continued)

Fund Information:

(Change in Revenue)

	<u>FY90</u>	<u>FY91</u>	<u>FY92</u>
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	<u>\$ 13,272,685</u>	<u>\$158,338,491</u>	<u>\$194,823,537</u>