

House BILL NO. 613

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INTRODUCED BY Ream

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A MONTANA BUSINESS ENTERPRISE TAX IN LIEU OF VARIOUS TAXES BASED UPON BUSINESS INCOME, INCLUDING THE CORPORATION LICENSE OR INCOME TAX, PUBLIC CONTRACTOR'S FEES AND TAX, ELECTRIC ENERGY PRODUCERS' LICENSE TAX, TELEPHONE COMPANY LICENSE TAX, CEMENT TAXES, SURPLUS LINES PREMIUM TAX, INSURANCE PREMIUM TAX, AND CERTAIN EXEMPTIONS FOR INSURANCE TAXES; ELIMINATING PERSONAL PROPERTY TAXES; ELIMINATING REIMBURSEMENT PROGRAMS FOR PREVIOUS PERSONAL PROPERTY TAX REDUCTIONS; ELIMINATING STATE LEVIES FOR ELEMENTARY AND SECONDARY SCHOOLS, SCHOOL RETIREMENT, AND SCHOOL TRANSPORTATION; REPEALING THE TAX LIMITATIONS ENACTED BY INITIATIVE MEASURE NO. 105; ADJUSTING LOCAL GOVERNMENT AND SCHOOL INDEBTEDNESS LIMITS; AMENDING SECTIONS 7-1-2111, 7-6-2211, 7-6-2203, 7-6-4111, 7-6-4409, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-14-2524, 7-14-4713, 7-14-4734, 7-15-4286, 7-15-4292, 7-16-2327, 7-22-2406, 15-1-501, 15-6-201, 15-8-111, 15-8-301, 15-10-106, 15-16-118, 15-16-401, 15-16-802, 15-23-216, 15-24-102, 15-24-701, 15-24-801, 15-24-1402, 15-24-1703, 15-24-1802, 15-24-1902, 15-24-2002, 15-24-2501, 15-30-111, 15-30-117, 15-30-129, 15-30-161, 15-30-163, 15-30-164, 15-30-186, 15-30-201, 15-31-509, 15-31-543, 15-31-551, 15-32-109, 15-32-115, 15-32-201, 15-32-303, 15-32-402, 15-32-405, 15-32-602, 15-32-610, 15-36-323, 15-36-324, 15-36-325, 15-61-202, 17-2-121, 17-3-213, 17-5-408, 17-7-502, 20-1-301, 20-3-106, 20-3-205, 20-3-324, 20-5-316, 20-5-320, 20-5-324, 20-6-203, 20-6-205, 20-6-317, 20-6-702, 20-7-714, 20-9-104, 20-9-141, 20-9-142, 20-9-212, 20-9-303, 20-9-306, 20-9-307, 20-9-308, 20-9-332, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-348, 20-9-351, 20-9-353, 20-9-369, 20-9-370, 20-9-371, 20-9-406, 20-9-422, 20-9-439, 20-9-501, 20-9-515, 20-10-104, 20-10-141, 20-10-142, 20-10-143, 20-10-144, 20-10-145, 20-15-313, 20-15-314, 20-25-439, 25-13-404, 27-1-732, 33-2-305, 33-2-312, 33-2-708, 33-2-1503, 33-2-1517, 33-22-1513, 33-27-101, 33-27-102, 33-27-103, 33-27-118, 39-71-2314, 61-10-214, 75-2-220, 75-5-516, 77-1-507, 87-2-903, 90-6-309, 90-6-403, 90-8-104, AND 90-8-202, MCA; REPEALING SECTIONS 15-1-111, 15-1-112, 15-6-138, 15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412, 15-16-117, 15-16-402, 15-30-126, 15-31-101, 15-31-102, 15-31-103, 15-31-111, 15-31-112, 15-31-113, 15-31-114, 15-31-115, 15-31-117, 15-31-118, 15-31-119, 15-31-121.



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 18 20-9-333, 20-9-334, 20-9-335, 20-9-360, 20-9-361, 20-9-366, 20-9-367, 20-9-368, 20-10-146,
 19 33-2-311, 33-2-705, 33-2-706, 33-2-710, 33-11-110, 33-22-1205, AND 69-3-713, MCA; AND
 20 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

21

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

23

24 **NEW SECTION. Section 1. Short title.** [Sections 1 through 30] may be cited as the "Montana
 25 Business Enterprise Tax Reform Act".

26

27 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 30], the following
 28 definitions apply:

29 (1) "Active shareholder" means a shareholder who receives at least \$10,000 in compensation,
 30 director's fees, or dividends from the business and who owns at least 5% of the outstanding stock.

- 1 (2) "Adjusted business income" means business income, as defined in this section, with all of the
2 following additions:
- 3 (a) compensation;
- 4 (b) gross interest income and dividends derived from obligations or securities of states other than
5 Montana; and
- 6 (c) to the extent deducted in arriving at federal taxable income:
- 7 (i) interest, dividends, rents, and royalties;
- 8 (ii) any carryback or carryforward of a net operating loss or capital loss;
- 9 (iii) any deduction for depreciation, amortization, or immediate or accelerated writeoff related to the
10 cost of tangible assets for which a capital acquisition deduction was taken; and
- 11 (iv) capital gains related to business activity of individuals.
- 12 (3) "Affiliated group" means two or more corporations, one of which owns or controls, directly or
13 indirectly, 80% or more of the capital stock, with voting rights, of the other corporation or corporations.
- 14 (4) (a) "Business activity" means a transfer of legal or equitable title to or rental of property,
15 whether real, personal, or mixed, tangible or intangible, or the performance of services, or a combination
16 of transfer of title and performance of services, made or engaged in or caused to be made or engaged in
17 within this state, whether in intrastate, interstate, or foreign commerce, with the object of gain, benefit,
18 or advantage, whether direct or indirect, to the taxpayer or to others. Although an activity of a taxpayer
19 may be incidental to another of the taxpayer's business activities, each activity is considered to be business
20 engaged in within the meaning of [sections 1 through 30].
- 21 (b) Business activity does not include:
- 22 (i) services rendered to an employer by an employee;
- 23 (ii) services as a director of a corporation; or
- 24 (iii) a casual transaction.
- 25 (5) "Business income" means federal taxable income. However, for a person other than a
26 corporation, it means that part of federal taxable income derived from business activity. For a partnership,
27 business income includes payments and items of income and expense that are attributable to business
28 activity of the partnership and that are separately reported to the partners.
- 29 (6) "Casual transaction" means a transaction made or engaged in other than in the ordinary course
30 of repeated and successive transactions of a similar character. However, a transaction that is made or

1 engaged in by a person and that is incidental to the person's regular business activity is considered to be
2 a business activity within the meaning of [sections 1 through 30].

3 (7) (a) "Compensation" means all wages, salaries, fees, bonuses, commissions, or other payments
4 that are made in the tax year on behalf of or for the benefit of employees, officers, or directors of the
5 taxpayer and that are subject to or specifically exempt from withholding under section 3401 of the Internal
6 Revenue Code, 26 U.S.C. 3401. Compensation includes, on a cash or accrual basis consistent with the
7 taxpayer's method of accounting for federal income tax purposes, payments:

8 (i) to state and federal unemployment compensation funds;

9 (ii) under the Federal Insurance Contributions Act and similar social insurance programs;

10 (iii) for worker's compensation insurance, including self-insurance;

11 (iv) to individuals not currently working;

12 (v) to dependents and heirs of individuals because of current or former labor services rendered by
13 those individuals;

14 (vi) to a pension, retirement, or profit-sharing plan; and

15 (vii) for insurance for which employees are the beneficiaries, including payments under health and
16 welfare and noninsured benefit plans and payments of fees for the administration of those plans.

17 (b) Compensation does not include:

18 (i) discounts on the price of the taxpayer's merchandise or services that are sold to the taxpayer's
19 employees, officers, or directors and that are not available to other customers; or

20 (ii) payments to an independent contractor.

21 (8) "Department" means the department of revenue provided for in 2-15-1301.

22 (9) "Employee" means an employee as defined in section 3401(c) of the Internal Revenue Code,
23 26 U.S.C. 3401(c). A person from whom an employer is required to withhold for federal income tax
24 purposes is prima facie considered an employee.

25 (10) "Financial organization" means a bank, industrial bank, trust company, building and loan
26 association, savings and loan association, bank holding company as defined in 12 U.S.C. 1841, credit
27 union, regulated investment company as defined in the Internal Revenue Code, and any other association,
28 joint stock company, or corporation at least 90% of whose assets consist of intangible personal property
29 and at least 90% of whose gross receipts income consist of dividends or interest or other charges resulting
30 from the use of money or credit.

1 (11) "Insurance company" means an insurer authorized under Title 33, chapter 2, part 1.

2 (12) "Officer" means an officer of a corporation other than a corporation electing taxation under
3 subchapter S. of Chapter 1, sections 1361 through 1379 of the Internal Revenue Code, 26 U.S.C. 1361
4 through 1379, including the presiding officer of the board, president, vice president, secretary, and
5 treasurer or other persons performing similar duties.

6 (13) "Person" means an individual, firm, bank, financial institution, limited partnership, partnership,
7 limited liability company, joint venture, association, corporation, receiver, estate, or trust or any other group
8 or combination that acts as a unit.

9 (14) "Shareholder" means a person who owns outstanding stock in the business. An individual is
10 considered the owner of stock owned, directly or indirectly, by or for members of the family as defined by
11 section 318(a)(1) of the Internal Revenue Code, 26 U.S.C. 318(a)(1).

12 (15) "State" means any state of the United States, the District of Columbia, the Commonwealth
13 of Puerto Rico, a territory or possession of the United States, or a political subdivision of any of them. For
14 purposes of [sections 10 through 22], the term also includes a foreign country or a political subdivision of
15 a foreign country.

16 (16) "Tax" includes interest and penalties unless the context provides otherwise.

17 (17) "Tax year" means the calendar year or the fiscal year ending during the calendar year upon
18 the basis of which the tax base is computed under [sections 1 through 30]. When a return is made for a
19 fractional part of a year, tax year means the period for which the return is made. Except for the first return
20 required by [sections 1 through 30], a taxpayer's tax year must be for the same period as is covered by
21 the taxpayer's federal income tax return.

22 (18) "Taxpayer" means a person liable for a tax, interest, or penalty under [sections 1 through 30].

23 (19) "Unrelated business activity" means any business activity that gives rise to unrelated taxable
24 income as defined in the Internal Revenue Code.

25

26 **NEW SECTION. Section 3. Tax base.** (1) The tax base subject to taxation under [sections 1
27 through 30] is the adjusted business income of a business less the cost of capital as provided in [section
28 6(1)] adjusted as follows:

29 (a) The tax base must be allocated or apportioned as provided in [sections 10 through 21].

30 (b) Adjustments must be made for recapture of capital investment because of the sale of capital

1 assets, as provided in [section 6(2)].

2 (c) Exemptions from the tax must be subtracted as provided in [section 5].

3 (2) If compensation divided by the adjusted tax base determined in subsection (1) exceeds 75%,
4 the tax base may be further adjusted to reduce the adjusted tax base by the number of percentage points
5 over 75. The deduction may not exceed 25% of the adjusted tax base.

6

7 **NEW SECTION. Section 4. Tax on value reflected by tax base.** A tax of 4% for the privilege of
8 doing business in Montana is imposed upon the tax base of each person with business activity in this state
9 that is allocated or apportioned to this state.

10

11 **NEW SECTION. Section 5. Exemptions.** The following are exempt from the tax imposed by
12 [section 4]:

13 (1) (a) A small business exemption from the tax base, after any adjustment made under [section
14 6] and any allocation or apportionment under [sections 10 through 22], is exempt from the tax imposed
15 by [sections 1 through 30], as follows:

16 (i) The first \$25,000 of the tax base is exempt.

17 (ii) An additional amount of \$6,000 is exempted for the second and each succeeding partner of a
18 partnership or shareholder of a subchapter S. corporation or professional corporation who is a full-time
19 employee of the taxpayer, whose business income from that business is at least \$6,000, and who owns
20 at least 10% of that business. The total partner or shareholder exemption may not exceed \$24,000.

21 (iii) The total exemption under subsections (1)(a)(i) and (1)(a)(ii) must be reduced by \$2 for each
22 \$1 that business income exceeds the total amount of the exemption.

23 (b) For a taxpayer whose business activity is for a fractional part of a year, the exemption provided
24 in this subsection (1), including the increase in the exemption, must be prorated for the period of the
25 taxpayer's business activity.

26 (c) For the purposes of computing the exemption, "business income" has the meaning as defined
27 in [section 2] plus compensation and director's fees of a shareholder of a corporation and any carryback
28 or carryover of a net operating loss or capital loss to the extent deducted in arriving at federal taxable
29 income.

30 (d) In calculating eligibility for the exemption provided in this subsection (1), a person who is not

1 a corporation may elect to average its business income for the current year and the previous 4 tax years.

2 (e) As used in this subsection (1), business income may not be less than zero.

3 (f) An affiliated group, a controlled group of corporations, as defined by section 1563 of the
4 Internal Revenue Code, 26 U.S.C. 1563, or an entity under common control, as defined by the Internal
5 Revenue Code, is entitled to only one exemption allowed by this subsection (1), whether or not a combined
6 or consolidated return is filed.

7 (2) The United States, this state, other states, and the agencies, political subdivisions, and
8 enterprises of each are exempt from the tax imposed by [section 4].

9 (3) A person who is exempt from federal income tax pursuant to the provisions of the Internal
10 Revenue Code is exempt from the tax imposed by [section 4], except the following:

11 (a) an organization included under section 501(c)(12) or 501(c)(16) of the Internal Revenue Code,
12 26 U.S.C. 501(c)(12) or (c)(16);

13 (b) an organization exempt under section 501(c)(4) of the Internal Revenue Code, 26 U.S.C.
14 501(c)(4), that would be exempt under section 501(c)(12), 26 U.S.C. 501(c)(12), of the Internal Revenue
15 Code except for its failure to meet the requirements in section 501(c)(12) that 85% or more of its income
16 must consist of amounts collected from members; or

17 (c) the value added attributable to the unrelated business activities of an exempt person.

18 (4) For a financial organization, interest income derived from obligations of the United States that
19 this state is prohibited by federal law from subjecting to taxation under [sections 1 through 30] is exempt
20 from the tax imposed by [section 4].

21
22 **NEW SECTION. Section 6. Treatment of capital.** (1) The tax base must be adjusted to exclude
23 capital cost. If the adjustment calculated pursuant to this subsection (1) is a positive amount, it must be
24 deducted from the tax base after allocation or apportionment, as applicable. If the adjustment calculated
25 pursuant to this subsection (1) is a negative amount, it must, without reference to the negative sign, be
26 added to the tax base after allocation and apportionment.

27 (a) The cost of real property purchased in Montana must be deducted from the tax base, without
28 allocation or apportionment.

29 (b) The cost of all other property, including fabrication and installation, paid or accrued in the tax
30 year, of tangible assets of a type that are eligible for depreciation, amortization, or accelerated capital cost

1 recovery for federal income tax purposes must be added to the tax base after allocation. This capital cost
2 must be multiplied by the apportionment factor, as prescribed in [sections 10 through 22], for the tax year.

3 (2) The gross proceeds or benefit derived from the sale or other disposition of a tangible asset
4 described in subsection (1) must be added into the tax base after it has been multiplied by the
5 apportionment factor, as prescribed by [sections 10 through 22], for the tax year.

6 (3) If the combined capital cost determined under subsections (1) and (2) exceeds the allocated
7 or apportioned tax base determined under [section 3], the amount of the excess may be carried forward
8 to the next tax year and considered a capital cost in that year under the provisions of subsection (1).
9 Excess capital may not be carried forward more than 10 years.

10

11 **NEW SECTION. Section 7. Tax base of insurance company.** The tax base of an insurance company
12 is the product of 0.35 times the insurance company's gross receipts as apportioned under [section 21],
13 excluding receipts on the sale of annuities and receipts on the sale of reinsurance. The tax base calculated
14 under this section may not be adjusted under [section 6] but may be adjusted by deducting from gross
15 receipts the amount of the offset allowed under 33-10-230.

16

17 **NEW SECTION. Section 8. Small business credit -- conditions.** (1) A person who qualifies pursuant
18 to subsection (2) is allowed a credit against the tax imposed by [section 4]. The credit is the amount by
19 which the tax imposed by [section 4] exceeds 6.8% of adjusted business income.

20 (2) The credit allowed by subsection (1) must be taken before any other credit under [sections 1
21 through 30]. The credit allowed by subsection (1) is available to any person whose gross receipts do not
22 exceed \$1 million for the tax year and whose adjusted business income does not exceed \$100,000, subject
23 to the following conditions:

24 (a) An individual, a partnership, or a subchapter S. corporation is not entitled to the credit if the
25 individual, any partner of the partnership, or any shareholder of the subchapter S. corporation receives more
26 than \$25,000 as a distributive share of the adjusted business income.

27 (b) A corporation other than a subchapter S. corporation is not entitled to the credit if
28 compensation and director's fees of a shareholder or officer exceed \$25,000.

29 (c) For the purposes of determining disqualification under subsection (2)(a) or (2)(b), an active
30 shareholder's share of business income may not be attributed to another active shareholder.

1 (3) An affiliated group, a controlled group of corporations, or an entity under common control, as
 2 defined by the Internal Revenue Code, is not entitled to the credit allowed by this section unless the
 3 business activities of the groups or entities are consolidated.

4 (4) The department shall permit a taxpayer who claims the credit allowed by subsection (1) to file
 5 and pay the tax imposed by [sections 1 through 30] without computing the tax imposed under [section 4].
 6

7 **NEW SECTION. Section 9. Credit -- subchapter S. or unincorporated taxpayer.** A taxpayer who
 8 is unincorporated or who elects the subchapter S. provisions of the Internal Revenue Code is entitled to an
 9 additional credit for a portion of the business enterprise tax liability after the calculation of the credit
 10 provided in [section 8] for the same year, according to the following schedule:

11 If Business Income Is:	The Credit Is Equal To:
12 \$20,000 or less	20% of the business enterprise tax liability
13 more than \$20,000, but less than \$40,000	15% of the business enterprise tax liability
14 \$40,000 or more	10% of the business enterprise tax liability

15
 16 **NEW SECTION. Section 10. Allocation of tax base -- business activities confined solely to state.**
 17 A taxpayer whose business activities are confined solely to this state shall allocate the entire tax base of
 18 the taxpayer to this state except as provided in [section 17].
 19

20 **NEW SECTION. Section 11. Apportionment of tax base -- business activities taxable within and**
 21 **outside of state.** A taxpayer whose business activities are taxable both within and outside of this state shall
 22 apportion the tax base as provided in [sections 10 through 22].
 23

24 **NEW SECTION. Section 12. Conditions to taxpayer being taxable in another state.** For purposes
 25 of apportionment of the tax base from business activities under [sections 1 through 30], a taxpayer is
 26 taxable in another state if, in that state, the taxpayer is subject to a business privilege tax, a net income
 27 tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, a corporate
 28 stock tax, or a tax of the type imposed under [sections 1 through 30]. A taxpayer is taxable if that state
 29 has jurisdiction to subject the taxpayer to one or more of those taxes, regardless of whether that state
 30 imposes the tax on the taxpayer.

1 **NEW SECTION. Section 13. Calculation of apportionment of tax base to state.** All of the tax base,
2 other than the tax base derived principally from transportation or financial services or as otherwise
3 specifically allocated, must be apportioned to this state by multiplying the tax base by a percentage that
4 is the sum of all of the following percentages:

- 5 (1) the property factor multiplied by 25%;
- 6 (2) the payroll factor multiplied by 25%; and
- 7 (3) the sales factor multiplied by 50%.

8

9 **NEW SECTION. Section 14. Property factor -- valuation.** (1) The property factor is a fraction, the
10 numerator of which is the average value of the taxpayer's real and tangible personal property owned or
11 rented in this state during the tax year and the denominator of which is the average value of all the
12 taxpayer's real and tangible personal property owned or rented during the tax year.

13 (2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer
14 is valued at eight times the net annual rental rate. The net annual rental rate is the annual rental rate paid
15 by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

16 (3) The average value of property is determined by averaging the values at the beginning and end
17 of the tax year. However, the department may require the periodic averaging of values during the tax year
18 if it is reasonably required to properly reflect the average value of the taxpayer's property.

19

20 **NEW SECTION. Section 15. Payroll factor -- wages defined -- wages paid in state.** (1) The payroll
21 factor is a fraction, the numerator of which is the total wages paid in this state during the tax year by the
22 taxpayer and the denominator of which is the total wages paid everywhere during the tax year by the
23 taxpayer.

24 (2) For the purposes of [sections 10 through 22], "wages" means wages as defined in section
25 3401 of the Internal Revenue Code, 26 U.S.C. 3401.

26 (3) Wages are paid in this state if:

27 (a) the individual's service is performed entirely within the state;

28 (b) the individual's service is performed both within and outside of the state but the service
29 performed outside of the state is incidental to the individual's service within the state; or

30 (c) some of the service is performed in the state and:

1 (i) the base of operations or, if there is no base of operations, the place from which the service is
2 directed or controlled is in the state; or

3 (ii) the base of operations or the place from which the service is directed or controlled is not in any
4 state in which some part of the service is performed but the individual's residence is in this state.

5
6 **NEW SECTION. Section 16. Sales factor -- location of sales.** (1) The sales factor is a fraction, the
7 numerator of which is the total sales of the taxpayer in this state during the tax year and the denominator
8 of which is the total sales of the taxpayer everywhere during the tax year.

9 (2) Sales of tangible personal property are in this state if:

10 (a) the property is shipped or delivered to a purchaser, other than the United States government,
11 within this state, regardless of the f.o.b. point or other conditions of the sales; or

12 (b) the property is shipped from an office, store, warehouse, factory, or other place of storage in
13 this state and the purchaser is the United States government or if the taxpayer is not taxable in the state
14 of the purchaser.

15
16 **NEW SECTION. Section 17. Transportation services -- determination of tax base.** The tax base of
17 a taxpayer whose business activities consist of transportation services rendered either entirely within or
18 partly within and partly outside of the state must be determined under the provisions of [sections 18 and
19 19].

20
21 **NEW SECTION. Section 18. Transportation services -- tax base attributable to Montana.** (1) The
22 tax base attributable to Montana sources for a taxpayer described in [section 17], other than one whose
23 activity consists of the transportation of oil or gas by pipeline, is that portion of the tax base of the
24 taxpayer derived from transportation services wherever performed, based on the ratio that the revenue
25 miles of the taxpayer in Montana bear to the revenue miles of the taxpayer everywhere. A revenue mile
26 means the transportation for a consideration of 1 net ton in weight or of one passenger for the distance
27 of 1 mile. The tax base attributable to Montana sources for a taxpayer engaged in the transportation both
28 of property and of individuals is that portion of the entire tax base of the taxpayer that is equal to the sum
29 of the passenger miles and ton-mile fractions, separately computed and individually weighted by the ratio
30 of gross receipts from passenger transportation to total gross receipts from all transportation and by the

1 ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively.

2 (2) If it is shown to the satisfaction of the department that the information required under
3 subsection (1) is not available or cannot be obtained without unreasonable expense to the taxpayer, the
4 department may use any other data that may be available and that, in the opinion of the department, will
5 result in an equitable allocation of receipts to this state.

6

7 **NEW SECTION. Section 19. Transportation of oil or gas by pipeline -- tax base attributable to**

8 **Montana.** (1) When the tax base is derived from the transportation of oil by pipeline, the tax base
9 attributable to Montana is the tax base of the taxpayer in the ratio that the barrel miles transported in
10 Montana bear to the barrel miles transported by the taxpayer everywhere.

11 (2) When the tax base is derived from the transportation of gas by pipeline, the tax base
12 attributable to Montana is the tax base of the taxpayer in the ratio that 1,000 cubic-foot miles transported
13 in Montana bear to 1,000 cubic-foot miles transported by the taxpayer everywhere.

14

15 **NEW SECTION. Section 20. Financial organizations -- tax base attributable to Montana sources.**

16 The tax base of a financial organization attributable to Montana sources is:

- 17 (1) the entire tax base of a taxpayer whose business activities are confined solely to this state;
- 18 (2) in the case of a taxpayer whose business activities are conducted partly within and partly
19 outside of the state, that portion of the tax base of the taxpayer that its gross business in the state is in
20 relation to its gross business everywhere during the period covered by its return. Gross business includes
21 the sum of:
- 22 (a) fees, commissions, or other compensation for financial services;
 - 23 (b) gross profits from trading in stocks, bonds, or other securities;
 - 24 (c) interest charged to customers for carrying debit balances of margin accounts, without deduction
25 of any costs incurred in carrying the accounts;
 - 26 (d) interest and dividends received; and
 - 27 (e) any other gross income resulting from the operation as a financial organization.

28

29 **NEW SECTION. Section 21. Insurance companies -- tax base attributable to Montana.** The tax base
30 of an insurance company doing business both within and outside of the state or partly within and partly

1 outside of the state is that portion of the tax base of the taxpayer that the gross direct premiums received
2 for insurance upon property or for risk in this state, deducting premiums upon policies not taken and
3 returned premiums on canceled policies from Montana, bear to the gross direct premiums received for
4 insurance upon property or for risk, deducting premiums upon policies not taken and returned premiums
5 on canceled policies everywhere.

6
7 **NEW SECTION. Section 22. Election by taxpayer.** (1) If the taxpayer's business activities within
8 this state do not include owning or renting real estate or tangible personal property and the taxpayer's
9 dollar volume of gross sales made during the tax year within this state is not in excess of \$100,000, the
10 taxpayer may elect for that year to report and pay a tax on the tax base, which is determined by multiplying
11 total sales in this state for the tax year by the ratio of the tax base, for the tax imposed by [sections 1
12 through 30], to total sales as reported on the taxpayer's federal income tax return for the same tax year.

13 (2) The election is not available for any tax year for which a consolidated or combined return is
14 filed.

15
16 **NEW SECTION. Section 23. Estimated returns and payments.** (1) A taxpayer who reasonably
17 expects liability for the tax year to exceed \$600 or adjustments under [section 6] to equal or exceed
18 \$100,000 shall file an estimated return and pay an estimated tax for each quarter of the taxpayer's tax
19 year.

20 (2) For taxpayers who pay on a calendar year basis, the quarterly returns and estimated payments
21 must be made by April 30, July 31, October 31, and January 31. Taxpayers who do not pay on a calendar
22 year basis shall file quarterly returns and make estimated payments on the appropriate due date that in the
23 taxpayer's fiscal year corresponds to the calendar year.

24 (3) The estimated payment may be:

25 (a) made with each quarterly return of each tax year for the estimated tax base for the quarter or
26 25% of the estimated annual liability. The second, third, and fourth estimated payments in each tax year
27 must include adjustments, if necessary, to correct underpayments or overpayments from previous quarterly
28 payments in the tax year to a revised estimate of the annual tax liability.

29 (b) filed and paid before the 16th day of each month, with an estimated return computed at the
30 rate of 1% of the gross receipts for the preceding month; or

1 (c) filed and paid before the 16th day of the months specified in subsection (2), with an estimated
2 return computed at the rate of 1% of the gross receipts for the preceding quarter.

3 (4) Interest must be assessed to the taxpayer if the amount of estimated taxes paid is less than
4 the tax due, unless the taxpayer's payments meet one of the following conditions:

5 (a) The sum of the estimated payments equals at least 85% of the liability or 1% of the gross
6 receipts for the tax year, and the amount of each estimated payment reasonably approximates the tax
7 liability incurred during the quarter for which the estimated payment was made.

8 (b) The preceding year's tax liability was \$20,000 or less, and the taxpayer submitted four equal
9 installments, the sum of which equaled or exceeded the previous year's tax liability.

10 (5) Each estimated return must be made on a form prescribed by the department and must include
11 an estimate of the annual tax liability and other information required by the department. The form may be
12 combined with any other tax reporting form prescribed by the department.

13 (6) With respect to a taxpayer filing an estimated tax return for the taxpayer's first tax year of less
14 than 12 months, the amounts paid with each return must be proportional to the number of payments made
15 in the first tax year.

16 (7) Payments made under this section are a credit against the payment required with the annual
17 tax return required under [section 25].

18 (8) A taxpayer may file the estimated and annual returns required by this section if the taxpayer:

19 (a) elects under the Internal Revenue Code to file an annual federal income tax return by March 1
20 in the year following the taxpayer's tax year and does not make a quarterly estimate or payment; or

21 (b) does not make a quarterly estimate or payment and files a tentative annual return with a
22 tentative payment by January 15 in the year following the taxpayer's tax year and a final return by April
23 15 in the year following the taxpayer's tax year.

24 (9) Instead of the quarterly return prescribed in subsections (1) and (2), the taxpayer may elect
25 either of the following options:

26 (a) to file and pay before the 16th day of each month an estimated return computed at the rate of
27 1% of the gross receipts for the preceding month; or

28 (b) to file and pay before the 16th day of the months specified in subsection (2) an estimated
29 return computed at the rate of 1% of the gross receipts for the preceding quarter.

30

1 **NEW SECTION. Section 24. Computation of tax for first tax year.** A taxpayer subject to the
2 provisions of [sections 1 through 30] may elect to compute the tax for the first tax year if the tax year is
3 less than 12 months, in accordance with one of the following methods:

4 (1) The tax may be computed as if the provisions of [sections 1 through 30] were effective on the
5 first day of the taxpayer's annual accounting period. The amount computed must be multiplied by a
6 fraction, the numerator of which is the number of months in the taxpayer's first tax year and the
7 denominator of which is 12.

8 (2) The tax may be computed by determining the tax base in the first tax year in accordance with
9 an accounting method, satisfactory to the department, that reflects the actual tax base attributable to the
10 period.

11
12 **NEW SECTION. Section 25. Filing annual or final return -- remittance of final liability -- extension**
13 **of time.** (1) An annual or final return must be filed with the department in the form and content prescribed
14 by the department by the last day of the fourth month after the end of the taxpayer's tax year. Any final
15 liability must be remitted with the return. A person whose apportioned or allocated gross receipts plus the
16 adjustments provided in [section 6] are less than \$100,000 need not file a return or pay the tax provided
17 under [sections 1 through 30].

18 (2) For a person whose apportioned or allocated gross receipts plus the adjustments provided in
19 [section 6] are for a tax year of less than 12 months, the amount in subsection (1) must be multiplied by
20 a fraction, the numerator of which is the number of months in the tax year and the denominator of which
21 is 12.

22 (3) The department, upon application of the taxpayer and for good cause shown, may extend the
23 date for filing the annual return. Interest at the rate of 9% a year must be added to the amount of the tax
24 unpaid for the period of the extension. The department shall require a tentative return and payment of an
25 estimated tax.

26 (4) If a taxpayer is granted an extension of time within which to file the federal income tax return
27 for any tax year, filing of a copy of the request for extension, together with a tentative return, and payment
28 of an estimated tax to the department by the due date provided in subsection (1) automatically extends the
29 due date for the filing of a final return under this section for an equivalent period plus 60 days. Interest at
30 the rate of 9% a year must be added to the amount of the tax unpaid for the period of the extension.

1 **NEW SECTION. Section 26. Furnishing true and correct copy of federal return -- filing amended**
2 **return.** (1) A taxpayer required to file a return under [sections 1 through 30] may be required to furnish a
3 true and correct copy of any return or portion of any return that the taxpayer has filed under the provisions
4 of the Internal Revenue Code.

5 (2) A taxpayer shall file an amended return with the department, showing any alteration in or
6 modification of the taxpayer's federal income tax return that affects the taxpayer's tax base under [sections
7 1 through 30]. The amended return must be filed within 120 days after the final determination by the
8 internal revenue service.

9

10 **NEW SECTION. Section 27. Information return -- copy of federal return filed by voluntary**
11 **association, joint venture, partnership, estate, or trust.** (1) At the request of the department, a person
12 required by the Internal Revenue Code to file or submit an information return of income paid to others shall,
13 to the extent that the information is applicable to residents of this state, at the same time file or submit to
14 the department the information in the form and content as may be prescribed.

15 (2) A voluntary association, joint venture, partnership, estate, or trust shall, if requested by the
16 department, file a copy of any tax return or portion of any tax return that was filed under the provisions
17 of the Internal Revenue Code. The department may prescribe alternate forms of returns.

18

19 **NEW SECTION. Section 28. Filing of consolidated or combined return by affiliated group of**
20 **corporations -- conditions.** The department may require or permit the filing of a consolidated or combined
21 return by an affiliated group of corporations that are Montana taxpayers if all of the following conditions
22 exist:

23 (1) All members of the affiliated group are Montana taxpayers.

24 (2) Each member of the affiliated group maintains a relationship with one or more members of the
25 group that includes intercorporate transactions of a substantial nature other than control, ownership, or
26 financing arrangements, or any combination of those factors.

27 (3) The business activities of each member of the affiliated group are subject to apportionment by
28 a specific apportionment formula contained in [sections 1 through 30], and the specific formula also is
29 applicable to all other members of the affiliated group and would be applicable to each member even if it
30 were not a member of the affiliated group.

1 **NEW SECTION. Section 29. Consolidated or combined return, tax base, or apportionment factors.**

2 Except as expressly provided in [section 28], a provision of [sections 1 through 30] does not require the
3 filing of a consolidated or combined return or a consolidation or combination of the tax base or
4 apportionment factors of two or more corporations.

5
6 **NEW SECTION. Section 30. Administration of tax -- rules -- forms -- tax cumulative -- deposit in**

7 **general fund -- statistics.** (1) The department shall prescribe forms for use by taxpayers and shall
8 promulgate rules in conformity with [sections 1 through 30] for:

9 (a) the maintenance by taxpayers of records, books, and accounts;

10 (b) the computation of the tax;

11 (c) the manner and time of changing or electing accounting methods and of exercising the various
12 options contained in [sections 1 through 30];

13 (d) the making of returns;

14 (e) the ascertainment, assessment, and collection of the tax imposed under [sections 1 through
15 30]; and

16 (f) any other matter necessary for the administration of [sections 1 through 30].

17 (2) The tax imposed by [sections 1 through 30] is in addition to all other taxes for which the
18 taxpayer may be liable. The proceeds derived from the tax must be credited to the general fund of the state.

19 (3) The department shall prepare and publish statistics from the records kept to administer the tax
20 imposed by [sections 1 through 30], detailing the distribution of tax receipts by type of business, legal form
21 of organization, sources of tax base, timing of tax receipts, and types of deductions.

22
23 **Section 31.** Section 7-1-2111, MCA, is amended to read:

24 **"7-1-2111. Classification of counties.** (1) For the purpose of regulating the compensation and
25 salaries of all county officers₇ not otherwise provided for₇ and for fixing the penalties of officers' bonds,
26 the counties of this state must be classified according to the taxable valuation of the property in the
27 counties upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504(2), as
28 follows:

29 (a) first class--all counties having a taxable valuation of ~~\$50~~ \$43 million or ~~over~~ more;

30 (b) second class--all counties having a taxable valuation of ~~more than \$30~~ \$26 million or more and

1 less than ~~\$50~~ \$43 million;

2 (c) third class--all counties having a taxable valuation of ~~more than \$20~~ \$17 million or more and
3 less than ~~\$30~~ \$26 million;

4 (d) fourth class--all counties having a taxable valuation of ~~more than \$15~~ \$13 million or more and
5 less than ~~\$20~~ \$17 million;

6 (e) fifth class--all counties having a taxable valuation of ~~more than \$10~~ \$9 million or more and less
7 than ~~\$15~~ \$17 million;

8 (f) sixth class--all counties having a taxable valuation of ~~more than \$5~~ \$4.3 million or more and less
9 than ~~\$10~~ \$9 million;

10 (g) seventh class--all counties having a taxable valuation of less than ~~\$5~~ \$4.3 million.

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

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

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

18 (c) the value provided by the department of revenue under 15-36-324(10); and

19 (d) 6% of the taxable value of the county on January 1 of each tax year."

20

21 **Section 32.** Section 7-6-2211, MCA, is amended to read:

22 **"7-6-2211. Authorization to conduct county business on a cash basis.** (1) If the total indebtedness
23 of a county, lawful when incurred, exceeds the limit ~~of 23%~~ established in 7-7-2101 by reason of great
24 diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the
25 reasonable and necessary current expenses of the county out of the cash in the county treasury derived
26 from its current revenue and under the restrictions and regulations that may be imposed by the board of
27 county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

28 (2) This section does not restrict the right of the board to make the necessary tax levies for interest
29 and sinking fund purposes, and this section does not affect the right of any creditor of the county to pursue
30 any remedy now given by law to obtain payment of a claim.

