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## Voter Information Pamphlet for the June 8th Special Election on Legislative Referendum 111

Montana. Secretary of State

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# VOTER INFORMATION PAMPHLET FOR THE JUNE 8TH SPECIAL ELECTION ON LEGISLATIVE REFERENDUM 111

STATE DOCUMENTS

## Argument FOR Legislative Referendum 111

True tax reform for Montanans must provide significant reform of our income tax system and significant relief of both residential and personal property taxes. Referendum 111 provides real tax reform by reducing income and property taxes, stimulating Montana's economy, and providing jobs.

Montana must move away from its historic reliance on excessive property taxes, anti-competitive business taxes, and income taxes that continue to escalate. Montanans who create new businesses and new jobs are penalized under our current tax system. Referendum 111 is about jobs growth, expanded business activity, and an equitable tax system for Montana.

Referendum 111 is a less punitive and more progressive income tax proposal which provides for a single rate (6%) income tax structure with generous personal exemptions and standard deductions. A significant number of low-income families will no longer pay Montana income taxes. This simplified tax system eliminates many of the complexities that everyone presently faces when preparing their personal tax returns.

Homeowners will gain a \$20,000 exemption on their property taxes. A credit on the Montana income tax return, equal to the property tax paid on the first \$20,000 of market value on an owner-occupied residence, provides an average property tax savings of \$217. In addition, an average of 35 local education mills will be eliminated, resulting in a further 10% reduction in property taxes. Property tax relief for renters is provided through a \$150 renter's credit claimed on the Montana individual income tax return.

A reduction in the anti-competitive tax on equipment from 9% to 4.5% will

allow small Montana businesses to expand and add jobs. The drain of Montana businesses and Montana jobs to surrounding states will stop.

Referendum 111 uses a 4% sales tax to provide much needed tax relief and reform. Exemptions from the sales tax include: groceries, prescription items, medical services, wages and salaries, utilities, insurance premiums, interest and dividends, motor fuels, mineral interest, occasional sales (including garage sales and fundraisers for charitable groups), advertising services, transportation, day care services, private school tuition, and construction services. The cost of administering Referendum 111 is about 2% of the revenue collected - an extremely efficient and cost effective tax collection system.

A low-income sales tax credit of \$90 per individual is available for each member of a household when total income is below \$13,000. The \$150 renter's credit provides additional low-income relief. These credits are payable even if the individual pays no Montana income tax.

Referendum 111 is not a mechanism for new government programs or spending. The sales tax is capped at 4% and cannot be increased without another vote of the people. Referendum 111 provides a long-term solution to the present imbalance of Montana's fiscal structure and will enable Montana to fund necessary governmental services.

The PROPONENTS' argument and rebuttal were prepared by State Senator Bruce Crippen, State Representative Chase Hibbard, and State Senator Harry Fritz.

## Argument AGAINST Legislative Referendum 111

Montanans believe taxes should be based on a person's ability to pay and that corporations should shoulder their fair share of taxes to pay for the privilege of using the state's resources to make a profit. In the past 13 years, the Legislature has turned our tax policy upside-down, with low and middle-income taxpayers subsidizing huge tax breaks for corporations.

\* Montana lost \$141,400,000 of state revenue in the 1992-93 biennium alone (Legislative Fiscal Analyst), from tax loopholes promoted over the years by big business lobbyists.

\* Through the last 12 years, these subsidies cost Montanans over \$500,000,000! Most Montanans want to close these loopholes instead of shouldering another burdensome tax.

The proposed sales tax makes a bad situation worse, replacing \$125,000,000 in property taxes with sales taxes paid by Montana consumers. Although some property tax relief goes to homeowners and some renters, TWO-THIRDS OF THE BONANZA GOES TO BIG BUSINESSES, CORPORATIONS AND MAJOR LANDHOLDERS.

Individuals and families would pay for the bulk of these corporate tax cuts. The sales tax would raise your total state taxes ABOVE the amount you now pay for all taxes, including the new 6.7% flat income tax.

- \* Wealthiest families' taxes stay at 5.3% of their total income.
- \* Middle-income families' taxes jump from 7.9% to 8.9% of their total income.
- \* Poorer Montana families' taxes rise from 7.5% to 8.5% of their total income.

**IS THE SALES TAX ACTUALLY TAX REFORM? NO!** It does nothing to close existing tax loop holes or make taxes more fair.

**WILL THE SALES TAX REDUCE TAXES? NO!** It amounts to a 55% net

increase in tax collections! \$331,700,000 in new taxes! Furthermore, income and property taxes are deductible from federal taxes. Sales taxes are not. Under the sales tax, a family of four with an income of \$35,000 would see their total tax burden rise by 23%!

**WILL THE SALES TAX STOP TAX INCREASES? NO!** A cap on tax increases lasts until the first day of the next Legislature. When revenue is needed, sales tax exemptions will be eliminated one by one. The sales tax would also repeal 1-105, the property tax limitation law, allowing increases in property taxes.

**WILL THE SALES TAX HELP OUR SCHOOLS? NO!** It provides no additional money for schools. It just replaces permissive levies for debt service, retirement, and transportation.

**WILL THE SALES TAX HELP FAMILY FARMS AND RANCHES? NO!** It would increase taxes on ranchers and farmers for all equipment, parts, and repairs.

**WILL TOURISTS PAY A LARGE SHARE OF THE SALES TAX? NO!** Sales taxes from tourists would barely cover the costs of administering the tax. Tourists would pay about 7% of sales tax revenue, while Montana consumers and businesses would pay 93%.

**WILL THE SALES TAX HELP SOCIAL PROGRAMS? NO!** Not a dime of sales tax money would go to help Montanans with physical or mental health problems, or to abused children.

The sales tax is opposed by small business owners, family farmers, labor, and consumers.

*Join us June 8. Reject the 4% sales.*

The OPPONENTS' argument and rebuttal were prepared by State Senator Bill Yellowtail, State Representative Bill Strizich, and Superintendent of Public Instruction Nancy Keenan.

## PROPONENTS' rebuttal of argument opposing Legislative Referendum 111

The opponents of Referendum 111 want you to ignore the facts. They want you to buy worn-out arguments that have kept you and our children from good job opportunities right here at home.

**THE FACT IS:** R-111 reduces overall income taxes for everyone. Total income taxes for all Montana households would be reduced by about \$82 million a year.

**THE FACT IS:** The sales tax, capped by law at 4%, applies to less than half your purchases. For every four dollars raised, three will give you income and property tax relief and the fourth dollar will be used to pay for such things as education and human services.

**THE FACT IS:** Over \$50 million a year in sales tax revenue will come from out-of-state travelers and out-of-state businesses.

**THE FACT IS:** Montana's businesses will not receive "huge" tax breaks. There are no "loopholes." Businesses will, in fact, pay more taxes under R-111.

**THE FACT IS:** Tax reform is supported by small business, family farmers and education.

**THE MOST IMPORTANT FACT IS:** R-111 balances Montana's entire tax system. Property taxes will no longer be driven to levels that punish your family and destroy jobs. Instead, R-111 gives us a broad-based stable tax system that is fair to all and encourages the creation of new jobs for all of us, young and old.

Without tax reform, we will continue to export our future, our children, control of our state, and jobs to other places.

## OPPONENTS' rebuttal of argument supporting Legislative Referendum 111

*Let's compare the bottom lines.*

● While the sales tax plan contains some short-term tax relief in property and income taxes, in truth, **the total tax bill for families would be higher under this plan.** Middle-income Montanans would see the biggest increase.

● **The sales tax is not tax reform, but a direct tax shift,** cutting property taxes for big businesses; replacing them with a sales tax on families. Railroads and airlines would receive a \$7,280,000 property tax break, nearly \$5,000,000 for Burlington-Northern alone.

For years, big business lobbyists have claimed, with each additional corporate tax-break, that a stimulated economy and new jobs would result. After hundreds of millions of dollars in tax giveaways to big business since 1981, where are those jobs?

● The only jobs a sales tax would be sure to bring to Montana are the **148 new tax collectors** required to administer the sales tax.

● This tax scheme reduces county property tax mills, replacing them with state-controlled sales taxes. Therefore, it **reduces incentives for schools to control costs.** It gives no help to schools or local government, increasing pressure to raise local property taxes.

● The sales tax contains many loopholes for special interests. Besides much-advertised exemptions for groceries and medical services, it also contains less well-known **exemptions for the advertising industry, large mining companies, banks and the insurance industry.**

● **Referendum 111 is regressive tax policy.** It is unfair, long-term relief for corporations at the expense of Montana families.

### HOW THE ISSUE WILL APPEAR ON THE JUNE 8TH BALLOT

LEGISLATIVE REFERENDUM NO. 111

AN ACT REFERRED BY THE LEGISLATURE

AN ACT GENERALLY REVISING TAXATION; ENACTING A 4 PERCENT SALES AND USE TAX; ALLOWING EXEMPTIONS FROM THE SALES TAX AND USE TAX; EXEMPTING CERTAIN PROPERTY FROM TAXATION; REVISING DEBT LIMITS FOR LOCAL GOVERNMENTS AND SCHOOLS; REVISING INDIVIDUAL INCOME TAXES AND PROPERTY TAXES; ALLOWING CREDITS AGAINST INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; PROVIDING STATE SUPPORT FOR CERTAIN SCHOOL FUNDING; PROVIDING THAT THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE STATE AT A SPECIAL ELECTION; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-111, 15-6-133, 15-6-138, 15-6-141, 15-6-144, 15-6-207, 15-8-205, 15-23-703, 15-24-301, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126, 15-30-131, 15-30-137, 15-30-142, 15-30-177, 15-30-323, 15-31-131, 15-32-303, 15-36-112, 15-51-101, 16-1-306, 16-1-411, 16-2-301, 17-3-213, 19-11-503, 19-11-504, 20-3-205, 20-6-702, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-406, 20-9-407, 20-9-439, 20-9-501, 20-10-104, 20-10-141, 20-10-142, 20-10-144, 20-10-145, 20-15-311, 33-7-410, 61-3-303, 61-3-317, 61-3-502, 61-3-504, 61-3-506, 61-3-509, 61-3-701, AND 61-4-112, MCA; REPEALING SECTIONS 15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412, 15-30-121, 15-30-156, 15-30-157, 15-30-159, 15-30-160, AND 20-10-146, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

This proposal, submitted by the Legislature for a vote, would reduce income and property taxes and enact a 4% general sales and use tax. Exemptions include: groceries, prescriptions, medical services, tuition, wages, housing payments, utilities, daycare, transportation, and financial services; and exemptions for agriculture, mining, manufacturing, and non-profit organizations. It would set a 6% income tax rate and increase personal exemptions and standard deductions. Property tax reductions include: a \$20,000 homeowner exemption, business and utility tax reductions, and reduced levies for school funding. Low-income households and renters would receive refundable tax credits. It would repeal 1-105, the property tax freeze.

#### FISCAL STATEMENT

The proposal would:

1994-95 biennium  
impact (in millions)

Impose a 4% general sales tax	\$310
Reduce individual income taxes	(124)
Reduce corporation income taxes	(3)
Reduce property taxes	(125)
Increase state support of school funding	(48)
Increase electrical energy tax revenue	75

Net available to reduce state deficit \$85

FOR imposing a 4% sales tax and use tax as part of comprehensive tax reform.

AGAINST imposing a 4% sales tax and use tax as part of comprehensive tax reform.

**SECRETARY OF STATE'S NOTE: THE FOLLOWING IS THE COMPLETE TEXT OF LEGISLATIVE REFERENDUM 111. THE ACT'S COORDINATING INSTRUCTIONS, IN SECTION 187, REFERENCE SEVERAL BILLS CONSIDERED BY THE FIFTY-THIRD LEGISLATURE. THE STATUS OF THESE BILLS IS AS FOLLOWS: HOUSE BILL NO. 3, PASSED; SENATE BILL NO. 32, NOT PASSED; SENATE BILL NO. 168, PASSED; AND HOUSE BILL NO. 671, PASSED. IF YOU WOULD LIKE TO REVIEW THESE BILLS, YOUR COUNTY ELECTION ADMINISTRATOR HAS COPIES OF THESE BILLS AVAILABLE.**

## THE COMPLETE TEXT OF LEGISLATIVE REFERENDUM 111

AN ACT GENERALLY REVISING TAXATION; ENACTING A 4 PERCENT SALES AND USE TAX; ALLOWING EXEMPTIONS FROM THE SALES TAX AND USE TAX; EXEMPTING CERTAIN PROPERTY FROM TAXATION; REVISING DEBT LIMITS FOR LOCAL GOVERNMENTS AND SCHOOLS; REVISING INDIVIDUAL INCOME TAXES AND PROPERTY TAXES; ALLOWING CREDITS AGAINST INDIVIDUAL INCOME TAX LIABILITY; PROVIDING FOR DISTRIBUTION OF SALES TAX AND USE TAX REVENUE; PROVIDING STATE SUPPORT FOR CERTAIN SCHOOL FUNDING; PROVIDING THAT THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE STATE AT A SPECIAL ELECTION; AMENDING SECTIONS 7-1-2111, 7-3-1321, 7-6-2211, 7-6-4121, 7-6-4254, 7-7-107, 7-7-108, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-13-4103, 7-14-236, 7-14-2524, 7-14-2525, 7-14-4402, 7-16-2327, 7-16-4104, 7-31-106, 7-31-107, 7-34-2131, 15-1-111, 15-6-133, 15-6-138, 15-6-141, 15-6-144, 15-6-207, 15-8-205, 15-23-703, 15-24-301, 15-30-101, 15-30-103, 15-30-105, 15-30-111, 15-30-112, 15-30-117, 15-30-122, 15-30-126, 15-30-131, 15-30-137, 15-30-142, 15-30-177, 15-30-323, 15-31-131, 15-32-303, 15-36-112, 15-51-101, 16-1-306, 16-1-411, 16-2-301, 17-3-213, 19-11-503, 19-11-504, 20-3-205, 20-6-702, 20-9-331, 20-9-333, 20-9-343, 20-9-344, 20-9-346, 20-9-347, 20-9-351, 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-406, 20-9-407, 20-9-439, 20-9-501, 20-10-104, 20-10-141, 20-10-142, 20-10-144, 20-10-145, 20-15-311, 33-7-410, 61-3-303, 61-3-317, 61-3-502, 61-3-504, 61-3-506, 61-3-509, 61-3-701, AND 61-4-112, MCA; REPEALING SECTIONS 15-10-401, 15-10-402, 15-10-406, 15-10-411, 15-10-412, 15-30-121, 15-30-156, 15-30-157, 15-30-159, 15-30-160, AND 20-10-146, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

### STATEMENT OF INTENT

In consideration of the legislative action on the sales tax, it is the intent of the legislature to provide a comprehensive sales tax reform package that brings balance to the Montana tax structure and makes Montana competitive with other states.

In recognition of the uncertainty of the fiscal impact of a 4% sales tax, it is the intent of the legislature that all funds in excess of estimates pursuant to 5-18-107 be used exclusively for reductions in property and income taxes.

The priority for use of any excess funds will be:

(1) reduction of mill levies used for school equalization; and

(2) reduction of income taxes.

A statement of intent is required for this bill because the department of revenue is granted authority to adopt rules for the administration and enforcement of the sales tax and use tax. The rules

are intended to provide for an efficient process for the collection of the taxes, with minimum expense to both the taxpayer and the state.

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

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

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

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

(4) the use of the nontaxable transaction certificate and clarification of any exemption from the taxes, including nontaxable sales;

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

(6) the definition of terms and establishment of procedures as appropriate for efficient administration of the sales tax and use tax;

(7) procedures for the timely and efficient transfer of revenue to local governments and schools as replacement revenue for the reduced property tax base and property tax revenue; and

(8) procedures for payment of the sales tax and use tax based on bracket amounts rather than using a rounding method.

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

Section 1. **Definitions.** For purposes of [sections 1 through 71], unless the context requires otherwise, the following definitions apply:

(1) "Arboretums and botanical or zoological gardens" means establishments that are created for the exhibition of plants or animals and that are not operated for profit.

(2) "Construction services" means the services performed by various trades engaged in the construction of dwellings, commercial buildings, farm buildings, and similar structures. The term includes but is not limited to carpentry, plumbing, the installation of heating systems and air conditioning, electrical work, masonry, excavating, and concrete work. The term does not include indirect services, such as accounting, architectural design, engineering, drafting, leasing of construction equipment, and surveying services.

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

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

(5) "Food product for human consumption":

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

(b) does not mean or include:

(i) medicine or preparations, in liquid, powdered, granular, bottled, capsule, lozenge, or pill form, sold as a dietary supplement or adjunct not prescribed by a licensed physician;

(ii) carbonated water or soft drinks marketed in containers;

(iii) chewing gum;

(iv) candies or confectioneries; or

(v) seeds and plants to grow foods.

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

(7) (a) "Manufactured home" means a structure that:

(i) is not an improvement to real property;

(ii) is transportable in one or more sections;

(iii) when erected on site is 320 square feet or more;

(iv) is designed to be used as a dwelling with a permanent foundation when connected to the required utilities; and

(v) contains plumbing, heating, and electrical systems.

(b) The term also includes structures that:

(i) do not meet the size requirements of subsection (7)(a)(iii) but for which the manufacturer voluntarily filed the certification required by the secretary of housing and urban development; and

(ii) comply with the standards required under 42 U.S.C. 5401, et seq.

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

(9) "Medical services" means a service:

(a) performed by a person licensed to practice a health care profession or health care occupation licensed under Title 37 or licensed as a mental health professional or certified under Title 53, chapter 24, as a chemical dependency counselor as a regular part of the person's business activities; and

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

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

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

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

(11) (a) "Membership organization" means an organization that operates on a membership basis, that requires the payment of dues to hold membership, and that is not operated for profit. The term includes but is not limited to an organization:

(i) that is engaged in promoting the business interests of its members, including an association that is owned by its members and that is organized to perform a specific business function;

(ii) that is composed of professional persons;

(iii) that is composed of workers organized for the purpose of improvement of wages and working conditions;

(iv) that is engaged in civic, social, or fraternal activities;

(v) that is established to promote the interests of a national, state, or local political party or candidate, including a group organized to raise funds for a political party or candidate; and

(vi) that is operated for worship, religious training or study, or government or administration of an organized religion or for promotion of religious activities.

(b) The term does not include an organization that provides sporting or recreational services to its members, such as a country club or a golf or tennis club.

(12) "Museums and art galleries" means establishments that are created for the exhibition of curiosities or works of art and that are not operated for profit.

(13) "Permit" means a seller's permit as described in [section 48].

(14) "Person" means:

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

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

(15) "Sale", "selling", or "buying" means the transfer of property for consideration or the performance of a service for consideration.

(16) (a) "Sales price", in addition to the other meanings provided in this subsection (16), means the total amount of money or the value of other consideration, except trade-in property of like kind, received from selling property in Montana, from leasing property used in Montana, or from performing services in Montana. The term includes all consideration from the sale of property handled on consignment but excludes cash discounts allowed and taken and any type of time-price differential.

(b) In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, sales price means the reasonable value of the property or service exchanged.

(c) (i) Except as provided in [section 55], when the sale of property or services is made under any type of charge or conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor shall treat the sales price, excluding any type of time-price differential, under the contract as the sales price at the time of the sale.

(ii) If the seller or lessor transfers an interest in a contract referred to in subsection (16)(c)(i) to a third person, the third person or lessee shall pay the sales tax or use tax upon the full sale or leasing contract amount, excluding any type of time-price differential.

(d) Sales price includes the total commissions or fees derived from the business of buying, selling, or promoting the purchase, sale, or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond, or security.

(e) Sales price includes all amounts paid by members of a cooperative association or similar organization for sales or leases of personal property or performance of services by the organization.

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

(18) (a) "Service" means an activity that is engaged in for another person for consideration and that is distinguished from the sale or lease of property. The term includes:

(i) activities performed by a person for its members or shareholders; and

(ii) construction activities and all tangible personal property that will become an ingredient or component part of a construction project.

(b) In determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties is irrelevant.

(19) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event that the service address is not a specific location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems, and similar systems, service address means the location of a taxpayer's primary use of telecommunications equipment as determined by a telephone number, authorization code, or location in Montana where the taxpayer's telecommunications services bills are sent.

(20) "Social or family services organizations" means establishments that provide social or family services and rehabilitation services to persons with social or personal problems or to handicapped or disadvantaged persons and that are not operated for profit. These services include but are not limited to counseling services, senior citizen centers, youth centers, job counseling and training services, vocational rehabilitation services, and homes for physically and mentally handicapped persons.

(21) "Therapeutic and prosthetic devices" includes but is not limited to prescription eyeglasses, contact lenses, dentures, hearing aids, wheelchairs, crutches, or artificial limbs, prescribed, ordered, or dispensed by a person licensed to perform medical services.

(22) "Transportation services" means the transportation of persons or property by air, ground, or water. The term includes any reasonably necessary associated services for the transportation of persons or property.

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

**Section 2. Imposition and rate of sales tax and use tax -- exceptions.** (1) Except as provided in subsections (5) and (6), a sales tax of 4% is imposed on all sales of property or services. The tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The seller holds all taxes collected in trust for the state. The tax must be applied to the sales price.

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

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

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

(c) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside of the exterior boundaries of an Indian reservation within this state; or

(d) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (1) or the use tax imposed by subsection (2)(b) or (2)(c) but which transaction,

because of the buyer's subsequent use of the property, is subject to the sales tax or use tax.

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

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

(5) (a) The sales tax or use tax on a motor vehicle is imposed by 61-3-502 and 61-3-504(4). The sale or use of a vehicle subject to the tax imposed under 61-3-502 or 61-3-504(4) is exempt from the sales tax and use tax imposed under this section.

