

SENATE BILL 28

Introduced by Keating, et al.

6/27	Introduced
6/27	Referred to Taxation
6/28	Fiscal Note Requested
6/29	Hearing
7/06	Fiscal Note Received
7/11	Fiscal Note Printed
	Died in Committee

1 *Senate* BILL NO. *28*  
 2 INTRODUCED BY *Leating Knapp*  
 3 *M. Hansen* *W. C. Keller* *H. H. H. H.*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A 3  
 5 PERCENT SALES TAX AND USE TAX; PROVIDING FOR CERTAIN  
 6 EXEMPTIONS AND DEDUCTIONS FROM THE TAX; GENERALLY REVISING  
 7 PROPERTY TAXATION BY REPEALING TAXES ON PERSONAL PROPERTY;  
 8 PLACING A CAP ON CERTAIN REAL PROPERTY TAXES EQUIVALENT TO  
 9 1.5 PERCENT OF MARKET VALUE; PROVIDING A FLAT TAX ON  
 10 CENTRALLY ASSESSED UTILITIES TO BE USED FOR SCHOOL  
 11 EQUALIZATION; PROVIDING PROPERTY TAX RELIEF; REVISING LOCAL  
 12 BONDING AND DEBT LIMITS; PROVIDING FOR THE DISTRIBUTION OF  
 13 SALES TAX AND USE TAX REVENUE; REPEALING TEACHER RETIREMENT  
 14 LEVIES; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211,  
 15 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203,  
 16 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524,  
 17 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106,  
 18 7-31-107, 7-34-2131, 15-1-101, 15-1-701, 15-6-101, 15-6-134,  
 19 15-6-135, 15-6-137, 15-6-141, 15-6-145, 15-6-147, 15-6-201,  
 20 15-6-203, 15-7-102, 15-8-104, 15-8-111, 15-8-201, 15-8-301,  
 21 15-8-407, 15-8-701, 15-8-706, 15-10-106, 15-10-302,  
 22 15-16-117, 15-16-601, 15-16-611, 15-17-911, 15-23-101,  
 23 15-23-103, 15-23-105, 15-23-106, 15-23-201, 15-23-202,  
 24 15-23-501, 15-23-503, 15-23-504, 15-23-508, 15-23-522,  
 25 15-23-608, 15-23-611, 15-23-704, 15-23-806, 15-24-601,

1 15-24-701, 15-24-801, 15-24-1101 THROUGH 15-24-1104,  
 2 15-24-1203, 17-3-213, 19-4-605, 19-11-503, 19-11-504,  
 3 20-3-106, 20-3-324, 20-5-305, 20-5-312, 20-9-122, 20-9-141,  
 4 20-9-142, 20-9-201, 20-9-212, 20-9-301, 20-9-331, 20-9-333,  
 5 20-9-343, 20-9-352, 20-9-406, 20-9-407, 20-9-502, 20-10-144,  
 6 20-15-403, 23-5-1027, 25-13-404, 33-7-407, 61-3-501,  
 7 61-3-502, 61-3-701, 61-10-130, 61-12-206, 67-3-205, AND  
 8 81-7-303, MCA; REPEALING SECTIONS 15-6-136, 15-6-138 THROUGH  
 9 15-6-140, 15-6-142, 15-6-146, 15-6-202, 15-6-204, 15-6-207,  
 10 15-8-202, 15-8-204, 15-8-205, 15-8-401, 15-8-404, 15-8-405,  
 11 15-8-408, TITLE 15, CHAPTER 10, PART 4, 15-16-111 THROUGH  
 12 15-16-115, 15-16-401, 15-16-402, 15-16-404, 15-16-503,  
 13 15-16-613, 15-16-701 THROUGH 15-16-703, 15-23-401 THROUGH  
 14 15-23-403, 15-24-101 THROUGH 15-24-105, 15-24-201 THROUGH  
 15 15-24-208, 15-24-301 THROUGH 15-24-304, 15-24-901 THROUGH  
 16 15-24-906, 15-24-908 THROUGH 15-24-911, 15-24-926,  
 17 15-24-931, 15-24-941 THROUGH 15-24-943, 20-9-501, 20-9-531,  
 18 20-9-532, AND 61-3-707, MCA; AND PROVIDING EFFECTIVE DATES  
 19 AND APPLICABILITY DATES."

21 WHEREAS, the electors of Montana approved Initiative  
 22 Measure No. 105, directing the Legislature to develop a tax  
 23 system fair to property taxpayers and provide adequate  
 24 funding for local government and education; and

25 WHEREAS, the sponsors of Initiative Measure No. 105



-2- INTRODUCED BILL  
SB 28

1 have indicated that the true purpose of Initiative Measure  
2 No. 105 was to urge the enactment of a sales tax; and

3 WHEREAS, it is the intent of the Legislature to enact  
4 provisions compatible with the will of the electors in  
5 limiting property taxes; and

6 WHEREAS, the Legislature intends by this bill to  
7 provide broad property tax relief and to replace property  
8 tax revenue lost to local government and education with  
9 sales tax revenue; and

10 WHEREAS, this act fulfills the true purpose of the  
11 sponsors of Initiative Measure No. 105.

12

13 STATEMENT OF INTENT

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

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

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

25 (2) the reporting form for the payment of the taxes,

1 along with the requirements for the retention by the  
2 taxpayers of the necessary records;

3 (3) the required security and the acceptable forms of  
4 security for those taxpayers required to give security for  
5 payment of the taxes;

6 (4) the use of the nontaxable transaction certificate  
7 and clarification of any exemption from or deduction of the  
8 taxes;

9 (5) the necessary forms and the required procedures  
10 for reporting the taxes; and

11 (6) the definition of terms and establishment of  
12 procedures as appropriate for efficient administration of  
13 the sales tax and use tax.

14

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

16 NEW SECTION. **Section 1.** Definitions. For purposes of  
17 [sections 1 through 60], unless the context requires  
18 otherwise, the following definitions apply:

19 (1) (a) "Buying", "selling", "buy", "sell", or "sale"  
20 means the transfer of tangible personal property for  
21 consideration.

22 (b) The term does not mean the performance of a  
23 service for consideration.

24 (2) "Construction" means:

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

1 in the ordinary course of business of any:

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

3 project;

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

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

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

7 similar facility;

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

9 (vi) sewage or water treatment facility, power

10 generating plant, pump station, natural gas compressing

11 station, gas processing plant, coal gasification plant,

12 refinery, distillery, or similar facility;

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

14 (viii) transmission line;

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

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

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

18 (xii) microwave station or similar facility;

19 (b) the leveling or clearing of land;

20 (c) the excavating of earth;

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

22 seismograph shot holes or core drilling; or

23 (e) any similar work.

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

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

1 causing to be carried on any activity involving the sale,

2 delivery, or transfer of tangible personal property with the

3 purpose of direct or indirect benefit.

4 (5) (a) "Gross receipts", in addition to the other

5 meanings provided in this subsection (5), means the total

6 amount of money or the value of other consideration received

7 from selling tangible personal property in Montana or from

8 leasing tangible personal property used in Montana. The term

9 includes all receipts from the sale of tangible personal

10 property handled on consignment but excludes cash discounts

11 allowed and taken and any type of time-price differential.

12 (b) In an exchange in which the money or other

13 consideration received does not represent the value of the

14 property exchanged, gross receipts means the reasonable

15 value of the property exchanged.

16 (c) (i) Except as provided in [section 45], when the

17 sale of property is made under any type of charge or

18 conditional or time-sales contract or the leasing of

19 property is made under a leasing contract, the seller or

20 lessor shall treat all receipts, excluding any type of

21 time-price differential, under such contracts as gross

22 receipts at the time of the sale.

23 (ii) If the seller or lessor transfers his interest in

24 any such contract to a third person, the seller or lessor

25 shall pay the sales tax or use tax upon the full sale or

1 leasing contract amount, excluding any type of time-price  
2 differential.

3 (d) Gross receipts includes all amounts paid by  
4 members of a cooperative association or similar organization  
5 for the sale or lease of personal property by the  
6 organization.

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

10 (7) "Manufacturing" means combining or processing  
11 components or materials, including the processing for ores  
12 in a mill, smelter, refinery, or reduction facility, to  
13 increase their value for sale in the ordinary course of  
14 business. The term does not include construction.

15 (8) "Medicine" or "drug" means and includes any  
16 substance or preparation that is:

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

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

22 (9) "Permit" means a seller's permit as described in  
23 [section 36].

24 (10) "Person" means:

25 (a) an individual, estate, trust, receiver,

1 cooperative association, club, corporation, company, firm,  
2 partnership, joint venture, syndicate, or other entity,  
3 including any gas, water, or electric utility owned or  
4 operated by a county, municipality, or other political  
5 subdivision of the state; or

6 (b) the United States or any agency or instrumentality  
7 of the United States or the state of Montana or any  
8 political subdivision of the state.

9 (11) "Sales tax" and "use tax" mean the applicable tax  
10 imposed by [section 2].

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

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

18 **NEW SECTION. Section 2. Imposition and rate of sales**  
19 **tax and use tax.** (1) Except as provided in subsection (4), a  
20 sales tax of 3% is imposed on all gross receipts, as defined  
21 in [section 1], for the privilege of engaging in business in  
22 this state.

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

1 (a) manufactured by the person using the property in  
2 this state;

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

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

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

15 (4) The sales tax imposed on the sale of any new motor  
16 vehicle subject to the provisions of 61-3-502 is as provided  
17 in 61-3-502. The receipts from the sale of a vehicle subject  
18 to the tax imposed under 61-3-502 are exempt from the sales  
19 tax and use tax imposed under this section.

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

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

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

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

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

14 (1) If the sales tax or use tax is stated separately on the  
15 books of the seller or lessor and the total amount of tax  
16 stated separately on transactions within the reporting  
17 period is in excess of the amount of sales tax or use tax  
18 otherwise payable on those transactions, the excess amount  
19 of tax otherwise payable and stated on the transactions  
20 within the reporting period must be included in gross  
21 receipts.

22 (2) If the sales tax or use tax is not stated  
23 separately on transactions, the gross receipts for sales tax  
24 and use tax purposes include the total amounts received,  
25 with no deduction for the sales tax or use tax.

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

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

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

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

19        (i) maintaining an office or other place of business  
 20 that solicits orders for tangible personal property through  
 21 employees or independent contractors;

22        (ii) canvassing;

23        (iii) demonstrating;

24        (iv) collecting money;

25        (v) warehousing or storing merchandise;

1        (vi) delivering or distributing products as a  
 2 consequence of an advertising or other sales program  
 3 directed at potential customers;

4        (vii) soliciting orders for tangible personal property  
 5 by means of a telecommunication or television shopping  
 6 system that utilizes toll-free numbers and that is intended  
 7 to be broadcast by cable television or other means to  
 8 consumers in this state;

9        (viii) soliciting orders, pursuant to a contract with a  
 10 broadcaster or publisher located within this state, for  
 11 tangible personal property by means of advertising  
 12 disseminated primarily to consumers located in this state  
 13 and only secondarily to bordering jurisdictions;

14        (ix) soliciting orders for tangible personal property  
 15 by mail if the solicitations are substantial and recurring  
 16 and if the person engaging in such activity benefits from  
 17 any banking, financing, debt collection, telecommunication,  
 18 or marketing activities occurring in this state or benefits  
 19 from the location in this state of authorized installation,  
 20 servicing, or repair facilities; or

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

25        (2) To ensure the orderly and efficient collection of

1 the tax imposed by [sections 1 through 60], if any  
2 application of this section is held invalid, the section's  
3 application to other situations or persons is not affected.

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

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

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

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

22 (5) If the seller or lessor accepts a nontaxable  
23 transaction certificate within the required time and  
24 believes in good faith that the buyer or lessee will employ  
25 the property transferred in a nontaxable manner, the

1 properly executed nontaxable transaction certificate is  
2 considered conclusive evidence that the proceeds from the  
3 transaction are deductible from the seller's or lessor's  
4 gross receipts.

5 NEW SECTION. Section 8. Receipts of government  
6 agencies exempt. All receipts of the United States or any  
7 agency or instrumentality of the United States or of this  
8 state or any political subdivision of this state are exempt  
9 from the sales tax and use tax.

10 NEW SECTION. Section 9. Exemption -- food stamps. The  
11 receipts from the acceptance and deposit with a financial  
12 institution of food stamps by a person approved for  
13 participation in the food stamp program authorized by 7  
14 U.S.C. 2011, et seq., as may be amended or renumbered, are  
15 exempt from the sales tax.

16 NEW SECTION. Section 10. Exemption -- special  
17 supplemental food program for women, infants, and children.  
18 The receipts from the sale of food purchased under the  
19 special supplemental food program for women, infants, and  
20 children (WIC) as specified in 42 U.S.C. 1786, as amended,  
21 are exempt from the sales tax.

22 NEW SECTION. Section 11. Exemption -- prescribed  
23 medicines, drugs, and certain devices. The gross receipts  
24 from the sale, by prescription of medicines, drugs, insulin,  
25 and therapeutic and prosthetic devices are exempt from the



1 sales tax.

2 NEW SECTION. Section 12. Exemption -- agricultural  
 3 products. The receipts of a grower, producer, trapper, or  
 4 nonprofit marketing association from the sale of livestock,  
 5 live poultry, unprocessed agricultural products, hides, or  
 6 pelts are exempt from the sales tax. Persons engaged in the  
 7 business of buying and selling wool or mohair or of buying  
 8 and selling livestock on their own account and without the  
 9 services of a broker, auctioneer, or other agent are  
 10 considered producers for the purposes of this section.

11 NEW SECTION. Section 13. Exemption -- livestock  
 12 feeding. A person's receipts derived from feeding,  
 13 pasturing, penning, or handling or training livestock prior  
 14 to sale are exempt from the sales tax.

15 NEW SECTION. Section 14. Exemption -- used tangible  
 16 personal property upon which a sales tax or use tax has been  
 17 paid. The receipts from the sale of used tangible personal  
 18 property upon which a tax has been paid pursuant to  
 19 [sections 1 through 60] are exempt from the sales tax.

20 NEW SECTION. Section 15. Exemption -- vehicles. The  
 21 receipts from the sale of any vehicle upon which a tax  
 22 pursuant to [sections 1 through 60] has been paid or which  
 23 was purchased prior to [the applicability date of this  
 24 section] are exempt from the sales tax. A registration  
 25 certificate showing that the vehicle was registered in this

1 state prior to [the applicability date of this section] is  
 2 conclusive proof that it was purchased before it was subject  
 3 to taxation under [sections 1 through 60] and is exempt  
 4 under this section.

5 NEW SECTION. Section 16. Exemption -- certain mobile  
 6 homes. Receipts from the resale of a mobile home may be  
 7 deducted from gross receipts if the sale is of a mobile home  
 8 that was subject to the sales tax or use tax upon its  
 9 initial sale or use in this state or was initially sold or  
 10 used in this state prior to [the applicability date of this  
 11 section]. The seller shall retain and furnish proof  
 12 satisfactory to the department of either of the following:

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

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

23 NEW SECTION. Section 17. Exemption -- fuel. The  
 24 receipts from the sale of gasoline or ethanol blended for  
 25 fuel on which the Montana gasoline tax has been paid under

1 Title 15, chapter 70, are exempt from the sales tax and use  
2 tax.

3 NEW SECTION. Section 18. Exemption -- isolated or  
4 occasional sale or lease of property. The receipts from the  
5 isolated or occasional sale or lease of property by a person  
6 who is not regularly engaged in or who does not represent  
7 himself as engaged in the business of selling or leasing the  
8 same or a similar property are exempt from the sales tax and  
9 use tax.

10 NEW SECTION. Section 19. Exemption -- oil, gas, and  
11 mineral interests. The receipts from the sale or lease of  
12 oil, natural gas, or mineral interests are exempt from the  
13 sales tax.

14 NEW SECTION. Section 20. Exemption -- minerals --  
15 exception. (1) The receipts from the sale or use of a  
16 mineral, as defined in 15-38-103, are exempt from the sales  
17 tax and use tax.

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

24 NEW SECTION. Section 21. Exemption -- property of  
25 certain governmental agencies. (1) The use of property by

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

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

7 NEW SECTION. Section 22. Exemption -- personal  
8 effects. The use by an individual of personal or household  
9 effects brought into the state for the establishment by him  
10 of an initial residence in this state and the use of  
11 property brought into the state by a nonresident for his own  
12 nonbusiness use while temporarily within this state are  
13 exempt from the use tax.

14 NEW SECTION. Section 23. Deduction -- sale of  
15 tangible personal property for resale. Receipts from the  
16 sale of tangible personal property may be deducted from  
17 gross receipts if:

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

20 (2) the buyer resells or plans to resell the tangible  
21 personal property either by itself or in combination with  
22 other tangible personal property in the ordinary course of  
23 business and the property will subsequently be subject to  
24 the sales tax.

25 NEW SECTION. Section 24. Deduction -- sale to miner

1 or manufacturer. Receipts from the sale of tangible personal  
2 property to a buyer engaged in the business of mining or  
3 manufacturing may be deducted from gross receipts if:

- 4 (1) the buyer delivers a nontaxable transaction  
5 certificate to the seller; and  
6 (2) the buyer incorporates or will incorporate the  
7 tangible personal property as an ingredient or component  
8 part of the product that he is in the business of mining or  
9 manufacturing.

10 NEW SECTION. Section 25. Deduction -- sale of  
11 tangible personal property for leasing. Receipts from the  
12 sale of tangible personal property, other than furniture or  
13 appliances, and from the rental or lease of property, other  
14 than coin-operated machines and mobile homes, that is  
15 deductible under [sections 1 through 60] may be deducted  
16 from gross receipts if:

- 17 (1) the sale is made to a buyer who delivers a  
18 nontaxable transaction certificate to the seller;  
19 (2) the buyer is engaged in a business deriving more  
20 than 50% of its receipts from leasing or selling tangible  
21 personal property of the type leased; and  
22 (3) the buyer does not use the property in any manner  
23 other than holding it for lease or sale or leasing or  
24 selling it, either by itself or in combination with other  
25 tangible personal property, in the ordinary course of

1 business.

2 NEW SECTION. Section 26. Deduction -- lease for  
3 subsequent lease. Receipts from the lease of tangible  
4 personal property, other than furniture or appliances, and  
5 from the rental or lease of property, other than  
6 coin-operated machines and mobile homes, that is deductible  
7 under [sections 1 through 60] may be deducted from gross  
8 receipts if:

- 9 (1) the lease is made to a lessee who delivers a  
10 nontaxable transaction certificate; and  
11 (2) the lessee does not use the property in any manner  
12 other than for subsequent lease in the ordinary course of  
13 business.

14 NEW SECTION. Section 27. Deduction -- sale of  
15 tangible personal property to person engaged in construction  
16 business. (1) Receipts from the sale of tangible personal  
17 property may be deducted from gross receipts if the sale is  
18 made to a buyer engaged in the construction business who  
19 delivers a nontaxable transaction certificate to the seller.  
20 (2) The buyer delivering the nontaxable transaction  
21 certificate shall incorporate the tangible personal property  
22 as:

- 23 (a) an ingredient or component part of a construction  
24 project that is subject to the sales tax or use tax upon its  
25 completion or upon the completion of the overall

1 construction project of which it is a part; or

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

6 NEW SECTION. **Section 28.** Deduction -- sale or lease  
7 of real property and lease of mobile homes. (1) Except as  
8 provided in subsections (2) and (4), receipts from the sale  
9 or lease of real property, from the lease of a mobile home,  
10 or from the rental of a mobile home for a period of at least  
11 1 month may be deducted from gross receipts.

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

17 (3) Receipts attributable to the inclusion of  
18 furniture or appliances furnished by the landlord or lessor  
19 as part of a leased or rented dwelling, house, mobile home,  
20 cabin, condominium, or apartment may be deducted from gross  
21 receipts.

22 (4) Receipts received by hotels, motels,  
23 roominghouses, campgrounds, guest ranches, trailer parks, or  
24 similar facilities may not be deducted from gross receipts  
25 for purposes of [sections 1 through 60] if either the

1 operator or the user must pay tax on the receipts under  
2 Title 15, chapter 65, and all such receipts are subject to  
3 the tax imposed in [section 2]. The receipts of hotels,  
4 motels, roominghouses, campgrounds, guest ranches, trailer  
5 parks, or similar facilities are subject to the sales tax or  
6 use tax.

7 NEW SECTION. **Section 29.** Deduction -- transactions in  
8 interstate commerce. Receipts from a transaction in  
9 interstate commerce may be deducted from gross receipts to  
10 the extent that the imposition of the sales tax or use tax  
11 would be unlawful under the United States constitution.

12 NEW SECTION. **Section 30.** Deduction -- feed,  
13 fertilizers, and agricultural supplies -- livestock  
14 auctioneers. (1) Receipts from the sale of feed for  
15 livestock, fish raised for human consumption, poultry,  
16 animals raised for their hides or pelts, semen used in  
17 animal husbandry, seeds, roots, bulbs, soil conditioners,  
18 fertilizers, insecticides, insects used to control the  
19 population of other insects, fungicides, weedicides,  
20 herbicides, or water for irrigation purposes may be deducted  
21 from gross receipts if the sale is made to a person who  
22 presents a nontaxable transaction certificate or states in  
23 writing that he is regularly engaged in the business of  
24 farming, ranching, or the raising of animals for their hides  
25 or pelts.

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

4 NEW SECTION. Section 31. Deduction -- certain  
5 chemicals, reagents, and substances. (1) The following may  
6 be deducted from gross receipts:

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

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

14 (2) Receipts from the sale of explosives, blasting  
15 material, or dynamite may not be deducted from gross  
16 receipts.