1 (3) Subsection (1) does not apply to a county that has adopted the alternative accounting method
2 provided for in Title 7, chapter 6, part 6."

3

4 **Section 33.** Section 7-6-2203, MCA, is amended to read:

5 **"7-6-2203. Annual financial statement -- exception.** (1) Within 120 days after the close of each
6 fiscal year, the county clerk shall compile and present to the board of county commissioners and the
7 department of commerce a complete statement of the financial condition of the county. The statement must
8 show:

9 (a) a detailed description of all of the resources and liabilities of the county and the book value of
10 the resources and liabilities;

11 (b) the amount of money received, showing the source of that revenue;

12 (c) the amount of money disbursed, with the purpose of disbursement;

13 (d) the operation of each of the cash and warrant accounts, showing the balance at the beginning
14 of the year, the credits, the debits, and the balance at the end of the year;

15 (e) the assessed valuation of the real ~~and personal~~ property of the county;

16 (f) the rate of taxation and the amount of taxes delinquent for the preceding years; and

17 (g) other items that the department of commerce may prescribe.

18 (2) The statement must be on the form designated by the department.

19 (3) This section does not apply to a county that has adopted the alternative accounting method
20 provided for in Title 7, chapter 6, part 6."

21

22 **Section 34.** Section 7-6-4111, MCA, is amended to read:

23 **"7-6-4111. Annual financial statement -- exception.** (1) Within 120 days after the close of each
24 fiscal year, the city or town clerk of each city and town shall compile, in duplicate, a complete statement
25 of the financial condition of the city or town for that fiscal year, showing:

26 (a) the indebtedness of the city or town, funded and floating; the amount of each class of
27 indebtedness; and the amount of money in the treasury subject to the payment of each class of
28 indebtedness;

29 (b) the amount of money received from taxes upon real ~~and personal~~ property;

30 (c) the amount of money received from fines, penalties, and forfeitures;

- 1 (d) the amount of money received from licenses;
- 2 (e) the amount of money received from all other sources, each source and the amount received
3 from it being shown separately;
- 4 (f) for each fund, the amount of money, if any, on hand at the beginning of the fiscal year, the
5 amount received, and the amount paid out during the fiscal year;
- 6 (g) a concise description of all property owned by the city or town, with an approximate estimate
7 of the value of it;
- 8 (h) the rates of taxation and purposes for which taxes were levied during the fiscal year;
- 9 (i) other information that may be required by the department of commerce.
- 10 (2) The forms on which the statement must be made must be prescribed by the department.
- 11 (3) This section does not apply to a city or town that has adopted the alternative accounting
12 method provided for in Title 7, chapter 6, part 6."

13

14 **Section 35.** Section 7-6-4409, MCA, is amended to read:

15 **"7-6-4409. Determination of assessments.** ~~(1)~~ The assessment made by the department of
16 revenue for state and county purposes is the basis of taxation for cities and towns for the property situated
17 in the city or town.

18 ~~(2) It is the duty of the department, in making the property tax record, to separately and distinctly~~
19 ~~designate the real and personal property situated in cities and towns within each county in the state."~~

20

21 **Section 36.** Section 7-7-2101, MCA, is amended to read:

22 **"7-7-2101. Limitation on amount of county indebtedness.** (1) A county may not become indebted
23 in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding
24 23% of the total of the taxable value of the property in the county subject to taxation, plus the value
25 provided by the department of revenue in 15-36-324(10), as ascertained by the last assessment for state
26 and county taxes previous to the incurring of the indebtedness, plus, for indebtedness to be incurred during
27 fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax
28 year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value
29 of class eight property within the county for tax year 1995, and for indebtedness to be incurred during
30 fiscal ~~years year~~ 1999 ~~through 2008~~, an additional 33% of the taxable value of class eight property within

1 the county for tax year 1995, in each case of class eight property, multiplied by 23%. For tax years
2 beginning after December 31, 1999, indebtedness may not exceed 26% of the taxable value of property
3 subject to taxation in the county.

4 (2) A county may not incur indebtedness or liability for any single purpose to an amount exceeding
5 \$500,000 without the approval of a majority of the electors of the county voting at an election to be
6 provided by law, except as provided in 7-21-3413 and 7-21-3414.

7 (3) This section does not apply to the acquisition of conservation easements as set forth in Title
8 76, chapter 6."

9

10 **Section 37.** Section 7-7-2203, MCA, is amended to read:

11 **"7-7-2203. Limitation on amount of bonded indebtedness.** (1) Except as provided in subsections
12 (2) through (4), a county may not issue general obligation bonds for any purpose that, with all outstanding
13 bonds and warrants except county high school bonds and emergency bonds, will exceed 11.25% of the
14 total of the taxable value of the property in the county, plus the value provided by the department of
15 revenue under 15-36-324(10), to be ascertained by the last assessment for state and county taxes prior
16 to the proposed issuance of bonds, plus, for general obligation bonds to be issued during fiscal year 1997,
17 an additional 11% of the taxable value of class eight property within the county for tax year 1995, for
18 general obligation bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of
19 class eight property within the county for tax year 1995, and for general obligation bonds to be issued
20 during fiscal ~~years year 1999 through 2008~~, an additional 33% of the taxable value of class eight property
21 within the county for tax year 1995, in each case of class eight property, multiplied by 11.25%. For fiscal
22 years beginning after June 30, 2000, indebtedness may not exceed 12.7% of the taxable value of property
23 subject to taxation in the county.

24 (2) In addition to the bonds allowed by subsection (1), a county may issue bonds that, with all
25 outstanding bonds and warrants, will not exceed 27.75% of the total of the taxable value of the property
26 in the county subject to taxation, plus the value provided by the department of revenue under
27 15-36-324(10), when necessary to do so, to be ascertained by the last assessment for state and county
28 taxes, plus, for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class
29 eight property within the county for tax year 1995, for bonds to be issued during fiscal year 1998, an
30 additional 22% of the taxable value of class eight property within the county for tax year 1995, and for

1 bonds to be issued during fiscal ~~years year~~ 1999 through 2008, an additional 33% of the taxable value of
 2 class eight property within the county for tax year 1995, in each case of class eight property, multiplied
 3 by 27.75%, for the purpose of acquiring land for a site for county high school buildings and for erecting
 4 or acquiring buildings on the site and furnishing and equipping the buildings for county high school
 5 purposes. For fiscal years beginning after June 30, 2000, indebtedness may not exceed 31.35% of the
 6 taxable value of property subject to taxation in the county.

7 (3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the
 8 construction or improvement of a jail that will not exceed 12.5% of the taxable value of the property in the
 9 county subject to taxation, plus the adjustments permitted by 7-7-2101. For fiscal years beginning after
 10 June 30, 2000, indebtedness may not exceed 14.1% of the taxable value of property subject to taxation
 11 in the county.

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

15

16 **Section 38.** Section 7-7-4201, MCA, is amended to read:

17 **"7-7-4201. Limitation on amount of bonded indebtedness.** (1) Except as otherwise provided, a
 18 city or town may not issue bonds or incur other indebtedness for any purpose in an amount that with all
 19 outstanding and unpaid indebtedness will exceed 28% of the taxable value of the property in the city or
 20 town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus, for
 21 bonds to be issued or other indebtedness to be incurred during fiscal year 1997, an additional 11% of the
 22 taxable value of class eight property within the city or town for tax year 1995, for bonds to be issued or
 23 other indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class
 24 eight property within the city or town for tax year 1995, and for bonds to be issued or other indebtedness
 25 to be incurred during fiscal ~~years year~~ 1999 through 2008, an additional 33% of the taxable value of class
 26 eight property within the city or town for tax year 1995, in each case of class eight property, multiplied
 27 by 28%. For fiscal years beginning after June 30, 2000, indebtedness may not exceed 31.64% of the
 28 taxable value of property subject to taxation in the county.

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

1 outstanding indebtedness.

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

4

5 **Section 39.** Section 7-7-4202, MCA, is amended to read:

6 **"7-7-4202. Special provisions relating to water and sewer systems.** (1) Notwithstanding the
7 provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or
8 constructing or acquiring a water system for a city or town that owns and controls the water supply and
9 water system and devotes the revenue from the water supply and water system to the payment of the
10 debt, a city or town may incur an additional indebtedness by borrowing money or issuing bonds.

11 (2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds
12 for the construction of a sewer system, for the procurement of a water supply, or for both of the purposes,
13 including all indebtedness that is contracted and that is unpaid or outstanding, may not in the aggregate
14 exceed 55% over and above the ~~28%~~, ~~referred to~~ rate set in 7-7-4201, of the taxable value of the property
15 in the city or town subject to taxation to be ascertained by the last assessment for state and county taxes,
16 plus, for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of
17 class eight property within the city or town for tax year 1995, for indebtedness to be incurred during fiscal
18 year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax
19 year 1995, and for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33%
20 of the taxable value of class eight property within the city or town for tax year 1995, in each case of class
21 eight property, multiplied by 55%. For fiscal years beginning after June 30, 2000, the extra debt limit may
22 not exceed 62% of the taxable value of property subject to taxation in the county."

23

24 **Section 40.** Section 7-14-2524, MCA, is amended to read:

25 **"7-14-2524. Limitation on amount of bonds issued -- excess void.** (1) Except as otherwise
26 provided in 7-7-2203, 7-7-2204, and this section, a county may not issue bonds that, with all outstanding
27 bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11.25%~~ 12.7%
28 of the total of the taxable value of the property in the county, plus the value provided by the department
29 of revenue under 15-36-324(10). The taxable property and the amount of taxes levied on new production,
30 production from horizontally completed wells, and incremental production must be ascertained by the last

1 assessment for state and county taxes prior to the issuance of the bonds.

2 (2) A county may issue bonds that, with all outstanding bonds and warrants except county high
3 school bonds, will exceed ~~11.25%~~ 12.7% but will not exceed ~~22.5%~~ 25.4% of the total of the taxable
4 value of the property, plus the value provided by the department of revenue under 15-36-324(10) when
5 necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways that
6 have been destroyed or damaged by an act of God or by a disaster, catastrophe, or accident.

7 (3) The value of the bonds issued and all other outstanding indebtedness of the county, except
8 county high school bonds, may not exceed ~~22.5%~~ 25.4% of the total of the taxable value of the property
9 within the county, plus the value provided by the department of revenue under 15-36-324(10), as
10 ascertained by the last preceding general assessment."

11

12 **Section 41.** Section 7-14-4713, MCA, is amended to read:

13 **"7-14-4713. Estimates of expenses -- tax levy.** (1) The governing body shall:

14 (a) make annual statements and estimates of the expenses of the district, which ~~shall~~ must be
15 provided for by the levy and collection of ad valorem taxes upon the taxable value of all the real ~~and~~
16 ~~personal~~ property in the district;

17 (b) publish notice ~~thereof~~ of the annual statements and estimates; and

18 (c) have hearings on the statements and estimates and adopt them as provided for incorporated
19 cities and towns by 7-12-4104, 7-12-4106, 7-12-4110, 7-12-4112, 7-12-4113, and 7-12-4117.

20 (2) The governing body, on or before the second Monday in August of each year, shall fix, levy,
21 and assess the amount to be raised by ad valorem taxes upon all of the property of the district. All statutes
22 providing for the levy and collection of state and county taxes, including the collection of delinquent taxes
23 and sale of property for nonpayment of taxes, ~~shall be~~ is applicable to the district taxes provided for under
24 this section."

25

26 **Section 42.** Section 7-14-4734, MCA, is amended to read:

27 **"7-14-4734. Expense estimate -- assessments and tax levy.** (1) The governing body shall:

28 (a) make annual statements and estimates of the expenses of the district, which ~~shall~~ must be
29 provided for by the levy and collection of ad valorem taxes upon the assessed value of all the real ~~and~~
30 ~~personal~~ property in the district;

1 (b) publish notice ~~thereof~~ of the annual statements and estimates; and

2 (c) have hearings ~~thereon~~ on the statements and estimates and adopt an ordinance ~~thereon~~ relating
3 to them at the times and in the manner provided for incorporated cities and towns by the applicable
4 portions of 7-12-4175.

5 (2) The governing body, on or before the second Monday in August of each year, shall fix, levy,
6 and assess the amount to be raised by ad valorem taxes upon all of the property of the district. All statutes
7 providing for the levy and collection of state and county taxes, including the collection of delinquent taxes
8 and sale of property for nonpayment of taxes, are applicable to the district taxes provided for under this
9 section.

10 (3) ~~No~~ An assessment for district purposes against the property within ~~each~~ the district may not
11 exceed 12 mills upon each dollar of taxable valuation in any tax year."

12

13 **Section 43.** Section 7-15-4286, MCA, is amended to read:

14 **"7-15-4286. Procedure to determine and disburse tax increment.** (1) Mill rates of taxing bodies
15 for taxes levied after the effective date of the tax increment provision ~~shall~~ must be calculated on the basis
16 of the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property
17 located outside the urban renewal area or industrial district and the base taxable value of all taxable
18 property located within the urban renewal area or industrial district. The mill rate so determined ~~shall~~ must
19 be levied against the sum of the actual taxable value of all taxable property located within as well as
20 outside the urban renewal area or industrial district.

21 (2) (a) The tax increment, if any, received in each year from the levy of the combined mill rates of
22 all the affected taxing bodies against the incremental taxable value within the urban renewal area or
23 industrial district, except for the university system mills levied and assessed against property ~~as defined~~
24 ~~in 7-15-4292(6)(a)~~, ~~shall~~ must be paid into a special fund held by the treasurer of the municipality and used
25 as provided in 7-15-4282 through 7-15-4292.

26 (b) The balance of the taxes collected in each year ~~shall~~ must be paid to each of the taxing bodies
27 as otherwise provided by law."

28

29 **Section 44.** Section 7-15-4292, MCA, is amended to read:

30 **"7-15-4292. Termination of tax increment financing -- exception -- reduction in tax increment**

1 **distribution.** (1) The tax increment provision ~~shall terminate~~ terminates upon the later of:

2 (a) the 15th year following its adoption or, if the tax increment provision was adopted prior to
3 January 1, 1980, upon the 17th year following adoption; or

4 (b) the payment or provision for payment in full or discharge of all bonds for which the tax
5 increment has been pledged and the interest ~~thereon~~ on the bonds.

6 (2) Any amounts remaining in the special fund or any reserve fund after termination of the tax
7 increment provision ~~shall~~ must be distributed among the various taxing bodies in proportion to their property
8 tax revenues from the district.

9 (3) After termination of the tax increment provision, all taxes ~~shall~~ must be levied upon the actual
10 taxable value of the taxable property in the urban renewal area or the industrial district and ~~shall~~ must be
11 paid into the funds of the respective taxing bodies.

12 (4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th
13 anniversary of tax increment provisions adopted after January 1, 1980, and the 17th anniversary of tax
14 increment provisions adopted prior to January 1, 1980. However, if bonds secured by a tax increment
15 provision are outstanding on the applicable anniversary, additional bonds secured by the tax increment
16 provision may be issued if the final maturity date of the bonds is not later than the final maturity date of
17 any bonds then outstanding and secured by the tax increment provision.

18 ~~(5) (a) If a municipality issues bonds secured in whole or in part by a tax increment provision after
19 the 10th year following a tax increment provision adopted after January 1, 1980, or after the 12th year
20 following a tax increment provision adopted before January 1, 1980, it is not entitled to the full distribution
21 provided in 20-9-360(2).~~

22 ~~(b) The state treasurer shall reduce the distribution to the municipality in each fiscal year after the
23 fiscal year in which the bonds referred to in subsection (5)(a) are issued by an amount equal to the
24 increased taxable value of the project property multiplied by the total number of mills levied and assessed
25 for school district purposes against the property in the previous calendar year. The department of revenue
26 shall certify to the state treasurer by September 1 of each year the increased taxable value of the project
27 property.~~

28 ~~(c) If the municipality issues more than one bond series after January 1, 1991, the distribution to
29 the municipality as provided in 20-9-360(2) is reduced, as determined in subsection (5)(b), by the sum of
30 the amounts of each bond issue.~~

1 ~~(6) For the purposes of subsection (5):~~

2 ~~(a) "project property" is the value of property within an urban renewal area affected by an urban~~
 3 ~~renewal project to be financed in whole or in part from the proceeds of the bonds issued pursuant to~~
 4 ~~subsection (5)(a), certified by the municipality to the department of revenue at the time the bonds are~~
 5 ~~issued and identified by a tax identification number. Property is affected by an urban renewal project if the~~
 6 ~~property:~~

7 ~~(i) is to be acquired or improved as part of the urban renewal project;~~

8 ~~(ii) is located on property that is to be acquired or improved as part of the urban renewal project;~~

9 ~~(iii) is contiguous to, or located on property contiguous to, property referred to in subsection (6)(a)(i)~~
 10 ~~or (6)(a)(ii), including adjacent property separated by a road, stream, street, or railroad; or~~

11 ~~(iv) is included in an agreement between a person and the municipality in connection with the urban~~
 12 ~~renewal project for the issuance of the bonds and if under the agreement, the person undertakes to develop~~
 13 ~~or redevelop the property.~~

14 ~~(b) "increased taxable value" means the difference between the taxable value of the project~~
 15 ~~property for the current fiscal year and the taxable value of the project property for the fiscal year in which~~
 16 ~~the bonds were issued."~~

17
 18 **Section 45.** Section 7-16-2327, MCA, is amended to read:

19 **"7-16-2327. Indebtedness for park purposes.** (1) Subject to the provisions of subsection (2), a
 20 county park board, in addition to powers and duties now given under law, may contract an indebtedness
 21 in behalf of a county, upon the credit of the county, in order to carry out its powers and duties.

22 (2) (a) The total amount of indebtedness authorized to be contracted in any form, including the
 23 then-existing indebtedness, may not at any time exceed ~~13%~~ 14.6% of the total of the taxable value of
 24 the taxable property in the county, plus the value provided by the department of revenue under
 25 15-36-324(10), ascertained by the last assessment for state and county taxes previous to the incurring of
 26 the indebtedness.

27 (b) Money may not be borrowed on bonds issued for the purchase of lands and improving the land
 28 for any purpose until the proposition has been submitted to the vote of those qualified under the provisions
 29 of the state constitution to vote at the election in the affected county and a majority vote is cast in favor
 30 of the bonds."

1 **Section 46.** Section 7-22-2406, MCA, is amended to read:

2 **"7-22-2406. Notice of hearing on petition to create district.** (1) The commissioners shall cause
3 notice of the hearing provided for in 7-22-2403 to be mailed as provided in 7-1-2122 to each nonresident
4 owner and purchaser under contract for deed of taxable real ~~and personal~~ property within the proposed
5 district.

6 (2) The commissioners shall cause notice to be posted in three public places within the district.
7 Whenever the district is partly in one county and partly in another county, notice must be posted in each
8 county but posting need not be in three places in each county.

9 (3) The commissioners shall also cause notice to be given of the time and place of the hearing and
10 the methods of objection by publication as provided in 7-1-2121, in each county if the district is partly in
11 one county and partly in another county."
12

13 **Section 47.** Section 15-1-501, MCA, is amended to read:

14 **"15-1-501. Disposition of money from certain designated license and other taxes.** (1) The state
15 treasurer shall deposit to the credit of the state general fund in accordance with the provisions of
16 subsection (6) all money received from the collection of:

17 (a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as
18 provided in 61-5-121;

19 ~~(b) electrical energy producer's license taxes under chapter 51;~~

20 ~~(e)~~(b) liquor license taxes under Title 16;

21 ~~(d) telephone company license taxes under chapter 53; and~~

22 ~~(e)~~(c) inheritance and estate taxes under Title 72, chapter 16.

23 (2) All money received from the collection of income taxes under chapter 30 of this title must, in
24 accordance with the provisions of subsection (6), be deposited as follows:

25 (a) 91.3% of the taxes to the credit of the state general fund;

26 (b) 8.7% of the taxes to the credit of the debt service account for long-range building program
27 bonds as described in 17-5-408; and

28 (c) all interest and penalties to the credit of the state general fund.

29 (3) All money received from the ~~collection of corporation license and income taxes~~ Montana
30 Business Enterprise Tax Reform Act under chapter 31 of this title, ~~except as provided in 15-31-702,~~ must,

1 in accordance with the provisions of subsection (6), be deposited as follows:

2 (a) 89.5% of the taxes to the credit of the state general fund;

3 (b) 10.5% of the taxes to the credit of the debt service account for long-range building program
4 bonds as described in 17-5-408; and

5 (c) all interest and penalties to the credit of the state general fund.

6 (4) The department of revenue shall also deposit to the credit of the state general fund all money
7 received from the collection of license taxes and fees and all net revenue and receipts from all other sources
8 under the operation of the Montana Alcoholic Beverage Code.

9 (5) Oil and natural gas production taxes allocated under 15-36-324(7)(a) must be deposited in the
10 general fund.

11 (6) Notwithstanding any other provision of law, the distribution of tax revenue must be made
12 according to the provisions of the law governing allocation of the tax that were in effect for the period in
13 which the tax revenue was recorded for accounting purposes. Tax revenue must be recorded as prescribed
14 by the department of administration, pursuant to 17-1-102(2) and (5), in accordance with generally
15 accepted accounting principles.

16 (7) All refunds of taxes must be attributed to the funds in which the taxes are currently being
17 recorded. All refunds of interest and penalties must be attributed to the funds in which the interest and
18 penalties are currently being recorded."

19

20 **Section 48.** Section 15-6-201, MCA, is amended to read:

21 "**15-6-201. Exempt categories.** (1) The following categories of property are exempt from taxation:

22 (a) except as provided in 15-24-1203, the property of:

23 (i) the United States, except:

24 (A) if congress passes legislation that allows the state to tax property owned by the federal
25 government or an agency created by congress; or

26 (B) as provided in 15-24-1103;

27 (ii) the state, counties, cities, towns, and school districts;

28 (iii) irrigation districts organized under the laws of Montana and not operating for profit;

29 (iv) municipal corporations;

30 (v) public libraries; and

1 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

2 (b) buildings, with land they occupy and furnishings in the buildings, owned by a church and used
3 for actual religious worship or for residences of the clergy, together with adjacent land reasonably
4 necessary for convenient use of the buildings;

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

10 (d) property that is:

11 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or
12 21;

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

15 (iii) not maintained and operated for private or corporate profit;

16 (e) property owned or property that is leased from a federal, state, or local governmental entity by
17 institutions of purely public charity if the property is directly used for purely public charitable purposes;

18 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
19 Montana;

20 (g) public museums, art galleries, zoos, and observatories not used or held for private or corporate
21 profit;

22 (h) all personal property not specifically included in a class of property under Title 15, chapter 6,
23 part 1, including household goods and furniture, including but not limited to clocks, musical instruments,
24 sewing machines, and wearing apparel of members of the family, used by the owner for personal and
25 domestic purposes or for furnishing or equipping the family residence; agricultural implements and
26 equipment; mining and manufacturing machinery, fixtures, equipment, and tools; goods and tools intended
27 for rent; furniture, fixtures, and equipment used in commercial establishments; x-ray and medical and dental
28 equipment; radios and mobile telephones; radio and television broadcasting and transmitting equipment;
29 cable television systems; coal and ore haulers; theater projectors and sound equipment; truck canopy
30 covers or toppers; bicycles; tools; and harnesses, saddlery, and other tack equipment;

1 ~~(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations~~
 2 ~~attached. This property is also exempt from taxation under 61-3-504(2) and 61-3-537.~~

3 ~~(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;~~

4 ~~(k)(i) motor homes, travel trailers, and campers;~~

5 ~~(h)(j) all watercraft;~~

6 ~~(m)(k) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative~~
 7 ~~association or nonprofit corporation organized to furnish potable water to its members or customers for~~
 8 ~~uses other than the irrigation of agricultural land;~~

9 ~~(n)(l) the right of entry that is a property right reserved in land or received by mesne conveyance~~
 10 ~~(exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by~~
 11 ~~another to explore, prospect, or dig for oil, gas, coal, or minerals;~~

12 ~~(o)(m) property that is owned and used by a corporation or association organized and operated~~
 13 ~~exclusively for the care of persons with developmental disabilities, the mentally ill, or the vocationally~~
 14 ~~handicapped as defined in 18-5-101 and that is not operated for gain or profit and property owned and used~~
 15 ~~by an organization owning and operating facilities that are for the care of the retired, aged, or chronically~~
 16 ~~ill and that are not operated for gain or profit;~~

17 ~~(p)(n) all farm buildings with a market value of less than \$500 and all agricultural implements and~~
 18 ~~machinery with a market value of less than \$100;~~

19 ~~(q)(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for~~
 20 ~~training and practice for or competition in international sports and athletic events and not held or used for~~
 21 ~~private or corporate gain or profit. For purposes of this subsection (q) (1)(o), "nonprofit corporation" means~~
 22 ~~an organization exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated~~
 23 ~~and admitted under the Montana Nonprofit Corporation Act.~~

24 ~~(r) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily~~
 25 ~~hand held and that are used to:~~

26 ~~(i) construct, repair, and maintain improvements to real property; or~~

27 ~~(ii) repair and maintain machinery, equipment, appliances, or other personal property;~~

28 ~~(c) harness, saddlery, and other tack equipment;~~

29 ~~(t)(p) a title plant owned by a title insurer or a title insurance producer, as those terms are defined~~
 30 ~~in 33-25-105;~~

1 ~~(u)~~(g) timber as defined in 15-44-102;

2 ~~(v)~~(r) all trailers and semitrailers that have a licensed gross weight of 26,000 pounds or more or
3 that are registered through a proportional registration agreement under 61-3-721. For purposes of this
4 subsection ~~(v)~~ (1)(r), the terms "trailer" and "semitrailer" mean a vehicle with or without motive power that
5 is:

6 (i) designed and used only for carrying property;

7 (ii) designed and used to be drawn by a motor vehicle; and

8 (iii) either constructed so that no part of its weight rests upon the towing vehicle or constructed
9 so that some part of its weight and the weight of its load rests upon or is carried by another vehicle.

10 ~~(w)~~(s) all vehicles registered under 61-3-456.

11 (2) (a) For the purposes of subsection (1)(e), the term "institutions of purely public charity" includes
12 any organization that meets the following requirements:

13 (i) The organization qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
14 Internal Revenue Code, as amended.

15 (ii) The organization accomplishes its activities through absolute gratuity or grants. However, the
16 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
17 performances or entertainment or by other similar types of fundraising activities.

18 (b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and
19 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
20 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
21 includes all real and personal property reasonably necessary for use in connection with the public display
22 or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit
23 organization by an individual or for-profit organization, real and personal property owned by other persons
24 is exempt if it is:

25 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;

26 (ii) held for future display; or

27 (iii) used to house or store a public display.

28 (3) (a) The following portions of the appraised value of a capital investment in a recognized
29 nonfossil form of energy generation, as defined in 15-32-201, or low emission wood or biomass combustion
30 devices, as defined in ~~16-32-102~~ subsection (3)(b) of this section, are exempt from taxation for a period

1 of 10 years following installation of the property:

2 ~~(a)(i)~~ \$20,000 in the case of a single-family residential dwelling;

3 ~~(b)(ii)~~ \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure.

4 (b) "Low emission wood or biomass combustion device" means a noncatalytic stove or furnace

5 that:

6 (i) (A) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and

7 (B) has a particulate emission rate of less than 4.1 grams an hour when tested in conformance with

8 the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted

9 by the department of environmental quality pursuant to 15-32-203; or

10 (C) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard

11 method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances,

12 as adopted by the department of environmental quality pursuant to 15-32-203; or

13 (ii) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1

14 grams an hour when tested in conformance with the standard method for measuring the emissions and

15 efficiencies of residential wood stoves, as adopted by the department of environmental quality pursuant

16 to 15-32-203."

17

18 **Section 49.** Section 15-8-111, MCA, is amended to read:

19 **"15-8-111. Assessment -- market value standard -- exceptions.** (1) All taxable property must be

20 assessed at 100% of its market value except as otherwise provided.

21 (2) (a) Market value is the value at which property would change hands between a willing buyer

22 and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable

23 knowledge of relevant facts.

24 (b) If the department uses construction cost as one approximation of market value, the department

25 shall fully consider reduction in value caused by depreciation, whether through physical depreciation,

26 functional obsolescence, or economic obsolescence.

27 (c) Except as provided in subsection (3), the market value of all motor trucks; ~~agricultural tools,~~

28 ~~implements, and machinery;~~ and vehicles of all kinds is the average wholesale value shown in national

29 appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The

30 department shall prepare valuation schedules showing the average wholesale value when a national

1 appraisal guide does not exist.

2 (3) The department may not adopt a lower or different standard of value from market value in
3 making the official assessment and appraisal of the value of property, except:

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

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

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

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

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

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

15 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
16 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
17 15-23-516, 15-23-517, or 15-23-518.

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

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

22 (d) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity value
23 of the land when valued as forest land.

24 (7) Land and the improvements on the land are separately assessed when any of the following
25 conditions occur:

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

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

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

29

30 **Section 50.** Section 15-8-301, MCA, is amended to read:

1 **"15-8-301. Statement -- what to contain.** (1) The department may require from a person a
 2 statement under oath setting forth specifically all the real ~~and personal~~ property owned by, in possession
 3 of, or under the control of the person at midnight on January 1. The statement must be in writing, showing
 4 separately:

5 (a) all property belonging to, claimed by, or in the possession or under the control or management
 6 of the person;

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

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

11 (d) the county in which the property is situated or in which the property is liable to taxation and,
 12 if liable to taxation in the county in which the statement is made, also the city, town, school district, road
 13 district, or other revenue districts in which the property is situated;

14 (e) an exact description of all lands, and improvements, ~~and personal property~~;

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

18 ~~(2) The department shall notify the taxpayer in the statement for reporting personal property owned
 19 by a business or used in a business that the statement is for reporting business equipment and other
 20 business personal property described in Title 15, chapter 6, part 1.~~

21 ~~(3)~~(2) Whenever one member of a firm or one of the proper officers of a corporation has made a
 22 statement showing the property of the firm or corporation, another member of the firm or another officer
 23 is not required to include the property in that person's statement but the statement must show the name
 24 of the person or officer who made the statement in which the property is included.

25 ~~(4)~~(3) The fact that a statement is not required or that a person has not made a statement, under
 26 oath or otherwise, does not relieve the person's property from taxation."

27
 28 **Section 51.** Section 15-10-106, MCA, is amended to read:

29 **"15-10-106. (Temporary) Tax levy for university system.** There is levied upon the taxable value
 30 of all real ~~and personal~~ property subject to taxation in the state of Montana 6 mills or ~~so much thereof as~~

1 ~~is the number of mills~~ necessary to raise the amount appropriated by the legislature from the state special
 2 revenue fund for the support, maintenance, and improvement of the Montana university system, as
 3 provided in referendum measure No. 106 passed by vote of the people at the general election held
 4 November 8, 1988. The funds raised from the levy must be deposited in the state special revenue fund.
 5 (Terminates January 1, 1999--sec. 3, Ch. 588, L. 1989.)"

6

7 **Section 52.** Section 15-16-118, MCA, is amended to read:

8 **"15-16-118. Minimum tax payment -- limitation of appeal.** (1) If the taxes and special assessments
 9 due for the current year shown in the written notice sent to the taxpayer as required in 15-16-101(2) are
 10 less than \$5 or if a tax notice of taxes and special assessments due on personal property is less than \$5,
 11 the county treasurer shall notify the taxpayer that a minimum tax of \$5 is imposed and due. The \$5 tax
 12 is imposed for purposes of defraying administrative expenses incurred in administering the tax. The
 13 difference between the taxes and special assessments and the minimum tax of \$5 is to be deposited in the
 14 county general fund.

15 (2) The notification of the \$5 minimum tax required by subsection (1) must be made in the notice
 16 required in 15-16-101(2) or in the notice of taxes and special assessments due on personal property.

17 (3) ~~The minimum tax imposed by this section is not affected by the limitation on property taxes~~
 18 ~~contained in Title 15, chapter 10, part 4.~~

19 (4) The minimum assessment imposed by this section does not apply to assessments levied against
 20 property owned by the state or a county, consolidated local government, city, town, school district, or
 21 other governmental entity unless the total assessments levied against all the property owned by the
 22 governmental entity are less than \$5."

23

24 **Section 53.** Section 15-16-401, MCA, is amended to read:

25 **"15-16-401. Tax due as a judgment or lien.** Unless suspended or canceled under the provisions
 26 of Title 15, chapter 24, part 17, every tax has the effect of a judgment against the person, and every lien
 27 created by this title has the force and effect of an execution duly levied against all personal property in the
 28 possession of the person assessed from and after the date the assessment is made. ~~The county treasurer~~
 29 ~~may issue a writ of execution for delinquent personal property taxes, unless suspended or canceled under~~
 30 ~~the provisions of Title 15, chapter 24, part 17, and deliver the writ to the sheriff. The sheriff shall~~

1 ~~thereupon proceed upon the writ in all respects, with like effect, and in the same manner prescribed by law~~
2 ~~in respect to executions issued against property upon judgments of a court of record and shall be entitled~~
3 ~~to the fees provided for in 15-17-911. The judgment is not satisfied nor the lien removed until the taxes~~
4 ~~are paid or the property sold for the payment thereof."~~

5
6 **Section 54.** Section 15-16-802, MCA, is amended to read:

7 "15-16-802. **Suspension of certain state taxes.** (1) Delinquent taxes, penalties, and interest for
8 taxable years prior to 1988 are suspended for 36 months from May 22, 1989, for an airline incorporated
9 in Montana that has filed for chapter 11 bankruptcy before May 22, 1989.

10 (2) The tax suspension provided by this section applies to property taxes levied under Title 15,
11 chapter 10, ~~20-9-331, and 20-9-333.~~

12 (3) The repayment of all delinquent taxes, penalties, and interest suspended under subsection (1)
13 must be included in the chapter 11 bankruptcy reorganization plan of the airline."

14
15 **Section 55.** Section 15-23-216, MCA, is amended to read:

16 "15-23-216. **Lien -- collection actions.** (1) A tax due under 15-23-211 through 15-23-216 is a lien
17 on all real and personal property of the railroad car company to the same extent as are other taxes under
18 15-16-401 and ~~15-16-402.~~

19 (2) The department may at any time after the taxes are delinquent use the following collection
20 actions:

21 (a) seizure and sale of personal property, as provided in 15-17-911, with the department having
22 the same authority as the county treasurer;

23 (b) suit for collection in district court; or

24 (c) issuance of a warrant for distraint, as provided in Title 15, chapter 1, part 7.

25 (3) The use of one collection method does not prevent the department from using other collection
26 methods."

27
28 **Section 56.** Section 15-24-102, MCA, is amended to read:

29 "15-24-102. **Valuation of interstate fleets -- determination of aggregate tax due -- exemption from**
30 **mill levies.** The department of revenue shall assess the taxable vehicles of any interstate motor vehicle fleet

1 making application for proportional registration, as follows:

2 (1) The purchase price of the taxable vehicles depreciated by a schedule as prescribed by the
3 department determines the depreciated value.

4 (2) The depreciated value multiplied by the percent of miles traveled in Montana, as prescribed by
5 61-3-721, is the market value.

6 (3) The sum of the market value of all taxable vehicles included in the fleet multiplied by ~~the tax~~
7 ~~rate for class eight property in 15-6-138~~ 6% is the taxable value for the entire fleet ~~as provided in~~
8 ~~15-6-138~~.

9 (4) To determine the amount of tax due, the taxable value of the entire fleet must be multiplied by
10 the statewide average county mill levy plus state levies as provided in 15-24-103.

11 (5) To determine the tax due under this chapter, state levies applicable to interstate motor vehicle
12 fleets include but are not limited to levies imposed under 15-10-101, 15-10-106, ~~20-9-331, 20-9-333,~~
13 ~~20-9-360~~, and 53-2-813.

14 (6) All taxes and fees collected on motor vehicle fleets under this chapter must be deposited and
15 distributed as provided in 15-24-105."

16

17 **Section 57.** Section 15-24-701, MCA, is amended to read:

18 "**15-24-701. Production credit associations -- assessment and payment.** Every production credit
19 association organized under the provisions of section 1131d of Title 12, United States Codes Annotated,
20 ~~shall~~ must be assessed for and pay taxes upon all real ~~and personal~~ property owned by ~~such~~ the
21 association."