(b) The sale of property or services exempt or nontaxable under [sections 1 through 71] is exempt from the tax imposed in subsections (1) through (3).

(6) (a) A sales tax of 2.5% is imposed upon the sales of all new or used mobile homes, as defined in 15-1-101, and on all manufactured homes, as defined in [section 1], that are not an improvement to real property. The tax is imposed on the purchaser and must be collected by the seller and paid to the department by the seller. The tax must be applied to the sales price. The seller holds all taxes collected in trust for the state.

(b) For the privilege of using a new or used mobile home or manufactured home in this state, there is imposed on the person using the property a use tax equal to 2.5% of the value of a home that was:

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

(ii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside of the exterior boundaries of an Indian reservation within this state; or

(iii) acquired as the result of a transaction that was not initially subject to the sales tax imposed by subsection (6)(a) or the use tax imposed by subsection (6)(b)(i) but which transaction, because of the buyer's subsequent use of the property, is subject to the sales tax or use tax.

(c) The provisions of [sections 1 through 71] apply to this subsection except as specifically provided in this subsection.

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

(a) all sales by a person engaging in business are subject to the sales tax or use tax; and

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

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

(3) The department shall adopt rules providing for the payment of the sales tax and use

tax based on a bracket amount method rather than a rounding method or other method.

**Section 4. Separate statement of tax -- no advertising to absorb or refund tax.** (1) If any person collects a tax in excess of the tax imposed by [section 2], both the tax and the excess tax must be remitted to the department.

(2) The sales tax must be stated separately for all sales, except for sales from coin-operated or currency-operated machines.

(3) A person may not advertise, hold out, or state to the public or to any customer that the tax imposed by [sections 1 through 71] will be absorbed or refunded.

**Section 5. Liability of user for payment of sales tax or use tax.** (1) A person in this state who buys or uses property or services is liable to the state for payment of the sales tax or use tax if a tax is payable on the sales price or value of the property or services but has not been paid.

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

**Section 6. Collection of sales tax and use tax -- listing of business locations and agents -- severability.** (1) A person engaged in the business of selling property or services subject to taxation under [sections 1 through 71] shall collect the sales tax from the purchaser and pay the tax collected to the department.

(2) (a) A person who solicits or exploits the consumer market in this state by regularly and systematically performing an activity within this state and whose sales are not subject to the sales tax shall collect the use tax from the purchaser and pay the tax collected to the department.

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

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

(ii) canvassing;

(iii) demonstrating;

(iv) collecting money;

(v) warehousing or storing merchandise;

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

(vii) soliciting orders for property or services by means of telecommunication or a television shopping system or by providing telecommunication services that use toll or toll-free numbers and that are intended to be broadcast by cable television or other means to consumers in this state;

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

(ix) soliciting orders for property or services by mail, through the distribution of catalogs, periodicals, advertising flyers, or other advertising;

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

(xi) any act that benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or that benefits from the location in this state of authorized installation, servicing, or repair facilities; or

(xii) the acceptance by a for-profit entity of hazardous waste, as defined in 75-10-403, or infectious waste, as defined in 75-10-1003, for treatment, disposal, or incineration.

(3) As used in [sections 1 through 71], "maintaining an office or other place of business"

means:

(a) any person having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or place of business; or

(b) any agent operating within this state under the authority of the person or its subsidiary, whether the place of business or agent is located in the state permanently or temporarily or whether or not the person or subsidiary is authorized to do business within this state.

(4) A person engaging in business in this state shall, before making any sales, obtain a seller's permit as provided in [section 48] and at the time of making a sale, whether within or outside of the state, collect the tax imposed by [section 2] from the purchaser and give to the purchaser a receipt, in the manner and form prescribed by rule, for the tax paid.

(5) The department may authorize the collection of the tax imposed by [section 2] by any retailer who does not maintain a place of business within this state but who, to the satisfaction of the department, is in compliance with the law. When authorized, the person shall collect the tax upon all property and services that, to the person's knowledge, are for use within this state and subject to taxation under [sections 1 through 71].

(6) All sales tax and use tax required to be collected and all sales tax and use tax collected by any person under [sections 1 through 71] constitute a debt owed to this state by the person required to collect the tax.

(7) A person selling property or services to residents of this state, when the property is delivered to a location within this state or when the use of the service occurs within this state, shall, upon request by the department, provide a list of all sales to the department. The list must include the name and address of each purchaser and the amount of each sale. The department may pay to any person furnishing a list of sales or purchasers the reasonable costs of reproducing the list.

(8) A person engaging in business in this state shall provide to the department:

(a) the name and address of all the person's agents operating in this state; and

(b) the location of each of the person's distribution houses or offices, sales houses or offices, and other places of business in this state.

(9) If any application of this section is held invalid, the application to other situations or persons is not affected.

(10) Publishers who contract for newspaper delivery services shall include the sales tax in the newspaper subscription price and shall collect and pay the tax to the department. The contract carrier is not responsible for collection of the sales tax and payment to the department.

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

(2) A nontaxable transaction certificate must contain the information and be in the form prescribed by the department.

(3) Only a buyer or lessee who has registered with the department and whose seller's permit is valid may execute a nontaxable transaction certificate.

(4) If the seller or lessor accepts a nontaxable transaction certificate within the required time and believes in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate is considered conclusive evidence that the sale is nontaxable.

**Section 8. Nontaxable transaction certificate -- form.** (1) The department shall provide

for a uniform nontaxable transaction certificate. A purchaser shall use the certificate when purchasing goods or services for resale or for other nontaxable transactions.

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

(a) the number of the seller's permit issued to the purchaser as provided in [section 48];

(b) the general character of property or service sold by the purchaser in the regular course of business or the category of nonprofit organization of the purchaser;

(c) the property or service purchased;

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

(e) a signature line for the purchaser.

(3) The department shall adopt rules to provide procedures for application for and provision of a nontaxable transaction certificate prior to [the applicability date of this section]. The rules adopted by the department should ensure that each eligible person who has applied in a timely fashion is issued a nontaxable transaction certificate prior to [the applicability date of this section].

**Section 9. Exemption -- government agencies.** All sales by, sales to, or uses by the United States, an agency or instrumentality of the United States or of this state, a political subdivision of this state, an Indian tribe, or a foreign government are exempt from the sales tax and use tax.

**Section 10. Exemption -- utility services.** (1) The sale of natural gas, water, electricity, telephone communications services, refuse collection and disposal, or other utility services is exempt from the sales tax and use tax.

(2) For purposes of this section, the term "utility services" does not include services provided by a cable television system as that term is defined in 35-18-102.

**Section 11. Exemption -- food products.** (1) Except as provided in subsection (2), the sale or use of food products for human consumption is exempt from the sales tax and use tax.

(2) The sale of food products sold in the following manner is subject to the sales tax:

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

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

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

(d) food products sold for immediate consumption, even though the products are sold on a "takeout", "to go", or "U-bake" order and are actually packaged or wrapped and taken from the premises of the retailer;

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

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

(3) The sale of food or a food service offered or delivered as part of a residential living arrangement and consumed by a person who is party to the arrangement is exempt from the sales tax and use tax.

**Section 12. Exemption -- special supplemental food program for women, infants, and children.** The sale of food purchased under the special supplemental food program for women, infants, and children (WIC) as specified in 42 U.S.C. 1786, as amended, is exempt from the sales tax and use tax.

**Section 13. Exemption -- nursing homes.** All sales to or uses by a nursing facility subject to the utilization fee for bed days in nursing facilities

provided for in 15-60-102 are exempt from the sales tax and use tax.

**Section 14. Exemption -- prescribed medicine, drugs, and certain devices -- medical services.** (1) Medicine, drugs, insulin, contraceptives, and therapeutic and prosthetic devices are exempt from the sales tax and use tax.

(2) The following are exempt from the sales tax and use tax:

- (a) medical services;
- (b) any service reasonably related to the delivery of a medical service:

(i) by or at a health care facility as defined in 50-5-101; or

(ii) by or at the office of a physician, a mental health professional, or a dentist.

**Section 15. Exemption -- wages.** Except as provided in [sections 1 through 71], wages, salaries, commissions, and any other form of remuneration for personal services are exempt from the sales tax if paid by an employer to an employee.

**Section 16. Exemption -- agricultural products -- livestock feeding.** (1) (a) The sale of livestock, live poultry, unprocessed agricultural products, hides, or pelts by a grower, producer, trapper, or nonprofit marketing association is exempt from the sales tax.

(b) A person engaged in the business of buying and selling wool or mohair or of buying and selling livestock on the person's own account and without the services of a broker, auctioneer, or other agent is considered a producer for the purposes of subsection (1)(a).

(2) Sales from feeding, pasturing, penning, or handling or training livestock prior to sale are exempt from the sales tax.

**Section 17. Exemption -- gambling and amusement services.** All gambling or amusement services, including live games, video games, horseracing, and lotteries, which are licensed pursuant to Title 23, chapter 4, 5, or 7, are exempt from the sales tax and use tax.

**Section 18. Exemption -- insurance premiums.** The premiums of an insurance company, a health service corporation, or a fraternal benefit society or of an agent of the company, corporation, or society are exempt from the sales tax.

**Section 19. Exemption -- dividends, commissions and interest.** The following are exempt from the sales tax:

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

(4) commissions or fees, derived from the business of buying, selling, or promoting any stock, bond, security, or contract of insurance.

**Section 20. Exemption -- fuel.** The sale and use of gasoline, ethanol blended for fuel, and special fuel, including natural gas or propane, upon which tax has been paid or will be paid under Title 15, chapter 70, is exempt from the sales tax and use tax.

**Section 21. Exemption -- isolated or occasional sale or lease of property or services.** The isolated or occasional sale or lease of property, other than a vehicle, or the performance of a service by a person who is not regularly engaged in or who does not claim to be engaged in the business of selling or leasing the same or a similar property or service is exempt from the sales tax and use tax. Occasional sales include sales that are occasional but not continuous and that are made for the purpose of fundraising by nonprofit organizations, including but not limited to youth clubs, service clubs, and fraternal organizations.

**Section 22. Exemption -- oil, gas, and mineral interests.** The sale or lease of interests in minerals, as defined in 15-38-103, is exempt from

the sales tax and use tax.

**Section 23. Exemption -- minerals.** (1) Except as provided in subsection (2), the sale or use by a miner or by a producer of a mineral or by a broker acting on behalf of a miner or producer of a mineral, as defined in 15-38-103, is exempt from the sales tax and use tax.

(2) Minerals that are used for producing energy or that are used for conversion into energy are subject to the sales tax and use tax unless the energy is produced or converted for resale as a form of energy.

(3) Minerals used by the producer of the minerals for purposes of exploring for, producing, or transporting minerals are exempt from the sales tax and use tax except that the exemption does not include refined petroleum products.

**Section 24. Exemption -- personal effects.** The use by an individual of personal or household effects brought into the state for the establishment by the individual of an initial residence in this state and the use of property brought into the state by a nonresident for the nonresident's own nonbusiness use while temporarily within this state is exempt from the use tax.

**Section 25. Exemption -- advertising services.** The sale or use of advertising services, including the actual creation or development of the advertising, is exempt from the sales tax and use tax. For purposes of this section, "advertising services" includes but is not limited to all advertising by:

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

**Section 26. Exemption -- day-care services.** The sale or use of day-care services is exempt from the sales tax and use tax.

**Section 27. Exemption -- feed, fertilizers, and agricultural services.** (1) The sale or use of feed for livestock, fish raised for human consumption, poultry, or animals raised for their hides or pelts; semen, ova, or embryos used in animal husbandry; seeds; Christmas trees; roots; bulbs; soil conditioners; fertilizers; insecticides; insects used to control the population of other insects; fungicides; weedicides; herbicides; or irrigation water for the production of agricultural products in commercial quantities is exempt from sales tax and use tax.

(2) The sale or use of an agricultural service is exempt from the sales tax and use tax.

**Section 28. Exemption -- certain chemicals, reagents, and substances.** (1) The sale or use by any person of any chemical, reagent, or other substance that is normally used or consumed in the processing of ores or hydrocarbons at the extraction site; in a mill, smelter, refinery, or reduction facility; or in acidizing oil wells is exempt from the sales tax and use tax.

(2) The sale or use of explosives, blasting material, or dynamite is not exempt under this section.

**Section 29. Exemption -- sale of certain services of mining or manufacturing.** The sale or use of the service of mining, manufacturing, combining, or processing components or materials, including minerals, is exempt from the sales tax and use tax.

**Section 30. Exemption -- transportation services.** The sale or use of transportation services is exempt from the sales tax and use tax.

**Section 31. Exemption -- private school tuition.** Tuition charged for attending a private educational institution that is exempt from taxation under section 501(c)(3) of the Internal Revenue

Code is exempt from the sales tax and use tax.

**Section 32. Exemption -- construction services.** The sale or use of construction services for the construction, fabrication, or remodeling of residential or commercial buildings is exempt from the sales tax and use tax.

**Section 33. Exemption -- rehabilitation services.** The sale or use of rehabilitation services, as defined in 39-71-1011(6), to or by a disabled worker is exempt from the sales tax and use tax.

**Section 34. Exemption -- sales by social or family services organizations.** The sale of property and services by a social or family services organization is exempt from the sales tax and use tax.

**Section 35. Exemption -- sales by museum, art gallery, arboretum, or botanical or zoological garden.** The sale of property and services by museums and art galleries and by arboretums and botanical or zoological gardens is exempt from the sales tax and use tax.

**Section 36. Exemption -- sales by membership organization.** The sale of property and services by a membership organization is exempt from the sales tax and use tax.

**Section 37. Nontaxability -- certain nonprofit organizations.** (1) All sales to or uses by an organization not operated for gain or profit and which may have property exempt from property taxation under 15-6-201 are nontaxable.

(2) In the case of a sale, the buyer must deliver a nontaxable transaction certificate.

**Section 38. Nontaxability -- sale of property for resale.** The sale of property is nontaxable if:

- (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller; and
- (2) the buyer resells the property either by itself or in combination with other property in the ordinary course of business and the property will be subject to the sales tax.

**Section 39. Nontaxability -- sale of service for resale.** (1) The sale of a service for resale is nontaxable if:

- (a) the sale is made to a person who delivers a nontaxable transaction certificate;
- (b) except as provided in subsection (2), the buyer resells the service and separately states the value of the service purchased in the charge for the service in the subsequent sale; and
- (c) the subsequent sale is in the ordinary course of business and subject to the sales tax.

(2) The requirement in subsection (1)(b) to separately state the value of the service purchased for resale does not apply to the sale of telephone services.

**Section 40. Nontaxability -- sale to miner or manufacturer.** (1) The sale of property to a buyer engaged in the business of mining or manufacturing is nontaxable if:

- (a) the buyer delivers a nontaxable transaction certificate to the seller; and
- (b) the buyer incorporates the property as an ingredient or component part of the product in the business of mining or manufacturing.

(2) For the purposes of this section, electrical energy or electricity used or consumed by electrolytic reduction used in the reduction or refinement of ores is considered a component part of the product.

**Section 41. Nontaxability -- sale of tangible personal property for leasing.** The sale of property, other than coin-operated or currency-operated machines, and mobile homes purchased in this state is nontaxable if:

- (1) the sale is made to a buyer who delivers a nontaxable transaction certificate to the seller;
- (2) the buyer is engaged in a business deriving more than 50% of its receipts from leasing property of the type sold; and

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

**Section 42. Lease for subsequent lease.** (1) The lease of property, other than furniture or appliances, and the rental or lease of property, other than coin-operated or currency-operated machines, and mobile homes, is nontaxable if:

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

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

(2) For the purposes of this section, the rental or lease by a person of a motion picture or a motion picture trailer for display on theater premises is considered a lease for subsequent lease.

**Section 43. Nontaxability -- sale or lease of real property and lease of mobile homes.** (1) (a) The sale or lease of real property or improvements is nontaxable.

(b) The lease or rental of a mobile home for a period of 1 month or more is nontaxable.

(2) The inclusion of furniture or appliances furnished by the landlord or lessor as part of a leased or rented dwelling, house, mobile home, cabin, condominium, or apartment is nontaxable.

**Section 44. Nontaxability -- transactions in interstate commerce -- certain property used in interstate commerce -- exception.** (1) A transaction in interstate commerce is nontaxable to the extent that the imposition of the sales tax or use tax would be unlawful under the United States constitution.

(2) The following are also nontaxable:

(a) transmitting messages or conversations by radio when the transmissions originate from a point outside this state and are received at a point within this state; and

(b) the sale of radio or television broadcast time if the advertising message is supplied by or on behalf of a national or regional seller or an advertiser that does not have its principal place of business in this state or that is not incorporated under the laws of this state.

(3) The sale or lease of a vehicle with a gross vehicle weight in excess of 46,000 pounds used primarily in interstate commerce and registered under 61-3-721 is nontaxable.

**Section 45. Nontaxability -- sale of certain services to out-of-state buyer.** (1) Except as provided in subsection (3), sales of a service are not taxable if the sale is made to a buyer who delivers to the seller either a nontaxable transaction certificate or other evidence acceptable to the department that the transaction and the person who delivers the nontaxable transaction certificate or other evidence acceptable to the department meet the conditions set out in subsection (2).

(2) Sales of a service are not taxable if the buyer of the service, any of the buyer's employees, or any person in privity with the buyer:

(a) does not make initial use of the product or the service in this state;

(b) does not take delivery of the product or the service in this state; or

(c) concurrent with the performance of the service, does not have a regular place of work in this state or spend more than brief and occasional periods of time in this state and:

(i) does not have any communication in this state related in any way to the subject matter, performance, or administration of the service with the person performing the service; or

(ii) does not personally perform work in this state related to the subject matter of the service.

(3) Architectural, engineering, surveying, or graphic design services are nontaxable if the product resulting from the service or the service is used or

applied exclusively outside of Montana. For the purposes of this subsection, the provisions of subsection (2) do not apply.

(4) Services that initially were nontaxable under this section but that no longer meet the criteria in subsection (2) are nontaxable only for the period prior to the disqualification and are, after disqualification, taxable.

**Section 46. Nontaxability -- use of property for leasing.** The value of leased property is not considered in computing the use tax due if the person holding the property for lease:

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

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

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

**Section 47. Credit -- out-of-state taxes.** If a sales, use, or similar tax has been levied by another state or a political subdivision of another state on property that was bought outside this state but that will be used or consumed in this state and the tax was paid by the current user, the amount of tax paid may be credited against any use tax due this state on the same property. The credit may not exceed the sales tax or use tax due this state.

**Section 48. Seller's permit.** (1) A person wishing to engage in business in this state shall obtain a seller's permit before engaging in business in this state.

(2) Upon an applicant's compliance with [sections 1 through 71], the department shall issue to the applicant a separate, numbered seller's permit for each place of business within Montana. A permit is valid until revoked or suspended but is not assignable. A permit is valid only for the person in whose name it is issued and for the transaction of business at the place designated. The permit must be conspicuously displayed at all times at the place for which it is issued.

(3) The department shall adopt rules to provide procedures for application for and provision of a seller's permit to a person engaging in business in this state prior to [the applicability date of this section]. The rules adopted by the department should ensure that each person engaging in business in this state prior to [the applicability date of this section] is issued a seller's permit prior to [the applicability date of this section].

**Section 49. Permit application -- requirements -- place of business -- form.** (1) (a) A person desiring to engage in the business of making retail sales or providing services in Montana shall file with the department an application for a permit. If the person has more than one place of business, an application may include multiple locations.

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

(c) An applicant who does not have a regular place of business and who moves from place to place is considered to have only one place of business and shall attach the permit to the applicant's cart, stand, truck, or other merchandising device.

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

(3) Each application for a permit must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information

that the department may require. The application must be filed by the owner if the owner is a natural person, by a member or partner if the owner is an association or partnership, or by a person authorized to sign the application if the owner is a corporation.

**Section 50. Revocation or suspension of permit -- hearing -- notice -- appeal.** (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any permit held by a person who fails to comply with the provisions of [sections 1 through 71].

(2) The department shall provide written notice and an opportunity for a hearing on a proposed revocation or suspension. The hearing must be conducted informally and is not subject to the Montana Administrative Procedure Act.

(3) If a permit is revoked, the department may not issue a new permit except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections 1 through 71]. The department may require security in addition to that authorized by [section 59] in an amount reasonably necessary to ensure compliance with [sections 1 through 71] as a condition for the issuance of a new permit to the applicant.

(4) A person aggrieved by the department's final decision to revoke a permit as provided in subsection (1) may appeal the decision to the state tax appeal board within 30 days following the date on which the department issued its final decision.

(5) A decision of the state tax appeal board may be appealed to the district court.

**Section 51. Improper use of subject of purchase obtained with nontaxable transaction certificate -- penalty.** (1) If a purchaser who uses a nontaxable transaction certificate uses the subject of the purchase for a purpose other than one allowed as nontaxable under [sections 1 through 71], the use is considered a taxable sale as of the time of first use by the purchaser and the sales price is the price the purchaser paid. If the sole nonexempt use is rental while holding for sale, the purchaser shall include in the sales price the amount of the rental charged. Upon subsequent sale of the property, the seller shall include the entire amount of the sales price, without deduction of amounts previously received as rentals.

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

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

**Section 52. Commingling nontaxable certificate goods.** If a purchaser uses a nontaxable transaction certificate with respect to the purchase of fungible goods and commingles these goods with fungible goods that were not purchased with a nontaxable transaction certificate but that are of such similarity that the identity of the goods in the commingled mass cannot be determined, sales from the mass of commingled goods are considered to be sales of the goods purchased with the certificate until the quantity of commingled goods sold equals the quantity of goods originally purchased under the certificate.