17 NEW SECTION. Section 32. Deduction -- certain uses of  
18 special fuel. (1) Receipts from the sale of special fuel, as  
19 defined in 15-70-301, on which the special fuels tax has  
20 been paid under Title 15, chapter 70, or which is used in  
21 agriculture or to operate machinery, equipment, or vehicles  
22 used in a trade or business may be deducted from gross  
23 receipts.

24 (2) Receipts from the sale of special fuel used to  
25 heat buildings for human comfort are deductible.

1 NEW SECTION. Section 33. Deduction -- use of tangible  
2 personal property for leasing. (1) Except as provided in  
3 subsection (2), the value of leased property may be deducted  
4 in computing the use tax due if the person holding the  
5 tangible personal property for lease:

6 (a) is engaged in a business that derives a  
7 substantial portion of its receipts from leasing or selling  
8 property of the type leased;

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

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

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

20 NEW SECTION. Section 34. Deduction -- sales to  
21 government agencies and Indian tribes. (1) Receipts from a  
22 sale to the United States or any agency or instrumentality  
23 of the United States or to this state or any political  
24 subdivision of this state may be deducted from gross  
25 receipts.

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

4 NEW SECTION. Section 35. Credit -- out-of-state  
5 taxes. (1) If a gross receipts, sales, use, or similar tax  
6 has been levied by another state or a political subdivision  
7 of another state on property bought outside this state but  
8 which will be used or consumed in this state and the tax was  
9 paid, the amount of tax paid may be credited against any use  
10 tax due this state on the same property.

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

18 NEW SECTION. Section 36. Seller's permit. Upon an  
19 applicant's compliance with [sections 1 through 60], the  
20 department shall issue to the applicant a separate, numbered  
21 seller's permit for each place of business within Montana. A  
22 permit is valid until revoked or suspended but is not  
23 assignable. A permit is valid only for the person in whose  
24 name it is issued and for the transaction of business at the  
25 place designated. The permit must be conspicuously displayed

1 at all times at the place for which it is issued.

2 NEW SECTION. Section 37. Permit application --  
3 requirements -- place of business -- form. (1) (a) A person  
4 desiring to engage in the business of making retail sales in  
5 Montana shall file with the department an application for a  
6 permit. If the person has more than one place of business,  
7 an application must be filed for each place of business.

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

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

15 (b) Each person or class of persons obligated to file  
16 a return under [sections 1 through 60] is required to file  
17 application for a permit.

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

1 application if the owner is a corporation.

2 NEW SECTION. Section 38. Special activities --  
 3 permits -- penalty. (1) The operator of a flea market, craft  
 4 show, antique show, coin show, stamp show, comic book show,  
 5 convention exhibit area, or similar selling event, as a  
 6 prerequisite to renting or leasing space on the premises  
 7 owned or controlled by the operator to a person desiring to  
 8 engage in or conduct business as a seller, shall obtain  
 9 evidence that the seller is the holder of a valid seller's  
 10 permit issued pursuant to [section 36] or a written  
 11 statement from the seller that he is not offering for sale  
 12 any item that is taxable under [sections 1 through 60].

13 (2) "Flea market, craft show, antique show, coin show,  
 14 stamp show, comic book show, convention exhibit area, or  
 15 similar selling event", as used in this section, means an  
 16 activity that involves a series of sales sufficient in  
 17 number, scope, and character to constitute a regular course  
 18 of business but does not qualify as an isolated or  
 19 occasional sale pursuant to [section 18].

20 (3) An operator who fails or refuses to comply with  
 21 the provisions of this section is subject to a penalty,  
 22 payable to the department, of \$100 per day per seller at  
 23 each selling event at which the operator fails to obtain  
 24 evidence that a seller is the holder of a valid seller's  
 25 permit issued pursuant to [section 36].

1 NEW SECTION. Section 39. Revocation or suspension of  
 2 permit -- hearing -- notice -- appeal. (1) Subject to the  
 3 provisions of subsection (2), the department may, for  
 4 reasonable cause, revoke or suspend any permit held by a  
 5 person who fails to comply with the provisions of [sections  
 6 1 through 60].

7 (2) (a) The department shall hold a hearing on the  
 8 proposed revocation or suspension after giving the person 30  
 9 days' notice in writing, specifying the time and place of  
 10 the hearing and the reason for the proposed revocation or  
 11 suspension.

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

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

17 (3) After revocation, the department may not issue a  
 18 new permit except upon application accompanied by reasonable  
 19 evidence of the intention of the applicant to comply with  
 20 the provisions of [sections 1 through 60]. The department  
 21 may require security in addition to that authorized by  
 22 [section 47] in an amount reasonably necessary to ensure  
 23 compliance with [sections 1 through 60] as a condition for  
 24 the issuance of a new permit to such an applicant.

25 (4) A person aggrieved by the department's final

1 decision to revoke a permit as provided in subsection (1)  
 2 may appeal the decision to the state tax appeal board within  
 3 30 days following the date on which the department issued  
 4 its final decision.

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

7 NEW SECTION. Section 40. Nontaxable transaction  
 8 certificate -- form. (1) The department shall provide for a  
 9 uniform nontaxable transaction certificate. In order to  
 10 obtain a deduction under [sections 1 through 60], a  
 11 purchaser shall use the certificate when purchasing goods  
 12 for resale.

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

14 (a) the number of the permit issued to the purchaser  
 15 as provided in [section 36];

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

18 (c) the property purchased for resale;

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

20 (e) a signature line for the purchaser.

21 NEW SECTION. Section 41. Improper use of subject of  
 22 purchase obtained with nontaxable transaction certificate --  
 23 penalty. (1) If a purchaser who uses a nontaxable  
 24 transaction certificate utilizes the subject of the purchase  
 25 for a purpose other than one allowed as a deduction under

1 [sections 1 through 60], the use is considered a taxable  
 2 sale by the purchaser as of the time of first use by him and  
 3 the sale price he receives is considered the gross receipts  
 4 from the sale. If the sole nonexempt use is rental while  
 5 holding for sale, the purchaser shall include in his gross  
 6 receipts the amount of the rental charged. Upon subsequent  
 7 sale of the property, the seller shall include the entire  
 8 amount of gross receipts received from the resale, without  
 9 deduction of amounts previously received as rentals.

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

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

17 NEW SECTION. Section 42. Commingling nontaxable  
 18 certificate goods. If a purchaser uses a nontaxable  
 19 transaction certificate with respect to the purchase of  
 20 fungible goods and thereafter commingles these goods with  
 21 fungible goods not so purchased but of such similarity that  
 22 the identity of the goods in the commingled mass cannot be  
 23 determined, sales from the mass of commingled goods are  
 24 considered to be sales of the goods purchased with the  
 25 certificate until the quantity of commingled goods sold



1 equals the quantity of goods originally purchased under the  
2 certificate.

3 NEW SECTION. Section 43. Liability for payment of tax  
4 -- security for retailer without place of business --  
5 penalty. (1) Liability for the payment of the sales tax and  
6 use tax is not extinguished until the taxes have been paid  
7 to the department.

8 (2) A retailer who does not maintain a place of  
9 business in this state is liable for the sales tax or use  
10 tax in accordance with [sections 1 through 60] and shall  
11 furnish adequate security as required in [section 47] to  
12 ensure collection and payment of the taxes. When so  
13 authorized and except as otherwise provided in [sections 1  
14 through 60], the retailer is liable for the taxes upon all  
15 tangible property sold that is to be used within this state  
16 in the same manner as a retailer who maintains a place of  
17 business within this state. The permit provided for in  
18 [section 36] may be canceled at any time if the department  
19 considers the security inadequate or believes that the taxes  
20 can be collected more effectively in another manner.

21 (3) No agent, canvasser, or employee of a retailer  
22 doing business in this state who is not authorized by permit  
23 from the department may sell, solicit orders for, or deliver  
24 any tangible personal property in Montana. If such an agent,  
25 canvasser, or employee violates the provisions of [sections

1 1 through 60], he is subject to a fine of not more than \$100  
2 for each separate transaction or event.

3 NEW SECTION. Section 44. Interstate and intrastate  
4 carriers as retailers. A person engaged in the business of  
5 intrastate or interstate transportation of tangible personal  
6 property or passengers shall register as a retailer and pay  
7 the taxes imposed by [sections 1 through 60].

8 NEW SECTION. Section 45. Application for permission  
9 to report on accrual basis. (1) A person who has a permit  
10 issued pursuant to [section 36] may apply to the department  
11 for permission to report and pay the sales tax or use tax on  
12 an accrual basis.

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

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

19 NEW SECTION. Section 46. Returns -- payment --  
20 authority of department. (1) Except as provided in  
21 subsection (2), on or before the 25th day of each month in  
22 which the tax imposed by [sections 1 through 60] is payable,  
23 a return, on a form provided by the department, and payment  
24 of the tax, less the vendor allowance provided in subsection  
25 (5), for the preceding month must be filed with the

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

6 (2) A person who has a tax liability that averages  
 7 less than \$100 per month and who has been granted the  
 8 authority to report and pay the tax imposed by [sections 1  
 9 through 60] on a quarterly basis shall file a return with  
 10 payment on or before the 25th day of the month following the  
 11 end of the quarter.

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

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

15 (ii) a person:

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

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

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

23 (4) (a) A person liable for the taxes imposed by  
 24 [sections 1 through 60] shall keep records, render  
 25 statements, make returns, and comply with the provisions of

1 [sections 1 through 60] and the rules prescribed by the  
 2 department. Each return or statement must include the  
 3 information required by the rules of the department.

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

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

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

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

18 (iv) administer oaths or affirmations.

19 (5) A person filing a return under this section may  
 20 annually deduct from the amount of tax to be remitted to the  
 21 state and return as a vendor allowance 3% of the tax  
 22 determined to be payable to the state or \$1,200, whichever  
 23 is less. The annual deduction allowed under this subsection  
 24 applies on a calendar year basis.

25 (6) Pursuant to rules established by the department,

1 returns may be computer generated.

2 (7) The returns due for July, August, and September of  
3 1990 are due on or before October 25, 1990.

4 NEW SECTION. Section 47. Security -- limitations --  
5 sale of security deposit at auction -- bond. (1) The  
6 department may require a retailer to deposit with the  
7 department security in a form and amount the department  
8 determines appropriate. The deposit may not be more than  
9 twice the estimated average liability for the period for  
10 which the return is required to be filed or \$10,000,  
11 whichever is less. The amount of security may be increased  
12 or decreased by the department, subject to the limitations  
13 provided in this section.

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

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

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

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

1 solvency and responsibility.

2 (4) In addition to the other requirements of this  
3 section, the department may require the corporate officers,  
4 directors, or shareholders of a corporation to provide a  
5 personal guaranty and assumption of liability for the  
6 payment of the tax due under [sections 1 through 60].

7 NEW SECTION. Section 48. Extensions. (1) The  
8 department may extend the time for filing a return and  
9 remittance of tax, deficiencies, and penalties for a period  
10 not to exceed 60 days from the date a return was due and may  
11 require both an estimated return at the time fixed for  
12 filing the regularly required return and the payment of tax  
13 on the basis of the estimated return.

14 (2) If an extension of time for payment has been  
15 granted under this section, interest at the rate provided in  
16 [section 53(2)] is payable from the date on which payment  
17 was first due without extension until the tax is paid.

18 NEW SECTION. Section 49. Examination of return --  
19 adjustments -- delivery of notices and demands. (1) The  
20 department may examine a return and make an investigation or  
21 examination of the records and accounts of a person making  
22 the return if the department considers it necessary to  
23 determine the accuracy of the return.

24 (2) To determine the accuracy of a return, the  
25 department may examine the records and accounts, using

1 statistical or other sampling techniques consistent with  
2 generally accepted accounting principles.

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

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

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

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

21 (b) served personally upon the taxpayer.

22 NEW SECTION. Section 50. Penalties and interest for  
23 violation. (1) (a) If a person, without purposely or  
24 knowingly violating any requirement imposed by [sections 1  
25 through 60], fails to file a return and pay the tax on or

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

8 (b) If a person, without purposely or knowingly  
9 violating any requirement imposed by [sections 1 through  
10 60], fails to pay a debt on or before its due date, there  
11 must be added to the debt a penalty of 10% of the debt, but  
12 not less than \$5, and interest must accrue on the debt at a  
13 rate of 12% per annum for the entire period it remains  
14 unpaid. The department may abate the penalty if the person  
15 establishes that the failure to pay was due to reasonable  
16 cause and was not due to neglect on his part.

17 (2) If a person purposely or knowingly violates any  
18 requirements imposed by [sections 1 through 60] by failing  
19 to file a return or to pay a debt, if one is due at the  
20 time, required by or under the provisions of [section 46],  
21 there must be added to the debt an additional amount equal  
22 to 25% thereof, but not less than \$25, and interest at 1%  
23 for each month or fraction of a month during which the debt  
24 remains unpaid.

25 NEW SECTION. Section 51. Warrants for distraint. If a

1 tax imposed by [sections 1 through 60] or any portion of  
2 such tax is not paid when due, the department may issue a  
3 warrant for distraint as provided in Title 15, chapter 1,  
4 part 7.

5 NEW SECTION. Section 52. Authority to collect  
6 delinquent taxes. (1) The department shall collect taxes  
7 that are delinquent as determined under [sections 1 through  
8 60].

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

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

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

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

1 notice, and the hearing must be held within 30 days  
2 following receipt by the department of the written request.

3 NEW SECTION. Section 53. Penalty for deficiency.

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

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

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

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

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

23 NEW SECTION. Section 54. Limitations. Except in the  
24 case of a person who, with intent to evade the tax,  
25 purposely or knowingly files a false or fraudulent return

1 violating the provisions of [sections 1 through 60], the  
 2 amount of tax due under any return must be determined by the  
 3 department within 5 years after the return was made. The  
 4 department is barred from revising a return or recomputing  
 5 the tax due thereon, and no proceeding in court for the  
 6 collection of the tax may be instituted unless notice of an  
 7 additional tax was provided within the period described in  
 8 this section.

9 NEW SECTION. Section 55. Refunds. A claim for a  
 10 refund made for taxes collected under [sections 1 through  
 11 60] must be in accordance with the procedure and time limits  
 12 provided in 15-1-503.

13 NEW SECTION. Section 56. Administration -- rules. The  
 14 department shall:

15 (1) administer and enforce the provisions of [sections  
 16 1 through 60];

17 (2) cause to be prepared and distributed forms and  
 18 information as may be necessary to administer the provisions  
 19 of [sections 1 through 60]; and

20 (3) promulgate rules as may be appropriate to  
 21 administer and enforce the provisions of [sections 1 through  
 22 60].

23 NEW SECTION. Section 57. Revocation of corporate  
 24 license. (1) If a corporation authorized to do business in  
 25 this state and required to pay the taxes imposed under

1 [sections 1 through 60] fails to comply with any of the  
 2 provisions of [sections 1 through 60] or any rule of the  
 3 department, the department may, for reasonable cause,  
 4 certify to the secretary of state a copy of an order finding  
 5 that the corporation has failed to comply with specific  
 6 statutory provisions or rules.

7 (2) The secretary of state shall, upon receipt of the  
 8 certification, revoke the license authorizing the  
 9 corporation to do business in this state and may issue a new  
 10 license only when the corporation has obtained from the  
 11 department an order finding that the corporation has  
 12 complied with its obligations under [sections 1 through 60].

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

19 NEW SECTION. Section 58. Tax as debt. (1) The taxes  
 20 imposed by [sections 1 through 60] and related interest and  
 21 penalties become a personal debt of the person required to  
 22 file a return from the time the liability arises, regardless  
 23 of when the time for payment of such liability occurs.

24 (2) In the case of an executor or administrator of the  
 25 estate of a decedent or in the case of a fiduciary, the debt

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

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

10 NEW SECTION. Section 59. Information --  
11 confidentiality -- agreements with another state. (1) (a)  
12 Except as provided in subsections (1)(b) and (2), it is  
13 unlawful for an employee of the department or any other  
14 public official or public employee to divulge or otherwise  
15 make known any information disclosed in a report or return  
16 required to be filed under [sections 1 through 60] or any  
17 information concerning the affairs of the person making the  
18 return that is acquired from his records, officers, or  
19 employees in an examination or audit.

20 (b) Subsection (1)(a) does not apply to information  
21 obtained from the taxpayer making the report or return in  
22 connection with a proceeding involving taxes due under  
23 [sections 1 through 60] or to compliance with the provisions  
24 of subsection (2).

25 (c) Nothing in this section may be construed to

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

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

13 (b) The department, in order to implement the  
14 provisions of [sections 1 through 60], 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 sales tax or use tax.

18 (3) In order to facilitate processing of returns and  
19 payments of taxes required by [sections 1 through 60], the  
20 department may contract with vendors and may disclose data  
21 to the vendors. The data disclosed must be administered by  
22 the vendor in a manner consistent with this section.

23 NEW SECTION. Section 60. Sales tax and use tax  
24 account. (1) There is within the state special revenue fund  
25 a sales tax and use tax account.

1 (2) All money collected under [sections 1 through 60]  
2 must be paid by the department into the sales tax and use  
3 tax account.

4 (3) There must be retained in the sales tax and use  
5 tax account the amounts necessary under [sections 1 through  
6 60] to repay overpayments, pay any erroneous receipts  
7 illegally assessed or collected or that are excessive in  
8 amount, and pay any other refunds otherwise required.

9 NEW SECTION. Section 61. Disposition of sales tax and  
10 use tax revenue -- legislative appropriation. (1) All of the  
11 sales tax and use tax revenue is allocated to state  
12 equalization aid as provided in 20-9-343.

13 (2) This section provides for the disposition of sales  
14 tax and use tax revenue. Allocations may not be made from  
15 the sales tax and use tax account until appropriated by the  
16 legislature.

17 NEW SECTION. Section 62. Property tax limit --  
18 percentage of market value. (1) Except as provided in  
19 subsection (2), property taxed under Title 15, chapter 6, is  
20 subject to a tax equal to the lesser amount from either of  
21 the following:

- 22 (a) the tax liability determined by the product of the  
23 taxable value multiplied by total mills levied in a tax  
24 year; or  
25 (b) 1.5% of the market value of the property.

1 (2) Property taxed under 15-6-141, 15-6-145, and  
2 15-6-147 is subject to a tax equal to the lesser amount of  
3 either of the following:

4 (a) the tax liability determined by the product of the  
5 taxable value multiplied by total mills levied in a tax  
6 year; or

7 (b) 5.8% of the market value of the property.

8 NEW SECTION. Section 63. Property tax limit --  
9 special considerations. (1) The limitation on the amount of  
10 tax liability based on a percentage of market value does not  
11 mean that no increase may be made in the market value of  
12 property resulting from:

13 (a) expansion, addition, replacement, or remodeling of  
14 improvements;

15 (b) transfer of property from tax-exempt to taxable  
16 status; or

17 (c) revaluations caused by cyclical reappraisal.

18 (2) The limitation on the amount of tax liability  
19 based on a percentage of market value does not apply to the  
20 following levy or special assessment categories, whether  
21 they are based on commitments made before or after [the  
22 effective date of this section]:

23 (a) rural improvement districts;

24 (b) special improvement districts;

25 (c) levies pledged for the repayment of bonded



1 indebtedness, including tax increment bonds;  
 2 (d) city street maintenance districts;  
 3 (e) satisfaction of judgments against a taxing unit;  
 4 (f) electric company street lighting assessments; and  
 5 (g) revolving funds to support any of the above.  
 6 (3) If the tax liability for a property is a  
 7 percentage of market value and one or more of the items in  
 8 subsection (2) are applicable, the tax bill must include an  
 9 additional amount for such items. That amount is determined  
 10 by the product of the appropriate mills multiplied by  
 11 taxable value.

12 NEW SECTION. **Section 64.** Disbursement of property tax  
 13 paid as percentage of market value. The property tax paid as  
 14 a percentage of market value pursuant to [section 62] must  
 15 be disbursed to all affected taxing jurisdictions according  
 16 to the ratio of the mills levied by each taxing jurisdiction  
 17 in proportion to the total mills levied against a property.

18 **Section 65.** Section 7-1-2111, MCA, is amended to read:  
 19 "7-1-2111. Classification of counties. (1) For the  
 20 purpose of regulating the compensation and salaries of all  
 21 county officers, not otherwise provided for, and for fixing  
 22 the penalties of officers' bonds, the several counties of  
 23 this state shall be classified according to that percentage  
 24 of the true and full valuation of the property therein upon  
 25 which the tax levy is made, except for vehicles subject to

1 taxation under 61-3-504(2), as follows:

- 2 (a) first class--all counties having such a taxable  
 3 valuation of \$50 million or over;  
 4 (b) second class--all counties having such a taxable  
 5 valuation of more than \$30 million and less than \$50  
 6 million;  
 7 (c) third class--all counties having such a taxable  
 8 valuation of more than \$20 million and less than \$30  
 9 million;  
 10 (d) fourth class--all counties having such a taxable  
 11 valuation of more than \$15 million and less than \$20  
 12 million;  
 13 (e) fifth class--all counties having such a taxable  
 14 valuation of more than \$10 million and less than \$15  
 15 million;  
 16 (f) sixth class--all counties having such a taxable  
 17 valuation of more than \$5 million and less than \$10 million;  
 18 (g) seventh class--all counties having such a taxable  
 19 valuation of less than \$5 million.  
 20 (2) As used in this section, taxable valuation means  
 21 the taxable value of taxable property in the county as of  
 22 the time of determination plus:  
 23 (a) that portion of the taxable value of the county on  
 24 December 31, 1981, attributable to automobiles and trucks  
 25 having a rated capacity of three-quarters of a ton or less;

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

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

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

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

13 **Section 66.** Section 7-3-1321, MCA, is amended to read:

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

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

1 bonds, or obligations in excess of such amount given by or  
2 on behalf of the municipality shall be void."

