

SENATE BILL 8

Introduced by Crippen

6/20	Introduced
6/20	Referred to Taxation
6/21	Fiscal Note Requested
6/27	Fiscal Note Received
6/29	Fiscal Note Printed
7/10	Hearing
	Died in Committee

1 INTROSUCED BY Sen. [Signature] BILL NO. 8
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 4 A BILL FOR AN ACT ENTITLED: "THE EDUCATION AND TAX REFORM
 5 ACT; PROVIDING A 4 PERCENT GROSS RECEIPTS TAX AND USE TAX;
 6 PROVIDING CERTAIN DEDUCTIONS AND EXEMPTIONS FROM THE TAX;
 7 REVISING THE CLASSIFICATION OF PROPERTY FOR PROPERTY TAX
 8 PURPOSES; PROVIDING PROPERTY TAX RELIEF; REVISING LOCAL
 9 BONDING AND DEBT LIMITS; PROVIDING CREDITS AGAINST
 10 INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR THE
 11 DISTRIBUTION OF GROSS RECEIPTS AND USE TAX REVENUE;
 12 REPEALING TEACHER RETIREMENT LEVIES; AMENDING SECTIONS
 13 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107,
 14 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103,
 15 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327,
 16 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-101, 15-6-133
 17 THROUGH 15-6-135, 15-6-201, 15-6-207, 15-8-111, 15-8-205,
 18 15-10-402, 15-10-411, 15-10-412, 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,
 24 61-3-501, AND 61-3-502, MCA, AND SECTION 10, CHAPTER 681,
 25 LAWS OF 1985; REPEALING SECTIONS 15-6-136 THROUGH 15-6-140,

1 15-6-142, 15-6-144, 15-6-146, 15-6-148, 15-6-149, 15-6-153,
 2 15-6-154, 20-9-501, 20-9-531, AND 20-9-532; AND PROVIDING
 3 EFFECTIVE DATES AND APPLICABILITY DATES."

STATEMENT OF INTENT

4
 5 A statement of intent is required for this bill because
 6 the department of revenue is granted authority to adopt
 7 rules for the administration and enforcement of the gross
 8 receipts tax and use tax. The rules are intended to provide
 9 for an efficient process for the collection of the taxes,
 10 with minimum expense to both the taxpayer and the state.

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

- 13 (1) the registration and issuance of permits to
- 14 persons engaging in the business of retail sales and
- 15 services;
- 16 (2) the reporting form for the payment of the taxes,
- 17 along with the requirements for the retention by the
- 18 taxpayers of the necessary records;
- 19 (3) the required security and the acceptable forms of
- 20 security for those taxpayers required to give security for
- 21 payment of the taxes;
- 22 (4) the use of the nontaxable transaction certificate
- 23 and clarification of any exemption from or deduction of the
- 24 taxes;
- 25



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

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

6
7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. Definitions. For purposes of
9 [sections 1 through 71], unless the context requires
10 otherwise, the following definitions apply:

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

14 (2) "Construction" means:

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

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

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

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

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

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

24 (vi) sewage or water treatment facility, power
25 generating plant, pump station, natural gas compressing

1 station, gas processing plant, coal gasification plant,
2 refinery, distillery, or similar facility;

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

4 (viii) transmission line;

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

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

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

8 (xii) microwave station or similar facility;

9 (b) the leveling or clearing of land;

10 (c) the excavating of earth;

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

13 (e) any similar work.

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

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

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

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

23 (b) does not mean or include:

24 (i) medicines or preparations, in liquid, powdered,
25 granular, bottled, capsule, lozenge, or pill form, sold as a

1 dietary supplement or adjunct not prescribed by a licensed
2 physician;

3 (ii) carbonated water marketed in containers;

4 (iii) chewing gum;

5 (iv) candies or confectioneries; or

6 (v) seeds and plants to grow foods.

7 (6) (a) "Gross receipts", in addition to the other
8 meanings provided in this subsection (6), means the total
9 amount of money or the value of other consideration received
10 from selling property in Montana, from leasing property used
11 in Montana, or from performing services in Montana. The term
12 includes all receipts from the sale of tangible personal
13 property handled on consignment but excludes cash discounts
14 allowed and taken and any type of time-price differential.

15 (b) In an exchange in which the money or other
16 consideration received does not represent the value of the
17 property or service exchanged, gross receipts means the
18 reasonable value of the property or service exchanged.

19 (c) (i) Except as provided in [section 56], when the
20 sale of property or services is made under any type of
21 charge or conditional or time-sales contract or the leasing
22 of property is made under a leasing contract, the seller or
23 lessor shall treat all receipts, excluding any type of
24 time-price differential, under such contracts as gross
25 receipts at the time of the sale.

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

6 (d) Gross receipts includes the total commissions or
7 fees derived from the business of buying, selling, or
8 promoting the purchase, sale, or leasing, as an agent or
9 broker on a commission or fee basis, of any property,
10 service, stock, bond, or security.

11 (e) Gross receipts includes all amounts paid by
12 members of a cooperative association or similar organization
13 for sales or leases of personal property or performance of
14 services by the organization.

15 (7) "Gross receipts tax" and "use tax" mean the
16 applicable tax imposed by [section 2].

17 (8) "Lease" or "leasing" means an arrangement in
18 which, for consideration, property is used for or by a
19 person other than the owner of the property.

20 (9) "Manufacturing" means combining or processing
21 components or materials, including the processing for ores
22 in a mill, smelter, refinery, or reduction facility, to
23 increase their value for sale in the ordinary course of
24 business. The term does not include construction.

25 (10) "Medical services" means a service:

1 (a) performed by a person licensed to practice a
2 health care profession or health care occupation licensed
3 under Title 37 or licensed as a mental health professional
4 or certified under Title 53, chapter 24, as a chemical
5 dependency counselor as a regular part of his business
6 activities; and

7 (b) applied externally or internally to the human body
8 or mind for the diagnosis, cure, mitigation, treatment, or
9 prevention of disease.

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

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

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

17 (12) "Permit" means a seller's permit as described in
18 [section 47].

19 (13) "Person" means:

20 (a) an individual, estate, trust, receiver,
21 cooperative association, club, corporation, company, firm,
22 partnership, joint venture, syndicate, or other entity,
23 including any gas, water, or electric utility owned or
24 operated by a county, municipality, or other political
25 subdivision of the state; or

1 (b) the United States or any agency or instrumentality
2 of the United States or the state of Montana or any
3 political subdivision of the state.

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 gross**
24 **receipts tax and use tax.** (1) Except as provided in
25 subsection (5), a gross receipts tax of 4% is imposed on all

1 gross receipts, as defined in [section 1], for the privilege
2 of engaging in business in 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 gross
10 receipts tax had it occurred within this state; or

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

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

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

5 (5) The gross receipts tax imposed on the sale of any
6 new motor vehicle subject to the provisions of 61-3-502 is
7 as provided in 61-3-502. The receipts from the sale of a
8 vehicle subject to the tax imposed under 61-3-502 are exempt
9 from the gross receipts tax and use tax imposed under this
10 section.

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

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

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

20 (2) In determining the amount of tax due on the use of
21 property or services, it is presumed, in the absence of
22 preponderant evidence of another value, that value means the
23 total amount of property or the reasonable value of other
24 consideration paid for the use of the property or service,
25 exclusive of any type of time-price differential. However,

1 in an exchange in which the amount of money paid does not
2 represent the value of the property or service purchased,
3 the use tax must be imposed on the reasonable value of the
4 property or service purchased.

5 **NEW SECTION. Section 4. Separate statement of tax.**

6 (1) If the gross receipts tax or use tax is stated
7 separately on the books of the seller or lessor and the
8 total amount of tax stated separately on transactions within
9 the reporting period is in excess of the amount of gross
10 receipts tax or use tax otherwise payable on those
11 transactions, the excess amount of tax otherwise payable and
12 stated on the transactions within the reporting period must
13 be included in gross receipts.

14 (2) If the gross receipts tax or use tax is not stated
15 separately on transactions, the gross receipts for gross
16 receipts tax and use tax purposes include the total amounts
17 received, with no deduction for the gross receipts tax or
18 use tax.

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

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

1 **NEW SECTION. Section 6. Agents for collection of**
2 **gross receipts tax and use tax -- severability.** (1) (a) A
3 person who performs or attempts to perform an activity
4 within this state that attempts to exploit this state's
5 markets, who sells property or services for use in this
6 state, and who is not subject to the gross receipts tax or
7 use tax on receipts from these sales shall collect the gross
8 receipts tax or use tax from the buyer and pay the tax
9 collected to the department.

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

13 (i) maintaining an office or other place of business
14 that solicits orders through employees or independent
15 contractors;

16 (ii) canvassing;

17 (iii) demonstrating;

18 (iv) collecting money;

19 (v) warehousing or storing merchandise;

20 (vi) delivering or distributing products as a
21 consequence of an advertising or other sales program
22 directed at potential customers;

23 (vii) soliciting orders for tangible personal property
24 by means of a telecommunication or television shopping
25 system that uses toll-free numbers and that is intended to

1 be broadcast by cable television or other means to consumers
2 in this state;

3 (viii) soliciting orders, pursuant to a contract with a
4 broadcaster or publisher located within this state, for
5 tangible personal property by means of advertising
6 disseminated primarily to consumers located in this state
7 and only secondarily to bordering jurisdictions;

8 (ix) soliciting orders for tangible personal property
9 by mail if the solicitations are substantial and recurring
10 and if the person engaging in such activity benefits from
11 any banking, financing, debt collection, telecommunication,
12 or marketing activities occurring in this state or benefits
13 from the location in this state of authorized installation,
14 servicing, or repair facilities; or

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

19 (2) To ensure the orderly and efficient collection of
20 the tax imposed by [sections 1 through 71], if any
21 application of this section is held invalid, the section's
22 application to other situations or persons is not affected.

23 NEW SECTION. **Section 7. Nontaxable transaction**
24 **certificate -- requirements.** (1) A nontaxable transaction
25 certificate executed by a buyer or lessee must be in the

1 possession of the seller or lessor at the time a nontaxable
2 transaction occurs.

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

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

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

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

24 NEW SECTION. **Section 8. Receipts of government**
25 **agencies exempt.** (1) Except as provided in subsection (2),

1 all receipts of the United States or any agency or
2 instrumentality of the United States or of this state or any
3 political subdivision of this state are exempt from the
4 gross receipts tax and use tax.

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

9 **NEW SECTION. Section 9. Exemption -- food products.**

10 (1) Except as provided in subsection (2), receipts from
11 sales of food products for human consumption, as defined in
12 [section 1], are exempt from the gross receipts tax.

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

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

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

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

24 (d) food products sold for immediate consumption on or
25 near a location at which parking facilities are provided

1 primarily for the convenience of patrons in consuming the
2 products purchased at the location, even though such
3 products are sold on a "takeout", "to go", or "U-bake" order
4 and are actually packaged or wrapped and taken from the
5 premises of the retailer;

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

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

10 (3) The receipts from the sale of food or a
11 food-service offered or delivered as part of a residential
12 living arrangement and consumed by a person who is party to
13 the arrangement are exempt from the gross receipts tax.

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

16 The receipts from the sale of food purchased under the
17 special supplemental food program for women, infants, and
18 children (WIC) as specified in 42 U.S.C. 1786, as amended,
19 are exempt from the gross receipts tax.

20 **NEW SECTION. Section 11. Exemption -- prescribed**
21 **medicines, drugs, and certain devices -- medical services.**

22 (1) The gross receipts from the sale, by prescription from a
23 person as defined in [section 1(13)(a)], of medicines,
24 drugs, insulin, and therapeutic and prosthetic devices are
25 exempt from the gross receipts tax.

1 (2) The gross receipts from the sale of medical
 2 services provided by a person, as defined in [section
 3 1(13)(a)], or any service reasonably related to the delivery
 4 of a medical service by or at a health care facility, as
 5 defined in 50-5-101, but including the offices of a private
 6 physician or dentist, that provides medical services are
 7 exempt from the gross receipts tax.

8 NEW SECTION. Section 12. Exemption -- wages. Except
 9 as provided in [sections 1 through 71], the receipts of an
 10 employee from an employer for wages, salary, commissions, or
 11 any other form of remuneration for personal services are
 12 exempt from the gross receipts tax.

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

22 NEW SECTION. Section 14. Exemption -- livestock
 23 feeding. A person's receipts derived from feeding,
 24 pasturing, penning, or handling or training livestock prior
 25 to sale are exempt from the gross receipts tax.

1 NEW SECTION. Section 15. Exemption -- used tangible
 2 personal property upon which a sales or use tax has been
 3 paid. The receipts from the sale of used tangible personal
 4 property upon which a tax has been paid pursuant to
 5 [sections 1 through 71] are exempt from the gross receipts
 6 tax.

7 NEW SECTION. Section 16. Exemption -- vehicles. (1)
 8 The receipts from the sale of a vehicle subject to the tax
 9 imposed under 61-3-502 are exempt from the gross receipts
 10 tax.

11 (2) The receipts from the sale of a vehicle upon which
 12 a tax pursuant to 61-3-502 has been paid or which was
 13 purchased prior to [the applicability date of this section]
 14 are exempt from the gross receipts tax. A registration
 15 certificate showing that the vehicle was registered in this
 16 state prior to [the applicability date of this section] is
 17 conclusive proof that it was purchased before it was subject
 18 to taxation under 61-3-502 and is 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 gross receipts tax or use tax upon
 23 its initial sale or use in this state or was initially sold
 24 or used in this state prior to [the applicability date of
 25 this section]. The seller shall retain and furnish proof

1 satisfactory to the department of either of the following:

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

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

12 NEW SECTION. Section 18. Exemption -- insurance
13 premiums. The receipts from premiums of an insurance company
14 or a fraternal benefit society or of an agent of such
15 company or society are exempt from the gross receipts tax.

16 NEW SECTION. Section 19. Exemption -- dividends and
17 interest. The following are exempt from the gross receipts
18 tax:

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

24 NEW SECTION. Section 20. Exemption -- fuel. The
25 receipts from the sale of gasoline or ethanol blended for

1 fuel on which the Montana gasoline tax has been paid under
2 Title 15, chapter 70, are exempt from the gross receipts tax
3 and use tax.

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

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

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

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

1 NEW SECTION. Section 24. Exemption -- property of
 2 certain governmental agencies. (1) The use of property by
 3 the United States or any agency or instrumentality of the
 4 United States or by this state or any political subdivision
 5 of this state is exempt from the use tax.

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

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

16 NEW SECTION. Section 26. Exemption -- subscriptions
 17 -- advertising services. (1) The gross receipts from the
 18 sale of subscriptions to newspapers, magazines, and all
 19 other printed material are exempt from the gross receipts
 20 tax.

21 (2) The gross receipts from the sale of advertising
 22 services, including the actual creation or development of
 23 the advertising, are exempt from the gross receipts tax. For
 24 the purpose of this section, "advertising services" includes
 25 but is not limited to all advertising by:

- 1 (a) newspaper, magazine, or other publication;
- 2 (b) radio or television;
- 3 (c) billboard, banner, sign, placard, and the like;
- 4 (d) handbill; or
- 5 (e) any other advertising means, media, or method.

6 NEW SECTION. Section 27. Exemption -- child day-care
 7 services. The receipts from the sale of day-care services
 8 for a child, as defined in 40-5-201, are exempt from the
 9 gross receipts tax and use tax.

10 NEW SECTION. Section 28. 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 gross receipts tax.

21 NEW SECTION. Section 29. 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 30.** 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 that he is in the business of mining or
15 manufacturing.

16 **NEW SECTION. Section 31.** 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 71] may be deducted
22 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 32.** 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 71] may be deducted from gross
14 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 33.** 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 gross receipts tax or use tax
6 upon its 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 gross receipts tax or use tax
10 upon the sale in the ordinary course of business of the real
11 property upon which it was constructed.

12 NEW SECTION. Section 34. 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 gross receipts tax or use tax upon its completion or upon
24 the completion of the overall construction project of which
25 it is a part; or

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

5 NEW SECTION. Section 35. Deduction -- sale or lease
6 of real property and lease of mobile homes. (1) Except as
7 provided in subsections (2) and (4), receipts from the sale
8 or lease of real property, from the lease of a mobile home,
9 or from the rental of a mobile home for a period of at least
10 1 month may be deducted from gross receipts.

11 (2) (a) The portion of the gross receipts from the
12 sale of real property that is attributable to improvements,
13 other than residential improvements, constructed on the real
14 property by the seller in the ordinary course of his
15 construction business may not be deducted from gross
16 receipts.

17 (b) The proportion of the gross receipts from the sale
18 of real property that is attributable to residential
19 improvements constructed on the real property by the seller
20 in the ordinary course of his construction business may be
21 deducted from gross receipts in the proportion that the cost
22 of the construction for everything other than materials
23 bears to the gross receipts for the improvements.

24 (3) Receipts attributable to the inclusion of
25 furniture or appliances furnished by the landlord or lessor

1 as part of a leased or rented dwelling, house, mobile home,
2 cabin, condominium, or apartment may be deducted from gross
3 receipts.

4 (4) Receipts received by hotels, motels,
5 roominghouses, campgrounds, guest ranches, trailer parks, or
6 similar facilities may not be deducted from gross receipts
7 for purposes of [sections 1 through 71] if either the
8 operator or the user must pay tax on the receipts under
9 Title 15, chapter 65, and all such receipts are subject to
10 the tax imposed in [section 2]. The receipts of hotels,
11 motels, roominghouses, campgrounds, guest ranches, trailer
12 parks, or similar facilities are subject to the gross
13 receipts tax or use tax.

14 (5) For the purposes of this section, "residential
15 improvements" means improvements to real property that are
16 constructed for human habitation in a structure containing
17 fewer than three units. The term includes improvements made
18 to existing residential improvements.

19 NEW SECTION. Section 36. Deduction -- transactions in
20 interstate commerce -- exception. (1) Receipts from a
21 transaction in interstate commerce may be deducted from
22 gross receipts to the extent that the imposition of the
23 gross receipts tax or use tax would be unlawful under the
24 United States constitution.