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

(2) A retailer who does not maintain a place of business in this state is liable for the sales tax or use tax in accordance with [sections 1 through 71] and may be required to furnish adequate security as provided in [section 59] to ensure collection and payment of the taxes. When authorized and except as otherwise provided in [sections 1 through 71], the



retailer is liable for the taxes upon all property sold and services provided in this state in the same manner as a retailer who maintains a place of business within this state. The seller's permit provided for in [section 48] may be canceled at any time if the department considers the security inadequate or believes that the taxes can be collected more effectively in another manner.

(3) An agent, canvasser, or employee of a retailer doing business in this state who does not possess a seller's permit issued by the department may not sell, solicit orders for, or deliver any property or services in Montana. If an agent, canvasser, or employee violates the provisions of [sections 1 through 71], the person is subject to a fine of not more than \$100 for each separate transaction or event.

**Section 54. Interstate and intrastate carriers as retailers.** A person engaged in the business of intrastate or interstate transportation of property or passengers shall register as a retailer and pay the taxes imposed by [sections 1 through 71].

**Section 55. Application for permission to report on accrual basis.** (1) A person who has a seller's permit may apply to the department for permission to report and pay the sales tax or use tax on an accrual basis.

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

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

**Section 56. Returns — payment — authority of department.** (1) Except as provided in subsection (2), on or before the 15th day of each month in which the tax imposed by [sections 1 through 71] is payable, a return, on a form provided by the department, and payment of the tax for the preceding month must be filed with the department. Every person engaged in business in this state or using property in this state that is subject to tax under [sections 1 through 71] shall file a return. A person making retail sales at two or more places of business shall file a separate return for each separate place of business.

(2) A person who has a tax liability that averages less than \$100 per month may report and pay the tax imposed by [sections 1 through 71] on a quarterly basis and shall file a return with payment on or before the 15th day of the month following the end of the quarter.

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

- (i) a retailer required to collect the tax; and
- (ii) a person who:

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

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

(b) Each return must be authenticated by the person filing the return or by the person's agent authorized in writing to file the return.

(4) (a) A person required to collect and pay to the department the taxes imposed by [sections 1 through 71] shall keep records, render statements, make returns, and comply with the provisions of [sections 1 through 71] and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of [sections 1 through 71], the department is authorized to examine or cause to be examined any books, papers, records, or memorandums relevant to making a determination of the amount of tax due, whether the books, papers, records, or memorandums are the property of or in

the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

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

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

(iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;

(iv) take testimony on matters material to the determination; and

(v) administer oaths or affirmations.

(5) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

**Section 57. Credit for taxes paid on worthless accounts — taxes paid if account collected.** (1) Sales taxes paid on an accrual basis by a person filing a return under [section 56] on sales represented by accounts found to be worthless and actually deducted by the person as a bad debt for federal income tax purposes may be credited on a subsequent payment of the tax.

(2) If the accounts are subsequently collected, the sales tax must be paid on the amount collected.

**Section 58. Vendor allowance.** (1) (a) Beginning April 1, 1994, and ending March 31, 1995, a person filing a return under [section 56] may claim a monthly vendor allowance for each permitted location in the amount of 4% of the tax determined to be payable to the state or \$100 per month, whichever is less.

(b) A person filing a quarterly return may claim 4% of the tax determined to be payable to the state or \$300 per quarter, whichever is less.

(c) The allowance may be deducted on the return.

(2) (a) Beginning April 1, 1995, and thereafter, a person filing a return under [section 56] may claim a monthly vendor allowance for each permitted location in the amount of 2.5% of the tax determined to be payable to the state or \$100 per month, whichever is less.

(b) A person filing a quarterly return may claim 2.5% of the tax determined to be payable to the state or \$300 per quarter, whichever is less.

(c) The allowance may be deducted on the return.

**Section 59. Security — limitations — sale of security deposit at auction — bond.** (1) The department may require a retailer to deposit, with the department, security in a form and amount that the department determines is appropriate. The deposit may not be more than twice the estimated average liability for the period for which the return is required to be filed or \$10,000, whichever is less. The amount of security may be increased or decreased by the department, subject to the limitations provided in this section.

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

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

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

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

to guarantee solvency and responsibility.

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

**Section 60. Examination of return — adjustments — delivery of notices and demands.** (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 56] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 30 days after notice of the amount and demand for payment is mailed or delivered to the person making the return, unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

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

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

**Section 61. Penalties and interest for violation.** (1) (a) If a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 71], fails to file a return and pay the tax on or before the due date, there must be imposed a penalty of 5% of the balance of debt unpaid with respect to the return as of the due date, but in no event may the penalty for failure to file a return by its due date be less than \$20. The department may abate the penalty if the person establishes that the failure to file on time was due to reasonable cause and was not due to neglect by the taxpayer.

(b) If a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 71], fails to pay a debt on or before its due date, there must be added to the debt a penalty of 10% of the debt, but not less than \$20, and interest must accrue on the debt at a rate of 1% per month or fraction of a month for the entire period the debt remains unpaid. The department may abate the penalty if the person establishes that the failure to pay was due to reasonable cause and was not due to neglect by the taxpayer. The department shall adopt rules that define reasonable cause.

(2) If a person purposely or knowingly violates any requirement imposed by [sections 1 through 71] by failing to file a return or to pay a debt, there must be added to the debt an additional amount equal to 25% of the debt, but not less than \$50, and interest at 1% for each month or fraction of a month during which the debt remains unpaid.

**Section 62. Authority to collect delinquent taxes.** (1) (a) The department shall collect taxes that are delinquent as determined under [sections 1 through 71].

(b) If a tax imposed by [sections 1 through 71] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer

from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

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

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

**Section 63. Interest on deficiency – penalty.** (1) Interest accrues on unpaid or delinquent taxes at the rate of 1% for each month or fraction of a month during which the taxes remain unpaid. The interest must be computed from the date the return and tax were originally due.

(2) If the payment of a tax deficiency is not made within 30 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added to the amount of the deficiency a penalty of 10% of the tax, but in no case less than \$25.

**Section 64. Limitations.** (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of [sections 1 through 71], a deficiency may not be assessed or collected with respect to a month or quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

(3) The limitations prescribed for giving notice of a proposed assessment of additional tax under subsection (1) do not apply if:

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

(i) only as long as the suspension of the federal statute of limitations; or

(ii) until 1 year after any changes in the person's federal tax have become final or any amended federal return is filed as a result of a suspension of the federal statute, whichever occurs later; or

(b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by 15-30-146 or 15-31-506 until 5 years after the federal changes become final or the amended federal return was filed, whichever the case may be.

**Section 65. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 1 through 71] must be filed within 5 years of the date the return was due, without regard to any extension of time for filing.

(2) (a) Interest on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes in [section 63].

(b) Except as provided in subsection (2)(c), interest must be paid from the date the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is credited or refunded within 6 months of the date a claim was filed; or

(ii) the amount of overpayment and interest

does not exceed \$1.

**Section 66. Administration – rules.** The department shall:

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

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

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 71].

**Section 67. Revocation of corporate license – hearing authorized – appeal.** (1) If a corporation authorized to do business in this state and required to pay the taxes imposed under [sections 1 through 71] fails to comply with any of the provisions of [sections 1 through 71] or any rule of the department, the department may, for reasonable cause, certify to the secretary of state a copy of an order finding that the corporation has failed to comply with specific statutory provisions or rules.

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

(3) An order authorized in this section may not be made until the corporation is given an opportunity to be heard before the department. A hearing conducted under this section is informal.

(4) A final decision of the department may be appealed to the state tax appeal board.

**Section 68. Taxpayer quitting business – liability of successor.** (1) (a) All taxes payable under [sections 1 through 71] are due and payable immediately whenever a taxpayer quits business or sells out, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

(b) The taxpayer shall make a return and pay the taxes due within 10 days after the taxpayer quits business or sells out, exchanges, or otherwise disposes of the business or disposes of the stock of goods.

(2) Except as provided in subsection (4), a person who becomes a successor is liable for the full amount of the tax and shall withhold from the sales price payable to the taxpayer a sum sufficient to pay any tax due until the taxpayer produces either a receipt from the department showing payment in full of any tax due or a statement from the department that tax is not due.

(3) If a tax is due but has not been paid as provided in subsection (1)(b), the successor is liable for the payment of the full amount of tax. The payment of the tax by the successor is considered to be a payment upon the sales price and, if the payment is greater in amount than the sales price, the amount of the difference becomes a debt due to the successor from the taxpayer owing the tax under subsection (1).

(4) (a) A successor is not liable for any tax due from the person from whom the successor acquired a business or stock of goods if:

(i) the successor gives written notice to the department of the acquisition; and

(ii) an assessment is not issued by the department against the former operator of the business within 6 months of receipt of the notice from the successor.

(b) If an assessment is issued by the department as provided in subsection (4)(a)(ii), a copy of the assessment must also be mailed to the successor, or if an assessment is not mailed to the successor, the successor is not liable for the tax due.

**Section 69. Tax as debt.** (1) The tax imposed by [sections 1 through 71] and related

interest and penalties become a personal debt of the person required to file a return from the time the liability arises, regardless of when the time for payment of the liability occurs.

(2) The debt of the personal representative of the estate of a decedent or a fiduciary is limited to the person's official or fiduciary capacity. However, if the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the taxes, interest, and penalties, the person is personally liable for any deficiency.

(3) The officer or employee of a corporation whose duty it is to collect, truthfully account for, and pay to the state the amounts imposed by [sections 1 through 71] and who fails to pay the tax is liable to the state for the amounts imposed by [sections 1 through 71] and the penalty and interest due on the amounts.

**Section 70. Information – confidentiality – agreements with another state.** (1) (a) Except as provided in subsections (2) and (3), it is unlawful for an employee of the department or any other public official or public employee to divulge or otherwise make known information that is disclosed in a report or return required to be filed under [sections 1 through 71] or information that concerns the affairs of the person making the return and that is acquired from the person's records, officers, or employees in an examination or audit.

(b) This section may not be construed to prohibit the department from publishing statistics if they are classified in a way that does not disclose the identity and content of any particular return or report. A person violating the provisions of this section is subject to the penalty provided in 15-30-303 for violating the confidentiality of individual income tax information.

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

(b) In order to implement the provisions of [sections 1 through 71], the department may furnish information on a reciprocal basis to the taxing officials of another state, provided that the information remains confidential under statutes in the state receiving the information that are similar to this section.

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

**Section 71. Sales tax and use tax account.**

(1) There is within the state special revenue fund a sales tax and use tax account.

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

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

**Section 72. Disposition of sales tax and use tax revenue.** (1) Sales tax and use tax revenue deposited in the sales tax and use tax account established in [section 71] must be distributed according to the provisions of subsection (2) and is allocated as follows:

(a) the amount determined under 15-1-111(5) through (7) and (13) and [section 125] to provide property tax replacement revenue for each taxing jurisdiction;

(b) the amount appropriated to the department of revenue in [House Bill No. 2] for the purpose of administering [this act]; and

(c) the amount of sales tax and use tax revenue remaining after the allocations in subsections (1)(a) and (1)(b) is allocated in the same manner as income tax revenue is allocated under 15-1-501(2).

(2) (a) Except as provided in subsection (1)(c), distribution of sales tax and use tax revenue must be made according to the provisions of the statute governing allocation of the tax in effect on the last day of the tax period in which the activity, enterprise, or product being taxed was engaged in, took place, was assembled, or was produced.

(b) All taxes collected pursuant to audit or collected after the date the tax is payable must be distributed according to the statute governing allocation of the tax in effect on the date the taxes are collected.

(c) For the fiscal year ending June 30, 1994, only \$57 million, plus vendor allowances and administrative costs, may be distributed from the sales tax and use tax account, and for the fiscal year ending June 30, 1995, only \$250 million, plus vendor allowances and administrative costs, may be distributed from the sales tax and use tax account. Any amount in excess of those amounts for each fiscal year must remain in the account to be used by the 54th legislature for the reduction of mill levies used for school equalization and the reduction of income taxes.

**Section 73. Renters' property tax credit - definitions.** As used in [sections 73 through 80], the following definitions apply:

(1) "Claimant" means an individual natural person who is eligible under [section 74] to file a claim.

(2) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(3) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of the homestead pursuant to an arm's-length transaction with the landlord.

(4) "Homestead" means a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling.

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

(6) "Rent equivalent" means a rental payment paid by a governmental agency to a lessor or landlord.

**Section 74. Renters' property tax credit - eligibility.** (1) In order to be eligible to make a claim under [sections 73 through 80], an individual:

(a) must have resided in Montana for at least 9 months of the period for which the claim is made; and

(b) except as provided in [section 78], must have occupied one or more dwellings in Montana as a renter or lessee for at least 6 months of the claim period.

(2) An individual is not disqualified as a claimant because of a change of residence during the claim period, provided that the claimant occupies one or more dwellings in Montana as a renter or lessee for at least 6 months during the claim period.

**Section 75. Renters' property tax credit - filing date.** (1) Except as provided in subsection (2), a claim must be submitted at the same time that the claimant's individual income tax return is due. For a claimant not required to file a tax return, the

claim must be submitted on or before April 15 of the year following the year for which relief is sought.

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

(3) If an individual who would have a claim under [sections 73 through 80] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

**Section 76. Renters' property tax credit - form of relief.** (1) The credit under [sections 73 through 80] is a credit against the claimant's Montana individual income tax liability for the claim period.

(2) (a) If the amount of credit exceeds the claimant's tax liability under this chapter by \$1 or more, the amount of the excess must be refunded to the claimant. If the excess is less than \$1, the department may not make a refund.

(b) The credit may be claimed even though the claimant does not have income taxable under this chapter.

**Section 77. Renters' property tax credit.** (1) The amount of the tax credit granted under the provisions of [sections 73 through 80] is the amount of gross rent paid during the claim period or \$150, whichever is less.

(2) In the case of a claimant who owned and rented the homestead during the claim period, the credit is prorated by dividing the amount of time the homestead was rented by the claimant by the number of months in the period for which a claim is made and then multiplying the quotient by the amount of credit allowed to the claimant under subsection (1).

(3) (a) For tax year 1994, the amount of credit allowed under this section is equal to the amount allowed under subsection (1), prorated by the number of months during the claim period that the sales tax and use tax were in effect.

(b) Except as provided in subsection (2), for tax years beginning after December 31, 1994, the amount of credit allowed under this section is equal to the full amount allowed under subsection (1).

**Section 78. Renters' property tax credit - limitations.** (1) Only one claimant per household is entitled to a credit in a claim period.

(2) A claim may not be allowed for any portion of rent, lease, or rent equivalent paid that is derived from a public rent or tax subsidy program.

(3) A claim may not be allowed on rented lands or rented dwellings that were not subject to ad valorem taxes in Montana during the claim period.

(4) A claimant who receives a residential property tax credit for the elderly under 15-30-171 through 15-30-179 is not entitled to receive the renters' property tax credit under [sections 73 through 80] for the same tax year.

**Section 79. Renters' property tax credit - proof of claim.** A receipt showing gross rent paid for the claim period must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support the claim.

**Section 80. Renters' property tax credit - denial of claim - penalty - interest.** If a false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears interest, at the rate of 1% a month or fraction of a month, from the date of the original payment of the claim until paid.

**Section 81. Homeowners' tax credit - definitions.** As used in [sections 81 through 88], the following definitions apply:

(1) "Claimant" means an individual natural person who is eligible under [section 82] to file a

claim.

(2) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(3) "Homestead" means a single-family residence owned on the last day of the claim period by a Montana resident or being purchased under a contract for deed by a Montana resident. The residence may not have been leased or rented by the owner or purchaser for more than 3 months.

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

**Section 82. Homeowners' tax credit - eligibility.** In order to be eligible to make a claim under [sections 81 through 88], an individual:

(1) must have resided in Montana for at least 6 months of the period for which the claim is made; and

(2) must have occupied the homestead as the owner or contractor for deed for at least 6 months of the claim period.

**Section 83. Homeowners' tax credit - filing date.** (1) Except as provided in subsection (2), a claim must be submitted at the same time that the claimant's individual income tax return is due. For a claimant not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which the credit is claimed.

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

(3) If an individual who would have a claim under [sections 81 through 88] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

**Section 84. Homeowners' tax credit - form of relief.** (1) The credit under [sections 81 through 88] is a credit against the claimant's Montana individual income tax liability for the claim period.

(2) (a) If the amount of credit exceeds the claimant's tax liability under this chapter by \$1 or more, the amount of the excess must be refunded to the claimant. If the excess is less than \$1, the department may not make a refund.

(b) The credit may be claimed even though the claimant does not have income taxable under this chapter.

**Section 85. Homeowners' tax credit.** (1) The amount of the tax credit granted under the provisions of [sections 81 through 88] is the amount that results from multiplying the lesser of the market value of the homestead or \$20,000 by the tax rate applicable to property described in 15-6-134(1)(b), and by multiplying the resulting product by the total mill levy applied to the homestead, as shown on the November tax statement for the claim period.

(2) For tax year 1994, the amount of credit allowed under this section is equal to the amount allowed under subsection (1), prorated by the number of months during the claim period that the sales tax and use tax were in effect.

(3) For tax years beginning after December 31, 1994, the amount of credit allowed under this section is equal to the full amount under subsection (1).

**Section 86. Homeowners' tax credit - limitations.** (1) Only one claimant per household is entitled to a credit in a claim period.

(2) A claim is not allowed for a homestead that is not subject to ad valorem taxes in Montana during the claim period.

(3) A claimant who receives a residential property tax credit for the elderly under 15-30-171

through 15-30-179 is not entitled to receive the homeowners' tax credit under [sections 81 through 88] for the same tax year.

**Section 87. Homeowners' credit -- proof of claim.** A copy of the November tax statement for the claim period must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support the claim.

**Section 88. Homeowners' tax credit -- denial of claim -- penalty -- interest.** If a false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears interest, at the rate of 1% a month or fraction of a month, from the date of the original payment of the claim until paid.

**Section 89. Credit for sales tax and use tax -- definitions.** As used in [sections 89 through 93], the following definitions apply:

(1) "Claimant" means an individual natural person who is eligible under [section 90] to file a claim.

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

- (a) 100% of the gains on all sales;
- (b) alimony, child support, or any other type of maintenance payments;
- (c) cash public assistance and relief, excluding the face value of all food stamps received;
- (d) life insurance and endowment contracts;
- (e) social security and the gross amount of any pension or annuity, including railroad retirement benefits and veterans' disability benefits;
- (f) unemployment and workers' compensation benefits;
- (g) all tax refunds; and
- (h) any monetary benefits defined as income in the Internal Revenue Code or by this chapter.

(3) "Household" means an association of individuals who live in the same dwelling and who share its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

**Section 90. Credit for sales tax and use tax.** (1) Except as provided in subsection (2), there is allowed a credit, as provided in subsections (3) through (5), against tax liability for each resident or part-year resident who files an individual Montana income tax return under this chapter. The credit may be claimed even though the resident does not have taxable income under this chapter.

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

- (a) is an inmate of a public institution for more than 6 months during the tax year for which the tax credit is claimed;
- (b) is not physically present in Montana for at least 6 months during the tax year for which the tax credit is claimed; or
- (c) has gross household income in excess of \$13,000.

(3) A credit is allowed in the amount of \$90 per exemption for each exemption claimed under 15-30-112(2) and (5).

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

(5) (a) For tax year 1994, the amount of credit allowed under this section is equal to the amount determined under subsection (3), multiplied by the number of months during the tax year that the

sales tax and use tax were in effect, and divided by 12.

(b) For tax years beginning after December 31, 1994, the amount of credit allowed under this section is equal to the full amount determined under subsection (3).

**Section 91. Credit for sales tax and use tax -- filing date -- extension.** (1) Except as provided in subsection (2), a claim for a credit must be submitted at the same time that the claimant's individual income tax return is due. For a claimant not required to file a tax return, a claim must be submitted on or before April 15 of the year following the year for which the credit is claimed. The claimant shall provide the social security number for each exemption, except dependent children under 1 year of age, for which the credit is claimed.

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

(3) If an individual who would have a claim under [sections 89 through 93] dies before filing the claim, the personal representative of the estate of the decedent may file the claim.

**Section 92. Examination of credit claims -- adjustments -- delivery of notices and demands.** (1) The department may examine a claim for a credit and may make an investigation of the records and accounts of a claimant if the department considers it necessary to determine the accuracy of the claim.

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

(3) If the credit due is less than the amount claimed as due by the claimant, the excess must be paid to the department within 60 days after notice and demand for payment is mailed to the claimant.

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

- (a) sent to the claimant at the address given on the claim, if any, or to the claimant's last-known address; or
- (b) served personally upon the claimant.

**Section 93. Penalties for violation.** (1) If a claimant, without purposely or knowingly, as those terms are defined in 45-2-101, violating the provisions of [section 90 or 91], receives a credit for which the claimant is not entitled, there must be added a penalty of 10% of the amount of excess, but the penalty may not be less than \$20. Interest in the amount of 1% per month or fraction of a month on the amount of excess must be added to the penalty until the debt is satisfied.

(2) If a claimant purposely or knowingly violates the provisions of [sections 91 or 92], future claims for credits may be denied by the department.

**Section 94.** Section 33-7-410, MCA, is amended to read:

**"33-7-410. Taxation.** (1) A society organized or licensed under this chapter is a charitable and benevolent institution, and all of its funds are exempt from all state, county, district, municipal, and school taxes other than taxes on real estate and office equipment and sales taxes and use taxes as provided in subsection (2).

(2) (a) To the extent that sales are generated from ongoing business operations of the society, the sales of a society organized or licensed under this chapter are subject to the sales tax and use tax pursuant to [sections 1 through 7], to a resort tax imposed under 7-6-4464, and to a resort area tax imposed under 7-6-4468.

(b) Dues paid by members of the society and isolated or occasional sales, as described in

[section 21], of the society are exempt from taxation."