3 **Section 67.** Section 7-6-2211, MCA, is amended to read:

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

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

20 **Section 68.** Section 7-6-4121, MCA, is amended to read:

21 "7-6-4121. Authorization to conduct municipal business  
22 on a cash basis. (1) In case the total indebtedness of a  
23 city or town has reached ~~17%~~ 19% of the total taxable value  
24 of the property of the city or town subject to taxation, as  
25 ascertained by the last assessment for state and county

1 taxes, the city or town may conduct its affairs and business  
2 on a cash basis as provided by subsection (2).

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

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

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

24 **Section 69.** Section 7-6-4254, MCA, is amended to read:  
25 "7-6-4254. Limitation on amount of emergency budgets

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

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

12 **Section 70.** Section 7-7-107, MCA, is amended to read:  
13 "7-7-107. Limitation on amount of bonds for  
14 city-county consolidated units. (1) Except as provided in  
15 7-7-108, no city-county consolidated local government may  
16 issue bonds for any purpose which, with all outstanding  
17 indebtedness, may exceed ~~39%~~ 44% of the taxable value of the  
18 property therein subject to taxation as ascertained by the  
19 last assessment for state and county taxes.

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

24 **Section 71.** Section 7-7-108, MCA, is amended to read:  
25 "7-7-108. Authorization for additional indebtedness

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

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

17 **Section 72.** Section 7-7-2101, MCA, is amended to read:

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

1 60%, plus the amount of value represented by new production  
 2 exempted from tax as provided in 15-23-612, as ascertained  
 3 by the last assessment for state and county taxes previous  
 4 to the incurring of such indebtedness.

5 (2) No county may incur indebtedness or liability for  
 6 any single purpose to an amount exceeding \$500,000 without  
 7 the approval of a majority of the electors thereof voting at  
 8 an election to be provided by law, except as provided in  
 9 7-21-3413 and 7-21-3414.

10 (3) Nothing in this section shall apply to the  
 11 acquisition of conservation easements as set forth in Title  
 12 76, chapter 6."

13 **Section 73.** Section 7-7-2203, MCA, is amended to read:

14 "7-7-2203. Limitation on amount of bonded  
 15 indebtedness. (1) Except as provided in subsections (2)  
 16 through (4), no county may issue general obligation bonds  
 17 for any purpose which, with all outstanding bonds and  
 18 warrants except county high school bonds and emergency  
 19 bonds, will exceed ~~11.25%~~ 12.5% of the total of the taxable  
 20 value of the property therein, plus the amount of interim  
 21 production and new production taxes levied divided by the  
 22 appropriate tax rates described in 15-23-607(2)(a) or (2)(b)  
 23 and multiplied by 60%, plus the amount of value represented  
 24 by new production exempted from tax as provided in  
 25 15-23-612, to be ascertained by the last assessment for

1 state and county taxes prior to the proposed issuance of  
2 bonds.

3 (2) In addition to the bonds allowed by subsection  
4 (1), a county may issue bonds which, with all outstanding  
5 bonds and warrants, will not exceed ~~27.75%~~ 31% of the total  
6 of the taxable value of the property in the county subject  
7 to taxation, plus the amount of interim production and new  
8 production taxes levied divided by the appropriate tax rates  
9 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
10 60%, plus the amount of value represented by new production  
11 exempted from tax as provided in 15-23-612, when necessary  
12 to do so, for the purpose of acquiring land for a site for  
13 county high school buildings and for erecting or acquiring  
14 buildings thereon and furnishing and equipping the same for  
15 county high school purposes.

16 (3) In addition to the bonds allowed by subsections  
17 (1) and (2), a county may issue bonds for the construction  
18 or improvement of a jail which will not exceed ~~±2.5%~~ 14% of  
19 the taxable value of the property in the county subject to  
20 taxation.

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

1 **Section 74.** Section 7-7-4201, MCA, is amended to read:

2 "7-7-4201. Limitation on amount of bonded  
3 indebtedness. (1) Except as otherwise provided, no city or  
4 town may issue bonds or incur other indebtedness for any  
5 purpose in an amount which with all outstanding and unpaid  
6 indebtedness will exceed ~~20%~~ 32% of the taxable value of the  
7 property therein subject to taxation, to be ascertained by  
8 the last assessment for state and county taxes.

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

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

16 **Section 75.** Section 7-7-4202, MCA, is amended to read:

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

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

11 **Section 76.** Section 7-13-4103, MCA, is amended to  
 12 read:

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

20 **Section 77.** Section 7-14-236, MCA, is amended to read:

21 "7-14-236. Limitation on bonded indebtedness. The  
 22 amount of bonds issued to provide funds for the district and  
 23 outstanding at any time shall not exceed ~~20%~~ 32% of the  
 24 taxable value of taxable property therein as ascertained by  
 25 the last assessment for state and county taxes previous to

1 the issuance of such bonds."

2 **Section 78.** Section 7-14-2524, MCA, is amended to  
 3 read:

4 "7-14-2524. Limitation on amount of bonds issued --  
 5 excess void. (1) Except as otherwise provided hereafter and  
 6 in 7-7-2203 and 7-7-2204, no county shall issue bonds which,  
 7 with all outstanding bonds and warrants except county high  
 8 school bonds and emergency bonds, will exceed ~~11-25%~~ 12.5%  
 9 of the total of the taxable value of the property therein,  
 10 plus the amount of interim production and new production  
 11 taxes levied divided by the appropriate tax rates described  
 12 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
 13 amount of value represented by new production exempted from  
 14 tax as provided in 15-23-612. The taxable property and the  
 15 amount of interim production and new production taxes levied  
 16 shall be ascertained by the last assessment for state and  
 17 county taxes prior to the issuance of such bonds.

18 (2) A county may issue bonds which, with all  
 19 outstanding bonds and warrants except county high school  
 20 bonds, will exceed ~~11-25%~~ 12.5% but will not exceed ~~22-5%~~  
 21 25.5% of the total of the taxable value of such property,  
 22 plus the amount of interim production and new production  
 23 taxes levied divided by the appropriate tax rates described  
 24 in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the  
 25 amount of value represented by new production exempted from

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

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

15 **Section 79.** Section 7-14-2525, MCA, is amended to  
16 read:

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

1 indebtedness in full, the board may:

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

6 (b) enter into such agreement;

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

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

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

13 **Section 80.** Section 7-14-4402, MCA, is amended to  
14 read:

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

1           **Section 81.** Section 7-16-2327, MCA, is amended to  
2 read:

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

9           (2) (a) The total amount of indebtedness authorized to  
10 be contracted in any form, including the then-existing  
11 indebtedness, must not at any time exceed ~~±3%~~ 15% of the  
12 total of the taxable value of the taxable property in the  
13 county, plus the amount of interim production and new  
14 production taxes levied divided by the appropriate tax rates  
15 described in 15-23-607(2)(a) or (2)(b) and multiplied by  
16 60%, plus the amount of value represented by new production  
17 exempted from tax as provided in 15-23-612, ascertained by  
18 the last assessment for state and county taxes previous to  
19 the incurring of such indebtedness.

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

1           **Section 82.** Section 7-16-4104, MCA, is amended to  
2 read:

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

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

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

14           (c) for furnishing and equipping the same.

15           (2) The total amount of indebtedness authorized to be  
16 contracted in any form, including the then-existing  
17 indebtedness, may not at any time exceed ~~±6.5%~~ 19% of the  
18 taxable value of the taxable property of the city or town as  
19 ascertained by the last assessment for state and county  
20 taxes previous to the incurring of such indebtedness. No  
21 money may be borrowed on bonds issued for the purchase of  
22 lands and improving the same for any such purpose until the  
23 proposition has been submitted to the vote of the qualified  
24 electors of the city or town and a majority vote is cast in  
25 favor thereof."



**Section 83.** Section 7-31-106, MCA, is amended to read:

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

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

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

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

**Section 84.** Section 7-31-107, MCA, is amended to read:

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

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

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

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

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

**Section 85.** Section 7-34-2131, MCA, is amended to read:

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

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

1 outstanding at any time may not exceed ~~22.5%~~ 25.5% of the  
2 taxable value of the property therein as ascertained by the  
3 last assessment for state and county taxes previous to the  
4 issuance of such bonds.

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

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

12 **Section 86.** Section 20-9-406, MCA, is amended to read:

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

1 void, except as provided in this section.

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

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

13 **Section 87.** Section 20-9-407, MCA, is amended to read:

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

1 the limitation prescribed in this section by a maximum of  
 2 ~~45%~~ 51% of the estimated taxable value of the property of  
 3 the new major industrial facility subject to taxation when  
 4 completed. The estimated taxable value of the property of  
 5 the new major industrial facility subject to taxation shall  
 6 be computed by the department of revenue when requested to  
 7 do so by a resolution of the board of trustees of the school  
 8 district. A copy of the department's statement of estimated  
 9 taxable value shall be printed on each ballot used to vote  
 10 on a bond issue proposed under this section.

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

1 shall as a total amount be equal to the amount which the  
 2 facility paid the principal and interest of the school  
 3 district's bonds in excess of its general liability as a  
 4 taxpayer within the district.

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

12 **Section 88.** Section 15-1-101, MCA, is amended to read:  
 13 **"15-1-101. Definitions.** (1) Except as otherwise  
 14 specifically provided, when terms mentioned in this section  
 15 are used in connection with taxation, they are defined in  
 16 the following manner:

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

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

24 (c) The term "average wholesale value" means the value  
 25 to a dealer prior to reconditioning and profit margin shown

1 in national appraisal guides and manuals or the valuation  
2 schedules of the department of revenue.

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

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

10 (A) agricultural lands;

11 (B) timberlands;

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

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

18 (E) all property described in 15-6-1357

19 ~~{F} all property described in 15-6-1367; and~~

20 ~~{G} all property described in 15-6-146.~~

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

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

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

14 (h) The term "leasehold improvements" means  
15 improvements to mobile homes and mobile homes located on  
16 land owned by another person. This property is assessed  
17 under the appropriate classification and the taxes are due  
18 and payable in two payments as provided in ~~15-24-202~~  
19 15-16-102. Delinquent taxes on such leasehold improvements  
20 are a lien only on such leasehold improvements.

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

23 (j) The term "mobile home" means forms of housing  
24 known as "trailers", "housetrailer", or "trailer coaches"  
25 exceeding 8 feet in width or 45 feet in length, designed to

1 be moved from one place to another by an independent power  
2 connected to them, or any "trailer", "housetrailer", or  
3 "trailer coach" up to 8 feet in width or 45 feet in length  
4 used as a principal residence.

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

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

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

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

20 (i) the possession of, claim to, ownership of, or  
21 right to the possession of land;

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

1 States; and all rights and privileges appertaining thereto.

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

12 (p) The term "taxable value" means the percentage of  
13 market or assessed value as provided for in ~~15-6-131~~  
14 ~~15-6-149~~ Title 15, chapter 6, part 1.

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

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

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

1 board."

2 **Section 89.** Section 15-1-701, MCA, is amended to read:

3 "15-1-701. Warrant for distraint. (1) A warrant for  
4 distraint is an order, under the official seal of the  
5 department of revenue, directed to a sheriff of any county  
6 of Montana or to any agent authorized by law to collect a  
7 tax. The order commands the recipient to levy upon and sell  
8 the real ~~and-personal~~ property of a delinquent taxpayer.

9 (2) Upon filing the warrant as provided in 15-1-704,  
10 there is a lien against all real ~~and--personal~~ property of  
11 the delinquent taxpayer located in the county where the  
12 warrant is filed. The resulting lien is treated in the same  
13 manner as a properly docketed judgment lien, and the  
14 department may collect delinquent taxes and enforce the tax  
15 lien in the same manner as a judgment is enforced.

16 (3) A warrant may be issued for the amount of unpaid  
17 tax plus penalty, if any, and accumulated interest. The lien  
18 is for the amount indicated on the warrant plus accrued  
19 interest from the date of the warrant."

20 **Section 90.** Section 15-6-101, MCA, is amended to read:

21 "15-6-101. Property subject to taxation --  
22 classification. (1) All real property and improvements in  
23 this state is are subject to taxation, except as provided  
24 otherwise.

25 (2) For the purpose of taxation, the taxable property

1 in the state shall be classified in accordance with this  
2 part."

3 **Section 91.** Section 15-6-134, MCA, is amended to read:

4 "15-6-134. Class four property -- description --  
5 taxable percentage. (1) Class four property includes:

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

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

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

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

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

23 (a) Except as provided in 15-24-1402 or 15-24-1501,  
24 property described in subsections (1)(a) and (1)(b) is taxed  
25 at ~~3.86%~~ 3.1% of its market value.

1 (b) (i) Property described in subsection (1)(c) is  
 2 taxed at ~~3.86%~~ 3.1% of its market value multiplied by a  
 3 percentage figure based on income and determined from the  
 4 following table:

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

17 (ii) The income levels contained in the table in  
 18 subsection (2)(b)(i) must be adjusted for inflation annually  
 19 by the department of revenue. The adjustment to the income  
 20 levels is determined by:

21 (A) multiplying the appropriate dollar amount from the  
 22 table in subsection (2)(b)(i) by the ratio of the PCE for  
 23 the second quarter of the year prior to the year of  
 24 application to the PCE for the second quarter of 1986; and

25 (B) rounding the product thus obtained to the nearest

1 whole dollar amount.

2 (iii) "PCE" means the implicit price deflator for  
 3 personal consumption expenditures as published quarterly in  
 4 the Survey of Current Business by the bureau of economic  
 5 analysis of the U.S. department of commerce.

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

9 (3) After July 1, 1986, no adjustment may be made by  
 10 the department to the taxable percentage rate for class four  
 11 property until a revaluation has been made as provided in  
 12 15-7-111.

13 (4) Within the meaning of comparable property as  
 14 defined in 15-1-101, property assessed as commercial  
 15 property is comparable only to other property assessed as  
 16 commercial property, and property assessed as other than  
 17 commercial property is comparable only to other property  
 18 assessed as other than commercial property."

19 **Section 92.** Section 15-6-135, MCA, is amended to read:

20 "15-6-135. Class five property -- description --  
 21 taxable percentage. (1) Class five property includes:

22 (a) all real property and improvements used and owned  
 23 by cooperative rural electrical and cooperative rural  
 24 telephone associations organized under the laws of Montana,  
 25 except property owned by cooperative organizations described

1 in subsection (1)(b) of 15-6-137;

2 (b) air and water pollution control equipment  
3 improvements as defined in this section;

4 (c) new industrial property as defined in this  
5 section;

6 (d) any ~~personal~~ real property and improvements  
7 used primarily in the production of gasohol during  
8 construction and for the first 3 years of its operation;

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

13 (f) ~~machinery---and---equipment~~ improvements used in  
14 electrolytic reduction facilities.

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

22 (b) The department of health and environmental  
23 sciences' determination as to air and water pollution  
24 equipment control improvements may be appealed to the board  
25 of health and environmental sciences and may not be appealed

1 to either a county tax appeal board or the state tax appeal  
2 board. However, the appraised value of the equipment  
3 improvements as determined by the department of revenue may  
4 be appealed to the county tax appeal board and the state tax  
5 appeal board.

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

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

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

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

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

25 (iii) engage in the mechanical or chemical



1 transformation of materials or substances into new products  
2 in the manner defined as manufacturing in the 1972 Standard  
3 Industrial Classification Manual prepared by the United  
4 States office of management and budget.

5 (5) New industrial property does not include:

6 (a) property used by retail or wholesale merchants,  
7 commercial services of any type, agriculture, trades, or  
8 professions;

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

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

14 (6) Class five property is taxed at 3% of its market  
15 value."

16 **Section 93.** Section 15-6-137, MCA, is amended to read:

17 "15-6-137. Class seven property -- description --  
18 taxable percentage. (1) Class seven property includes:

19 (a) all real property and improvements used and owned  
20 by persons, firms, corporations, or other organizations that  
21 are engaged in the business of furnishing telephone  
22 communications exclusively to rural areas or to rural areas  
23 and cities and towns of 800 persons or less;

24 (b) all real property and improvements owned by  
25 cooperative rural electrical and cooperative rural telephone

1 associations that serve less than 95% of the electricity  
2 consumers or telephone users within the incorporated limits  
3 of a city or town; and

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

10 ~~(d) any tools or implements that are not included in~~  
11 ~~another class or that are exempt under 15-6-201(i)(r) and~~  
12 ~~machinery used to repair and maintain machinery not used for~~  
13 ~~manufacturing and mining purposes.~~

14 (2) To qualify for this classification, the average  
15 circuit miles for each station on the telephone  
16 communication system described in subsection (1)(b) must be  
17 more than 1 mile.

18 (3) Class seven property is taxed at 8% 3.1% of its  
19 market value."

20 **Section 94.** Section 15-6-141, MCA, is amended to read:

21 "15-6-141. Class eleven property -- description --  
22 taxable percentage. (1) Class eleven property includes real  
23 property and improvements as follows:

24 (a) centrally assessed electric power companies'  
25 allocations, including, if congress passes legislation that

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

8 (b) allocations for centrally assessed natural gas  
 9 companies having a major distribution system in this state;  
 10 and

11 (c) centrally assessed companies' allocations except:

12 (i) electric power and natural gas companies'  
 13 property;

14 (ii) property owned by cooperative rural electric and  
 15 cooperative rural telephone associations and classified in  
 16 class five;

17 (iii) property owned by organizations providing  
 18 telephone communications to rural areas and classified in  
 19 class seven;

20 (iv) railroad transportation property included in class  
 21 fifteen; and

22 (v) airline transportation property included in class  
 23 seventeen.

24 (2) Class eleven property is taxed at 12% of market  
 25 value."

1 **Section 95.** Section 15-6-145, MCA, is amended to read:  
 2 "15-6-145. Class fifteen property -- description --  
 3 taxable percentage. (1) Class fifteen property includes all  
 4 railroad transportation real property and improvements as  
 5 described in the Railroad Revitalization and Regulatory  
 6 Reform Act of 1976 as it read on January 1, 1986.

7 (2) For the taxable year beginning January 1, 1986,  
 8 and for each taxable year thereafter, class fifteen property  
 9 is taxed at the percentage rate "R", to be determined by the  
 10 department as provided in subsection (3), or 12%, whichever  
 11 is less.

12 (3)  $R = A/B$  where:

13 (a) A is the total statewide taxable value of all  
 14 commercial property, except class fifteen property, as  
 15 commercial property is described in 15-1-101(1)(d),  
 16 including class 1 and class 2 property; and

17 (b) B is the total statewide market value of all  
 18 commercial property, except class fifteen property, as  
 19 commercial property is described in 15-1-101(1)(d),  
 20 including class 1 and class 2 property.

21 (4) (a) For the taxable year beginning January 1,  
 22 1986, and for every taxable year thereafter, the department  
 23 shall conduct a sales assessment ratio study of all  
 24 commercial and industrial real property and improvements.  
 25 The study must be based on:

1 (i) assessments of such property as of January 1 of  
2 the year for which the study is being conducted; and

3 (ii) a statistically valid sample of sales using data  
4 from realty transfer certificates filed during the same  
5 taxable year or from the immediately preceding taxable year,  
6 but only if a sufficient number of certificates is  
7 unavailable from the current taxable year to provide a  
8 statistically valid sample.

9 (b) The department shall determine the value-weighted  
10 mean sales assessment ratio "M" for all such property and  
11 reduce the taxable value of property described in subsection  
12 (4) only, by multiplying the total statewide taxable value  
13 of property described in subsection (4) by "M" prior to  
14 calculating "A" in subsection (3).

15 (c) The adjustment referred to in subsection (4)(b)  
16 will be made beginning January 1, 1986, and in each  
17 subsequent tax year to equalize the railroad taxable values.

18 (5) For the purpose of complying with the Railroad  
19 Revitalization and Regulatory Reform Act of 1976, as it read  
20 on January 1, 1986, the rate "R" referred to in this section  
21 is the equalized average tax rate generally applicable to  
22 commercial and industrial property, except class fifteen  
23 property, as commercial property is defined in  
24 15-1-101(1)(d)."

25 **Section 96.** Section 15-6-147, MCA, is amended to read:

1 "15-6-147. Class seventeen property -- description --  
2 taxable percentage. (1) Class seventeen property includes  
3 all airline transportation real property and improvements as  
4 described in the Tax Equity and Fiscal Responsibility Act of  
5 1982 as it read on January 1, 1986.

6 (2) For the taxable years 1986 through 1990 class  
7 seventeen property is taxed at 12%, and for each taxable  
8 year thereafter, class seventeen property is taxed at the  
9 lesser of 12% or the percentage rate "R", to be determined  
10 by the department as provided in subsection (3).

11 (3) (a)  $R = A/B$  where:

12 (i) A is the total statewide taxable value of all  
13 commercial property, except class seventeen property, as  
14 commercial property is described in 15-1-101(1)(d),  
15 including class one and class two property; and

16 (ii) B is the total statewide market value of all  
17 commercial property, except class seventeen property, as  
18 commercial property is described in 15-1-101(1)(d),  
19 including class one and class two property.

20 (b) In accordance with the commercial property taxable  
21 value adjustment procedure set forth in 15-6-145(4) for  
22 railroad property, the department shall determine the  
23 value-weighted mean sales assessment ratio "M" and make a  
24 similar adjustment prior to calculating "A" for airline  
25 property, in order to equalize airline taxable values.

1 (4) For the purpose of complying with the Tax Equity  
2 and Fiscal Responsibility Act of 1982, as it read on January  
3 1, 1986, the rate "R" referred to in this section is the  
4 equalized average tax rate generally applicable to  
5 commercial and industrial property, except class seventeen  
6 property, as commercial property is defined in  
7 15-1-101(1)(d)."