22

23 **Section 58.** Section 15-24-801, MCA, is amended to read:

24 "**15-24-801. Savings and loan associations -- taxation.** Every savings and loan association subject
25 to regulation under Title 32, chapter 2, must be assessed for and pay taxes upon all real ~~and personal~~
26 property owned by the association. The secretary of an association shall furnish to the department, within
27 5 days after demand, a condensed statement, verified by oath, of the resources and liabilities of the
28 association as disclosed by its books at noon on January 1 in each year. If the secretary fails to make the
29 statement, the department shall immediately obtain the information from any other available source, and
30 for this purpose it ~~shall~~ must have access to the books of the association. The department shall make an

1 assessment of the real estate ~~and personal property~~ owned by the association in a manner that is as fair
2 and equitable as it may be able to make from the best information available, or the department may, for
3 the purpose of the assessment, adopt the figures disclosed by any prior report made by the association to
4 any state or federal officer under a state or federal law. A person required by this section to make the
5 statement provided for in this section who fails to furnish it is guilty of a misdemeanor."

6

7 **Section 59.** Section 15-24-1402, MCA, is amended to read:

8 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after
9 a construction permit is issued, qualifying improvements or modernized processes that represent new
10 industry or expansion of an existing industry, as designated in the approving resolution, must be taxed at
11 50% of their taxable value. Each year thereafter, the percentage must be increased by equal percentages
12 until the full taxable value is attained in the 10th year. In subsequent years, the property must be taxed at
13 100% of its taxable value.

14 (2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing
15 body of the affected county or the incorporated city or town must have approved by separate resolution
16 for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule
17 provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for
18 the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude
19 approval.

20 (b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits
21 may not be denied an industrial facility that previously qualified for the benefits.

22 (c) The resolution provided for in subsection (2)(a) must include a definition of the improvements
23 or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction.
24 The resolution may provide that real property other than land, ~~personal property~~, improvements, or any
25 combination ~~thereof~~ of land and improvements is eligible for the tax benefits described in subsection (1).

26 (3) The taxpayer shall apply to the department for the tax treatment allowed under subsection (1).
27 The application by the taxpayer must first be approved by the governing body of the appropriate local
28 taxing jurisdiction, and the governing body shall indicate in its approval that the property of the applicant
29 qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of
30 the governing body of the affected taxing jurisdiction, the department shall make the assessment change

1 pursuant to this section.

2 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and
3 assessed for local high school district and elementary school district purposes and to the number of mills
4 levied and assessed by the governing body approving the benefit over which the governing body has sole
5 discretion. The benefit described in subsection (1) may not apply to levies or assessments required under
6 Title 15, chapter 10, ~~20-9-331, 20-9-333, or 20-9-360~~ or otherwise required under state law.

7 (5) Prior to approving the resolution under this section, the governing body shall notify by certified
8 mail all taxing jurisdictions affected by the tax benefit."

9

10 **Section 60.** Section 15-24-1703, MCA, is amended to read:

11 "**15-24-1703. Application of suspension or cancellation.** The suspension or cancellation of
12 delinquent property taxes pursuant to this part:

13 (1) applies to all mills levied in the county or otherwise required under state law, including levies
14 or assessments required under Title 15, chapter 10, ~~20-9-331, 20-9-333,~~ and 20-25-423;

15 (2) does not apply to assessments made against property for the payment of bonds issued pursuant
16 to Title 7, chapter 12."

17

18 **Section 61.** Section 15-24-1802, MCA, is amended to read:

19 "**15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or
20 leased and operated by a local economic development organization is eligible for an exemption from
21 property taxes as provided in this section.

22 (2) In order to qualify for the tax exemption described in this section, the governing body of the
23 county, consolidated government, incorporated city or town, or school district in which the property is
24 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and
25 hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1).
26 If a tax exemption is approved, the governing body shall do so by a separate resolution for each business
27 incubator in its respective jurisdiction. The governing body may not grant approval for the business
28 incubator until all of the applicant's taxes have been paid in full or, if the property is leased to a business
29 incubator, until all of the owner's property taxes on that property have been paid in full. Taxes paid under
30 protest do not preclude approval. Prior to holding the hearing, the governing body shall determine that the

1 local economic development organization:

2 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from
3 taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

4 (b) is engaged in economic development and business assistance work in the area; and

5 (c) owns or leases and operates or will operate the business incubator.

6 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
7 department shall make the assessment change for the tax exemption provided for in this section.

8 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
9 assessed by the governing body approving the exemption over which the governing body has sole
10 discretion. If the governing body of a county, consolidated government, or incorporated city or town
11 approves the exemption, the exemption applies to levies and assessments required under Title 15, chapter
12 10, ~~20-9-331~~, or ~~20-9-333~~ or otherwise required under state law."

13

14 **Section 62.** Section 15-24-1902, MCA, is amended to read:

15 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park
16 owned and operated by a local economic development organization or a port authority is eligible for an
17 exemption from property taxes as provided in this section.

18 (2) In order to qualify for the tax exemption described in this section, the governing body of the
19 county, consolidated government, incorporated city or town, or school district in which the property is
20 located shall approve the tax exemption by resolution, after due notice, as defined in 76-15-103, and
21 hearing. The governing body may approve or disapprove the tax exemption provided for in subsection (1).
22 If a tax exemption is approved, the governing body shall do so by a separate resolution for each industrial
23 park in its respective jurisdiction. The governing body may not grant approval for the industrial park until
24 all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior
25 to holding the hearing, the governing body shall determine that:

26 (a) the local economic development organization:

27 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation
28 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

29 (ii) is engaged in economic development and business assistance work in the area; and

30 (iii) owns and operates or will own and operate the industrial development park; or

1 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

2 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
3 department shall make the assessment change for the tax exemption provided for in this section.

4 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
5 assessed by the governing body approving the exemption over which the governing body has sole
6 discretion. If the governing body of a county, consolidated government, or incorporated city or town
7 approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter
8 10, ~~20-9-331, or 20-9-333~~ or otherwise required under state law.

9 (5) If a local economic development organization sells, leases, or otherwise disposes of the exempt
10 property to a purchaser or lessee that is not a local economic development organization or a unit of federal,
11 state, or local government, the tax exemption provided in this section terminates. The termination of the
12 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition
13 of the property. Upon termination of the exemption, the property must be assessed as provided in
14 15-16-203."

15

16 **Section 63.** Section 15-24-2002, MCA, is amended to read:

17 "**15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land
18 owned by a local economic development organization that the local economic development organization
19 intends to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption
20 from property taxes as provided in this section.

21 (2) In order to qualify for the tax exemption described in this section, the governing body of the
22 affected county, consolidated government, incorporated city or town, or school district in which the
23 building and land are located shall approve the tax exemption by resolution, after due notice, as defined
24 in 76-15-103, and hearing. The governing body may approve or disapprove the tax exemption provided for
25 in subsection (1). The governing body shall approve a tax exemption by a separate resolution. The
26 governing body may not grant approval for the building and land until all of the applicant's taxes have been
27 paid in full. Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing
28 body shall determine that the local economic development organization:

29 (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from
30 taxation under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

1 (b) is engaged in economic development and business assistance work in the area; and

2 (c) owns or will own the building and land.

3 (3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the
4 department shall make the assessment change for the tax exemption provided for in this section.

5 (4) The tax exemption described in subsection (1) applies only to the number of mills levied and
6 assessed by the governing body approving the exemption over which the governing body has sole
7 discretion. If the governing body of a county, consolidated government, or incorporated city or town
8 approves the exemption, the exemption applies to levies or assessments required under Title 15, chapter
9 10, ~~20-9-331~~, or ~~20-9-333~~ and other levies required under state law.

10 (5) When a local economic development organization sells, leases, or otherwise disposes of the
11 exempt property to a purchaser or lessee that is not a local economic development organization or a unit
12 of federal, state, or local government, the tax exemption provided in this section terminates. The
13 termination of the exemption applies January 1 of the taxable year immediately following the sale, lease,
14 or other disposition of the property. Upon termination of the exemption, the property must be assessed as
15 provided in 15-16-203."

16
17 **Section 64.** Section 15-24-2501, MCA, is amended to read:

18 "**15-24-2501. Tax levy on trucks and truck tractors over 26,000 pounds.** In addition to all other
19 levies, including those under part 1, there is levied upon the taxable value of all trucks and truck tractors
20 of 26,000 pounds or more licensed weight or gross vehicle weight 45 mills to offset the decrease in the
21 amount of property tax caused by the exemption in ~~15-6-201(1)(v)~~ 15-6-201(1)(r). The funds raised from
22 the levy must be distributed in the relative proportions required by the levies for state, county, school
23 district, and municipal purposes in the same manner as personal property taxes are distributed."

24
25 **Section 65.** Section 15-30-111, MCA, is amended to read:

26 "**15-30-111. Adjusted gross income.** (1) Adjusted gross income is the taxpayer's federal income
27 tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954, as that section
28 may be labeled or amended, and in addition includes the following:

29 (a) (i) interest received on obligations of another state or territory or county, municipality, district,
30 or other political subdivision of another state, except to the extent that the interest is exempt from taxation

1 by Montana under federal law;

2 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,
3 as that section may be amended or renumbered, that are attributable to the interest referred to in
4 subsection (1)(a)(i);

5 (b) refunds received of federal income tax, to the extent that the deduction of the tax resulted in
6 a reduction of Montana income tax liability;

7 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue
8 Code of 1954 that has been reduced by any federal taxes paid by the subchapter S. corporation on the
9 income;

10 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

11 (e) the recovery during the tax year of an amount deducted in any prior tax year to the extent that
12 the amount recovered reduced the taxpayer's Montana income tax in the year deducted.

13 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or
14 amended, adjusted gross income does not include the following, which are exempt from taxation under this
15 chapter:

16 (a) (i) all interest income from obligations of the United States government, the state of Montana,
17 county, municipality, district, or other political subdivision of the state and any other interest income that
18 is exempt from taxation by Montana under federal law;

19 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code of 1986,
20 as that section may be amended or renumbered, that are attributable to the interest referred to in
21 subsection (2)(a)(i);

22 (b) interest income earned by a taxpayer who is 65 years of age or older in a tax year up to and
23 including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

24 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
25 received as defined in 15-30-101;

26 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

27 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
28 amount of the exclusion provided in subsection (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income
29 in excess of \$30,000 as shown on the taxpayer's return;

30 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity

1 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided
 2 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of
 3 \$30,000 as shown on their joint return;

4 (d) all Montana income tax refunds or tax refund credits;

5 ~~(e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(iii);~~

6 ~~(f)(e)~~ all tips or gratuities that are covered by section 3402(k) or service charges that are covered
 7 by section 3401 of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983,
 8 received by persons for services rendered by them to patrons of premises licensed to provide food,
 9 beverage, or lodging;

10 ~~(g)(f)~~ all benefits received under the workers' compensation laws;

11 ~~(h)(g)~~ all health insurance premiums paid by an employer for an employee if attributed as income
 12 to the employee under federal law;

13 ~~(i)(h)~~ all money received because of a settlement agreement or judgment in a lawsuit brought
 14 against a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent
 15 orange";

16 ~~(j)(i)~~ principal and income in a medical care savings account established in accordance with
 17 15-61-201 or withdrawn from an account for eligible medical expenses, as defined in 15-61-102, of the
 18 taxpayer or a dependent of the taxpayer or for the long-term care of the taxpayer or a dependent of the
 19 taxpayer; and

20 ~~(k)(j)~~ the recovery during the tax year of any amount deducted in any prior tax year to the extent
 21 that the recovered amount did not reduce the taxpayer's Montana income tax in the year deducted.

22 ~~(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(i)~~
 23 ~~shall include in the shareholder's adjusted gross income the earnings and profits of the DISC in the same~~
 24 ~~manner as provided by section 996 of the Internal Revenue Code for all periods for which the DISC election~~
 25 ~~is effective.~~

26 ~~(4)(3)~~ A taxpayer who, in determining federal adjusted gross income, has reduced the taxpayer's
 27 business deductions by an amount for wages and salaries for which a federal tax credit was elected under
 28 section 44B of the Internal Revenue Code of 1954, as that section may be labeled or amended, is allowed
 29 to deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must
 30 be made in the year the wages and salaries were used to compute the credit. In the case of a partnership

1 or small business corporation, the deduction must be made to determine the amount of income or loss of
2 the partnership or small business corporation.

3 ~~(5)~~(4) Married taxpayers filing a joint federal return who are required to include part of their social
4 security benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split
5 the federal base used in calculation of federal taxable social security benefits or federal taxable tier 1
6 railroad retirement benefits when they file separate Montana income tax returns. The federal base must be
7 split equally on the Montana return.

8 ~~(6)~~(5) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end
9 of the tax year and who has retired as permanently and totally disabled may exclude from adjusted gross
10 income up to \$100 per week received as wages or payments in lieu of wages for a period during which the
11 employee is absent from work due to the disability. If the adjusted gross income before this exclusion and
12 before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the
13 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's
14 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
15 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined
16 adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable
17 to engage in any substantial gainful activity by reason of any medically determined physical or mental
18 impairment lasting or expected to last at least 12 months. (Subsection ~~(2)(f)~~ (2)(e) terminates on occurrence
19 of contingency--sec. 3, Ch. 634, L. 1983.)"

20

21 **Section 66.** Section 15-30-117, MCA, is amended to read:

22 **"15-30-117. Net operating loss -- computation.** (1) A Montana net operating loss must be
23 determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may
24 be labeled or amended and in accordance with the following:

25 (a) The net operating loss deduction for Montana purposes is increased by the following:

26 (i) that portion of the federal income tax and motor vehicle tax allowed as a deduction under
27 15-30-121 or 15-30-131 which is attributable to income from a Montana trade or business; and
28 (ii) Montana wages and salaries allowed as a business deduction under 15-30-111~~(4)~~(3).

29 (b) The net operating loss deduction for Montana purposes is decreased by the following:

30 (i) interest received on obligations of another state or territory or of a county, municipality, district,

- 1 or political subdivision thereof allowed as nonbusiness income under 15-30-111(1)(a);
- 2 (ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana
- 3 business income;
- 4 (iii) state income tax; and
- 5 (iv) any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.
- 6 (2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that
- 7 section may be labeled or amended, a net operating loss does not include:
- 8 (a) income defined as exempt from state taxation under 15-30-111(2); or
- 9 (b) a zero bracket deduction provided for under section 63 of the Internal Revenue Code of 1954
- 10 or as that section may be labeled or amended."

11

12 **Section 67.** Section 15-30-129, MCA, is amended to read:

13 **"15-30-129. Tax credit for providing disability insurance for employees.** There is a credit against

14 the taxes otherwise due under this chapter allowable to an employer for the amount of premiums for

15 disability insurance paid by the employer for his employees. ~~The tax credit must be computed in accordance~~

16 ~~with the provisions of 15-31-132.~~ The credit is for the amount of premiums for disability insurance issued

17 under Title 33, chapter 22, part 12, and paid by the employer for employees, subject to the following

18 requirements:

- 19 (1) The tax credit is available only to employers who:
- 20 (a) have been in business in Montana for at least 12 months; and
- 21 (b) employ 20 or fewer employees working at least 20 hours a week.
- 22 (2) At least 50% of each employee's insurance premium is paid by the employer.
- 23 (3) Subject to the provisions of subsection (4), an employer is entitled to a tax credit for a
- 24 maximum of 10 employees, computed as follows:
- 25 (a) a credit of \$25 a month for each employee if the employer pays 100% of the employee's
- 26 premium; or
- 27 (b) a credit equal to \$25 a month multiplied by the percentage of the employee's premium paid by
- 28 the employer for each employee if the employer pays less than 100% of the employee's premium.
- 29 (4) The credit may not exceed 50% of the premium cost for each employee and may not be
- 30 claimed for a period of more than 36 consecutive months. A tax credit may not be granted to an employer

1 or its successor within 10 years of the last consecutive credit claimed.

2 (5) The credit allowed under this section may not be claimed as a carryback or carryforward and
 3 may not be refunded if the employer has no tax liability."

4

5 **Section 68.** Section 15-30-161, MCA, is amended to read:

6 "**15-30-161. Purpose.** The purpose of 15-30-162 is to allow individuals, estates, and trusts,
 7 including those owning an interest in partnerships and in ~~small~~ business corporations ~~defined in 15-31-201~~
 8 that have made an election under subchapter S. of the Internal Revenue Code, to take the investment credit
 9 as provided for in 15-30-162 in order to stimulate capital investment by the small business sector."

10

11 **Section 69.** Section 15-30-163, MCA, is amended to read:

12 "**15-30-163. Credit for contributions to university system or private college foundations.** (1) An
 13 individual, ~~corporation~~, partnership, or ~~small~~ business corporation, ~~as defined in 15-31-201~~, that has made
 14 an election under subchapter S. of the Internal Revenue Code is allowed a tax credit against taxes imposed
 15 by 15-30-103 ~~or 15-31-101~~ in an amount equal to 10% of the aggregate amount of charitable contributions
 16 made by the taxpayer during the year to any of the general endowment funds of the Montana university
 17 system foundations or a general endowment fund of a Montana private college or its foundation. The
 18 maximum credit that a taxpayer may claim in a year under this section is \$500. The credit allowed under
 19 this section may not exceed the taxpayer's income tax liability.

20 (2) There is no carryback or carryforward of the credit permitted under this section, and the credit
 21 must be applied in the year the donation is made, as determined by the taxpayer's accounting method.

22 (3) (a) For the purposes of this section, "foundation" means a nonprofit organization that is created
 23 exclusively for the benefit of any unit of the Montana university system or a Montana private college and
 24 that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

25 (b) For the purposes of this section, "Montana private college" means a nonprofit private
 26 educational institution:

27 (i) whose main campus and primary operations are within the state; and

28 (ii) that offers baccalaureate degree level education and is accredited for that purpose by a national
 29 or regional accrediting agency recognized by the board of regents of higher education."

30

1 **Section 70.** Section 15-30-164, MCA, is amended to read:

2 **"15-30-164. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in
3 subsection (1)(b), an individual, ~~a corporation, a partnership, or a small business corporation as defined in~~
4 ~~15-31-201~~ is allowed a tax credit against taxes imposed by 15-30-103 ~~or 15-31-101~~ for equipment and
5 labor costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

6 (b) A seller of alternative fuel may not receive a credit for converting its own vehicles to the
7 alternative fuel that it sells.

8 (2) The maximum credit a taxpayer may claim in a year under this section is an amount equal to
9 50% of the equipment and labor costs incurred but the credit may not exceed:

10 (a) \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

11 (b) \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

12 (3) For the purposes of this section, "alternative fuel" means:

13 (a) natural gas;

14 (b) liquefied petroleum gas;

15 (c) liquefied natural gas;

16 (d) hydrogen;

17 (e) electricity; or

18 (f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any
19 combination of them.

20 (4) (a) The credit allowed under this section may not exceed the taxpayer's income tax liability.

21 (b) There is no carryback or carryforward of the credit permitted under this section, and the credit
22 must be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

23

24 **Section 71.** Section 15-30-186, MCA, is amended to read:

25 **"15-30-186. Credit for dependent care assistance.** (1) There is a credit against the taxes otherwise
26 due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by
27 the employer for dependent care assistance. ~~The credit must be computed in accordance with the~~
28 ~~provisions of 15-31-131.~~

29 (2) The credit is allowable to an employer for amounts paid or incurred during the taxable year by
30 the employer for dependent care assistance actually provided to or on behalf of an employee if the

1 assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets
2 the requirements of section 129(d)(2) through (d)(6) of the Internal Revenue Code, 26 U.S.C. 129(d)(2)
3 through (d)(6).

4 (3) (a) The amount of the credit allowed under subsection (1) is 20% of the amount paid or
5 incurred by the employer during the taxable year, but the credit may not exceed \$1,250 of day-care
6 assistance actually provided to or on behalf of the employee.

7 (b) For the purposes of this subsection, marital status must be determined under the rules of
8 section 21(e)(3) and (e)(4) of the Internal Revenue Code, 26 U.S.C. 21(e)(3) and (e)(4).

9 (c) In the case of an onsite facility, the amount upon which the credit allowed under subsection
10 (1) is based, with respect to any dependent, must be based upon utilization and the value of the services
11 provided.

12 (4) An amount paid or incurred during the taxable year of an employer in providing dependent care
13 assistance to or on behalf of any employee does not qualify for the credit allowed under subsection (1) if
14 the amount was paid or incurred to an individual described in section 129(c)(1) or (c)(2) of the Internal
15 Revenue Code, 26 U.S.C. 129(c)(1) or (c)(2).

16 (5) An amount paid or incurred by an employer to provide dependent care assistance to or on
17 behalf of an employee does not qualify for the credit allowed under subsection (1):

18 (a) to the extent the amount is paid or incurred pursuant to a salary reduction plan; or

19 (b) if the amount is paid or incurred for services not performed within this state.

20 (6) If the credit allowed under subsection (1) is claimed, the amount of any deduction allowed or
21 allowable under this chapter for the amount that qualifies for the credit, or upon which the credit is based
22 must be reduced by the dollar amount of the credit allowed. The election to claim a credit allowed under
23 this section must be made at the time of filing the tax return.

24 (7) The amount upon which the credit allowed under subsection (1) is based may not be included
25 in the gross income of the employee to whom the dependent care assistance is provided. However, the
26 amount excluded from the income of an employee under this section may not exceed the limitations
27 provided in section 129(b) of the Internal Revenue Code, 26 U.S.C. 129(b). For purposes of Title 15,
28 chapter 30, part 2, with respect to an employee to whom dependent care assistance is provided, "wages"
29 does not include any amount excluded under this subsection. Amounts excluded under this subsection do
30 not qualify as expenses for which a deduction is allowed to the employee under 15-30-121.

1 (8) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a
2 particular year may be carried forward and offset against the taxpayer's tax liability for the next succeeding
3 tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used
4 in the second succeeding tax year, and likewise through the fifth year succeeding the tax year in which the
5 credit was first allowed or allowable. A credit may not be carried forward beyond the fifth succeeding tax
6 year.

7 (9) If the taxpayer is a subchapter S. corporation, as defined in section 1361 of the Internal
8 Revenue Code, 26 U.S.C. 1361, and the taxpayer elects to take tax credit relief, the election may be made
9 on behalf of the corporation's shareholders. A shareholder's credit must be computed using the
10 shareholder's pro rata share of the corporation's costs that qualify for the credit. In all other respects, the
11 effect of the tax credit applies to the corporation as otherwise provided by law.

12 (10) For purposes of the credit allowed under subsection (1):

13 (a) the definitions and special rules contained in section 129(e) of the Internal Revenue Code, 26
14 U.S.C. 129(e), apply to the extent applicable; and

15 (b) "employer" means an employer carrying on a business, trade, occupation, or profession in this
16 state."

17
18 **Section 72.** Section 15-30-201, MCA, is amended to read:

19 **"15-30-201. Definitions.** When used in 15-30-201 through 15-30-209, the following definitions
20 apply:

21 (1) "Agricultural labor" means all services performed on a farm or ranch in connection with
22 cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity,
23 including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry,
24 and fur-bearing animals and wildlife.

25 (2) "Employee" means an officer, employee, or elected public official of the United States, the state
26 of Montana, or any political subdivision of the United States or Montana or any agency or instrumentality
27 of the United States, the state of Montana, or a political subdivision of the United States or Montana. The
28 term also includes an officer of a corporation.

29 (3) "Employer" means the person for whom an individual performs or performed any service, of
30 whatever nature, as an employee of the person. However, if the person for whom the individual performs

1 or performed the service does not have control of the payment of the wages for the service, the term
2 means the person who has control of the payment of wages.

3 (4) "Independent contractor" means an individual who renders service in the course of an
4 occupation and:

5 (a) has been and will continue to be free from control or direction over the performance of the
6 services, both under contract and in fact; and

7 (b) is engaged in an independently established trade, occupation, profession, or business.

8 (5) "Lookback period" means the 12-month period ending the preceding June 30.

9 (6) "Wages" means all remuneration, other than fees paid to a public official, for services
10 performed by an employee for the employer, including the cash value of all remuneration paid in any
11 medium other than cash, except that the term does not include remuneration paid:

12 (a) for active service as a member of the regular armed forces of the United States, as defined in
13 10 U.S.C. 101(33);

14 (b) for agricultural labor;

15 (c) for domestic service in a private home, local college club, or local chapter of a college fraternity
16 or sorority;

17 (d) for casual labor not in the course of the employer's trade or business performed in any calendar
18 quarter by an employee, unless the cash remuneration paid for the service is \$50 or more and the service
19 is performed by an individual who is regularly employed by the employer to perform the service. For
20 purposes of this subsection (6)(d), an individual is considered to be regularly employed by an employer
21 during a calendar quarter only if:

22 (i) on each of 24 days during a quarter, the individual performs service not in the course of the
23 employer's trade or business for the employer for some portion of the day; and

24 (ii) the individual was regularly employed, as determined under subsection (6)(d)(i), by the employer
25 in the performance of service during the preceding calendar quarter.

26 (e) for services by a citizen or resident of the United States for a foreign government or an
27 international organization;

28 (f) for services performed by an ordained, commissioned, or licensed minister of a church in the
29 exercise of the ministry or by a member of a religious order in the exercise of duties required by the order;

30 (g) (i) for services performed by an individual under 18 years of age in the delivery or distribution

1 of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery
2 or distribution; or

3 (ii) for services performed by an individual in and at the time of the sale of newspapers or magazines
4 to ultimate consumers under an arrangement under which the newspapers or magazines are to be sold by
5 the individual at a fixed price, with the individual's compensation based on the retention of the excess of
6 the price over the amount at which the newspapers or magazines are charged to the individual, whether
7 or not the individual is guaranteed a minimum amount of compensation for the service or is entitled to be
8 credited with the unsold newspapers or magazines turned back;

9 (h) for services not in the course of the employer's trade or business to the extent paid in any
10 medium other than cash when the payments are in the form of lodgings or meals and the services are
11 received by the employee at the request of and for the convenience of the employer;

12 (i) to or for an employee as a payment for or a contribution toward the cost of any group plan or
13 program that benefits the employee, including but not limited to life insurance, hospitalization insurance for
14 the employee or dependents, and employees' club activities;

15 (j) as tips or gratuities that are in accordance with section 3402(k) or service charges that are
16 covered by section 3401 of the Internal Revenue Code of 1954, as amended and applicable on January 1,
17 1983, received by persons for services rendered by them to patrons of premises licensed to provide food,
18 beverage, or lodging;

19 (k) by an employer for dependent care assistance actually provided to or on behalf of an employee
20 and for which a credit is allowed under 15-30-186 or ~~15-31-131~~, subject to the limitations provided in
21 section 129(b) of the Internal Revenue Code ~~as it read on January 1, 1989~~. (Subsection (6)(j) terminates
22 on occurrence of contingency--sec. 3, Ch. 634, L. 1983.)"

23
24 **Section 73.** Section 15-31-509, MCA, is amended to read:

25 "**15-31-509. Periods of limitation.** (1) Except as otherwise provided in this section ~~and in~~
26 ~~15-31-544~~, ~~no~~ a deficiency ~~shall~~ may not be assessed or collected with respect to the year for which a
27 return is filed unless the notice of additional tax proposed to be assessed is mailed within 5 years from the
28 date the return was filed. For the purposes of this section, a return filed before the last day prescribed for
29 filing ~~shall~~ must be considered as filed on ~~such~~ the last day. ~~Where~~ When, before the expiration of the
30 period prescribed for assessment of the tax, the taxpayer consents in writing to an assessment after the

1 time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The limitations
2 prescribed for giving notice of a proposed assessment of additional tax ~~shall~~ may not apply when:

3 (a) the taxpayer has by written agreement suspended the federal statute of limitations for collection
4 of federal tax, provided the suspension of the limitation set forth in this section ~~shall last~~ lasts:

5 (i) only ~~so~~ as long as the suspension of the federal statute of limitation; or
6 (ii) until 1 year after any federal changes have become final or any amended federal return is filed
7 as a result of ~~such~~ the suspension of the federal statute, whichever is the latest in time; or

8 (b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return
9 ~~as required by 15-31-506~~ until 5 years after the federal changes become final or the amended federal return
10 was filed, whichever the case may be.

11 (2) ~~No~~ A refund or credit ~~shall~~ may not be allowed or paid with respect to the year for which a
12 return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date
13 of the overpayment, whichever period expires the later, unless before the expiration of ~~such~~ the period the
14 taxpayer files a claim ~~therefor~~ or the department of revenue has determined the existence of the
15 overpayment and has approved the refund or credit ~~thereof~~. If the taxpayer has agreed in writing under the
16 provisions of subsection (1) ~~of this section~~ to extend the time within which the department may propose
17 an additional assessment, the period within which a claim for refund or credit may be filed or a credit or
18 refund allowed in the event ~~no~~ a claim is not filed ~~shall~~ must automatically be ~~so~~ extended."

19
20 **Section 74.** Section 15-31-543, MCA, is amended to read:

21 "**15-31-543. Penalties.** (1) ~~If any corporation shall refuse~~ a taxpayer refuses or neglect neglects
22 to make a return at the time ~~hereinbefore~~ specified in each year or ~~shall render~~ files a false or fraudulent
23 return, ~~such corporation shall be liable~~ the taxpayer is subject to a penalty of not exceeding \$5,000, and
24 if the taxpayer is a corporation, it may be adjudged by a court of competent jurisdiction to forfeit the right
25 to continue to engage in business in the state as ~~such~~ a corporation until the ~~license fee tax~~, together with
26 all penalties and costs, ~~shall be is paid, which.~~ The forfeiture may be enforced by the attorney general by
27 proper proceedings in court.

28 (2) ~~Every~~ A taxpayer, including any officer or employee of any corporation or other person who,
29 without fraudulent intent, ~~shall fail~~ fails to make, render, sign, or verify any return or to supply any
30 information within the time required by or under the provisions of this chapter ~~shall be liable~~ is subject to

1 a penalty of not more than \$100 to be imposed, assessed, and collected by the department of revenue in
2 the same manner as is provided in this chapter with regard to delinquent taxes."

3

4 **Section 75.** Section 15-31-551, MCA, is amended to read:

5 "**15-31-551. Certified copies of ~~corporation license~~ business enterprise tax returns to taxpayer --**
6 **fee.** Certified copies of returns filed for ~~corporation license~~ business enterprise tax under ~~15-31-111~~ may
7 be furnished by the department of revenue to the taxpayer or ~~his~~ the taxpayer's duly authorized
8 representative upon payment of 50 cents for each page."

9

10 **Section 76.** Section 15-32-109, MCA, is amended to read:

11 "**15-32-109. Credit for energy-conserving expenditures.** (1) Subject to the restrictions of
12 subsections (2) and (3), a resident individual taxpayer may take as a credit against the taxpayer's tax
13 liability under chapter 30 a portion of ~~his~~ the taxpayer's expenditure for a capital investment in a building
14 for an energy conservation purpose, determined as follows:

15 (a) in the case of an expenditure for a residential building, the lesser of:

16 (i) \$150; or

17 (ii) 5% of the expenditure; and

18 (b) in the case of an expenditure for a building not used as a residence, the lesser of:

19 (i) \$300; or

20 (ii) 5% of the expenditure.

21 (2) The credit or the sum of the credits under subsection (1):

22 (a) may not exceed the taxpayer's tax liability; ~~and~~

23 (b) ~~is subject to the provisions of 15-32-104~~ is not available to persons and firms primarily engaged
24 in the provision of gas or electricity derived from fossil fuel extraction or conventional hydroelectric
25 development; and

26 (c) is subject to a ceiling of \$100,000 in tax savings per year to any one person or firm.

27 (3) There is no carryback or ~~carry forward~~ carryforward of the credit permitted under this section,
28 and the credit must be applied in the year the expenditure is incurred, as determined by the taxpayer's
29 accounting method.

30 (4) For the purposes of this section, the following definitions apply:

1 (a) "Building" means a single-family or multiple-unit dwelling, including a mobile home, or a building
 2 used for commercial, industrial, or agricultural purposes, that is enclosed with walls and a roof.

3 (b) "Energy conservation purpose" means one or both of the following results of an investment:

4 (i) reducing the waste or dissipation of energy; or

5 (ii) reducing the amount of energy required to accomplish a given quantity of work."

6

7 **Section 77.** Section 15-32-115, MCA, is amended to read:

8 **"15-32-115. Credit for geothermal system -- to whom available -- eligible costs -- limitations --**

9 **definition.** (1) A resident individual taxpayer who completes installation of a geothermal system, as defined
 10 in ~~15-32-102~~ subsection (4), in the taxpayer's principal dwelling is entitled to claim a tax credit, as provided
 11 in subsection (3), against the taxpayer's tax liability under chapter 30 for a portion of the installation costs
 12 of the system, up to \$250 per year for 4 years. The credit may not exceed the taxpayer's income tax
 13 liability for the taxable year in which the credit is claimed.

14 (2) For the purposes of this section, installation costs include the cost of:

15 (a) trenching, well drilling, casing, and downhole heat exchangers;

16 (b) piping, control devices, and pumps that move heat from the earth to heat or cool the building;

17 (c) ground source or ground coupled heat pumps;

18 (d) liquid-to-air heat exchanger, ductwork, and fans installed with a ground heat well that pump
 19 heat from a well into a building; and

20 (e) design and labor.

21 (3) The tax credit allowed under this section is deductible from the taxpayer's income tax liability
 22 for the taxable year in which the installation costs were incurred and for the next 3 taxable years
 23 succeeding the taxable year in which the installation costs were incurred. There is no carryback or
 24 carryforward of the credit permitted under this section.

25 (4) "Geothermal system" means a system that transfers energy either from the ground, by way
 26 of a closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a
 27 residential building."

28

29 **Section 78.** Section 15-32-201, MCA, is amended to read:

30 **"15-32-201. Amount of credit -- to whom available -- definition.** (1) A resident individual taxpayer

1 who completes installation of an energy system using a recognized nonfossil form of energy generation,
2 as defined in ~~15-32-102~~ subsection (4), in the taxpayer's principal dwelling prior to January 1, 1993, or
3 who acquires title to a dwelling prior to January 1, 1993, that is to be used as the taxpayer's principal
4 dwelling and is equipped with an energy system for which the credit allowed by this part has never been
5 claimed is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next
6 \$3,000 of the cost of the system, including installation costs, less grants received or, if the federal
7 government provides for a tax credit substantially similar in kind (not in amount), then a tax credit in an
8 amount equal to 5% of the first \$1,000 and 2 1/2% of the next \$3,000 of the cost of the system, including
9 installation costs, less grants received, against the income tax liability imposed against the taxpayer
10 pursuant to chapter 30.

11 (2) A resident individual taxpayer who completes installation of an energy system using a low
12 emission wood or biomass combustion device, as defined in ~~15-32-102(6)(a)~~ 15-6-201(3)(b)(i), in the
13 taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal
14 to 20% of the first \$1,000 and 10% of the next \$3,000 of the cost of the system, including the installation
15 costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

16 (3) A resident individual taxpayer who completes installation of an energy system that uses a low
17 emission wood or biomass combustion device, as defined in ~~15-32-102(6)(b)~~ 15-6-201(3)(b)(ii), in the
18 taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal
19 to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of the system, including the installation
20 costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

21 (4) "Recognized nonfossil form of energy generation" means:

22 (a) a system that captures energy or converts energy sources into usable sources by using solar
23 energy, including passive solar systems; wind; solid waste; or the decomposition of organic wastes;

24 (b) a system that produces electric power from solid wood wastes; or

25 (c) a small system that uses water power by means of an impoundment that is not over 20 acres
26 in surface area."