25 (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 37. 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 38. Deduction -- sale of certain
6 services to an out-of-state buyer. (1) Except as provided in
7 subsection (4), receipts from performing a service may be
8 deducted from gross receipts if the sale of the service is
9 made to a buyer who delivers to the seller either a
10 nontaxable transaction certificate or other evidence
11 acceptable to the department that the transaction meets the
12 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 (5) Receipts from performing a service that initially
15 qualified for the deduction provided in this section but
16 that no longer meets the criteria set forth in subsection
17 (3) are deductible for the period prior to the
18 disqualification.

19 NEW SECTION. Section 39. 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 (3) Receipts of auctioneers from selling livestock or
 23 other agricultural products at auction may be deducted from
 24 gross receipts.

25 NEW SECTION. **Section 40.** Deduction -- certain

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

3 (a) receipts from the sale of any chemical, reagent,
 4 or other substance to any mining concern or milling company
 5 that is used or consumed in the processing of ores or oil in
 6 a mill, smelter, refinery, or reduction facility or in
 7 acidizing oil wells; and

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

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

13 NEW SECTION. **Section 41.** Deduction -- certain uses of
 14 special fuel. (1) Receipts from the sale of special fuel, as
 15 defined in 15-70-301, on which the special fuels tax has
 16 been paid under Title 15, chapter 70, or which is used in
 17 agriculture or to operate machinery, equipment, or vehicles
 18 used in a trade or business may be deducted from gross
 19 receipts.

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

22 NEW SECTION. **Section 42.** Deduction -- sale of certain
 23 services performed directly on product mined or
 24 manufactured. (1) Receipts from sale of the service of
 25 mining, combining, or processing components or materials,

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

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

10 NEW SECTION. Section 43. 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 44. 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 45. Deduction -- computer data
14 base services. (1) Receipts from the sale or use of computer
15 data base services may be deducted from gross receipts.

16 (2) For the purposes of [sections 1 through 71],
17 "computer data base services" means identifying, compiling,
18 organizing, manipulating, or delivering information actually
19 contained in or to be contained in a computer data base.

20 (3) Receipts from the sale of computer hardware,
21 software, system development, design, or installation or the
22 sale of an existing computer data base (as opposed to the
23 sale or use of a computer data base service) may not be
24 deducted from gross receipts.

25 NEW SECTION. Section 46. Credit -- out-of-state

1 taxes. (1) If a gross receipts, sales, use, or similar tax
 2 has been levied by another state or a political subdivision
 3 of another state on property bought outside this state but
 4 which will be used or consumed in this state and the tax was
 5 paid, the amount of tax paid may be credited against any use
 6 tax due this state on the same property.

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

16 NEW SECTION. **Section 47. Seller's permit.** Upon an
 17 applicant's compliance with [sections 1 through 71], the
 18 department shall issue to the applicant a separate, numbered
 19 seller's permit for each place of business within Montana. A
 20 permit is valid until revoked or suspended but is not
 21 assignable. A permit is valid only for the person in whose
 22 name it is issued and for the transaction of business at the
 23 place designated. The permit must be conspicuously displayed
 24 at all times at the place for which it is issued.

25 NEW SECTION. **Section 48. Permit application** --

1 requirements -- place of business -- form. (1) (a) A person
 2 desiring to engage in the business of making retail sales or
 3 providing services in Montana shall file with the department
 4 an application for a permit. If the person has more than
 5 one place of business, an application must be filed for each
 6 place of business.

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

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

14 (b) Each person or class of persons obligated to file
 15 a return under [sections 1 through 71] is required to file
 16 application for a permit.

17 (2) Each application for a permit must be on a form
 18 prescribed by the department and must set forth the name
 19 under which the applicant intends to transact business, the
 20 location of his place or places of business, and such other
 21 information as the department may require. The application
 22 must be filed by the owner if the owner is a natural person,
 23 by a member or partner if the owner is an association or
 24 partnership, or by a person authorized to sign the
 25 application if the owner is a corporation.

1 NEW SECTION. **Section 49.** Special activities --
 2 permits -- penalty. (1) The operator of a flea market, craft
 3 show, antique show, coin show, stamp show, comic book show,
 4 convention exhibit area, or similar selling event, as a
 5 prerequisite to renting or leasing space on the premises
 6 owned or controlled by the operator to a person desiring to
 7 engage in or conduct business as a seller, shall obtain
 8 evidence that the seller is the holder of a valid seller's
 9 permit issued pursuant to [section 47] or a written
 10 statement from the seller that he is not offering for sale
 11 any item that is taxable under [sections 1 through 71].
 12 (2) "Flea market, craft show, antique show, coin show,
 13 stamp show, comic book show, convention exhibit area, or
 14 similar selling event", as used in this section, means an
 15 activity that involves a series of sales sufficient in
 16 number, scope, and character to constitute a regular course
 17 of business but does not qualify as an isolated or
 18 occasional sale pursuant to [section 21].
 19 (3) An operator who fails or refuses to comply with
 20 the provisions of this section is subject to a penalty,
 21 payable to the department, of \$100 per day per seller at
 22 each selling event at which the operator fails to obtain
 23 evidence that a seller is the holder of a valid seller's
 24 permit issued pursuant to [section 47].
 25 NEW SECTION. **Section 50.** Revocation or suspension of

1 permit -- hearing -- notice -- appeal. (1) Subject to the
 2 provisions of subsection (2), the department may, for
 3 reasonable cause, revoke or suspend any permit held by a
 4 person who fails to comply with the provisions of [sections
 5 1 through 71].
 6 (2) (a) The department shall hold a hearing on the
 7 proposed revocation or suspension after giving the person 30
 8 days' notice in writing, specifying the time and place of
 9 the hearing and the reason for the proposed revocation or
 10 suspension.
 11 (b) The notice must include a requirement that the
 12 person show cause why the permit or permits should not be
 13 revoked or suspended.
 14 (c) The notice must be served personally or by
 15 certified mail.
 16 (3) After revocation, the department may not issue a
 17 new permit except upon application accompanied by reasonable
 18 evidence of the intention of the applicant to comply with
 19 the provisions of [sections 1 through 71]. The department
 20 may require security in addition to that authorized by
 21 [section 58] in an amount reasonably necessary to ensure
 22 compliance with [sections 1 through 71] as a condition for
 23 the issuance of a new permit to such an applicant.
 24 (4) A person aggrieved by the department's final
 25 decision to revoke a permit as provided in subsection (1)

1 may appeal the decision to the state tax appeal board within
2 30 days following the date on which the department issued
3 its final decision.

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

6 NEW SECTION. Section 51. Nontaxable transaction
7 certificate -- form. (1) The department shall provide for a
8 uniform nontaxable transaction certificate. In order to
9 obtain a deduction under [sections 1 through 71], a
10 purchaser shall use the certificate when purchasing goods or
11 services for resale.

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

13 (a) the number of the permit issued to the purchaser
14 as provided in [section 47];

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

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

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

19 (e) a signature line for the purchaser.

20 NEW SECTION. Section 52. Improper use of subject of
21 purchase obtained with nontaxable transaction certificate --
22 penalty. (1) If a purchaser who uses a nontaxable
23 transaction certificate uses the subject of the purchase for
24 a purpose other than one allowed as a deduction under
25 [sections 1 through 71], the use is considered a taxable

1 sale by the purchaser as of the time of first use by him and
2 the sale price he receives is considered the gross receipts
3 from the sale. If the sole nonexempt use is rental while
4 holding for sale, the purchaser shall include in his gross
5 receipts the amount of the rental charged. Upon subsequent
6 sale of the property, the seller shall include the entire
7 amount of gross receipts received from the resale, without
8 deduction of amounts previously received as rentals.

9 (2) A person who uses a certificate for property that
10 will be used for purposes other than the purpose claimed is
11 subject to a penalty, payable to the department, of \$100 for
12 each transaction in which an improper use of an exemption
13 certificate has occurred.

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

16 NEW SECTION. Section 53. Commingling nontaxable
17 certificate goods. If a purchaser uses a nontaxable
18 transaction certificate with respect to the purchase of
19 fungible goods and thereafter commingles these goods with
20 fungible goods not so purchased but of such similarity that
21 the identity of the goods in the commingled mass cannot be
22 determined, sales from the mass of commingled goods are
23 considered to be sales of the goods purchased with the
24 certificate until the quantity of commingled goods sold
25 equals the quantity of goods originally purchased under the

1 certificate.

2 NEW SECTION. Section 54. Liability for payment of tax
3 -- security for retailer without place of business --
4 penalty. (1) Liability for the payment of the gross receipts
5 tax and use tax is not extinguished until the taxes have
6 been paid to the department.

7 (2) A retailer who does not maintain a place of
8 business in this state is liable for the gross receipts tax
9 or use tax in accordance with [sections 1 through 71] and
10 shall furnish adequate security as required in [section 58]
11 to ensure collection and payment of the taxes. When so
12 authorized and except as otherwise provided in [sections 1
13 through 71], the retailer is liable for the taxes upon all
14 tangible property sold that is to be used within this state
15 in the same manner as a retailer who maintains a place of
16 business within this state. The permit provided for in
17 [section 47] may be canceled at any time if the department
18 considers the security inadequate or believes that the taxes
19 can be collected more effectively in another manner.

20 (3) No agent, canvasser, or employee of a retailer
21 doing business in this state who is not authorized by permit
22 from the department may sell, solicit orders for, or deliver
23 any tangible personal property in Montana. If such an agent,
24 canvasser, or employee violates the provisions of [sections
25 1 through 71], he is subject to a fine of not more than \$100

1 for each separate transaction or event.

2 NEW SECTION. Section 55. Interstate and intrastate
3 carriers as retailers. A person engaged in the business of
4 intrastate or interstate transportation of tangible personal
5 property or passengers shall register as a retailer and pay
6 the taxes imposed by [sections 1 through 71].

7 NEW SECTION. Section 56. Application for permission
8 to report on accrual basis. (1) A person who has a permit
9 issued pursuant to [section 47] may apply to the department
10 for permission to report and pay the gross receipts tax or
11 use tax on an accrual basis.

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

15 (3) A person may not report or pay the gross receipts
16 tax or use tax on an accrual basis unless he has received
17 written permission from the department.

18 NEW SECTION. Section 57. Returns -- payment --
19 authority of department. (1) Except as provided in
20 subsection (2), on or before the 25th day of each month in
21 which the tax imposed by [sections 1 through 71] is payable,
22 a return, on a form provided by the department, and payment
23 of the tax, less the vendor allowance provided in subsection
24 (5), for the preceding month must be filed with the
25 department. Each return must contain a confession of

1 judgment for the amount of the tax shown due, to the extent
2 not timely paid. A person making retail sales at two or more
3 places of business may file a consolidated return, subject
4 to rules prescribed by the department.

5 (2) A person who has a tax liability that averages
6 less than \$100 per month and who has been granted the
7 authority to report and pay the tax imposed by [sections 1
8 through 71] on a quarterly basis shall file a return with
9 payment on or before the 25th day of the month following the
10 end of the quarter.

11 (3) (a) For the purposes of the gross receipts tax or
12 use tax, a return must be filed by:

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

15 (A) purchasing any items the storage, use, or other
16 consumption of which is subject to the gross receipts tax or
17 use tax; and

18 (B) who has not paid the tax to a retailer required to
19 pay the tax.

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

22 (4) (a) A person liable for the taxes imposed by
23 [sections 1 through 71] shall keep records, render
24 statements, make returns, and comply with the provisions of
25 [sections 1 through 71] and the rules prescribed by the

1 department. Each return or statement must include the
2 information required by the rules of the department.

3 (b) For the purpose of determining compliance with the
4 provisions of this section, the department is authorized to
5 examine or cause to be examined any books, papers, records,
6 or memoranda relevant to making a determination of the
7 amount of tax due, whether the books, papers, records, or
8 memoranda are the property of or in the possession of the
9 person filing the return or another person. The department
10 may also:

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

13 (ii) compel the production of books, papers, records,
14 or memoranda by the person required to attend;

15 (iii) take testimony on matters material to the
16 determination; and

17 (iv) administer oaths or affirmations.

18 (5) A person filing a return under this section may
19 annually deduct from the amount of tax to be remitted to the
20 state and return as a vendor allowance 4% of the tax
21 determined to be payable to the state or \$1,200, whichever
22 is less. The annual deduction allowed under this subsection
23 applies on a calendar year basis.

24 (6) Pursuant to rules established by the department,
25 returns may be computer generated.

1 (7) The returns due for July, August, and September of
2 1990 are due on or before October 25, 1990.

3 NEW SECTION. Section 58. Security -- limitations --
4 sale of security deposit at auction -- bond. (1) The
5 department may require a retailer to deposit with the
6 department security in a form and amount the department
7 determines appropriate. The deposit may not be more than
8 twice the estimated average liability for the period for
9 which the return is required to be filed or \$10,000,
10 whichever is less. The amount of security may be increased
11 or decreased by the department, subject to the limitations
12 provided in this section.

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

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

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

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

1 (4) In addition to the other requirements of this
2 section, the department may require the corporate officers,
3 directors, or shareholders of a corporation to provide a
4 personal guaranty and assumption of liability for the
5 payment of the tax due under [sections 1 through 71].

6 NEW SECTION. Section 59. Extensions. (1) The
7 department may extend the time for filing a return and
8 remittance of tax, deficiencies, and penalties for a period
9 not to exceed 60 days from the date a return was due and may
10 require both an estimated return at the time fixed for
11 filing the regularly required return and the payment of tax
12 on the basis of the estimated return.

13 (2) If an extension of time for payment has been
14 granted under this section, interest at the rate provided in
15 [section 64(2)] is payable from the date on which payment
16 was first due without extension until the tax is paid.

17 NEW SECTION. Section 60. Examination of return --
18 adjustments -- delivery of notices and demands. (1) The
19 department may examine a return and make an investigation or
20 examination of the records and accounts of a person making
21 the return if the department considers it necessary to
22 determine the accuracy of the return.

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

1 generally accepted accounting principles.

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

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

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

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

20 (b) served personally upon the taxpayer.

21 **NEW SECTION. Section 61. Penalties and interest for**
22 **violation. (1) (a) If a person, without purposely or**
23 **knowingly violating any requirement imposed by [sections 1**
24 **through 71], fails to file a return and pay the tax on or**
25 **before the due date there must be imposed a penalty of 5% of**

1 any balance of debt unpaid with respect to such a return as
2 of the date due, but in no event may the penalty for failure
3 to file a return by its due date be less than \$5. The
4 department may abate the penalty if the person establishes
5 that the failure to file on time was due to reasonable cause
6 and was not due to neglect on his part.

7 (b) If a person, without purposely or knowingly
8 violating any requirement imposed by [sections 1 through
9 71], fails to pay a debt on or before its due date, there
10 must be added to the debt a penalty of 10% of the debt, but
11 not less than \$5, and interest must accrue on the debt at a
12 rate of 12% per annum for the entire period it remains
13 unpaid. The department may abate the penalty if the person
14 establishes that the failure to pay was due to reasonable
15 cause and was not due to neglect on his part.

16 (2) If a person purposely or knowingly violates any
17 requirements imposed by [sections 1 through 71] by failing
18 to file a return or to pay a debt, if one is due at the
19 time, required by or under the provisions of [section 57],
20 there must be added to the debt an additional amount equal
21 to 25% thereof, but not less than \$25, and interest at 1%
22 for each month or fraction of a month during which the debt
23 remains unpaid.

24 **NEW SECTION. Section 62. Warrants for distraint. If a**
25 **tax imposed by [sections 1 through 71] or any portion of**

1 such tax is not paid when due, the department may issue a
2 warrant for distraint as provided in Title 15, chapter 1,
3 part 7.

4 NEW SECTION. Section 63. Authority to collect
5 delinquent taxes. (1) The department shall collect taxes
6 that are delinquent as determined under [sections 1 through
7 71].

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

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

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

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

1 following receipt by the department of the written request.

2 NEW SECTION. Section 64. Penalty for deficiency.

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

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

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

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

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

22 NEW SECTION. Section 65. Limitations. Except in the
23 case of a person who, with intent to evade the tax,
24 purposely or knowingly files a false or fraudulent return
25 violating the provisions of [sections 1 through 71], the

1 amount of tax due under any return must be determined by the
2 department within 5 years after the return was made. The
3 department is barred from revising a return or recomputing
4 the tax due thereon, and no proceeding in court for the
5 collection of the tax may be instituted unless notice of an
6 additional tax was provided within the period described in
7 this section.

8 NEW SECTION. Section 66. Refunds. A claim for a
9 refund made for taxes collected under [sections 1 through
10 71] must be in accordance with the procedure and time limits
11 provided in 15-1-503.

12 NEW SECTION. Section 67. Administration ... rules. The
13 department shall:

14 (1) administer and enforce the provisions of [sections
15 1 through 71];

16 (2) cause to be prepared and distributed forms and
17 information as may be necessary to administer the provisions
18 of [sections 1 through 71]; and

19 (3) promulgate rules as may be appropriate to
20 administer and enforce the provisions of [sections 1 through
21 71].

22 NEW SECTION. Section 68. Revocation of corporate
23 license. (1) If a corporation authorized to do business in
24 this state and required to pay the taxes imposed under
25 [sections 1 through 71] fails to comply with any of the

1 provisions of [sections 1 through 71] or any rule of the
2 department, the department may, for reasonable cause,
3 certify to the secretary of state a copy of an order finding
4 that the corporation has failed to comply with specific
5 statutory provisions or rules.

6 (2) The secretary of state shall, upon receipt of the
7 certification, revoke the license authorizing the
8 corporation to do business in this state and may issue a new
9 license only when the corporation has obtained from the
10 department an order finding that the corporation has
11 complied with its obligations under [sections 1 through 71].

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

18 NEW SECTION. Section 69. Tax as debt. (1) The taxes
19 imposed by [sections 1 through 71] and related interest and
20 penalties become a personal debt of the person required to
21 file a return from the time the liability arises, regardless
22 of when the time for payment of such liability occurs.

23 (2) In the case of an executor or administrator of the
24 estate of a decedent or in the case of a fiduciary, the debt
25 is that of the person in his official or fiduciary capacity

1 only. However, if he has voluntarily distributed the assets
2 held in such capacity without reserving sufficient assets to
3 pay the taxes, interest, and penalties, he is personally
4 liable for any deficiency.