8 **Section 97.** Section 15-6-201, MCA, is amended to read:

9 "15-6-201. Exempt categories. (1) The following  
10 categories of property are exempt from taxation:

11 (a) all personal property;

12 ~~(a)~~(b) the property of:

13 (i) the United States, the state, counties, cities,  
14 towns, school districts, except, if congress passes  
15 legislation that allows the state to tax property owned by  
16 an agency created by congress to transmit or distribute  
17 electrical energy, the property constructed, owned, or  
18 operated by a public agency created by the congress to  
19 transmit or distribute electric energy produced at privately  
20 owned generating facilities (not including rural electric  
21 cooperatives);

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

24 (iii) municipal corporations; and

25 (iv) public libraries;

1 ~~(b)~~(c) buildings, with land they occupy and  
2 ~~furnishings-therein~~ improvements thereon, owned by a church  
3 and used for actual religious worship or for residences of  
4 the clergy, together with adjacent land reasonably necessary  
5 for convenient use of the buildings;

6 ~~(c)~~(d) property used exclusively for agricultural and  
7 horticultural societies, for educational purposes, and for  
8 nonprofit health care facilities, as defined in 50-5-101,  
9 licensed by the department of health and environmental  
10 sciences and organized under Title 35, chapter 2 or 3. A  
11 health care facility that is not licensed by the department  
12 of health and environmental sciences and organized under  
13 Title 35, chapter 2 or 3, is not exempt.

14 ~~(d)~~(e) property that meets the following conditions:

15 (i) is owned and held by any association or  
16 corporation organized under Title 35, chapter 2, 3, 20, or  
17 21;

18 (ii) is devoted exclusively to use in connection with a  
19 cemetery or cemeteries for which a permanent care and  
20 improvement fund has been established as provided for in  
21 Title 35, chapter 20, part 3; and

22 (iii) is not maintained and operated for private or  
23 corporate profit;

24 ~~(e)~~(f) institutions of purely public charity;

25 ~~(f)~~(g) evidence of debt secured by mortgages of record

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

2 ~~(g)(h)~~ public art galleries and public observatories

3 not used or held for private or corporate profit;

4 ~~(h)--all-household-goods-and-furniture,--including--but~~

5 ~~not-limited-to-clocks, musical instruments, sewing machines,~~

6 ~~and--wearing--apparel--of-members-of-the-family, used-by-the~~

7 ~~owner-for-personal-and-domestic-purposes-or--for--furnishing~~

8 ~~or-equipping-the-family-residence;~~

9 ~~(i)--a--truck-canopy-cover-or-topper-weighing-less-than~~

10 ~~300-pounds--and--having--no--accommodations--attached;--This~~

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

12 ~~61-3-537;~~

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

14 ~~owner-for-personal-transportation-purposes;~~

15 ~~(k)--motor-homes, travel trailers, and campers;~~

16 ~~(l)--all-watercraft;~~

17 ~~(m)(i)~~ land, fixtures, buildings, and improvements

18 owned by a cooperative association or nonprofit corporation

19 organized to furnish potable water to its members or

20 customers for uses other than the irrigation of agricultural

21 land;

22 ~~(n)(j)~~ the right of entry that is a property right

23 reserved in land or received by mesne conveyance (exclusive

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

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

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

2 ~~(o)(k)~~ property owned and used by a corporation or

3 association organized and operated exclusively for the care

4 of the developmentally disabled, mentally ill, or

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

6 not operated for gain or profit;

7 ~~(p)(l)~~ all farm buildings with a market value of less

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

9 a market value of less than \$100; and

10 ~~(q)(m)~~ property owned by a nonprofit corporation

11 organized to provide facilities primarily for training and

12 practice for or competition in international sports and

13 athletic events and not held or used for private or

14 corporate gain or profit. For purposes of this subsection

15 ~~(q)~~ ~~(m)~~, "nonprofit corporation" means an organization

16 exempt from taxation under section 501(c) of the Internal

17 Revenue Code and incorporated and admitted under the Montana

18 Nonprofit Corporation Act.

19 ~~(r)--provided-the-tools-are-owned-by-the-taxpayer,--the~~

20 ~~first--\$15,000--or--less--of--market-value-of-tools-that-are~~

21 ~~customarily-hand-held-and-that-are-used-to:~~

22 ~~(i)--construct, repair, and--maintain--improvements--to~~

23 ~~real-property, or~~

24 ~~(ii)--repair---and---maintain---machinery,---equipment,~~

25 ~~appliances, or other personal property;~~

1 ~~(s) harness, saddlery, and other tack equipment, and~~  
 2 ~~(t) a title plant owned by a title insurer or a title~~  
 3 ~~agent as those terms are defined in 33-25-105.~~

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

8 (b) The terms "public art galleries" and "public  
 9 observatories" include only those art galleries and  
 10 observatories, whether of public or private ownership, that  
 11 are open to the public without charge at all reasonable  
 12 hours and are used for the purpose of education only.

13 (3) The following portions of the appraised value of a  
 14 capital investment made after January 1, 1979, in a  
 15 recognized nonfossil form of energy generation, as defined  
 16 in 15-32-102, are exempt from taxation for a period of 10  
 17 years following installation of the property:

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

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

22 **Section 98.** Section 15-6-203, MCA, is amended to read:

23 "**15-6-203. Veterans' clubhouse exemption --**  
 24 **incompetent veterans' trusts.** (1) When a clubhouse or  
 25 building erected by or belonging to any society or

1 organization of honorably discharged United States military  
 2 personnel is used exclusively for educational, fraternal,  
 3 benevolent, or purely public charitable purposes rather than  
 4 for gain or profit, ~~together with the library and furniture~~  
 5 ~~necessarily used in any such building,~~ such property is  
 6 exempt from taxation.

7 (2) All taxable property, ~~real or personal,~~ in the  
 8 possession of legal guardians of incompetent veterans of  
 9 U.S. military service or minor dependents of such veterans,  
 10 where such property is funds or derived from funds received  
 11 from the United States as pension, compensation, insurance,  
 12 adjusted compensation, or gratuity, shall be exempt from all  
 13 taxation as property of the United States while held by the  
 14 guardian, but not after title passes to the veteran or minor  
 15 in his or her own right on account of removal of legal  
 16 disability."

17 **Section 99.** Section 15-7-102, MCA, is amended to read:

18 "**15-7-102. Notice of classification and appraisal to**  
 19 **owners -- appeals.** (1) It shall be the duty of the  
 20 department of revenue, through its agent as specified in  
 21 subsection (2), to cause to be mailed to each owner and  
 22 purchaser under contract for deed a notice of the  
 23 classification of the land owned or being purchased by him  
 24 and the appraisal of the improvements on the land only if  
 25 one or more of the following changes pertaining to the land

1 or improvements have been made since the last notice:  
 2 (a) change in ownership;  
 3 (b) change in classification;  
 4 (c) change in valuation; or  
 5 (d) addition or subtraction of ~~personal~~---property  
 6 improvements affixed to the land.

7 (2) The county assessor shall assign each assessment  
 8 to the correct owner or purchaser under contract for deed  
 9 and mail the notice of classification and appraisal on a  
 10 standardized form, adopted by the department, containing  
 11 sufficient information in a comprehensible manner designed  
 12 to fully inform the taxpayer as to the classification and  
 13 appraisal of his property and of changes over the prior tax  
 14 year.

15 (3) If the owner of any land and improvements is  
 16 dissatisfied with the appraisal or classification of his  
 17 land or improvements, he may submit his objection in writing  
 18 to the department's agent. The department shall give  
 19 reasonable notice to the taxpayer of the time and place of  
 20 hearing and hear any testimony or other evidence that the  
 21 taxpayer may desire to produce at that time and afford the  
 22 opportunity to other interested persons to produce evidence  
 23 at the hearing. After the hearing, the department shall  
 24 determine the true and correct appraisal and classification  
 25 of the land or improvements and notify the taxpayer of its

1 determination. In the notification, the department must  
 2 state its reasons for revising the classification or  
 3 appraisal. When the proper appraisal and classification have  
 4 been determined, the land shall be classified and the  
 5 improvements appraised in the manner ordered by the  
 6 department.

7 (4) Whether a hearing as provided in subsection (3) is  
 8 held or not, the department or its agent may not adjust an  
 9 appraisal or classification upon taxpayer's objection  
 10 unless:

11 (a) the taxpayer has submitted his objection in  
 12 writing; and

13 (b) the department or its agent has stated its reason  
 14 in writing for making the adjustment.

15 (5) A taxpayer's written objection to a classification  
 16 or appraisal and the department's notification to the  
 17 taxpayer of its determination and the reason for that  
 18 determination are public records. Each county appraiser  
 19 shall make the records available for inspection during  
 20 regular office hours.

21 (6) If any property owner feels aggrieved at the  
 22 classification and/or the appraisal made by the department,  
 23 he shall have the right to appeal to the county tax appeal  
 24 board and then to the state tax appeal board, whose findings  
 25 shall be final subject to the right of review in the courts.

1 The property owner may appeal the base year valuation and  
 2 the classification determination. The property owner may not  
 3 appeal the yearly percentage adjustments that are specified  
 4 in 15-7-111 and that may be made as a result of the sales  
 5 assessment ratio study, the stratum, or area designations as  
 6 specified in 15-7-111.

7 (7) The percentage adjustments, stratum, and area  
 8 designations must be adopted by administrative rule. An  
 9 annual hearing must be held to accept testimony on the  
 10 percentage adjustments, stratum, and area designations. The  
 11 department shall present its findings and the proposed rules  
 12 to the revenue oversight committee."

13 **Section 100.** Section 15-8-104, MCA, is amended to  
 14 read:

15 "15-8-104. Department audit of taxable value -- costs  
 16 of audit paid by department. (1) When in the judgment of the  
 17 director of revenue it is necessary, audits may be made for  
 18 the purpose of determining the taxable value of net proceeds  
 19 of mines and oil and gas wells and all other types of  
 20 property subject to ad valorem taxation.

21 ~~{2}--The-department-of-revenue-shall-conduct-audits--of~~  
 22 ~~the-assessment-of-all-commercial-personal-property-to-assure~~  
 23 ~~that--the--value--of--the-property-in-those-classes-reflects~~  
 24 ~~market-value--Because--the--assessed--value--of--commercial~~  
 25 ~~personal--property--is--defined--as--market--value--under~~

1 ~~15-8-111{2}, the audits conducted by the department shall be~~  
 2 ~~primarily directed toward ensuring that all taxable personal~~  
 3 ~~property is reported to the department.~~

4 ~~{3}{2}~~ The cost of any audit performed under  
 5 subsection (1) ~~or {2}~~ shall be paid by the department."

6 **Section 101.** Section 15-8-111, MCA, is amended to  
 7 read:

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

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

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

20 (c) Except as provided in subsection (3), the market  
 21 value of all motor trucks; agricultural tools, implements,  
 22 and machinery; and vehicles of all kinds, including but not  
 23 limited to boats and all watercraft, is the average  
 24 wholesale value shown in national appraisal guides and  
 25 manuals or the value of the vehicle before reconditioning



1 and profit margin. The department of revenue shall prepare  
2 valuation schedules showing the average wholesale value when  
3 no national appraisal guide exists.

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

8 ~~(a) the wholesale value for agricultural implements~~  
9 ~~and machinery is the loan value as shown in the Official~~  
10 ~~Guide, Tractor and Farm Equipment, published by the National~~  
11 ~~Farm and Power Equipment Dealers Association, St. Louis,~~  
12 ~~Missouri;~~

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

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

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

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

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

25 (a) Properties in 15-6-131, under class one, are

1 assessed at 100% of the annual net proceeds after deducting  
2 the expenses specified and allowed by 15-23-503 or, if  
3 applicable, as provided in 15-23-515.

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

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

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

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

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

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

20 (c) the land is outside an incorporated city or town.  
21 (Subsection (6)(d) terminates January 1, 1991--sec. 10, Ch.  
22 681, L. 1985.)"

23 **Section 102.** Section 15-8-201, MCA, is amended to  
24 read:

25 "15-8-201. General assessment day. (1) The department

1 of revenue or its agent must, between January 1 and the  
 2 second Monday of July in each year, ascertain the names of  
 3 all taxable inhabitants and assess all property subject to  
 4 taxation in each county. The department or its agent must  
 5 assess property to the person by whom it was owned or  
 6 claimed or in whose possession or control it was at midnight  
 7 of January 1 next preceding. It must also ascertain and  
 8 assess all mobile homes arriving in the county after  
 9 midnight of January 1 next preceding that become an  
 10 improvement to real property. No mistake in the name of the  
 11 owner or supposed owner of real property, however, renders  
 12 the assessment invalid.

13 ~~{2}--The procedure provided by this section may not~~  
 14 ~~apply to:~~

15 ~~{a}--motor vehicles that are required by 15-8-202 to be~~  
 16 ~~assessed on January 1 or upon their anniversary registration~~  
 17 ~~date;~~

18 ~~{b}--motor homes, travel trailers, and campers;~~

19 ~~{c}--watercraft;~~

20 ~~{d}--livestock;~~

21 ~~{e}--property defined in 61-1-104 as "special mobile~~  
 22 ~~equipment" that is subject to assessment for personal~~  
 23 ~~property taxes on the date that application is made for a~~  
 24 ~~special mobile equipment plate; and~~

25 ~~{f}--mobile homes held by a distributor or dealer of~~

1 ~~mobile homes as a part of his stock in trade.~~

2 ~~{3}{2} Credits must be assessed as provided in~~  
 3 ~~15-1-101(1)(f)."~~

4 **Section 103.** Section 15-8-301, MCA, is amended to  
 5 read:

6 "15-8-301. Statement -- what to contain. (1) The  
 7 department of revenue or its agent must require from each  
 8 person a statement under oath setting forth specifically all  
 9 the real ~~and personal~~ property and improvements owned by  
 10 such person or in his possession or under his control at  
 11 midnight on January 1. Such statement must be in writing,  
 12 showing separately:

13 (a) all property belonging to, claimed by, or in the  
 14 possession or under the control or management of such  
 15 person;

16 (b) all property belonging to, claimed by, or in the  
 17 possession or under the control or management of any firm of  
 18 which such person is a member;

19 (c) all property belonging to, claimed by, or in the  
 20 possession or under the control or management of any  
 21 corporation of which such person is president, secretary,  
 22 cashier, or managing agent;

23 (d) the county in which such property is situated or  
 24 in which it is liable to taxation and (if liable to taxation  
 25 in the county in which the statement is made) also the city,

1 town, school district, road district, or other revenue  
2 districts in which it is situated;

3 (e) an exact description of all lands in parcels or  
4 subdivisions not exceeding 640 acres each and the sections  
5 and fractional sections of all tracts of land containing  
6 more than 640 acres which have been sectionized by the  
7 United States government; improvements and---personal  
8 property;---all---taxable---state;---county;---city;---or---other  
9 municipal-or-public-bonds---and---the---taxable---bonds---of---any  
10 person;---firm;---or---corporation---and-deposits-of-money;---gold  
11 dust;---or---other---valuables---and---the---names---of---the---persons---with  
12 whom---such---deposits---are---made---and---the---places---in---which---they---may  
13 be---found; all mortgages, deeds of trust, contracts, and  
14 other obligations by which a debt is secured and the  
15 property in the county affected thereby;

16 (f)---all---solvent-credits;---secured-or-unsecured;---due-or  
17 owing-to-such-person-or-any-firm-of-which-he-is-a-member---or  
18 due---or---owing---to---any---corporation---of---which---he---is---president;  
19 secretary;---cashier;---or---managing-agent;

20 (g)(f) all depots, shops, stations, buildings, and  
21 other structures erected on the space covered by the  
22 right-of-way and all other property owned by any person  
23 owning or operating any railroad within the county.

24 (2) Whenever one member of a firm or one of the proper  
25 officers of a corporation has made a statement showing the

1 property of the firm or corporation, another member of the  
2 firm or another officer need not include such property in  
3 the statement made by him but this statement must show the  
4 name of the person or officer who made the statement in  
5 which such property is included.

6 (3) The fact that such statement is not required or  
7 that a person has not made such statement, under oath or  
8 otherwise, does not relieve his property from taxation."

9 **Section 104.** Section 15-8-407, MCA, is amended to  
10 read:

11 "15-8-407. Railroads and other franchises. (1) The  
12 franchise, roadway, roadbed, rails, rolling-stock, and all  
13 other operating taxable property of all railroads operated  
14 in more than one county or more than one state must be  
15 assessed by the department of revenue as hereinafter  
16 provided.

17 (2) Other franchises, if granted by the authorities of  
18 a county or city, must be assessed in the county or city  
19 within which they were granted; if granted by any other  
20 authority, they must be assessed in the county in which the  
21 corporations, firms, or persons owning or holding them have  
22 their principal place of business."

23 **Section 105.** Section 15-8-701, MCA, is amended to  
24 read:

25 "15-8-701. Assessment book -- definition -- listing

1 property in. (1) Unless the context clearly indicates  
 2 otherwise, the term "assessment book" means the record kept  
 3 in each county by the agent of the department of revenue and  
 4 which contains the information described in subsection (3).  
 5 The term includes, in a county wherein the assessment book  
 6 is kept on a computer system, the information on the system  
 7 analogous to the information described in subsection (3).

8 (2) The form of the assessment book must be as  
 9 directed by the department.

10 (3) The department must prepare an assessment book  
 11 with appropriate headings, alphabetically arranged, in which  
 12 must be listed all property within the state and in which  
 13 must be specified, in separate columns under the appropriate  
 14 head:

15 (a) the name of the person to whom the property is  
 16 assessed;

17 (b) land, by township, range, section or fractional  
 18 section, and when such land is not a United States land  
 19 division or subdivision, by metes and bounds or other  
 20 description sufficient to identify it, giving an estimate of  
 21 the number of acres, not exceeding in each and every tract  
 22 640 acres, locality, and the improvements thereon;

23 (c) city and town lots, naming the city or town and  
 24 the number of the lot and block, according to the system of  
 25 numbering in such city or town, and the value of same with

1 improvements thereon;

2 (d) all taxable ~~personal~~ property improvements,  
 3 showing the number, kind, amount, and quality; but a failure  
 4 to enumerate in detail such ~~personal~~ property does not  
 5 invalidate the assessment;

6 (e) the assessed value of real estate other than city  
 7 or town lots;

8 (f) the assessed value of city and town lots with  
 9 improvements thereon, except that a lot and improvements  
 10 thereon shall be separately listed when required under  
 11 15-8-111;

12 (g) the assessed value of improvements on real estate  
 13 assessed to persons other than the owners of the real  
 14 estate. Taxable improvements owned by a person, located upon  
 15 land exempt from taxation, shall, as to the manner of  
 16 assessment, be assessed as other real estate upon the  
 17 assessment roll. No value, however, may be assessed against  
 18 the exempt land, nor under any circumstances may the land be  
 19 charged with or become responsible for the assessment made  
 20 against any taxable improvements located thereon.

21 ~~(h) the assessed value of all taxable personal~~  
 22 ~~property;~~

23 ~~(i)~~ (h) the school, road, and other revenue districts  
 24 in which each piece of property assessed is situated;

25 ~~(j)~~ (i) the total assessed value of all property."

1       **Section 106.** Section 15-8-706, MCA, is amended to  
2 read:

3       "**15-8-706. Statement by agent to the department.** (1)  
4 On the second Monday in July in each year, the agent of the  
5 department of revenue in each county must transmit to the  
6 department a statement showing:

- 7       ~~(a) the several kinds of personal property;~~
- 8       ~~(b) the average and total value of each kind;~~
- 9       ~~(c) the number of livestock;~~
- 10       ~~(d) when practicable, the separate value of each class~~  
11 ~~of land, specifying the classes and the number of acres in~~  
12 ~~each.~~

13       (2) An agent of the department who purposely or  
14 negligently fails to perform his duty under this section or  
15 a deputy or member of the agent's staff delegated such duty  
16 who purposely or negligently fails to perform such duty is  
17 guilty of official misconduct under 45-7-401."

18       **Section 107.** Section 15-10-106, MCA, is amended to  
19 read:

20       "**15-10-106. (Temporary) Tax levy for university**  
21 **system.** There is levied upon the taxable value of all real  
22 ~~and personal~~ property subject to taxation in the state of  
23 Montana 6 mills or so much thereof as is necessary to raise  
24 the amount appropriated by the legislature from the state  
25 special revenue fund for the support, maintenance, and

1 improvement of the Montana university system, as provided in  
2 referendum measure No. 106 passed by vote of the people at  
3 the general election held November 8, 1988. The funds  
4 raised from the levy must be deposited in the state special  
5 revenue fund. (Terminates January 1, 1999--sec. 3, Ch. 588,  
6 L. 1989.)"

7       **Section 108.** Section 15-10-302, MCA, is amended to  
8 read:

9       "**15-10-302. County clerk -- duplicate statement.** The  
10 county clerk and recorder shall, on or before the second  
11 Monday in August of each year, prepare from the assessment  
12 book of such year, as corrected by the department of revenue  
13 or its agent, duplicate statements showing in separate  
14 columns:

- 15       (1) the total value of all property;
- 16       (2) the value of real estate, including mining claims,  
17 stated separately;
- 18       (3) the value of the improvements thereon;
- 19       ~~(4) the value of taxable personal property;~~
- 20       ~~(5) (4)~~ the number of acres of land and the number of  
21 mining claims, stated separately."

22       **Section 109.** Section 15-16-117, MCA, is amended to  
23 read:

24       "**15-16-117. Personal-----property-----treasurer's**  
25 **Treasurer's duty to collect certain taxes.** (1) The county

1 treasurer shall demand payment of poor taxes, authorized by  
 2 53-2-321, and road taxes, authorized by 7-14-2206 or  
 3 7-14-2501 through 7-14-2504, of every person liable therefor  
 4 whose name does not appear on the assessment lists. On the  
 5 neglect or refusal of any such person to pay the same, the  
 6 treasurer shall collect the taxes by seizure and sale of any  
 7 taxable property owned by the person.