27

28 **Section 79.** Section 15-32-303, MCA, is amended to read:

29 **"15-32-303. Deduction for purchase of Montana produced organic fertilizer.** In addition to all other
30 deductions from adjusted gross individual income allowed in computing taxable income under Title 15,

1 chapter 30, ~~or from gross corporate income allowed in computing net income under Title 15, chapter 31,~~
2 ~~part 1,~~ a taxpayer may deduct his expenditures for organic fertilizer produced in Montana and used in
3 Montana if the expenditure was not otherwise deducted in computing taxable income."
4

5 **Section 80.** Section 15-32-402, MCA, is amended to read:

6 **"15-32-402. Commercial investment credit -- wind-generated electricity.** (1) An individual,
7 ~~corporation,~~ partnership, or ~~small business corporation as defined in 15-31-201~~ that has made an election
8 under subchapter S. of the Internal Revenue Code and that makes an investment of \$5,000 or more in
9 certain depreciable property qualifying under section 38 of the Internal Revenue Code of 1954, as amended,
10 for a commercial system located in Montana ~~which that~~ generates electricity by means of wind power is
11 entitled to a tax credit against taxes imposed by 15-30-103 ~~or 15-31-121~~ in an amount equal to 35% of
12 the eligible costs, to be taken as a credit only against taxes due as a consequence of taxable or net income
13 produced by one of the following:

- 14 (a) manufacturing plants located in Montana that produce wind energy generating equipment;
15 (b) a new business facility or the expanded portion of an existing business facility for which the
16 wind energy generating equipment supplies, on a direct contract sales basis, the basic energy needed; or
17 (c) the wind energy generating equipment in which the investment for which a credit is being
18 claimed was made.

19 (2) For purposes of determining the amount of the tax credit that may be claimed under subsection
20 (1), eligible costs include only those expenditures that qualify under section 38 of the Internal Revenue
21 Code of 1954, as amended, and that are associated with the purchase, installation, or upgrading of:

- 22 (a) generating equipment;
23 (b) safety devices and storage components;
24 (c) transmission lines necessary to connect with existing transmission facilities; and
25 (d) transmission lines necessary to connect directly to the purchaser of the electricity when no
26 other transmission facilities are available.

27 (3) Eligible costs under subsection (2) must be reduced by the amount of any grants provided by
28 the state or federal government for the system."
29

30 **Section 81.** Section 15-32-405, MCA, is amended to read:

1 **"15-32-405. Exclusion from other tax incentives.** If a credit is claimed for an investment pursuant
2 to this part, ~~no other~~ another state energy or investment tax credit, including but not limited to the tax
3 credits allowed by 15-30-162 ~~and 15-31-123 through 15-31-125~~, may not be claimed for the investment.
4 Property tax reduction allowed by 15-6-201(3) may not be applied to a facility for which a credit is claimed
5 pursuant to this part."

6
7 **Section 82.** Section 15-32-406, MCA, is amended to read:

8 **"15-32-406. Separation of credit portion.** In the case of a business, a portion of which qualifies
9 for the credit pursuant to 15-32-402 and a portion of which does not qualify for the credit, taxes due from
10 each portion must be separated by using the three-factor formula provided in ~~15-31-306~~ [section 13]."

11
12 **Section 83.** Section 15-32-602, MCA, is amended to read:

13 **"15-32-602. (Temporary) Amount and duration of credit -- how claimed.** (1) An individual,
14 ~~corporation, partnership, or small business corporation, as defined in 15-31-201~~ that has made an election
15 under subchapter S. of the Internal Revenue Code, may receive a credit against taxes imposed by Title 15,
16 chapter 30 ~~or 31~~, for investments in depreciable property to collect or process reclaimable material or to
17 manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

18 (2) Subject to 15-32-603(3) and subsection (4) of this section, a taxpayer qualifying for a credit
19 under 15-32-603 is entitled to claim a credit, as provided in subsection (3) of this section, for the cost of
20 each item of property purchased to collect or process reclaimable material or to manufacture a product from
21 reclaimed material only in the year in which the property was purchased. If qualifying property was
22 purchased prior to January 1, 1992, but on or after January 1, 1990, a taxpayer is entitled to a credit for
23 tax year 1992.

24 (3) The amount of the credit that may be claimed under this section for investments in depreciable
25 property is determined according to the following schedule:

26 (a) 25% of the cost of the property on the first \$250,000 invested;

27 (b) 15% of the cost of the property on the next \$250,000 invested; and

28 (c) 5% of the cost of the property on the next \$500,000 invested.

29 (4) A credit may not be claimed for investments in depreciable property in excess of \$1 million.

30 (Terminates December 31, 1997--sec. 5, Ch. 542, L. 1995.)

1 **15-32-602. (Effective January 1, 1998) Amount and duration of credit -- how claimed.** (1) An
2 individual, ~~corporation, partnership, or small business corporation, as defined in 15-31-201,~~ that has made
3 an election under subchapter S. of the Internal Revenue Code may receive a credit against taxes imposed
4 by Title 15, chapter 30 ~~or 31,~~ for investments in depreciable property to collect or process reclaimable
5 material or to manufacture a product from reclaimed material, if the taxpayer qualifies under 15-32-603.

6 (2) Subject to 15-32-603(2), a taxpayer qualifying for a credit under 15-32-603 is entitled to claim
7 a credit in an amount equal to 25% of the cost of the property purchased to collect or process reclaimable
8 material or to manufacture a product from reclaimed material only in the year in which the property was
9 purchased. If qualifying property was purchased prior to January 1, 1992, but on or after January 1, 1990,
10 a taxpayer is entitled to a credit for tax year 1992. (Terminates December 31, 2001--sec. 4, Ch. 542, L.
11 1995.)"

12

13 **Section 84.** Section 15-32-610, MCA, is amended to read:

14 **"15-32-610. (Temporary) Deduction for purchase of recycled material.** In addition to all other
15 deductions from adjusted gross individual income allowed in computing taxable income under Title 15,
16 chapter 30, ~~or from gross corporate income allowed in computing net income under Title 15, chapter 31,~~
17 ~~part 1,~~ a taxpayer may deduct an additional amount equal to 10% of the taxpayer's expenditures for the
18 purchase of recycled material that was otherwise deductible by the taxpayer as business-related expense
19 in Montana. (Terminates December 31, 2001--sec. 4, Ch. 542, L. 1995.)"

20

21 **Section 85.** Section 15-36-323, MCA, is amended to read:

22 **"15-36-323. Calculation of unit value.** For the purposes of distribution of oil and natural gas
23 production taxes to county and school taxing units for production from pre-1985 wells, the department
24 shall determine the unit value of oil and natural gas for each taxing unit as follows:

25 (1) Subject to the conditions of subsection (3), the unit value for oil for each taxing unit is the
26 quotient obtained by dividing the net proceeds taxes calculated on oil produced and sold in that taxing unit
27 in calendar year 1988 by the number of barrels of oil produced in that taxing unit during 1988, excluding
28 post-1985 wells.

29 (2) Subject to the conditions of subsection (3), the unit value for natural gas is the quotient
30 obtained by dividing the net proceeds taxes calculated on natural gas produced and sold in that taxing unit

1 in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988,
2 excluding post-1985 wells.

3 (3) The amount of net proceeds taxes calculated under subsections (1) and (2) may not include
4 the amount of taxes that are attributable to a financial emergency, as described in 15-10-412(10) prior to
5 its repeal, for which additional mills were levied in fiscal year 1990."
6

7 **Section 86.** Section 15-36-324, MCA, is amended to read:

8 **"15-36-324. Distribution of taxes.** (1) For each calendar quarter, the department of revenue shall
9 determine the amount of tax, late payment interest, and penalty collected under this part. For purposes of
10 distribution of the taxes to county and school taxing units, the department shall determine the amount of
11 oil and natural gas production taxes paid on production from pre-1985 wells, post-1985 wells, and
12 horizontally drilled wells located in the taxing unit.

13 (2) Except as provided in subsections (3) and (4), oil production taxes must be distributed as
14 follows:

15 (a) The amount equal to 41.6% of the oil production taxes, including late payment interest and
16 penalty, collected under this part must be distributed as provided in subsection (7).

17 (b) The remaining 58.4% of the oil production taxes, plus accumulated interest earned on the
18 amount allocated under this subsection (2)(b), must be deposited in the agency fund in the state treasury
19 and transferred to the county and school taxing units for distribution as provided in subsection (8).

20 (3) The amount equal to 100% of the oil production taxes, including late payment interest and
21 penalty, collected from working interest owners on production from post-1985 wells occurring during the
22 first 12 months of production must be distributed as provided in subsection (7).

23 (4) The amount equal to 100% of the oil production taxes, including late payment interest and
24 penalty, collected under this part on production from horizontally drilled wells and on the incremental
25 production from horizontally recompleted wells occurring during the first 18 months of production must be
26 distributed as provided in subsection (7).

27 (5) Except as provided in subsection (6), natural gas production taxes must be allocated as follows:

28 (a) The amount equal to 14.6% of the natural gas production taxes, including late payment interest
29 and penalty, collected under this part must be distributed as provided in subsection (7).

30 (b) The remaining 85.4% of the natural gas production taxes, plus accumulated interest earned on

1 the amount allocated under this subsection (5)(b), must be deposited in the agency fund in the state
2 treasury and transferred to the county and school taxing units for distribution as provided in subsection (8).

3 (6) The amount equal to 100% of the natural gas production taxes, including late payment interest
4 and penalty, collected from working interest owners under this part on production from post-1985 wells
5 occurring during the first 12 months of production must be distributed as provided in subsection (7).

6 (7) The department shall, in accordance with the provisions of 15-1-501(6), distribute the state
7 portion of oil and natural gas production taxes, including late payment interest and penalty collected, as
8 follows:

9 (a) 85% to the state general fund;

10 (b) 4.3% to the state special revenue fund for the purpose of paying expenses of the board as
11 provided in 82-11-135; and

12 (c) 10.7% to be distributed as provided by 15-38-106(2).

13 (8) (a) For the purpose of distribution of the oil and natural gas production taxes from pre-1985
14 wells, the department shall each calendar quarter adjust the unit value determined under 15-36-323
15 according to the ratio that the oil and natural gas production taxes from pre-1985 wells collected during
16 the calendar quarter for which the distribution occurs plus penalties and interest on delinquent oil and
17 natural gas production taxes from pre-1985 wells bears to the total liability for the oil and natural gas
18 production taxes from pre-1985 wells for the quarter for which the distribution occurs. The amount of oil
19 and natural gas production taxes distributions must be calculated and distributed as follows:

20 (i) By the dates referred to in subsection (9), the department shall calculate and distribute to each
21 eligible county the amount of oil and natural gas production taxes from pre-1985 wells for the quarter,
22 determined by multiplying the unit value, as adjusted in this subsection (8)(a), by the units of production
23 on which oil and natural gas production taxes from pre-1985 wells were owed for the calendar quarter for
24 which the distribution occurs.

25 (ii) Any amount by which the total tax liability exceeds or is less than the total distributions
26 determined in subsection (8)(a) must be calculated and distributed in the following manner:

27 (A) The excess amount or shortage must be divided by the total distribution determined for that
28 period to obtain an excess or shortage percentage.

29 (B) The excess percentage must be multiplied by the distribution to each taxing unit, and this
30 amount must be added to the distribution to each respective taxing unit.

1 (C) The shortage percentage must be multiplied by the distribution to each taxing unit, and this
2 amount must be subtracted from the distribution to each respective taxing unit.

3 (b) Except as provided in subsection (8)(c), the county treasurer shall distribute the money
4 received under subsection (9) from pre-1985 wells to the taxing units that levied mills in fiscal year 1990
5 against calendar year 1988 production in the same manner that all other property tax proceeds were
6 distributed during fiscal year 1990 in the taxing unit, except that a distribution may not be made to a
7 municipal taxing unit.

8 (c) The board of county commissioners of a county may direct the county treasurer to reallocate
9 the distribution of oil and natural gas production tax money that would have gone to a taxing unit, as
10 provided in subsection (8)(b), to another taxing unit or taxing units, other than an elementary school or high
11 school, within the county under the following conditions:

12 (i) The county treasurer shall first allocate the oil and natural gas production taxes to the taxing
13 units within the county in the same proportion that all other property tax proceeds were distributed in the
14 county in fiscal year 1990.

15 (ii) If the allocation in subsection (8)(c)(i) exceeds the total budget for a taxing unit, the
16 commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

17 (d) The board of trustees of an elementary or high school district may reallocate the oil and natural
18 gas production taxes distributed to the district by the county treasurer under the following conditions:

19 (i) The district shall first allocate the oil and natural gas production taxes to the budgeted funds
20 of the district in the same proportion that all other property tax proceeds were distributed in the district in
21 fiscal year 1990.

22 (ii) If the allocation under subsection (8)(d)(i) exceeds the total budget for a fund, the trustees may
23 allocate the excess to any budgeted fund of the school district.

24 (e) For all production from post-1985 wells and horizontally drilled wells completed after December
25 31, 1993, the county treasurer shall distribute oil and natural gas production taxes received under
26 subsections (2)(b) and (5)(b) between county and school taxing units in the relative proportions required
27 by the levies for state, county, and school district purposes in the same manner as property taxes were
28 distributed in the preceding fiscal year.

29 (f) The allocation to the county in subsection (8)(e) must be distributed by the county treasurer in
30 the relative proportions required by the levies for county taxing units and in the same manner as property

1 taxes were distributed in the preceding fiscal year.

2 (g) The money distributed in subsection (8)(e) that is required for the county mill levies for school
3 district retirement obligations and transportation schedules must be deposited to the funds established for
4 these purposes.

5 (h) The oil and natural gas production taxes distributed under subsection (8)(b) that are required
6 for the 6-mill university levy imposed under 20-25-423 ~~and for the county equalization levies imposed under~~
7 ~~20-9-331 and 20-9-333, as these sections read on July 1, 1989,~~ must be remitted by the county treasurer
8 to the state treasurer.

9 (i) The oil and natural gas production taxes distributed under subsection (8)(e) that are required for
10 the 6-mill university levy imposed under 20-25-423, ~~for the county equalization levies imposed under~~
11 ~~20-9-331 and 20-9-333, and for the state equalization aid levy imposed under 20-9-360~~ must be remitted
12 by the county treasurer to the state treasurer.

13 (j) The amount of oil and natural gas production taxes remaining after the treasurer has remitted
14 the amounts determined in subsections (8)(h) and (8)(i) is for the exclusive use and benefit of the county
15 and school taxing units.

16 (9) The department shall remit the amounts to be distributed in subsection (8) to the county
17 treasurer by the following dates:

18 (a) On or before August 1 of each year, the department shall remit to the county treasurer oil and
19 natural gas production tax payments received for the calendar quarter ending March 31 of the current year.

20 (b) On or before November 1 of each year, the department shall remit to the county treasurer oil
21 and natural gas production tax payments received for the calendar quarter ending June 30 of the current
22 year.

23 (c) On or before February 1 of each year, the department shall remit to the county treasurer oil and
24 natural gas production tax payments received for the calendar quarter ending September 30 of the previous
25 year.

26 (d) On or before May 1 of each year, the department shall remit to the county treasurer oil and
27 natural gas production tax payments received for the calendar quarter ending December 31 of the previous
28 calendar year.

29 (10) The department shall provide to each county by May 31 of each year the amount of gross
30 taxable value represented by all types of production taxed under 15-36-304 for the previous calendar year

1 multiplied by 60%. The resulting value must be treated as taxable value for county classification purposes
2 and for county bonding purposes."

3

4 **Section 87.** Section 15-36-325, MCA, is amended to read:

5 **"15-36-325. Local government severance tax payments for calendar year 1995 production --**
6 **distribution of payments -- not subject to I-105 limitations.** (1) The local government severance tax imposed
7 under 15-36-101, as that section read before January 1, 1996, for calendar year 1995 production is due
8 as follows:

9 (a) for oil and natural gas production occurring in the first calendar quarter of 1995, the tax is due
10 May 31, 1996;

11 (b) for oil and natural gas production occurring in the second calendar quarter of 1995, the tax is
12 due May 31, 1997;

13 (c) for oil and natural gas production occurring in the third calendar quarter of 1995, the tax is due
14 May 31, 1998; and

15 (d) for oil and natural gas production occurring in the fourth calendar quarter of 1995, the tax is
16 due May 31, 1999.

17 (2) (a) If the taxpayer pays the entire local government severance tax liability for calendar year
18 1995 on or before June 30, 1996, the taxpayer must receive a 6% reduction in the total local government
19 severance tax liability.

20 (b) Any payment of local government severance taxes for calendar year 1995 made on or before
21 June 30, 1997, does not accrue interest. Any payment of local government severance taxes for calendar
22 year 1995 made after June 30, 1997, must accrue interest at the rate of 1% a month or fraction of a
23 month from July 1, 1997, to the date of payment. Any payment for the third quarter of 1995 received after
24 May 31, 1998, and any payment for the fourth quarter of 1995 received after May 31, 1999, is subject
25 to the late payment penalty provisions in 15-36-311.

26 (c) In the case of the dissolution of the operator or a change in the operator of any lease or unit,
27 any unpaid local government severance tax for calendar year 1995 becomes due on the date of dissolution
28 or on the date of the change in operator. The operator is subject to the provisions of subsection (2)(a)
29 regarding the 6% tax liability reduction or the provisions of subsection (2)(b) regarding interest and
30 penalties.

1 (3) The department shall determine the amount of tax collected under subsections (1) and (2) from
2 within each taxing unit.

3 (4) For purposes of the distribution of local government severance taxes collected under this
4 section, the department shall use the unit value of oil and gas for each taxing unit as determined in
5 15-36-323.

6 (5) The local government severance tax must be deposited in the agency fund in the state treasury
7 and transferred to the county for distribution as provided in subsection (6).

8 (6) For the purpose of the distribution of the local government severance tax for calendar year
9 1995 production, the department shall adjust the unit value determined under this section according to the
10 ratio that the local government severance taxes collected during the quarters for which the distribution
11 occurs plus penalties and interest on delinquent local government severance taxes bears to the total liability
12 for local government severance taxes for the quarters for which the distribution occurs. The taxes must
13 be calculated and distributed as follows:

14 (a) By July 31 of each of the years 1996, 1997, 1998, and 1999, the department shall calculate
15 and distribute to each eligible county the amount of local government severance tax for calendar year 1995
16 production, determined by multiplying the unit value, as adjusted in this subsection (6), by the units of
17 production on which the local government severance tax was owed during calendar year 1995 production.

18 (b) Any amount by which the total tax liability exceeds or is less than the total distributions
19 determined in subsection (6)(a) must be calculated and distributed in the following manner:

20 (i) The excess amount or shortage must be divided by the total distribution determined for that
21 period to obtain an excess or shortage percentage.

22 (ii) The excess percentage must be multiplied by the distribution to each taxing unit, and this
23 amount must be added to the distribution to each respective taxing unit.

24 (iii) The shortage percentage must be multiplied by the distribution to each taxing unit, and this
25 amount must be subtracted from the distribution to each respective taxing unit.

26 (7) (a) The county treasurer shall distribute the money received under subsection (6) between the
27 county and school taxing units. The distribution between county and school taxing units is the ratio of the
28 number of mills levied for fiscal year 1990 against 1988 production in each taxing unit for the county and
29 schools, not including the county equalization levies that were in effect under 20-9-331 and 20-9-333 as
30 those sections read on July 1, 1989, ~~and~~ but including the university 6-mill levy imposed under 20-25-423,

1 except that a distribution may not be made to a municipal taxing unit ~~or the state equalization aid levy~~
 2 ~~imposed under 20-9-360~~. Distribution of money for ~~the county equalization levies and~~ the university levy
 3 must be remitted to the state by the county treasurer. The amounts distributed under subsections (7)(b)
 4 and (7)(c) are for the exclusive use of county and school taxing units.

5 (b) The county treasurer shall deposit the money from subsection (7)(a) allocated to county levies
 6 to the oil and gas tax accelerated fund.

7 (c) The trustees of a school district may allocate any payment received under subsection (7)(a) to
 8 any budget fund of the district or to the miscellaneous programs fund established in 20-9-507. The trustees
 9 shall direct the county treasurer to deposit the local government severance tax payments under this section
 10 to the funds of the district in accordance with the allocations determined by the trustees.

11 (8) Local government severance tax payments to a county pursuant to this section are not subject
 12 to the limitations of Title 15, chapter 10, part 4. Payments of local government severance tax pursuant to
 13 this section may not be used for county classification purposes under 7-1-2111 and may not be considered
 14 in the determination of bonding limits under 7-7-2101, 7-7-2203, 7-14-2524, and 7-16-2327."

15

16 **Section 88.** Section 15-61-202, MCA, is amended to read:

17 "**15-61-202. Tax exemption -- conditions.** (1) Except as provided in this section, the amount of
 18 principal provided for in subsection (2) contributed annually by an employee or account holder to an
 19 account and all interest or other income on that principal may be excluded from the adjusted gross income
 20 of the employee or account holder and are exempt from taxation, in accordance with 15-30-111(2)(i)(2)(i),
 21 as long as the principal and interest or other income is contained within the account or withdrawn only for
 22 payment of eligible medical expenses or for the long-term care of the employee or account holder or a
 23 dependent of the employee or account holder. Any part of the principal or income, or both, withdrawn from
 24 an account may not be excluded under subsection (2) and this subsection if the amount is withdrawn from
 25 the account and used for a purpose other than an eligible medical expense or the long-term care of the
 26 employee or account holder or a dependent of the employee or account holder.

27 (2) An employee or account holder may exclude as an annual contribution in 1 year no more than
 28 \$3,000. There is no limitation on the amount of funds and interest or other income on those funds that may
 29 be retained tax-free within an account.

30 (3) A deduction pursuant to 15-30-121 is not allowed to an employee or account holder for an

1 amount contributed to an account. An employee or account holder may not deduct pursuant to 15-30-121
 2 or exclude pursuant to 15-30-111 an amount representing a loss in the value of an investment contained
 3 in an account.

4 (4) An employee or account holder may in 1 year deposit into an account more than the amount
 5 excluded pursuant to subsection (2) if the exemption claimed by the employee or account holder in the year
 6 does not exceed \$3,000. An employee or account holder who deposits more than \$3,000 into an account
 7 in a year may exclude from the employee's or account holder's adjusted gross income in accordance with
 8 15-30-111(2)(i) in a subsequent year any part of \$3,000 per year not previously excluded.

9 (5) The transfer of money in an account owned by one employee or account holder to the account
 10 of another employee or account holder within the immediate family of the first employee or account holder
 11 does not subject either employee or account holder to tax liability under this section. Amounts contained
 12 within the account of the receiving employee or account holder are subject to the requirements and
 13 limitations provided in this section.

14 (6) The employee or account holder who establishes the account is the owner of the account. An
 15 employee or account holder may withdraw money in an account and deposit the money in another account
 16 with a different or with the same account administrator without incurring tax liability.

17 (7) The amount of a disbursement of any assets of a medical care savings account pursuant to a
 18 filing for protection under the United States Bankruptcy Code, 11 U.S.C. 101 through 1330, by an
 19 employee or account holder does not subject the employee or account holder to tax liability.

20 (8) Within 30 days of being furnished proof of the death of the employee or account holder, the
 21 account administrator shall distribute the principal and accumulated interest or other income in the account
 22 to the estate of the employee or account holder."

23

24 **Section 89.** Section 17-2-121, MCA, is amended to read:

25 "17-2-121. **Deposits by insurance commissioner.** All fees, miscellaneous and examination charges,
 26 fines, and penalties, ~~and those amounts received pursuant to 33-2-311, 33-2-705, or 33-2-706,~~ collected
 27 by the insurance commissioner pursuant to Title 33 and the rules adopted ~~thereunder~~ under Title 33 must
 28 be deposited in the general fund."

29

30 **Section 90.** Section 17-3-213, MCA, is amended to read:

1 **"17-3-213. Allocation to general road fund and countywide school levies.** (1) The forest reserve
 2 funds ~~se~~ apportioned to each county must be apportioned by the county treasurer in each county as
 3 follows:

- 4 (a) to the general road fund, 66 2/3% of the total amount received;
 5 (b) to the following countywide school levies, 33 1/3% ~~of the total sum received:~~
 6 (i) ~~county equalization for elementary schools provided for in 20-9-331; and~~
 7 (ii) ~~county equalization for high schools provided for in 20-9-333;~~
 8 (iii) ~~the county transportation fund provided for in 20-10-146; and~~
 9 (iv) ~~the elementary and high school district retirement fund obligations provided for in 20-9-501.~~

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

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

20

21 **Section 91.** Section 17-5-408, MCA, is amended to read:

22 **"17-5-408. Percentage of income, ~~corporation license~~ business enterprise tax, and cigarette tax**
 23 **pledged.** (1) (a) The state pledges and appropriates and directs to be credited as received to the debt
 24 service account money received from the collection of the individual income tax and, ~~except as provided~~
 25 ~~in 15-31-702,~~ money received from the collection of the ~~corporation license and income~~ business enterprise
 26 tax, as provided in 15-1-501, as may at any time be needed to comply with the principal and interest and
 27 reserve requirements stated in 17-5-405(4).

28 (b) The pledge and appropriation made by this section are a first and prior charge upon all money
 29 received from the collection of the enumerated taxes.

30 (2) Except for the amount credited to the veterans' home maintenance and improvement account

1 under 16-11-119, the state pledges and appropriates and directs to be credited to the debt service account
 2 79.75% of all remaining money received from the collection of the excise tax on cigarettes that is levied,
 3 imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited
 4 as received to the debt service account all money received from the collection of the taxes on other tobacco
 5 products that are or may be imposed for that purpose, including the tax imposed by 16-11-202. This
 6 section does not impair or otherwise affect the provisions and covenants contained in the resolutions
 7 authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the
 8 preceding sentence, the pledge and appropriation made by this section are a first and prior charge upon all
 9 money received from the collection of all taxes referred to in this subsection."

10

11 **Section 92.** Section 17-7-502, MCA, is amended to read:

12 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 13 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
 14 without the need for a biennial legislative appropriation or budget amendment.

15 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
 16 with both of the following provisions:

17 (a) The law containing the statutory authority must be listed in subsection (3).

18 (b) The law or portion of the law making a statutory appropriation must specifically state that a
 19 statutory appropriation is made as provided in this section.

20 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 21 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; ~~15-1-111~~; 15-23-706;
 22 15-30-195; ~~15-31-702~~; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411;
 23 16-11-308; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 17-6-101; 17-6-201; 17-7-304;
 24 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205;
 25 19-19-305; 19-19-506; 20-8-107; 20-8-111; ~~20-9-361~~; 20-26-1503; 23-5-136; 23-5-306; 23-5-409;
 26 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503;
 27 39-71-907; 39-71-2321; 39-71-2504; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150;
 28 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-12-123;
 29 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301;
 30 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

1 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 2 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 3 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 4 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 5 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 6 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
 7 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 8 supplemental benefit; and pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates
 9 July 1, 2001.)"

10
 11 **Section 93.** Section 20-1-301, MCA, is amended to read:

12 "**20-1-301. School fiscal year.** The school fiscal year ~~shall begin~~ begins on July 1 and end on June
 13 30. At least 180 school days of pupil instruction ~~shall~~ must be conducted during each school fiscal year,
 14 except that 175 days of pupil instruction for graduating seniors may be sufficient as provided in 20-9-313,
 15 or unless a variance for kindergarten has been granted under 20-1-302 or a district is granted a variance
 16 under the provisions of chapter 9, part 8, of this title. For any elementary or high school district that fails
 17 to provide for at least 180 school days of pupil instruction, the superintendent of public instruction shall
 18 reduce ~~the county equalization as defined in 20-9-334 and~~ the state equalization as defined in 20-9-343
 19 for the district for that school year by 1/90th for each school day less than 180 school days."

20
 21 **Section 94.** Section 20-3-106, MCA, is amended to read:

22 "**20-3-106. Supervision of schools -- powers and duties.** The superintendent of public instruction
 23 has the general supervision of the public schools and districts of the state and shall perform the following
 24 duties or acts in implementing and enforcing the provisions of this title:

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

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

28 (3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of
 29 20-5-314;

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

- 1 (5) approve or disapprove the orders of a high school boundary commission in accordance with
2 the provisions of 20-6-311;
- 3 (6) approve or disapprove the opening or reopening of a school in accordance with the provisions
4 of 20-6-502, 20-6-503, 20-6-504, or 20-6-505;
- 5 (7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;
- 6 (8) generally supervise the school budgeting procedures prescribed by law in accordance with the
7 provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of
8 20-9-103 and 20-9-506;
- 9 (9) establish a system of communication for calculating joint district revenues in accordance with
10 the provisions of 20-9-151;
- 11 (10) approve or disapprove the adoption of a district's budget amendment resolution under the
12 conditions prescribed in 20-9-163 and adopt rules for an application for additional direct state aid for a
13 budget amendment in accordance with the approval and disbursement provisions of 20-9-166;
- 14 (11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);
- 15 (12) prescribe and furnish the annual report forms to enable the districts to report to the county
16 superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the
17 county superintendents to report to the superintendent of public instruction in accordance with the
18 provisions of 20-3-209;
- 19 (13) approve, disapprove, or adjust an increase of the average number belonging (ANB) in
20 accordance with the provisions of 20-9-313 and 20-9-314;
- 21 (14) distribute BASE aid and special education allowable cost payments in support of the BASE
22 funding program, in accordance with the provisions of ~~20-9-331, 20-9-333,~~ 20-9-342, 20-9-346, and
23 ~~20-9-347, and 20-9-366 through 20-9-369;~~
- 24 (15) provide for the uniform and equal provision of transportation by performing the duties
25 prescribed by the provisions of 20-10-112;
- 26 (16) approve or disapprove an adult education program for which a district proposes to levy a tax
27 in accordance with the provisions of 20-7-705;
- 28 (17) request, accept, deposit, and expend federal money in accordance with the provisions of
29 20-9-603;
- 30 (18) authorize the use of federal money for the support of an interlocal cooperative agreement in

- 1 accordance with the provisions of 20-9-703 and 20-9-704;
- 2 (19) prescribe the form and contents of and approve or disapprove interstate contracts in
3 accordance with the provisions of 20-9-705;
- 4 (20) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days
5 in accordance with the provisions of 20-1-303 and 20-1-304;
- 6 (21) recommend standards of accreditation for all schools to the board of public education and
7 evaluate compliance with the standards and recommend accreditation status of every school to the board
8 of public education in accordance with the provisions of 20-7-101 and 20-7-102;
- 9 (22) collect and maintain a file of curriculum guides and assist schools with instructional programs
10 in accordance with the provisions of 20-7-113 and 20-7-114;
- 11 (23) establish and maintain a library of visual, aural, and other educational media in accordance with
12 the provisions of 20-7-201;
- 13 (24) license textbook dealers and initiate prosecution of textbook dealers violating the law in
14 accordance with the provisions of the textbooks part of this title;
- 15 (25) as the governing agent and executive officer of the state of Montana for K-12 vocational
16 education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;
- 17 (26) supervise and coordinate the conduct of special education in the state in accordance with the
18 provisions of 20-7-403;
- 19 (27) administer the traffic education program in accordance with the provisions of 20-7-502;
- 20 (28) administer the school food services program in accordance with the provisions of 20-10-201,
21 20-10-202, and 20-10-203;
- 22 (29) review school building plans and specifications in accordance with the provisions of 20-6-622;
- 23 (30) prescribe the method of identification and signals to be used by school safety patrols in
24 accordance with the provisions of 20-1-408;
- 25 (31) provide schools with information and technical assistance for compliance with the student
26 assessment rules provided for in 20-2-121 and collect and summarize the results of the student assessment
27 for the board of public education and the legislature;
- 28 ~~(32) administer the distribution of guaranteed tax base aid in accordance with 20-9-366 through~~
29 ~~20-9-369; and~~
- 30 ~~(33)~~(32) perform any other duty prescribed from time to time by this title, any other act of the

1 legislature, or the policies of the board of public education."

2

3 **Section 95.** Section 20-3-205, MCA, is amended to read:

4 **"20-3-205. Powers and duties.** The county superintendent has general supervision of the schools
5 of the county within the limitations prescribed by this title and shall perform the following duties or acts:

6 (1) determine, establish, and reestablish trustee nominating districts in accordance with the
7 provisions of 20-3-352, 20-3-353, and 20-3-354;

8 (2) administer and file the oaths of members of the boards of trustees of the districts in the county
9 in accordance with the provisions of 20-3-307;

10 (3) register the teacher or specialist certificates or emergency authorization of employment of any
11 person employed in the county as a teacher, specialist, principal, or district superintendent in accordance
12 with the provisions of 20-4-202;

13 (4) act on each tuition and transportation obligation submitted in accordance with the provisions
14 of 20-5-323 and 20-5-324;

15 (5) file a copy of the audit report for a district in accordance with the provisions of 20-9-203;

16 (6) classify districts in accordance with the provisions of 20-6-201 and 20-6-301;

17 (7) keep a transcript and reconcile the district boundaries of the county in accordance with the
18 provisions of 20-6-103;

19 (8) fulfill all responsibilities assigned under the provisions of this title regulating the organization,
20 alteration, or abandonment of districts;

21 (9) act on any unification proposition and, if approved, establish additional trustee nominating
22 districts in accordance with 20-6-312 and 20-6-313;

23 (10) estimate the average number belonging (ANB) of an opening school in accordance with the
24 provisions of 20-6-502, 20-6-503, 20-6-504, or 20-6-506;

25 (11) process and, when required, act on school isolation applications in accordance with the
26 provisions of 20-9-302;

27 (12) complete the budgets, compute the budgeted revenues and tax levies, file final budgets and
28 budget amendments, and fulfill other responsibilities assigned under the provisions of this title regulating
29 school budgeting systems;

30 (13) submit an annual financial report to the superintendent of public instruction in accordance with

1 the provisions of 20-9-211;

2 (14) monthly, unless otherwise provided by law, order the county treasurer to apportion state
3 money, ~~county school money~~, and any other school money subject to apportionment in accordance with
4 the provisions of 20-9-212, ~~20-9-334~~, 20-9-347, or 20-10-145, ~~or 20-10-146~~;

5 (15) act on any request to transfer average number belonging (ANB) in accordance with the
6 provisions of 20-9-313(3);

7 (16) calculate the estimated budgeted general fund sources of revenue in accordance with the
8 general fund revenue provisions of the general fund part of this title;

9 (17) compute the ~~revenues~~ revenue and the district and county levy requirements for each fund
10 included in each district's final budget and report the computations to the board of county commissioners
11 in accordance with the provisions of the general fund, transportation, bonds, and other school funds parts
12 of this title;

13 (18) file and forward bus driver certifications, transportation contracts, and state transportation
14 reimbursement claims in accordance with the provisions of 20-10-103, 20-10-143, or 20-10-145;

15 (19) for districts that do not employ a district superintendent or principal, recommend library book
16 and textbook selections in accordance with the provisions of 20-7-204 or 20-7-602;

17 (20) notify the superintendent of public instruction of a textbook dealer's activities when required
18 under the provisions of 20-7-605 and otherwise comply with the textbook dealer provisions of this title;

19 (21) act on district requests to allocate federal money for indigent children for school food services
20 in accordance with the provisions of 20-10-205;

21 (22) perform any other duty prescribed from time to time by this title, any other act of the
22 legislature, the policies of the board of public education, the policies of the board of regents relating to
23 community college districts, or the rules of the superintendent of public instruction;

24 (23) administer the oath of office to trustees without the receipt of pay for administering the oath;

25 (24) keep a record of official acts, preserve all reports submitted to the superintendent under the
26 provisions of this title, preserve all books and instructional equipment or supplies, keep all documents
27 applicable to the administration of the office, and surrender all records, books, supplies, and equipment to
28 the next superintendent;

29 (25) within 90 days after the close of the school fiscal year, publish an annual report in the county
30 newspaper stating the following financial information for the school fiscal year just ended for each district

1 of the county:

2 (a) the total of the cash balances of all funds maintained by the district at the beginning of the
3 year;

4 (b) the total receipts that were realized in each fund maintained by the district;

5 (c) the total expenditures that were made from each fund maintained by the district; and

6 (d) the total of the cash balances of all funds maintained by the district at the end of the school
7 fiscal year; and

8 (26) hold meetings for the members of the trustees from time to time at which matters for the good
9 of the districts must be discussed."