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

9 NEW SECTION. Section 70. Information --
10 confidentiality -- agreements with another state. (1) (a)
11 Except as provided in subsections (1)(b) and (2), it is
12 unlawful for an employee of the department or any other
13 public official or public employee to divulge or otherwise
14 make known any information disclosed in a report or return
15 required to be filed under [sections 1 through 71] or any
16 information concerning the affairs of the person making the
17 return that is acquired from his records, officers, or
18 employees in an examination or audit.

19 (b) Subsection (1)(a) does not apply to information
20 obtained from the taxpayer making the report or return in
21 connection with a proceeding involving taxes due under
22 [sections 1 through 71] or to compliance with the provisions
23 of subsection (2).

24 (c) Nothing in this section may be construed to
25 prohibit the department from publishing statistics if they

1 are classified in a way that does not disclose the identity
2 and content of any particular return or report. A person
3 violating the provisions of this section is subject to the
4 penalty provided in 15-30-303 for violating the
5 confidentiality of individual income tax information.

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

13 (b) The department, in order to implement the
14 provisions of [sections 1 through 71], may furnish
15 information on a reciprocal basis to the taxing officials of
16 another state or to the taxing officials of a municipality
17 of this state that has a local gross receipts tax or use
18 tax.

19 (3) In order to facilitate processing of returns and
20 payments of taxes required by [sections 1 through 71], the
21 department may contract with vendors and may disclose data
22 to the vendors. The data disclosed must be administered by
23 the vendor in a manner consistent with this section.

24 NEW SECTION. Section 71. Gross receipts tax and use
25 tax account. (1) There is within the state special revenue

1 fund a gross receipts tax and use tax account.

2 (2) All money collected under [sections 1 through 71]
3 must be paid by the department into the gross receipts tax
4 and use tax account.

5 (3) There must be retained in the gross receipts tax
6 and use tax account the amounts necessary under [sections 1
7 through 71] to repay overpayments, pay any erroneous
8 receipts illegally assessed or collected or that are
9 excessive in amount, and pay any other refunds otherwise
10 required.

11 NEW SECTION. Section 72. Credit for gross receipts
12 tax and use tax -- definitions. As used in [sections 72
13 through 76], the following definitions apply:

14 (1) "Claimant" means an individual natural person who
15 is eligible to file a claim under [section 73].

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

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

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

24 (b) alimony, child support, or any other type of
25 maintenance payments;

1 (c) cash public assistance and relief, excluding the
2 face value of all food stamps received;

3 (d) life insurance and endowment contracts;

4 (e) social security and the gross amount of any
5 pension or annuity, including railroad retirement benefits
6 and veterans' disability benefits;

7 (f) unemployment and workers' compensation benefits;

8 (g) all tax refunds; and

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

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

16 NEW SECTION. Section 73. Credit for gross receipts
17 tax and use tax. (1) Except as provided in subsection (2),
18 there is allowed a credit against tax liability for each
19 resident who files an individual Montana income tax return
20 under this chapter as provided in subsection (3). The credit
21 may be claimed even though the resident has no taxable
22 income under Title 15, chapter 30.

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

25 (a) is an inmate of a public institution for more than

1 6 months during the tax year for which the tax credit is
2 claimed; or

3 (b) is not physically present in Montana for at least
4 6 months during the tax year for which the tax credit is
5 claimed.

6 (3) For each exemption claimed under 15-30-112(2) and
7 (5), a credit is allowed in the amount of \$90 per exemption,
8 provided that gross household income is less than \$13,000.

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

14 (5) For the first taxable year in which the gross
15 receipts tax and use tax is imposed, the amount of credit
16 allowed under this section is equal to the amount determined
17 under subsection (4), multiplied by the number of months
18 during the preceding taxable year that the gross receipts
19 tax and use tax was in effect, and divided by 12.

20 **NEW SECTION. Section 74. Credit for gross receipts**
21 **tax and use tax -- filing date -- extension.** (1) Except as
22 provided in subsection (2), a claim for a credit must be
23 submitted at the same time the claimant's individual income
24 tax return is due. For an individual not required to file a
25 tax return, a claim for relief must be submitted on or

1 before April 15 of the year following the year for which
2 relief is sought. In submitting a claim for the credit, the
3 taxpayer shall provide the social security number for each
4 person claimed as an exemption, except dependent children
5 under 2 years of age, for which the credit is claimed.

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

10 (3) In the event that an individual who would have a
11 claim under [sections 72 through 76] dies before filing the
12 claim, the personal representative of the estate of the
13 decedent may file the claim.

14 **NEW SECTION. Section 75. Examination of credit claims**
15 **-- adjustments -- delivery of notices and demands.** (1) The
16 department may examine a claim for credit and may make an
17 investigation of the records and accounts of a person making
18 the claim if the department considers it necessary to
19 determine the accuracy of the claim.

20 (2) If the department determines that the amount of
21 the credit due is different from the amount reported, the
22 amount of credit computed on the basis of the examination
23 conducted pursuant to subsection (1) constitutes the amount
24 of credit due.

25 (3) If the credit due is less than the amount claimed

1 as due by the claimant, the excess must be paid to the
2 department within 60 days after notice of the amount and
3 demand for payment is mailed to the person making the claim.

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

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

9 (b) served personally upon the taxpayer.

10 NEW SECTION. Section 76. Penalties for violation. (1)
11 If a person, without purposely or knowingly violating the
12 provisions of [sections 73 and 74], claims credits for which
13 he is not entitled, there must be added a penalty of 10% of
14 the amount of excess, but in no case may the penalty be less
15 than \$5. Interest in the amount of 12% per annum must be
16 added to the penalty on the amount of excess until the debt
17 is satisfied.

18 (2) If a claimant, purposely or knowingly violates the
19 provisions of [sections 73 and 74], future claims for
20 credits may be denied by the department.

21 NEW SECTION. Section 77. Disposition of gross
22 receipts tax and use tax revenue -- legislative
23 appropriation. (1) Gross receipts tax and use tax revenue is
24 allocated as follows:

25 (a) the amount determined under [section 79] to

1 provide property tax replacement revenue for each taxing
2 jurisdiction;

3 (b) the total amount claimed under [section 74], which
4 amount must be further allocated in the same manner as
5 income tax revenue is allocated under 15-1-501(2);

6 (c) the amount of gross receipts tax and use tax
7 revenue remaining after the allocations in subsections
8 (1)(a) and (1)(b) is distributed as follows:

9 (i) 59% to state equalization aid as provided in
10 20-9-343;

11 (ii) 6% to the local government block grant account in
12 the state special revenue fund as provided in [section 147];

13 (iii) 17% that must be further allocated in the same
14 manner as income tax revenue is allocated under 15-1-501(2);

15 (iv) 15% to the state special revenue fund for the
16 support, maintenance, and improvement of the Montana
17 university system, vocational-technical centers, and
18 community college districts, subject to the board of
19 regents' supervision, as provided in [section 78]; and

20 (v) the remainder to the state general fund.

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

25 NEW SECTION. Section 78. University system funding.

1 There is allocated from the money collected from the gross
 2 receipts tax and use tax to the state special revenue fund
 3 15% from the gross receipts tax and use tax allocated in
 4 [section 77(1)(b)(iv)] for the support, maintenance, and
 5 improvement of the Montana university system,
 6 vocational-technical centers, and community college
 7 districts, subject to the board of regents' supervision.

8 **NEW SECTION. Section 79. Property tax replacement**
 9 **revenue.** (1) For the taxable year beginning January 1, 1989,
 10 the department of revenue shall determine for each taxing
 11 jurisdiction in each county the taxable value of all
 12 property in the following categories, calculated at the
 13 taxable rate in effect on January 1, 1989:

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

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

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

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

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

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

7 (c) distribute to each county and the appropriate
 8 state accounts, beginning in 1990 and each year thereafter,
 9 the amount resulting from the calculations made in
 10 subsections (3)(a) and (3)(b) in two installments for each
 11 taxing jurisdiction, for distribution on or before November
 12 30 and May 31 in each fiscal year.

13 (4) On or before May 31, 1990, the department shall
 14 remit to the county treasurer of each county 30% of the
 15 reimbursement amount computed by the department. The
 16 department shall base the reimbursement on the reduction in
 17 personal property tax revenues due to the reduction in
 18 personal property tax rates for class five property as
 19 provided in 15-6-135 and agricultural exemptions as provided
 20 in 15-6-207. The reimbursement revenue must be based on the
 21 county's taxable value and mill levies for taxable year
 22 1989.

23 (5) Upon receipt of the funds distributed according to
 24 this section, the county treasurer shall distribute the
 25 funds for county, school district, municipal, conservation

1 district, and special district purposes in the same manner
2 as property taxes are distributed but shall disregard state
3 property tax levies.

4 (6) For the purposes of 15-10-412(7), property tax
5 replacement revenue received by a taxing jurisdiction under
6 this section is considered to be revenue from property
7 taxes.

8 **Section 80.** Section 7-1-2111, MCA, is amended to read:

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

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

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

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

25 (d) fourth class--all counties having such a taxable

1 valuation of more than \$15 million and less than \$20
2 million;

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

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

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

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

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

16 (b) that portion of the taxable value of the county on
17 December 31, 1989, attributable to automobiles and trucks
18 having a rated capacity of more than three-quarters of a ton
19 but less than or equal to 1 ton;

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

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

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

3 **Section 81.** Section 7-3-1321, MCA, is amended to read:

4 "7-3-1321. Authorization to incur indebtedness --
5 limitation. (1) The consolidated municipality may borrow
6 money or issue bonds for any municipal purpose to the extent
7 and in the manner provided by the constitution and laws of
8 Montana for the borrowing of money or issuing of bonds by
9 counties and cities and towns.

10 (2) The municipality may not become indebted in any
11 manner or for any purpose to an amount, including existing
12 indebtedness, in the aggregate exceeding ~~28%~~ 32% of the
13 taxable value of the taxable property therein, as
14 ascertained by the last assessment for state and county
15 taxes prior to incurring such indebtedness. All warrants,
16 bonds, or obligations in excess of such amount given by or
17 on behalf of the municipality shall be void."

18 **Section 82.** Section 7-6-2211, MCA, is amended to read:

19 "7-6-2211. Authorization to conduct county business on
20 a cash basis. (1) In case the total indebtedness of a
21 county, lawful when incurred, exceeds the limit of ~~23%~~ 26%
22 established in 7-7-2101 by reason of great diminution of
23 taxable value, the county may conduct its business affairs
24 on a cash basis and pay the reasonable and necessary current
25 expenses of the county out of the cash in the county

1 treasury derived from its current revenue and under such
2 restrictions and regulations as may be imposed by the board
3 of county commissioners of the county by a resolution duly
4 adopted and included in the minutes of the board.

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

10 **Section 83.** Section 7-6-4121, MCA, is amended to read:

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

18 (2) (a) Whenever a city or town is conducting its
19 business affairs on a cash basis, the reasonable and
20 necessary current expenses of the city or town may be paid
21 out of the cash in the city or town treasury and derived
22 from its current revenues, under such restrictions and
23 regulations as the city or town council may by ordinance
24 prescribe.

25 (b) In the event that payment is made in advance, the

1 city or town may require a cash deposit as collateral
 2 security and indemnity, equal in amount to such payment, and
 3 may hold the same as a special deposit with the city
 4 treasurer or town clerk, in package form, as a pledge for
 5 the fulfillment and performance of the contract or
 6 obligation for which the advance is made.

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

14 **Section 84.** Section 7-6-4254, MCA, is amended to read:

15 "7-6-4254. Limitation on amount of emergency budgets
 16 and appropriations. (1) The total of all emergency budgets
 17 and appropriations made therein in any one year and to be
 18 paid from any city fund may not exceed ~~30%~~ 43% of the total
 19 amount which could be produced for such city fund by a
 20 maximum levy authorized by law to be made for such fund, as
 21 shown by the last completed assessment roll of the county.

22 (2) The term "taxable property", as used herein, means
 23 the percentage of the value at which such property is
 24 assessed and which percentage is used for the purposes of
 25 computing taxes and does not mean the assessed value of such

1 property as the same appears on the assessment roll."

2 **Section 85.** Section 7-7-107, MCA, is amended to read:

3 "7-7-107. Limitation on amount of bonds for
 4 city-county consolidated units. (1) Except as provided in
 5 7-7-108, no city-county consolidated local government may
 6 issue bonds for any purpose which, with all outstanding
 7 indebtedness, may exceed ~~39%~~ 44% of the taxable value of the
 8 property therein subject to taxation as ascertained by the
 9 last assessment for state and county taxes.

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

14 **Section 86.** Section 7-7-108, MCA, is amended to read:

15 "7-7-108. Authorization for additional indebtedness
 16 for water or sewer systems. (1) For the purpose of
 17 constructing a sewer system or procuring a water supply or
 18 constructing or acquiring a water system for a city-county
 19 consolidated government which shall own and control such
 20 water supply and water system and devote the revenues
 21 therefrom to the payment of the debt, a city-county
 22 consolidated government may incur an additional indebtedness
 23 by borrowing money or issuing bonds.

24 (2) The additional indebtedness which may be incurred
 25 by borrowing money or issuing bonds for the construction of

1 a sewer system or for the procurement of a water supply or
 2 for both such purposes may not in the aggregate exceed 10%
 3 over and above the ~~39%~~ 44% referred to in 7-7-107 of the
 4 taxable value of the property therein subject to taxation as
 5 ascertained by the last assessment for state and county
 6 taxes."

7 **Section 87.** Section 7-7-2101, MCA, is amended to read:

8 "7-7-2101. Limitation on amount of county
 9 indebtedness. (1) No county may become indebted in any
 10 manner or for any purpose to an amount, including existing
 11 indebtedness, in the aggregate exceeding ~~23%~~ 26% of the
 12 total of the taxable value of the property therein subject
 13 to taxation, plus the amount of interim production and new
 14 production taxes levied divided by the appropriate tax rates
 15 described in 15-23-607(2)(a) or (2)(b) and multiplied by
 16 60%, plus the amount of value represented by new production
 17 exempted from tax as provided in 15-23-612, as ascertained
 18 by the last assessment for state and county taxes previous
 19 to the incurring of such indebtedness.

20 (2) No county may incur indebtedness or liability for
 21 any single purpose to an amount exceeding \$500,000 without
 22 the approval of a majority of the electors thereof voting at
 23 an election to be provided by law, except as provided in
 24 7-21-3413 and 7-21-3414.

25 (3) Nothing in this section shall apply to the

1 acquisition of conservation easements as set forth in Title
 2 76, chapter 6."

3 **Section 88.** Section 7-7-2203, MCA, is amended to read:

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

18 (2) In addition to the bonds allowed by subsection
 19 (1), a county may issue bonds which, with all outstanding
 20 bonds and warrants, will not exceed ~~27-75%~~ 31% of the total
 21 of the taxable value of the property in the county 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, when necessary
 2 to do so, for the purpose of acquiring land for a site for
 3 county high school buildings and for erecting or acquiring
 4 buildings thereon and furnishing and equipping the same for
 5 county high school purposes.

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

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

16 **Section 89.** Section 7-7-4201, MCA, is amended to read:

17 "7-7-4201. Limitation on amount of bonded
 18 indebtedness. (1) Except as otherwise provided, no city or
 19 town may issue bonds or incur other indebtedness for any
 20 purpose in an amount which with all outstanding and unpaid
 21 indebtedness will exceed ~~20%~~ 32% of the taxable value of the
 22 property therein subject to taxation, to be ascertained by
 23 the last assessment for state and county taxes.

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

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

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

6 **Section 90.** Section 7-7-4202, MCA, is amended to read:

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

16 (2) The additional total indebtedness that may be
 17 incurred by borrowing money or issuing bonds for the
 18 construction of a sewer system, for the procurement of a
 19 water supply, or for both such purposes, including all
 20 indebtedness theretofore contracted which is unpaid or
 21 outstanding, may not in the aggregate exceed 55% over and
 22 above the ~~20%~~ 32%, referred to in 7-7-4201, of the taxable
 23 value of the property therein subject to taxation as
 24 ascertained by the last assessment for state and county
 25 taxes."

1 **Section 91.** Section 7-13-4103, MCA, is amended to
2 read:

3 "7-13-4103. Limitation on indebtedness for acquisition
4 of natural gas system. The total amount of indebtedness
5 authorized to be contracted in any form, including the
6 then-existing indebtedness, must not at any time exceed ~~17%~~
7 19% of the total taxable value of the property of the city
8 or town subject to taxation as ascertained by the last
9 assessment for state and county taxes."

10 **Section 92.** Section 7-14-236, MCA, is amended to read:

11 "7-14-236. Limitation on bonded indebtedness. The
12 amount of bonds issued to provide funds for the district and
13 outstanding at any time shall not exceed ~~28%~~ 32% of the
14 taxable value of taxable property therein as ascertained by
15 the last assessment for state and county taxes previous to
16 the issuance of such bonds."

17 **Section 93.** Section 7-14-2524, MCA, is amended to
18 read:

19 "7-14-2524. Limitation on amount of bonds issued --
20 excess void. (1) Except as otherwise provided hereafter and
21 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,
22 with all outstanding bonds and warrants except county high
23 school bonds and emergency bonds, will exceed ~~11.25%~~ 12.5%
24 of the total of the taxable value of the property therein,
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. The taxable property and the
5 amount of interim production and new production taxes levied
6 shall be ascertained by the last assessment for state and
7 county taxes prior to the issuance of such bonds.

8 (2) A county may issue bonds which, with all
9 outstanding bonds and warrants except county high school
10 bonds, will exceed ~~11.25%~~ 12.5% but will not exceed ~~22.5%~~
11 25.5% of the total of the taxable value of such property,
12 plus the amount of interim production and new production
13 taxes levied divided by the appropriate tax rates described
14 in 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, when necessary for the purpose
17 of replacing, rebuilding, or repairing county buildings,
18 bridges, or highways which have been destroyed or damaged by
19 an act of God, disaster, catastrophe, or accident.