Section 95. Section 7-1-2111, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(d) the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, plus the value of any other production occurring after December 31, 1988, multiplied by 60%; and

(e) 6% 7.3% of the taxable value of the county on January 1 of each tax year beginning after December 31, 1993."

Section 96. Section 7-3-1321, MCA, is amended to read:

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

(2) The municipality may not become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 28% 34% of the taxable value of the taxable property therein, as ascertained by the last assessment for state and county taxes prior to incurring such indebtedness. All warrants, bonds, or obligations in excess of such amount given by or on behalf of the municipality shall be void."

Section 97. Section 7-6-2211, MCA, is amended to read:

**"7-6-2211. Authorization to conduct county business on a cash basis.** (1) In case the total indebtedness of a county, lawful when incurred,

exceeds the debt limit of ~~23%~~ established in 7-7-2101 by reason of great diminution of taxable value, the county may conduct its business affairs on a cash basis and pay the reasonable and necessary current expenses of the county out of the cash in the county treasury derived from its current revenue and under such restrictions and regulations as may be imposed by the board of county commissioners of the county by a resolution duly adopted and included in the minutes of the board.

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

Section 98. Section 7-6-4121, MCA, is amended to read:

**"7-6-4121. Authorization to conduct municipal business on a cash basis.** (1) In case the total indebtedness of a city or town has reached ~~47%~~ 20.5% of the total taxable value of the property of the city or town subject to taxation, as ascertained by the last assessment for state and county taxes, the city or town may conduct its affairs and business on a cash basis as provided by subsection (2).

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

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

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

Section 99. Section 7-6-4254, MCA, is amended to read:

**"7-6-4254. Limitation on amount of emergency budgets and appropriations.** (1) The total of all emergency budgets and appropriations made therein in any one year and to be paid from any city fund may not exceed ~~38%~~ 46.5% of the total amount which could be produced for such city fund by a maximum levy authorized by law to be made for such fund, as shown by the last completed assessment roll of the county.

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

Section 100. Section 7-7-107, MCA, is amended to read:

**"7-7-107. Limitation on amount of bonds for city-county consolidated units.** (1) Except as provided in 7-7-108, no city-county consolidated local government may issue bonds for any purpose which, with all outstanding indebtedness, may exceed ~~39%~~ 47.5% of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional

indebtedness but is merely the changing of the evidence of outstanding indebtedness."

Section 101. Section 7-7-108, MCA, is amended to read:

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

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

Section 102. Section 7-7-2101, MCA, is amended to read:

**"7-7-2101. Limitation on amount of county indebtedness.** (1) No county may become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding ~~23%~~ 28% of the total of the taxable value of the property therein subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, plus the value of any other production occurring after December 31, 1988, multiplied by 60%, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness.

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

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

Section 103. Section 7-7-2203, MCA, is amended to read:

**"7-7-2203. Limitation on amount of bonded indebtedness.** (1) Except as provided in subsections (2) through (4), no county may issue general obligation bonds for any purpose which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~41.25%~~ 13.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, plus the value of any other production occurring after December 31, 1988, multiplied by 60%, to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds.

(2) In addition to the bonds allowed by subsection (1), a county may issue bonds which, with all outstanding bonds and warrants, will not exceed ~~27.75%~~ 34% of the total of the taxable value of the property in the county subject to taxation, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and

multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, when necessary to do so, plus the value of any other production occurring after December 31, 1988, multiplied by 60% for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes.

(3) In addition to the bonds allowed by subsections (1) and (2), a county may issue bonds for the construction or improvement of a jail which will not exceed ~~42.5%~~ 15% of the taxable value of the property in the county subject to taxation.

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

Section 104. Section 7-7-4201, MCA, is amended to read:

**"7-7-4201. Limitation on amount of bonded indebtedness.** (1) Except as otherwise provided, no city or town may issue bonds or incur other indebtedness for any purpose in an amount which with all outstanding and unpaid indebtedness will exceed ~~28%~~ 34% of the taxable value of the property therein subject to taxation, to be ascertained by the last assessment for state and county taxes.

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

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

Section 105. Section 7-7-4202, MCA, is amended to read:

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

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both such purposes, including all indebtedness theretofore contracted which is unpaid or outstanding, may not in the aggregate exceed 55% over and above the ~~28%~~ debt limit referred to in 7-7-4201, of the taxable value of the property therein subject to taxation as ascertained by the last assessment for state and county taxes."

Section 106. Section 7-13-4103, MCA, is amended to read:

**"7-13-4103. Limitation on indebtedness for acquisition of natural gas system.** The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~47%~~ 20.5% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes."

Section 107. Section 7-14-236, MCA, is amended to read:

**"7-14-236. Limitation on bonded indebtedness.** The amount of bonds issued to provide funds for the district and outstanding at any time shall not exceed ~~28%~~ 34% of the taxable value of taxable property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds."

Section 108. Section 7-14-2524, MCA, is amended to read:

**"7-14-2524. Limitation on amount of bonds issued -- excess void.** (1) Except as otherwise provided hereafter and in 7-7-2203 and 7-7-2204, a county may not issue bonds which, with all outstanding bonds and warrants except county high school bonds and emergency bonds, will exceed ~~11.25%~~ 13.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, plus the value of any other production occurring after December 31, 1988, multiplied by 60%. The taxable property and the amount of interim production and new production taxes levied must be ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(2) A county may issue bonds which, with all outstanding bonds and warrants except county high school bonds, will exceed ~~11.25%~~ 13.5% but will not exceed ~~22.5%~~ 27.5% of the total of the taxable value of such property, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, plus the value of any other production occurring after December 31, 1988, multiplied by 60% when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county, except county high school bonds, shall not exceed ~~22.5%~~ 27.5% of the total of the taxable value of the property within the county, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, plus the value of any other production occurring after December 31, 1988, multiplied by 60%, as ascertained by the last preceding general assessment."

Section 109. Section 7-14-2525, MCA, is amended to read:

**"7-14-2525. Refunding agreements and refunding bonds authorized.** (1) Whenever the total indebtedness of a county exceeds ~~22.5%~~ 27.5% of the total of the taxable value of the property therein, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612 multiplied by 60%, plus the value of any other production occurring after December 31, 1988, multiplied by 60%, and the board determines that the county is unable to pay the indebtedness in full, the board may:

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

(b) enter into such agreement;

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

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

(3) The plan agreed upon between the

board and the bondholders shall be embodied in full in the resolution providing for the issue of the bonds."

Section 110. Section 7-14-4402, MCA, is amended to read:

**"7-14-4402. Limit on indebtedness to provide bus service.** The total amount of indebtedness authorized under 7-14-4401(1) to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~28%~~ 34% of the total taxable value of the property of the city or town subject to taxation as ascertained by the last assessment for state and county taxes. No money may be borrowed or bonds issued for the purposes specified in 7-14-4401(1) until the proposition has been submitted to the vote of the taxpayers of the city or town and the majority vote cast in its favor."

Section 111. Section 7-16-2327, MCA, is amended to read:

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

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, must not at any time exceed ~~13%~~ 16% of the total of the taxable value of the taxable property in the county, plus the amount of interim production and new production taxes levied divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%, plus the amount of value represented by new production exempted from tax as provided in 15-23-612, plus the value of any other production occurring after December 31, 1988, multiplied by 60%, ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness.

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

Section 112. Section 7-16-4104, MCA, is amended to read:

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

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

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

(c) for furnishing and equipping the same.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed ~~16.5%~~ 20% of the taxable value of the taxable property of the city or town as ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness. No money may be borrowed on bonds issued for the purchase of lands and improving the same for any such purpose until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor thereof."

Section 113. Section 7-31-106, MCA, is amended to read:

**"7-31-106. Authorization for county to**

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

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

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

(2) The amount of the bonds authorized by this section may not exceed ~~22.5%~~ 27.5% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained by the last assessment for state and county taxes previous to the issuance of said bonds and incurring of said indebtedness."

Section 114. Section 7-31-107, MCA, is amended to read:

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

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

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

(2) The amount of the bonds authorized by this section may not exceed ~~16.5%~~ 20% of the taxable value of the taxable property therein, inclusive of the existing indebtedness thereof, to be ascertained in the manner provided in this part."

Section 115. Section 7-34-2131, MCA, is amended to read:

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

(b) The amount of bonds issued for such purpose and outstanding at any time may not exceed ~~22.5%~~ 27.5% of the taxable value of the property therein as ascertained by the last assessment for state and county taxes previous to the issuance of such bonds.

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

(2) (a) A hospital district may borrow money by the issuance of notes to provide funds to finance the costs described in subsection (1) and to finance the working capital requirements of the district. The notes must be authorized and in a form and terms prescribed by a resolution adopted by the board of trustees. The notes must mature over a term not to exceed 15 years.

(b) The principal and interest on the notes must be paid from the taxes levied pursuant to 7-34-2133 and 7-34-2134, exclusive of the taxes levied to pay bonds issued in accordance with subsection (1), and all other revenue of the district. The annual amount of principal and interest payable on notes in

any fiscal year must be included in the district's budget for that year.

(c) The notes may be secured by a mortgage of or a security interest in all or part of the district's assets and by a pledge of the taxes and revenue of the district, or either of them.

(d) Notes may not be issued unless the projected annual revenue of the district, including the taxes levied pursuant to 7-34-2133 and 7-34-2134 but exclusive of the taxes levied to pay bonds, is at least equal to the sum of the cost of operating and maintaining the hospital district plus the maximum amount of principal and interest due in any future fiscal year on the notes proposed to be issued and all notes outstanding upon the issuance of the proposed notes.

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

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

**"19-11-503. Special tax levy for fund required.** (1) The purpose of this section is to provide a means by which each disability and pension fund may be maintained at a level equal to ~~4%~~ 4.9% of the taxable valuation of all taxable property within the limits of the city or town.

(2) Whenever the fund contains less than ~~4%~~ 4.9% of the taxable valuation of all taxable property within the limits of the city or town, the governing body of the city or town shall, at the time of the levy of the annual tax, levy a special tax as provided in 19-11-504. The special tax must be collected as other taxes are collected and, when so collected, must be paid into the disability and pension fund.

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

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

**"19-11-504. Amount of special tax levy.** Whenever the fund contains an amount which is less than ~~4%~~ 4.9% of the taxable valuation of all taxable property in the city or town, the city council shall levy an annual special tax of not less than 1 mill and not more than 4 mills on each dollar of taxable valuation of all taxable property within the city or town."

Section 118. Section 20-9-406, MCA, is amended to read:

**"20-9-406. Limitations on amount of bond issue.** (1) (a) ~~The Except as provided in subsection (1)(c),~~ the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is ~~45%~~ 55% of the taxable value of the property subject to taxation as ascertained by the last completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, including:

(i) ~~the taxable value of coal gross proceeds as determined for county bonding purposes in 15-23-703(2);~~

(ii) ~~the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3); and~~

(iii) ~~the amount of the value of any other oil and gas production occurring after December 31, 1988, multiplied by 60%, including the taxable value of oil and gas net proceeds as determined for county bonding purposes in 15-23-607(3).~~

(b) ~~The Except as provided in subsection (1)(c),~~ the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including

all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation as ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness. The total indebtedness of the high school district with an attached elementary district ~~as represented by the issuance of bonds~~ must be limited to the sum of ~~45%~~ 55% of the taxable value of the property for elementary school program purposes and ~~45%~~ 55% of the taxable value of the property for high school program purposes.

~~(c) The maximum amount for which an elementary district or a high school district that qualifies for guaranteed tax base aid under the provisions of 20-9-367 may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 55% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 55% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.~~

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

Section 119. Section 20-9-407, MCA, is amended to read:

**"20-9-407. Industrial facility agreement for bond issue in excess of maximum.** (1) In a school district within which a new major industrial facility which seeks to qualify for taxation as class five property under 15-6-135 is being constructed or is about to be constructed, the school district may require, as a precondition of the new major industrial facility qualifying as class five property, that the owners of the proposed industrial facility enter into an agreement with the school district concerning the issuing of bonds in excess of the ~~45%~~ debt limitation prescribed in 20-9-406. Under such an agreement, the school district may, with the approval of the voters, issue bonds which exceed the limitation prescribed in this section by a maximum of ~~45%~~ the debt limitation prescribed in 20-9-406 of the estimated taxable value of the property of the new major industrial facility subject to taxation when completed. The estimated taxable value of the property of the new major industrial facility subject to taxation shall be computed by the department of revenue when requested to do so by a resolution of the board of trustees of the school district. A copy of the department's statement of estimated taxable value shall be printed on each ballot used to vote on a bond issue proposed under this section.

(2) Pursuant to the agreement between the new major industrial facility and the school district and as a precondition to qualifying as class five property, the new major industrial facility and its

owners shall pay, in addition to the taxes imposed by the school district on property owners generally, so much of the principal and interest on the bonds provided for under this section as represents payment on an indebtedness in excess of the limitation prescribed in 20-9-406. After the completion of the new major industrial facility and when the indebtedness of the school district no longer exceeds the limitation prescribed in this section, the new major industrial facility shall be entitled, after all the current indebtedness of the school district has been paid, to a tax credit over a period of no more than 20 years. The credit shall as a total amount be equal to the amount which the facility paid the principal and interest of the school district's bonds in excess of its general liability as a taxpayer within the district.

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

Section 120. Section 15-1-111, MCA, is amended to read:

**"15-1-111. Reimbursement to local governments and schools -- duties of department and county treasurer -- statutory appropriation.**

(1) (a) ~~On or before May 1, 1990, the department of revenue shall remit to the county treasurer of each county 30% of the reimbursement amount specified in subsection (1)(b), as computed by the department. The department shall base the reimbursement on the reduction in personal property tax revenues due to the reduction in personal property tax rates for class eight property, as provided for in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145. The reimbursement basis must also include loss of personal property tax revenue due to the reclassification of new industrial property from class five to class eight with the reduced tax rate. The determination of the reimbursement basis must be made in the year in which the reclassification is made.~~

(b) ~~The reimbursement revenue must be based on the county's taxable value and mill levies for tax year 1989. Prior to November 1 of each year, the department of revenue shall determine for each county the number of mills levied for the current tax year in each taxing jurisdiction levying mills against personal property.~~

(2) ~~Prior to September 1, 1990, the department's agent in the county shall supply the following information to the (a) The department for shall determine the amount of taxable value lost within each taxing jurisdiction within the county:~~

(a) ~~the number of mills levied in the jurisdiction for taxable year 1989;~~

(b) ~~the number of mills levied in the jurisdiction for taxable year 1990;~~

(c) ~~the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property not secured by real property; and~~

(d) ~~the total taxable valuation for taxable years 1989 and 1990, reported separately for each year, of all personal property secured by real property, because of the reduction in personal property tax rates for property included in class eight, class nine, and class ten, as those classes existed in 1989. The determination must be based on 1989 taxable values for class eight, class nine, and class ten property as reported to the department by each taxing jurisdiction that existed in 1989, less the taxable value for the same property in 1989 as determined by the 1991 tax rate for property included in 15-6-138.~~

(b) The department shall calculate the taxable value lost in a taxing jurisdiction as a result of a reduction in the taxable value rate in 15-6-145 that results from a reduction in taxable value of property under 15-6-138.

(c) The amount of reimbursement is calculated by multiplying the current year mill levy for each taxing jurisdiction times the total amount of taxable value lost as determined in subsections (2)(a) and (2)(b).

(3) After receipt of the information from its agent, the department shall calculate the amount of revenue lost to each taxing jurisdiction, using current year mill levies, due to the annual reduction in personal property tax rates set forth in 15-6-138, and any reduction in taxes based upon recalculation of the effective tax rate for property in 15-6-145. The department shall total the amounts for all taxing jurisdictions within the county.

(4) For taxable year 1990 and for each year thereafter, the department shall remit to the county treasurer 50% of the base amount of revenue reimbursable, determined pursuant to subsection (3), as follows:

(a) (2), on or before November 30, 1990, and on or before each November 30 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county; and

(b) the remaining 50% on or before May 31, 1991, and on or before each May 31 thereafter, the department shall remit 50% of the base amount of the revenue reimbursable to the county.

(5) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement to each taxing jurisdiction in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as current year mill levies on personal property taxes are distributed.

(6) For the purposes of this section, "taxing jurisdiction" means local governments and includes school districts, each municipality with tax increment financing, and the state of Montana.

(5) Prior to December 31, 1993, for each county, the department shall determine the following information for each taxing jurisdiction that was in existence in tax year 1993:

(a) the number of mills levied in each taxing jurisdiction for tax year 1993; and

(b) the total taxable valuation for tax year 1993 of all property included in class eight.

(6) (a) (i) Based on the information determined under subsection (5), the department shall calculate the revenue loss for each taxing jurisdiction because of the change in the tax rate provided for in 15-6-138 and the reduction in commercial property market value provided for in 15-6-134.

(ii) For purposes of this section, revenue loss for each taxing jurisdiction is:

(A) the taxable value of all class eight property computed at the statutory tax rate in effect for tax year 1993 less the taxable value of all class eight property computed at the tax rate provided for in 15-6-138;

(B) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1993.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(7) (a) Prior to May 1, 1994, the department shall remit to each county treasurer 30% of the total reimbursement due under this section to compensate taxing jurisdictions for loss of revenue associated with class eight personal property not secured by real property. The county treasurer shall distribute the total reimbursement to each taxing jurisdiction as calculated by the department.

(b) The amount of reimbursement due from the state to each county for tax years 1994, 1995,

and 1996 is the total revenue loss calculated under subsections (5) and (6). The county treasurer shall distribute the total revenue loss to each taxing jurisdiction as calculated by the department.

(c) The amount of total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined by using the formula  $R = A \times (B/C) \times (D/E) \times (F/G)$ , where:

(i) "R" is the amount of reimbursement to be received by the county for the current tax year;

(ii) "A" is the total statewide amount available for reimbursement and is determined by totaling the amount of reimbursement, "R", for all counties for the immediately preceding tax year. For tax year 1997, the total statewide amount available for reimbursement is the total revenue loss calculated in subsection (6) for all counties in tax year 1996.

(iii) "B" is the statewide total of all sales taxes and use taxes collected in the tax year immediately preceding the current tax year;

(iv) "C" is the statewide total of all sales taxes and use taxes collected in the tax year prior to the tax year immediately preceding the current tax year;

(v) "D" is the total taxable value of all commercial property in class four and all property in class eight within the county during the tax year immediately preceding the current tax year;

(vi) "E" is the total taxable value of all commercial property in class four and all property in class eight in the state during the tax year immediately preceding the current tax year;

(vii) "F" is the average countywide millage and is determined by dividing the amount of revenue collected in property taxes within all jurisdictions in the county in the immediately preceding tax year by the total taxable value of all property in the county in the immediately preceding tax year; and

(viii) "G" is the average statewide millage and is determined by dividing the amount of revenue collected in property taxes within all jurisdictions in the state in the immediately preceding tax year by the total taxable value of all property in the state in the immediately preceding tax year.

(8) Funds appropriated from the sales tax and use tax account for reimbursements calculated under subsections (5) through (7) for tax year 1994 and subsequent tax years must be remitted to the county treasurer as follows:

(a) on or before November 30, 1994, and on or before each November 30 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county; and

(b) on or before May 31, 1995, and on or before each May 31 thereafter, the department shall remit 50% of the amount of the revenue reimbursable to the county.

(9) (a) Upon receipt of the reimbursement provided for in subsections (1) through (4), the county treasurer shall distribute the reimbursement to each taxing jurisdiction as calculated by the department.

(b) For tax year 1997 and subsequent tax years, upon receipt of the reimbursements from the department, the county treasurer of each county shall distribute the reimbursement to each taxing jurisdiction in the relative proportion determined under the total calculations provided by the department for tax year 1996.

(10) For the purposes of this section, "taxing jurisdiction" means the state of Montana; local governments, including counties and incorporated cities and towns, school districts, and tax increment financing districts; and miscellaneous taxing jurisdictions levying mills against property being reimbursed under this section.

(11) (a) For distributions made pursuant to subsection (9), the creation and dissolution of taxing jurisdictions are treated as follows:

(i) A taxing jurisdiction that existed in tax year 1989 and that no longer exists is not entitled to reimbursement.

(ii) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1989.

(iii) A taxing jurisdiction that existed in tax year 1989 and that is now split into two or more taxing jurisdictions is entitled to reimbursement based on the proportion of 1989 taxable value within each new taxing jurisdiction. The department shall determine the proportion of 1989 taxable value located in each taxing jurisdiction.

(iv) A taxing jurisdiction that did not exist in tax year 1989 is not entitled to reimbursement under subsection (9) unless the jurisdiction was created as described in subsection (11)(a)(iii).

(b) For distributions made pursuant to subsections (5) through (7), the creation and dissolution of taxing jurisdictions after tax year 1993 are treated as follows:

(i) Taxing jurisdictions that existed in tax year 1993 that no longer exist in subsequent tax years and that are not combined with another taxing jurisdiction are no longer entitled to reimbursement. The reimbursement for a taxing jurisdiction that no longer exists must be prorated across all remaining jurisdictions in the relative proportions that would have existed in tax year 1993 had the jurisdiction not been in existence in that year.

(ii) Taxing jurisdictions that are combined into a single taxing jurisdiction are entitled to reimbursement based on the combined proportion of those jurisdictions in tax year 1993.

(iii) Taxing jurisdictions created as a result of splitting an existing jurisdiction are entitled to a share of the original reimbursement based on the relative proportion of all property in class eight and commercial property in class four within each of the newly created jurisdictions in the tax year that the new jurisdictions are created.

(iv) Taxing jurisdictions that did not exist in tax year 1993 are not entitled to reimbursement under subsection (9) unless created as described in subsection (11)(b)(iii).

(7)(12) The amounts necessary for the administration of this section, except subsections (5) through (7), are statutorily appropriated, as provided in 17-7-502, from the general fund to reimburse school districts and local governments for reductions in tax rates on personal property.