8 (2) These taxes must be added upon the assessment  
 9 lists to other property taxes of persons paying taxes upon  
 10 real ~~and personal~~ property and paid to the county treasurer  
 11 at the time of payment of other taxes.

12 (3) The procedure for the sale of such property by the  
 13 county treasurer for such taxes must be regulated by  
 14 ~~15-16-113~~ and 15-17-911.

15 (4) The provisions of this section do not apply to  
 16 property for which delinquent property taxes have been  
 17 suspended or canceled under the provisions of Title 15,  
 18 chapter 24, part 17. (Subsection (4) terminates December  
 19 31, 1993--sec. 17, Ch. 631, L. 1989.)"

20 **Section 110.** Section 15-16-601, MCA, is amended to  
 21 read:

22 "15-16-601. Taxes or penalties illegally collected or  
 23 duplicate taxes to be refunded. (1) (a) Any taxes, interest,  
 24 penalties, or costs paid more than once or erroneously or  
 25 illegally collected or any amount of tax paid for which a

1 taxpayer is entitled to a refund under 15-16-612 or  
 2 ~~15-16-613~~--or any part or portion of taxes paid which were  
 3 mistakenly computed on government bonus or subsidy received  
 4 by the taxpayer may, by order of the board of county  
 5 commissioners, be refunded by the county treasurer. Whenever  
 6 any payment has been made to the state treasurer as provided  
 7 in 15-1-504 and it afterwards appears to the satisfaction of  
 8 the board of county commissioners that a portion of the  
 9 money so paid should be refunded as herein provided, the  
 10 board of county commissioners may refund the portion of the  
 11 taxes, interest, penalties, and costs so paid to the state  
 12 treasurer, and upon the rendering of the report required by  
 13 15-1-505 the county clerk and recorder shall certify to the  
 14 state auditor, in such form as the state auditor may  
 15 prescribe, all amounts so refunded. In the next settlement  
 16 of the county treasurer with the state, the state auditor  
 17 shall give the county treasurer credit for the state's  
 18 portion of the amounts so refunded.

19 (b) When any part of the taxes, interest, penalties,  
 20 or costs hereinbefore referred to were levied in behalf of  
 21 any school district or municipal or other public corporation  
 22 and collected by the county treasurer, the same may be  
 23 refunded upon the order of the board of county  
 24 commissioners.

25 (c) No order for the refund of any taxes, interest,

1 penalties, or costs under this section shall be made except  
 2 upon a claim therefor, verified by the person who has paid  
 3 the taxes, interest, penalties, or costs or his guardian or,  
 4 in case of his death, by his executor or administrator,  
 5 which claim must be filed within 10 years after the date  
 6 when the second half of such taxes would have become  
 7 delinquent if the same had not been paid.

8 (d) All refunds ordered to be paid by the board of  
 9 county commissioners must be paid by the county treasurer  
 10 out of the general fund of the county, and the county  
 11 treasurer shall then make such transfers from other county  
 12 funds and from state, school district, and other public  
 13 corporation funds in his possession as may be necessary to  
 14 reimburse the county general fund for payments made  
 15 therefrom.

16 (2) Upon the entering of judgment under 15-2-306, the  
 17 county commissioners of the affected county shall order a  
 18 refund of such portion of the taxes as the state tax appeal  
 19 board has judged should be refunded."

20 **Section 111.** Section 15-16-611, MCA, is amended to  
 21 read:

22 "15-16-611. Reduction of property tax for property  
 23 destroyed by natural disaster. (1) The department of revenue  
 24 shall, upon showing by a taxpayer that some or all of the  
 25 improvements on his real property ~~or a trailer or mobile~~

1 ~~home-as-described-in-15-6-142~~ have been destroyed to such an  
 2 extent that such improvements have been rendered unsuitable  
 3 for their previous use by natural disaster, adjust the  
 4 taxable value on the property, accounting for the  
 5 destruction.

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

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

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

15 (b) multiply the amount of tax levied and assessed on  
 16 the adjusted taxable value of the property for the remainder  
 17 of the year by the ratio that the number of days remaining  
 18 in the year after the destruction of the property bears to  
 19 365.

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

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

1       **Section 112.** Section 15-17-911, MCA, is amended to  
2 read:

3       "15-17-911. Sale of personal property for delinquent  
4 taxes -- fee -- disposition of proceeds -- unsold property.

5       (1) The tax on personal property may be collected and  
6 payment enforced by the seizure and sale of any personal  
7 property in the possession of the person assessed. Seizure  
8 and sale are authorized at any time after the date the taxes  
9 become delinquent or by the institution of a civil action  
10 for its collection in any court of competent jurisdiction.  
11 A resort to one method does not bar the right to resort to  
12 any other method. Any of the methods provided may be used  
13 until the full amount of the tax is collected.

14       (2) The provisions of ~~15-16-113~~ and this section apply  
15 to a seizure and sale under subsection (1).

16       (3) A sale under subsection (1) must be at public  
17 auction. The minimum bid for any property offered for sale  
18 must be of a sufficient amount to pay the delinquent taxes,  
19 including penalties, interest, and costs.

20       (4) For seizing and selling personal property, the  
21 treasurer shall charge \$25, plus the mileage allowance  
22 provided by law to the sheriff, plus reasonable expenses for  
23 seizing, handling, keeping, or caring for any property so  
24 seized. The charge and other costs may be charged only when  
25 property is actually seized and offered for sale or sold.

1       (5) On payment of the price bid for any property sold  
2 as provided in this section, delivery of the property, with  
3 a bill of sale, vests the title of the property in the  
4 purchaser.

5       (6) (a) All money collected from the sale of property  
6 in liquidation of the delinquency, including delinquent  
7 taxes, penalties, and interest but not costs, must be  
8 credited by the treasurer to the appropriate funds.

9       (b) Any money collected in excess of the delinquent  
10 tax, penalties, interest, costs, and charges must be  
11 returned to the person owning the property prior to the  
12 sale, if known. If the person does not claim the excess  
13 immediately following the sale, the treasurer shall deposit  
14 the money in the county treasury for a period of 1 year from  
15 the date of sale. If the person has not claimed the excess  
16 within 1 year from the date of sale, the county treasurer  
17 shall deposit the amount in the county general fund and the  
18 person has no claim to it thereafter.

19       (7) Any property seized for the purpose of liquidating  
20 a delinquency by a tax sale that remains unsold following a  
21 sale may be left at the place of sale at the risk of the  
22 owner.

23       (8) The provisions of this section do not apply to  
24 property for which delinquent property taxes have been  
25 suspended or canceled under the provisions of Title 15,



1 chapter 24, part 17. (Subsection (8) terminates December  
2 31, 1993--sec. 17, Ch. 631, L. 1989.)"

3 **Section 113.** Section 15-23-101, MCA, is amended to  
4 read:

5 "15-23-101. Properties centrally assessed. The  
6 department of revenue shall centrally assess each year:

7 (1) the franchise, roadway, roadbeds, rails, ~~rolling~~  
8 ~~stock~~, and all other ~~operating taxable~~ property of railroads  
9 operating in more than one county in the state or more than  
10 one state;

11 (2) property owned by a corporation or other person  
12 operating a single and continuous property operated in more  
13 than one county or more than one state, including telegraph,  
14 telephone, microwave, electric power or transmission lines;  
15 natural gas or oil pipelines; canals, ditches, flumes, or  
16 like properties and including, if congress passes  
17 legislation that allows the state to tax property owned by  
18 an agency created by congress to transmit or distribute  
19 electrical energy, property constructed, owned, or operated  
20 by a public agency created by the congress to transmit or  
21 distribute electric energy produced at privately owned  
22 generating facilities (not including rural electric  
23 cooperatives);

24 (3) all taxable property of scheduled airlines;

25 (4) the net proceeds of mines and of oil and gas

1 wells;

2 (5) the gross proceeds of coal mines; and

3 (6) property described in subsections (1) and (2)  
4 which is subject to the provisions of Title 15, chapter 24,  
5 part 12."

6 **Section 114.** Section 15-23-103, MCA, is amended to  
7 read:

8 "15-23-103. Due date of reports and returns --  
9 extensions. (1) Except as provided in subsection (2) and  
10 15-23-602, each report or return described in 15-23-301,  
11 ~~15-23-402~~, 15-23-502, or 15-23-701 shall be delivered to the  
12 department on or before March 31 each year.

13 (2) Each report or return for a natural gas or oil  
14 pipeline described in 15-23-301 must be delivered to the  
15 department on or before April 15 each year.

16 (3) Each report described in 15-23-201 or 15-23-515  
17 must be delivered to the department before April 15 each  
18 year.

19 (4) The department may for good cause extend the time  
20 for filing a return or report for not more than 30 days."

21 **Section 115.** Section 15-23-105, MCA, is amended to  
22 read:

23 "15-23-105. Apportionment among counties. The  
24 department shall apportion the value of property assessed  
25 under 15-23-101, or 15-23-202 ~~or--15-23-403~~ among the

1 counties in which such property is located. Apportionment  
 2 shall be on a mileage basis or on the basis of the original  
 3 installed cost of the centrally assessed property located in  
 4 the respective counties. If the property is of such a  
 5 character that its value cannot reasonably be apportioned on  
 6 the basis of mileage or on the basis of the original  
 7 installed cost of the centrally assessed property located in  
 8 the respective counties, the department may adopt such other  
 9 method or basis of apportionment as may be just or proper."

10 **Section 116.** Section 15-23-106, MCA, is amended to  
 11 read:

12 "15-23-106. Transmission to the counties. (1) On or  
 13 before July 1, the department shall transmit to its agent in  
 14 each county a statement listing:

15 (a) the assessed value of railroad property, as  
 16 determined under 15-23-202, apportioned to the county,  
 17 including the length or other description of such property;

18 (b) the assessed value of utility property, as  
 19 determined under 15-23-303, apportioned to the county,  
 20 including the length or other description of such property;

21 (c) the assessed value of property of airline  
 22 companies ~~as determined under 15-23-403~~, apportioned to the  
 23 county; 90% of the value of the property of airline  
 24 companies apportioned to any county by reason of a state  
 25 airport being located in the county shall be stated

1 separately from the remaining assessed value of the property  
 2 of airline companies apportioned to the county;

3 (d) the assessed value of the net proceeds and  
 4 royalties from mines and oil and gas wells in the county, as  
 5 determined under 15-23-503, 15-23-505, 15-23-515, 15-23-603,  
 6 and 15-23-605; and

7 (e) the assessed value of the gross proceeds from coal  
 8 mines, as described in 15-23-701.

9 (2) The agent of the department shall enter the  
 10 assessed values so transmitted in the assessment book in a  
 11 manner prescribed by the department."

12 **Section 117.** Section 15-23-201, MCA, is amended to  
 13 read:

14 "15-23-201. Assessment of railroads. The president,  
 15 secretary, or managing agent or such other officer as the  
 16 department of revenue may designate of any corporation and  
 17 each person or association of persons owning or operating  
 18 any railroad in more than one county in this state or more  
 19 than one state must on or before April 15 each year furnish  
 20 the department a statement signed and sworn to by one of  
 21 such officers or by the person or one of the persons forming  
 22 such association, showing in detail for the year ending  
 23 December 31 immediately preceding:

24 (1) the whole number of miles of railroad in the state  
 25 and, where the line is partly out of the state, the whole

1 number of miles without the state and the whole number  
 2 within the state, owned or operated by such corporation,  
 3 person, or association;  
 4 (2) the value of the roadway, roadbed, and rails of  
 5 the whole railroad and the value of the same within the  
 6 state;  
 7 (3) the width of the right-of-way;  
 8 ~~(4) the number of each kind of all rolling stock used~~  
 9 ~~by such corporation, person, or association in operating the~~  
 10 ~~entire railroad, including the part without the state;~~  
 11 ~~(5) the number, kind, and value of rolling stock owned~~  
 12 ~~and operated in the state;~~  
 13 ~~(6) the number, kind, and value of rolling stock used~~  
 14 ~~in the state but not owned by the party making the returns;~~  
 15 ~~(7) the number, kind, and value of rolling stock owned~~  
 16 ~~but used out of the state, either upon divisions of road~~  
 17 ~~operated by the party making the returns or by and upon~~  
 18 ~~other railroads;~~  
 19 ~~(8) (4) the whole number of sidetracks in each county,~~  
 20 ~~including the number of miles of track in each railroad yard~~  
 21 ~~in the state;~~  
 22 ~~(9) the number of each kind of rolling stock used in~~  
 23 ~~operating the entire railroad, including the part without~~  
 24 ~~the state, which must include a detailed statement of the~~  
 25 ~~number and value thereof of all engines, passenger, mail,~~

1 ~~express, baggage, freight, and other cars, or property owned~~  
 2 ~~or leased by such corporation, person, or association;~~  
 3 ~~(10) the number of sleeping and dining cars not owned~~  
 4 ~~by such corporation, person, or association but used in~~  
 5 ~~operating the railroads of such corporation, person, or~~  
 6 ~~association in the state or on the line of the road without~~  
 7 ~~the state during each month of the year for which the return~~  
 8 ~~is made, also the number of miles each month the cars have~~  
 9 ~~been run or operated within and without the state;~~  
 10 ~~(11) (5) a description of the road, giving the points~~  
 11 ~~of entrance into and the points of exit from each county,~~  
 12 ~~with a statement of the number of miles in each county. When~~  
 13 ~~a description of the road has once been given, no other~~  
 14 ~~annual description thereof is necessary unless the road has~~  
 15 ~~been changed. Whenever the road or any portion of the road~~  
 16 ~~is advertised to be sold or is sold for taxes, either state~~  
 17 ~~or county, no other description is necessary than that given~~  
 18 ~~by, and the same is conclusive upon, the person,~~  
 19 ~~corporation, or association giving the description. No~~  
 20 ~~assessment is invalid on account of a misdescription of the~~  
 21 ~~railroad or the right-of-way for the same. If such statement~~  
 22 ~~is not furnished as above provided, the assessment made by~~  
 23 ~~the department upon the property of the corporation, person,~~  
 24 ~~or association failing to furnish the statement is~~  
 25 ~~conclusive and final.~~

1        ~~(12)~~(6) the gross earnings of the entire road;  
 2        ~~(13)~~(7) the gross earnings of the road within the  
 3 state and, if the railroad is let to other operators, how  
 4 much was derived by the lessor as rental;  
 5        ~~(14)~~(8) the cost of operating the entire road,  
 6 exclusive of sinking fund, expenses of land department, and  
 7 money paid to the United States;  
 8        ~~(15)~~(9) net income for such year and amount of  
 9 dividend declared;  
 10        ~~(16)~~(10) capital stock authorized;  
 11        ~~(17)~~(11) capital stock paid in;  
 12        ~~(18)~~(12) funded debt;  
 13        ~~(19)~~(13) number of shares authorized;  
 14        ~~(20)~~(14) number of shares of stock issued;  
 15        ~~(21)~~(15) any other facts the department may require."

16        **Section 118.** Section 15-23-202, MCA, is amended to  
 17 read:

18        "15-23-202. **Assessment -- how made.** (1) The department  
 19 must assess the franchise, roadway, roadbed, rails, ~~rolling~~  
 20 ~~stock~~ and all other operating taxable properties of all  
 21 railroads operated in more than one county or more than one  
 22 state. ~~All rolling-stock-must-be-assessed-in-the-name-of-the~~  
 23 ~~person--owning,--leasing,--or--using--the--same--Assessment-must~~  
 24 ~~be-made-to-the-person-owning-or-leasing-or--using--the--same~~  
 25 ~~and--must-be-made-upon-the-entire-railroad-within-the-state--~~

1 The depots, stations, shops, and buildings erected upon the  
 2 space covered by the right-of-way and all other taxable  
 3 property owned or leased by such person, except as above  
 4 provided, shall be assessed by the department.

5        (2) In determining the taxable value of railroad  
 6 property, the department shall determine the percentage rate  
 7 "R" provided for in 15-6-145 in order to achieve compliance  
 8 with the requirements of the federal Railroad Revitalization  
 9 and Regulatory Reform Act of 1976, as amended."

10        **Section 119.** Section 15-23-501, MCA, is amended to  
 11 read:

12        "15-23-501. **Taxation of mines.** All mines and mining  
 13 claims, both placer and rock in place, containing or bearing  
 14 gold, silver, copper, lead, coal, or other valuable mineral  
 15 deposits, after purchase thereof from the United States,  
 16 shall be taxed as all other land is taxed. All ~~machinery~~  
 17 ~~used--in--mining--and--all~~ real property and surface  
 18 improvements upon or appurtenant to mines and mining claims  
 19 which have a value separate and independent of such mines or  
 20 mining claims and the annual net proceeds of all mines and  
 21 mining claims shall be taxed ~~as-other-personal-property.~~"

22        **Section 120.** Section 15-23-503, MCA, is amended to  
 23 read:

24        "15-23-503. **Net proceeds -- how computed.** (1) The  
 25 department of revenue shall calculate from the returns the

1 gross product yielded from a mine and its gross value for  
 2 the year covered by the statement and shall calculate and  
 3 compute the net proceeds of the mine yielded to the person  
 4 engaged in mining. Except as provided in 15-23-515, net  
 5 proceeds shall be determined by subtracting from the value  
 6 of the gross product of the mine the following:

7 (a) all royalty paid or apportioned in cash or in kind  
 8 by the person engaged in mining;

9 (b) all money expended for necessary labor, machinery,  
 10 and supplies needed and used in the mining operations and  
 11 developments;

12 (c) all money expended for improvements, repairs, and  
 13 betterments necessary in and about the working of the mine,  
 14 except as provided in this section;

15 (d) all money expended for costs of repairs and  
 16 replacements of the milling and reduction works used in  
 17 connection with the mine;

18 (e) depreciation in the sum of 6% of the assessed  
 19 valuation of the milling and reduction works for the  
 20 calendar year for which the return is made;

21 (f) all money actually expended for transporting the  
 22 ores and mineral products or deposits from the mines to the  
 23 mill or reduction works or to the place of sale and for  
 24 extracting the metals and minerals and for marketing the  
 25 product and the conversion of the product into money;

1 (g) all money expended for insurance and welfare and  
 2 retirement costs reported in the statement required in  
 3 15-23-502;

4 (h) all money expended for necessary labor, equipment,  
 5 and supplies for testing minerals extracted to satisfy  
 6 federal or state health and safety laws or regulations, for  
 7 plant security in Montana, for assaying and sampling the  
 8 extracted minerals, for the cost of reclamation at the site  
 9 of the mine, and for engineering and geological services  
 10 conducted in Montana for existing mining operations but not  
 11 including services beyond the stage of reduction and  
 12 beneficiation of the minerals.

13 (2) In computing the deductions allowable for repairs,  
 14 improvements, and betterments to the mine, the department  
 15 shall allow 10% of the cost each year for a period of 10  
 16 years.

17 (3) Money invested in mines or improvements may not be  
 18 allowed as a deduction unless all machinery, equipment, and  
 19 buildings improvements represented by the money are returned  
 20 to the county in which the mine is located for assessment  
 21 purposes at the level of assessment of all other property in  
 22 the county.

23 (4) Money invested in the mines and improvements  
 24 during any year except the year for which such statement is  
 25 made and except as provided in this section may not be

1 included in the expenditures, and the expenditures may not  
2 include the salary or any portion of the salary of any  
3 person or officer not actually engaged in the working of the  
4 mine or superintending the management of the mine."

5 **Section 121.** Section 15-23-504, MCA, is amended to  
6 read:

7 "15-23-504. Lien of tax and penalty. The tax and  
8 penalty so assessed on net proceeds are a lien upon all of  
9 the right, title, and interest of such operator in or to  
10 such mine or mining claim and upon all of the right, title,  
11 and interest in or to the ~~machinery, buildings, tools, and~~  
12 equipment improvements used in operating the mine or mining  
13 claim. The tax and penalty on such net proceeds may be  
14 collected and the payment enforced by the seizure and sale  
15 of the ~~personal~~ property upon which the tax and penalty are  
16 a lien ~~in the same manner as other personal property is~~  
17 ~~seized and sold for delinquent taxes or by the sale of the~~  
18 ~~mine and improvements~~, as provided for the sale of real  
19 property for delinquent taxes, or by the institution of a  
20 civil action for its collection in any court of competent  
21 jurisdiction. Resort to any one of the methods of enforcing  
22 collection shall not bar the right to resort to either or  
23 both of the other methods, but any two or all of the methods  
24 may be used until the full amount of such tax and penalty is  
25 collected."

1 **Section 122.** Section 15-23-508, MCA, is amended to  
2 read:

3 "15-23-508. Lien of tax -- enforcement of payment. (1)  
4 The taxes on such net proceeds must be levied as the levy of  
5 other taxes is provided for, and every such tax is a lien  
6 upon the mine or mining claim from which the ore or mineral  
7 products or deposits are mined or extracted and is a prior  
8 lien upon all ~~personal property and~~ improvements used in the  
9 process of extracting such ore or mineral products or  
10 deposits, provided such ~~personal or~~ real property is or  
11 improvements are owned by or under lease by the person who  
12 extracted said ore, mineral products, or deposits.

13 (2) The tax on such net proceeds may be collected and  
14 the payment thereof enforced by the seizure and sale of the  
15 ~~personal property upon which the tax is a lien in the same~~  
16 ~~manner as other personal property is seized and sold for~~  
17 ~~delinquent taxes or by the sale of the~~ mine or mining claim  
18 and improvements, as provided for the sale of real property  
19 for delinquent taxes, or by the institution of a civil  
20 action for its collection in any court of competent  
21 jurisdiction. A resort to any one of the methods of  
22 enforcing collection, as herein provided for, shall not bar  
23 the right to resort to ~~either or both of~~ the other methods,  
24 ~~but any two or all of the methods herein provided for may be~~  
25 ~~used until the full amount of such tax is collected~~ method."

