

HOUSE BILL NO. 541

INTRODUCED BY L. NELSON, NATHE, HALLIGAN

IN THE HOUSE

FEBRUARY 9, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

FEBRUARY 19, 1993 ON MOTION, TAKEN FROM TABLE AND
PLACED ON SECOND READING.

FEBRUARY 20, 1993 PRINTING REPORT.

ON MOTION, COMMITTEE AMENDMENTS BE
ENGROSSED AND BILL BE PLACED ON
SECOND READING.

FEBRUARY 22, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 24, 1993 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 87; NOES, 10.

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

MARCH 26, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 27, 1993 SECOND READING, CONCURRED IN.

MARCH 29, 1993 THIRD READING, CONCURRED IN.
AYES, 43; NOES, 4.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 30, 1993 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 541
 2 INTRODUCED BY John Nelson NATHAN Holley
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A COUNTY TO
 5 CREATE A RAIL AUTHORITY; ALLOWING A COUNTY TO LEVY UP TO 6
 6 MILLS FOR THE OPERATION OF A RAIL AUTHORITY; EXEMPTING THE
 7 MILLS LEVIED FOR A RAIL AUTHORITY FROM THE PROPERTY TAX
 8 LIMITATIONS OF TITLE 15, CHAPTER 10, PART 4; AMENDING
 9 SECTION 15-10-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Definitions. As used in
 13 [sections 1 through 17], the following definitions apply:

14 (1) "Authority" means a rail authority as provided in
 15 [sections 1 through 17].

16 (2) "Board" means a board of county commissioners.

17 (3) "Common carrier" means a railroad engaged in
 18 transportation for hire.

19 (4) "Directors" means the directors of the rail
 20 authority.

21 NEW SECTION. Section 2. Purpose -- public and
 22 governmental functions. (1) The purpose of an authority is
 23 to provide for the preservation and improvement of local
 24 rail service for agriculture, industry, or passenger traffic
 25 and to provide for the preservation of abandoned railroad

1 right-of-way for future transportation uses, when determined
 2 to be practicable and necessary for the public welfare,
 3 particularly in the case of the abandonment of rail lines.

4 (2) The acquisition of land pursuant to [sections 1
 5 through 17]; the planning, acquisition, establishment,
 6 construction, improvement, maintenance, equipment,
 7 operation, regulation, and protection of authority
 8 facilities; and the exercise of powers granted to
 9 authorities and other public agencies to be severally or
 10 jointly exercised are public and governmental functions,
 11 exercised for public purpose, and matters of public
 12 necessity. All land and other property acquired and used by
 13 or on behalf of an authority or other public agency, as
 14 provided in [sections 1 through 17], must be used for public
 15 and governmental purposes and as a matter of public
 16 necessity.

17 NEW SECTION. Section 3. Resolution of intention to
 18 create rail authority. (1) A board of county commissioners
 19 may create an authority encompassing an entire county or a
 20 portion of a county. Before creating an authority, the board
 21 shall pass a resolution of intention.

22 (2) The resolution must state:

23 (a) the proposed name of the authority;

24 (b) the proposed boundaries of the authority; and

25 (c) the number of directors of the authority.

NEW SECTION. Section 4. Notice of resolution -- hearing. (1) The text of the resolution referred to in [section 3] must be published as provided in 7-1-2121.

(2) At the time for the hearing, the board shall hear testimony for and against the creation of the authority. The hearing may be adjourned from time to time for the determination of additional information or for hearing proponents or opponents, but an adjournment may not exceed 2 weeks after the date originally published for the hearing.

NEW SECTION. Section 5. County rail authority. (1) The board, upon completion of the public hearing, may pass a resolution creating an authority.

(2) At the same time, the board shall appoint five persons as directors of the authority. A director shall hold office for 2 years and until a successor is appointed. Three of the directors first appointed shall hold office for 1 year. A vacancy occurring other than by expiration of a term must be filled for the unexpired term by the board.

(3) A director must reside within the boundaries of the authority.

NEW SECTION. Section 6. Regional rail authority. (1) Two or more counties may by joint resolution create a regional rail authority. The resolution creating a regional rail authority must create a regional rail authority board of not less than five directors. The number of directors to

be appointed, their term of office, and their qualifications must be provided for in the resolution.

(2) The text of the resolution must be published as provided in 7-1-2121 in each county in which the territory of the proposed authority lies. A county may not adopt a resolution authorized by this section without a public hearing.

(3) After passage of the resolution by the board of each county with territory included in the authority, the boards shall jointly appoint the initial directors of the regional rail authority.

NEW SECTION. Section 7. Directors. (1) The powers of an authority are vested in the directors of the authority. A majority of the directors constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the directors present.

(2) There must be elected a presiding officer, a vice presiding officer, a treasurer, and a secretary from among the directors. An authority may employ an executive director, technical experts, and other officers, agents, and employees, permanent and temporary, as necessary and shall determine their qualifications, duties, and compensation. An authority may delegate to one or more of its agents or

employees powers or duties as it considers proper.

(3) A director of an authority is entitled to receive expenses, as provided in 2-18-501 through 2-18-503, incurred in the performance of the director's duties.

NEW SECTION. Section 8. Cooperation of county. For the purpose of cooperating in the planning, construction, or operation of railroads pursuant to [sections 1 through 17], a county for which an authority has been created may:

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(3) furnish facilities or improvements that it is empowered to provide in connection with the railroad or railroad facilities;

(4) dedicate, sell, convey, or lease its interest in property or grant easements, licenses, or other rights or privileges to the authority;

(5) do all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of railroads and railroad facilities; and

(6) enter into agreements with the authority respecting action to be taken by the county pursuant to the provisions of this section.