(13) (a) In addition to the calculation and distribution provided for in subsections (2), (3), and (6) through (8), each fiscal year, the department shall distribute from the sales and use tax account to each municipality, as defined in 7-15-4283(6), the amount, if any, as provided in subsection (13)(b), that is required to reimburse the municipality the revenue lost by the tax increment financing district, created pursuant to 7-15-4282 on or before July 1, 1993, as a result of the state reducing the mill levy for the elementary school and high school districts' debt service, transportation, and retirement funds.

(b) (i) Based on school fiscal year 1994, the department shall determine the number of mills levied by each school district in the tax increment financing district for the retirement fund and determine the reduction of transportation and debt service mills that would have occurred if [sections 143 and 148] had been in effect for that year.

(ii) For school fiscal year 1995 and each succeeding year, the reimbursement must be equal to the number of mills determined in subsection (3)(b)(i) times the incremental taxable value of the tax increment financing district. The department shall distribute the amounts to the municipalities in two equal installments on November 30 and May 31 of the fiscal year."

Section 121. Section 15-6-133, MCA, is



amended to read:

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

(a) agricultural land as defined in 15-7-202;  
(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for such other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which such improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

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

~~(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.~~

~~(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:~~

~~(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".~~

~~(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below:~~

~~(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.~~

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

<del>Certified Statewide Percentage Increase</del>	<del>Class Three Taxable Percentage "P"</del>
0	30.00
10	27.27
20	25.00
30	23.08
40	21.43
50	20.00

~~(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a revaluation has been made as provided in 15-7-111."~~

Section 122. Section 15-6-138, MCA, is amended to read:

**"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property includes:

(a) all agricultural implements and equipment;

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all manufacturing machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all trailers, including those prorated under 15-24-102, except those subject to taxation under 61-3-504(2);

(e) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class;

(f) buses and trucks having a rated capacity of more than 1 ton, including those prorated under 15-24-102;

(g) truck toppers weighing more than 300 pounds;

(h) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(i) x-ray and medical and dental equipment;

(j) citizens' band radios and mobile telephones;

(k) radio and television broadcasting and transmitting equipment;

(l) cable television systems;

(m) coal and ore haulers;

(n) theater projectors and sound equipment;

and

(o) all other property not included in any other class in this part, except that property subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 9% 4.5% of its market value."

Section 123. Section 15-6-141, MCA, is amended to read:

**"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

~~(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);~~

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

~~(c) property owned, possessed, or controlled by a person and subject to central assessment, as provided in 15-23-101, centrally assessed companies' allocations except:~~

~~(i)(a) electric power and natural gas companies' property, including property of pipeline companies that transport natural gas, that is included in class thirteen;~~

~~(ii)(b) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;~~

~~(iii)(c) property owned by organizations providing telephone communications to rural areas and classified in class seven;~~

~~(iv)(d) railroad transportation property included in class twelve; and~~

~~(v)(e) airline transportation property included in class twelve.~~

(2) Class nine property is taxed at 12% of

market value."

Section 124. **Class thirteen property -- description -- taxable percentage.** (1) Class thirteen property includes:

(a) operating property owned, possessed, or controlled by electric power companies that is subject to central assessment, as provided in 15-23-101, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives;

(b) property, including property owned by rural electric cooperatives, placed in service after June 8, 1993, for the purpose of generating, manufacturing, or producing electricity or electrical energy, except for pollution control facilities included in class five;

(c) property owned, possessed, or controlled by natural gas distribution companies that is subject to central assessment, as provided in 15-23-101, which companies have a major distribution system in this state; and

(d) property owned, possessed, or controlled by natural gas pipeline companies that is subject to central assessment, as provided in 15-23-101.

(2) Class thirteen property is taxed at 4.5% of market value.

Section 125. **Reimbursement to local governments and schools -- centrally assessed utility property -- duties of department and county treasurer.** (1) Prior to October 30, 1994, for each county, the department shall determine the following information for each taxing jurisdiction in existence in tax year 1994:

(a) the number of mills levied in each taxing jurisdiction for tax year 1994; and

(b) the total taxable valuation for tax year 1994 of all property included in class thirteen.

(2) (a) Based on the information determined under subsection (1), the department shall calculate the revenue loss for each taxing jurisdiction due to the difference in tax year 1994 taxable valuation rates between class thirteen property and the tax rate specified in 15-6-141 for class nine property. For purposes of this section, revenue loss for each taxing jurisdiction is determined as:

(i) the absolute difference between actual taxable valuation of class thirteen property in tax year 1994 and what that taxable valuation would have been had the class nine taxable valuation rate been applicable to class thirteen property;

(ii) multiplied by the number of mills levied in the taxing jurisdiction for tax year 1994.

(b) The total revenue loss within each county is the sum of the revenue loss computed for each taxing jurisdiction in the county.

(3) The amount of reimbursement due from the state to each county for tax years 1994, 1995, and 1996 is the total revenue loss calculated under subsection (2). The county treasurer shall distribute to each taxing jurisdiction the total revenue loss as calculated by the department.

(4) The amount of total reimbursement for each county for tax year 1997 and for each tax year thereafter is determined in the same manner as under the procedures provided in 15-1-111(7)(c) through (11).

Section 126. Section 15-6-144, MCA, is amended to read:

**"15-6-144. Class eleven property -- description -- taxable percentage.** (1) Class eleven property includes all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2). Class eleven property includes 1 acre of real property beneath the agricultural improvements. The 1 acre shall be

valued at market value.

(2) Class eleven property is taxed at 80% of the taxable percentage applicable to class four property."

Section 127. Section 15-6-207, MCA, is amended to read:

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

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

(b) all producer-held grain in storage;

(c) all unprocessed agricultural products, except livestock;

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

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

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

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

(h) cats, dogs, and other household pets not raised for profit.

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

Section 128. Section 15-8-205, MCA, is amended to read:

**"15-8-205. Initial assessment of class four trailer and mobile home property -- when.** The county assessor shall assess all ~~class-four~~ trailer and mobile home property described in 15-6-134 or included under 15-6-144 immediately upon arrival in the county if the taxes have not been previously paid for that year in another county in Montana."

Section 129. Section 15-23-703, MCA, is amended to read:

**"15-23-703. Taxation of gross proceeds -- taxable value for bonding and guaranteed tax base aid to schools.** (1) The county assessor shall compute from the reported gross proceeds from coal a tax roll that ~~he~~ the assessor shall transmit to the county treasurer on or before September 15 each year. The county assessor may not levy or assess any mills against the reported gross proceeds of coal but shall levy a tax of 5% against the value of the reported gross proceeds as provided in 15-23-701(1)(d). The county treasurer shall proceed to give full notice to each coal producer of the taxes due and to collect the taxes as provided in 15-16-101.

(2) For bonding, county classification, and all nontax purposes, the taxable value of the gross proceeds of coal is 45% of the contract sales price as defined in 15-35-102(5).

(3) Except as provided in subsection (6), the county treasurer shall calculate and distribute to the state, county, and eligible school districts in the county the amount of the coal gross proceeds tax, determined by multiplying the unit value calculated in 15-23-705 times the tons of coal extracted, treated, and sold on which the coal gross proceeds tax was owed during the preceding calendar year.

(4) Except as provided in subsections (5), (6), and (8), the county treasurer shall credit the amount determined under subsection (3) and the amounts received under 15-23-706:

(a) to the state and to the counties that levied mills in fiscal year 1990 against 1988 production in the relative proportions required by the levies for state and county purposes in the same manner as property taxes were distributed in fiscal year 1990 in the taxing jurisdiction; and

(b) to school districts in the county that either levied mills in school fiscal year 1990 against 1988 production or used nontax revenue, such as Public Law 81-874 money, in lieu of levying mills against production, in the same manner that property taxes collected or property taxes that would have been collected would have been distributed in the 1990 school fiscal year in the school district.

(5) (a) If the total tax liability in a taxing jurisdiction exceeds the amount determined in subsection (3), the county treasurer shall, immediately following the distribution from taxes paid on May 31 of each year, send the excess revenue, excluding any protested coal gross proceeds tax revenues, to the department for redistribution as provided in 15-23-706.

(b) If the total tax liability in a taxing jurisdiction is less than the amount determined in subsection (3), the taxing jurisdiction is entitled to a redistribution as provided by 15-23-706.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of coal gross proceeds taxes that would have gone to a taxing unit, as provided in subsection (4)(a), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) ~~The Except as provided in subsection (6)(c),~~ the county treasurer shall first allocate the coal gross proceeds taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) ~~If Subject to the requirements of subsection (6)(c),~~ if the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(c) ~~For fiscal year 1995 and each succeeding year, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501 and for the county transportation fund, which was provided for in 20-10-146, as that section read on June 30, 1993. The state treasurer shall credit the money received to the state special revenue fund for state equalization aid to the public schools as provided in 20-9-343.~~

(7) The board of trustees of an elementary or high school district may reallocate the coal gross proceeds taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the coal gross proceeds taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district.

(8) The county treasurer shall credit all taxes collected under this part from coal mines that began production after December 31, 1988, in the relative proportions required by the levies for state, county, and school district purposes in the same manner as property taxes were distributed in the previous fiscal year."

Section 130. Section 15-24-301, MCA, is amended to read:

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

(a) any personal property (including

livestock) brought, driven, or coming into this state at any time during the year that is used in the state for hire, compensation, or profit;

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

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

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

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

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

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

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

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

(5) ~~Agricultural harvesting machinery classified under class eight, licensed in other states, another state and operated on the lands of persons a person other than the owner of the machinery under contracts a contract for hire shall be is~~ subject to a fee in lieu of taxation of \$35 per machine for the calendar year in which the fee is collected. ~~The machines shall be machinery is subject to property taxation under class eight Title 15, chapter 6, only if they are it is sold in Montana.~~

Section 131. Section 15-36-112, MCA, is amended to read:

**"15-36-112. Disposition of oil and gas state and local government severance taxes -- calculation of unit value for local government severance tax.** (1) Each year the department of revenue shall determine the amount of tax collected under this chapter from within each taxing unit.

(2) For purposes of the distribution of local government severance taxes collected under this chapter, the department shall determine the unit value of oil and gas for each taxing unit as follows:

(a) The unit value for petroleum and other mineral or crude oil for each taxing unit is the quotient obtained by dividing the net proceeds taxes calculated on petroleum or mineral or crude oil produced in that taxing unit in calendar year 1988 by the number of barrels of petroleum or other mineral or crude oil produced in that taxing unit during 1988, excluding new and interim production.

(b) The unit value for natural gas is the quotient obtained by dividing the net proceeds taxes calculated on natural gas produced in that taxing unit in calendar year 1988 by the number of cubic feet of natural gas produced in that taxing unit during 1988, excluding new and interim production.

(3) The state and local government severance taxes collected under this chapter are allocated as follows:

(a) The local government severance tax is statutorily appropriated, as provided in 17-7-502, for allocation to the county for distribution as provided in subsection (4);

(b) The state severance tax is allocated to the state general fund.

(4) (a) For the purpose of distribution of the

local government severance tax, the department shall adjust the unit value determined under this section according to the ratio that the local government severance taxes collected during the quarters to be distributed plus accumulated interest earned by the state and penalties and interest on delinquent local government severance taxes bears to the total liability for local government severance taxes for the quarters to be distributed. The taxes must be calculated and distributed as follows:

(i) By November 30 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the calendar quarters ending March 31 and June 30 of the preceding calendar year.

(ii) By May 31 of each year, the department shall calculate and distribute to each eligible county the amount of local government severance tax, determined by multiplying unit value as adjusted in this subsection (4)(a) times the units of production on which the local government severance tax was owed during the 2 calendar quarters immediately following those quarters referred to in subsection (4)(a)(i).

(b) Any amount by which the total tax liability exceeds or is less than the total distributions determined in subsections (4)(a)(i) and (4)(a)(ii) must be calculated and distributed in the following manner:

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

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

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

(5) Except as provided in subsection (6), the county treasurer shall distribute the money received under subsection (4) to the taxing units that levied mills in fiscal year 1990 against calendar year 1988 production in the same manner that all other property tax proceeds were distributed during fiscal year 1990 in the taxing unit, except that no distribution may be made to a municipal taxing unit.

(6) The board of county commissioners of a county may direct the county treasurer to reallocate the distribution of local government severance tax money that would have gone to a taxing unit, as provided in subsection (5), to another taxing unit or taxing units, other than an elementary school or high school, within the county under the following conditions:

(a) The Except as provided in subsection (6)(c), the county treasurer shall first allocate the {local government severance} taxes to the taxing units within the county in the same proportion that all other property tax proceeds were distributed in the county in fiscal year 1990.

(b) If Subject to the requirements of subsection (6)(c), if the allocation in subsection (6)(a) exceeds the total budget for a taxing unit, the commissioners may direct the county treasurer to allocate the excess to any taxing unit within the county.

(c) For fiscal year 1995 and each succeeding year, the county treasurer shall remit to the state treasurer the amount of money attributable to the mills levied in fiscal year 1990 for the county retirement fund provided for in 20-9-501 and for the county transportation fund, which was provided for in 20-10-146, as that section read on June 30, 1993. The state treasurer shall credit the money received to

the state special revenue fund for state equalization aid to the public schools as provided in 20-9-343.

(7) The board of trustees of an elementary or high school district may reallocate the {local government severance} taxes distributed to the district by the county treasurer under the following conditions:

(a) The district shall first allocate the {local government severance} taxes to the budgeted funds of the district in the same proportion that all other property tax proceeds were distributed in the district in fiscal year 1990.

(b) If the allocation under subsection (7)(a) exceeds the total budget for a fund, the trustees may allocate the excess to any budgeted fund of the school district."

Section 132. Section 20-9-331, MCA, is amended to read:

**"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program.** (1) The county commissioners of each county shall levy an annual basic tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue collected from this levy must be apportioned to the support of the elementary foundation programs of the school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary foundation program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

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

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

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

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

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for new production,

as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(h) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; and

(i) sales tax and use tax revenue."

Section 133. Section 20-9-333, MCA, is amended to read:

**"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program.** (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue collected from this levy must be apportioned to the support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school foundation program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(e) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204; and

(f) sales tax and use tax revenue."

Section 134. Section 20-9-343, MCA, is amended to read:

**"20-9-343. (Temporary) Definition of aid and revenue for state equalization aid.** (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the payment of guaranteed tax base aid and for equalization of the foundation program;

(b) the Montana educational telecommunications network as provided in 20-32-

101; and

(c) filing fees for school district audits as required by 2-7-514(2).

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid, as required by subsections (1)(a) and (1)(b), throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) money allocated to state equalization from the collection of the severance tax on coal;

(d) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) money received from the state equalization aid levy under 20-9-360;

(g) income from the lottery, as provided in 23-7-402;

(h) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333;

(i) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704.

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium. (Terminates June 30, 1993--sec. 5, Ch. 729, L. 1991.)

**20-9-343. (Effective July 1, 1993) Definition of and revenue for state equalization aid.** (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purposes of payment of guaranteed tax base aid and equalization of the foundation program, and payment of retirement fund obligations, payment of debt service, and for the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend funds appropriated for state equalization aid as required for the purposes of guaranteed tax base aid, the foundation program, retirement fund obligations, debt service, and the Montana educational telecommunications network, throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) money allocated to state equalization from the collection of the severance tax on coal;

(d) money received from the treasurer of

the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) money received from the state equalization aid levy under 20-9-360;

(g) income from the lottery, as provided in 23-7-402;

(h) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333;

(i) investment income earned by investing money in the state equalization aid account in the state special revenue fund; ~~and~~

(j) 15% of the income and earnings of all coal severance tax funds as provided in 17-5-704; and

(k) money received from the collection of sales taxes and use taxes and distributed under [section 72].

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium."

Section 135. Section 20-9-344, MCA, is amended to read:

**"20-9-344. Purpose of state equalization aid and duties of board of public education for distribution.** (1) The money available for state equalization aid must be distributed and apportioned to provide:

(a) an annual minimum operating revenue for the elementary and high schools in each county, revenue for the retirement fund, exclusive of and revenues revenue required for debt service and exclusive of revenue required for the payment of any costs and expense incurred in connection with any adult education program, recreation program, school food services program, new buildings and grounds, and transportation; and

(b) the Montana educational telecommunications network as provided in 20-32-101.

(2) The board of public education shall administer and distribute the state equalization aid and state advances for county equalization in the manner and with the powers and duties provided by law. To this end, the board of public education shall:

(a) adopt policies for regulating the distribution of state equalization aid and state advances for county equalization in accordance with the provisions of law;

(b) have the power to require reports from the county superintendents, budget boards, county treasurers, and trustees as it considers necessary; and

(c) order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to the aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of public education may not increase or decrease the state equalization aid distribution to any district on account of any difference that may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

(3) The board of public education may order the superintendent of public instruction to withhold distribution of state equalization aid or order the county superintendent of schools to withhold county equalization money from a district when the district fails to:

(a) submit reports or budgets as required by law or rules adopted by the board of public education; or

(b) maintain accredited status.

(4) Prior to any proposed order by the board of public education to withhold distribution of state equalization aid or county equalization money, the district is entitled to a contested case hearing before the board of public education, as provided under the Montana Administrative Procedure Act.

(5) If a district or county receives more state equalization aid than it is entitled to, the county treasurer shall return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the superintendent of public instruction.

(6) Except as provided in 20-9-347(3), the foundation program payment and guaranteed tax base aid payment must be distributed according to the following schedule:

(a) from August to May of the school fiscal year, 8% of the foundation program payment to each district;

(b) in November of the school fiscal year, one-half of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county;

(c) in May of the school fiscal year, the remainder of the guaranteed tax base aid payment and one-half of the state retirement obligation payment to each district or county; and

(d) in June of:

(i) the 1993 school fiscal year, one-half of the remaining foundation program payment of each district and on July 15, 1993, the remaining school fiscal year 1993 foundation program payment of each district; and

(ii) the school fiscal year, the remaining foundation program payment to each district.

(7) The distribution of foundation program payments and guaranteed tax base aid provided for in subsection (6) must occur by the last working day of each month."

Section 136. Section 20-9-346, MCA, is amended to read:

**"20-9-346. Duties of the superintendent of public instruction for state equalization aid distribution.** The superintendent of public instruction shall administer the distribution of the state equalization aid by:

(1) establishing the annual entitlement of each district and county to state equalization aid in support of the retirement fund and foundation program, based on the data reported in the retirement and general fund budgets for each district that have been duly adopted for the current school fiscal year and verified by the superintendent of public instruction and by applying the verified data under the provisions of the state equalization aid allocation procedure prescribed in 20-9-347;

(2) distributing by state warrant or electronic transfer the state equalization aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county or county where the district is located, in accordance with the distribution ordered by the board of public education;

(3) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for state equalization aid of the districts of the state;

(4) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(5) reporting to the legislature as provided in 5-11-210:

(a) the figures and data available concerning distributions of state equalization aid during the preceding 2 school fiscal years;

(b) the amount of state equalization aid then available;

(c) the apportionment made of the available

money but not yet distributed;

(d) the latest estimate of accruals of money available for state equalization aid; and

(e) the amount of state advances and repayment for county equalization."

Section 137. Section 20-9-347, MCA, is amended to read:

**"20-9-347. Formula for state equalization aid apportionment in support of foundation program and retirement -- exceptions.** (1) The superintendent of public instruction shall apportion the state equalization aid available for support of the foundation program, individually for the elementary districts of a county or the high school districts of a county, in accordance with 20-9-346 and on the basis of the following procedure:

(a) Determine the percentage that the total funds available to all counties in the state in support of the foundation program (including the state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all counties.

(b) Determine the percentage that the total funds available in each county in support of the foundation programs in the county (excluding state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all districts of the county.

(c) Counties in which the percentage determined in subsection (1)(b) exceeds the percentage determined in subsection (1)(a) are not entitled to an apportionment of the state equalization aid in support of the foundation program.

(d) After elimination of the counties referred to in subsection (1)(c), determine the percentage that the total money available to all remaining counties in support of the foundation program (including the state money available for state equalization aid in support of the foundation program) is of the total amount of the foundation programs of all remaining counties.

(e) Each district of each remaining county is entitled to an apportionment of the state equalization aid in support of the foundation program equal to the difference between the percentage determined in subsection (1)(d) and the percentage determined for the county in subsection (1)(b) multiplied by the foundation program amount for the district.

(2) The superintendent of public instruction shall also apportion state equalization aid to each district in support of the district's retirement fund obligations. The superintendent of public instruction shall adopt rules to ensure that for school fiscal year 1995 and succeeding years, each district receives retirement equalization aid equal to the full amount required by the elementary districts and high school districts in the county.

~~(2)(3)~~ The superintendent of public instruction shall:

(a) supply the county treasurer and the county superintendent with a report of the apportionments of state equalization aid in support of the foundation program of each district of the county, and the state equalization aid in support of the foundation program must be apportioned to the districts in accordance with the report;

(b) in the manner described in 20-9-344, provide for a state advance to each county in an amount that is no less than the amount anticipated to be raised for the basic county tax fund as provided in 20-9-331 and for the basic special tax fund as provided in 20-9-333;

(c) adopt rules to implement the provisions of subsection ~~(2)(b)~~ ~~(3)(b)~~.

~~(3)(4)~~ (a) The superintendent of public instruction is authorized to adjust the schedule prescribed in 20-9-344 for distribution of the foundation program and guaranteed tax base aid

payments if the distribution will cause a district to register warrants under the provisions of 20-9-212(9).

(b) To qualify for an adjustment in the payment schedule, a district shall demonstrate to the superintendent of public instruction, in the manner required by the office, that the payment schedule prescribed in 20-9-344 will result in insufficient money available in all funds of the district to make payment of the district's warrants. The county treasurer shall confirm the anticipated deficit. Nothing in this section may be construed to authorize the superintendent of public instruction to exceed a district's annual payment for state and county equalization aid."