20 (3) The value of the bonds issued and all other
21 outstanding indebtedness of the county, except county high
22 school bonds, shall not exceed ~~22.5%~~ 25.5% of the total of
23 the taxable value of the property within the county, plus
24 the amount of interim production and new production taxes
25 levied divided by the appropriate tax rates described in

1 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the
 2 amount of value represented by new production exempted from
 3 tax as provided in 15-23-612, as ascertained by the last
 4 preceding general assessment."

5 **Section 94.** Section 7-14-2525, MCA, is amended to
 6 read:

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

17 (a) negotiate with the bondholders for an agreement
 18 whereby the bondholders agree to accept less than the full
 19 amount of the bonds and the accrued unpaid interest thereon
 20 in satisfaction thereof;

21 (b) enter into such agreement;

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

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

25 (3) The plan agreed upon between the board and the

1 bondholders shall be embodied in full in the resolution
 2 providing for the issue of the bonds."

3 **Section 95.** Section 7-14-4402, MCA, is amended to
 4 read:

5 "7-14-4402. Limit on indebtedness to provide bus
 6 service. The total amount of indebtedness authorized under
 7 7-14-4401(1) to be contracted in any form, including the
 8 then-existing indebtedness, may not at any time exceed ~~30%~~
 9 32% of the total taxable value of the property of the city
 10 or town subject to taxation as ascertained by the last
 11 assessment for state and county taxes. No money may be
 12 borrowed or bonds issued for the purposes specified in
 13 7-14-4401(1) until the proposition has been submitted to the
 14 vote of the taxpayers of the city or town and the majority
 15 vote cast in its favor."

16 **Section 96.** Section 7-16-2327, MCA, is amended to
 17 read:

18 "7-16-2327. Indebtedness for park purposes. (1)
 19 Subject to the provisions of subsection (2), a county park
 20 board, in addition to powers and duties now given under law,
 21 shall have the power and duty to contract an indebtedness in
 22 behalf of a county, upon the credit thereof, for the
 23 purposes of 7-16-2321(1) and (2).

24 (2) (a) The total amount of indebtedness authorized to
 25 be contracted in any form, including the then-existing

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

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

16 **Section 97.** Section 7-16-4104, MCA, is amended to
 17 read:

18 "7-16-4104. Authorization for municipal indebtedness
 19 for various cultural, social, and recreational purposes. (1)
 20 A city or town council or commission may contract an
 21 indebtedness on behalf of the city or town, upon the credit
 22 thereof, by borrowing money or issuing bonds:

23 (a) for the purpose of purchasing and improving lands
 24 for public parks and grounds;

25 (b) for procuring by purchase, construction, or

1 otherwise swimming pools, athletic fields, skating rinks,
 2 playgrounds, museums, a golf course, a site and building for
 3 a civic center, a youth center, or combination thereof; and
 4 (c) for furnishing and equipping the same.

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

16 **Section 98.** Section 7-31-106, MCA, is amended to read:

17 "7-31-106. Authorization for county to issue bonds --
 18 election required. (1) If the petition is presented to the
 19 board of county commissioners, it shall be the duty of the
 20 board, for the purpose of raising money to meet the payments
 21 under the terms and conditions of said contract and other
 22 necessary and proper expenses in and about the same and for
 23 the approval or disapproval thereof:

24 (a) to ascertain, within 30 days after submission of
 25 the petition, the existing indebtedness of the county in the

1 aggregate; and

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

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

12 **Section 99.** Section 7-31-107, MCA, is amended to read:

13 "7-31-107. Authorization for municipality to issue
14 bonds -- election required. (1) If said petition is
15 presented to the council of any incorporated city or town,
16 the council, for the purpose of raising money to meet the
17 payments under the terms and conditions of said contract and
18 other necessary and proper expenses in and about the same
19 and for the approval or disapproval thereof:

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

23 (b) shall submit, within 60 days after ascertaining
24 the same, to the electors of such city or town the
25 proposition to approve or disapprove said contract and the

1 issuance of bonds necessary to carry out the same.

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

7 **Section 100.** Section 7-34-2131, MCA, is amended to
8 read:

9 "7-34-2131. Hospital district bonds authorized. (1) A
10 hospital district may borrow money by the issuance of its
11 bonds to provide funds for payment of part or all of the
12 cost of acquisition, furnishing, equipment, improvement,
13 extension, and betterment of hospital facilities and to
14 provide an adequate working capital for a new hospital.

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

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

24 (4) Nothing herein shall be construed to preclude the
25 provisions of Title 50, chapter 6, part 1, allowing the

1 state to apply for and accept federal funds."

2 **Section 101.** Section 20-9-406, MCA, is amended to
3 read:

4 "20-9-406. Limitations on amount of bond issue. (1)
5 The maximum amount for which each school district may become
6 indebted by the issuance of bonds, including all
7 indebtedness represented by outstanding bonds of previous
8 issues and registered warrants, is ~~45%~~ 51% of the taxable
9 value of the property subject to taxation as ascertained by
10 the last completed assessment for state, county, and school
11 taxes previous to the incurring of such indebtedness. The
12 ~~45%~~ 51% maximum, however, may not pertain to indebtedness
13 imposed by special improvement district obligations or
14 assessments against the school district or to bonds issued
15 for the repayment of tax protests lost by the district. All
16 bonds issued in excess of such amount shall be null and
17 void, except as provided in this section.

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

24 (3) Whenever bonds are issued for the purpose of
25 refunding bonds, any moneys to the credit of the debt

1 service fund for the payment of the bonds to be refunded are
2 applied towards the payment of such bonds and the refunding
3 bond issue is decreased accordingly."

4 **Section 102.** Section 20-9-407, MCA, is amended to
5 read:

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

1 taxable value shall be printed on each ballot used to vote
2 on a bond issue proposed under this section.

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

22 (3) A major industrial facility is a facility subject
23 to the taxing power of the school district, whose
24 construction or operation will increase the population of
25 the district, imposing a significant burden upon the

1 resources of the district and requiring construction of new
2 school facilities. A significant burden is an increase in
3 ANB of at least 20% in a single year."

4 **Section 103.** Section 15-1-101, MCA, is amended to
5 read:

6 "15-1-101. Definitions. (1) Except as otherwise
7 specifically provided, when terms mentioned in this section
8 are used in connection with taxation, they are defined in
9 the following manner:

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

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

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

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

1 (ii) The following types of property are not
2 commercial:

3 (A) agricultural lands;

4 (B) timberlands;

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

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

11 (E) all property described in 15-6-135(1)(h);

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

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

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

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

21 (g) The term "improvements" includes all buildings,
22 structures, fences, and improvements situated upon, erected
23 upon, or affixed to land. When the department of revenue or
24 its agent determines that the permanency of location of a
25 mobile home or housetrailer has been established, the mobile

1 home or housetrailer is presumed to be an improvement to
2 real property. A mobile home or housetrailer may be
3 determined to be permanently located only when it is
4 attached to a foundation which cannot feasibly be relocated
5 and only when the wheels are removed.

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

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

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

22 (k) The term "personal property" includes everything
23 that is the subject of ownership but that is not included
24 within the meaning of the terms "real estate" and
25 "improvements".

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

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

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

12 (i) the possession of, claim to, ownership of, or
13 right to the possession of land;

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

19 (o) "Research and development firm" means an entity
20 incorporated under the laws of this state or a foreign
21 corporation authorized to do business in this state whose
22 principal purpose is to engage in theoretical analysis,
23 exploration, and experimentation and the extension of
24 investigative findings and theories of a scientific and
25 technical nature into practical application for experimental

1 and demonstration purposes, including the experimental
2 production and testing of models, devices, equipment,
3 materials, and processes.

4 (p) The term "taxable value" means the percentage of
5 market or assessed value as provided for in 15-6-131 through
6 ~~15-6-149~~ 15-6-135, 15-6-141, 15-6-143, 15-6-145, and
7 15-6-147.

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

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

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

20 **Section 104.** Section 15-6-133, MCA, is amended to
21 read:

22 "15-6-133. Class three property -- description --
23 taxable percentage. (1) Class three property includes
24 agricultural land as defined in 15-7-202.

25 (2) Class three property is taxed at the--taxable

1 percentage-rate-"P" 30% of its productive capacity.
 2 {3}--Until--July--1,--1986,--the--taxable--percentage--rate
 3 "P"--for--class--three--property--is--30%.
 4 {4}--Prior--to--July--1,--1986,--the--department--of--revenue
 5 shall--determine--the--taxable--percentage--rate--"P"--applicable
 6 to--class--three--property--for--the--revaluation--cycle--beginning
 7 January--1,--1986,--as--follows:
 8 {a)--The--director--of--the--department--of--revenue--shall
 9 certify--to--the--governor--before--July--1,--1986,--the--percentage
 10 by--which--the--appraised--value--of--all--property--in--the--state
 11 classified--under--class--three--as--of--January--1,--1986,--has
 12 increased--due--to--the--revaluation--conducted--under--15-7-111.
 13 This--figure--is--the--"certified--statewide--percentage
 14 increase".
 15 {b)--The--taxable--value--of--property--in--class--three--is
 16 determined--as--a--function--of--the--certified--statewide
 17 percentage--increase--in--accordance--with--the--table--shown
 18 below.
 19 {c)--This--table--limits--the--statewide--increase--in
 20 taxable--valuation--resulting--from--reappraisal--to--0%--in
 21 calculating--the--percentage--increase,--the--department--may--not
 22 consider--agricultural--use--changes--during--calendar--year--1985.
 23 {d)--The--taxable--percentage--must--be--calculated--by
 24 interpolation--to--coincide--with--the--nearest--whole--number
 25 certified--statewide--percentage--increase--from--the--following

1 table:
 2 Certified-Statewide Class-Three-Taxable
 3 Percentage-Increase Percentage-"P"
 4 -0 30-00
 5 10 27-27
 6 20 25-00
 7 30 23-00
 8 40 21-43
 9 50 20-00
 10 {5)--After--July--1,--1986,--no--adjustment--may--be--made--by
 11 the--department--to--the--taxable--percentage--rate--"P"--until--a
 12 revaluation--has--been--made--as--provided--in--15-7-111."
 13 **Section 105.** Section 15-6-134, MCA, is amended to
 14 read:
 15 "15-6-134. Class four property -- description --
 16 taxable percentage. (1) Class four property includes:
 17 (a) all land except that specifically included in
 18 another class;
 19 (b) all improvements except those specifically
 20 included in another class;
 21 (c) the first \$80,000 or less of the market value,
 22 less the exemption under 15-6-201(1)(u), of any improvement
 23 on real property and appurtenant land not exceeding 5 acres
 24 owned or under contract for deed and actually occupied for
 25 at least 10 months a year as the primary residential

1 dwelling of any person whose total income from all sources
 2 including otherwise tax-exempt income of all types is not
 3 more than \$10,000 for a single person or \$12,000 for a
 4 married couple, as adjusted according to subsection
 5 (2)(b)(ii);

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

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

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

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

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%

1	7,001 - 8,000	8,401 - 9,600	70%
2	8,001 - 9,000	9,601 - 10,800	80%
3	9,001 - 10,000	10,801 - 12,000	90%

4 (ii) The income levels contained in the table in
 5 subsection (2)(b)(i) must be adjusted for inflation annually
 6 by the department of revenue. The adjustment to the income
 7 levels is determined by:

8 (A) multiplying the appropriate dollar amount from the
 9 table in subsection (2)(b)(i) by the ratio of the PCE for
 10 the second quarter of the year prior to the year of
 11 application to the PCE for the second quarter of 1986; and

12 (B) rounding the product thus obtained to the nearest
 13 whole dollar amount.

14 (iii) "PCE" means the implicit price deflator for
 15 personal consumption expenditures as published quarterly in
 16 the Survey of Current Business by the bureau of economic
 17 analysis of the U.S. department of commerce.

18 (c) Property described in subsection (1)(d) is taxed
 19 at ~~one-half~~ two-thirds the taxable percentage rate
 20 established in subsection (2)(a).

21 (3) After July 1, 1986, no adjustment may be made by
 22 the department to the taxable percentage rate for class four
 23 property until a revaluation has been made as provided in
 24 15-7-111.

25 (4) Within the meaning of comparable property as

1 defined in 15-1-101, property assessed as commercial
 2 property is comparable only to other property assessed as
 3 commercial property, and property assessed as other than
 4 commercial property is comparable only to other property
 5 assessed as other than commercial property."

6 **Section 106.** Section 15-6-135, MCA, is amended to
 7 read:

8 "15-6-135. Class five property -- description --
 9 taxable percentage. (1) Class five property includes:

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

15 (b) air and water pollution control equipment as
 16 defined in this section;

17 (c) new industrial property as defined in this
 18 section;

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

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

1 ~~(f)--machinery---and---equipment---used---in---electrolytic~~
 2 ~~reduction-facilities-~~

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

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

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

13 (ii) specifically included in another class;

14 (f) the first \$80,000 or less of the market value,
 15 less the exemption provided in 15-6-201(1)(u), of a trailer
 16 or mobile home used as a residence and actually occupied for
 17 at least 10 months a year as the primary residential
 18 dwelling of any person whose total income from all sources,
 19 including otherwise tax-exempt income of all types, is not
 20 more than \$10,000 for a single person or \$12,000 for a
 21 married couple, as adjusted according to 15-6-134(2)(b)(ii);

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

24 (i) subject to a fee in lieu of a property tax or
 25 subject to taxation under Title 61, chapter 3, part 5; or

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

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

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

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

22 (3) "New industrial property" means any new industrial
23 plant, including land, buildings, machinery, and fixtures,
24 used by new industries during the first 3 years of their
25 operation. The property may not have been assessed within

1 the state of Montana prior to July 1, 1961.

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

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

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

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

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

21 (5) New industrial property does not include:

22 (a) property used by retail or wholesale merchants,
23 commercial services of any type, agriculture, trades, or
24 professions;

25 (b) a plant that will create adverse impact on

1 existing state, county, or municipal services; or

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

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

7 (a) Property described in subsections (1)(a) through
8 (1)(c) is taxed at 3% of its market value.

9 (b) Property described in subsections (1)(d), (1)(g),
10 and (1)(h) is taxed at 4% of its market value.

11 (c) Property described in subsection (1)(e) is taxed
12 at 3.5% of its market value.

13 (d) 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 107.** Section 15-6-201, MCA, is amended to
18 read:

19 "15-6-201. **Exempt categories.** (1) The following
20 categories of property are exempt from taxation:

21 (a) the property of:

22 (i) the United States, the state, counties, cities,
23 towns, school districts, except, if congress passes
24 legislation that allows the state to tax property owned by
25 an agency created by congress to transmit or distribute

1 electrical energy, the property constructed, owned, or
2 operated by a public agency created by the congress to
3 transmit or distribute electric energy produced at privately
4 owned generating facilities (not including rural electric
5 cooperatives);

6 (ii) irrigation districts organized under the laws of
7 Montana and not operating for profit;

8 (iii) municipal corporations; and

9 (iv) public libraries;

10 (b) buildings, with land they occupy and furnishings
11 therein, owned by a church and used for actual religious
12 worship or for residences of the clergy, together with
13 adjacent land reasonably necessary for convenient use of the
14 buildings;

15 (c) property used exclusively for agricultural and
16 horticultural societies, for educational purposes, and for
17 nonprofit health care facilities, as defined in 50-5-101,
18 licensed by the department of health and environmental
19 sciences and organized under Title 35, chapter 2 or 3. A
20 health care facility that is not licensed by the department
21 of health and environmental sciences and organized under
22 Title 35, chapter 2 or 3, is not exempt.

23 (d) property that meets the following conditions:

24 (i) is owned and held by any association or
25 corporation organized under Title 35, chapter 2, 3, 20, or

1 21;

2 (ii) is devoted exclusively to use in connection with a

3 cemetery or cemeteries for which a permanent care and

4 improvement fund has been established as provided for in

5 Title 35, chapter 20, part 3; and

6 (iii) is not maintained and operated for private or

7 corporate profit;

8 (e) institutions of purely public charity;

9 (f) evidence of debt secured by mortgages of record

10 upon real or personal property in the state of Montana;

11 (g) public art galleries and public observatories not

12 used or held for private or corporate profit;

13 (h) all household goods and furniture, including but

14 not limited to clocks, musical instruments, sewing machines,

15 and wearing apparel of members of the family, used by the

16 owner for personal and domestic purposes or for furnishing

17 or equipping the family residence;

18 (i) a truck canopy cover or topper weighing less than

19 300 pounds and having no accommodations attached. This

20 property is also exempt from taxation under 61-3-504(2) and

21 61-3-537.

22 (j) a bicycle, as defined in 61-1-123, used by the

23 owner for personal transportation purposes;

24 (k) motor homes, travel trailers, and campers;

25 (l) all watercraft;

1 (m) land, fixtures, buildings, and improvements owned

2 by a cooperative association or nonprofit corporation

3 organized to furnish potable water to its members or

4 customers for uses other than the irrigation of agricultural

5 land;

6 (n) the right of entry that is a property right

7 reserved in land or received by mesne conveyance (exclusive

8 of leasehold interests), devise, or succession to enter land

9 whose surface title is held by another to explore, prospect,

10 or dig for oil, gas, coal, or minerals;

11 (o) property owned and used by a corporation or

12 association organized and operated exclusively for the care

13 of the developmentally disabled, mentally ill, or

14 vocationally handicapped as defined in 18-5-101, which is

15 not operated for gain or profit;

16 (p) all farm buildings with a market value of less

17 than \$500 and all agricultural implements and machinery with

18 a market value of less than \$100;

19 (q) property owned by a nonprofit corporation

20 organized to provide facilities primarily for training and

21 practice for or competition in international sports and

22 athletic events and not held or used for private or

23 corporate gain or profit. For purposes of this subsection

24 (q), "nonprofit corporation" means an organization exempt

25 from taxation under section 501(c) of the Internal Revenue

1 Code and incorporated and admitted under the Montana
2 Nonprofit Corporation Act.

3 (r) provided the tools are owned by the taxpayer, the
4 first \$15,000 or less of market value of tools that are
5 customarily hand-held and that are used to:

6 (i) construct, repair, and maintain improvements to
7 real property; or

8 (ii) repair and maintain machinery, equipment,
9 appliances, or other personal property;

10 (s) harness, saddlery, and other tack equipment; and

11 (t) a title plant owned by a title insurer or a title
12 agent, as those terms are defined in 33-25-105; and

13 (u) the first \$15,000 or less of market value of any
14 single-family, owner-occupied residence owned by a Montana
15 resident.