NEW SECTION. Section 9. General powers of authority.

An authority has all the powers necessary to carry out the purposes of [sections 1 through 17], including but not limited to the power to:

(1) sue and be sued, have a seal, and have perpetual succession;

(2) execute contracts and other instruments and take other action as may be necessary to carry out the purposes of [sections 1 through 17];

(3) receive and disburse federal, state, and other funds, public or private, made available by grant, loan, contribution, tax levy, or other source to accomplish the purposes of [sections 1 through 17]. Federal money accepted under this section must be accepted and spent by the authority upon terms and conditions prescribed by the United States and consistent with state law. All state money accepted under this section must be accepted and spent by the authority upon terms and conditions prescribed by the state.

(4) sell, lease, or otherwise dispose of real or personal property acquired pursuant to [sections 1 through 17]. The disposal must be in accordance with the laws of

1 this state governing the disposition of other public
2 property.

3 NEW SECTION. Section 10. Railroad acquisition and
4 operation -- permits -- eminent domain. (1) The authority
5 may establish, acquire, construct, purchase, improve,
6 maintain, equip, operate, regulate, and protect railroads
7 and railroad facilities, including but not limited to
8 terminal buildings, roadways, crossings, bridges, causeways,
9 tunnels, equipment, and rolling stock, as may be necessary
10 to carry out the provisions of [sections 1 through 17].

11 (2) The authority may apply to a public agency for
12 permits, consents, authorizations, and approvals required
13 for the acquisition and operation of a railroad and take all
14 actions necessary to comply with their conditions.

15 (3) The authority may acquire property for a public
16 purpose in the same manner as a county, except that the
17 authority does not have the power of eminent domain with
18 respect to property owned by another authority or by a
19 political subdivision or property owned by a railroad
20 corporation unless the interstate commerce commission or
21 another authority with power to make the finding, has found
22 that the public convenience and necessity permit
23 discontinuance of rail service on the property.

24 NEW SECTION. Section 11. Rules. An authority may
25 adopt, amend, and repeal reasonable resolutions, rules, and

1 orders as it considers necessary for its own administration,
2 management, and governance as well as for the management,
3 governance, or use of a railroad or railroad facility owned
4 by or under its control. A rule, order, or standard
5 prescribed by the authority may not be inconsistent with or
6 contrary to an act of the congress of the United States or a
7 regulation promulgated or standard established pursuant to
8 an act of congress. The authority shall keep a copy of its
9 rules on file for public inspection at the principal office
10 of the authority, as determined by the directors.

11 NEW SECTION. Section 12. Mill levy authorized --
12 limitation -- collection of tax. (1) The authority may
13 certify annually to the board of county commissioners the
14 amount of money necessary for the operation of the
15 authority. The board shall annually, at the time of levying
16 county taxes, fix and levy a tax in mills upon all property
17 within the boundaries of the authority clearly sufficient to
18 raise the amount certified by the authority.

19 (2) The tax levied for authority purposes other than
20 for payment of bonded indebtedness may not in a year exceed
21 6 mills on each dollar of taxable valuation of property
22 within the authority. The procedure for the collection of
23 the tax must be in accordance with the existing laws of the
24 state of Montana.

25 (3) The proceeds from the tax levy must be deposited in

a special account in which other revenues of the authority are deposited and may be expended by the authority as provided for in [sections 1 through 17].

NEW SECTION. Section 13. Contracts for operation and use of facilities. (1) In connection with the operation of a railroad or a railroad facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements:

(a) granting the privilege of operating or using the railroad or railroad facility;

(b) leasing a railroad for operation by the lessee; however, a person may not be authorized to operate a railroad other than as a common carrier;

(c) granting the privilege of supplying goods, commodities, services, or facilities along rail lines or in or upon other property; and

(d) making available services to be furnished by the authority or its agents.

(2) In each case, the authority may establish the terms and conditions and fix the charges, rentals, or fees that must be reasonable and uniform for the same class of privilege or service and that must be established with regard to the property and improvements used and the expenses of operation to the authority.

(3) The authority may remit funds available for

investment to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

NEW SECTION. Section 14. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it determines, payable out of any revenue of the authority, including revenue derived from:

(a) a railroad;

(b) taxes levied pursuant to [section 12];

(c) grants or contributions from the federal government; or

(d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged,

sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Bonds issued by an authority pursuant to [sections 1 through 17] may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority pursuant to the provisions of [sections 1 through 17] are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of the bonds, the authority may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from the revenue referred to in [sections 1 through 17], prior to the payment of current costs of operation and maintenance of the facilities.

NEW SECTION. Section 15. Debt service fund. An authority may create a debt service fund and accumulate in

the fund a sum determined by the directors, together with the interest on the sum, for the use, repair, maintenance, and capital outlay expenses of a railroad.

NEW SECTION. Section 16. Tax exemption. Property in this state acquired by an authority for railroad purposes pursuant to the provisions of [sections 1 through 17] and income derived by the authority from the ownership, operation, or control of property are exempt from taxation to the same extent as other property used for public purposes.

NEW SECTION. Section 17. Procedure to enlarge authority. (1) The directors of an authority may by resolution enlarge the boundaries of the authority in accordance with the procedures of notice and hearing in [section 4].

(2) The property within an addition to the authority is subject to the existing indebtedness of the authority.