Section 138. Section 20-9-351, MCA, is amended to read:

**"20-9-351. Funding of deficiency in state equalization aid.** If the money available for state equalization aid is not the result of a reduction in spending under 17-7-140 and is not sufficient to provide the foundation program schedule support determined in 20-9-348, and the guaranteed tax base aid required under 20-9-366 through 20-9-369, and the retirement fund support required under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of guaranteed tax base aid, retirement, and the foundation programs of the elementary or secondary schools, or both, for the current biennium."

Section 139. Section 20-9-366, MCA, is amended to read:

**"20-9-366. Definitions.** As used in 20-9-366 through 20-9-369, the following definitions apply:

~~(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year foundation program amounts.~~

~~(2)(1)~~ "District mill value per ANB" means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year foundation program amount.

~~(3)(2)~~ "Permissive amount" means that portion of a district's general fund budget in excess of the foundation program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353.

~~(4)(3)~~ "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for permissive and retirement debt service guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year foundation program amounts."

Section 140. Section 20-9-367, MCA, is amended to read:

**"20-9-367. Eligibility to receive guaranteed tax base aid.** ~~(4)~~ If the district mill value per ANB of any elementary or high school district is less than the corresponding statewide district mill value per elementary ANB or high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in the

district in support of its permissive amount of the general fund budget and its debt service fund.

~~(2) If the county retirement mill value per elementary ANB or county retirement mill value per high school ANB is less than the corresponding statewide county mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county."~~

Section 141. Section 20-9-368, MCA, is amended to read:

**"20-9-368. Amount of guaranteed tax base aid -- reversion.** ~~(1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide county mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.~~

~~(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide county mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.~~

~~(3)(1)~~ The amount of guaranteed tax base aid per ANB that a district may receive in support of its permissive amount of the general fund budget is the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget.

~~(2) The amount of guaranteed tax base aid per ANB that a district may receive in support of its debt service fund budget is the difference between the district mill value per ANB and the corresponding statewide mill value per ANB, multiplied by the number of mills levied in support of the district's debt service fund budget.~~

~~(4)(3)~~ Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344."

Section 142. Section 20-9-369, MCA, is amended to read:

**"20-9-369. Duties of superintendent of public instruction and department of revenue.** (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and county district mill values per ANB and, by May 1 of each year, with the final statewide, and district, and county mill values per ANB, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(c) keeping a record of the complete data concerning appropriations available for guaranteed

tax base aid and the entitlements for such aid of the counties and districts that qualify;

(d) distributing the guaranteed tax base aid entitlement to each qualified county or district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305."

Section 143. Section 20-9-439, MCA, is amended to read:

**"20-9-439. Computation of net levy requirement – procedure when levy inadequate.**

(1) The county superintendent shall compute the levy requirement for each school district's debt service fund on the basis of the following procedure:

(a) ~~determine~~ Determine the total money available in the debt service fund for the reduction of the property tax on the district by totaling:

(i) the end-of-the-year fund balance in the debt service fund, less any limited operating reserve as provided in 20-9-438;

(ii) anticipated interest to be earned by the investment of debt service cash in accordance with the provisions of 20-9-213(4) or by the investment of bond proceeds under the provisions of 20-9-435; and

(iii) any other money, including money from federal sources, anticipated by the trustees to be available in the debt service fund during the ensuing school fiscal year from such sources as legally authorized money transfers into the debt service fund or from rental income, excluding any guaranteed tax base aid;

(b) ~~the Subtract the total amount available to reduce the property tax, determined in subsection (1)(a), must be subtracted from the final budget expenditure amount for the debt service fund as established in 20-9-438.~~

(c) Determine the number of mills to be levied on the taxable property in the district to finance the net debt service fund levy requirement by dividing the remainder determined in subsection (1)(b) by the sum of:

(i) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified by the superintendent of public instruction; and

(ii) the taxable valuation of the district divided by 1,000.

(2) ~~the~~ The net debt service fund levy requirement determined in subsection (1)(b) (1)(c) must be reported to the county commissioners on the second Monday of August by the county superintendent as the net debt service fund levy requirement for the district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(2)(3) If the board of county commissioners fails in any school fiscal year to make a levy for any issue or series of bonds of a school district sufficient to raise the money necessary for payment of interest and principal becoming due during the next ensuing school fiscal year, in any amounts established under the provisions of this section, the holder of any bond of the issue or series or any taxpayer of the district may apply to the district court of the county in which the school district is located for a writ of mandate to compel the board of county commissioners of the county to make a sufficient levy for such purposes. If, upon the hearing of the application, it appears to the satisfaction of the court that the board of county commissioners of the county has failed to make a levy or has made a levy that is insufficient to raise the amount required to be

raised as established in the manner provided in this section, the court shall determine the amount of the deficiency and shall issue a writ of mandate directed to and requiring the board of county commissioners, at the next meeting for the purpose of fixing tax levies for county purposes, to fix and make a levy against all taxable property in the school district that is sufficient to raise the amount of the deficiency. The levy is in addition to any levy required to be made at that time for the ensuing school fiscal year. Any costs that may be allowed or awarded the petitioner in the proceeding must be paid by the members of the board of county commissioners and may not be a charge against the school district or the county."

Section 144. Section 20-9-501, MCA, is amended to read:

**"20-9-501. Retirement fund.** (1) The trustees of a district employing personnel who are members of the teachers' retirement system or the public employees' retirement system or who are covered by unemployment insurance or who are covered by any federal social security system requiring employer contributions shall establish a retirement fund for the purposes of budgeting and paying the employer's contributions to the systems. The district's contribution for each employee who is a member of the teachers' retirement system must be calculated in accordance with Title 19, chapter 4, part 6. The district's contribution for each employee who is a member of the public employees' retirement system must be calculated in accordance with 19-3-801. The district's contributions for each employee covered by any federal social security system must be paid in accordance with federal law and regulation. The district's contribution for each employee who is covered by unemployment insurance must be paid in accordance with Title 39, chapter 51, part 11.

(2) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall include in the retirement fund of the preliminary budget the estimated amount of the employer's contribution. After the final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems in accordance with the financial administration provisions of this title.

(3) When the final retirement fund budget has been adopted, the county superintendent shall establish the levy requirement amount of the state obligation by:

(a) determining the sum of the money available to reduce the retirement fund levy requirement amount of the state obligation by adding:

(i) ~~any anticipated money that may be realized in the retirement fund during the ensuing school fiscal year, including anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;~~

(ii) net proceeds taxes and local government severance taxes on any other oil and gas production occurring after December 31, 1988;

(iii) coal gross proceeds taxes under 15-23-703;

(iv) (i) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund budget; and

(v) (ii) any other revenue anticipated that

may be realized in the retirement fund during the ensuing school fiscal year, ~~excluding any guaranteed tax base aid;~~

(b) ~~notwithstanding the provisions of subsection (8), subtracting the money available for reduction of the levy requirement state obligation, as determined in subsection (3)(a), from the budgeted amount for expenditures in the final retirement fund budget.~~

(4) The county superintendent shall:

(a) ~~total the net retirement fund levy requirements the amount of the state obligation separately for all elementary school districts, including any joint district located in the county, all high school districts, and all community college districts of the county, including any prorated joint district or special education cooperative agreement levy requirements; and~~

(b) report each levy requirement the amount of the state obligation to the county commissioners superintendent of public instruction in the same manner as provided in 20-9-134 on the second Monday of August as the respective county levy requirements for elementary district; and high school district; retirement funds and report to the board of regents in the same manner as provided in 20-9-134 the amount of the state obligation for community college district retirement funds.

(5) The superintendent of public instruction shall pay the state obligation amounts determined in subsection (4) to each county according to the distribution schedule provided in 20-9-344.

(5) ~~The county commissioners shall fix and set the county levy in accordance with 20-9-142.~~

(6) ~~The net retirement fund levy requirement for a joint elementary district or a joint high school district must be prorated to each county in which a part of the district is located in the same proportion as the district ANB of the joint district is distributed by pupil residence in each county. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.~~

(7) ~~The net retirement fund levy requirement for districts that are members of special education cooperative agreements must be prorated to each county in which the district is located in the same proportion as the special education cooperative budget is prorated to the member school districts. The county superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each county in the same manner as provided in 20-9-151 and the county commissioners shall fix and levy the net retirement fund levy for each county in the same manner as provided in 20-9-152.~~

(8) ~~The county superintendent shall calculate the number of mills to be levied on the taxable property in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection (4)(a) by the sum of:~~

(a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified by the superintendent of public instruction; and

(b) the taxable valuation of the district divided by 1,000."

Section 145. Section 20-6-702, MCA, is amended to read:

**"20-6-702. Funding for K-12 school districts.** (1) Notwithstanding the provisions of subsections (2) through (6) (5), a K-12 school district formed under the provisions of 20-6-701 is subject to the provisions of law for high school districts.

(2) The number of elected trustees of the K-12 school district must be based on the classification of the attached elementary district

under the provisions of 20-3-341 and 20-3-351.

(3) Calculations for the following must be made separately for the elementary school program and the high school program of a K-12 school district:

(a) the calculation of ANB for purposes of determining the foundation program schedule payments must be in accordance with the provisions of 20-9-311;

(b) the basic county tax and revenues for the elementary foundation program amount for the district must be determined in accordance with the provisions of 20-9-331, and the basic special tax and revenues for the high school foundation program amount for the district must be determined in accordance with 20-9-333; and

(c) the guaranteed tax base aid for the permissive levy amount for a K-12 school district must be calculated separately, using the mill value per elementary ANB and the mill value per high school ANB as defined in 20-9-366. The permissive amount to be levied for the K-12 school district must be prorated based on the ratio of the foundation program amounts for elementary school programs to the foundation program amounts for high school programs.

~~(4) The retirement obligation and eligibility for retirement guaranteed tax base aid for a K-12 school district must be calculated and funded as a high school district retirement obligation under the provisions of 20-9-501.~~

~~(5)(4)~~ For the purposes of budgeting for a K-12 school district, the trustees shall adopt a single fund for any of the budgeted or nonbudgeted funds described in 20-9-201 for the costs of operating all grades and programs of the district.

~~(6)(5)~~ Tuition for attendance in the K-12 school district must be determined separately for high school pupils and for elementary pupils under the provisions of chapter 5, part 3, except that the actual expenditures used for calculations in 20-5-305 and 20-5-312 must be based on an amount prorated between the elementary and high school programs in the appropriate funds of each district in the year prior to the attachment of the districts."

Section 146. Section 20-10-141, MCA, is amended to read:

**"20-10-141. Schedule of maximum reimbursement by mileage rates.** (1) The following mileage rates for school transportation constitute the maximum reimbursement to districts for school transportation from state ~~and county sources~~ of transportation revenue under the provisions of 20-10-145 and 20-10-146. These Except as provided in 20-10-143, the rates may not limit the amount that a district may budget in its transportation fund budget in order to provide for the estimated and necessary cost of school transportation during the ensuing school fiscal year. All bus miles traveled on routes approved by the county transportation committee are reimbursable. Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. A district may approve additional bus or nonbus miles within its own district or approved service area but may not claim reimbursement for the mileage. Any vehicle, the operation of which is reimbursed for bus mileage under the rate provisions of this schedule, must be a school bus, as defined by this title, driven by a qualified driver on a bus route approved by the county transportation committee and the superintendent of public instruction.

(2) The rate per bus mile traveled must be determined in accordance with the following schedule when the number of eligible transportees that board a school bus on an approved route is not less than one-half of its rated capacity:

(a) 85 cents per bus mile for a school bus with a rated capacity of not less than 12 but not

more than 45 children; and

(b) when the rated capacity is more than 45 children, an additional 2.13 cents per bus mile for each additional child in the rated capacity in excess of 45 must be added to a base rate of 85 cents per bus mile.

(3) Reimbursement for nonbus mileage provided for in subsection (1) may not exceed 50% of the maximum reimbursement rate determined under subsection (2).

(4) When the number of eligible transportees boarding a school bus on an approved route is less than one-half of its rated capacity, the rate per bus mile traveled must be computed as follows:

(a) determine the number of eligible transportees that board the school bus on the route;

(b) multiply the number determined in subsection (4)(a) by two and round off to the nearest whole number; and

(c) use the adjusted rated capacity determined in subsection (4)(b) as the rated capacity of the bus to determine the rate per bus mile traveled from the rate schedule in subsection (2).

(5) The rated capacity is the number of riding positions of a school bus as determined under the policy adopted by the board of public education."

Section 147. Section 20-10-142, MCA, is amended to read:

**"20-10-142. Schedule of maximum reimbursement for individual transportation.** The following rates for individual transportation constitute the maximum reimbursement to districts for individual transportation from state ~~and county sources~~ of transportation revenue under the provisions of 20-10-145 and 20-10-146. These rates also ~~shall~~ constitute the limitation of the budgeted amounts for individual transportation for the ensuing school fiscal year. The schedules provided in this section ~~shall may~~ not be altered by any authority other than the legislature of the state of Montana. When the trustees contract with the parent or guardian of any eligible transportee to provide individual transportation for each day of school attendance, they shall reimburse the parent or guardian on the basis of the following schedule:

(1) When a parent or guardian transports an eligible transportee or transportees from the residence of the parent or guardian to a school or to schools located within 3 miles of one another, the total reimbursement per day of attendance ~~shall must~~ be determined by multiplying the distance in miles between the residence and the school, or the most distant school if more than one, by 2, subtracting 6 miles from the product so obtained, and multiplying the difference by 21.25 cents provided that:

(a) if two or more eligible transportees are transported by a parent or guardian to two or more schools located within 3 miles of one another and if such schools are operated by different school districts, the total amount of the reimbursement ~~shall must~~ be divided equally between the districts;

(b) if two or more eligible transportees are transported by a parent or guardian to two or more schools located more than 3 miles from one another, the parent or guardian ~~shall must~~ be separately reimbursed for transporting the eligible transportee or transportees to each school;

(c) if a parent transports two or more eligible transportees to a school and a bus stop which school and bus stop are located within 3 miles of one another, the total reimbursement ~~shall must~~ be determined under the provisions of this subsection and ~~shall must~~ be divided equally between the district operating the school and the district operating the bus;

(d) if a parent transporting two or more eligible transportees to a school or bus stop must, because of varying arrival and departure times, make more than one round-trip journey to the bus stop or

school, the total reimbursement allowed by this section ~~shall must~~ be limited to one round trip per day for each scheduled arrival or departure time;

(e) notwithstanding subsection (1)(a), (1)(b), (1)(c), or (1)(d), ~~a~~ reimbursement may ~~not~~ be less than 25 cents a day.

(2) When the parent or guardian transports an eligible transportee or transportees from the residence to a bus stop of a bus route approved by the trustees for the transportation of the transportee or transportees, the total reimbursement per day of attendance ~~shall must~~ be determined by multiplying the distance in miles between the residence and the bus stop by 2, subtracting 3 miles from the product so obtained, and multiplying the difference by 22.5 cents provided that:

(a) if the eligible transportees transported attend schools in different districts but ride on one bus, the districts shall divide the total reimbursement equally; and

(b) if the parent or guardian is required to transport the eligible transportees to more than one bus, the parent or guardian ~~shall must~~ be separately reimbursed for transportation to each bus.

(3) Where, due to excessive distances, impassable roads, or other special circumstances of isolation the rates prescribed in subsection (1) or (2) would be an inadequate reimbursement for the transportation costs or would result in a physical hardship for the eligible transportee, his the transportee's parent or guardian may request an increase in the reimbursement rate. ~~Such a A~~ request for increased rates due to isolation ~~shall must~~ be made by the parent or guardian on the contract for individual transportation for the ensuing school fiscal year by indicating the special facts and circumstances which exist to justify the increase. Before any increased rate due to isolation ~~can may~~ be paid to the requesting parent or guardian, ~~such the~~ rate must be approved by the county transportation committee and the superintendent of public instruction after the trustees have indicated their approval or disapproval. Regardless of the action of the trustees and when approval is given by the county transportation committee and the superintendent of public instruction, the trustees shall pay ~~such the~~ increased rate due to isolation. The increased rate ~~shall must~~ be 1/2 times the rate prescribed in subsection (1) above.

(4) When the isolated conditions of the household where an eligible transportee resides require ~~such the~~ eligible transportee to live away from the household in order to attend school, ~~he shall be the transportee is~~ eligible for the room and board reimbursement. Approval to receive the room and board reimbursement ~~shall must~~ be obtained in the same manner prescribed in subsection (3) above. The per diem rate for room and board ~~shall be is~~ \$5.31 for one eligible transportee and \$3.19 for each additional eligible transportee of the same household.

(5) When the individual transportation provision is to be satisfied by supervised home study or supervised correspondence study, the reimbursement rate ~~shall must~~ be the cost of such study, provided that the course of instruction is approved by the trustees and supervised by the district."

Section 148. Section 20-10-144, MCA, is amended to read:

**"20-10-144. Computation of revenues and net tax levy requirements for district transportation fund budget.** Before the fourth Monday of July and in accordance with 20-9-123, the county superintendent shall compute the revenue available to finance the transportation fund budget of each district. The county superintendent shall compute the revenue for each district on the following basis:

(1) The "schedule amount" of the preliminary budget expenditures that is derived from

the rate schedules in 20-10-141 and 20-10-142 must be determined by adding the following amounts:

(a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate per bus mile by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by the county transportation committee and maintained by such district); plus

(b) the total of all individual transportation per diem reimbursement rates for the district as determined from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the ensuing school attendance year; plus

(c) any estimated costs for supervised home study or supervised correspondence study for the ensuing school fiscal year; plus

(d) the amount budgeted on the preliminary budget for the contingency amount permitted in 20-10-143, except if the amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c), the transportation fund budget limitation provided for in 20-10-143, or \$100, whichever is larger largest, the contingency amount on the preliminary budget must be reduced to the limitation amount and used in this determination of the schedule amount.

(2) (a) The schedule amount determined in subsection (1) or the total preliminary transportation fund budget, whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be budgeted, on the following basis:

(i) one half is the budgeted state transportation reimbursement, except that the state transportation reimbursement for the transportation of special education pupils under the provisions of 20-7-442 must be 50% of the schedule amount attributed to the transportation of special education pupils; and

(ii) one half is the budgeted county transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

(b)(3) When the district has a sufficient amount of cash for reappropriation and other sources of district revenue, as determined in subsection (3)(4), to reduce the total district obligation for financing to zero, any remaining amount of district revenue and cash reappropriated must be used to reduce the county financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce the state financial obligation in subsection (2)(a)(i).

(c) The county revenue requirement for a joint district, after the application of any district money under subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the ANB of the joint district is distributed by pupil residence in each county the state financial obligation in 20-10-145.

(3)(4) The total of the money available for the reduction of property tax on the district for the transportation fund must be determined by totaling:

(a) anticipated federal money received under the provisions of Title I of Public Law 81-874 or other anticipated federal money received in lieu of that federal act;

(b) anticipated payments from other districts for providing school bus transportation services for the district;

(c) anticipated payments from a parent or guardian for providing school bus transportation services for his child;

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

(e) anticipated or reappropriated revenue

from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204;

(f) anticipated revenue from coal gross proceeds under 15-23-703;

(g) anticipated net proceeds taxes for new production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988;

(h) sales tax and use tax revenue distributed under [section 72];

(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year that may be used to finance the transportation fund; and

(j) any fund balance available for reappropriation as determined by subtracting the amount of the end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

(5) The district levy requirement for each district's transportation fund must be computed by:

(a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation budget amount; and

(b) subtracting the amount of money available to reduce the property tax on the district, as determined in subsection (3)(4), from the amount determined in subsection (4)(a) (5)(a).

(6) The transportation fund levy requirements determined in subsection (4) (5) for each district must be reported to the county commissioners on the second Monday of August by the county superintendent as the transportation fund levy requirements for the district, and the levy must be made by the county commissioners in accordance with 20-9-142."

Section 149. Section 20-10-145, MCA, is amended to read:

**"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation or individual transportation in accordance with this title, board of public education transportation policy, and superintendent of public instruction transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state transportation reimbursement is one-half 100% of the reimbursement amounts established in 20-10-141 and 20-10-142 or one-half 100% of the district's transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days. In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

(2) Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the claim forms and procedure promulgated by the superintendent of public instruction. The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the superintendent of public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining

compliance with this title, board of public education transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to the claims, the superintendent of public instruction shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the superintendent of public instruction."

Section 17-3-213, MCA, is amended to read:

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

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

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

(i) county equalization for elementary schools provided for in 20-9-331; and

(ii) county equalization for high schools provided for in 20-9-333;

(iii) the county transportation fund provided for in 20-10-146; and

(iv) the elementary and high school district retirement fund obligations provided for in 20-9-504.

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

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

Section 151. Section 20-3-205, MCA, is amended to read:

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

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

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

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

(4) act on each tuition application submitted to him in accordance with the provisions of 20-5-301, 20-5-302, 20-5-304, and 20-5-311 and transmit the tuition information required by 20-5-312;

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

(6) classify districts in accordance with the



provisions of 20-6-201 and 20-6-301;

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

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

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

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

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

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

(13) submit an annual financial report to the superintendent of public instruction in accordance with the provisions of 20-9-211;

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

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

(16) calculate the estimated budgeted general fund sources of revenue in accordance with the provisions of 20-9-348 and the other general fund revenue provisions of the general fund part of this title;

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

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

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

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

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

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

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

(24) keep a record of his official acts, preserve all reports submitted to him under the provisions of this title, preserve all books and instructional equipment or supplies, keep all documents applicable to the administration of the office, and surrender all records, books, supplies, and equipment to his successor;

(25) within 90 days after the close of the

school fiscal year, publish an annual report in the county newspaper stating the following financial information for the school fiscal year just ended for each district of the county:

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

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

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

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

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

Section 152. Section 20-10-104, MCA, is amended to read:

**"20-10-104. Penalty for violating law or rules.** (1) Every district, its trustees and employees, and every person under a transportation contract with a district shall be subject to the policies prescribed by the board of public education and the rules prescribed by the superintendent of public instruction. When a district knowingly violates a transportation law or board of public education transportation policy, such district shall forfeit any reimbursement otherwise payable under 20-10-145 and 20-10-146 for bus miles actually traveled during that fiscal year in violation of such law or policies. The county superintendent shall suspend all such reimbursements payable to the district until the district corrects the violation. When the district corrects the violation, the county superintendent shall resume paying reimbursements to the district, but the amount forfeited may not be paid to the district.