1       **Section 123.** Section 15-23-522, MCA, is amended to  
2 read:

3       "15-23-522. Surface ground and improvements not  
4 exempt. Nothing in this part must be construed so as to  
5 exempt from taxation the surface ground, improvements,  
6 buildings, erections, or structures, ~~or machinery~~ placed  
7 upon any mine or mining claim or used in connection  
8 therewith or supplies used either in mills, reduction works,  
9 or mines."

10       **Section 124.** Section 15-23-608, MCA, is amended to  
11 read:

12       "15-23-608. Lien of tax and penalty -- enforcement of  
13 payment. (1) The taxes and/or penalties on such net proceeds  
14 must be levied as the levy of other taxes is provided for.  
15 Every such tax and/or penalty is a lien upon the mine from  
16 which the natural gas, petroleum, or crude or mineral oil is  
17 mined or extracted and is a prior lien upon all ~~personal~~  
18 ~~property and~~ improvements used in the process of extracting  
19 such natural gas, petroleum, or crude or mineral oil;  
20 provided, however, that such ~~personal or real~~ property is  
21 owned by or under lease by the person who extracted said  
22 natural gas, petroleum, or other crude or mineral oil.

23       (2) The tax and/or penalty on such net proceeds may be  
24 collected and the payment thereof enforced by the seizure  
25 and sale of the ~~personal property upon which the tax and/or~~

1 ~~penalty is a lien in the same manner as other personal~~  
2 ~~property is seized and sold for delinquent taxes or by the~~  
3 ~~sale of the mine and improvements as provided for the sale~~  
4 ~~of real property for delinquent taxes or by the institution~~  
5 ~~of a civil action for its collection in any court of~~  
6 ~~competent jurisdiction, provided, however, that a A resort~~  
7 ~~to any one of the methods of enforcing collection, as herein~~  
8 ~~provided for, shall not bar the right to resort to either or~~  
9 ~~both of the other methods but that any two or all of the~~  
10 ~~methods herein provided for may be used until the full~~  
11 ~~amount of such tax and/or penalty is collected method."~~

12       **Section 125.** Section 15-23-611, MCA, is amended to  
13 read:

14       "15-23-611. Surface ground and improvements not  
15 exempt. Nothing in this part must be construed so as to  
16 exempt from taxation the surface ground, improvements,  
17 buildings, erections, or structures, ~~or machinery~~ placed  
18 upon any mine ~~or supplies used in connection therewith.~~"

19       **Section 126.** Section 15-23-704, MCA, is amended to  
20 read:

21       "15-23-704. Lien of tax -- enforcement of payment. The  
22 tax on gross proceeds from coal shall be levied as taxes on  
23 other forms of property, and this tax and the severance tax  
24 on coal production are each a lien upon the coal mine and a  
25 prior lien upon all ~~personal~~ taxable property and

1 improvements used to produce the coal. These taxes may be  
 2 collected by the seizure and sale of the ~~personal~~ property  
 3 on which the tax is a lien ~~as provided under -- 15-16-113--and~~  
 4 ~~15-17-911."~~

5 **Section 127.** Section 15-23-806, MCA, is amended to  
 6 read:

7 "15-23-806. Lien of tax. The tax or penalty on gross  
 8 proceeds is a lien upon the mine from which the metal is  
 9 extracted and is a prior lien upon all owned or leased  
 10 ~~personal~~ taxable property and improvements used in  
 11 extracting the ore or metal. The tax shall be collected in  
 12 the manner provided in chapters 16, 17, and 18 of this  
 13 title."

14 **Section 128.** Section 15-24-601, MCA, is amended to  
 15 read:

16 "15-24-601. Assessment and taxation of insurance  
 17 companies. Every insurance company organized under the laws  
 18 of the state shall be assessed and taxed upon its real  
 19 estate and ~~personal~~-property improvements at the same rate  
 20 and in the same manner as other property is assessed and  
 21 taxed in this state."

22 **Section 129.** Section 15-24-701, MCA, is amended to  
 23 read:

24 "15-24-701. Production credit associations --  
 25 assessment and payment. Every production credit association

1 organized under the provisions of section 1131d of Title 12,  
 2 United States Codes Annotated, shall be assessed for and pay  
 3 taxes upon all real ~~and personal~~ property and improvements  
 4 owned by such association."

5 **Section 130.** Section 15-24-801, MCA, is amended to  
 6 read:

7 "15-24-801. Savings and loan associations -- taxation.  
 8 Every savings and loan association subject to regulation  
 9 under Title 32, chapter 2, shall be assessed for and pay  
 10 taxes upon all real ~~and personal~~ property and improvements  
 11 owned by the association. The secretary of an association  
 12 shall furnish to the department of revenue or its agent in  
 13 the county in which the principal office of the association  
 14 is located, within 5 days after demand, a condensed  
 15 statement verified by his oath of the resources and  
 16 liabilities of the association as disclosed by its books at  
 17 noon on January 1 in each year. If the secretary fails to  
 18 make the statement hereby required, the department or its  
 19 agent shall immediately obtain the information from any  
 20 other available source, and for this purpose it shall have  
 21 access to the books of the association. The department or  
 22 its agent shall thereupon make an assessment of the real  
 23 estate and ~~personal--~~property improvements owned by the  
 24 association, which assessment shall be as fair and equitable  
 25 as it may be able to make from the best information



1 available, or the assessor may, for the purpose of the  
 2 assessment, adopt the figures disclosed by any prior report  
 3 made by the association to any state or federal officer  
 4 under a state or federal law. A person required by this  
 5 section to make the statement provided for in this section  
 6 who fails to furnish it is guilty of a misdemeanor."

7 **Section 131.** Section 15-24-1101, MCA, is amended to  
 8 read:

9 "15-24-1101. Federal property held under contract by  
 10 private person subject to taxation. Real ~~and/or personal~~  
 11 property and improvements of the United States or any  
 12 department or agency thereof held under contract of sale,  
 13 lease, or other interest or estate therein by any person for  
 14 his exclusive use shall be subject to assessment for ad  
 15 valorem property taxation as provided in this part; provided  
 16 that this part shall not apply to real property and  
 17 improvements held and in immediate use and occupation by  
 18 this state or any county, municipal corporation, or  
 19 political subdivision therein."

20 **Section 132.** Section 15-24-1102, MCA, is amended to  
 21 read:

22 "15-24-1102. Federal property held under contract of  
 23 sale. When the property is held under a contract of sale or  
 24 other agreement whereby upon payment the legal title is or  
 25 may be acquired by the person, the real property shall be

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

7 **Section 133.** Section 15-24-1103, MCA, is amended to  
 8 read:

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

21 **Section 134.** Section 15-24-1104, MCA, is amended to  
 22 read:

23 "15-24-1104. Collection of taxes on interests in  
 24 United States lands. In addition to all other remedies  
 25 available for the collection of taxes, all taxes levied in

1 any year against property held as under the provisions of  
 2 this part shall be a debt due and owing from the person so  
 3 holding such property as of the date of delinquency for  
 4 taxes on property for such tax year. If any such tax be not  
 5 paid within 1 year from such date, the county within which  
 6 such property is located may institute for itself, the state  
 7 of Montana, and all other municipal corporations sharing in  
 8 such taxes an action for the collection of said taxes,  
 9 together with interest, costs, and other lawful charges  
 10 thereon. At the time of commencement of such action, the  
 11 county shall have the benefit of all laws of this state  
 12 pertaining to provisional remedies against the taxable  
 13 ~~properties, either real or personal,~~ of said the person."

14 **Section 135.** Section 15-24-1203, MCA, is amended to  
 15 read:

16 "15-24-1203. Privilege tax on gainful use of  
 17 tax-exempt property -- exceptions. After March 17, 1969,  
 18 there is imposed and shall be collected a tax upon the  
 19 possession or other beneficial use enjoyed by any private  
 20 individual, association, or corporation of any ~~property,~~  
 21 ~~real or personal,~~ property and improvements which for any  
 22 reason is are exempt from taxation. No tax may be imposed  
 23 upon the possession or other beneficial use of buildings  
 24 owned by public entities and located upon public airports.  
 25 However, privately owned buildings located on such airport

1 property are subject to tax. No tax shall be imposed upon  
 2 the possession or other beneficial use of public lands  
 3 occupied under the terms of mineral, timber, or grazing  
 4 leases or permits issued by the United States or the state  
 5 of Montana or upon any easement unless the lease, permit, or  
 6 easement entitles the lessee or permittee to exclusive  
 7 possession of the premises to which the lease, permit, or  
 8 easement relates. The tax shall be imposed upon the  
 9 possession or other beneficial use of an electric  
 10 transmission line and associated facilities, except that  
 11 lines and facilities of a design capacity of less than 500  
 12 kilovolts shall not be subject to the tax. The tax may not  
 13 be imposed upon the possession or other beneficial use of  
 14 railroad right-of-way or track acquired by the state  
 15 pursuant to Title 60, chapter 11, part 1, as long as the  
 16 state retains ownership and the right-of-way or track is  
 17 used exclusively for rail transportation."

18 **Section 136.** Section 17-3-213, MCA, is amended to  
 19 read:

20 "17-3-213. Allocation to general road fund and  
 21 countywide school levies. (1) The forest reserve funds so  
 22 apportioned to each county shall must be apportioned by the  
 23 county treasurer in each county ~~between the several funds~~ as  
 24 follows:

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

1 amount received;

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

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

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

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

10 ~~(iv) the elementary teacher retirement and social  
11 security fund provided for in 20-9-501;~~

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

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

24 (3) In counties wherein in which special road  
25 districts have been created according to law, the board of

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

7 **Section 137.** Section 19-4-605, MCA, is amended to  
8 read:

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

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

22 ~~(2) If the employer is a district or community college  
23 district, the trustees shall budget and pay for the  
24 employer's contribution under the provisions of 20-9-501;~~

25 ~~(3)~~ (2) If the employer is the superintendent of public

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

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

10 ~~†5~~(4) All interest and other earnings realized on the  
 11 moneys money of the retirement system ~~shall~~ must be credited  
 12 to the pension accumulation fund, and the amount required to  
 13 allow regular interest on the annuity savings fund ~~shall~~  
 14 must be transferred to that fund from the pension  
 15 accumulation fund.

16 ~~†6~~(5) All pensions, annuities, and benefits in lieu  
 17 ~~thereof-shall~~ of pensions and annuities must be paid from  
 18 the pension accumulation fund.

19 ~~†7~~(6) The retirement board may, in its discretion,  
 20 transfer from the pension accumulation fund an amount  
 21 necessary to cover expenses of administration."

22 **Section 138.** Section 19-11-503, MCA, is amended to  
 23 read:

24 "19-11-503. Special tax levy for fund required. (1)  
 25 The purpose of this section is to provide a means by which

1 each disability and pension fund may be maintained at a  
 2 level equal to ~~4%~~ 4.5% of the taxable valuation of all  
 3 taxable property within the limits of the city or town.

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

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

16 **Section 139.** Section 19-11-504, MCA, is amended to  
 17 read:

18 "19-11-504. Amount of special tax levy. Whenever the  
 19 fund contains an amount which is less than ~~4%~~ 4.5% of the  
 20 taxable valuation of all taxable property in the city or  
 21 town, the city council shall levy an annual special tax of  
 22 not less than 1 mill and not more than 4 mills on each  
 23 dollar of taxable valuation of all taxable property within  
 24 the city or town."

25 **Section 140.** Section 20-3-106, MCA, is amended to

1 read:

2 "20-3-106. Supervision of schools -- powers and  
3 duties. The superintendent of public instruction has the  
4 general supervision of the public schools and districts of  
5 the state, and he shall perform the following duties or acts  
6 in implementing and enforcing the provisions of this title:

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

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

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

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

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

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

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

24 (8) generally supervise the school budgeting  
25 procedures prescribed by law in accordance with the

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

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

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

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

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

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

23 (14) distribute state equalization aid in support of  
24 the foundation program in accordance with the provisions of  
25 20-9-342, 20-9-346, and 20-9-347;

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

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

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

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

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

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

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

20 (22) recommend standards of accreditation for all  
 21 schools to the board of public education and evaluate  
 22 compliance with such the standards and recommend  
 23 accreditation status of every school to the board of public  
 24 education in accordance with the provisions of 20-7-101 and  
 25 20-7-102;

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

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

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

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

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

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

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

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

24 (31) prescribe the method of identification and signals  
 25 to be used by school safety patrols in accordance with the

1 provisions of 20-1-408;

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

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

9 ~~(34)~~ (33) perform any other duty prescribed from time to  
10 time by this title, any other act of the legislature, or the  
11 policies of the board of public education."

12 **Section 141.** Section 20-3-324, MCA, is amended to  
13 read:

14 "20-3-324. Powers and duties. As prescribed elsewhere  
15 in this title, the trustees of each district shall:

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

23 (2) employ and dismiss administrative personnel,  
24 clerks, secretaries, teacher aides, custodians, maintenance  
25 personnel, school bus drivers, food service personnel,

1 nurses, and any other personnel considered necessary to  
2 carry out the various services of the district;

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

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

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

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

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

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

22 (9) conduct the fiscal business of the district in  
23 accordance with the provisions of the school financial  
24 administration part of this title;

25 (10) establish the ANB, foundation program, permissive

1 levy, additional levy, cash reserve, and state impact aid  
2 amount for the general fund of the district in accordance  
3 with the provisions of the general fund part of this title;

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

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

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

18 (14) when applicable, administer any interlocal  
19 cooperative agreement, gifts, legacies, or devises in  
20 accordance with the provisions of the miscellaneous  
21 financial parts of this title;

22 (15) hold in trust, acquire, and dispose of the real  
23 and personal property of the district in accordance with the  
24 provisions of the school sites and facilities part of this  
25 title;

1 (16) operate the schools of the district in accordance  
2 with the provisions of the school calendar part of this  
3 title;

4 (17) establish and maintain the instructional services  
5 of the schools of the district in accordance with the  
6 provisions of the instructional services, textbooks,  
7 vocational education, and special education parts of this  
8 title;

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

12 (19) make reports from time to time as the county  
13 superintendent, superintendent of public instruction, and  
14 board of public education may require;

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

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



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

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

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

12 **Section 142.** Section 20-5-305, MCA, is amended to  
13 read:

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

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

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

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

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

16 **Section 143.** Section 20-5-312, MCA, is amended to  
17 read:

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

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

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

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

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

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

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

21 (b) the number of days of school attended by each  
22 pupil;

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

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

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

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

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

1 obligations must be paid by June 15 of the school fiscal  
 2 year. The payments must be made to the county treasurer of  
 3 the county where each high school entitled to tuition is  
 4 located. The county treasurer shall credit tuition receipts  
 5 to the general fund of the applicable high school district,  
 6 and the tuition receipts must be used in accordance with the  
 7 provisions of 20-9-141.

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

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

12 **Section 144.** Section 20-9-141, MCA, is amended to  
 13 read:

14 "20-9-141. Computation of general fund net levy  
 15 requirement by county superintendent. (1) The county  
 16 superintendent shall compute the levy requirement for each  
 17 district's general fund on the basis of the following  
 18 procedure:

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

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

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

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

7 (b) Determine the ~~total-of-the-moneys~~ money available  
8 for the reduction of the property tax on the district for  
9 the general fund by totaling:

10 (i) anticipated federal ~~moneys~~ money received under  
11 the provisions of Title I of Public Law 81-874 or other  
12 anticipated federal ~~moneys~~ money received in lieu of ~~such~~  
13 that federal act;

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

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

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

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

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

25 (vii) anticipated interest to be earned or

1 reappropriated interest earned by the investment of general  
2 fund cash in accordance with the provisions of 20-9-213(4);

3 and

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

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

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

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

18 **Section 145.** Section 20-9-201, MCA, is amended to  
19 read:

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

25 (a) A "budgeted fund" means any fund for which a

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

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

16 (2) The school financial administration provisions of  
 17 this title apply to all money of any elementary or high  
 18 school district except the extracurricular money realized  
 19 from pupil activities. The superintendent of public  
 20 instruction has general supervisory authority as prescribed  
 21 by law over the school financial administration provisions,  
 22 as they relate to elementary and high school districts, ~~as~~  
 23 ~~prescribed-by-law-and~~ He shall establish such adopt rules as  
 24 are necessary to secure compliance with the law."

25 **Section 146.** Section 20-9-212, MCA, is amended to

1 read:

2 \*20-9-212. Duties of county treasurer. The county  
 3 treasurer of each county shall:

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

12 (a) the basic county tax in support of the elementary  
 13 foundation programs;

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

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

18 ~~(d)--the-county-tax--in--support--of--the--high--school~~  
 19 ~~obligations--to--the--retirement--systems--of--the--state--of~~  
 20 ~~Montana;~~

21 ~~(e)~~(d) any additional county tax required by law to  
 22 provide for deficiency financing of the elementary  
 23 foundation programs;

24 ~~(f)~~(e) any additional county tax required by law to  
 25 provide for deficiency financing of the high school

1 foundation programs; and  
 2 ~~(g)~~(f) any other county tax for schools, including the  
 3 community colleges, which may be authorized by law and  
 4 levied by the county commissioners;  
 5 (2) whenever requested, notify the county  
 6 superintendent and the superintendent of public instruction  
 7 of the amount of county school money on deposit in ~~each of~~  
 8 ~~the-funds-enumerated~~ any fund provided for in subsection (1)  
 9 of this section and the amount of any other school money  
 10 subject to apportionment and apportion ~~such~~ the county and  
 11 other school money to the districts in accordance with the  
 12 apportionment ordered by the county superintendent;  
 13 (3) keep a separate accounting of the expenditures for  
 14 each budgeted fund included in the final budget of each  
 15 district;  
 16 (4) keep a separate accounting of the receipts,  
 17 expenditures, and cash balances for each budgeted fund  
 18 included in the final budget of each district and for each  
 19 nonbudgeted fund established by each district;  
 20 (5) except as otherwise limited by law, pay all  
 21 warrants properly drawn on the county or district school  
 22 money and properly endorsed by their holders;  
 23 (6) receive all revenue collected by and for each  
 24 district and deposit these receipts in the fund designated  
 25 by law or by the district if no fund is designated by law.

1 Interest and penalties on delinquent school taxes ~~shall~~ must  
 2 be credited to the same fund and district for which the  
 3 original taxes were levied.  
 4 (7) send all ~~revenues~~ revenue received for a joint  
 5 district, part of which is situated in his county, to the  
 6 county treasurer designated as the custodian of ~~such~~  
 7 ~~revenues~~ the revenue, no later than December 15 of each year  
 8 and every 3 months thereafter until the end of the school  
 9 fiscal year;  
 10 (8) at the direction of the trustees of a district,  
 11 assist the district in the issuance and sale of tax and  
 12 revenue anticipation notes as provided in Title 7, chapter  
 13 6, part 11;  
 14 (9) register district warrants drawn on a budgeted  
 15 fund in accordance with 7-6-2604 when there is insufficient  
 16 money available ~~in-the-sum-of-money~~ in all funds of the  
 17 district to make payment of ~~such~~ the warrant. Redemption of  
 18 registered warrants ~~shall~~ must be made in accordance with  
 19 7-6-2116, 7-6-2605, and 7-6-2606.  
 20 (10) invest the money of any district as directed by  
 21 the trustees of the district within 3 working days of ~~such~~  
 22 the direction;  
 23 (11) ~~give~~ each month give to the trustees of each  
 24 district an itemized report for each fund maintained by the  
 25 district, showing the paid warrants, outstanding warrants,

1 registered warrants, amounts and types of revenue received,  
2 and the cash balance; and

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

6 **Section 147.** Section 20-9-301, MCA, is amended to  
7 read:

8 "20-9-301. Purpose and definition of foundation  
9 program and general fund. (1) A uniform system of free  
10 public schools sufficient for the education of and open to  
11 all school age children of the state ~~shall~~ must be  
12 established and maintained throughout the state of Montana.  
13 The state shall aid in the support of its several school  
14 districts on the basis of their financial need as measured  
15 by the foundation program and in the manner established in  
16 this title.

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

24 (3) The amount of the general fund budget for each  
25 school fiscal year ~~shall~~ may not exceed the financing

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

7 **Section 148.** Section 20-9-331, MCA, is amended to  
8 read:

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

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

1 elementary transportation obligation and the total of the  
2 foundation programs of all elementary districts of the  
3 county.

4 (b) If the basic levy prescribed by this section  
5 produces more revenue than is required to finance the  
6 difference determined above in subsection (1)(a), the county  
7 treasurer shall remit the surplus funds to the state  
8 treasurer for deposit to the state special revenue fund,  
9 state equalization aid account, immediately upon occurrence  
10 of a surplus balance and each subsequent month thereafter,  
11 with any final remittance due no later than June 20 of the  
12 fiscal year for which the levy has been set.

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

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

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

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

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

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

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

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

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

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

19 **Section 149.** Section 20-9-333, MCA, is amended to  
20 read:

21 "20-9-333. Basic special levy and other revenues for  
22 county equalization of high school district foundation  
23 program. (1) ~~It shall be the duty of the~~ The county  
24 commissioners of each county to shall levy an annual basic  
25 special tax for high schools of 17 mills on the dollar of



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

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

16 (b) If the basic levy prescribed by this section  
 17 produces more revenue than is required to finance the  
 18 difference determined above in subsection (1)(a), the county  
 19 treasurer shall remit the surplus funds to the state  
 20 treasurer for deposit to the state special revenue fund,  
 21 state equalization aid account, immediately upon occurrence  
 22 of a surplus balance and each subsequent month thereafter,  
 23 with any final remittance due no later than June 20 of the  
 24 fiscal year for which the levy has been set.