Section 18. Section 15-10-412, MCA, is amended to read:
 "15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

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

(2) The limitation on the amount of taxes levied is

1 interpreted to mean that, except as otherwise provided in
 2 this section, the actual tax liability for an individual
 3 property is capped at the dollar amount due in each taxing
 4 unit for the 1986 tax year. In tax years thereafter, the
 5 property must be taxed in each taxing unit at the 1986 cap
 6 or the product of the taxable value and mills levied,
 7 whichever is less for each taxing unit, except in a taxing
 8 unit that levied a tax in tax years 1983 through 1985 but
 9 did not levy a tax in 1986, in which case the actual tax
 10 liability for an individual property is capped at the dollar
 11 amount due in that taxing unit for the 1985 tax year.

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

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

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

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

20 (d) subdivision of real property;

21 (e) reclassification of property;

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

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

1 status; or

2 (h) revaluations caused by:

3 (i) cyclical reappraisal; or

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

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

10 (a) a revaluation caused by:

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

13 (ii) cyclical reappraisal;

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

15 (c) reclassification of property;

16 (d) increases in the amount of production or the value
 17 of production for property described in 15-6-131 or
 18 15-6-132;

19 (e) annexation of the individual property into a new
 20 taxing unit; or

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

23 (5) Property in classes four and eleven is valued
 24 according to the procedures used in 1986, including the
 25 designation of 1982 as the base year, until the reappraisal

1 cycle beginning January 1, 1986, is completed and new
2 valuations are placed on the tax rolls and a new base year
3 designated, if the property is:

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

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

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

1 that regardless of the amount of mills levied, a taxpayer's
2 liability may not exceed the dollar amount due in each
3 taxing unit for the 1986 tax year unless:

4 (a) the taxing unit's taxable valuation decreases by 5%
5 or more from the 1986 tax year. If a taxing unit's taxable
6 valuation decreases by 5% or more from the 1986 tax year, it
7 may levy additional mills to compensate for the decreased
8 taxable valuation, but ~~in-no-case-may~~ the mills levied may
9 not exceed a number calculated to equal the revenue from
10 property taxes for the 1986 tax year in that taxing unit.

11 (b) a levy authorized under Title 20 raised less
12 revenue in 1986 than was raised in either 1984 or 1985, in
13 which case the taxing unit may, after approval by the voters
14 in the taxing unit, raise each year thereafter an additional
15 number of mills but may not levy more revenue than the
16 3-year average of revenue raised for that purpose during
17 1984, 1985, and 1986;

18 (c) a levy authorized in 50-2-111 that was made in 1986
19 was for less than the number of mills levied in either 1984
20 or 1985, in which case the taxing unit may, after approval
21 by the voters in the taxing unit, levy each year thereafter
22 an additional number of mills but may not levy more than the
23 3-year average number of mills levied for that purpose
24 during 1984, 1985, and 1986.

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

1 not apply to the following levy or special assessment
2 categories, whether or not they are based on commitments
3 made before or after approval of 15-10-401 and 15-10-402:

- 4 (a) rural improvement districts;
- 5 (b) special improvement districts;
- 6 (c) levies pledged for the repayment of bonded
7 indebtedness, including tax increment bonds;
- 8 (d) city street maintenance districts;
- 9 (e) tax increment financing districts;
- 10 (f) satisfaction of judgments against a taxing unit;
- 11 (g) street lighting assessments;
- 12 (h) revolving funds to support any categories specified
13 in this subsection (8);
- 14 (i) levies for economic development authorized pursuant
15 to 90-5-112(4);
- 16 (j) levies authorized under 7-6-502 for juvenile
17 detention programs; and
- 18 (k) elementary and high school districts.

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

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

- 1 (b) an explanation of the nature of the financial
2 emergency;

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

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

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

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

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

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

- 17 (b) The limitation set forth in this chapter on the
18 amount of taxes levied does not apply to levies to support:

- 19 (i) a city-county board of health as provided in Title
20 50, chapter 2, if the governing bodies of the taxing units
21 served by the board of health determine, after a public
22 hearing, that public health programs require funds to ensure
23 the public health. A levy for the support of a local board
24 of health may not exceed the 5-mill limit established in
25 50-2-111.

(ii) county, city, or town ambulance services authorized
by a vote of the electorate under 7-34-102(2); and

(iii) a rail authority, as provided in [sections 1
through 17], authorized by a board of county commissioners.
A levy for the support of a rail authority may not exceed
the 6-mill limit established in [section 12].

(11) The limitation on the amount of taxes levied by a
taxing jurisdiction subject to a statutory maximum mill levy
does not prevent a taxing jurisdiction from increasing its
number of mills beyond the statutory maximum mill levy to
produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does
not apply to a levy increase to repay taxes paid under
protest in accordance with 15-1-402."

NEW SECTION. **Section 19.** Codification instruction.
[Sections 1 through 17] are intended to be codified as an
integral part of Title 7, chapter 14, and the provisions of
Title 7, chapter 14, apply to [sections 1 through 17].

NEW SECTION. **Section 20.** Effective date. [This act] is
effective July 1, 1993.

-End-

ON MOTION, PRINTED AND
PLACED ON SECOND READING

1 House BILL NO. 541
2 INTRODUCED BY Sen. Nelson NATHAN Holligan
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A COUNTY TO
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7 and railroad facilities, including but not limited to
8 terminal buildings, roadways, crossings, bridges, causeways,
9 tunnels, equipment, and rolling stock, as may be necessary
10 to carry out the provisions of [sections 1 through 17].

11 (2) The authority may apply to a public agency for
12 permits, consents, authorizations, and approvals required
13 for the acquisition and operation of a railroad and take all
14 actions necessary to comply with their conditions.

15 (3) The authority may acquire property for a public
16 purpose in the same manner as a county, except that the
17 authority does not have the power of eminent domain with
18 respect to property owned by another authority or by a
19 political subdivision or property owned by a railroad
20 corporation unless the interstate commerce commission or
21 another authority with power to make the finding, has found
22 that the public convenience and necessity permit
23 discontinuance of rail service on the property.