10

11 **Section 96.** Section 20-3-324, MCA, is amended to read:

12 **"20-3-324. Powers and duties.** As prescribed elsewhere in this title, the trustees of each district
13 shall:

14 (1) employ or dismiss a teacher, principal, or other assistant upon the recommendation of the
15 district superintendent, the county high school principal, or other principal as the board considers
16 necessary, accepting or rejecting any recommendation as the trustees in their sole discretion determine,
17 in accordance with the provisions of Title 20, chapter 4;

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

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

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

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

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

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

1 (8) adopt and administer the annual budget or a budget amendment of the district in accordance
2 with the provisions of the school budget system part of this title;

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

5 (10) establish the ANB, ~~BASE budget levy~~, over-BASE budget levy, additional levy, operating
6 reserve, and state impact aid amounts for the general fund of the district in accordance with the provisions
7 of the general fund part of this title;

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

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

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

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

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

21 (16) operate the schools of the district in accordance with the provisions of the school calendar part
22 of this title;

23 (17) establish and maintain the instructional services of the schools of the district in accordance
24 with the provisions of the instructional services, textbooks, vocational education, and special education
25 parts of this title;

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

28 (19) make reports from time to time as the county superintendent, superintendent of public
29 instruction, and board of public education may require;

30 (20) retain, when considered advisable, a physician or registered nurse to inspect the sanitary

1 conditions of the school or the general health conditions of each pupil and, upon request, make available
 2 to any parent or guardian any medical reports or health records maintained by the district pertaining to the
 3 child;

4 (21) for each member of the trustees, visit each school of the district not less than once each
 5 school fiscal year to examine its management, conditions, and needs, except trustees from a first-class
 6 school district may share the responsibility for visiting each school in the district;

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

9 (23) provide that an American flag that measures approximately 12 inches by 18 inches be
 10 prominently displayed in each classroom in each school of the district, except in a classroom in which the
 11 flag may get soiled. This requirement is waived if the flags are not provided by a local civic group.

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

14 (25) perform any other duty and enforce any other requirements for the government of the schools
 15 prescribed by this title, the policies of the board of public education, or the rules of the superintendent of
 16 public instruction."

17

18 **Section 97.** Section 20-5-316, MCA, is amended to read:

19 **"20-5-316. Out-of-state tuition.** (1) The county superintendent of schools of the county of the
 20 district of residence shall make payments from ~~the county basic tax~~ state equalization aid for elementary
 21 schools for children who are placed in facilities outside the state of Montana pursuant to 20-5-321 but not
 22 under the provisions of Title 20, chapter 7, part 4.

23 (2) The county superintendent of schools of the county of residence shall make payments from ~~the~~
 24 ~~county basic special tax~~ state equalization aid for high schools ~~as provided in 20-9-334~~ for children who
 25 are placed in facilities outside the state of Montana as a result of a court order or placement by a state
 26 agency. This provision does not apply to children with disabilities that are defined under the provisions of
 27 Title 20, chapter 7, part 4."

28

29 **Section 98.** Section 20-5-320, MCA, is amended to read:

30 **"20-5-320. Attendance with discretionary approval.** (1) A child may be enrolled in and attend a

1 school in a Montana school district that is outside of the child's district of residence or a public school in
2 a district of another state or province that is adjacent to the county of the child's residence, subject to
3 discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant
4 discretionary approval of the child's attendance in a school of the district, the parent or guardian may be
5 charged tuition and may be charged for transportation.

6 (2) (a) Whenever a parent or guardian of a child wishes to have the child attend a school under the
7 provisions of this section, the parent or guardian shall apply to the trustees of the district where the child
8 wishes to attend. The application must be made on an out-of-district attendance agreement form supplied
9 by the district and developed by the superintendent of public instruction.

10 (b) The attendance agreement must set forth the financial obligations, if any, for tuition and for
11 costs incurred for transporting the child under Title 20, chapter 10.

12 (c) The trustees of the district of choice may waive any or all of the tuition rate, but any waiver
13 must be applied equally to all students.

14 (3) An out-of-district attendance agreement approved under this section requires that the parent
15 or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both
16 the district of residence and the district of choice approve the agreement.

17 (4) If the trustees of the district of choice waive tuition, approval of the resident district trustees
18 is not required.

19 (5) The trustees of a school district may approve or disapprove the out-of-district attendance
20 agreement consistent with this part and the policy adopted by the local board of trustees for out-of-district
21 attendance agreements.

22 (6) The approval of an out-of-district attendance agreement by the applicable approval agents or
23 as the result of an appeal must authorize the child named in the agreement to enroll in and attend the
24 school named in the agreement for the designated school year.

25 (7) The trustees of the district where the child wishes to attend have the discretion to approve any
26 attendance agreement.

27 (8) This section does not preclude the trustees of a district from approving an attendance
28 agreement for educational program offerings not provided by the resident district, such as the kindergarten
29 or grades 7 and 8 programs, if the trustees of both districts agree to the terms and conditions for
30 attendance and any tuition and transportation requirement. For purposes of this subsection, the trustees

1 of the resident district shall initiate the out-of-district agreement.

2 (9) (a) A provision of this title may not be construed to deny a parent the right to send a child, at
3 personal expense, to any school of a district other than the resident district when the trustees of the district
4 of choice have approved an out-of-district attendance agreement and the parent has agreed to pay the
5 tuition as prescribed by 20-5-323. However, under this subsection (9), the tuition rate must be reduced by
6 the amount the parent or guardian of the child paid in district ~~and county property~~ taxes during the
7 immediately preceding school fiscal year for the benefit and support of the district in which the child will
8 attend school.

9 (b) For the purposes of this section, "parent or guardian" includes an individual shareholder of a
10 domestic corporation as defined in 35-1-113 whose shares are 95% held by related family members to the
11 sixth degree of consanguinity or by marriage to the sixth degree of affinity.

12 (c) The tax amount to be credited to reduce any tuition charge to a parent or guardian under
13 subsection (9)(a) is determined in the following manner:

14 (i) determine the percentage of the total shares of the corporation held by the shareholder parent
15 or parents or guardian;

16 (ii) determine the portion of property taxes paid in the preceding school fiscal year by the
17 corporation, parent, or guardian for the benefit and support of the district in which the child will attend
18 school.

19 (d) The percentage of total shares as determined in subsection (9)(c)(i) is the percentage of taxes
20 paid as determined in subsection (9)(c)(ii) that is to be credited to reduce the tuition charge.

21 (10) As used in 20-5-320 through 20-5-324, the term "guardian" means the guardian of a minor
22 as provided in Title 72, chapter 5, part 2."

23

24 **Section 99.** Section 20-5-324, MCA, is amended to read:

25 **"20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each
26 school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

27 (a) the name and district of residence of each child who is attending a school of the district under
28 an approved mandatory out-of-district attendance agreement;

29 (b) the number of days of enrollment for each child reported under the provisions of subsection
30 (1)(a);

1 (c) the annual tuition rate for each child's tuition payment, as determined under the provisions of
2 20-5-323, and the tuition cost for each reported child; and

3 (d) the names, districts of attendance, and amount of tuition to be paid by the district for resident
4 students attending public schools out of state.

5 (2) The county superintendent shall send, as soon as practicable, the reported information to the
6 county superintendent of the county in which a reported child resides.

7 (3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to
8 the superintendent of public instruction, who shall determine the total per-ANB entitlement for which the
9 district would be eligible if the student were enrolled in the resident district. The reimbursement amount
10 is the difference between the actual amount paid and the amount calculated in this subsection.

11 (4) Notwithstanding the requirements of subsection (5), tuition payment provisions for
12 out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7,
13 part 4.

14 (5) Except as provided in subsection (6), when a child has approval to attend a school outside the
15 child's district of residence under the provisions of 20-5-320 or 20-5-321, the district of residence shall
16 finance the tuition amount from the district tuition fund and any transportation amount from the
17 transportation fund.

18 (6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and
19 transportation obligation for an elementary school or high school child attending a school outside of the
20 child's county of residence must be financed by ~~the county basic tax for elementary districts, as provided~~
21 ~~in 20-9-331, for the child's county of residence or for a high school child attending a school outside the~~
22 ~~county of residence by the county basic tax for high school districts, as provided in 20-9-333, for the~~
23 ~~child's county of residence~~ school equalization aid from the child's district of residence.

24 (7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay
25 at least one-half of any tuition and transportation obligation established under this section out of the money
26 ~~realized to date from the appropriate basic county tax account provided for in 20-9-334~~ from school
27 equalization aid or from the district tuition or transportation fund. The remaining tuition and transportation
28 obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county
29 treasurer in each county with a school district that is entitled to tuition and transportation. Except as
30 provided in subsection (9), the county treasurer shall credit tuition receipts to the general fund of a school

1 district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions
 2 of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school
 3 district entitled to a transportation payment.

4 (8) The superintendent of public instruction shall reimburse the district of residence for the per-ANB
 5 entitlement determined in subsection (3).

6 (9) (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or
 7 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be
 8 deposited in the district miscellaneous programs fund and must be used for that year in the manner
 9 provided for in 20-9-507 to support the costs of the program for which the tuition was received.

10 (b) Any other tuition receipts received for the current school fiscal year that exceed the tuition
 11 receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used
 12 for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must
 13 be credited to the district general fund budget."
 14

15 **Section 100.** Section 20-6-203, MCA, is amended to read:

16 "**20-6-203. District consolidation.** Any two or more elementary districts in one county may
 17 consolidate to organize an elementary district. The consolidation ~~shall~~ must be conducted under the
 18 following procedure:

19 (1) At the time the consolidation proposition is first considered, the districts involved shall jointly
 20 determine whether the consolidation ~~shall be~~ is made with or without the mutual assumption of the bonded
 21 indebtedness of each district by all districts included in the consolidation proposition.

22 (2) A consolidation proposition may be introduced, individually, in each of the districts by either
 23 of the two following methods:

24 (a) the trustees may pass a resolution requesting the county superintendent to order an election
 25 to consider a consolidation proposition involving their district; or

26 (b) not less than 20% of the electors of an elementary district who are qualified to vote under the
 27 provisions of 20-20-301 may petition the county superintendent requesting an election to consider a
 28 consolidation proposition involving their resident district.

29 (3) When the county superintendent has received a resolution or a valid petition from each of the
 30 districts included in the consolidation proposition, ~~he~~ the superintendent shall, within 10 days after the

1 receipt of the last resolution or petition and as provided by 20-20-201, order the trustees of each
2 elementary district included in the consolidation proposition to call a consolidation election.

3 (4) Each district, individually, shall call and conduct an election in the manner prescribed in this title
4 for school elections. In addition:

5 (a) if the districts to be consolidated are to mutually assume the bonded indebtedness of each
6 district involved in the consolidation, the consolidation election also shall follow the procedures prescribed
7 in 20-6-206; or

8 (b) if the districts to be consolidated are not to mutually assume the bonded indebtedness of each
9 district involved in the consolidation, the consolidation election must also ~~shall~~ follow the procedures
10 prescribed in 20-6-207.

11 (5) After the county superintendent has received the election certification under the provisions of
12 20-20-416 from the trustees of each district included in a consolidation proposition, ~~he~~ the superintendent
13 shall determine if the consolidation proposition has been approved in each district. If each district has
14 approved the consolidation proposition, ~~he~~ the superintendent shall, within 10 days after the receipt of the
15 last election certificate, order the consolidation of ~~such~~ the districts. If it ~~be~~ is for consolidation with the
16 mutual assumption of bonded indebtedness of each elementary district by all districts included in the
17 consolidation order, ~~such~~ the order ~~shall~~ must specify that all the taxable real ~~and personal~~ property of the
18 consolidated district ~~shall~~ must assume the bonded indebtedness of each district. In addition, ~~such~~ the order
19 ~~shall~~ must specify the number of the consolidated elementary district and ~~shall~~ must contain the county
20 superintendent's appointment of the trustees for the consolidated district who shall serve until a successor
21 is elected at the next succeeding regular school election and qualified. The superintendent shall send a copy
22 of ~~such~~ the order to the board of county commissioners and to the trustees of each district incorporated
23 in the consolidation order.

24 (6) If any district included in the consolidation proposition disapproves the consolidation
25 proposition, the consolidation of all districts ~~shall fail,~~ fails and the county superintendent shall notify each
26 district of the disapproval of the consolidation proposition."
27

28 **Section 101.** Section 20-6-205, MCA, is amended to read:

29 **"20-6-205. Elementary district annexation.** An elementary district may be annexed to another
30 elementary district located in the same county when one of the conditions of 20-6-204 is met in accordance

1 with the following procedure:

2 (1) At the time the annexation proposition is first considered, the districts involved shall jointly
3 determine whether the annexation ~~shall be~~ is made with or without the joint assumption of the bonded
4 indebtedness of the annexing district by the district to be annexed and the annexing district.

5 (2) An annexation proposition may be introduced in the district to be annexed by either of the two
6 following methods:

7 (a) the trustees may pass a resolution requesting the county superintendent to order an election
8 to consider an annexation proposition for their district; or

9 (b) not less than 20% of the electors of the district who are qualified to vote under the provisions
10 of 20-20-301 may petition the county superintendent requesting an election to consider an annexation
11 proposition for their district.

12 (3) Before ordering an election on the proposition, the county superintendent shall first receive from
13 the trustees of the annexing district a resolution giving ~~him~~ the superintendent the authority to annex ~~such~~
14 the district.

15 (4) When the county superintendent has received authorization from the annexing district, ~~he~~ the
16 superintendent shall, within 10 days after the receipt of the resolution or a valid petition from the district
17 to be annexed and as provided by 20-20-201, order the trustees of the district to be annexed to call an
18 annexation election.

19 (5) The district shall call and conduct an election in the manner prescribed in this title for school
20 elections. In addition:

21 (a) if the district to be annexed is to jointly assume with the annexing district the bonded
22 indebtedness of the annexing district, the annexation election ~~shall~~ must also follow the procedures
23 prescribed in 20-6-206; or

24 (b) if the district to be annexed is not to jointly assume with the annexing district the bonded
25 indebtedness of the annexing district, the annexation election ~~shall~~ must also follow the procedures
26 prescribed in 20-6-207.

27 (6) After the county superintendent has received the election certificate from the trustees of the
28 district conducting the annexation election under the provisions of 20-20-416 and if the annexation
29 proposition has been approved by ~~such~~ the election, ~~he~~ the superintendent shall order the annexation of
30 the territory of the elementary district voting on ~~such~~ the proposition to the elementary district that has

1 authorized the annexation to its territory. ~~Such~~ The order shall ~~shall~~ must be issued within 10 days after the
 2 receipt of the election certificate and, if it ~~be is~~ for annexation with the assumption of bonded indebtedness,
 3 ~~shall~~ must specify that all the taxable real ~~and personal~~ property of the annexed territory ~~shall~~ must jointly
 4 assume with the annexing district the existing bonded indebtedness of the annexing district. The county
 5 superintendent shall send a copy of the order to the board of county commissioners and to the trustees of
 6 the districts involved in the annexation order.

7 (7) If the annexation proposition is ~~disapproved~~ in the district to be annexed, it ~~shall fail~~ fails and
 8 the county superintendent shall notify each district of the disapproval of the annexation proposition."
 9

10 **Section 102.** Section 20-6-317, MCA, is amended to read:

11 **"20-6-317. High school district annexation procedure.** A high school district may be annexed to
 12 another high school district located in the same county when one of the conditions of 20-6-316 is met in
 13 accordance with the following procedure:

14 (1) At the time the annexation proposition is first considered, the districts involved shall jointly
 15 determine whether the annexation is to be made with or without the joint assumption of the bonded
 16 indebtedness of the annexing district by the district to be annexed and the annexing district.

17 (2) An annexation proposition may be introduced in the district to be annexed by either of the
 18 following methods:

19 (a) the trustees may pass a resolution requesting the county superintendent to order an election
 20 to consider an annexation proposition for their district; or

21 (b) not less than 20% of the electors of the district who are qualified to vote under the provisions
 22 of 20-20-301 may petition the county superintendent requesting an election to consider an annexation
 23 proposition for their district.

24 (3) Before ordering an election on the proposition, the county superintendent must receive from
 25 the trustees of the annexing district a resolution giving ~~him~~ the superintendent the authority to annex ~~such~~
 26 the district.

27 (4) When the county superintendent receives authorization from the annexing district, ~~he~~ the
 28 superintendent shall, within 10 days after the receipt of the resolution or a valid petition from the district
 29 to be annexed and as provided by 20-20-201, order the trustees of the district to be annexed to call an
 30 annexation election.

1 (5) (a) The district shall call and conduct an election in the manner prescribed in this title for school
2 elections.

3 (b) In addition:

4 (i) if the district to be annexed is to jointly assume with the annexing district the bonded
5 indebtedness of the annexing district, the annexation election must also follow the procedures prescribed
6 in 20-6-318; or

7 (ii) if the district to be annexed is not to jointly assume with the annexing district the bonded
8 indebtedness of the annexing district, the annexation election must also follow the procedures prescribed
9 in 20-6-319.

10 (6) After the county superintendent receives the election certificate provided for in 20-20-416 from
11 the trustees of the district conducting the annexation election and if the annexation proposition has been
12 approved by ~~such the~~ election, ~~he the superintendent~~ shall order the annexation of the territory of the high
13 school district voting on ~~such the~~ proposition to the high school district that has authorized the annexation
14 to its territory. The order must be issued within 10 days after the receipt of the election certificate and, if
15 it is for annexation with the assumption of bonded indebtedness, must specify that all the taxable real ~~and~~
16 ~~personal~~ property of the annexed territory shall must jointly assume with the annexing district the existing
17 bonded indebtedness of the annexing district. The county superintendent shall send a copy of the order to
18 the board of county commissioners and to the trustees of the districts involved in the annexation order.

19 (7) If the annexation proposition is disapproved in the district to be annexed, it fails and the county
20 superintendent shall notify each district of the disapproval of the annexation proposition."
21

22 **Section 103.** Section 20-6-702, MCA, is amended to read:

23 **"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections
24 (2) through (6), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions
25 of law for high school districts.

26 (2) The number of elected trustees of the K-12 school district must be based on the classification
27 of the attached elementary district under the provisions of 20-3-341 and 20-3-351.

28 (3) Calculations for the following of ANB for purposes of determining the total per-ANB entitlements
29 must be in accordance with the provisions of 20-9-311 and must be made separately for the elementary
30 school program and the high school program of a K-12 school district:

1 ~~(a) the calculation of ANB for purposes of determining the total per-ANB entitlements must be in~~
 2 ~~accordance with the provisions of 20-9-311;~~

3 ~~(b) the basic county tax and revenues for the elementary BASE funding program amount for the~~
 4 ~~district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and~~
 5 ~~revenues for the high school BASE funding program amount for the district must be determined in~~
 6 ~~accordance with 20-9-333; and~~

7 ~~(c) the guaranteed tax base aid for BASE funding program purposes for a K-12 school district must~~
 8 ~~be calculated separately, using each district's guaranteed tax base ratio, as defined in 20-9-366. The BASE~~
 9 ~~budget levy to be levied for the K-12 school district must be prorated based on the ratio of the BASE~~
 10 ~~funding program amounts for elementary school programs to the BASE funding program amounts for high~~
 11 ~~school programs.~~

12 (4) The retirement obligation ~~and eligibility for retirement guaranteed tax base aid~~ for a K-12 school
 13 district must be calculated and funded as a high school district retirement obligation under the provisions
 14 of 20-9-501.

15 (5) For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund
 16 for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades
 17 and programs of the district.

18 (6) Tuition for attendance in the K-12 school district must be determined separately for high school
 19 pupils and for elementary pupils under the provisions of 20-5-320 through 20-5-324, except that the actual
 20 expenditures used for calculations in 20-5-323 must be based on an amount prorated between the
 21 elementary and high school programs in the appropriate funds of each district in the year prior to the
 22 attachment of the districts."

23
 24 **Section 104.** Section 20-7-714, MCA, is amended to read:

25 "**20-7-714. County adult literacy programs -- authorization to levy tax and establish fund.** (1) (a)
 26 The governing body of a county may, in its discretion, establish a fund and levy up to 1 mill on each dollar
 27 of taxable property in the county for the support of county literacy programs that give first priority to
 28 providing direct instruction to adults. The tax levy is in addition to all other tax levies ~~and is subject to~~
 29 ~~limitations on property taxes set forth in 15-10-402.~~

30 (b) The fund may be used only for the support of adult literacy programs within the county.

1 (2) (a) If a county levies a property tax for adult literacy programs, the county governing body shall
2 appoint a county adult literacy board to administer the expenditure of funds from the county adult literacy
3 fund established in subsection (1).

4 (b) The county adult literacy board shall coordinate all adult literacy programs receiving county
5 adult literacy funds. The board may adopt policies concerning program standards and financial
6 accountability for organizations receiving adult literacy funds. The board may require that adult literacy
7 programs match adult literacy funds with federal, state, or private money. The board may, with the
8 concurrence of the appropriate county officials, arrange for county in-kind services to support adult literacy
9 programs.

10 (c) County adult literacy funding may be expended only on literacy programs for persons who are
11 at least 19 years of age and whose high school class has graduated."

12
13 **Section 105.** Section 20-9-104, MCA, is amended to read:

14 **"20-9-104. General fund operating reserve.** (1) At the end of each school fiscal year, the trustees
15 of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be
16 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from
17 July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (5) and (6), the
18 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final
19 general fund budget for the ensuing school fiscal year.

20 (2) The amount held as operating reserve may not be used for property tax reduction in the manner
21 permitted by 20-9-141(1)(b) for other receipts.

22 (3) Excess reserves as provided in subsection (5) may be appropriated to reduce ~~the BASE budget~~
23 ~~levy~~, the over-BASE budget levy, or the additional levy provided by 20-9-353.

24 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under
25 subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for
26 property tax reduction as provided in 20-9-141(1)(b).

27 (5) The limitation of subsection (1) does not apply when the amount in excess of the limitation is
28 equal to or less than the unused balance of any amount:

29 (a) (i) received in settlement of tax payments protested in a prior school fiscal year;

30 (ii) received in taxes from a prior school fiscal year as a result of a tax audit by the department of

1 revenue or its agents;

2 (iii) received in delinquent taxes from a prior school fiscal year; and

3 (iv) received as a local government severance tax payment for calendar year 1995 production as
4 provided in 15-36-325; or

5 (b) a district was entitled to as a general bonus payment prior to July 1, 1994.

6 (6) The limitation of subsection (1) does not apply when the amount earmarked as operating
7 reserve is \$10,000 or less."

8

9 **Section 106.** Section 20-9-141, MCA, is amended to read:

10 **"20-9-141. Computation of general fund net over-BASE levy requirement by county**
11 **superintendent.** (1) The county superintendent shall compute the levy requirement for each district's general
12 fund on the basis of the following procedure:

13 (a) ~~Determine~~ determine the funding required for the district's final general fund budget less the
14 sum of direct state aid and the special education allowable cost payment for the district by totaling:

15 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as
16 provided in 20-9-303; and

17 (ii) any general fund budget amount adopted by the trustees of the district under the provisions
18 of 20-9-308 and 20-9-353, including any additional funding for a general fund budget that exceeds the
19 maximum general fund budget;

20 (b) ~~Determine~~ determine the money available for the reduction of the property tax on the district
21 for the general fund by totaling:

22 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

23 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of
24 the following:

25 (A) tuition payments for out-of-district pupils under the provisions of 20-5-321 through 20-5-323;

26 (B) revenue from property taxes and fees, imposed under 23-2-517, 23-2-803, 61-3-504(2),
27 61-3-521, 61-3-527, 61-3-537, and 67-3-204;

28 (C) oil and natural gas production taxes;

29 (D) interest earned by the investment of general fund cash in accordance with the provisions of
30 20-9-213(4);

1 ~~(E) revenue from corporation license taxes collected from financial institutions under the provisions~~
2 ~~of 15-31-702; and~~

3 ~~(F)(E) forest reserve receipts apportioned under the provisions of 17-3-213;~~

4 ~~(F) grazing receipts apportioned under the provisions of 17-3-221; and~~

5 ~~(G) any other revenue received during the school fiscal year that may be used to finance the~~
6 ~~general fund, excluding any guaranteed tax base aid; and~~

7 (iii) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

8 (c) ~~Notwithstanding the provisions of subsection (2),~~ subtract the money available to reduce the
9 property tax required to finance the general fund that has been determined in subsection (1)(b) from any
10 general fund budget amount adopted by the trustees of the district, ~~up to the BASE budget amount,~~ to
11 determine the general fund BASE over-BASE budget levy requirement.

12 ~~(d) Subtract any amount remaining after the determination in subsection (1)(c) from any additional~~
13 ~~funding requirement to be met by an over-BASE budget amount, a district levy as provided in 20-9-303,~~
14 ~~and any additional financing as provided in 20-9-353 to determine any additional general fund levy~~
15 ~~requirements.~~

16 (2) The county superintendent shall calculate the number of mills to be levied on the taxable
17 property in the district to finance the general fund levy requirement for any amount that ~~does not exceed~~
18 exceeds the BASE budget amount for the district by dividing the amount determined in subsection (1)(c)
19 by the sum of:

20 ~~(a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as~~
21 ~~certified by the superintendent of public instruction; and~~

22 ~~(b) the taxable valuation of the district divided by 1,000.~~

23 (3) The ~~net over-BASE~~ general fund levy requirement determined in ~~subsections~~ subsection (1)(c)
24 ~~and (1)(d)~~ must be reported to the county commissioners on the fourth Monday of August by the county
25 superintendent as the over-BASE general fund ~~net~~ levy requirement for the district, and a levy must be set
26 by the county commissioners in accordance with 20-9-142.

27 (4) For each school district, the department of revenue shall calculate and report to the county
28 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
29 proceeds under 15-23-703."

30

1 **Section 107.** Section 20-9-142, MCA, is amended to read:

2 **"20-9-142. Fixing and levying taxes by board of county commissioners.** On the fourth Monday
3 in August, the county superintendent shall place before the board of county commissioners the final
4 adopted budget of the district. It is the duty of the board of county commissioners to fix and levy on all
5 the taxable value of all the real ~~and personal~~ property within the district all district and county taxation
6 required to finance, within the limitations provided by law, the final budget."

7

8 **Section 108.** Section 20-9-212, MCA, is amended to read:

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

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

- 15 ~~(a) the basic county tax in support of the elementary BASE aid;~~
16 ~~(b) the basic special tax for high schools in support of the high school BASE aid;~~
17 ~~(c) the county tax in support of the transportation schedules;~~
18 ~~(d) the county tax in support of the elementary and high school district retirement obligations; and~~
19 ~~(e) any other county tax for schools, including the community colleges, that may be authorized by~~
20 law and levied by the county commissioners.

21 (2) whenever requested, notify the county superintendent and the superintendent of public
22 instruction of the amount of county school money on deposit ~~in each of the funds enumerated in subsection~~
23 ~~(1)~~ for a community college and the amount of any other school money subject to apportionment and
24 apportion the ~~county and other~~ school money to the districts in accordance with the apportionment ordered
25 by the county superintendent or the superintendent of public instruction;

26 (3) keep a separate accounting of the receipts, expenditures, and cash balances for each fund;

27 (4) except as otherwise limited by law, pay all warrants properly drawn on the county or district
28 school money;

29 (5) receive all revenue collected by and for each district and deposit these receipts in the fund
30 designated by law or by the district if a fund is not designated by law. Interest and penalties on delinquent

1 school taxes must be credited to the same fund and district for which the original taxes were levied.

2 (6) send all revenue received for a joint district, part of which is situated in the county, to the
3 county treasurer designated as the custodian of the revenue, no later than December 15 of each year and
4 every 3 months after that date until the end of the school fiscal year;

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

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

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

12 (10) each month give to the trustees of each district an itemized report for each fund maintained
13 by the district, showing the paid warrants, registered warrants, interest distribution, amounts and types
14 of revenue received, and the cash balance;

15 (11) remit promptly to the state treasurer receipts for the county tax for a vocational-technical
16 program within a unit of the university system when levied by the board of county commissioners under
17 the provisions of 20-25-439;

18 ~~(12) invest the money received from the basic county tax, the basic special tax, the county levy~~
19 ~~in support of the elementary and high school district retirement obligations, and the county levy in support~~
20 ~~of the transportation schedules within 3 working days of receipt. The money must be invested until the~~
21 ~~working day before it is required to be distributed to school districts within the county or remitted to the~~
22 ~~state. Permissible investments are specified in 20-9-213(4). All investment income must be deposited, and~~
23 ~~credited proportionately, in the funds established to account for the taxes received for the purposes~~
24 ~~specified in subsections (1)(a) through (1)(d).~~

25 ~~(13) remit on a monthly basis to the state treasurer, in accordance with the provisions of 15-1-504,~~
26 ~~all county equalization revenue received under the provisions of 20-9-331 and 20-9-333, including all~~
27 ~~interest earned and excluding any amount required for high school out-of-county tuition under the~~
28 ~~provisions of 20-9-334, in repayment of the state advance for county equalization prescribed in 20-9-347.~~
29 ~~Any funds in excess of a state advance must be used as required in 20-9-331(1)(b) and 20-9-333(1)(b)."~~

30

1 **Section 109.** Section 20-9-303, MCA, is amended to read:

2 **"20-9-303. Nonisolated school BASE budget funding -- special education funds.** (1) An elementary
3 school that has an ANB of nine or fewer pupils for 2 consecutive years and that is not approved as an
4 isolated school under the provisions of 20-9-302 may budget and spend the BASE budget amount, but the
5 ~~county and~~ state shall provide one-half of the direct state aid, and the district shall finance the remaining
6 one-half of the direct state aid by a tax levied on the property of the district. When a school of nine or
7 fewer pupils is approved as isolated under the provisions of 20-9-302, the ~~county and~~ state shall ~~participate~~
8 ~~in the financing of~~ provide the total amount of the direct state aid.

9 (2) Funds provided to support the special education program may be expended only for special
10 education purposes as approved by the superintendent of public instruction in accordance with the special
11 education budgeting provisions of this title. Expenditures for special education must be accounted for
12 separately from and in addition to the balance of the school district general fund budgeting requirements
13 provided in 20-9-307 and 20-9-308. The amount of the special education allowable cost payments that is
14 not matched with district funds, as required in 20-9-321, will reduce by a like amount the district's ensuing
15 year's allowable cost payment for special education."
16

17 **Section 110.** Section 20-9-306, MCA, is amended to read:

18 **"20-9-306. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
19 following definitions apply:

20 (1) "BASE" means base amount for school equity.

21 (2) "BASE aid" means:

22 ~~(a) direct state aid for 40% 80% of the basic entitlement and 40% 80% of the total per-ANB~~
23 ~~entitlement for the general fund budget of a district; and~~

24 ~~(b) guaranteed tax base aid for an eligible district for any amount up to 40% of the basic~~
25 ~~entitlement, up to 40% of the total per-ANB entitlement budgeted in the general fund budget of a district,~~
26 ~~and up to 40% of the special education allowable cost payment.~~

27 (3) "BASE budget" means the minimum general fund budget of a district, which includes 80% of
28 the basic entitlement, 80% of the total per-ANB entitlement, and up to 140% of the special education
29 allowable cost payment.

30 ~~(4) "BASE budget levy" means the district levy in support of the BASE budget of a district, which~~

1 ~~may be supplemented by guaranteed tax base aid if the district is eligible under the provisions of 20-9-366~~
 2 ~~through 20-9-369.~~

3 ~~(5)(4)~~ "BASE funding program" means the state program for the equitable distribution of the state's
 4 share of the cost of Montana's basic system of public elementary schools and high schools, through ~~county~~
 5 ~~equalization aid as provided in 20-9-331 and 20-9-333 and state equalization aid as provided in 20-9-343,~~
 6 in support of the BASE budgets of districts and special education allowable cost payments as provided in
 7 20-9-321.

8 ~~(6)(5)~~ "Basic entitlement" means:

9 (a) \$191,000 for each high school district;

10 (b) \$17,190 for each elementary school district or K-12 district elementary program without an
 11 approved and accredited junior high school or middle school; and

12 (c) the prorated entitlement for each elementary school district or K-12 district elementary program
 13 with an approved and accredited junior high school or middle school, calculated as follows:

14 (i) \$17,190 times the ratio of the ANB for kindergarten through grade 6 to the total ANB of
 15 kindergarten through grade 8; plus

16 (ii) \$191,000 times the ratio of the ANB for grades 7 and 8 to the total ANB of kindergarten through
 17 grade 8.

18 ~~(7)(6)~~ "Direct state aid" means ~~40%~~ 80% of the basic entitlement and ~~40%~~ 80% of the total
 19 per-ANB entitlement for the general fund budget of a district and funded with state ~~and county~~ equalization
 20 aid.

21 ~~(8)(7)~~ "Maximum general fund budget" means a district's general fund budget amount calculated
 22 from the basic entitlement for the district, the total per-ANB entitlement for the district, and up to 153%
 23 of special education allowable cost payments.

24 ~~(9)(8)~~ "Over-BASE budget levy" means the district levy in support of any general fund amount
 25 budgeted that is above the BASE budget and below the maximum general fund budget for a district.

26 ~~(10)(9)~~ "Total per-ANB entitlement" means the district entitlement resulting from the following
 27 calculations:

28 (a) for a high school district or a K-12 district high school program, a maximum rate of \$4,680 for
 29 the first ANB is decreased at the rate of 50 cents per ANB for each additional ANB of the district up through
 30 800 ANB, with each ANB in excess of 800 receiving the same amount of entitlement as the 800th ANB;

1 (b) for an elementary school district or a K-12 district elementary program without an approved and
 2 accredited junior high school or middle school, a maximum rate of \$3,343 for the first ANB is decreased
 3 at the rate of 20 cents per ANB for each additional ANB of the district up through 1,000 ANB, with each
 4 ANB in excess of 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

5 (c) for an elementary school district or a K-12 district elementary program with an approved and
 6 accredited junior high school or middle school, the sum of:

7 (i) a maximum rate of \$3,343 for the first ANB for kindergarten through grade 6 is decreased at
 8 the rate of 20 cents per ANB for each additional ANB up through 1,000 ANB, with each ANB in excess of
 9 1,000 receiving the same amount of entitlement as the 1,000th ANB; and

10 (ii) a maximum rate of \$4,680 for the first ANB for grades 7 and 8 is decreased at the rate of 50
 11 cents per ANB for each additional ANB for grades 7 and 8 up through 800 ANB, with each ANB in excess
 12 of 800 receiving the same amount of entitlement as the 800th ANB."

13

14 **Section 111.** Section 20-9-307, MCA, is amended to read:

15 **"20-9-307. BASE funding program -- district general fund budget -- funding sources.** (1) A basic
 16 system of free quality public elementary schools and high schools must be established and maintained
 17 throughout the state of Montana to provide equality of educational opportunity to all school-age children.

18 (2) The state shall in an equitable manner fund and distribute to the school districts the state's
 19 share of the cost of the basic school system through BASE aid to support the BASE funding program in the
 20 manner established in this title.

21 (3) ~~The budgetary vehicle~~ general fund budget of the school district must be used for achieving
 22 the financing system established in subsection (2) ~~is the general fund budget of the school district.~~ The
 23 purpose of the district general fund budget is to finance those instructional, administrative, facility
 24 maintenance, and other operational costs of a district not financed by other funds established for special
 25 purposes in this title.

26 (4) The BASE funding program for the districts in the state is financed by a combination of the
 27 following sources:

28 (a) ~~county equalization money, as provided in 20-9-331 and 20-9-333;~~

29 (b) ~~state equalization aid, as provided in 20-9-343, including guaranteed tax base aid for eligible~~
 30 ~~districts as provided in 20-9-366 through 20-9-369;~~

1 ~~(e)~~(b) appropriations for special education;

2 ~~(d)~~(c) a district levy, as provided in ~~20-9-302~~ 20-9-303, for support of a school not approved as
3 an isolated school under the provisions of ~~that section~~ 20-9-302; and

4 ~~(e)~~(d) district levies or other revenue, as provided by 20-9-308 and 20-9-353."

5
6 **Section 112.** Section 20-9-308, MCA, is amended to read:

7 **"20-9-308. BASE budgets and maximum general fund budgets.** (1) The trustees of a district shall
8 adopt a general fund budget that:

9 (a) ~~except as provided in subsection (2)~~, is at least equal to the BASE budget established for the
10 district; or

11 (b) except as provided in ~~section 3, Chapter 38, Special Laws of November 1993~~, and subsection
12 ~~(4)~~ (3) of this section, does not exceed the maximum general fund budget established for the district.