16 (2) (a) The term "institutions of purely public
17 charity" includes organizations owning and operating
18 facilities for the care of the retired or aged or
19 chronically ill, which are not operated for gain or profit.

20 (b) The terms "public art galleries" and "public
21 observatories" include only those art galleries and
22 observatories, whether of public or private ownership, that
23 are open to the public without charge at all reasonable
24 hours and are used for the purpose of education only.

25 (3) The following portions of the appraised value of a

1 capital investment made after January 1, 1979, in a
2 recognized nonfossil form of energy generation, as defined
3 in 15-32-102, are exempt from taxation for a period of 10
4 years following installation of the property:

5 (a) \$20,000 in the case of a single-family residential
6 dwelling;

7 (b) \$100,000 in the case of a multifamily residential
8 dwelling or a nonresidential structure."

9 **Section 108.** Section 15-6-207, MCA, is amended to
10 read:

11 "15-6-207. Agricultural exemptions. (1) The following
12 agricultural products are exempt from taxation:

13 (a) all unprocessed agricultural products on the farm
14 or in storage and owned by the producer;

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

16 (c) all unprocessed agricultural products, except
17 livestock;

18 (d) except as provided in subsection (1)(e), livestock
19 which have not attained the age of 24 months as of March 1;

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

22 (f) poultry and the unprocessed products of poultry;
23 and

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

25 (h) the unprocessed products of livestock and the

1 unprocessed products of other domestic animals and wildlife
2 raised in domestication or a captive environment; and

3 (i) cats, dogs, and other household pets not raised
4 for profit.

5 (2) Any beet digger, beet topper, beet defoliator,
6 beet thinner, beet cultivator, beet planter, or beet top
7 saver designed exclusively to plant, cultivate, and harvest
8 sugar beets is exempt from taxation if such implement has
9 not been used to plant, cultivate, or harvest sugar beets
10 for the 2 years immediately preceding the current assessment
11 date and there are no available sugar beet contracts in the
12 sugar beet grower's marketing area."

13 **Section 109.** Section 15-8-111, MCA, is amended to
14 read:

15 "15-8-111. Assessment -- market value standard --
16 exceptions. (1) All taxable property must be assessed at
17 100% of its market value except as otherwise provided.

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

22 (b) If the department uses construction cost as one
23 approximation of market value, the department shall fully
24 consider reduction in value caused by depreciation, whether
25 through physical depreciation, functional obsolescence, or

1 economic obsolescence.

2 (c) Except as provided in subsection (3), the market
3 value of all motor trucks; agricultural tools, implements,
4 and machinery; and vehicles of all kinds, including but not
5 limited to boats and all watercraft, is the average
6 wholesale value shown in national appraisal guides and
7 manuals or the value of the vehicle before reconditioning
8 and profit margin. The department of revenue shall prepare
9 valuation schedules showing the average wholesale value when
10 no national appraisal guide exists.

11 (3) The department of revenue or its agents may not
12 adopt a lower or different standard of value from market
13 value in making the official assessment and appraisal of the
14 value of property, except:

15 (a) the wholesale value for agricultural implements
16 and machinery is the loan value as shown in the Official
17 Guide, Tractor and Farm Equipment, published by the national
18 farm and power equipment dealers association, St. Louis,
19 Missouri;

20 (b) for agricultural implements and machinery not
21 listed in the official guide, the department shall prepare a
22 supplemental manual where the values reflect the same
23 depreciation as those found in the official guide; and

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

25 (4) For purposes of taxation, assessed value is the

1 same as appraised value.

2 (5) The taxable value for all property is the
3 percentage of market or assessed value established for each
4 class of property.

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

7 (a) Properties Property in 15-6-131, under class one,
8 are is assessed at 100% of the annual net proceeds after
9 deducting the expenses specified and allowed by 15-23-503
10 or, if applicable, as provided in 15-23-515.

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

13 (c) Properties Property in 15-6-133, under class
14 three, are is assessed at 100% of the productive capacity of
15 the lands when valued for agricultural purposes. All lands
16 that meet the qualifications of 15-7-202 are valued as
17 agricultural lands for tax purposes.

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

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

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

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

2 (c) the land is outside an incorporated city or town.
3 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.
4 681, L. 1985.)"

5 **Section 110.** Section 15-8-205, MCA, is amended to
6 read:

7 "15-8-205. Initial assessment of ~~class-twelve-property~~
8 mobile homes -- when. The county assessor shall assess all
9 class---twelve---property mobile homes described in
10 15-6-135(1)(e) and (1)(f) immediately upon arrival in the
11 county if the taxes have not been previously paid for that
12 year in another county in Montana."

13 **Section 111.** Section 15-10-402, MCA, is amended to
14 read:

15 "15-10-402. Property tax limited to ~~1986~~ 1991 levels.
16 (1) Except as provided in subsections (2) and (3), the
17 amount of taxes levied on property described in 15-6-133,
18 and 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may
19 not, for any taxing jurisdiction, exceed the amount levied
20 for taxable year 1986 1991.

21 (2) The limitation contained in subsection (1) does
22 not apply to levies for rural improvement districts, Title
23 7, chapter 12, part 21; special improvement districts, Title
24 7, chapter 12, part 41; or bonded indebtedness.

25 (3) New construction or improvements to or deletions

1 from property described in subsection (1) are subject to
2 taxation at ~~1986~~ 1991 levels.

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

11 **Section 112.** Section 15-10-411, MCA, is amended to
12 read:

13 "15-10-411. Declaration of policy -- clarification --
14 extension to all property classes. Section 15-10-401 is
15 interpreted, clarified, and extended as follows:

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

21 (2) The policy declaration in 15-10-401(5) that no
22 further property tax increases be imposed is interpreted to
23 mean no further increase may be made in the tax rate applied
24 to property in each class in ~~1986~~ 1991.

25 (3) No new class of property may be created solely to

1 circumvent the policy underlying 15-10-401 and 15-10-402. If
2 a new class of property is created in order to afford
3 preferential treatment to a category of property, the
4 taxable rate that applies may not exceed the rate at which
5 such property was taxed in ~~1986~~ 1991."

6 **Section 113.** Section 15-10-412, MCA, is amended to
7 read:

8 "15-10-412. Property tax limited to ~~1986~~ 1991 levels
9 -- clarification -- extension to all property classes.
10 Section 15-10-402 is interpreted and clarified as follows:

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

14 (2) The limitation on the amount of taxes levied is
15 interpreted to mean that, except as otherwise provided in
16 this section, the actual tax liability for an individual
17 property is capped at the dollar amount due in each taxing
18 unit for the ~~1986~~ 1991 tax year. In tax years thereafter,
19 the property must be taxed in each taxing unit at the ~~1986~~
20 1991 cap or the product of the taxable value and mills
21 levied, whichever is less for each taxing unit--~~except in a~~
22 ~~taxing unit that levied a tax in tax years 1983 through 1985~~
23 ~~but did not levy a tax in 1986, in which case the actual tax~~
24 ~~liability for an individual property is capped at the dollar~~
25 ~~amount due in that taxing unit for the 1985 tax year.~~

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;

16 (h) revaluations caused by:

17 (i) cyclical reappraisal; or

18 (ii) expansion, addition, replacement, or remodeling of
19 improvements; or

20 (i) increases in property valuation pursuant to
21 15-7-111(4) through (8) in order to equalize property values
22 annually.

23 (4) The limitation on the amount of taxes levied does
24 not mean that no further increase may be made in the taxable
25 valuation or in the actual tax liability on individual

1 property in each class as a result of:

2 (a) a revaluation caused by:

3 (i) construction, expansion, replacement, or
4 remodeling of improvements that adds value to the property;

5 or

6 (ii) cyclical reappraisal;

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

8 (c) reclassification of property;

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

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

14 (f) conversion of the individual property from
15 tax-exempt to taxable status; or

16 (g) increases in property valuation pursuant to
17 15-7-111(4) through (8) in order to equalize property values
18 annually.

19 (5) Property in classes four, twelve, and fourteen, as
20 amended by [this act], is valued according to the procedures
21 used in 1986, or the 1991 tax year if a revaluation pursuant
22 to 15-7-111 has been completed, including the designation of
23 1982 as the base year, or the designation of a new base year
24 if a revaluation pursuant to 15-7-111 has been completed,
25 until the reappraisal cycle beginning January 1, 1986, is

1 completed and new valuations are placed on the tax rolls and
2 a new base year designated, if the property is:

- 3 (a) new construction;
- 4 (b) expanded, deleted, replaced, or remodeled
- 5 improvements;
- 6 (c) annexed property; or
- 7 (d) property converted from tax-exempt to taxable
- 8 status.

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

17 (7) (a) The limitation on the amount of taxes, as
18 clarified in this section, is intended to leave the property
19 appraisal and valuation methodology of the department of
20 revenue intact. Determinations of county classifications,
21 salaries of local government officers, and all other matters
22 in which total taxable valuation is an integral component
23 are not affected by 15-10-401 and 15-10-402 except for the
24 use of taxable valuation in fixing tax levies. In fixing tax
25 levies, the taxing units of local government may anticipate

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

19 (b) For the purposes of this subsection (7), property
20 tax replacement revenue received as reimbursement from gross
21 receipts tax proceeds is considered to be revenue from
22 property taxes.

23 (8) The limitation on the amount of taxes levied does
24 not apply to the following levy or special assessment
25 categories, whether or not they are based on commitments

1 made before or after approval of 15-10-401 and 15-10-402:

2 (a) rural improvement districts;

3 (b) special improvement districts;

4 (c) levies pledged for the repayment of bonded

5 indebtedness, including tax increment bonds;

6 (d) city street maintenance districts;

7 (e) tax increment financing districts;

8 (f) satisfaction of judgments against a taxing unit;

9 (g) street lighting assessments; and

10 (h) revolving funds to support any categories

11 specified in this subsection (8).

12 (9) The limitation on the amount of taxes levied does

13 not apply in a taxing unit if the voters in the taxing unit

14 approve an increase in tax liability following a resolution

15 of the governing body of the taxing unit containing:

16 (a) a finding that there are insufficient funds to

17 adequately operate the taxing unit as a result of 15-10-401

18 and 15-10-402;

19 (b) an explanation of the nature of the financial

20 emergency;

21 (c) an estimate of the amount of funding shortfall

22 expected by the taxing unit;

23 (d) a statement that applicable fund balances are or

24 by the end of the fiscal year will be depleted;

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

1 revenue;

2 (f) a summary of the alternatives that the governing

3 body of the taxing unit has considered; and

4 (g) a statement of the need for the increased revenue

5 and how it will be used.

6 (10) The limitation on the amount of taxes levied does

7 not apply to levies required to address the funding of

8 relief of suffering of inhabitants caused by famine,

9 conflagration, or other public calamity.

10 (11) The limitation on the amount of taxes levied by a

11 taxing jurisdiction subject to a statutory maximum mill levy

12 does not prevent a taxing jurisdiction from increasing its

13 number of mills beyond the statutory maximum mill levy to

14 produce revenue equal to its 1986 revenue.

15 (12) The limitation on the amount of taxes levied does

16 not apply to a levy increase to repay taxes paid under

17 protest in accordance with 15-1-402."

18 **Section 114.** Section 15-16-611, MCA, is amended to

19 read:

20 "15-16-611. Reduction of property tax for property

21 destroyed by natural disaster. (1) The department of revenue

22 shall, upon showing by a taxpayer that some or all of the

23 improvements on his real property or a trailer or mobile

24 home ~~as described in 15-6-142~~ have been destroyed to such an

25 extent that such improvements have been rendered unsuitable

1 for their previous use by natural disaster, adjust the
2 taxable value on the property, accounting for the
3 destruction.

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

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

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

13 (b) multiply the amount of tax levied and assessed on
14 the adjusted taxable value of the property for the remainder
15 of the year by the ratio that the number of days remaining
16 in the year after the destruction of the property bears to
17 365.

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

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

24 **Section 115.** Section 15-16-613, MCA, is amended to
25 read:

1 "15-16-613. Refund of certain taxes paid in other
2 states. Subject to the provisions of 15-16-601 and upon
3 proof that tax was paid in another state, a taxpayer is
4 entitled to a refund equal to the amount of tax paid in
5 another state on a helicopter or property that was assessed
6 in Montana under ~~15-6-130(i)(g)~~ 15-6-135 on January 1 of the
7 year for which the refund is due. The refund under this
8 section may not exceed the tax that was paid in Montana on
9 the same property for the same period of time."

10 **Section 116.** Section 15-24-301, MCA, is amended to
11 read:

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

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

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

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

1 (2) The taxes on this property are levied in the same
2 manner and to the same extent, except as otherwise provided,
3 as though the property had been in the county on the regular
4 assessment date, provided that the property has not been
5 regularly assessed for the year in some other county of the
6 state.

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

11 (4) Any motor vehicle not subject to a fee in lieu of
12 tax brought, driven, or coming into this state by any
13 nonresident person temporarily employed in Montana and used
14 exclusively for transportation of such person is subject to
15 taxation and assessment for taxes as follows:

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

18 (b) One-fourth of the annual tax liability of the
19 motor vehicle must be paid for each quarter or portion of a
20 quarter of the year that the motor vehicle is located in
21 Montana.

22 (c) The quarterly taxes are due the first day of the
23 quarter.

24 (5) Agricultural harvesting machinery ~~classified under~~
25 ~~class eight~~, licensed in other states, and operated on the

1 lands of persons other than the owner of the machinery under
2 contracts for hire shall be subject to a fee in lieu of
3 taxation of \$35 per machine for the calendar year in which
4 the fee is collected. The machines shall be subject to
5 taxation ~~under class eight~~ only if they are sold in
6 Montana."

7 **Section 117.** Section 15-24-1102, MCA, is amended to
8 read:

9 "15-24-1102. Federal property held under contract of
10 sale. When the property is held under a contract of sale or
11 other agreement whereby upon payment the legal title is or
12 may be acquired by the person, the real property shall be
13 assessed and taxed as defined in ~~15-6-131 through 15-6-149~~
14 Title 15, chapter 6, part 1, and 15-8-111 without deduction
15 on account of the whole or any part of the purchase price or
16 other sum due on the property remaining unpaid. The lien for
17 the tax may not attach to, impair, or be enforced against
18 any interest of the United States in the real property."

19 **Section 118.** Section 15-24-1103, MCA, is amended to
20 read:

21 "15-24-1103. Federal property held under lease. When
22 the property is held under lease, other interest, or estate
23 therein less than the fee, except under contract of sale,
24 the property shall be assessed and taxed as for the value,
25 as defined in ~~15-6-131 through 15-6-149~~ Title 15, chapter 6,

1 part 1, of such leasehold, interest, or estate in the
 2 property and the lien for the tax shall attach to and be
 3 enforced against only the leasehold, interest, or estate in
 4 the property. When the United States authorizes the taxation
 5 of the property for the full assessed value of the fee
 6 thereof, the property shall be assessed for full assessed
 7 value as defined in 15-8-111."

8 **Section 119.** Section 17-3-213, MCA, is amended to
 9 read:

10 "17-3-213. Allocation to general road fund and
 11 countywide school levies. (1) The forest reserve funds so
 12 apportioned to each county ~~shall~~ must be apportioned by the
 13 county treasurer in each county ~~between the several funds~~ as
 14 follows:

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

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

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

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

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

25 ~~(iv) the elementary teacher retirement and social~~

1 ~~security fund provided for in 20-9-501;~~

2 ~~(v) the high school teacher retirement and social~~
 3 ~~security fund provided for in 20-9-501.~~

4 (2) The apportionment of money to the funds provided
 5 for under subsection (1)(b) ~~shall~~ must be made by the county
 6 superintendent based on the proportion that the mill levy of
 7 each fund bears to the total number of mills for all the
 8 funds. Whenever the total amount of money available for
 9 apportionment under this section is greater than the total
 10 requirements of a levy, the excess money and any interest
 11 income must be retained in a separate reserve fund, to be
 12 reapportioned in the ensuing school fiscal year to the
 13 levies designated in subsection (1)(b).

14 (3) In counties wherein in which special road
 15 districts have been created according to law, the board of
 16 county commissioners shall distribute a proportionate share
 17 of the 66 2/3% of the total amount received for the general
 18 road fund to such the special road ~~district or~~ districts
 19 within the county based upon the percentage that the total
 20 area of such the road district bears to the total area of
 21 the entire county."

22 **Section 120.** Section 19-4-605, MCA, is amended to
 23 read:

24 "19-4-605. Pension accumulation fund -- employer's
 25 contribution. The pension accumulation fund is the fund in

1 which the reserves for payment of pensions and annuities
 2 shall must be accumulated and from which pensions,
 3 annuities, and benefits in lieu thereof--shall of pensions
 4 and annuities must be paid to or on account of beneficiaries
 5 credited with prior service. Contributions to and payments
 6 from the pension accumulation fund shall must be made as
 7 follows:

8 (1) Each employer shall pay into the pension
 9 accumulation fund an amount equal to 7.459% of the earned
 10 compensation of each member employed during the whole or
 11 part of the preceding payroll period.

12 ~~{2}--If the employer is a district or community college~~
 13 ~~district,--the--trustees--shall--budget--and--pay--for--the~~
 14 ~~employer's contribution under the provisions of 20-9-501.~~

15 {3}{2} If the employer is the superintendent of public
 16 instruction, a public institution of the state of Montana, a
 17 unit of the Montana university system, or the Montana state
 18 school for the deaf and blind, the legislature shall
 19 appropriate to the employer an adequate amount to allow the
 20 payment of the employer's contribution.

21 {4}{3} If the employer is a county, the county
 22 commissioners shall budget and pay for the employer's
 23 contribution in the manner provided by law for the adoption
 24 of a county budget and for payments under the budget.