24 NEW SECTION. Section 11. Rules. An authority may
25 adopt, amend, and repeal reasonable resolutions, rules, and

1 orders as it considers necessary for its own administration,
2 management, and governance as well as for the management,
3 governance, or use of a railroad or railroad facility owned
4 by or under its control. A rule, order, or standard
5 prescribed by the authority may not be inconsistent with or
6 contrary to an act of the congress of the United States or a
7 regulation promulgated or standard established pursuant to
8 an act of congress. The authority shall keep a copy of its
9 rules on file for public inspection at the principal office
10 of the authority, as determined by the directors.

11 NEW SECTION. Section 12. Mill levy authorized --
12 limitation -- collection of tax. (1) The authority may
13 certify annually to the board of county commissioners the
14 amount of money necessary for the operation of the
15 authority. The board shall annually, at the time of levying
16 county taxes, fix and levy a tax in mills upon all property
17 within the boundaries of the authority clearly sufficient to
18 raise the amount certified by the authority.

19 (2) The tax levied for authority purposes other than
20 for payment of bonded indebtedness may not in a year exceed
21 6 mills on each dollar of taxable valuation of property
22 within the authority. The procedure for the collection of
23 the tax must be in accordance with the existing laws of the
24 state of Montana.

25 (3) The proceeds from the tax levy must be deposited in

a special account in which other revenues of the authority are deposited and may be expended by the authority as provided for in [sections 1 through 17].

NEW SECTION. Section 13. Contracts for operation and use of facilities. (1) In connection with the operation of a railroad or a railroad facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements:

(a) granting the privilege of operating or using the railroad or railroad facility;

(b) leasing a railroad for operation by the lessee; however, a person may not be authorized to operate a railroad other than as a common carrier;

(c) granting the privilege of supplying goods, commodities, services, or facilities along rail lines or in or upon other property; and

(d) making available services to be furnished by the authority or its agents.

(2) In each case, the authority may establish the terms and conditions and fix the charges, rentals, or fees that must be reasonable and uniform for the same class of privilege or service and that must be established with regard to the property and improvements used and the expenses of operation to the authority.

(3) The authority may remit funds available for

investment to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

NEW SECTION. Section 14. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it determines, payable out of any revenue of the authority, including revenue derived from:

(a) a railroad;

(b) taxes levied pursuant to [section 12];

(c) grants or contributions from the federal government; or

(d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals and to request taxes, if any are pledged,

sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Bonds issued by an authority pursuant to [sections 1 through 17] may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority pursuant to the provisions of [sections 1 through 17] are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of the bonds, the authority may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from the revenue referred to in [sections 1 through 17], prior to the payment of current costs of operation and maintenance of the facilities.

NEW SECTION. Section 15. Debt service fund. An authority may create a debt service fund and accumulate in

the fund a sum determined by the directors, together with the interest on the sum, for the use, repair, maintenance, and capital outlay expenses of a railroad.

NEW SECTION. Section 16. Tax exemption. Property in this state acquired by an authority for railroad purposes pursuant to the provisions of [sections 1 through 17] and income derived by the authority from the ownership, operation, or control of property are exempt from taxation to the same extent as other property used for public purposes.

NEW SECTION. Section 17. Procedure to enlarge authority. (1) The directors of an authority may by resolution enlarge the boundaries of the authority in accordance with the procedures of notice and hearing in [section 4].

(2) The property within an addition to the authority is subject to the existing indebtedness of the authority.

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

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

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

(2) The limitation on the amount of taxes levied is

1 interpreted to mean that, except as otherwise provided in
 2 this section, the actual tax liability for an individual
 3 property is capped at the dollar amount due in each taxing
 4 unit for the 1986 tax year. In tax years thereafter, the
 5 property must be taxed in each taxing unit at the 1986 cap
 6 or the product of the taxable value and mills levied,
 7 whichever is less for each taxing unit, except in a taxing
 8 unit that levied a tax in tax years 1983 through 1985 but
 9 did not levy a tax in 1986, in which case the actual tax
 10 liability for an individual property is capped at the dollar
 11 amount due in that taxing unit for the 1985 tax year.

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

- 15 (a) annexation of real property and improvements into a
 16 taxing unit;
- 17 (b) construction, expansion, or remodeling of
 18 improvements;
- 19 (c) transfer of property into a taxing unit;
- 20 (d) subdivision of real property;
- 21 (e) reclassification of property;
- 22 (f) increases in the amount of production or the value
 23 of production for property described in 15-6-131 or
 24 15-6-132;
- 25 (g) transfer of property from tax-exempt to taxable

1 status; or

- 2 (h) revaluations caused by:
- 3 (i) cyclical reappraisal; or
- 4 (ii) expansion, addition, replacement, or remodeling of
 5 improvements.
- 6 (4) The limitation on the amount of taxes levied does
 7 not mean that no a further increase may not be made in the
 8 taxable valuation or in the actual tax liability on
 9 individual property in each class as a result of:
- 10 (a) a revaluation caused by:
- 11 (i) construction, expansion, replacement, or remodeling
 12 of improvements that adds value to the property; or
- 13 (ii) cyclical reappraisal;
- 14 (b) transfer of property into a taxing unit;
- 15 (c) reclassification of property;
- 16 (d) increases in the amount of production or the value
 17 of production for property described in 15-6-131 or
 18 15-6-132;
- 19 (e) annexation of the individual property into a new
 20 taxing unit; or
- 21 (f) conversion of the individual property from
 22 tax-exempt to taxable status.
- 23 (5) Property in classes four and eleven is valued
 24 according to the procedures used in 1986, including the
 25 designation of 1982 as the base year, until the reappraisal

cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

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

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

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding

that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but ~~in no case may~~ the mills levied may not exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