13 ~~(2) (a) If the BASE budget for a district for the school fiscal year is greater than the general fund~~
14 ~~budget of the district for the prior school fiscal year, the trustees of the district:~~

15 ~~(i) shall increase the general fund budget by at least:~~

16 ~~(A) 25% of the range between the district general fund budget for the school fiscal year ending~~
17 ~~June 30, 1994, and the BASE budget for the district for the school fiscal year beginning July 1, 1994;~~

18 ~~(B) 33.3% of the range between the district general fund budget for the school fiscal year ending~~
19 ~~June 30, 1995, and the BASE budget for the district for the school fiscal year beginning July 1, 1995;~~

20 ~~(C) 50% of the range between the district general fund budget for the school fiscal year ending~~
21 ~~June 30, 1996, and the BASE budget for the district for the school fiscal year beginning July 1, 1996; or~~

22 ~~(D) the remainder of the range between the district general fund budget for the school fiscal year~~
23 ~~ending June 30, 1997, and the BASE budget for the district for the school fiscal year beginning July 1,~~
24 ~~1997;~~

25 ~~(ii) may increase the general fund budget beyond the amount in subsection (2)(a)(i) but not by more~~
26 ~~than 4% of the previous year's general fund budget or by more than 4% of the previous year's general fund~~
27 ~~per ANB multiplied by the current year's ANB for budgeting purposes pursuant to subsection (2)(b).~~

28 ~~(b) The trustees shall submit a proposition on any amount exceeding the limitations in subsection~~
29 ~~(2)(a)(i) to the electors of the district, as provided in 20-9-353.~~

30 ~~(3)~~(2) (a) Whenever the trustees of a district adopt a general fund budget that exceeds the BASE

1 budget for the district but does not exceed the maximum general fund budget for the district, the trustees
 2 shall submit a proposition to the electors of the district, as provided in 20-9-353, for any budget amount
 3 that exceeds the previous year's general fund budget amount or the previous year's general fund budget
 4 per-ANB multiplied by the current year's ANB for budgeting purposes.

5 (b) A general fund budget adopted under this subsection ~~(3)~~(2) may not exceed the greater of:

6 (i) 104% of the previous year's general fund budget ~~as adjusted by the provisions of section 3,~~
 7 ~~Chapter 38, Special Laws of November 1993;~~ or

8 (ii) 104% of the previous year's general fund budget per-ANB multiplied by the current year's ANB
 9 for budgeting purposes ~~as adjusted by the provisions of section 3, Chapter 38, Special Laws of November~~
 10 ~~1993.~~

11 ~~(4)~~(3) (a) If the maximum general fund budget for a district for an ensuing school fiscal year is less
 12 than the general fund budget for the district for the current school fiscal year, ~~as adjusted by the provisions~~
 13 ~~of section 3, Chapter 38, Special Laws of November 1993,~~ the trustees of the district may not adopt a
 14 general fund budget for the ensuing school fiscal year that is greater than the district's general fund budget
 15 for the current school fiscal year.

16 (b) ~~Except for the school fiscal year beginning July 1, 1994, the~~ The trustees of the district shall
 17 submit a proposition to raise any general fund budget amount that is in excess of the maximum general
 18 fund budget for the district to the electors who are qualified under 20-20-301 to vote on the proposition,
 19 as provided in 20-9-353.

20 ~~(5)~~(4) Whenever the trustees of a district adopt a general fund budget that does not exceed the
 21 BASE budget for the district, the trustees shall finance this amount with the following sources of revenue:

22 (a) state equalization aid as provided in 20-9-343, ~~including any guaranteed tax base aid for which~~
 23 ~~the district may be eligible, as provided in 20-9-366 through 20-9-369;~~

24 (b) ~~county equalization aid, as provided in 20-9-331 and 20-9-333;~~

25 ~~(c)~~ a district levy for support of a school not approved as an isolated school under the provisions
 26 of 20-9-302; and

27 ~~(d)~~(c) payments in support of special education programs under the provisions of 20-9-321;

28 ~~(e)~~ nonlevy revenue as provided in 20-9-141; and

29 ~~(f)~~ a BASE budget levy on the taxable value of all property within the district.

30 ~~(6)~~(5) The over-BASE budget amount of a district must be financed by a levy on the taxable value

1 of all property within the district or other revenue available to the district as provided in 20-9-141."

2

3 **Section 113.** Section 20-9-332, MCA, is amended to read:

4 "20-9-332. **Fines and penalties proceeds for elementary county school equalization.** All fines and
5 penalties collected under the provisions of this title, except those collected by a justice's court, ~~shall~~ must
6 be paid into the ~~county elementary equalization fund as provided by 20-9-331(2)(e)~~ state general fund for
7 state equalization aid. In order to implement this section and any other provision of law requiring the deposit
8 of fines in the ~~elementary county equalization fund~~ state general fund, ~~a the clerk of each district court shall~~
9 report ~~shall be made~~ to the ~~county~~ superintendent of ~~the county~~ public instruction, at the close of each
10 term, ~~by the clerk of each district court, reporting~~ all fines imposed and collected during the term and
11 ~~indicating~~ indicate the type of violation and the date of collection."

12

13 **Section 114.** Section 20-9-343, MCA, is amended to read:

14 "20-9-343. **Definition of and revenue for state equalization aid.** (1) As used in this title, the term
15 "state equalization aid" means revenue as required in this section for:

16 (a) distribution to the public schools for the purposes of payment of systems development and
17 other related costs resulting from the enactment of legislation that requires changes to the automated
18 system used to administer the BASE funding program, ~~guaranteed tax base aid~~, BASE aid, state
19 reimbursement for school facilities, matching funds for the systemic initiative for Montana mathematics and
20 science grant, and grants for school technology purchases;

21 (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 per biennium; and

22 (c) the Montana educational telecommunications network as provided in 20-32-101.

23 (2) The superintendent of public instruction may spend throughout the biennium funds appropriated
24 for the purposes of systems development and other related costs resulting from the enactment of legislation
25 that requires changes to the automated system used to administer the BASE funding program, ~~guaranteed~~
26 ~~tax base aid~~, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated
27 payments authorized under 20-7-420(3), the Montana educational telecommunications network, and school
28 technology purchases.

29 (3) The following must be paid into the state general fund for the public schools of the state:

30 (a) (i) subject to subsection (3)(a)(ii), interest and income money described in 20-9-341 and

1 20-9-342; and

2 (iii) an amount of money equal to the income money attributable to the difference between the
3 average sale value of 18 million board feet and the total income produced from the annual timber harvest
4 on common school trust lands during the fiscal year to be appropriated for purposes of 20-9-533;

5 (b) investment income earned by investing interest and income money described in 20-9-341 and
6 20-9-342; and

7 (c) fines and penalties described in 20-9-332."

8

9 **Section 115.** Section 20-9-344, MCA, is amended to read:

10 **"20-9-344. Duties of board of public education for distribution of BASE aid.** (1) The board of
11 public education shall administer and distribute the BASE aid ~~and state advances for county equalization~~
12 in the manner and with the powers and duties provided by law. To this end, the board of public education
13 shall:

14 (a) adopt policies for regulating the distribution of BASE aid ~~and state advances for county~~
15 ~~equalization~~ in accordance with the provisions of law;

16 (b) have the power to require reports from the county superintendents, budget boards, county
17 treasurers, and trustees as it considers necessary; and

18 (c) order the superintendent of public instruction to distribute the BASE aid on the basis of each
19 district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering
20 the distribution of BASE aid, the board of public education may not increase or decrease the BASE aid
21 distribution to any district on account of any difference that may occur during the school fiscal year
22 between budgeted and actual receipts from any other source of school revenue.

23 (2) The board of public education may order the superintendent of public instruction to withhold
24 distribution of BASE aid from a district when the district fails to:

25 (a) submit reports or budgets as required by law or rules adopted by the board of public education;
26 or

27 (b) maintain accredited status.

28 (3) Prior to any proposed order by the board of public education to withhold distribution of BASE
29 aid ~~or county equalization money~~, the district is entitled to a contested case hearing before the board of
30 public education, as provided under the Montana Administrative Procedure Act.

1 (4) If a district or county receives more BASE aid than it is entitled to, the county treasurer shall
 2 return the overpayment to the state upon the request of the superintendent of public instruction in the
 3 manner prescribed by the superintendent of public instruction.

4 (5) Except as provided in 20-9-347(3), the BASE aid payment must be distributed according to the
 5 following schedule:

6 (a) from August to ~~October~~ April of the school fiscal year, 10% of the direct state aid to each
 7 district;

8 ~~(b) from December to April of the school fiscal year, 10% of the direct state aid to each district;~~

9 ~~(c)(b)~~ in November of the school fiscal year, one-half of the ~~guaranteed tax base aid state~~
 10 retirement obligation payment to each ~~district or~~ county that has submitted a final budget to the
 11 superintendent of public instruction in accordance with the provisions of 20-9-134;

12 ~~(d)(c)~~ in May of the school fiscal year, ~~the remainder of the guaranteed tax base aid~~ one-half of the
 13 state retirement obligation payment to each ~~district or~~ county; and

14 ~~(e)(d)~~ in June of the school fiscal year, ~~one-half of the remaining payment to each district of direct~~
 15 ~~state aid and on the following July 15, the remaining payment to each district of direct state aid~~ for the
 16 school fiscal year ending on ~~the preceding~~ June 30.

17 (6) The distribution provided for in subsection (5) must occur by the last working day of each
 18 month."

19
 20 **Section 116.** Section 20-9-346, MCA, is amended to read:

21 **"20-9-346. Duties of superintendent of public instruction for state ~~and county~~ equalization aid**
 22 **distribution.** The superintendent of public instruction shall administer the distribution of the state ~~and county~~
 23 equalization aid by:

24 (1) establishing the annual entitlement of each district ~~and county to state and county equalization~~
 25 ~~aid~~, based on the data reported in the retirement, general fund, and debt service fund budgets for each
 26 district that have been adopted for the current school fiscal year and verified by the superintendent of
 27 public instruction;

28 (2) for the purposes of state advances and reimbursements for school facilities, limiting the
 29 distribution to no more than the amount appropriated for the school fiscal year to the districts that are
 30 eligible under the provisions of ~~20-9-366~~ 20-9-369 through 20-9-371 by:

1 (a) determining the debt service payment obligation in each district for debt service on bonds that
 2 were sold as provided in 20-9-370~~(3)~~(4) that qualify for a state advance or reimbursement for school
 3 facilities under the provisions of ~~20-9-366 through 20-9-369 and 20-9-370 through 20-9-371~~;

4 (b) based on the limitation of state equalization aid appropriated for debt service purposes,
 5 determining the state advance for school facilities and the proportionate share of state reimbursement for
 6 school facilities that each eligible district must receive for the school fiscal year; and

7 (c) distributing that amount by May 31 of each school fiscal year to each eligible district for
 8 reducing the property tax for the debt service fund for the ensuing school fiscal year;

9 (3) distributing by electronic transfer the BASE aid ~~and state advances for county equalization~~, for
 10 each district ~~or county entitled to the aid~~, to the county treasurer of the ~~respective county for county~~
 11 ~~equalization or to the county treasurer of the~~ county where the district is located for BASE aid, in
 12 accordance with the distribution ordered by the board of public education;

13 (4) keeping a record of the full and complete data concerning money available for state equalization
 14 aid, including state advances for county retirement equalization aid, and the entitlements for BASE aid of
 15 the districts of the state;

16 (5) reporting to the board of public education the estimated amount that will be available for state
 17 equalization aid; and

18 (6) reporting to the office of budget and program planning as provided in 17-7-111:

19 (a) the figures and data available concerning distributions of state ~~and county~~ equalization aid
 20 during the preceding 2 school fiscal years;

21 (b) the amount of state equalization aid then available;

22 (c) the apportionment made of the available money but not yet distributed; and

23 (d) the latest estimate of accruals of money available for state equalization aid; ~~and~~

24 ~~(e) the amount of state advances and repayment for county equalization."~~

25
 26 **Section 117.** Section 20-9-347, MCA, is amended to read:

27 **"20-9-347. Distribution of BASE aid and special education allowable cost payments in support of**
 28 **BASE funding program and state equalization for retirement -- exceptions.** (1) The superintendent of public
 29 instruction shall:

30 ~~(a)~~ supply the county treasurer and the county superintendent with a monthly report of the

1 payment of BASE aid in support of the BASE funding program of each district of the county;

2 ~~(b) in the manner described in 20-9-344, provide for a state advance to each county in an amount~~
 3 ~~that is no less than the amount anticipated to be raised for the basic county tax fund as provided in~~
 4 ~~20-9-331 and for the basic special tax fund as provided in 20-9-333;~~

5 ~~(c) adopt rules to implement the provisions of subsection (1)(b).~~

6 (2) (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in
 7 20-9-344 for distribution of the BASE aid payments if the distribution will cause a district to register
 8 warrants under the provisions of 20-9-212(8).

9 (b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the
 10 superintendent of public instruction, in the manner required by the office, that the payment schedule
 11 prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment
 12 of the district's warrants. The county treasurer shall confirm the anticipated deficit. This section may not
 13 be construed to authorize the superintendent of public instruction to exceed a district's annual payment for
 14 BASE aid.

15 (3) The superintendent of public instruction shall:

16 (a) distribute special education allowable cost payments to districts; and

17 (b) supply the county treasurer and the county superintendent of public instruction with a report
 18 of payments for special education allowable costs to districts of the county.

19 (4) Except as provided in 20-9-501(3), the superintendent of public instruction shall also apportion
 20 state equalization aid to each district in support of the district's retirement fund expenditures. The
 21 superintendent of public instruction shall adopt rules to ensure that each district receives state retirement
 22 equalization aid equal to the full amount required by the elementary districts and high school districts in the
 23 county."

24

25 **Section 118.** Section 20-9-348, MCA, is amended to read:

26 **"20-9-348. Estimation of state equalization aid for budget purposes.** The apportionment of state
 27 equalization aid ~~shall be~~ is the ~~second~~ primary source of revenue in calculating the financing of the
 28 elementary district BASE funding program and the high school district BASE funding program. ~~In order to~~
 29 ~~allow for the estimation of the amount of money to be realized from this source of revenue when~~ When
 30 the county superintendent is estimating the general fund budget ~~revenues~~ revenue, the county superintendent

1 shall consider that the state BASE funding program ~~revenues and county equalization moneys, together,~~
 2 revenue will be capable of financing 100% of the BASE funding program."

3

4 **Section 119.** Section 20-9-351, MCA, is amended to read:

5 **"20-9-351. Funding of deficiency in BASE aid.** If the money available for BASE aid is not the result
 6 of a reduction in spending under 17-7-140 and is not sufficient to provide the ~~guaranteed tax base aid~~
 7 ~~required under 20-9-366 through 20-9-369~~ and BASE aid support determined under 20-9-347, the
 8 superintendent of public instruction shall request the budget director to submit a request for a supplemental
 9 appropriation in the second year of the biennium that is sufficient to complete the funding of BASE aid for
 10 the elementary and high school districts for the current biennium."

11

12 **Section 120.** Section 20-9-353, MCA, is amended to read:

13 **"20-9-353. Additional financing for general fund -- election for authorization to impose.** (1) The
 14 trustees of a district may propose to adopt:

15 (a) a budget amount up to the BASE budget amount for the district general fund ~~that is within the~~
 16 ~~limitations and required budget increases provided in 20-9-308(2);~~

17 (b) an over-BASE budget amount for the district general fund that does not exceed the maximum
 18 general fund budget for the district or other limitations, as provided in 20-9-308(3)(2); or

19 (c) a general fund budget amount in excess of the maximum general fund budget amount for the
 20 district, as provided in 20-9-308(4)(3).

21 (2) When the trustees of a district determine that a voted amount of financing is required for the
 22 general fund budget, the trustees shall submit the proposition to finance the additional amount of general
 23 fund financing to the electors who are qualified under 20-20-301 to vote upon the proposition. The special
 24 election must be called and conducted in the manner prescribed by this title for school elections. The ballot
 25 for the election must state the amount of money to be financed, the approximate number of mills required
 26 to raise all or a portion of the money, and the purpose for which the money will be expended. The ballot
 27 must be in the following format:

28

PROPOSITION

29 Shall the district be authorized to expend the sum of (state the additional amount to be expended),
 30 and being approximately (give number) mills, for the purpose of (insert the purpose for which the additional

1 financing is made)?

2 FOR budget authority and any levy.

3 AGAINST budget authority and any levy.

4 (3) If the election on any additional financing for the general fund is approved by a majority vote
5 of the electors voting at the election, the proposition carries and the trustees may use any portion or all of
6 the authorized amount in adopting the preliminary general fund budget. The trustees shall certify any
7 additional levy amount authorized by the special election on the budget form that is submitted to the county
8 superintendent, and the county commissioners shall levy the authorized number of mills on the taxable
9 value of all taxable property within the district, as prescribed in 20-9-141, to raise the amount of the
10 additional levy.

11 (4) Authorization to levy an additional tax to support a budget amount adopted as allowed by
12 20-9-308(4)(3) is effective for only 1 school fiscal year.

13 (5) All levies adopted under this section must be authorized by a special election conducted before
14 August 1 of the school fiscal year for which it is effective.

15 (6) If the trustees of a district are required to submit a proposition to finance ~~an increased amount~~
16 ~~up to the BASE budget amount, as provided in 20-9-308(2)(b),~~ an increased over-BASE budget amount,
17 as provided in 20-9-308(3)(a)(2)(a), or an amount in excess of the maximum general fund budget amount
18 for the district, as allowed by 20-9-308(4)(3), to the electors of the district, the trustees shall comply with
19 the provisions of subsections (2) through (4) of this section."

20

21 **Section 121.** Section 20-9-369, MCA, is amended to read:

22 **"20-9-369. Duties of superintendent of public instruction and department of revenue.** (1) The
23 superintendent of public instruction shall administer the distribution of ~~guaranteed tax base aid~~ the state
24 advance and reimbursement for school facilities by:

25 (a) providing each school district and county superintendent, by March 1 of each year, ~~with the~~
26 ~~preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final~~
27 ~~statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid~~
28 ~~available for the ensuing school fiscal year;~~

29 (b) ~~providing each school district and county superintendent, by March 1 of each year, with the~~
30 preliminary statewide, ~~county,~~ and district mill values per ANB and, by May 1 of each year, with the final

1 statewide, ~~county~~, and district mill values per ANB, for use in calculating the ~~guaranteed tax base aid and~~
 2 state advance and reimbursement for school facilities available to ~~counties and~~ districts for the ensuing
 3 school fiscal year;

4 ~~(c)~~(b) requiring each ~~county and~~ district that qualifies and applies for ~~guaranteed tax base aid the~~
 5 state advance and reimbursement for school facilities to report to the county superintendent all budget and
 6 accounting information required to administer the ~~guaranteed tax base aid~~ state advance and reimbursement
 7 program;

8 ~~(d)~~(c) keeping a record of the complete data concerning appropriations available for ~~guaranteed tax~~
 9 ~~base aid~~ the state advance and reimbursement for school facilities and the entitlements for ~~the aid of the~~
 10 ~~counties and~~ districts that qualify;

11 ~~(e)~~(d) distributing the ~~guaranteed tax base aid entitlement~~ state advance and reimbursement for
 12 school facilities to each qualified ~~county or~~ district from the appropriations for that purpose.

13 (2) The superintendent shall adopt rules necessary to implement ~~20-9-366 through~~ 20-9-369
 14 through 20-9-371.

15 (3) The department of revenue shall provide the superintendent of public instruction by December
 16 1 of each year with a final determination of the taxable value of property within each school district ~~and~~
 17 ~~county~~ of the state reported to the department of revenue based on information delivered to the county
 18 clerk and recorder as required in 15-10-305.

19 ~~(4) The superintendent of public instruction shall calculate the district and statewide guaranteed~~
 20 ~~tax base ratios by applying the prior year's direct state aid payment."~~

21

22 **Section 122.** Section 20-9-370, MCA, is amended to read:

23 **"20-9-370. Definitions.** As used in this title, unless the context clearly indicates otherwise, the
 24 following definitions apply:

25 (1) "District mill value per elementary ANB" or "district mill value per high school ANB", for school
 26 facility entitlement purposes, means the taxable valuation in the previous year of all property in the district
 27 divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's
 28 current year total per-ANB entitlement amount.

29 (2) "School facility entitlement" means:

30 (a) \$220 per ANB for an elementary school district;

1 (b) \$330 per ANB for a high school district; or

2 (c) \$270 per ANB for an approved and accredited junior high school or middle school.

3 ~~(2)~~(3) "State advance for school facilities" is the amount of state equalization aid distributed to an
4 eligible district to pay the debt service obligation for a bond in the first school fiscal year in which a debt
5 service payment is due for the bond.

6 ~~(3)~~(4) "State reimbursement for school facilities" means the amount of state equalization aid
7 distributed to a district that:

8 (a) has a district mill value per elementary ANB that is less than the corresponding statewide mill
9 value per elementary ANB or a district mill value per high school ANB that is less than the corresponding
10 statewide mill value per high school ANB; and

11 (b) has a debt service obligation in the ensuing school year on bonds for which the original issue
12 was sold after July 1, 1991.

13 (5) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB"
14 means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121%
15 and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state
16 high school ANB amount used to calculate the elementary school districts' and high school districts' current
17 year total per-ANB entitlement amounts.

18 ~~(4)~~(6) "Total school facility entitlement" means the school facility entitlement times the total ANB
19 for the district."
20

21 **Section 123.** Section 20-9-371, MCA, is amended to read:

22 **"20-9-371. Calculation and uses of school facility entitlement amount.** (1) If the district mill value
23 per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide
24 mill value per elementary ANB or statewide mill value per high school ANB, the district may receive a state
25 advance or reimbursement for school facilities in support of the debt service fund.

26 (2) The state reimbursement for school facilities for a district is the percentage determined in
27 20-9-346(2)(b) times (1-(district mill value per ANB/statewide mill value per ANB)) times the lesser of the
28 total school facility entitlement calculated under the provisions of 20-9-370 or the district's current year
29 debt service obligations on bonds that qualify under the provisions of 20-9-370~~(3)~~(4).

30 ~~(2)~~(3) The state advance for school facilities for a district is determined as follows:

1 (a) ~~Calculate~~ calculate the percentage of the district's debt service payment that will be advanced
 2 by the state using the district ANB, the district mill value and the statewide mill value for the current year,
 3 and the percentage used to determine the proportionate share of state reimbursement for school facilities
 4 in the prior year; and

5 (b) ~~Multiply~~ multiply the percentage determined in subsection ~~(2)(a)~~ (3)(a) by the lesser of the total
 6 school facility entitlement calculated under the provisions of 20-9-370 or the district's current year debt
 7 service obligation for bonds to which the state advance applies.

8 ~~(3)(4)~~ Within the available appropriation, the superintendent of public instruction shall first
 9 distribute to eligible districts the state advance for school facilities. From the remaining appropriation, the
 10 superintendent shall distribute to eligible districts the state reimbursement for school facilities.

11 ~~(4)(5)~~ The trustees of a district may apply the state reimbursement for school facilities to reduce
 12 the levy requirement in the ensuing school fiscal year for all outstanding bonded indebtedness on bonds
 13 sold in the debt service fund of the district after July 1, 1991. The trustees may apply the state advance
 14 for school facilities to reduce the levy requirement in the current school fiscal year for debt service
 15 payments on bonds to which the state advance for school facilities applies."

16

17 **Section 124.** Section 20-9-406, MCA, is amended to read:

18 "**20-9-406. Limitations on amount of bond issue.** (1) (a) Except as provided in subsection (1)(c),
 19 the maximum amount for which an elementary district or a high school district may become indebted by
 20 the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and
 21 registered warrants, is 45% of the taxable value of the property subject to taxation to be ascertained by
 22 the last-completed assessment for ~~state,~~ county, and school taxes previous to the incurring of the
 23 indebtedness, plus, for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value
 24 of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998,
 25 an additional 22% of the taxable value of class eight property within the district for tax year 1995, and for
 26 bonds to be issued during fiscal ~~years 1999 through 2008,~~ an additional 33% of the taxable value of class
 27 eight property within the district for tax year 1995, in each case of class eight property, multiplied by 45%.
 28 For bonds issued after December 31, 1999, the debt limit is 50% of the applicable taxable valuation.

29 (b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district,
 30 as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness

1 represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable
 2 value of the property subject to taxation to be ascertained by the last-completed assessment for ~~state,~~
 3 ~~county,~~ and school taxes previous to the incurring of the indebtedness, plus, for bonds to be issued during
 4 fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax
 5 year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class
 6 eight property within the district for tax year 1995, and for bonds to be issued during fiscal ~~years~~ year
 7 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for
 8 tax year 1995, in each case of class eight property, multiplied by 90%. For bonds issued after December
 9 31, 1999, the debt limit is 50% of the applicable taxable valuation. The Prior to January 1, 2000, the total
 10 indebtedness of the high school district with an attached elementary district must be limited to the sum of
 11 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable
 12 value of the property for high school program purposes, adjusted as provided in this section. After January
 13 31, 1999, the indebtedness of each program is limited to 50% of the taxable value.

14 (c) (i) The maximum amount for which an elementary district or a high school district with a district
 15 mill value per elementary ANB or per high school ANB that is less than the corresponding statewide mill
 16 value per elementary ANB or per high school ANB may become indebted by the issuance of bonds,
 17 including all indebtedness represented by outstanding bonds of previous issues and registered warrants,
 18 is, prior to January 1, 2000, 45%, and after December 31, 1999, 50% of the corresponding statewide mill
 19 value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for
 20 which the district may become indebted is, prior to January 1, 2000, 45%, and after December 31, 1999,
 21 50% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of
 22 the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the
 23 district.

24 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum
 25 bonded indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the
 26 number of students residing within the district for which the district ~~or county~~ pays tuition for attendance
 27 at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose
 28 of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the
 29 sending district pursuant to the mutual agreement.

30 (2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness

1 imposed by special improvement district obligations or assessments against the school district or to bonds
2 issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are
3 void, except as provided in this section.

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

7 (4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the
8 debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds
9 and the refunding bond issue is decreased accordingly."

10

11 **Section 125.** Section 20-9-422, MCA, is amended to read:

12 **"20-9-422. Additional requirements for trustees' resolution calling bond election.** (1) In addition
13 to the requirements for calling an election that are prescribed in 20-20-201 and 20-20-203, the trustees'
14 resolution calling a school district bond election must:

15 (a) fix the exact amount of the bonds proposed to be issued, which may be more or less than the
16 amounts estimated in a petition;

17 (b) fix the maximum number of years in which the proposed bonds would be paid;

18 (c) in the case of initiation by a petition, state the essential facts about the petition and its
19 presentation; and

20 (d) state the amount of the state advance for school facilities estimated, pursuant to subsection
21 (2), to be received by the district in the first school fiscal year in which a debt service payment would be
22 due on the proposed bonds.

23 (2) Prior to the adoption of the resolution calling for a school bond election, the trustees of a
24 district may request from the superintendent of public instruction a statement of the estimated amount of
25 state advance for school facilities that the district will receive for debt service payments on the proposed
26 bonds in the first school fiscal year in which a debt service payment is due. The district shall provide the
27 superintendent with an estimate of the debt service payment due in the first school fiscal year. The
28 superintendent shall estimate the state advance for the bond issue pursuant to 20-9-371~~(2)~~(3)."

29

30 **Section 126.** Section 20-9-439, MCA, is amended to read:

1 **"20-9-439. Computation of net levy requirement -- procedure when levy inadequate.** (1) The
2 county superintendent shall compute the levy requirement for each school district's debt service fund on
3 the basis of the following procedure:

4 (a) Determine the total money available in the debt service fund for the reduction of the property
5 tax on the district by totaling:

6 (i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as
7 provided in 20-9-438;

8 (ii) anticipated interest to be earned by the investment of debt service cash in accordance with the
9 provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435;

10 (iii) any state advance for school facilities distributed to a qualified district under the provisions of
11 20-9-346, 20-9-370, and 20-9-371; and

12 (iv) any other money, including money from federal sources, anticipated by the trustees to be
13 available in the debt service fund during the ensuing school fiscal year from sources such as legally
14 authorized money transfers into the debt service fund or from rental income, excluding any ~~guaranteed tax~~
15 base-aid state advance and reimbursement for school facilities.

16 (b) Subtract the total amount available to reduce the property tax, determined in subsection (1)(a),
17 from the final budget for the debt service fund as established in 20-9-438.

18 (2) The net debt service fund levy requirement determined in subsection (1)(b) must be reported
19 to the county commissioners on the fourth Monday of August by the county superintendent as the net debt
20 service fund levy requirement for the district, and a levy must be made by the county commissioners in
21 accordance with 20-9-142.

22 (3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue
23 or series of bonds of a school district sufficient to raise the money necessary for payment of interest and
24 principal becoming due during the next ensuing school fiscal year, in any amounts established under the
25 provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may
26 apply to the district court of the county in which the school district is located for a writ of mandate to
27 compel the board of county commissioners of the county to make a sufficient levy for payment purposes.
28 If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county
29 commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the
30 amount required to be raised as established in the manner provided in this section, the court shall determine

1 the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county
 2 commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and
 3 make a levy against all taxable property in the school district that is sufficient to raise the amount of the
 4 deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal
 5 year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the
 6 members of the board of county commissioners and may not be a charge against the school district or the
 7 county."

8

9 **Section 127.** Section 20-9-501, MCA, is amended to read:

10 **"20-9-501. Retirement fund -- state aid.** (1) The trustees of a district employing personnel who
 11 are members of the teachers' retirement system or the public employees' retirement system or who are
 12 covered by unemployment insurance or who are covered by any federal social security system requiring
 13 employer contributions shall establish a retirement fund for the purposes of budgeting and paying the
 14 employer's contributions to the systems. The district's contribution for each employee who is a member
 15 of the teachers' retirement system must be calculated in accordance with Title 19, chapter 20, part 6. The
 16 district's contribution for each employee who is a member of the public employees' retirement system must
 17 be calculated in accordance with 19-3-316. The district's contributions for each employee covered by any
 18 federal social security system must be paid in accordance with federal law and regulation. The district's
 19 contribution for each employee who is covered by unemployment insurance must be paid in accordance
 20 with Title 39, chapter 51, part 11.

21 (2) The trustees of a district required to make a contribution to a system referred to in subsection
 22 (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's
 23 contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer
 24 contributions to the systems in accordance with the financial administration provisions of this title.

25 (3) When the final retirement fund budget has been adopted, the county superintendent shall
 26 establish ~~the levy requirement~~ the amount of state obligation by:

27 (a) determining the sum of the money available to reduce the ~~retirement fund levy requirement~~
 28 amount of the state obligation by adding:

29 ~~(i) any anticipated money that may be realized in the retirement fund during the ensuing school~~
 30 ~~fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803,~~

1 ~~61-3-504(2), 61-3-521, 61-3-527, 61-3-537, and 67-3-204;~~

2 ~~(ii) oil and natural gas production taxes;~~

3 ~~(iii) anticipated local government severance tax payments for calendar year 1995 production as~~
4 ~~provided in 15-36-325;~~

5 ~~(iv) coal gross proceeds taxes under 15-23-703;~~

6 ~~(v)(i) any fund balance available for reappropriation to reduce the state financial obligation in~~
7 ~~subsection (4). as The fund balance available for reappropriation is determined by subtracting the amount~~
8 ~~of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing~~
9 ~~school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The~~
10 ~~retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the~~
11 ~~ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by~~
12 ~~the district under the final retirement fund budget.~~

13 ~~(vi)(ii) any other revenue anticipated that may be realized in the retirement fund during the ensuing~~
14 ~~school fiscal year, excluding any guaranteed tax base aid;~~

15 (b) ~~notwithstanding the provisions of subsection (8),~~ subtracting the money available for reduction
16 of the ~~levy requirement~~ state obligation, as determined in subsection (3)(a), from the budgeted amount for
17 expenditures in the final retirement fund budget.

18 (4) The county superintendent shall:

19 (a) total the net retirement fund ~~levy requirements~~ requirement for state aid separately for all
20 elementary school districts, including any joint district located in the county, for all high school districts,
21 and for all community college districts of the county, including any prorated joint district or special
22 education cooperative agreement levy requirements; and

23 (b) report ~~each levy requirement~~ the amount of the state obligation to the ~~county commissioners~~
24 superintendent of public instruction in the same manner as provided in 20-9-134 on the fourth Monday of
25 August as the respective county levy requirements for elementary district, and high school district,
26 retirement funds and report to the board of regents in the same manner as provided in 20-9-134 the amount
27 of the state obligation for community college district retirement funds.

28 (5) The superintendent of public instruction shall distribute the state retirement equalization aid to
29 each school district in accordance with the distribution schedule contained in 20-9-344(5).

30 ~~(5) The county commissioners shall fix and set the county levy in accordance with 20-9-142.~~

1 ~~(6) The net retirement fund levy requirement for a joint elementary district or a joint high school~~
 2 ~~district must be prorated to each county in which a part of the district is located in the same proportion as~~
 3 ~~the district ANB of the joint district is distributed by pupil residence in each county. The county~~
 4 ~~superintendents of the counties affected shall jointly determine the net retirement fund levy requirement~~
 5 ~~for each county as provided in 20-9-151.~~

6 ~~(7) The net retirement fund levy requirement for districts that are members of special education~~
 7 ~~cooperative agreements must be prorated to each county in which the district is located in the same~~
 8 ~~proportion as the special education cooperative budget is prorated to the member school districts. The~~
 9 ~~county superintendents of the counties affected shall jointly determine the net retirement fund levy~~
 10 ~~requirement for each county in the same manner as provided in 20-9-151, and the county commissioners~~
 11 ~~shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.~~

12 ~~(8) The county superintendent shall calculate the number of mills to be levied on the taxable~~
 13 ~~property in the county to finance the retirement fund net levy requirement by dividing the amount~~
 14 ~~determined in subsection (4)(a) by the sum of:~~

15 ~~(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as~~
 16 ~~certified by the superintendent of public instruction; and~~

17 ~~(b) the taxable valuation of the district divided by 1,000."~~

18
 19 **Section 128.** Section 20-9-515, MCA, is amended to read:

20 **"20-9-515. Litigation reserve fund.** (1) The trustees of a school district may establish a litigation
 21 reserve fund only when litigation that is pending against the district could result in an award against the
 22 district.

23 (2) At the end of each school fiscal year, the trustees of a district may transfer money from the
 24 general fund, within the adopted budget, to establish the fund.

25 (3) Upon conclusion of litigation, the balance of the money in the fund reverts to the general fund
 26 and must be used to reduce the district's general fund **BASE over-BASE** budget levy requirement computed
 27 pursuant to 20-9-141."

28
 29 **Section 129.** Section 20-10-104, MCA, is amended to read:

30 **"20-10-104. Penalty for violating law or rules.** (1) ~~Every~~ Each district, and its trustees and

1 employees, and ~~every~~ each person under a transportation contract with a district ~~shall be~~ is subject to the
 2 policies prescribed by the board of public education and the rules prescribed by the superintendent of public
 3 instruction. When a district knowingly violates a transportation law or board of public education
 4 transportation policy, ~~such the~~ district shall forfeit any reimbursement otherwise payable under 20-10-145
 5 ~~and 20-10-146~~ for bus miles actually traveled during that fiscal year in violation of ~~such the~~ law or policies.
 6 The county superintendent shall suspend all ~~such~~ reimbursements payable to the district until the district
 7 corrects the violation. When the district corrects the violation, the county superintendent shall resume
 8 paying reimbursements to the district, but the amount forfeited may not be paid to the district.

9 (2) When ~~a person operating~~ an operator of a bus under contract with a district knowingly fails to
 10 comply with the transportation law or the board of public education transportation policies, the district may
 11 not pay ~~him~~ the operator for any bus miles traveled during the contract year in violation of ~~such the~~ law
 12 or policies. Upon discovering ~~such~~ a violation, the trustees of the district shall give written notice to the
 13 ~~person~~ operator that unless the violation is corrected within 10 days of the giving of notice, the contract
 14 will be canceled. The trustees of a district shall order the operation of a bus operated under contract
 15 suspended when the bus is being operated in violation of transportation law or policies and the trustees find
 16 that ~~such the~~ violation jeopardizes the safety of pupils."