25 {5}{4} All interest and other earnings realized on the

1 moneys money of the retirement system shall must be credited
 2 to the pension accumulation fund, and the amount required to
 3 allow regular interest on the annuity savings fund shall
 4 must be transferred to that fund from the pension
 5 accumulation fund.

6 {6}{5} All pensions, annuities, and benefits in lieu
 7 thereof--shall of pensions and annuities must be paid from
 8 the pension accumulation fund.

9 {7}{6} The retirement board may, in its discretion,
 10 transfer from the pension accumulation fund an amount
 11 necessary to cover expenses of administration."

12 **Section 121.** Section 19-11-503, MCA, is amended to
 13 read:

14 "19-11-503. Special tax levy for fund required. (1)
 15 The purpose of this section is to provide a means by which
 16 each disability and pension fund may be maintained at a
 17 level equal to ~~4%~~ 4.5% of the taxable valuation of all
 18 taxable property within the limits of the city or town.

19 (2) Whenever the fund contains less than ~~4%~~ 4.5% of
 20 the taxable valuation of all taxable property within the
 21 limits of the city or town, the governing body of the city
 22 or town shall, at the time of the levy of the annual tax,
 23 levy a special tax as provided in 19-11-504. The special tax
 24 must be collected as other taxes are collected and, when so
 25 collected, must be paid into the disability and pension

1 fund.

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

6 **Section 122.** Section 19-11-504, MCA, is amended to
7 read:

8 "19-11-504. Amount of special tax levy. Whenever the
9 fund contains an amount which is less than 4% 4.5% of the
10 taxable valuation of all taxable property in the city or
11 town, the city council shall levy an annual special tax of
12 not less than 1 mill and not more than 4 mills on each
13 dollar of taxable valuation of all taxable property within
14 the city or town."

15 **Section 123.** Section 20-3-106, MCA, is amended to
16 read:

17 "20-3-106. Supervision of schools -- powers and
18 duties. The superintendent of public instruction has the
19 general supervision of the public schools and districts of
20 the state, and he shall perform the following duties or acts
21 in implementing and enforcing the provisions of this title:

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

25 (2) issue, renew, or deny teacher certification and

1 emergency authorizations of employment;

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

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

6 (5) approve or disapprove the orders of a high school
7 boundary commission in accordance with the provisions of
8 20-6-311;

9 (6) approve or disapprove the opening or reopening of
10 a school in accordance with the provisions of 20-6-502,
11 20-6-503, 20-6-504, or 20-6-505;

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

14 (8) generally supervise the school budgeting
15 procedures prescribed by law in accordance with the
16 provisions of 20-9-102 and prescribe the school budget
17 format in accordance with the provisions of 20-9-103 and
18 20-9-506;

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

22 (10) approve or disapprove the adoption of a district's
23 emergency budget resolution under the conditions prescribed
24 in 20-9-163 and publish rules for an application for
25 additional state aid for an emergency budget in accordance

1 with the approval and disbursement provisions of 20-9-166;
 2 (11) generally supervise the school financial
 3 administration provisions as prescribed by 20-9-201(2);
 4 (12) prescribe and furnish the annual report forms to
 5 enable the districts to report to the county superintendent
 6 in accordance with the provisions of 20-9-213(5) and the
 7 annual report forms to enable the county superintendents to
 8 report to the superintendent of public instruction in
 9 accordance with the provisions of 20-3-209;
 10 (13) approve, disapprove, or adjust an increase of the
 11 average number belonging (ANB) in accordance with the
 12 provisions of 20-9-313 and 20-9-314;
 13 (14) distribute state equalization aid in support of
 14 the foundation program in accordance with the provisions of
 15 20-9-342, 20-9-346, and 20-9-347;
 16 (15) distribute state impact aid in accordance with the
 17 provisions of 20-9-304;
 18 (16) provide for the uniform and equal provision of
 19 transportation by performing the duties prescribed by the
 20 provisions of 20-10-112;
 21 (17) approve or disapprove an adult education program
 22 for which a district proposes to levy a tax in accordance
 23 with the provisions of 20-7-705;
 24 (18) request, accept, deposit, and expend federal
 25 moneys money in accordance with the provisions of 20-9-603;

1 (19) authorize the use of federal moneys money for the
 2 support of an interlocal cooperative agreement in accordance
 3 with the provisions of 20-9-703 and 20-9-704;
 4 (20) prescribe the form and contents of and approve or
 5 disapprove interstate contracts in accordance with the
 6 provisions of 20-9-705;
 7 (21) approve or disapprove the conduct of school on a
 8 Saturday or on pupil-instruction-related days in accordance
 9 with the provisions of 20-1-303 and 20-1-304;
 10 (22) recommend standards of accreditation for all
 11 schools to the board of public education and evaluate
 12 compliance with such the standards and recommend
 13 accreditation status of every school to the board of public
 14 education in accordance with the provisions of 20-7-101 and
 15 20-7-102;
 16 (23) collect and maintain a file of curriculum guides
 17 and assist schools with instructional programs in accordance
 18 with the provisions of 20-7-113 and 20-7-114;
 19 (24) establish and maintain a library of visual, aural,
 20 and other educational media in accordance with the
 21 provisions of 20-7-201;
 22 (25) license textbook dealers and initiate prosecution
 23 of textbook dealers violating the law in accordance with the
 24 provisions of the textbooks part of this title;
 25 (26) as the governing agent and executive officer of

1 the state of Montana for K-12 vocational education, adopt
2 the policies prescribed by and in accordance with the
3 provisions of 20-7-301;

4 (27) supervise and coordinate the conduct of special
5 education in the state in accordance with the provisions of
6 20-7-403;

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

9 (29) administer the school food services program in
10 accordance with the provisions of 20-10-201, 20-10-202, and
11 20-10-203;

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

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

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

22 ~~(33) administer the distribution of state retirement~~
23 ~~equalization aid in accordance with 20-9-532; and~~

24 ~~(34)~~ (33) perform any other duty prescribed from time to
25 time by this title, any other act of the legislature, or the

1 policies of the board of public education."

2 **Section 124.** Section 20-3-324, MCA, is amended to
3 read:

4 ***20-3-324. Powers and duties.** As prescribed elsewhere
5 in this title, the trustees of each district shall:

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 considers necessary, accepting or
10 rejecting any recommendation as the trustees in their sole
11 discretion determine, in accordance with the provisions of
12 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 considered necessary to
17 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 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 considered advisable, a physician or
6 registered nurse to inspect the sanitary conditions of the
7 school or the general health conditions of each pupil and,
8 upon request, make available to any parent or guardian any
9 medical reports or health records maintained by the district
10 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 that
18 measures not less than 4 feet by 6 feet;

19 (23) adopt and administer a district policy on
20 assessment for placement of any child who enrolls in a
21 school of the district from a nonpublic school that is not
22 accredited, as required in 20-5-110; and

23 (24) perform any other duty and enforce any other
24 requirements for the government of the schools prescribed by
25 this title, the policies of the board of public education,

1 or the rules of the superintendent of public instruction."

2 **Section 125.** Section 20-5-305, MCA, is amended to
3 read:

4 **"20-5-305. Elementary tuition rates.** (1) Whenever a
5 pupil of an elementary district has been granted approval to
6 attend a school outside of the district in which he resides,
7 under the provisions of 20-5-301 or 20-5-302, ~~such the~~
8 district of residence shall pay tuition to the elementary
9 district where the pupil attends school. Except as provided
10 in subsection (2), the basis of the rate of tuition ~~shall~~
11 must be determined by the attended district. The rate of
12 tuition ~~shall~~ must be determined by:

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

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

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

25 (2) The tuition for a full-time elementary special

1 education pupil must be determined under rules adopted by
2 the superintendent of public instruction for the calculation
3 of elementary tuition for full-time elementary special
4 education pupils as designated in 20-9-311 for funding
5 purposes."

6 **Section 126.** Section 20-5-312, MCA, is amended to
7 read:

8 "20-5-312. Reporting, budgeting, and payment for high
9 school tuition. (1) Except as provided in subsection (2), at
10 the close of the school term of each school fiscal year, the
11 trustees of each high school district shall determine the
12 rate of tuition for the current school fiscal year by:

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

16 (b) dividing the amount determined in subsection
17 (1)(a) above by the ANB of the district as determined under
18 the provisions of 20-9-311; and

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

25 (2) The tuition for a full-time high school special

1 education pupil must be determined under rules adopted by
2 the superintendent of public instruction for the calculation
3 of tuition for full-time high school special education
4 pupils as designated in 20-9-311 for funding purposes.

5 (3) Before July 15, the trustees shall report to the
6 county superintendent of the county in which the district is
7 located:

8 (a) the names, addresses, and resident districts of
9 the pupils attending the schools of the district under an
10 approved tuition agreement;

11 (b) the number of days of school attended by each
12 pupil;

13 (c) the amount, if any, of each pupil's tuition
14 payment that the trustees, in their discretion, have the
15 authority to waive; and

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

18 (4) When the county superintendent receives a tuition
19 report from a district, he shall immediately send the
20 reported information to the superintendent of each district
21 in which the reported pupils reside.

22 (5) When the district superintendent receives a
23 tuition report or reports for high school pupils residing in
24 his district and attending an out-of-district high school
25 under approved tuition agreements, he shall determine the

1 total amount of tuition due such the out-of-district high
 2 schools on the basis of the following per-pupil schedule:
 3 the rate of tuition, number of pupils attending under an
 4 approved tuition agreement, and other information provided
 5 by each high school district where resident district pupils
 6 have attended school.

7 (6) The total amount of the high school tuition, with
 8 consideration of any tuition waivers, for pupils attending a
 9 high school outside the county of residence must be financed
 10 by the county basic special tax for high schools as provided
 11 in 20-9-334. In December, the county superintendent shall
 12 cause the payment by county warrant of at least one-half of
 13 the high school tuition obligations established under this
 14 section out of the first money realized from the county
 15 basic special tax for high schools. The remaining
 16 obligations must be paid by June 15 of the school fiscal
 17 year. The payments must be made to the county treasurer of
 18 the county where each high school entitled to tuition is
 19 located. The county treasurer shall credit tuition receipts
 20 to the general fund of the applicable high school district,
 21 and the tuition receipts must be used in accordance with the
 22 provisions of 20-9-141.

23 (7) For pupils attending a high school outside their
 24 district of residence but within the county of residence,
 25 the total amount of the tuition, with consideration of any

1 tuition waivers, must be paid during the ensuing school
 2 fiscal year. The trustees of the sending high school
 3 district shall include the tuition amount in the tuition
 4 fund of the preliminary and final budgets. This budgeted
 5 tuition amount is not subject to the budget adjustment
 6 provisions of 20-9-132. The county superintendent shall
 7 report the net tuition fund levy requirement for each high
 8 school district to the county commissioners on the second
 9 Monday of August, and a levy on the district must be made by
 10 the county commissioners in accordance with 20-9-142. The
 11 levy requirement must be calculated by subtracting from the
 12 total expenditure amount authorized in the final tuition
 13 fund budget the sum of the cash balance in the tuition fund
 14 at the end of the immediately preceding school fiscal year
 15 plus any other anticipated money that may be realized in the
 16 tuition fund. The trustees shall pay by warrants drawn on
 17 the tuition fund the tuition amounts owed to each district
 18 included in the county superintendent's notification.
 19 Payments must be made whenever there is a sufficient amount
 20 of cash available in the tuition fund but no later than the
 21 end of the school fiscal year for which the budget is
 22 adopted. However, if the trustees of either the sending or
 23 receiving high school district feel the transfer privilege
 24 provided by this subsection is being abused, they may appeal
 25 to the county superintendent of schools, who shall hold a

1 hearing and either approve or disapprove the transfer."

2 **Section 127.** Section 20-9-141, MCA, is amended to
3 read:

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

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

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

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

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

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

25 (i) anticipated federal moneys money received under

1 the provisions of Title I of Public Law 81-874 or other
2 anticipated federal moneys money received in lieu of such
3 that federal act;

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

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

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

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

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

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

18 and

19 (viii) anticipated gross receipts tax and use tax
20 revenue; and

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

24 (c) Subtract the ~~total-of-the-moneys~~ money available
25 to reduce the property tax required to finance the general

1 fund that has been determined in subsection (1)(b) from the
2 total requirement determined in subsection (1)(a).

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

9 **Section 128.** Section 20-9-201, MCA, is amended to
10 read:

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

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

25 (b) A "nonbudgeted fund" means any fund for which a

1 budget is not required in order to expend any money on
2 deposit in ~~such the~~ fund. The school food services fund,
3 miscellaneous federal programs fund, building fund, lease or
4 rental agreement fund, traffic education fund, interlocal
5 cooperative fund, and any other funds so designated by the
6 legislature ~~shall--be~~ are nonbudgeted funds.

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

16 **Section 129.** Section 20-9-212, MCA, is amended to
17 read:

18 "20-9-212. Duties of county treasurer. The county
19 treasurer of each county shall:

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

1 countywide levy for a specific, authorized purpose,
2 including:

3 (a) the basic county tax in support of the elementary
4 foundation programs;

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

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

9 ~~(d) the county tax in support of the high school~~
10 ~~obligations to the retirement systems of the state of~~
11 ~~Montana;~~

12 ~~(e)~~(d) any additional county tax required by law to
13 provide for deficiency financing of the elementary
14 foundation programs;

15 ~~(f)~~(e) any additional county tax required by law to
16 provide for deficiency financing of the high school
17 foundation programs; and

18 ~~(g)~~(f) any other county tax for schools, including the
19 community colleges, which may be authorized by law and
20 levied by the county commissioners;

21 (2) whenever requested, notify the county
22 superintendent and the superintendent of public instruction
23 of the amount of county school money on deposit in ~~each of~~
24 ~~the funds enumerated~~ any fund provided for in subsection (1)
25 of this section and the amount of any other school money

1 subject to apportionment and apportion ~~such~~ the county and
2 other school money to the districts in accordance with the
3 apportionment ordered by the county superintendent;

4 (3) keep a separate accounting of the expenditures for
5 each budgeted fund included in the final budget of each
6 district;

7 (4) keep a separate accounting of the receipts,
8 expenditures, and cash balances for each budgeted fund
9 included in the final budget of each district and for each
10 nonbudgeted fund established by each district;

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

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

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

1 (8) at the direction of the trustees of a district,
2 assist the district in the issuance and sale of tax and
3 revenue anticipation notes as provided in Title 7, chapter
4 6, part 11;

5 (9) register district warrants drawn on a budgeted
6 fund in accordance with 7-6-2604 when there is insufficient
7 money available ~~in-the-sum-of-money~~ in all funds of the
8 district to make payment of ~~such~~ the warrant. Redemption of
9 registered warrants ~~shall~~ must be made in accordance with
10 7-6-2116, 7-6-2605, and 7-6-2606.

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

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

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

22 **Section 130.** Section 20-9-301, MCA, is amended to
23 read:

24 **"20-9-301. Purpose and definition of foundation**
25 **program and general fund.** (1) A uniform system of free

1 public schools sufficient for the education of and open to
2 all school age children of the state ~~shall~~ must be
3 established and maintained throughout the state of Montana.
4 The state shall aid in the support of its several school
5 districts on the basis of their financial need as measured
6 by the foundation program and in the manner established in
7 this title.

8 (2) The principal budgetary vehicle for achieving the
9 minimum financing as established by the foundation program
10 ~~shall-be~~ is the general fund budget of the district. The
11 purpose of the general fund ~~shall-be~~ budget is to finance
12 those general maintenance and operational costs, including
13 employee retirement benefits, of a district not financed by
14 other funds established for special purposes in this title.

15 (3) The amount of the general fund budget for each
16 school fiscal year ~~shall~~ may not exceed the financing
17 limitations established by this title but ~~shall-be-no~~ may
18 not be less than the amount established by law as the
19 foundation program. The general fund budget ~~shall~~ must be
20 financed by the foundation program revenues and may be
21 supplemented by the permissive levy and additional voted
22 levies in the manner provided by law."

23 **Section 131.** Section 20-9-331, MCA, is amended to
24 read:

25 **"20-9-331. Basic county tax and other revenues for**

1 county equalization of the elementary district foundation
 2 program. (1) ~~It shall be the duty of the~~ The county
 3 commissioners of each county to shall levy an annual basic
 4 tax of 28 mills on the ~~dollars~~ dollar of the taxable value
 5 of all taxable property within the county, except for
 6 vehicles subject to taxation under 61-3-504(2), for the
 7 purposes of local and state foundation program support. The
 8 revenue ~~to be~~ collected from this levy ~~shall~~ must be
 9 apportioned to the support of the foundation programs of the
 10 elementary school districts in the county and to the state
 11 special revenue fund, state equalization aid account, in the
 12 following manner:

13 (a) In order to determine the amount of revenue raised
 14 by this levy which is retained by the county, the sum of the
 15 estimated ~~revenues~~ revenue identified in subsection (2)
 16 ~~below shall~~ must be subtracted from the sum of the county
 17 elementary transportation obligation and the total of the
 18 foundation programs of all elementary districts of the
 19 county.

20 (b) If the basic levy prescribed by this section
 21 produces more revenue than is required to finance the
 22 difference determined ~~above~~ in subsection (1)(a), the county
 23 treasurer shall remit the surplus funds to the state
 24 treasurer for deposit to the state special revenue fund,
 25 state equalization aid account, immediately upon occurrence

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

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

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

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

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

23 (d) any money remaining at the end of the immediately
 24 preceding school fiscal year in the county treasurer's
 25 account accounts for the various sources of revenue

1 established or referred to in this section;

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

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

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

9 (h) gross receipts tax and use tax revenue."

10 **Section 132.** Section 20-9-333, MCA, is amended to
11 read:

12 "20-9-333. Basic special levy and other revenues for
13 county equalization of high school district foundation
14 program. (1) ~~It shall be the duty of the~~ The county
15 commissioners of each county to shall levy an annual basic
16 special tax for high schools of 17 mills on the dollar of
17 the taxable value of all taxable property within the county,
18 except for vehicles subject to taxation under 61-3-504(2),
19 for the purposes of local and state foundation program
20 support. The revenue ~~to be~~ collected from this levy ~~shall~~
21 must be apportioned to the support of the foundation
22 programs of high school districts in the county and to the
23 state special revenue fund, state equalization aid account,
24 in the following 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 revenue identified in subsections (2)(a)
3 and (2)(b) ~~below shall~~ must be subtracted from the sum of
4 the county's high school tuition obligation and the total of
5 the foundation programs of all high school districts of the
6 county.