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

1 not apply to the following levy or special assessment
2 categories, whether or not they are based on commitments
3 made before or after approval of 15-10-401 and 15-10-402:

- 4 (a) rural improvement districts;
- 5 (b) special improvement districts;
- 6 (c) levies pledged for the repayment of bonded
7 indebtedness, including tax increment bonds;
- 8 (d) city street maintenance districts;
- 9 (e) tax increment financing districts;
- 10 (f) satisfaction of judgments against a taxing unit;
- 11 (g) street lighting assessments;
- 12 (h) revolving funds to support any categories specified
13 in this subsection (8);
- 14 (i) levies for economic development authorized pursuant
15 to 90-5-112(4);
- 16 (j) levies authorized under 7-6-502 for juvenile
17 detention programs; and
- 18 (k) elementary and high school districts.

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

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

- 1 (b) an explanation of the nature of the financial
2 emergency;

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

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

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

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

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

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

17 (b) The limitation set forth in this chapter on the
18 amount of taxes levied does not apply to levies to support:

- 19 (i) a city-county board of health as provided in Title
20 50, chapter 2, if the governing bodies of the taxing units
21 served by the board of health determine, after a public
22 hearing, that public health programs require funds to ensure
23 the public health. A levy for the support of a local board
24 of health may not exceed the 5-mill limit established in
25 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2); and

(iii) a rail authority, as provided in [sections 1 through 17], authorized by a board of county commissioners. A levy for the support of a rail authority may not exceed the 6-mill limit established in [section 12].

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402."

NEW SECTION. Section 19. Codification instruction. [Sections 1 through 17] are intended to be codified as an integral part of Title 7, chapter 14, and the provisions of Title 7, chapter 14, apply to [sections 1 through 17].

NEW SECTION. Section 20. Effective date. [This act] is effective July 1, 1993.

-End-

HOUSE BILL NO. 541

INTRODUCED BY L. NELSON, NATHE, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING A COUNTY OR GROUP OF COUNTIES TO CREATE A RAIL AUTHORITY; ALLOWING A COUNTY TO LEVY UP TO 6 MILLS, WITH VOTER APPROVAL, FOR THE OPERATION OF A RAIL AUTHORITY; EXEMPTING THE MILLS LEVIED FOR A RAIL AUTHORITY FROM THE PROPERTY TAX LIMITATIONS OF TITLE 15, CHAPTER 10, PART 4; PLACING RAIL AUTHORITIES UNDER THE JURISDICTION OF THE PUBLIC SERVICE COMMISSION; AMENDING SECTION SECTIONS 15-10-412 AND 69-14-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 17 19], the following definitions apply:

(1) "Authority" means a rail authority as provided in [sections 1 through 17 19].

(2) "Board" means a board of county commissioners.

(3) "Common carrier" means a railroad engaged in transportation for hire.

(4) "Directors" means the directors of the rail authority.

NEW SECTION. Section 2. Purpose -- public and governmental functions. (1) The purpose of an authority is

to provide for the preservation and improvement of local ~~local~~ ABANDONED rail service for agriculture, industry, or passenger traffic and to provide for the preservation of abandoned railroad right-of-way for future transportation uses, when determined to be practicable and necessary for the public welfare, particularly in the case of the abandonment of rail lines.

(2) The acquisition of land pursuant to [sections 1 through 17 19]; the planning, acquisition, establishment, construction, improvement, maintenance, equipment, operation, regulation, and protection of authority facilities; and the exercise of powers granted to authorities and other public agencies to be severally or jointly exercised are public and governmental functions, exercised for public purpose, and matters of public necessity. All land and other property acquired and used by or on behalf of an authority or other public agency, as provided in [sections 1 through 17 19], must be used for

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

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(2) The acquisition of land pursuant to [sections 1 through 17 19]; the planning, acquisition, establishment, construction, improvement, maintenance, equipment, operation, regulation, and protection of authority facilities; and the exercise of powers granted to authorities and other public agencies to be severally or jointly exercised are public and governmental functions, exercised for public purpose, and matters of public necessity. All land and other property acquired and used by or on behalf of an authority or other public agency, as provided in [sections 1 through 17 19], must be used for public and governmental purposes and as a matter of public necessity.

NEW SECTION. Section 3. Resolution of intention to create rail authority. (1) A board of county commissioners may create an authority encompassing an entire county or a portion of a county. Before creating an authority, the board shall pass a resolution of intention.

(2) The resolution must state:

- (a) the proposed name of the authority;
- (b) the proposed boundaries of the authority; and
- (c) the number of directors of the authority.

NEW SECTION. Section 4. Notice of resolution -- hearing. (1) The text of the resolution referred to in [section 3] must be published as provided in 7-1-2121.

(2) At the time for the hearing, the board shall hear testimony for and against the creation of the authority. The hearing may be adjourned from time to time for the determination of additional information or for hearing proponents or opponents, but an adjournment may not exceed 2 weeks after the date originally published for the hearing.

NEW SECTION. Section 5. County rail authority. (1) The board, upon completion of the public hearing, may pass a resolution creating an authority.

(2) At the same time, the board shall appoint five persons as directors of the authority. A director shall hold office for 2 years and until a successor is appointed. Three of the directors first appointed shall hold office for 1 year. A vacancy occurring other than by expiration of a term must be filled for the unexpired term by the board.

(3) A director must reside within the boundaries of the authority.