(2) When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay him for any bus miles traveled during the contract year in violation of such law or policies. Upon discovering such a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that such violation jeopardizes the safety of pupils."

Section 153. Section 20-15-311, MCA, is amended to read:

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

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

(2) a mandatory mill levy on the community college district;

(3) the 1-mill adult education levy authorized under provisions of 20-15-305;

(4) the state general fund appropriation;

(5) an optional voted levy on the community college district that shall be submitted to the electorate in accordance with general school election laws;

(6) all other income, revenue, balances, or reserves not restricted by a source outside the community college district to a specific purpose;

(7) income, revenue, balances, or reserves restricted by a source outside the community college district to a specific purpose. Student fees paid for community service courses as defined by the board of regents shall be considered restricted to a specific purpose;

(8) income from a political subdivision that

is designated a community college service region under 20-15-241; and

(9) sales tax and use tax revenue distributed under [section 72]."

Section 154. Section 61-3-303, MCA, is amended to read:

**"61-3-303. Application for registration.**

(1) Every owner of a motor vehicle operated or driven upon the public highways of this state shall for each motor vehicle owned, except as herein otherwise expressly provided, file or cause to be filed in the office of the county treasurer where the owner makes his the owner's permanent residence at the time of making the application or, if the vehicle is owned by a corporation or used primarily for commercial purposes, in the taxing jurisdiction of the county where the vehicle is permanently assigned, an application for registration or reregistration upon a blank form to be prepared and furnished by the department. The application shall contain:

(a) name and address of owner, giving county, school district, and town or city within whose corporate limits the motor vehicle is taxable, if taxable, or within whose corporate limits the owner's residence is located if the motor vehicle is not taxable;

(b) name and address of the holder of any security interest in the motor vehicle;

(c) description of motor vehicle, including make, year model, engine or serial number, manufacturer's model or letter, gross weight, type of body, and if truck, the rated capacity; and

(d) other information that the department may require.

(2) A person who files an application for registration or reregistration of a motor vehicle, except of a mobile home as defined in 15-1-101(1), shall upon the filing of the application pay to the county treasurer:

(a) the registration fee, as provided in 61-3-311 and 61-3-321; and

(b) unless it has been previously paid whichever tax of the following is applicable:

(i) the personal property taxes assessed against the vehicle for the current year of registration and the immediately previous year, unless the taxes have been previously paid; or

(ii) the new motor vehicle sales tax against the vehicle for the current year of registration; or

(iii) the sales tax or use tax imposed by 61-3-504(4).

(3) The application may not be accepted by the county treasurer unless the payments required by subsection (2) accompany the application. The department or its agent may not assess and the county treasurer may not collect taxes or fees for a period other than:

(a) the current year; and

(b) the immediately previous year, if the vehicle was not registered or operated on the highways of the state, regardless of the period of time since the vehicle was previously registered or operated.

(4) The department or its agent may make full and complete investigation of the tax status of the vehicle. Any applicant for registration or reregistration must submit proof from the tax or other appropriate records of the proper county at the request of the department or its agent."

Section 155. Section 61-3-317, MCA, is amended to read:

**"61-3-317. New registration required for transferred vehicle -- sales tax and use tax -- grace period -- penalty -- display of proof of purchase.** Except as otherwise provided herein, the new owner of a transferred motor vehicle shall have has a grace period of 20 calendar days from the date of purchase to make application and pay the ~~taxes or fees, or both, sales tax or use tax~~ provided by part 5 of this

chapter, ~~unless the in addition to any property tax or fee in lieu of tax that has been paid for the year, as if the vehicle were being registered for the first time in that registration year.~~ If the motor vehicle was not purchased from a duly licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the vehicle upon the streets and highways of this state without a certificate of registration during the 20-day period, provided that at all times during that period a vehicle purchase sticker in a form prescribed and furnished by the department, obtained from the county treasurer or a law enforcement officer as authorized by the department, reciting the date of purchase is clearly displayed in the rear window of the motor vehicle. Registration and license fees collected under 61-3-321 are not required to be paid when a license plate is transferred under this section and 61-3-335; however, the transfer may be subject to the sales tax or use tax provided by part 5 of this chapter. Failure to make application within the time provided herein subjects the purchaser to a penalty of \$10. The penalty shall ~~must~~ be collected by the county treasurer at the time of registration and shall be in addition to the fees otherwise provided by law."

Section 156. Section 61-3-502, MCA, is amended to read:

**"61-3-502. (Temporary) Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding vehicles with a gross vehicle weight in excess of 46,000 pounds used exclusively in interstate commerce, vehicles registered as part of a fleet as defined in 61-3-318(2), trailers, semitrailers, and house trailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when he ~~applies~~ applying for his ~~an~~ original Montana license through the county treasurer.

(2) ~~Except as provided in subsections (4) and (5), the~~ The sales tax is:

(a) ~~1 1/2%~~ 4% of the sales price as defined in [section 1] f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

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

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

(d) 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

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

(5) ~~The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.~~

(6)(4) Except as provided in 61-3-551, the proceeds from this ~~the~~ tax imposed under subsections (1) and (2) must be remitted to the state treasurer every 30 days for credit as follows:

(a) 37.5% to the state highway account of the state special revenue fund; and

(b) 62.5% to the sales tax and use tax account established in [section 71].

(7)(5) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8)(6) (a) The applicant for original

registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9)(7) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from such limits are exempt from subsection (1).

(b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state where those motor vehicles are used exclusively for transportation of agricultural workers are also exempt from subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only, and in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business.

**61-3-502. (Effective on receipt of taxes or fees for September 1993) Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding vehicles with a gross vehicle weight in excess of 46,000 pounds used exclusively in interstate commerce, vehicles registered as part of a fleet as defined in 61-3-318(2), trailers, semitrailers, and house trailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when he ~~applies~~ applying for his ~~an~~ original Montana license through the county treasurer.

(2) ~~Except as provided in subsections (4) and (5), the~~ The sales tax is:

(a) ~~1 1/2%~~ 4% of the sales price as defined in [section 1] f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

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

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

(d) 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

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

which the new vehicle is purchased.

(5) ~~The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.~~

(6)(4) The proceeds from this ~~the~~ tax imposed under subsections (1) and (2) must be remitted to the state treasurer every 30 days for credit as follows:

(a) 37.5% to the state highway account of the state special revenue fund; and

(b) 62.5% to the sales tax and use tax account established in [section 71].

(7)(5) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8)(6) (a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.

(b) No motor vehicle may be registered or licensed under the provisions of this subsection unless the application for registration is accompanied by a statement of origin to be furnished by the dealer selling the vehicle, showing that the vehicle has not previously been registered or owned, except as otherwise provided herein, by any person, firm, corporation, or association that is not a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9)(7) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from such limits are exempt from subsection (1).

(b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state where those motor vehicles are used exclusively for transportation of agricultural workers are also exempt from subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from subsection (1) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only, and in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business."

Section 157. Section 61-3-504, MCA, is amended to read:

**"61-3-504. Computation of property tax -- sales tax and use tax on used vehicles.** (1) The amount of property taxes on a motor vehicle, other than an automobile, truck having a rated capacity of 1 ton or less, motorcycle, quadricycle, motor home, travel trailer, camper, or mobile home, is computed and determined by the county treasurer on the basis of the levy of the year preceding the current year of application for registration or reregistration.

(2) The amount of property tax on an automobile or truck having a rated capacity of 1 ton or less, except for vehicles owned by disabled veterans qualifying for special license plates under 61-3-332(10)(c), and on a motorcycle or quadricycle is 2% of the value determined under 61-3-503.

(3) The amount of property tax on fleet vehicles subject to the provisions of 61-3-318 is 1% of the value determined under 61-3-503.

(4) (a) A sales tax of 4% is imposed on the sale, measured by the sales price, as defined in [section 1], of all motor vehicles, except vehicles with a gross vehicle weight in excess of 46,000 pounds used exclusively in interstate commerce, not subject to the new car sales tax imposed under 61-3-502. The tax is imposed on the purchaser and must be paid at the time the motor vehicle is registered pursuant to 61-3-317.

(b) A use tax of 4% is imposed on the value of all used motor vehicles, except vehicles with a gross vehicle weight in excess of 46,000 pounds used exclusively in interstate commerce, that are:

(i) manufactured by the person using the motor vehicle in this state;

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

(iii) acquired within the exterior boundaries of an Indian reservation within this state as a result of a transaction that would have been subject to the sales tax had it occurred outside of the exterior boundaries of an Indian reservation within this state; or

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

(5) For the purpose of imposing the use tax imposed by subsection (4)(b), the motor vehicle must be valued according to the provisions for assessment contained in 61-3-503.

(4)(6) For all taxable motor vehicles, the amount of tax is entered on the application form in a space provided therefor."

Section 158. Section 61-3-506, MCA, is amended to read:

**"61-3-506. (Temporary) Rules.** The department of revenue shall adopt rules for the payment of property taxes and the department of transportation shall adopt rules for the payment of new car taxes under the provisions of 61-3-313 through 61-3-316, 61-3-501, and 61-3-520. The department of revenue may adopt rules for the proration of taxes for the implementation and administration of 61-3-313 through 61-3-316, 61-3-501, and 61-3-520, but shall specifically provide that new car taxes shall be for a 12-month period. (Terminates December 31, 1993--sec. 11, Ch. 525, L. 1989.)

**61-3-506. (Effective January 1, 1994) Rules.** The department of revenue shall adopt rules for the payment of property taxes, sales taxes under the provisions of 61-3-502, and sales taxes and use taxes under the provisions of [sections 1 through 71] and 61-3-504, and the department of transportation shall adopt rules for the payment of new car taxes under the provisions of 61-3-313 through 61-3-316 and 61-3-501. The department of revenue may adopt rules for the proration of taxes for the implementation and administration of 61-3-313 through 61-3-316 and 61-3-501, but shall specifically provide that new car taxes or sales taxes and use taxes shall be for a 12-month period."

Section 159. Section 61-3-509, MCA, is amended to read:

**"61-3-509. Disposition of taxes.** (1) Except as provided in subsections (2) and (3) and [section 161], the county treasurer shall, after deducting the district court fee, credit all taxes on motor vehicles and fees in lieu of tax on motor homes, travel trailers, and campers collected under 61-3-504(1) through (3), 61-3-521, and 61-3-537 to a motor vehicle suspense fund, and at some time

between March 1 and March 10 of each year and every 60 days thereafter, the county treasurer shall distribute the money in the motor vehicle suspense fund in the relative proportions required by the levies for state, county, school district, and municipal purposes in the same manner as personal property taxes are distributed.

(2) The county treasurer shall deduct as a district court fee 7% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the fee for district courts to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the general fund to be used for purposes of state funding of the district court expenses as provided in 3-5-901. Any amount forwarded to the state treasurer under this subsection that is not used for district court expenses must be refunded to the counties in the proportion that the amount collected from each county bears to the total amount collected.

(3) In addition to the amount provided in subsection (2), the county treasurer shall deduct 10% of the amount of the 2% tax collected on an automobile or truck having a rated capacity of 1 ton or less. The county treasurer shall credit the amount deducted to a separate suspense account and shall forward the amount in the account to the state treasurer at the time the county treasurer distributes the motor vehicle suspense fund. The state treasurer shall credit amounts received under this subsection to the school equalization aid account."

Section 160. Section 61-3-701, MCA, is amended to read:

**"61-3-701. Foreign vehicles used in gainful occupation to be registered -- reciprocity.**

(1) Before any foreign licensed motor vehicle may be operated on the highways of this state for hire, compensation, or profit or before the owner and/or user thereof uses the vehicle if such owner and/or user is engaged in gainful occupation or business enterprise in the state, including highway work, the owner of the vehicle shall make application to a county treasurer for registration upon an application form furnished by the department. Upon satisfactory evidence of ownership submitted to the county treasurer and the payment of property taxes and use taxes, if appropriate, as required by 15-8-201, 15-8-202, 15-24-301, 61-3-504, or 61-3-537, the treasurer shall accept the application for registration and shall collect the regular license fee required for the vehicle.

(2) The treasurer shall thereupon issue to the applicant a copy of the certificate entitled "Owner's Certificate of Registration and Payment Receipt" and forward a duplicate copy of the certificate to the department. The treasurer shall at the same time issue to the applicant the proper license plates or other identification markers, which shall at all times be displayed upon the vehicle when operated or driven upon roads and highways of this state during the period of the life of the license.

(3) The registration receipt shall not constitute evidence of ownership but shall be used only for registration purposes. No Montana certificate of ownership shall be issued for this type of registration.

(4) This section is not applicable to any vehicle covered by a valid and existing reciprocal agreement or declaration entered into under the provisions of the laws of Montana."

Section 161. **Distribution of sales tax or use tax collected by county treasurer.** The county treasurer shall:

(1) immediately upon collection, credit 50% of the sales tax and use tax collected pursuant to 61-3-303(2)(b)(iii) to the motor vehicle suspense fund

described in 61-3-509; and

(2) on or before the 25th day of every month, remit the remaining 50% to the state treasurer for deposit in the sales tax and use tax account established in [section 71].

Section 162. Section 61-4-112, MCA, is amended to read:

**"61-4-112. New motor vehicles -- transfers by dealers.** (1) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

(a) issue and affix a sticker as prescribed in 61-4-111(1)(a) for transfers of used motor vehicles and retain a copy of the sticker;

(b) within 4 working days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides:

(i) one copy of the sticker issued under subsection (1)(a);

(ii) an application for certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and

(iii) a statement of origin as prescribed in 61-3-502(8)(b)(6)(b).

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of ownership and certificate of registration together with a statement of lien as provided in 61-3-202."

Section 163. Section 15-30-101, MCA, is amended to read:

**"15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) ~~the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;~~

(b) ~~the exemptions contained in 15-30-112, but unadjusted by 15-30-112(6), in effect on June 30 of the taxable year;~~

(c) ~~(b) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in effect on June 30 of the taxable year.~~

(2) ~~"Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.~~

(3) ~~(2) "Department" means the department of revenue.~~

(4) ~~(3) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.~~

(5) ~~(4) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.~~

(6) ~~(5) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.~~

(7) ~~(6) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.~~

(8) ~~"Inflation factor" means a number~~

determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

(9)(7) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(10)(8) "Knowingly" is as defined in 45-2-101.

(11)(9) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(12)(10) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(13)(11) "Pension and annuity income" means:

(a) systematic payments of a definitely determinable amount from a qualified pension plan, as that term is used in section 401 of the Internal Revenue Code, or systematic payments received as the result of contributions made to a qualified pension plan that are paid to the recipient or recipient's beneficiary upon the cessation of employment;

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States;

(c) lump-sum distributions from pension or profitsharing plans to the extent that the distributions are included in federal adjusted gross income;

(d) distributions from individual retirement, deferred compensation, and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that the distributions are not considered to be premature distributions for federal income tax purposes; or

(e) amounts after cessation of regular employment received from fully matured, privately purchased annuity contracts.

(14)(12) "Purposely" is as defined in 45-2-101.

(15)(13) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall must be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(16)(14) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

(17)(15) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

(18)(16) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

(19)(17) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax

imposed by this chapter and does not include corporations."

Section 164. Section 15-30-103, MCA, is amended to read:

**"15-30-103. Rate of tax.** (4) There shall be is levied, collected, and paid for each taxable year commencing on or after December 31, 1968 1993, upon the taxable income of every taxpayer individual subject to this tax, after making allowance for exemptions and deductions as hereinafter provided, a tax at the rate of 6% of the individual's taxable income on the following brackets of taxable income as adjusted under subsection (2) at the following rates:

(a) on the first \$1,000 of taxable income or any part thereof, 2%;

(b) on the next \$1,000 of taxable income or any part thereof, 3%;

(c) on the next \$2,000 of taxable income or any part thereof, 4%;

(d) on the next \$2,000 of taxable income or any part thereof, 5%;

(e) on the next \$2,000 of taxable income or any part thereof, 6%;

(f) on the next \$2,000 of taxable income or any part thereof, 7%;

(g) on the next \$4,000 of taxable income or any part thereof, 8%;

(h) on the next \$6,000 of taxable income or any part thereof, 9%;

(i) on the next \$15,000 of taxable income or any part thereof, 10%;

(j) on any taxable income in excess of \$35,000 or any part thereof, 11%.

(2) By November 1 of each year, the department shall multiply the bracket amount contained in subsection (1) by the inflation factor for that taxable year and round the cumulative brackets to the nearest \$100. The resulting adjusted brackets are effective for that taxable year and shall be used as the basis for imposition of the tax in subsection (1) of this section."

Section 165. Section 15-30-105, MCA, is amended to read:

**"15-30-105. Tax on nonresident -- alternative tax based on gross sales.** (1) A like tax is imposed upon every person not resident of this state, which tax shall must be levied, collected, and paid annually at the rates rate specified in 15-30-103 with respect to his entire net the person's taxable income. After calculating the tax imposed, the tax due and payable must be determined based upon the ratio of income earned in Montana to total income. Interest income from installment sales of real or tangible commercial or business property located in Montana is considered income earned in Montana.

(2) Pursuant to the provisions of Article III, section 2, of the Multistate Tax Compact, every nonresident taxpayer required to file a return and whose only activity in Montana consists of making sales and who does not own or rent real estate or tangible personal property within Montana and whose annual gross volume of sales made in Montana during the taxable year does not exceed \$100,000 may elect to pay an income tax of 1/2 of 1% of the dollar volume of gross sales made in Montana during the taxable year. Such The tax shall be is in lieu of the tax imposed under 15-30-103. The gross volume of sales made in Montana during the taxable year shall must be determined according to the provisions of Article IV, sections 16 and 17, of the Multistate Tax Compact."

Section 166. Section 15-30-111, MCA, is amended to read:

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

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

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

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

(d) ~~depreciation or amortization taken on a title plant as defined in 33-25-105(15).~~

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

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

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

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

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

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

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

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

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

(f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

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

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

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

(3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l) shall include in his the shareholder's adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

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

In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation.

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

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

Section 167. Section 15-30-112, MCA, is amended to read:

**"15-30-112. Exemptions.** (1) ~~Except as provided in subsection (6), in~~ In the case of an individual, the exemptions provided by subsections (2) through (5) ~~this section shall be~~ are allowed as deductions in computing taxable income.

(2) (a) An exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the taxpayer.

(b) An additional exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the taxpayer if he ~~the taxpayer~~ has attained the age of 65 before the close of his ~~the taxpayer's~~ taxable year.

(b) An additional exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the taxpayer if he ~~the taxpayer~~ is blind at the close of his ~~the taxpayer's~~ taxable year.

(b) An additional exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has

no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall ~~must~~ be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall ~~must~~ be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his ~~the individual's~~ central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his ~~the individual's~~ visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of \$800 ~~\$3,500~~ shall be ~~is~~ allowed for taxable years beginning after December 31, 1978 ~~1993~~, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$800 ~~\$3,500~~; or

(ii) who is a child of the taxpayer and who: (A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be ~~is~~ allowed under this subsection (5) for any dependent who has made a joint return with his ~~the dependent's~~ spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) ~~The department, by November 1 of each year, shall multiply all the exemptions provided in this section by the inflation factor for that taxable year and round the product to the nearest \$10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."~~

Section 168. Section 15-30-117, MCA, is amended to read:

**"15-30-117. Net operating loss - computation.** (1) A Montana net operating loss for a loss incurred in tax years beginning after ~~December 31, 1993~~, must be determined in accordance with section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in accordance with the following:

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

(i) ~~that portion of the federal income tax and motor vehicle tax allowed as a deduction under 15-30-121 or 15-30-131 which is attributable to income from a Montana trade or business; and~~

(ii) Montana wages and salaries allowed as a business deduction under 15-30-111(4).

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

(i) interest received on obligations of another state or territory or of a county, municipality, district, or political subdivision thereof allowed as nonbusiness income under 15-30-

111(1)(a);

(ii) federal income tax refunds required to be reported under 15-30-111 and 15-30-131 as Montana business income;

(iii) state income tax; and

(iv) ~~any other nonbusiness deductions allowed under 15-30-121 in excess of nonbusiness income.~~

(2) Notwithstanding the provisions of section 172 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, a net operating loss does not include:

(a) income defined as exempt from state taxation under 15-30-111(2); or

(b) ~~a zero bracket deduction provided for under section 63 of the Internal Revenue Code of 1954 or as that section may be labeled or amended."~~

Section 169. Section 15-30-122, MCA, is amended to read:

**"15-30-122. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income shall be ~~is~~ allowed if elected by the taxpayer ~~on his on the taxpayer's return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum~~

(2) (a) Except as provided in subsections (2)(b) through (2)(d), the standard deduction shall be \$1,500 ~~is \$6,000, as adjusted under the provisions of subsection (2), except that in the case of~~

(b) For a single joint return of husband and wife, the standard deduction is \$10,000, ~~or in the ease of~~

(c) For a single individual who qualifies to file as a head of household on his ~~the individual's~~ federal income tax return, the ~~maximum~~ standard deduction shall be \$3,000 ~~is \$8,000, as adjusted under the provisions of subsection (2).~~

(d) The standard deduction shall ~~not be~~ allowed to either the husband or the wife if the tax of one of the spouses is determined without regard to the standard deduction for married taxpayers filing separately is 50% of the standard deduction provided in subsection (2)(b) for a joint return.