25 (2) The proceeds revenue realized from the county's

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

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

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

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

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

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

20 **Section 150.** Section 20-9-343, MCA, is amended to  
 21 read:

22 "20-9-343. Definition of and revenue for state  
 23 equalization aid. (1) As used in this title, the term "state  
 24 equalization aid" means those ~~moneys the money~~ the money deposited in  
 25 the state special revenue fund as required in this section

1 plus any legislative appropriation of money from other  
2 sources for distribution to the public schools for the  
3 purpose of equalization of the foundation program.

4 (2) ~~The legislative appropriation~~ legislature shall  
5 biennially appropriate money for state equalization aid  
6 ~~shall be made in a single sum for the biennium.~~ The  
7 superintendent of public instruction ~~has authority to~~ may  
8 spend such the appropriation, together with the earmarked  
9 revenues provided in subsection (3), as required for  
10 foundation program purposes throughout the biennium.

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

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

16 (b) 25% of all money, except as provided in 15-31-702,  
17 received from the collection of corporation license and  
18 income taxes under chapter 31 of Title 15, as provided by  
19 15-1-501;

20 (c) 100% of the money allocated to state equalization  
21 from the collection of the severance tax on coal;

22 (d) 100% of the money received from the treasurer of  
23 the United States as the state's shares of oil, gas, and  
24 other mineral royalties under the federal Mineral Lands  
25 Leasing Act, as amended;

1 (e) interest and income money described in 20-9-341  
2 and 20-9-342;

3 (f) income from the education trust fund account; and  
4 (g) money received from the collection of the sales  
5 tax and use tax, as provided in [section 61];

6 (h) state lottery proceeds, as provided in 23-5-1027;  
7 (i) money received from the taxation of centrally  
8 assessed utilities, as provided in [section 166]; and

9 ~~(g)(j)~~ in addition to these revenues, the surplus  
10 revenues collected by the counties for foundation program  
11 support according to 20-9-331 and 20-9-333.

12 (4) Any surplus revenue in the state equalization aid  
13 account in the second year of a biennium may be used to  
14 reduce the appropriation required for the next succeeding  
15 biennium."

16 **Section 151.** Section 20-9-352, MCA, is amended to  
17 read:

18 "20-9-352. Permissive amount and permissive levy. (1)  
19 Whenever the trustees of any a district ~~shall deem~~ consider  
20 it necessary to adopt a general fund budget in excess of the  
21 foundation program amount but not in excess of the maximum  
22 general fund budget amount for such the district as  
23 established by the schedules in 20-9-316 through 20-9-321,  
24 the trustees shall adopt a resolution stating the reasons  
25 and purposes for exceeding the foundation program amount.

1 ~~Such~~ The excess above the foundation program amount ~~shall be~~  
 2 is known as the "permissive amount", and it ~~shall~~ must be  
 3 financed by a levy, as prescribed in 20-9-141, on the  
 4 taxable value of all taxable property within the district,  
 5 except for vehicles subject to taxation under 61-3-504(2),  
 6 supplemented with any biennial appropriation by the  
 7 legislature for this purpose. The proceeds of ~~such an~~ the  
 8 appropriation ~~shall~~ must be deposited to the state special  
 9 revenue fund.

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

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

1 ~~shall~~ must be paid to the district from the state special  
 2 revenue fund according to the provisions of subsections (3)  
 3 and (4) of this section.

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

22 (3) The superintendent of public instruction shall, if  
 23 the appropriation by the legislature for the permissive  
 24 amount for the biennium is insufficient, request the budget  
 25 director to submit a request for a supplemental

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

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

1 program requirements."

2 **Section 152.** Section 20-9-502, MCA, is amended to  
 3 read:

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

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

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

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

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

25 (2) The total amount of building reserve when added to

1 the outstanding indebtedness of the district shall may not  
2 be more than ~~45%~~ 51% of the taxable value of the taxable  
3 property of the district. Such This limitation shall must be  
4 determined in the manner provided in 20-9-406. A building  
5 reserve tax authorization shall may not be for more than 20  
6 years.

7 (3) The election shall must be conducted in accordance  
8 with the school election laws of this title, and the  
9 electors qualified to vote in the election shall must be  
10 qualified under the provisions of 20-20-301. The ballot for  
11 a building reserve proposition shall must be substantially  
12 in the following form:

13 OFFICIAL BALLOT

14 SCHOOL DISTRICT BUILDING RESERVE ELECTION

15 INSTRUCTIONS TO VOTERS: Make an X or similar mark in  
16 the vacant square before the words "BUILDING RESERVE--YES"  
17 if you wish to vote for the establishment of a building  
18 reserve (addition to the building reserve); if you are  
19 opposed to the establishment of a building reserve (addition  
20 to the building reserve) make an X or similar mark in the  
21 square before the words "BUILDING RESERVE--NO".

22 Shall the trustees be authorized to impose an  
23 additional levy each year for .... years to establish a  
24 building reserve (add to the building reserve) of this  
25 school district to raise a total amount of .... dollars

1 (\$....), for the purpose(s) .... (here state the purpose or  
2 purposes for which the building reserve will be used)?

- 3  BUILDING RESERVE--YES.
- 4  BUILDING RESERVE--NO.

5 (4) The building reserve proposition shall--be is  
6 approved if a majority of those electors voting at the  
7 election approve the establishment of or addition to such  
8 the building reserve. The annual budgeting and taxation  
9 authority of the trustees for a building reserve shall--be is  
10 computed by dividing the total authorized amount by the  
11 specified number of years. The authority of the trustees to  
12 budget and impose the taxation for the annual amount to be  
13 raised for the building reserve shall--~~lapse~~ lapses when, at  
14 a later time, a bond issue is approved by the qualified  
15 electors of the district for the same purpose or purposes  
16 for which the building reserve fund of the district was  
17 established. Whenever a subsequent bond issue is made for  
18 the same purpose or purposes of a building reserve, the  
19 money in the building reserve shall must be used for such  
20 purpose or purposes before any money realized by the bond  
21 issue is used."

22 **Section 153.** Section 20-10-144, MCA, is amended to  
23 read:

24 "20-10-144. Computation of revenues and net tax levy  
25 requirements for the transportation fund budget. Before the

1 fourth Monday of July and in accordance with 20-9-123, the  
 2 county superintendent shall compute the revenue available to  
 3 finance the transportation fund budget of each district. The  
 4 county superintendent shall compute the revenue for each  
 5 district on the following basis:

6 (1) The "schedule amount" of the preliminary budget  
 7 expenditures that is derived from the rate schedules in  
 8 20-10-141 and 20-10-142 ~~shall~~ must be determined by adding  
 9 the following amounts:

10 (a) the sum of the maximum reimbursable expenditures  
 11 for all approved school bus routes maintained by the  
 12 district (to determine the maximum reimbursable expenditure,  
 13 multiply the applicable rate per bus mile by the total  
 14 number of miles to be traveled during the ensuing school  
 15 fiscal year on each bus route approved by the county  
 16 transportation committee and maintained by such district);  
 17 plus

18 (b) the total of all individual transportation per  
 19 diem reimbursement rates for ~~such~~ the district as determined  
 20 from the contracts submitted by the district multiplied by  
 21 the number of pupil-instruction days scheduled for the  
 22 ensuing school attendance year; plus

23 (c) any estimated costs for supervised home study or  
 24 supervised correspondence study for the ensuing school  
 25 fiscal year; plus

1 (d) the amount budgeted on the preliminary budget for  
 2 the contingency amount permitted in 20-10-143, except if  
 3 ~~such~~ the amount exceeds 10% of the total of subsections  
 4 (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the  
 5 contingency amount on the preliminary budget ~~shall~~ must be  
 6 reduced to ~~such~~ the limitation amount and used in this  
 7 determination of the schedule amount.

8 (2) The schedule amount determined in subsection (1)  
 9 or the total preliminary transportation fund budget,  
 10 whichever is smaller, ~~shall--be~~ is divided by 3 and the  
 11 resulting one-third amount ~~shall--be~~ is used to determine the  
 12 available state and county revenue to be budgeted on the  
 13 following basis:

14 (a) the resulting one-third amount ~~shall--be~~ is the  
 15 budgeted state transportation reimbursement, except that the  
 16 state transportation reimbursement for the transportation of  
 17 special education pupils under the provisions of 20-7-442  
 18 ~~shall~~ must be two-thirds of the schedule amount attributed  
 19 to the transportation of special education pupils;

20 (b) the resulting one-third amount, except as provided  
 21 for joint elementary districts in subsection (2)(e), ~~shall~~  
 22 be is the budgeted county transportation reimbursement for  
 23 elementary districts and ~~shall~~ must be financed by the basic  
 24 county tax under the provisions of 20-9-334;

25 (c) the resulting one-third amount multiplied by 2

1 ~~shall be~~ is the budgeted county transportation reimbursement  
 2 amount for high school districts financed under the  
 3 provisions of subsection (5) ~~of this section~~, except as  
 4 provided for joint high school districts in subsection  
 5 (2)(e), and except that the county transportation  
 6 reimbursement for the transportation of special education  
 7 pupils under the provisions of 20-7-442 ~~shall~~ must be  
 8 one-third of the schedule amount attributed to the  
 9 transportation of special education pupils;

10 (d) when the district has a sufficient amount of cash  
 11 for reappropriation and other sources of district revenue,  
 12 as determined in subsection (3), to reduce the total  
 13 district obligation for financing to zero, any remaining  
 14 amount of such district revenue and cash reappropriated  
 15 ~~shall~~ must be used to reduce the county financing obligation  
 16 in subsections subsection (2)(b) or (2)(c) and, if such the  
 17 county financing obligations are reduced to zero, to reduce  
 18 the state financial obligation in subsection (2)(a); and

19 (e) the county revenue requirement for a joint  
 20 district, after the application of any district moneys money  
 21 under subsection (2)(d) ~~above~~, ~~shall~~ must be prorated to  
 22 each county incorporated by the joint district in the same  
 23 proportion as the ANB of the joint district is distributed  
 24 by pupil residence in each such county.

25 (3) The total of the moneys money available for the

1 reduction of property tax on the district for the  
 2 transportation fund ~~shall~~ must be determined by totaling:

3 (a) anticipated federal moneys money received under  
 4 the provisions of Title I of Public Law 81-874 or other  
 5 anticipated federal moneys money received in lieu of such  
 6 that federal act; plus

7 (b) anticipated payments from other districts for  
 8 providing school bus transportation services for such the  
 9 district; plus

10 (c) anticipated payments from a parent or guardian for  
 11 providing school bus transportation services for his child;  
 12 plus

13 (d) anticipated or reappropriated interest to be  
 14 earned by the investment of transportation fund cash in  
 15 accordance with the provisions of 20-9-213(4); plus

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

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

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

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

24 ~~(h)~~ (i) any cash available for reappropriation as  
 25 determined by subtracting the amount of the end-of-the-year

1 cash balance earmarked as the transportation fund cash  
 2 reserve for the ensuing school fiscal year by the trustees  
 3 from the end-of-the-year cash balance in the transportation  
 4 fund. Such ~~The~~ cash reserve ~~shall~~ may not be more than 20%  
 5 of the final transportation fund budget for the ensuing  
 6 school fiscal year and ~~shall-be~~ is for the purpose of paying  
 7 transportation fund warrants issued by the district under  
 8 the final transportation fund budget.

9 (4) The district levy requirement for each district's  
 10 transportation fund ~~shall~~ must be computed by:

11 (a) subtracting the schedule amount calculated in  
 12 subsection (1) from the total preliminary transportation  
 13 budget amount and, for an elementary district, adding ~~such~~  
 14 the difference to the district obligation to finance  
 15 one-third of the schedule amount as determined in subsection  
 16 (2); and

17 (b) subtracting the amount of ~~moneys~~ money available  
 18 to reduce the property tax on the district, as determined in  
 19 subsection (3), from the amount determined in subsection  
 20 (4)(a) above.

21 (5) The county levy requirement for the financing of  
 22 the county transportation reimbursement to high school  
 23 districts ~~shall---be~~ is computed by adding all ~~such~~  
 24 requirements for all the high school districts of the  
 25 county, including the county's obligation for reimbursements

1 in joint high school districts.

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

10 **Section 154.** Section 20-15-403, MCA, is amended to  
 11 read:

12 "20-15-403. Applications of other school district  
 13 provisions. (1) When the term "school district" appears in  
 14 the following sections outside of Title 20, the term  
 15 includes community college districts and the provisions of  
 16 those sections applicable to school districts apply to  
 17 community college districts: 2-9-101, 2-9-111, 2-9-316,  
 18 2-16-114, 2-16-602, 2-16-614, 2-18-703, 7-3-1101, 7-6-2604,  
 19 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216, 7-11-103, 7-12-4106,  
 20 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, ~~15-6-2047~~  
 21 15-16-101, 15-16-601, 15-55-106, 15-70-301, 15-70-322,  
 22 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201,  
 23 18-1-201, 18-2-101, 18-2-103, 18-2-113, 18-2-114, 18-2-404,  
 24 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,  
 25 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103,



1 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 39-71-2206,  
 2 40-6-237, 41-3-1132, 49-3-101, 49-3-102, 53-20-304,  
 3 77-3-321, 82-10-201, 82-10-202, 82-10-203, 85-7-2158, and  
 4 90-6-208 and Rules 4D(2)(g) and 15(c), M.R.Civ.P., as  
 5 amended.

6 (2) When the term "school district" appears in a  
 7 section outside of Title 20 but the section is not listed in  
 8 subsection (1), the school district provision does not apply  
 9 to a community college district."

10 **Section 155.** Section 23-5-1027, MCA, is amended to  
 11 read:

12 "23-5-1027. Disposition of revenue. (1) A minimum of  
 13 45% of the money paid for tickets or chances must be paid  
 14 out as prize money. The prize money is statutorily  
 15 appropriated, as provided in 17-7-502, to the lottery.

16 (2) Commissions paid to lottery ticket or chance sales  
 17 agents are not a state lottery operating expense.

18 (3) That part of all gross revenue not used for the  
 19 payment of prizes, commissions, and operating expenses,  
 20 together with the interest earned on the gross revenue while  
 21 the gross revenue is in the enterprise fund, is net revenue  
 22 and must be paid quarterly from the enterprise fund  
 23 established by 23-5-1026 to the superintendent--of--public  
 24 instruction--for--distribution--as--equalization--aid--to--the  
 25 retirement-fund-obligations-of state special revenue fund

1 for state equalization aid provided for in 20-9-343 for  
 2 equalization of the foundation program for elementary and  
 3 high school districts in-the-manner-provided-in-20-9-532.  
 4 The net revenue is statutorily appropriated, as provided in  
 5 17-7-502, to the superintendent of public instruction.

6 (4) The spending authority of the lottery may be  
 7 increased in accordance with this section upon review and  
 8 approval of a revised operation plan by the budget office."

9 **Section 156.** Section 25-13-404, MCA, is amended to  
 10 read:

11 "25-13-404. Return of the execution. (1) Except as  
 12 provided in subsections (2) and (3), execution may be made  
 13 returnable to the clerk of the court in which the judgment  
 14 was rendered, at any time not less than 10 or more than 60  
 15 days after receipt of the recovery by the sheriff or levying  
 16 officer following imposition of levy, as provided in  
 17 25-13-402.

18 (2) The A writ of execution issued by the a county  
 19 treasurer under--25-16-401 for a lien on real property and  
 20 improvements under Title 15, chapter 16, may be made  
 21 returnable, at any time not less than 10 or more than 90  
 22 days after its receipt by the sheriff or levying officer, to  
 23 the county treasurer of the county in which the writ was  
 24 issued.

25 (3) In compliance with the provisions of subsection

1 (1) and in lieu of returning the writ of execution to the  
 2 clerk of the court, the sheriff may enclose his return of  
 3 the writ in an envelope to the officer, agent, or attorney  
 4 who sent it and deposit it in the post office, prepaying the  
 5 postage."

6 **Section 157.** Section 33-7-407, MCA, is amended to  
 7 read:

8 "33-7-407. Taxes. Every society organized or licensed  
 9 under this chapter is hereby declared to be a charitable and  
 10 benevolent institution, and all of its funds shall be exempt  
 11 from all and every state, county, district, municipal, and  
 12 school tax other than taxes on real-estate--and--office  
 13 equipment sales taxable under the sales tax and use tax and  
 14 taxes on property subject to taxation under Title 15."

15 **Section 158.** Section 61-3-501, MCA, is amended to  
 16 read:

17 "61-3-501. When vehicle taxes and fees are due. (1)  
 18 Property All taxes, new-car-taxes including sales taxes paid  
 19 at the time of purchase, and fees must be paid on the date  
 20 of registration or reregistration of the vehicle.

21 (2) If the anniversary date for reregistration of a  
 22 vehicle passes while the vehicle is owned and held for sale  
 23 by a licensed new or used car dealer, property taxes abate  
 24 on such vehicle properly reported with the department of  
 25 revenue until the vehicle is sold and thereafter the

1 purchaser shall pay the pro rata balance of the taxes due  
 2 and owing on the vehicle.

3 (3) In the event a vehicle's registration period is  
 4 changed under 61-3-315, all taxes and other fees due thereon  
 5 shall be prorated and paid from the last day of the old  
 6 period until the first day of the new period in which the  
 7 vehicle shall be registered. Thereafter taxes and other fees  
 8 must be paid from the first day of the new period for a  
 9 minimum period of 1 year. When the change is to a later  
 10 registration period, taxes and fees shall be prorated and  
 11 paid based on the same tax year as the original registration  
 12 period. Thereafter, during the appropriate anniversary  
 13 registration period, each vehicle shall again register or  
 14 reregister and shall pay all taxes and fees due thereon for  
 15 a 12-month period."

16 **Section 159.** Section 61-3-502, MCA, is amended to  
 17 read:

18 "61-3-502. Sales tax on new motor vehicles --  
 19 exemptions. (1) In consideration of the right to use the  
 20 highways of the state, there is imposed a tax upon all sales  
 21 of new motor vehicles, excluding trailers, semitrailers, and  
 22 housetrailer, for which a license is sought and an original  
 23 application for title is made. The tax must be paid by the  
 24 purchaser when he applies for his original Montana license  
 25 through the county treasurer.

1 (2) Except as provided in subsections--(4)-and-(5)  
2 subsection (3), the sales tax is 3%.

3 (a)--1-1/2% of the f.o.b. factory list price or f.o.b.  
4 port-of-entry--list--price--during the first quarter of the  
5 year or for a registration period other than a calendar year  
6 or calendar quarter;

7 (b)--1-1/8% of the list price during the second quarter  
8 of the year;

9 (c)--3/4 of 1% during the third quarter of the year;

10 (d)--3/8 of 1% during the fourth quarter of the year;

11 (3)--If the manufacturer or importer fails to furnish  
12 the f.o.b. factory list price or f.o.b. port-of-entry list  
13 price, the department may use published price lists;

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

19 (5)(3) (a) The sales tax on new motor vehicles  
20 registered as part of a fleet under 61-3-318 is 3/4 of 1% of  
21 the f.o.b. factory list price or f.o.b. port-of-entry list  
22 price.

23 (b) The proceeds of the tax collected under this  
24 subsection (3) must be remitted to the state treasurer every  
25 30 days for credit to the state highway account of the state

1 special revenue fund.

2 (6)(4) The proceeds from this the tax imposed under  
3 subsection (2) must be remitted to the state treasurer every  
4 30 days for credit as follows:

5 (a) 50% to the state highway account of the state  
6 special revenue fund; and

7 (b) 50% to the sales tax and use tax account described  
8 in [section 60].

9 (7)(5) The new vehicle is not subject to any other  
10 assessment, fee in lieu of tax, or tax during the calendar  
11 year in which the original application for title is made.

12 (8)(6) (a) The applicant for original registration of  
13 any new and unused motor vehicle, or a new motor vehicle  
14 furnished without charge by a dealer to a school district  
15 for use as a traffic education motor vehicle by a school  
16 district operating a state-approved traffic education  
17 program within the state, whether or not previously licensed  
18 or titled to the school district (except a mobile home as  
19 defined in 15-1-101(1)), acquired by original contract after  
20 January 1 of any year, is required, whenever the vehicle has  
21 not been otherwise assessed, to pay the motor vehicle sales  
22 tax provided by this section irrespective of whether the  
23 vehicle was in the state of Montana on January 1 of the  
24 year.

25 (b) No motor vehicle may be registered or licensed

1 under the provisions of this subsection unless the  
 2 application for registration is accompanied by a statement  
 3 of origin to be furnished by the dealer selling the vehicle,  
 4 showing that the vehicle has not previously been registered  
 5 or owned, except as otherwise provided herein, by any  
 6 person, firm, corporation, or association that is not a new  
 7 motor vehicle dealer holding a franchise or distribution  
 8 agreement from a new car manufacturer, distributor, or  
 9 importer.

10 ~~(9)~~(7) (a) Motor vehicles operating exclusively for  
 11 transportation of persons for hire within the limits of  
 12 incorporated cities or towns and within 15 miles from such  
 13 limits are exempt from subsection (1).

14 (b) Motor vehicles brought or driven into Montana by a  
 15 nonresident, migratory, bona fide agricultural worker  
 16 temporarily employed in agricultural work in this state  
 17 where those motor vehicles are used exclusively for  
 18 transportation of agricultural workers are also exempt from  
 19 subsection (1).