NEW SECTION. Section 6. Regional rail authority. (1)

Two or more counties may by joint resolution create a regional rail authority. The resolution creating a regional rail authority must create a regional rail authority board of not less than five directors. The number of directors to be appointed, their term of office, and their qualifications must be provided for in the resolution.

(2) The text of the resolution must be published as provided in 7-1-2121 in each county in which the territory of the proposed authority lies. A county may not adopt a resolution authorized by this section without a public hearing.

(3) After passage of the resolution by the board of each county with territory included in the authority, the boards shall jointly appoint the initial directors of the regional rail authority.

NEW SECTION. Section 7. Directors. (1) The powers of an authority are vested in the directors of the authority. A majority of the directors constitutes a quorum for the purpose of conducting business of the authority and exercising its powers for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of the directors present.

(2) There must be elected a presiding officer, a vice presiding officer, a treasurer, and a secretary from among the directors. An authority may employ an executive

1 director, technical experts, and other officers, agents, and
 2 employees, permanent and temporary, as necessary and shall
 3 determine their qualifications, duties, and compensation. An
 4 authority may delegate to one or more of its agents or
 5 employees powers or duties as it considers proper.

6 (3) A director of an authority is entitled to receive
 7 expenses, as provided in 2-18-501 through 2-18-503, incurred
 8 in the performance of the director's duties.

9 NEW SECTION. Section 8. Cooperation of county. For the
 10 purpose of cooperating in the planning, construction, or
 11 operation of railroads pursuant to [sections 1 through 17
 12 19], a county for which an authority has been created may:

- 13 (1) lend or donate money to the authority;
- 14 (2) provide that all or a portion of the taxes or funds
 15 available or required by law to be used by the county for
 16 railroad purposes be transferred to the authority as the
 17 funds become available to the county;
- 18 (3) furnish facilities or improvements that it is
 19 empowered to provide in connection with the railroad or
 20 railroad facilities;
- 21 (4) dedicate, sell, convey, or lease its interest in
 22 property or grant easements, licenses, or other rights or
 23 privileges to the authority;
- 24 (5) do all things, whether or not specifically
 25 authorized in this section and not otherwise prohibited by

1 law, that are necessary or convenient to aid and cooperate
 2 with the authority in the planning, undertaking,
 3 construction, or operation of railroads and railroad
 4 facilities; and

5 (6) enter into agreements with the authority respecting
 6 action to be taken by the county pursuant to the provisions
 7 of this section.

8 NEW SECTION. Section 9. General powers of authority.
 9 An authority has all the powers necessary to carry out the
 10 purposes of [sections 1 through 17 19], including but not
 11 limited to the power to:

- 12 (1) sue and be sued, have a seal, and have perpetual
 13 succession;
- 14 (2) execute contracts and other instruments and take
 15 other action as may be necessary to carry out the purposes
 16 of [sections 1 through 17 19];
- 17 (3) receive and disburse federal, state, and other
 18 funds, public or private, made available by grant, loan,
 19 contribution, tax levy, or other source to accomplish the
 20 purposes of [sections 1 through 17 19]. Federal money
 21 accepted under this section must be accepted and spent by
 22 the authority upon terms and conditions prescribed by the
 23 United States and consistent with state law. All state money
 24 accepted under this section must be accepted and spent by
 25 the authority upon terms and conditions prescribed by the

1 state.

2 (4) sell, lease, or otherwise dispose of real or
3 personal property acquired pursuant to [sections 1 through
4 17 19]. The disposal must be in accordance with the laws of
5 this state governing the disposition of other public
6 property.

7 NEW SECTION. Section 10. Railroad acquisition and
8 operation -- permits -- eminent domain. (1) The WITHIN THE
9 BOUNDARIES OF THE AUTHORITY, THE authority may establish,
10 acquire, construct, purchase, improve, maintain, equip,
11 operate, regulate, and protect railroads and railroad
12 facilities, including but not limited to terminal buildings,
13 roadways, crossings, bridges, causeways, tunnels, equipment,
14 and rolling stock, as may be necessary to carry out the
15 provisions of [sections 1 through 17 19].

16 (2) The authority may apply to a public agency for
17 permits, consents, authorizations, and approvals required
18 for the acquisition and operation of a railroad and take all
19 actions necessary to comply with their conditions.

20 (3) The authority may acquire property for a public
21 purpose in the same manner as a county, except that the
22 authority does not have the power of eminent domain with
23 respect to property owned by another authority or by a
24 political subdivision or property owned by a railroad
25 corporation unless the interstate commerce commission or

1 another authority with power to make the finding, has found
2 that the public convenience and necessity permit
3 discontinuance of rail service on the property.

4 NEW SECTION. Section 11. Rules. An authority may
5 adopt, amend, and repeal reasonable resolutions, rules, and
6 orders as it considers necessary for its own administration,
7 management, and governance as well as for the management,
8 governance, or use of a railroad or railroad facility owned
9 by or under its control. A rule, order, or standard
10 prescribed by the authority may not be inconsistent with or
11 contrary to an act of the congress of the United States or a
12 regulation promulgated or standard established pursuant to
13 an act of congress. The authority shall keep a copy of its
14 rules on file for public inspection at the principal office
15 of the authority, as determined by the directors.

16 NEW SECTION. Section 12. Mill levy authorized ---
17 limitation-----collection--of--tax. (1) The authority may
18 certify annually to the board of county commissioners the
19 amount of money necessary for the operation of the
20 authority. The UPON APPROVAL BY THE ELECTORATE, THE board
21 shall annually, at the time of levying county taxes, fix and
22 levy a tax in mills upon all property within the boundaries
23 of the authority clearly sufficient to raise the amount
24 certified by the authority.