(3) For purposes of this section, the determination of whether an individual is married shall ~~must~~ be made as of the last day of the taxable year; provided, however, if one of the spouses dies during the taxable year, the determination shall ~~must~~ be made as of the date of death.

(2) ~~By November 1 of each year, the department shall multiply the maximum standard deduction for single returns by the inflation factor for that taxable year and round the product to the nearest \$10. The standard deduction for joint returns and qualified head of household returns shall be twice the amount for single returns. The resulting adjusted deductions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103."~~

Section 170. Section 15-30-126, MCA, is amended to read:

**"15-30-126. Small business corporation - deduction for donation of computer equipment to schools.** A small business corporation, as defined in 15-31-201, is allowed a deduction equal to the fair market value, not to exceed 30% of the small business corporation's net income, of a computer or other sophisticated technological equipment or apparatus intended for use with the computer donated to an elementary, secondary, or accredited postsecondary school located in Montana if:

(1) the contribution is made no later than 5 years after the manufacture of the donated property is substantially completed;

(2) the property is not transferred by the donee in exchange for money, other property, or services; and

(3) the electing small business corporation receives a written statement from the donee in which the donee agrees to accept the property and

representing that the use and disposition of the property will be in accordance with the provisions of subsection (2); and

(4) ~~the deduction allowed in this section in lieu of the deduction allowed under 15-30-121 for charitable contributions.~~

Section 171. Section 15-30-131, MCA, is amended to read:

**15-30-131. Nonresident and temporary part-year resident taxpayers -- adjusted gross income.** (1) In the case of a nonresident or part-year resident taxpayer other than a resident of this state, adjusted gross income includes the entire amount of adjusted gross income as provided for in 15-30-111 from sources within this state but does not include income from annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations, except to the extent to which the income from annuities, interest on bank deposits, interest on bonds, notes or other interest-bearing obligations, or dividends on stock of corporations is a part of income from any business, trade, profession, or occupation carried on in this state. Interest income from installment sales of real or tangible commercial or business property located in Montana must be included in adjusted gross income. Adjusted gross income from sources within and outside of this state must be allocated and apportioned under rules adopted by the department in accordance with the Multistate Tax Compact.

(2) For purposes of this section, "installment sales" means sales in which the buyer agrees to pay the seller in one or more deferred installments.

(3) The deductions allowed in computing net income are restricted to a prorated standard deduction, as adjusted, allowed under 15-30-122 and prorated exemptions, as adjusted, allowed under 15-30-112. The standard deduction and the claimable exemptions must be prorated according to the ratio that the taxpayer's Montana adjusted gross income bears to the taxpayer's federal adjusted gross income.

Section 172. Section 15-30-137, MCA, is amended to read:

**15-30-137. Determination of tax of estates and trusts.** The amount of tax must be determined from taxable income of an estate or trust in the same manner as the tax on taxable income of individuals, by applying the rates rate contained in 15-30-103. Credits allowed individuals under Title 15, chapter 30, also apply to estates and trusts when applicable."

Section 173. Section 15-30-142, MCA, is amended to read:

**15-30-142. Returns and payment of tax - penalty and interest -- refunds -- credits.** (1) A return must be filed as provided in subsections (2)(a) through (2)(d) on forms and according to rules prescribed by the department.

(2) A return must be filed by:

(a) ~~Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than \$1,000, the combined amount of the standard deduction for a single individual plus the amount for each exemption claimable by the individual as provided in 15-30-112; as adjusted under the provisions of subsection (7), and~~

(b) every individual filing as a head of household having gross income for the taxable year of more than the combined amount of the standard deduction for a head of household plus the amount for each exemption claimable by the individual as provided in 15-30-112;

(c) married individuals not filing separate returns and having a combined gross income for the taxable year of more than \$2,000, the combined

amount of the standard deduction for married individuals not filing separately plus the amount for each exemption claimable by the individuals as provided in 15-30-112;

~~(d) as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe married individuals filing separately with combined gross income exceeding one-half of the combined amount of the standard deduction for married individuals not filing separately plus the amount for each exemption claimable by the individual as provided in 15-30-112. The gross income amounts referred to in the preceding sentence shall be increased by \$800, as adjusted under the provisions of 15-30-112(6), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4).~~

(3) A nonresident shall be is required to file a return if his the nonresident's gross income for the taxable year derived from sources within Montana exceeds the total amount of the prorated exemption deduction and prorated standard deduction he is entitled to claim for himself and his claimable by the nonresident and the nonresident's spouse under the provisions of 15-30-112(2), (3), and (4).

~~(2)(4)~~ In accordance with instructions set forth by the department, every taxpayer who is married, and who is living with husband or wife the taxpayer's spouse, and who is required to file a return may, at his or her the taxpayer's option, file a joint return with husband or wife the spouse even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall must be computed on the aggregate taxable income and the liability with respect to the tax shall be is joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

~~(3)(5)~~ If any such a taxpayer is unable to make his own a return that is required to be made by the taxpayer, the return shall must be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

~~(4)(6)~~ All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by \$1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than \$1 the amount of income tax as computed, the taxpayer shall be is entitled to a refund of the excess.

~~(5)(7)~~ As soon as practicable after the return is filed, the department shall examine and verify the tax.

~~(6)(8)~~ If the amount of tax as verified is greater than the amount theretofore paid, the excess shall must be paid by the taxpayer to the department within 60 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be is no penalty because of such the understatement, provided the deficiency is paid within 60 days after the first notice of the amount is mailed to the taxpayer.

~~(7)(9)~~ By November 1 of each year, the department shall multiply determine the minimum amount of gross income necessitating the filing of a return by the inflation factor for the taxable year.

These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return.

~~(8)(10)~~ Individual income tax forms distributed by the department for each taxable year must contain instructions and tables based on the adjusted base year structure for that taxable year.

(11) For the purposes of this section:

(a) "exemption" means the exemptions provided by 15-30-112;

(b) "standard deduction" means the deductions provided by 15-30-122."

Section 174. Section 15-30-177, MCA, is amended to read:

**15-30-177. Residential property tax credit for elderly -- limitations.** (1) Only one claimant per household in a claim period under the provisions of 15-30-171 through 15-30-179 is entitled to relief.

(2) Except as provided in subsection (3), no claim for relief may be allowed for any portion of property taxes paid or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

(3) Except for dwellings rented from a county or municipal housing authority, no claim for relief may be allowed on rented lands or rented dwellings that are not subject to ad valorem taxation in Montana during the claim period.

(4) A claimant who receives the renters' property tax credit under [sections 73 through 80] or who receives a homeowners' tax credit under [sections 81 through 88] is not entitled to receive the residential property tax credit for the elderly under 15-30-171 through 15-30-179 for the same tax year.

Section 175. Section 15-30-323, MCA, is amended to read:

**15-30-323. Penalty for deficiency.** (1) If the payment required by 15-30-142(6)(8) is not made within 60 days or if the understatement is due to negligence on the part of the taxpayer but without fraud, there shall must be added to the amount of the deficiency 5% thereof of the deficiency; provided, however, that no deficiency penalty shall may be less than \$2. Interest will be computed at the rate of 9% per annum or fraction thereof on the additional assessment. Except as otherwise expressly provided in this subsection, the interest shall must in all cases be computed from the date the return and tax were originally due as distinguished from the due date as it may have been extended to the date of payment.

(2) If the time for filing a return is extended, the taxpayer shall pay in addition interest thereon on the tax due at the rate of 9% per annum from the time when the return was originally required to be filed to the time of payment."

Section 176. Section 15-31-131, MCA, is amended to read:

**15-31-131. Credit for dependent care assistance.** (1) There is a credit against the taxes otherwise due under this chapter allowable to an employer for amounts paid or incurred during the taxable year by the employer for dependent care assistance actually provided to or on behalf of an employee if the assistance is furnished by a registered or licensed day-care provider and pursuant to a program that meets the requirements of section 89(k) and 129(d)(2) through (6) of the Internal Revenue Code.

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

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

(c) In the case of an onsite facility, the

amount upon which the credit allowed under subsection (1) is based, with respect to any dependent, must be based upon utilization and the value of the services provided.

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

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

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

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

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

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

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

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

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

(a) The definitions and special rules contained in section 129(e) of the Internal Revenue Code apply to the extent applicable.

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

(c) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on January 1, 1989."

Section 177. Section 15-32-303, MCA, is amended to read:

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

corporate income allowed in computing net income under Title 15, chapter 31, part 1, a taxpayer may deduct his expenditures made by the taxpayer for organic fertilizer produced in Montana and used in Montana if the expenditure was not otherwise deducted in computing taxable income."

Section 178. Section 15-51-101, MCA, is amended to read:

**"15-51-101. Rate of tax -- electrical energy producers.** (1) ~~In~~ Except as provided in subsections (2) and (3), in addition to the license tax now provided by law, each person or other organization ~~now~~ engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, ~~either through waterpower or by any other means,~~ for barter, sale, or exchange ~~(and hereinafter referred to as the "producer")~~ shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax thereon in the sum of ~~\$.0002~~ \$.00252 per kilowatt hour on all ~~such~~ electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required in the manner and within the time hereinafter provided.

(2) The license tax required to be paid by a qualified facility, as that term is defined in the Federal Power Act, as amended by the Public Utilities Regulatory Policies Act of 1978, that exceeds \$.0002 per kilowatt hour must be reimbursed to the qualified facility by the wholesale purchaser making purchases of a qualified facility's electricity or electrical energy if the wholesale purchases are made pursuant to a contract in effect on June 30, 1993. The wholesale purchaser shall reimburse the qualified facility on or before the date that the qualified facility is required to pay the tax imposed under subsection (1).

(3) Notwithstanding the provisions of subsections (1) and (2), the tax rate on all electricity and electrical energy generated, manufactured, or produced from a facility or from an additional generating unit of a facility placed in service after June 8, 1993, and prior to January 1, 1997, is as follows:

(a) \$.0002 per kilowatt hour commencing on the first day of commercial operation of the facility or of an additional generating unit of a facility through the end of the calendar quarter ending 5 years after the first day of commercial operation;

(b) \$.0008 per kilowatt hour for the next 5 years;

(c) \$.0016 per kilowatt hour for the next 5 years; and

(d) \$.00252 per kilowatt hour thereafter."

Section 179. Section 16-1-306, MCA, is amended to read:

**"16-1-306. Revenue to be paid to state treasurer.** Except as provided in [section 71], 16-1-404, 16-1-405, 16-1-408, 16-1-410, and 16-1-411, and 16-2-301, all fees, charges, taxes, and revenues collected by or under authority of the department shall must be deposited with the state treasurer. ~~He~~ The state treasurer shall deposit the funds to the credit of the state general fund, except for sales tax and use tax revenue that must be deposited according to [section 71].

Section 180. Section 16-1-411, MCA, is amended to read:

**"16-1-411. (Temporary) Tax on wine.** (1) A tax of 27 cents per liter is hereby levied and imposed on table wine imported by any table wine

distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the credit of the department of corrections and human services for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) ~~The~~ In addition to sales taxes and use taxes imposed under [section 2], the taxes computed and paid in accordance with 16-1-423, 16-2-301, and this section shall be the only taxes imposed by the state or any of its subdivisions, including cities and towns.

(5) The proceeds of the surtax imposed by 16-1-423 must be deposited in the state general fund.

**16-1-411. (Effective on receipt of taxes or fees for September 1993) Tax on wine.** (1) A tax of 27 cents per liter is hereby levied and imposed on table wine imported by any table wine distributor or the department.

(2) (a) The tax on table wine imported by a table wine distributor shall be paid by the table wine distributor by the 15th day of the month following sale of the table wine from the table wine distributor's warehouse. Failure to file a table wine tax return or failure to pay the tax required by this section subjects the table wine distributor to the penalties and interest provided for in 16-1-409.

(b) The tax on table wine imported by the department shall be collected at the time of sale.

(3) The tax paid by a table wine distributor in accordance with subsection (2)(a) and the tax collected by the department in accordance with subsection (2)(b) shall be distributed as follows:

(a) 16 cents to the state general fund; and

(b) of the remaining 11 cents:

(i) 8.34 cents to the state special revenue fund to the credit of the department of corrections and human services for the treatment, rehabilitation, and prevention of alcoholism;

(ii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the counties, based on population, for the purpose established in 16-1-404; and

(iii) 1 1/3 cents is statutorily appropriated, as provided in 17-7-502, to the department, for allocation to the cities and towns, based on population, for the purpose established in 16-1-405.

(4) ~~The~~ In addition to the sales tax and use tax imposed under [section 2], the tax computed and paid in accordance with this section shall be the only tax imposed by the state or any of its subdivisions, including cities and towns."

Section 181. Section 16-2-301, MCA, is amended to read:

**"16-2-301. Retail selling price on table wine -- tax on certain table wine.** (1) (a) The retail selling price at which table wine is sold either by the

department, through a state employee-operated store, or by a commission agent who was appointed before April 30, 1987, including subsequent renewals of such appointment, and who elects to order table wine from the department is computed by adding to the statewide weighted average cost of table wine the tax and state markup as designated by the department.

(b) The retail selling price at which table wine is sold pursuant to subsection (1)(a) may not include the sales tax or use tax imposed under [section 2]. The sales tax or use tax must be collected as provided in [sections 1 through 71] and must be deposited as provided in [section 71].

(2) (a) The retail selling price at which table wine is sold by a commission agent appointed by the department after May 1, 1987, is as determined by the agent.

(b) The retail selling price at which table wine is sold pursuant to subsection (2)(a) may not include the sales tax or use tax imposed under [section 2]. The sales tax or use tax must be collected as provided in [sections 1 through 71] and must be deposited as provided in [section 71].

(3) In addition to the tax on wine assessed under 16-1-411, there is a tax of 1 cent a liter on table wine sold by a table wine distributor to an agent as described in subsection (2). This additional tax must be paid to the department by the distributor in the same manner as the tax under 16-1-411 is paid. The department shall deposit the tax paid under this section in the general fund.

(4) The sales tax and use tax collected under [sections 1 through 71] are not considered to be collected under this section."

**Section 182. Transition.** (1) Notwithstanding the provisions of 15-30-111, the adjusted gross income of an individual includes refunds of federal income tax received for tax years prior to December 31, 1993, to the extent that the deduction of the tax resulted in a reduction of Montana income tax liability.

(2) Notwithstanding the provisions of 15-30-122, all itemized deductions allowed pursuant to 26 U.S.C. 161 and 211 that may be carried forward, including but not limited to the contributions carryover, investment interest expense carryover, home mortgage interest amortization, bond premium amortization, and deduction for income in respect of a decedent, may be continued to be carried forward for a period not to exceed 5 years.

(3) (a) Notwithstanding the provisions of [section 48], each person engaging in business prior to [the applicability date of sections 1 through 71] must have applied for and received, prior to [the applicability date of sections 1 through 71], a valid seller's permit described in [section 48].

(b) Notwithstanding the provisions of [section 8], any person engaging in business prior to [the applicability date of sections 1 through 71] may apply for and receive, prior to [the applicability date of sections 1 through 71], a valid nontaxable transaction certificate described in [section 8].

(c) The department of revenue shall adopt rules to provide procedures for receiving and processing an application for a seller's permit and for providing a seller's permit and a nontaxable transaction certificate prior to [the applicability date of sections 1 through 71].

**Section 183. Sales tax and use tax rates -- restrictions.** A sales tax rate or use tax rate imposed in [section 2] may be increased only if the increase is approved by the electorate.

**Section 184. Special election.** Pursuant to Article III, sections 5 and 6, of The Constitution of the State of Montana, this act shall be submitted to the qualified electors of Montana for their approval or disapproval at a statewide election to be held June 8, 1993.

**Section 185. Repealer.** Sections 15-10-401,

15-10-402, 15-10-406, 15-10-411, 15-10-412, 15-30-121, 15-30-156, 15-30-157, 15-30-159, 15-30-160, and 20-10-146, MCA, are repealed.

**Section 186. Codification instruction.** (1) [Sections 1 through 71, 182, and 183] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 71, 182, and 183].

(2) [Sections 73 through 88 and 89 through 93] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 73 through 88 and 89 through 93].

(3) [Section 72] is intended to be codified as an integral part of Title 15, chapter 1, part 5, and the provisions of Title 15, chapter 1, part 5, apply to [section 72].

(4) [Section 161] is intended to be codified as an integral part of Title 61, and the provisions of Title 61 apply to [section 161].

(5) [Section 124] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 124].

(6) [Section 125] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 125].

**Section 187. Coordination instruction.** (1) If House Bill No. 3 is passed and approved without an appropriation to fund the special election held pursuant to [section 184], then [this act] is void.

(2) If [this act] is approved at the special election held pursuant to [section 184] and if Senate Bill No. 32 is passed and approved and it amends 20-9-344, 20-9-366, 20-9-367, 20-9-368, 20-9-406, and 20-9-439, then Senate Bill No. 32 is void on June 30, 1994.

(3) If Senate Bill No. 168 is passed and approved, then [sections 121 and 126 of this act] are void.

(4) If House Bill No. 671 is passed and approved, then:

(a) [sections 163 through 177] are effective on January 1, 1994, and apply to tax years beginning after December 31, 1993; and

(b) House Bill No. 671 terminates December 31, 1993, and applies only to the tax year beginning in 1993.

**Section 188. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**Section 189. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**Section 190. Effective date.** [This act] is effective on approval by the electorate.

**Section 191. Applicability.** (1) (a) Except as provided in subsection (1)(b), [sections 1 through 93 and 154 through 162] apply on and after April 1, 1994.

(b) Purchases of goods and services pursuant to construction contracts that were bid prior to June 8, 1993, are exempt from the sales tax and use tax. However, property or services purchased on or after April 1, 1995, pursuant to a construction contract are subject to the sales tax and use tax regardless of when the contract was bid.

(2) [Sections 94 through 134, 163 through 181, and 185] apply on and after January 1, 1994, and to tax years beginning after December 31, 1993.

(3) [Sections 135 through 152] apply on and after July 1, 1994.

(4) Except as provided in subsection (5), distribution of taxes must be made according to the provisions of the statute governing allocation of the

tax in effect on the last day of the tax period in which the activity, enterprise, or product being taxed was engaged in, took place, was assembled, or was produced.

(5) All taxes collected pursuant to audit or collected after the date the tax is payable must be distributed according to the statute governing allocation of the tax in effect on the date the taxes are collected.

**Section 192. Submission to electorate.** The question of whether this act will become effective shall be submitted to the qualified electors of Montana at the election called pursuant to section 184 by printing on the ballot the full title of this act and the following:

[ ] FOR imposing a 4% sales tax and use tax as part of comprehensive tax reform.

[ ] AGAINST imposing a 4% sales tax and use tax as part of comprehensive tax reform.



**WHAT IS THE VOTER INFORMATION PAMPHLET?**

The Voter Information Pamphlet (VIP) is a publication printed by the Secretary of State to provide Montana voters information about ballot issues that will be appearing on the statewide ballot. The Secretary of State distributes the pamphlets to the county election administrators who mail a VIP to each household with a registered voter.

**WHAT'S IN THE VIP?**

The VIP shows how the ballot measure will appear on the ballot. This includes:

1. the ballot number,
2. the method of placement on the ballot,
3. the title of the measure,
4. the Attorney General's explanatory statement,
5. the fiscal statement,
6. the statements of implication (the FOR and AGAINST statements), and
7. the arguments advocating adoption and rejection written by the appointed committees.

Finally, it includes the full text of the measure so you can read and decide for yourself how you will vote on June 8, 1993.

**WHO WRITES THE INFORMATION THAT GOES IN THE VIP?**

**Attorney General** - The Attorney General writes an explanatory statement for the measure. This statement, not to exceed 100 words, is a true and impartial explanation of the purpose of the measure in easy to understand language. The fiscal statement,

also prepared by the Attorney General, is an explanation of the impact the measure would have on the State's revenues, expenditures, or fiscal liability. The Attorney General also writes the statements of implication.

**Pro and Con Arguments** - The members of the committee that write the arguments and rebuttals for each measure are appointed in a procedure set out by state law. The Speaker of the House and President of the Senate appointed one pro and con committee member. These two appointees then chose a third. Arguments are limited to 500 words and rebuttals to 250 words.

**WHAT IF I CAN'T VOTE ON ELECTION DAY?**

You can vote by absentee ballot if you cannot get to the polls because you: 1) expect to be absent from your precinct or county on election day, 2) are physically incapacitated, 3) suffer from chronic illness or general ill health, or 4) have a health emergency between 5 p.m. on June 4 and noon on election day.

If you qualify for an absentee ballot, contact your county election administrator to request an absentee ballot application. Absentee ballot applications will be accepted up to noon the day before the election.

**HOW CAN I FIND OUT IF I'M REGISTERED?**

If you failed to vote in the 1992 Presidential Election, you are no longer registered and need to re-register. If you are not sure if or where you are registered, you should contact your county election administrator. The registration deadline for the special election is May 10, 1993.

**Additional copies of the Voter Information Pamphlet are available upon request from your County Election Administrator or Mike Cooney, Secretary of State. This document printed on recycled paper.**

425,000 copies of this public document were published at an estimated cost of \$0.08 per copy, for a total of \$32,500.00. Distribution costs paid for by county governments.

**VOTER INFORMATION PAMPHLET  
FOR THE JUNE 8TH SPECIAL ELECTION**

**COUNTY ELECTION ADMINISTRATOR  
County Courthouse**

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