17
 18 **Section 130.** Section 20-10-141, MCA, is amended to read:

19 **"20-10-141. Schedule of maximum reimbursement by mileage rates.** (1) The following mileage
 20 rates for school transportation constitute the maximum reimbursement to districts for school transportation
 21 from state ~~and county~~ sources of transportation revenue under the provisions of 20-10-145 ~~and 20-10-146~~.
 22 ~~These~~ Except as provided in 20-10-143, these rates may not limit the amount that a district may budget
 23 in its transportation fund budget in order to provide for the estimated and necessary cost of school
 24 transportation during the ensuing school fiscal year. All bus miles traveled on bus routes approved by the
 25 county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by
 26 a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from
 27 the school. A district may approve additional bus or nonbus miles within its own district or approved service
 28 area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed
 29 for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title,
 30 driven by a qualified driver on a bus route approved by the county transportation committee and the

1 superintendent of public instruction.

2 (2) The rate per bus mile traveled must be determined in accordance with the following schedule
3 when the weighted ridership assigned to a bus route is not less than one-half of the rated capacity of the
4 school bus:

5 (a) 85 cents per bus mile for a school bus with a rated capacity of not more than 45 passenger
6 seating positions; and

7 (b) when the rated capacity is more than 45 passenger seating positions, an additional 2.13 cents
8 per bus mile for each additional passenger seating position in the rated capacity in excess of 45 must be
9 added to a base rate of 85 cents per bus mile.

10 (3) Reimbursement for nonbus mileage provided for in subsection (1) may not exceed 50% of the
11 maximum reimbursement rate determined under subsection (2).

12 (4) When the weighted ridership assigned to a bus route is less than one-half of the rated capacity
13 of the school bus, the rate per bus mile traveled must be computed as follows:

14 (a) determine the weighted ridership assigned to the bus route;

15 (b) multiply the number determined in subsection (4)(a) by two; and

16 (c) use the adjusted rated capacity determined in subsection (4)(b) as the rated capacity of the bus
17 to determine the rate per bus mile traveled from the rate schedule in subsection (2).

18 (5) The rated capacity is the number of passenger seating positions of a school bus as determined
19 under the policy adopted by the board of public education. If modification of a school bus to accommodate
20 pupils with disabilities reduces the rated capacity of the bus, the reimbursement to a district for pupil
21 transportation is based on the rated capacity of the bus prior to modification.

22 (6) The number of pupils riding the school bus may not exceed the passenger seating positions of
23 the bus."

24

25 **Section 131.** Section 20-10-142, MCA, is amended to read:

26 "**20-10-142. Schedule of maximum reimbursement for individual transportation.** The following
27 rates for individual transportation constitute the maximum reimbursement to districts for individual
28 transportation from state ~~and county~~ sources of transportation revenue under the provisions of 20-10-145
29 ~~and 20-10-146~~. These rates constitute the limitation of the budgeted amounts for individual transportation
30 for the ensuing school fiscal year. The schedules provided in this section may not be altered by any

1 authority other than the legislature. When the trustees contract with the parent or guardian of any eligible
2 transportee to provide individual transportation for each day of school attendance, they shall reimburse the
3 parent or guardian for actual miles transported on the basis of the following schedule:

4 (1) When a parent or guardian transports an eligible transportee or transportees from the residence
5 of the parent or guardian to a school or to schools located within 3 miles of one another, the total
6 reimbursement per day of attendance is determined by multiplying the distance in miles between the
7 residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the
8 product, and multiplying the difference by 21.25 cents, provided that:

9 (a) if two or more eligible transportees are transported by a parent or guardian to two or more
10 schools located within 3 miles of one another and if the schools are operated by different school districts,
11 the total amount of the reimbursement must be divided equally between the districts;

12 (b) if two or more eligible transportees are transported by a parent or guardian to two or more
13 schools located more than 3 miles from one another, the parent or guardian must be separately reimbursed
14 for transporting the eligible transportee or transportees to each school;

15 (c) if a parent transports two or more eligible transportees to a school and a bus stop that are
16 located within 3 miles of one another, the total reimbursement must be determined under the provisions
17 of this subsection and must be divided equally between the district operating the school and the district
18 operating the bus;

19 (d) if a parent transporting two or more eligible transportees to a school or bus stop must, because
20 of varying arrival and departure times, make more than one round-trip journey to the bus stop or school,
21 the total reimbursement allowed by this section is limited to one round trip per day for each scheduled
22 arrival or departure time;

23 (e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), a reimbursement may not be less than
24 25 cents a day.

25 (2) When the parent or guardian transports an eligible transportee or transportees from the
26 residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee
27 or transportees, the total reimbursement per day of attendance is determined by multiplying the distance
28 in miles between the residence and the bus stop by 2, subtracting 6 miles from the product, and multiplying
29 the difference by 21.25 cents, provided that:

30 (a) if the eligible transportees attend schools in different districts but ride on one bus, the districts

1 shall divide the total reimbursement equally; and

2 (b) if the parent or guardian is required to transport the eligible transportees to more than one bus,
3 the parent or guardian must be separately reimbursed for transportation to each bus.

4 (3) When, because of excessive distances, impassable roads, or other special circumstances of
5 isolation, the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the
6 transportation costs or would result in a physical hardship for the eligible transportee, a parent or guardian
7 may request an increase in the reimbursement rate. A request for increased rates because of isolation must
8 be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal
9 year by indicating the special facts and circumstances that exist to justify the increase. Before an increased
10 rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by
11 the county transportation committee and the superintendent of public instruction after the trustees have
12 indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given
13 by the committee and the superintendent of public instruction, the trustees shall pay the increased rate
14 because of isolation. The increased rate is 1 1/2 times the rate prescribed in subsection (1).

15 (4) The state ~~and county~~ transportation reimbursement for an individual transportation contract
16 may not exceed \$8 per day of attendance for the first eligible transportee and \$5 per day of attendance
17 for each additional eligible transportee.

18 (5) When the isolated conditions of the household where an eligible transportee resides require an
19 eligible transportee to live away from the household in order to attend school, the eligible transportee is
20 eligible for the room and board reimbursement. Approval to receive the room and board reimbursement must
21 be obtained in the same manner prescribed in subsection (3). The per diem rate for room and board is \$8
22 for one eligible transportee and \$5 for each additional eligible transportee of the same household.

23 (6) When the individual transportation provision is to be satisfied by supervised home study or
24 supervised correspondence study, the reimbursement rate is the cost of the study, provided that the course
25 of instruction is approved by the trustees and supervised by the district."
26

27 **Section 132.** Section 20-10-143, MCA, is amended to read:

28 **"20-10-143. Budgeting for transportation and transmittal of transportation contracts --**
29 **transportation fund limitations.** (1) ~~The~~ Except as provided in subsection (2), the trustees of a district
30 furnishing transportation to pupils who are residents of the district shall provide a transportation fund

1 budget that is adequate to finance the district's transportation contractual obligations and any other
2 transportation expenditures necessary for the conduct of its transportation program. The transportation fund
3 budget must include:

4 (a) an adequate amount to finance the maintenance and operation of district owned and operated
5 school buses;

6 (b) the annual contracted amount for the maintenance and operation of school buses by a private
7 party;

8 (c) the annual contracted amount for individual transportation, including any increased amount
9 because of isolation, which may not exceed the schedule amounts prescribed in 20-10-142;

10 (d) any amount necessary for the purchase, rental, or insurance of school buses; and

11 (e) any other amount necessary to finance the administration, operation, or maintenance of the
12 transportation program of the district, as determined by the trustees.

13 (2) The overschedule amount in the transportation fund budget of a district may not exceed the
14 overschedule amount of expenditures from the transportation fund for school fiscal year 1997, except that
15 the superintendent of public instruction may approve a request to exceed the budget limitation if an
16 emergency or unusual circumstance occurs, as prescribed in rules adopted by the superintendent of public
17 instruction.

18 (3) The trustees may include a contingency amount in the transportation fund budget for the
19 purpose of enabling the district to fulfill an obligation to provide transportation in accordance with this title
20 for:

21 (a) pupils not residing in the district at the time of the adoption of the preliminary budget and who
22 subsequently became residents of the district during the school fiscal year; or

23 (b) pupils who have become eligible transportees since the adoption of the preliminary budget
24 because their legal residence has been changed. The budgeted contingency amount may not exceed 10%
25 of the transportation schedule amount as calculated under the provisions of 20-10-141 and 20-10-142 for
26 all transportation services authorized by the schedules and provided by the district unless 10% of the
27 transportation schedule amount is less than \$100, in which case \$100 is the maximum limitation for the
28 budgeted contingency amount.

29 ~~(3)~~(4) A budget amendment to the transportation fund budget may be adopted subject to the
30 provisions of 20-9-161 through 20-9-166.

1 ~~(4)~~⁽⁵⁾ The transportation fund budgeted expenditures appropriated by the trustees must be
2 reported on the regular budget form prescribed by the superintendent of public instruction in accordance
3 with 20-9-103, and the adoption of the transportation fund budget must be completed in accordance with
4 the school budgeting laws. When the adopted preliminary budget is sent to the county superintendent, the
5 trustees shall also send copies of all completed transportation contracts for school bus transportation and
6 individual transportation to the county superintendent. The contracts must substantiate all contracted
7 transportation services incorporated in the preliminary budget, and after the county superintendent has
8 utilized the contracts for that purpose but before the fourth Monday of July, ~~he~~ the county superintendent
9 shall send all transportation contracts received to the superintendent of public instruction. When the county
10 superintendent determines a deviation between the preliminary transportation fund budget amount for
11 contracted transportation services and the contracted amount for the services, ~~he~~ the county
12 superintendent shall immediately call the deviation to the attention of the appropriate trustees and shall
13 allow the trustees to change the preliminary budgeted amount to compensate for the deviation."
14

15 **Section 133.** Section 20-10-144, MCA, is amended to read:

16 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund**
17 **budget.** Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent
18 shall compute the revenue available to finance the transportation fund budget of each district. The county
19 superintendent shall compute the revenue for each district on the following basis:

20 (1) The "schedule amount" of the preliminary budget expenditures that is derived from the rate
21 schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

22 (a) the sum of the maximum reimbursable expenditures for all approved school bus routes
23 maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate
24 per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus
25 route approved by the county transportation committee and maintained by the district); plus

26 (b) the total of all individual transportation per diem reimbursement rates for the district as
27 determined from the contracts submitted by the district multiplied by the number of pupil-instruction days
28 scheduled for the ensuing school attendance year; plus

29 (c) any estimated costs for supervised home study or supervised correspondence study for the
30 ensuing school fiscal year; plus

1 (d) the amount budgeted on the preliminary budget for the contingency amount permitted in
 2 20-10-143, except that if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c),
 3 the transportation fund budget limitation provided for in 20-10-143, or \$100, whichever is larger, the
 4 contingency amount on the preliminary budget must be reduced to the limitation amount and used in this
 5 determination of the schedule amount; plus

6 (e) any estimated costs for transporting a child out of district when the child has mandatory
 7 approval to attend school in a district outside the district of residence.

8 (2) ~~(a)~~ The schedule amount determined in subsection (1) or the total preliminary transportation
 9 fund budget, whichever is smaller, ~~is divided by 2 and~~ is used to determine the available state ~~and county~~
 10 revenue to be budgeted ~~on the following basis:~~

11 ~~(i) one half is the budgeted state transportation reimbursement, except that the state transportation~~
 12 ~~reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be~~
 13 ~~50% of the schedule amount attributed to the transportation of special education pupils; and~~

14 ~~(ii) one half is the budgeted county transportation fund reimbursement and must be financed in the~~
 15 ~~manner provided in 20-10-146.~~

16 ~~(b)(3)~~ When the district has a sufficient amount of cash for reappropriation and other sources of
 17 district revenue, as determined in subsection ~~(3)~~ (4), to reduce the total district obligation for financing to
 18 zero, any remaining amount of district revenue and cash reappropriated must be used to reduce ~~the county~~
 19 ~~financing obligation in subsection (2)(a)(iii) and, if the county financing obligations are reduced to zero, to~~
 20 ~~reduce the state financial obligation in subsection (2)(a)(i).~~

21 ~~(c) The county revenue requirement for a joint district, after the application of any district money~~
 22 ~~under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same~~
 23 ~~proportion as the ANB of the joint district is distributed by pupil residence in each county the state financial~~
 24 ~~obligation in 20-10-145.~~

25 ~~(3)(4)~~ The total of the money available for the reduction of property tax on the district for the
 26 transportation fund must be determined by totaling:

27 (a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other
 28 anticipated federal money received in lieu of that federal act;

29 (b) anticipated payments from other districts for providing school bus transportation services for
 30 the district;

1 (c) anticipated payments from a parent or guardian for providing school bus transportation services
2 for a child;

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

5 (e) anticipated or reappropriated revenue from property taxes and motor vehicle taxes fees imposed
6 under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-527, 61-3-537, and 67-3-204;

7 (f) anticipated revenue from coal gross proceeds under 15-23-703;

8 (g) anticipated oil and natural gas production taxes;

9 (h) anticipated local government severance tax payments for calendar year 1995 production;

10 (i) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320
11 through 20-5-324;

12 (j) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year
13 that may be used to finance the transportation fund; and

14 (k) any fund balance available for reappropriation as determined by subtracting the amount of the
15 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school
16 fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating
17 reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year
18 and is for the purpose of paying transportation fund warrants issued by the district under the final
19 transportation fund budget.

20 ~~(4)~~(5) The district levy requirement for each district's transportation fund must be computed by:

21 (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary
22 transportation budget amount; and

23 (b) subtracting the amount of money available to reduce the property tax on the district, as
24 determined in subsection ~~(3)~~ (4), from the amount determined in subsection ~~(4)(a)~~ (5)(a).

25 ~~(5)~~(6) The transportation fund levy requirements determined in subsection ~~(4)~~ (5) for each district
26 must be reported to the county commissioners on the fourth Monday of August by the county
27 superintendent as the transportation fund levy requirements for the district, and the levy must be made by
28 the county commissioners in accordance with 20-9-142."

29

30 **Section 134.** Section 20-10-145, MCA, is amended to read:

1 **"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation
2 or individual transportation in accordance with this title, board of public education transportation policy,
3 and superintendent of public instruction transportation rules must receive a state reimbursement of its
4 transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and
5 20-10-142. The state transportation reimbursement is ~~one-half~~ 100% of the reimbursement amounts
6 established in 20-10-141 and 20-10-142 or ~~one-half~~ 100% of the district's transportation fund budget,
7 whichever is smaller, and must be computed on the basis of the number of days the transportation services
8 were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state
9 transportation reimbursement, an amount claimed by a district may not be considered for reimbursement
10 unless the amount has been paid in the regular manner provided for the payment of other financial
11 obligations of the district.

12 (2) Requests for the state transportation reimbursement must be made by each district
13 semiannually during the school fiscal year on the claim forms and procedure promulgated by the
14 superintendent of public instruction. The claims for state transportation reimbursements must be routed by
15 the district to the county superintendent, who after reviewing the claims shall send them to the
16 superintendent of public instruction. The superintendent of public instruction shall establish the validity and
17 accuracy of the claims for the state transportation reimbursements by determining compliance with this
18 title, board of public education transportation policy, and the transportation rules of the superintendent of
19 public instruction. After making any necessary adjustments to the claims, the superintendent of public
20 instruction shall order a disbursement from the state money appropriated by the legislature of the state of
21 Montana for the state transportation reimbursement. The payment of all the district's claims within one
22 county must be made to the county treasurer of the county, and the county superintendent shall apportion
23 the payment in accordance with the apportionment order supplied by the superintendent of public
24 instruction."

25

26 **Section 135.** Section 20-15-313, MCA, is amended to read:

27 **"20-15-313. Tax levy.** On the second Monday in August, the board of county commissioners of
28 any county where a community college district is located shall fix and levy a tax on all the real ~~and personal~~
29 property within the community college district at the rate required to finance the mandatory mill levy
30 prescribed by ~~subsection (1)(b) of~~ 20-15-312(1)(b) and the voted levy prescribed by ~~subsection (5) of~~

1 20-15-311(5) if one has been approved by the voters. When a community college district has territory in
 2 more than one county, the board of county commissioners in each county shall fix and levy the community
 3 college district tax on all the real ~~and personal~~ property of the community college district situated in its
 4 county."

5
 6 **Section 136.** Section 20-15-314, MCA, is amended to read:

7 **"20-15-314. Tax levy for community college service region.** A governing body designating a
 8 community college service region as provided in 20-15-241 may levy a tax on all real ~~and personal~~ property
 9 within the region at a rate required to finance the services offered by a community college district for the
 10 region. The levy is in addition to any other levies allowed by law and is not subject to any statutory or
 11 charter limitations on levies. The levy must be made at the same time and in the same manner as the
 12 general levy of the political subdivision designating the region is made, and the ~~revenues~~ revenue generated
 13 ~~thereby by the levy~~ must be collected at the same time and in the same manner. Within 30 days of
 14 collection, the appropriate ~~revenues~~ revenue must be transmitted to the participating community college
 15 district."

16
 17 **Section 137.** Section 20-25-439, MCA, is amended to read:

18 **"20-25-439. Vocational-technical education -- mill levy required.** (1) The boards of county
 19 commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties shall in each
 20 calendar year levy a tax of 1 1/2 mills on the dollar value of all taxable real property, ~~real and personal~~,
 21 located within the respective county.

22 (2) The funds from the mill levy must be deposited in the general fund and must be distributed for
 23 vocational-technical education on the basis of budgets approved by the board of regents."

24
 25 **Section 138.** Section 25-13-404, MCA, is amended to read:

26 **"25-13-404. Return of the execution.** (1) Except as provided in ~~subsections~~ subsection (2) ~~and~~
 27 ~~(3)~~, execution may be made returnable to the clerk of the court in which the judgment was rendered, at
 28 any time not less than 10 or more than 60 days after receipt of the recovery by the sheriff or levying officer
 29 following imposition of levy, as provided in 25-13-402.

30 ~~(2) The writ of execution issued by the county treasurer under 15-16-401 may be made returnable,~~

1 ~~at any time not less than 10 or more than 90 days after its receipt by the sheriff or levying officer, to the~~
2 ~~county treasurer of the county in which the writ was issued.~~

3 ~~(3)(2)~~ In compliance with the provisions of subsection (1) and in lieu of returning the writ of
4 execution to the clerk of the court, the sheriff may enclose ~~his~~ the return of the writ in an envelope to the
5 officer, agent, or attorney who sent it and deposit it in the post office, prepaying the postage."

6

7 **Section 139.** Section 27-1-732, MCA, is amended to read:

8 **"27-1-732. Immunity of nonprofit corporation officers, directors, and volunteers.** (1) An officer,
9 director, or volunteer of a nonprofit corporation is not individually liable for any action or omission made
10 in the course and scope of the officer's, director's, or volunteer's official capacity on behalf of the nonprofit
11 corporation. This section does not apply to liability for willful or wanton misconduct. The immunity granted
12 by this section does not apply to the liability of a nonprofit corporation.

13 (2) For purposes of this section, "nonprofit corporation" means:

14 (a) an organization exempt from taxation under section 501(c) of the Internal Revenue Code of
15 1954;

16 (b) a corporation or organization that is eligible for or has been granted by the department of
17 revenue tax-exempt status under the provisions of ~~15-31-102~~ [section 5]; or

18 (c) the comprehensive health association created by 33-22-1503."

19

20 **Section 140.** Section 33-2-305, MCA, is amended to read:

21 **"33-2-305. Licensing of surplus lines insurance producer -- fee and bond.** (1) A person may not
22 place a contract of surplus lines insurance with an unauthorized insurer unless the person is licensed as a
23 property and casualty insurance producer and possesses a current surplus lines insurance license issued
24 by the commissioner.

25 (2) The commissioner shall issue a surplus lines insurance license to any qualified holder of a
26 current property and casualty insurance producer license only if the insurance producer has:

27 (a) remitted to the commissioner the annual fee prescribed by 33-2-708;

28 (b) submitted to the commissioner a completed license application on a form supplied by the
29 commissioner;

30 (c) been licensed as a property and casualty insurance producer continuously for 5 years or more;

1 and

2 (d) filed with the commissioner and, for as long as the license remains in effect, kept in force a
3 bond in favor of the state of Montana in the amount of \$10,000, with authorized corporate sureties
4 approved by the commissioner. The bond must be conditioned that the insurance producer will conduct
5 business under the license in accordance with the provisions of The Surplus Lines Insurance Law ~~and that~~
6 ~~the insurance producer will promptly remit the taxes provided in 33-2-311.~~ The bond may not be terminated
7 unless the surety gives the surplus lines insurance producer, the producing insurance producer, and the
8 commissioner at least 30 days' prior written notice of termination.

9 (3) The license expires on April 1 after its date of issue. A surplus lines insurance producer shall
10 renew the license on or before March 1 of each year upon payment of the annual renewal fee prescribed
11 in 33-2-708. A surplus lines insurance producer who fails to apply for a renewal of the license on or before
12 March 1 shall pay a fine of \$100 before the commissioner renews the license.

13 (4) A corporation is eligible to be licensed as a surplus lines insurance producer if:

14 (a) the corporate license lists the individuals within the corporation who have satisfied the
15 requirements of this part to become surplus lines insurance producers; and

16 (b) only those individuals listed on the corporate license transact surplus lines insurance.

17 (5) This section may not be construed to require agents, producers, or brokers acting as
18 intermediaries between a surplus lines insurance producer and an unauthorized insurer under this part to
19 hold a valid Montana surplus lines insurance producer's license."

20

21 **Section 141.** Section 33-2-312, MCA, is amended to read:

22 **"33-2-312. Penalty for failure to file statement, ~~pay tax,~~ or pay stamping fee.** (1) A surplus lines
23 insurance producer who fails to make and file the annual statement as required under 33-2-310 ~~or to pay~~
24 ~~the taxes as required under 33-2-311~~ is liable ~~to~~ for a penalty of \$25 for each day of delinquency,
25 commencing with April 1. The ~~tax and~~ penalty may be recovered in an action instituted by the
26 commissioner in the name of the state in any court of competent jurisdiction, the attorney general
27 representing the commissioner. The penalty when collected, unless collected by a justice's court, must be
28 paid to the state treasurer and placed to the credit of the general fund. The surplus lines insurance producer
29 license is also subject to revocation as provided in 33-2-313.

30 (2) If a surplus lines insurance producer does not pay the stamping fee provided for in 33-2-321,

1 the commissioner or the surplus lines advisory organization formed pursuant to 33-2-321 may impose a
2 penalty of 25% of the stamping fee due plus 1.5% a month from the time of delinquency until the stamping
3 fee is paid."

4

5 **Section 142.** Section 33-2-708, MCA, is amended to read:

6 **"33-2-708. Fees and licenses.** (1) Except as provided in 33-17-212(2), the commissioner shall
7 collect and the persons served shall pay to the commissioner the following fees:

8 (a) certificates of authority:

9 (i) for filing applications for original certificates of authority, articles of incorporation, except original
10 articles of incorporation of domestic insurers as provided in subsection (1)(b), and other charter documents,
11 bylaws, financial statement, examination report, power of attorney to the commissioner, and all other
12 documents and filings required in connection with the application and for issuance of an original certificate
13 of authority, if issued:

14 (A) domestic insurers \$600.00

15 (B) foreign insurers 600.00

16 (ii) annual continuation of certificate of authority 600.00

17 (iii) reinstatement of certificate of authority 25.00

18 (iv) amendment of certificate of authority 50.00

19 (b) articles of incorporation:

20 (i) filing original articles of incorporation of a domestic insurer, exclusive of fees required to be paid
21 by the corporation to the secretary of state 20.00

22 (ii) filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees
23 required to be paid to the secretary of state by a domestic corporation 25.00

24 (c) filing bylaws or amendment to bylaws when required 10.00

25 (d) filing annual statement of insurer, other than as part of application for original certificate of
26 authority 25.00

27 (e) insurance producer's license:

28 (i) application for original license, including issuance of license, if issued 15.00

29 (ii) appointment of insurance producer, each insurer, electronically filed 10.00

30 (iii) appointment of insurance producer, each insurer, nonelectronically filed 15.00

1	(iv) temporary license	15.00
2	(v) amendment of license, excluding additions to license, or reissuance of master license	15.00
3	(vi) termination of insurance producer, each insurer, electronically filed	10.00
4	(vii) termination of insurance producer, each insurer, nonelectronically filed	15.00
5	(f) nonresident insurance producer’s license:	
6	(i) application for original license, including issuance of license, if issued	100.00
7	(ii) appointment of insurance producer, each insurer, electronically filed	10.00
8	(iii) appointment of insurance producer, each insurer, nonelectronically filed	15.00
9	(iv) annual renewal of license	10.00
10	(v) amendment of license, excluding additions to license, or reissuance of master license	15.00
11	(vi) termination of insurance producer, each insurer, electronically filed	10.00
12	(vii) termination of insurance producer, each insurer, nonelectronically filed	15.00
13	(g) examination, if administered by the commissioner, for license as insurance producer, each	
14	examination	15.00
15	(h) surplus lines insurance producer license:	
16	(i) application for original license and for issuance of license, if issued	50.00
17	(ii) annual renewal of license	50.00
18	(i) adjuster’s license:	
19	(i) application for original license and for issuance of license, if issued	15.00
20	(ii) annual renewal of license	15.00
21	(j) insurance vending machine license, each machine, each year	10.00
22	(k) motor club representative’s license:	
23	(i) application for original license and issuance of license, if issued	15.00
24	(ii) annual renewal of license	15.00
25	(l) commissioner’s certificate under seal, except when on	
26	certificates of authority or licenses	10.00
27	(m) copies of documents on file in the commissioner’s office, per page50
28	(n) policy forms:	
29	(i) filing each policy form	25.00
30	(ii) filing each application, certificate, enrollment form, rider, endorsement, amendment, insert page,	

1 schedule of rates, and clarification of risks 10.00

2 (iii) maximum charge if policy and all forms submitted at one time or resubmitted for approval within
3 180 days, provided that all additional forms relate to the same policy 100.00

4 (2) The commissioner shall establish by rule fees commensurate with costs for filing documents
5 and conducting the course reviews required by 33-17-1204 and 33-17-1205.

6 (3) The commissioner shall establish by rule an annual accreditation fee to be paid by each
7 domestic and foreign insurer when it submits a fee for annual continuation of its certificate of authority.

8 (4) (a) Except as provided in subsection (4)(b), the commissioner shall promptly deposit with the
9 state treasurer to the credit of the general fund all fines and penalties, ~~those amounts received pursuant~~
10 ~~to 33-2-311, 33-2-705, and 33-2-706, and any fees,~~ and examination and miscellaneous charges that are
11 collected by the commissioner pursuant to Title 33 and the rules adopted under Title 33, except that all fees
12 for filing documents and conducting the course reviews required by 33-17-1204 and 33-17-1205 must be
13 deposited in the state special revenue fund pursuant to 33-17-1207.

14 (b) The accreditation fee required by subsection (3) must be turned over promptly to the state
15 treasurer who shall deposit the money in the state special revenue fund to the credit of the commissioner's
16 office. The accreditation fee funds ~~must~~ may be used only to pay the expenses of the commissioner's office
17 in discharging the administrative and regulatory duties that are required to meet the minimum financial
18 regulatory standards established by the national association of insurance commissioners, subject to the
19 applicable laws relating to the appropriation of state funds and to the deposit and expenditure of money.
20 The commissioner is responsible for the proper expenditure of the accreditation money.

21 (5) All fees are considered fully earned when received. In the event of overpayment, only those
22 amounts in excess of \$10 will be refunded."

23

24 **Section 143.** Section 33-2-1503, MCA, is amended to read:

25 **"33-2-1503. Immunity of NAIC.** In the absence of actual malice, members of the NAIC; their
26 authorized committees, subcommittees, task forces, delegates, and employees; and all others charged with
27 the responsibility of collecting and processing the information developed from the filing of the annual
28 statement convention forms are considered to act under the authority of 33-2-1502 through 33-2-1504.
29 They are not subject to civil liability for libel, slander, or any other cause of action arising from their
30 collection, review, analysis, or dissemination of information collected from the filings required by 33-1-408

1 through 33-1-410, 33-2-1216 through 33-2-1218, 33-2-1391 through 33-2-1394, and Title 33, chapter
2 2, parts 15 through 17, ~~and 33-11-110.~~"

3

4 **Section 144.** Section 33-2-1517, MCA, is amended to read:

5 "33-2-1517. **Rulemaking authority.** (1) The commissioner may adopt rules implementing the
6 provisions of 33-1-408 through 33-1-410, 33-2-1216 through 33-2-1218, 33-2-1391 through 33-2-1394,
7 and Title 33, chapter 2, parts 15 through 17, ~~and 33-11-110.~~

8 (2) The authority of the commissioner to adopt rules is specifically extended, without limitation,
9 to establish standards for companies considered to be in hazardous financial condition, to require annual
10 audited financial reports, to regulate life and health reinsurance agreements, to provide for reports to the
11 commissioner by holding company systems, and to establish accounting practices and procedures to be
12 used by insurers in their annual statements."

13

14 **Section 145.** Section 33-22-1513, MCA, is amended to read:

15 "33-22-1513. **Operation of association plan.** (1) Upon acceptance by the lead carrier under
16 33-22-1516, an eligible person may enroll in the association plan by payment of the association plan
17 premium to the lead carrier.

18 (2) Not less than 88% of the association plan premiums paid to the lead carrier may be used to
19 pay claims and not more than 12% may be used for payment of the lead carrier's direct and indirect
20 expenses as specified in 33-22-1514.

21 (3) Any income in excess of the costs incurred by the association in providing reinsurance or
22 administrative services must be held at interest and used by the association to offset past and future losses
23 due to claims expenses of the association plan or be allocated to reduce association plan premiums.

24 (4) (a) Each participating member of the association shall share the losses due to claims expenses
25 of the association plan for plans issued or approved for issuance by the association and shall share in the
26 operating and administrative expenses incurred or estimated to be incurred by the association incident to
27 the conduct of its affairs. Claims expenses of the association plan that exceed the premium payments
28 allocated to the payment of benefits are the liability of the association members. Association members shall
29 share in the claims expenses of the association plan and operating and administrative expenses of the
30 association in an amount equal to the ratio of the association member's total disability insurance premium

1 received from or on behalf of Montana residents divided by the total disability insurance premium received
2 by all association members from or on behalf of Montana residents as determined by the commissioner.

3 (b) For purposes of this subsection (4), "total disability insurance premium" does not include
4 premiums received from disability income insurance, credit disability insurance, disability waiver insurance,
5 or life insurance.

6 (5) The association shall make an annual determination of each association member's liability, if
7 any, and may make an annual fiscal yearend assessment if necessary. The association may also, subject
8 to the approval of the commissioner, provide for interim assessments against the association members as
9 may be necessary to assure the financial capability of the association in meeting the incurred or estimated
10 claims expenses of the association plan and operating and administrative expenses of the association until
11 the association's next annual fiscal yearend assessment. Payment of an assessment is due within 30 days
12 of receipt by an association member of a written notice of a fiscal yearend or interim assessment. Failure
13 by a contributing member to tender to the association the assessment within 30 days is grounds for
14 termination of membership. An association member that ceases to do disability insurance business within
15 the state remains liable for assessments through the calendar year during which disability insurance
16 business ceased. The association may decline to levy an assessment against an association member if the
17 assessment, as determined pursuant to this section, would not exceed \$10.

18 ~~(6) Any annual fiscal yearend or interim assessment levied against an association member may be~~
19 ~~effect, in an amount equal to the assessment paid to the association, against the premium tax payable by~~
20 ~~that association member pursuant to 33-2-705 for the year in which the annual fiscal yearend or interim~~
21 ~~assessment is levied. The insurance commissioner shall report to the office of budget and program planning,~~
22 ~~as a part of the information required by 17-7-111, the total amount of premium tax offset claimed by~~
23 ~~association members during the preceding biennium."~~

24

25 **Section 146.** Section 33-27-101, MCA, is amended to read:

26 "33-27-101. **Short title.** Sections 15-30-107, and 15-30-127, ~~15-31-117, 15-31-118~~, and this
27 chapter may be cited as the "Independent Liability Fund Act"."

28

29 **Section 147.** Section 33-27-102, MCA, is amended to read:

30 "33-27-102. **Purpose.** The purpose of 15-30-107, 15-30-127, ~~15-31-117, 15-31-118~~, and this

1 chapter is to create a means by which small businesses operating in Montana may establish independent
 2 liability funds to set aside assets or make investments to meet any liability claims that might be made
 3 against the small businesses by third parties."

4
 5 **Section 148.** Section 33-27-103, MCA, is amended to read:

6 **"33-27-103. Definitions.** As used in 15-30-107, 15-30-127, ~~15-31-117, 15-31-118,~~ and this
 7 chapter, the following definitions apply:

8 (1) "Fiscal year" means the 12-month period used by a particular small business in preparing and
 9 filing its Montana individual income tax, ~~corporate license tax, or corporate income~~ or business enterprise
 10 tax return.

11 (2) "Independent liability fund" means a collection of money, assets, and investments that has
 12 been set aside by a small business to meet the needs of any liability claims, except workers' compensation
 13 claims, brought against it by third parties.

14 (3) "Liability claim" means any legal or extralegal action by a third party asserting a right to
 15 compensation for a wrong done to it by a small business with an independent liability fund.

16 (4) "Small business" means any commercial or nonprofit enterprise qualified to do business in the
 17 state and qualified as a small business under the criteria established by the federal small business
 18 administration on April 20, 1987.

19 (5) "Third party" means a person other than an employee or the management of a small business
 20 or of a subsidiary or closely related enterprise of a small business."

21
 22 **Section 149.** Section 33-27-118, MCA, is amended to read:

23 **"33-27-118. Taxation of independent liability fund contributions.** The net value of independent
 24 liability fund contributions for any given fiscal year is taxed in accordance with ~~33-2-705(2)~~ [section 7]."

25
 26 **Section 150.** Section 39-71-2314, MCA, is amended to read:

27 **"39-71-2314. State fund -- assigned risk plan.** (1) If an assigned risk plan is established and
 28 administered pursuant to 39-71-431, the state fund is subject to the ~~premium~~ tax liability for insurers as
 29 provided in ~~33-2-705 based on earned premium and paid on revenue from the previous fiscal year~~ [section
 30 7].

1 (2) The state fund is subject to laws that generally apply to state agencies, including but not limited
2 to Title 2, chapters 2, 3, 4 (only as provided in 39-71-2316), and 6, and Title 5, chapter 13. The state fund
3 is not exempt from a law that applies to state agencies unless that law specifically exempts the state fund
4 by name and clearly states that it is exempt from that law."

5

6 **Section 151.** Section 61-10-214, MCA, is amended to read:

7 **"61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons
8 for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from
9 this part.

10 (2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide
11 agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are
12 used exclusively for transportation of agricultural workers are exempt from this part.

13 (3) Vehicles lawfully displaying a licensed dealer's or wholesaler's plate as provided in 61-4-103
14 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or
15 wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while
16 being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated
17 may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler.

18 (4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(c) through (1)(e), (1)(g), (1)(m),
19 (1)(o), ~~(1)(q)~~, and ~~(1)(v)~~ (1)(r) are exempt from this part. The department of transportation may require
20 documentation of tax-exempt status from the department of revenue before granting this exemption."

21

22 **Section 152.** Section 75-2-220, MCA, is amended to read:

23 **"75-2-220. Fees -- special assessments -- late payment assessments.** (1) Concurrent with the
24 submittal of a permit application required under this chapter and annually for the duration of the permit, the
25 applicant shall submit to the department a fee sufficient to cover the reasonable costs, direct and indirect,
26 of developing and administering the permitting requirements in this chapter, including:

27 (a) reviewing and acting upon the application;

28 (b) implementing and enforcing the terms and conditions of the permit. This amount does not
29 include any court costs or other costs associated with an enforcement action. If the permit is not issued,
30 the department shall return this portion of the fee to the applicant.

- 1 (c) emissions and ambient monitoring;
- 2 (d) preparing generally applicable regulations or guidance;
- 3 (e) modeling, analysis, and demonstrations;
- 4 (f) preparing inventories and tracking emissions;
- 5 (g) providing support to sources under the small business stationary source technical and
6 environmental compliance assistance program; and
- 7 (h) all other costs required to be recovered pursuant to Subchapter V of the federal Clean Air Act,
8 42 U.S.C. 7661, et seq.

9 (2) In recovering the costs described in subsection (1), the department may assess an application
10 fee based on estimated actual emissions or an annual fee based on actual emissions of air pollutants
11 regulated under this chapter, including but not limited to volatile organic compounds, each air pollutant
12 regulated under section 7411 or 7412 of the federal Clean Air Act, 42 U.S.C. 7401, et seq., and each air
13 pollutant subject to a national primary ambient air quality standard.