25 (2) The tax levied for authority purposes other than

for payment of bonded indebtedness may not in a year exceed 6 mills on each dollar of taxable valuation of property within the authority.

NEW SECTION. SECTION 13. ELECTION REQUIRED TO IMPOSE MILL LEVY. (1) BEFORE THE LEVY PROVIDED FOR IN [SECTION 12] MAY BE MADE, THE QUESTION MUST BE SUBMITTED TO A VOTE OF THE PEOPLE AT THE NEXT REGULAR SCHOOL ELECTION HELD IN ACCORDANCE WITH 20-3-304 OR BY MAIL BALLOT ELECTION AS PROVIDED BY TITLE 13, CHAPTER 19, IN THE FOLLOWING FORM:

"SHALL THERE BE A LEVY OF (SPECIFY NUMBER, NOT TO EXCEED 6) MILLS UPON THE TAXABLE PROPERTY OF THE (SPECIFY RAIL AUTHORITY) NECESSARY TO RAISE THE SUM OF (SPECIFY THE APPROXIMATE AMOUNT TO BE RAISED BY THE TAX LEVY) FOR THE PURPOSE OF (SPECIFY PURPOSE FOR WHICH THE LEVY IS MADE)?

☐ FOR THE TAX LEVY.

☐ AGAINST THE TAX LEVY."

(2) NOTICE OF THE ELECTION, CLEARLY STATING THE AMOUNT AND THE PURPOSE OF THE LEVY, MUST BE GIVEN AND THE ELECTION MUST BE HELD AND CONDUCTED AND THE RETURNS MUST BE MADE IN THE MANNER PRESCRIBED BY LAW FOR THE SUBMISSION OF QUESTIONS TO THE ELECTORS UNDER THE GENERAL ELECTION LAWS.

NEW SECTION. SECTION 14. COLLECTION OF TAX AND DISPOSITION OF FUNDS. (1) The procedure for the collection of the tax must be in accordance with the existing laws of the state of Montana.

~~(3)~~(2) The proceeds from the tax levy must be deposited in a special account in which other revenues of the authority are deposited and may be expended by the authority as provided for in [sections 1 through 17 19].

NEW SECTION. Section 15. Contracts for operation and use of facilities. (1) In connection with the operation of a railroad or a railroad facility owned or controlled by an authority, the authority may enter into contracts, leases, and other arrangements:

(a) granting the privilege of operating or using the railroad or railroad facility;

(b) leasing a railroad for operation by the lessee; however, a person may not be authorized to operate a railroad other than as a common carrier;

(c) granting the privilege of supplying goods, commodities, services, or facilities along rail lines or in or upon other property; and

(d) making available services to be furnished by the authority or its agents.

(2) In each case, the authority may establish the terms and conditions and fix the charges, rentals, or fees that must be reasonable and uniform for the same class of privilege or service and that must be established with regard to the property and improvements used and the expenses of operation to the authority.

(3) The authority may remit funds available for investment to the state treasurer for investment under the direction of the board of investments as part of the pooled investment fund.

NEW SECTION. Section 16. Bonds and obligations. (1) An authority may borrow money for any of its corporate purposes and issue bonds for its purposes, including refunding bonds, in a form and upon terms as it determines, payable out of any revenue of the authority, including revenue derived from:

- (a) a railroad;
- (b) taxes levied pursuant to [section 12];
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in a year on the bonds and on any then-outstanding bonds for which revenue from the same source is pledged exceeds the amount of the revenue to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges,

and rentals and to request taxes, if any are pledged, sufficient to make the revenue from the pledged source in the year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Bonds issued by an authority pursuant to [sections 1 through 17 19] may be payable as to principal and interest solely from revenue of the authority and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

(4) Bonds issued by an authority pursuant to the provisions of [sections 1 through 17 19] are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of the bonds, the authority may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from the revenue referred to in [sections 1 through 17 19], prior to the payment of current costs of operation and maintenance of the facilities.

NEW SECTION. Section 17. Debt service fund. An

authority may create a debt service fund and accumulate in the fund a sum determined by the directors, together with the interest on the sum, for the use, repair, maintenance, and capital outlay expenses of a railroad.

NEW SECTION. Section 18. Tax exemption. Property in this state acquired by an authority for railroad purposes pursuant to the provisions of [sections 1 through 19] and income derived by the authority from the ownership, operation, or control of property are exempt from taxation to the same extent as other property used for public purposes.

NEW SECTION. Section 19. Procedure to enlarge authority. (1) The directors of an authority may by resolution enlarge the boundaries of the authority in accordance with the procedures of notice and hearing in [section 4].

(2) The property within an addition to the authority is subject to the existing indebtedness of the authority.

Section 20. Section 15-10-412, MCA, is amended to read:

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

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

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

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

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

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

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

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

1 (g) transfer of property from tax-exempt to taxable
 2 status; or
 3 (h) revaluations caused by:
 4 (i) cyclical reappraisal; or
 5 (ii) expansion, addition, replacement, or remodeling of
 6 improvements.
 7 (4) The limitation on the amount of taxes levied does
 8 not mean that no a further increase may not be made in the
 9 taxable valuation or in the actual tax liability on
 10 individual property in each class as a result of:
 11 (a) a revaluation caused by:
 12 (i) construction, expansion, replacement, or remodeling
 13 of improvements that adds value to the property; or
 14 (ii) cyclical reappraisal;
 15 (b) transfer of property into a taxing unit;
 16 (c) reclassification of property;
 17 (d) increases in the amount of production or the value
 18 of production for property described in 15-6-131 or
 19 15-6-132;
 20 (e) annexation of the individual property into a new
 21 taxing unit; or
 22 (f) conversion of the individual property from
 23 tax-exempt to taxable status.
 24 (5) Property in classes four and eleven is valued
 25 according to the procedures used in 1986, including the