20 (c) Vehicles lawfully displaying a licensed dealer's  
 21 plate as provided in 61-4-103 are exempt from subsection (1)  
 22 when moving to or from a dealer's place of business when  
 23 unloaded or loaded with dealer's property only, and in the  
 24 case of vehicles having a gross loaded weight of less than  
 25 24,000 pounds, while being demonstrated in the course of the

1 dealer's business."

2 **Section 160.** Section 61-3-701, MCA, is amended to  
 3 read:

4 "61-3-701. Foreign vehicles used in gainful occupation  
 5 to be registered -- reciprocity. (1) Before any foreign  
 6 licensed motor vehicle may be operated on the highways of  
 7 this state for hire, compensation, or profit or before the  
 8 owner and/or user thereof uses the vehicle if such owner  
 9 and/or user is engaged in gainful occupation or business  
 10 enterprise in the state, including highway work, the owner  
 11 of the vehicle shall make application to a county treasurer  
 12 for registration upon an application form furnished by the  
 13 department. Upon satisfactory evidence of ownership  
 14 submitted to the county treasurer and the payment of  
 15 property taxes, if appropriate, as required by 15-8-201,  
 16 ~~15-8-202~~, ~~15-24-301~~, 61-3-504, or 61-3-537, the treasurer  
 17 shall accept the application for registration and shall  
 18 collect the regular license fee required for the vehicle.

19 (2) The treasurer shall thereupon issue to the  
 20 applicant a copy of the certificate entitled "Owner's  
 21 Certificate of Registration and Payment Receipt" and forward  
 22 a duplicate copy of the certificate to the department. The  
 23 treasurer shall at the same time issue to the applicant the  
 24 proper license plates or other identification markers, which  
 25 shall at all times be displayed upon the vehicle when

1 operated or driven upon roads and highways of this state  
2 during the period of the life of the license.

3 (3) The registration receipt shall not constitute  
4 evidence of ownership but shall be used only for  
5 registration purposes. No Montana certificate of ownership  
6 shall be issued for this type of registration.

7 (4) This section is not applicable to any vehicle  
8 covered by a valid and existing reciprocal agreement or  
9 declaration entered into under the provisions of the laws of  
10 Montana."

11 **Section 161.** Section 61-10-130, MCA, is amended to  
12 read:

13 \*61-10-130. Custom combiner's special permit -- fee --  
14 collection -- distribution -- not transferable. (1) In lieu  
15 of the taxes required by 15-24-301 and in lieu of motor  
16 vehicle license fees, gross vehicle weight fees, and  
17 overwidth, overlength, and overheight permits provided for  
18 in Title 61, a nonresident engaged in the business of custom  
19 combining who brings equipment into the state may pay a  
20 special permit fee of \$40 per unit. A unit shall include:

- 21 (a) one truck suitable for hauling grain;  
22 (b) one header trailer or one combine trailer; and  
23 (c) pickup trucks and all other equipment, except  
24 combines, used by a nonresident and brought into the state  
25 as part of his business of custom combining.

1 (2) In lieu of gross vehicle weight fees and  
2 overwidth, overlength, and overheight permits, Montana  
3 residents engaged in the business of custom combining may  
4 pay the annual farm gross vehicle weight fees and a special  
5 permit fee of \$20 per unit. A unit includes:

- 6 (a) one truck suitable for hauling grain;  
7 (b) one header trailer or one combine trailer; and  
8 (c) pickup trucks used by the resident in his business  
9 of custom combining.

10 (3) When used to transport agricultural products, a  
11 truck authorized to be used under a custom combiner's  
12 special permit may be operated only within a 50-mile radius  
13 from the harvested field to the point of first unloading.  
14 The truck may not haul agricultural products from one  
15 commercial elevator to another commercial elevator. The  
16 truck may be operated on any highway, except a highway that  
17 is part of the federal-aid interstate system, without  
18 incurring excess weight penalties under 61-10-145 if the  
19 total gross weight of the truck does not exceed allowable  
20 weight limitations by more than 20% per axle and the maximum  
21 load per inch of tire width does not exceed 670 pounds. The  
22 truck may not be operated in excess of 40 miles per hour. No  
23 trip permit is required. If the truck exceeds the tolerance  
24 provided under this subsection, the fine or penalty imposed  
25 applies to all weight over the legal limit allowed by

1 61-10-107.

2 (4) A combine trailer authorized to be used under  
3 subsections (1)(b) or (2)(b) may be operated under the same  
4 limitations and until July 1, 1991, may be operated within  
5 the same tolerances granted trucks under subsection (3),  
6 except that the 50-mile limitation does not apply and the  
7 combine trailer may be used upon any highway of the state,  
8 including a highway that is part of the federal-aid  
9 interstate system. If the combine trailer exceeds the  
10 tolerance provided under subsection (3), the fine or penalty  
11 imposed applies to all weight over the legal limit allowed  
12 by 61-10-107.

13 (5) The fee required by this section must be collected  
14 by the department of highways. Upon payment of the fee, the  
15 department of highways must provide an identifying device to  
16 be displayed on each truck, header trailer, or combine  
17 trailer and other equipment used by the nonresident or  
18 resident in his business of custom combining in the state,  
19 which device is valid for the calendar year in which the fee  
20 is collected.

21 (6) All fees collected under this section must be  
22 distributed not later than January 31 immediately following  
23 the period of license as follows: 62 1/2% to the county  
24 general fund in the county in which the permittee declares  
25 the greatest amount of time will be spent to operate,

1 37 1/2% to the state special revenue fund for the department  
2 of highways.

3 (7) The identifying devices and fee paid for each unit  
4 are not transferable from one vehicle to another or  
5 transferable on the sale or change of ownership.

6 (8) The department of highways may adopt rules, as  
7 provided in Title 2, chapter 4, to implement the provisions  
8 of this section."

9 **Section 162.** Section 61-12-206, MCA, is amended to  
10 read:

11 "61-12-206. Offenses for which arrest authorized. (1)  
12 Employees appointed under 61-12-201 may make arrests for  
13 violations of the following statutory provisions only:

14 (a) part 1, chapter 10, of this title;

15 (b) part 3, chapter 4, of this title;

16 ~~f) sections 15-24-201 through 15-24-205;~~

17 ~~f) (c)~~ sections 15-70-302 through 15-70-307;

18 ~~f) (d)~~ sections 15-70-311 through 15-70-314;

19 ~~f) (e)~~ section 61-3-502(1);

20 ~~f) (f)~~ sections 61-10-201 through 61-10-215;

21 ~~f) (g)~~ sections 61-10-222 through 61-10-224;

22 ~~f) (h)~~ sections 61-10-231 through 61-10-233.

23 (2) These employees may not arrest for violations  
24 other than specified in this section."

25 **Section 163.** Section 67-3-205, MCA, is amended to

1 read:

2 "67-3-205. Aircraft registration account -- source of  
3 funds -- allocation. (1) There is an account in the state  
4 special revenue fund to which must be credited all money  
5 received from fees paid in lieu of tax on aircraft as  
6 required in this part ~~and--15-24-304~~ and all penalties  
7 collected for registration violations as provided in  
8 67-3-202.

9 (2) Money in the account is allocated as follows:

10 (a) 90% to the counties in the proportion that each  
11 county's collections bear to the total collections  
12 statewide; and

13 (b) 10% to the department for the purpose of  
14 administering and enforcing aircraft registration.

15 (3) The allocations required in subsection (2)(a) must  
16 be made twice annually by the department. The first  
17 allocation must be made between March 15 and March 30 and  
18 the second allocation must be made between July 1 and July  
19 15.

20 (4) The allocation required in subsection (2)(b) must  
21 be made on July 1 of each year.

22 (5) On receipt of the money allocated as provided in  
23 subsection (2)(a), the county treasurer shall distribute the  
24 money in the relative proportions required by the levies for  
25 state, county, school district, and municipal purposes in

1 the same manner as ~~personal~~ property taxes are distributed.

2 (6) The allocations required in subsection (2)(a) are  
3 considered statutory appropriations as described in  
4 17-7-502."

5 **Section 164.** Section 81-7-303, MCA, is amended to  
6 read:

7 "81-7-303. County commissioners permitted to require  
8 per capita license fee on sheep. (1) To defray the expense  
9 of such protection the board of county commissioners of any  
10 county shall have the power to require all owners or persons  
11 in possession of any sheep coming 1 year old or over in the  
12 county on ~~the-regular-assessment-date~~ January 1 of each year  
13 to pay a license fee in an amount to be determined by the  
14 board on a per head basis for sheep so owned or possessed by  
15 him in the county. All owners or persons in possession of  
16 any sheep coming 1 year old or over coming into the county  
17 after ~~the--regular--assessment-date-and-subject-to-taxation~~  
18 ~~under-the-provisions-of-15-24-301~~ January 1 shall also be  
19 subject to payment of the license fee herein prescribed.

20 (2) Upon the order of the board of county  
21 commissioners such license fees may be imposed by the entry  
22 thereof in the name of the licensee upon the property tax  
23 rolls of the county by the county assessor. Said license  
24 fees shall be payable to and collected by the county  
25 treasurer, and when so levied, shall be a lien upon the

1 ~~property, both real and personal~~, of the licensee. In case  
 2 the person against whom said license fee is levied owns no  
 3 real estate against which said license fee is or may become  
 4 a lien, then said license fee shall be payable immediately  
 5 upon its levy and the treasurer shall collect the same in  
 6 the manner provided by law for the ~~collection of personal~~  
 7 ~~property taxes which are not a lien upon real estate~~  
 8 execution of a judgment.

9 (3) When collected, said fees shall be placed by the  
 10 treasurer in the predatory animal control fund and the  
 11 moneys in said fund shall be expended on order of the board  
 12 of county commissioners of the county for predatory animal  
 13 control only."

14 NEW SECTION. Section 165. Sales tax or use tax rates  
 15 -- restrictions. A sales tax rate or use tax rate imposed in  
 16 [section 2] may be increased only if the increase is  
 17 approved by the electorate.

18 NEW SECTION. Section 166. Taxation of centrally  
 19 assessed utilities. There is levied a tax of 3.6% on the  
 20 market value of all real property and improvements of  
 21 centrally assessed utilities subject to taxation in this  
 22 state. All revenue collected under this section must be  
 23 allocated to state equalization aid as provided in 20-9-343.  
 24 This tax is in lieu of all other mill levies for school  
 25 district purposes, except bonded indebtedness.

1 **Section 167.** Section 20-9-122, MCA, is amended to  
 2 read:

3 "20-9-122. Statement of district, city, and town  
 4 valuations. (1) By the second Monday of July, the department  
 5 of revenue or its agent in each county shall, at the time of  
 6 delivering the completed assessment book to the county clerk  
 7 under the provisions of 15-8-705, also deliver to the county  
 8 superintendent and to each city or town clerk a statement  
 9 showing separately for each district and each city or town  
 10 in his county the total assessed value and the total taxable  
 11 value of all property in such districts, cities, or towns,  
 12 as these valuations appear in such completed assessment  
 13 book.

14 (2) The county clerk shall, after the second Monday in  
 15 August and before or at the time of delivering the  
 16 assessment book to the department of revenue or its agent  
 17 under the provisions of 15-10-306, prepare a statement  
 18 showing separately for each district and each city or town  
 19 in his county the total assessed value and the total taxable  
 20 value of all property in such districts, cities, or towns,  
 21 as these valuations appear in the assessment book after  
 22 amendments, corrections, and additions made by the state and  
 23 county tax appeal boards and entered on the assessment book.  
 24 The county clerk shall immediately deliver a copy of his  
 25 statement of assessed and taxable values for districts to



1 the county superintendent and a copy of those portions of  
2 such statement for each city and town to the appropriate  
3 city or town clerk.

4 (3) In the case of a joint school district, the  
5 department of revenue or its agent and the county clerk  
6 shall, at the time of delivering their respective statements  
7 to the county superintendent, send a statement of the  
8 assessed value and taxable value of the portion of the joint  
9 school district situated in their county to the county  
10 superintendents and to the county commissioners of each  
11 county in which a part of the joint school district is  
12 situated.

13 (4) In addition to the provisions in subsections (1)  
14 through (3), the department of revenue or its agent shall  
15 compute a modified taxable value for use in setting levies  
16 under the provisions of Title 20, chapter 9. Except as  
17 provided in subsection (5), for the purposes of this  
18 section, "modified taxable value" is computed by subtracting  
19 100% of the taxable value of property described in 15-6-141  
20 from the total taxable value of each public school district  
21 in the county. The values must be reported as required under  
22 the provisions of subsections (1) through (3).

23 (5) The modified taxable value computed in subsection  
24 (4) does not apply to the taxable value of centrally  
25 assessed utilities for bonding purposes and it does not

1 affect the limitations on the amount of bond issues under  
2 20-9-406 and 20-9-407."

3 **Section 168.** Section 20-9-142, MCA, is amended to  
4 read:

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

16 (2) For the purposes of setting the levies under the  
17 provisions of Title 20, chapter 9, the county commissioners  
18 shall use the modified taxable value determined under the  
19 provisions of 20-9-122(4)."

20 **NEW SECTION. Section 169. Repealer.** Sections  
21 15-6-136, 15-6-138 through 15-6-140, 15-6-142, 15-6-146,  
22 15-6-202, 15-6-204, 15-6-207, 15-8-202, 15-8-204, 15-8-205,  
23 15-8-401, 15-8-404, 15-8-405, 15-8-408, Title 15, chapter  
24 10, part 4, 15-16-111 through 15-16-115, 15-16-401,  
25 15-16-402, 15-16-404, 15-16-503, 15-16-613, 15-16-701

1 through 15-16-703, 15-23-401 through 15-23-403, 15-24-101  
 2 through 15-24-105, 15-24-201 through 15-24-208, 15-24-301  
 3 through 15-24-304, 15-24-901 through 15-24-906, 15-24-908  
 4 through 15-24-911, 15-24-926, 15-24-931, 15-24-941 through  
 5 15-24-943, 20-9-501, 20-9-531, 20-9-532, and 61-3-707, MCA,  
 6 are repealed.

7 **NEW SECTION. Section 170. Codification instruction.**  
 8 (1) [Sections 1 through 60 and 165] are intended to be  
 9 codified as an integral part of Title 15, and the provisions  
 10 of Title 15 apply to [sections 1 through 60 and 165].

11 (2) [Sections 62 through 64 and 166] are intended to  
 12 be codified as an integral part of Title 15, chapter 10, and  
 13 the provisions of Title 15, chapter 10, apply to [sections  
 14 62 through 64 and 166].

15 (3) [Section 61] is intended to be codified as an  
 16 integral part of Title 17, and the provisions of Title 17  
 17 apply to [section 61].

18 **NEW SECTION. Section 171. Effective dates.** (1) Except  
 19 as provided in subsection (2), [this act] is effective July  
 20 1, 1989.

21 (2) [Section 169] is effective December 31, 1990.

22 **NEW SECTION. Section 172. Applicability.** (1)  
 23 [Sections 1 through 61] are applicable on and after July 1,  
 24 1990.

25 (2) [Sections 62 through 168] apply to taxable years,

1 fiscal years, and school fiscal years beginning after  
 2 December 31, 1989. However, all taxes, levies, fees,  
 3 assessments, and the like levied in 1989 for fiscal year  
 4 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 SB28, as introduced

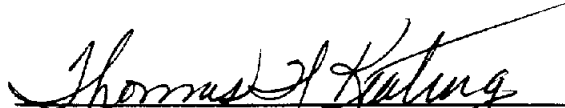
DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for a 3 percent sales tax and use tax; providing for certain exemptions and deductions from the tax; generally revising property taxation by repealing taxes on personal property; placing a cap on certain real property taxes equivalent to 1.5 percent of market value; providing a flat tax on centrally assessed utilities to be used for school equalization; providing property tax relief; revising local bonding and debt limits; providing for the distribution of sales tax and use tax revenue; repealing teacher retirement levies; and providing effective dates and applicability dates.

SALES TAX

1. The sales tax, as provided for in this legislation, is projected to produce annual revenue of \$178,530,000 in CY90, \$186,261,000 in CY91, and \$194,327,000 in CY92.
2. Vendor allowances are estimated to equal 2.5% of sales tax receipts.
3. The use tax will produce revenue equal to 5% of the sales tax.
4. Sales and use tax liabilities are distributed evenly in each month of the year. Total sales and use tax collections are projected to be \$171,046,000 in FY91, and \$194,362,000 in FY92. (No sales or use tax is collected in FY90.)
5. The current new car sales tax is increased from 1.5% to 3%, with half of all revenue deposited to the general sales and use tax account.
6. 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.
7. Implementing the sales tax is estimated to increase administrative expenses \$1,569,765 in FY90, and \$3,554,027 in FY91.
8. All sales and use tax revenue is distributed to the state equalization aid account.

  
W. DAVID DARBY, BUDGET DIRECTOR      7/6/89      DATE  
Office of Budget and Program Planning

  
THOMAS F. KEATING, PRIMARY SPONSOR      7/7/89  
Fiscal Note for SB28, as introduced

SB 28

PROPERTY TAX

9. The total taxable valuation of the state is projected to be \$1,903,008,000 in FY90 and \$1,882,194,000 in FY91 (HJR13).
10. Based on 1988 taxable valuations and mill levies, repealing taxation of personal property is estimated to reduce statewide taxable valuation of personal property \$362,382,868 in tax year 1990 and subsequent years. Reducing taxable value rates reduces the taxable value of real property and improvements \$123,213,502. The total reduction in taxable value is \$485,596,370.
11. 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 and May of the tax year. Given the applicability date of January 1, 1990 for the property tax provisions of this bill, there is a revenue loss to local governments in fiscal year 1990. (See fiscal impact sections below.)
12. Mill levies are 6 mills for universities and 45 mills for state equalization aid.
13. The market value of centrally assessed utility real property and improvements is \$3,275,741,000 in each year of the biennium.

OTHER ASSUMPTIONS

14. Teacher retirement costs are projected to be \$52,846,000 in each year of the biennium.
15. Lottery revenue is projected to be \$13,934,000 in FY90, and \$14,000,003 in FY91 with 40% available for state equalization of retirement costs (HJR13).
16. Forest reserve funds available for state equalization are projected to be \$1,465,000 in each year of the biennium (HJR13). Eliminating the teacher's retirement fund is projected to increase forest reserve funds allocated to state equalization \$500,000 per year.

FISCAL IMPACT:

Revenue Impact:

	FY90			FY91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Sales and Use Tax	\$ 0	\$ 0	\$ 0	\$ 0	\$171,046,000	\$171,046,000
Utility Tax	0	0	0	0	117,927,000	117,927,000
Total	\$ 0	\$ 0	\$ 0	\$ 0	\$288,973,000	\$288,973,000

State Fund Information: (PROPERTY TAX)

	FY90			FY91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
University Levy	\$11,418,000	\$ 10,765,711	\$( 652,289)	\$11,293,000	\$ 8,379,422	\$( 2,913,578)
Foundation Program	85,635,000	80,742,831	(4,892,169)	84,699,000	62,847,163	(21,851,837)
Total	\$97,053,000	\$ 91,508,542	\$(5,544,458)	\$95,992,000	\$ 71,226,585	\$(24,765,415)

SB 28

Foundation Program:

<u>SCHEDULE INCREASE IN PERCENT</u>	<u>FY90</u>			<u>FY91</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
	<u>0%</u>	<u>0%</u>	<u>0</u>	<u>0%</u>	<u>0%</u>	<u>0</u>
Beginning Fund Bal.	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Current Law Revenue	255,786,118	255,786,118	0	262,304,028	262,304,028	0
Sales Tax	0	0	0	0	171,046,000	171,046,000
Utility Tax	0	0	0	0	117,927,000	117,927,000
Lottery Funds	0	0	0	0	5,600,000	5,600,000
Addl. Forest Funds	0	0	0	0	500,000	500,000
Property Tax Loss	0	( 4,892,169)	(4,892,169)	0	( 21,851,837)	( 21,851,837)
Total Available	\$255,786,118	\$250,893,949	\$(4,892,169)	\$262,304,028	\$535,525,163	\$273,221,135
Foundation Program	\$278,355,000	\$278,355,000	0	\$276,678,000	\$276,678,000	\$ 0
Teacher Retirement	0	0	0	0	52,846,000	52,846,000
Total Expenditures	\$278,355,000	\$278,355,000	\$ 0	\$276,678,000	\$329,524,000	\$ 52,846,000
Ending Fund Balance	\$(22,568,882)	\$(27,461,051)	\$(4,892,169)	\$(14,373,972)	\$206,001,163	\$220,375,135
General Fund Need	\$ 22,568,882	\$ 27,461,051		\$ 14,373,972		

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURE

Local government and school districts will experience a revenue loss from the property tax proposals in this bill. In FY90 revenue to local schools decreases \$13,434,268; revenue for counties decreases \$7,437,165; and revenue for cities and towns decreases \$2,305,796. In FY91 local school revenues decreases \$63,219,299, county revenues decreases \$34,802,161, and revenue for cities and towns decreases \$13,768,869.

In addition to the above revenue losses, local schools would experience an additional revenue loss of \$33,958,191 in FY91 and succeeding years as a result of removing the taxable value of centrally assessed real property and improvements (including transmission lines, pipelines, etc.) from local school tax bases.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION

Repealing taxation of personal property, and reducing the taxable value rates of remaining real property and improvements, will result in a drop in the tax rate applied to taxable railroad property. This note does not take this drop in the railroad rate into account.

In order to properly account for the implications of this proposal it is necessary to provide clarifying language as to the nature of net and gross proceeds. Are these properties to be defined as personal property or real property?

**SB28**

The bill provides that property tax revenue stemming from properties subject to the cap on market value are to be distributed in the same proportion as the number of mills levied by each taxing jurisdiction. In situations in which the cap takes effect this could be an incentive for competing jurisdictions to raise mills in order to obtain a larger percentage of the fixed revenue from capping tax liability.