14 (3) The board shall by rule provide for the annual adjustment of all fees assessed for operating
15 permit applications under 75-2-217 and 75-2-218 to account for changes to the consumer price index, as
16 required by Subchapter V of the federal Clean Air Act.

17 (4) In addition to the fee required under subsection (1), the board may order the assessment of
18 additional fees required to fund specific activities of the department that are directed at a particular
19 geographic area if the legislature authorizes the activities and appropriates funds for the activities, including
20 emissions or ambient monitoring, modeling analysis or demonstrations, or emissions inventories or tracking.
21 Additional assessments may be levied only on those sources that are within or are believed by the
22 department to be impacting the geographic area. Before the board may require the fees, it shall first
23 determine, after opportunity for hearing, that the activities to be funded are necessary for the administration
24 or implementation of this chapter, that the amount of the requested fees is appropriate, that the
25 assessments apportion the required funding in an equitable manner, and that the department has obtained
26 the necessary appropriation. The contested case provisions of the Montana Administrative Procedure Act,
27 Title 2, chapter 4, part 6, apply to a hearing before the board under this subsection.

28 (5) (a) If the applicant or permitholder fails to pay in a timely manner a fee required under
29 subsection (1), in addition to the fee, the department may:

30 (i) impose a penalty not to exceed 50% of the fee, plus interest on the required fee computed at

1 the rate contained in ~~15-31-510(3)~~ of 12% a year; or

2 (ii) revoke the permit consistent with those procedures established under this chapter for permit
3 revocation.

4 (b) Within 1 year of revocation, the department may reissue the revoked permit after the applicant
5 or permit holder has paid all outstanding fees required under subsections (1) and (4), including all penalties
6 and interest provided for under this subsection (5). In reissuing the revoked permit, the department may
7 modify the terms and conditions of the permit as necessary to account for changes in air quality occurring
8 since revocation.

9 (c) The board shall by rule provide for the implementation of this subsection (5), including criteria
10 for imposition of the sanctions described in this subsection (5).

11 (6) The board may by rule allow the reduction of a fee required under this section for an operating
12 permit or permit renewal to account for the financial resources of a category of small business stationary
13 sources.

14 (7) As a condition of the continuing validity of a permit issued by the department under this
15 chapter prior to October 1, 1993, the board may by rule require the permit holder to pay the fees under
16 subsections (1) and (4).

17 (8) For an existing source of air pollutants that is subject to Subchapter V of the federal Clean Air
18 Act and that is not required to hold an air quality permit from the department as of October 1, 1993, the
19 board may, as a condition of continued operation, require by rule that the owner or operator of the source
20 pay the fees under subsections (1) and (4).

21 (9) (a) The department shall give written notice of the fee to be assessed and the basis for the
22 department's fee assessment under this section to the owner or operator of the air pollutant source. The
23 owner or operator may appeal the department's fee assessment to the board within 20 days after receipt
24 of the written notice.

25 (b) An appeal must be based upon the allegation that the fee assessment is erroneous or excessive.
26 An appeal may not be based on the amount of the fee contained in the schedule adopted by the board.

27 (c) If any part of the fee assessment is not appealed, it must be paid to the department upon
28 receipt of the notice required in subsection (9)(a).

29 (d) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter
30 4, part 6, apply to a hearing before the board under this subsection (9).

1 (10) The department may not charge more than one fee annually to a source of air pollutants for
2 the costs identified in subsection (1)."

3

4 **Section 153.** Section 75-5-516, MCA, is amended to read:

5 **"75-5-516. Fees authorized for recovery -- process -- rulemaking.** (1) The board shall by rule
6 prescribe fees to be assessed by the department that are sufficient to cover the board's and department's
7 documented costs, both direct and indirect, of:

8 (a) reviewing and acting upon an application for a permit, permit modification, permit renewal,
9 certificate, license, or other authorization required by rule under 75-5-201 or 75-5-401;

10 (b) reviewing and acting upon a petition for a degradation allowance under 75-5-303;

11 (c) reviewing and acting upon an application for a permit, certificate, license, or other authorization
12 for which an exclusion is provided by rule from the permitting requirements established under 75-5-401;

13 (d) enforcing the terms and conditions of a permit or authorization identified in subsections (1)(a)
14 through (1)(c). If the permit or authorization is not issued, the department shall return this portion of any
15 application fee to the applicant.

16 (e) conducting compliance inspections and monitoring effluent and ambient water quality; and

17 (f) preparing water quality rules or guidance documents.

18 (2) The rules promulgated by the board under this section must include:

19 (a) a fee on all applications for permits or authorizations, as identified in subsections (1)(a) through
20 (1)(c), that recovers to the extent permitted by this subsection (2) the department's cost of reviewing and
21 acting upon the applications. This fee may not be more than \$5,000 per discharge point for an application
22 addressed under subsection (1), except that an application with multiple discharge points may be assessed
23 a lower fee for those points according to board rule.

24 (b) an annual fee to be assessed according to the volume and concentration of waste discharged
25 into state waters. The annual fee may not be more than \$3,000 per million gallons discharged per day on
26 an annual average for any activity under permit or authorization, as described in subsection (1), except that:

27 (i) a permit or authorization with multiple discharge points may be assessed a lower fee for those
28 points according to board rule; and

29 (ii) a facility that consistently discharges effluent at less than or equal to one-half of its effluent
30 limitations and that is in compliance with other permit requirements, using the previous calendar year's

1 discharge data, is entitled to a 25% reduction in its annual permit fee. Proportionate reductions of up to
2 25% of the permit fee may be given to facilities that consistently discharge effluent at levels between 50%
3 and 100% of their effluent limitations. However, a new permittee is not eligible for a fee reduction in its
4 first year of operation, and a permittee with a violation of any effluent limit during the previous calendar
5 year is not eligible for a fee reduction for the following year.

6 (3) To the extent permitted under subsection (2)(b), the annual fee must be sufficient to pay the
7 department's estimated cost of conducting all tasks described under subsection (1) after subtracting:

8 (a) the fees collected under subsection (2)(a).

9 (b) state general fund appropriations for functions administered under this chapter; and

10 (c) federal grants for functions administered under this chapter.

11 (4) For purposes of subsection (3), the department's estimated cost of conducting the tasks
12 described under subsection (1) is the amount authorized by the legislature for the department's water
13 quality discharge permit programs.

14 (5) If the applicant or holder fails to pay a fee assessed under this section or rules adopted under
15 this section within 90 days after the date established by rule for fee payment, the department may:

16 (a) impose an additional assessment consisting of not more than 20% of the fee plus interest on
17 the required fee computed at the rate ~~established under 15-31-510(3)~~ of 12% a year; or

18 (b) suspend the permit or exclusion. The department may lift the suspension at any time up to 1
19 year after the suspension occurs if the holder has paid all outstanding fees, including all penalties,
20 assessments, and interest imposed under subsection (5)(a).

21 (6) Fees collected pursuant to this section must be deposited in an account in the special revenue
22 fund type pursuant to 75-5-517.

23 (7) The department shall give written notice to each person assessed a fee under this section of
24 the amount of fee that is assessed and the basis for the department's calculation of the fee. This notice
25 must be issued at least 30 days prior to the due date for payment of the assessment.

26 (8) A holder of or an applicant for a permit, certificate, or license may appeal the department's fee
27 assessment to the board within 20 days after receiving written notice of the department's fee determination
28 under subsection (7). The appeal to the board must include a written statement detailing the reasons that
29 the permitholder or applicant considers the department's fee assessment to be erroneous or excessive.

30 (9) If part of the department's fee assessment is not in dispute in an appeal filed under subsection

1 (8), the undisputed portion of the fee must be paid to the department upon written request of the
2 department.

3 (10) The contested case provisions of the Montana Administrative Procedure Act, provided for in
4 Title 2, chapter 4, part 6, apply to a hearing before the board under this section.

5 (11) A municipality may raise rates to cover costs associated with the fees prescribed in this section
6 for a public sewer system without the hearing required in 69-7-111."

7

8 **Section 154.** Section 77-1-507, MCA, is amended to read:

9 "77-1-507. **School district use of proceeds.** The money received by any school district under this
10 part ~~shall~~ must be designated as district money for the general maintenance and operation of the elementary
11 schools of the district. ~~Such~~ The money may be used by the district as all other cash balances are used ~~in~~
12 ~~accordance with the provisions of 20-9-335."~~

13

14 **Section 155.** Section 87-2-903, MCA, is amended to read:

15 "**87-2-903. Compensation and duties of agents -- penalty for late submission of license money.**

16 (1) License agents, except salaried employees of the department, must receive for all services rendered the
17 sum of 50 cents for each license, permit, or certificate issued. Each license agent shall submit to the
18 department all duplicates of each class of licenses sold and shall accompany the duplicate licenses with all
19 money received for the sale of the licenses, less the appropriate fee. The department may designate classes
20 of license agents and may establish a deadline for submission of license money by each class of agent.
21 Each license agent shall keep the license account open at all reasonable hours to inspection by the
22 department, the director, the wardens, or the legislative auditor.

23 (2) For purposes of this section, the term "license" includes any license, permit, and certificate
24 prescribed by the department.

25 (3) If a license agent fails to submit to the department all money received from the declared sale
26 of licenses, less the appropriate fee, by the deadline established by the department, an interest ~~charge equal~~
27 ~~to the rate of 10% charged on late corporation license tax payments under 15-31-510(2)~~ must be assessed.
28 Acceptance of late payments with interest does not preclude the department from summarily revoking the
29 appointment of a license agent under 87-2-904."

30

1 **Section 156.** Section 90-6-309, MCA, is amended to read:

2 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence
3 operation is granted by the appropriate governmental agency, and upon request of the governing body of
4 a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
5 development in this state shall prepay property taxes as specified in the impact plan. This prepayment ~~shall~~
6 must exclude the 6-mill university levy established under 20-25-423 ~~and may exclude the mandatory county~~
7 ~~levies for the school BASE funding program established in 20-9-331 and 20-9-333.~~

8 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
9 established in subsection (1) at one time. Upon request of the governing body of an affected local
10 government unit, the person shall prepay the amount shown to be needed from time to time as determined
11 by the board.

12 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
13 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid
14 as needed for expenditures created by the impacts of the large-scale mineral development.

15 (4) When the mineral development facilities are completed and assessed by the department of
16 revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly
17 situated, except that in each year after the start of production, the local government unit that received a
18 property tax prepayment shall provide for repayment of prepaid property taxes in accordance with
19 subsection (5).

20 (5) A local government unit that received all or a portion of the property tax prepayment under
21 this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year
22 may not, however, exceed the tax obligation of the developer for that year, and the time period for tax
23 crediting is limited to the productive life of the mining operation."
24

25 **Section 157.** Section 90-6-403, MCA, is amended to read:

26 **"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain**
27 **taxable valuation.** (1) When an impact plan for a large-scale mineral development approved pursuant to
28 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all
29 affected local government units, and the department of revenue of the disparity. Except as provided in this
30 section and 90-6-404, the increase in taxable valuation of the mineral development that occurs after the

1 issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and
 2 school district property tax mill levies. This increase in taxable valuation must be allocated to local
 3 government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in
 4 90-6-404 is subject to the application of property tax mill levies in the local government unit to which it
 5 is allocated.

6 (2) The total taxable valuation of a large-scale mineral development remains subject to the
 7 statewide mill levies ~~and basic county levies for elementary and high school BASE funding programs as~~
 8 ~~provided in 20-9-331 and 20-9-333.~~

9 (3) The provisions of subsection (1) remain in effect until the large-scale mineral development
 10 ceases operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the
 11 board."

12

13 **Section 158.** Section 90-8-104, MCA, is amended to read:

14 **"90-8-104. Definitions.** As used in this chapter, unless the context requires otherwise, the
 15 following definitions apply:

16 (1) "Capital base" means equity capital raised by a certified Montana capital company or by a
 17 certified Montana small business investment capital company for which tax credits were claimed under this
 18 chapter.

19 (2) "Certified Montana capital company" or "certified Montana small business investment capital
 20 company" means:

21 (a) a development credit corporation created pursuant to Title 32, chapter 4; or

22 (b) a profit or nonprofit entity organized and existing under the laws of Montana, created for the
 23 purpose of making venture or risk capital available for qualified investments and that has been certified by
 24 the department.

25 (3) "Department" means the department of commerce.

26 (4) "Montana business" means a business ~~which~~ that is located or principally based within
 27 Montana.

28 (5) "Qualified investment" means an investment that does not violate any of the provisions of this
 29 chapter, does not displace other sources of equity or debt financing that are available to the project unless
 30 the department determines that the investment furthers the purposes of this chapter, and is:

- 1 (a) a debt or equity financing of a Montana business that meets both of the following criteria:
- 2 (i) the business is engaged in one or more of the following activities:
- 3 (A) manufacturing;
- 4 (B) agricultural, fishery, or forestry production and processing;
- 5 (C) mineral production and processing, except for conventional oil and gas exploration;
- 6 (D) recognized nonfossil forms of energy generation, as defined in 15-32-201, or the manufacture
- 7 of low emission wood or biomass combustion devices, as defined in ~~15-32-102~~ 15-6-201(3)(b);
- 8 (E) transportation;
- 9 (F) research and development of products or processes associated with any of the activities
- 10 enumerated in ~~(A) through (E) above~~ subsections (5)(a)(i)(A) through (5)(a)(i)(E);
- 11 (G) wholesale or retail distribution activities for which products produced in Montana comprise
- 12 50% or more of the gross sales receipts;
- 13 (H) any activity conducted in the state for which 50% or more of the gross receipts are derived
- 14 from the sale of products or services outside Montana; and
- 15 (I) tourism; and
- 16 (ii) the business is a small business as defined in rules adopted by the department;
- 17 (b) a debt or equity financing of a business outside Montana if ~~such~~ the investment is likely to
- 18 produce a qualified investment in Montana, as long as ~~such~~ the investment does not exceed 25% of the
- 19 capital base of the capital company; or
- 20 (c) a debt or equity financing of an acquisition of a non-Montana business that will be relocated
- 21 in Montana.
- 22 (6) "Qualified Montana capital company" means a certified Montana capital company that has been
- 23 designated a qualified capital company under the provisions of 90-8-202 so that investors in the company
- 24 may receive the tax credits authorized in 90-8-202.
- 25 (7) "Qualified Montana small business investment capital company" means a certified Montana
- 26 small business investment capital company that has been designated a qualified small business investment
- 27 capital company under the provisions of 90-8-202 so that investors in the company may receive the tax
- 28 credits authorized in 90-8-202."

29

30 **Section 159.** Section 90-8-202, MCA, is amended to read:

1 **"90-8-202. Designation of qualified Montana capital companies -- designation of qualified Montana**
2 **small business investment capital company -- tax credit.** (1) The department shall designate as:

3 (a) qualified Montana capital companies those certified companies that have been privately
4 capitalized at a minimum level of \$200,000; or

5 (b) the qualified Montana small business investment capital company the certified Montana small
6 business investment capital company once it has been privately capitalized at a minimum level of \$500,000.

7 (2) A certified company seeking designation as a qualified Montana capital company or as the
8 qualified Montana small business investment capital company ~~must~~ shall make written application to the
9 department on forms provided by the department. The application must contain the information required
10 by 90-8-204 and other information that the department requires.

11 (3) (a) The total amount of tax credits authorized for a single qualified capital company or the
12 qualified Montana small business investment capital company may not exceed \$1,500,000, except that the
13 qualified Montana small business investment capital company must receive all remaining tax credits under
14 this section available as of January 1, 1991. In the event the capitalization of a qualified capital company
15 is later increased, the company may apply for authorization of additional tax credits within the foregoing
16 limitation.

17 (b) The total credits authorized for all companies may not exceed a total of \$1 million prior to June
18 30, 1985. The total credits authorized for all companies between July 1, 1985, and June 30, 1987, may
19 not exceed \$1 million plus any portion of the \$1 million available for authorization before June 30, 1985,
20 that is allocated to qualified companies. The total credits authorized for all companies between July 1,
21 1987, and June 30, 1989, may not exceed \$3 million plus any portion of the credits available for
22 authorization before June 30, 1987, that is allocated to qualified companies. The total credits authorized
23 for all companies between July 1, 1989, and June 30, 1991, may not exceed \$3 million plus any portion
24 of the credits available for authorization before June 30, 1989, that is allocated to qualified companies.

25 (4) (a) Before January 1, 1991, credits must be allocated to qualified companies in the order that
26 completed applications for designation as qualified capital companies are received by the department, and
27 the department shall certify to each company its appropriate allocation.

28 (b) All tax credits allowed under subsection (3) that are not allocated as of January 1, 1991, must
29 be allocated to the qualified Montana small business investment capital company, and the department shall
30 certify the allocation to the company.

1 (c) If the legislature provides additional tax credits under this chapter after June 30, 1991, or if
2 tax credits become available by reversion to the department by a capital company or by the qualified
3 Montana small business investment capital company, those additional or reverted tax credits must be
4 allocated by the department to qualified capital companies or to the qualified Montana small business
5 investment capital company in accordance with this chapter and the rules of the department.

6 (5) Investors in a qualified Montana capital company or in the qualified Montana small business
7 investment capital company are entitled to the tax credits provided for in subsection (6). Funds invested
8 in a certified company prior to designation as a qualified Montana capital company or as the qualified
9 Montana small business investment capital company may, at the discretion of the investor, be placed in
10 an escrow account in a Montana financial institution pending designation of the company as a qualified
11 Montana capital company or as the qualified Montana small business investment capital company.

12 (6) Subject to the provisions of subsections (3) and (9), an individual, small business corporation,
13 partnership, trust, decedent's estate, or corporate taxpayer that makes a capital investment in a qualified
14 Montana capital company or the qualified Montana small business investment capital company is entitled
15 to a tax credit equal to 50% of the investment, up to a maximum credit for investments in all qualified
16 Montana capital companies of \$150,000 per taxpayer, except that, as applied to the qualified small
17 business investment capital company, the maximum tax credit is \$250,000 per taxpayer and the tax credit
18 limitation relating to a capital investment in the qualified Montana small business investment capital
19 company must be in addition to any other tax credit limitation in this section. The credit may be taken
20 against the tax liability imposed on the investor pursuant to Title 15, chapter 30, 31, or 35. The credit for
21 investments by a ~~small business corporation defined in 15-31-201~~ that has made an election under
22 subchapter S. of the Internal Revenue Code or by a partnership may be claimed by the small business
23 corporation shareholders or the partners.

24 (7) The tax credit allowed under subsection (6) is to be credited against the taxpayer's income tax
25 liability or coal severance tax liability for the taxable year in which the investment in a qualified Montana
26 capital company or the qualified Montana small business investment capital company is made. If the amount
27 of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount of the credit ~~which~~
28 that exceeds the tax liability may be carried back or carried forward in the following manner:

29 (a) If the sum of the amount of credit for the current taxable year plus the amount of credit, if any,
30 carried forward from a previous taxable year exceeds the taxpayer's tax liability for the current taxable year,

1 the excess must be carried back as a credit to the 3 preceding taxable years and, if the full credit remains
2 unused, carried forward as a credit to the 15 succeeding taxable years.

3 (b) The amount of unused credit must be used to offset the entire tax liability of each of the 18
4 taxable years, beginning with the earliest and commencing to the next succeeding year until the credit is
5 exhausted.

6 (8) The tax credit provided for in this section is available only to those taxpayers who invest in a
7 qualified Montana capital company within 4 years of July 1, 1987, or in the qualified Montana small
8 business investment capital company within 4 years of July 1, 1991.

9 (9) (a) An individual, small business corporation, partnership, or corporate taxpayer who obtains
10 the tax credit allowed under subsection (6) may not obtain credits in excess of the limits contained in
11 subsection (6) by making investments as more than one entity.

12 (b) A partner or shareholder in a small business corporation may not obtain more than \$150,000,
13 or not more than \$250,000 in the case of the qualified Montana small business investment capital
14 company, in credits as an individual and as the partnership or small business corporation. A corporate
15 taxpayer that obtains the maximum credits allowed under this subsection (9)(b) may not obtain additional
16 credits through investments by wholly owned subsidiaries or affiliates. An individual, small business
17 corporation, partnership, or corporate taxpayer who obtains the tax credit allowed under subsection (6) may
18 not claim deduction under the provisions of Title 15, chapter 30 or 31, for donation of stock in the qualified
19 Montana small business investment capital company."
20

21 **NEW SECTION. Section 160. Repealer.** Sections 15-1-111, 15-1-112, 15-6-138, 15-10-401,
22 15-10-402, 15-10-406, 15-10-411, 15-10-412, 15-16-117, 15-16-402, 15-30-126, 15-31-101,
23 15-31-102, 15-31-103, 15-31-111, 15-31-112, 15-31-113, 15-31-114, 15-31-115, 15-31-117,
24 15-31-118, 15-31-119, 15-31-121, 15-31-122, 15-31-123, 15-31-124, 15-31-125, 15-31-126,
25 15-31-127, 15-31-131, 15-31-132, 15-31-135, 15-31-136, 15-31-137, 15-31-141, 15-31-142,
26 15-31-143, 15-31-201, 15-31-202, 15-31-203, 15-31-204, 15-31-209, 15-31-301, 15-31-302,
27 15-31-303, 15-31-304, 15-31-305, 15-31-306, 15-31-307, 15-31-308, 15-31-309, 15-31-310,
28 15-31-311, 15-31-312, 15-31-313, 15-31-321, 15-31-322, 15-31-323, 15-31-324, 15-31-325,
29 15-31-326, 15-31-401, 15-31-402, 15-31-403, 15-31-404, 15-31-405, 15-31-406, 15-31-407,
30 15-31-408, 15-31-501, 15-31-502, 15-31-503, 15-31-504, 15-31-505, 15-31-506, 15-31-510,

1 15-31-522, 15-31-523, 15-31-524, 15-31-552, 15-31-553, 15-31-554, 15-31-701, 15-31-702,
2 15-31-703, 15-32-101, 15-32-102, 15-32-103, 15-32-104, 15-32-105, 15-32-106, 15-32-107,
3 15-32-108, 15-33-101, 15-33-102, 15-33-103, 15-33-104, 15-33-105, 15-33-106, 15-50-101,
4 15-50-205, 15-50-206, 15-50-207, 15-50-301, 15-50-304, 15-50-307, 15-50-308, 15-50-309,
5 15-50-310, 15-50-311, 15-51-101, 15-51-102, 15-51-103, 15-51-104, 15-51-106, 15-51-109,
6 15-51-110, 15-51-111, 15-51-112, 15-51-113, 15-51-114, 15-53-101, 15-53-102, 15-53-103,
7 15-53-104, 15-53-105, 15-53-106, 15-53-111, 15-53-112, 15-53-113, 15-53-114, 15-53-115,
8 15-59-101, 15-59-102, 15-59-104, 15-59-105, 15-59-106, 15-59-107, 15-59-108, 15-59-109,
9 15-59-110, 15-59-112, 15-59-113, 15-59-114, 15-59-121, 15-59-201, 15-59-203, 15-59-204,
10 15-59-205, 15-59-206, 15-59-207, 15-59-208, 15-59-209, 15-59-210, 15-59-212, 15-59-213,
11 15-59-214, 15-59-221, 20-9-305, 20-9-331, 20-9-333, 20-9-334, 20-9-335, 20-9-360, 20-9-361,
12 20-9-366, 20-9-367, 20-9-368, 20-10-146, 33-2-311, 33-2-705, 33-2-706, 33-2-710, 33-11-110,
13 33-22-1205, and 69-3-713, MCA, are repealed.

14

15 **NEW SECTION. Section 161. Effective date -- applicability.** [This act] is effective January 1,
16 2000, and applies to tax years beginning after December 31, 1999.

17

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0613, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act establishing a Montana Enterprise Tax in lieu of various taxes based upon business income, including the corporation license or income tax, electric energy producer's license tax, telephone company license tax, cement taxes, surplus lines premium tax, insurance premium tax, and certain exemptions for insurance taxes; eliminating personal property taxes; eliminating reimbursement programs for previous personal property tax reductions; eliminating state levies for elementary, secondary, retirement and transportation; repealing the tax limitations enacted by Initiative No. 105; adjusting local government and school indebtedness limits; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. The bill would not be effective until January 1, 2000; consequently, there is no impact on revenues in the 1999 biennium.
2. Effective January 1, 2000 the bill would provide for the repeal of the following current law provisions:
 - the statewide 95 mills levied for school equalization aid;
 - the corporation license and income tax;
 - the contractor's gross receipts tax;
 - the electric energy producer's license tax;
 - the telephone company license tax;
 - all cement and gypsum taxes;
 - the insurance premiums tax;
 - HB20 property tax reimbursements to local governments; and
 - SB417 property tax reimbursements to local governments.
3. In addition to repealing the above provisions, the bill would provide for the following additional measures:
 - provides a credit against individual income taxes for BET taxes paid by non-corporate businesses;
 - increases state school funding obligations by:
 - requiring the state to fully fund the base budget of school districts (80% of maximum general fund budgets);
 - requiring the state to fully fund school district retirement; and
 - requiring the state to fully fund the schedule amounts of school district transportation costs.
4. The bill provides for implementation of a "Business Enterprise Tax" (BET), an origin-based, consumption-type, value-added tax, effective January 1, 2000.

FISCAL IMPACT:


Expenditures:

The proposal provides for implementation of a new tax on businesses, the "Business Enterprise Tax". Implementation of a tax of the nature contemplated in this bill--a modified, consumption-type, value-added tax--would require administration costs in excess of those required for a retail sales tax.

However, these increased costs are mitigated by administrative savings from the repeal of the corporate income tax, the personal property tax on class 8, the contractor's gross receipts tax, the electric energy producer's license tax, the telephone company license tax, all cement and gypsum taxes, the insurance premiums tax and other administrative requirements.

The Department has not had sufficient time to fully analyze the administrative impacts of this proposal nor the timing of net administrative impacts.

(Continued)

 3-26-97

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3/27/97

BOB REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0613, as introduced

HB613

(continued)

Revenues:

The Department of Revenue has no current means to accurately determine the revenue potential of specific value-added tax proposals. However, based on the provisions of the bill outlined in assumptions 2 and 3, above, it is possible to determine the approximate net revenue that would be required to satisfy these provisions in a revenue-neutral fashion, based on projected fiscal year 1999 impacts from HJR2.

Net BET Funding Requirement

	<u>Total Impact</u>	<u>General Fund</u>	<u>Long-Range Building</u>	<u>Local Government</u>
<u>REVENUE REDUCTIONS:</u>				
Repeal 95-Mills Levied for SEA:	(214,000,000)	(214,000,000)	0	0
-Associated Non-Levy Revenue:	(22,149,000)	(22,149,000)	0	0
Repeal Corporation Lic. Tax	(78,409,000)	(61,514,000)	(6,953,000)	(9,943,000)
Repeal Contractor's Gr.Rec.Tax	(1,520,000)	(1,520,000)	0	0
Repeal Elec.Energy Prod.Lic.Tax	(3,895,000)	(3,895,000)	0	0
Repeal Telephone Co. Lic. Tax	(5,560,000)	(5,560,000)	0	0
Repeal Cement Taxes	(140,000)	(140,000)	0	0
Repeal Insurance Premiums Tax	(43,664,000)	(32,525,000)	0	(11,139,000)
BET Individual Income Tax Cr.	(59,000,000)	(53,867,000)	(5,133,000)	0
<u>INCREASED SCHOOL FUNDING:</u>				
Base Budgets	(172,353,000)	(172,353,000)	0	0
Retirement	(59,401,000)	(59,401,000)	0	0
Transportation	(11,300,000)	(11,300,000)	0	0
<u>OFFSETTING REVENUE INCREASES:</u>				
Repeal HB20 Reimbursements	12,327,000	12,327,000	0	0
Repeal SB417 Reimbursements	<u>14,327,000</u>	<u>14,327,000</u>	<u>0</u>	<u>0</u>
NET BET FUNDING REQUIREMENT:	644,737,000	611,570,213	12,086,000	21,082,000

As the above estimates suggest, the provisions of HB613 would require a total revenue-neutral net funding requirement of \$644,737,000 from the BET provided for in the bill. At the rate provided for, 4%, this is probably an unrealistic assumption. In theory, a value-added tax produces revenue on the order of a general retail sales tax. Current revenue estimates of broad-based sales taxes in Montana estimate revenue to be on the order of \$500 million. It appears that the provisions of this particular draft of this bill may over-reach a VAT's revenue generating capability.

However, as the bill's sponsor has indicated, the reason for the delayed effective date of January 1, 2000 is to provide ample time for state agencies to develop more accurate estimates of the revenue potential from value-added taxes in Montana, the administrative impacts, and to amend specific provisions to allow property tax reductions and repeal of other business taxes commensurate with the potential revenue generation in a revenue-neutral fashion.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill repeals corporation license taxes. Approximately 13 percent of corporation license taxes accrue to local governments each year. The bill does not provide for replacement of these revenues to local governments.

The bill repeals the insurance premiums tax. Over a quarter of this tax is used to fund the retirement funds of local government services such as firemen and policemen. The bill makes no reference to the funding of these retirement funds, or to the means of replacing

TECHNICAL NOTES:

The bill repeals taxation of business equipment currently included in Class 8. However, property taxes would continue to apply to "personal property" remaining in other classes of property. Nevertheless, the bill, in several instances, deletes the reference to personal property in several statutes for taxation purposes, when taxation of personal property remaining in other classes would still be appropriate.

It is unclear how repealing the taxation of business equipment in Class 8 would affect the taxation of the personal property of railroads and airlines under the 4-Rs Act.

STATE OF MONTANA - FISCAL NOTE
Fiscal Note for HB0613, House Tax amendments

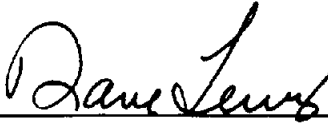
DESCRIPTION OF PROPOSED LEGISLATION:

An act establishing a Montana Enterprise Tax in lieu of various taxes based upon business income, including the corporation license or income tax, electric energy producer's license tax, telephone company license tax, cement taxes, surplus lines premium tax, insurance premium tax, and certain exemptions for insurance taxes; eliminating personal property taxes and property taxes on livestock; eliminating reimbursement programs for previous personal property tax reductions; eliminating state levies for elementary, secondary, retirement and transportation; eliminating the university system 6-mill levy; repealing the tax limitations enacted by Initiative No. 105; adjusting local government and school indebtedness limits; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. The bill would not be effective until January 1, 2000; consequently, there is no impact on revenues in the 1999 biennium.
2. Effective January 1, 2000 the bill would provide for the repeal of the following current law provisions:
 - the statewide 95 mills levied for school equalization aid;
 - the statewide 6 mills levied for the university system;
 - the corporation license and income tax;
 - the contractor's gross receipts tax;
 - the electric energy producer's license tax;
 - the telephone company license tax;
 - all cement and gypsum taxes;
 - the insurance premiums tax;
 - HB20 property tax reimbursements to local governments; and
 - SB417 property tax reimbursements to local governments.
3. In addition to repealing the above provisions, the bill would provide for the following additional measures:
 - provides a credit against individual income taxes for BET taxes paid by non-corporate businesses;
 - increases state school funding obligations by:
 - requiring the state to fully fund the base budget of school districts (80% of maximum general fund budgets);
 - repeals property taxation of property currently in Classes 6 and 8 (livestock and business equipment).
4. The bill provides for implementation of a "Business Enterprise Tax" (BET), an origin-based, consumption-type, value-added tax, effective January 1, 2000.

(Continued)

 4.7.97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 4/7/97
BOB REAM, PRIMARY SPONSOR DATE

Fiscal Note for HB0613, as amended

HB 63-#2

FISCAL IMPACT:

Expenditures:

The proposal provides for implementation of a new tax on businesses, the "Business Enterprise Tax". Implementation of a tax of the nature contemplated in this bill--a modified, consumption-type, value-added tax--would require administration costs in excess of those required for a retail sales tax.

However, these increased costs are mitigated by administrative savings from the repeal of the corporate income tax, the personal property tax on class 8, the contractor's gross receipts tax, the electric energy producer's license tax, the telephone company license tax, all cement and gypsum taxes, the insurance premiums tax and other administrative requirements.

The Department has not had sufficient time to fully analyze the administrative impacts of this proposal nor the timing of net administrative impacts.

Revenues:

The Department of Revenue has no current means to accurately determine the revenue potential of specific value-added tax proposals. However, based on the provisions of the bill outlined in assumptions 2 and 3, above, it is possible to determine the approximate net revenue that would be required to satisfy these provisions in a revenue-neutral fashion, based on projected fiscal year 1999 impacts from HJR2.

Net BET Funding Requirement

	<u>Total Impact</u>	<u>General Fund</u>	<u>Long-Range Building</u>	<u>Local Government</u>
<u>REVENUE REDUCTIONS:</u>				
Repeal 95-Mills Levied for SEA:	(214,000,000)	(214,000,000)	0	0
-Associated Non-Levy Revenue:	(22,149,000)	(22,149,000)	0	0
Repeal 6-Mill University Levy:	(13,505,000)	(13,505,000)	0	0
- Associated Non-Levy Revenue:	(2,701,000)	(2,701,000)	0	0
Repeal Corporation Lic. Tax	(78,409,000)	(61,514,000)	(6,953,000)	(9,943,000)
Repeal Contractor's Gr.Rec.Tax	(1,520,000)	(1,520,000)	0	0
Repeal Elec.Energy Prod.Lic.Tax	(3,895,000)	(3,895,000)	0	0
Repeal Telephone Co. Lic. Tax	(5,560,000)	(5,560,000)	0	0
Repeal Cement Taxes	(140,000)	(140,000)	0	0
Repeal Insurance Premiums Tax	(43,664,000)	(32,525,000)	0	(11,139,000)
BET Individual Income Tax Cr.	(59,000,000)	(53,867,000)	(5,133,000)	0
<u>INCREASED SCHOOL FUNDING:</u>				
Base Budgets	(172,353,000)	(172,353,000)	0	0
<u>OFFSETTING REVENUE INCREASES:</u>				
Repeal HB20 Reimbursements	12,327,000	12,327,000	0	0
Repeal SB417 Reimbursements	<u>14,327,000</u>	<u>14,327,000</u>	<u>0</u>	<u>0</u>
NET BET FUNDING REQUIREMENT:	590,242,000	557,075,000	12,086,000	21,082,000

As the above estimates suggest, the provisions of HB613 would require a total revenue-neutral net funding requirement of \$590,242,000 from the BET provided for in the bill. At the rate provided for, 4%, this is probably an unrealistic assumption. In theory, a value-added tax produces revenue on the order of a general retail sales tax. Current revenue estimates of broad-based sales taxes in Montana estimate revenue to be on the order of \$500 million. It appears that the provisions of this particular draft of this bill may over-reach a VAT's revenue generating capability. However, a more accurate estimate of the revenue potential from a value-added tax is not possible until the data necessary is made available, and a thorough study conducted.

However, as the bill's sponsor has indicated, the reason for the delayed effective date of January 1, 2000 is to provide ample time for state agencies to develop more accurate estimates of the revenue potential from value-added taxes in Montana, the administrative impacts, and to amend specific provisions to allow property tax reductions and repeal of other business taxes commensurate with the potential revenue generation in a revenue-neutral fashion.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill repeals corporation license taxes. Approximately 13 percent of corporation license taxes accrue to local governments each year. The bill does not provide for replacement of these revenues to local governments.

The bill repeals the insurance premiums tax. Over a quarter of this tax is used to fund the retirement funds of local government services such as firemen and policemen. The bill makes no reference to the funding of these retirement funds, or to the means of replacing this funding for these funds.

The bill provides for the repeal of property taxes on livestock and certain business equipment. This may or may not have an impact on revenues to local governments, depending on the ability of these governments to increase mill levies sufficiently to offset the loss in taxable valuation stemming from the repeal.

TECHNICAL NOTES:

The bill repeals taxation of business equipment currently included in Class 8. However, property taxes would continue to apply to "personal property" remaining in other classes of property. Nevertheless, the bill, in several instances, deletes the reference to personal property in several statutes for taxation purposes, when taxation of personal property remaining in other classes would still be appropriate.

It is unclear how repealing the taxation of business equipment in Class 8 would affect the taxation of the personal property of railroads and airlines under the 4-Rs Act.