1 designation of 1982 as the base year, until the reappraisal
 2 cycle beginning January 1, 1986, is completed and new
 3 valuations are placed on the tax rolls and a new base year
 4 designated, if the property is:
 5 (a) new construction;
 6 (b) expanded, deleted, replaced, or remodeled
 7 improvements;
 8 (c) annexed property; or
 9 (d) property converted from tax-exempt to taxable
 10 status.
 11 (6) Property described in subsections (5)(a) through
 12 (5)(d) that is not class four or class eleven property is
 13 valued according to the procedures used in 1986 but is also
 14 subject to the dollar cap in each taxing unit based on 1986
 15 mills levied.
 16 (7) The limitation on the amount of taxes, as clarified
 17 in this section, is intended to leave the property appraisal
 18 and valuation methodology of the department of revenue
 19 intact. Determinations of county classifications, salaries
 20 of local government officers, and all other matters in which
 21 total taxable valuation is an integral component are not
 22 affected by 15-10-401 and 15-10-402 except for the use of
 23 taxable valuation in fixing tax levies. In fixing tax
 24 levies, the taxing units of local government may anticipate
 25 the deficiency in revenues resulting from the tax

1 limitations in 15-10-401 and 15-10-402, while understanding
2 that regardless of the amount of mills levied, a taxpayer's
3 liability may not exceed the dollar amount due in each
4 taxing unit for the 1986 tax year unless:

5 (a) the taxing unit's taxable valuation decreases by 5%
6 or more from the 1986 tax year. If a taxing unit's taxable
7 valuation decreases by 5% or more from the 1986 tax year, it
8 may levy additional mills to compensate for the decreased
9 taxable valuation, but in no case may the mills levied may
10 not exceed a number calculated to equal the revenue from
11 property taxes for the 1986 tax year in that taxing unit.

12 (b) a levy authorized under Title 20 raised less
13 revenue in 1986 than was raised in either 1984 or 1985, in
14 which case the taxing unit may, after approval by the voters
15 in the taxing unit, raise each year thereafter an additional
16 number of mills but may not levy more revenue than the
17 3-year average of revenue raised for that purpose during
18 1984, 1985, and 1986;

19 (c) a levy authorized in 50-2-111 that was made in 1986
20 was for less than the number of mills levied in either 1984
21 or 1985, in which case the taxing unit may, after approval
22 by the voters in the taxing unit, levy each year thereafter
23 an additional number of mills but may not levy more than the
24 3-year average number of mills levied for that purpose
25 during 1984, 1985, and 1986.

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

- 5 (a) rural improvement districts;
- 6 (b) special improvement districts;
- 7 (c) levies pledged for the repayment of bonded
- 8 indebtedness, including tax increment bonds;
- 9 (d) city street maintenance districts;
- 10 (e) tax increment financing districts;
- 11 (f) satisfaction of judgments against a taxing unit;
- 12 (g) street lighting assessments;
- 13 (h) revolving funds to support any categories specified
- 14 in this subsection (8);
- 15 (i) levies for economic development authorized pursuant
- 16 to 90-5-112(4);
- 17 (j) levies authorized under 7-6-502 for juvenile
- 18 detention programs; and
- 19 (k) elementary and high school districts.

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

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

1 and 15-10-402;

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

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

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

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

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

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

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

18 (b) The limitation set forth in this chapter on the
19 amount of taxes levied does not apply to levies to support:

20 (i) a city-county board of health as provided in Title
21 50, chapter 2, if the governing bodies of the taxing units
22 served by the board of health determine, after a public
23 hearing, that public health programs require funds to ensure
24 the public health. A levy for the support of a local board
25 of health may not exceed the 5-mill limit established in

1 50-2-111.

2 (ii) county, city, or town ambulance services authorized
3 by a vote of the electorate under 7-34-102(2); and

4 (iii) a rail authority, as provided in [sections 1
5 through 17 19], authorized by a board of county
6 commissioners. A levy for the support of a rail authority
7 may not exceed the 6-mill limit established in [section 12].

8 (11) The limitation on the amount of taxes levied by a
9 taxing jurisdiction subject to a statutory maximum mill levy
10 does not prevent a taxing jurisdiction from increasing its
11 number of mills beyond the statutory maximum mill levy to
12 produce revenue equal to its 1986 revenue.

13 (12) The limitation on the amount of taxes levied does
14 not apply to a levy increase to repay taxes paid under
15 protest in accordance with 15-1-402."

16 **SECTION 21. SECTION 69-14-101, MCA, IS AMENDED TO READ:**

17 "69-14-101. Definitions. Unless the context requires
18 otherwise, in this chapter the following definitions apply:

19 (1) "Paralleling" means the situation where the main
20 tracks of parallel lines of railroad or railway are not more
21 than 2,000 feet apart when measured from center to center.

22 (2) "Railroad" means a corporation, company, or
23 individual owning or operating a railroad in whole or in
24 part in this state. The term also includes express
25 companies, and sleeping-car companies, and a railroad

1 authority established under [sections 1 through 19].

2 (3) "Transportation" includes instrumentalities of
3 shipment or carriage."

4 NEW SECTION. Section 22. Codification instruction.

5 [Sections 1 through 17 19] are intended to be codified as an
6 integral part of Title 7, chapter 14, and the provisions of
7 Title 7, chapter 14, apply to [sections 1 through 17 19].

8 NEW SECTION. Section 23. Effective date. [This act] is
9 effective July 1, 1993.

-End-