7 (b) If the basic levy prescribed by this section
8 produces more revenue than is required to finance the
9 difference determined above in subsection (1)(a), the county
10 treasurer shall remit the surplus funds to the state
11 treasurer for deposit to the state special revenue fund,
12 state equalization aid account, immediately upon occurrence
13 of a surplus balance and each subsequent month thereafter,
14 with any final remittance due no later than June 20 of the
15 fiscal year for which the levy has been set.

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

24 (a) any money remaining at the end of the immediately
25 preceding school fiscal year in the county treasurer's

1 accounts for the various sources of revenue established or
2 referred to in this section;

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

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

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

10 (e) gross receipts tax and use tax revenue."

11 **Section 133.** Section 20-9-343, MCA, is amended to
12 read:

13 "20-9-343. Definition of and revenue for state
14 equalization aid. (1) As used in this title, the term "state
15 equalization aid" means ~~those moneys~~ the money deposited in
16 the state special revenue fund as required in this section
17 plus any legislative appropriation of money from other
18 sources for distribution to the public schools for the
19 purpose of equalization of the foundation program.

20 (2) ~~The legislative appropriation legislature shall~~
21 biennially appropriate money for state equalization aid
22 ~~shall be made in a single sum for the biennium.~~ The
23 superintendent of public instruction ~~has authority to may~~
24 spend such the appropriation, together with the earmarked
25 revenues provided in subsection (3), as required for

1 foundation program purposes throughout the biennium.

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

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

7 (b) 25% of all money, except as provided in 15-31-702,
8 received from the collection of corporation license and
9 income taxes under chapter 31 of Title 15, as provided by
10 15-1-501;

11 (c) 100% of the money allocated to state equalization
12 from the collection of the severance tax on coal;

13 (d) 100% of the money received from the treasurer of
14 the United States as the state's shares of oil, gas, and
15 other mineral royalties under the federal Mineral Lands
16 Leasing Act, as amended;

17 (e) interest and income money described in 20-9-341
18 and 20-9-342;

19 (f) income from the education trust fund account; and

20 (g) money received from the collection of the gross
21 receipts tax and use tax, as provided in [section 77];

22 (h) state lottery proceeds, as provided in 23-5-1027;

23 and

24 (g)(i) in addition to these revenues, the surplus
25 revenues collected by the counties for foundation program

1 support according to 20-9-331 and 20-9-333.

2 (4) Any surplus revenue in the state equalization aid
3 account in the second year of a biennium may be used to
4 reduce the appropriation required for the next succeeding
5 biennium."

6 **Section 134.** Section 20-9-352, MCA, is amended to
7 read:

8 "20-9-352. Permissive amount and permissive levy. (1)
9 Whenever the trustees of any a district ~~shall deem~~ consider
10 it necessary to adopt a general fund budget in excess of the
11 foundation program amount but not in excess of the maximum
12 general fund budget amount for such the district as
13 established by the schedules in 20-9-316 through 20-9-321,
14 the trustees shall adopt a resolution stating the reasons
15 and purposes for exceeding the foundation program amount.
16 Such The excess above the foundation program amount ~~shall be~~
17 is known as the "permissive amount", and it ~~shall must~~ be
18 financed by a levy, as prescribed in 20-9-141, on the
19 taxable value of all taxable property within the district,
20 except for vehicles subject to taxation under 61-3-504(2),
21 supplemented with any biennial appropriation by the
22 legislature for this purpose. The proceeds of ~~such--an~~ the
23 appropriation ~~shall must~~ be deposited to the state special
24 revenue fund.

25 (2) The district levies to be set for the purpose of

1 funding the permissive amount are determined as follows:

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

19 (b) For each high school district, the county
20 commissioners shall annually set a levy not exceeding 4
21 mills on all taxable property in the district, except for
22 vehicles subject to taxation under 61-3-504(2), for the
23 purpose of funding the permissive amount of the district.
24 The permissive levy in mills ~~shall--be~~ is obtained by
25 multiplying the ratio of the permissive levy to the maximum

1 permissive amount by 4 or by using the number of mills which
 2 that would fund the permissive amount, whichever is less. If
 3 the amount of revenue raised by this levy, plus anticipated
 4 revenue from vehicle property taxes imposed under
 5 61-3-504(2) and 61-3-537, and plus net proceeds taxes for
 6 interim production and new production, as defined in
 7 15-23-601, ~~is~~ and the revenue from the gross receipts tax
 8 and use tax are not sufficient to fund the permissive amount
 9 in full, the amount of the deficiency ~~shall~~ must be paid to
 10 the district from the state special revenue fund according
 11 to the provisions of subsections (3) and (4) of this
 12 section.

13 (3) The superintendent of public instruction shall, if
 14 the appropriation by the legislature for the permissive
 15 amount for the biennium is insufficient, request the budget
 16 director to submit a request for a supplemental
 17 appropriation in the second year of the biennium. The
 18 supplemental appropriation ~~shall~~ must provide enough revenue
 19 to fund the permissive deficiency of the elementary and high
 20 school districts of the state. The proceeds of this
 21 appropriation ~~shall~~ must be deposited to the state special
 22 revenue fund and ~~shall~~ must be distributed to the elementary
 23 and high school districts in accordance with their
 24 entitlements as determined by the superintendent of public
 25 instruction according to the provisions of subsections (1)

1 and (2) ~~of this section.~~

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

18 **Section 135.** Section 20-9-502, MCA, is amended to
 19 read:

20 "20-9-502. Purpose and authorization of a building
 21 reserve fund by an election. (1) The trustees of any
 22 district, with the approval of the qualified electors of the
 23 district, may establish a building reserve for the purpose
 24 of raising money for the future construction, equipping, or
 25 enlarging of school buildings or for the purpose of

1 purchasing land needed for school purposes in the district.
 2 In order to submit to the qualified electors of the district
 3 a building reserve proposition for the establishment of or
 4 addition to a building reserve, the trustees shall pass a
 5 resolution that specifies:

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

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

11 (c) the total amount of money that will be raised
 12 during the duration of time specified in subsection (1)(b);
 13 and

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

16 (2) The total amount of building reserve when added to
 17 the outstanding indebtedness of the district shall may not
 18 be more than ~~45%~~ 51% of the taxable value of the taxable
 19 property of the district. ~~Such This~~ limitation shall must be
 20 determined in the manner provided in 20-9-406. A building
 21 reserve tax authorization shall may not be for more than 20
 22 years.

23 (3) The election shall must be conducted in accordance
 24 with the school election laws of this title, and the
 25 electors qualified to vote in the election shall must be

1 qualified under the provisions of 20-20-301. The ballot for
 2 a building reserve proposition shall must be substantially
 3 in the following form:

4 OFFICIAL BALLOT

5 SCHOOL DISTRICT BUILDING RESERVE ELECTION

6 INSTRUCTIONS TO VOTERS: Make an X or similar mark in
 7 the vacant square before the words "BUILDING RESERVE--YES"
 8 if you wish to vote for the establishment of a building
 9 reserve (addition to the building reserve); if you are
 10 opposed to the establishment of a building reserve (addition
 11 to the building reserve) make an X or similar mark in the
 12 square before the words "BUILDING RESERVE--NO".

13 Shall the trustees be authorized to impose an
 14 additional levy each year for years to establish a
 15 building reserve (add to the building reserve) of this
 16 school district to raise a total amount of dollars
 17 (\$...), for the purpose(s) (here state the purpose or
 18 purposes for which the building reserve will be used)?

19 BUILDING RESERVE--YES.

20 BUILDING RESERVE--NO.

21 (4) The building reserve proposition shall ~~be~~ is
 22 approved if a majority of those electors voting at the
 23 election approve the establishment of or addition to ~~such~~
 24 the building reserve. The annual budgeting and taxation
 25 authority of the trustees for a building reserve shall ~~be~~ is

1 computed by dividing the total authorized amount by the
 2 specified number of years. The authority of the trustees to
 3 budget and impose the taxation for the annual amount to be
 4 raised for the building reserve ~~shall lapse~~ lapses when, at
 5 a later time, a bond issue is approved by the qualified
 6 electors of the district for the same purpose or purposes
 7 for which the building reserve fund of the district was
 8 established. Whenever a subsequent bond issue is made for
 9 the same purpose or purposes of a building reserve, the
 10 money in the building reserve ~~shall~~ must be used for such
 11 purpose or purposes before any money realized by the bond
 12 issue is used."

13 **Section 136.** Section 20-10-144, MCA, is amended to
 14 read:

15 "20-10-144. Computation of revenues and net tax levy
 16 requirements for the transportation fund budget. Before the
 17 fourth Monday of July and in accordance with 20-9-123, the
 18 county superintendent shall compute the revenue available to
 19 finance the transportation fund budget of each district. The
 20 county superintendent shall compute the revenue for each
 21 district on the following basis:

22 (1) The "schedule amount" of the preliminary budget
 23 expenditures that is derived from the rate schedules in
 24 20-10-141 and 20-10-142 ~~shall~~ must be determined by adding
 25 the following amounts:

1 (a) the sum of the maximum reimbursable expenditures
 2 for all approved school bus routes maintained by the
 3 district (to determine the maximum reimbursable expenditure,
 4 multiply the applicable rate per bus mile by the total
 5 number of miles to be traveled during the ensuing school
 6 fiscal year on each bus route approved by the county
 7 transportation committee and maintained by such district);
 8 plus

9 (b) the total of all individual transportation per
 10 diem reimbursement rates for ~~such~~ the district as determined
 11 from the contracts submitted by the district multiplied by
 12 the number of pupil-instruction days scheduled for the
 13 ensuing school attendance year; plus

14 (c) any estimated costs for supervised home study or
 15 supervised correspondence study for the ensuing school
 16 fiscal year; plus

17 (d) the amount budgeted on the preliminary budget for
 18 the contingency amount permitted in 20-10-143, except if
 19 ~~such~~ the amount exceeds 10% of the total of subsections
 20 (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
 21 contingency amount on the preliminary budget ~~shall~~ must be
 22 reduced to ~~such~~ the limitation amount and used in this
 23 determination of the schedule amount.

24 (2) The schedule amount determined in subsection (1)
 25 or the total preliminary transportation fund budget,

1 whichever is smaller, ~~shall--be~~ is divided by 3 and the
2 resulting one-third amount ~~shall-be~~ is used to determine the
3 available state and county revenue to be budgeted on the
4 following basis:

5 (a) the resulting one-third amount ~~shall-be~~ is the
6 budgeted state transportation reimbursement, except that the
7 state transportation reimbursement for the transportation of
8 special education pupils under the provisions of 20-7-442
9 ~~shall~~ must be two-thirds of the schedule amount attributed
10 to the transportation of special education pupils;

11 (b) the resulting one-third amount, except as provided
12 for joint elementary districts in subsection (2)(e), ~~shall~~
13 be is the budgeted county transportation reimbursement for
14 elementary districts and ~~shall~~ must be financed by the basic
15 county tax under the provisions of 20-9-334;

16 (c) the resulting one-third amount multiplied by 2
17 ~~shall-be~~ is the budgeted county transportation reimbursement
18 amount for high school districts financed under the
19 provisions of subsection (5) ~~of--this--section~~, except as
20 provided for joint high school districts in subsection
21 (2)(e), and except that the county transportation
22 reimbursement for the transportation of special education
23 pupils under the provisions of 20-7-442 ~~shall~~ must be
24 one-third of the schedule amount attributed to the
25 transportation of special education pupils;

1 (d) when the district has a sufficient amount of cash
2 for reappropriation and other sources of district revenue,
3 as determined in subsection (3), to reduce the total
4 district obligation for financing to zero, any remaining
5 amount of such district revenue and cash reappropriated
6 ~~shall~~ must be used to reduce the county financing obligation
7 in subsections subsection (2)(b) or (2)(c) and, if such the
8 county financing obligations are reduced to zero, to reduce
9 the state financial obligation in subsection (2)(a); and

10 (e) the county revenue requirement for a joint
11 district, after the application of any district moneys money
12 under subsection (2)(d) above, ~~shall~~ must be prorated to
13 each county incorporated by the joint district in the same
14 proportion as the ANB of the joint district is distributed
15 by pupil residence in each such county.

16 (3) The total of the moneys money available for the
17 reduction of property tax on the district for the
18 transportation fund ~~shall~~ must be determined by totaling:

19 (a) anticipated federal moneys money received under
20 the provisions of Title I of Public Law 81-874 or other
21 anticipated federal moneys money received in lieu of such
22 that federal act; plus

23 (b) anticipated payments from other districts for
24 providing school bus transportation services for such the
25 district; plus

1 (c) anticipated payments from a parent or guardian for
 2 providing school bus transportation services for his child;
 3 plus
 4 (d) anticipated or reappropriated interest to be
 5 earned by the investment of transportation fund cash in
 6 accordance with the provisions of 20-9-213(4); plus
 7 (e) anticipated or reappropriated revenue from vehicle
 8 property taxes imposed under 61-3-504(2) and 61-3-537; plus
 9 (f) net proceeds taxes for interim production and new
 10 production, as defined in 15-23-601; plus
 11 (g) gross receipts tax and use tax revenue; plus
 12 ~~(g)~~(h) any other revenue anticipated by the trustees
 13 to be earned during the ensuing school fiscal year which may
 14 be used to finance the transportation fund; plus
 15 ~~(h)~~(i) any cash available for reappropriation as
 16 determined by subtracting the amount of the end-of-the-year
 17 cash balance earmarked as the transportation fund cash
 18 reserve for the ensuing school fiscal year by the trustees
 19 from the end-of-the-year cash balance in the transportation
 20 fund. Such ~~The~~ cash reserve ~~shall~~ may not be more than 20%
 21 of the final transportation fund budget for the ensuing
 22 school fiscal year and ~~shall-be~~ is for the purpose of paying
 23 transportation fund warrants issued by the district under
 24 the final transportation fund budget.
 25 (4) The district levy requirement for each district's

1 transportation fund ~~shall~~ must be computed by:
 2 (a) subtracting the schedule amount calculated in
 3 subsection (1) from the total preliminary transportation
 4 budget amount and, for an elementary district, adding such
 5 the difference to the district obligation to finance
 6 one-third of the schedule amount as determined in subsection
 7 (2); and
 8 (b) subtracting the amount of ~~moneys~~ money available
 9 to reduce the property tax on the district, as determined in
 10 subsection (3), from the amount determined in subsection
 11 (4)(a) above.
 12 (5) The county levy requirement for the financing of
 13 the county transportation reimbursement to high school
 14 districts ~~shall---be~~ is computed by adding all such
 15 requirements for all the high school districts of the
 16 county, including the county's obligation for reimbursements
 17 in joint high school districts.
 18 (6) The transportation fund levy requirements
 19 determined in subsection (4) for each district and in
 20 subsection (5) for the county ~~shall~~ must be reported to the
 21 county commissioners on the second Monday of August by the
 22 county superintendent as the transportation fund levy
 23 requirements for the district and for the county, and such
 24 the levies shall must be made by the county commissioners in
 25 accordance with 20-9-142."

1 **Section 137.** Section 20-15-311, MCA, is amended to
2 read:

3 "20-15-311. Funding sources. The annual operating
4 budget of a community college district ~~shall~~ must be
5 financed from the following sources:

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

9 (2) a mandatory mill levy on the community college
10 district;

11 (3) the 1-mill adult education levy authorized under
12 provisions of 20-15-305;

13 (4) the state general fund appropriation;

14 (5) an optional voted levy on the community college
15 district that ~~shall~~ must be submitted to the electorate in
16 accordance with general school election laws;

17 (6) all other income, revenue, balances, or reserves
18 not restricted by a source outside the community college
19 district to a specific purpose;

20 (7) income, revenue, balances, or reserves restricted
21 by a source outside the community college district to a
22 specific purpose. Student fees paid for community service
23 courses as defined by the board of regents ~~shall~~ must be
24 considered restricted to a specific purpose;

25 (8) income from a political subdivision that is

1 designated a community college service region under
2 20-15-241; and

3 (9) gross receipts tax and use tax revenue."

4 **Section 138.** Section 20-16-202, MCA, is amended to
5 read:

6 "20-16-202. Sources of financing for
7 vocational-technical center budgets -- distribution of
8 funds. (1) The total of the budgets approved by the board of
9 regents ~~shall--constitute~~ constitutes the total maximum
10 approved statewide vocational-technical center system budget
11 ~~which-shall~~ that must be financed as follows:

12 (a) The primary source of financing is to be those
13 funds specifically designated by legislative enactment or
14 referendum by the people for financing vocational-technical
15 education in Montana, including gross receipts tax and use
16 tax revenue.

17 (b) The board of county commissioners of each county
18 in which a designated vocational-technical center is located
19 shall levy a tax in each calendar year of 1 1/2 mills on the
20 dollar of all taxable property, real and personal, within
21 the county to raise the amount appropriated by the
22 legislature for the support and maintenance of the
23 vocational-technical center system. The tax is to be
24 effective for property tax years beginning on or after
25 January 1, 1987. It is the intent of this subsection (1)(b)

1 that the county commissioners shall levy this tax for fiscal
2 year 1988 operation of the vocational-technical system and
3 thereafter.

4 (c) Designated vocational-technical centers shall be
5 are eligible to receive such funds from the federal
6 government as the board of regents may provide pursuant to
7 applicable acts of congress.

8 (2) The board of regents shall direct the distribution
9 of the funds specified in subsection (1) on the basis of the
10 budgets approved by the board of regents. The funds earned
11 by the mill levy specified in subsection (1)(b) shall must
12 be credited to the vocational-technical center account in
13 the unrestricted subfund of the current fund in the state
14 treasury."

15 **Section 139.** Section 23-5-1027, MCA, is amended to
16 read:

17 "23-5-1027. Disposition of revenue. (1) A minimum of
18 45% of the money paid for tickets or chances must be paid
19 out as prize money. The prize money is statutorily
20 appropriated, as provided in 17-7-502, to the lottery.

21 (2) Commissions paid to lottery ticket or chance sales
22 agents are not a state lottery operating expense.

23 (3) That part of all gross revenue not used for the
24 payment of prizes, commissions, and operating expenses,
25 together with the interest earned on the gross revenue while

1 the gross revenue is in the enterprise fund, is net revenue
2 and must be paid quarterly from the enterprise fund
3 established by 23-5-1026 to the superintendent--of--public
4 instruction--for--distribution--as--equalization--aid--to--the
5 retirement-fund-obligations-of state special revenue fund
6 for state equalization aid provided for in 20-9-343 for
7 equalization of the foundation program for elementary and
8 high school districts in-the-manner-provided-in-20-9-532.
9 The net revenue is statutorily appropriated, as provided in
10 17-7-502, to the superintendent of public instruction.

11 (4) The spending authority of the lottery may be
12 increased in accordance with this section upon review and
13 approval of a revised operation plan by the budget office."

14 **Section 140.** Section 33-7-407, MCA, is amended to
15 read:

16 "33-7-407. Taxes. Every society organized or licensed
17 under this chapter is hereby declared to be a charitable and
18 benevolent institution, and all of its funds shall be exempt
19 from all and every state, county, district, municipal, and
20 school tax other than taxes on real-estate-and-office
21 equipment gross receipts taxable under the gross receipts
22 tax and use tax and taxes on property subject to taxation
23 under Title 15."

24 **Section 141.** Section 61-3-501, MCA, is amended to
25 read:

1 *61-3-501. When vehicle taxes and fees are due. (1)
2 Property All taxes, ~~new-car--taxes,~~ including sales taxes
3 paid at the time of purchase, and fees must be paid on the
4 date of registration or reregistration of the vehicle.

5 (2) If the anniversary date for reregistration of a
6 vehicle passes while the vehicle is owned and held for sale
7 by a licensed new or used car dealer, property taxes abate
8 on such vehicle properly reported with the department of
9 revenue until the vehicle is sold and thereafter the
10 purchaser shall pay the pro rata balance of the taxes due
11 and owing on the vehicle.

12 (3) In the event a vehicle's registration period is
13 changed under 61-3-315, all taxes and other fees due thereon
14 shall be prorated and paid from the last day of the old
15 period until the first day of the new period in which the
16 vehicle shall be registered. Thereafter taxes and other fees
17 must be paid from the first day of the new period for a
18 minimum period of 1 year. When the change is to a later
19 registration period, taxes and fees shall be prorated and
20 paid based on the same tax year as the original registration
21 period. Thereafter, during the appropriate anniversary
22 registration period, each vehicle shall again register or
23 reregister and shall pay all taxes and fees due thereon for
24 a 12-month period."

25 **Section 142.** Section 61-3-502, MCA, is amended to

1 read:

2 *61-3-502. Sales tax on new motor vehicles --
3 exemptions. (1) In consideration of the right to use the
4 highways of the state, there is imposed a tax upon all sales
5 of new motor vehicles, excluding trailers, semitrailers, and
6 housetrailers, for which a license is sought and an original
7 application for title is made. The tax must be paid by the
8 purchaser when he applies for his original Montana license
9 through the county treasurer.

10 (2) Except as provided in subsections--(4)--and--(5)
11 subsection (3), the sales tax is 4%.

12 ~~(a)--1-1/2%--of--the--f.o.b.--factory--list--price--or--f.o.b.--~~
13 ~~port--of--entry--list--price--during--the--first--quarter--of--the~~
14 ~~year--or--for--a--registration--period--other--than--a--calendar--year~~
15 ~~or--calendar--quarter;~~

16 ~~(b)--1-1/8%--of--the--list--price--during--the--second--quarter~~
17 ~~of--the--year;~~

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

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

20 ~~(3)--if--the--manufacturer--or--importer--fails--to--furnish~~
21 ~~the--f.o.b.--factory--list--price--or--f.o.b.--port--of--entry--list~~
22 ~~price--the--department--may--use--published--price--lists;~~

23 ~~(4)--The--new--car--sales--tax--on--vehicles--subject--to--the~~
24 ~~provisions--of--61-3-313--through--61-3-316--is--1-1/2%--of--the~~
25 ~~f.o.b.--factory--list--price--or--f.o.b.--port--of--entry--list--price~~

1 regardless--of--the--month--in--which--the--new--vehicle--is
2 purchased:

3 {5}(3) (a) The sales tax on new motor vehicles
4 registered as part of a fleet under 61-3-318 is 3/4 of 1% of
5 the f.o.b. factory list price or f.o.b. port-of-entry list
6 price.

7 (b) The proceeds of the tax collected under this
8 subsection (3) must be remitted to the state treasurer every
9 30 days for credit to the state highway account of the state
10 special revenue fund.

11 {6}(4) The proceeds from this the tax imposed under
12 subsection (2) must be remitted to the state treasurer every
13 30 days for credit as follows:

14 (a) 50% to the state highway account of the state
15 special revenue fund; and

16 (b) 50% to the gross receipts tax and use tax account
17 described in [section 71].

18 {7}(5) The new vehicle is not subject to any other
19 assessment, fee in lieu of tax, or tax during the calendar
20 year in which the original application for title is made.

21 {8}(6) (a) The applicant for original registration of
22 any new and unused motor vehicle, or a new motor vehicle
23 furnished without charge by a dealer to a school district
24 for use as a traffic education motor vehicle by a school
25 district operating a state-approved traffic education

1 program within the state, whether or not previously licensed
2 or titled to the school district (except a mobile home as
3 defined in 15-1-101(1)), acquired by original contract after
4 January 1 of any year, is required, whenever the vehicle has
5 not been otherwise assessed, to pay the motor vehicle sales
6 tax provided by this section irrespective of whether the
7 vehicle was in the state of Montana on January 1 of the
8 year.

9 (b) No motor vehicle may be registered or licensed
10 under the provisions of this subsection unless the
11 application for registration is accompanied by a statement
12 of origin to be furnished by the dealer selling the vehicle,
13 showing that the vehicle has not previously been registered
14 or owned, except as otherwise provided herein, by any
15 person, firm, corporation, or association that is not a new
16 motor vehicle dealer holding a franchise or distribution
17 agreement from a new car manufacturer, distributor, or
18 importer.

19 {9}(7) (a) Motor vehicles operating exclusively for
20 transportation of persons for hire within the limits of
21 incorporated cities or towns and within 15 miles from such
22 limits are exempt from subsection (1).

23 (b) Motor vehicles brought or driven into Montana by a
24 nonresident, migratory, bona fide agricultural worker
25 temporarily employed in agricultural work in this state

1 where those motor vehicles are used exclusively for
2 transportation of agricultural workers are also exempt from
3 subsection (1).

4 (c) Vehicles lawfully displaying a licensed dealer's
5 plate as provided in 61-4-103 are exempt from subsection (1)
6 when moving to or from a dealer's place of business when
7 unloaded or loaded with dealer's property only, and in the
8 case of vehicles having a gross loaded weight of less than
9 24,000 pounds, while being demonstrated in the course of the
10 dealer's business."

11 NEW SECTION. Section 143. Taxable percentage rates --
12 restrictions on increasing. The taxable percentage rates
13 provided in this part, except the percentage rate "R" in
14 15-6-145 or 15-6-147, may be increased only if the increase
15 is:

16 (1) adopted by vote of two-thirds of the members of
17 each house of the legislature; or

18 (2) approved by the electorate.

19 NEW SECTION. Section 144. Gross receipts tax rates
20 and credits -- restrictions. (1) A gross receipts tax rate
21 or use tax rate imposed in [section 2] may be increased only
22 if the increase is approved by the electorate.

23 (2) The income tax credit for gross receipts tax paid
24 provided in [section 73] may be decreased only if the
25 decrease is approved by the electorate.

1 **Section 145.** Section 10, Chapter 681, Laws of 1985, is
2 amended to read:

3 "Section 10. Effective date -- termination date. This
4 act is effective January 1, 1986, and, except for section 3,
5 terminates January 1, ~~1991~~ 1993."

6 NEW SECTION. Section 146. Definitions. As used in
7 [sections 146 through 153], the following definitions apply:

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

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

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

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

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

20 NEW SECTION. Section 147. Local government block
21 grant account. (1) There is a local government block grant
22 account within the state special revenue fund.

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

(3) The 6% of the gross receipts tax and use tax revenue that is distributed under [section 77(1)(c)(ii)] must be deposited in the account.

NEW SECTION. Section 148. Local government block grant program. (1) The department of commerce shall administer the local government block grant program and distribute funds from the local government block grant account.

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

- (a) a block grant for counties; and
- (b) a block grant for municipalities.

NEW SECTION. Section 149. Division of block grant funds. The division of funds within the local government block grant account is as follows:

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

(2) The block grant for municipalities must be funded from the percentage of funds deposited in the account that equals the ratio of the incorporated population to the state population.

NEW SECTION. Section 150. Distribution of block grant funds to counties. Funds in the block grant account for

counties must be distributed as follows:

(1) One-half of each county's share is determined by the ratio of the county's population to the total county population in the state.

(2) One-half is distributed according to the following formula in which CMV = average mill value per capita of all counties, IMV = individual county mill value per capita, ICP = individual county population, and CG = 1/2 total county grant:

$\frac{CMV \times ICP}{\text{sum of all county TBFs}} = \text{county tax base factor (TBF)}$

IMV

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

NEW SECTION. Section 151. Distribution of block grant funds to municipalities. (1) The block grant for municipalities is divided into the city/town category and the consolidated category.

(2) The consolidated category must receive a percentage of the total municipal grant as determined by the following formula in which PCG = population of consolidated governments, UP = unincorporated population, TSP = total stated population, and TSMP = total state municipal population:

$\frac{PCG + (PCG \times UP/TSP)}{TSMP} = \text{consolidated category percentage}$

TSMP

1 (3) The city/town and consolidated categories must be
2 distributed as follows:

3 (a) One-half of each municipality's share is
4 determined by the ratio of the municipality's population to
5 the total municipal population of that category.

6 (b) One-half is distributed according to the following
7 formula in which MVPC = average mill value per capita for
8 all municipalities within each category, IVC = individual
9 municipality mill value per capita, IMP = individual
10 municipality population, and CG = 1/2 total grant for each
11 category:

12 $MVPC \times IMP = \text{municipal tax base factor (TBF)}$

13 IVC

14 $CG \times \frac{\text{individual municipality TBF}}{\text{sum of all municipality TBFs}} = \frac{1}{2} \text{ individual}$

15 $\text{municipality share}$

16 **NEW SECTION. Section 152.** Population and taxable
17 valuation figures to be used. (1) Population figures used in
18 [sections 146 through 151] must be the most recent figures
19 as determined by the department of commerce.

20 (2) Mill values used in [sections 146 through 151]
21 must be the most recent taxable valuation figures as
22 determined by the department of revenue for the fiscal year
23 in which payments will be made.

24 **NEW SECTION. Section 153.** Disposition and use of
25 funds. (1) Disbursements from the local government block

1 grant account must be made on June 30, 1991, and on June 30
2 of each succeeding year.

3 (2) One-half of each disbursement must be used to
4 reduce the local government's general fund mill levy, and
5 one-half of the disbursement may be used for any purpose
6 authorized by law.

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

11 **NEW SECTION. Section 155.** Codification instruction.
12 (1) [Sections 1 through 71 and 144] are intended to be
13 codified as an integral part of Title 15, and the provisions
14 of Title 15 apply to [sections 1 through 71 and 144].

15 (2) [Sections 72 through 76] are intended to be
16 codified as an integral part of Title 15, chapter 30, and
17 the provisions of Title 15, chapter 30, apply to [sections
18 72 through 76].

19 (3) [Sections 77 and 78] are intended to be codified
20 as an integral part of Title 17, and the provisions of Title
21 17 apply to [sections 77 and 78].

22 (4) [Sections 79 and 143] 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 79 and
25 143].

1 (5) [Sections 146 through 153] are intended to be
 2 codified as an integral part of Title 7, chapter 6, and the
 3 provisions of Title 7, chapter 6, apply to [sections 146
 4 through 153].

5 NEW SECTION. Section 156. Severability. If a part of
 6 [this act] is invalid, all valid parts that are severable
 7 from the invalid part remain in effect. If a part of [this
 8 act] is invalid in one or more of its applications, the part
 9 remains in effect in all valid applications that are
 10 severable from the invalid applications.

11 NEW SECTION. Section 157. Saving clause. [This act]
 12 does not affect rights and duties that matured, penalties
 13 that were incurred, or proceedings that were begun before
 14 [the effective date of this act].

15 NEW SECTION. Section 158. Effective dates. (1) Except
 16 as provided in subsection (2), [this act] is effective July
 17 1, 1989.

18 (2) [Section 154] is effective December 31, 1990.

19 NEW SECTION. Section 159. Applicability. (1)
 20 [Sections 1 through 78 and 146 through 153] are applicable
 21 on and after July 1, 1990.

22 (2) [Sections 79 through 142] apply to taxable years,
 23 fiscal years, and school fiscal years beginning after
 24 December 31, 1989. However, all taxes, levies, fees,
 25 assessments, and the like levied in 1989 for fiscal year

1 1990 must be paid and are collectible as provided by law.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB8, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

The Education and Tax Reform Act; providing a 4 percent gross receipts tax and use tax; providing certain deductions and exemptions from the tax; revising the classification of property for property tax purposes; providing property tax relief; revising local bonding and debt limits; providing credits against individual income tax liability; providing for the distribution of gross receipts and use tax revenue; repealing teacher retirement levies; 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 \$285,443,000 in calendar year 1990, \$300,393,000 in calendar year 1991, and \$316,126,000 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 \$281,280,000 in FY91, and \$322,296,000 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 impacts 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 64.406% to state equalization, 15% to units of higher education, 6% to the local government block grant, 12.894% to the state general fund, and 1.7% to the long-range building sinking fund.

W. David Darby 6/27/89
 W. DAVID DARBY, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

Bruce D. Crippen
 BRUCE D. CRIPPEN, PRIMARY SPONSOR

DATE

Fiscal Note for SB8, as introduced

SB 8

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).
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.
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.

PROPERTY TAX

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).
12. Based on 1988 taxable values, it is estimated that the proposal will reduce the taxable valuation of personal property by \$164,897,464 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 \$2,611,955 to state equalization, \$348,453 to the university system, and \$11,438,463 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 by issuing tax anticipation notes.
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 \$148,096,023 in tax year 1990 and subsequent tax years.
16. Total property taxes to local governments are reduced \$73,380,412 in FY91, and each subsequent year.
17. Mill levies are 6 mills for universities and 45 mills for the school foundation program.
18. The provisions in this bill pertaining to property tax reclassification and rate reduction apply to tax years beginning after December 31, 1989.

OTHER ASSUMPTIONS

19. Forest reserve funds are projected to be \$2,779,744 in FY90 - FY92.
20. Revenue from the lottery is projected to be \$13,500,000 in FY90 - FY92 (MDOC).
21. 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.

SB 8

FISCAL IMPACT: (See the section on long-range effects for the impact of this proposal in FY92.)

Revenue Impact:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Sales & Use Tax	\$ 0	\$ 0	\$ 0	\$ 0	\$281,280,000	\$281,280,000
Individual Income	256,617,000	256,617,000	0	274,732,000	245,475,000	(29,257,000)
Property Tax(State)	97,053,000	94,092,592	(2,960,408)	95,992,000	77,000,292	(18,991,708)
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
Tax Antptn. Notes	0	14,398,871	14,398,871	0	0	0
Total	\$421,729,177	\$433,167,640	\$11,438,463	\$441,783,177	\$620,035,036	\$178,251,859

Fund Information:

	FY90			FY91		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Loc.Govt. Prop.						
Tax Replacement	\$ 0	\$ 11,438,463	\$11,438,463	\$ 0	\$ 62,010,631	\$ 62,010,631
School Equalization*	167,844,058	169,194,058	1,350,000	172,669,058	281,171,117	108,502,059
Sales Tax-Higher Ed.	0	0	0	0	23,947,632	23,947,632
University Mill Levy*	11,418,000	11,418,000	0	11,293,000	11,293,000	0
Loc.Govt.Blk.Grant	0	0	0	0	9,579,053	9,579,053
General Fund	149,351,000	149,351,000	0	159,894,096	180,478,958	20,584,958
Sinking Fund	25,662,000	25,662,000	0	27,473,000	30,187,765	2,714,765
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	\$433,167,640	\$11,438,463	\$441,783,177	\$620,035,036	\$178,251,859

*Includes property tax reimbursement.

Expenditure Impact:

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

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 \$11,438,463 in FY90, and \$73,380,412 in FY91. These revenue losses would be replaced in their entirety with proceeds from tax anticipation notes in FY90, and sales tax revenue in FY91.

SB8

Fiscal Note Request, SB8 as introduced

Form BD-15

Page 4

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The following tables show the revenue and fund impacts in FY92.

Revenue Impact:

	FY92		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Sales & Use Tax	\$ 0	\$322,296,000	\$322,296,000
Individual Income	288,164,000	258,907,000	(29,257,000)
Property Tax	94,399,000	75,407,292	(18,991,708)
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>\$672,890,036</u>	<u>\$216,267,859</u>

Fund Information:

	FY92		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Prop. Tax Replacement	\$ 0	\$ 73,380,412	\$ 73,380,412
School Equalization	175,534,258	310,452,882	134,918,624
Sales Tax-Higher Ed.	0	30,100,032	30,100,032
Universities	11,106,000	11,106,000	0
Loc. Govt. Blk. Grant	0	12,040,013	12,040,013
General Fund	167,711,400	193,585,562	25,874,162
Sinking Fund	28,816,400	32,228,037	3,411,637
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>\$672,890,036</u>	<u>\$216,267,859</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 \$73,380,412 in FY92. These revenue losses would be replaced in their entirety with proceeds from the sales tax.

COE

TECHNICAL NOTES:

Also, the proposal provides for approximately, \$103 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 \$92,372,000 (assuming timberland is not subject to a 30% taxable value rate beginning in 1990) to \$50,690,894. Under this assumption, the total property tax relief contained in the bill is estimated to be \$162,790,000.